

DIGITAL RIGHTS AND ACCESS TO INFORMATION SERIES **2**

A NEW DEAL FOR JOURNALISM IN AFRICA - PART 1

Three pillars for bringing platforms to pay fair value for public interest journalism

Sekoetlane Phamodi
May, 2022



Worldwide, the revenue base for journalism has been disrupted by digital innovation and the dominance of technology platforms in the audience and advertiser-facing markets. Revenue models relied upon by news and information services have collapsed, and credible journalism and its social function are at risk.



Future-proofing the viability and sustainability of public interest journalism in Africa must encourage platforms to pay fair value for the benefit derived. This will require trust and collaboration between governments, the news and information services that produce public interest journalism, and civil society.



To achieve this, three pillars grounded in the Declaration of Principles on Freedom of Expression and Access to Information in Africa are proposed, namely: i) designation of public interest journalism as a public good, ii) incorporation of national public media funds to resource the supply of public interest journalism and safeguard its public value, and iii) draw revenue for these funds from a collective fee mechanism paid by digital indexing and publishing platforms.

Contents

1.	INTRODUCTION	2
2.	PILLAR 1: GOVERNMENTS MUST DESIGNATE JOURNALISM AS A PUBLIC GOOD	4
3.	PILLAR 2: GOVERNMENTS MUST ESTABLISH INDEPENDENT PUBLIC MEDIA FUNDS TO SUPPORT JOURNALISM AND THE MEDIA INITIATIVES WHICH SUPPORT ITS CONTINUED PRODUCTION – AND FUND THEM	6
4.	PILLAR 3: GOVERNMENTS MUST MANDATE DIGITAL INDEXING AND PUBLISHING PLATFORMS TO CONTRIBUTE FINANCIALLY AND OTHERWISE TO SUPPORT THE SUSTAINABILITY OF JOURNALISM AND ITS SOCIAL FUNCTION	7
5.	CONCLUSION	9

1

INTRODUCTION

All across the world, digital innovation has disrupted the market dynamics which support major industries. In the case of the media industries, which include journalism and the news and information services that make it possible, the transformation has been seismic. Widening access to broadband services has made knowledge and connection all the more central to participation in the global information society.¹ Where participation in the media industries was once defined by high levels of economic access and specialist experience, the innovation of the digital tools for developing, publishing, and distributing high-quality content that can capture and command their users' time and attention has disrupted market dynamics by democratising participation and heightening competition.

Chief among these innovations are digital indexing services (such as Bing and Google's search engines and related services), as well as rich multimedia content publishing platforms (such as Facebook, TikTok, Twitter, and YouTube), which billions of people use and depend on. Further, because of their ability to deliver high volumes of segmented audiences at scale to

advertisers at low cost, these "disruptive" digital platforms have hollowed out the advertising revenue base which previously sustained content production under the "legacy" media paradigm, sending the media and content industries into freefall.

Globally, and especially in Africa, hundreds of news and magazine publications are closing,² and thousands of jobs³ supporting the supply of journalism are being shed annually. These conditions show little sign of lifting for news and information services in Africa and will only deepen as efforts to "connect the last billion"⁴ to the internet and claim and divide the last consumer market in the emerging transnational digital empires being built by global technology companies.⁵

According to CIMA, as much as US\$600 million⁶ of international funding is invested annually into supporting journalism and media development in the face of what can only be described as a deepening catastrophe. In Africa alone, media outlets' financial sustainability ranks as the single greatest challenge to media independence.⁷

-
1. Karvalics, L.Z., *Information Society – what is it exactly? (The meaning, history and conceptual framework of an expression)* in Pintér, R. (2008) *Information Society: From Theory to Political Practice: Coursebook* MTA Kisebbszegkutato Intezet.
 2. Hare, K. (2021) *More than 100 local newsrooms closed during the coronavirus pandemic*, accessible at (European Commission, 1997) (Accessed 25 March 2022); Qukula, Q. (2021) *Publisher Media24 has announced that a number of newspapers and magazines in its portfolio will either be closed or restructured*, accessible at <https://www.capetalk.co.za/articles/389117/media24-looks-to-close-several-magazines-and-newspaper-titles> (Accessed 25 March 2022).
 3. Walker, M. (2021) *US newsroom employment has fallen 26 % since 2008*, accessible at <https://www.pewresearch.org/fact-tank/2021/07/13/u-s-newsroom-employment-has-fallen-26-since-2008/> (Accessed 25 March 2022); Skinner, K. (2020) *Taking Stock: How Covid-19 shocked the media industry* in *State of the Newsroom 2020*, pp 26 – 36, accessible at <https://journalism.co.za/wp-content/uploads/2022/03/SON-2020-Final-23-Feb.pdf> (Accessed 25 March 2022); Daniels, G. (2018) *Left out in the cold* in *State of the Newsroom 2018*, pp 16 – 26, accessible at https://journalism.co.za/wp-content/uploads/2019/07/State-of-the-Newsroom-report-2018_updated-20190709.pdf (Accessed 25 March 2022).
 4. Mathew, B. (2021) *Cabling Africa: the great data race to serve "the last billion,"* accessible at <https://www.ft.com/content/adb1130e-2844-4051-b1df-a691fc8a19b8> (Accessed 25 March 2022).
 5. Kwet, M., (2018) *Break the hold of digital colonialism*, accessible at <https://mg.co.za/article/2018-06-29-00-break-the-hold-of-digital-colonialism/> (Accessed 25 March 2022).
 6. Myers, M., Juma, L.A., (2018) *Defending Independent Media: A Comprehensive Analysis of Aid Flows*, accessible at <https://www.cima.ned.org/publication/comprehensive-analysis-media-aid-flows/> (Accessed 25 March 2022).
 7. *Ibid*; The country reports of the *Africa Media Barometer* initiative of the Friedrich-Ebert-Stiftung's media development project for Africa, *fesmedia Africa*, are comprehensive in their documentation of qualitative data on this and other points. These may be accessible at <https://fesmedia-africa.fes.de/themes/african-media-barometer> (Accessed 25 March 2022).

A close second is the backsliding on established freedom of information, expression, and press freedom principles by governments,⁸ as well as the emergence of regressive digital governance practices, including excessive and disproportionate cybercrime laws, internet shutdowns, and state surveillance.⁹

Media independence and the reliable supply of credible news and information services in Africa are hard-pressed between commercial and political pressures. Despite substantial investment to fast-track the emergence of the elusive “new model” to secure sustainability, media development initiatives are trailing far behind the new paradigm in market organisation and regulation, consolidated by disruptive digital platforms and their owners.¹⁰

Charting a new path for the sustainability of public interest media in Africa requires an urgent rebalancing of bargaining

power between the news and information services and the digital platforms, which have become indispensable to their very viability. This paper proposes that three pillars grounded in the African Commission on Human and People’s Rights (ACHPR) *Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019*¹¹ should underpin this rebalancing exercise.

The success of this exercise will depend on the renewal of trust and collaboration between governments, news and information services, and civil society, which is premised on the decriminalisation of public interest journalism and its supply, as well as the commitment of all role-players (particularly state actors) in this new compact to abide the guidance offered by regional and international law instruments in living up to their collective responsibility of safeguarding and promoting freedom of expression and access to information.

-
8. Conroy-Krutz, J. (2020) *The Squeeze on African Media Freedom*, Journal of Democracy, vol. 31, no. 2, pp. 96-109.
 9. CIPESA, (2021) *State of Internet Freedom in Africa: Effects of state Surveillance on Democratic Participation in Africa*, accessible at https://cipesa.org/?wpfb_dl=467 (Accessed 25 March 2022); CIPESA, (2019) *Despots and Disruption: Five Dimensions of Internet Shutdowns in Africa*, https://cipesa.org/?wpfb_dl=283 (Accessed 25 March 2022).
 10. OECD (2022) *OECD Handbook on Competition Policy in the Digital Age*, accessible at <https://www.oecd.org/daf/competition-policy-in-the-digital-age/> (Accessed 25 March 2022); OECD (2021) *Competition issues concerning news media and digital platforms*, OECD Competition Committee Discussion Paper, accessible at <https://www.oecd.org/daf/competition/competition-issues-in-news-media-and-digitalplatforms.htm> (Accessed 25 March 2022); Parker, G., Van Alstyne, M., Jiang, X. (2017) *Platform Ecosystems: How Developers Invert the Firm*, MIS Quarterly, vol. 41, no. 1, pp. 255-266.
 11. African Commission on Human and Peoples’ Rights (ACHPR) (2019) *Declaration of Principles on Freedom of Expression and Access to Information in Africa*, accessible at <https://www.achpr.org/legalinstruments/detail?id=69> (Accessed 25 March 2022).

2

PILLAR 1: GOVERNMENTS MUST DESIGNATE JOURNALISM AS A PUBLIC GOOD

Cutting a new deal for news and information services in Africa must begin with governments designating journalism itself in its social function as a public good – in much the same way that water, electricity, healthcare, and education are beyond merely facilitating rights and development outcomes. Even with prevailing tensions about what constitutes journalism, its public interest function of producing news as verified information in the public interest,¹² and the standards governing how it ought to be practised, in Africa, there are legal foundations that governments can readily mobilise to safeguard its public function.

The *ACHPR's Declaration on Principles of Expression and Access to Information 2019* acknowledges the essential role of media in “promoting the free flow of information and ideas, assisting people in making informed decisions and facilitating and strengthening democracy.” Out of this acknowledgement, Article 17 of the *Declaration of Principles* places an obligation on states to promote diverse and pluralistic media and describes that the measures they take should fulfil public interest functions in society. Among the public interest functions contemplated by the ACHPR in this regard are the inclusion of poor, rural and marginalised communities within the deliberative public sphere that media are, promoting transparency and diversity in media ownership as a key enabler of content diversity, and promoting linguistic and cultural diversity in order to support local cultural production and democratise participation in public affairs.

The *Declaration of Principles* then sets journalism and its practitioners apart as indispensable to the media’s public interest function. Articles 38 – 45 accord specific rights and obligations to journalists to create the necessary conditions

for their practice to be possible and fulfil its public interest function. These include protection from undue legal restrictions, intimidation and violence from state and other political actors. These are balanced by obligations on journalists to develop and operate under the guidance of lawful and uniformly enforceable professional standards in the practice of their craft under a mutually recognised self- or co-regulatory framework.

From the positioning of media in the *Declaration of Principles* and the obligations placed on state actors in respect of them, it is apparent that the media are regarded as vital to the functioning of a healthy democracy. Through the obligations it places on the state to enhance media access, pluralism and diversity, the *Declaration of Principles* asserts the necessity of public media utilities¹³ (or, minimally, media utilities which perform a clear public function) as the *institutional infrastructure* which both directly and indirectly supports and enables the ability of citizens to enjoy their human and political as well as economic, social and cultural rights. Significantly, through the particular emphasis it places on the practice of journalism in the public interest, the *Declaration of Principles* positions the profession and its output as a defining feature – the productive capacity – of media by which they can fulfil their role in democratic society. This institutional infrastructure and its productive capacity are mutually constitutive to fulfilling the public interest role of media in democracy. This necessitates more nuanced consideration for the measures required to strengthen each as an enabler of the other.

In addition to the singular focus on strengthening the independence and sustainability of public media institutions

12. UNESCO (2021) *Information as a Public Good: World Press Freedom Day 2021 Concept Note*, accessible at https://en.unesco.org/sites/default/files/wpfd_2021_concept_note_en.pdf (Accessed 25 March 2022).

13. This is seen in the specific reference to public media in Article 22. This provision is a necessary evolution from the special designation of public broadcasting (Article 6) as this utility in the original (2002) of the *Declaration of Principles*. This revised formulation arises out of the digitalisation and consequent convergence of media production and distribution facilities which have necessitated a view of media “beyond frontiers”.

such as state and public broadcasters,¹⁴ which has dominated media access and sustainability efforts so far, measures for safeguarding the sustainability of journalism under the weight of neoliberal market forces must now take a further step forward by rethinking and expressly repositioning journalism and its production as an indispensable public good.

As these market forces continue to persist and prevail, this designation requires public power to rebalance its influence over the sustainable production of independent and credible journalism and formally recognise the distribution of the

mandate for its production across public and commercial news and information services.¹⁵

The future of journalism depends on closer engagement with and support from the state to redistribute the balance of power between news and information services and digital indexing and publishing platforms. This will force digital indexing and publishing platforms to plough back their fair share of the value they extract from the indexing and (re-) publishing of journalistic production back into its sustainability.

14. As contemplated in Article 22.

15. Dugmore, H. (2021) *Thinking globally, acting locally: Reviving and sustaining South African journalism in a post-Covid world*, p49, accessible at https://highwayafrica.ru.ac.za/wp-content/uploads/dlm_uploads/2021/03/Thinking_globally_acting_locally.pdf (Accessed 25 March 2022).

3

PILLAR 2: GOVERNMENTS MUST ESTABLISH INDEPENDENT PUBLIC MEDIA FUNDS TO SUPPORT JOURNALISM AND THE MEDIA INITIATIVES WHICH SUPPORT ITS CONTINUED PRODUCTION – AND FUND THEM

Robust and credible journalism is an inherently cost-intensive practice. It requires trained and experienced personnel and access to the resources that enable the iterative process of news gathering, analysis, and interpretation to present credible and compelling stories rendered for public consideration in engaging multimedia formats.

The commercial advertiser-driven revenue model has traditionally paid this high cost of production. Still, the disruption to this model by the innovation and emergent dominance of digital indexing and publishing services has seen the rapid transfer of this traditional revenue base from so-called “legacy” news and information services to the digital platforms themselves. While this has prompted a necessary evolution of traditional news and information services to alter their business models and diversify the revenue base with which they can subsidise the operational costs of journalism,¹⁶ these efforts have proved unsustainable.

Shackled to a neoliberal market structure which positions the commercial viability of journalism as the express condition for its independence, media managers are under ever-increasing pressure to produce “high-impact” journalism (where the measure of that impact is disproportionately linked to click rates as a proxy for a story’s saleability) while contending with rapidly contracting and juniorising newsrooms to account for its direct costs. The dual pressure on newsrooms to keep up with contracting news cycles and attention spans, coupled with their increasing inability to invest personnel and resources too deeply in news and information production

processes, is directly impacting the range of stories able to make and shape the news agenda, the depth and variety of perspectives through which stories can be told and, with this, the public utility of journalism in society.¹⁷ Everybody is losing.

The new deal for news and information services must be predicated on the deccommercialisation of journalism and public media. A public held and funded media funding instrument becomes a key vehicle for doing this progressively and intentionally. Such a vehicle should take the form of a non-commercial fund that supports and safeguards the core function of journalism and media in democracy from dependency on both the state and commercial market forces. Public funding is necessary for the deccommercialisation of journalism, and its designation as a public good creates good ground for this process.

The *Declaration of Principles* recognises this, directing the measures state parties must take in this regard. Article 22 provides the designation of independent public service media utilities with the specific obligation to “ensure that the public receive adequate, politically balanced information, particularly during election periods.” It places a duty on state actors to provide adequate funding to public service media – which should be taken to include all media “regardless of frontiers,” thereby setting the stage and the necessary guardrails for direct state support for public media initiatives in media markets characterised by the dominance of digital media publishing and distribution.

16. More than raising paywalls and providing value-added offerings in exchange for membership, these have included activities such as consulting and native advertising services and events production, etc.

17. It should, nevertheless, be noted that the onset of the Covid-19 pandemic has reinforced the social function of, and trust in, news and information services as popular sources for credible sources of verified information in the public interest. See UNESCO (2020) *Journalism, press freedom and Covid-19* accessible at <https://unesdoc.unesco.org/ark:/48223/pf0000373573> (Accessed 25 March 2022).

4

PILLAR 3: GOVERNMENTS MUST MANDATE DIGITAL INDEXING AND PUBLISHING PLATFORMS TO CONTRIBUTE FINANCIALLY AND OTHERWISE TO SUPPORT THE SUSTAINABILITY OF JOURNALISM AND ITS SOCIAL FUNCTION

In addition to the social value it fulfils, a robust and dynamic news industry has a clear commercial value made apparent from the industrialisation of journalism and the delivery of news and information services. This commercial value does not only derive from the ability to access and command the advertiser revenue, which has always funded news and information services. It also derives from the infrastructure these services and their owners provide to produce relevant and credible journalism in diverse languages¹⁸ and formats for sustainable and at scale news-hungry markets. The news and information demands of these markets around which the core products and services of digital indexing and publishing platforms are designed and with which they have gained control over the advertising revenue that was once commanded by the publishers of news and information services. And so, even while digital platforms are not solely responsible for the collapse of news and information services, as they argue, they do bear some responsibility for it.

The sustainability of a robust and dynamic news industry is mutually beneficial to news and information services as well as digital indexing and publishing platforms. Where, on the one hand, news and information services benefit from digital platforms providing the audience referrals and enhancing the distribution of their journalistic content to their users,¹⁹ on the

other hand, digital platforms rely on the supply of original and credible content in high volumes to optimise their indexing services²⁰ as well as sustain their news-driven products and services.²¹ Significantly, in the case of platforms whose core business relies on the behavioural data gathered from their users' engagement and social interaction with the content they carry, there is little to no data available in the public domain to quantify the value they directly or indirectly derive from the participation of news and information services on their platforms and its relationship with their users' reliance on the journalistic content which those news and information services supply.

All role-players are entitled to fair compensation for the value they provide to each other. However, there is little relevant commercial information available in the public domain to objectively determine the direct and indirect value digital platforms derive from news and information services. The ubiquity of their user-facing services has gained them market dominance as content distribution utilities. Moreover, its monopoly on users' behavioural data and analytics and its value has cemented its dominance over advertiser-facing markets.²² In a competitive market, news and information services should be able to negotiate fair compensation for the sustainable supply of journalistic content with digital platforms while still enabling both parties to share equitably in the value

-
18. Emerging research on the dominant languages used on the internet – including news and information services – indicates concerning trends in the marginalisation and exclusion of local languages on the African continent. See Whose Knowledge?, Oxford Internet Institute and the Centre for Internet and Society (India) (2022) *State of the Internet's Languages Report* accessible at <https://internetlanguages.org/en/> (Accessed 25 March 2022); Ibrahimova, M., (2021) *In depth: The languages in cyberspace* in The UNESCO Courier Vol. 2021, No. 2, pp 50 – 53 accessible at <https://www.un-ilibrary.org/content/journals/22202293/2021/2/15> (Accessed 25 March 2022).
 19. OECD (2021) *Competition issues concerning news media and digital platforms*, at pp14; 18-19; ; Oxera (2021) *How Facebook benefits the creative industries* accessible at <https://www.oxera.com/insights/reports/how-facebook-benefits-the-creative-industries/> (Accessed 25 March 2022).
 20. Google *How Search algorithms work* accessible at https://www.google.com/search/howsearchworks/algorithms/?safari_group=9 (Accessed 25 March 2022); Google (2011) *Giving you fresher, more recent search results* accessible at <https://search.googleblog.com/2011/11/giving-you-fresher-more-recent-search.html> (Accessed 25 March 2022).
 21. <https://news.google.com/topstories?hl=en-ZA&gl=ZA&ceid=ZA:en>; <https://www.facebook.com/news/learn-more>.

derived from it. However, given the power imbalance in the bargaining position of parties, control of the bargaining relationship and the value derived from journalistic content produced by news and information services is retained almost exclusively by digital platforms.

Article 54 of the *Declaration of Principles* places an obligation on state actors to “promote a conducive economic environment in which media can flourish.” This should include “through the adoption of policies for the sustainability of under-resourced print, broadcast and online media in an equitable and transparent manner.” Article 56 directs states to “adopt effective and proportionate measures to avoid direct and indirect undue concentration of media ownership whether horizontal (including cross-media ownership) or vertical [including publishing and distribution].”

Read together, Articles 54 and 56 enable state actors to “creatively” mobilise various indirect mechanisms within their authority which may indirectly stabilise and improve the prospects for the sustainability of journalism and news and information services under the neoliberal market regime presently governing legacy and digital media markets. These include advancing broad policy interventions reorganising how national media landscapes are defined and harmonised for the digital-first ecologies, which are now dominating and defining the production and distribution of news and information services, as well as introducing targeted pro-competitive measures governing market dynamics for the same. To the extent that digital platforms are unwilling to

quantify in good faith as well as pay for the value they derive from news and information services as a result of their sheer dominance and control of both user- and advertiser-facing markets, governments must intervene to rebalance the scales of bargaining power, and compel digital platforms to contribute their direct and equitable share to the sustainability of journalism, as well as the news and information services which make it possible.

Governments may elect to enact policy instruments which require digital platforms to contribute to the sustainability of journalism and the news information services that make it possible by way of discretionary investment, negotiation through a bilateral or collective bargaining framework as in the case of France,²³ and Australia,²⁴ respectively, or both. All these measures go some way in slowing down the rapid decline of journalism due to the hollowing out of the necessary revenue and resources. However, to support its continued sustainability, it is essential that where bilateral or collective bargaining agreements are entered into for the supply of public interest journalism, these are made transparent to assure the fair treatment of all news and information services both in terms of access to the bargaining table and the negotiation of fair value.

The most direct and equitable mechanism for assuring this lies in governments also compelling digital platforms to contribute to a collective fee for public interest journalism, which can be equitably accessed by a range of news and information services through a duly incorporated public media fund.

22. OECD (2021) p18.

23. Rosemain, M. (2021) Exclusive: Google's \$76 million deal with French publishers leaves many outlets infuriated accessible at <https://www.reuters.com/article/us-google-france-copyright-exclusive-idUSKBN2AC27N> (Accessed 25 March 2022).

24. Fisher, C., McCallum, K. and Park, S. (2021) Is the news media bargaining code fit for purpose? accessible at <https://theconversation.com/is-the-news-media-bargaining-code-fit-for-purpose-172224> (Accessed 25 March 2022).

5

CONCLUSION

To save public interest journalism in Africa from its perilous position, the structural reorganisation of its sustainable supply's market dynamics and revenue model is urgently required. Among the necessary means for this reorganisation is a bold programme of action underpinned by trust, cooperation and creative collaboration between governments, news and information services and civil society.

Bringing global technology companies and their large digital platforms under national regulation and curtailing their disproportionate dominance over markets and regulatory processes is the ready ground for building a renewed

relationship of trust between these parties. However, a shared commitment to building a free and independent public interest media supported by public funding mechanisms and governed by uniform professional standards and ethics, which governments can support in good faith, will be crucial to brokering this new deal.

The *ACHPR Declaration of Principles on Freedom of Expression and Access to Information in Africa* and its supporting framework of regional and international soft-law instruments provide sound guidance for how.

ABOUT THE AUTHOR

Sekoetlane Phamodi (they/them/theirs) is a media development specialist with experience building and supporting freedom of expression and access to information initiatives across Africa.

Editor:

Friedrich-Ebert-Stiftung *fesmedia* Africa
95 John Meinert Street
E-mail: info@fesmedia.org

Responsible Person

Freya Gruenhagen, Director *fesmedia* Africa

Design and layout

Bryony van der Merwe

Contact/Order: dickson@fesmedia.org

© 2022

ABOUT THIS PROJECT

fesmedia Africa is the regional media project of the Friedrich Ebert-Stiftung (FES) in Africa. Its work promotes a free, open, liberal and democratic media landscape that enables ordinary citizens to actively influence and improve their lives, as well as those of the communities and societies they live in. *fesmedia* Africa believes that in order to participate in public life and decision-making, people need to have the means, skills and

opportunities to access, exchange and use information and knowledge. They need to be able to communicate and exchange ideas, opinions, data, facts and figures about issues that affect them and their communities.

For more information, visit:

<https://fesmedia-africa.fes.de/>

A NEW DEAL FOR JOURNALISM IN AFRICA - PART 1

Three pillars for bringing platforms to pay fair value for public interest journalism



Worldwide, the revenue base for journalism has been disrupted by digital innovation and the dominance of technology platforms in the audience and advertiser-facing markets. Revenue models relied upon by news and information services have collapsed, and credible journalism and its social function are at risk.



Future-proofing the viability and sustainability of public interest journalism in Africa must encourage platforms to pay fair value for the benefit derived. This will require trust and collaboration between governments, the news and information services that produce public interest journalism, and civil society.



To achieve this, three pillars grounded in the Declaration of Principles on Freedom of Expression and Access to Information in Africa are proposed, namely: i) designation of public interest journalism as a public good, ii) incorporation of national public media funds to resource the supply of public interest journalism and safeguard its public value, and iii) draw revenue for these funds from a collective fee mechanism paid by digital indexing and publishing platforms.

More information on the subject is available here:

<https://fesmedia-africa.fes.de/>