(2) Media “Piracy” and Access to Knowledge: South Africa

Project Proposal

Submitted to International Development Research Centre (IDRC), Canada

by

The Association of Progressive Communications (APC)

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Strategic Partners:

Social Science Research Council (SSRC), New York,
“Towards Détente in Media Piracy” Project
Project Summary:

The Association of Progressive Communicators (APC) in association with the Link Centre seeks support for a two-year research project into the nature and extent of media piracy and the effect of legislative and enforcement framework on access to knowledge in South Africa. The research will be carried out by a research team contracted by APC. A team of researchers and consultants will assist the project, working in tandem with the international project on Media Piracy conducted by the SSRC (New York) – in collaboration with research teams in Brazil, India and Russia.

The Project seeks:

- To produce a detailed study of enforcement infrastructure and the anti-piracy industry, including government structures, industry lobbies, corporate legal firms, and the links to judicial and police strategies. This will also include details of ownership of media and recording industries. Attempts will also be made to evaluate the costs involved in fighting piracy – and if such costs are greater than any gains.
- To open a different debate on piracy other than the standard ones of enforcement and criminality. This debate can lead to wider discussions of cultural needs and community practices of sharing and circulation, in societies characterized by conditions of high social inequality. This will include both debate and discussion within South Africa and between project partners in countries such as Brazil, India and Russia.
- To analyse methodologies for gathering statistics in enforcement literature retailed by media industry lobbies in order to test presumptions the quality of the data. This will include analysis of the International Intellectual Property Alliance (IIPA) methodologies and the impact of such studies. Such statistics are utilized by international enforcement bodies and international and local rights holders to limit any debates about intellectual property to issues of piracy and legislative and enforcement frameworks.
- To gain an understanding of the nature and extent of piracy amongst different communities in South Africa – and the reasons for piracy. This will include:
  a. analysis of piracy as an economic sector (jobs),
  b. the diversity of supply of pirated goods (what is pirated and what is not and why),
  c. the extent of sales of pirated local goods vs. international goods,
  d. whether or not piracy has assisted in facilitating the emergence of cultural industries on the periphery,
  e. distribution networks.
  f. examining what drives the growth of the piracy business (i.e. is it a pricing problem, supply problem or a timing problem?). Note that different communities may be pirating goods for different reasons.
  g. whether or not piracy supports licit sales.
  h. explore the extent and forms of digital piracy by broadband internet users.
- To generate a public debate using new and traditional forms of media to disseminate the research report, its findings and recommendations with the aim of influencing the policy debate.
- To disseminate the results to the South African Department of Trade and Industry and Parliamentary Committee on trade and Industry through hosting a seminar for them.
• Disseminate the results to the India Brazil South Africa (IBSA) civil society forum to engage with the existing government IBSA Forum on the information society and intellectual property rights implications of the research.

APC seeks a grant from the IDRC of ZAR 2,327,025 for this collaborative and comparative two year study. This includes research support, consultancies, travel, conferences and workshops, public events and unique forms of public rendering using old and new media.

**Research Problem and Justification**

The importance of Intellectual Property Rights (IPR) protection for a global knowledge economy has pushed piracy into the forefront of contemporary debates on globalization. In most countries in the global South, public discourse on IP seems almost synonymous with the phenomenon of piracy. The SSRC research project “Towards a Détent in Media Piracy” seeks to examine the phenomenon of piracy across the global South, and to provide accounts which explore the discourse of illegality and criminality deployed by mainstream media and law enforcement agencies.

The South African study is part of this SSRC research. The premise of the research is that “piracy” is a fact of life in places where a media-saturated modernity meets severe inequalities of purchasing power for books, software, recordings, videos and other knowledge products. One of the key aims of this research proposal will be to flesh out how this quotidian “fact of life” unfolds itself in the South African context.

Piracy is flourishing in South Africa – similar to other countries with sharp economic and social inequalities. Piracy has dominated the debate in South Africa on intellectual property and globalization. Very little independent research appears to have been done on the extent of piracy – and the drivers behind it. The research that is most commonly cited is dominated by international and local media giants – and used to leverage their ability to lobby for changes in laws, and stricter enforcement. Such research has framed the debates on intellectual property and piracy in the mass media. No known research has been conducted into the possible effects of piracy on expanded access to technology, knowledge, new media practices, and innovation.

On the other hand, the statistics cited on copyright violation and loss projections often appear to be based on slim research. One of the challenges is to provide critical research that provides a more nuanced understanding of piracy, which can be used to create a more balanced discourse on piracy, and can also be used by groups articulating a more equitable knowledge society.

The need to enforce IPRs has resulted in the escalation of police raids, backed by high profile media campaigns. In this context the IIPA, an international lobby group of US media industries with close ties to the United States Trade Representative, has expressed consistent dissatisfaction with South Africa’s efforts to deal with piracy. The IIPA works in close cooperation with other US lobby groups such as the MPA (Motion Picture Association) and the BSA (Business Software Alliance). The IIPA reports are significant among the accounts of regional and international discourse on piracy.

In addition, access to the broadband internet environment is gradually increasing in South Africa through the uptake of ADSL and mobile broadband services and digital satellite television
services. The future impact of the increasingly online triple-play environment needs to be explored to take account of the impact of user generated content, broadcast/pay per view content delivery over broadband, and Application Service Provider (ASP) models of software delivery - e.g. Google advertising supported personal and office applications. This is important for future piracy issues because real-time delivery over the net (which knows where the user is located) allows the global copyright holders to be more specific about local license fees and to reduce them in developing countries to levels more appropriate to local income levels. Before, with broadcast models or distribution of physical content (paper, CDs, DVDs) there had to be a uniform price because otherwise there would be arbitrage opportunities for moving product from developing to developed countries. Researching this and surfacing it for public discussion could also lead into covering the implications for piracy from increasing levels of broadband - difficulty of measurement, enforcement, etc., which can make comparisons of piracy between countries with different levels of broadband uptake more difficult, and makes basing piracy on traditional measures more suspect.

In light of the above, we are interested in exploring:

- How can we reframe the question of piracy to shift the focus away from illegality to address questions of greater access to knowledge, culture and technology?
- What are the institutional mechanisms through which piracy is framed as a problem by large media companies and international lobbying groups such as the IIPA, etc.?
- What are the ways in which localities are transformed through non-legal media circulation?
- What is the extent of digital piracy within South African online communities and how does this dimension fit into the continuum of forms of piracy?

The target of the research is first and foremost the policy making bodies of the South African government responsible for intellectual property rights and anti-piracy enforcement. These include the South African Ministry and Department of Trade and Industry in the executive branch and the Trade and Industry Committee in Parliament. Second, the target of the research is public opinion in South Africa and generating a public debate in the media with the anti-piracy industry. Third, the target of the research is the India Brazil South Africa Forum which has an information society and intellectual property rights component, which may engage with the issue in the framework of the Development Agenda of the World Information Property Organization (WIPO).

**South Africa: Background**

As stated previously, there is little known independent research on piracy in South Africa. The statistical analyses presented are distributed by the major international and local media players. In light of this it is important to begin by exploring the nature of piracy in South Africa.

Cities in South Africa, as in most countries of the global South have been built on informal networks of housing and infrastructure, marked (as noted in research conducted in India) “by a porous divide between the legal and the illegal”. The ‘informal economy’ has been critical to survival of many – and possibly a source of innovation.

Since the first democratic elections in 1994, South Africa has signed and been party to most international conventions protecting intellectual property.
In line with the Trade Related Aspects of Intellectual Property (TRIPs) agreement of the Uruguay round of GATT, the government has promulgated a number of laws – including the Intellectual Property Laws Amendment Act and the Counterfeit Goods Act.

The Copyright Act (No 98 of 1978 as amended) has not been amended since 1994, though discussions on amendments have been repeatedly discussed and a draft Amendment Bill was developed in the 1990s by the Department of Trade and Industry. The suggested amendments have not been implemented – reportedly due to conflicting views of different interest groups.

**National Policy**

The Department of Trade and Industry (DTI) is the primary department charged with developing policies and laws relating to copyright, counterfeit goods, trade marks and intellectual ‘property’.

Whilst there has been both local and international pressure (primarily from major rights holders) to harmonise legislation and amend laws to cater for the digital environment, different pressure groups often have conflicting agendas (most notably between broadcasters and the recording and music industries over the introduction of ‘needle time’). Such controversies have been cited by observers as one of the factors that have lead to delays in tabling of draft legislation.

In addition, there is some confusion between different government departments over responsibilities. The Department of Arts and Culture for example has on numerous occasions proposed policies related to copyright in relation to protection of artists and writers. These include recommendations on the introduction of a “blank tape levy” – whereby the legislation would be amended to decriminalise personal copying of certain artistic products and a levy would be imposed on sale of recordable devices (including tapes, CDs and potentially items such as mp3 recorders). The Department of Arts and Culture last year issued a tender for research into the feasibility of such a levy. The tender was however withdrawn but will according to the Department be re issued in 2007.

**Enforcement**

Enforcement has been stepped up over recent years – with government entities working closely together with bodies representing industry plus musicians, film makers and writers. ¹ In 2006, for example close to 442 000 counterfeit goods were seized – the majority gaming software and VCD’s and DVDs. According to newspaper reports seized goods were either downloaded from the internet or imported from Pakistan and Malaysia.

At the same time, awareness campaigns have increased – with industry and artists joining together to run public campaigns about the morality of ‘piracy’. This is coupled with release to the media of estimated costs of piracy to the country as well as stories of effective prosecution of media and soft ware “pirates”. The effectiveness of this is unclear. In a recent survey, 20% of adults interviewed face to face admitted that they would purchase pirated DVDs.²

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¹ According to the South African Federation Against Copyright Theft, the number of raids by law enforcement agencies increased from 50 in 1997 to close to 400 in 2006 (www.safcta.co.za/statistics.htm)
² TNS Research Surveys conducted face to face at home interviews at the end of 2006 amongst a representative sample of 2000 South African adults (aged 18 years and older) from the metro areas of South Africa to determine people’s willingness to buy pirated DVDs and CDs. TNS Research Surveys states that given the nature of the survey the figure under represents the number of people who admit to a willingness to purchase “pirated” DVD and CDs.
Private Sector Organisations

A range of anti-piracy bodies have been established representing different sectors. These include:

- The South African Federation Against Copyright Theft (SAFACT) – focusing on sales of copies of DVDs and films. The organisation includes public entities such as the National Film and Video Foundation as well as major industry players (international and local).
- The Recording Industry of South Africa (RISA) – RISA represents the music recording industry. They have an anti-piracy committee focusing on sale of ‘pirated’ CDs and cassettes. They represent major recording companies (both local and international)
- Operation Dudula – Operation Dudula is an association of South African musicians (lead by South African artist Mzwakhe Mbuli) to fight ‘piracy’.
- Business Software Alliance is an international organisation with a South African branch and hot line. They represent the major software developers around the world.
- Print Industries Cluster Council (PICC) which includes members of the book publishing chain including paper manufacturers, publishers and booksellers.

These anti-piracy bodies work together with the DTI, the South African Revenue Services, police and customs officials to target counterfeit media products production and distribution. Most of them are focused on enforcement of existing laws and/or amendment of legislation to increase penalties and provide for less onerous procedures for legal action against violators.

The Business Software Alliance has taken the lead in campaigning against software piracy in South Africa. Its Global Piracy Studies for 2004 cite South Africa as being responsible for software piracy losses of $147m in 2004 and for losses of $212m in 2005. There are also a number of advocacy groups promoting free and open source software in South Africa like the Shuttleworth Foundation which ran a successful campaign called ‘Go Open Source’ from 2004-6. These initiatives are endorsed by Government which has adopted open source software in public institutions.

Statistics

Anti-piracy initiatives cite a range of statistics to back up their demand for tougher legislation and enforcement of laws. Whilst those figures based on the number of goods seized or court actions launched can be verified, the source of other statistics is unclear from preliminary research.

SAFACT, for example, states that the market share for pirated DVDs in South Africa was in excess of 50% in 2005 – increased, they claim, from 10% prior to 2001. It is unclear how such figures were derived. SAFACT further states that this level of piracy would equate to a potential loss of approximately 3 million unit sales. The recording industry makes similar claims.

Industry players furthermore have translated such figures into revenue and taxation loss which is a problematic practice as it does not account for whether consumers of such products would have purchased genuine copies at a higher cost. There appears to be little or no independent research.

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3 http://www.bsa.org/globalstudy/
4 http://www.go-opensource.org/
5 http://www.safact.co.za/piracy_facts.htm
into incidences of piracy and the costs or benefits to the country. Whilst the Department of Arts and Culture’s Cultural Industries Growth Strategy published in 1998 provides some statistics on levels of piracy, it is unclear from this paper how such figures were sourced.

Other statistics available are those cited in International Intellectual Property Alliance Special Country reports on South Africa. Such statistics however are limited. In the 2007 filing for example, figures were only provided for costs of ‘pirated’ business software and books. No statistics were given for distribution of illegally copied movies, music or electronic games. The IIPA has repeated made special mention of South Africa for alleged non compliance with international copyright treaties.

**Project Objectives**

The Project seeks:

- To produce a detailed study of enforcement infrastructure and the anti piracy industry, including government structures, industry lobbies, corporate legal firms, and links to judicial and police strategies. This will also include details of ownership of media and recording industry. Attempts will also be made to evaluate the costs involved in fighting piracy – and if such costs are greater than any gains.

- To open a different debate on piracy other than the standard ones of enforcement and criminality. This debate can lead to wider discussions of cultural needs and community practices of sharing and circulation, in societies characterized by conditions of high social inequality. This will include both debate and discussion within South Africa and between project partners in countries such as Brazil, India and Russia.

- To analyse methodologies for gathering statistics in enforcement literature retailed by media industry lobbies in order to test presumptions that such data is faulty and exaggerated. This will include analysis of IIPA methodologies and the impact of such studies. Such statistics are utilized by international enforcement bodies and international and local rights holders to limit any debates about intellectual property to issues of piracy and legislative and enforcement frameworks.

- To gain an understanding of the nature and extent of piracy amongst different communities in South Africa – and the reasons for piracy. This will include:
  a) analysis of piracy as an economic sector (jobs),
  b) the diversity of supply of pirated goods (what is pirated and what is not and why),
  c) the extent of sales of pirated local goods vs international goods,
  d) whether or not piracy has assisted in facilitating the emergence of cultural industries on the periphery,
  e) distribution networks,
  f) examining what drives the growth of the piracy business (i.e. is it a pricing problem, supply problem or a timing problem). Note that different communities may be pirating goods for different reasons.
  g) whether or not piracy supports licit sales.
  h) explore the extent and forms of digital piracy by broadband internet users

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6 The report claims that the loss to the software industry equated to 119 million US dollars and the cost to publishers was 3 million US dollars
• To generate a public debate using new and traditional forms of media to disseminate the research report, its findings and recommendations with the aim of influencing the policy debate.
• To disseminate the results to the South African Department of Trade and Industry and Parliamentary Committee on trade and Industry through hosting a seminar for them
• Disseminate the results to the India Brazil South Africa (IBSA) civil society forum to engage with the existing government IBSA Forum on the information society and intellectual property rights implications of the research.

Methodology

The past few years have seen the emergence of a body of work that engages with the politics of Intellectual Property and the future of knowledge and creativity. A lot of the scholarship has emerged in the context of the expansion of IP in Europe and the United States, and hence reflect liberal concerns about free speech and its relation to the public sphere. The most significant work could be classified as follows:

• **Public Domain and Commons Approach**: The work of scholars like James Boyle, Yochai Benkler and Lawrence Lessig, to name just a few, has been to make an argument for a stronger understanding of the public interest that underlies intellectual property policy. The use of ecological metaphors such as the digital ‘commons’ marks much of the work that is done by the public domain advocates. The public domain approach attempts to link intellectual property to normative constitutional arguments about freedom of speech and expression, arguing that increasingly, IP is being used to deter free speech.

• **Political Economy Approach**: Scholars such as Peter Drahos, Carlos Correa, Susan Sell and others have been looking at contexts in which intellectual property has been globalized, critiquing the essentially North-South character of intellectual property. These scholars often target institutional players such as WTO, WIPO and the TRIPS agreement, charging them with ‘information feudalism’, or of neo-colonialism.

• **Critiques of Authorship**: The coming together of literary theory and legal theory in the works of Peter Jaszi and Martha Woodmansee have been highly significant in inaugurating a critical interrogation of the figure of the author as an isolated romantic genius, through a historical identification of the emergence of the author function, as well as problematizing the idea of the romantic author in the age of digital production.

• **Historical Approach**: These scholars examine the emergence of particular strands of intellectual property in its historical context, and especially the context of the history of industrialization. This strand has been very important in countering the claims made by certain IP proponents who argue that that without a strong patent regime there would be no innovation. This approach has also been useful in providing a counter example to the strongly universalistic claims made for IP protection. It is also used to counter the US-dominated discourse or language game of ‘theft’ and ‘stealth’, since it connects the history of innovation in the US to the direct absence of a strong IP ethic.

• **Southern Critique**: Finally, the responses to the question of IP from ‘developing countries’ have generally been framed around the ‘epistemological question’ or the ‘nationalist approach’. In the former, the argument is made that IP is not a universal mode of relating to knowledge, and that it emerges in the specific history of the Western enlightenment discourse, carrying with it presumptions such as originality, authorship, etc. IP therefore faces an epistemological problem when it encounters other forms of knowledge production (such as traditional knowledge). In the latter, there is a more instrumental
approach towards IP, arguing for a nationalist protection model.

The methodology of the South African study will draw on the public domain and political economy approaches, in that it will seek to understand how the current approaches of anti-piracy discourse and policy are consonant with the provisions on freedom of expression in the South African constitution and with international norms relating to ‘fair use’ affecting the public interest. The political economy approach will explore the social and economic costs and benefits of piracy as an economic sector and infrastructure as well as the institutional organisation of the anti-piracy industry and its mobilisation of research and policy in the political sphere. The political institutions responsible for policy and law on intellectual property rights and piracy will also be examined and analysed within this political economy frame. Part of this will be to examine the practices of governance involved in the sense used by Canadian political theorist James Tully. Tully argues that the study of practices of governance must proceed from two perspectives: ‘from the side of the forms of government that are put into practice and from the side of the practices of freedom of the governed that are put into practice in response.’ 7 The research will cover the two perspectives by examining government practices in response to the ant-piracy industry and the actual practices of communities, both virtual and on the ground, with regard to analogue and digital piracy. The work of Rosemary Coombe 8 on the cultural practices related to intellectual property rights, Debora Halbert 9 on the construction of ‘hackers’ as an enemy, which resonates with the construction of the ‘pirate’ as an enemy, and Michael Strangelove’s work on digital piracy 10 will be drawn on in examining these practices of government and the governed in relation to piracy.

This will involve a combination of techniques:

**Contextual:** The study will explore the nature of piracy in South Africa and the rationale behind its growth. From anecdotal evidence there appear to be different motivations behind purchase of pirated goods – determined by social status and class. For example, in poorer communities, it appears that people buy pirated goods as this is their only means of access to such media. This includes both individuals and micro industries – and pirated copies of older technology such as cassettes are common. However, amongst the elite, pirated goods are cheaper (but the legal versions are not necessarily unaffordable) and available prior to release in South Africa. The study will explore this further in order to be able to describe piracy in South Africa. We aim to include descriptions on the different natures of piracy, as well as how pirated goods are sourced, and the rationale behind its apparent growth. This will be accomplished through desk top research and interviews with relevant stakeholders. Note that it may be difficult to access accurate information on piracy from those that distribute pirated goods due to fears of legal repercussions. However the researchers will explore this where possible.

**Comparative:** Whilst this research will be distinct and stand alone, the project runs alongside similar research being conducted in other countries under the broad guidance of the SSRC. There will be regular contact and sharing of information between the SSRC project partners (in countries such as India, Brazil and Russia), allowing for comparative analyses of piracy in the south – and differentials that impact on this. This is particularly important given that the cited source of pirated materials is Asia.

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7 James Tully: *Political Philosophy as a Critical Activity* in Political Theory Vol. 30, No. 4 (Aug., 2002), p539
9 Debora Halbert: *Resisting Intellectual Property* Routledge, 2005
10 Michael Strangelove: *The Empire of Mind: Digital Piracy and the Anti-Capitalist Movement* University of Toronto Press, 2005
**Institutional:** Recent studies (*Global Hollywood* by Miller et al, 2001) have usefully emphasized the importance of institutional sites as producing discourses on policy, competition and power. The research will scrutinize these.

(a) **Media Industry:** Material produced by advocacy bodies such as the IIPA, Business Software Alliance, trade bodies, the domestic lobby groups in film and music industries. Legal firms and ‘enforcement’ bodies will form part of the broad map of the institutional study. Institutional studies will show piracy’s relationship to the media industry, and explore the hypothesis that piracy occupies a productive secondary market for the industry, both directly (the rights of loss-making films are sold to pirates) and indirectly.

(b) **Government:** This will look at the evolution of legislative and government documentation on copyright and piracy. We will further examine the evolution of amendments proposed in copyright and media legislations to combat piracy.

(c) **Legal:** The main body of material here will be case law, injunction strategies by IP lawyers and the evolution of legal judgments on piracy for the past decade. We shall examine the hypothesis that despite piracy’s global circulation, lobby groups and industry bodies have been forced to stress national and legal enforcement.

**Community Studies and the Materiality of Piracy:** The local life of piracy in communities is a crucial part of this study, emphasizing that piracy has a material life in the world of ordinary citizens in the South. We propose to this in the following ways:

(a) **Ethnographic studies** of two communities from working-class and middle-income areas, looking at media use and piracy. Research techniques tested by other project partners will be considered in gathering information. *This aspect of the research will largely be exploratory - both in terms of the local implementation of the methodology as well as the research findings.*

(b) **Quantitative studies:** Two community studies looking at the nature of media circulation/consumption in relationship to household income. This will locate the quantitative studies within their social context, as well as generate alternative data that take into account various social realities. The study will go into purchasing parity analysis to consider the intelligibility of IIPA statistics.

(c) **Digital Community:** A study of the practices of online communities relating to digital piracy in the context of broadband convergence. This will include looking at advertising-supported online content (including youtube, shoutcast and other free/advertising supported multimedia. The study of broadband in the South African context will explore the spectrum of tension between cost and immediacy/ commercial availability (lack of) at the one end, as factors encouraging piracy, while the levels of copy protection, penalties (plus surveillance) and free/cheaper alternatives being at the other end of the spectrum, as factors creating a disincentive for piracy. The salience of this will be to explore the proposition that if copy protection worked better, there would be more public domain software and media used, especially in developing countries.
Cultural and Human Needs: The project has emphasized that a democratic sphere of media sharing and circulation is as important to societies of the South as it has been in other parts of the world. We shall examine in what ways piracy increases or decreases this domain, and the broader relationship between small commerce culture and the new public realm. In this way the project hopes to complicate classic positions on public culture and the social life of shared goods.

The project outputs will consist of a report which contains the following sections:

- Overview of South African situation
- An account of social costs and benefits of media piracy
- An analysis of the anti-piracy industry and practices of governance
- An analysis of how piracy works on the ground and online
- Findings and recommendations for policy

Results and dissemination

The anticipated result of the research process will be to have a research report which:

- Provides an analysis of piracy as an economic sector in South Africa;
- Provides an analysis of piracy as an infrastructure in South Africa that supports other activities;
- Provides an analysis of the anti-piracy industry in South Africa
- Provides an analysis of how piracy works through local networks/practices as well as insight into digital piracy in the online broadband spaces in South Africa
- Provides a set of recommendations regarding policy in addressing the problem of piracy from a different perspective

The primary target for dissemination of these results is the South African government. A seminar will be held with the Department of Trade and Industry and the Trade and Industry committee in Parliament to report on the analysis, findings and recommendations of the research and its implications for policy in South Africa. The Department of Trade and Industry plays a role in the India-Brazil-South Africa (IBSA) Forum and part of the discussion with the Department will explore opportunities for placing the research together with that emanating from the India and Brazil case studies on the agenda of the IBSA Forum.

The report will then be disseminated to the South African media (press, radio and television) at a press conference and steps will be taken to secure an op-ed piece in the Business Day, Mail & Guardian and Rapport newspapers. With regard to the internet the report will be made available on APC’s Africa ICT Policy Monitor and global websites. The writers will also generate blogs and podcasts to circulate the findings deeper into the more interactive spaces of the web.
An academic article will also be written for the Link Centre’s The Southern African Journal of Information and Communication\textsuperscript{11}

In parallel with these activities, a civil society avenue for disseminating the results will be explored. APC, in partnership with IT for Change, has discussed the process of building a civil society forum to engage with the India-Brazil-South Africa (IBSA) Forum which was established in 2004 to develop trilateral strategies between the three countries\textsuperscript{12}. The information society was chosen as one of the areas for trilateral cooperation. At their 2006 Summit, the three Heads of State signed the IBSA Framework of Cooperation on Information Society, which provides the basis for future trilateral work aiming at reducing the digital divide in their societies. They also identified intellectual property as an area of focus and welcomed the continued discussions on the establishment of a “Development Agenda in the World Intellectual Property Organization”\textsuperscript{13}. At a workshop on ‘Development in the Information Society: Exploring a Social Policy Framework’ held in Bangalore in January 2007, IT for Change and APC met with officials of the Indian, Brazilian and South African governments and discussed forming a Civil Society Forum as a component of the IBSA Framework on Cooperation on the Information Society.

The media piracy research presents an opportunity to develop the IBSA civil society forum to engage with the IBSA Forum on the information society and intellectual property.

It is proposed that the advocacy process runs in parallel with the research process so that the advocacy can be informed by the research process from the beginning. APC would make available an advocacy coordinator to lead this process.

In the first year, the advocacy coordinator would attend the international workshops and visit India, Brazil and South Africa to engage in discussions with government officials and civil society on using the media piracy/access to knowledge issue to develop an IBSA Civil Society Forum to engage with IBSA on the issue.

In the second year, once the preliminary results are becoming clear, the advocacy coordinator would convene a workshop to launch the IBSA civil society forum and to create a platform with government and civil society to discuss the findings of the research and to explore an advocacy strategy at WIPO. (The development agenda discussions have now mainly concluded and will likely go forward next to the implementation stage) to take it forward.

Within South Africa, the main outcome would be to get the policy process on IPR begun by the Department of Trade and Industry restarted as well as create a debate on IPR and media piracy.

In terms of IBSA, the main outcome would be to contribute the research to the policy initiatives the three countries are discussing within the IBSA framework on IPRs and the information society as well as seeing if the research will help in the policy work the three countries are engaging in

\textsuperscript{11} http://link.wits.ac.za/journal/journal.html


\textsuperscript{13} 40. The Heads of State and Government underscored the importance of incorporating a development dimension in international discussions concerning intellectual property, as a means to make a meaningful contribution to the economic and social aspects within developing countries, and to preserve policy spaces necessary for ensuring access to knowledge, promoting public goals in the fields of health and culture, and a sustainable environment. In this context, they welcomed the continued discussions on the establishment of a “Development Agenda in the World Intellectual Property Organization” and reaffirmed the importance of the continuation of these discussions to ensure the effective incorporation of the development dimension in all its bodies. First India-Brazil-South Africa Summit Meeting, 13 September 2007
the WIPO Development Agenda.

**Monitoring and evaluation**

The relationship between research and policy influence will be evaluated with respect to a number of indicators:

- Changes in the policy posture of the South African government regarding policy formulation on IPR, as reflected in official statements, policy processes involving legislation and public hearings and media coverage.
- Changes in the approach taken by the governments of India, Brazil and South with regard to addressing the issue of media piracy and access to knowledge in the context of the IBSA Forum and the WIPO Development Agenda as reflected in official statements, WIPO minutes and reports and media coverage.

Changes in the behaviour of boundary partners will be the key measure of outcome, especially national governments. The exact methodology will be determined and discussed during the team methodology workshop in South Africa.

**Team Members and Administration**

The Project will be administered by APC – together with contracted lead researchers. The core team includes Willie Currie (APC’s Communications and Information Policy Programme Manager) as project leader, Libby Lloyd (contracted researcher and LINK Centre Research Associate) and Natasha Primo (researcher and APC National ICT Policy Advocacy Coordinator). The team will manage and monitor all research aspects of the project, including the thematic segments listed above as well as coordination with IDRC and the broader comparative liaison with SSRC. Researchers will post field diaries to an internal list administered by the team. Specialist research consultants from Wits University, the Link Centre and other relevant bodies will be drawn on to assist in the research. We hope to draw on two University of Witwatersrand academics to provide specialist advice on the research process. Professor Nixon Kariithi, Media Studies at the University of the Witwatersrand and Christoph Stork, researcher at the Link Centre. We would like Christoph to assist in the design of the household surveys. Student researchers from Wits University and the Link Centre will assist in field work. Willie Currie and Natasha Primo will be responsible for the dissemination of the results as outlined above.

Two meetings with SSRC partners to share findings and methodologies will be held in India in 1998 and Brazil 2009.

Financial and office administration will be managed by APC.