



DISCOURSE ON THE CHALLENGES AND PROSPECTS OF BROADCAST
MEDIA REGULATION IN A DEMOCRATIC DISPENSATION: THE NIGERIAN
EXPERIENCE

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Abstract

Regulating the broadcast industry is not only essential but a necessity to guarantee progress in developing democracies. This work examines the challenges and opportunities of regulating broadcast media in a democracy. It emphasises the necessity to regulate the broadcast media in Nigeria's fledgling democracy. The work highlights the regulation of broadcasting in other parts of Africa and Nigeria in particular. Some associated problems identified include poor awareness of the NBC code among media practitioners and inadequate manpower to monitor the broadcast industry. Prospect includes the potency to effectively sustain the democratic system as a culture. The work recommends among others the need for improved funding and collaboration between the NBC and broadcast unions to intensify awareness on the content of the NBC code among media practitioners.

Keywords: Media, Regulation, Problems, Prospect, Broadcasting, code.

1. Introduction

Broadcast media are basic channels of information, education as well as entertainment for most people in the world. The high rate of illiteracy in developing nations along with the difficulty of distributing newspapers among the growing poverty ridden population provide a fertile ground for the broadcast media to remain the only media accessible to majority of people. For the poor, the daily purchase of newspapers and magazines may be very expensive, and some people simply find it easier and more enjoyable to watch or listen to the news than to read it. Furthermore, the broadcast media play a very important role as cheaper and more accessible channels of entertainment to a growing audience population (Mendel *et al*, 2002). Broadcasting thus resonates on every spectrum of life. Due to its delicate, spontaneous and ubiquitous nature, it demonstrates an awesome power in shaping societies economically, socially, culturally, politically etc (Bako, 2002).

From the beginning of broadcasting, the government realised that, although broadcasting was too important to be left in the hands of individuals or commercial company, but,



government later realised that it was inappropriate in a democracy for broadcasting to be under direct state control. There was a need to maintain some kind of regulation on who provides what types of broadcast service (O'Sullivan, 1994). Many countries have therefore devised the means to maintain some form of equilibrium by establishing regulatory organs to monitor and regulate the broadcast industry. Bako (2002) asserts that the regulation of the industry in Nigeria was inevitable to manage issues relating to the family values, democracy, politics, crisis and the influence of foreign broadcasting. Since the inception of broadcasting in Nigeria, regulation can be seen as one of the topical issues of discussion and of interest to researchers and policy makers. The subject of media regulation has become even more important in the Nigerian context since the deregulation of the broadcast media in 1992. Following this, the industry witnessed Federal Government establishment of the National Broadcasting Commission (NBC) to regulate broadcasting in Nigeria.

The establishment of NBC has therefore erased the fear and trepidations by previous governments and scepticism from broadcasters. Since then NBC has taken steps to regulate the activities of stations in Nigeria. Its major duties, according to the NBC Code (2010), among others are: regulating and controlling the broadcast media; recommending applications through the minister to the President for the grant of radio and television licenses; receiving, considering and investigating complaint from individuals and corporate bodies regarding broadcast contents etc. The NBC, in fulfilling its mandate, produced what it calls a National Broadcasting Code which defines the standards, professional and ethical responsibilities of broadcast media. The code is an addition to the extent of the law that established the Commission. The commission therefore regulates the operation of broadcast media in democratic setting.

The media and Democracy in Nigeria, no doubt share a symbiotic relationship. On one hand, democracy provides a fertile ground for free market enterprise, which encourages free establishment and operation of the media and other businesses. On the other hand, the media provide the arrow head for the attainment and sustenance of democracy in Nigeria. According to Pate (2011), the existence of a vibrant media system is quite fundamental to the enthronement and sustenance of a credible democratic process. Buttressing this, Barret (2001) stresses that an effective democratic system requires a media system which can complement it as a platform for generating discussion of issues of public concern in a way that favours various interests.

To this end, the activities of the Nigerian mass media in national development at various stages of our history have been well documented in the works of Omu, 1978; Ogbondah, 1994; Thompson, 1997; Yusuf, 2001; Akinfeleye and Okoye, 2003; Nwosu, 2003 and Oso and Pate, 2010 etc.

However, the regulation of the media especially the broadcast media remains an important issue which threatens the symbiosis between the media and democracy in Nigeria. The most recent reference is the 2015 presidential election, where the major opposition party,



APC campaign organisation accused the NBC and APCON of promoting election violence and hate messages. This was as a result of the inability of NBC to sanction erring radio and television stations, industry players and groups who continuously breached extant laws and regulations governing activities of the agencies. They blamed NBC for its inaction against some stations when they aired PDP sponsored hate documentary against General Muhammadu Buhari, the APC presidential candidate. The action violated section 3.1.2 of the NBC code (The Nation Newspaper, 2015). This paper aims to analyse some of the challenges and opportunities available in regulation of the broadcast media in a democracy, taking Nigeria as a study.

2. Literature Review

Theoretical Framework

This work is located within the Social Responsibility theory, one of the four press theories propounded by Siebert, Peterson and Schramm in 1956 (Aina, 2003). The theory strives to reconcile the independence of the mass media with their obligations to the society. According to Rivers, Peterson and Jenson (1971), social responsibility theory rests on a proposition that whoever enjoys freedom has certain obligations to the society. The mass media are guaranteed freedom by the constitution and therefore obliged to perform certain essential functions.

The theory thus has three divergent principles to reconcile. One is that of individual freedom and choice; media freedom and the media obligation to the society. To resolve these potential inconsistencies, the theory has favoured two main kinds of solutions. One is the development of public but independent institutions for the management of Broadcasting (which the NBC represents), a development which has in turn powerfully advanced the scope and political strength of the social responsibility concept (McQuail, 1987).

The foundations of this theory rest on the assumptions that the media serve certain essential functions in society especially in relation to democratic politics (a view that the media should accept an obligation to fulfil these functions, mainly in the field of information and the provision of a platform for diverse views but also in matters of culture). Secondly, it is also expected to emphasise on maximum independence of media, consistent with their obligations to society. Lastly, is an acceptance of the view that there are certain standards of performance in media work that can be stated and should be followed (McQuail, 1987).

The social responsibility theory works on many principles. The media are expected to accept to accept and fulfil certain obligations to the society with the aid of their programming. These obligations are mainly to be met by setting high or professional standards of truth, accuracy, objectivity and balance. In accepting and applying these obligations into programming, the media should be self-regulating within the framework of law and established institutions. Therefore, the society and public have a right to expect high standards of performance and intervention can be justified to secure the public good (McQuail, 1987).



This theory is therefore relevant because the government strives, through the NBC, to regulate the activities of the broadcast media to ensure media carry out their activities with conformity to promoting peace, orderliness, decency and safety in the society. Nigeria's democracy provides relative freedom; the NBC serves as the umpire between the government and broadcast media in ensuring good quality and responsible programmes presentation. Hence, broadcast media must not only be committed, but their activities must also be seen to conform to the foundation of the social responsibility theory

Broadcasting and Broadcast Regulation

To broadcast means to spread or to scatter, as in planting. Broadcast are persuasive machineries that use electromagnetic impulses to reach the public instantly, without the connection of wires. Broadcasting, by nature is the most powerful universal means of instant public communication through the conveying of information, entertainment, education and persuasion in form of programmes (Dunu, 2002). Broadcasting therefore is a creative medium characterized by professionalism, choice and innovation meant to serve the interest of the general public. Their utilisation of audio and video technology make them capable of reaching the audience simultaneously, availing mankind with the best means of information dissemination and reception. They also enable individuals to share in and contribute to the world around them. The broadcast media influence the society both negatively and positively, setting the agenda for social, economic, political and technological development of a nation, for the public good (NBC Code, 2006).

Microsoft Encarta Encyclopaedia (2009) describes regulation as an official rule, law, or order, stating what may or may not be done or how something must be done.

Regulation therefore, is "controlling human or societal behaviour by rules or restrictions. Regulation can take many forms: legal restrictions promulgated by a government authority, self-regulation by an industry such as through a trade association, social regulation (e.g. norms), co-regulation and market regulation. Regulation can be considered as actions of conduct imposing sanctions (such as a fine). This action of administrative law, or implementing regulatory law, may be contrasted with statutory or case law (Encarta Encyclopaedia 2009).

Croteau and Hoynes (2000) however, notes:

...understanding the regulation of the broadcast media depends largely on the understanding of the political environment in which they operate. A drastic difference exists between media in a democratic society and those in totalitarian nations. For instance, state control of the mass media is a routine element of totalitarian system. Hence, broadcast media and film studios act as propaganda arms of the state, promoting narrow sets of government sanctioned images and messages. As a result, the emergence of illegal underground media is common in such situations, affirming the active roles of citizens in even the bleakest of circumstances



3. Regulation of Broadcast Media

Governments in all nations serve as organising structure that constrain or promote the free activity of the media. Thus, the relationship between political forces and the media raises a lot of important questions about the limit of “free speech”, the impact of economic interest, and the appropriate role of government. This is because the government is expected to play the pivotal role of regulating the ownership, technology, content and distribution of the media. However, other informal regulators of the media include the media advocacy group, public interest organisations, religious groups and media critiques (Croteau & Hoynes, 2000).

In Europe, the European Platform of Regulatory Agency (EPRA, 2010) posits that several types of authorities are in charge of supervising the implementation of broadcasting legislation. Here, like elsewhere, broadcasting regulation usually encompasses the power to license broadcasters, to monitor whether broadcasters are fulfilling their legal obligations, and to impose sanctions if they fail to carry out those obligations. In addition to these traditional functions, those of organising and co-ordinating the broadcasting landscape can be added. However, Broadcast regulation may be exercised by governmental administrative authorities or by courts when it relates to, for example, issues regarding the protection of fundamental rights.

Notwithstanding, technological change and evolving legislative initiatives make media regulation a fast changing field. Indeed, the particulars of existing media regulation are subject to constant changes. However there exists a general dynamics that characterize the relationship between government and the media of all types. For instance, from a sociological perspective, this relationship illustrates both the constraining and enabling nature of political structures as they respond to external pressure and attempt to balance competing interests. It also reveals the socially constructed nature of ideas such as ‘public interest’ and the ‘freedom of the media’ (Croteau & Hoynes, 2000).

There are three basic categories of broadcast regulation: those on the administration of the broadcasting sector (e.g. award of broadcasting licences), the supervisory (e.g. programme monitoring) and the rule-making functions (e.g. codes of practice). Here again, the diversity of the powers of regulatory authorities can be remarked upon. It can be observed that, most authorities have the power to award licences but some may only make recommendations addressed to the Ministry. This is because the power of drawing up binding rules which is common in Anglo-Saxon systems is also not shared by all regulatory authorities in Europe (EPRA, 2010).

In addition, the rules regulating the media have, over the ages, not been different among the three basic types of communication media: the Print, broadcast and the common carriers (the mail system, telephone, telegraphs and the computer networks). Thus, the differences in regulation are often associated with technological differences. Everytime a new medium emerges, like the internet, the regulators must create the new rules within which the medium will operate. This process is an example of how outside social forces impact on the



media industry, reflecting the power of various players who have an interest in a particular medium. It is also an example of the pivotal role of technology in media development and use (Croteau&Hoynes, 2000).

The regulatory system exists to serve the public interest. Regulatory agencies have autonomy and independence from political or commercial interference and their members chosen through a transparent and democratic process. Their powers and responsibilities set out in law, including explicit legal requirements to promote freedom of expression, diversity, impartiality and the free flow of information. The regulatory authority has the necessary funding to fulfil these duties. It should also be accountable to the public, normally through the legislature. There should be evidence of the regulator exercising its powers and responsibilities; e.g. applying proportionate sanctions to protect the public interest (UNESCO 2008).

Consequently, it can be observed that the world over, the regulation of the broadcast media focuses mostly on (but not restricted to) ownership and content, outlets, programming, technology, etc; for the purposes of achieving morality, ratings and warnings, accuracy (advertising), national interest, political and social pressures etc (Croteau & Hoynes, 2000).

The development of broadcasting from the 1920s to the present day covers a period of significant technological and cultural changes, particularly in the areas of domestic affluence and lifestyle. The development of broadcasting can be seen as part of a relationship that also includes the state as a regulator and public as consumers. The dynamic nature of this relationship implies that the means, structures and functions of Broadcasting have had to evolve to meet the needs of new audiences and changing government legislation (O'Sullivan, 1994).

In the early stages of its history, it can be observed that broadcasting was fashioned by government policy, directed at establishing a national monopoly that was tied in with the notions of offering a public service. This was an attempt to control both broadcasters and the audience. However, more recently, government legislation has aimed at loosening some of these controls and 'deregulating' the duopoly, in order to open up broadcasting and allowing free-market commercialism to determine what is available to whom on what channel and at what cost (O'Sullivan, 1994).

From the beginning of broadcasting, various governments around the world have tried to influence its production. As early as 1904, the Post Master General took responsibility for the allocation of broadcasting frequencies to avoid the 'chaos of the airwaves' that the introduction of commercial radio had created in America. During the First World War, radio transmissions were banned except for military use. In 1922, a group of radio equipment manufacturers, called the British Broadcasting Company, were given a licence to run a monopoly broadcasting service in London, Manchester and Birmingham etc (O'Sullivan, 1994).



However, by 1925, the government resolved that, although radio was too important to be left in the hands of a commercial company and that it was inappropriate in a democracy for a broadcasting to be under direct state control, there was a need to maintain some kind of regulation on who provides what types of radio service. In England for example, as a compromise, by royal charter, the British Broadcasting Company was changed from a public commercial company into an independent national organisation, the British Broadcasting Corporation, which would act as a monopoly and as a trustee for the national interest (O'Sullivan, 1994).

In Ghana for instance, as highlighted by Buckley, Apenteng, Bathily and Mtimde (2005), not until the 1992 Constitution, the mass media, broadcast and print, were dominated by the State. Broadcasting was controlled through the Ghana Broadcasting Corporation (GBC), operated as a state monopoly. The Constitution provides the present day guarantee of the right to freedom of speech, including freedom of the press and other media. The Constitution sets out a substantive framework for the freedom and independence of the media with important protections against state interference. It includes the establishment of National Communications Authority (NCA) and National Media Commission (NMC) with responsibility to promote and ensure the independence of the media for mass communication and information. The 1993 Act (No. 449) establishes the National Media Commission as provided for in the 1992 Constitution Act. The functions of the National Media Commission, which are set out both in Article 166 of the Constitution and in the NMC Act, include:

to promote and ensure the freedom and independence of the media for mass communication or information, and to take all appropriate measures to ensure the establishment and maintenance of the highest journalistic standards in the mass media, including the investigation, mediation and settlement of Complaints made against or by the press or other mass media. The Constitution, and the NMC Act, provides for the NMC "to make regulations by Constitutional instrument for the registration of newspapers and other publications, except in terms of any direction and control over the professional functions of a person engaged in the production of newspapers or other means of mass communication. It makes no specific provision for the making of regulations for broadcasting although this may be inferred from the general functions set out in Article 166 of the Constitution. At the time of the establishment of the NMC there were no independent broadcast media.

Similarly, according to the National Communications Authority Act (Act No. 524) of 1996 was established to:

regulate communications by wire, cable, radio, television, satellite and similar means of technology for the orderly development and operation of efficient communications services in Ghana and to provide for related purposes. In the absence of any other provision for broadcasting service



authorisation this Act has been used to regulate establishment of broadcasting services. The Act establishes the National Communications Authority which replaces the previous Ghana Frequency Registration and Control Board. The objects of the NCA, set out in Section 2 of the NCA Act include to ensure that throughout the country, as far as practicable, there are such communication services as are reasonably necessary to satisfy demand for the services, and to ensure that communications system operators achieve the highest level of efficiency in the provision of communication services and are responsive to customer and community needs. Communications services and communication systems are very broadly defined to include wired and wireless transmission and the conveyance of sounds, visual images and data.

In South Africa, the Independent Communications Authority of South Africa (ICASA), a broadcast regulatory body which itself has constitutionally guaranteed independence, has significant regulatory powers with regard to the SABC. Section 6(2) of the Broadcasting Act 1999 gives ICASA overall responsibility for ensuring SABC complies with the terms of its Charter. The Broadcasting Act 1999 requires all broadcasting services of the SABC to be licensees of ICASA. In addition all broadcasters, including SABC must comply with the ICASA Code of Conduct, set out in Schedule 1 of the Independent Broadcasting Authority Act 1993 (Buckley et al: 2005).

In Nigeria, while the deregulation of the industry from 1992 has brought little changes, allowing for divergent views through private stations, the problem of monopolisation is still much in place. The monopoly enjoyed by the government media continued to be perpetuated by the exorbitant annual license fee charged by the National Broadcasting Commission (NBC). This situation puts the private stations at a disadvantage, as they have to compete with government-owned stations (that are not subjected to the same payment) in the same market (Olusola, 2008). This difficulty, coupled with the commercial interest of the private stations cannot allow the effective performance of the media responsibility demanded in democratic society. They must first succeed as a business before thinking seriously in term of public interest and service; consequently, most of their programmes are tilted towards fulfilling their business goals. Their programmes are anything but alien, elitist and imitation of foreign programmes, not just in content, but also in presentation, entertainment aimed at audience maximization being the main menu (Ayankojo, 2003 ascited in Olusola, 2008).

Alhassan (2006) investigates "Broadcast Regulation and Private Stations in Nigeria, in order to examine the Prohibiting of Live Rebroadcast of Foreign News by Local Stations. The paper studied the statutory, regulatory, and constitutional provisions as contained in the NBC Act, the National Broadcasting Code, and the Nigerian Constitution respectively. Consequently, the paper found that Constitutional freedoms are not absolute and Nigeria's broadcast regulations provided justification for the NBC actions. Findings of the paper elaborate on how nations of the global South craft legislations and regulations aimed at liberalising broadcasting locally, but curtailing the influence of global media organisations.



The paper also emphasises the dynamics of media law in emerging democracies that are confronting the challenges of balancing broadcast deregulation and freedom of expression on the one hand with media control and regulation on the other hand.

Similarly, in a workshop presentation on “Elections: need for equity and balance in stations’ reporting”, Ojiah (2010:p.4), stresses that regulation in station reporting is designed to ensure that each political party gets proper coverage. “Proper” does not necessarily mean “equal”. It is accepted that major parties, which already hold the most seats and are fielding the most candidates are entitled to greater coverage than minor parties. But when election issues are being discussed, a wide range of party political views should be represented.

4. Challenges and Prospect of Broadcast Regulation in Nigeria

There are many problems associated with the regulation of Broadcasting in Nigeria. Some of them have been identified here:

The most crucial challenge confronting the effective regulation of the traditional broadcast media in Nigeria is that of awareness of the content of the NBC code. Many stations in Nigeria may not be aware of its presence while only few have a copy of the code. In most cases, the NBC code is merely lying fallow, gathering dust in the office of the General Manager. Copies are hardly made available for the field officers to acquaint themselves on the acceptable guidelines for broadcasting in Nigeria. This was evident in a workshop organised by the NBC in Abuja in 2009 where senior managers in various stations were asked about NBC activities, and majority confirmed lack of awareness. This can therefore be the major foundation for the inadequacies witnessed on the airwaves.

Secondly, there is a problem of inadequate man power to actually carryout the objective of regulating the broadcast media in Nigeria. A case in view is that of NBC office in Kano state which is responsible for monitoring more than twenty broadcast stations in three states. The Zone, according to Ndolo (2006) comprises of Kano, Jigawa, and Katsina States. This is in addition to foreign transmission received within the zone. However, the zonal office is manned by only one monitoring officer and a secretary. This number is grossly inadequate in carrying out any serious work of monitoring the stations within the zone. This scenario is likely to be applicable in the other zonal offices across the country. The officers completely rely on letters of public complain on various broadcast in order to take any meaningful action.

Similarly, it is obvious that the regulatory agency like many government parastatals is not adequately funded and the facilities for the jobs are not adequately provided. A stroll into the offices will confirm a state of inadequacy of funding for the set up. The NBC offices do not have state of the art equipment for monitoring various stations. In some offices only few television sets and tape recorders with a computer set for typing memos are available. These without doubts cannot effectively deliver the required result in terms of monitoring the broadcast transmissions from many stations.



Finally, there is the challenge of effective monitoring and regulating foreign transmitted programmes emanating from the world receivers or the satellite media. Since the programmes are transmitted from distant places outside the scope of the regulatory agency, it becomes almost impossible to regulate both the contents and the sources. Today in Nigeria, many homes and offices are adorned with satellite dishes of various kinds and sizes beaming uncensored programmes to the recipients.

On the other hand, prospects abound in a nation with well-regulated broadcast media. Since many problems bedeviling nations today are conceived in the minds of men, it is only reasonable that the solutions are targeted at the same minds. Therefore, well regulated broadcast media have the potency of resolving many issues that armed confrontations are unable to resolve. By insisting on professional and decent transmission of the right societal values, members of the society can be prepared and equipped with the right frame of minds to advance the course of national development. This, to a large extent can have a ripple effect on other aspect of the national life. A well regulated broadcast can be very effective in coordinating activities of a nation building, such as mobilization against corruption, terrorism, insurgency, armed robbery, kidnapping, ritual killings, smuggling, etc or advancing patriotism, security, unity, peace, transformation etc. A case of reference is the Federal Radio Corporation of Nigeria in uplifting the people and uniting the nation through the programme contents.

Similarly, the benefit of a well regulated broadcasting in Nigeria's democratic culture cannot be over emphasised. The broadcast media, with their combination of sight and/ or sound have the strategic advantages of informing and educating the populace about the rules and tenets of democracy. They can mobilize people objectively during elections to choose credible and responsible leaders by organising issue based debate among candidates, and subsequently holding the leaders accountable to the electorates. Beyond these, they can also create forum for discussions among aggrieved citizens to avert violent demonstrations where citizens take laws into their hands. According to Ihechu and Okugo (2013) enables the society to check media content and portrayal .The media need to be well regulated so that their social responsibility can be effectively carried out. This guarantees their power to hold even the government accountable, dispensing truth, challenging wrong dispositions in society, among other things.

5. Conclusion and Recommendations

From the discussion above, it becomes very safe to conclude that a symbiotic relationship can exist between a well regulated mass media and a people oriented democratic society. This is because a well regulated media industry provides a fertile platform for progressive democracy to thrive. At the same time, a democratic setting is a necessity for the mass media freedom and unfettered operation of the mass media. Even though some challenges may abound, the benefits of regulating the broadcast industry remains a necessity for a desirable safe, united, and peaceful society where citizens are genuine stakeholders in the venture for rapid democratic and societal development.



There is an urgent need for serious sensitisation campaign to create awareness on the NBC code among the media practitioners especially in the public owned stations. This may require collaboration between the NBC and the various unions in the stations to organise workshops, seminars and other trainings to boost the awareness on the provision of the NBC code. It will also be pertinent to devise means to inculcate in students the knowledge of broadcast regulation in the curriculum of tertiary institutions offering Mass communication. This will facilitate the “catch them young” drive. There is need for government, through the NBC to enlighten parents on the need to deliberately control the viewership of satellite and domestic programmes by the youth especially the teenagers. The government, through the ministry of information needs to provide more funding and man power especially at the level of monitoring officers. This will go a long way to give the agency the much needed muscle to effectively carry out its duties effectively. Without doubt, the number of monitoring officers should match the number of stations within the zone under its control. There is need to constitute a broadcast industry team made up of representatives of stakeholders to also monitor the NBC and its activities. This can come in form of a bill to be passed by the National Assembly to constitute major stakeholders in the industry. It will help to stimulate the regulatory agency to be proactive and reactive to important statutory assignments.

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