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MONITORING THE MEDIA for fair treatment

The Independent Media Commission prepared the ground for a Freedom of Information Act, writes **ZUBEIDA JAFFER**

THE PAC's Mr Barney Desai is the first to take the floor: "The IMC has not consulted properly with the political parties." He is followed by the DP's Mr Peter Soal: "The IMC is an arrogant body." Then Mr Amichand Rajbansi of the Minority Front: "We want all our time on a radio station that targets minority groups." And so it went on...

Pieter Dirk-Uys should have been there when the Independent Media Commission presented the schedules for free air-time allocated to all parties participating in the elections. The opportunity for satire ... well... let me say no more!

One after another party representatives jumped to their feet objecting to how we had divided 150 hours of free radio amongst the 26 contending parties.

But they were the ones who had put us in authority to determine equitable media treatment during the elections. And thank God they had the foresight to do it. As commissioners, seven of us in all, we had the awesome task of reaching workable and amicable agreements between the political parties, state broadcasters and state information services.

The IMC Act instructed us to ensure "equitable treatment" of all political parties. And equitable (we came to understand and had to explain repeatedly) did not mean equal. We also had the task of ensuring that no state publication or state information service was used to benefit any one political party.

For broadcasting monitoring it was possible to bring together the expertise of the monitoring operations of the South African Communication Services (SACS) and the



ZUBEIDA JAFFER

Media Monitoring Project (MMP). For state information services monitoring, fresh approaches had to be developed which took us to different parts of the country— from the SADF information officers to the trainings of the South African Communication Services to the publication networks of Venda, Transkei and Qwa-Qwa. In Cape Town, Cape Provincial Administration (CPA) information officers await an IMC briefing. The tea and biscuits on the boardroom table fail to hide the unease in the room. What was this IMC? The big brother watching?

Slowly the mood changes as they grasp the logic. I tell them of the research we have done into the conduct of information officers during elections elsewhere.

In Canada, ministers and other political appointees resign three months before an election. State officials take unpaid leave if they choose to actively work for any party. A civil servant or information officer is not allowed to provide any back-up service to somebody running for office. In America,

candidates have to open election campaign offices before an election, and cannot do campaigning out of state establishments.

The transformation in attitude of the information officers of the Cape Provincial Administration was not unlike the adaptations we witnessed across the country. I joke, they laugh, more tea, some confessions... "we had no idea, we thought this was going to be a witch-hunt".

Similarly we sought to engage broadcasters in an ongoing discussion to begin to develop agreed-upon guidelines to ensure equitable treatment of parties. To do this, we had to reach agreement among commissioners and beyond as to what constituted equitable treatment. The result was a notion of equitability based on the following considerations:

- that the interests of the electorate were paramount;
- that the electorate was entitled to hear more from parties likely to form part of the government being elected than from any other parties.

A formula was developed for calculating the likelihood of parties' electoral success. This was based primarily on the number of candidates being fielded by parties, but included a numerical filter which included parties' track records and to a limited extent public opinion poll findings. It was not possible to please everyone.

To set the tone for reciprocal interaction between the IMC and the state information services, we brought together heads of departments of these services throughout the country. On 28 February, more than 80 information officers met with the IMC to

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explore the details of their responsibilities in terms of the Act. Once again, the initial hostility... then the gradual interest in compliance. While there was uncertainty at that point whether the Act compelled them to supply internal communications to the Commission, there was the beginning of a broad understanding of the spirit of the legislation and a commitment to joint cooperation.

Eventually it was decided that while information services were required to send only external publications and press statements to the IMC, the monitoring division retained the right to request any circular emanating from a State department which might undermine a free and fair climate for the elections.

Then came the announcement of the findings of the Goldstone Commission implicating senior police officers in third force activities. This, together with rising tensions within the prisons, prompted us to set up a special IMC monitoring unit at the University of Cape Town's Institute of Criminology to give attention to communication within the police and prisons departments. The monitoring unit achieved some success in its liaison with these departments, although the relationship fluctuated considerably.

We regulated the relationship between political parties and all public broadcasters and liaised with a total of 65 state departments, receiving a total of 534 publications and 498 press releases. Interestingly, the publications received extended far beyond what was found in the country's deposit libraries.

In his report to the Transitional Executive Council, IMC Chairperson Justice Ramon Leon argued that the Commission had carried out its mandate. With regard to broadcasting, he said there had been nothing to suggest any deliberate or intentional bias of the SABC in favour of any political party. Instead, what had emerged was an often inadequate standard of professionalism. This was due in part to a lack of experience and probably in part to having to deal with a new situation involving 26

political parties, 22 million voters, as well as a system of proportional representation.

With regard to State information services, he had said that there were no transgressions on a scale that could have impacted on the freeness and fairness of the elections. Nevertheless, the limited powers given to the IMC were not sufficiently adequate to achieve its objects fully.

Despite shortcomings, we believe that the IMC presence had a powerful influence on broadcasters and state officials — much like the bobby on the beat prevents crime.

The Commission nevertheless received approximately 25 formal and informal complaints and initiated 34 investigations. A large number of these potential transgressions were resolved through informal mediation.

The Commission dissolved on May 10, 1994 and deposited its extensive archival material in the State Library in Pretoria with the instruction that this be freely accessible to the public.

While the Act was deficient in many ways (and we have made definite proposals in our final report as to how it should be adjusted), the experience gathered during this exercise points to a need for deepening levels of education rather than increased powers of policing. While the Independent Broadcast Authority (IBA) will take over the work of the broadcast aspect of the IMC, no provisions exist for taking the experiences and insights gained through the monitoring of state information services into a future dispensation.

With an eye to future elections, we have recommended that the new government:

- Strengthen the Public Servants Act to define clearly the role of information officers during an election;
- Develop a code of conduct for state information officers similar to the codes of conduct of journalist organisations;
- Find a mechanism to continue monitoring state information for at least the next five years with the intention of educating the public about the role of government information;

- Inform the public that all information gathered by the state's public information services be made accessible;

- Immediately draft and adopt a Freedom of Information Act which will extend the provisions already contained in the new constitution and the Bill of Rights.

Presently the Bill of Rights places the obligation on the individual to prove why he/she needs access to information held by the state. In countries with a Freedom of Information Act, the obligation is on the state to prove why information being requested cannot be provided.

Such an Act will help to protect and deepen the tentative efforts made by the IMC to develop a democratic culture within the information services. Should such an Act be in place before the next general election, the work of a future IMC, if envisaged, would be much easier.

While public protest continued about not enough air-time for the different parties, private admissions differed. The IMC had been more than liberal when it narrowed the ratio to 1:5 between big and small parties. In other countries the ratio for free time is as much as 1:28. This after all was an historic first election.

Whether parties will be treated quite so liberally by a future regulating body is unlikely. And the next time around, those who will be given the task of calming the nerves will know more clearly the strength of the irate party representative when he or she takes to the floor.

■ *Zubeida Jaffer is a Rhodes journalism graduate. She held the position of IMC Commissioner and Chairperson of the Committee for State Publications and State Information Services (one of the two committees prescribed by statute to fulfill the functions of the IMC) during the elections. She works as a freelance journalist in Cape Town and is the recipient of the 1994 Percy Qoboza Award from the US-based National Association of Black Journalists.*