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To regulate or not to regulate South African podcasts? A qualitative study on cultural expression

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ACRONYMS AND ABBREVIATIONS

BCCSA- Broadcasting Complaints Commission of South Africa

ECA- Electronic Communications Act of 2005

ECNS- Electronic Communications Network Service

FPB- Film and Publications Board

ICASA- Independent Communications Authority of South Africa

DCDT- Department of Communications and Digital Technologies

FPAA- Films and Publications Amendment Act of 2019

SABC- South African Broadcasting Corporation

UNESCO- United Nations Educational, Scientific and Cultural Organization

WSOA PLAGIARISM DECLARATION

I’m aware and I understand the university’s policy on plagiarism. I declare that this research study is my own original work. Where other people’s work has been used, I have acknowledged and referenced in accordance with the university’s requirements. I have not allowed and will not allow anyone to copy my work with the intention of passing it off as his or her own work.

K.T. Theledi 14/03/2024

Signature: Date:

CHAPTER 1

BACKGROUND AND INTRODUCTION OF THE STUDY

1.1. INTRODUCTION

This chapter is divided into seven sections namely the background of the study, research problem and objectives of the research study, research questions, and contribution of the research study as well as the limitations of the study. The background of this study gives an in-depth record in the evolution of podcasts as well as the current regulation framework in South Africa. This chapter also sets out research questions as well as objectives of this study. Questions undertaken in this study are categorised into two parts namely, to what extent does the non-regulation of podcasts influence cultural expression and the role played by government and platform policies in the cultural expression of South African podcasts. It should be noted that given that podcasting is a new phenomenon there is limited research into podcasting in South Africa.

1.2. BACKGROUND OF THE STUDY

Broadcasting has proven to not only be a communicator between people but a fundamental cultural tool in modern society. Although this paper speaks on podcasting and the non-regulation surrounding this new medium, it should be noted that podcasting should not be seen as a competitor to traditional broadcasting mediums such as radio but rather as an evolution and disruptor of the medium. The prominence of podcasts in the country has not affected the traditional mediums in terms of listenership and audience reach. However, radio stations have had to incorporate podcasts as part of their offering – this is further outlined later on in the research. Firstly, this research paper will

unpack the evolution of radio in order to shed more light into its disruption as well as the grey area around regulating this medium.

Radio remains one of the few mediums in South Africa that face limited shortcomings unlike other media forms with regards to its appeal and power, “not everyone can read, the internet is still a medium for the privileged few and television is a comparatively expensive option” (Von Bormann 2003:23). It should be noted that post 2003, much of Von Bormann’s sentiments are still valid. Although TV has become easily accessible, internet connectivity and heightened data costs remain a stumbling block for many South Africans. Reaching over 88% of people in South Africa, radio remains an important medium for people aged 15 years and older with each listener spending more than 20 hours a week engaging with the medium (PWC 2019). According to the PwC's Media Outlook more than 10 million households in South Africa own a radio (PWC 2019). Radio listenership in developing countries like South Africa remains higher than the penetration of television, internet and newspapers (PWC 2019). The disruption brought by the Covid-19 pandemic in 2020 saw South Africa and the rest of the continent shift into a ‘new norm’ which saw the rise of the digital world. Radio has throughout generations remained affordable with “minimum fuss” (Von Bormann 2003:26). Prior to the Second World War, the concept of broadcasting was fairly new in South Africa (Bevan 2008). In the early twentieth century ‘wireless amateurs’ had begun experimenting with technology (Bevan 2008). The concept behind ‘amateurs’ in the evolution of radio is one that is seen currently in podcasting, as podcasters are often referred to as amateurs.

Tracing back to the evolution of radio in South Africa, telegraph engineer Edward Alfred Jennings is often referred to as the ‘Godfather of radio’. In 1896 while working at a telephone exchange in Port Elizabeth, Jennings “began experimenting with ways to transmit wirelessly’’ (Bevan 2008:45). Linked to the morse code, his experiment was highly successful which resulted in requests being made to Parliament to further fund his research (Bevan 2008). Like most inventions, Jennings' idea on wireless telegraphy was described by the cabinet as an unnecessary tool. Cabinet Minister, J. X. Merriman

claimed that “life was troublesome enough with ordinary telegrams. With wireless telegraphy it would be unbearable” (Bevan 2008:45). Although not explicit in the minister's views, such comments should spark some thought on the role of government institutions and the pace taken in understanding as well as backing broadcasting inventions. The current slow pace of the government in introducing regulations for podcasts or the failure thereof should not be seen as anything new – this is unpacked in depth later in the study. It was only in 1902 that the Cape Parliament amended its 1861 Electric Telegraph Act (Bevan 2008). The definition of electric telegraph was then amended to include wireless transmissions (Bevan 2008). This became the first ever legislation to cover the idea of what is known today as radio. Since 1896 the proliferation of radio amateurs had forced the government to introduce measures that would regulate transmissions which has surged since the first transmission by Jennings (Bevan 2008). This led to the new concept of the “issuing of licences” in the 1920s (Bevan 2008:47).

Meanwhile, the evolution of broadcasting regulation in South Africa can be traced back to the first radio transmission in 1923. This saw the first Broadcasting Act come into effect in 1936 which then led to the establishment of the South African Broadcasting Corporation (SABC) in 1976. In 1990, at a time of a political shift in the country, the Vilijoen Task Group was established in order to probe the future of broadcasting in a democratic South Africa (White 2006). The CODESA negotiations in 1992 led to the drafting of an interim constitution which gave birth to the Lovel Government Transition Act of 1993 (White 2006). This Act paved the way for the establishment of the Independent Broadcasting Authority Act of 1993 (IBA Act). The establishment of the Act was above all to ensure that the media functions independently from the state. The IBA Act was established to provide licenses for community, commercial broadcasters as well as establishing the SABC as a proper state broadcaster (White 2006). At the dawn of democracy in 1994 the Independent Communications Authority of South Africa (ICASA) was established paving the way for the ICASA Act of 2000 (White 2006).

Throughout the years, the media broadcasting landscape has seen the introduction of new media forms due to the rise of social media and what some authors have coined the digital disruption (Novaceanu 2020). This has seen the introduction of media forms such as podcasting and audio on demand services, which have resulted in “more and more audiences abandoning traditional radio in favour of new technologies” (Novaceanu 2020:17). The drive behind these new technologies can be attributed to the rise of social media (Novaceanu 2020). Emerging forms of electronic media such as podcasting have challenged the traditional radio broadcasting formats by empowering audiences to take “control of information and entertainment from traditional gatekeepers” (Novaceanu 2020:17) – this is further unpacked in the findings of this study.

Journalist Ben Hamersley was the first person to publicly use the term podcasting in 2004 (Richard 2016). Richard (2006) describes podcasting as a new broadcasting form that is “liberating the listeners from time and place and allowing them to talk back to the programme-makers” (Richard 2016:11). However, even though podcasts may be located within the radio practice, podcasts use approaches that “counter many practices of broadcasting” (Richard 2016:11). This is largely due to the fact that podcasting exists in a hybrid of forms, “one that is both a platform and an identifiable collection of practices and characteristics” (Richard 2016:20).

Mchugh (2016:10) ascertained that the development of podcasts can be viewed as “a cultural practice of producing and consuming digital sound content”. In essence podcasting entails creating audio and/or audio-visual content for an audience that wants to listen when, where and how they want (Colombo & Franklin 2005). In most instances podcasts feature a "show" whose episodes are distributed at particular intervals or sporadically (Colombo & Franklin 2005). Globally in its earliest years “podcasting was the realm of independent producers and amateurs who produced podcasts for the simple pleasure of doing so or for educational purposes” (Bonini 2022:6). Much like with the evolution of radio, the term amateurs is what described podcasters in the formation years of the medium. Over the years podcasting has transformed from a “do-it-yourself, amateur and niche medium to a commercial mass medium” (Bonini 2022:7). Although

podcasts are mostly used for entertainment, they have spread to most spheres of society including the economy.

The podcasting population has grown exponentially both in the developed and developing countries. In 2006 in the United States only 22% of the adult population had knowledge of the phrase "podcasting," and by 2018 that number had risen to 64% (Apiyo 2019). In South Africa, podcasting emerged in the late 2000s disrupting how people consume media (Mkhabela 2021). The *2022 Infinite Dial Report* shows that 61% of South Africans who are over the age of 15 had listened to online audio while 26% had listened to a podcast (Malinga 2022). Data by the PwC's Media Outlook forecasts that the South African podcast market is expected to grow to 19 million monthly listeners by 2024 with advertising estimated to be worth over R300 million (PWC 2019). According to Statista, Africa is the continent with the youngest population of podcast listeners worldwide, with around 40% of the population aged 15 and under, compared to the global average of 26% (Fox & Karianjahi 2021). *The Africa the Podfest 2021 report* indicates that categories of podcasts released in Africa are hyperlocal to Africa and "may vary in language, context, and other features, such as distribution" (Fox & Karianjahi 2021:1).

In the past 10 years podcasting in South Africa has expanded rapidly as a popular culture phenomenon which aims to connect listeners to content created by podcasters (Sullivan 2019). The top podcasts list for South Africa includes "Podcast and Chill with MacG'', "Ideas That Matter" hosted by Vusi Thembekwayo, and "Wisdom & Wellness with Mpoomy Ledwaba" (Mkhabela 2021). Cultural expression and platforms used by podcasts are discussed more in depth in the literature review of the study.

Post 1994, Broadcasting regulation in South Africa is categorised under the legal framework of the Broadcasting Act of 1999 and the Electronic Communications Act (ECA) of 2006. Through the Independent Communications Authority of South Africa (ICASA) Act of 2000, which was amended in 2005, ICASA holds the powers as a statutory body responsible for broadcast regulation in South Africa. The digital

disruption limited the scope of the above Acts as online content fell outside the parameters of traditional broadcasting, this (the study elaborates on this its analysis) led to a frenzy where regulators looked for ways to adapt to 'the new norm'. The Films and Publications Act (FPA) of 2009 gave room to the establishment of the Film and Publication Board with the objective "of regulating the creation, production, possession, and distribution of certain publications and films through classification, imposition of age restrictions, and giving of consumer advice" (FPA 2009:10-11). In March 2022 President Cyril Ramaphosa signed into law the Film and Publications Amendment Act. The Amendment Act of 2019 seeks to extend the functions of the FPB by regulating online content. The Act considers everyone who posts content online as a distributor. There are two specific categories within the Act that defines distributors: commercial and non-commercial (FPAA 2019). Non-commercial online distributors are everyday social media users who don't generate any income from their content therefore they do not need to classify their content with the FPB. However, commercial distributors like podcasters would need to classify their content. Podcasters who use social media platforms to distribute their content according to this definition qualify as commercial distributors, as they generate income from their content.

Digital disruptors such as podcasts have changed the way audiences consume audio and audio-visual content, this as podcasts can come in both the audio and audio-visual format. This has led to the current broadcasting regulation legal framework for broadcasting regulation being out of sync with the rapid technological developments. In recent years the role of online speech on mediums such as podcasts in civil society has come under heightened scrutiny (Siripurapu &Merrow 2021). Since then, social media platforms across the globe have introduced content moderation policies in order to limit disinformation through "fact-checking posts, labelling the accounts of state-run media, and banning political ads" (Siripurapu &Merrow 2021:2). However, the implementation of this has not been always successful as many critics say these platforms do not enforce their rules consistently, this is further unpacked in the findings of this study.

In 2020 a draft on *The White Paper on Audio and Audio-visual Content Services Policy Framework: A New Vision for South Africa 2020* (DCDT 2020) was released. While the white paper is yet to come into effect, podcasters in South Africa find themselves operating in a grey area regarding regulation this is because streaming or broadcasting services on social media are currently not regulated in the country. Parveen & Nawaz (2018) state that broadcasters are only able to efficiently play their role in democracy if there are mechanisms put in place to ensure that "they are accountable to the public and that moral and professional standards are sustained" (Parveen & Nawaz 2018:2). Even though podcasters do not distribute their content on broadcasting platforms such as TV or radio, their content is left unmonitored and unregulated. The extent to which this influences the cultural expression of South African podcasts remains unknown.

1.3. RESEARCH PROBLEM

Social media platforms have proven to have some influence in the "way people think, talk, and act" (Takhshid 2021:10) the same goes with the influence traditional broadcasting has on its audiences. Podcasting as a medium can been seen as a merge between broadcasting and social media. Due to the digital disruption, social media has become a successful a form of communication and influence (Takhshid 2021). Therefore, social media platforms have become a major source for "news, entertainment, family connections, commerce, group mobilization, and the epicentre of political debates" (Takhshid 2021:10). In the same breath according to Salomon (2008) broadcasting is regulated because the media influences people's reasoning and behaviour. The aim of regulation in South Africa is to "protect plurality, diversity, quality and access" (Hills 2003:66). Podcasting has however created a grey area as it carries much influence due to its social media power however is not regulated despite being a form of online broadcasting. According to Takhshid (2021) scholars have in the past focused largely on creating regulatory mechanisms for social media platforms for countries in the Global North without paying much attention on the global impact particularly in Global South countries like South Africa (Takhshid 2021) .Takhshid adds that the "the current power unevenness between major social media companies and

countries in the Global South (South Africa) limits the ability of many countries to have any meaningful bargaining power" (Takhshid 2021:1). Therefore, due to the multidimensional nature of social media platforms it has become a challenge for policy and law makers to agree on the best policy to regulate these platforms, this can be seen through the introduction of the Film and Publications Amendment Act of 2019 as well as the *White Paper on Audio and Audio-visual Content Services Policy Framework: A New Vision for South Africa 2020.*

Given the digital disruption and the introduction of social media as a form of entertainment podcasters have for several years enjoyed a regulation and license free medium. However, the extent in which the lack of non-regulation has influenced cultural expression remains unknown. The researcher believes looking into the influence of non-regulation on the cultural expression of podcasts could benefit policy making in South Africa. Despite there being emerging literature on the emergence of podcasting as a broadcasting audio medium globally, there exists a dearth of literature in the South Africa context, this research seeks to address this research gap.

1.4. AIM OF THE STUDY

The study aims to explore the influence the non-regulation of podcasts has had on cultural expression in South Africa.

1.5. OBJECTIVES OF THE RESEARCH STUDY

The study explores the following objectives:

- The influence of the non-regulation of South African podcasts and to what extent has this influenced cultural expression.
- To assess the role that government as well as platform policies play in the cultural expression of South African podcasts.

1.6. RESEARCH QUESTIONS

This research is underpinned by two key questions; to what extent does the non-regulation of podcasts influence cultural expression? And what role does government as well as platform policies play in the cultural expression of South African podcasts? The key questions of this research are categorised into different sub questions in order to achieve the objective on the study.

1.6.1 To what extent does the non-regulation of podcasts influence cultural expression?

1.6.1.1.1 What views do podcasters hold regarding regulation?

1.6.1.1.2 Has the current non -regulation of South African podcasts positively or negatively influenced cultural expression?

1.6.1.1.3 Will the regulation of South African podcasts be to the betterment or downfall of the medium?

1.6.1.1.4 Podcast audiences in South Africa and across the globe have called for accountability measures for podcasters, is regulation for this medium an appropriate way to address this call?

1.6.2 What role does government as well as platform policies play in the cultural expression of South African podcasts?

1.6.2.1. Are platform policies regarded as a form of regulation or censorship?

1.6.2.2. South Africans can access podcasts on various platforms simultaneously, what role do platform policies play in the accessing of South African podcasts?

1.6.2.3. Has the FPB effectively enforced the mandate of the FPAA on South Africa podcasts, how the FPAA influenced cultural expression?

1.6.2.4. What role have platforms played in the cultural expression of the type of content used on South African Podcasts?

1.7. CONTRIBUTION OF THE STUDY

The digital space has had a huge impact of South Africa's broadcasting landscape and how people consume entertainment. Social media is no longer about socializing, but it has become a very powerful influential platform (Royston 2021). Currently there is limited research on the influence podcasting has had on cultural expression in South Africa. This research will contribute to a body of knowledge into the novelty of podcasting and the influence its non-regulation has had on cultural expression in the country. Lastly this research will also share insight into conversations around regulating forms of social media entertainment particularly podcasts and whether licenses like those used in traditional broadcasting should be introduced for audio and audio-visual on-demand services.

1.8. LIMITATIONS OF THE STUDY

Given that podcasting is a new phenomenon in the academic arena there is a lack of previous studies within the South African context. Limited research has been conducted into podcasting in South Africa more notably Gilbert Motsaathebe's chapter in the book: *100 Years of Radio in South Africa, Volume 2. The Case of Podcast and Chill with MacG 2024.* Sisanda Nkoala's 2023 research into *how radio influences indigenous language podcasts in South Africa: A case study of Epokothweni and iLukuluku*. As well as Antonia Makina's 2019 research *University of South Africa: Change Management and Leadership for Open Distance And E-Learning.* It should be noted that none of these academic works listed above cover the conceptual framework, and questions explored in this study, nor do they address the objectives of this research as outlined above.

Therefore, the literature listed does not speak to the aims, objectives as well as themes which are explored in this study. However, examples and links to the South Africa context are made throughout the study.

1.9. CONCLUSION

This chapter presented an outline of the background of the study, research problem and objectives, research questions, and contribution of the research study as well as the limitations. This chapter has given an outline of the podcasting medium in South Africa by tracing its history from the early 2000s and into the invention of radio as well as the evolution of regulation around the medium. The aims and objectives outlined in this study will contribute to conversations around regulating forms of social media entertainment such as podcasts. The following chapter gives an overview of the literature underpinning this research.

CHAPTER 2

LITERATURE REVIEW

2. INTRODUCTION

This chapter provides literature on concepts and theories that underpin this study namely, digital disruption, platformization, secondary orality, cultural expression, cancel culture and regulation in South Africa. In order to fully grasp to what extent the non-regulation of South African podcasts has influenced cultural expression and the role played by government regulation as well as platform policies in the cultural expression of podcasts; this research looks at the disruption of traditional broadcasting mediums , the role played by platforms in the disseminating of podcasts, the use of language and how it influences the content created by podcasters as well as other non-formal forms of regulation undertaken by social media users.

2.1. DIGITAL DISRUPTION

The emergence of podcasting in the early 2000s disrupted the broadcasting landscape both globally and in South Africa. Podcasts as digital disruptors changed the way in which audiences consumed audio and audio-visual content. Not only did this present a challenge for policy and lawmakers, but it also affected how traditional broadcasters like those in radio create as well as distribute their content. Digital disruption is framed around the environmental change brought forth by digital innovation which has brought the "erosion of boundaries" (Skog et al 2018:431). Disruptive innovation theory refers

to a process in which entrants can compete successfully against old businesses that are "heavily invested in old conditions" (Skog et al 2018:432). Given this definition podcasts can be seen as disruptors of radio broadcasting. Skog et al 2018 in the article *Digital Disruption* states that when the threat of a new disruptor arises then old firms have a knee jerk reaction to react or try and assimilate to ways of the disruptor. The knee jerk reaction can be seen in how South African radio stations have introduced podcasts as part of their broadcasting offering. Radio stations such as Metro FM, Power FM, 702 and 94.7 FM all have podcasts available on their websites. Despite this adoption to the disruption, the podcasts offered by these radio stations are part of recorded live broadcasts which are then packaged into podcasts during postproduction. It should be noted that although the radio stations have attempted to adapt to the podcasting medium, their competitor who are podcasters (who produce content solely for podcasting) are at an advantage. Podcasts by radio stations are a repetition of their broadcast material while podcasters are creating new and exclusive content for their audiences. Although radio stations have adopted the podcast format, the effort to fully incorporate features of the medium have proven to be difficult. Radio stations find themselves using podcasts as catch-up features for their listeners rather than actively creating new content for podcast audiences. Radio stations ranging from community to commercial have had to produce their shows for on air broadcast while at the same time package the shows into podcasts for their online audiences. This shows how traditional broadcasting mediums like radio have had to adapt to the ways of new disruptors like podcasts, however their content unlike that of other podcasts is 100% regulated and restricted. Unlike podcasters who utilise social media platforms to distribute their content, radio podcasts are regulated and need to abide by ICASA's licensing guidelines.

As a theoretical term digital disruption can be used to "describe changes to the established modalities of operation or functioning in a given context due to the influence of digitalization" (Baiyere & Hukal 2020:2). Disruptive innovation is one of the theoretical concepts related to digital disruption. Disruptive innovations refer to "innovations that lead to the decimation of another entity such as a product, a company

or even an industry" (Baiyere & Hukal 2020:2). The three defining characteristics of disruptive innovation are impact, relativity and temporality (Baiyere & Hukal 2020). Impact refers to the disruptiveness of the innovation of an incumbent. Relativity implies that "in order for an innovation to qualify as a disruptive innovation, there should be an identifiable entity that it has disrupted" (Baiyere & Hukal 2020:2). Temporality as a concept of disruptive innovation captures the lifecycle of the innovation, it refers to a disruption that "can be conceived as a process that unfolds over time" (Baiyere & Hukal 2020:2). Temporality of podcasts as a disruption can be seen in how the medium in the late 2000s was originally an audio format however it has since evolved and changed throughout time into an audio-visual medium. Podcasts as a disruptor to the audio and audio-visual medium have left a grey zone regarding regulation. Due to the rapid growth of the medium and impact it has had on traditional mediums, policy and law makers have to play catch up in drafting regulations and guidelines for content creators. The introduction of the Film and Publications prove the need by law and policy makers to catch up to the disruption caused by mediums like podcasting on broadcasting in South Africa.

2.2. PLATFORMIZATION

In an article titled *The Platforms of Podcasting: Past and Present* (2019) John L. Sullivan speaks on the role played by podcasts in the rise of platforms and how they have contributed to the shaping and growth of the medium. The centrality of platforms like Spotify and Apple podcasts has increased the discoverability of podcasts by audiences (Sullivan 2019).

At the most basic level platforms can be seen/understood as "digital infrastructures that enable two or more groups to interact" (Sullivan 2019:2). Podcast platforms operate as intermediaries between various role players such as "customers, suppliers, producers, service providers, suppliers, and advertisers" (Sullivan 2019:4). Podcasts like the *King David Studio* despite having its own individual websites where podcasts are distributed,

episodes are in conjunction made available on social media platforms like YouTube, Twitter and Facebook. These sites have contributed to the reach and accessibility of these podcasts by its audiences.

Platformization has reshaped the podcasting medium (Sullivan 2019). It can be defined as the increasing influence of digital platforms like social media in the consumption, production as well as distribution of media content (Poell et al. 2019). Platforms such as YouTube, Facebook and Twitter just to name a few have changed the way in people communicate, engage with content as well as access information (Poell et al. 2019). Platformization also speaks to the shift from accessing content through tradition media forms such as television, radio and newspapers and more into accessing the content through digital platforms such as social media and apps. Sullivan (2019) further speaks on the impact of platforms and the introduction of Platformization however this research is limited into the influence platform guidelines have on the cultural expression of podcasts particularly in South Africa.

Since the start of the millennium the platform concept has seen a number of shifts in both business and academia (Poell et al. 2019). Poell et al. (2019) in the article *Platformization Internet Policy Review* states that platforms structure how end-users can interact with each other, this through the news of interfaces by the platform such as the like, follow and subscribe bottoms (Poell et al. 2019). It should be noted that platforms are governed through various policies and contracts which in clause "licence agreements, and developer guidelines, all of which have to be agreed with when accessing or using a platform's services" (Poell et al. 2019:8). These terms and guidelines moderate what end-users and creators can share and how they interact with each other (Poell et al. 2019). This proves how guidelines set up by different podcast platforms impact the type of content the podcaster can post as well as why podcasters prefer particular platforms compared to others. Therefore, platforms to some extent operate as a regulator to the type of content podcasters can distribute. Platform guidelines and algorithms operate as a framework for podcasters to how and what they should say. YouTube as one of the preferred platforms for podcasts in South Africa has

a set of community guidelines which outline the kind of content that is not allowed on the platform. These guidelines apply to content such as videos, comments, thumbnail's as well as links. YouTube much like other platforms use a combination of human reviewers as well as monitoring systems that process content through a vigorous process before it is made public, this has been reflected in the findings of this study. YouTube may choose to demonetize content or not have it published should it be in contravention with its user guidelines. Guidelines for YouTube include restrictions on spam & deceptive practices, fake engagement, sensitive content, nudity and sexual content, misinformation as well as any dangerous or violent content.

2.3. SECONDARY ORALITY

Secondary orality is dependent on the curation of language. Podcasts require some level of writing in the scripting and planning of the episode. This is seen through the performance of written questions and introduction links by the podcast host in each episode. Rarely do podcast audiences consider the various forms in which the content they are listening to has been curated. Even though at face value the discussion may seem off the cuff and authentic however, most of it stems from a written source. For instance, if a podcaster is introducing a guest that information is researched, scripted and then read out into an audio and/or audio-visual format, which counts as a form of secondary orality. Secondary orality can also be seen as a form of self-censorship by the podcaster/ online creator. The use and curation of language and how language is presented to abide by platform guidelines can be seen as a form of self-censorship. Self-censorship refers to one controlling what they say or do in order to avoid criticism, this to a large extent could inhibit freedom of expression as well as the free access to information (Bar-Tal 2017).

Reginold A Royston in the article *Podcasts and new orality in the African mediascape* (2021) speaks on how orality in the African context can be seen as means by which societies regulate themselves and how they organise their present and their pasts (Royston 2021). With this Royston highlights how regulation and secondary orality are

closely linked. The scripting and editing of text to a large extent regulates and curates what the podcast host says. Therefore, even though podcasts do not fall under any legal regulatory framework, features of podcasting like with secondary orality show some level of restriction and regulation. This form of regulation differs from the one formulated by government and/or regulatory agencies like ICASA. This form of regulation is self-regulation by the podcaster/content creator, based on the audience, platform policies and/or advertising. The podcaster will in turn regulate how their content is scripted, presented and delivered to audiences. Secondary orality frames what is said and how it is delivered to the consumer. It should be noted however that the extent of restriction and curating is at the discretion of the podcast host and the social media platform.

Royston states that "African podcast producers use podcasts as instruments of informational and material transformation, particularly for new products, social-infrastructure change, and business social networking in Africa" (Royston 2021:6). The average podcast listener may not think about the origins of the information because the medium appears to be purely oral in nature. The message appears to be spontaneous and interactive, but it originated in print first; first it is scripted then it is spoken.

Literacy as a form of communication allows for the exchange of information and connections without the need for physical co-presence (Venturini 2010:1). People do not need to be in the same place to consume the same product or even engage in matters raised in a podcast episode. Venturini (2010) states that electronic media has allowed communication to give off a sense of community (Venturini 2010). Originally secondary orality was introduced in 1971 by American priest and professor Walter J. Ong with reference to media such as radio and television however given the rise of the internet and the digital disruption it can also be applied to other mediums such as podcasts (Venturini 2010).

Modern technology has become the breeding ground for secondary orality; technologies such as television, telephone, video and audio technology have brought oral elements to

the forefront of literate culture (Fine 2001). Due to the fact that South African podcasts are unregulated the cultural expression of the content expressed through the secondary orality of podcasts is to some extent unlimited. Whatever podcasters chose to write as part of their show planning is not governed by any code of conduct or any legal framework. Vulgar language, disinformation and/or sexual content can be scripted and presented by the podcaster without much repercussion besides those placed by platform guidelines, advertisers and at times self-regulatory methods such as cancel culture.

2.4. CULTURAL EXPRESSION

This research has adopted the definition of cultural expression as defined at 2005 United Nations Educational, Scientific and Cultural Organization (UNESCO). The definition states that cultural expression are the expressions that result from the creativity of a group or individual which have cultural content (UNESCO 2015). Miller (1994) defines culture in two parts, firstly culture can be seen as the "artistic output of a particular person or group, defined and valued in terms of aesthetic criteria and in some way emerging organically from a community of creative people" (Miller 1994:264). The second definition places culture as "an all-encompassing concept that incorporates how we live our lives, the sense of place that makes us human" (Miller 1994:264). Both these definitions speak back to podcasting as a cultural medium, it's generated by a community of creatives such as producers, presenters, guests etc. and has the influential power like any broadcasting platform to offer a sense of place as well as impact how audiences engage with the rest of the world.

Digitisation and technological advancements have channelled new voices and talent who have redrawn the boundaries of broadcasting. With the rise of digital networks and online platforms, "fostering freedom online becomes vital as well, in a substantially changed media ecosystem" (UNESCO 2015:9). Content covered on South African podcasts incorporate both artistic as well as cultural content. Due to the non-regulation of podcasts in the country, podcasters have enough leg room to express themselves in the language, time frame, content as well as platform of their choice. The value and

symbolic meaning which an episode can hold varies for different podcasts and its audiences. Due to non-regulation podcasters can express themselves freely and openly, the medium prides itself in being unfiltered unlike traditional mediums like radio. Therefore, cultural expression in podcast's "can be read in conjunction with two other definitions, that of cultural content and that of cultural activities, goods and services" (UNESCO 2015:13). Cultural content refers to the "symbolic meaning, artistic dimension and cultural values that originate from or express cultural identities" (UNESCO 2015:14), while cultural activities refer "to those activities, goods and services that embody or convey cultural expressions, irrespective of the commercial value they may have" (UNESCO 2015:14).

CEO of iROKO Partners Jason Njoku states that new technologies will give the continent an active voice of connecting Africans, not only with each other, but with the rest of the world (UNESCO 2015). Rapid digitalisation has given African creatives an ever growing and changing platform to freely express themselves. As previously stated, podcasts are a form of cultural expression which use social media as a platform to drive the medium. This then introduces the theory of social media as a form of entertainment and how that relates to the cultural expression of podcasters.

Stollfuß1 (2020) in the article *Fitness Content and Community-Driven Communication as Social Media Entertainment* defines social media entertainment "(a) a form of communication; (b) a function of (mass) media; (c) a social form; (d) an aesthetic category; and (e) the result of economic processes and practices" (Stollfuß1 2020:3). Social media has dissolved distinctions between "mass media and interpersonal communication, between production and consumption of media content, and between media usage and leisure activities in everyday culture" (Stollfuß1 2020:3). Social media has absorbed entertainment related functions of socialising, creative expression, and self-presentation functions, its users are "involved in activities that combine practices of communication with aspects of entertainment" (Stollfuß1 2020:3).

Social media platforms through their design shape what users see, what they say, and how they interact. Therefore, algorithms on these social media sites may fall disproportionately on some groups depending on the users following, online trends and thumbnails. In the United Kingdom the 1st Report of Session 2021–22 from the House of Lords Communications and Digital Committee titled *Free for all? Freedom of expression in the digital age* (2021) states that the design of digital platforms "shape what is said and what is seen, thus making search engines central to freedom of expression online" (House of Lords 2021:5). It should be noted that these platforms are controlled by "private companies, which are free to ban or censor whoever or whatever they wish and whose platforms shape the nature and visibility of communications transmitted on them" (House of Lords 2021:5). Podcasting as a form of social media entertainment has reached far more users than a traditional radio spectrum would, giving a wider room for expression for podcasters. For instance, a South African podcaster can be discovered by a listener on a different continent simply by searching a related topic, title or description used by the podcaster. Due to the non-regulation of South African podcasts the reach of the podcast is not limited by area or spectrum; however, the use of algorithms by social media sites does in some way limit the reach of the audience based on search engine mechanisms. Although cultural expression is not affected by these mechanisms the discoverability of the podcast is.

2.5. CANCEL CULTURE

The un-regulated arena of social media entertainment has left many social media users having to adopt self-regulatory measures in order to regulate online content distributors. Podcasts as a form of social media entertainment has seen its audiences in South Africa and globally use ways to self- regulate the medium and call for accountability. Due to the fact that podcasts remain unregulated in South Africa audiences and social media users use cancel culture to regulate podcasts. In 2021 following a transphobia joke on *Podcast and Chill* hosted by Mac G alcoholic beverage maker Amstel, insurer Old Mutual and clothing outlet Studio 88 all pulled their sponsorship from the show following public outcry (Gaanakgomo 2021).

Cancel Culture works as a form of regulation by podcast audiences on content they deem offensive as well as self-regulation by podcasters in the kind of content they produce, as seen with sponsors distancing themselves from Mac G's podcast. Out of fear of being cancel many podcasters will self-censor content that could be deemed as harmful and/or offensive. Cancel culture serves as a "powerful mechanism for individuals to regulate intrapersonal and interpersonal behaviours, attitudes, values, etc." (Burmah 2021:3). Clark (2020) states that cancel culture is an expression of agency, giving on a choice for audiences to withdraw their attention from someone or something offensive to their values. The idea of cancel culture is "a concept that has preceded its rise in social media" (Abuja & Keeketta 2021:34).

Platform governance on various social media sites also affects "cancel culture's influence on practices online and offline" "(Burmah 2021:13). This is due to the fact that platforms "contain explicit and implicit regulations that govern user interactivity" (Burmah 2021:13) Even though traditional media still hold power to "regulate public opinion'' (Abuja & Keeketta 2021:34) the emergence of different technologies and social media has allowed for ordinary people to influence the narrative which becomes a driving force for cancel culture.

In its basic definition cancel culture refers to the act of holding a figure whether individual or collective accountable for their actions and/or words (Abuja & Keeketta 2021). This is often done in return for an apology or rectification. Broadcast style platforms on social media such as Twitter and YouTube have given room for the prominence of cancel culture. This is because the notion of cancel culture "enables users to effectively speak out and mobilise around topics outside the view of the mainstream" (Clark 2020:4). Cancel culture is the more modern derivative of call-out culture which goes as far back as 2016 as a form of doxing (Hooks 2020). Doxing is referred to as the "internet-based practice of researching and broadcasting information about an individual or organisation for personal gain" (Hooks 2020:11). Doxing is the ethical and moral framework which cancel culture is predicated on (Hooks 2020). Cancel

culture can be seen as a “methodological deconstruction of someone’s ethos or their relationship to their community” (Hooks 2020:14), this in order to socially and culturally blacklist them.

In order for cancel culture to occur there needs to be a cancellable offence: i.e., “typified by racist, sexist, or homophobic remarks usually on social media” (Hooks 2020:15). It should be noted that conditions that warrant something cancellable are arbitrary and what is considered offensive is diverse (Hooks 2020). In order for an offence to be cancellable it needs to resonate with a large group of people who share the same moral and value positions otherwise there will not be enough support for the cancellation to take place (Hooks 2020). What is deemed cancellable remains fluid and is entirely based on the opinion of the podcast listeners which at times can be conflicted.

2.6. REGULATION IN SOUTH AFRICA

Globally, forms of cultural expression on traditional broadcasting platforms such as television, print and radio need to abide by a set of regulations as well as a code of conduct. Skogerbø (2015) refers to broadcasting regulation as "the political decisions and legal and economic instruments by which broadcasting activities, mainly radio and television services directed at a mass audience are governed" (Skogerbø 2015:859). These regulations include laws, rules and licences which make up the frameworks within which "broadcasting activities are carried out" (Skogerbø 2015:859). The importance or need for regulation is largely because broadcasting globally has remained the "most readily accessible and widespread means of information and communication" (Salomon 2008:7).

It should be noted that regulation and censorship are different from each other even though at times these two are confused as being the same principle. Burroughs (1962) defines censorship as the "presumed right of governmental agencies to decide what words the citizens are permitted to see" (Burroughs 1962:5). Censorship gives power to the government to decide what people will think and what thought will be presented to the public.

In most English-speaking countries "censorship falls on sexual words and images which are deemed as dangerous to a large public of uncritical consumers" (Burroughs 1962:5). For online spaces such as those accessed by podcasters, there are multiple motivations for internet censorship resulting in different forms and types; these include political repression of protesters, human rights activists, or comments insulting the state (Warf 2011:3). Essentially censorship involves control over a list of "IP addresses, tapping and surveillance, chat radio, and television, which are usually government ministries of information and communication" (Warf 2011:4). Therefore, censorship largely speaks to accessibility. The regulation of content of broadcast material is about protecting viewers and listeners from being harmed or offended as well as ensuring that free speech is not endangered by censorship (Salomon 2008).

The Independent Communications Authority of South Africa (ICASA) "regulates the electronic communications, broadcasting and postal industries" (ICASA 2000:4). Its key functions are to make regulations and policies, issue licences and monitor the environment and enforce compliance with rules, regulations and policies in the communications, broadcasting and postal industries (ICASA 2000).

The Broadcasting Act 4 of 1999 and the Electronic Communications Act 2005 clarifies the powers of ICASA a regulator of the South African broadcasting activities. The Electronic Communications Act (ECA) 2005 defines broadcasting as "any form of electronic communications intended for reception by the public; sections of the public; or subscribers to any broadcasting service, whether conveyed by means of radio frequency spectrum or any electronic communications network or any combination" (ECA 2005:8). It further defines electronic communication as "the emission, transmission or reception of information, including without limitation, voice, sound, data, text, video, animation, visual images, moving images and pictures and signals" (ECA 2005:10). The primary objective of this Act is to provide the regulation framework of electronic communications in the country. The ECA Act of 2005 is meant to cater for all electronic communications and not just broadcasting. This can be seen as a pre-empting of the digital disruption and legislation looking to adapt to that.

The registration and granting of electronic communications licences in South Africa is performed by ICASA under the ECA. There are two main categories of service licence available under the ECA which includes the Electronic Communications Network Service (ECNS) and the Electronic Communications Service (ECS) licences (ECA 2005). An ECS licence allows for the provision of services such as voice, data, SMS and MMS by service providers while the ECNS licence allows for the infrastructure that will *provide* these services such as fibre networks etc. (ECA 2005).

Although the Broadcasting Act 4 of 1999 and the Electronic Communications Act 2005 allows for ICASA to regulate all of the broadcasting landscape in South Africa, podcasts find themselves in a grey area with regards to regulations and a code of conduct they would need to abide by. In an interview with publication *New Frame (2022)* William Bird from *Media Monitoring Africa* argues that due to the lack of regulation podcasters are spreading misinformation on a range of important topics (Samanga 2022). Bird adds that structures of accountability need to be formed for podcasters because citizens cannot rely neither on individual activism (cancel culture) nor on regulatory bodies alone (Samanga 2022).

The *White Paper on Audio and Audio-visual Content Services Policy Framework: A New Vision for South Africa 2020 (DCDT 2020* proposes new definitions such as audio and audio-visual content service as:

> "a service where the principal purpose of the service of the dissociable section thereof is devoted to providing audio and/or audio-visual programming to inform, entertain and educate the public and is distributed over electronic communications networks" (DCDT 2020:8).

It further distinguishes the above into linear and on-demand content services, with the latter being;

> "a non-linear and audio-visual content service carried by an electronic communications network for the listening and/or viewing of programmes at the moment chosen by the user at the users individual request based on a catalogue of programmes selected by the content service provider" (DCDT 2020:9).

Podcasts episodes from *Volume Africa, King David Studio and Nkululeko n Cultr* would be defined as on-demand audio-visual content service providers.

The white paper goes further in stating that those providing such a service would need to be granted and issued an "on-demand content service licence" (DCDT 2020:9). The licence would be issued in terms of Electronics Communications Act 2005. Therefore, should this white paper be passed and adopted then podcast creators would need to apply for a licence and be regulated by ICASA.

Despite the above-mentioned legislations and the proposed white paper, South African podcasters still find themselves functioning in an indeterminate territory. The Films and Publications Amendment Act 11 of 2019 (FPAA) which was gazetted in October 2019 and signed into law by President Cyril Ramaphosa in March 2022 aims to address this. The FPAA amends the Films and Publications Act 65 of 1996 (FPA). The amendment provides clarity on the regulation of online commercial distributors like podcasters and what requirements they need to follow in distributing content in South Africa (FPAA 2019). Prior to the amendment act online distributors didn't need to register with the Film and Publications Board (FPB) or even submit their content to the FPB for classification.

The FPAA of 2019 defines online distributors as "a distributor in relation to films, games and publications which are distributed for commercial purposes using the internet" (FPAA 2019:4). Podcasting in South Africa has become a viable means of earning an income, the medium has progressed from it being a hobby to an actual stream of income. Case studies used in this research; *Volume Africa, King David Studio and Nkululeko n Cultr* all fit into the FPAA's definition of an online distributor. The FPAA prohibits distribution through any medium "including the internet and social media, of any film, game or publication, which amounts to propaganda for war, incites imminent violence or advocates hate speech" (FPAA 2019:10)

As stipulated in the amendment act, members of the public can file complaints against online distributors. The FPAA state that "any member of the public is allowed to lodge a complaint with the FPB regarding (1) unclassified, (2) prohibited content, or (3) potential prohibited content, in relation to services being offered online by any person,

including commercial online distributors and non-commercial online distributors" (FPAA 2019:20). There is currently no research that looks at the efficiency of this Act and its influence on podcasters.

2.7. CONCLUSION

This chapter provides literature underpinning this study namely Digital Disruption, Platformization, Secondary Orality, Cultural Expression, Cancel Culture and Regulation in South Africa. This chapter has highlighted the increasing influence of digital platforms like social media in the consumption, production as well as distribution of media content and how that is due to the digital disruption. Cancel Culture as well as formal regulation in South Affrica sheds light into research gaps in regulating the online space and how that has forced podcasters as well as audiences to regulate the type of content they see and/or produce. The following chapter will give the overarching framework of this study.

CHAPTER 3

CONCEPTUAL FRAMEWORK

3. INTRODUCTION

Cultural production is currently dependent on a handful of powerful digital platforms such as Google, Apple, Facebook, Amazon, and Microsoft (Poell et al 2019). Platformization has created a platform dependence between cultural producers and platforms, thus affecting forms of media making. The self-censorship of podcasters can be linked to platform polices as well as fear of being cancelled. Self-censorship is the act of refraining from expressing something that others could deem offensive. Although self-censorship is considered to be a voluntary act, it is often done out of fear or pressure, as highlighted in the previous chapter this can be pressure from audiences, platforms and/or advertisers. This chapter looks into the three theoretical lenses explored in this research namely: regulation in the South African broadcasting landscape, platformization of South Africa podcasts as well as self-censorship by South African podcasters.

3.1. REGULATION IN THE SOUTH AFRICAN BROADCASTING LANDSCAPE

The concept on the regulation in the South African Broadcasting landscape seeks to answer the key question of this study on what role do government policies play in the cultural expression of South African podcasts. Broadcasting in Africa plays an intrinsic role in the dissemination of information. Most people on the continent access their information primarily from radio and television. Due to limitations of frequency spectrum both at

national and international levels not everyone can broadcast. The allocation of frequencies is regulated through broadcasting licenses and is limited to a few broadcasters. Regulation within the broadcasting landscape consists of certain mechanisms that put in place government policies (Hills 2003).

Regulation acts as a balancing tool between what is in the best interests of the public as well as the commercial market (Hills 2003). The role of determining the overall structure of the broadcasting policy as well as the market falls squarely on government and/government agencies equipped to oversee the broadcasting requirements of the country (Hills 2003). It is the government that decides on the number of industry players and in which technologies they will operate in as well as to where they will be located (Hills 2003). This policy is then enforced through legislation. It is through legislation that the regulator is given a structure in which to operate.

In South Africa, the Independent Broadcasting Authority (ICASA) functions as the broadcasting regulator. ICASA is accountable to broadcasting legislation. The primary control of ICASA is through its licensing mechanism which contains the obligations as well as conditions on who is allocated spectrum and how they need to operate (Hills 2003). It should be noted however that the allocation of licences operates as a form of a "beauty contest" (Hills 2003:60). Licences are awarded through an auction to the highest bidder, the operator will enter a bid for a licence, and it is up to the regulator which in this case ICASA, to choose on whether or not to award the licence (Hills 2003). It should also be noted that multiple operators will at times bid for the same licence at the same time.

The introduction of new communication technologies as well as the digital disruption has created a number of regulatory as well as policy challenges globally (Honeyman 2003). While in the traditional broadcasting landscape the role of regulation was in the allocation of frequency, with new technologies regulation is focused on both technological and content matters (Honeyman 2003). The regulation of broadcast material is largely about protection; "protecting viewers and listeners from being harmed or offended and protected against misleading advertising claims" (Salomon 2003:42).

The rapid growth of digital technologies has blurred the lines between boundaries in broadcasting between the types of service and the delivery. Digital technologies have eroded the technical distinctions between "text, audio and video" (Salomon 2003:66). This is often referred to as convergence. In the eye of the consumer, convergence offers the ability to access the same type of content over different platforms while using a range of devices (Salomon 2003). However, this has caused a huge issue for the regulator. Traditional broadcasting regulation was established to have control over transmission either through "radio frequencies, satellite or fixed-wire cable" (Salomon 2003:66). Broadcasters were identified through the licences issued to them. However, through digital technologies new age broadcasters and creators are able to transmit content over the internet without the need of a licence (Salomon 2003).

3.2. PLATFORMIZATION OF SOUTH AFRICA PODCASTS, ITS ROLE AS A FORM OF SOCIAL MEDIA ENTERTAINMENT

This concept seeks to answer the key question of this study on what role do platform policies play in the cultural expression of South African podcasts. In terms of the regulation, online platforms may argue that there are several elements such as moderators who are constantly curating the platforms for misinformation and/or hate speech (Cunningham & Craig 2019). Platforms are also embedded with take down mechanisms as well as appeals processes however, it should be noted that these elements are often minimised as platforms should always be neutral carriers of content rather than publishers and editors of it (Cunningham & Craig 2019).

Regulation enforced by platforms is best described as a form of co-regulation or "soft law" (Cunningham & Craig 2019:4). Even though platforms moderate and curate information and content in order to survive as a business they must still be able to distribute content that would never be "tolerated by traditional publishers or media broadcasters" (Cunningham & Craig 2019:4). In most instances content moderation is based on negative

backlash by advertisers or other platform users (Cunningham & Craig 2019). The biggest players in the social media entertainment industry include "Google and YouTube (owned by Alphabet), Tencent Video and WeChat (owned by Tencent), iQiyi (controlled by Baidu) and Twitter" (Cunningham & Craig 2021:21). Through Platformization several companies have been able to diversify their services far beyond the digital space. The rise of platforms has been achieved by extending the reach of social media platforms with other websites (Cunningham & Craig 2021)

The online environment is largely dominated by the platform paradigm, meaning popular platforms like YouTube or Facebook have power in the creative and information sector however their influence spreads far beyond the digital world by reshaping culture and society (Cunningham & Craig 2021). Tomas Poell in Cunningham & Craig 2021 states that Platformization has resulted in "the penetration of economic, governmental, and infrastructural extensions of digital platforms into the web and app ecosystems" (Cunningham & Craig 2021:22-24).

Platforms play a vital role in governing forms of social interaction and creativity. Platforms set the rules and policy on the type of behaviour and content that is allowed and what is discouraged (Cunningham & Craig 2021). It should be noted however that these platform rules constantly change at the discretion of owners and investors and at times market pressure, this at times is hardly communicated with user communities or content creators such as podcasters (Cunningham & Craig 2021). In the current digital era, traditional media like print, radio and/or television are losing their market share in different countries to "two-way electronic media like blogs, social networking sites such as Facebook, YouTube and Twitter (Vaagan 2010:32).

3.3. SELF-CENSORSHIP BY SOUTH AFRICAN PODCASTERS

This concept seeks to understand to what extent does the non-regulation of podcasts influence cultural expression. The fundamental right of freedom of speech plays a "crucial role in the formation of public opinion on social, political and economic matters" (Tilak

2019:1). With the emergence of social media there has been a reshaping to how ideas and speech is expressed (Tilak 2019). Technology has given incredible advancements to the freedom of expression, through the internet anyone can be deemed as a content creator, blogger, and/or podcaster (Tilak 2019). Content that is disseminated through the internet has the potential to reach over 2 billion social media users from across the world in a matter of clicks (Tilak 2019).

The limitation to this freedom of speech on social media is bound alongside the guidelines of governmental stability and public safety (Tilak 2019). In the 21st Century the convergence of the internet with mobile communications has enabled for greater access to information. However, this has raised concerns over the regulatory and legal frameworks that govern the internet and its impact of freedom of expression (Dutton et al 2010). The common perception is that the internet is an unregulated territory of what most refer to as the "Wild Wild West" (Dutton et al 2010:51). However, this notion avoids the fact that the legislation that applies to the offline world also applies to the online world (Dutton et al 2010). These offline laws and regulations include "child protection, decency, libel, hate speech and fraud on the Internet" (Dutton et al 2010:51).

The act of self-censorship is defined as the act of voluntarily and intentionally withholding information from others (Bar-Tal 2017). Self-censorship takes place in every social space from "interpersonal through the intra-organizational and up to intra-societal settings" (Bar-Tal 2017:37). Reasons for people to opt to self-censor vary for different individuals, however each individual believes that the cost of revealing the information far outweighs its benefits therefore they choose to conceal it. Critics state that self-censorship serves as an obstacle to the functioning of a democratic state "because it prevents free access to information, freedom of expression, and the flow of information" (Bar-Tal 2017:37). There are different motivations to why individuals choose to self-censor, they can be based on the following categories "those that are based on interest to avoid personal sanctions and gain personal rewards and those that are based on the concern for the well-being of the collective, mostly the in-group" (Bar-Tal 2017:40).

Businesses operating in the media industry often have to regulate themselves in instances that would cause any threat to their profit margin or any external pressures that compel them to regulate, these can be economic or political (Grossman 1991). In reality most of the content that is broadcast contains elements of self-censorship, the process varies through the drafting, editing as well as information selection. Information that is publicised has often gone through a process of omitting in order for it to comply not only with platform or company policy but legislation (Morris 2015).

3.4. CONCLUSION

This chapter provides an outline of the conceptual framework underpinning this study namely regulation in the South African broadcasting landscape, platformization of South Africa podcasts as well as the self-censorship by South African podcasters. Due to the digital disruption media makers have explored new modes of distribution, monetization and production of their content (Poell et al 2019). This has in turn influenced the platforms they use as well as the kind of content they create. Due to the fact that traditional broadcasting regulation is not applicable to work produced online, this has caused huge problems for regulatory bodies, this is further unpacked in the findings of this research. The following chapter will unpack the methodology undertaken in this study.

CHAPTER 4

METHODOLOGY

4.1. INTRODUCTION

This chapter provides an outline of how this research study was conducted. The chapter provides the research methodology, design, approach as well as the strategy. Furthermore, this chapter provides a description of the sampling design, data collection as well as ethical considerations. Podcasts such as *Volume Africa, King David Studio and Nkululeko n Cultr* offer a wide lens into the South African podcasting arena. Each of these podcasts offers different insights into different podcast genres, business models and platform choices. There is currently limited scholarly research on the non-regulation of podcasts and what influence this has had on cultural expression. This study by looking at these three podcasts will give an all-rounded report on the influence of non-regulation on three vastly different types of podcasts in South Africa.

4.2. RESEARCH METHODOLOGY

This research has undertaken a qualitative approach as it seeks to develop an understanding of the podcast phenomenon through the experiences of its participants (Fossey et al. 2002). As a broad term for research methods, a qualitative analysis explains the experience, interactions as well as behaviours of its participants without the use "of statistical procedures or quantification" (Fossey et al. 2002:717) A qualitative study gives room for the developing of knowledge in complex or poorly understood subjects, such as podcasting (Fossey et al. 2002). This research fits within the social constructivist's view which states that researchers or individuals are looking for meaning/understanding of the world they work and live in (Creswell 2014).

Furthermore Creswell (2014) states that these meanings are directed toward certain objects or things and are varied thus "leading the researcher to look for the complexity of views rather than narrowing meanings into a few categories or ideas" (Creswell 2014:38). With the Constructivism worldview, it is vital that the researcher recognises that their background and how this will shape interpretation and position in the research, throughout the research the researcher needs to acknowledge how interpretation flows from personal, cultural, and historical experiences this because "human beings construct meanings as they engage with the world they are interpreting" (Creswell 2014:38). The constructivism worldview is aligned to the qualitative approach where researchers seek to "establish the meaning of a phenomenon from the views of participants, this means identifying a culture-sharing group and studying how it develops shared patterns of behaviour over time" (Creswell 2014:42).

4.3. RESEARCH DESIGN

This research followed the exploratory research design. Exploratory design is undertaken when there is not much data about a particular phenomenon (Creswell 2014). This study will utilise exploratory research design as not much is known about the influence the non-regulation of podcasts has had on cultural expression. The research seeks to address the above-mentioned gap by understanding the podcast through the lived experiences of three South African podcasters.

4.4. RESEARCH METHODS

This research used the qualitative research method which follows the approach of "exploring and understanding the meaning individuals or groups ascribe to a social or human problem" (Creswell 2014:32). According to Creswell (2014) through this research method data is "typically collected in the participant's setting, data analysis inductively building from particulars to general themes, and the researcher making interpretations of the meaning of the data" (Creswell 2014:32). In its approach qualitative research aims to explore and understand meaning individuals or groups

ascribe to a social or human problem (Creswell 2014). A qualitative study is designed to be flexible and responsive to context particularly through its questions. The questions of this study have evolved in response to the data and setting of the research (Fossey et al. 2002). Qualitative researchers will often use open-ended questions so that the research participants can share their views.

4.5. THE RESEARCH APPROACH

The inductive approach is appropriate for research where little is known about the variables acting in the phenomenon as in this research. This research has utilised the inductive approach. The general inductive approach includes the following (a) to condense varied raw text data into a brief, summary format and (b) indicate a link between the summary findings with the research objectives (Thomas 2006).

4.6. RESEARCH STRATEGY

This research employs a qualitative multi-case study approach to explore the influence of the non-regulation of South African podcasts on cultural expression. Creswell (2014) states that "case studies are a design of inquiry found in many fields, especially evaluation, in which the researcher develops an in-depth analysis of a case, often a program, event, activity, process, or one or more individuals. While Denzin *et al* (2018) define a case study methodology as the "examination of matters as they relate to case-based inquiry" (Denzin *et al* 2018:600). Cases are bounded by time and activity, and researchers collect detailed information using a variety of data collection procedures over a sustained period of time" (Creswell 2014:43). A case is an "instance, incident, or unit of something and can be anything—a person, an organisation, an event, a decision, an action, a location like a neighbourhood, or a nation-state" (Denzin et al 2018:600).

4.7. SAMPLING DESIGN

Sampling in qualitative research is aimed at collecting "specific cases, events, or actions that can clarify or deepen the researcher's understanding about the phenomenon under study" (Mohd & Baker 2014:29). This research has undertaken non-probability sampling. The participants in this research were purposefully selected as they have insights that are unique to the experience of the podcasting phenomenon. It should be noted that because podcasting is a fairly new phenomena in South Africa this also posed limitations in the selection of the participants. This research consists of two participant groups namely key informants and experts. The research consists of key informants from *Volume Africa, King David Studio and Nkululeko n Cultr* podcasts. It also consists of media and regulation experts and a representative from the Film and Publications Board. Participants from both research groups were approached by the researcher on social media (through direct messenger) as well as through emails found on their social media platforms based on their insight on the research topic.

Sample of demographics
Total participants: 7

X3 South African Podcasters					
Podcast Name	**Participant Name**	**Age Range**	**Gender**	**Race**	**Background**
Volume Africa	Paul McNelly	30-40	Male	White	Journalist and co-owner of podcast company Volume Africa
King David Studio	David Mashabela	40-50	Male	Black	Seasoned broadcaster and owner of Mashabela Creatives Studios. Host of King David podcast
Nkululeko n Cultr	Nkululeko Nkewu	25-35	Male	Black	Sports journalist and podcast host of Nkululeko n Cultr
X3 Industry experts, background in podcasting, broadcasting and media regulation					

Dominic Cull	50-60	Male	White	Expert in Electronic and telecommunications law as well as regulation
Jon Savage	40-50	Male	White	Seasoned podcaster and director at InBroadcasting
Justine Limpitlaw	50-60	Female	White	Electronic communications law consultant
X1 Media Policy Specialist: Film and Publication Board				
Mashilo Boloka	50-60	Male	Black	Acting Chief Executive Officer at Film and Publication Board

4.8. TARGET GROUP

It is vital for the target population to be exclusive enough to avoid having participants who do not represent the study's needs which can to a large extent misrepresent the population of interest (Casteel & Bridier 2021). The boundaries of the target population must be defined so that the researcher and other stakeholders understand the nature of the group to be studied (Casteel & Bridier 2021). In the recruitment process some key informants who are notable podcasters in South Africa refused to being part of the study. However, all key experts which were approached agreed to being part of the research.

4.9. DATA COLLECTION

This study collected its data through semi-structured interviews (SSI). SSIs are designed to discover subjective responses from "persons regarding a particular phenomenon they have experienced" (McIntosh & Morse 2015:1). With SSI participants are free to respond to open-ended questions to which the researcher is allowed to further probe the

responses (McIntosh & Morse 2015). The type of data derived from SSIs cannot be obtained from using structured questionnaires, participant observation, or analysis of literature (McIntosh & Morse 2015). As previously stated, in the constructivism worldview all knowledge is constructed from human experience therefore structured questioners would limit the questions posed to the participants as well as limit their responses.

With the participants' consent, interviews were audio and video recorded using the zoom platform. The recordings were securely stored on a password protected computer and were transcribed verbatim by the researcher. Transcripts were proofread alongside the recording to ensure accuracy. During the data collection, interviews, the researcher took notes and recorded insights from each participant. These notes were typed up and have been included in the findings of the study and then further discussed in the analysis.

4.10. DATA ANALYSIS

In its data analysis this research followed the process of annotation, conceptualization, content analysis, segmentation and finally data transformation. Annotation as the first step includes the labelling process of "relevant words, phrases, sentences, or sections with codes" (McIntosh & Morse 2015:8). The following step is the conceptualization of the data which is the process where the data is aligned with critical themes which stem from the questions posed by this study, which will be used in the published content (McIntosh & Morse 2015). Qualitative content analysis includes the standard use of coding procedure which involves "highlighting important words or phrases" (McIntosh & Morse 2015:9). Lastly this research has implemented segmentation. Segmentation is the process of "positioning and connecting" the research categories that allows for the researcher to establish the bulk of the data cohesively (McIntosh & Morse 2015:10).

4.11. TRUSTWORTHINESS OF THE STUDY

Lincoln & Guba (1985) created a criterion for trustworthiness of qualitative research which includes credibility, transferability, and confirmability (Stahl & King 2020). Credibility refers to confidence in the truth of the findings. This research will prove credibility through the various processes of triangulation. Firstly, the researcher will use data triangulation which includes the "use of more than a single type of data to establish findings" (Stahl & King 2020:26) this includes data focused on the phenomenon of podcasting as well various analyses of the medium and its use in South Africa.

Transferability refers to the applicability of the findings in other contexts (Stahl & King 2020). This research used findings from other podcast research from across the world and then transferred it accordingly. Confirmability as a part of trustworthiness is the degree of neutrality or the "extent to which the findings of a study are shaped by the respondents and not researcher bias, motivation, or interest" Stahl & King 2020:27). Throughout the study the researcher has remained unbiased and as objective as possible while collecting and reporting on the data collected. The researcher achieved this by not influencing the participants answer and recorded the responses as is despite any personal conflicting opinion the researcher might've held regarding the research topic.

4.12. ETHICAL CONSIDERATIONS

This research did not engage with participants that are at risk/vulnerable. The researcher obtained consent from research participants prior to undertaking any data gathering. The researcher was able to ensure confidentiality of the participant's responses during the research process. It should be noted that none of the participants of this study wanted to remain anonymous. The researcher engaged with participants from *Volume Africa, Nkululeko and Cultr as well as King David Studio* Podcasts. The researcher also engaged with experts in law and broadcasting regulations, podcasting experts as well as a participant from the Film and Publications Board.

In addition, these research participants were made aware that they were free to opt in or out of the study at any point in time. Participants were made aware of the purpose of the study, benefits and risks behind the study before they agreed to join. Physical, social, psychological and all other types of harm were kept to an absolute minimum. Lastly in this study the researcher ensured that the work is free of plagiarism or research misconduct, and that the results are represented accurately.

This study has followed the guidelines set out in the University's Research Ethics Policy and research practices when conducting research. The researcher ensured that the participants and respondents were informed of the study objectives and that their consent was received before them participating in the study. Furthermore, the researcher has ensured that ethical considerations such as respondents' consent, voluntary participation, confidentiality were considered and safeguarded during the research process.

4.13. CONCLUSION

This chapter presented the research methodology and framework. The chapter gave an outline of the research design, approach as well as the strategy. Furthermore, this chapter provided a description of the sampling design, data collection, trustworthiness as well as ethical considerations. This study undertakes the constructivism worldview as it looks at the podcast phenomenon through the lens of three podcasts: *Volume Africa, King David Studio and Nkululeko n Cultr podcasts*. The aim of this research is to explore to what extent has the influence of the non-regulation of South African podcasts had on cultural expression as well as to assess the role that government as well as platform policies play in the cultural expression of South African podcasts. The next chapter looks into the key findings of this research.

CHAPTER 5

RESEARCH KEY FINDINGS

5. INTRODUCTION

This chapter introduces case studies used in the research as well as findings conducted through semi-structured interviews. The interviews provide information about the background of each specific podcast, standard regulations and policies in place for the podcasts featured in this research. As well as the influence the podcasts have made on their audiences, the influence of platform policies and frameworks on cultural expression. The findings in this chapter were collected through semi-structured interviews with group one of the research participants namely the Key Informants such as podcasters from *Volume Africa, King David Studio and Nkululeko n Cultr* podcasts. This chapter also includes data collected from group two of the research participants who are experts in media and broadcasting regulations. The experts are namely Dominic Cull, Jon Savage, Mashilo Boloka and Justine Limpitlaw.

5.1 FACT BOX ON KEY INFORMANTS

The fact box on each case study provides an outline on the podcast and other relevant information gathered by the researcher through the data collection process.

VOLUME AFRICA	
Founders	Paul McNally and Roland Perold
Establishment Date	2017
Listenership/ Subscribers	6000 (Six thousand) on WhatsApp platform

	40 000 (Forty Thousand) across different podcasts offered by the company on various sites such as Apple podcasts, Spotify podcasts and Google podcasts
Business Model	Volume Africa provides an end-to-end podcast production service.
Platforms used by Podcast	WhatsApp, Apple podcasts, Spotify podcasts and Google podcasts
Podcast Genre	Investigative, Current Affairs and Social Activism
Target Audience	Corporates and individuals seeking podcast services

KING DAVID STUDIO	
Founders	David Mashabela
Establishment Date	2018
Listenership/ Subscribers	58 000 (Fifty-eight thousand) YouTube Subscribers
Business Model	King David Studio offers an end-to-end podcast production service.
Platforms used by Podcast	YouTube, Facebook and Mashabela Creatives website
Podcast Genre	Society, Politics and Culture
Target Audience	25–50-year-olds

NKULULEKO N CULTR	
Founders	**Nkululeko Nkewu**
Establishment Date	2021
Listenership/ Subscribers	67 000 (sixty-seven thousand) YouTube Subscribers
Business Model	Sole ownership by Nkululeko Nkewu
Platforms used by Podcast	YouTube and Facebook

Podcast Genre	Society, Politics and Culture
Target Audience	18–45-year-olds

5.2. FINDINGS FROM KEY INFORMANTS

These findings are gathered from semi-structured interviews with the key informants of the research. The findings from the interviews conducted are linked to the objectives of the research. They also answer questions set out by the study. Findings in this section are derived from participants, some of the comments are verbatim, and others are a summary of the researcher's interpretation.

The findings are presented in the following key areas, this key arears are based on questions outlined by the research:

1. The influence of the non-regulation of podcasts on cultural expression.
2. The role played by government and platform policies in the cultural expression of South African podcasts.

Theme 1: The influence of the non-regulation of podcasts on cultural expression.

Participant Name	Themes derived from Research Questions	Themes derived from Research Participants
Volume Africa	The non-regulation of podcasts on cultural expression	• Free room for creators to express themselves

		• Unhindered expression leads to misinformation • Podcasts offer a platform for cancelled and de-platformed individuals
King David Studio	The non-regulation of podcasts on cultural expression	• Free use of language and guests can freely express themselves • Content is spread by audiences to different social media sites. Copyright laws are not as effective with short form videos (audiences screen record episodes)
Nkululeko n Cultr	The non-regulation of podcasts on cultural expression	• Breeding ground for recklessness and misinformation • The medium enables free speech and freedom of expression

Participant Name	Themes derived from Research Questions	Themes derived from Research Participants
Volume Africa	South African podcasters views on traditional and online regulation	• Regulation is in the hands of tech companies • Agrees with need to regulate online distributors; however, it should be voluntary • Institutes self-regulation to avoid being sued
King David Studio	South African podcasters views on traditional and online regulation	• Regulation necessary for traditional broadcasting platforms
Nkululeko n Cultr	South African podcasters views on traditional and online regulation	• Regulation suited for traditional media, which are being disrupted by podcasts

Participant Name	Themes derived from Research Questions	Themes derived from Research Participants
Volume Africa	Heightened call for podcasters to be accountable for the type of content they produce	• Goes through a lawyer process as a form of self-regulation • Removes Volume Africa branding if content is image damaging
King David Studio	Heightened call for podcasters to be accountable for the type of content they produce	• Abides by the laws governing online speech • Believes cancel culture is disruptive rather than informative
Nkululeko n Cultr	Heightened call for podcasters to be accountable for the type of content they produce	• "We are slowly turning into traditional Media" • Believes cancel culture is disruptive rather than informative

Theme 2: The role played by government and platform policies in the cultural expression of South African podcasts.

Participant Name	Themes derived from Research Questions	Themes derived from Research Participants
Volume Africa	Role played by platform policies in influencing the cultural expression of the podcast	• Faced no restrictions on platforms. Language, content and format are at the discretion of Volume Africa
King David Studio	Role played by platform policies in influencing the cultural expression of the podcast	• Face demonetization on content that is deemed violent by YouTube • Episodes speaking on sensitive topics such as genre-based violence and rape are flagged as violent content • YouTube offers authorizations steps that classify the

		content before publishing ● YouTube offers outline on algorithms, reach and audience attraction
Nkululeko n Cultr	Role played by platform policies in influencing the cultural expression of the podcast	● Demonetization effects ● the type of content created for the podcast ● Words that might be flagged as violent are edited out by the podcaster

Participant Name	**Themes derived from Research Questions**	**Themes derived from Research Participants**
Volume Africa	The fine line regulation and censorship and how they are viewed by podcasters	● Calls for voluntary regulation mechanism for online distributors, a

		mechanism like the press code ● Lack of trust in regulatory bodies
King David Studio	The fine line regulation and censorship and how they are viewed by podcasters	● As a broadcaster is aware of broadcast regulations however does not believe in the enforcement regulations for podcasts
Nkululeko n Cultr	The fine line regulation and censorship and how they are viewed by podcasters	● Believes YouTube's flagging and demonetizatio n policy equates censorship ● "YouTube is changing and is starting to censor content"

Participant Name	Themes derived from Research Questions	Themes derived from Research Participants
Volume Africa	Governmental policies on cultural expression of podcasts	• Abide by different online and speech legal frameworks of various countries serviced by Volume Africa
King David Studio	Governmental policies on cultural expression of podcasts	• Is not aware of any government policies
Nkululeko n Cultr	Governmental policies on cultural expression of podcasts	• Questions effectiveness of enforcement of FPAA • "A big deal likely to fail"

5.3. FINDINGS FROM RESEARCH EXPERTS

These findings are gathered from semi-structured interviews with experts of the research. The findings from the interviews conducted are linked to the objectives of the research as well as answer questions set out by the study. The themes derived from the findings of the study are divided based on the key questions of the research.

The findings are presented in the following key areas:

1. The influence of the non-regulation of podcasts on cultural expression.
2. The role played by government and platform policies in the cultural expression of South African podcasts.

Theme 1: The influence of the non-regulation of podcasts on cultural expression.

Participant Name	Themes derived from Research Questions	Themes deprived from Research Participants
Dominic Cull	The non-regulation of podcasts on cultural expression	● "There's a gap, no one looks at the internet" ● Take down notices are issued on offensive content ● The law will step in should the rights of others be violated during a podcast episode ● Podcasters create podcasts to reach a niche customer base
Jon Savage	The non-regulation of podcasts on cultural expression	● Podcast content is not acceptable on traditional broadcasting platforms

		• Podcasts are not broadcast; they are discovered versions of an audio blog. It's not going to the audience, audiences are engaging with it • "Podcasts can do what radio cannot" – Not the same as radio which offers a blanket approach • Podcasts make it easier for advertisers to reach their desired audience- podcast reads
Justine Limpitlaw	The non-regulation of podcasts on cultural expression	• Online mobilisation • July Unrest • Misinformation • De-platforming of controversial figures
Mashilo Boloka	The non-regulation of podcasts on cultural expression	• Some online speech violates the rights of children, violates laws on hate speech and violence

Participant Name	Themes derived from Research Questions	Themes deprived from Research Participants
Dominic Cull	Regulation seen as a protection mechanism and necessary to the functioning of society.	● South Africa has adequate regulations that protect online speech ● Cyber Crimes act ● Electronics Act section 77- Speaks on take down notices
Jon Savage	Regulation seen as a protection mechanism and necessary to the functioning of society.	● Demonetization is the real reason for self-regulation of podcasts ● Self-regulation has commercial intentions ● Commercial brands will affect the content used by podcast
Justine Limpitlaw	Regulation seen as a protection mechanism and necessary to the functioning of society.	● Broadcast regulation seeks to protect listeners- Push and Pull mediums

		• Due to limitations with frequency, regulation seeks to ensure diversity • Regulation- protects against hate speech and misinformation
Mashilo Boloka	Regulation seen as a protection mechanism and necessary to the functioning of society.	• Public interest at the heart of regulation • Seeks to protect the nation

Participant Name	**Themes derived from Research Questions**	**Themes deprived from Research Participants**
Dominic Cull	Heightened call for podcasters to be accountable for the type of content they produce	• Podcasts are difficult to define within the current legislation however audiences and advertisers self-regulate the medium
Jon Savage	Heightened call for podcasters to be accountable for the type of content they produce	• "If you regulate podcasts then you have to regulate the internet"

Justine Limpitlaw	Heightened call for podcasters to be accountable for the type of content they produce Heightened call for	• White paper- an attempt by government to regulate some online content creators • White paper met with significant responses on the "hopelessness"
Mashilo Boloka	podcasters to be accountable for the type of content they produce	• "The FPB cannot be there all the time" • "We cannot regulate on our own"

Theme 2: The role played by government and platform policies in the cultural expression of South African podcasts.

Participant Name	Themes derived from Research Questions	Themes deprived from Research Participants
Dominic Cull	Efficiency of FPAA on South African podcasts	• "Worst piece of legislation I've ever seen" • "It's a useless act and a waste of time" • Uncertainty over who the FPAA applies to.

		• The Scope of the FPB seen as problematic and is ill-equipped • Questions the independence of the enforcement committee at the FPB, this as they are appointed by government ministers
Jon Savage	Efficiency of FPAA on South African podcasts	• "The real experts are not in government " • There's a lot of grey area
Justine Limpitlaw	Efficiency of FPAA on South African podcasts	• Not doing what its mandated to do which is pre-classification • "It's unconstitutional"
Mashilo Boloka	Efficiency of FPAA on South African podcasts	• Child protection at the heart of the FPAA • "People associate the FPB with censorship" • Prescribed process before the content is taken off social media • Enforcement committee headed by a retired judge

Participant Name	Themes derived from Research Questions	Themes deprived from Research Participants
Dominic Cull	Platform policies on the cultural expression of podcasts	• De-platforming as a form of self-regulation based on pressure from advertisers (Commercial interest)
Jon Savage	Platform policies on the cultural expression of podcasts	• YouTube is the preferred content platform in Africa • Podcasters are faced with two options in light of platform guidelines
Justine Limpitlaw	Platform policies on the cultural expression of podcasts	• Platforms will self-regulate and make their standard's known to users
Mashilo Boloka	Platform policies on the cultural expression of podcasts	• FPB co-regulating

		with the support of platform owners • Platforms are given obligations by the FPB which they must comply with

CHAPTER 6

ANALYSIS OF FINDINGS

6. INTRODUCTION

This chapter provides an analysis of the findings from Chapter five. This chapter is separated into seven sections namely, Wild West of Online Regulations, The implementation and efficiency of the Film and Publication Amendment Act, De-platforming and Misinformation, Demonetization, Language and Violence, Ownership and Copyright as well as the research conclusion titled: To Regulate or Not To Regulate. This chapter comprises data gathered from literature sources as well as semi-structured interviews with group one and two of the research participants.

6.1. THE WILD WEST OF ONLINE REGULATIONS

> "Radio as a medium has the intention to reach as many people [as possible], whereas podcasting is actually the opposite. You don't broadcast a podcast; people actually discover the podcast. They come to a specific podcasting arena. It's very niche" (Jon Savage, personal interview 2022).

Jon Savage further highlights why and how podcasting can be viewed as a disruptor of radio. Radio is audience driven and is created for a mass audience while podcast listeners are more of a 'clique'. This speaks back to the temporality of the medium and how its built for audiences to listen to it whenever and wherever they wish. This niche market as highlighted by Savage is what has made the creation of policy around the medium difficult. Due to the fact that podcasts are discovered and not broadcast this

automatically puts them outside the Broadcasting Act as well as ICASA's mandate. The regulation of content of traditional broadcast material is among other reasons meant to protect viewers and listeners from being harmed or offended as well as ensuring that free speech is not endangered by censorship (Salomon 2008). Traditional broadcasting regulations have been established to ensure diversity on the airwaves and to protect the viewers. Dubbed the "Wild West" (Dutton et al 2010:51) the internet as an ever growing and ever evolving space has been a difficult space to regulate. Even though at face view one would assume that podcasts face no regulations in the way traditional broadcasting mediums would, this research through findings derived from its key informants has found that there are indirect policies and self-regulatory methods that help regulate the medium.

The fundamental difference between podcasting and traditional radio and even in the digital media is that radio broadcasting is aimed at a mass audience and that's why it has the responsibility to be regulated, because it's going out on public airwaves. That gives real responsibility to the handful of people who can broadcast to millions of people on the airwaves. According to Jon Savage the non-regulation of South African podcasts has been to the betterment of the medium.

Jon Savage states:

> "You can't regulate a blog because any Joe, Tom and Harry can have a blog. You don't need a licence for a blog. If I want a podcast about having sex, then everyone can hate me and they can cancel me and no one will read it but I can have one. That's the kind of freedom of speech podcasts have. Currently the podcasting space being considered the Wild West is the platform's biggest asset" (Personal interview 2022).

A podcast as a form of online speech is regulated by Section 16 of the South Africa's Constitution of 1996 with regards to the freedom of expression clause. The digital age has made it "clear that the point of free speech is to promote not merely democracy but a democratic culture" (Balkin 2009:20). This is a culture in which ordinary people can participate, both collectively and individually, in the creation and elaboration of cultural

meanings (Balkin 2009). Digital speech is interactive because the internet has created a place where people are able to talk back to each other constantly. They participate in virtual communities, and they use these communities to build things together (Balkin 2009). Freedom of expression includes aspects such as broadcasting, regulation, press freedom, and other forms of conduct through which people convey their views (Vollenhoven 2006).

There are other laws in place which govern free speech on podcasts such as the Cybercrimes Act 19 of 2020 which came into effect in 2021. The act has a section on malicious communications which is particularly concerned with speech which damages or threatens to damage people or property. The act also has a clause on the disclosure of intimate images like revenge porn. The Domestic Violence Act of 1998 speaks on the provisions in terms of speech, which constitutes harassment or domestic violence. According to Dominic Cull (2022) in instances where these acts are violated the law steps in however that's only in fairly extreme cases around hate speech.

In 2021 podcaster Rea Gopane made the comment on his podcast, *Everything SA Music TV,* that media personality Bonang Matheba introduced rapper Kiernan Jarryd Forbes popularly known as AKA to cocaine (Vollmer 2022). Matheba was subsequently awarded compensatory damages by Johannesburg High Court of R300 000 against Gopane and he was also ordered to apologise to the media personality (Vollmer 2022). Although Gopane made his comments on his own podcast which has a massive following on social media, this case speaks to how the law will step in to regulate any hate speech. Which one can argue how wild is the 'Wild West'? Although at face value one seems free to say what they want, the Gopane case has proven that one can be held accountable for any speech that is deemed derogatory, discriminative or can be proven as hate speech. It should be noted however that Matheba had to approach the courts following the comments made against her, this as podcasts have no regulatory body to answer to or a complaints authority which will hold podcasters to account. Had Matheba not approached the courts and launched a civil matter, Gopane's comments would've continued to spread online unchallenged.

Another form of regulation that has taken place mostly online is market regulation whereby the "market and consumer step in" (Dominic Cull, personal interview 2022). This research has found that platforms will always self-regulate because of audiences and advertiser pressure, in turn these two factors are working as regulators in the modern internet entertainment space. In 2021 brands such as Amstel Old, Mutual and Studio 88 pulled their sponsorship from *Podcast and Chill* with MacG over transphobic comments thus showing how audiences have power to place pressure on advertisers to disassociate with a podcaster which may have committed a 'cancellable' offense (Gaanakgomo 2021).

This research has also found that the advertisers and consumers are the ultimate regulators for podcasts in South Africa due to the fact that audiences do not trust regulatory bodies like ICASA or the FPB. Paul McNelly states "I don't think people would trust the regulatory body, in this day and age people see regulatory bodies as fixed" (Personal interview 2022). The digital disruption has opened up audiences to flaws within governmental systems however one can argue that the breakdown of state-owned entities as well as rampant corruption has caused many audiences to relay on independent sources for information. McNelly's comments highlights a breakdown in the trust between the state and its people, this however has proven to be the golden ticket that drives more audiences toward podcasts. Podcasts offer an off the cuff and unfiltered experience which is something traditional medium forms like radio cannot offer. Podcasters can swear during a show, they can have explicit content and push the envelope to what the 'Wild West' and the law will allow.

6.2. THE IMPLEMENTATION AND EFFICIENCY OF FILM AND PUBLICATION AMENDMENT ACT

> "It's the worst piece of legislation I've ever seen…. It's a useless act and a waste of time" (Dominic Cull, personal interview 2022).

In March 2022, President Cyril Ramaphosa signed the Films and Publications Amendment Act (FPAA) into law. The FPAA of 2019 seeks to extend the mandate of the Film and Publications Board (FPB) to include regulating the online space. The Act requires producers of online as well as commercial content to submit their work to the FPB for classification. It is during the classification process whereby the board determines whether or not that content and/or form of expression is permitted online or not. The amendment act provides prohibitions of harmful content such as the publication of media which promotes hate speech or imminent incitement to violence and the sharing of intimate/pornographic images without consent.

Mashilo Boloka admits that there's been a lot of scepticism about the FPAA coming into place and how the FPB would regulate such a broad space like the internet (Personal Interview 2022). Boloka (2022) notes that the FPB needs the support of platform owners in order to implement the objectives set out in the FPAA. A starting point would be platform owners registering with the FPB; however, it's not yet clear how many online platforms have registered with the FPB to date. Regulating content by online distributors has been a challenge for the FPB, Boloka admits that "the FPB can't be there all the time" (Mashilo Boloka, personal interview 2022).

In the event that a platform user violates a stipulation in the FPAA, the FPB only has jurisdiction if they receive a public complaint on the user's post. FPB cannot act on content that is deemed offensive or content that violates its framework without receiving a complaint. The Act in itself is unable to regulate the online 'Wild West' space without

users and platforms flagging the content. According to Justine Limpitlaw this is a sign of failure by the FPB in implementing the FPAA, this due to the fact that their input in regulating online content is reactionary instead of pre-classification.

Justine Limpitlaw states;

> "For Commercial distribution then you need to pre-classify. Section 18 of the Act says you have to pre-classify all video content. However, that is not happening. That is because you can't pre-classify everything that goes on to the Internet, it's unworkable" (Personal interview 2022).

This then brings the question of why would the FPB introduce an act that it didn't have the capabilities of implementing? This research has found that one of the key drivers to the introduction of the FAA was commercial intent. The online space is growing rapidly as discussed in the literature review, disruptors such as podcasts have caused a knee jerk reaction out of regulators and policy makers to try and adapt to the changing space. However, through the lens of the FPAA most of these knee jerk reactions end up failing to 'keep up' with the distractor, in this case the internet. This study has found that FPAA as a regulation for online content distributors is not being implemented according to its specifications.

6.3. DE-PLATFORMING AND MISINFORMATION

> "I guess on the one hand what I see is a lot of people being able to express themselves now in different languages and voices, which is very exciting. But in the same way we've seen misinformation being spread on podcasts. People that have been de-platformed in other places, like people that get banned off Twitter, you see them appear as a guest on a major podcast" (Paul McNelly, personal interview 2022).

Cancel culture as a form of self-regulation by podcast audiences has seen several platforms remove/de-platform some users. Oftentimes the act of de-platforming is

reaction based on consumer and market pressure on the platform to 'punish' the online distributor. However, an ever-growing trend with podcasts is that the medium offers a safe haven for de-platformed users to express themselves. This has been seen with prominent figures like Russel Brand and Kanye West who after their de-platforming on Twitter went on several podcasts to 'give their side of the story'. This trend of podcasts being a safe place for cancelled and de-platformed individuals is made possible due to the non-regulation of the medium however it also facilitates a breeding ground for misinformation as well as disinformation. In 2014 controversial broadcaster Gareth Cliff was fired from the SABC after working at 5FM for over 10 years (Vellem 2023). This led to him launching Cliff Central which would become one of the biggest podcast stations in the country. However, the safe heaven which podcasting initially seemed like for Cliff showed that even though he wouldn't lose his job or have a BCCSA compliant against him he would lose revenue for his show. In 2021 food chain Nando's pulled its sponsorship of Cliff's *The Burning Platform* show, following public outrage over racist comments he made (Makhafola & McCain 2021).

The open and timeless nature of social media has to a large extent facilitated the dissemination as well as the creation of misinformation (Wu et al 2018). Misinformation and disinformation both refer to the spreading of inaccurate or false information; however, the key distinction between the two lies in the intention. Disinformation refers to cases of intentional spreading of false information while misinformation is not intentional (Wu et al 2018). Content that is spread and created on social media platforms is what naturally defines users of these sites thus a way to best identify users who spread misinformation is in identifying how they model their content (Wu et al 2018). Misinformation that is content based is detected through text, images and/or video. Misinformation and disinformation are often used interchangeably however it should be noted that these words are not synonyms. Misinformation refers to "those who spread false information without realising it" (Hilary & Dumebi 2021:499). Where else the purpose of disinformation is to deceive.

Tik Tok influencer and bogus doctor Matthew Lani who gained social media attention after he began sharing medical advice under the disguise of being a doctor can be seen as someone who purposefully spread disinformation online. Lani gave out medical advice and went to the lengths of even selling medication to his followers (Bakharia 2023). Even though he was deplatformed from TikTok for disinformation he managed to create a new account on the very same platform and in additional go on several podcasts to 'tell his side of the story' (Moloi 2023). This proves that although Lani was deplatformed for disinformation, he was able to return to the platform under a different profile. This speaks on platform policies and their capabilities in detecting and eradicating disinformation.

Although social media platforms have had to introduce mitigation strategies in order to curb harmful behaviour such as hate speech and cyberbullying on these sites, Lani's case speaks to a breakdown in that system. One of these strategies includes "providing users with tools to flag abusive behaviour" (Ali et al 2021:1). The most popular strategy used by these platforms is de-platforming, which is the suspension of accounts that are found guilty of having violated the platforms user guidelines, (depending on the platforms policy these accounts are either temporarily blocked or banned permanently) cases like that of Lani question how effective this form of regulation is on online content creators.

This research has found that due to the non-regulation of podcasts self-regulatory measures like cancel culture and de-platforming can affect podcasters financially through the removal of sponsorships and adverts however the content will always exist online. The content will always exist because the content creator can opt to distribute the content on another platform with less restrictions. Cancelled online content distributors will have their financial income stream (advertisers and sponsors pulling back) affected however they can always go onto other platforms to distribute their content. As stated by Nkululeko Nkweu "YouTube is going to get such a negative blowback or not make as much money and they're going to do away with its restrictions. I've seen it with other big channels which have 5,000,000 subscribers, even a guy called

Russell Brand who shoots videos every night. He's also being censored and he's moving to a different platform called Ramble" (Personal interview 2022). This shows that each platform has its own individual policies and that these differ from each other, what is deemed offensive on YouTube may be deemed as acceptable on a platform like Ramble. Deplatformed social media users will always have different platforms should they be removed from another platform; fact of the matter is there is always a way to get the content online. Nkweu's comments also insinuate that should a platform receive any negative backlash on its restrictions then users will migrate to other platforms. This will in turn see the platform possibly ease its restrictions in the hopes of retaining users which equates to retaining revenue.

6.4. LANGUAGE AND VIOLENCE

> "Violent content may not attract advertisers……but we already know based on your content, that its violent and as a result those episodes don't even make a cent" (David Mashabela, Personal Interview 2022)

When one thinks of language and the secondary orality of podcasts violence is the last thing that would be associated with podcasts, simply because language is not often associated with violence. French philosopher Paul Ricoeur in his 1974 article *Violence and Language* states that language in its initial form is innocent because it does not speak but rather it is spoken (Ricoeur 1974). Therefore, in order for language to be violent then the one speaking it must express violence in order for the language to be deemed violent. YouTube has instituted a pre-classification system for online distributors before the content is made public, this form of platform regulation flags words that maybe vulgar or even content could be deemed as 'violent'. Violence according to this pre-classification system by YouTube flags podcasts that mention words like sex, gender-based violence and even rape. Those words according to the platform are deemed as violent. This then brings the question, on what moral ground is this violent content flagging based on?

In 2021 the *Nkululeko n Cultr* podcast interviewed porn star Sexy Enhle, she detailed on the show how she was raped numerous times from a young age and how she was involved in sex work. Due to the words used in that episode such as sex, prostitute and rape, the episode was flagged as violent according to YouTube guidelines. Despite the age restriction place on the episode and having garnered over 30 000 views, the episode was demonetised meaning it had no adverts and Nkweu did not make any revenue from streams/views of the podcast episode.

Oftentimes language is seen as a mode of representation and/or a tool for communication however language should also be seen as the force behind the construction of the world, no one can understand the world except through language. In other words, "there is no world except the one constructed by language" (Bhadani 2013:2). Violence that is caused through words accounts for intentional violence which operates on the physical and symbolic level (Bhadani 2013). Therefore, what is vital is the intentional meanings of the speaker and the interpretation of the listener rather than the structure of the language itself (Bhadani 2013). This research has found that the secondary orality of podcasts undergoes a number of regulations and restrictions. The unfiltered feature of the podcast medium has now been restricted on platforms which can deem content too violent for its audiences. Even though the podcast episode is not removed from the platform this affects the revenue generation of the podcast episode itself.

Living in a country with high rates of gender-based violence, the researcher finds it alarming that podcasts like *Nkululeko n Cultr and King David Studios* that seek to bring awareness to this societal issue will be flagged as violent. On one side the flagging of episodes may be to protect sensitive viewers/listeners however the monetary loss that comes with the flagging of content restricts the cultural expression of the podcasts. As stated by Nkululeko Nkweu "This medium being a medium for us to express ourselves freely you have to ask yourself, are you going to be able to pay the people that are working for you if you don't monetize?" (Personal interview 2022). This in the

researcher's opinion could breed a habit amongst podcasters where they will simply avoid sensitive topics or restrict language use on their podcasts in order to avoid any loss of income. This form of platform regulation to some extent restricts the cultural expression of South African podcasts. The 'Wild West' does not seem to be wild at all, if you are looking to garner income from the online content.

6.5. OWNERSHIP AND COPYRIGHT

> "Ultimately google is a business, the more subscribers you have the more money they make off your content. The first take however is that they will demonetize copyright more than they demonetize sensitive content" (David Mashabela, personal interview, 2022)

With the podcast industry in South Africa estimated to grow to 19 million monthly listeners while podcast advertising revenue is expected to grow to R302 million by 2024 (PWC 2019) questions into why audiences and content creators are abandoning traditional broadcasting mediums for podcasting are being thrust into the spotlight. As previously discussed in the literature review, although radio stations have tried to adapt to the podcast medium their content as a catch-up episode fails to offer audiences the 'Wild West' offered by original podcasters. Having worked for traditional media outlets podcasters like David Mashabela and Nkululeko Nkweu speak on the need for one to not only own their content but to have a say in the message the podcast episode seeks to deliver. Intellectual property as well as creative freedom are influential drivers to why podcasts have been the go-to medium for creatives as a way to reach their audiences. There are no licensing guidelines, language restrictions and/or time restrictions to an episode. The podcaster owns the content and gets to decide on how and when it is offered to the listeners. Although demonetisation for violent content and deplatforming has some form of restriction to the kind of content created, these are not red tapes, and this study has shown how other platforms and/or classification can be used to overcome these barriers. Given the grey area in regulating the internet, ownership on content

distributed on the internet is threatened. Given the amounts of times content has gone viral because of the sharing of posts, retweets as well as screen recording this has created a challenge for podcasters in how to maintain their intellectual ownership of the podcast material.

The purpose of copyright is to "encourage creativity by rewarding creators for their work while also giving creators the ability to restrict other people's use of their work" (Bosher & Yeşiloğlu 2019:3). Infringement of copyright occurs when a person uses one's content/creative work without permission from the copyright owner. The prominence of social media networks has presented several challenges for copyright policies and law (Bosher & Yeşiloğlu 2019). Although platforms encourage users to share both third party and original content, they offer tools such as the retweet feature on twitter and the share button of Facebook, this does not always protect the copyright of some content downloaded and then dumped to other social media sites.

Despite using YouTube as its main source of the podcast distribution, the *King David Studio* podcast episodes get screen recorded and then spread to other social media platforms. For instance, some episode snippets are found on TikTok even though *King David Studio* podcast does not have a TikTok page. This has been two-fold in its effect, the first being that it attracts an even greater audiences because the content is able to live outside of the podcast platform and is able to spread on other various social media platforms however this then presents a challenge to the intellectual property rights of *King David Studios* to that particular episode.

This research has found that short form video platforms do not pre-classify any content uploaded on its site for possible copyright infringement. Although this widens the audience reach of the podcast episode, online content distributors are unable to capitalise fully on their podcasts. On different platforms like TikTok, snippets of podcast episodes fall out of the control of the podcaster. Even though YouTube protects the intellectual property of podcasters the same standards however do not apply to other social media sites like TikTok or Twitter.

David Mashabela states, “Once the episode is posted on YouTube then it receives a life of its own where audience members decide the next form or platform it should take” (Personal interview 2022). This shows that even though podcasters own their content on their chosen platform an audience member can share and redistribute the content to other platforms, and this creates a ‘new life’ for the podcast. The original owner of the content has no say in how its shared and cannot monetise on its success. This shows that at times reach and content going viral may not always be in the best interest of the podcaster. This has seen podcasters move towards a multi-platform approach in order to stay ahead of the trending culture. Most podcasts will have content delivered on more than one platform in order to maintain ownership and copyright of their content

6.6. IN CONCLUSION: TO REGULATE OR NOT TO REGULATE?

The United Nations Educational, Scientific and Cultural Organization (UNESCO) defines artistic freedom as “the freedom to imagine, create and distribute diverse cultural expressions free of governmental censorship, political interference or the pressures of non-state actors” (UNESCO 2009:2). This study has found that podcast regulation in relation to cultural expression has artistic freedom at the heart of it. Podcasters in South Africa, much like all cultural practitioners have the right to cultural expression but in the same breath also have the responsibility not to infringe on the rights of others. This study went on to uncover how the cultural expression of podcasts is protected by regulations and restrictions in South Africa and to what extent these regulations have been successful in ensuring cultural expression as well as responsibility.

Through data collected in the study the researcher believes that there are sufficient state regulations that ensure that citizens are protected against published content that would incite violence, promote hate speech and/or publicise and distribute child pornography. This study found that podcast platforms have adequate community guidelines which

ensure the content that incites violence, promotes hate speech and/or publicises and distributes child pornography is never distributed through pre-classification checklists which are mandatory for each podcaster. However, this study also found that most of the restrictions instituted by these podcast platforms were motivated by pressure from audience's as well as the advertisers and/or sponsors. Audiences as well as advertising have proven to be key factors behind platform choices of restrictions. Therefore, the researcher believes that podcast platforms observed in this study particularly YouTube have sufficient restrictions that do not infringe on the rights of audiences and podcasters.

Lastly the study found that the regulatory body FPB is not proactive in enforcing stipulations of the FPPA but rather reactive. This is partly because of the amount of material published on podcasting platforms like YouTube, the FPB is unable to be 'at all places all the time', therefore the FPB fails in its mandate to pre-classify content prior to publication.

In conclusion to the question posed in the research title; To Regulate or Not to Regulate South African Podcasts? A qualitative study on cultural expression, the researcher believes that although there have been strides made by government to regulate online content, much of these regulations have failed in keeping up with the fast pace online environment. However, this study has found that industry actors such as platforms, advertisers as well as audiences work as regulators for content distributed online. The question on whether these restrictions are fair, or objective differs for each case. These restrictions have proven to be 'fluid' in their implantation and less stringent like traditional broadcasting regulations. In essence, although traditional broadcasting regulations fail to keep up with the internet some form of regulation still exists. It should be noted that this form of regulation remains 'fluid' to what industry actors deem as acceptable or not. This study has found that although it is not placed in black and white, podcasts in South Africa are indeed regulated by creators, platforms, audiences and advertisers.

6.7. CONCLUSION

This chapter provided an analysis of findings outlined in Chapter five. The analysis was a combination of data gathered through semi-structured interviews with key informants and. This chapter looked at the following sub themes, Language and Violence, De-platforming and Misinformation, Demonetization, Ownership and Copyright, the Wild West of Online Regulations as well as the implementation and efficiency of the Film and Publication Amendment Act of 2019. This chapter also gave the researcher's conclusion to the research.

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