



The Media Policy and Democracy Project

exploring how the media can work better for society

Press regulation in South Africa: an analysis of the Press Council of South Africa, the Press Freedom Commission and related discourses

Authors:
Julie Reid
Taryn Isaacs

Research assistant:
Kelly Hawkins

This study has been undertaken by the Media Policy and Democracy Project, a collaborative research project between the Department of Communication Science at the University of South Africa (UNISA) and the Department of Journalism, Film and Television at the University of Johannesburg (UJ).

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Media Policy and Democracy Project:

Press regulation in South Africa: an analysis of the Press Council of South Africa, the Press Freedom Commission and related discourses

Dr Julie Reid, University of South Africa
Taryn Isaacs, Nelson Mandela Metropolitan University

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1 Introduction

The Media Policy and Democracy Project (MPDP) is an inter-university collaborative research project between the Department of Communication Science at UNISA, and the Department of Journalism, Film and Television at the University of Johannesburg which was launched in 2012, and aims to promote participatory media and communications policymaking in the public interest.

Since its launch the MPDP has collaborated with academics and researchers from various institutions throughout South Africa and the world, including the University of Queensland (Australia), Jamia Millia University (India), the University of Leuven (Belgium), the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the Nelson Mandela Metropolitan University (NMMU), and Rhodes University.

The MPDP has also collaborated with civil society organisations which have a specific focus on media and communications policy-making, and which have a central concern for the public interest and a ground-up audience based approach, such as the SOS - Support Public Broadcasting Coalition and the Right2Know Campaign. The MPDP has engaged with national media policy-makers such as the Parliamentary Portfolio Committee on Communications, the Press Council of South Africa (PCSA), the Press Freedom Commission (PFC), the South African Broadcasting Corporation (SABC), the Print and Digital Media Transformation Task Team (PDMTTT), the Independent Communications Authority of South Africa (Icasa), the Film and Publications Board (FPB) and others.

1.1 Contextualising this report

The administrative system of accountability for journalistic ethics in South Africa, the Press Council of South Africa (PCSA), has been the subject of scrutiny since 2007, but most especially since 2010. Accusing the system of being ineffective and “toothless”, the African National Congress (ANC) ruling party in 2007 resolved to investigate what it called a Media Appeals Tribunal for the regulation of the print media, and reiterated this call again in 2010.

As reported elsewhere, “[w]hile the system of press self-regulation, as a mechanism for ensuring the accountability of the printed media, was heavily contested in apartheid South Africa, the first 12 years of democracy (1994–2007) saw a relative quietening of the debate (Berger 2010, 289). The ruling African National Congress (ANC) reintroduced the debate in mid-2007, and again with even more vigour in mid-2010 (ANC 2007 and 2010). The Press Council of South Africa (PCSA)... and its procedural functioning as a self-regulatory system for the print media (magazines and newspapers) became the object of scrutiny of two separate processes of review, as various stakeholders debated the most suitable system of press regulation for South Africa. Partly in response to the ANC’s call for a parliamentary enquiry into the establishment of a Media Appeals Tribunal (MAT) to which the Press Council would be subservient, and amid rising fears in the academic, civil society and media spheres that an MAT would impede the freedom of the press, the Press Council conducted a review of its own processes from late-2010 to mid-2011 (PCSA 2011). Following this process a revised press code, constitution and complaints procedure were adopted. Subsequent to this internal review, the two media representative bodies, Print and Digital Media South Africa, or PDMSA (formerly PMSA) and the South African National Editors Forum (Sanef) established the Press Freedom Commission (PFC) in July 2011. This body of nine independent commissioners from outside the media industry, chaired by former Chief Justice, Pius Langa, performed an assessment of the system of press regulation until April 2012, when the PFC released its final report detailing its recommendations for the revision of the press regulatory system. In October 2012 the Press Council released another report in which it detailed the new press code, complaints procedure and constitution, after incorporating selected

recommendations of the PFC (PCSA 2012). A significant alteration to the system was that after the reviews, the press accountability mechanism moved from being classified as self-regulatory, to what the PFC called a system of independent co-regulation, involving both public and press participation but with greater emphasis on public membership and no participation from government (PFC 2012, 7). This amounted to a critical shift in thinking about the core nature of the Press Council. Politically it seemed at the time to have served the purpose of staving off the ANC's calls for an investigation into the establishment of an MAT (Hlongwane 2012). That was temporary, since in early 2013 the ANC published the conference resolutions from its national conference held in December 2012: these resolutions make mention of the work done by the PFC and acknowledge the changes to the press regulatory system, but nonetheless stipulate the intention of requesting a parliamentary investigation into the desirability of an MAT (ANC 2013, 62–63)" (Reid 2014: 58-60). Notably, the ANC reinforced these resolutions in 2015 after its National General Council (NGC) conference, stating that it remained committed to a parliamentary investigation of a Media Appeals Tribunal.

Required to function as an objective regulator, the mandate of the PCSA is to uphold a high standard of journalism whilst assuring fair representation of the South African people within the media. The PCSA is required to function as an intermediary between the print media and the society; ruling on published articles deemed offensive by a member of the public which could be due to inaccurate information, unbalanced reporting, invasion of privacy, disregard for human dignity, unfair comment and other issues, which are brought to the table of the Press Ombudsman annually. Coupled with the added responsibilities of advocating for press freedom and promoting a high standard of journalism within the country, the PCSA plays a holistic and influential role in the functioning of the country's media and regulatory systems. Since the introduction of the mooted idea of a Media Appeals Tribunal in 2007 and the ANC's parliamentary request to investigate forms of press regulation in 2010, the PCSA has been subject to a series of evaluatory procures.

The PCSA has altered its code of conduct and *modus operandus* many times since its inception in 2007, subsequent to the public process of the Press Council Review (2011), the Press Freedom Commission (2012) and the changes to the Press Code (2013).

To evaluate the impact of these changes, this research report investigates the work of the PCSA between 2009 and 2013, by assessing the complaints submitted to the council, the nature of the complaints, the handling of individual cases by the PCSA. Thus this report questions the functioning of the PCSA and comments on the efficiency of the process. This report also evaluates the work performed by the Press Freedom Commission (PFC), and performs a content analysis of all public submissions received by the PFC, since such content is relevant to the functioning of the PCSA as is explained in various sections below.

1.2 Purpose of this research report

A national conversation on the effectiveness and functionality of the accountability mechanism for the press in South Africa initiated in 2007, reignited in 2010 and has sporadically continued until the current time in 2015. At various times and on various platforms, different engagers in this debate have posed various different questions about the functionality of the PCSA system, its efficacy and its appropriateness for South Africa. Little of this discourse is however, based on empirical and/or scientific evidence, study or fact. Most of it is based on estimation, sometimes political interest, personal motivations, or conjecture. As such, the MPDP collated a list of commonly posed key questions, and developed a set of research categories in order to investigate each, so that each key question can be measured, with regard to its validity or invalidity, against fact and statistical analysis.

1.2.1 Key questions

The Press Council of South Africa (PCSA)

Given that the PCSA and its functionality has been the subject of an ongoing national conversation since 2007, and given that proposed alterations to this regulatory system remain a current topic in media policy discourse at the current time in 2015, the MPDP set out to test the functionality of key aspects of the PCSA system in order to provide empirical evidence in response to many of the key questions posed within the national discourse surrounding the PCSA.

First, we developed a list of key questions which are frequently posed within national debates about the PCSA and its functionality. We then assessed the working mechanisms of the PCSA in order to test the validity of each of these key questions separately.

Key questions:

- Is the PCSA and the Ombudsman biased in favour of the press?
- What are the various profiles of the complainants?
- Is the prominence of the sanction stipulated and adhered to when it is published?
- Does the PCSA take too long to resolve complaints?
- Is the quality of news reporting in South Africa declining with regard to the code of ethics?
- Is the PCSA a 'toothless' mechanism, resulting in publications repeating consistent breaches of the press code?

The Press Freedom Commission

The Press Freedom Commission was an important process in that it garnered a significant level of public input. While assessing the public inputs submitted to the PFC, it became clear to the MPDP that much of the content of these public inputs and collected submissions, and therefore the 'public voice', had been excluded from representation in the PFC's final report and recommendations. The MPDP adopts a principled approach of public participation, and therefore we felt that it would be a great loss to the discourse on press regulation and accountability in South Africa, if the 'public voice' remained excluded. We therefore developed a set of key questions relevant to the PFC, which on investigation could bring to light the public voice in the debate.

Key questions:

- What was the preferred system of press regulation according to the majority of public submissions?
- Was significant content contained in the public submissions which was excluded from the PFC final report?
- What did the public submissions reveal about public sentiment toward the ANC¹, the MAT² and government or state intervention in the regulation of the press?
- Why did the PFC recommend that the PCSA ought not to administer complaints against digitally published news content?

¹ African National Congress

² Media Appeals Tribunal

2 Methodology

1.3 The methodological approach of this study

The study evaluates the cases brought before the council between 2009 and 2013 and adopts a quantitative approach based in an interpretivist paradigm. By evaluating each year against the next, the trends evident are comparable to devise an accurate assessment of the PCSA's efficacy over a 5 year period. Areas assessed include the number of complaints submitted, the nature of the complaints, the respondents (print publications) being complained against and finally the PCSA's rulings on individual cases.

The MPDP conducted a detailed document analysis of every ruling which was published by the Press Council of South Africa (PCSA) for the five years of 2009, 2010, 2011, 2012 and 2013. Each ruling was recorded separately and inventoried according to a pre-determined set of criteria in order to produce the findings which are listed in this report (see Appendix A – Appendix E).

We selected to limit the sample to five years: since the PCSA was established in 2007, the sample of rulings analysed here account for the largest majority of rulings published since 2007, and the sample is therefore representative, reliable and valid. Furthermore, we found that the PCSA's record keeping improved significantly from late 2008 onwards, and therefore selected to exclude the years 2007 and 2008 since we could not be entirely certain of the accuracy of the records during that time, and feared their inclusion may skew the results of the study. The record keeping of the PCSA has proved reliable and orderly for the years of 2009 – 2013.

Within each year of the time period monitored here, there is a small collection of rulings published by the Press Ombudsman or Deputy Press Ombudsman³ which are not included on the inventory for that year. This is because although the ruling was published in, for example, 2010, the complaint was laid with the Ombudsman's office in the year 2009. We therefore included such rulings on the inventory for the previous year, since the complaint initiates from a story published in the previous year.

We also conducted a detailed assessment and qualitative content analysis of all of the written submissions which were delivered to the Press Freedom Commission, according to a predetermined set of key criteria and listed these on a separate inventory. The significance of this analysis is discussed in the findings of this report (see chapter 4).

³ Many of the rulings which were analysed and inventoried for this study were written by Johan Retief, who served as the Deputy Press Ombudsman in the period of 2009 – 2012. For the purposes of this report the term 'Ombudsman' is used to refer to both the Press Ombudsman and the Deputy Press Ombudsman.

3 The Press Council of South Africa (PCSA): an assessment from 2009 – 2013

3.1 Overview of the PCSA rulings: 2009 – 2013

Research between 2009 and 2013 indicates that overall 1433 complaints were submitted to the office of the PCSA. 1083 complaints were dismissed before ruling for being deemed superfluous or unacceptable due to anonymity, maliciousness, fraudulent complaints or most commonly, because the nature of the complaint fell outside of the mandate of the PCSA. Complaints were also dismissed before ruling if resolved amicably between the complainant and the offending publication through the intervention of the public advocate (Mobabra, L. 2014). A total of 350 complaints were formally ruled upon, the findings of which were published on the PCSA website by the Press Ombudsman during the period January 2009 – December 2013. From the official rulings, 200 were sanctioned by the PCSA for breaching the press code and 147 rulings were dismissed entirely, meaning that the publications were not found to be at fault and did not contravene any of the articles contained within the press code.

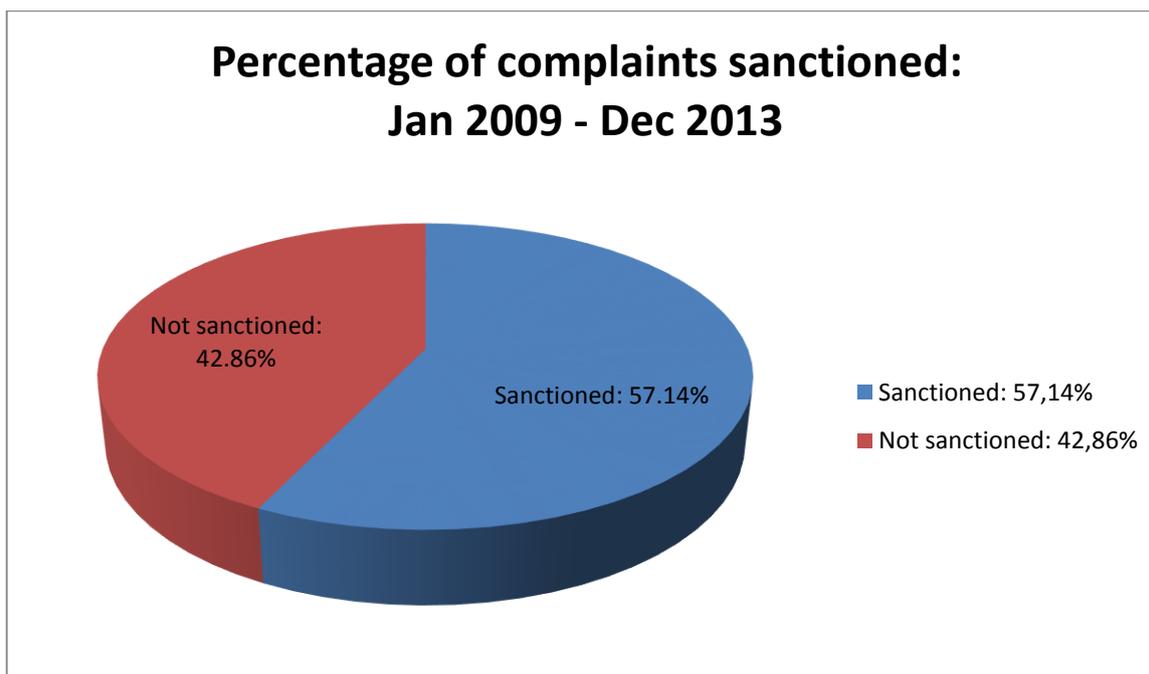


Figure 1: Percentage of complaints sanctioned by the PCSA: January 2009 – December 2013

A total of 350 rulings were published by the Press Ombudsman or the Deputy Press Ombudsman during the period January 2009 – December 2013. In 200 of these cases publications were sanctioned by the PCSA for breaching the Press Code.

Of the 200 complaints sanctioned;

- 49 complaints were upheld entirely as the Ombudsman ruled against the publication, and in favour of the complainant, because articles of the press code had been breached.

- 147 complaints were partially dismissed. In these cases the Ombudsman dismissed some aspects of the complaint, but upheld other points made by the complainant. In these cases the points which were upheld were sanctioned.
- In 4 cases the Ombudsman made no ruling, stating that he was not, for reasons stipulated in the published ruling, in a position to make a ruling on the particular complaint.
- 3 cases were not tallied in the 200 sanctioned, as they were withdrawn by the complainants for various reasons.

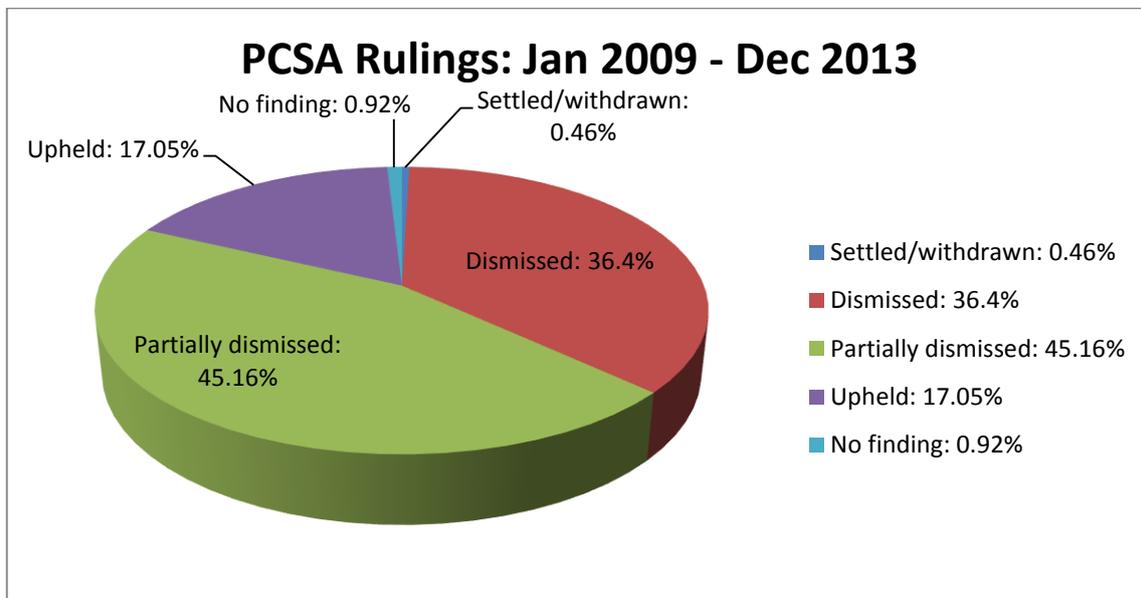


Figure 2: PCSA rulings: January 2009 – December 2013

3.2 PCSA rulings per year

The number of complaints submitted to the council between 2009 and 2013 differs annually. Closer assessment of each of the 5 years allows for an enhanced understanding of the PCSA, the nature of the complaints and the grievances of the complainants. These discussions refer to the addendums at the end of this report (see Appendix A – Appendix E).

3.2.1 PCSA rulings 2009

During 2009, 151 complaints were submitted to the PCSA. Of these, 131 complaints were rejected or resolved before reaching adjudication, whilst 20 cases were dealt with by the Ombudsman via a ruling. Of the 20 cases formally ruled upon; 8 were dismissed, 11 were partially dismissed and 1 was entirely upheld. Complaints partially dismissed involved 26 breaches of the code, with the most popular being the breaking of code 1.1 “the press shall be obliged to report news truthfully, accurately and fairly”, and the breaching of code 1.2 “news shall be presented in context and in a balanced manner...”. Other areas of the code breached relate to accuracy, opinions being represented as fact and the sources right to reply. Publications vary in degree of contravention of the code, the most serious offenders being the *City Press* with 6 breaches of the code and *The Star* with 4 breaches of the code. Complainants include individuals, institutions (such as the SPCA and Civil Aviation Authority of South Africa), schools, hospitals, local municipalities and the national ministry.

Numerous publications were sanctioned that year including the *City Press* and the *Daily Sun*. In the case of the *Daily Sun* the publication was brought into disrepute for failing to publish Melomed

Hospitals' version of the events in the article, *Let me in or I'll die!* The article told the story of Mr Lucky Kencele who begged for assistance at the gate of Melomed Gatesville Hospital for 15 minutes whilst nursing a stab wound. Journalist Ntomboxolo Makoba, who apparently witnessed the incident explained that the man was denied access due to a lack of medical aid. Then Deputy Ombudsman, Johan Retief found in favour of the hospital as the "Daily Sun did not publish the hospital's official denial that Kennel was asked about his medical aid and that he was told to go to a state hospital. This is found to be in breach of Article 1.2: "news shall be presented in... a balanced manner, without any intentional or negligent departure from the facts whether by... material omissions" (PCSA Ruling of the Melomed Hospital vs. Daily Sun: 2010). The *Daily Sun* was reprimanded for omitting an important part of Melomed's official response and were directed to publish a summary of this finding.

In another case, the ANC treasurer-general Dr Mathews Phosa and the ANC complained about a front page story that appeared on August 16, 2009 in *City Press*, headlined *Phosa tries to muzzle City Press*. The article centered on the premise that Phosa did not want the *City Press* to publish the story of him leaking information about Deputy President Kgalema Motlanthe in order to damage Matlanthe's chances of becoming President Jacob Zuma's successor (PCSA Ruling of Mathews Phosa vs. City Press: 2010). Phosa complained about the use of unverified sources, facts, sensationalism and not being contacted for comment (PCSA Ruling of Mathews Phosa vs. City Press: 2010). Johan Retief found in favour of the complainant as the newspaper did not give Phosa ample time to respond, reported in an imbalanced manner, used unnamed "sources" and published posters which presented opinion not fact (PCSA Ruling of Mathews Phosa vs. City Press: 2010). The Ombudsman did dismiss elements of the case as Phosa did try to stop the newspaper from publishing the story, and the newspaper captured fairly the deteriorating relationship between Phosa and Motlanthe. Finding in favour of the complainant, the *City Press* was directed to apologize on the front page to both Phosa and the ANC for various breaches of the press code and for possible harm done to them (PCSA Ruling of Mathews Phosa vs. City Press: 2010).

3.2.2 PCSA rulings 2010

In the year 2010, the national debate surrounding the effectivity of the PCSA reignited with significant intensity. The ANC reiterated its proposals for a statutory Media Appeals Tribunal (later claiming that it sought an independent rather than statutory system) and the Protection of State Information Bill (POSIB) was tabled in parliament. In response, the PCSA conducted a thorough review of its own procedures and systems, including a public consultation process, early in the following year.

Over the period of January to December, 212 complaints were submitted to the PCSA. Of these 173 were dismissed before ruling, with only 39 cases being ruled upon by the ombudsman. In total 2 cases were upheld, 29 cases were partially dismissed and 8 cases were dismissed. The articles of the code breached most during that year were 1.1 "the press shall be obliged to report news truthfully, accurately and fairly", and 1.2 "news shall be presented in context and in a balanced manner".

During 2010, 25 publications received 32 sanctions in the form of 19 reprimands, 4 retractions, 13 published apologies, 27 published summary judgements, 3 published full judgement, 3 right of reply's granted, 7 corrections and 1 cautioning sanction. Each complaint received an average of 2.4 sanctions, such as the complaint submitted by Ms Sonono Khoza, the mother of President Jacob Zuma's child fathered out of wedlock. Ms Sonono Khoza complains about two stories in the *Sunday World*, published on September 5, 2010, headlined *Say 'yes, yes' says Sonono – Khoza's daughter wants to wed Zuma first* (page 2); and *Merry wives of Nkhandla* (page 3). Khoza complained that the allegations made about her were untrue and defamatory, and that she was not contacted for comment prior to publication (PCSA Ruling of Sonono Khoza vs. Sunday World: 2010). The Press Ombudsman found in favour of Ms Khoza and sanctioned the *Sunday World* with a reprimand, an order to publish an apology

and an order to publish the abbreviated judgement in the publication. These and other complaints show the delicate nature of the cases dealt with by the PCSA.

Another example of a case with numerous sanctions is the complaint against the *City Press* laid by Mr Quraysh Patel, the former chairperson of the Sentech Ltd. Corporate board about the article written by Andile Ntingi headlined *Hijacking of Sentech – Auditors of a company owned by communications minister at centre of corruption allegations*. The Press Ombudsman dismissed areas of the complaint, but ultimately found in favour of Mr Patel and sanctioned the *City Press* with a reprimand, an order to retract, an order to issue a public apology and an order to publish the summarized judgement of the ruling. These measures have proven effective, as the reader is made aware of the publications failure to uphold the ideals of good journalism along with their disreputable reporting. During 2010, the *City Press* had 3 complaints sanctioned, for breaching 6 articles of the code resulting in the newspaper being the top offending publication for that year.

3.2.3 PCSA rulings 2011

As the PCSA councils' 5 year term of office came to an end in 2011, the PCSA underwent a review process with the aim of creating stronger press regulation in South Africa. The review used public submissions and internal assessment to evaluate the PCSA's Constitution, the press code and the procedures of complaints. The resultant changes included the cancelling of the waiver which required complainants to waive their legal rights (Review 2011), and changes to the constitution, the press code and the complaints procedure (Reid 2014).

During 2011 the PCSA received 256 complaints, 172 were dismissed before ruling and 84 were ruled upon. The 84 rulings resulted in 49 sanctioned complaints and 35 dismissals.

Many publications were found sanctioned with top 3 offending publications being the *Sunday World* with 7 complaints sanctioned, the *Sunday Times* with 5 complaints sanctioned and the *Sowetan* with 5 complaints sanctioned. A total of 101 individual sanctions were allocated between the 49 complaints, which comprised of 22 reprimands, 2 strong reprimands, 3 retractions, 3 corrections, 3 cautions, 8 right to reply's, 30 orders to publish apologies and 30 orders to publish summary judgements. Sanctions were allotted for breaching the press code, and the articles breached the most were 1.1 "the press shall be obliged to report news truthfully, accurately and fairly", and the breaching of code 1.2 "news shall be presented in context and in a balanced manner" and 1.5 "A publication should seek the views of the subject of serious critical reportage in advance of publication".

The most frequent complainant in 2011 was Mr Julius Malema who complained against *The Times*, *The Independent* and *The Citizen* regarding stories published around his arrest by the Hawks in October 2011. Malema complained about misleading information, anonymous sources, sensationalism, inaccuracy and false information on the part of the publications. In all three cases sections of the complaints were upheld leading the Ombudsman to find in favour of Julius Malema, sanctioning all three publications to publish a public apology to Malema along with a summary judgment by the council. The then ANC Youth Leader is a notable public figure, which meant the findings of the case were highly publicised and damaged the reputation of *The Times*, *The Independent* and *The Citizen* for publishing unverified rumours as fact.

3.2.4 PCSA rulings 2012

2012 Saw the release of the findings of the Press Freedom Commission (PFC), set up by the South Africa National Editors' Forum (Sanef) and the then Print Media South Africa (PMSA) in 2011. The PFC, headed by retired (and now late) Chief Justice Pius Langa, was composed of nine independent persons

who were tasked with the responsibility of evaluating the PCSA, and the public submissions of the South African people (Reid 2014).

Whilst the PFC submissions were underway, the PCSA continued with the business of ruling on public complaints, such as the complaint against *The Witness* by Mr Celi Makhoba (PCSA Ruling of Celi Makhoba vs. The Witness: 2012). Makhoba complained about the article headlined *Official's suspension casts doubt on Comrades doping tests* for defamation and not being given the right of reply against the allegations. Overall the ombudsman found in favour of Makhoba and reprimanded *The Witness* for not asking Makhoba for comment. The publication was directed to publish his opinion on this matter to rectify the mistake. These many complaints were submitted to the council.

Of the 285 complaints received, 211 were dismissed before ruling. A total of 74 complaints were ruled upon; 43 were sanctioned, 28 were formally dismissed, 1 was withdrawn, whilst 2 had no formal finding. The 43 cases received 84 sanctions which included 13 reprimands, 2 strong reprimands, 2 orders to retract, 36 orders to apologise, 17 orders to publish summarized judgement, 3 right to reply's, 4 corrections and 7 cautions, averaging 1.9 sanctions per case. These sanctions were the result of breaches to the code of conduct, with the most breaches being to articles 1.1 "the press shall be obliged to report news truthfully, accurately and fairly", and article 1.2 "news shall be presented in context and in a balanced manner" and article 1.4 "where there is reason to doubt the accuracy of a report it shall be verified". The publications with the most transgressions in 2013 are *The Star* for having 7 sanctioned complaints for breaching the code 12 times, the *New Age* for 11 breaches and 4 sanctioned complaints and finally the *Sondag* with 3 sanctioned complaints and 8 breaches of the code.

3.2.5 PCSA rulings 2013

As from January 1, 2013 the reforms suggested by the Press Freedom Commission and the Press Council Review Board moved South Africa from "press self-regulation to a voluntary independent co-regulatory system involving exclusively representatives of the press and representatives of the public" (PCSA Press Release 2012). As announced at the PCSA Press Conference in 2012, other changes to the procedure included the acceptance of third party complaints, the introduction of the public advocate, including press and public council members in the appeals process, and the introduction of (space) fines, suspension or expulsion for publications that do not adhere to sanctions imposed, along with the exclusion of the waiver (Joe Thloloe 2012).

Whilst implementing these changes in 2013, an interesting surge in complaints were noted as 529 complaints were received, of which 396 were dismissed before ruling and 133 were ruled upon. The rulings resulted in 68 dismissals and 65 sanctions taking the form of 12 reprimands, 4 strong reprimands, 3 orders to retract, 41 orders to apologise, 10 right to reply's, 15 corrections and 14 cautions, averaging 1.5 sanctions per case. The top offending publications include the *Rapport* with 6 sanctioned complaints for breaching the press code 13 times and the *Sowetan* for having 5 complaints sanctioned for 11 breaches of the code.

3.3 Complainants

3.3.1 Who are the complainants?

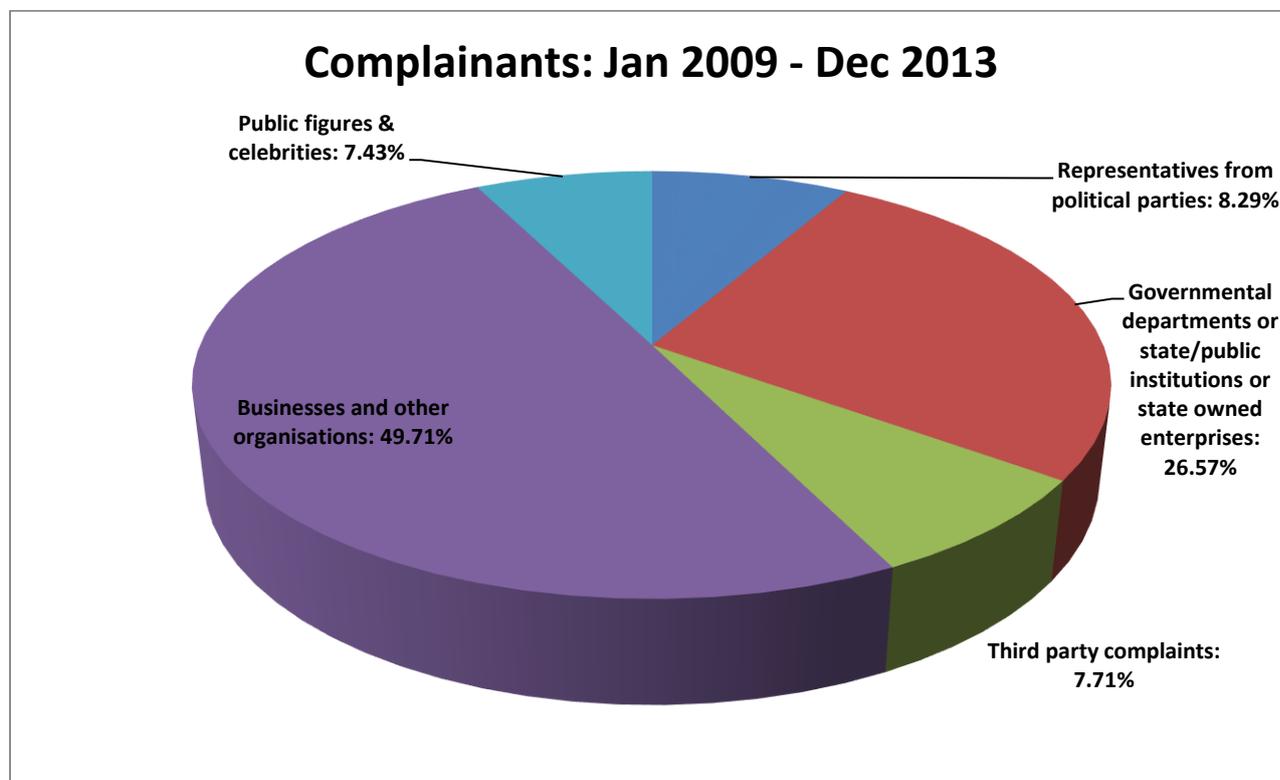


Figure 3: The profiles of the complainants: January 2009 – December 2013

The 350 complaints ruled upon by the Press Council encompassed an interesting amalgamation of complainants. Over the 5 years, 26 public figures and celebrities made use of the council, along with numerous members of the public. State institutions and departments also made use of the PCSA as seen by the national government ministries submitting 25 complaints, provincial government departments submitting 25 complaints and local municipalities submitting 20 complaints. A total of 29 complaints came from representatives of political parties, the majority of which were from the ANC with 12 complaints, secondly the IPF with 6 complaints, sharing third place is COPE and DA which submitted 3 complaints each, whilst the Boerestaat party, the SACP and the ACDP submitted 1 complaint each.

Other interesting complainants include the Office of the President which submitted 3 complaints, SAPS with 2 complaints and the SABC which laid 6 complaints. Schools/universities submitted 14 complaints whilst business sector complainant's account for 140 of the complaints submitted.

COMPLAINANTS		Number of complaints
Representatives from political parties Total: 29	ANC	12
	COPE	3
	DA	3
	IFP	6
	ANCYL	2
	Boerestaat Party	1
	SACP	1
	ACDP	1
Governmental departments or state/public institutions / state owned enterprises Total: 93	National government, including parliament & ministries	25
	Provincial governments & departments	25
	Municipalities, cities & metros	20
	Presidency	3
	Regulatory bodies	7
	Military	1
	Police	2
	SABC	6
	Other state bodies / agencies	1
	SAA	2
	DIRCO	1
Third party complaints – persons who laid complaints on behalf of a particular community Total: 27	27	
Businesses and other organisations Total: 175	Hospitals	9
	Churches	9
	Schools	14
	Unions	1
	UDF	2
	Other, including businesses	140
Public figures & celebrities (writers, poets, musicians etc) Total: 26	26	

Table 1: The profile of the complainants

3.3.2 Third party complaints

Third party complaints were introduced as part of the PCSA procedure in 2013. Prior to this, the PCSA would accept such complaints on an ad hoc basis depending of the nature of the complaint. The PCSA received 27 third party complaints between 2009 and 2013, 12 of which were submitted in 2013. The aim of allowing these complaints is to foster diversity and allow the people a ‘voice’ within the press regulatory system.

The introduction of third party complaints to the complaints procedure of the PCSA came about after a significant lobby to this effect, by Dr Julie Reid and the Media Policy and Democracy Project. This, and its positive implications for the press regulatory system, has been documented in various writings elsewhere, and will therefore not be repeated here as this is not pertinent to the main focus areas of this report (see Reid 2014b, Reid 2011a, and Reid 2011b).

3.4 The prominence of the sanction

During the 5 years the Ombudsman allocated prominence to 95 complaints of the 200 ruled upon. In these 95 cases: if the offending publication was sanctioned to publish an apology, a correction, a summary of the ruling or a retraction, the ruling stipulated the prominence of this sanction be similar to where the article was first published. For example, in some cases the Ombudsman ruled that the correction or apology should be published on the front page of a newspaper: this was justified as reasonable redress for the complainant since the story which was the subject of the complaint was originally published on the front page. In such cases the Ombudsman also stipulated that the words 'apology' and/or 'apologise' should appear in the headline or a kicker, or above the fold (in the case of a broadsheet) along with the name of the complaint.

During 2013 the Ombudsman allocated prominence 61 times out of 65 sanctioned cases, which means that the Ombudsman stipulated the prominence of the publication of the apology/retraction/correction/sanction in 94% of sanctioned rulings.

The stipulation of the prominence of the publication of the sanction is a growing trend in the method of PCSA sanctioning, and now takes place in almost all relevant cases. Prominence included statements such as "newspaper to publish an apology on page 8, the full text of apology provided by Department of the Press Ombudsman" (PCSA Ruling for Noordhoek Environment Action Group versus The Peoples Post 2013). In another more serious cases of offending publications such as the *Drum* for its article entitled *IT'S A WAR – As the fight between Bonang and Euphonik heats up and gets dirtier, the truth seems hard to find*, the Press Ombudsman found in favour of the complainant and stated that "the magazine is directed to publish the following on the front page: 'Drum apologises to Bonang Matheba, We never spoke to her, We made up quotes, We broke the law, We caused her unnecessary harm'. *Drum* is directed to publish inside the magazine the same picture at the same size that was used for the story in dispute, together with the specified text". Prominence in cases such as these cause grave harm to the image of the publication and create awareness of the transgressions in a manner fitting the transgression.

The MPDP found that publications have adhered to the prominence allocation stipulated by the Ombudsman 100% of the time which means that in cases where the Ombudsman stipulates the prominence of the publication of the sanction, apologies can no longer be buried in an insignificant space, but instead have the same prominence as the original article.

3.5 Complaint resolution

The efficiency of the PCSA received much criticism because of the time taken to resolve complaints. In 2009, the average time for a complaint to be resolved took 233 days. This vastly improved in 2010 with an average of 81 days taken until a resolution was published on the PCSA website. By 2011 the average number of days to complaint resolution rose to 85, and rose again in 2012 to 104. With the introduction of the Public Advocate in 2013, the PCSA achieved a 59 day average for complaint resolution, despite receiving the largest number of complaints that year. Overall, over the past 5 years the 350 complaints had an average resolution time of 112.4 days.

Considering the number of complaints submitted, it is clear that the Press Council's annual receipt and turnover of complaints has greatly increased since the 151 cases received in 2009. By 2010 the PCSA received 212 complaints, which increased to 256 complaints in 2011, with a similar number of 285 complaints being recorded in 2012, with the enormous growth to 529 complaints being documented in 2013. This increase in complaints could be due to a number of reasons, not limited to; firstly the increased status of the PCSA as the national press regulator, secondly the increased visibility of the

PCSA due to its processes of review, thirdly the efforts of the PCSA in reviewing and restructuring the council according to the public’s observations and requests via the public submissions, and finally due to the public’s participation in the highly publicized PFC submissions and hearings.

YEAR	Average number of days for complaint resolution by the PCSA
2009	233
2010	81
2011	85
2012	104
2013	59
Average 2009-2013	112.4

Table 2: Average number of days for complaints to the PCSA to be resolved

3.6 Breaching the press code

The purpose of this section of the study is to determine the most common errors made by the press within the framework of the PCSA’s code of ethics, and further, to thereafter determine what, if anything, the findings indicate about the quality of news reporting by the South African press.

3.6.1 Record of breaches by publication

More than 640 publications, mainly members of Print and Digital Media South Africa (PDMSA), subscribe to the press code and thus fall under the jurisdiction of the PCSA (PCSA 2015). Yet throughout the period of 2009-2013, only 83 national and locally circulated publications were brought before the Press Ombudsman through public complaints (including those sanctioned and not sanctioned).

The publications against which the most complaints were laid are the *Sunday Times*, the *Sowetan*, the *Star*, the *Sunday World* and *Die Beeld*. However, this does not necessarily indicate that these particular publications are more errand with regard to the press code than others. The *Sunday Times*, for example, has the largest readership of any other print newspaper in South Africa: the larger the number of readers of a publication the greater the statistical chance of receiving complaints against that publication. Furthermore, news publications which do not publish predominantly investigative journalism, but disseminate mostly aggregated content, opinion or analysis are naturally less likely to elicit complaints, while publications which do house investigative outfits are far more likely to garner complaints against their reporting.

Significantly, the findings also reveal that the publications which receive the most complaints are not the publications with the highest number of complaints sanctioned: that is to say, if a publication receives a high number of complaints, this does not necessarily indicate that the publication is performing badly with regard to adherence to the code of ethics of the PCSA.

The indicators on the quantity of complaints versus the number of sanctions for the five newspapers which received the most complaints are as follows:

- Firstly the PCSA received 42 complaints about the *Sunday Times* reporting from the public, of these 30 were dismissed, with 12 complaints being sanctioned for breaching the codes of conduct 21 times.
- Secondly the *Sowetan* received 21 public complaints, of these 7 complaints were dismissed and 14 were sanctioned for contravening 29 individual articles of the press code.

- The *Star* newspaper received 18 public complaints, 5 of which were dismissed, whilst 13 were sanctioned for breaching the code 26 times.
- The *Sunday World* received 15 public complaints, 3 of which were dismissed, whilst 12 cases were sanctioned for breaching 21 sections of the code.
- The *Beeld* received 13 public complaints, 6 of which were dismissed, leaving 7 complaints to be sanctioned for breaching the Press Code 20 times.

Many publications have been complained against, whilst 20 of these have never been sanctioned, including papers such as the *Cape Argus* and the *Mercury* which received 3 and 2 complaints respectively, all of which were dismissed.

2009 - 2013				
Publication	Total complaints	Complaints dismissed	Complaints sanctioned	Number of individual breaches of the press code
Beeld	13	6	7	20
Bulletin	2	0	2	6
Die Burger	5	2	3	7
Business Day	7	5	2	8
Business Report	1	1	0	0
BY (Media24 supplement)	1	1	0	0
The Cape Argus	3	3	0	0
The Cape Times	9	5	4	8
Capetowner	1	1	0	0
Capricorn Voice	1	0	1	4
The Citizen	9	5	4	6
City Press	9	2	7	17
City Vision	1	0	1	2
The Criterion	1	1	0	0
Daily Dispatch	6	2	4	8
Daily Sun	5	1	4	5
Daily Voice	10	4	6	17
Diamond Fields Advertiser	3	1	2	2
Daller	1	0	1	1
EP Herald	1	0	1	3
Eikestadnuus	1	1	0	0
Eland News	1	0	1	3
False Bay Echo	1	0	1	1
Fordsburg Community Paper	2	0	2	4
The Herald	4	2	2	7
The Herald (Middleburg)	1	0	1	1
Highway Mail	1	0	1	3
Independent Newspapers	1	1	0	0
iLive	1	1	0	0
Isolezwe	1	1	0	0
Loxion News	1	0	1	2
Die Kerkbode	1	0	1	1
Laudium Sun	1	1	0	0
The Lowvelder	3	0	3	10
Mafikeng Mail	1	0	1	1
Mail & Guardian	12	8	4	7
The Mercury	2	12	0	0
Middleburg Observer	1	0	1	2
The New Age	9	4	5	15
Newcastle Advertiser	2	0	2	3
North Coast Rising Sun / Overport Sun	1	0	1	1
Northern Cape Times	1	0	1	5

Noseweek	2	1	1	1
Paarl Post	1	0	1	2
The Plainsman	1	1	0	0
People Magazine	1	1	0	0
Peoples post	2	0	2	7
Phoenix Sun	1	1	0	0
Post	1	1	0	0
Public Eye	1	0	1	1
Polokwane Observer	1	1	0	0
Pretoria News	1	1	0	0
Randburg Sun	1	0	1	3
Rapport	12	2	10	23
Rising Sun	1	0	1	2
Roodepoort Record	1	0	1	1
Sandton Chronicle	1	0	1	4
Saturday Star	2	0	2	4
Shine provincial news	1	0	1	6
Die Son	6	4	2	4
Sondag	8	1	7	19
Sowetan	21	7	14	29
Sports Illustrated	1	1	0	0
The Star	18	5	13	26
Sunday Independent	14	5	9	16
Sunday Sun	6	5	1	2
Sunday Times	42	30	12	18
Sunday Times (extra)	2	1	1	1
Sunday Times – Zulu Edition	1	1	0	3
Sunday Tribune	4	2	2	8
Sunday World	15	3	12	21
The Times	9	2	7	14
Timeslive	1	0	1	2
Today's trustee	1	0	1	1
Tygerburger	1	0	1	4
You Magazine	4	2	2	6
Volksblad	3	1	2	3
Weekend Witness	1	1	0	0
The Weekend Argus	2	1	1	1
The Weekly	2	0	2	5
The Witness	2	0	2	10
Zululand Fever	2	1	1	1
Zululand Observer	1	1	0	0

Table 3: Complaints received per publication: January 2009 – December 2013

3.6.2 The most common mistakes and the quality of news reporting

This section of the report examines a quantification of infringements of the press code by publications in order to determine the most frequently made mistakes/infringements by press publications. For the purposes of this section of this report, we have selected to examine sanctioned cases, rather than all complaints received by the Ombudsman's office. Cases which have been sanctioned (upheld or partially upheld) by the Ombudsman are instances where a publication has been found to be in breach of one or more article(s) of the press code. We have excluded cases which were dismissed since such instances of publication were not found to have breached the press code, and can therefore not assist in compiling an assessment of the most commonly made mistakes by the press within the ethical framework of the press code.

What follows below is an indication of how many times each individual article of the press code was found to have been breached by a publication between January 2009 and December 2013. This analysis is complicated by the fact that in October 2011, the PCSA adopted a new press code and complaints procedure – after the PCSA’s initial internal process of review – and again in February 2013. The articles of the press contained in the three different codes which were operational during the three different time periods between 2009 and 2013, although similar, are in some cases different. Thus, three different press codes are accounted for separately in this study.

We have excluded the months of January 2013 and February 2013 from this analysis: first it is unclear whether the Ombudsman was utilising the second or the third of the updated codes during these two months, and second, because only 21 rulings imposed sanctions for this particular period. We have therefore excluded these 21 rulings from the overall calculation of 200 sanctioned rulings between 2009 and 2013, and this section therefore refers to 179 rulings between 2009 – 2013, which is a reliable and valid sample since it constitutes 89.5% of all sanctioned rulings between 2009 and 2013.

One should also note that in cases where a publication was found to have breached the press code, more than one article of the press code may have been breached by a single press report. Where a publication was found to have breached the press code, an average of two (2) articles of the press code were breached per press report/story.

ARTICLES OF THE PRESS CODE FOUND TO HAVE BEEN BREACHED: January 2009 – October 2011		
Article	Number of times article breached	
1.1	46	1.1 The press shall be obliged to report news truthfully, accurately and fairly
1.2	31	1.2 News shall be presented in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation.
1.3	11	1.3 Only what may reasonably be true, having regard to the sources of the news, may be presented as fact, and such facts shall be published fairly with due regard to context and importance. Where a report is not based on facts or is founded on opinions, allegation, rumour or supposition, it shall be presented in such manner as to indicate this clearly.
1.4	18	1.4 Where there is reason to doubt the accuracy of a report and it is practicable to verify the accuracy thereof, it shall be verified. Where it has not been practicable to verify the accuracy of a report, this shall be mentioned in such report.
1.5	19	1.5 A publication should seek the views of the subject of serious critical reportage in advance of publication; provided that this need not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be destroyed or witnesses intimidated.
1.7	3	1.7 Reports, photographs or sketches relative to matters involving indecency or obscenity shall be presented with due sensitivity towards the prevailing moral climate. 1.7.1 A visual presentation of sexual conduct may not be published, unless a legitimate public interest dictates otherwise. 1.7.2 Child pornography shall not be published.

1.9	1	1.9 News obtained by dishonest or unfair means, or the publication of which would involve a breach of confidence, should not be published unless a legitimate public interest dictates otherwise.
1.10	1	1.10 In both news and comment the press shall exercise exceptional care and consideration in matters involving the private lives and concerns of individuals, bearing in mind that any right to privacy may be overridden only by legitimate public interest.
2.1	1	2.1 The press should avoid discriminatory or denigratory references to people's race, colour, ethnicity, religion, gender, sexual orientation or preference, physical or mental disability or illness, or age.
4.3	2	4.3 Comment by the press shall be an honest expression of opinion, without malice or dishonest motives, and shall take fair account of all available facts which are material to the matter commented upon.
5.1	7	5.1 Headlines and captions to pictures shall give a reasonable reflection of the contents of the report or picture in question.
5.2	3	5.2 Posters shall not mislead the public and shall give a reasonable reflection of the contents of the reports in question.
5.3	4	5.3 Pictures shall not misrepresent or mislead nor be manipulated to do so.
8	1	8. Due care and responsibility shall be exercised by the press with regard to the presentation of brutality, violence and atrocities.

Table 4: Articles of the press code found to have been breached: 2009 – October 2011

ARTICLES OF THE PRESS CODE FOUND TO HAVE BEEN BREACHED: November 2011 – December 2012⁴		
Article	Number of times article breached	
1.1	49	1.1 The press shall be obliged to report news truthfully, accurately and fairly
1.2	20	1.2 News shall be presented in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation.
1.3	6	1.3 Only what may reasonably be true, having regard to the sources of the news, may be presented as fact, and such facts shall be published fairly with due regard to context and importance. Where a report is not based on facts or is founded on opinions, allegation, rumour or supposition, it shall be presented in such manner as to indicate this clearly.
1.4	17	1.4 Where there is reason to doubt the accuracy of a report and it is practicable to verify the accuracy thereof, it shall be verified. Where it has not been practicable to verify the accuracy of a report, this shall be mentioned in such report.

⁴ In October 2011 the Press Council of South Africa adopted an amended press code, after the Press Council's internal process of review.

1.5	23	1.5 A publication should seek the views of the subject of serious critical reportage in advance of publication; provided that this need not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be destroyed or sources intimidated. If the publication is unable to obtain such comment, this shall be stated in the report.
3.1	1	3.1 The press shall not allow commercial, political, personal or other non-professional considerations to influence or slant reporting. Conflicts of interest must be avoided, as well as arrangements or practices that could lead audiences to doubt the press's independence and professionalism.
4.1	1	The press shall exercise exceptional care and consideration in matters involving the private lives and concerns of individuals, bearing in mind that any right to privacy may be overridden only by a legitimate public interest.
4.2	1	The identity of rape victims and victims of sexual violence shall not be published without the consent of the victim or in the case of children, without the consent of their legal guardians.
4.3	1	4.3 The HIV/AIDS status of people should not be disclosed without their consent, or in the case of children, without the consent of their legal guardians.
5	10	5. Dignity and Reputation The press shall exercise exceptional care and consideration in matters involving dignity and reputation, bearing in mind that any right to privacy may be overridden only by a legitimate public interest.
6.1	1	6.1 The press should avoid discriminatory or denigratory references to people's race, colour, ethnicity, religion, gender, sexual orientation or preferences, physical or mental disability or illness, age, or other status except where it is strictly relevant to the matter reported.
8.1	2	8.1 The press shall be entitled to comment upon or criticise any actions or events of public interest provided such comments or criticisms are fairly and honestly made.
8.3	4	8.3 Comment by the press shall be an honest expression of opinion, without malice or dishonest motives, and shall take fair account of all available facts which are material to the matter commented upon.
10.1	1	10.1 Due care and responsibility shall be exercised by the press with regard to the presentation of brutality, violence and atrocities.
11.1	3	11.1 Headlines and captions to pictures shall give a reasonable reflection of the contents of the report or picture in question.
11.3	1	Pictures shall not misrepresent or mislead nor be manipulated to do so.
12.2	2	The press shall avoid the use of anonymous sources unless there is no other way to handle a story. Care should be taken to corroborate the information.

Table 5: Articles of the press code found to have been breached: November 2011 – December 2012

ARTICLES OF THE PRESS CODE FOUND TO HAVE BEEN BREACHED: March 2013⁵ - December 2013		
Article	Number of times article breached	
2.1	20	The press shall take care to report news truthfully, accurately and fairly.
2.2	9	News shall be presented in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation
2.4	3	Where there is reason to doubt the accuracy of a report and it is practicable to verify the accuracy thereof, it shall be verified. Where it has not been practicable to verify the accuracy of a report, this shall be stated in such report.
2.5	9	A publication shall seek the views of the subject of critical reportage in advance of publication, provided that this needs not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be destroyed or sources intimidated. Reasonable time should be afforded the subject for a response. If the publication is unable to obtain such comment, this shall be stated in the report.
2.6	1	A publication shall make amends for publishing information or comment that is found to be inaccurate by printing, promptly and with app
4.1	5	The press shall exercise care and consideration in matters involving the private lives and concerns of individuals. The right to privacy may be overridden by a legitimate public interest.
4.2	8	The press shall exercise care and consideration in matters involving dignity and reputation. The dignity or reputation of an individual should be overridden only in the following circumstances:
4.2.1	3	The facts reported are true or substantially true;
4.2.2	1	The article amounts to fair comment based on facts that are adequately referred to and that are true or substantially true;
4.2.4	4	It was reasonable for the article to be published because it was prepared in accordance with the acceptable principles of journalistic conduct and in the public interest.
5.1	1	Except where it is strictly relevant to the matter reported and it is in the public interest to do so, the press shall avoid discriminatory or denigratory references to people's race, gender, sex, pregnancy, marital status, ethnic, or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth or other status, nor shall it refer to people's status in a prejudicial or pejorative context.
5.2	1	The press has the right and indeed the duty to report comment on all matters of legitimate public interest. This right and duty

⁵ The PCSA again adopted a slightly amended press code in February 2013.

		must, however, be balanced against the obligation not to publish material that amounts to: 5.2.1. Propaganda for war; 5.2.2. Incitement of imminent violence; or 5.2.3. Advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.
7.3	1	Comment by the press shall be an honest expression of opinion, without malice or dishonest motives, and shall take fair account of all available facts which are material to the matter commented upon.
8.2	1	Child pornography shall not be published. Child pornography is defined in the Film and Publications Act as: Any image or description of a person, real or simulated, who is or who is depicted or described as being, under the age of 18 years, engaged in sexual conduct; participating in or assisting another person to participate in sexual conduct; or showing or describing the body or parts of the body of the person in a manner or circumstance which, in context, amounts to sexual exploitation.
8.3	1	The press shall not identify children who have been victims of abuse, exploitation, or who have been charged with or convicted of a crime, unless a public interest is evident and it is in the best interests of the child.
9	2	Due care and responsibility shall be exercised by the press with regard to the presentation of brutality, violence and suffering.
10.1	11	Headlines and captions to pictures shall give a reasonable reflection of the contents of the report or picture in question.
10.2	2	Posters shall not mislead the public and shall give a reasonable reflection of the contents of the reports in question.

Table 6: Articles of the press code found to have been breached: March 2013 – December 2013

1. *The first article: truth, accuracy and fairness*

Article 1.1 of the press code was not altered in the post-October 2011 version of the press code, and therefore this article remained constant throughout 2009 – 2012. Article 1.1 is notably the single most often infringed-upon article of the press code. The same article is listed as article 2.1 in the final amendment of the press code, and its contents and/or meaning remain the same.

Article 1.1 of the press codes operational during January 2009 – October 2011, and November 2011 – December 2012, states:

“1.1 The press shall be obliged to report news truthfully, accurately and fairly”.

Similarly, article 2.1 in the press code operational during March 2013 – December 2013, states:

“The press shall take care to report news truthfully, accurately and fairly”.

Since article 1.1 or the latter version article 2.1 are the first articles to appear in all three versions of the press code, this report therefore refers hereafter to it as the *first article*.

The Ombudsman found that the first article was breached in 115 of the 179 of the complaints sanctioned between 2009 and 2013. This means that where publications breached the press code, the

first article was breached in 64% of such cases. However, this could owe to the relatively broad ‘catch-all’ nature or definition of the first article.

In 90 rulings out of the 179 sanctioned rulings, the first article was identified as having been breached along with another additional article of the press code, in 50% of cases. The first article appears to be identified in half of cases as a general classification of infringement, and this is then followed by another article which indicates the more specific nature of the infringement. In order to determine the ways in which publications most often infringe upon the press code more precisely, and due to the broad nature of the first article, it is necessary to examine the frequency of subsequent articles, rather than a singular examination of the first article.

2. *The second article: balance, context, distortion, exaggeration, misrepresentation, omission, summarisation*

Similar to the first article, the second article to appear in all three versions of the press code was also not altered, and therefore this article remained constant throughout 2009 – 2013. The second article is the second most often infringed-upon article of the press code, since it was found to have been breached by a publication in 60 (34%) of the 179 instances where a publication was sanctioned.

The second article of the press code(s) states:

“News shall be presented in context and in a balanced manner, without any intentional or negligent departure from the facts whether by distortion, exaggeration or misrepresentation, material omissions, or summarisation”.

3. *Seeking comment prior to publication:*

Article 1.5 of the press code was altered in the post-October 2011 version of the press code, but only slightly and the general content of the article remains much the same in the pre and post-October 2011 versions of the press code. This article was again revised in the post-February 2013 version of the press code, to include that publications seeking comment from the subject of a report prior to publication must allow a reasonable amount of time for the subject to respond.

The pre-October 2011 version of article 1.5 states:

“1.5 A publication should seek the views of the subject of serious critical reportage in advance of publication; provided that this need not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be destroyed or witnesses intimidated”.

The post-October 2011 version of article 1.5 states:

“1.5 A publication should seek the views of the subject of serious critical reportage in advance of publication; provided that this need not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be destroyed or sources intimidated. If the publication is unable to obtain such comment, this shall be stated in the report”.

The post-February 2013 version of this article, now article 2.5, states:

“A publication shall seek the views of the subject of critical reportage in advance of publication, provided that this needs not be done where the publication has reasonable grounds for believing that by doing so it would be prevented from publishing the report or where evidence might be

destroyed or sources intimidated. Reasonable time should be afforded the subject for a response. If the publication is unable to obtain such comment, this shall be stated in the report”.

The article pertaining to seeking comment prior to publication is the third most often infringed-upon article of the press code, since it was found to have been breached by a publication in 51 (28%) of the 179 instances where a publication was sanctioned.

4. *Accuracy of the report:*

Article 1.4 of the press code was not altered in the post-October 2011 version of the press code, and appears unchanged in the post-February 2013 press code. Therefore this article remained constant throughout 2009 – 2013. The article which refers to the accuracy of reporting is the fourth most often infringed-upon article of the press code, since it was found to have been breached by a publication in 35 (26%) of the 179 instances where a publication was sanctioned.

The article which refers to the accuracy of reporting in the press code(s) states:

“Where there is reason to doubt the accuracy of a report and it is practicable to verify the accuracy thereof, it shall be verified. Where it has not been practicable to verify the accuracy of a report, this shall be mentioned in such report”.

5. *Dignity and reputation:*

Significantly, the pre-October 2011 version of the press code did not include an explicit provision on dignity and reputation. The post-October 2011 press code introduced an article on care to be taken by the press for the dignity and reputation of the subject(s) of reports, while the post-February 2013 press code offered an substantially more expanded and detailed article on dignity and reputation. These articles appear as follows:

Post-October 2011, article 5:

“The press shall exercise exceptional care and consideration in matters involving dignity and reputation, bearing in mind that any right to privacy may be overridden only by a legitimate public interest”.

Post-February 2013, article 4.2:

“The press shall exercise care and consideration in matters involving dignity and reputation. The dignity or reputation of an individual should be overridden only in the following circumstances:

4.2.1 The facts reported are true or substantially true;

4.2.2 The article amounts to fair comment based on facts that are adequately referred to and that are true or substantially true;

4.2.3 The report amounts to a fair and accurate report or court proceedings, Parliamentary proceedings or the proceedings of any quasi-judicial tribunal or forum; or

4.2.4 It was reasonable for the article to be published because it was prepared in accordance with acceptable principles of journalistic conduct and in the public interest”.

Articles pertaining to the care for dignity and reputation were found to have been breached by publications in 18 (14%) out of 131⁶ cases.

⁶ We have here excluded all cases sanctioned prior to the introduction of the article on the care which ought to be taken by publications with regard to dignity and reputation. This article was introduced for the first time in October 2011, and therefore only applies to sanctioned cases which were ruled on by the Ombudsman after October 2011, of which there were 131.

6. *Headlines and captions:*

This article of the press code was not altered across the different versions of the press code, and therefore this article remained constant throughout 2009 – 2013. It appeared as article 5.1 in the pre-October 2011 press code, article 11.1 in the post-October 2011 press code, and as article 10.1 in the post-February 2013 press code.

The article which refers to the press' conduct regarding headlines and captions states:

“Headlines and captions to pictures shall give a reasonable reflection of the contents of the report or picture in question”.

The article which refers to headlines and captions is the sixth most often infringed-upon article of the press code, since it was found to have been breached by a publication in 21 (12%) of the 179 instances where a publication was sanctioned.

7. *Only what is reasonably true may be presented as fact:*

This article of the press code was not altered across the different versions of the press code, and therefore this article remained constant throughout 2009 – 2013. It appeared as article 1.3 in the pre- and post-October 2011 press codes, and as article 2.3 in the post-February 2013 press code.

It is the seventh most often infringed-upon article of the press code, since it was found to have been breached by a publication in 17 (9%) of the 179 instances where a publication was sanctioned. Significantly, this article was not found to have been breached by any publication in the year of 2013.

This article of the press code(s) states:

“Only what may reasonably be true, having regard to the sources of the news, may be presented as fact, and such facts shall be published fairly with due regard to context and importance. Where a report is not based on facts or is founded on opinions, allegation, rumour or supposition, it shall be presented in such manner as to indicate this clearly”.

All of the remaining articles which were found to have been breached by a publication in the period 2009 – 2013 were breached on notably few occasions, in some instances only once. Such articles are excluded here for analysis since the infrequency of the infringements by publications of such articles suggests that these do not indicate common errors by the press within the framework of ethics offered by the press code.

3.6.3 Summary of findings

Below is a tabulated summary of the findings discussed above in section 3.6.2.

Nature of the infringement according to the Press Code of the PCSA		Number of recorded infringements between 2009-2013	Percentage of sanctioned cases (179)	Percentage of all complaints received by the PCSA (1433)
1	<i>The first article: truth, accuracy and fairness</i>	115	64%	8%
2	<i>The second article: balance, context, distortion, exaggeration, misrepresentation, omission, summarisation</i>	60	34%	4.2%
3	<i>Seeking comment prior to publication</i>	51	28%	3.5%
4	<i>Accuracy of the report</i>	35	26%	2.4%
5	<i>Dignity and reputation</i>	18*	14%	2.1%*
6	<i>Headlines and captions</i>	21	12%	1.5%
7	<i>Only what is reasonably true may be presented as fact</i>	17	9%	1.2%

* This figure refers to 18 out of 131 cases sanctioned. We have here excluded all cases sanctioned prior to the introduction of the article on the care which ought to be taken by publications with regard to dignity and reputation. This article was introduced for the first time in October 2011, and therefore only applies to sanctioned cases which were ruled on by the Ombudsman after October 2011, of which there were 131. The percentage in the third column is calculated according to the 856 complaints received by the PCSA after the introduction of the post-October 2011 press code.

Table 7: Calculation of the seven most frequently breached articles of the press code

First, and most importantly, the percentages indicated here do not refer to all news reports published by all publications which subscribe to the PCSA and the press code, but only to those complaints which have been received by the PCSA, ruled upon by the Ombudsman, and sanctioned. That is to say, that it would be incorrect to read the above results as stating, for example, that 12% of all publications do not accurately reflect the content of a report in headlines or captions. The actual percentage of all publications which enact this infringement is in reality likely to be a great deal smaller than 12%. The percentages indicated above refer only to publications which have been found to be in infringement of the press code in one way or another (publications which have indeed done something wrong), and the percentages indicate the frequency of each particular infringement. Therefore, these results are not universal and cannot be generalised to the conduct of all publications, whatsoever.

The purpose of this exercise was to determine which articles of the press code are infringed upon by publications most frequently. Such results can be utilised in future by both the PCSA as well as news media managers and/or editors, in engagements with working journalists in order to improve ethical standards of reporting. Through such engagements, journalists and most especially junior journalists, could be encouraged to avoid these most common errors and thus increase journalism ethics-literacy within the profession more broadly.

As previously mentioned, the first article of the press code is broad in nature, and functions as a type of 'catch-all' term. This however, does not decrease its importance. But it must be noted that in 50% of sanctioned cases this article is cited along with additional articles (usually one other article), which then indicate the more specific nature of the infringement. It is therefore difficult to determine the

more specific nature of the most common errors arising in news reporting by analysing only the infringements of the first article.

The second article is the second most commonly infringed article, and it requires of the press to offer reporting that is balanced, presented within context, and which does not distort, exaggerate, and/or misrepresent the facts of the story. It also requires the press to avoid material omissions which are relevant to the report and summarisation, which could also lead to a distortion of the facts. In sum, the second article demands that journalists do their work with a high degree of diligence, thoroughness and objectivity. Similar to the first article, the second article is broad in the nature of its definition. However, the first and second articles contain the basic fundamental underlying principles of a high standard of journalistic ethics, and it may therefore be considered appropriate that they appear as the first two articles within the press code. They are followed by more specific and detailed provisions within the press code: the first and second articles serve then as the nodal point from which the subsequent articles stem. The first and second article could be understood as introductory entry points into the engagement of journalism ethics, and ought to be foremost in the minds of working journalists.

The third article examined above was that which refers to seeking the comment of the subject of a report prior to publication. This is the first site of analysis here which contains specific indications of particular journalistic conduct. Since that is the case, it is significant in that it refers to the most commonly enacted error by the press which can be accurately identified in this analysis. The findings indicate that journalist's failure to seek the subject of a reports comment prior to publication while allowing reasonable time to provide comment is the most common ethical infringement by the press. That said, this article was found to have been breached by a publication in a remarkably low number of cases: 3.5% of all complaints received by the PCSA. Although it is the most common identifiable error enacted by the press with respect to the press code, these findings indicate that it is not an infringement which occurs with outstanding regularity.

Accuracy of reporting is the next most commonly occurring offence. That said, this appears to occur in a very small number of cases. Only 35 infringements were found to have occurred in a period of 5 years from 2009 – 2013. While this accounts for 26% of the 179 cases which were sanctioned by the Ombudsman, it accounts for only 2.4% of all 1433 complaints received by the PCSA over a period of 5 years, which indicates that in 97.6% of cases the PCSA found that either there was not cause to believe that reports were inaccurate in their contents, or that reports had indeed reported a story accurately.

The addition of the article on dignity and reputation to the press code after October 2011 saw 18 breaches in a period of 26 months, averaging 1.4 instances of such infringements per month. Although these findings are compiled only from complaints laid with the PCSA, given the plethora news articles published in South Africa each month, this figure is nonetheless remarkably low. One may logically assume that the number of instances in which the press did indeed purposefully infringe upon the subject's dignity and reputation would be higher within the sample examined for this study, than within a random sample of new reports, because the sample examined for this study is limited to complaints laid with the PCSA. This means that the figure of 2.1% of cases in which the press purposefully infringed on the dignity and reputation of the subject of a report, may be a great deal lower if examined in the context of all news reports, and not only those which are submitted to the PCSA for complaint.

Similar to the article on the accuracy of reporting: infringements by the news media which pertained to headlines and captions which did not accurately reflect the contents of a story or image were also low. This infringement occurred 21 times within 5 years, meaning that the Ombudsman found it to have occurred in only 1.5% of all complaints received by the PCSA.

In a period of 5 years, 17 out of 1433 reports were found by the Ombudsman to have not reported in a manner which was reasonably true, and/or to not have supported such reporting with regard to sources. Such infringements also included reporting which presented opinions, allegations, rumours, or suppositions incorrectly as fact. This occurred in 1.2% of cases received by the PCSA in a period of 5 years: again, a remarkably low figure.

3.6.4 Indications on the quality of news reporting in the press in South Africa

The findings above indicate that measureable infringements of the press code adopted by the PCSA committed by print publications are, in fact, low. Critics of the print media sector have since 2010 argued that the print news media in South Africa display a continuing decline in the quality of journalism, especially with regard to ethics. These findings do not validate that argument, and indeed indicate the contrary. Overall, when it comes to adhering to the articles of the press code of ethics of the PCSA, the South African print media are performing well.

The findings delivered above are not without their limitations, but they nonetheless have value. First, and simply, it is of course encouraging to note that the largest majority of print media publications operate within the ethical framework of the press code for the greatest majority of the time. Second, that print media publications do this further indicates the sector's general willingness to adhere to the relevant accountability system, which is what solidifies the credibility of both the print media publications themselves, as well as that of the PCSA as a regulatory body.

With regard to the limitations of these findings: first, the articles of the press code are necessarily limited in their scope, which they need to be in order to make the administration of the press code practical. An assessment such as this, which really amounts to a complicated 'tick-the-box' exercise, though not without its value, cannot measure a broader scope of what is meant by the 'quality of news reporting'. This analysis is limited to the assessment of cases where print media publications have made identifiable and sometimes blatant errors, or performed inaccurate reporting. If 'quality journalistic reporting' is thought of in its most narrow and limited sense, then the findings offered here are adequate.

But this exercise cannot measure broader aspects of the media economy and political-economy, which would relate to a broader definition and understanding of 'high quality journalism'. For example, the mainstream print media sector has been criticised for offering investigative content which concentrates predominantly on state or government corruption, while offering comparatively little investigative content on corporate corruption. That said, it is notable that the findings presented in section 3.3.1 of this report, indicate that the business sector is far more likely to lay a complaint against a print publication than the government sector or political parties. Since this is the case, the view that the press' enacts an apparent dearth of reporting on, for example, private sector corruption may require further investigation, since the findings of this report suggest otherwise. A substantial content analysis study, which is not included in the scope of this report, is required to determine whether the press indeed privilege negative reporting on government over that on the private sector, since currently this position appears only as conjecture and/or myth.

Similarly, the print media has been accused of offering content which displays a poverty of varying views, opinions, ideas or political diversity, while speaking most commonly to the interests of the economically strong and ignoring the interests and stories of the grassroots level and economically weak section of society (who are in the majority). The manner in which economic constraints negatively impact the capacity of print publication newsrooms, especially with regard to the declining readership figures owing in part to the on-set of digitally distributed news via online platforms, and

the direct impact which this has on the potential for working journalists to deliver well-researched, in-depth, and high-quality reporting is also of concern.

Such concerns ought rightly to be addressed within a discussion of the broader context of the quality of journalism, but the methodology for such a study would involve a detailed content analysis, an ethnographic study, and an economic environment assessment, which is not the purpose of this report. Such methodologies and areas of enquiry fall outside of the scope of this particular research report – the purpose of this section of this report is to analyse the functioning and systems of the PCSA, and not the broader context of the South African media economy. This report therefore acknowledges that the scope and definition of ‘high quality journalism’ which is assessed and discussed with regard to the findings presented here, is narrow and incomplete, since it is limited to only one aspect of the term.

That said, the responsibilities of the PCSA should not be conflated with the problematics surrounding a perceived lack of content diversity within the content offered by the print media sector, nor economic and market challenges currently faced by newspapers and how these impact on print news reporting. Such ills, while important, fall outside of the mandate of the PCSA, which functions only as a post-publication accountability mechanism for the administration of complaints. One cannot expect the PCSA to be held responsible for such factors, since the responsibility of addressing these problems is simply not its role. This is an important point, since critics of the press regulatory system have consistently criticised the PCSA under the auspices of arguing that the press sector is un-transformed and lacking in diversity – this point will be explicated in more detail later in this study (see 5.2.6).

But, suffice to say that the additional aspects relating to the quality of print news journalism listed above relate to the arena of pre-publication news production. A post-publication complaints administration system is not fit-for-purpose to enact the transformation of the industry, nor address the diversity of content offered by the press, meaning that the site for much of such criticism is fundamentally misplaced (Reddy & Reid 2015). For its part, the PCSA does what it says it will do within its own governing documents, and it does this well. Moreover, the findings of this report indicate that the print publications which fall within the jurisdiction of the PCSA adhere to the confines of this accountability system, as is required of them and despite that this requirement is fulfilled voluntarily.

While we acknowledge the limitations of the scope of this particular study, and with regard to the broader aspects of the debate involving media diversity discussed above, it should be noted that the Media Policy and Democracy Project (MPDP) is currently performing another large scale research project on the measurement of the diversity of the media content within South Africa, which includes but is not limited to an analysis of the print media sector. The media diversity measurement tool developed by the MPDP is currently being implemented, and the findings of that study are forthcoming.

3.7 The method of sanction: is it a ‘toothless’ system?

At various points during the public debates which occurred during the Press Council’s Review, as well as during the Press Freedom Commission, and at various key moments thereafter, critics of the regulatory accountability system adopted for the press in South Africa have called the PCSA a ‘toothless’ mechanism. The PCSA has been accused of being ineffective in curbing unethical journalism, because of the perceived lightness of its sanctions, most especially because the PCSA does not formally enforce the payment of a monetary fine as a method of sanction.

The PCSA has maintained that the most effective way in which to sanction offending publications is to rely on the value which the profession of journalism places on its own credibility. Therefore, the PCSA

utilises a system of 'space fines', where offending publications are required to allocate portions of publication space (which would otherwise have been allocated to news reporting or advertising) to publish the ruling of the Ombudsman and/or a correction or apology. The PCSA maintains that this amounts to punishment in two ways: first, because while the space necessarily dedicated to the publication of the ruling/correction/apology could have instead been allocated to advertising, the publication indeed suffers a financial loss which amounts to an indirect monetary fine. Second, because this mechanism serves to affront the principle of journalistic credibility: news outlets view the requirement to publish the findings of the Ombudsman as damaging to the credibility of the publication, and are therefore more likely to perform within the confines of the code of ethics, in order to avert such reputational damage.

Nonetheless, critics of the PCSA continue to maintain that the method of sanction is 'toothless', and claim that this renders the PCSA an ineffective regulatory body. The logic of such critique implies that although newspapers receive sanction from the PCSA, they nonetheless continue their errant ways by repeating errors with disregard to the code of ethics since the current sanctions of the PCSA are not a sufficiently acute deterrent. We therefore set out to test this assumption.

We performed the exercise outlined in the table below to determine whether publications which have been sanctioned by the PCSA, repeat the same infringements against the same article of the press code with regular frequency thereafter. Such behaviour would indicate that publications are indeed not deterred by the sanctions imposed by the PCSA.

We selected a sample of 9 publications on the basis that they were found to have committed 15 or more individual breaches of the press code within the 5 year period assessed by this study. It was not feasible to assess a larger sample, since this assessment was for the purpose of identifying repeated breaches of the same articles of the press code. Publications which registered less than the already small number of 15 individual breaches of the press code within a period of 5 years would therefore not have been useful to examine.

Publication	Total complaints	Number of individual breaches of the press code	Individual articles breached by the publication (in order of breach)	
				1) pre-October 2011 press code 2) post-October 2011 press code 3) post-February 2013 press code
Beeld	13	20	1	1.2, 1.1, 1.5, 1.1, 1.2.1, 1.2.2, 1.3.3, 1.4, 1.5, 1.1
			2	1.1, 1.3, 1.4, 1.5, 1.1
			3	2.1, 2.2, 2.1, 4.2, 10.1
City Press	9	17	1	1.1, 1.2, 1.1, 1.2.2, 1.4, 5.2, 1.1, 1.2, 5.3, 1.1, 1.2.2, 1.4, 1.2, 1.1, 1.2, 5.1, 5.3
			2	1.2, 1.3, 11.1
			3	None
Daily Voice	10	17	1	5.3, 5.3
			2	1.1, 1.2, 5, 1.5, 4.1, 1.3, 1.4, 1.1, 1.2, 1.5, 1.1, 1.2, 1.5, 9
			3	9 ⁷
The New Age	9	15	1	1.1, 1.5
			2	1.1, 1.2, 1.1, 1.2, 1.5, 1.1, 1.2, 10.1, 1.1, 1.3, 1.4, 1.5, 11.1
			3	None
Rapport	12	23	1	1.5, 1.1, 1.1, 1.2, 1.4, 1.1, 1.2, 1.1, 1.2, 1.5
			2	None
			3	2.1, 4.2.1, 4.2.4, 2.1, 4.2.1, 4.2.4, 2.1, 10.1, 2.1, 2.2, 5.2, 2.2, 2.5
Sondag	8	19	1	None
			2	6.1, 5.3, 1.5, 1.4, 5, 1.1, 1.4, 5, 1.1, 1.2, 5, 1.1, 1.4, 12.2
			3	2.1, 2.2, 2.4, 2.5, 4.2
Sowetan	21	29	1	2.1, 4.3, 5.2, 1.5, 1.1, 1.7, 1.7.1
			2	1.5, 1.1, 1.5, 1.1, 5, 8.3, 1.1
			3	None
Sunday Times	42	18	1	1.1, 1.2, 1.1, 1.4, 1.1, 1.1, 1.5
			2	1.5, 1.1, 1.2, 1.6, 8.1, 8.3, 8.1, 8.3, 1.1, 1.1, 1.5,
			3	2.1, 10.1
Sunday World	15	21	1	1.4, 1.5, 1.1, 1.3, 1.4, 1.3, 1.1, 1.2, 1.1, 1.3, 1.4
			2	1.1, 1.2, 1.1, 1.1, 1.1, 1.2, 1.4, 5, 12.2, 1.1, 1.2, 1.1, 1.1, 1.3
			3	8.2

Table 8: The 15 publications which listed the most frequent breaches of the press code between 2009 and 2013

We decided to exclude the first and second articles of the press code from the analysis of this exercise (although they are nonetheless listed on the table above). As previously explained, the broad nature of the content of these two articles mean that they are often cited in the rulings published by the

⁷ While article 9 is listed as being infringed upon by the *Daily Voice* in two separate instances, these cases occurred during the utilisation of two different versions of the press code, in which article 9 is dissimilar. Therefore the repeat appearance of article 9 in this inventory does not represent a repetition of the same offence by the publication.

Ombudsman while accompanied by additional and more specific articles which then indicate the more precise nature of the breach. Therefore, a numerical quantification of the first and second article in this exercise would not provide an accurate indication of whether publications consistently repeat the same/similar errors in their reporting.

Publication	Article breached more than once between 2009-2013	Number of repeated breaches of the same article from 2009-2013
Beeld	1.4	2
	1.5	3
	2.1	2
City Press	1.4	2
	5.3	2
Daily Voice	1.5	3
	5.3	2
The New Age	1.5	3
Rapport	1.5	2
	4.2.1	2
	4.2.4	2
Sondag	1.4	3
	5	2
Sowetan	1.5	3
Sunday Times	1.5	3
	8.3	2
Sunday World	1.3	4
	1.4	4

Table 9: Number of repeated breaches of the same article from 2009-2013 per publication

As is clear in the table above, within a five year period, publications which breached the same article of the press code after having already being sanctioned for doing so once, repeated a breach of the same article in predominantly only one other instance: this occurred in 10 instances. This is to say, that the majority of repeat instances of breaching of the same article occurred twice. Five of the nine sampled publications breached the same article three times within a five year period. Only one publication, the *Sunday World*, breached the same article four times - it did so in two separate articles (1.3 and 1.4).

Bearing in mind that the sample of publications here is small, but most especially because the inclusion of more publications in this sample would not significantly assist with the identification of 'repeat offenders': these figures indicate that in most instances, publications will not breach the same article of the press code once having been sanctioned by the Ombudsman for such a breach. Considering the large number of complaints received by the PCSA within a five year period, which is 1433, these figures reveal that repeat offence against the same article of the press code occurs in remarkably few and limited cases.

One point of concern may be limited to one publication only, the *Sunday World*, which breached 2 separate articles repeatedly a total of 4 times each within five years. Since this publication is isolated in this regard, it is a matter which could be addressed directly with the *Sunday World* publication, and it cannot be generalised to all of the print media publications who subscribe to the PCSA.

Furthermore, since the instances of repeat offences are so low, there is no substantial evidence to suggest that the sanctioning mechanisms currently employed by the PCSA are ineffective in acting as a deterrent to print news publications from breaching the press code. An overall assessment of all breaches of the press code, by all publications between 2009 and 2013 in this regard would suggest that once a publication has been sanctioned for breaching a particular article of the press code, the publication will not commit the same breach again in the largest majority of cases.

The argument that the PCSA is ‘toothless’ as a regulatory system of accountability for the print media can therefore not be upheld with any reasonable substantiation or according to empirical or statistical evidence.

3.8 PCSA in summary

Over 2009-2013 the findings reveal that: contrary to previous arguments and criticisms, the PCSA and Ombudsman have not in the past, nor currently display significant bias toward the press and/or in favour of the press at the expense of the complainant. And furthermore;

- The introduction of the Public Advocate has improved the functioning of the PCSA and made the complaints process more accessible to the public regardless of literacy.
- The introduction of third party complaints opens the system to all and fosters diversity.
- The turn-around time of complaints has significantly improved.
- Prominence of apologies is now stipulated by the Ombudsman in the majority of cases with 100% compliance from publications.
- Overall, the PCSA has seen much improvement in its functions due to the changes implemented to its policies, procedures and office, particularly after the changes enacted following the Press Freedom Commission.

The implications of the findings presented in this chapter are discussion below in chapter 5, section 5.1.

4 The Press Freedom Commission (PFC): an assessment

The Press Freedom Commission (PFC) was inaugurated in late 2011 with the task of surveying public submissions alongside the regulatory frameworks of international media councils to determine a suitable system of press regulation for South Africa. Chaired by former and late Chief Justice Pius Langa, the body comprising of nine independent persons submitted its report in April 2012 (PFC 2012: 7). The objective of the PFC was to ensure press freedom in support of enhancing democracy and to research the regulation of specifically print media, locally and globally (PFC 2012: 14). Four forms of regulation were examined, these being self-regulation, co-regulation, independent regulation and state regulation. The PFC determined independent co-regulation, 'defined as a system of press regulation that involves public and press participation with a predominant public membership but without State or government participation', to be the best form of regulation for South Africa (PFC 2012: 7), despite that the majority of public submissions expressed a different sentiment.

In assessing the veracity of the PFC findings, this report examines the public voice through a document and content analysis of all written submissions, 235 submissions in total. Noticeable content excluded from the PFC final report is evident in the original public submissions. The quantitatively rich documents include content that reflects the public voice and the public's experience of the political and media climate.

4.1 The preferred system of press regulation

The majority of the 235 written submissions received during the PFC process of review are currently housed in an archive at the PCSA. The MPDP examined all available written submissions received by the PFC according to a predetermined set of criteria, the results of which are inventoried in Appendix F.

The MPDP discovered 5 separate submissions included amongst the written submissions received by the PFC which were not included on the PFC's own Public Submissions Register, Appendix 7 of the PFC final report (PFC 2012:113-116). The MPDP included these 5 submissions in this analysis, and they are indicated as the last 5 submissions on Appendix F of this report. It is not clear to the MPDP why the PFC selected to exclude these 5 submissions from its own report.

The content of a number of submissions were not directly relevant to the PCSA or the specific terms of reference of the PFC, but were instead concerned with related press freedom issues. Such submissions did not offer comment specifically related to the four different types of press regulation delineated by the PFC, but offered a diverse range of comments on the over-arching political context of press freedom related discourses within South Africa at the time.

Of the 235 submissions evaluated, 31.91% of submissions were unavailable for evaluation, meaning that these submissions were not included in the archive of PFC submissions made available to the MPDP by the PCSA. It is unclear to the MPDP how these submissions became 'lost' during the PFC process. The written submissions of which there is no longer any record are included on the inventory in Appendix F, but no information is captured for them in the third to fifth columns. Resultantly, the MPDP evaluated a sample of 68.09% of all written submissions received by the PFC.

The PFC’s call for public submissions requested that such submissions ought to specify which type of press regulation would be considered the most appropriate for South Africa. Of the 68.09% of submissions that were available for analysis by the MPDP, 25.53% did not specify a preferred system of press regulation. Together with the 31.91% of submissions which were not included in the archive of PFC submissions, a remaining 42.56% of submissions were analysed by the MPDP with particular regard to the specific mode of press regulation preferred by the submission. A full account of the preferred system of press regulation specified by the submissions received by the PFC is indicated in the table below.

Full account of PFC submissions

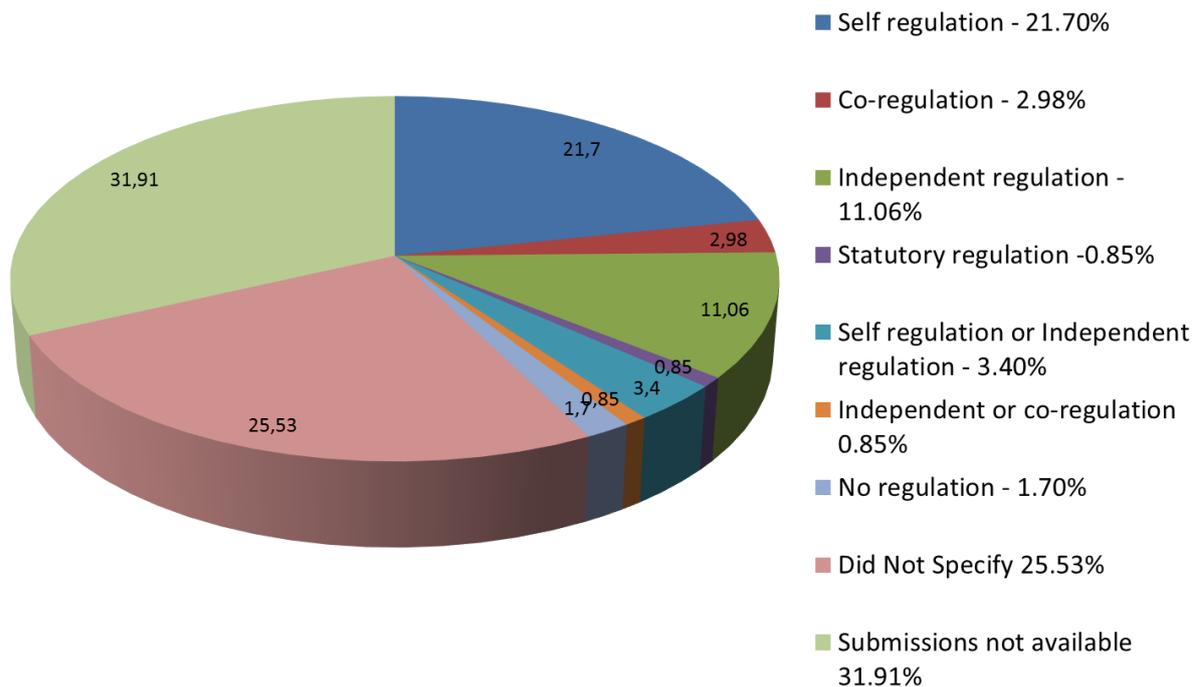


Figure 4: Full account of Press Freedom Commission public submissions according to the preferred system of press regulation stipulated in each submission

When isolating the submissions which did give their attention to the preferred system of press regulation and which were available for analysis, the submissions excluded from the PFC archive and the submissions which did not specify a preferred system of press regulation are excluded.

Therefore, regarding only the available submissions which did specify a preferred system of press regulation: 26% requested independent regulation, while only 7% preferred co-regulation. The predominantly preferred system was self-regulation as 51% of submissions which specified a preferred system, selected self-regulation. Thus independent co-regulation, which was eventually adopted by the PCSA, was in fact not the system of regulation most widely preferred by the public submissions.

System of preferred press regulation

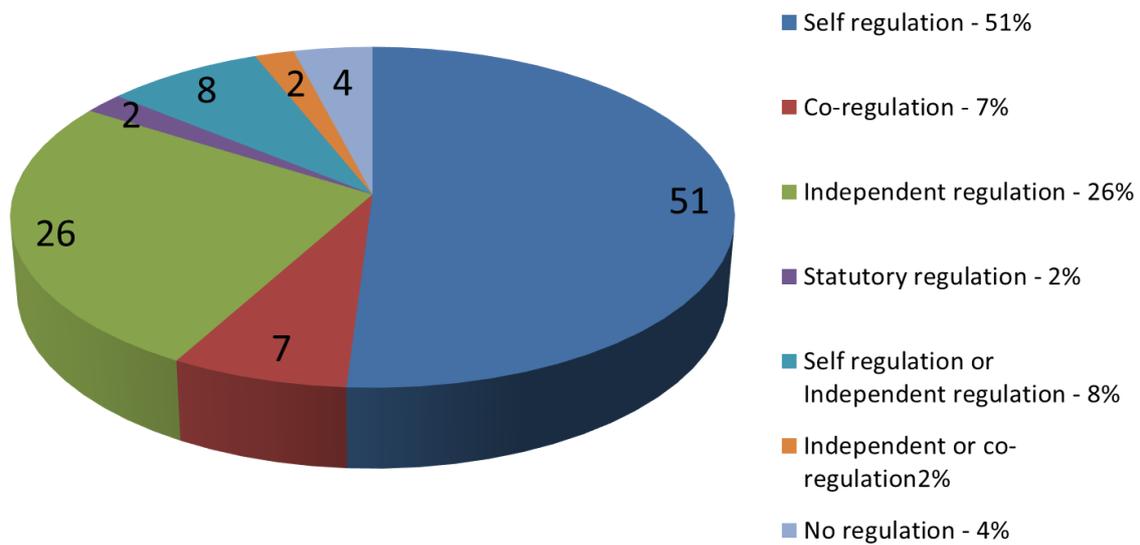


Figure 5: Public submissions to the Press Freedom Commission which stipulated a preferred system of press regulation

The most noteworthy finding here is that the largest majority of public written submissions specified a preference for the system of self-regulation. Independent regulation as a preferred system came a distant second place, and the system of co-regulation garnered very little support.

This finding is significant only because the PFC's final report recommended that a system of independent co-regulation be adopted by the PCSA for the regulation of the press in South Africa, but this was contrary and inconsistent with the largest majority of views outlined in the public submissions received by the PFC. The PFC's final report offers no justification nor motivation as to why it recommended a system of regulation which was contradictory and at odds with the majority of views expressed in the public submissions received by the PFC.

4.2 A content analysis of the PFC written submissions and omissions from the PFC final report

The preferred system of press regulation is not the only aspect of public commentary contained within the public submissions which received scant attention in the PFC final report. The MPDP identified common aspects which either appeared with significant frequency within the public written submissions, and/or which were relevant to the PFC's call for public comment, and developed a list of brief criteria according to which each written public submission was assessed with regard to its content. The content analysis of the PFC public written submissions therefore isolated any and all comments deemed relevant to one or more of the following key criteria, and listed each portion of such content on the inventory in Appendix F.

The key criteria utilised in the content analysis of the PFC written submissions is as follows:

Does the submission contain any content which is relevant to one or more of the following?:

- *The system of preferred regulation*

- *Recommendations for improving the current system*
- *Evidence of distrust of government or the ruling party*
- *Freedom of the press*
- *Comment on the system of press regulation (excluding statutory regulation)*
- *Comment on statutory regulation*
- *Self-regulation has failed, or aspects thereof have proved problematic*

4.2.1 Recommendations for improving the current system

Submissions to the PFC suggested a variety of potential changes to the system of press regulation for the betterment of journalistic accountability.

Notably, a small portion of such recommendations dealt with the matter of the prominence of the sanction or published apology. Such submissions generally argued that the prominence of the sanction ought to be stipulated by the Ombudsman in the final ruling, to ensure that the prominence of the published apology/ruling/correction was appropriate and equitable with the original offending news report. Such submissions argued that it is unacceptable for a newspaper to publish, for example, an inaccurate report on a front page, and thereafter publish the relevant apology in a manner which would not attract the same amount of attention as the front page report, in smaller text and with less prominence. One submission states, "... when the press has made a mistake and makes an apology thereafter, the original story is usually of a headline nature but the apology is hidden away inside the paper. Such an apology should appear on the front page of the paper in such a way that it is immediately noticeable". Another submission states: "the Ombudsman should be firmer in his directives to correct poor or inaccurate reporting e.g. newspapers should make prominent front page apologies. This would not apply to frivolous complaints (in the opinion of the Ombudsman). A similar comment noted that, "[a]ll apologies and changes to previously printed matter should be highlighted on the front page of publications in bold, not on "Page 17 in a small corner"".

As already discussed in section 3.4 of this report, the stipulation of the prominence of the sanction by the Ombudsman increased substantially after the PFC process of review, and in the year 2013 the Ombudsman allocated prominence 61 times out of 65 sanctioned cases, which means that the Ombudsman stipulated the prominence of the publication of the apology/retraction/correction/sanction in 94% of sanctioned rulings. Moreover, publications were found to have adhered to the prominence allocation 100% of the time which means that apologies can no longer be buried in an insignificant space, but instead have the same prominence as the original article.

A small portion of public submissions to the PFC addressed the matter of the imposition of monetary fines by the PCSA on offending publications, rather than the imposition of sanctions which do not require the payment of a fine. The PCSA's current method of sanction, which does not involve monetary fines, has been discussed in detail in section 3.7 of this report. Section 3.7 of this report tests whether the assumption that the PCSA is a 'toothless' mechanism can be substantiated with evidence of repeat offences by publications which were found to have breached the press code between 2009 and 2013. The results of that exercise revealed that there is no substantial evidence to suggest that the imposition of sanctions which are not monetary (ie. not fines) are not an efficient and effective method of sanction.

Below are a list of extracted portions of commentary from a selection of public written submissions received by the PFC which are relevant to this aspect of concern. They are transcribed here word-for-word as they appeared in the PFC public written submissions. These extracts have been selected for

inclusion here as a sample, since they represent the clearest indication of evidence of recommendations for improving the current system in their content.

- The African National Congress (ANC) welcomes this initiative and believes that independent and diverse media will help support, promote, deepen, consolidate and strengthen our democracy, nation building, social cohesion and good governance.
- Regulation for the media sector is vital to ensure that the press fulfills its potential to act on behalf of citizens, rather than simply make a profit for shareholders.
- The press ombudsman should have greater powers of sanction and remedy
- Press code needs to be far more rigorous
- ... when the press has made a mistake and makes an apology thereafter, the original story is usually of a headline nature but the apology is hidden away inside the paper. Such an apology should appear on the front page of the paper in such a way that it is immediately noticeable.
- ... the Ombudsman should be firmer in his directives to correct poor or inaccurate reporting e.g. newspapers should make prominent front page apologies. This would not apply to frivolous complaints (in the opinion of the Ombudsman)
- I ... suggest that ... apologies be given more prominence. For instance, in a newspaper, there must be a fixed & clearly marked "apologies" section in a prominent part of every paper.
- A system of checks and balances through which members of the PCSA are able to find a balance between the right to press freedom and other competing rights such as privacy, dignity, rights of the child etc needs to be incorporated into the self-regulatory system.
- The council should contain representatives from all three sectors, including persons from outside of the state itself who have experience in the field of ethics.
- Courts can heavily impose penalties and severe fines to owners of the media
- Businesses and lives that were destroyed by unjust reporting should be rewarded very generously by the media house responsible
- This institution should be governed in the same vein as our judiciary and sanctioned by the constitution, to provide security with accurate information.
- Please consider regulating the visual media that depicts men and women in a sexual way
- The PCSA should have an obligation to investigate cases where there is a probable breach of the code, even where no complaint has been laid, and should develop policies and procedures to enable this function.
- The PCSA should have the power to issue fines in cases of extreme and repeated transgressions of the code.
- The PCSA should investigate the pros and cons of the PCSA converting from a voluntary association to a trust or section 21 company.
- The Press Investigations office should operate a service where journalists can report unethical practices for further investigation.
- For all its bark, the Press Ombudsman seems to have no bite.
- Clearer definitions of accuracy, privacy, harassment and discrimination
- Protection of children, confidential sources, victims
- The office of the Ombudsman should be strengthened with retired editors who have proven their worth in the trenches. Complaints should be dealt with expeditiously. Apologies should be made prominently and in detail not just a brief paragraph and any reporter or editor who offends against the truth i.e. objective truth should be hung out to dry.
- All apologies and changes to previously printed matter should be highlighted on the front page of publications in bold, not on "Page 17 in a small corner."
- At present, it seems to me, the media receive a little slap on the wrist when they transgress. An apology, no matter how prominently displayed, is seldom sufficient
- Its sanctions must not just be fair but punitive as well
- It is very important for members of the public are able to voice their concerns about press content, to medias representatives who will listen... perhaps other ways could be found of continuing dialogue between print media and the public.
- Regulation must prioritise the South African context
- The regulation of the press as the most accessible form of news media therefore affects the quality and texture of our democracy
- There must be measures in place to sufficiently safeguard the regulators independence
- The regulator must not be representative solely of the media industry but rather ensure broad representation of all who have an interest in the media

- Transparent, open, independent and participatory accountability mechanisms and appointment processes are critical in ensuring that the regulator is transparent to the public
- Regulatory mechanisms and enforcement, including penalties must be proportionate to the harm caused
- Recommendations – The code of conduct to be reworked to better represent children and specific ethics
- It's worth knowing that the promotion of human dignity, equality, and freedom remains a contestable feature in the media.
- supports our objection about the Press Ombudsman's involvement at all three levels of the complaints process
- when the same press ombudsman is left to consider a complaint his impartiality is compromised by the procedure
- If the media has done wrong, the disciplinary measure should be instituted regarding the media, not to silent them.
- Suggestions to the current regulation system: To enhance the credibility of self-regulation in the eyes of the public, as this is vital as well as to ensure that it is an effective regulatory system. Advantage of self-regulation is the prevention of excessive government intervention. Our recommended changes to the Constitution of the Press Council, the Conciliation and Adjudication Procedure and the Press Code
- Suggestion to improve media: Register accredited journalists
- The Freedom of the Press needs to protect the Press and the Public
- Stricter enforcement of the provisions of the existing Press Code
- I think it's unfair that the press can slander people and then have a really small apology on page 5
- The press ombudsman should be given some power to impose penalties not only limited to corrections or apologies
- Any form of regulation should delve deeper into what forms of sanctions should be imposed on editors and journalists
- Press ombudsman is toothless
- These are cheap effective mechanisms to settle disputes and above all the timeframes are much quicker than civil courts
- Publishers have to take responsibility for what they produce and must be held accountable. Ideally this should be via self-regulation, as this process holds the most benefits for both publisher and reader.
- The laws on libel should be reviewed to provide easier and more cost effective redress.
- The regulatory commission must consist of the following: senior editors (retired) senior lawyers (retired judges or advocates). There must be no serving or retired politicians and no members of a parastatal organisation i.e. SABC. This will avoid bias and protect our Democracy
- The Centre does not agree with the task team's recommendation that no fines should be imposed and supports the stance of Peter Bruce. The Centre believes that the effectiveness of the Press Ombudsman would be greatly enhanced by extending its punitive jurisdiction to include the imposition of a fine.

4.2.2 Evidence of distrust of government(s) or the ANC party

A significant number of written public submissions to the PFC revealed clear evidence of distrust of government(s) or the ANC ruling party's perceived position on the regulation of the press. Considering that a significant number of public written submissions included such content, it is a matter of concern that the PFC did not report on this content, nor make any mention of it in its final report.

In terms of the political climate, many submissions to the PFC revealed a high level of distrust in government and the ruling ANC party. One such public submission stated "it is my opinion that the government and politicians wish to cover up their poor and crooked decisions from the public and that is why they want regulation of the press". Often the negative views expressed toward government and the ANC appeared to be motivated by the perception that the ANC and/or government were trying to interfere in the regulation of the press in order to prevent the investigative press from uncovering instances of corruption, maladministration or wrong-doing in government. A sentiment echoed by another submission, in that the author felt the ruling governments', or ANC party's intentions were underhanded: "If we had a competent and trustworthy Government then the discussion would be a lot easier. The Government in power now, is clearly not to be trusted". Another submission reiterates these sentiments: "the ANC is conflict-ridden and corrupt to the core and is very eager to sweep some or all of these stories under the carpet".

It is significant that this criticism did not emanate predominantly from the media or opposition parties, but mostly from the submissions made by members of the general public. Only three submissions received from media outlets contained content which was classified as containing evidence of a distrust of government(s) or the ruling party: Amabhungane Publications, the Ladysmith Gazette, and OFM.

Similarly, only three such submissions were received from political parties or politically aligned bodies: the Democratic Alliance, the Pan African Congress, and most significantly from COSATU, which stated that, “[t]he biggest concern with the POSIB and the MAT is that they could be misused to suppress the publication of matters of legitimate public concern”.

The high number of submissions authored by members of the general public which contained evidence of distrust of government(s) or the ruling party in their content is further significant because the PFC’s public call for submissions did not request comment of this nature, nor suggest that participants in the process of public engagement with the PFC ought to extend their commentary to anything other than the most appropriate system of press regulation for South Africa.

It is clear then, that a perception exists among a significant portion of the public that the ANC ruling party’s commentary, criticisms and suggestions for the regulation of the press is motivated by political interests rather than what can be determined to be best practice in press regulation appropriate for South African conditions. Whether or not this is in reality the case, it is nonetheless the perception which appears to have developed amongst a significant portion of the participatory public. In terms of this particular public participation process and the subsequent recorded public responses, the criticism levelled at the self-regulatory system adopted by the PCSA by the ANC seems to have back-fired for the ANC in one respect, in that it fostered a negative public sentiment towards the ANC’s attempted interventions in the regulatory system for the press.

For its own part, the PFC however assisted the ANC in this regard, by failing to report on this particular thematic evidence collected in the public submissions which it received as part of its review process.

Below are a list of extracted portions of commentary from a selection of public written submissions received by the PFC which are relevant to this aspect of concern. They are transcribed here word-for-word as they appeared in the PFC public written submissions. These extracts have been selected for inclusion here as a sample, since they represent the clearest indication of evidence of distrust of government(s) or the ruling party in their content.

- It is my opinion that the government and politicians wish to cover up their poor and crooked decisions from the public and that is why they want regulation of the press.
- If we had a competent and trustworthy Government then the discussion would be a lot easier... The Government in power now, is clearly not to be trusted...
- It is in the interests of all particularly the unemployed, the downtrodden and the un-Bee-ed – to be informed about the shenanigans of the rich and powerful and the corrupt who want to hide their nefarious activities from a robust and fearless press.
- When corruption is exposed at Government level and otherwise, it encourages us as a nation and as individuals to take stock of our lives and be better people.
- Aware of the levels of corruption in the country at present and the ability of the Press to exert social pressure in uncovering such corruption, to effect positive change in South Africa
- No government should have any influence on any form of media. The gov would want to influence media to print stories in their favour and keep corruption and the abuse of public funds out of public eye.
- We should be working towards transparency, especially in a political climate where the people DO NOT TRUST the government to begin with. Will all the corruption that has been uncovered over the last couple of years it is in our best interest as a democratic country to pursue the right to the truth reported to us by

trusted sources. This entails allowing the media to perform their function as watchdog to ensure our rights...

- ... I am totally against any form of press gagging. People who do wrong must be exposed and gagging the press is a big step backwards. The wrongdoers want to shoot the messenger.
- The government's hostility to the free media is absolutely no basis to begin a discussion on how to better regulate the media
- The state needs to find more ways to expose all the decisions which affect the country, as effectively as possible to the media... This approach is the only way to root out corruption and lack of good governance...".
- Inmenging deur staats-instansies lei onvermeidelik tot inperking van spraak vryheid [Interference by state institutions inevitably leads to restrictions on freedom of speech].
- Die regering se agenda vir die inperking van media vryheid is gewoonlik ter beskerming van politieke agendas en self verryking van die regerende party. [The government's agenda for the restriction of media freedom is usually for the protection of political agendas and the self-enrichment of the ruling party].
- The government should not have a say in this matter as the press/media is the main watchdog and reporter of government concerns. The government is trying to gag the press with the present bill.
- The question on many people's lips, is why does there seem to be a sudden interest or almost obsession by the ruling party to regulate the print media?
- With controlling power in the media, the ruling party could almost manipulate what contents are being aired and could tweak it in such a way that any negative portrayal of the ruling party or any of its counterparts are not showcased...
- Simply put, the ANC have been making headlines across the globe for all the wrong reasons ...
- In recent statements made by the ANC that the "media persistently undermine and violate the bill of rights" is a dangerous unfounded and un-supported one to make. With the ANC continuously taking centre stage under the political spotlight for various questionable political activities and poor delivery, it's no wonder they (ANC) want to put a tight lid on any medium that tries to expose them or portray them in a negative light.
- If had not been for our press freedom many of the corruption cases would never have come to light... Even our local little weekly newspaper in our area (the Kormorant) is doing fantastic work by exposing the corruption and many of the important issues dealing with our very bad run Madibeng municipality.
- Government's solution to this failed state (for failed it is) is to manage our industry to the nth degree; serving as self-appointed overlord of The Media and caretaker of the consumers of news.
- This determination by the powers that be to control what the citizens of South Africa can know is a determination to destroy the very democracy which was created by those who fought and say they fought for freedom. No we see that this claim was hollow since clearly the ANC feels that the only freedom which should be enjoyed is that which ANC politicians enjoy and increasingly which the people do not. They wish therefore to turn South Africa into a police state. They have learnt from the NATS and do not care that fascist repression does not work in the long run.
- Any South African Government that sees the necessity of legislating to regulate the print media in this country has quite obviously got something to hide... Corruption is currently rife in this country.
- Corruption is rife in this country. For government to start regulating in order to manipulate and control that freedom is highly dangerous.
- The prime motivating factor on the part of the Government, in far too many instances, would appear to have been self-interest and cover-ups.
- It is unfortunate that much of the 'news' happens to be negative towards the government, but that is not because of a free press and media, it is because of the actions or inactions of the government.
- We will stop buying or even reading newspapers if only the good of the government, the servants of the people are written about. We hold them in esteem currently because they walk the talk about the freedom bequeathed to us in 1994. Limit this and that esteem will be diminished to zero
- Once we give the power to regulate the media over to any political entity, and by association any government controlled regulatory body will be the voice of the party in power.
- What may have started out as a noble attempt to regulate an industry may become the tool used to oppress, censor and distort that very industry under another less enlightened regime.
- The Protection of Information Bill currently before Parliament is an undisguised attempt by the ANC government to hide from public scrutiny institutionalised corruption and rampant theft by parliamentarians and public servants in our country.
- When it comes to exposing fraud, theft & jobs for pals it is doing a service to the public, to whom the money belongs.
- Any interference by the Government or anyone else, should be not allowed under any circumstances... Unfortunately corruption has been so wide spread that we the public should be informed. I feel I cannot

trust the Government and their friends at all at the moment, and pray that God will help us all in this country.

- Let us please not regress to the tactics of the previous regime
- We had the experience under NATS, please do not repeat their mistake by isolating the populace [Comment to the ANC likening them to the national party (NATS)]
- We cannot have government involved in deciding what the press can do as history proved that no Government supports the press's views about its performance
- To this end, a climate of fear, lies and distortion is being stoked in society to feed an exploitative propaganda campaign that the ruling party and its alliance partners are hell-bent on clamping down on media freedom by flushing out the existing media self-regulatory mechanism for political expediency.
- The ANC is conflict-ridden and corrupt to the core and is very eager to sweep some or all of these stories under the carpet
- President Jacob Zuma himself knows that he was catapulted to power under a wave of those who had their personal agendas
- There is no need to control the flow of information. The populace is mature enough to make up their own mind, just like it did when it put the ANC into power.
- The leaders are not above the law, and the way to ensure that is basically only by free press and free media
- Dictatorships fight against a free press and we in South Africa should guard it with all means
- In a normal society (what is a normal society you ask?) the government has respect and a degree of fear for the citizenry. In SA our government is not far from bordering on LAWLESSNESS with arrogant spin doctors making us feel like idiots.
- Selection of Police Commissioners, Government Spokespersons, and appointments in other key Government institutions point to a systematic rape of South Africa.
- If the country is democratic, why is transparency inhibited
- One of the governmental strategies is Batho Pele in which one of the principles is Openness and Transparency, then where does the gvt put the press in terms of this principle
- I share the concerns of many that the newly passed security law will enable those with power to hide corruption and abuse of power – both great dangers to democracy.
- Society needs independent regulation to smother the egos of Government – following the ANC 2007 resolution on a Media Tribunal) – and newspapers and their owners
- Co-regulation and statutory regulation are NOT options because our government has clearly demonstrated their lack of integrity in being able to exercise unbiased judgments
- Such a tribunal would rob the public of its right to information, set media freedom back decades and erode the hard won freedoms of our democracy [commenting on the proposed MAT]
- Bitter experiences with repressive governments in their respective countries. These governments generally favour statutory regulation as it enables them to control media content more easily than self-regulation.
- The ANC, as a party owes some of its historical survival and success to the media.
- Anybody that is doing their duty, that is keen to serve the public efficiently, must be comfortable in being watched
- Fraud and corruption is eating to the very fabric of our society and whistleblowers last plea for genuine action is the media
- Any involvement by the government in the regulation of the print media has very real potential to infringe upon media freedom and will undermine the rights of SA citizens enshrined in the constitution
- The function of the media is to serve as a check and balance to any abuses of power by government
- Does the ANC Government understand the word democracy
- Self-regulation should avoid Government control or manipulation
- Any government law for press control will destroy media freedom
- It is through the media that corruption is exposed
- The current dictatorships worldwide exist because of suppression of the media and whistle blowers.
- The biggest concern with the POSIB and the MAT is that they could be misused to suppress the publication of matters of legitimate public concern

4.2.3 Freedom of the press

A number of public submissions to the PFC expressed concern for the state of press freedom in South Africa, and were openly explicit in their support for the principle of a free press and/or freedom of speech and expression.

Below are a list of extracted portions of commentary from a selection of public written submissions received by the PFC which are relevant to this aspect of concern. They are transcribed here word-for-word as they appeared in the PFC public written submissions. These extracts have been selected for inclusion here as a sample, since they represent the clearest indication of evidence of concern for freedom of the press in their content.

- I totally support press freedom, we cannot go back to hiding the truth as was prior to 1994!
- The Press should have complete freedom... The only restrictions should be on what and when children and minors are adversely affected.
- The public definitely has the right to know
- Freedom of the speech and freedom of the press is crucial for South Africa
- It's our right as South Africans to have a Freedom of Speech
- I vote for Freedom of the Press at it stands
- Media freedom plays a crucial role in ensuring that individuals are fully informed of the activities of their elected representatives and public officials
- The press must be free to comment on anything and everything that happens. It must not be stifled by people who wish to hide their criminal actions or their incompetence
- Why is there a sudden need to information controls of this nature
- ... the press must be able to report without fear of favour on anything which effects the community either to their detriment or their advantage.
- State secrecy should apply only to that which is necessary to the defense of South Africa against foreign aggression.
- In countries where there is full democracy there is full press freedom.
- I think that freedom of speech is the main pillar of any democracy. It's therefore not surprising that it forms the First Amendment of the USA.
- Newspapers are at liberty to print what they want
- All corruption should be exposed in the media of whatever nature
- Freedom of the press is important as it allows the press to report freely on what is happening in the world around us. This prevents people/organisations from performing actions that they would be embarrassed to let the world know about. It keeps people accountable for their actions.
- It is vital that we have total press freedom in South Africa
- The freedom of the media is the cornerstone of any democracy. The stronger the media the stronger the democracy.
- The press has to be free to publish what it thinks is information that should be in the public interest and not be fettered by press laws.
- FREEDOM OF THE PRESS IS IMPERATIVE. Too many South Africans of all persuasions have sacrificed too much for the press NOT to be free and fair.
- It is my opinion that true press freedom is under severe threat in this country and that this threat must be fought with all the vigour that can be mustered.
- ... I firmly believe that there can be no true democracy without true press freedom.
- We deserve to feel secure in knowing that we can believe in our constitution, that our leaders are held accountable, that criminals are exposed, and that the truth will always come out.
- I feel that press freedom is basic to democracy – we cannot let it go
- The cornerstone of democracy is freedom of the press
- The medias constitutional right to freedom of the press
- Extremely worried about the media's ability to act in the public's interest with the current situation in SA
- We're dominated by media and the concept of the freedom of expression remains the centre of social and moral corruption.
- To control the press and to now try to interfere with courts and other courts decisions must be stopped.
- Together in solidarity and Ubuntu we must resist this oppression and undemocratic control.
- A free press is a vital component for safeguarding our hard won democracy.
- Press freedom is fundamental for people freedom
- If we allow the press to be silenced we will be condemned to ignorance and thereby neutralized as free-thinking and acting citizens.
- Freedom of the press is of the utmost importance
- South Africa is in dire need of Press Freedom as it is the means to keep the South African Citizen aware of the various situations in our country.
- Remember when you silence the media you automatically promote corruption and hypocrisy.

- We must resist any such form of silencing the media
- SAJBD also supports the approach of the Constitutional Court that freedom of expression lies at the heart of democracy
- South Africa needs freedom of the press
- Events clearly illustrate the thin line between civility and total anarchy. The freedoms of speech and expression is that 'thin line' the last bastion to civil society
- The role played by print media is crucial in a democratic society where a principal function of the media is to provide citizens with information and a platform for the exchange of ideas.
- Press freedom is integral to democracy
- Lack of press freedom is the start of the rot! We must defend it at all costs
- I fully support freedom of the press...
- ... I never considered that our press freedom would be compromised. Even now, it seems like it must be some kind of grave mistake – surely South Africa couldn't take such a step backwards?
- The South African press is one of the free presses in the world
- The relationship between government and the media is nurtured and guarded for the sake of our hard earned democracy
- Right to know is our right as citizens through free media reporting honestly and factually, accurate
- Press freedom is very very important
- We, as tax paying and interested public, need to know what is going on in South Africa, at all times.
- Our constitution protects our right to express our views freely and we can all agree that the media has an important role to play in informing the populace
- Freedom of the press and other media is essential to sustain a democracy

4.2.4 Comment on the system of press regulation (excluding statutory regulation)

Comments which were relevant to the mode of regulation which ought to be instituted for the press in South Africa, excluding comments pertaining to statutory regulation, were predominantly supportive of the system of self-regulation in their content. This can be verified by the figures delivered in Figure 5 above, which details that 51% of public submissions to the PFC were in favour of a system of self-regulation. One such public submission states, “[s]elf-regulation of the press is, to my mind, the best way to safeguard press freedom”, whilst another states, “[i]ndividual newspaper self-regulation is the only guarantee that the rights and freedoms of the public are not infringed”. A minority of submissions argued for a system of independent regulation, and an even smaller minority for a co-regulatory system. However, these submissions did not offer any detailed or practical suggestions for how such an independent or co-regulatory systems ought to be established or instituted.

Below are a list of extracted portions of commentary from a selection of public written submissions received by the PFC which are relevant to this aspect of concern. They are transcribed here word-for-word as they appeared in the PFC public written submissions. These extracts have been selected for inclusion here as a sample, since they represent the clearest indication of comment on the system of press regulation (excluding statutory regulation) in their content.

- I would like to see a Self-Regulated or Independently Regulated system whereby stories and information regarding the governance of the country and how our tax money is spent are able to be published and reach the public at large.
- The parliament enquiry should explore the possibility of establishing an independent statutory appeals mechanism
- The ANC has never proposed a state regulation of print media, instead it proposes strengthening of the existing self-regulatory system and an establishment of an independent appeals mechanism
- Self-regulation of the press is, to my mind, the best way to safeguard press freedom
- The reason why self-regulation wins hands down is that newspapers must be accountable directly to the people and the buyers of the product
- Self-regulation that is consistent with the above will help to maintain the media's credibility in the eyes of the public, and ensure that journalists maintain a standard to which they will be held accountable to their peers.
- Self-regulation with a proper code of conduct

- Any regulation of the Media is unconstitutional for all of the proposed forms of regulation conflict with the provisions of section 16
- Retaining independence of the media from government is a key element in ensuring the rise of an educated electorate and an active debate based on freedom of expression, within the boundaries of the constitution.
- Being able to hold government accountable can only be guaranteed through an open, independent and transparent system.
- The media should be largely self-regulated
- "... total transparency is vital... NO REGULATORY FRAMEWORK CAN EVEN BE CONTEMPLATED".
- The introduction of proper independent regulation should replace the State control now being pursued by the government.
- Ons ondersteun die beginsel van selfregulering and media/pers Vryheid [We support the principle of self-regulation and media/press freedom].
- The current system of self-regulation should be kept in place as it is through this mechanism that the rights to express oneself freely and the freedom of the press and other media can be ensured.
- Individual newspaper self-regulation is the only guarantee that the rights and freedoms of the public are not infringed
- 'Mutually organized regulation' in itself bars the essence of freedom – the right to disagree and to report whatever you find or believe in.
- Co-regulation (shared by government and press) is imposed under government threat.
- The damage to our democracy would be many times worse if the current system of regulation of the press is tampered with.
- I do feel that Self-regulation of the press would be sufficient for our newspapers in this country.
- ... it is essential that the Press and the media are regulated independently, either by themselves... or in conjunction with civil society.
- A neutral third-party can issue instructions to the press that are based on the SA Constitution... The independent press regulator should be permitted not only to issue instructions to the press... but it should also be able to decline to allow the government to intervene in or prevent the publication of information which is truly in the country's best interests.
- The press industry should be left to regulate itself with its own laws, rules and codes of conduct
- The South African media has a responsible attitude, and does not require any outside regulation, particularly from politicians and bureaucrats.
- Self-regulation can guarantee independence better than state involvement can
- Print medias existing complaint procedures are expedient
- Independence will mean no political interference; it won't deprive media the right to access information and public the right to know.
- Independence will tell the media not to show favouritism
- I believe in a transparent total press freedom under a self-regulatory system without Government interference
- The press need be independent from the government to end the state monopoly
- Independent regulation condones free will to communication diversely and encourages freedom from political interference.
- I really just want external bodies to govern the press
- Neither statutory nor co-regulation are models which sufficiently guarantee freedom of expression as protected by the SA Constitution.
- Self-regulation has not really worked as the matters raised need to come from sources that stand scrutiny of fact and agenda. Given this condition I would see the future with a body of regulators that are quite independent and yet hold credibility within the broad spectrum of peoples within SA.

4.2.5 Comment on statutory regulation

In almost all cases where public submissions to the PFC contained comment which referred explicitly to the matter of statutory regulation, such comments were decidedly negative toward the notion of statutory regulation and were not in favour thereof. Only two submissions were recorded as preferring the system of statutory regulation above all others. Notably though, one of the submissions which listed statutory regulation as its preferred system of press regulation was also one of the submissions which recorded notable evidence of distrust in government(s) and the ruling ANC party, since it states, "[t]o this end, a climate of fear, lies and distortion is being stoked in society to feed an exploitative propaganda campaign that the ruling party and its alliance partners are hell-bent on clamping down

on media freedom by flushing out the existing media self-regulatory mechanism for political expediency”.

Below are a list of extracted portions of commentary from a selection of public written submissions received by the PFC which are relevant to this aspect of concern. They are transcribed here word-for-word as they appeared in the PFC public written submissions. These extracts have been selected for inclusion here as a sample, since they represent the clearest indication of evidence of comment on statutory regulation in their content.

- I... hope to see no government involvement at all in the regulation of the press.
- I believe statutory regulation is unnecessary and should be entirely scrapped
- A press regulated by the state – would spell the death knell of investigative journalism.
- I definitely would not like to see the State have any say in regulating the press.
- A tribunal should be in place to rule in cases of erroneous/negligent reporting, but should be distanced as far as possible from the State. I feel the State should have representation on such a tribunal, but as little as possible, ie. one member. Other members from public and business should also be included, but overall the bulk of it should comprise members of the media as well as legal experts.
- Something right must be done without government interference
- Statutory-Regulation: This is a particularly bad idea, as it makes the press entirely beholden to government. It should not be allowed in a free democracy...
- The establishment of a media tribunal will strengthen, complement and support press ombudsman, and remains the only way forward to harmonise omission existing in the current system of self-regulation.
- Why is it necessary to abandon the existing self-regulatory system of South Africa and the Ombudsman, as well as the Constitution, in favour of a draconian, dictatorial system
- Comments of the MAT: Such a tribunal would rob the public of its right to information, set media freedom back decades and erode the hard won freedoms of our democracy
- R2K is opposed to statutory regulation of print media content.
- A press autonomous of government is critical to ensuring the free flow of information
- State involvement of any kind in press regulation is incompatible with media freedom

4.2.6 Comment on whether self-regulation has failed, or problematic aspects thereof

For the purposes of this report, the MPDP isolated comments contained within the PFC public submissions which expressed clear discontent with the system of press self-regulation. The amount of commentary gleaned from the PFC public submissions which expressed clear dissatisfaction with the then-instituted system of self-regulation adopted by the PCSA is both comparatively small, and notably non-specific in its critique.

Below are a list of extracted portions of commentary from a selection of public written submissions received by the PFC which are relevant to this aspect of concern. They are transcribed here word-for-word as they appeared in the PFC public written submissions. These extracts have been selected for inclusion here as a sample, since they represent the clearest indication of evidence of concern that Self-regulation has failed, or aspects thereof have proved problematic, in their content.

- The print media’s bias and discrimination against certain vulnerable groups has gone unchecked for too long.
- Sowetan printed pictures of police officers having sex at a hospital. That is too much freedom
- This so called self-regulation by the owners of the media houses is a big laugh
- These media houses are to me part and parcel of the opposition. They are biased, they are very negative towards anything done or said by a black man.
- The media cannot be depended upon to regulate itself... self-regulation does not work; not with the press.
- Self-regulation: sadly the press has not rigorously engaged in this and has consequently opened the door for the government to surge ahead with its repressive legislation.
- For me self-regulation has failed because if it did not the publics will not be crying this much. Just recently there was unacceptable behaviour by Sowetan when it published phonographic picture of the officer having sex.

- The current self-regulation mechanism has no legitimacy among substantial sections of South Africa’s society and must be reviewed
- This country is in very serious trouble, the media has power, and the media needs to be much more responsible, and more accountable for what they write.
- Sadly, errant journalists are not being punished and we go on as if all is well and we should accept when the journalism craft is compromised
- Self-regulation is not working in South Africa since press mediums are bias.
- Media had 17 years to shape self-regulation framework but failed to do so

4.3 The Press Freedom Commission and jurisdiction over digitally published news content

In December 2014 the MPDP was approached by the Director of the PCSA, Joe Thloloe, and by the committee investigating cross-platform media accountability systems for South Africa, and requested to produce a research report which investigated the possibility of establishing a combined or amalgamated system of accountability which could encompass the regulation of the printed press as well as digitally published online news and current affairs content. That report was published by the MPDP in February 2015, and is entitled *Considering a cross-platform media accountability system for broadcast, print and digital news media in South Africa* (Reid & Isaacs 2015).

Given that in the digital information age, more and more news content is distributed and received via digital online platforms, the regulation of such content with regard to ethics and accountability becomes pertinent. The objectives of the report entitled *Considering a cross-platform media accountability system for broadcast, print and digital news media in South Africa*, were as follows:

- To evaluate the structure of national media regulatory councils, especially cross-platform media accountability systems, operational in 2014 around the world.
- To investigate the institutions regulating media content in South Africa and whether this would be improved by the introduction of a single cross-platform media accountability system.
- To explore a possible structure for a cross-platform media accountability system in South Africa (considering Berger’s 2011 conditions for borrowing, entitled *A three-way test to avoid selective borrowing and adhoc transplants*). (Reid & Isaacs 2015: 4).

Part of the above-mentioned report included an assessment of the PFC’s recommendations with regard to the jurisdiction of the PCSA and the regulation of digitally published online news content. The assessment offered here below is drawn largely from section 5.4 of the above-mentioned previously published report, with some additions (Reid & Isaacs 2015: 17-20). We have selected to re-publish this portion of analysis since it is relevant to an assessment of the performance of the PFC.

This report recognises the recommendations for digital publishing contained within the final *Report on Press Regulation in South Africa*, produced by the Press Freedom Commission (PFC) in 2012, and specifically the arguments delivered by the PFC on pages 55-59 in the section entitled ‘Digital publishing’ of its final report. Here, this report interrogates the points delivered by the PFC on digital publishing.

The PFC rightly recognises that during its own internal process of review conducted from 2010 – 2011, the PCSA resolved that its jurisdiction should be extended to online publications which are members of the (then) PMSA and other online publications that subscribe to the press code. The PFC, however, proceeded to reach the opposite recommendation, stating that “[w]hile the PFC acknowledges that

regulation of digital publishing is crucial, it does not believe that it is best regulated by the Press Council” (Press Freedom Commission 2012: 57).

The PFC lists a number of arguments for why the extension of the PCSA’s jurisdiction to online or digital publishing would be inappropriate, each of which will be discussed here:

- The PFC asserts that while deadlines are an important aspect of print news media publishing, stories that appear on online platforms can do so continuously throughout the day, as a story unfolds. The PFC does not elaborate on why this would prevent the PCSA from handling online complaints. The PCSA complaints procedure operates on a post-publication principle, which means that the immediacy of news production and publication should not adversely impact the complaints procedure of the PCSA. That is to say, whether information about a story is published within 24 hours or within 1 hour, the content of the published story should nonetheless adhere to the same fundamental principles of ethical journalism as well as adhere to the provisions of the press code.
- The PFC refers to user generated comments which appear on online news websites, and the difficulties surrounding the regulation of the content of such comments. This report (Reid & Isaacs 2015), however, recommends that no regulatory body, whether the PCSA, the IABSA, the BCCSA or an amalgamated cross platform media accountability system (CPMAS), should have jurisdiction over the regulation of user generated comments. This position is detailed in section 7 of the report entitled *Considering a cross-platform media accountability system for broadcast, print and digital news media in South Africa* (Reid & Isaacs 2015: 24-29). Nonetheless, this does not disenable the PCSA from regulating the content produced by online news publishers entirely, but only content which is produced by users: journalistic and editorial content produced by online news publishers could reasonably be regulated by the PCSA, while user responses (comments) on such content need not to be.
- The PFC mentions social networks such as Twitter and Facebook, recognising how users utilise such platforms to spread information. In a similar vein to the previous point, and as detailed in section 7 of the Reid and Isaacs (2015) report, the MPDP recommends that the PCSA should not regulate the content of social media platforms whatsoever. Again, this does not disenable the PCSA from regulating digital content produced by online news publishers, but only user responses to such content, should user responses appear on social media platforms. It is thus unclear to the MPDP why the PFC mentions platforms such as Twitter and Facebook as disenablers for either the PCSA or a CPMAS to regulate editorial or journalistic digitally published online news content.
- The PFC notes that, “websites and publishing platforms are hosted in different countries around the world and not just in South Africa; this poses challenges to jurisdiction with regard to potential complaints” (Press Freedom Commission 2012: 57). This seeming problem of jurisdiction can be nullified by the principle of voluntary subscription to the PCSA and the press code. The same principle could also be applied to hard-copy print newspapers, in that, should a South African newspaper select not to subscribe to the PCSA and the press code, the PCSA would have no jurisdiction over this particular newspaper, and yet the newspaper would not face any impediments (legal or otherwise) from publishing. The largest majority of print news media publications in South Africa however, select to voluntarily subscribe to the PCSA and the press code since this increases their own credibility as a news content producing outlet. Digital and online news publishers ought to be offered the same ‘carrot’. Whether such platforms are hosted within South Africa or not, makes small difference here. Digital publishers who report predominantly on South Africa, and whose reporters are based

predominantly within South Africa, would benefit from the credibility gained amongst what would then be a predominantly South African audience, by voluntarily subscribing to the PCSA and the press code.

- The PFC mentions that Internet Service Providers (ISPs) in South Africa are, according to the Films and Publications Act No.65 of 1996, obliged to report information on child pornography to the Film and Publications Board (FPB) as well as take steps to prevent the circulation of child pornography via their services. Although that may be so, the PFC does not elaborate on why or how this would prevent the PCSA from regulating complaints laid against digitally published online news which did not contain content relevant to the representation of child abuse (otherwise called ‘child pornography’). The genres of journalistic/editorial news and current affairs, and that of child abuse content (otherwise called ‘child pornography’), are vastly different and should be treated as such. It is clear that the FPB maintains jurisdiction, by law, over the regulation of child abuse content/‘child pornography’. But that does not mean that the vast spectrum of online digitally published news content (a different genre entirely) should remain unregulated. It should also be noted that the current press code takes heed of the need to protect children: Section 8 of the press code is dedicated entirely to the representation of children by the press, while clause 8.2 states that “[c]hild pornography shall not be published”, in accordance with the Film and Publications Act (The South African Press Code 2013: 16). Should the jurisdiction of the PCSA be extended to online news publishers which have voluntarily subscribed to the press code, and in the event that content containing child abuse content is published on such a platform, the PCSA Ombudsman could either 1) sanction the online publisher according to clause 8.2 of the Press Code, or 2) refer the case to the FPB, or 3) both.
- The PFC states that, “as technology advances, so new publishing platforms emerge... this occurs at quite a rapid pace” (Press Freedom Commission 2012: 57). Again, this argument is nullified by the principle of voluntary subscription by online news publishers. The reception of digital news content is not platform-specific, and should not be delineated for regulatory purposes according to platform/reception classifications. Users can today consume digital news content via cellphones, tablets or desktop computers, and such options are likely to expand as technology advances. The Reid and Isaacs (2015) report proposes that the PCSA have jurisdiction over the content produced by online news publishers who voluntarily subscribe to the press code, regardless of the digital platform(s) on which they select to distribute their content. Whether a story which contravenes the press code is consumed by a user via a tablet, or a desktop computer, should not deter from considerations as to whether the content of the story is in infringement of the press code.
- The PFC states that, “Digital publishers who belong to the Digital Media and Marketing Association (DMMA) [now the IAB] do not currently have a relationship with the Press Council and the Ombudsman”(Press Freedom Commission 2012: 57). This can be changed.
- The PFC states that, “Digital publishers are merely a small fraction of the people who are able to publish digitally” (Press Freedom Commission 2012: 57). Again, this argument is nullified by the principle of voluntary subscription by online news publishers. It would be nonsensical and impractical to extend the jurisdiction of the PCSA to all digitally published content. Additionally, many digital publishers would have no interest in subscribing to an institution which specialises in the regulation of journalistic content, since their publications are not news-orientated (for example, digital publishers such as *Gumtree.co.za*, or *takealot.com*). The PCSA’s jurisdiction over online content would extend only to digital news-orientated publishers who have voluntarily subscribed to the PCSA and the press code.

The PFC report refers to the DMMA (which has since been re-launched in South Africa as the IABSA) and acknowledges that, “[t]he main work of the DMMA appears to be about growing and sustaining the digital publishing industry as well as creating common interests as strategies amongst its members. Its core business does not include robust regulation of content” (Press Freedom Commission 2012: 58). Despite this observation, the PFC goes on to suggest that if the code of the DMMA were viewed widely, then it should not preclude the possibility of the DMMA from “bringing within its ambit the regulation of the content of what is published digitally”. However, the DMMA has since been re-launched as the IABSA, and its current code of conduct opens with a clear indication that the IABSA is indeed, not a regulatory body. Instead it acts as an industry representative body. Its code, though robust and detailed, is not specific to the regulation of journalistic content and does not focus on the encouragement of adherence to journalistic ethics. Were this particular code be utilised by working journalists as a guide for the production of ethical journalism, it would fall short, but that is not its purpose.

If the current IABSA were to include content regulation in its ambit, it would involve a great deal of restructuring of this organisation, including the adoption of a code of conduct catering specifically for the production of news and journalism, the institution of an Ombudsman’s office, a council and an appeals mechanism and panel for the administration of complaints, the adoption of a suitable complaints procedure, a public awareness campaign detailing the IABSA’s new ambit, and a considerable increase in its resourced capacity, both financially and with regard to human resources. The IABSA would also need to enter a consultative process with its members to reach consensus on whether it should remain a purely representative body, or restructure itself to become a regulatory body. So, to recommend that the IABSA should include content regulation of digital publishers within its ambit, is not a ‘quick fix’ solution to the problem of online news regulation as seemingly suggested by the PFC. Were the IABSA to reach the point where it could reasonably be expected to perform such a role on a regular basis, it would come at the end of a lengthy process of restructuring and consultation. And all the while, the PCSA already has such fit-for-purpose structures and procedures in place.

Due to all of the points detailed above, the MPDP is in disagreement with the recommendations delivered by the PFC with regard to digital publishing. Furthermore, it appears that the PFC did not adequately engage the matter of digitally published online news content, before recommending that the PCSA ought not to extend its jurisdiction to the arena of digitally published news content.

Resultantly, and in view of all of the above, the Reid and Isaacs (2015) MPDP report recommended that the PCSA return to its own original recommendation, outlined in the Review document which it published in April 2011, stated as such:

“Extended jurisdiction

The Team deliberated on the advisability of extending its jurisdiction to the internet and accepted a submission that jurisdiction should be extended to the online publications associated with the publications listed in 1.4 of the Constitution.

Proposal: The jurisdiction of the Press Council should be extended to online publications of the members of Print Media South Africa and other publications that subscribe to the Press Code” (Press Council of South Africa, Review 2011: 43).

Additionally, and in contrast to the recommendations of the PFC, the MPDP recommended that the PCSA allow for the voluntary subscription of online digital news publishers who are not members of the PDMSA, to the PCSA and the press code.

4.4 Interrogating the contents of the PFC final report

The PFC made numerous recommendations in its final report, after which a number of significant changes were adopted by the PCSA and the regulatory system for the press, including the dropping of the contentious waiver, the inclusion of third party complaints, the structural change toward a co-regulatory council comprising of members representative of both the media and the public, and the appointment of a Public Advocate to assist complainants. These changes appear to have improved the functionality of PCSA regulatory system, as is evidenced by the findings discussed in chapter 3 of this report, even though they did not yield to the public's majority request for a self-regulatory system.

Returning to the key questions which this report poses with regard to the PFC and which have been explicated above, the answers to the key questions may be summarized as follows:

4.4.1 What was the preferred system of press regulation according to the majority of public submissions?

As detailed in section 4.1 above, the majority of public written submissions received by the PFC were in favour of the system of self-regulation (51%). In spite of this majority view, the PFC recommended that a system of independent co-regulation be instituted, which was summarily adopted by the PCSA.

4.4.2 Was significant content contained in the public submissions which was excluded from the PFC final report?

Yes. The largest majority of the content and commentary of the public written submissions received by the PFC was not contained in the PFC's final published report. Most significant amongst this content was 1) that the largest majority of submissions were in favour of the system of self-regulation, 2) that the public submissions revealed evidence of a significant sentiment of distrust of government(s) and the ruling ANC party, and 3) many public submissions expressed a serious concern for the status of press freedom within South Africa.

Additionally, during its life-span the PFC conducted an international research exercise which involved a review of the press accountability systems adopted in a variety of foreign countries. All nine PFC commissioners and some PFC staff travelled to a number of countries including India, Denmark, and Tanzania, on a research visit as part of the assessment of foreign adopted press accountability systems. The final PFC report makes scant mention of this international research, provides no comparative analysis between South Africa and the other selected countries and provides no details as to what was learned by the PFC during this international research exercise.

4.4.3 What did the public submissions reveal about public sentiment toward the ANC, the MAT and government or state intervention in the regulation of the press?

A significant number of written public submissions to the PFC revealed clear evidence of distrust of government(s) or the ANC ruling party's perceived position on the regulation of the press.

The content analysis of the PFC public written submissions performed by this study revealed that a perception exists among a significant portion of the public that the ANC ruling party's commentary, criticisms and suggestions for the regulation of the press is motivated by political interests rather than what can be determined to be best practice in press regulation appropriate for South African conditions. Whether or not this is in reality the case, it is nonetheless the perception which appears to have developed amongst a significant portion of the participatory public.

4.4.4 Why did the PFC recommend that the PCSA ought not to administer complaints against digitally published news content?

As is detailed in section 4.3 above, it is entirely unclear why the PFC recommended that the PCSA ought not to extend its jurisdiction to the administration of complaints against digitally published online news. The reasons offered by the PFC against this move are superficial and badly formulated.

4.5 The Press Freedom Commission: implications on the regulation of journalism and the political debate

The PFC involved a ten month process during which the Commission examined the written submissions of 235 civil society groups, political parties, academics and members of the public, travelled to four different countries and held public hearings in three different cities (Cape Town, Durban and Johannesburg). In the light of the ANC's insistent calls for a media appeals tribunal, it was an important and timely process. The eventual report compiled by the PFC, at first glance, suggested relatively sweeping changes to the system of press self-regulation in South Africa. The most significant recommendation lay in the PFC's changing the system of self-regulation to what it called 'independent co-regulation': a system of accountability performed cooperatively by representatives from the press and the public, but independent of government (Reid 2012).

At the time the PFC report drew some criticism from the media and observers, nervous to abandon a system of press self-regulation. The African Commission on Human and People's Rights Declaration of Principles on Freedom of Expression in Africa states, "[e]ffective self-regulation is the best system for promoting high standards in the media". Additionally, a research report prepared by a team of researchers from UNISA for the PFC, pointed out that of the top fifty countries in the world which achieve the highest press freedom ratings, 35 of them, or 70%, have a self-regulatory mechanism for the press (Reid 2011a). The significance then, of moving away from a self-regulatory system, could not be over-stated.

4.5.1 Implications for the PCSA

However, in real and practical terms, changing the PCSA from a self-regulatory body to an independent co-regulatory one meant little with regard to its functioning and the adjudication of complaints. The major shift was political. The re-classifying exercise of calling the PCSA an 'independent co-regulatory' body, as opposed to referring to it as a self-regulatory one, had more value as a political public relations exercise on the part of the PFC and PCSA, than it did in meaningful changes to the regulatory system itself.

First: in truth the PCSA did not constitute a purely self-regulatory body to begin with, even though it may have (incorrectly) labelled itself as one. Previously, both the Press Council and the Press Appeals Panel of PCSA were constituted by six representatives from the press and six public representatives: in the truest sense of a definition, this already constitutes co-regulation (between the press and the public). A purely self-regulatory system would include representatives from the press only, which was not the case at the PCSA at the time of the PFC (Reid 2012).

Second: the PFC recommended that the number of public representatives on the Press Council be increased to seven and the press representatives be decreased to five, so that the public representation would slightly out-weigh the press representation. The PCSA did not institute this recommendation. Currently, and according to clauses 4.3 and 4.4 of the constitution of the PCSA, the representivity of the Press Council remains a 50/50 split between the press and the public: six

representatives from the press and six from the public constitute the twelve member press council (Press Council of South Africa 2013: 26).

However, even then it is of little consequence, since the adjudication of a single complaint when it is taken to a hearing is dealt with by the Ombudsman himself, and two members from the adjudication panel: one press and one public representative. This balance remains the same as the previous adjudications panel prior to the PFC. Despite the increased number of public representatives on the adjudication panel, it makes no difference at the site of the PCSA's core function: that of ruling on a complaint against a publication, since at this point in the PCSA mechanism, the press vs. public representation remains a 50/50 split and the same as what it was in the past. For all practical purposes, the public involvement in the process of adjudicating complaints has not changed in any remarkable way, nor has the inherent nature of the PCSA system itself been altered. All that has changed, really, is that whereas previously the PCSA was called a 'self-regulatory' body, it is now called an 'independent co-regulatory' system.

The PCSA, for its part, is today a much better system that it was in 2009. The findings offered in chapter 3 of this report are evidence as to how the PCSA has consistently improved its functionality over the five-year period of 2009 to 2013. Perceived threats of government intervention and the sporadic though pointed criticisms of the ANC party, though having caused distress and worry to the PCSA, have nonetheless contributed positively to the establishment of a much improved system. Such perceived threats and criticisms appear to have spurred the PCSA on to improve its functionality to a remarkable degree – a blessing in disguise. Assessed within the framework of its own governing documents as well as against the most frequently voiced criticisms of the PCSA system, this report could not identify nor isolate evidence of a single factor of the current PCSA system, which in 2013 revealed concerning levels of under-performance or ineffectiveness.

4.5.2 Implications for the ANC

In its submission to the PFC, the ANC stated that an independent mechanism is the most desirable device for press regulation, which should be "unencumbered by commercial or party political interests" (PFC 2012: 119). The remaining sticking point between the requests of the ANC party, and the current situation, is that the ANC party continues to maintain that the regulatory system ought to be investigated by a parliamentary enquiry, whilst the PFC and the PCSA do not see this to be necessary. Indeed, since the PCSA already functions as a mechanism which is independent of commercial and political or state interests, it is difficult to see how a parliamentary enquiry would arrive at anything remarkably different from what the current system offers.

Given that this is the current situation, it may appear nonsensical for the ANC or members of government to continue to insist that parliament investigate the regulatory system of the press. Nonetheless, they have continued to do so, despite that to do so makes little sense now.

Furthermore, the final report of the PFC offered an unmistakable political compromise to the ANC. The PFC effectively ignored the majority views of the participatory public when listing in its final recommendations that the PCSA ought to be instituted as an independent co-regulatory system, as opposed to the self-regulatory system which was requested by most public submissions. As indicated above, this change did little to alter the inherent nature of the PCSA, which prior to the PFC process was in fact incorrectly referred to as a self-regulatory system, while it functioned more as an independent co-regulatory one. The PCSA, for its part then, already functioned as a body quite similar to that which was being requested by the ANC, even before the advent of the PFC process. Nonetheless, the PFC's compromise to the ANC went further to make this clear, by offering the re-classification of the system to one of independent co-regulation, and in contradiction to the majority

of public submissions. Here, it would appear, that the voice of the ANC party mattered more to the PFC than the voices contained in 51% of all other submissions.

As pointed out in section 4.3 and 4.4 above, large sections of the final PFC report offered superficial and inadequate analysis and/or recommendations, such as its arguments relating to the regulation of digitally published online news content, and its omission of research conducted on foreign regulatory systems. One might posit that the primary motivation of the PFC was only to increase the credibility of the PCSA system, offer the political compromise to the ANC, and engage in an elaborate public relations exercise.

But the PFC offered another gift to the ANC party, not in what it included in its final report, but in what it selected to omit. The evidence of distrust in government(s) and more specifically the ruling ANC party contained within the public written submissions received by the PFC, and recorded through a detailed document content analysis by this report (see section 4.2) was significant. Many submissions revealed a public sentiment and/or public perception that the ANC's continued attempts to interfere in the regulatory mechanism for the press, whether through its calls for a MAT or a parliamentary investigation into the system, were motivated solely by political interests, and a desire to conceal high-level corruption, maladministration or wrong-doing. The PFC selected not to report on this collected evidence at all, thus sparing the ANC from embarrassment.

Nonetheless, in real terms, the ANC's messaging on its position with regard to press regulation in South Africa appears to have somewhat backfired for the ruling party. The ANC has publically restated its discontent for the press regulatory system sporadically at various intervals between 2007 and 2015, and most recently after its 2015 NGC conference. However, the ANC's position on this particular matter may be doing more harm than good with regard to public opinion toward the ruling party. The ANC's position on press regulation, as well as its position on media transformation and diversity in South Africa, will be discussed in more detail in chapter 5 of this report.

5. The implications of the findings and related political discussions

The 52nd conference resolutions of the ANC stated that, “With particular reference to the print media, the ANC notes that the current form of self regulation⁸ as expressed in the form of the Press Ombudsman/ Press Council is not adequate to sufficiently protect the rights of the individual citizens, community and society as a whole” (African National Congress 2007b).

The current national conversation about the role and effectivity of the PCSA as an adequate system for the administration of complaints against the printed press in South Africa largely initiated at the time of the 2007 52nd ANC national conference as has continued to the present time in 2015. This chapter of this report summarises the findings presented in preceding chapters and explains their relevance with regard to the various arguments and discourse(s) surrounding the PCSA as a regulatory system.

Sub-sections 6.1 – 6.6 below will address the key questions posed by this study as explicated in section 1.2.1 and as tested in Chapter 3.

5.1 Implications of the findings

5.1.1 Is the PCSA and the Ombudsman biased in favour of the press?

A total of 350 rulings were published by the Press Ombudsman or the Deputy Press Ombudsman during the period January 2009 – December 2013. In 200 of these cases, publications were sanctioned by the PCSA for breaching the Press Code. The Ombudsman therefore ruled in favour of the complainant, to varying degrees, and sanctioned the press in 57.14% of cases over a period of 5 years.

Therefore, the assumption that the PCSA or the Ombudsman is biased in favour of the press cannot be conclusively statistically justified, and this assumption is rejected by this report.

5.1.2 What are the various profiles of the complainants?

Business and the private sector account for the largest majority of complaints ruled upon by the PCSA, at 47.91% of all rulings.

Since 2010, the most prominent criticism of the press and the PCSA in public and media discourse has come from political figures and the ANC party. Although both the ANC and opposition parties regularly utilise the PCSA system, the highest number of complaints which proceed to a ruling stem from the business sector. This is significant because it could indicate three factors;

- 1) The business sector is far less tolerant of criticism by the press than the political sector.
- 2) The press is often criticised for publishing content that is critical of government/politicians, and comparatively too little content critical of corporate and the private sector – these figures

⁸ At the time when these conference resolutions were authored, in 2007, the PCSA was still classified (although somewhat mistakenly) as a self-regulatory mechanism.

indicate that this assumption may not be accurate. This could be verified with a detailed content analysis (outside of the scope of this particular study).

- 3) These figures comprise of complaints which proceed to a ruling. The largest majority of complaints which are dismissed prior to a ruling, are dismissed because of frivolous claims, or because the content of the complaint does not fall within the mandate of the PCSA according to the complaints procedure and the press code. (Complaints also do not proceed to a ruling because a settlement may be reached through mediation, or because a complaint is withdrawn). That such a large number of business and private sector complaints do proceed to a ruling may be an indication of this sector's capability of drawing on legal expertise when laying a complaint, and where the reputation of a company/prominent business person is involved (often a marketing or public relations concern), diligently making certain that the nature of the complaint falls within the ambit of the press code. It then stands to reason that the majority of business sector complaints proceed to a ruling.

Governmental departments, state or public institutions, and state owned enterprises form the next largest portion of complaints which proceeded to a ruling (26.57%).

Political parties and representatives from these parties use the PCSA system regularly, indicating that despite the public criticism of the PCSA system from this sector, there does exist some degree of confidence for this regulatory mechanisms within political parties. These complaints accounted for 8.29% of complaints ruled upon within a 5 year period.

The ANC has laid more complaints than any other political party, 12 of which proceeded to a ruling, which stands to reason with regard to its proportionality as by far the largest political party in South Africa. As the ruling/governing party, it supersedes other parties considerably with regard to newsworthiness (rightly or wrongly), and is therefore reported on in the press more frequently than other parties, thus increasing the statistical possibility of complaints emanating from the ANC and/or its members and representatives. That said, given the amount of press coverage allotted to the ANC party, that only 12 complaints proceeded to a ruling over a 5 year period is a relatively small number.

5.1.3 Is the prominence of the sanction stipulated and adhered to when it is published?

During the PCSA Review and the PFC independent review, and during subsequent public debates, a main complaint of critics of the PCSA system was that when newspapers are ordered by the Ombudsman to publish an apology or retraction for having breached the press code, that this is not published with the same degree of prominence as the original article, thus doing little to rectify the reputational damage done to the aggrieved party. This argument persists at the current time.

In 2015, Minister of Higher Education and Training and General Secretary of the South African Communist Party (SACP), reiterated this concern saying, "... here [in print media], it's just an obscure apology. We can't continue to have this," (Letsoalo. 2015a).

Former CEO of the Media Development and Diversity Agency (MDDA), Lumko Mtimde has shared this concern: "The increasing nature of misreporting and *therefore apologies (hidden in a small corner)*⁹ does talk to the challenges faced by our media in respect of quality of journalism, poor investment in capacitating newsrooms, poor investment in training and staff retention, conditions of employment of journalists, etc" (Mtimde 2012).

⁹ Emphasis added.

Although the concern that the prominence of the publication of apologies and the Ombudsman's sanctions do not bear any symmetry to the original offending article persists amongst some critics of the PCSA, others have noted that this is an aspect of the PCSA's regulatory system which has recently changed and in fact improved.

"As media lawyer Dario Milo has said, the jurisprudence of South Africa's Press Council has improved over the last few years, and now "the standard approach if there's been a front-page story that is inaccurate and defamatory is to order a front-page apology, so there have been very prominent front-page apologies in the last few years where the media get it wrong and are ordered to apologise by the ombudsman". In addition, says Milo: "A prominent and prompt apology mitigates any damages claim substantially, so it's an incentive to the media where they get it wrong" (Reddy & Reid 2015).

As revealed in subsection 3.4 of this study, during the 5 year period assessed by this report, the Ombudsman allocated prominence to 95 complaints of the 200 ruled upon. However, during 2013 the Ombudsman allocated prominence 61 times out of 65 sanctioned cases, which means that the Ombudsman stipulated the prominence of the publication of the apology/retraction/correction/sanction in 94% of sanctioned rulings in that year. The MPDP recorded a growing trend over the 5 year period for the stipulation of the prominence of the publication of the sanction by the Ombudsman. The stipulation of the prominence of the publication of the sanction is a growing trend in the method of PCSA sanctioning, and now takes place in almost all relevant cases.

While the stipulation of the prominence of the sanction, making the publication of the sanction appropriate to the harm caused by the offending article, was not standard practice of the PCSA in 2009, this is not the case in 2013 nor at the present time in 2015. The PCSA, it seems, has paid attention to this matter and point of concern raised by its critics, and has adjusted its procedures accordingly.

What is more, the MPDP found that print media publications adhere to the stipulation of the prominence of the publication of the sanction by the Ombudsman 100% of the time. Therefore, the MPDP concludes that the argument that newspapers 'get away with publishing small apologies' may have indeed been relevant in 2009, but in 2015 it can no longer be substantiated since this has been rectified by the Ombudsman and PCSA.

5.1.4 Does the PCSA take too long to resolve complaints?

The efficiency of the PCSA received much criticism because of the time taken to resolve complaints. In 2009, the average time for a complaint to be resolved took 233 days, this vastly improved in 2010 with an average of 81 days till a resolution was published on the site. By 2011 the average number of days to complaint resolution rose to 85, and rose again in 2012 to 104. With the introduction of the Public Advocate in 2013, the PCSA achieved a 59 day average for complaint resolutions, despite receiving the largest number of complaints that year within the 5 year period assessed for this study.

The PCSA has therefore drastically improved the number of calendar days taken to resolve complaints since 2009, despite now receiving far more complaints than ever before (largely due to its now much increased public profile, and its recent allowance for third party complaints).

Some critics of the PCSA have argued that the PCSA's tardiness in dealing with complaints is reason enough to explore alternative regulatory systems for the administration of complaints against the printed press. However, it is difficult to see how any other institution (whether the courts, or an alternative independent regulatory mechanism) would be able to meaningfully improve on the time taken to complete the administration of complaints than what is currently achieved by the PCSA.

5.1.5 Is the quality of news reporting in South Africa declining with regard to the code of ethics?

Subsection 3.6 of this report measured the number of times each offending publication was found to be in breach of a particular article of the press code by the Ombudsman over a 5 year period. It also determined which articles of the press code are most commonly breached by print publications when they are found to be in breach of the press code.

As previously stated, such results can be utilised in future by both the PCSA as well as news media managers and/or editors, in engagements with working journalists in order to improve ethical standards of reporting. Through such engagements, journalists and most especially junior journalists, could be encouraged to avoid these most common errors and thus increase journalism ethics-literacy within the profession more broadly.

With regard to the quality of news reporting in South Africa with respect to the adherence to the code of ethics: the findings presented in subsection 3.6 indicate that measureable infringements of the press code adopted by the PCSA committed by print publications are, in fact, low. Critics of the print media sector have since 2007 argued that the print news media in South Africa display a continuing decline in the quality of journalism, especially with regard to ethics. These findings do not validate that argument, and indeed indicate the contrary. Overall, when it comes to adhering to the articles of the press code of ethics of the PCSA, the South African print media are performing well.

However, as explained in subsection 3.6.4 these findings are not without their limitations because they are based on an extremely narrow understanding of ‘quality’ journalism. This discussion is presented in detail in subsection 3.6.4 and will not be repeated here.

5.1.6 Is the PCSA a ‘toothless’ mechanism, resulting in publications repeating consistent breaches of the press code?

The ANC’s 53rd National conference Organisational Report states, “The 52nd National Conference directed the NEC to investigate the possibility of establishing the Media Appeals Tribunal as an independent regulatory body for the print media. This was a response to the ineffective, *toothless*¹⁰ and varied weaknesses of the self-regulatory regime” (African National Congress 2013a).

Critics of the PCSA have oft maintained that the system is “toothless”, most of all because it does not impose monetary fines on publications which are found to have breached the press code. The argument here is that the sanctions of the PCSA do little to discourage errand journalism, are not a sufficient deterrent, and consequently print publications commit the same offenses repeatedly.

Lumko Mtimde reiterates this view, saying, “[b]ut will a system that does not affect the bottom line of publishers or the performance bonuses of editors and journalists ever really ensure ethics are adhered to?” (Mtimde 2015a, Mtimde 2015b).

Subsection 3.7 of this report tested this assumption, and found it to be unsubstantiated. We assessed the number of ‘repeat offenders’, or publications which had committed a breach of the same article of the press code more than once over the 5 year period assessed for this study and found the number of repeat offenses to be significantly low. The majority of publications which committed repeat

¹⁰ Emphasis added.

offences over the 5 year period (a very small number of publications) of the same article of the press code, did so only twice.

As already explained (see 3.7), since the instances of repeat offences are so low, there is no substantial evidence to suggest that the sanctioning mechanisms currently employed by the PCSA are ineffective in acting as a deterrent to print news publications from breaching the press code. An overall assessment of all breaches of the press code, by all publications between 2009 and 2013 in this regard would suggest that once a publication has been sanctioned for breaching a particular article of the press code, the publication will not commit the same breach again in the largest majority of cases.

The argument that the PCSA is ‘toothless’ as a regulatory system of accountability for the print media can therefore not be upheld with any reasonable substantiation or according to empirical or statistical evidence.

5.2 Related political discussions

After having addressed the key questions and related findings relevant to the PCSA above, this section (5.2) will expand on related areas of concern and key aspects of relevant discourses.

5.2.1 ANC’s misrepresentations of the press regulatory system

After the PFC concluded its independent review of press regulation in South Africa, the PCSA officially changed the classification of its system from that of ‘self-regulation’ to ‘independent co-regulation’. This is largely a matter of semantics. The first important aspect to note here, is that the PCSA was not, even prior to the PFC, a self-regulatory mechanism.

“The truth of the matter is that the Press Council did not constitute a self-regulatory body in the first place, even though it may have (incorrectly) labelled itself as one. Previously, the Press Council was constituted by six representatives from the press and six public representatives: in the truest sense of a definition, that’s co-regulation (between the press and the public). A real self-regulatory system would include representatives from the press only, which was not the case at the Press Council of South Africa” (Reid 2012).

After the PFC process, the PCSA labelled itself as an independent co-regulatory system, which is indeed a more accurate description, since again it hosts representatives from the press and the public (but not from government). The co-regulatory aspect of the system exists because of the inclusion of representatives of the press and the public.

The PCSA system, strictly speaking, is not one of self-regulation now, nor was it before the Press Freedom Commission.

However, prominent critics of the PCSA, most notably those from the ANC or its alliance partners and allies, often do not seem to understand this distinction. Such critics repeatedly publically refer to the PCSA as a ‘self-regulatory’ system, which is not accurate and incorrect.

Some examples¹¹:

“SACP general secretary Blade Nzimande has again called for of independent regulation within the print industry to replace what he termed “ineffective” *self-regulation*” (Letsoalo. 2015a).

¹¹ Emphasis added.

“The problem is not that the *self-regulatory* system does not find the media at fault. It does. And papers are regularly ordered to say sorry for their blunders” (Mtimde. 2015a).

“How do we strengthen *self-regulation*?” (Mtimde. 2015a).

“Group Editor: Opinion & Analysis at Independent Media, Vukani Mde says, “*self regulation* by and large does not work. It is not satisfactory to all stakeholders. So you have to find a middle ground. What for me would be a logical way is an independent regulation. That it is outside the hands of the media and also the state.”” (Sampear 2015).

“ANC national executive committee member Lindiwe Zulu says, “there has to be a balance in all areas, the media can’t sit there own their own and say no we know *how to regulate ourselves*. What we have seen in the past 10 years shows that it is important that that media tribunal is finalised.”” (Sampear 2015).

In response to this repeated assertion, Reddy and Reid (2015) state that, “ANC spokespeople keep repeating the same line in reference to the Press Council of South Africa (PCSA), and that is that “self-regulation is not working”. There are two problems with this oft-repeated assertion. First is that the PCSA is not a self-regulatory system. It is an independent co-regulatory one. That various different ANC officials get this fact wrong over and over again reveals a dearth of understanding within the party of how this particular regulatory system really works. The second part of this assertion, that the system is not working, is problematic in that it is never backed up with any empirical evidence by the ANC to prove that it is correct. It is not correct. Inconvenient as it may be for the ANC, the PCSA system is working, and working well”.

5.2.2 The positive mythologisation of the Press Freedom Commission

The Press Freedom Commission (PFC) is discussed at length in chapter 4 of this report. As this report explicates in chapter 4, the PFC was not without its failings, key omissions and lapses in analysis and logical reasoning.

Significant amongst these was that although the PFC went to a great deal of effort in collecting submissions from the public as part of a participatory process, much of the content of these submissions was seemingly ignored during the drafting of the final PFC report.

According to Reddy and Reid (2015), and as revealed in the findings in chapter 4 of this report, “... the ANC (and Lumko Mtimde in particular) continually refer to the Press Freedom Commission (PFC) with high regard – the investigation which resulted in various changes to the press accountability system – but ignore the public submissions which were gathered during that process. The PFC was a remarkably participatory process by South African standards, which by the way, is in keeping with the principles of the participatory democracy South Africa ought to be. The number of public submissions gathered by the PFC exceeded the number gathered in the drafting process of most laws in this country. By far the largest majority of submissions in that process preferred a system of self-regulation for the press, and were decidedly against a parliamentary investigation into a Media Appeals Tribunal, let alone the actual establishment of such a body. Here, the ANC utterly ignores the voices of the media audience and the participatory public, which is a great pity”.

As explained in chapter 4:

- 1) The PFC did not adhere to the largest majority of public submission's preference for a self-regulatory system for the PCSA, but instead recommended an independent co-regulatory system. The PFC's final report recommended that a system of independent co-regulation be adopted by the PCSA for the regulation of the press in South Africa, but this was contrary and inconsistent with the largest majority of views outlined in the public submissions received by the PFC. The PFC's final report offers no justification nor motivation as to why it recommended a system of regulation which was contradictory and at odds with the majority of views expressed in the public submissions received by the PFC.
- 2) A significant number of written public submissions to the PFC revealed clear evidence of distrust of government(s) or the ANC ruling party's perceived position on the regulation of the press. Considering that a significant number of public written submissions included such content, it is a matter of concern that the PFC did not report on this content, nor make any mention of it in its final report.
- 3) The amount of commentary gleaned from the PFC public submissions which expressed clear dissatisfaction with the then-instituted system of 'self-regulation' adopted by the PCSA was both comparatively small, and notably non-specific in its critique.
- 4) The PFC did not adequately engage the matter of digitally published online news content, before recommending that the PCSA ought not to extend its jurisdiction to the arena of digitally published news content. Its discussion on the jurisdiction of the PCSA over digitally published online news content was superficial, illogical and did not take all relevant factors into account.

Nonetheless, despite its shortcomings, the PFC is still referred to in tones of reverence by some critics of the PCSA, in apparent attempts to mythologise the Press Freedom Commission Report as an authoritative voice. An example of this is presented in the next subsection.

5.2.3 The Press Freedom Commission and the imposition of monetary fines

In a 2015 column entitled, *Print media 'self-regulation' lacks effective punishment*, Lumko Mtimde states the following: "In March 2012, the late former Chief Justice Pius Langa and his team of nine persons, who were appointed by Print and Digital Media SA (PDMSA) and South African National Editors Forum (Sanef), submitted the PFC Report, which supported the need for independent regulation. It recommended independent co-regulation as a compromise, a number of governance changes, waiving of the illegal waiver of the complainants right to pursue a legal route on lodging a complaint with the Press Ombudsman, media transformation, content diversification, skills development, a media charter, a number of amendments to the Press Code including that, "Revise the regime of sanctions based on a hierarchy of infractions and their corresponding sanctions, with a scale of "space fines" and "monetary fines"..."

This PFC report attempted to bring public interest into the regime of self-regulation. It also recommended ways of discouraging the practice of unethical and gutter journalism that compromises the profession. The question is, to what extent were its recommendations taken seriously?" (Mtimde 2015a, Mtimde 2015b).

To answer this question, with regard to the numerous aspects which Mtimde lists in the two paragraphs above: 'to what extent were its (the PFC) recommendations taken seriously?':

- The PCSA did adopt the independent co-regulatory classification recommended by the PFC.
- A number of governance changes at the PCSA were indeed instituted after the PFC process (for sake of brevity they will not all be listed here).
- The waiver was dropped from the complaints procedures of the PCSA as recommended by the PFC.

- The PFC did revise its sanctions, introducing a hierarchy of sanctions as recommended by the PFC, and revised the process of dealing with sanctions (including its now consistent stipulation of the prominence of the publication of the sanction).

In answering Mtimde’s question, it would appear then, that the recommendations of the PFC were taken very seriously by the PCSA.

Mtimde (2015b) strongly advocates for the introduction of monetary fines, saying: “... will a system that does not affect the bottom line of publishers or the performance bonuses of editors and journalists ever really ensure ethics are adhered to?”. Mtimde (2015b) couches this within the argument that the PCSA did not fully implement the recommendations of the PFC. However, taking a closer comparative look at the PFC’s recommendations regarding monetary fines, and the newly adopted complaints procedure of the PCSA, we find that this impression is mistaken.

On the matter of monetary fines, the Press Freedom Commission’s 2012 *Report on Press Regulation in South Africa* states:

“5.1 Space fines or monetary fines

The PFC does not approve of monetary fines as a sanction for press offences regarding the content of publications.

The Commissioners, on the other hand, recommend “space fines” for publications guilty of offences pertaining to the content of their outputs.

The Commissioners recommend, however, monetary fines, suspension and expulsion from membership of the PCSA for extreme misconduct in relation to violations regarding compliance of administrative and adjudicatory procedures and rules of the Ombudsman system” (Press Freedom Commission 2012:50).

The above indicates that the PFC was in support of the principle of ‘space fines’ for infringements of the press code regarding the content of publications. Monetary fines, according to the PFC, ought to be reserved instead for gross non-compliance with the administrative procedures or refusal to partake in good-faith participation in the PCSA regulatory system, as is also explicated below, but ought not to be imposed for infringements regarding the content of a publication.

Further, the PFC raises a number of pertinent and important concerns with the imposition of monetary fines, as below:

“5.1.2 Monetary fines

The case against monetary fines for content has many considerations:

- To begin with, monetary fines are difficult to fix. How much; how is it to be calculated: these are complex questions if justice is to be done to both complainant and offender. Added to this complexity is the question of how payment is to be enforced, especially where the regulatory mechanism is based on voluntary membership and adjudication aims at improving professional standards and widening press freedom and responsibility and not at punitive sanctions.
- Not all newspapers are financially equal. Because of wide disparities in the financial strengths of publications, not all papers can afford to pay the same amount and stay in business to serve the public. Yet to differentiate and levy different amounts of fines to different newspapers based on income for the

same offence, will be discriminatory and unjust. Fines in this context would be open to arbitrariness.

- In a democracy, sanctions by press regulatory institutions for violations breaching professional conduct and ethics must not lead to threats to financial sustainability or the general existential survival of publications. For fines to be meaningful and not be seen to be trivialising complaints, they must be exacting enough to deter offenders and potential offenders from committing those offences in future. Yet, such levels of fines could undermine the financial sustainability of the press institutions, especially the weaker ones, and thus erode press freedom and pluralism.
- For wealthy establishments, if fines are not exacting enough to be deterrent, they could be seen as a slap on the wrist and an easy way out of public disapproval or reproach. Such newspapers lose nothing and learn no lessons by paying ineffectual fines.
- Setting monetary fines as compensation for injured individuals and institutions has a potential to make the adjudication procedure confrontational and protracted. Enforcing payment in cases of default is possible only by resort to the law courts, an action that would render the adjudication procedures of the regulatory mechanism non-viable. It is therefore best to leave monetary fines for content to the realm of the jurisdictions and preserve of the courts of law.
- Of the four democracies visited (Denmark, India, Tanzania and the UK) during the international study visits of the PFC, only Tanzania and Denmark have provision for monetary fines as sanctions for newspaper infractions or misconduct. In Denmark, this has been virtually unused. Tanzania has only used it once since 1995.
- Another important consideration is that most press infractions/misconduct are primarily speech offences. In a democracy, press offences that are so harmful as to constitute criminal liability will fall outside the jurisdiction of regulatory mechanisms and will be dealt with under appropriate criminal or other legislation. The appropriate redress of speech offences in a democracy is ensuring the exercise of the right of the offended parties to freely express themselves in self-defence, or for the offending publication to correct its errors to the satisfaction of the aggrieved. In common law jurisdictions such as South Africa's, more serious press offences like defamation may attract court actions that might include compensatory damages following tedious and costly suits – if complainants decide to resort to the courts” (Press Freedom Commission 2012:50-51).

“5.1.3 Monetary fines in exceptional cases

However, the Commissioners propose that some monetary penalties may be imposed on publications in the following exceptional cases:

- If and when a publication fails, without reasonable or acceptable excuse, to appear before the Ombudsman following two notices of summons for hearings on complaints brought against it; and/or
- If a publication is found guilty of repeated offences over a defined number of times in defiance of the Ombudsman's rulings against it. Such acts of recidivism may suggest contempt for the decisions of the regulator, disdain for professional standards or disrespect for the rights and sensibilities of readers and the public at large. The danger is that if not addressed, these kinds of

misbehavior will lead to weakening the regulator’s authority and credibility, and make a nonsense of the whole system of regulation.

These therefore are the justifications for monetary fines in extreme cases.

The number of repeated offences and warnings warranting monetary fines ought to be determined by the regulator/PCSA. In such cases, again, the amount of a fine ought to be such as to deter the proprietor of the offending publication from persisting in his or her recalcitrant behaviour” (Press Freedom Commission 2012:52).

Finally, under its section on recommendations the PFC’s final report states:

“7. The sanctions regime proposed is as follows. The corresponding sanctions for the errors and offences listed below are:

... Monetary fine – for failure to appear before the Ombudsman for hearing of a complaint lodged by any aggrieved person (Press Freedom Commission 2012:53).

The newly adopted Press Council of South Africa (PCSA) Complaints Procedure stipulates a hierarchy of sanctions as follows:

“8. Hierarchy of sanctions

8.1. A hierarchy of sanctions shall be applied:

Tier 1: Minor breaches	Examples of breaches	Hierarchy of sanctions
<p>The Ombudsman or the Chair of Appeals will give directions on the prominence of an apology</p> <p>A stamp with the Council’s logo (to be supplied by Council) should accompany a ruling</p>	<p>Wrongly spelled names</p> <p>Minor factual errors that do not change the thrust of the story</p>	<p>Sanctions, including an apology, on any inside page (but not on the front page), as directed by the Ombudsman or the Chair of Appeals</p>

Tier 2: Serious breaches	Examples of breaches	Hierarchy of sanctions
<p>The Ombudsman or the Chair of Appeals will give directions on the prominence of an apology</p> <p>A stamp with the Council’s logo (to be supplied by Council) should accompany a ruling</p> <p>Editors will be allowed to draft their own apologies, but they have to be approved by the Ombudsman, who makes the final decision</p> <p>In imposing a sanction for publication on the front page, the publication’s design should be taken into account, allowing for a page 1 teaser and continuation on an inside page</p>	<p>Views of subjects of critical reportage not sought</p> <p>Inaccurate or unfair reporting</p>	<p>Sanctions (reprimands, caution, corrections, retractions, apologies) with the Ombudsman’s or the Press Appeal ruling, on any inside page or on the front page (which may continue to an inside page)</p>

Tier 3: Serious misconduct	Examples of breaches	Hierarchy of sanctions
The same as under Tier 2	<p>Allowing commercial, political, personal or other non-professional considerations to influence or slant reporting</p> <p>The publishing of child pornography</p>	<p>In addition to the sanctions from Tier 2, the Ombudsman or the Chair of Appeals may impose a “space sanction” ranging from a few centimeters to a full page for the complainant or the Press Council to use as determined by the Ombudsman or the Chair of Appeals</p>

8.2. Monetary fines will not be imposed as a penalty for the content of the press. However, monetary fines according to a formula determined by the Press Council and included in this sub-clause and/or suspension for a period or expulsion from the jurisdiction of the Ombudsman may be imposed as sanctions for a respondent’s failure to appear for adjudication hearings and repeated non-compliance with the rulings of the adjudicatory system. If it is reinstated because it complied with the conditions and then it defaulted again within twelve months, it would immediately be expelled from the system.

8.3. When the Ombudsman finds that a publication is a repeat offender, he or she should specifically point this out in the ruling. If it occurred again, the Ombudsman may recommend that the Press Council convene a hearing to inquire into the repeated offences and ask the offender for an explanation and a plan to prevent recidivism”.

When viewing the PFC’s recommendations regarding monetary fines, comparatively against the newly adopted complaints procedure of the PCSA, it is clear there is little difference between them. The PFC’s recommendations on this matter have been implemented by the PFC.

Section 8.3 of the PCSA complaints procedure mentions the possibility of the PCSA taking action against “a publication that is a repeat offender”, and in accordance with 5.1.3 of the PFC report. However, as revealed by the findings in subsection 3.7, this is unlikely to occur frequently, since the number of publications which commit breaches of the press code repeatedly is significantly low.

Section 8.2 of the PCSA complaints procedure states that a monetary fine may be imposed against a publication should for a respondent’s failure to appear at a hearing. This is in compliance with section 7 of the PFC (2012:53) report (section dealing with sanctions) which recommends this as an appropriate action.

However, section 8.2 of the PCSA complaints procedure actually goes one step further than the recommendations of the PFC, since it also includes that a monetary fine may also be imposed in instances of “repeated non-compliance with the rulings of the adjudicatory system”. This takes the possibility to impose monetary fines into the arena of published content, a principle expressly refused by the PFC. By including the words, “non-compliance with the rulings”, the current complaints procedure allows the Ombudsman to issue a monetary fine against a publication in instances where, for example, the publication does not publish the apology or sanction issued by the Ombudsman and according to the prominence stipulated in the ruling.

This means that the imposition of monetary fines by the PCSA against publications may occur under three different circumstances (as opposed to the two recommended by the PFC) which are:

- 1) A respondents' failure to appear at a hearing
- 2) Repeated offences
- 3) Failure to comply with the ruling of the Ombudsman

The first two circumstances relate to the conduct of publications in the administration and adjudication process, and their satisfactory participation in the regulatory system. The third circumstance, however, is relevant with regard to the content of a publication.

The procedural institution of monetary fines by the PCSA are therefore currently more severe and harsh in their nature, than those recommended by the PFC.

5.2.4 The negative mythologisation of the Media Appeals Tribunal

Since the national debate on the possible institution of what the ANC called the 'Media Appeals Tribunal' initiated in 2007, there has been some concern amongst critics of the mooted Media Appeals Tribunal that it would impose a form of statutory (or state) regulation of the press. After the ANC reiterated its commitment to the parliamentary investigation of a Media Appeals Tribunal in 2010, the term 'statutory regulation' was used widely in circulated discourse on the matter, mostly within forums of public debate, and to a lesser degree in the media.

The popularised (mis)understanding of the nuances of the term 'statutory regulation' served to polarise the debate to some degree, due in part to a lack of debate on the operational definition of the term. Critics of the Media Appeals Tribunal operated largely according to the assumption that 'statutory regulation' is equivalent with state regulation, which in reality, is not necessarily the case. That this assumption was popularised can be understood to some degree when considering South Africa's geographical context: a large number of sub-Saharan African governments do impose state regulation of media content in varying ways, which in many cases serve to impede on media freedoms.

For its part, the PFC, in its terms of reference, did provide a definition of 'statutory regulation' which explicated to a limited degree that statutory regulation does not necessarily equate to a government's direct control over the content of the press, as such:

"Statutory regulation: Is realised when a regulatory body is either set up by statute or otherwise controlled by the government. The models of government regulation differ worldwide and are not customised to a set formula hence the level of government involvement differs. For example, the German Press Council is not a statutory body but receives about 30% of its funding from government. On the other hand, the National Commission of Ghana is established under statute and 100% funded by government. The Indian Press Council is set up by statute, and government controls the appointment process" (Press Freedom Commission 2012:108).

Clearly, there are examples of democracies from around the world where the state does have some involvement in the establishment or funding, or representation within, the accountability body for the press. Denmark employs a statutory system to regulate the press, and it consistently rates among the top 10 countries on various global research indices for having among the highest press freedom ratings in the world (Reid 2011a).

According to the *Media self-regulation guidebook* (2008), the current Danish Press Council was established by the government after the self-regulatory system collapsed in 1992 due to financial disputes and a lack of support from media outlets. Although the Danish Press Council has been set up by the government it nonetheless regards itself as an independent body: “The Press Council is an independent, public tribunal which deals with complaints about the mass media” (www.pressenaevnet.dk/Information-in-English.aspx). Geoffrey Robertson (2011:4) states: “Though there is a country (Denmark) with high scores for press freedom and statutory regulation of the press, it is the exception”.

The Media Policy and Democracy Project provided an inventory of foreign systems of press regulation and press freedom indices (Reid 2011a: 44-55), in its submission to the PFC. The inventory revealed that the countries which scored within the top spectrum of different global press freedom indices most often instituted a system of self-regulation as an accountability mechanism for the press, with Denmark as the only exception.

When reviewing the inventory, a possible relationship between self-regulation, and the freedom of the press appears, where all of the countries with the highest press freedom ratings, save one, employ self-regulation. Importantly, countries on the lower end of the press freedom ranking inventory tend to practice alternative systems of press accountability. Evidently, there may be an important relationship between the system of press accountability in a country and that country’s press freedom rating. Indeed, out of the 50 countries which achieved the highest press freedom ratings in the world in 2011, 35 of them practice self-regulation of the press. This means that 70% of the top 50 countries with the highest press freedom rankings, practice self-regulation of the press, as do 93% of the countries with an entirely free press (Reid 2011a).

Understanding the negative mythologisation of the Media Appeals Tribunal in South Africa since 2007 must then be understood with regard to a number of contextual factors. First, a lack of popular debate on the various nuances of the term, and the varying ways in which statutory regulation may be implemented. Second, within the context of the sub-Saharan African region, which sadly displays a history of significant state-imposed impediments on press freedom and freedom of expression more generally. Third, within a global context, a recognition that the largest majority of countries in which the press is able to operate with maximum freedoms practice self-regulatory accountability systems for the press.

Given all of the various contextual factors listed above, the ANC party was always going to experience difficulty in convincing opponents of the Media Appeals Tribunal that its idea of a new regulatory mechanism for the press was not untoward in some way.

In reality, and knowing that ‘statutory regulation’ does not necessarily equate to direct state control over the content of the press and/or its accountability mechanism, the ANC party never officially proposed direct state control of the press accountability system.

The ANC 52nd National Conference Resolutions in 2007 state the following:

“ON THE ESTABLISHMENT OF A MEDIA APPEALS TRIBUNAL (MAT)

126. Conference adopts the recommendation of the Policy conference that the establishment of a MAT be investigated. It accordingly endorses that such investigation be directed at examining the principle of a MAT and the associated modalities for implementation. *Conference notes that the creation of a MAT would strengthen, complement and support the current self-*

regulatory institutions (Press Ombudsman/Press Council) in the public interest...

129. The investigation should consider the desirability that such a MAT be a *statutory institution, established through an open, public and transparent process, and be made accountable to Parliament*. The investigation should further consider the mandate of the Tribunal and its powers to adjudicate over matters or complaints expressed by citizens against print media, *in terms of decisions and rulings made by the existing self-regulatory institutions*, in the same way as it happens in the case of broadcasting through the Complaints and Compliance Committee of ICASA¹².

In 2011, the ANC submission to the PFC stated the following:

“The ANC has never proposed a state regulation of print media, instead it proposes strengthening of the existing self-regulatory system and an establishment of an independent appeals mechanism as the best possible print regulatory system suitable and that this must be in conformity with the SA Constitution... The call for an investigation into the establishment of a media appeals tribunal in intended to complement the current self-regulatory system with an independent appeal mechanism, strengthening of the media’s self-regulatory mechanism (Press Ombudsman/Press Council) ensuring equitable dissemination of credible information and the promotion of fairness, accuracy and professionalism in journalism” (African National Congress 2012b).

Clearly, the ANC’s proposal involved two key aspects: first, that parliament investigate the establishment of an independent appeals mechanism, which it called the Media Appeals Tribunal. This body, if established could be considered statutory in the sense that it would be created by law and be answerable to parliament. Second, the new appeals mechanism body ought to complement the already existing PCSA system, and serve only as an appeals mechanism which would hear complaints from complainants dissatisfied with the original PCSA’s Ombudsman ruling, after having followed the PCSA procedures of complaint. The ANC did not propose that the newly established body ought to replace the PCSA system.

Lumko Mtimde (2012) attempts to explain that the popularised understanding of the term ‘statutory’ amongst Media Appeals Tribunal critics is over-broad and inaccurate: “Statutory simply means created by law. Statutory does not automatically mean unconstitutional in respect of the constitutionally protected freedom of the media. Statutory does not mean draconian law. The SA jurisprudence clearly provides for accepted principles for guaranteeing independence, these guide the many independent institutions created by statutes like the Independent Electoral Commission (IEC), Public Protector, Human Rights Commission, Commission for Gender Equality (CGE), ICASA, MDDA, SABC, etc” (Mtimde 2012).

Although not stated as such, Mtimde (2012) implies that the Media Appeals Tribunal could possibly be envisaged as an additional Chapter Nine institution, created by statute and its independence (presumably from government, and from the media/print sector itself) guaranteed by law.

Nonetheless, common misunderstandings of the ANC’s proposals for a print regulatory body persisted in popular debate, and the negative mythologisation of the Media Appeals Tribunal perpetuated the message that what the ANC sought for the print media was complete state control over content, and the abolishment of the PCSA system. Such negative mythologisations were however, also a product of

¹² Emphasis added.

the then sensitive environment within media politics. The year 2010 saw the beginning of a steady decline in South Africa's press freedom rankings, due in part to the ever increasing wrongful arrest, harassment, surveillance and intimidation of journalists by the police, security officials and state security agencies. In 2010 the Protection of State Information Bill was also first introduced in Parliament, amidst much criticism from various sectors (civil society, social movements, academics, the media sector and opposition parties) in that it would serve to severely limit any citizen's right to access government information. The more popularly called Secrecy Bill, has since undergone over 30 drafts, and although not yet signed into law by the President, still contains clauses which many feel are draconian in nature. ANC representatives have continually stated that the Secrecy Bill does not attempt to unreasonably limit access to government information. It is not within the scope of this study to interrogate the contents of the Secrecy Bill. The Right2Know Campaign (2014) provides a succinct summary of the bills' remaining problematic aspects. Suffice to say that the Secrecy Bill contributed heavily to a general consciousness among the media and the press (and citizens in general) that the ANC intended to institute a veil of secrecy over the workings of the state. It was within this context, that the Media Appeals Tribunal became negatively mythologised.

The ANC also did not do itself any favours with regard to redressing the popular misunderstandings of its position on the Media Appeals Tribunal due to its consistent and decidedly adversarial responses and interactions with the media and the press. Numerous ANC officials and representatives have, since 2010, lashed the media with what was seen as unreasonable, inaccurate and misinformed criticism (for examples, see 5.2.7). All of this did very little to foster an impression that the ruling party was not interested in impeding press freedom through the institution of a Media Appeals Tribunal.

Despite the disparities of understanding(s) of the ANC's proposals for a Media Appeals Tribunal, there do remain a number of problematic aspects of the ANC's proposal, misunderstood as it is. A pertinent question is whether parliament is the appropriate body for the discussion of such a new body. Parliamentarians themselves are public figures, and are representatives of political parties: they therefore undeniably have an interest in the accountability mechanisms established for the regulation of any journalistic news medium, and this may cause a significant conflict of interests. Also, if such a body were established as a complementary system of appeal in conjunction with the PCSA, then the possibly exists of journalists and editors having to appear before two separate regulatory bodies to answer for the same complaint – the fairness of such a practice can be called into serious question.

The ANC's main complaint against the PCSA system appears to be that it is not independent enough from the print media sector, which thus undermines its credibility. This aspect will be discussed below in subsection 5.2.5.

5.2.5 A fixation on the press regulatory mechanism

Since 2007, but especially since 2010, the ANC has often reignited its criticism of the system of journalistic accountability adopted in South Africa. It has not done the same for other media regulatory bodies within the country.

Leaving aside the Independent Communications Authority of South Africa (ICASA) which mainly determines the licencing of, and spectrum allocation for broadcasters, and which does not primarily concern itself with the administration of complaints against content, South Africa hosts five main institutions which regulate media content. The Press Council of South Africa is responsible for the print media (including, but not exclusive to printed news content). The Broadcasting Complaints Commission of South Africa (BCCSA) administers complaints against content that is broadcast, and the Advertising Standards Authority (ASA) accepts complaints against the contents of advertisements. The Interactive Advertising Bureau of South Africa (IABSA) is a representative body for digital publishers,

and not primarily a regulatory body, but it does accept complaints against digitally published content online. The Film and Publications Board of South Africa (FPB) also regulates media content, but dissimilar to the other four bodies, not as a post-publication body. Rather the FPB functions as a pre-classifications body regarding mainly the distribution of films and games (assigning age restrictions, for example).

Yet, it is only the PCSA which has received the significant degree of scrutiny and sustained criticism from the ANC party, while the other above-mentioned regulatory bodies have escaped such scrutiny. Why then, this fixation on the PCSA? Why not address other regulatory bodies too?

Reddy and Reid (2015) state the following: “[f]irst, there are various different media regulatory bodies and institutions within the country, many of which if they functioned properly could contribute positively to the meaningful democratisation of the media landscape. These include the Independent Communications Authority of South Africa, the Broadcasting Complaints Commission of South Africa, the SABC, and crucially the Media Development and Diversity Agency. Without going into the details, serious questions have been raised around the efficacy of some of these bodies. And yet none of them have received the severity of scrutiny from the ANC the PCSA has endured. Why not? Could it be because these institutions, despite their potential to foster a democratised media, do not oversee the accountability of that sector of the media which produces the most significant cache of investigative journalism, and so more regularly exposes government failings? It is difficult not to wonder whether the ANC’s preoccupation and incessant fixation on the PCSA is motivated by political interests”.

In South Africa, the largest number of crucial exposes about either government or corporate corruption, maladministration or wrong-doing emanate from investigative journalist centres which are housed within the print sector. Broadcast media rarely breaks similar investigate news stories. There are many contributing factors for this, involving the structural landscape of the media economy, which will not be discussed here due to the scope of this report. But this reality, coupled with the ANC’s sustained attention and scrutiny of the regulatory body responsible for holding the print sector to account, does create a perception (whether real or not) that the ANC’s criticism for the PCSA is motivated by political interest. That this perception is clearly entrenched amongst sections of the public was clearly demonstrated in the public submissions gathered by the PFC, discussed in subsection 4.2.2 of this study.

As noted above, one of the main criticisms which representatives of the ANC or their alliance partners/allies have oft repeated, is that the press accountability system ought to be more independent, and therefore in closer symmetry to other regulatory bodies within the country.

In July 2015, Blade Nzimade was quoted as saying, “The print media is the only [institution] that is not regulated [independently]. Everybody, including the public protector, the Human Rights Commission and even the judiciary is subjected to checks and balances. The broadcast media also has an independent regulator. What are you [print media] afraid of? Be a nice profession” (Letsoalo. 2015).

And again, “SACP general secretary, Blade Nzimande says, “We don’t want state regulation, but we want independent regulation as it actually happens in broadcast to a certain extent. But print media in particular is refusing that.”” (Sampear 2015).

The notion expressed above is that the independence of the BCCSA is not in question, whereas by comparison, the independence of the PCSA is not satisfactory. Apart from public utterances made by various political figures mooted this notion, that this perception exists within the ANC can also be supported by the ANC’s lack of scrutiny or public criticism for the BCCSA, relative to its scrutiny of the PCSA since 2007.

So, what is it about the structures of the BCCSA that make it so much more independent than the PCSA? For the purpose of this analysis, we regard 'independence' to refer to the body's independence from the media sector which it regulates (that is, for the BCCSA and the PCSA, the broadcasting and print sectors respectively).

First, one can consider the constituting bodies/organisations of both the BCCSA and the PCSA. Second, one might consider the funding models of both the BCCSA and the PCSA. Third, one must consider the representation on the councils of both the BCCSA and the PCSA (who is selected to act as adjudicators on these councils?).

With regard to the constituting body of the BCCSA: according to the BCCSA:

"The Broadcasting Complaints Commission of South Africa ("BCCSA") was established by the National Association of Broadcasters ("NAB") in 1993... Although the NAB provides the funds for the BCCSA, the BCCSA is, as a body corporate, entirely independent from the NAB" (Broadcasting Complaints Commission of South Africa. 2015a).

The National Association of Broadcasters (NAB) is a non-profit representative and research body for broadcasting actors, which established the BCCSA. But the BCCSA is at pains to clarify its independence from its constituting body, the NAB.

"In sum, the BCCSA is an independent judicial tribunal which must reach its decisions on the Broadcasting Code independently and in line with the precepts of administrative justice, as required by the Constitution of the Republic and legislation that governs fair administrative justice. Although initially set up by the Broadcasting industry, it is entirely independent from that industry and it would be in conflict with its corporate independence to be called an "industry body" (Broadcasting Complaints Commission of South Africa. 2015a).

By comparison, the PCSA is also established by sector specific representative bodies. However, unlike the BCCSA which is established by only one constituting body (the NAB), the PCSA is established by five, listed below as NASA, MPASA, AIP (all as part of PMSA), FCJ and SANEF.

The constitution of the Press Council of South Africa explains:

"1.1. The South African Press, through the founding industry and professional bodies named in paragraph 1.2, establishes the Press Council of South Africa ("PCSA" or "Council"), in order to achieve the aims and objectives set out in paragraph 2 of this Constitution.

1.2. The founding associations are:

1.2.1. Print Media South Africa (PMSA), which includes:

1.2.1.1. The Newspaper Association of South Africa (NASA);

1.2.1.2. The Magazine Publishers Association of South Africa (MPASA);

1.2.1.3. The Association of Independent Publishers (AIP);

1.2.2. The Forum of Community Journalists (FCJ); and

1.2.3. The South African National Editors' Forum (SANEF), which also acts in

trust for a journalists' association until such an association is formed" (Press Council of South Africa. 2015).

"1.3. The constituent associations named in 1.2. explicitly guarantee the independence of the PCSA, so that it can act without fear or favour in the interests of a free and ethical press, and in pursuit of the aims and objectives set out below" (Press Council of South Africa. 2015a).

Both the BCCSA and the PCSA are established by sector specific industry representative bodies. In the case of the PCSA, five industry representative bodies form the constituting collective body of the regulatory accountability mechanism (the PCSA). With regard to concerns for the independence of the accountability mechanism, this is a better position than having only one constituting body. For example, if one constituting body were to try to exert undue influence over the PCSA, the other four constituting bodies would have the opportunity to intervene. In the case of the BCCSA, there is no such stop-gap measure, due to the NAB being the only constituting organisation. Furthermore, both the BCCSA and the PCSA explicitly state their independence from their respective constituting bodies in their operational documentation. It is notable, however, that the PCSA does so in its constitution, which is binding, while the BCCSA does so only on its 'About the BCCSA' webpage (see Broadcasting Complaints Commission of South Africa 2015a).

Nonetheless, with regard to the constituting bodies of the BCCSA and the PCSA, and how this may impact on the independence of each regulatory mechanism, there is little that separates the BCCSA and the PCSA in this regard, except that the PCSA is in a stronger position than the BCCSA in that it is established by five constituting bodies instead of one, and guarantees its independence from those bodies in its constitution.

Similarly both the BCCSA and the PCSA are funded by their respective constituting bodies. The NAB provides the funding for the BCCSA and PMSA provides funding for the PCSA. In both cases, this funding is limited to 'reasonable expenses/costs' (see the constitutions of the BCCSA, section 8.5 and the PCSA, section 8.3). Therefore, both the BCCSA and the PCSA practice a very similar funding model: they are funded by sector specific media industry representative bodies, and therefore, indirectly by the media sector which they regulate.

Lumko Mtimde questions the funding model of the PCSA as such: "[t]he funding question clearly was not exhausted by the PFC and accordingly it is important to probe the question of whether industry would ensure adequate funding of an independent regulator. It is my submission that a combination of funding sources including public funds may be the best way of funding an independent regulator. It stands to reason that if public funds are to be used, the body would need to be established through an act of Parliament and be subjected to the prescripts of the Public Finance Management Act" (Mtimde 2012).

Strange then, given the similarities of the funding models of the BCCSA and the PCSA, that the funding model of the BCCSA has not come into question, nor has the status of its independence from the broadcasting sector been questioned as a result thereof¹³.

Another aspect which may impact the independence of a media accountability system is the proportional representation of the members of its council and panel of adjudicators. The point at issue here is whether or not the constitution of the council, set of commissioners and/or set of adjudicators is populated by representatives from the sector for which the accountability body is responsible for

¹³ The NAB, which provides the funding for the BCCSA, is itself funded by its members, whom are broadcasting actors, including the SABC.

regulating, and in what number, with the idea that should such representation be too heavy, the independence of the regulatory body would be in jeopardy.

All commissioners at the BCCSA are nominated by the public.

“The Commissioners are appointed by an independent panel chaired by an independent person (up to now by a retired Judge of Appeal) plus other persons appointed at an AGM of the BCCSA. Although it was, initially, the thinking that half of the Commissioners would be appointed from persons nominated by the NAB, the Constitution was amended at the insistence of the IBA so that all candidates would be nominated by members of the public” (Broadcasting Complaints Commission of South Africa. 2015a).

“5.3 Six Commissioners are appointed as a result of their interest and/or expertise in the broadcasting media.

5.4 Six Commissioners are appointed as a result of their interest and/or expertise in matters which relate to the interests of viewers and or listeners) (Broadcasting Complaints Commission of South Africa 2015b).

Although all of the BCCSA commissioners are nominated by members of the public, the constitution of the BCCSA does not expressly prevent persons who work within the broadcasting sector, or who have done so in the past, from being nominated and appointed as a BCCSA commissioner, especially with regard to category 5.3 in the BCCSA constitution as quoted above – the only requirement is that they be nominated by a member of the public¹⁴. This means that it is technically possible for six members of the 12 member group of BCCSA commissioners, to be persons working within the broadcasting sector (according to the constitution of the BCCSA).

The appointments of the PCSA councillors operate according to the PCSA constitution, as such:

“4.1. The Council shall consist of a retired judge and 12 individuals representing members of the public and members of the media...

4.3. Six of the representatives shall be appointed by the Appointments Panel, as set out in 5.1 of this constitution, from nominations received from members of the public.

4.4. Six of the representatives shall be from the press and shall be appointed by the constituent associations as follows:

4.4.1. One member by the Newspaper Association of South Africa (NASA);

4.4.2. One member by the Magazine Publishers Association of South Africa (MPASA);

4.4.3. One member by the Association of Independent Publishers (AIP); and

4.4.4. One member by the Forum of Community Journalists (FCJ).

4.4.5. The South African National Editors' Forum (SANEF) shall appoint two members, and in the event of a journalists' association being formed, SANEF

¹⁴ Similarly, neither the BCCSA Code of Conduct for Free to Air Licensees, nor the BCCSA Code of Conduct for Subscription Broadcasting Service Licensees (as provided on the BCCSA website) explicitly prevent persons who are working within the broadcasting sector from receiving nominations from members of the public to act as BCCSA commissioners (see http://www.bccsa.co.za/index.php?option=com_content&view=article&id=915).

shall relinquish one seat to the journalists' association" (Press Council of South Africa 2015a).

Only six of the 12 member group of PCSA councillors are nominated by the public. The other 6 councillors are nominated by the constituting bodies of the PCSA, one per body, except for SANEF, which nominates two persons.

On paper then, it appears as though the BCCSA is more independent from the media sector which it regulates, than the PCSA. In practice though, this may not necessarily be the case, at least with regard to the operational documents (constitutions) of each regulatory body. For example, were the PCSA to change its constitution, and accept all 12 nominations from the public, members of the press sector could still be appointed as PCSA councillors were they to receive a nomination from a member of the public (similar to how this is possible at the BCCSA).

A popularly held assumption is that all members of the council in a media accountability system ought not to stem from the particular media sector for which the regulatory body is responsible in the interest of safeguarding the independence of the system. If we, for a moment, hold this assumption to be true, then this would require a more narrow delineation within the constitutions of the both the BCCSA and PCSA of who may and may not be nominated for the council. Both constitutions would require amendment to expressly state that no working member of the respective media sector (broadcasting and print) are eligible for nomination.

Further, regarding the establishment of a quorum for an adjudication committee to administer complaints against broadcast content, the BCCSA (2015b) constitution states the following:

"10.2 Where the Chairperson is for any reason unable to constitute a Tribunal from the members of the BCCSA, he or she shall co-opt persons to represent the listeners and viewers and/or the electronic media, the number of listener and viewer representatives, and electronic media representatives on such Tribunal being at all times equal, the quorum remaining three" (Broadcasting Complaints Commission of South Africa 2015b).

This means that it is possible for the BCCSA Chairperson to appoint persons to adjudicate on complaints, who are not nominated and appointed members of the BCCSA group of commissioners. Effectively, persons who have never been nominated by members of the public can participate in ruling on complaints. While this is undoubtedly an unintended loophole, the implications are important. The BCCSA constitution offers no specific guidance on whom the Chairperson may and/or may not appoint to the adjudication committee in the case of being unable to achieve a quorum from members of the BCCSA, which means that the independence of the adjudication procedure can rest entirely on the discretion of the Chairperson.

In sum, there are very few (perhaps none) structural and procedural aspects which substantiate the claims of the ANC, that the BCCSA is a remarkably more independent regulatory and accountability system, than that of the PCSA.

5.2.6 A conflation with media diversity and transformation, and a stagnation of the debate

Debates surrounding the effectivity of the PCSA as an effective accountability mechanism for the regulation of the press are often framed within the broader discussion of media diversity and media transformation. Positioning the question of the effectiveness of the PCSA into this broader discussion serves to somewhat misplace the issue. Often, these two very different and separate (though

intersecting) topics are conflated, confused and blurred, and this serves to detract from more constructive discussion on both topics.

Furthermore, the term 'media' is often conflated with the term 'print media'. The media is not a homogenous body, so this is also problematic and serves to empty discussions of the necessary recognitions of the complexities of the media sector, and all of its constituent parts.

To examine but a few selected examples:

After speaking at the ANC's communications commission's report back session at the 2015 NGC, Jackson Mthembu's comments were reported as such:

"The ANC has given the media (time) to look at itself and introspect, Mthembu said... "There are four players that continue to occupy this space with impunity. Indeed the ANC has said look at yourself, can you do something about this?". Mthembu said the media has not respected the "space its been given"" (ENCA.com).

Clearly, Mthembu is referring to the print media sector here, and not the media sector as a whole.

In a statement from the ANC study group on communications, entitled *ANC MPs support moves to transform the media industry*: "We welcome this policy announcement because it is in line with the policies of the ANC as a governing party and it is responsive to our long-standing resolve for practical steps to be taken by government to transform the media industry. We have in previously expressed frustration with the slow pace of transformation of the media, which is not reflective of the country's demographics as does not allow plurality of views to flourish.

According to statistics, little has changed in terms of ownership of the print media since 1994, with 95% of the market share remaining in the hands of the big four companies, namely the Independent Newspapers, Naspers, the Caxton Group and the Times Media Group" (African National Congress. 2015a).

Again, the print media sector has been conflated with the media sector as a whole. Although the statement supports the effort to "transform the media industry", the following paragraph contains information on the media market share of the print media sector only, ignoring the other media sectors.

In a column entitled, *Print media 'self-regulation' lacks effective punishment*, Lumko Mtimde (2015a) states the following:

"How do we ensure that human dignity and rights of the affected are protected by the regulatory system; how do we ensure appeal is through an independent regulatory body? Do we impose fines guided by the different tiers in the Press Council Complaints Procedures and how much? Do we fire editors and sub-editors who preside over the breaching of the Press Code? And generally, what needs to be done to protect media freedom FOR ALL, *and transformation and promotion of media diversity*¹⁵... What else can be done to strengthen print media independent regulation, of course within the framework of the Constitution Act of 1996 (as amended)?" (Mtimde 2015a).

¹⁵ Emphasis added.

The formulation of the argument above sees the insertion of concerns for media diversity and transformation, into a discussion of the print media accountability system (the PCSA). In other words, whilst Mtimde lists various aspects about the press regulatory mechanism which he believes require further interrogation, he, within that list, also mentions media diversity and transformation. The reading of this text then suggests that the print regulatory mechanism has something to do with redressing imbalances in media diversity and transformation.

In a column entitled, *Independent interventions required in the media for balance in the battle of ideas*, Lumko Mtimde (2015b) states the following:

“We need a free and diverse media, representative of diverse views and opinions, including class, gender, rural and other perspectives. The right of the public to a free media is indisputable. It is an essential component of South Africa’s democracy – which depends on informed citizens participating in all aspects of our society. There are many aspects to this – and for the media to play its role, it needs to be trusted and seen as credible by the public. Independent regulation is crucial to this – intended to act in the public interest and provide a means for redress if any publication breaches the fundamental responsibility of journalism – to tell the truth and give all sides of, an equal opportunity to tell their, story. It is now three years after the press committed to addressing flaws identified in the system of self-regulation in response to the findings of the PFC” (Mtimde 2015b).

Here Mtimde conflates the issues of media diversity and transformation, and the press regulatory system considerably. He, in a confusing way, attempts to make the argument that a greater level of media diversity in the country is connected or dependent on an effectively functioning independent press regulatory mechanism.

In the same column, Lumko Mtimde (2015b) states the following:

“The ANC in its 52nd and 53rd conferences, Polokwane and Mangaung decided that an inquiry/public hearings must be held by the Parliament Portfolio Committee on Communications, reflecting on the PFC Report and investigate the desirability of establishing an independent appeals mechanism, as one way of promoting media accountability mechanism, having regard to the constitution. The 4th Parliament could not conduct this inquiry but initiated the process and held hearing on media transformation. There has been enough opportunity given to the market (print media sector) to transform. As a historical reality, the market has failed. There is now all the reports and recommendations to guide discussions in Parliament. The issue for discussion was not about the wording like whether it is called Media Appeals Tribunal (MAT) as other people reacted to the word “tribunal”. Also, the issue was never about state or government control or state regulation or pre-publication censorship or registration of journalists. On the contrary, it has always been about media accountability mechanisms including independent regulation, acknowledgement of other rights like the right to human dignity, privacy, etc., and compliance with the constitution, the law and the Press Code” (Mtimde 2015b).

Mtimde first mentions the ANC conference resolutions which commit to a parliamentary investigation on a regulatory system for press accountability, and the PFC report. He then mentions the hearings which the Fourth parliament held on media transformation. These hearings, however, had nothing to do with the accountability mechanism for the press. They dealt with the slow pace of media transformation, particularly with regard to the gender and race representivity in top media management positions (the author of this report, J Reid, attended these hearings). Mtimde concludes this argument by again mentioning aspects relating to press accountability mechanisms, and in doing so, again confuses issues relevant to discussions of media diversity and transformation, with discussions relevant to press accountability.

In the same column, Lumko Mtimde (2015b) states the following:

“Diverse media is critical and transformation of our media landscape is non-negotiable... Arising out of Parliament’s expected inquiry, should be clear interventions in respect of media accountability mechanisms and transformation” (Mtimde 2015b), and,
“Which newspaper, in our context, will you buy if you decide not to buy our daily or Sunday newspapers? That argument could work if we had media diversity. Besides, we are saying media must be accountable like everyone and this requirement of accountability was confirmed by the PFC.” (Mtimde 2015b)”.

The conflation of concerns relevant to media diversity and transformation with concerns relevant to press accountability systems in the above quotations is self-evident.

In response to this continual conflation of issues, Reddy and Reid (2015) state that, “... the ANC continually frames the question of press accountability within the topic of media diversity and transformation, which is problematic. The media in South Africa is not diverse enough, and the media market is highly monopolised. That much is true. But that problem cannot be resolved by improving or instituting a system of post-publication accountability, whether in the form of a Media Appeals Tribunal or not. So, in this case, the proposed solution does not have any symmetry with the problem”.

As already explained in section 3.6.4 above, it becomes problematic when the role of the PCSA is conflated with the lack of content diversity available to audiences in South Africa especially with regard to the print media sector, because this implies that the PCSA is responsible for rectifying this lack of diversity, which it is not. Nor is the PCSA responsible for the economic and market challenges currently faced by newspapers and how these impact on print news reporting. Such ills, while important, fall outside of the mandate of the PCSA, which functions only as a post-publication accountability mechanism for the administration of complaints. One cannot expect the PCSA to be held responsible for such factors, since the responsibility of addressing these problems is simply not its role. This is an important point, since critics of the press regulatory system have consistently criticised the PCSA under the auspices of arguing that the press sector is un-transformed and lacking in diversity.

Aspects which could meaningfully impact on improved media content diversity within South Africa relate to the arena of pre-publication news production. A post-publication complaints administration system such as the PCSA is not fit-for-purpose to enact the transformation of the industry, nor address the diversity of content offered by the press, meaning that the site for much of such criticism is fundamentally misplaced (Reddy & Reid 2015). For its part, the PCSA does what it says it will do within its own governing documents, and it does this well, as evidenced in chapter 3.

A post-publications regulatory body for the administration of complaints against printed content, cannot be held responsible, for example, for the highly monopolised ownership structures of the media (which are far more monopolised and concentrated in the broadcasting sector than in the print sector). It cannot be held responsible for the high costs of data (although Icasa can and ought to be) meaning that the largest majority of South Africans are excluded from receiving news content via a digital platform on economic grounds. Where the largest majority of South Africans receive the bulk of their information about the world from the public service broadcaster, the PCSA or any similar regulatory mechanism for the print sector can do nothing to improve the content diversity offered by the SABC. An 'improved' press regulatory mechanism, whether in the form of the PCSA or the MAT, will do nothing to solve the various problems that beset the South African media landscape which result in low levels of diversity of content within large segments of the audience. There are very important aspects about the South African media which need urgent attention if media content diversity is to improve, but the restructuring of the press regulatory system (once again) is a misplaced solution: it is not a solution to any of these problems, and discussions about it now often serve only as a distraction from more urgent matters.

But a continual return to the topic of the press regulatory mechanism, despite that this system functions remarkably better now than it did in 2009, has resulted in a stagnation of national debate. Coupled with the ANC's seeming fixation on the press regulatory system (see 5.2.5), many of the arguments against the PCSA emanating from the ANC remain the same now as they were 5 years ago, despite all that has happened and changed between then and now. Further, continually returning to the same debates about the system of press accountability often detracts from what could be more constructive debates, including those which could address concerns for media diversity and transformation, among many other issues (Bird 2015b). William Bird (2015a) states, "[t]o be clear, an MAT is bad because, aside from the potential limitations to freedom of expression, it simply won't address the core concerns over the quality of news content, diversity, transformation and what some perceive as overly negative coverage".

Although in a better position today than during the pre-1994 era, we do not yet have media sector which satisfactorily serves everyone within country. Both the broadcasting and print media sectors are highly monopolised markets, meaning that profits are often put ahead the information and accessibility needs of the audience. Most media is still published/broadcast in either English or Afrikaans, ignoring other languages, and the high cost of data prevents the majority from having any meaningful access to the internet. Media is not always distributed equitably in geographic terms, and access to the media is often prohibitively expensive. So, where you live, how much money you have, and which languages you speak, will determine if and how you are able to enjoy the media. All such matters require serious and detailed discussion and interrogation on public participatory platforms.

With regard to media-orientated debate initiated from within the political spectrum, the South African Communist Party's (SACP) recent position paper, entitled *The South African Media, Its time for a change* (2015), is an exception: it tackles questions of media diversity and transformation in a more robust manner, relies on scientific research (albeit only one study, which is yet to be published) questions the effectivity of a number of South Africa's media regulatory bodies (particularly Icasa), and does not limit its discussion to the print sector only. The SACP can then be commended for attempting to insert nuance and a recognition of the complexities of the media landscape into debate in a way that the ANC, to date, has not done. However, the SACP's position paper highlights many aspects which various different civil society bodies and social movements have been reiterating for many years already. Most notable of these is the Right2Know Campaign, which has advocated for a more diverse media since 2010, published its first position paper on Media Freedom and Diversity in 2012, has spent much resources since engaging with grassroots communities on related media issues, published various research reports on the right to communicate and related issues, and at the time of

writing this report, was hosting a series of nationwide summits on the topic of media diversity and transformation (Right2Know Campaign 2015 & 2012). The content of the SACP's position paper is therefore, not anything new.

The Press Freedom Commission's (2012:61, 64) final report notes that, "[t]here are currently no measurement tools to analyse to which extent media transformation has enabled diversity of content... Measurement tools need to be developed for the analysis of content diversity...".

Recognising the importance of media diversity and transformation to the democratisation of South Africa's media and communications landscape, the Media Policy and Democracy Project (MPDP) initiated a large scale study on the topic, and has developed a media diversity measurement model appropriate for South African conditions: this work is currently ongoing. This leg of the (MPDP) has drawn on the efforts of various different academics and researchers, whom have produced a number of research outputs which investigate different aspects of media diversity and transformation in South Africa. This leg of the MPDP is implementing a media diversity measurement tool, in order to accurately assess the levels of the diversity of media content available in the media bundles/repertoires of different audience segments within South Africa. Such efforts include an assessment of the media landscape in its entirety, and are not exclusive to the print sector. Currently these various research outputs are being collated and prepared for publication by the MPDP.

An already published academic journal article entitled, *Toward a measurement tool for the monitoring of media diversity and pluralism in South Africa: a public-centred approach*, published by MPDP project leaders Jane Duncan and Julie Reid in 2013 explains the MPDP's approach to the assessment of media diversity as a participatory and audience-centred one.

5.2.7 The ANC's claim of an oppositional agenda on the part of the media

The ANC party has consistently asserted, both within its official conference documents and within public forums, that the mainstream media are part of an oppositional offensive against the ruling party. Below are some examples of where this position has been reiterated by the ANC and/or its representatives/alliance partners or allies.

In the ANC National Policy Conference: Report of the commission on communications and the battle of ideas (2007): "The Commission noted that the ANC is faced with a major ideological offensive, largely driven by the opposition and individuals in the mainstream media" (African National Congress 2007a).

In the ANC Resolutions of the 52nd National Conference (2007): "...while there has been much progress in engagement with the Media much still needs to be done as some fractions of the media continue to adopt an... anti-ANC stance... The ANC is faced with a major ideological offensive, largely driven by the opposition and fractions in the mainstream media..." (African National Congress 2007b).

In the 2015 ANC NGC discussion documents: "The news media has been filled with raging attacks on the nature and character of the movement. Opposition parties who lost the elections have been provided with ample space to question the outlook of the mass democratic movement and substitute with their own visions. There is a ganging up on the ANC and the movement's representatives by the media analysts, media commentators, the ultra-left and the ultra-right forces... The ANC has not effectively demanded its rightful share of the media space. In many instances the "right to reply" to baseless attacks have not been followed upon. It is now usual to hear one sided discussions, attacking the ANC, in print, radio and television platforms without ANC cadres and spokespersons participating...".

In the ANC NGC 2015 Mid-term review state of organisation: 2012-2015: “Editorial policies of many a media house remain hostile to the “common enemy”, the communist influenced ANC” (African National Congress 2015c).

After the ANC communication commissions’ report back, ANC NGC member Lindiwe Zulu’s comments were reported as such: “Zulu said the party was concerned it was "being relegated to the back pages" of print publications... Or a lot of what is reported is negative. We want to deal with the negative," Zulu said” (ENCA.com 2015).

After a meeting with SANEF, ANC treasurer general Zweli Mkhize’s comments were reported as such: “The ANC believes in a free press but the local media is far too critical... It needs to do some introspection on its reporting, including "sticky" stories such as those around Sudanese President Omar Al-Bashir... The ruling party often feels that criticism from the media is "unwarranted" and "unfair"... The ANC expected opposition parties to be critical but when the media started playing the role of an opposition party, "it is a problem"... The media was generally more cynical and negative in its reporting than positive, said Mkhize... Mkhize complained that only sensational news made front pages, and that a general sense of cynicism and pessimism by the media was far outweighed by positive news” (News24.com 2015).

After speaking at the University of Zululand, Higher Education Minister Blade Nzimande’s comments were reported as such: “Higher Education Minister Blade Nzimande has described articles about President Jacob Zuma and his Nkandla homestead as "white people's lies", the SABC reported on Wednesday. He said the reports were "lies perpetuated by white people", according to the broadcaster... The Witness reported last week that Nzimande had also criticised newspaper coverage of the Nkandla issue, saying reporting was biased... He continued that media coverage of the Nkandla issue was meant to demean Zuma, according to The Witness” (News24.com 2014).

Problematically, while the ANC may or may not be correct in its assertions that the media is consistently overtly hostile in its coverage of the ruling party, this assertion is not yet supported by any empirical evidence, statistics or a detailed content analysis of a reasonable sample of media content in order to demonstrate the validity of the assertion. The same cannot be said for the assertion that the media is fair to the ANC in its coverage.

In 2014 the Media Policy and Democracy Project commissioned a research report on a case study story covered extensively by the print media, that of the President’s private residence in Nkandla.¹⁶

Entitled, *‘Nkandlagate’ – a critical textual analysis of the press coverage*, Prof Jeanne Prinsloo authored a detailed content and textual analysis of the press coverage of the Nkandla story as reported by the two newspapers which took the lead on investigating the story, the *City Press* and the *Mail & Guardian*.

“The questions relating to the alleged hostility of the news media towards the ANC, their lack of respect for the dignity of public figures, and their not acting in the interests of the public were found to be unfounded in this coverage. The analysis of the editorials in particular, but also the reporting in general, shows that the investigation takes a position of moral indignation both at the expenditure on Zuma’s Nkandla homestead and at the cavalier way that information was obscured. This however cannot be conflated with hostility to the ANC *per se*. Some of the editorials are at pains to recognise the heroes of

¹⁶ This report is available for PDF download at <http://www.mediaanddemocracy.com/research-reports.html>

the struggle and ANC leaders who have been concerned with the public good. While the *City Press* and the *M&G* have been highly critical, they do not attack the ANC, the Office of the President or that of public officials, but rather particular forms of conduct. To argue that the media have attacked the dignity of the ANC politicians involved would require that the politicians have been wrongfully accused or that the journalists made *ad hominem* attacks” (Prinsloo 2014b).

The key findings of Prinsloo’s (2014) research report are diagrammatically summarised below. Significant findings revealed that while there was no evidence of deliberate hostility from the media toward the ANC during the reporting of the Nkandla story, the ANC were themselves decidedly hostile toward the media, particularly with regard to access to information requests submitted by the media.

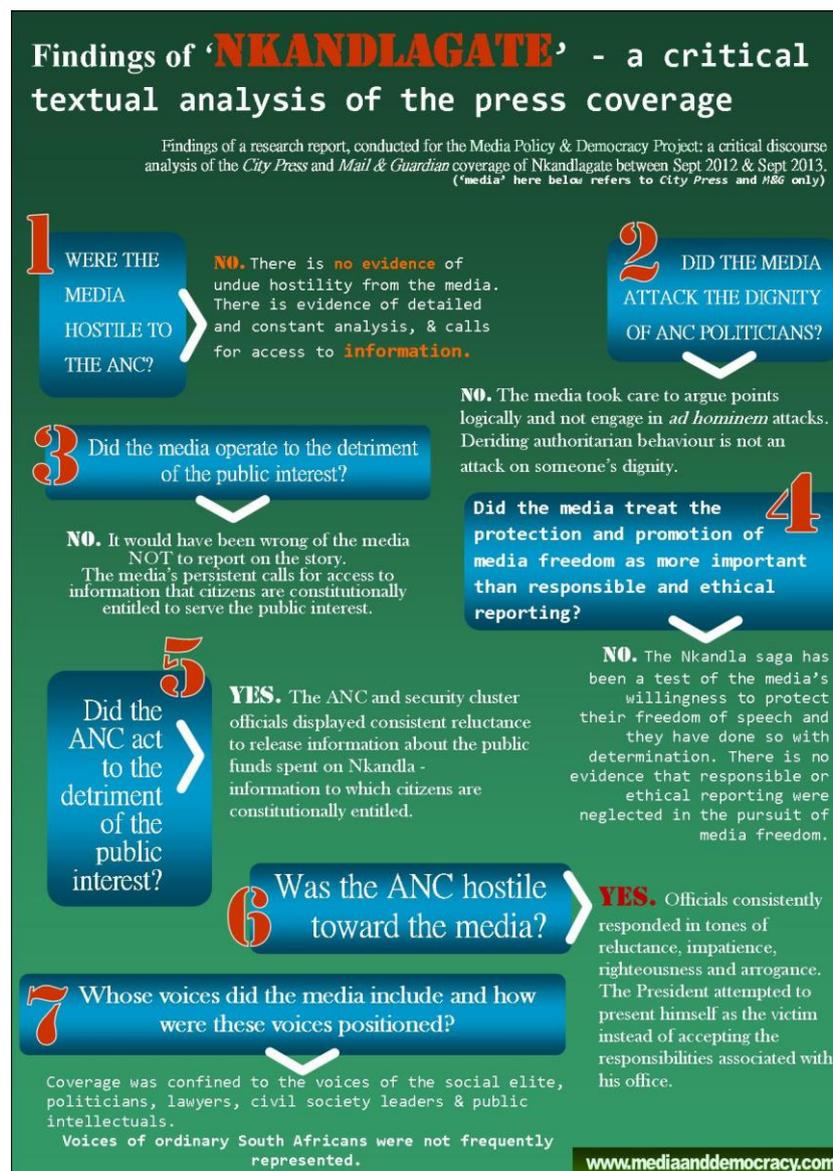


Figure 6: Summary of findings of 'Nkandlagate' – a critical textual analysis of the press coverage, a research report by Jeanne Prinsloo, 2014.

6. Conclusion

At the current time, it is clear that parliamentary discussions of a Media Appeals Tribunal or an alternative regulatory system for accountability in the print media sector may be initiated in the near future. The ANC has reaffirmed its commitment to initiating this process at its 2015 NGC conference (African National Congress 2015c).

Proponents of the Media Appeals Tribunal have argued that an independent accountability mechanism for the press could be envisaged as a publically funded institution, created by statute, which would complement the current PCSA system (Mtimde 2012).

The purpose of this report is not to argue that a parliamentary investigation of a Media Appeals Tribunal should not take place, but only that if it does, then all involved in such discussions ought to have the relevant correct and empirical evidence available to them during their deliberations, rather than relying solely on conjecture, misinformation and myth. This report has supplied, in part, a fact-based collection of evidence on the functioning of the Press Council of South Africa for this purpose, as well as an independent assessment of the findings of the Press Freedom Commission.

This report has interrogated a number of arguments made by the African National Congress, its representatives/members and its alliance partners/allies, where these are relevant to the topic of the system of press accountability in South Africa. This report does not offer a criticism or interrogation of the ANC party, but interrogates only the arguments of the ANC with regard to press regulation.

Whether or not the parliamentary inquiry of a Media Appeals Tribunal goes ahead, and despite that the PCSA has changed its operating procedures three separate times since 2011, the PCSA will again alter its operations within the near future, likely for the fourth time in five years. In December 2014 the PCSA, along with other media representative bodies including SANEF and the NAB, began discussions on establishing a cross-platform media accountability system, which would see digitally published online news content included in the jurisdiction of the PCSA. The benefit of this new model would mean that digitally published online news journalism can be held accountable according to the same set of ethics, as journalism published in the print media. The establishment of this revised regulatory system was currently underway, at the time of writing this report¹⁷.

¹⁷ The Media Policy and Democracy Project produced a research report for submission to the committee responsible for establishing a cross-platform media accountability system for print and digital news media in South Africa, which is openly available on the Media Policy and Democracy Project's website. See Reid and Isaacs 2015.

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APPENDIX A: Press Council of South Africa: inventory record of complaints, dismissals and judgements 2009

Rulings indicated in fourth column include:

- Settled / withdrawn
- Dismissed
- Partially dismissed
- Upheld
- Taken to appeal & upheld
- Taken to appeal & ruling overturned
- Taken to appeal & partially upheld

SANCTIONS (key code)

- A) Reprimand
- B) Strong reprimand
- C) Ordered to retract
- D) Ordered to publish an apology¹⁸
- E) Ordered to publish summary/abbreviated judgement
- F) Ordered to publish full judgement
- G) Explanation / publish right of reply
- H) Ordered to publish a correction
- I) Cautioned

¹⁸ Where the newspaper is ordered to publish an apology, abbreviated judgement or full judgement the text of is provided by the Press Ombudsman or Deputy Press Ombudsman, unless otherwise stated.

	1)Date of complaint 2) Date of resolution 3) Time elapsed between date of complaint and date of resolution in number of days	Complainant	Print Publication	Ruling & sanction	If upheld, relevant clause(s) of Press Code breached by the publication
2009					
1	1) 09/06/2009 2) 10/09/2009 3) 93	Noupoort Christian Care Centre	Rapport	Partially dismissed A	1.5, 1.1
2	1) INA ¹⁹ 2) 14/05/2009 3) INA	Mr Damon Leff, Director of the South African Pagan Rights Alliance	Various Publications: Die Burger The Witness Vaal Weekly IOL Dispatch Online	Dismissed	none

¹⁹ Information not available

3	1) 24/03/2009 2) 05/10/2010 3) 195	Mr Louw Erasmus, Magna FS	Beeld	Partially dismissed C, E Retraction and summary to be published on front page	1.2, 1.1, 1.5
4	1) 06/10/2009 2) 15/07/2010 3) 282	John Duarte, acting CEO of Thubelisha Homes (Pty) Ltd	Mail & Guardian	Partially dismissed D	1.1
5	1) 06/11/2009 2) 26/01/2010 3) 81	Ms K Barolsky, Individual – victim of abuse	Sunday World	Dismissed	None
6	1) 05/10/2009 2) 09/03/2010 3) 155	Colin Jordaan, CEO of Civil Aviation Authority of SA	The Mercury	Dismissed	None
7	1) INA 2) 30/03/2010 3) INA	Francois and Christene van Wyk, chairperson and ‘tesourier’ of SPCA Wellington	Die Burger	Partially dismissed F	1.1, 1.2
8	1) INA 2) 07/06/2010 3) INA	Sinky Mnisi, director and PR officer of various soccer clubs	City Press	Partially dismissed F, H, D	1.1, 1.2

9	1) 01/11/2009 2) 21/06/2010 3) 232	Richard Ferraris, online sports writer	Sunday Times	Dismissed	none
10	1) 20/10/2009 2) 21/06/2010 3) 244	Daya Chetty, Principal of Laudium Secondary School	Laudium Sun	Dismissed	none
11	1) 14/09/2009 2) 21/06/2010 3) 280	Ms S. Scarth, Cape of Good Hope SPCA	Daily Voice	Partially dismissed A, F, H	5.3
12	1) INA 2) 21/06/2010 3) INA	Mkhuseli Khusta Jack, building subcontractor	EP Herald	Partially dismissed E, D	1.1, 1.3, 1.4
13	1) 24/12/2009 2) 09/03/2010 3) 143	Isaac Trout, building contractor	Die Son	Dismissed	None
14	1) 27/05/2009 2) 21/06/2010 3) 390	Mr R. Alli, Melomed Hospital	Daily Sun	Upheld A, E	1.2
15	1) 30/09/2009 2) 25/06/2010	Mthobisi Zondi, Deputy Director- General for	The Star	Dismissed	none

	3) 269	Defense Logistics (SADF)			
16	1) 10/06/2009 2) 25/06/2010 3) 380	Ms Laura-Leigh Randall, Kouga Local Municipality	Die Burger	Partially dismissed A, E	1.1
17	1) 07/12/2009 2) 06/07/2010 3) 211	Mr S. Shaikjee, Jeppe High Preparatory School	The Star	Partially dismissed D, A, E	1.1, 1.3, 5.2, 1.4
18	1) 10/11/2009 2) 22/07/2010 3) 254	Dr. P. Spiller, Robertson Hospital	Die Son	Partially dismissed E, D	1.9, 1.10,
19	1) INA 2) 04/08/2010 3) INA	Mathews Phosa and the ANC	City Press	Partially dismissed D Apology must be published on front page	1.1, 1.2.2, 1.4, 5.2
20	1) 14/10/2009 2) 21/07/2010 3) 280	Mr Yusuf Baboo Carrim, owner of Kismet Supermarket	The Criterion	Dismissed	none

APPENDIX B: Press Council of South Africa: inventory record of complaints, dismissals and judgements 2010

Rulings indicated in fourth column include:

- Settled / withdrawn
- Dismissed
- Partially dismissed
- Upheld
- Taken to appeal & upheld
- Taken to appeal & ruling overturned
- Taken to appeal & partially upheld

SANCTIONS (key code)

- J) Reprimand
- K) Strong reprimand
- L) Ordered to retract
- M) Ordered to publish an apology²⁰
- N) Ordered to publish summary/abbreviated judgement
- O) Ordered to publish full judgement
- P) Explanation / publish right of reply
- Q) Ordered to publish a correction
- R) Cautioned

²⁰ Where the newspaper is ordered to publish an apology, abbreviated judgement or full judgement the text of is provided by the Press Ombudsman or Deputy Press Ombudsman, unless otherwise stated.

	1)Date of complaint 2) Date of resolution 3) Time elapsed between date of complaint and date of resolution in number of days	Complainant	Print Publication	Ruling & sanction	If upheld, relevant clause(s) of Press Code breached by the publication
2010					
1	1) 20/01/2010 2) 24/03/2010 3) 63	Floyd Shivambu, ANC Youth League	Mail & Guardian	Partially dismissed A & F Reprimand & publish full finding	1.5
2	1) 29/01/2010 2) 30/03/2010 3) 60	Francois and Christene van Wyk SPCA	Paarl Post	Partially dismissed F Ordered to publish full judgement	1.1 & 1.2
3	1) 24/02/2010 2) 18/06/2010	Dr Zweli Mkhize, KZN Premier	Sunday Tribune	Partially dismissed D & E	1.1, 1.2, 1.4

	3) 114				
4	1) 29/03/2010 2) 21/06/2010 3) 84	André Williams 3 rd party complaint	Sports Illustrated	Dismissed	none
5	1) 01/02/2010 2) 21/06/2010 3) 140	Louise Malherbe, I. Van Aswegen and Rita Prinsloo 3 rd party complaint	Rapport	Dismissed	none
6	1) 17/02/2010 2) 21/06/2010 3) 124	Mr F. Ahmed, The Sweet Connection (Business)	Die Son	Dismissed (but sanctioned nonetheless) A & H Reprimand and publish correction	1.1
7	1) 29/03/2010 2) 21/06/2010 3) 84	Nico Nel Former member of Linbro Park Community Association	Sandton Chronicle	Partially dismissed D & E Publish apology & summary of finding	1.1, 1.2, 1.3, 1.4
8	1) 24/05/2010 2) 21/06/2010 3) 28	Lyn de Jong SA Embassy in Harare	Sunday Times	Dismissed	none

9	1) 02/06/2010 2) 25/06/2010 3) 23	Tabisa Ralo, Head of Independent Complaints Directorate in KZN	Daily Dispatch	Upheld F & H Publish finding and correction	1.2
10	1) 06/01/2010 2) 25/06/2010 3) 170	Solly Mokoetle Former chief operations officer of SABC	Sunday Times	Partially dismissed C, D & E Publish retraction, apology & summary of finding	1.1, 1.2
11	1) 31/03/2010 2) 25/06/2010 3) 86	Adv Hugh Mbatha, Municipal manager of Ehlanzeni Regional Municipality	Lowvelder	Partially dismissed A & E Reprimand & publish summary of finding	1.1, 1.2
12	1) 28/04/2010 2) 12/07/2010 3) 94	Coen Vermaak, Leader of the Boerestaat Party	Saturday Star	Partially dismissed A & E Reprimand and publish summary of finding - to be published on front page	1.2, 1.4
13	1) 18/02/2010 2) 04/08/2010 3) 194	Gauteng Department of Education	The Star	Partially dismissed H & E Publish correction & summary of judgement	1.1, 1.2
14	1) 03/03/2010	Thabo Maleka, SABC	Sunday Independent	Partially dismissed	1.1, 1.2

	2) 12/08/2010 3) 162			H Publish a correction	
15	1) 12/07/2010 2) 18/08/2010 3) 37	Herman Bester, Stonevest (Business)	Rapport	Partially dismissed E & D Publish summary of finding and apology	1.1, 1.2, 1.4
16	1) 09/07/2010 2) 18/08/2010 3) 40	Lakela Kaunda, Deputy Director General in President Jacob Zuma's Office	Mail & Guardian	Dismissed	none
17	1) 09/07/2010 2) 18/08/2010 3) 40	Lakela Kaunda, Deputy Director General in President Jacob Zuma's Office	The Times	Partially dismissed E, G, & D Publish summary of finding, apology and right of reply	1.4, 1.5, 5.1
18	1) 18/02/2010 2) 18/08/2010 3) 194	Musa Furumele, Former chairperson of Sedibeng Water Board	The Weekly	Partially dismissed A, D & E	1.4, 1.5
19	1) 09/07/2010 2) 30/08/2010	Ridwan Kajee, Oasis Group Holdings	The Argus	Dismissed	none

	3) 53				
20	1) 06/04/2010 2) 03/09/2010 3) 156	Mr Ismail Ayob, Lawyer	Sunday Times	Dismissed	none
21	1) 06/04/2010 2) 07/09/2010 3) 94	Phuti Mosomane, spokesperson for Cassel Mathale, Premier of Limpopo	City Press	Partially dismissed E, D, & C	1.1, 1.2, 5.3
22	1) 14/07/2010 2) 13/09/2010 3) 61	Douglas Mthukwane, Media & parliamentary officer in the Northern Cape Education ministry	Diamond Fields Advertiser	Partially dismissed A, G, E	1.5
23	1) 04/08/2010 2) 14/09/2010 3) 41	Gareth van Onselen, Executive Director of Communications for the Democratic Alliance	Sowetan	Partially dismissed E, H, A	1.1, 5.1
24	1) 26/08/2010 2) 21/09/2010	Doreen Thys, member of the Rockdale	Highway Mail	Partially dismissed A, E	1.1, 1.2, 1.4

	3) 26	Neighbourhood Watch			
25	1) 26/07/2010 2) 04/10/2010 3) 70	Chuene Incorporated, for the SABC	Sunday Times	Partially dismissed A, H, E	1.1, 1.4
26	1) 10/06/2010 2) 15/10/2010 3) 127	Linda Gordon, Third party complaint	The Times	Partially dismissed A, E	1.2
27	1) 04/08/2010 2) 22/10/2010 3) 79	Mark Welman, for Pasco Risk Management	The Star	Partially dismissed H, A, E	1.1, 1.2
28	1) 27/08/2010 2) 01/11/2010 3) 66	Flamingo Primary School	Diamond Fields Advertiser	Partially dismissed D, E	1.5
29	1) 30/09/2010 2) 03/11/2010 3) 34	John Stewart, Individual (not 3 rd party)	Roodepoort Record	Partially dismissed A, E	1.1

30	1) 12/10/2010 2) 03/11/2010 3) 22	Lara Johnstone, Radical Honesty White Refugee group	City Press	Dismissed	none
31	1) 02/11/2010 2) 21/12/2010 3) 49	Mr Jay Henning, Oasis Holdings	Business Day	Partially dismissed A & E	4.3
32	1) 23/10/2010 2) 10/12/2010 3) 48	Jimmy Manyi, President of Black Management Forum	City Press	Partially dismissed A, D & E	1.1
33	1) 10/08/2010 2) 08/12/2010 3) 59	Simphiwe Hamilton, executive director of the Aerospace Maritime and Defence Industries Association	Business Day	Partially dismissed I, D, & E	1.1, 1.5
34	1) 25/10/2010 2) 06/12/2010 3) 42	Sharifa Nathan, World Focus (Business)	Daily Voice	Partially dismissed A & E Newspaper ordered to publish summary of judgement on either page 4 or 5.	5.3

35	1) 05/08/2010 2) 02/12/2010 3) 119	Quraysh Patel, former chairperson of the board of Sentech Ltd.	City Press	Partially dismissed A, D, C, E	1.2.2, 1.4
36	1) 08/07/2010 2) 01/12/2010 3) 146	Mr Willem (Mannetjie) Diergaardt, chairperson of the committee of the Richtersveld Sida !Hub Communal Property Association	Eland News	Partially dismissed A, E Summary of judgement to be published on front page	1.1, 1.2.1, 1.2.2
37	1) 21/10/2010 2) 25/11/2010 3) 35	Mr Stuart Walker, former car dealership owner in Nelspruit	Lowvelder	Partially dismissed E, A, D	1.1, 1.3, 1.4, 1.5
38	1) 25/10/2010 2) 23/11/2010 3) 29	Ms Liezl van der Merwe, Inkatha Freedom Party	Sowetan	Upheld G, E, C Correction/retraction to be published on the same page that the story appeared.	1.1, 1.3
39	1) 09/09/2010 2) 11/11/2010 3) 63	Ms Sonono Khosa, has a child with President Jacob Zuma	Sunday World	Partially dismissed A, D, E	1.4, 1.5

APPENDIX C: Press Council of South Africa: inventory record of complaints, dismissals and judgements 2011

Rulings indicated in fourth column include:

- Settled / withdrawn
- Dismissed
- Partially dismissed
- Upheld
- Taken to appeal & upheld
- Taken to appeal & ruling overturned
- Taken to appeal & partially upheld

SANCTIONS (key code)

- S) Reprimand
- T) Strong reprimand
- U) Ordered to retract
- V) Ordered to publish an apology²¹
- W) Ordered to publish summary/abbreviated judgement
- X) Ordered to publish full judgement
- Y) Explanation / publish right of reply
- Z) Ordered to publish a correction
- AA) Cautioned

²¹ Where the newspaper is ordered to publish an apology, abbreviated judgement or full judgement the text of is provided by the Press Ombudsman or Deputy Press Ombudsman, unless otherwise stated.

	1)Date of complaint 2) Date of resolution 3) Time elapsed between date of complaint and date of resolution in number of days	Complainant	Print Publication	Ruling & sanction	If upheld, relevant clause(s) of Press Code breached by the publication
2011					
1	1) 18/01/2011 2) 15/06/2011 3) 148	Coal of Africa Limited (CoAL)	Beeld	Upheld [D] "Beeld is directed to: • apologise to CoAL for causing unnecessary harm as set out in the text that follows; and • include, in its heading, the words "apology/apologise" ("om verskoning") as well as "CoAL". Apology ordered to be published on page 2.	Art. 1.1, Art 1.2.1, A1.2.2, Art1.3.3, Art. 1.4, 1.5.
2	1) 24/01/2011	Phumzile Buthelezi	Weekend Witness	Dismissed	None

	2) 4 /04/2011 3) 71	Daughter of Inkhatha Freedom Party President, Mangosuthu Buthelezi			
3	1) 24/01/2011 2) 06/05/2011 3) 102	Adhil Bhagothidin South African Democratic Teachers Union	Ilanga	Upheld [A & E]	Art 1.1, Art. 1.5
4	1) 14/01/2011 2) 14/02/2011 3) 31	Dr. Larry Lipschitz Former CEO of Super Group	Sunday Times	Upheld [D & E] Dept Ombudsman ordered the apology to be published on page 5.	Art 1.1
5	1) 26/01/2011 2) 28/09/2011 3) 245	Musa Capital Advisors (Finance Company)	Sunday World	Partially dismissed [A & D] Publish a kicker on front page that includes the word 'apologise' or 'apology' and 'Musa'. Summary of ruling to be published on page 7.	Art. 1.1, 1.3, & 1.4
6	1) 26/01/2011 2) 02/06/2011 3) 127	Lupi Ngoayisa (BBM Attorneys)	Sunday World	Partially Dismissed [A & E]	Art 1.3

7	1) INA ²² 2) 22/02/2011 3) INA	Specialist Income Bpk.	Rapport (Sake 24)	Partially dismissed [A & E]	Art. 1.1 & 1.2
8	1) 28/01/2011 2) 31/03/2011 3) 62	Thulani Qithi Individual – business owner	Sunday World	Partially dismissed [A & E]	Art 1.1, Art 1.2
9	1) 01/02/2011 2) 01/02/2011 3) 1	Mia Breet, Third party complaint	Beeld	Dismissed	None
10	1) 08/02/2011 2) 17/05/2011 3) 98	David Mabuza (b) Premier of Mpumalanga	City Press	Partially Dismissed [E & I]	Art1.2
11	1) 14/02/2011 2) 08/07/2012 3)144	Musa Capital Advisors - Mr William Jimerson (director of Musa Capital).	Citizen (CitiBusiness)	Partially dismissed [A, C, & E]	Art 1.4, & 5.1
12	1)14/02/2011	Helen Zille	Sowetan	Partially dismissed	Art 2.1, Art 4.3, Art 5.2

²² Information not available

	2)12/04/2011 3)57	Premier of Western Cape		[D & E]	
13	1) 16/02/2011 2) 08/07/2011 3) 142	Miriam Sekgabutla - MEC for health and Social Development of Limpopo Province	Sowetan	Partially dismissed [A & G]	Art 1.5
14	1) 18/02/2011 2) 03/05/2011 3) 74	Karin Badenhorst [Third party complaint]	Middelburg Observer	Partially dismissed [A & E]	Art 1.7, Art 8
15	1) 18/02/2011 2) INA 3) INA	Patricia Kruger [Third Party Complaint]	Zululand Observer	Dismissed	None
16	1) 18/02/2011 2) 25/04/2011 3) 66	Jay Henning (Oasis Group Holdings)	Rapport	Partially dismissed [A & E]	Art 1.1, Art 1.2, Art 1.5
17	1) 03/03/2011 2) 21/11/2011 3)262	Dr. Mathole Motshekga ANC Chief Whip	Cape Times	Dismissed	None
18	1) 04/03/2011 2) 29/03/2011	Adrian Nel	TygerBurger	Partially Dismissed [A, E & G]	Art 1.1, Art 1.2, Art 1.3, Art 1.4

	3) 25	Individual involved in a dispute over a car accident			
19	1) 04/03/2011 2) 23/05/2011 3)80	Piet Rudolph, Orde Boerevolk Aksiekomitee	Beeld	Partially dismissed [H]	Art 1.1
20	1) 09/03/2011 2) 16/05/2011 3) 68	Shiyaam Marlie (individual possibly connected to a ponzi scheme)	Daily Voice	Dismissed	None
21	1) 14/03/2011 2)16/06/2011 2) 94	Armando Costa and Emkhankasweni Waste Manages Services	Sunday Times	Upheld [A, D & E]	Art 1.1 & 1.5
22	1) 30/03/2011 2) 22/06/2011 3) 84	Daily Sun (Jurgens Bekker Attorneys)	The New Age (Dario Milo and Okyerebea Amptoto-Anti)	Upheld [D & E]	Art. 1.1, & 1.5
23	1) 14/04/2011 2) 24/06/2011 3) 71	Fikile Mbalula – Minister of Sport and Recreation	Mail & Guardian	Dismissed	None
24	1) 26/04/2011	Cassel Mathale	City Press	Dismissed	None

	2) 11/07/2011 3) 76	Limpopo Premier			
25	1) 26/04/2011 2) 8/07/2011 3) 73	Suzanne Vos, Former MP for Inkatha Freedom Party	Sunday Independent	Partially dismissed [I & E]	Art 5.1
26	1) 01/06/2011 2) 13/07/2011 3) 42	David Masondo - ANC Limpopo	Polokwane Observer	Dismissed	None
27	1)17/06/2011 2)15/09/2011 3) 90	Merafong City Local Municipality (Lucky Leseane - Municipal Manager MM)	Saturday Star	Upheld [D] Although the story was not published on the front page, a kicker on the front page is warranted. The apology to which the kicker refers should be published not deeper in the newspaper than page 5. Text for the apology is supplied by the Deputy Ombudsman.	Art 1.1 & 1.3
28	1) 13/07/2011 2) 29/07/2011 3) 16	Dudu Myeni - Former CEO of Mhlatuze Water (MW)	Zululand Fever	Dismissed There is no sanction but the Ombudaman did recommend that Myeni takes up the newspaper's offer to publish her views (with equal prominence).	None
29	1) 20/07/2011	Natashia Allie	Daily Voice	Dismissed	None

	2) 20/07/2011 3) 1	Individual			
30	1) 21/07/2011 2) 18/11/2011 3) 89	Sthembile Mchunu Individual	Ilanga Newspaper	Dismissed	None
31	1) 01/08/2011 2) 15/09/2011 3) 45	Trilinear Group of Companies - Sbusiso Samuel Buthelezi	Cape Times	Dismissed	None
32	1) 03/08/2011 2) 08/09/2011 3) 36	Mr Shaheen Moolla (Former head of fisheries management and co-owner of large fishing consultancy)	Sunday Times	Dismissed	None
33	1) 16/08/2011 2) 12/09/2011 3) 27	Mere Boase and five others This ruling is based on the written submissions of Mr Mere Boase, Mr Lekubu, Mr Joel Tshipala, Ms	Sowetan	Partially Dismissed [D]	Art 1.1, Art 1.7, Art 1.7.1

		Nto Rikhotso, Ms Khensani Mnisi and the Films and Publications Board (Ms Yolisaw Makhasi).			
34	1) 25/08/2011 2) 13/09/2011 3) 19	Horst Peschkes (Steel and Engineering Industries Federation of South Africa – Seifsa)	Sunday Times	Dismissed	None
35	1) 25/08/2011 2) 14/10/2011 3) 53	Peter Setou (National Credit Regulator)	Sunday Independent	Dismissed	None
36	1) 26/08/2011 2) 02/11/2011 3) 36	Manie van Schalkwyk, National Credit Regulator	Sunday Independent	Upheld [D]	Art 1.1, Art 5.1
37	1) 06/09/2011 2) 22/09/2011 3) 16	Torga Optical (Ian Buchanan)	Bulletin-Tzaneen	Upheld [E] Paper was ordered to publish summary/ abbreviated judgement. This should be published on page 3.	Art 1.1
38	1) 19/09/2011	Musa Capital	City Press	Partially dismissed	Art. 1.1, 1.2, 5.1 & 5.3

	2) 05/03/2012 3) 355			[D & E]	
39	1) 27/09/2011 2) 15/11/2011 3) 49	Dr Khoukanan Movunghu Ministry of State Security	Sunday Times	Dismissed	None
40	1) 04/10/2011 2) 25/05/2012 3) 233	Theo Pillay, Ex-School governing body member of Woodview Secondary School	The Rising Sun	Upheld [A, G & E]	Art 1.2 & 1.5
41	1) 04/10/2011 2) 25/11/2011 3) 131	Mangaung Metropolitan Municipality	Volksblad	Upheld [A, D & G] Volksblad is: <ul style="list-style-type: none"> • Directed to apologise to MM for not asking it for comment prior to publication; and • Reprimanded for publishing a misleading headline. The newspaper is directed to publish a follow-up story in which it asks the MMM for its comment (if it wishes to do so). The story should: <ul style="list-style-type: none"> • Take the audit report(s) into account; • Include a summary of this finding and sanction; • Be published on the front page, with at least the heading above the fold; • Be published in a week edition 	Art 1.5, Art 5.1

		pilgrimage to Mecca.			
46	1) 24/10/2011 2) 07/12/2011 1) 44	Phindiwe Kema (Horsereading entrepreneur and founder of Africa Race International)	Sunday Times	Upheld [A & D]	Art 1.5
47	1) 03/11/2011 2) 13/12/2011 3) 40	Carlton Adams Individual	The Plainsman	Dismissed	None
48	1) 07/11/2011 2) 20/01/2012 3)74	Omphemetse Molamu Acquaintance of Sports Minister Fikile Mbalula	Sunday Sun	Dismissed	None
49	1) 07/11/2011 2) 16/01/2012 3) 39	Omphemetse Molamu Acquaintance of Sports Minister Fikile Mbalula	Sowetan	Dismissed	None
50	1) 07/11/2011 2) 16/01/2012 1) 39	Omphemetse Molamu	Sunday World	Upheld [B & D]	Art. 1.1, Art 1.2

		Acquaintance of Sports Minister Fikile Mbalula			
51	1) 07/11/2011 1) 16/01/2012 2) 39	Omphemetse Molamu Acquaintance of Sports Minister Fikile Mbalula	Sunday Times	Dismissed [H]	None
52	1) INA 2) 20/01/2012 3) INA	Omphemetse (Joyce) Molamu	Sunday Sun	Dismissed No sanction	None
53	1) 25/11/2011 2) 10/05/2012 3) 167	Julius Malema	The Times	Upheld [E]	Art 1.1, 1.4, 1.5.
54	1) 25/11/2011 2) 11/04/2012 3) 138	Julius Malema	The Citizen	Partially dismissed [D] Apology must contain the word 'apology' or 'apologise' as well as Malema's name in the headline. Publish a kicker on front page which refers to story on page 3.	Art. 1.1
55	1) 25/11/2011 2) 10/05/2012	Julius Malema	Sunday Independent	Partially dismissed [D & E]	Art. 1.1, 1.4, 1.5, & 11.1

	3) 167			Ordered to publish an apology on front page Publish a summary of judgement	
56	1) 06/12/2011 2) 09/01/2012 3) 34	Dr Dan Roodt	Die Burger	Dismissed	None
57	1) 06/12/2011 2) 09/03/2012 3) 94	Dr Dan Roodt	Beeld & Die Burger	Partially dismissed [D & H] Apology must be published on the same page on which the story appeared.	Art. 1.1, 1.3, 1.4 & 1.5
58	1) INA 2) 02/02/2012 3) INA	Connie Rampai Speaker of the Manguang Metro	Volksblad	Partially dismissed [D, E & G]	Art. 1.5
59	1) 19/12/2011 2) 04/06/2012 3) 168	Sekunjalo Investment Ltd	The New Age	Dismissed	None
60	1) INA 2) 8/12/2011 3) INA	James Davis (Fish Hoek High School and Fish Hoek Primary School)	False Bay Echo	Partially Dismissed [A & E]	Art 1.1
61	1) INA	Elwin White	Daily Sun	Dismissed	None

	2) 28/11/2011 3) INA	Community representative (Coronation)			
62	1) INA 2) INA 3) INA	Various complainants [Third party complaint]	Pretoria News	Dismissed The complaint was dismissed because it was an opinion piece and therefore subjected. The writer is protected by the Constitution to the effect that S/he has the right to be wrong. See Art 4.1, Art 4.2, Art 4.3 for reference.	None
63	1) INA 2) 17/06/2011 3) INA	Liezl van der Merwe - Press Liaison officer of the Inkatha Freedom Party (IFP)	Sowetan	Upheld [D] The apology must be published on the front page. The text of this apology is provided by the Deputy Ombudsman	Art 1.5
64	1) INA 2) 06/05/2012 3) INA	Mr Sicelo Shiceka Minister for Co-operative Governance and Traditional Affairs (Cogta) Sicelo Shiceka	Mail & Guardian	Dismissed	None
65	1) INA	Siphiwe Mathobela	Sunday World	Partially Dismissed	Art 1.1

	2) 28/4/2011 3) INA	General Manager of Public Rail Agency of South Africa		[A & E]	
66	1) INA 2) 18/04/2011 3) INA	Sandile Ngema Station manager of Imbokodo Community Radio Station (Durban)	Ilanga	Partially Dismissed [D, E & G] The newspaper is directed to: <ul style="list-style-type: none"> publish a summary of this finding and sanction on the same page as the story in dispute; 	Art 1.1, Art 5,1
67	1) INA 2) 11/04/2011 3) INA	Vito Palazzolo Businessman – individual	Sunday Independent	Partially Dismissed [E & I] •	Art5.1
68	1) INA 2) 04/04/2011 3) INA	Khaya Ngqula Former CEO of SAA	Sunday Times	Dismissed	None
69	1) INA 2) 25/03/2011 3) INA	Land Bank Mr Musawenkosi Michunu, the head of Marketing and	Bulletin	Partially dismissed [A,D & E]	Art 1.1, Art 1.3, Art 1.4, Art 1.5, Art 4.2

		Communications of Land Bank.			
70	1) INA 2) 01/04/2011 3) INA	Cassel Mathale Premier of Limpopo Province	Sowetan	Upheld [A, C, D & E]	Art 1.1 , Art 1.5
71	1) INA 2) INA 3) INA	Thami Mdwaba [Third party complaint]	The Citizen	Dismissed	None
72	1) INA 2) INA 3) INA	Cathy [Third party complaint]	Natal Witness	Dismissed	None
73	1) INA 2) INA 3) INA	Prof Motala [Third party complaint]	Sunday Times	Dismissed	None
74	1) INA 2) INA 3) INA	Dr Motshekga [Third party complaint]	Cape Times	Dismissed	None

75	1) INA 2) INA 3) INA	Mrs Smith Third party complaint	The New Age	Dismissed	None
76	1) INA 2) 11/03/2011 3) INA	The Gauteng Department of Education	The Star and Rapport	Dismissed	None
77	1) INA 2) 22/02/2011 3) INA	Khaya Ngqula Former CEO of SAA	Sunday Times	Upheld [C, D & E]	Art 1.1
78	1) INA 2) 21/01/2010 3) INA	Emsley Manne Dipico Former Premier of the Northern Cape Province.	The Star	Partially Dismissed [A, D & E]	Art 1.5, Art1.1
79	1) INA 2) 24/01/2011 3) INA	Laraine Lane A former member of the board of Athletics South Africa (ASA).	The Times	Partially Dismissed [D & E]	Art 4.3
80	1) INA 2) 13/01/2011 3) INA	The Norwood Community Police Forum (NCPF)	The Star	Dismissed The newspaper is free to publish a summary of the finding is they so choose.	None

81	1) INA 2) 28/02/2012 3) INA	Sekunjalo Investment Ltd	Sunday Times	Partially dismissed [A & E]	Art 1.2
82	1) INA 2) 28/02/2012 3) INA	Gerald Majola CEO of Cricket South Africa	Sunday Times	Dismissed	None
83	1) INA 2) 19/03/2012 3) INA	Musa Capital - Mr Will Jimerson, Director of Musa Capital	Sunday World	Partially dismissed [D]	Art. 1.1
84	1) INA 2) 13/04/2012 3) INA	Tirisano-Mmogo Junior Secondary School	Randburg Sun	Partially dismissed [A & D]	Art. 1.1, 1.2 & 1.4
APPEALS IN 2011					
1	18/10/2011	Sibusiso Buthelezi Former head of the Gauteng Transport and Public Works Department (DPTRW)	The Star	Part of the appeal dismissed and part of the Ombudsman's original ruling was overturned. D	1.1, 1.2, 1.5
2	05/10/2011	Horst Peschkes	Sunday Times	The ruling of the Deputy Ombudsman is overturned	1.6

		Steel and Engineering Industries Federation of South Africa – Seifsa		Newspaper to print a correction with the Appeals Panel finding in the same position and same size as the article which was printed reporting the deputy ombudsman dismissing the original complaint.	
3	12/01/2011	Prof Ziyad Motala	Sunday Times	The decision of the Ombudsman is upheld and the appeal is dismissed No sanction	The newspaper did not breach any articles as such but Judge RH Zulman argued that the column did breach Section 16 of the Constitution, Section 2 of the Press Code, Section 4 of the Press Code (4.3).

APPENDIX D: Press Council of South Africa: inventory record of complaints, dismissals and judgements 2012

Rulings indicated in fourth column include:

- Settled / withdrawn
- Dismissed
- Partially dismissed
- Upheld
- Taken to appeal & upheld
- Taken to appeal & ruling overturned
- Taken to appeal & partially upheld

SANCTIONS (key code)

- BB) Reprimand
- CC) Strong reprimand
- DD) Ordered to retract
- EE) Ordered to publish an apology²³
- FF) Ordered to publish summary/abbreviated judgement
- GG) Ordered to publish full judgement
- HH) Explanation / publish right of reply
- II) Ordered to publish a correction
- JJ) Cautioned

²³ Where the newspaper is ordered to publish an apology, abbreviated judgement or full judgement the text of is provided by the Press Ombudsman or Deputy Press Ombudsman, unless otherwise stated.

	1)Date of complaint 2) Date of resolution 3) Time elapsed between date of complaint and date of resolution in number of days	Complainant	Print Publication	Ruling & sanction	1) Nature of the complaint 2) If upheld, relevant clause(s) of Press Code breached by the publication
2012					
1	1) 16/01/2012 2) 27/04/2012 3) 102	Allen Jones (Former senior executive of Bond Exchange South Africa – Besa)	Noseweek	Settled. No formal finding – revert to an agreement with both parties. Noseweek to craft an Editor’s Note, incorporating ‘ruling’ written by Dept Press Ombud, and comments of panellists and Jones. When Editor’s note is agreed on by all, it will be prominently published.	None
2	1) 23/01/2012 2) 21/05/2012 3) 119	Ndivhuwo Mabaya – the Ministry of Defence and Military Veterans	The Citizen	Partially dismissed [A]	Art. 1.4, 1.5
3	1) 20/01/2012	Phillip Dexter	Mail & Guardian	Dismissed	None

	2) 3/04/2012 3) 43	(Congress of the People)			
4	1) 30/01/2012 2) 14/03/2012 3) 44	Daniel Hugo (Friend of Shané Kleyn)	Sondag	Partially dismissed [D & E]	Art. 1.4, & 5
5	1) 01/02/2012 2) 14/03/2012 3) 120	Shané Kleyn (Writer/poet)	Sondag	Partially dismissed [D, I & E]	Art. 1.1, 1.4, & 5
6	1) 03/02/2012 2) 31/05/2012 3) 118	Phuti Mosomane – Limpopo office of the premier	Sunday Independent	Upheld [D]	Art. 1.1
7	1) 07/02/2012 2) 25/04/2012 3) 78	Charles Phahlane – the Gauteng Department of Education	The Star	Partially dismissed [D]	Art. 1.1
8	1) 15/02/2012 2)	Luthando Vili – Zingisa Rehabilitation Centre (ZRC)	Daily Dispatch	Partially dismissed [D]	Art. 1.1, 12.2, 1.5.

	3)				
9	1) 09/02/2012 2) 17/04/2012 3) 68	Hlaudi Motsoeneng (Acting SABC COO)	Sunday Independent	Partially dismissed [D & A] Newspaper to publish an apology on its front page [D] – full text of apology provided by Dept Press Ombud.	Art. 1.1, 1.2
10	1) 20/02/2012 2) 06/03/2012 3) 15	Phillip Dexter (Congress of the People)	You Magazine	Dismissed	None
11	1) 22/02/2012 2) 10/06/2012 3) 109	Dr. Pedro Beverly – Life Mercantile Hospital (LMH)	Die Son	Dismissed	None
12	1) 03/02/2012 2) 10/05/2012 3) 97	Robert Gumede & Four Rivers Trading	Sunday Times	Upheld [D]	Art. 8.1, & 8.3.
13	1) 28/02/2012 2) 20/05/2012 3) 82	Mario Wanza (United Democratic Front)	The Cape Argus	Dismissed	None

14	1) 28/02/2012 2) 18/05/2012 3) 80	Mario Wanza (United Democratic Front)	The Cape Times	Dismissed	None
15	1) 19/03/2012 2) 20/04/2012 3) 32	Dan Roodt (Writer and director of Praag)	Sondag	Upheld [D] Ordered to publish an apology on front page, with the word 'apology' or 'apologise' in the headline.	Art. 1.1, 1.2, & 5
16	1) 28/03/2012 2) 18/05/2012 3) 51	Sifiso Moshoei – the office of the Presidency	Cape Times	Dismissed	None
17	1) 18/04/2012 2) 14/05/2012 3) 26	Prof Johan Janse van Rensburg (Professor of Theology)	Die Kerkbode	Partially dismissed [D]	Art. 1.5
18	1) 2) 04/06/2012 3)	Sekunjalo Investment Ltd.	The New Age	Dismissed	None
19	1)	B. Hansjee	Daily Dispatch	Partially dismissed	Art. 1.1, 1.2

	2) 13/06/2012 3)	(Magistrate)		[D]	
20	1) 18/10/2011 2) 14/06/2012 3) 240 days	Alan Mukoki (Former CEO of the Land Bank)	Mail & Guardian	Dismissed	None
21	1) 19/03/2012 2) 02/07/2012 3) 105 days	Mzwandile Phupha (ANC regional leader in Motheo)	The Weekly	Partially dismissed [A & D]	Art. 11.1, 1.3, 1.5
22	1) 2) 03/07/2012 3)	Siyabonga Slikour Metane (Hip hop artist)	Sunday World	Upheld [A, D, H & I]	Art. 1.1, 1.2
23	1) 29/03/2012 2) 19/07/2012 3) 112 days	Neil Diamond (ANC Councillor in Alberton)	The New Age	Partially dismissed [A, D & I]	Art 1.1, 1.2
24	1) 2) 19/07/2012	Nathi Mthethwa (Minister of Police)	The Citizen	Dismissed	None

	3)				
25	1) 10/11/2011 2) 22/07/2012 3) 255 days	Mr Jacob Rabodila, Director General in the Office of the Premier of Mpumalanga Provincial Government	The Lowvelder	Partially dismissed [D] Newspaper to apologise unreservedly. Use the word 'Apology' or 'Apologises' in headline. Publish a kicker on frontpage – headline of kicker: <i>Apology to Mpumalanga Provincial Government.</i>	Art. 1.1, 1.2, 1.4, 3.1
26	1) 30/06/2012 2) 24/07/2012 3) 24 days	Blade Nzimande (Minister)	Sowetan	Upheld [D & B] Newspaper severely reprimanded and ordered to publish full apology on front page	Art 1.1, Art. 5 & Art. 8.3
27	1) 2) 24/07/2012 3)	MEC Robin Carlisle, Ministry of Transport and Public Works, Western Cape	Cape Times	Partially dismissed [A & D] The newspaper is reprimanded and ordered to publish an apology, with a kicker on front page. Heading of kicker: Toll plaza – apology to MEC Carlisle	Art. 1.1, 1.2, 1.4, & 1.5
28	1) 08/06/2012 2) 01/08/2012	Renette du Plessis (Hervormde Kerk)	Beeld	Dismissed	None

	3) 54 days				
29	1) 2) 04/08/2012 3)	African National Congress	Mail & Guardian	Dismissed	None
30	1) 2) 06/08/2012 3)	National Consumer Commission	Business Day	Dismissed	None
31	1) 28/03/2012 2) 11/08/2012 3) 136 days	Melomed Hospital	Daily Voice	Upheld [D]	Art. 1.1, 1.2, & 1.5
32	1) 23/04/2012 2) 11/08/2012 3) 110 days	Nelson Mandela Bay Municipality	The Herald	Dismissed	None
33	1) 15/11/2011 2) 09/08/2012 3) 288 days	Benzi Tenza (School principal at Ezibeleni School)	The Star	Partially dismissed [D]	Art. 1.4, & 1.5

34	1) 2) 09/08/2012 3)	Craig Mentor & four others (Third party complaint)	Daily Voice	Dismissed	None
35	1) 09/11/2011 2) 08/08/2012 3) 273 days	Dr OI Adejayan (Mafikeng Provincial Hospital)	Mafikeng Mail	Upheld [C & D] The word 'apology' or 'apologise' to be used in the headline.	Art. 8.3
36	1) 30/04/2012 2) 15/08/2012 3) 107 days	Major-General Deena Moodley	Sunday Times	No finding	None
37	1) 2) 15/08/2012 3)	Umgungundlovu District Municipality	The Times	Partially dismissed [I & E]	Art. 1.1
38	1) 03/08/2012 2) 15/08/2012 3) 12 days	Joy Kriel (Third party complaint)	The Citizen	Dismissed	None
39	1) 10/07/2012 2) 27/08/2012	Ann Parboo	Newcastle Advertiser	Upheld [D]	Art. 1.1, 1.4.

	3) 48 days	(Beauty pageant organiser)			
40	1) 2) 30/08/2012 3)	Mr Floyd Mbele, Platinum Stars (1)	Sunday Sun	Dismissed	None
41	1) 2) 30/08/2012 3)	Mr Floyd Mbele, Platinum Stars (2)	Sunday Sun	Dismissed	None
42	1) 2) 30/08/2012 3)	Mr Floyd Mbele, Platinum Stars (3)	Sunday Sun	No finding	None
43	1) 10/07/2012 2) 05/09/2012 3) 57 days	Hans Ramogale, Gauteng Department of Health	The Star	Partially dismissed A, G, E	1.5
44	1) 2) 05/09/2012 3)	Gauteng Department of Local Government & Housing	The Star	Upheld [D & I]	Art. 1.1, 1.2.
45	1) 04/01/2012 2) 08/09/2012	Pamela Rubushe, Dora Nginza Hospital	Die Son	Dismissed	None

	3) 248 days				
46	1) 09/11/2011 2) 12/09/2012 3) 308 days	Odwa Makiwane, Royal Marang Hotel	Sunday World	Upheld H	1.1
47	1) 29/03/2012 2) 13/09/2012 3) 105 days	Izak Berg, Councillor for Ekurhuleni Municipality	The New Age	Partially dismissed D, E	1.1, 1.2, 1.5
48	1) 02/05/2012 2) 15/09/2012 3) 136 days	Julie-May Ellingson (CEO of ICC in Durban)	Sunday Times (Zulu Edition)	Upheld B, D, G Ombudsman ordered a follow up story to set the facts straight, as well as an apology to be published on the front page, fully or partly above the fold, and the headline to include the words 'apology, or apologises' and 'Ellingson'.	1.1, 1.2, 1.4, 5, 12.2
49	1) 25/05/2012 2) 05/09/2012 3) 103 days	Ms Diedré Londt, Gauteng Department of Local Government and Housing	The Star	Upheld D, I, E	1.1, 1.2
50	1) 20/05/2012 2) 19/09/2012 3) 122 days	Dr Dirk Schmidt, businessman and campaigner against great	Cape Times	Partially dismissed D, E	1.1

		white shark tagging			
51	1) 2) 19/09/2012 3)	Frans Moshwane, ANCYL Limpopo chairperson	Sunday Independent	Dismissed	None
52	1) 2) 28/09/2012 3)	National Consumer Commission	Business Day	Dismissed	None
53	1) 17/04/2012 2) 27/09/2012 3) 163 days	Mr David Nkoana, municipal manager of Molemole Municipality	Sowetan	Upheld D, A, E Summary of ruling to be published on page 6 and to use the words 'apology' or 'apologises' and 'Nkoana' in the headline	1.1
54	1) 2) 02/10/2012 3)	Ann Parboo, beauty pageant organiser	Newcastle Advertiser	Upheld A, E Summary of ruling to be published on front page	1.4
55	1) 25/07/2012 2) 03/10/2012 3) 70 days	Mr Tshimologo Huma, Businessman	Sunday World	Dismissed	None
56	1) 04/06/2012 2) 08/10/2012	Zane Maqethuka, Mr South Africa – first prince	Sunday World	Partially dismissed D, E	1.1, 1.3

	3) 126 days				
57	1) 24/08/2012 2) 12/11/2012 3) 80 days	Mr Fikile Mbalula, Minister of Sport and Recreation	The New Age	Partially dismissed D, E	1.1, 1.2, 10.1
58	1) 09/07/2012 2) 13/11/2012 3) 127 days	Celi Makhoba, Doping control officer for the Comrades Marathon	The Witness	Partially dismissed A, D	1.5
59	1) 15/08/2012 2) 23/11/2012 3) 100 days	Mr Pakes Dikgetsi, COPE	Northern Cape Times	Upheld D, E Newspaper to use the exact same front page layout as the one the complainant is complaining about. Use the following headline on the front page: WE APOLOGISE TO THEM. Again use the word 'apology' or 'apologise' on page 2.	1.1, 1.2, 1.4, 5, 11.3
60	1) 04/09/2012 2) 29/11/2012 3) 86 days	Vathiswa Mgolombane, Individual	City Vision	Upheld D, E The apology must be published prominently. The headline must include the words 'Mgolombane' and 'apology' or 'apologises'.	1.1, 1.5
61	1) 08/09/2012	Douglas Mthukwane,	Diamond Fields Advertiser	Dismissed	None

	2) 04/12/2012 3) 87 days	formers spokesperson of ministry of Education			
62	1) 29/08/2012 2) 07/12/2012 3) 100 days	Mr EM. Asmal, Nu-Shifa Hospital	North Coast Rising Sun / Overport Sun	Partially dismissed D, E	1.1
63	1) 04/10/2012 2) 10/12/2012 3) 67 days	Katie Friedman, marketing manager of Orphanage Cocktail bar	Cape Towner	Dismissed	None
64	1) 28/09/2012 2) 10/12/2012 3) 73 days	Phosane Mngqibisi, Businessman	Sunday Times	Dismissed	None
65	1) 18/10/2012 2) 10/12/2012 3) 53 days	G. Davis, executive director of communications for the Democratic Alliance (DA)	The Star	Partially dismissed H, D The apology and correction must be given due prominence. As the offending headline was published on the front page, newspaper is to publish apology/correction on front page.	11.1, 1.1
66	1) 16/10/2012 2) 14/12/2012	Rachard Samuel, Deputy-Director General of the Inner-City	Sunday Independent	Partially dismissed A, E, H	1.1

	3) 59 days	Regeneration at the Department of Public Works			
67	1) 08/08/2012 2) 15/12/2012 3) 129 days	Mr PB Soobrayan, Director-General of Basic Education	The New Age	Partially dismissed D, C <i>As the offence was published on the front page, the apology and retraction must be published on the front page.</i>	1.1, 1.3, 1.4
68	1) 03/09/2012 2) 17/12/2012 3) 105 days	Renette du Plessis, Hervormde Kerk Vereniging	Beeld	Partially dismissed A, E <i>Summary of ruling to be published on page 5</i>	1.1
69	1) 19/09/2012 2) 17/12/2012 3) 89 days	Collins Letsoalo, CEO of the Road Traffic Management Corporation	Sunday Times	Dismissed	None
70	1) 02/10/2012 2) 19/12/2012 3) 78 days	Mr Nazeem Howa, CEO of the New Age newspaper	Sunday Times	Dismissed	None
71	1) 2) 21/12/2012 3)	Mlibo Qoboshiyane, provincial Eastern Cape spokesperson for the ANC	Sunday Times	Dismissed	None

72	1) 21/10/2012 2) 24/12/2012 3) 64 days	Tshediso Matona, Director General of the Department of Public Enterprise	Sunday Times	Partially dismissed D, G The apology should be published prominently	8.1, 8.3
73	1) 06/11/2012 2) 24/12/2012 3) 48 days	Don Mkhwanazi, Businessman	Sunday Times	Dismissed	None
74	1) 24/08/2012 2) 26/12/2012 3) 124 days	Mr Graeme McMaster, The City of Johannesburg	The Star	Partially dismissed D, A, I, E Ordered to publish summary and apology on page 2, and use the work 'apology' or 'apologises' in the headline.	1.1, 1.2
APPEALS IN 2012					
1	21/06/2012	Hlaudi Motsoeneng Acting SABC COO	Sunday Independent	Part of the appeal dismissed and part of the Ombudsman's original ruling was overturned. Newspaper ordered to publish a full apology on its front page and inside page [D]	The appeals panel accepted all of the rulings of Dept Ombudsman except: The appeals panel overturned the ruling of the Dept Ombudsman, that the newspaper was justified in stating that the complainant was fired for having lied about his matric certificate. 1.1, 1.2

APPENDIX E: Press Council of South Africa: inventory record of complaints, dismissals and judgements 2013

Rulings indicated in fourth column include:

- Settled / withdrawn
- Dismissed
- Partially dismissed
- Upheld
- Taken to appeal & upheld
- Taken to appeal & ruling overturned
- Taken to appeal & partially upheld

SANCTIONS (key code)

KK) Reprimand

LL) Strong reprimand

MM) Ordered to retract

NN) Ordered to publish an apology²⁴

OO) Ordered to publish summary/abbreviated judgement

PP) Ordered to publish full judgement

QQ) Explanation / publish right of reply

RR) Ordered to publish a correction

SS) Cautioned

²⁴ Where the newspaper is ordered to publish an apology, abbreviated judgement or full judgement the text of is provided by the Press Ombudsman or Deputy Press Ombudsman, unless otherwise stated.

	1)Date of complaint 2) Date of resolution 3) Time elapsed between date of complaint and date of resolution in number of days	Complainant	Print Publication	Ruling & sanction	3) Nature of the complaint 4) If upheld, relevant clause(s) of Press Code breached by the publication
2013					
1	1 2) 25/01/2013 3)	Noordhoek Environment Action Group (NGO environmental)	The Peoples Post	Partially dismissed D Newspaper to publish an apology on page 8 [D] – full text of apology provided by Dept Press Ombud.	Art. 1.1, 8
2	1) 2) 04/02/2013 3)	Stafford Geduld (law firm/business)	The Herald	Settled Herald agrees to a follow up story.	None
3	1) 08/10/2012 2) 08/02/2013	Nicky Hand School principle	Sondag	Partially Dismissed D, B	Art. 1.1, 1.4, 12.2,

	3) 123 days			Newspaper to publish an apology [D] with the word “verskoning” in the title – full text of apology provided by Dept Press Ombud.	
4	1) 2) 08/02/2013 3)	Department of Correctional Services	The Times	Partially Dismissed A Ordered to publish the instance of being reprimanded – full text provided by Dept Press Ombud	Art. 1.1,1.2
5	1) 2) 18/02/2013 3)	Bonang Matheba (individual/ celebrity)	Drum	Partially Dismissed D Newspaper to publish an apology – full text of apology provided by Dept Press Ombud. The magazine is directed to publish the following on the front page: “Drum apologises to Bonang Matheba, We never spoke to her, We made up quotes, We broke the law, We caused her unnecessary harm” Drum is directed to publish inside the magazine the same picture at the same size that was used for the story in dispute, together with the specified text.	Art. 1.2, 1.3, 1.4, 2.1, 4.1, 5, 11.1, 12.2

6	1) 19/12/2012 2) 20/02/2013 3) 64 days	Melomed Hospital	The peoples post	Partially dismissed D Newspaper to publish an apology on page 6 [D] – full text of apology provided by Dept Press Ombud. Headline to include the name of the hospital and the word “apology/apologises”.	Art. 1.1, 1.2, 1.4, 2.1, 11.1,
7	1) 2) 21/02/2013 3)	Frik and Schalk Bossert (family/ individual case)	You/Huisgenoot	Partially Dismissed D, A Ordered to publish an apology on page 14 or 15, using the name “Bassons” with the word ‘apology’ or ‘apologise’ in the headline [D] – full text of apology provided by Dept Press Ombud.	Art.1.1, 1.2, 1.3, 4.1, 5,
8	1) 10/10/2013 2) 21/02/2013 3) 134 days	Ehlanzeni District Municipality	City Press	Partially dismissed D Ordered to publish an apology on page 10, [D] – full text of apology provided by Dept Press Ombud.	Art. 1.2, 1.3, 11.1,
9	1) 15/10/2012 2) 22/02/2013	Riaan van Lill	You/Huisgenoot	Dismissed	None

	3) 130 days				
10	1) 02/11/2012 2) 28/02/2013 3) 118 days	Oasis Group Holding (business)	Weekend Argus	Dismissed	None
11	1) 14/12/2012 2) 28/02/2013 3) 77 days	Menzi Simelane (National Director of Public Prosecutions)	The Times	Upheld D Ordered to publish an apology, [D] – full text of apology provided by Dept Press Ombud.	Art. 1.1, 1.6
12	1) 20/11/2012 2) 25/03/2013 3) 126 days	Catherine Mokoena (Individual/ old age home owner)	Sowetan	Partially Dismissed D Ordered to publish an apology on page 3, [D] – full text of apology provided by Dept Press Ombud.	Art. 1.1, 1.2, 1.5,
13	1) 2) 26/03/2013 3)	Arno Lamoer Marie-Louise Kellert (Provincial Commissioner SAPS western cape)	Daily Voice	Partially Dismissed A Ordered to publish the reprimand on page (4, 5 or 6) To include a strapline on front page saying “Ombudsman reprimands us” – full text provided by Dept Press Ombud	Art. 9
14	1)	ACDP	Weekend Argus	Partially Dismissed	Art. 1.1

	2) 04/04/2013 3)	(political party)		D Newspaper to publish an apology [D] – full text of apology provided by Dept Press Ombud.	
15	1) 14/01/2013 2) 07/04/2013 3) 84 days	Niel Diamond (ANC councillor & chairman of municipal finance)	Sunday Times	Partially Dismissed D, I Newspaper to publish an apology [D] – full text of apology provided by Dept Press Ombud.	Art. 1.1
16	1) 11/01/2013 2) 10/04/2013 3) 90 days	Niel Diamond (ANC councillor & chairman of municipal finance)	The Star	Partially Dismissed D, I, C, H Newspaper to publish an apology on page 2 [D] – full text of apology provided by Dept Press Ombud.	Art. 1.1, 1.2, 1.5
17	1) 11/02/2013 2) 10/04/2013 3) 59 days	McIntosh Polela (suspended Hawks spokesperson)	The Citizen	Partially Dismissed I Ordered to publish the instance of being cautioned on page 3 – full text provided by Dept Press Ombud	Art. 2.1
18	1) 02/11/2013	Sydney Kaye	Cape Times	Upheld	Art. 1.1, 1.2

	2) 16/04/2013 3) 118 days	(individual) <u>third party complaint</u>		I, H Ordered to publish the instance of being cautioned and include corrections on page 2 – full text provided by Dept Press Ombud.	
19	1) 20/11/2012 2) 16/04/2013 3) 148 days	Rodney Mazinter (individual) <u>third party complaint</u>	Cape Times	Partially Dismissed I, H Ordered to publish the instance of being cautioned, including corrections – full text provided by Dept Press Ombud.	Art. 1.6
20	1) 2) 17/04/2013 3)	Bheki Cele (fired police commissioner)	Sunday Times(Zulu addition)	Dismissed	None
21	1) 07/03/2013 2) 17/04/2013 3) 42 days	Prince Buthelezi (IFP leader)	Sunday Times	Dismissed	None
22	1) 21/11/2013 2) 19/04/2013 3) 150 days	Reboni Furniture Group (business)	Sowetan	Partially Dismissed D, G Ordered to publish an apology on page 5 including the complainant's reply – full text provided by Dept Press Ombud.	Art. 1.1, 1.2, 1.5, 11.1
23	1) 25/03/2013 2) 19/04/2013	Welcome Khumalo	The Herald (Middleburg)	Upheld B, D	Art. 2.8

	3) 26 days	(Newspaper representative/ owner of the Nkangela Informer)		Ordered to publish the instance of being reprimanded including the text The Press Ombudsman has “severely reprimanded us” – full text provided by Dept Press Ombud.	
24	1) 21/11/2012 2) 23/04/2013 3) 154 days	Tarag Ismanil (Chairman of the Fordsburg Sports Council)	Fordsburg Community Newspaper	Partially Dismissed D Ordered to publish an apology with the words ‘apology’ or ‘apologise’ and ‘Ismail’ in a prominent headline [D] – full text of apology provided by Dept Press Ombud.	Art. 1.1
25	1) 2) 24/04/2013 3)	Faried Loonat (regional co-ordinator for sport)	Fordsburg community paper	Partially Dismissed D, H, G Ordered to publish an apology with the words ‘apology’ or ‘apologise’ and ‘Loonat’ in the headline [D] – full text of apology provided by Dept Press Ombud.	Art. 1.1, 1.2, 11.1
26	1) 12/02/2013 2) 04/05/2013 3) 82 days	The Democratic Alliance (political party)	The New Age	Partially Dismissed D, G Ordered to publish an apology on the front page and provide the DA right to reply. with the words ‘apology’ or ‘apologise’ and ‘DA’ or ‘Zille’ in the headline [D] – full text of apology provided by Dept Press Ombud.	Art. 1.5, 11.1

27	1) 2) 07/05/2013 3)	Swartberg Intelligence Support Services (intelligence business)	Sunday Times	Partially Dismissed D, H, G Ordered to publish an apology and provide the SISS the right to reply. The story must be approved by the SISS before publication – full text of apology provided by Dept Press Ombud.	Art. 1.1, 1.5
28	1) 2) 13/05/2013 3)	Social Technologies	Beeld	Dismissed	None
29	1) 15/02/2013 2) 14/05/2013 3) 89 days	Sagie Naicker (Director of the Sai school/religious group)	Sunday Tribune	Partially Dismissed D, G Ordered to publish an apology and provide the Sai Director the right to reply. The story must be approved by the Mr Naicker and the Press Ombuds office– full text of apology provided by Dept Press Ombud.	Art. 2.1, 2.2, 2.4, 2.5, 10.1
30	1) 01/02/2013 2) 17/05/2013 3) 106 days	Vivian Reddy & Edison Power Gauteng (Business)	Mail & Guardian	Dismissed	None
31	1) 07/04/2013 2) 20/05/2013	Danie Mouton	Rapport	Partially Dismissed D, H, I	Art. 2.1, 4.2.1, 4.2.4

	3) 44 days	(NG Kerk maatskappy Bybel-Media)		Ordered to publish an apology – full text provided by Dept Press Ombud.	
32	1) 06/04/2013 2) 20/05/2013 3) 45 days	Pieter Fourie (lecturer) <u>Third party complaint</u>	Rapport	Partially Dismissed D, H, I Ordered to publish an apology – full text provided by Dept Press Ombud.	Art. 2.1, 4.2.1, 4.2.4
33	1) 10/04/2013 2) 27/05/2013 3) 48 days	Mrs Derby-Lewis (Individual/ wife of Criminal)	Beeld	Dismissed	None
34	1) 25/04/2013 2) 27/05/2013 3) 33 days	Fazil Cassim (individual) <u>Third party complaint</u>	Sunday Times Extra	Dismissed	None
35	1) 28/02/2013 2) 28/05/2013 3) 90 days	Jonathan Cupido (member of the Kaapse Klopse)	Daily Voice	Dismissed	None
36	1) 22/04/2013 2) 28/05/2013 3) 37 days	Prega Padayachee (Hindu Temple representative)	Public Eye	Partially Dismissed D Ordered to publish an apology – full text provided by Dept Press Ombud.	Art. 4.2
37	1)	Zwelakhe Mankazana	Sunday Tribune	Dismissed	None

	2) 03/06/2013 3)	(Individual / relationship with Dlamini)			
38	1) 26/02/2013 2) 07/06/2013 3) 102 days	Pilanesberg Platinum Mines (Business)	Beeld	Partially Dismissed A, I Ordered to publish the instance of being reprimanded, including corrections – full text provided by Dept Press Ombud.	Art. 2.1, 2.2
39	1) 27/02/2013 2) 07/06/2013 3) 101 days	Simon Zwane (Communication Gauteng Health Department)	Daily Sun	Partially Dismissed I Ordered to publish the text provided by Dept Press Ombud.	Art. 2.5
40	1) 08/05/2013 2) 09/06/2013 3) 33 days	Faisal Suliman (South African Muslim Society)	Post	Dismissed	None
41	1) 28/03/2013 2) 10/06/2013 3) 75 days	Mr & Mrs Seakamela (Department of Education NW prov)	Sowetan	Partially Dismissed D Ordered to publish an apology with the words 'Sowetan is directed to apologise to the Seakamela couple' and 'nepotism' in a prominent headline [D] – full text of apology provided by Dept Press Ombud.	Art. 10.1
42	1)	Brian Kahn	Daily Sun	Partially Dismissed	Art. 2.1, 10.1

	2) 10/06/2013 3)	(Business)		I Ordered to publish the instance of being cautioned – full text provided by Dept Press Ombud.	
43	1) 22/04/2013 2) 11/06/2013 3) 51 days	Rajaan Govender (Primary School Principal)	Sunday Tribune	Dismissed	None
44	1) 08/04/2013 2) 11/06/2013 3) 65 days	Nikesh Dhanlal (Business owner)	Sunday Times Extra	Partially Dismissed I Ordered to publish the instance of being cautioned – full text provided by Dept Press Ombud.	Art. 2.1
45	1) 23/05/2013 2) 12/06/2013 3) 21 days	Dr Shires (medical doctor)	The Star	Dismissed	None
46	1) 13/05/2013 2) 14/06/2013 3) 33 days	Cassel Mathale (Premier of Limpopo)	Sunday Independent	Dismissed	None
47	1) 09/03/2013 2) 14/06/2013 3) 98 days	Adriaan Odendaal	Beeld	Partially Dismissed H, I	Art. 2.1, 4.2, 10.1

		(Business is Odendaal & Summerton ing)		The write up must say “Hy het ons ook vemaan omdat die hoof-opskrif Odendaal se reputasie kon benadeel het, aangesien dit die voortsetting van “onbehoorlike” gedrag, sonder die nodige grond daarvoor, geimpliseer het”	
48	1) 2) 15/06/2013 3)	SAFA (National gov sport/ SA Football)	Sunday Times	Dismissed	None
49	1) 2) 15/06/2013 3)	Buti Manamela (secretary of YCL/ political party)	Business Day	Dismissed	None
50	1) 2) 22/06/2013 3)	Dina Pule	Sunday Times 1	Dismissed	None
51	1) 2) 22/06/2013 3)	Dina Pule	Sunday Times 2	Dismissed	None
52	1) 2) 22/06/2013 3)	Dina Pule	Sunday Times 3	Dismissed	None
53	1) 12/10/2012	Gerrit Bekker	Business Report	Dismissed	None

	2) 25/06/2013 3) 257 days	(individual complaint /businessman)			
54	1) 19/06/2013 2) 28/06/2013 3) 10 days	Melanie Hatjigiannakis (Vacation SA Ownership/business)	Timeslive	Partially dismissed D Ordered to publish an apology – full text provided by Dept Press Ombud.	Art. 2.1, 10.1
55	1) 19/06/2013 2) 28/06/2013 3) 10 days	Melanie Hatjigiannakis (Vacation Ownership SA manager/business)	ilive	Dismissed	None
56	1) 09/06/2013 2) 28/06/2013 3) 10 days	Kiren Naidoo <u>Third party complaint</u>	Sunday Times	Dismissed	None
57	1) 24/06/2013 2) 28/06/2013 3) 5 days	Percy Morokane (Air Traffic Navigation Services)	Zululand Fever	No finding Ordered to publish the text provided by Dept Press Ombud.	Art. 2.1
58	1) 12/03/2013 2) 29/06/2013 3) 109 days	Lassy Chiwayo (Consulate general China)	Sunday World	Dismissed	None
59	1) 03/05/2013	Daniel Selebano	Sowetan	Dismissed	None

	2) 03/07/2013 3) 62 days	(social development media liaison officer)			
60	1) 05/06/2013 (unsure many entries) 2) 03/07/2013 3) 29 days	IFP	The Citizen	Dismissed	None
61	1) 2) 05/07/2013 3)	SABC	Shine Provincial News	Upheld D Ordered to publish a kicker on the front page with the words 'apology' or 'apologise' in the headline and an apology on page 2 [D] – full text of apology provided by Dept Press Ombud.	Art. 2.1, 2.2, 2.4, 2.5, 4.2, 10.1
62	1) 18/04/2013 2) 10/07/2013 3) 84 days	David Nkoana (Melemole municipal manager)	Capricorn Voice	Partially Dismissed D, A Ordered to publish the instance of being reprimanded on page 3 – full text provided by Dept Press Ombud.	Art. 2.1, 2.5, 4.2, 4.2.4
63	1) 03/06/2013 2) 10/07/2013 3) 38 days	Melomed Hospital	Cape Argus	Dismissed	None

64	1) 10/04/2013 2) 10/07/2013 3) 92 days	Gaye Derby-Lewis (Individual/ wife of Criminal)	The Citizen	Dismissed	None
65	1) 05/07/2013 2) 12/07/2013 3) 8 days	Kiren Naidoo <u>Third party complaint</u>	Sunday Times 2	Dismissed	None
66	1) 2) 12/07/2013 3)	Kirith Haria <u>Third party complaint</u>	City Press	Dismissed	None
67	1) 2) 16/07/2013 3)	Franklin Adam (Stellenbosch peoples alliance)	Eikestadnuus	Dismissed	None
68	1) 2) 19/07/2013 3)	Cricket SA	Business Day	Dismissed	None
69	1) 10/07/2013 2) 19/07/2013 3) 10 days	Cricket SA	The Times	Dismissed	None

70	1) 18/06/2013 2) 19/07/2013 3) 32 days	Tony Yengeni (former head of parliament defence committee)	Mail & Guardian	Partially Dismissed D Ordered to publish an apology on page 2. The story must be approved by the Press Ombudsman Office.	Art. 10.2
71	1) 03/07/2013 2) 20/07/2013 3) 17 days	Doris Gouws (individual)	Beeld	Dismissed	None
72	1) 18/06/2013 2) 20/07/2013 3) 31 days	B Deepnarian (Palmview Principal)	Phoenix Sun	Dismissed	None
73	1) 20/06/2013 2) 20/07/2013 3) 30 days	Edusolutions (business)	The Sunday Independent	Partially Dismissed C, A, Ordered to withdraw the story and publish the instance of being reprimanded – full text provided by Dept Press Ombud.	Art. 2.1, 2.2
74	1) 11/07/2013 2) 26/07/2013 3) 15 days	Waldo de Goede (individual)	llanga	Dismissed	None
75	1) 04/07/2013 2) 24/08/2013 3) 51 days	Oscar Pistorius Family & Anneliese Burgess	Rapport	Partially Dismissed H, D	Art. 2.1, 10.1

		(individual and spokesperson)		Ordered to publish a kicker on the front page with the words 'apology' or 'apologise' in the headline and an apology on page 3 [D] – full text of apology provided by Dept Press Ombud.	
76	1) 2) 03/09/2013 3)	Ngaka Molema District Municipality	Sowetan	Dismissed	None
77	1) 10/07/2013 (not specified) 2) 03/09/2013 3) 55 days	Cash Paymaster services (business)	The Sunday Independent	Dismissed	None
78	1) 15/07/2013 (not specified) 2) 03/09/2013 3) 50 days	Mzukisi Mgudlwa (individual)	Daily Dispatch	Dismissed	None
79	1) 25/07/2013 2) 03/09/2013 3) 40 days	Rachard Samuel (former deputy director of public works)	Sunday Independent	Dismissed	None
80	1) 2) 04/09/2013 3)	SACP (eastern Cape)	Daily Dispatch	Dismissed	None

81	1) 2) 05/09/2013 3)	Mayor of Midvaal	Loxion News	Partially dismissed D, G Ordered to publish an apology on page 2/3 including the complainants reply (5/7 sentences) – full text provided by Dept Press Ombud.	Art. 2.5, 10.1
82	1) 2) 10/09/2013 3)	Public Advocate	Sunday World	Upheld B Ordered to publish the instance of being strongly reprimanded on page 3– full text provided by Dept Press Ombud.	Art. 8.2
83	1) 01/07/2013 2) 10/09/2013 3) 71 days	Godfrey Segakweng (individual)	Sowetan	Dismissed	None
84	1) 02/07/2013 2) 11/09/2013 3) 71 days	Davrin Schwarz (individual)	The Herald	Partially Dismissed D, H Ordered to publish an apology on the front page and admit to inaccurate reporting – full text provided by Dept Press Ombud.	Art. 2.1, 4.1, 4.2.1, 4.2.2,
85	1) 02/07/2013 2) 11/09/2013 3) 71 days	Davrin Schwarz (individual)	The Herald	Partially Dismissed D, H Ordered to publish an apology on the front page and admit to inaccurate	Art. 2.1, 4.1, 4.2.4,

				reporting – full text provided by Dept Press Ombud.	
86	1) 11/07/2013 2) 12/09/2013 3) 63 days	Darren Scott	Sondag	Dismissed	None
87	1) 01/05/2013 2) 18/09/2013 3) 141 days	Sean Wisedale (individual/ sportsperson)	Noseweek	Partially Dismissed A, H, C Ordered to publish the instance of being reprimanded – full text provided by Dept Press Ombud.	Art. 2.5
88	1) 29/08/2013 2) 21/09/2013 3) 23 days	Osiame Molefe (individual/ writer)	Business Day	Dismissed	None
89	1) 2) 23/09/2013 3)	Stellenbosh University	Rapport	Partially Dismissed A, D, G Ordered to publish an apology and report on the instance of being reprimanded – full text provided by Dept Press Ombud.	Art. 2.1, 2.2, 5.2,
90	1) 26/09/2013 2) 30/09/2013 3) 4 days	Dr Roodt	Die Burger	Dismissed	None
91	1) 01/08/2013	Dinga Nkhwashu	The Star	Dismissed	None

	2) 30/09/2013 3) 60 days	(member of the ANC)			
92	1) 06/08/2013 2) 01/10/2013 3) 56 days	Dan Nkosi (Principal of South West College)	The Sowetan	Partially Dismissed A, G Ordered to publish the instance of being reprimanded (5) – full text provided by Dept Press Ombud.	Art. 2.5
93	1) 19/08/2013 2) 02/10/2013 3) 44 days	Colin And Angela Daniels (individual)	Son	Upheld D Personal letter of apology	Art. 4.1, 4.2
94	1) 26/08/2013 2) 04/10/2013 3) 39 days	Cindy van Vuuren (individual)	Daller	Partially Dismissed A, D Ordered to publish the instance of being reprimanded, with an apology – full text provided by Dept Press Ombud.	Art. 4.1
95	1) 2) 08/10/2013 3)	Association of Regional Magistrates of Southern Africa	The Times	Dismissed	None
96	1) 2) 09/10/2013 3)	Association of Regional Magistrates of Southern Africa	The Sunday Times	Partially Dismissed D	Art. 10.1

				Newspaper to publish an apology on the front page– full text of apology provided by Dept Press Ombud.	
97	1) 15/09/2013 2) 09/10/2013 3) 24 days	Sizwe Snail ka Mtuze (anc member)	The Sunday Times	Dismissed	None
98	1) 08/08/2013 2) 14/10/2013 3) 68 days	Andrew Scholtz (invidual)	Volksblad	Dismissed	None
99	1) 2) 14/10/2013 3)	Darren Scott	Sondag	Partially dismissed D Ordered to publish the full press code (including preamble) Ordered to publish unconditional apology - full text provided by Dept Press Ombud.	Art. 2.1, 2.2, 2.4, 2.5, 4.2
100	1) 12/09/2013 2) 15/10/2013 3) 33 days	Zamani Letjane	Today's Trustee	Upheld Ordered to publish the instance of being cautioned – full text provided by Dept Press Ombud.	Art. 2.6
101	1) 2) 16/10/2013 3)	Farook (Muslim leader) Third Party Complaint	All Media	Dismissed	None

102	1) 07/10/2013 2) 16/10/2013 3) 9 days	Kiren Naidoo (Individual)	Sunday Times	Dismissed	None
103	1) 08/10/2012 2) 23/10/2013 3) 138 days	Lafras Luitingh (business)	Independent Newspapers	Dismissed	None
104	1) 2) 30/10/2013 3)	University of Venda	Sowetan	Upheld D Newspaper to publish an apology on page 5 – full text of apology provided by Dept Press Ombud.	Art. 2.1, 2.2
105	1) 2) 30/10/2013 3)	Inkatha Freedom Party	Isolezwe	Dismissed	None
106	1) 17/10/2013 2) 31/10/2013 3) 14 days	John Thomas (Individual)	Sowetan	Dismissed	None
107	1) 2) 04/11/2013 3)	Mr Vala	Sunday Times	Dismissed	None

108	1) 30/10/2013 2) 05/11/2013 3) 7 days	Rajan Zed and others (Hinduism Society)	Sunday Times	Dismissed	None
109	1) 01/11/2013 2) 09/11/2013 3) 8 days	Gruschenka Boswell Third Party	People Magazine	Dismissed	None
110	1) 04/11/2013 2) 11/11/2013 3) 8 days	Miyash Rampersad (Individual)	Natal Witness	Partially Dismissed D Newspaper to publish an apology. Headline to include the name "Rampersad" and the word "apology/apologises" – full text of apology provided by Dept Press Ombud.	Art. 4.1, 4.2 and 5.1
111	1) 11/09/2013 2) 16/11/2013 3) 66 days	Tsepho Nzimande (Individual)	Sunday Sun	Dismissed	None
112	1) 16/10/2013 2) 16/11/2013 3) 31 days	Bonginkosi Mabaso (Individual)	Ilanga	Dismissed	None
113	1) 2) 17/11/2013 3)	Verskeie Klaers	Beeld en City Press	Dismissed	None

114	1) 06/09/2013 2) 19/11/2013 3) 74 days	Frans Richards (Intelligence group/spy)	City Press and Rapport	Partially Dismissed I, G Publish right a report - to be approved by the press ombudsman's office.	None
115	1) 2) 20/11/2013 3)	Government Communication and Information System	Daily Sun	Upheld D Ordered to use 50% of the front page editorial. Ordered to publish unconditional apology - full text provided by Dept Press Ombud.	Art. 9
116	1) 2) 26/11/2013 3)	South African Pork Producer's Organisation	The Mercury	Settled G Ordered to provide right to reply	None
117	1) 18/09/2013 2) 29/11/2013 3) 72 days	Baleka Mbete and the ANC	Mail & Guardian	Upheld D Newspaper to publish an apology on page 4 with the heading "apology to Mbete" [D] – full text of apology provided by Dept Press Ombud.	Art. 2.1,2.2, 4.2, 7.3
118	1) 18/09/2013 2) 29/11/2013 3) 72 days	Baleka Mbete and the ANC	Mail & Guardian	Dismissed	None

119	1) 04/11/2013 2) 30/11/2013 3) 26 days	Savita Mbuli (Individual)	Sunday Sun	Dismissed	None
120	1) 04/11/2013 2) 30/11/2013 3) 26 days	Savita Mbuli (Individual)	Sunday Sun	Upheld I, H Ordered to publish the instance of being cautioned on page 2, including corrections – full text provided by Dept Press Ombud.	Art. 10.1, 10.2
121	1) 19/11/2013 2) 5/12/2013 3) 17 days	Nadine Hamman Third Party Complaint	You/Huisgenoot	Partially Dismissed B Ordered to publish a kicker on the front page with the words 'Griekwastad: Press Ombudsman severely reprimands Huisgenoot'. Publish the article on page 6 – full text of apology provided by Dept Press Ombud.	Art. 8.3
122	1) 2) 05/12/2013 3)	Luleka Nomnganga Individual	Sunday Sun	Dismissed	None
123	1) 2) 06/12/2013 3)	Prof Thidziambi Phendla	Sowetan	Dismissed	None

124	1) 21/11/2013 2) 07/12/2013 3) 17 days	John Steenhuisen Individual	Sunday Times	No Finding	None
125	1) 14/08/2013 2) 08/12/2013 3) 116 days	The School Governing body Hoer Volksskool Heidelberg	Daily Sun	Dismissed	None
126	1) 26/09/2013 2) 08/12/2013 3) 73 days	Andre Oliver Third Party Complaint	Daily Voice	Upheld D Ordered to publish an apology on page 4, including corrections – full text provided by Dept Press Ombud.	Art. 9
127	1) 2) 10/12/2013 3)	Joshua Generation Church	BY	Dismissed	None
128	1) 29/09/2013 2) 14/12/2013 3) 76 days	Sheik Fararooq Al Mohammedi	All Media	Dismissed	None
129	1) 03/12/2013 2) 15/12/2013 3) 13 days	James Evans (Individual)	Rapport	Partially Dismissed A, H, G	Art. 2.2, 2.5

				Ordered to publish a correction including the complainant's reply – full text provided by Dept Press Ombud	
130	1) 06/11/2013 2) 15/12/2013 3) 40 days	James Evans (Individual)	Sowetan	Dismissed	None
131	1) 12/11/2013 2) 15/12/2013 3) 34 days	James Evans (Individual)	Sunday Times	Dismissed	None
132	1) 2) 17/12/2013 3)	Vuyokazi Mbelani (Municipal manager)	Daily Dispatch	Partially Dismissed A, D Ordered to publish an apology and report on the instance of being reprimanded – full text provided by Dept Press Ombud.	Art. 2.1, 10.1
133	1) 29/11/2013 2) 19/12/2013 3) 21 days	Kusaga Taka Consultants	Sunday Times	Dismissed	None

APPEALS IN 2013

no#	Date	Appellant	Respondent	Finding	Sanction/Outcome
1	05/03/2013	African National Congress in the Eastern Cape	The Sunday Times	The appeal was dismissed. The panel could find no fault with the ruling by the Deputy Press Ombudsman	The appeals panel accepted all of the rulings of Dept Ombudsman

2	06/05/2013	The Star	City of Johannesburg	This portion of the finding of the Deputy Press Ombudsman is overturned. The rest of the ruling is upheld.	Part of the finding of the Deputy Press Ombudsman is overturned. The rest of the ruling is upheld. The panel was informed that, notwithstanding the appeal, The Star has published the correction called for. Nothing need be done about this.
3	02/06/2013	Danie Mouton & Pieter Fourie	Rapport	Appeals panel ruled in favour of the appellant	Ruled in favour of the appellant and overturned the press ombudsman decision and sanction
APPEAL REQUESTS (not taken to appeal in 2013)					
1	15/04/2013	Mvusiwekhaya Sicwetsha	The Herald	The decision of the ombudsman is endorsed and the leave to appeal refused	The appeals panel accepted all of the rulings of Dept Ombudsman
2	23/04/2013	Rael Levitt	The Star and Weekend Argus	The judge found no fault with the decision of the Ombudsman. The application is accordingly dismissed.	The appeals panel accepted all of the rulings of Dept Ombudsman
3	13/05/2013	Drum Magazine	Bonang Matheba	The appeal was refused, the panel could find no fault with the ruling by the Deputy Press Ombudsman	The judge accepted all of the rulings of Dept Ombudsman
4	28/05/2013	Collins Letsoalo	The Sunday Times	The application for condonation (late allowance to ask for appeal) is not granted	The judge accepted all of the rulings of Dept Ombudsman
5	02/06/2013	Prince Mangusuthu Buthelezi	The Sunday Times	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
6	05/07/2013	Zwelakhe Mankanzana	Sunday Tribune, Independent Newspapers, Fiona Forde	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
7	14/08/2014	Public Eye	Prega Padayachee	Press ombudsman finding is endorsed. And application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
8	20/08/2014	Fazil Cassim	Sunday Times Extra	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
9	20/08/2013	Kiren Naidoo	Sunday Times	Application for appeal is refused	Due to non-compliance with 1.5 of the code

10	22/08/2013	Media 24 / Daily Sun	Brian Kahn Attorneys	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
11	22/08/2013	Solal Technologies	Beeld	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
12	23/08/2013	Nikesh Dhanlal	Sunday Times Extra	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
13	05/09/2013	Oasis Group Holding	Weekend Argus	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
14	10/09/2013	Anton and Adri van Zyl	Media24/ Sondag	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
15	19/09/2013	Zakhele Mbhele (DA)	New Age	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
16	15/10/2013	Tony Yengeni	Mail & Guardian	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
17	13/10/2013	Waldo de Goede	Ilanga	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
18	18/10/2013	Rapport City Press	Oscar Pistorius	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
19	19/10/2013	The Herald	DD Schwartz	Application for appeal is granted	Details of the case to be considered
20	26/10/2013	Sunday World	Public Advocate	Application for appeal is granted	Applicant may argue the case in order to defend published materials
21	15/12/2013	Today's Trustee	Zamani Letjane	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
22	21/12/2013	SA Hindu Dharma Sabha	Sunday Times	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
23	23/12/2013	Association of Regional Magistrates of South Africa	Sunday Times	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
24	30/12/2013	Sean Wisedal	Noseweek	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
25	31/12/2013	Bonginkosi Mabaso	Ilanga	Application for appeal is refused	The judge accepted all of the rulings of Dept Ombudsman
26	31/12/2013	Sowetan	University of Venda	Application for appeal is granted	Ombudsman did not allow submissions from the publication regarding motivation for publishing information

APPENDIX F: INVENTORY OF SUBMISSIONS MADE TO THE PRESS FREEDOM COMMISSION

	Persons and organisations who made submissions to the Press Freedom Commission, according to Appendix 7, the public submissions register, February 2012 (Press Freedom Commission report 2012: 113-116).	System of press regulation recommended by the submission <input type="checkbox"/> Self-regulation <input type="checkbox"/> Co-regulation <input type="checkbox"/> Independent regulation <input type="checkbox"/> Statutory regulation <input type="checkbox"/> Self-regulation or Independent regulation <input type="checkbox"/> Did not specify (DNS) <input type="checkbox"/> No regulation	Further recommendations made in the submission <ul style="list-style-type: none"> • Recommendations for improving the current system • Evidence of distrust of government(s) or the ruling party • Freedom of the press • Comment on the system of press regulation (excluding statutory regulation) • Comment on statutory regulation • Self-regulation has failed, or aspects thereof have proved problematic
1	Alan Vincent	DNS	<ul style="list-style-type: none"> • I... hope to see no government involvement at all in the regulation of the press. • It is my opinion that the government and politicians wish to cover up their poor and crooked decisions from the public and that is why they want regulation of the press.
2	J Hewin	DNS	I totally support press freedom, we cannot go back to hiding the truth as was prior to 1994!
3	Jackie Lincoln		
4	Shona Bagley		
5	A Roberts	Co-regulation	I believe statutory regulation is unnecessary and should be entirely scrapped

6	AC Erasmus	Independent regulation	
7	Adrian Miljak	Self-regulation OR Independent regulation	I would like to see a Self-Regulated or Independently Regulated system whereby stories and information regarding the governance of the country and how our tax money is spent are able to be published and reach the public at large.
8	Advocate D de Haviland		
9	African Methodist Episcopal Church		
10	African National Congress	Independent regulation	Submission number 152 <ul style="list-style-type: none"> • The African National Congress (ANC) welcomes this initiative and believes that independent and diverse media will help support, promote, deepen, consolidate and strengthen our democracy, nation building, social cohesion and good governance. • Regulation for the media sector is vital to ensure that the press fulfills its potential to act on behalf of citizens, rather than simply make a profit for shareholders. • The parliament enquiry should explore the possibility of establishing an independent statutory appeals mechanism • The ANC has never proposed a state regulation of print media, instead it proposes strengthening of the existing self-regulatory system and an establishment of an independent appeals mechanism
11	AJ Janse van Rensburg		
12	Alan Shearn	Independent regulation	<ul style="list-style-type: none"> • Self-regulation has not really worked as the matters raised need to come from sources that stand scrutiny of fact and agenda. Given this condition I would see the future with a body of regulators that are quite independent and yet hold credibility within the broad spectrum of peoples within SA. • If we had a competent and trustworthy Government then the discussion would be a lot easier... The Government in power now, is clearly not to be trusted...
13	Alf	Self-regulation	Self-regulation of the press is, to my mind, the best way to safeguard press freedom
14	Alfreda Franzen	DNS	The Press should have complete freedom... The only restrictions should be on what and when children and minors are adversely affected.
15	Alp Phillip		

16	Alpoa – NGO		
17	AM Zwane		
18	Amabhungane Publications		<ul style="list-style-type: none"> • A press regulated by the state – would spell the death knell of investigative journalism. • The reason why self-regulation wins hands down is that newspapers must be accountable directly to the people and the buyers of the product • It is in the interests of all particularly the unemployed, the downtrodden and the un-Bee-ed – to be informed about the shenanigans of the rich and powerful and the corrupt who want to hide their nefarious activities from a robust and fearless press.
19	Amos B Mathosi		
20	Anglican Church		
21	Anonymous 1 (117)	DNS	<ul style="list-style-type: none"> • The public definitely has the right to know • When corruption is exposed at Government level and otherwise, it encourages us as a nation and as individuals to take stock of our lives and be better people. • Freedom of the speech and freedom of the press is crucial for South Africa
22	Anonymous 2 (115)	DNS	<ul style="list-style-type: none"> • It's our right as South Africans to have a Freedom of Speech • I vote for Freedom of the Press at it stands
23	Anonymous		
24	Anonymous		
25	Anonymous		
26	Anonymous		
27	Anonymous		
28	Anonymous		
29	Anonymous		
30	Apartheid Museum		
31	Ashwin Witbooi	Self-regulation	No government should have any influence on any form of media. The gov would want to influence media to print stories in their favour and keep corruption and the abuse of public funds out of public eye.
32	Avril Patton	DNS	We should be working towards transparency, especially in a political climate where the people DO NOT TRUST the government to begin with. Will all the corruption that

			has been uncovered over the last couple of years it is in our best interest as a democratic country to pursue the right to the truth reported to us by trusted sources. This entails allowing the media to perform their function as watchdog to ensure our rights...
33	Avusa Media	Self-regulation	<ul style="list-style-type: none"> • Self-regulation that is consistent with the above will help to maintain the media's credibility in the eyes of the public, and ensure that journalists maintain a standard to which they will be held accountable to their peers. • Media freedom plays a crucial role in ensuring that individuals are fully informed of the activities of their elected representatives and public officials
34	Azanian People's Organisation		
35	B Singh	DNS	The print media's bias and discrimination against certain vulnerable groups has gone unchecked for too long.
36	Barend J Alberts	DNS	
37	Barney Mthombathi	DNS	
38	Belinda Spalding-Jones		
39	Bhek'muzi A Mathonsi	Co-regulation	
40	Bheki Twala	DNS	Sowetan printed pictures of police officers having sex at a hospital. That is too much freedom
41	Brian Douglas	Self-regulation	Self-regulation with a proper code of conduct
42	Callaghan LEA	No regulation	Any regulation of the Media is unconstitutional for all of the proposed forms of regulation conflict with the provisions of section 16
43	Carol Watermeyer		
44	Caxton Newspapers		
45	Centre for Constitutional Rights		
46	Children's Right Centre	DNS	<ul style="list-style-type: none"> • We strongly feel that its fundamental purpose should not be the best way to 'regulate' the media, but rather best to entrench freedom of information in South Africa. • All public bodies should be required to establish open, accessible internal systems for ensuring the public's right to receive information

			<ul style="list-style-type: none"> Individuals who release information on wrongdoing – whistleblowers- must be protected
47	Christian Revival Church		
48	Clemence Grasset	Self-regulation	Retaining independence of the media from government is a key element in ensuring the rise of an educated electorate and an active debate based on freedom of expression, within the boundaries of the constitution. Being able to hold government accountable can only be guaranteed through an open, independent and transparent system.
49	Collin Pittendrigh	DNS	The press must be free to comment on anything and everything that happens It must not be stifled by people who wish to hide their criminal actions or their incompetence
50	Congress of South African Trade Unions	DNS	
51	DA Fiene	Self-regulation	
52	Dandre Gerber	Independent regulation	
53	Danny Naicker	DNS	<i>This submission dealt with internet freedom and censorship in India, and not the press regulatory system of South Africa.</i>
54	Darron Araujo	DNS	Aware of the levels of corruption in the country at present and the ability of the Press to exert social pressure in uncovering such corruption, to effect positive change in South Africa
55	Dave Nicholls	DNS	... I am totally against any form of press gagging. People who do wrong must be exposed and gagging the press is a big step backwards. The wrongdoers want to shoot the messenger.
56	David Blyth		
57	David K Mlotshwa	Independent regulation	<ul style="list-style-type: none"> This so called self-regulation by the owners of the media houses is a big laugh These media houses are to me part and parcel of the opposition. They are biased, they are very negative towards anything done or said by a black man.
58	Democratic Alliance	Self-regulation	<ul style="list-style-type: none"> The media should be largely self-regulated The press ombudsman should have greater powers of sanction and remedy Press code needs to be far more rigorous

			<ul style="list-style-type: none"> The governments hostility to the free media is absolutely no basis to begin a discussion on how to better regulate the media
59	Deneys Sutton	DNS	Why is there a sudden need to information controls of this nature
60	Derek & Angela Moulton	No regulation	<ul style="list-style-type: none"> "... total transparency is vital... NO REGULATORY FRAMEWORK CAN EVEN BE CONTEMPLATED". The state needs to find more ways to expose all the decisions which affect the country, as effectively as possible to the media... This approach is the only way to root out corruption and lack of good governance...".
61	Dineo Makobane		
62	Don McCulloch		
63	DP Johnson	Self-regulation	<ul style="list-style-type: none"> ... when the press has made a mistake and makes an apology thereafter, the original story is usually of a headline nature but the apology is hidden away inside the paper. Such an apology should appear on the front page of the paper in such a way that it is immediately noticeable. ... the press must be able to report without fear of favour on anything which effects the community either to their detriment or their advantage.
64	E Fraser	Independent regulation	<ul style="list-style-type: none"> I definitely would not like to see the State have any say in regulating the press.
65	EC Hassim	Independent regulation	<ul style="list-style-type: none"> The media cannot be depended upon to regulate itself... self-regulation does not work; not with the press. The introduction of proper independent regulation should replace the State control now being pursued by the government.
66	EL Peckhana	Self-regulation	State secrecy should apply only to that which is necessary to the defense of South Africa against foreign aggression.
67	Elise Havinga en Familie	Self-regulation	<ul style="list-style-type: none"> Ons ondersteun die beginsel van selfregulering and media/pers vryheid Inmenging deur staats-instansies lei onvermeidelik tot inperking van spraak vryheid Die regering se agenda vir die inperking van media vryheid is gewoonlik ter beskerming van politieke agendas en self verryking van die regerende party.
68	Eric Alison Hulbert	Self-regulation	<ul style="list-style-type: none"> ... the Ombudsman should be firmer in his directives to correct poor or inaccurate reporting e.g. newspapers should make prominent front page

			<p>apologies. This would not apply to frivolous complaints (in the opinion of the Ombudsman)</p> <ul style="list-style-type: none"> • In countries where there is full democracy there is full press freedom.
69	Etienne Cronje	DNS	<ul style="list-style-type: none"> • I think that freedom of speech is the main pillar of any democracy. It's therefore not surprising that it forms the First Amendment of the USA. • I ... suggest that ... apologies be given more prominence. For instance, in a newspaper, there must be a fixed & clearly marked "apologies" section in a prominent part of every paper. • A tribunal should be in place to rule in cases of erroneous/negligent reporting, but should be distanced as far as possible from the State. I feel the State should have representation on such a tribunal, but as little as possible, ie. one member. Other members from public and business should also be included, but overall the bulk of it should comprise members of the media as well as legal experts.
70	Fanie Groenewald	DNS	Suggests many changes to PCSA
71	Freedom Front Plus (FFP) MP	Independent regulation	
72	Fifi		
73	Fikile Khuzeni	Co-regulation	Something right must be done without government interference
74	Film & Publication Board	DNS	<p>Comments on the media industry</p> <ul style="list-style-type: none"> • It is an incontrovertible fact that the print media is bound by the Code and the law in general, it follows therefore that where the law is clear and has been tested we ought to follow the law. • We only observe that the print media is dominated by conglomerates • The question becomes whether commercial media can represent public interest • A system of checks and balances through which members of the PCSA are able to find a balance between the right to press freedom and other competing rights such as privacy, dignity, rights of the child etc needs to be incorporated into the self-regulatory system.
75	France Navio	Self-regulation or Independent regulation	Newspapers are at liberty to print what they want

76	Free Society Institute	DNS	The council should contain representatives from all three sectors, including persons from outside of the state itself who have experience in the field of ethics.
77	Gail York		
78	Gawie Venter	DNS	<p>Suggestions of change to the ombudsman</p> <ul style="list-style-type: none"> • Courts can heavily impose penalties and severe fines to owners of the media • Businesses and lives that were destroyed by unjust reporting should be rewarded very generously by the media house responsible <p>All corruption should be exposed in the media of whatever nature</p>
79	Geoff Taylor	Independent regulation	The government should not have a say in this matter as the press/media is the main watchdog and reporter of government concerns. The government is trying to gag the press with the present bill.
80	Gill Moodie	DNS	
81	Goolam Dawood	Independent	This institution should be governed in the same vein as our judiciary and sanctioned by the constitution, to provide security with accurate information.
82	Grant McNulty	Self-regulation	The current system of self-regulation should be kept in place as it is through this mechanism that the rights to express oneself freely and the freedom of the press and other media can be ensured.
83	Hailey Fudu	DNS	Please consider regulating the visual media that depicts men and women in a sexual way
84	Halle Handwatch	DNS	<ul style="list-style-type: none"> • The question on many people’s lips, is why does there seem to be a sudden interest or almost obsession by the ruling party to regulate the print media? • With controlling power in the media, the ruling party could almost manipulate what contents are been aired and could tweak it in such a way that any negative portrayal of the ruling party or any of its counterparts are not showcased... • Simply put, the ANC have been making headlines across the globe for all the wrong reasons ... • In recent statements made by the ANC that the “media persistently undermine and violate the bill of rights” is a dangerous unfounded and unsupported one to make. With the ANC continuously taking centre stage under the political spotlight for various questionable political activities and

			poor delivery, it's no wonder they (ANC) want to put a tight lid on any medium that tries to expose of them or portray them in a negative light.
85	Harvey Tyson	Self-regulation	<ul style="list-style-type: none"> • Individual newspaper self-regulation is the only guarantee that the rights and freedoms of the public are not infringed • 'Mutually organized regulation' in itself bars the essence of freedom – the right to disagree and to report whatever you find or believe in. • Co-regulation (shared by government and press) is imposed under government threat.
86	Health & Peace Activist		
87	Health & Peace Activists		
88	Highway Africa	Self-regulation	<p>30 Suggested changes to the PCSA which include:</p> <ul style="list-style-type: none"> • The PCSA should have an obligation to investigate cases where there is a probable breach of the code, even where no complaint has been laid, and should develop policies and procedures to enable this function. • The PCSA should have the power to issue fines in cases of extreme and repeated transgressions of the code. • The PCSA should investigate the pros and cons of the PCSA converting from a voluntary association to a trust or section 21 company. • The Press Investigations office should operate a service where journalists can report unethical practices for further investigation.
89	Human Rights Commission	Self-regulation or Independent regulation	
90	Ian Petzer	DNS	Freedom of the press is important as it allows the press to report freely on what is happening in the world around us. This prevents people/organisations from performing actions that they would be embarrassed to let the world know about. It keeps people accountable for their actions.
91	Independent Newspapers	Self-regulation	The damage to our democracy would be many times worse if the current system of regulation of the press is tampered with. Many suggestions to the press code and council
92	Independent Democrats	Self-regulation	
93	Ingrid Willinga Laarman	Self-regulation	<ul style="list-style-type: none"> • It is vital that we have total press freedom in South Africa

			<ul style="list-style-type: none"> • I do feel that Self-regulation of the press would be sufficient for our newspapers in this country. • If had not been for our press freedom many of the corruption cases would never have come to light... Even our local little weekly newspaper in our area (the Kormorant) is doing fantastic work by exposing the corruption and many of the important issues dealing with our very bad run Madibeng municipality.
94	Inkatha Freedom Party	Co-regulation	<ul style="list-style-type: none"> • The freedom of the media is the cornerstone of any democracy. The stronger the media the stronger the democracy. • For all its bark, the Press Ombudsman seems to have no bite. <p>Suggested changes to the press code (submission 133)</p> <ul style="list-style-type: none"> • Clearer definitions of accuracy, privacy, harassment and discrimination • Protection of children, confidential sources, victims (see full comment)
95	Institute for the Advancement of Journalism	Co-regulation	Governments solution to this failed state (for failed it is) is to manage our industry to the nth degree; serving as self-appointed overlord of The Media and caretaker of the consumers of news.
96	Institute of Public Relations and Communications Management		
97	Ivan van Niekerk		
98	James Motshweni	DNS	<ul style="list-style-type: none"> • Need to protect whistle-blowers • Individual (leaders)and the state should be separate, so that everyone can account for their actions
99	Janey Ball		
100	Janse van Rensburg		
101	Janine Petzer	DNS	
102	Jennifer D Kemp	Self-regulation in conjunction with Independent regulation	<ul style="list-style-type: none"> • This determination by the powers that be to control what the citizens of South Africa can know is a determination to destroy the very democracy which was created by those who fought and say they fought for freedom. No we see that this claim was hollow since clearly the ANC feels that the only freedom which should be enjoyed is that which ANC politicians enjoy

			<p>and increasingly which the people do not. They wish therefore to turn South Africa into a police state. They have learnt from the NATS and do not care that fascist repression does not work in the long run.</p> <ul style="list-style-type: none"> • Self-regulation: sadly the press has not rigorously engaged in this and has consequently opened the door for the government to surge ahead with its repressive legislation. • The office of the Ombudsman should be strengthened with retired editors who have proven their worth in the trenches. Complaints should be dealt with expeditiously. Apologies should be made prominently and in detail not just a brief paragraph and any reporter or editor who offends against the truth i.e. objective truth should be hung out to dry.
103	Jill Bob	Self-regulation or Independent regulation	<ul style="list-style-type: none"> • Any South African Government that sees the necessity of legislating to regulate the print media in this country has quite obviously got something to hide... Corruption is currently rife in this country. • Corruption is rife in this country. For government to start regulating in order to manipulate and control that freedom is highly dangerous. • ... it is essential that the Press and the media are regulated independently, either by themselves... or in conjunction with civil society.
104	Joan Perros		
105	Joan van Straaten	Self-regulation	The prime motivating factor on the part of the Government, in far too many instances, would appear to have been self-interest and cover-ups.
106	Johan Ostrowick	Independent regulation	<ul style="list-style-type: none"> • A neutral third-party can issue instructions to the press that are based on the SA Constitution... The independent press regulator should be permitted not only to issue instructions to the press... but it should also be able to decline to allow the government to intervene in or prevent the publication of information which is truly in the country's best interests. • Statutory-Regulation: This is a particularly bad idea, as it makes the press entirely beholden to government. It should not be allowed in a free democracy...
107	John Christie	Self-regulation	The press industry should be left to regulate itself with its own laws, rules and codes of conduct
108	John L Cooke	Self-regulation	The South African media has a responsible attitude, and does not require any outside regulation, particularly from politicians and bureaucrats.

109	John Strachan	DNS	<ul style="list-style-type: none"> All apologies and changes to previously printed matter should be highlighted on the front page of publications in bold, not on "Page 17 in a small corner." The press has to be free to publish what it thinks is information that should be in the public interest and not be fettered by press laws.
110	KA Ntimbani		
111	Karen Valley	Independent regulation	
112	Ken Stacey	Self-regulation	It is unfortunate that much of the 'news' happens to be negative towards the government, but that is not because of a free press and media, it is because of the actions or inactions of the government.
113	Kerry Caldwell		
114	Kevin Lodge	DNS	FREEDOM OF THE PRESS IS IMPERATIVE. Too many South Africans of all persuasions have sacrificed too much for the press NOT to be free and fair.
115	Kevin Valley		
116	KKUA	DNS	We will stop buying or even reading newspapers if only the good of the government, the servants of the people are written about. We hold them in esteem currently because they walk the talk about the freedom bequeathed to us in 1994. Limit this and that esteem will be diminish to zero
117	Kwaai84		
118	L Hotz	DNS	<ul style="list-style-type: none"> It is my opinion that true press freedom is under severe threat in this country and that this threat must be fought with all the vigour that can be mustered. At present, it seems to me, the media receive a little slap on the wrist when they transgress. An apology, no matter how prominently displayed, is seldom sufficient. ... I firmly believe that there can be no true democracy without true press freedom.
119	Ladysmith Gazette	Independent Regulatory process or Self-Regulation	<ul style="list-style-type: none"> Once we give the power to regulate the media over to any political entity, and by association any government controlled regulatory body will be the voice of the party in power. What may have started out as a noble attempt to regulate an industry may become the tool used to oppress, censor and distort that very industry under another less enlightened regime.

			<ul style="list-style-type: none"> • Its sanctions must not just be fair but punitive as well
120	Lebogang Kubyane		
121	Lekgathoane Phala		
122	Leslie Berkowitz	Self-regulation	The Protection of Information Bill currently before Parliament is an undisguised attempt by the ANC government to hide from public scrutiny institutionalised corruption and rampant theft by parliamentarians and public servants in our country.
123	Linda Behr		
124	Linden R Mollie	Self-regulation	When it comes to exposing fraud, theft & jobs for pals it is doing a service to the public, to whom the money belongs.
125	Linette Manga	Independent regulation	
126	Lorraine Dove		
127	Louise Taczalo	DNS	<ul style="list-style-type: none"> • Any interference by the Government or anyone else, should be not allowed under any circumstances. • Unfortunately corruption has been so wide spread that we the public should be informed. I feel I cannot trust the Government and their friends at all.at the moment, and pray that God will help us all in this country.
128	Lowveld Community Newspapers		
129	Lwazy Molotsane	Independent regulation	For me self-regulation has failed because if it did not the publics will not be crying this much. Just recently there was unacceptable behaviour by Sowetan when it published phonographic picture of the officer having sex.
130	Lyn Fish	DNS	We deserve to feel secure in knowing that we can believe in our constitution, that our leaders are held accountable, that criminals are exposed, and that the truth will always come out.
131	MJ Netshifhehe		
132	Mail & Guardian	Independent, non-statutory co-regulation	
133	Manell		
134	Margaret Heydenrych	DNS	I feel that press freedom is basic to democracy – we cannot let it go
135	Margie G		
136	Marion Crawford	Self-regulation	<ul style="list-style-type: none"> • The cornerstone of democracy is freedom of the press

			<ul style="list-style-type: none"> Let us please not regress to the tactics of the previous regime
137	Martin & Linda		
138	Mary de Haas	Self-regulation	It is very important for members of the public are able to voice their concerns about press content, to medias representatives who will listen... perhaps other ways could be found of continuing dialogue between print media and the public.
139	Mashilo Boloka	Co-regulation	I wish to equally share the ANC's concerns regarding the performance of the press in South Africa which has over the years been declining.
140	Mathew Basson	Self-regulation or Independent regulation	<p>Comment to the ANC likening them to the national party (NATS)</p> <ul style="list-style-type: none"> We had the experience under NATS , please do not repeat their mistake by isolating the populace
141	Media 24	Self-regulation	<ul style="list-style-type: none"> Regulation must prioritise the South African context The regulation of the press as the most accessible form of news media therefore affects the quality and texture of our democracy Self-regulation can guarantee independence better than state involvement can
142	Media Monitoring Africa (MMA)	Self-regulation	<ul style="list-style-type: none"> The medias constitutional right to freedom of the press There must be measures in place to sufficiently safeguard the regulators independence The regulator must not be representative solely of the media industry but rather ensure broad representation of all who have an interest in the media Transparent, open, independent and participatory accountability mechanisms and appointment processes are critical in ensuring that the regulator is transparent to the public Regulatory mechanisms and enforcement, including penalties must be proportionate to the harm caused Recommendations – The code of conduct to be reworked to better represent children and specific ethics
143	Megan Lewis	DNS	Extremely worried about the media's ability to act in the public's interest with the current situation in SA
144	Methodist Church		
145	Mike Griffiths	Independent regulation	We cannot have government involved in deciding what the press can do as history proved that no Government supports the press's views about its performance

146	Mongameli Edwin Dondolo	Self-regulation	Print medias existing complaint procedures are expedient
147	Morgan Phaahla	State regulation	<p>On the media (submission 69)</p> <ul style="list-style-type: none"> • It's worth knowing that the promotion of human dignity, equality, and freedom remains a contestable feature in the media. • We're dominated by media and the concept of the freedom of expression remains the centre of social and moral corruption. <p>Comments on regulation</p> <ul style="list-style-type: none"> • The establishment of a media tribunal will strengthen, complement and support press ombudsman, and remains the only way forward to harmonise omission existing in the current system of self-regulation. <p>Comments about the ANC</p> <ul style="list-style-type: none"> • To this end, a climate of fear, lies and distortion is being stoked in society to feed an exploitative propaganda campaign that the ruling party and its alliance partners are hell-bent on clamping down on media freedom by flushing out the existing media self-regulatory mechanism for political expediency.
148	Mpendulo Nzama	Independent regulation	<p>Comments on proposed regulation (many spelling + punctuation errors)</p> <ul style="list-style-type: none"> • Independence will mean no political interference; it won't deprive media the right to access information and public the right to know. • Independence will tell the media not to show favouritism
149	Musacapital		
150	Mxolisi Dimbaza	DNS	<ul style="list-style-type: none"> • The ANC is conflict-ridden and corrupt to the core and is very eager to sweep some or all of these stories under the carpet • President Jacob Zuma himself knows that he was catapulted to power under a wave of those who had their personal agendas • There is no need to control the flow of information. The populace is mature enough to make up their own mind, just like it did when it put the ANC into power.
151	Mzimkulu Malunga	Independent regulation	The current self-regulation mechanism has no legitimacy among substantial sections of South Africa's society and must be reviewed

152	Nadine Gordimer & Andre Brink	DNS	
153	Naomi Dinur	DNS	<p>Comments on BCCSA regulation (submission 73)</p> <ul style="list-style-type: none"> • I once used the BCCSA and found them political and limited (etc) <p>Comments with spelling errors</p> <ul style="list-style-type: none"> • The leaders are not above the law, and the way to ensure that-Is basically only by free press and free media • Dictatorships fight against a free press and we in south Africa should guard it with all means
154	National Council of Women in SA		
155	National Union of Mineworkers		
156	Neu Magazine		
157	Niranjan Kalidass	Self-regulation	<ul style="list-style-type: none"> • In a normal society (what is a normal society you ask?) the government has respect and a degree of fear for the citizenry. In SA our government is not far from bordering on LAWLESSNESS with arrogant spin doctors making us feel like idiots. • Selection of Police Commissioners, Government Spokespersons, and appointments in other key Government institutions point to a systematic rape of South Africa.
158	Nis Media	DNS	<p>The rule of Nemo Iudex in Sua Causa we believe:</p> <ul style="list-style-type: none"> • supports our objection about the Press Ombudsman's involvement at all three levels of the complaints process • when the same press ombudsman is left to consider a complaint his impartiality is compromised by the procedure
159	Nola Kouluntis	Self-regulation	<ul style="list-style-type: none"> • To control the press and to now try to interfere with courts and other decisions must be stopped. • Together in solidarity and Ubuntu we must resist this oppression and undemocratic control.

160	Nomcy	DNS	<ul style="list-style-type: none"> • If the media has done wrong, the disciplinary measure should be instituted regarding the media, not to silent them. • If the country is democratic ,why is transparency inhibited • One of the governmental strategy is Batho Pele in which one of the principle is Openness and Transparency, then where does the gvt put the press in terms of this principle
161	Norman JJ Webber		
162	OFM (Anthony Thouard)	DNS	<ul style="list-style-type: none"> • A free press is a vital component for safeguarding out hard won democracy. • I share the concerns of many that the newly passed security law will enable those with power to hide corruption and abuse of power – both great dangers to democracy.
163	PA Bennet		
164	Pan African Congress	Independent regulation	Society needs independent regulation to smother the egos of Government – following the ANC 2007 resolution on a Media Tribunal) – and newspapers and their owners
165	Patricia		
166	Patrick Riley	Self-regulation	
167	Pen Writers Association		
168	Penny Edge	Self-regulation	Why is it necessary to abandon the existing self-regulatory system of South Africa and the Ombudsman, as well as the Constitution, in favour of a draconian, dictatorial system.
169	Penny Hickman	Self-regulation	I believe in a transparent total press freedom under a self-regulatory system without Government interference
170	Peter Leo	Self-regulation	Co-regulation and statutory regulation are NOT options because our government has clearly demonstrated their lack of integrity in being able to exercise unbiased judgments
171	Petrus Johannes Smith	Independent regulation	
172	Philip Alp		
173	Pieter A Visser		
174	PJP Mulholland	Self-regulation	<ul style="list-style-type: none"> • Press freedom is fundamental for people freedom • If we allow the press to be silenced we will be condemned to ignorance and thereby neutralized as free-thinking and acting citizens.

175	Polly Kistain	Co-regulation	Freedom of the press is of the utmost importance
176	Primedia (Pty) Ltd	Self-regulation	Suggestions to the current regulation system: To enhance the credibility of self-regulation in the eyes of the public, as this is vital as well as to ensure that it is an effective regulatory system. Advantage of self-regulation is the prevention of excessive government intervention Our recommended changes to the Constitution of the Press Council, the Conciliation and Adjudication Procedure and the Press Code (submission 48).
177	Professional Journalists Association	Self-regulation	Comments of the MAT <ul style="list-style-type: none"> Such a tribunal would rob the public of its right to information, set media freedom back decades and erode the hard won freedoms of our democracy
178	Public Protector	Independent regulation	
179	Rajan Naidoo	No regulation	South Africa is in dire need of Press Freedom as it is the means to keep the South African Citizen aware of the various situations in our country.
180	Rhodes University	DNS	Bitter experiences with repressive governments in their respective countries. These governments generally favour statutory regulation as it enables them to control media content more easily than self-regulation.
181	Richard Harrison	Self-regulation	Due to the corrupt culture of bribery and general dishonesty operating in our beloved country, independent regulation is not an option
182	Right to Know	DNS	<ul style="list-style-type: none"> R2K is opposed to statutory regulation of print media content. A press autonomous of government is critical to ensuring the free flow of information
183	Robert Sithole	Independent regulation	Remember when you silence the media you automatically promote corruption and hypocrisy.
184	Ronald Underwood	No regulation	
185	Rose Tuelo Brock	Self-regulation	<ul style="list-style-type: none"> The ANC, as a party owes some of its historical survival and success to the media. We must resist any such form of silencing the media Anybody that is doing their duty, that is keen to serve the public efficiently, must be comfortable in being watched
186	Ruby		

187	SA Jewish Board of Deputies	Self-regulation	SAJBD also supports the approach of the Constitutional Court that freedom of expression lies at the heart of democracy
188	Samantha Pickard	DNS	South Africa needs freedom of the press
189	Santoro Arikum	DNS	Events clearly illustrate the thin line between civility and total anarchy. The freedoms of speech and expression is that 'thin line' the last bastion to civil society Fraud and corruption is eating to the very fabric of our society and whistleblowers last plea for genuine action is the media
190	Sapa	Self-regulation	Suggested changes to the PCSA
191	Seabelo Katane	Independent regulation	The press need be independent from the government to end the state monopoly Independent regulation condones free will to communication diversely and encourages freedom from political interference.
192	Section 16	Self-regulation	A lengthy and relevant discussion (submission 101) <ul style="list-style-type: none"> • Any involvement by the government in the regulation of the print media has very real potential to infringe upon media freedom and will undermine the rights of SA citizens enshrined in the constitution • The role played by print media is crucial in a democratic society where a principal function of the media is to provide citizens with information and a platform for the exchange of ideas. • The function of the media is to serve as a check and balance to any abuses of power by government • Suggests that a self-regulating body, in order to be more effective should not only react to complaints but should also regularly monitor the behavior of the press
193	Semakaleng Magoboa		
194	Sheryl Nel		
195	Sibusiso Buthelezi	DNS	Press freedom is integral to democracy Comments on current media The problem with the media is narrowed to three basic issues: <ul style="list-style-type: none"> • Too much reliance on anonymous sources • Speculation that masquerades as journalism • Lack of accountability

			Suggestion to improve media <ul style="list-style-type: none"> • Register accredited journalists
196	Socialist Party of Azania		
197	Sonnet	DNS	Does the ANC Government understand the word democracy
198	Soobramoney Jayanathan	DNS	The Freedom of the Press needs to protect the Press and the Public
199	South African Council of Churches		
200	South African Institute of Race Relations	DNS	
201	South African Pagan Rights Alliance	Independent co-regulation	Improvements to the regulatory system <ul style="list-style-type: none"> • Stricter enforcement of the provisions of the existing Press Code
202	Soweto TV		
203	Soweto TV		
204	Special Rapporteur on Freedom of Expression and Access to Information in Africa	Self-regulation	
205	Springs Advertiser	Self-regulation	State involvement of any kind in press regulation is incompatible with media freedom
206	Steve Hegerstrom	DNS	Lack of press freedom is the start of the rot! We must defend it at all costs
207	Sweetlife Magazine	DNS	<ul style="list-style-type: none"> • I fully support freedom of the press... • ... I never considered that our press freedom would be compromised. Even now, it seems like it must be some kind of grave mistake – surely South Africa couldn't take such a step backwards?
208	Ten Ten	Self-regulation	
209	Teresa Williams	DNS	This country is in very serious trouble, the media has power, and the media needs to be much more responsible, and more accountable for what they write.
210	Thandekile Nyembezi	DNS	I really just want external bodies to govern the press I think it's unfair that the press can slander people and then have a really small apology on page 5
211	Thando John Vilakazi	DNS	

212	Themba Sepotokele	Independent regulation	<ul style="list-style-type: none"> • Sadly, errant journalists are not being punished and we go on as if all is well and we should accept when the journalism craft is compromised • The press ombudsman should be given some power to impose penalties not only limited to corrections or apologies • The South African press is one of the free presses in the world • The relationship between government and the media is nurtured and guarded for the sake of our hard earned democracy
213	Thembalihle Desmond Nongayiyana	Self-regulation	<ul style="list-style-type: none"> • Self-regulation should avoid Government control or manipulation • Any government law for press control will destroy media freedom • Right to know is our right as citizens through free media reporting honestly and factually, accurate
214	Tim Singiswa		
215	Tlaki Dlepu	Independent regulation	Self-regulation is not working in South Africa since press mediums are bias.
216	Tricia		
217	Trudie Blanckenberg	DNS	<ul style="list-style-type: none"> • Civil society, an important stakeholder in press freedom and ideally positioned to keep watch over the watchdog, is however debilitated and made vulnerable by its low levels of (critical) media literacy. • Practicing responsible journalism thus continues to be complicated and negatively affected by the fact that journalists/reporters in print media first of all have to serve their business owner employers.
218	TS Kroon	Independent regulation	<ul style="list-style-type: none"> • Press freedom is very very important • We, as tax paying and interested public, need to know what is going on in South Africa, at all times.
219	Tshwane University of Technology		
220	Ujala		
221	University of South Africa	Self-regulation	
222	University of South Africa	Self-regulation	
223	United Democratic Movement	DNS	<ul style="list-style-type: none"> • It is not as easy to just “transform” the media, because they remain business in the hands of shareholders and company philosophies.

			<ul style="list-style-type: none"> • Our constitution protects our right to express our views freely and we can all agree that the media has an important role to play in informing the populace • Any form of regulation should delve deeper into what forms of sanctions should be imposed on editors and journalists
224	University of Stellenbosch		
225	University of Witwatersrand		
226	Ute Kuhlmann	Self-regulation	Neither statutory nor co-regulation are models which sufficiently guarantee freedom of expression as protected by the SA Constitution.
227	Vusumuzi Gcuma	Statutory regulation	<ul style="list-style-type: none"> • Media had 17 years to shape self-regulation framework but failed to do so • Press ombudsman is toothless
228	Wilf	Independent regulation or Self-regulation	
229	Zamakhuze		
230	Zoutnet CC	Self-regulation	<p>Comment on self-regulation/press ombudsman</p> <ul style="list-style-type: none"> • These are cheap effective mechanisms to settle disputes and above all the timeframes are much quicker than civil courts • Publishers have to take responsibility for what they produce and must be held accountable. Ideally this should be via self-regulation, as this process holds the most benefits for both publisher and reader. <p>Improvement of the regulatory system</p> <ul style="list-style-type: none"> • The laws on libel should be reviewed to provide easier and more cost effective redress.
Persons and organisations who made submissions to the Press Freedom Commission, whom were not listed in Appendix 7, the public submissions register, February 2012 (Press Freedom Commission report 2012: 113-116).			
231	Dr Alan Mannell	DNS	<p>The regulatory commission must consist of the following: senior editors (retired) senior lawyers (retired judges or advocates)</p> <p>There must be no serving or retired politicians and no members of a parastatal organisation i.e. SABC</p> <p>This will avoid bias and protect our Democracy</p>
232	Michael Mathebula	Independent regulation	It is through the media that corruption is exposed

233	N de Havilland (FW de Klerk Foundation)	Self-regulation	<ul style="list-style-type: none"> • The Centre does not agree with the task team’s recommendation that no fines should be imposed and supports the stance of Peter Bruce. • The Centre believes that the effectiveness of the Press Ombudsman would be greatly enhanced by extending its punitive jurisdiction to include the imposition of a fine.
234	Sidney Coad Williams	DNS	<ul style="list-style-type: none"> • Freedom of the press and other media is essential to sustain a democracy • The current dictatorships worldwide exist because of suppression of the media and whistle blowers.
235	COSATU	DNS	<ul style="list-style-type: none"> • The increasing concentration of ownership... in the South African print media, where 95% is owned by just three big, wealthy companies – Independent newspapers, Avusa and Naspers. • The ANC paper is correct when it argues that this level of concentration reinforces “a major ideological offensive” • The biggest concern with the POSIB and the MAT is that they could be misused to suppress the publication of matters of legitimate public concern

ABOUT THE AUTHORS



Dr Julie Reid: Based at the Department of Communication Science at the University of South Africa (UNISA) and specialising in media studies, Reid's research interests include the topics of media and communications policy and regulation. She is a project leader for the *Media Policy and Democracy Project* (MPDP) – an inter-university collaborative research initiative aimed at promoting participatory media policy-making in the public interest. Reid is an activist for media freedom and communications rights, a Gauteng coordinator for the *Right2Know* Campaign and sits on the Media Freedom and Diversity sub-committee of the *Right2Know* Campaign. From 2013 to 2015 she served as the President of the South African Communications Association (SACOMM), and currently heads its focus group on communications advocacy. Reid has published widely on the topics of semiotics, visual studies and media regulation, and writes opinion

pieces for various newspapers, magazines and online news media, mostly on media politics and issues of communications rights in South Africa. She is the editor and co-author of the book *Looking at media: an introduction to visual studies* (Pearson, 2013). Reid has spoken on several global platforms, and taken part in various international research projects, including for UNESCO, within the fields of media freedom, and media policy and regulation. In 2013 and 2014 she was recognised as one of the *Top 40 under 40* in the media industry in South Africa by the *Media Magazine*, and in 2014 as one of the *Mail & Guardian's* Top 200 Young South Africans, for her work as a columnist, a researcher of media policy and her activism.



Taryn Jade Isaacs: Taryn Jade Isaacs is the project manager for the Office of the Deputy Vice Chancellor Teaching & Learning at Nelson Mandela Metropolitan University in the Eastern Cape. She is currently completing her PhD on Public Centred Media Accountability Mechanisms at UNISA. Isaacs is a researcher for the Media Policy and Democracy Project, a collaborative research project between universities of South Africa. She also represents the emerging scholars on the executive of the South African Communications Association (SACOMM). She believes deeply in the power of Higher Education to alleviate the challenges facing the world today and affirms that researchers must create socially conscious research based on meaningful engagement to lead this change.