

**Joint Introduction to the following submissions by PTNS to  
CODESA Working Groups 1, 2, 3 & 5**

**Background**

- PTNS (Professional Telematics Networking Services CC) plans by August 1992 to launch a computerized database and networking service for use by the general public, though in the short term more particularly for use by leadership elements wherever they may be and whomever they may represent.
- The service will start a new communications medium, which South Africa is well placed to exploit as a supplementary instrument for democracy.
- Telkom's country-wide electronic networks (such as those known as Easy Access, Beltel and Triple-X) provide an easily-used and very affordable basic access infrastructure.
- The medium will function as a Marketplace to facilitate the matching of Supply and Demand. It is aimed at the commercial market and at the market for public goods and services, increasingly becoming known as "Governance" - the process conducted by both Government and the various associations and networks of Civil Society.

**Proposals**

**That Codesa**

1. Particularly in respect of the assignments of Working Groups 1, 3 & 5, use the PTNS service as soon as possible to assist in its objective of ensuring the widest possible constructive participation by the citizenry,
2. Particularly in respect of the assignments of Working Group 2, carry out its national constitution-making brief in full light of the fact that "the medium is the message", as set out throughout the following, and
3. Having tested the PTNS service as indicated above, consider in due course installing its own facilities using the same or compatible software.

**"The medium is the message"**

- The medium will be fundamentally democratic both in its accessibility and in its effect: Government by the people, for the people. It will stimulate and facilitate participation in economic and political processes by all responsive and responsible groups and individuals.
- The medium will help articulate and empower the Demand side of the market. A demand orientation is the essence of Democracy.
- The medium will promote and enhance initiative and competence, and will thereby stimulate and facilitate the Supply side. It will unlock wealth-creation and help the balance of power.
- By improving the democratic mechanisms of the market, the medium will help the "free market" control itself, and provide a means for the expression and effecting of social solidarity.

**Realism nonetheless**

It is self-evident that the problems confronting Codesa are immensely complex. The software behind the PTNS service has been designed from its very conception explicitly as a medium to help people simplify complexity together by creating products that help organize our communal lives in congenial ways. A key aim is the support of conflict resolution, for which systematic provision is made.

**Details**

The following submissions expand on the above in a small way. Further details may be obtained from:  
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(C.M.Spottiswoode:)



2 March 1992

**Submission by PTNS to Codesa Working Groups 3 & 5**

(further to our submissions above)

**With respect to Working Group 3's Assignment: "Transitional arrangements / interim government / transitional authority."**

**and Working Group 5's Assignment: "Time frames and implementation of Codesa's decisions."**

**We submit that**

In the event that Codesa accepted our Proposal 1 in our "Joint Introduction" and used the PTNS service as soon as possible (making it available to the public by August this year), and that Codesa followed the spirit of our Proposal 2 in seeing the beneficial impact of the new interactive medium on democracy, the effective separation and balance of powers, and social solidarity,

and considering that our suggestions are so consistent with what we understand to be current thinking at and around Codesa,

then the following process and schedule (without being unduly prescriptive) seem to us to be quite feasible for Codesa to pursue:

1. PTNS is also working towards providing - or hosting a third party providing - an on-line legal information service offering statutes, case law, bills before parliament, new acts, commencement dates, as well as subsidiary legislation and regulations. Since the interactive medium is most appropriate to the entire legislative process, and since this area is now markedly shifting towards Codesa, at least for the moment, and since "the medium is the message" for the process as for the constitution, we submit that Codesa would do well to examine the PTNS database and networking plans as soon as possible, the better to exploit and perhaps influence them.
2. Considering the degree of consensus amongst almost all parties on the basics of a new constitution, and considering the degree to which the new interactive medium would support that consensus as set out in our submission to Working Group 2, we expect that Codesa could soon issue a far-reaching statement of intent on an eventual constitution, and implement a justiciable bill of first generation or civil liberty rights (there being no consensus on how, if at all, second generation or social welfare rights could be included). We believe that this should be possible by the end of 1992 at the latest.
3. We submit that there should be no great expectations of what a new body or Constituent Assembly of any kind might be able to achieve that Codesa in its present form could not. If it is nonetheless deemed that an elected body would give greater legitimacy to the process, then so be it. In either case, we submit that Codesa's or its successor's brief should be confined to overseeing the penultimate and difficult part of the process as described below. The final phase would be the adoption and implementation of a new constitution. This should be possible by mid-1994, which we understand is also roughly the Government's deadline.

(It is not irrelevant to point out that the present writer's book, *Beyond Apartheid*, published in June 1986, made the prediction that the period of fastest growth towards a democratic state would be the period 3 to 8 years from that date - coinciding almost exactly with the 5 years from F.W. de Klerk's becoming President!)

### **The difficult process**

Having reduced the pressure to finalize precise details of our eventual constitution, as indicated in our entire submission, Codesa could use the new interactive medium to stimulate and support the main work *by the entire population*:

The real separation of powers that we need must be based on what in the entire task of "governance" is separable and how. A nation can only discover this in practice and not around a table. Much detailed proposal, experimentation and reference to the people is required.

Our proposed "Supply-side effect" is, we believe, crucial to this process of discovery and invention. And it clearly needs the "Demand-side" articulation and empowerment listed in our Joint Introduction to these submissions.

Without the focussed attention on complex people-reality that only a widely-accessible interactive communication service can mediate, South Africa will not find the appropriate simplifications that comprise a reliable new dispensation.

**Submission by PTNS to Codesa Working Group 2**  
(pursuant to the "Joint Introduction" above)

With respect to Working Group 2's First Assignment,

**"General Constitutional Principles."**

and article 1.1.1 of the terms of reference,

"To investigate [...] with regard to general constitutional principles which should be enshrined in and not contradicted by any other provisions of a new constitution, provided that [they shall be] consistent with democracy [...]."

Our second proposal in our Joint Introduction makes it clear that we believe that the interactive communications medium we are seeding is well suited to help embedding and giving real and meaningful form to the emerging political consensus in South Africa. Some elucidation will help support this view:

- One-person-one-vote majoritarian democracy has been universally accepted as the constitutional norm. Equally undisputed is the need to control abuse of power by elected officials, undue domination by parties, and other forms of arrogance or "mandatism".
- The equally well-established antidote to mandatism is a protected system of checks and balances, of which a separation of powers is an essential component.
- The "Fourth Estate" - the Media - in the global village of modern communications is an increasingly effective support for entrenched constitutional clauses in protecting the system of checks and balances. The new interactive medium we are initiating will add yet greater force to this desirable effect.
- The very notion of "Governance" recognizes the complementary role of non-Governmental agents in creating and providing public goods. By promoting the "Supply-side" of the public market, the new interactive medium will greatly enhance the informal separation of powers, thereby reducing reliance on constitutional mechanisms often derided as being mere "paper guarantees".
- The goal of magnifying the "Supply-side effect" is fully consistent with many current policies and practices such as devolution of power, the growing role of NGOs, the IMF's loan conditions, commercialization and privatization.
- This diversifying scene is one clear and appropriate result of the increasingly recognized "absolute complexity" of the modern political economy (Another result has been the collapse of the centrally-controlled economies).
- The use of the medium will help expand the culture of individual rights, since the medium has been conceived as a democratic tool to help people simplify the complexity of communal needs in congenial ways (Rights are clear and citizen-understandable restatements of the net effect on the individual of diverse legislative and judicial decisions taken collectively in the face of complexity).
- Standing in contrast to all the above-mentioned appropriate responses to complexity, are the oversimplifications inherent in proposals for a complete geographic separation of powers. The latter place unrealistic reliance on one dimension, and ignore the multi-faceted nature of the interdependencies of the modern state.
- There are two further most useful mechanisms that will thrive on the medium: a certain kind of fiscal incentive, and our conflict-resolution framework (with striking similarities to the "negotiable rights" work of Ronald Coase, the 1991 Nobel Prize-winner for economics). At this stage we shall merely point out that they will greatly facilitate affirmative action and other solidarity initiatives. And add that it then becomes unnecessary to attempt to "square the constitutional circle" by trying to make the Judiciary responsible for social rights policies.

The immediate net effect of the above considerations is:

That PTNS' activities will help support in very real ways the general acceptance of a basic system of full liberal-social-democracy with powerful checks and balances through a dynamic and growing separation of powers, and

with respect to the Second Assignment, "Constitution-making body/process", that there are some clear consequences for the constitutional process. See our submission to Working Groups 3 & 5 below.

**Submission by PTNS to Codesa Working Group 1**

(pursuant to the "Joint Introduction" above)

**With respect to Working Group 1's First Assignment,****"Creation of a climate for free political participation."****and article 1.1.1 of the terms of reference,**

**"To investigate [...] with regard to the actions needed to be taken to foster and establish in South Africa a climate in which all individuals and organizations can participate freely, without interference or intimidation, in all political activity and, in particular, in the processes leading up to the introduction of a new constitution."**

Our first proposal in our Joint Introduction makes it clear that we believe that the interactive communications medium we are seeding is well suited to assist the creation by Codesa of the climate sought. Some elucidation will help support this view:

- The medium will host on-line continuous conferences in respect of the issues that its users will propose. Such "conferences" have been proven in other countries and in South Africa to promote and support careful consideration, rationality, objectivity, tolerance and overall effectiveness.
- Codesa could use the medium to submit its proposals to specialists, to leaders and representatives, and - considering the hundreds of thousands of South Africans who currently have access to Personal Computers or terminals - to a wide circle of individuals whose responsiveness and responsibility are still dormant for lack of an inviting medium.
- The medium will invite comment, and - as a key feature - such contributions will easily be made fully in-context. The resulting coherence and non-redundancy of debate will go a long way to promote the level and tone of political participation that Codesa seeks.
- It is implicit in the very nature of the medium that irrelevant aspects such as the participants' accent or skin colour are filtered out. The optional use of public pseudonyms could complete the focus on the issue rather than the person.
- Extensive and state-of-the-art indexing facilities will be offered by the PTNS service. Combined with the service's basic conference function, the result is an unequalled "cooperative research tool and decision support system". (We may note the frequent comments in the relevant literature that this area will be one of the major growth points of computer software and application evolution in the Nineties.)
- The medium can further be used to help coordinate and administer many on-going functions of projects that might result from the discussions and decisions mediated. Integration with existing data-processing systems is provided for.
- The software architecture behind the PTNS service has been designed to work with maximal devolution or distribution to many different sites. There need be no "Big Brother" fears.
- Many South African organizations on all points of the political spectrum are already using rudimentary forms of the coming medium, such as databases, electronic mail and bulletin-boards, and are aware of the vast unexploited potential. The market is ripe for a quantum leap to a new level of effectiveness.
- Perhaps the greatest pair of obstacles to the process for which Codesa is responsible are the exclusion from "the system" of large numbers of disadvantaged, and confusion and fear amongst threatened minorities. Further to our submission below to Working Group 2, it is most pertinent to Working Group 1's assignment to point out that a climate of hope can be generated by:
  1. Pointing out the real protections for minorities that the medium will enhance by supporting the system of checks and balances, and, more positively,
  2. Expediting the constitutional process in order to free the minds and energies of the nation to get on with the job of wealth-creation.

Taken together, these various points make - we submit - a *prima facie* case that Working Group 1 should seriously consider using the PTNS service as soon as possible. Our submission to Working Group 2 - we believe - makes it a cast-iron case, whilst our joint submission to Working Groups 3 & 5 makes it easy too.

# FAX MESSAGE

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