

# Laws Governing Media Practice in Kenya

*A Journalists' Handbook*

# 2014

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This publication is a simplified version  
of the two main laws that guide media  
(practice) in Kenya: The Media  
Council Act, 2013 and The Kenya Information And  
Communications (Amendment) Act, 2013

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Published by the **Association of Media Women in Kenya**

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The passing of the Kenya Information and Communications (Amendment) Act, 2013 and the Media Council Act, 2013 in December 2013 ushers in a new legal and regulatory framework in media, information and communication environment in Kenya. The 2014 World Press Freedom Index indicates that during this decade, press freedom globally was at its lowest in 2013.

Polarised political environments, global and national security and terrorism are some of the factors that contribute to the diminishing press freedom. Kenya is bound to a series of international and regional legal instruments regarding free expression. Articles 33 and 34 of the Kenya 2010 Constitution expand freedoms of expression and of the press, specifically by prohibiting the state from interfering with the editorial independence of individual journalists as well as both state-owned and private media. In the same breadth the Constitution also curbs press freedom with regard to privacy, incitement, hate speech, and anti-government propaganda in times of war.

As media practitioners continue to manage the tensions between freedom and fairness, AMWIK in its commitment to enhance the quality of journalism in the country, contributes to the capacity building of its membership as well as other journalists. Through the simplification of the operating media laws in Kenya, AMWIK seeks to build the capacity of its membership in the legal knowledge, cushion its members from the punitive measures, as well as use the analysis of the legal provisions to lobby and advocate for gender equality in media institutions created by the existing legal framework.

AMWIK is grateful to the Ford Foundation for the financial and technical support.

***Helen Mudora Obande***  
***Executive Director***  
***Association of Media Women in Kenya (AMWIK)***

The two laws guiding media operations in Kenya; the Media Council Act, 2013 and the Kenya Information and Communications (Amendment) Act, 2013 were passed by the Kenya National Assembly on 5 December 2013.

The Kenya Information and Communications (Amendment) Act, 2013 was assented to by the President of the Republic of Kenya H. E. Uhuru Kenyatta on 11 December 2013 and came into effect on 2 January 2014, following the amendment of the Kenya Information and Communications Act, 1998. The Act created the Communications Authority of Kenya to replace the Communications Commission of Kenya.

The Media Council Act, 2013 was assented to by the President on 24 December 2013 and came into force on 10 January 2014 following the repeal of the Media Act, 2007 which established the Media Council of Kenya.

### WHAT IS THE MEDIA COUNCIL ACT, 2013?

The Media Council Act 2013 is AN ACT of Parliament that gives effect to Article 34 (5) of the Constitution. It establishes the Media Council of Kenya as the body that sets media standards and regulates and monitors compliance with those standards.

Article 34 (5) of the Constitution which provides for Freedom of the Media states that:

Parliament shall enact legislation that provides for the establishment of a body, which shall—

- a) Be independent of control by government, political interests or commercial interests;
- b) Reflect the interests of all sections of the society; and
- c) Set media standards and regulate and monitor compliance with those standards.

That body is the Media Council of Kenya.

#### **To Whom Does the Act apply?**

- a) Media enterprises;
- b) Journalists;
- c) Media practitioners;
- d) Foreign journalist accredited by the Media Council of Kenya; and



- e) Consumers of media services (the public falls under this category).

### **Application of the Act**

In exercising the right to freedom of expression, media enterprises, journalists, media practitioners, foreign journalists and consumers of media services shall —

- a) Reflect the interests of all sections of society;
- b) Be accurate and fair;
- c) Be accountable and transparent;
- d) Respect the personal dignity and privacy of others;
- e) Demonstrate professionalism and respect for the rights of others; and
- f) Be guided by the national values and principles of governance set out under Article 10 of the Constitution.

### **Prominent Features of the Act**

Under this Act journalists or the media should ensure that the freedom and independence of media is exercised in a manner that respects the rights and reputations of others.

Their right to freedom of expression does not extend to—

- a) propaganda for war;
- b) incitement to violence;
- c) hate speech; or
- d) advocacy of hatred that—
  - (i) constitutes ethnic incitement, vilification of others or incitement to cause harm; or
  - (ii) is based on any ground of discrimination.

It also demands that journalists or the media should protect national security, public order, public health and public morals.

### **The Media Council of Kenya**

The Media Council Act, 2013 established the Media Council of Kenya as the lead agency in the setting of media standards and ensuring compliance with those standards. The Council draws its mandate and authority from the Media Council Act, 2013.

### **Functions of the Council**

- a)** Promote and protect the freedom and independence of the media;
- b)** Prescribe standards of journalists, media practitioners and media enterprises;
- c)** Ensure the protection of the rights and privileges of journalists in the performance of their duties;
- d)** Promote and enhance ethical and professional standards amongst journalists and media enterprises;
- e)** Advise the government or the relevant regulatory authority on matters relating to professional, education and the training of journalists and other media practitioners;
- f)** Set standards, in consultation with the relevant training institutions, for professional education and training of journalists;
- g)** Develop and regulate ethical and disciplinary standards for journalists, media practitioners and media enterprises;
- h)** Accredite local and foreign journalists by certifying their competence, authority or credibility against

official standards based on the quality and training of journalists in Kenya including the maintaining of a register of journalists, media enterprises and such other related registers as it may deem fit and issuance of such document evidencing accreditation with the Council as the Council shall determine;

- i)** Conduct an annual review of the performance and the general public opinion of the media, and publish the results in at least two daily newspapers of national circulation;
- j)** Through the Cabinet Secretary, table before Parliament reports on its functions;
- k)** Establish media standards and regulate and monitor compliance with the media standards;
- l)** Facilitate resolution of disputes between the government and the media and between the public and the media and intra media;
- m)** Compile and maintain a register of accredited journalists, foreign journalists, media enterprises and such other related registers as it may consider necessary;
- n)** Subject to any other written law, consider and approve applications for accreditation by educational institutions that seek to offer courses in journalism; and
- o)** Perform such other functions as may be assigned to it under any other written law.

## **Composition of the Council**

The Council is comprised of Nine (9) members appointed through an industry driven competitive and participatory process provided for in the Act. They consist of:

- a) A chairperson;
- b) One person nominated by the Cabinet Secretary for Information, Communications and Technology;
- c) Seven other members who are appointed by a 13-member panel representing the following institutions:
  - a) Kenya Union of Journalists;
  - b) Media Owners Association;
  - c) Kenya Editor's Guild;
  - d) Law Society of Kenya;
  - e) Kenya Correspondents Association;
  - f) Public Relations Society of Kenya;
  - g) National Gender and Equality Commission;
  - h) Association of Professional Societies in East Africa;
  - i) Consumers Federation of Kenya;
  - j) The Ministry responsible for matters relating to media (the Ministry of Information, Communications and Technology)
  - k) Kenya News Agency; and
  - l) Two persons nominated by schools of journalism of recognised universities, one representing public universities and the other representing private universities.

## **The Media Complaints Commission**

The Media Council Act, 2013 under Section 27 establishes a Complaints Commission independent from the Council to enforce media standards set the by the Council, and whose mandate is to arbitrate in disputes between (a) Public and the Media (b) Government and media (c) Within the media (Intramedia). The Complaints Commission consists of Seven (7) members appointed through a competitive and industry driven process. The seven members include a chairperson who has held a judicial position or is an advocate of the High Court of Kenya of not less than 10 years standing and six other persons possessing experience and expertise in journalism and related fields.

## **Free Service**

The services of the Commission are free and independent of the Media and Government.

In general, complaints must constitute a breach of the Code of Conduct for the Practice of Journalism in Kenya found in the Second Schedule of the Media Council Act, 2013.

## **Code of Conduct**

The Code has 25 Articles incorporating the “dos and don’ts” of the media including fairness and accuracy, right of reply, using unnamed sources, misrepresentation, privacy, use of pictures and names, integrity, accountability, obscenity and bad taste, intrusion into grief and shock, protection of children and victims of sexual violence, acts of violence and hate speech.

### **Membership of the Complaints Commission**

- (a)** A chairperson, who shall be a person who holds or has held a judicial office in Kenya or who is an advocate of the High Court of Kenya of not less than ten years standing; and
- (b)** Six other persons with knowledge and experience in any one of the following areas—
  - i.** journalism;
  - ii.** media policy and law;
  - iii.** media regulation;
  - iv.** business practice and finance;
  - v.** the performing arts or entertainment;
  - vi.** advertising practice; or
  - vii.** related social sciences.

The members of the Complaints Commission shall, at their first meeting, elect a vice-chairperson of opposite gender from amongst themselves.

### **Functions of the Commission**

- a)** Mediate or adjudicate in disputes between the government and the media and between the public and the media and intra media on ethical issues;
- b)** Ensure the adherence to high standards of journalism as provided for in the Code of Conduct for the Practice of Journalism in Kenya; and
- c)** Achieve impartial, speedy and cost effective settlement of complaints against journalists and media enterprises, without fear or favour.

## **Powers of the Commission**

- a) To establish and maintain an internal mechanism for the resolution of disputes;
- b) To prescribe procedures for determination of disputes relating to the media;
- c) To receive, investigate and deal with complaints made against journalists and media enterprises;
- d) To summon and receive information of evidence relating to any matter.

## **How does the Commission Operate?**

The Complaints Commission may, by notice in writing, require any person to—

- a) give to the Complaints Commission reasonable assistance in the investigation of a complaint made under this Act; and
- b) appear before the Complaints Commission for examination concerning matters relevant to the investigation of any complaint made under this Act.

## **What Constitutes a Complaint?**

- a) Breach of the Code of Conduct for the Practice of Journalism set out in the Act for example fairness and accuracy, taste and tone in the publication or non-publication of a news-item or statements.
- b) Freedom of the press being threatened or encroached upon through denial of facilities that helps in collection or dissemination of news or through threats, harassment or assault.

## **Complaints Procedure**

A person may make a complaint to the Council if he/ she is aggrieved by:

- a) Any publication including online publications;
- b) Any conduct of a journalist, media enterprise or the Council;
- c) Anything done against a journalist or media enterprise that limits or interferes with the constitutional freedom of expression of such journalist or media enterprise.

Such a person may make a written complaint to the Council, giving details of the complaint, nature of injury or damage and the remedy sought.

### **Below are the procedures a complaint takes:**

- a) One may make a written complaint to the Council setting out the grounds for the complaint, nature of the injury or damage suffered and the remedy sought.
- b) Upon receipt of a complaint, the Council shall within 14 days from the date of receipt of the complaint refer the complaint to the Complaints Commission for assessment to determine whether it is within the Commission's jurisdiction.
- c) The Commission may reject a complaint if it does not fall within the mandate of the Commission.
- d) Upon satisfaction that the complaint is within the commission's jurisdiction, the Commission shall notify,



in writing, the party against whom a complaint has been made, within fourteen days of receipt thereof, stating the nature of the complaint, the breach, act or omission in question.

- e) The person complained against (Respondent) is to reply within 14 days from date of notification.
- f) The Secretariat shall, within 7 days of receipt of the response from the respondent, send the same to the complainant.
- g) If the dispute is not resolved the Commission can either set up conciliation or mediation panel consisting of not less than three commissioners to hear the matter.
- h) If the above panel fails to resolve the dispute, the Commission will form an Arbitration panel to hear the dispute.

### **Remedies to Media Complaints**

After hearing a matter, the Commission can make any or a combination of the following orders;

- a) Dismiss the complaint;
- b) Order the offending party to publish an apology and correction in such manner as the Commission may specify;
- c) Order the return, repair, or replacement of any equipment or material belonging to a journalist confiscated or destroyed;
- d) Make any directive and declaration on freedom of expression;

- e) Issue a public reprimand of the journalist or media enterprise involved;
- f) Order the editor of the offending broadcast, print or on-line material to publish the Commission's decision in such manner as specified by the Commission;
- g) Impose a fine of not more than five hundred thousand shillings (Ksh 500, 000) on any respondent media enterprise and a fine of not more than one hundred thousand shillings (Ksh 100,000), on any journalist found to have violated the Act or Code of Conduct for the Practice of Journalism in Kenya. Such a fine shall be a debt due to the Council and recoverable as such;
- h) In its reasons for its findings, record a criticism of the conduct of the complainant in relation of the Complaint, where such criticism is necessary;
- i) Recommend to the Council the suspension or removal from the register of the journalist involved;
- j) Make any extra orders or directions that it may consider necessary for carrying into effect orders or directives made.

The Commission shall communicate its decision to the parties concerned within 14 days from the time the decision is made.

## **Appeal**

A person aggrieved by a decision of the Council may appeal to the Complaints Commission against that decision.

A party aggrieved by the decision of the Complaints Commission may, after thirty days after the Commission has made its decision, appeal to the High Court for further orders.

### **Decisions of the Commission are final**

Where no application is made to challenge the decision of the Commission within thirty days of the date of the decision, the decision of the Commission shall be final and binding to the parties.

## **ASSORTED PROVISIONS OF THE MEDIA COUNCIL ACT, 2013**

### **Code of Conduct**

- (1)** The journalists and media enterprises shall keep and maintain professional and ethical standards and shall, at all times, comply with the code of conduct set out in the Second Schedule.
- (2)** The Cabinet Secretary on recommendation of the Council may, from time to time, amend the Second Schedule of this Act, which includes the Code of Conduct for the Practice of Journalism.

### **Accreditation of Journalists**

The Council shall consider and approve applications by foreign journalists for accreditation to practice in Kenya and may charge

such fees as the Cabinet Secretary in consultation with the Council, may by notice in the Kenya Gazette, recommend.

- a) The accreditation shall be valid for a renewable period of twelve months.
- b) In considering an application for accreditation of a foreign journalist in Kenya, the Council shall ensure that such accreditation does not affect the employment opportunities of qualified and registered local journalists or other media practitioners.

### **Unaccredited Institutions**

- (1) An educational institution that is not accredited under any written law or that has not been granted a charter shall not offer or teach courses in journalism.
- (2) An institution that offers or teaches courses in journalism and is not accredited commits an offence and the proprietor, director or manager of such institution shall be liable, on conviction, to a fine not exceeding twenty-five thousand shillings or to imprisonment for a term not exceeding two years, or both.

### **Offences Relating to Functions of the Council**

A person can be punished by law for contravening the Media Council Act, 2013 in the following ways:

- (a) Failing or refusing, without lawful justification, to comply with the direction of the Council;
- (b) Obstructing or hindering the Council in the exercise of its powers/ mandate;
- (c) Providing false or misleading information or statement to the Council or any of its committees.

### **Penalties**

- 1) A fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding six months, or both.
- 2) Any subsequent offence committed by the same person shall attract a fine not exceeding one million shillings, or imprisonment for a term not exceeding two years, or both.

### **General Penalty**

- 1. A person who contravenes any provision of this Act or rules made by the Council thereunder for which no penalty is specifically provided for shall be liable, upon conviction, to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding six months, or both.
- 2. Where an offence is committed by a body corporate, the corporate body and every principal officer or staff of the corporation directly responsible for the acts or omissions constituting the offence shall be liable to the fine not exceeding two million shillings or imprisonment for a term not exceeding two years or to both.

## ACCREDITATION

### Why Accreditation of Journalists?

The Council undertakes Annual Accreditation of journalists, both local and foreign practicing in Kenya, for purposes of compiling and maintaining a register of journalists and media practitioners to ensure that they prescribe to the Code of Conduct for the Practice of Journalism in Kenya.

### Requirements

Journalists in formal employment

- (a) A letter from the employer
- (b) Professional Certificate/s (Degree or Diploma in Communication from an accredited institution)
- (c) Portfolio of work done either in Print or Broadcast
- (d) A clear passport size digital photograph

### Freelance Journalists

- (a) A reference letter from an organisation that publishes your work
- (b) Professional Certificate/s (Degree or Diploma in Communication from an accredited institution)
- (c) Portfolio of work done either in Print or Broadcast (hardcopy)
- (d) A clear passport size digital photograph

## **Foreign Journalists**

- (a) A letter from the employer
- (b) Professional Certificate/s (Degree or Diploma in Communication from an accredited institution)
- (c) Portfolio of work done either in Print or Broadcast (Hardcopy)
- (d) A clear passport size digital photograph
- (e) Valid Work permit
- (f) Passport

## **Students**

Issued to students in their final phase of their training and proceeding for industrial attachment.

- (a) A letter from training institution indicating that the student is to go for internship
- (b) Valid Student ID
- (c) A clear passport size digital photograph

## **Accreditation Fees**

1. Local Journalist: Ksh 2,000
2. Foreign Journalist: Ksh 10,000
3. Foreign Journalist (Short Term - 3 Months): Ksh 5,000
4. Student: Ksh 300

## **Accreditation of Media Enterprises**

The Council accredits all media enterprises operating in the country to ensure that they subscribe to the provisions of the Media Council Act, 2013 and the set regulations.

A media enterprise is required by section 23(b) of the Act to pay a subscription fee for accreditation. The amounts are set out in Kenya gazette notice no. 896 of January 2009 as below:

CATEGORY	EXPLANATION	Ksh (Monthly)
Large media house	Five or more media outlets with regional reach and or high Power frequency with regional reach	150,000
Large media house	Five or more media outlets with national reach and or high power frequency with national reach	100,000
Medium media house	Two to four media outlets or medium power frequency	75,000
Micro media houses	Two media outlets or low power frequency	50,000
Small media houses	One media outlet	20,000
Small media houses	One media outlet and frequency radius of 40 km	10,000
Magazine publishers	Each magazine title per annum	10,000
Foreign media houses	Annual subscription	30,000

## Accreditation of Institutions offering training in Journalism



The Media Council Act, 2013 empowers the Council to consider and approve applications for accreditation by educational institutions that seek to offer courses in journalism. This is to ensure that such institutions include the basic minimums in the training curricula as prescribed by the Media Council of Kenya in conjunction with other relevant authorities.

An educational institution that is not accredited by the Council or under any written law or that has not been granted a charter shall not offer or teach courses in journalism. Any institution that does so, commits an offence and the proprietor, director or manager of such institution shall be liable, on conviction, to a fine not exceeding twenty-five thousand shillings or to imprisonment for a term not exceeding two years, or both.

The Council sets the levy fees for such accreditation via a gazette notice.

# **The Kenya Information and Communications (Amendment) Act, 2013**

**THE KENYA INFORMATION AND COMMUNICATIONS  
(AMENDMENT) ACT, 2013****(No. 41 A of 2013)****Why the KICA Act?**

- Parliament enacted the Kenya Information and Communication (Amendment) Act, 2013 to address the regulation challenges posed by the need to give effect to article 34 of the Constitution of Kenya (on Freedom of the media)
- The new Act amended the Kenya Communication and Information Act 1998 (that was previously amended by the Kenya Information and Communication (Amendment) Act 2009) to align the Act to the Constitutional thresholds on Independence set out in Article 34 of the Constitution of Kenya.
- The Act created the Communications Authority of Kenya to replace the Communications Commission of Kenya.

**Freedom of the Media**

- The Act recognises Freedom of the Media as enshrined in Article 34 of the Constitution.
- It provides that the Authority shall be guided by the Constitution which guarantees the freedom and independence of the media and bars the state from exercising any control or interference with media as well as from penalising any person for any opinion or for the content of any broadcast or publication.

- The Act further provides that the Authority shall recognise the Freedom of Expression as set out in Article 33 of the Constitution.
- The Act provides that freedom of expression shall not extend to the
  - (a) spread of propaganda for war;
  - (b) incitement to violence;
  - (c) the spread of hate speech; or
  - (d) advocacy of hatred that-constitutes ethnic incitement, vilification of others persons, community, or incitement to cause harm; or any ground of discrimination including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

### **The Broadcasting Standards Committee (BSC)**

The Act establishes the Broadcasting Standards Committee of the Authority whose responsibility is to set Broadcasting Standards. The Committee replaces the Broadcasting Content Advisory Council (BCAC). The BCAC's responsibilities included the administration of broadcasting standards, enforcement of those standards and handling related complaints.

### **Administration of Broadcasting Content**

The Authority is granted additional responsibilities with respect to broadcasting including the power to administer the broadcasting aspect of Communications, to set the media standards and ensure compliance with those standards.

## **Responsibilities of a Broadcaster**

The Authority has been granted power to prescribe a certain percentage of Kenyan programmes to be broadcast by all broadcasters (radio or television). The purpose of which is to nurture the growth of local content.

## **Revocation of Licence**

The Authority is empowered to revoke a licence if the licensee fails to use it within the time prescribed. Previously, the period was within one year from the date of assignment. The purpose of this is to prevent hoarding of broadcasting frequencies by licensees.

## **Enforcement of Licencing Conditions**

If a licensee contravenes the terms of the licence assigned by the Authority, and the Authority has asked them to remedy the violation and they fail to do so, the licensee shall be liable to a penalty of a minimum of Ksh 500, 000 and up to 0.2% of the gross annual turnover of the Licensee and shall continue being so for the subsequent year if the violation continues.

## **Access to Information**

Access to information and restrictions to disclosure of information held by the Authority will be guided by the provisions of Article 35 of the Constitution on access to information as opposed to the discretion of the Commission as it was with the former Commission.

## **The Communication and Multimedia Appeals Tribunal (CMAT)**

The enactment of this Act disbanded the Communications Appeals Tribunal and replaced it with the Communication and Multimedia Appeals Tribunal.

### **What are the Functions of the Tribunal?**

A person aggrieved by—

- (a) any publication by or conduct of a journalist or media enterprise;
- (b) anything done against a journalist or media enterprise that limits or interferes with the constitutional freedom of expression of such journalist or media enterprise; or
- (c) any action taken, any omission made or any decision made by any person under the Act;

May make a written complaint to the Tribunal setting out the grounds for the complaint, nature of the injury or damage suffered and the remedy sought.

The Tribunal will notify the person complained against to respond to the Complaint in writing, upon which it may set a date for hearing the Complaint.

### **Decisions of the Tribunal**

After hearing the Complainant, the Tribunal may make one or a combination of the following orders;

- (a) order the offending party to publish an apology and correction in such manner as the Tribunal may specify;
- (b) order the return, repair, or replacement of any equipment or material confiscated or destroyed;
- (c) make any directive and declaration on freedom of expression;
- (d) issue a public reprimand of the journalist or media enterprise involved;
- (e) order the offending editor of the broadcast, print or on-line material to publish the Tribunal's decision in such manner as the Tribunal may specify;
- (f) impose a fine of not more than twenty million shillings on any respondent media enterprise and a fine of not more than five hundred thousand shillings on any journalist adjudged to have violated this Act;
- (g) in its reasons for its findings, record a criticism of the conduct of the complainant in relation of the complaint, where necessary;
- (h) recommend the suspension or removal from the register of the journalist involved;
- (i) make any supplementary orders necessary for carrying into effect the orders made.

## IMPORTANT TO NOTE

The above complaints and handling processes are similar to the ones undertaken by the Complaints Commission under the Media Council Act, 2013.

The difference only is in the amount of fines that can be meted out and the provision that the Tribunal can resolve any dispute arising from a decision made by a person under this Act i.e. (licensees).

The Code of Conduct is contained in the Media Council Act, 2013, for purposes of enforcement by the Complaints Commission.

This scenario creates two institutions undertaking the same functions (The Media Council of Kenya and the Communications Authority of Kenya)

### **Appeals to the Tribunal**

Any person dissatisfied by an action or decision of the Media Council, the Authority or a person licensed under the Act, may within sixty days after the occurrence of the event or the making of the decision, appeal to the Tribunal.

After hearing the Appeal the Tribunal may;

- (a) confirm, set aside or vary the order or decision in question;
- (b) exercise any of the powers which should have been exercised by the Media Council or the Authority.



## **Appeals to decisions of the Tribunal**

Appeals to decisions of the Tribunal are appealable to the High Court.

## **Prosecution of Offences**

The Authority is granted power to prosecute any offences under the Act subject to the direction and authorisation of the Office of the Director Public Prosecutions.

## **SECOND SCHEDULE OF THE MEDIA COUNCIL ACT, 2013**

### **Code of Conduct for the Practice of Journalism in Kenya**

#### **Preamble**

As the leading institution in the regulation of media and in the conduct and discipline of journalists in Kenya, one of major functions of the Media Council of Kenya is to promote high professional standards amongst journalists. Besides promoting and protecting freedom and independence of the media, the Council also works to promote ethical standards among journalists and in the media. The Code of Conduct for the Practice of Journalism as entrenched in the Second Schedule of the Media Council Act, 2013 governs the conduct and practice of all media practitioners in the country.

## **Interpretation**

In this code of conduct “a person subject to this Act” means a journalist, media practitioner, foreign journalist or media enterprise.

**Below are the various Articles in the Code:**

### **Accuracy and fairness**

- (1)** A person subject to this Act shall write a fair, accurate and an unbiased story on matters of public interest.
- (2)** All sides of the story shall be reported, wherever possible.
- (3)** Comments shall be sought from anyone who is mentioned in an unfavourable context and evidence of such attempts to seek the comments shall be kept.
- (4)** Whenever it is recognised that an inaccurate, misleading or distorted story has been published or broadcast, it shall be corrected promptly.
- (5)** Corrections shall present the correct information and shall not restate the error except when clarity demands
- (6)** An apology that results from the determination of the Council shall be published or broadcast whenever appropriate in such manner as the Council may specify.
- (7)** A correction under this paragraph shall be given same prominence as that given to the information being corrected.
- (8)** A person subject to this Act shall not publish a story that fall short of factual accuracy and fairness.

- (9) A person subject to this Act, while free to be partisan, shall distinguish clearly in their reports between comment, conjecture and fact.
- (10) Headings shall reflect and justify the matter printed under them.
- (11) Headings containing allegations made in statements shall either identify the body or the source making them or at least carry quotation marks.
- (12) A person subject to this Act shall present news fairly and impartially, placing primary value on significance and relevance.
- (13) A person subject to this Act shall treat all subjects of news coverage with respect and dignity, showing particular compassion to victims of crime or tragedy.
- (14) A person subject to this Act shall seek to understand the diversity of their community and inform the public without bias or stereotype and present a diversity of expressions, opinions, and ideas in context.
- (15) A person subject to this Act shall present analytical reporting based on professional perspective, not personal bias.

## **Independence**

- (1) Journalists shall defend their independence from those seeking influence or control over news content.
- (2) A person subject to this Act shall —
  - (a) Gather and report news without fear or favour, and

- resist undue influence from any outside forces, including advertisers, sources, story subjects, powerful individuals and special interest groups;
- (b) Resist those who would buy or politically influence news content or who would seek to intimidate those who gather and disseminate news;
  - (c) Determine news content solely through editorial judgement and not the result of outside influence;
  - (d) Resist any self-interest or peer pressure that might undermine journalistic duty and service to the public;
  - (e) Recognise that sponsorship of the news shall not be used in any way to determine, restrict or manipulate content;
  - (f) Refuse to allow the interests of ownership or management to influence news' judgment and content inappropriately.

## **Integrity**

- (1) Journalists shall present news with integrity and common decency, avoiding real or perceived conflicts of interest and respect the dignity and intelligence of the audience as well as the subjects of news.
- (2) A person subject to this Act shall —
  - (a) identify sources whenever possible. Confidential sources shall be used only when it is clearly in public interest to gather or convey important information or when a person providing information might be harmed;

- (b) clearly label opinion and commentary;
  - (c) use technological tools with skill and thoughtfulness, avoiding techniques that skew facts, distort reality, or sensationalize events;
  - (d) use surreptitious news gathering techniques including hidden cameras or microphones, only if there is no other way of obtaining stories of significant public importance, and if the technique is explained to the audience.
- (3) A person subject to this Act shall not -
- (a) pay news sources who have vested interest in a story;
  - (b) solicit or accept gifts, favours or compensation from those who might seek to influence coverage;
  - (c) engage in activities that may compromise their integrity or independence.

### **Accountability**

A person subject to this Act shall recognise that they are accountable for their actions to the public, the profession and themselves therefore they shall —

- (a) Actively encourage adherence to these standards by all journalists and media practitioners;
- (b) Respond to public concerns, investigate complaints and correct errors promptly;
- (c) Recognise that they are duty-bound to conduct themselves ethically.

## **Opportunity to Reply**

- (1) A fair opportunity to reply to inaccuracies shall be given to individuals or organizations when reasonably called for. If the request to correct inaccuracies in a story is in the form of a letter, the editor has the discretion to publish it in full or in its abridged and edited version, particularly when it is too long, but the remainder shall be an effective reply to the allegations.
- (2) The summarised version of the reply shall not lose the core content.

## **Unnamed Sources**

- (1) Unnamed sources shall not be used unless the pursuit of the truth will best be served by not disclosing the source who, shall be known by the editor and reporter.
- (2) When material is used in a report from sources other than the reporter's, these sources shall be indicated in the story.

## **Confidentiality**

A person subject to this Act has a professional obligation to protect confidential sources of information.

## **Misrepresentation**

Journalists shall generally identify themselves and not obtain or seek to obtain information or pictures through misrepresentation or subterfuge. Subterfuge can be justified only in the public interest and only when material cannot be obtained by any other means.

### **Obscenity, taste and tone in reporting**

- (1) In general, persons subject to this Act shall not publish obscene or vulgar material unless such material contains news.
- (2) Publication of photographs showing mutilated bodies, bloody incidents and abhorrent scenes shall be avoided unless the publication or broadcast of such photographs will serve the public interest.
- (3) Where possible an alert shall be issued to warn viewers or readers of the information being published.

### **Paying for news and articles**

A person subject to this Act shall not receive any money as an incentive to publish any information.

### **Covering ethnic, religious and sectarian conflict**

- (1) News, views or comments on ethnic, religious or sectarian dispute shall be published or broadcast after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere pleasant to national harmony, amity and peace.
- (2) News reports or commentaries shall not be written or broadcast in a manner likely to inflame the passions, aggravate the - tension or accentuate the strained relations between the communities concerned.
- (3) Articles or broadcasts with the potential to exacerbate communal trouble shall be avoided.

## **Recording interviews and telephone conversations**

- (1)** Except in justifiable cases, a person subject to this Act shall not tape or record anyone without the person's knowledge. An exception may be made only if the recording is necessary to protect the journalist in a legal action or for some other compelling reason. In this context these standards apply to electronic media
- (2)** Before recording a telephone conversation for broadcast, or broadcasting a telephone conversation, a station shall inform any party to the call of its intention to broadcast the conversation.
- (3)** This, however, does not apply to conversation whose broadcast can reasonably be presumed, for example, telephone calls to programmes where the station customarily broadcasts calls.

## **Privacy**

- (1)** The public's right to know shall be weighed against the privacy rights of people in the news.
- (2)** Journalists shall stick to the issues.
- (3)** Intrusion and inquiries into an individual's private life without the person's consent are not generally acceptable unless public interest is involved. Public interest shall itself be legitimate and not merely prurient or morbid curiosity.
- (4)** Things concerning a person's home, family, religion, tribe, health, sexuality, personal life and private affairs are covered by the concept of privacy except where these intrude upon the public.



### **Intrusion into grief and shock**

- (1)** In cases involving personal grief or shock, inquiries shall be made with sensitivity and discretion.
- (2)** In hospitals, journalists shall identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.

### **Gender non-discrimination**

Women and men shall be treated equally as news subjects and news sources.

### **Financial journalism**

- (1)** Journalists shall not use financial information they receive in advance for their own benefit, and shall not pass the information to others.
- (2)** Journalists shall not write or broadcast about shares, securities and other market instruments in whose performance they know they or their close families have a significant financial interest, without disclosing the interest to the editor.
- (3)** Journalists shall not buy or sell, directly or through nominees or agents, shares or securities and other market instruments about which they intend to write in the near future.

## **Letters to the editor**

An editor who decides to open a column on a controversial subject is not obliged to publish all the letters received in regard to that subject. The editor may select and publish only some of them either in their entirety or the gist thereof. However, in exercising this right, the editor shall make an honest attempt to ensure that what is published is not one-sided but presents a fair balance between the pros and the cons of the principal issue. The editor shall have the discretion to decide at which point to end the debate in the event of a rejoinder upon rejoinder by two or more parties on a controversial subject.

## **Protection of children**

- (1)** Children shall not be identified in cases concerning sexual offences, whether as victims, witnesses or defendants. Except in matters of public interest, for example, cases of child abuse or abandonment, journalists shall not normally interview or photograph children on subjects involving their personal welfare in the absence, or without the consent, of a parent or other adult who is responsible for the children.
- (2)** Children shall not be approached or photographed while at school and other formal institutions without the permission of school authorities.
- (3)** In adhering to this principle, a journalist shall always take into account specific cases of children in difficult circumstances.

### **Victims of sexual offences**

The media shall not identify victims of sexual assault or publish material likely to contribute to such identification.

### **Use of pictures and names**

- (1)** As a general rule, the media shall apply caution in the use of pictures and names and shall avoid publication when there is a possibility of harming the persons concerned.
- (2)** Manipulation of pictures in a manner that distorts reality and accuracy of news shall be avoided.
- (3)** Pictures of grief, disaster and those that embarrass and promote sexism shall be discouraged.

### **Innocent relatives and friends**

The media shall not identify relatives or friends of persons convicted or accused of crime unless the reference to them is necessary for the full, fair and accurate reporting of the crime or legal proceedings.

### **Acts of violence**

- (1) The media shall avoid presenting acts of violence, armed robberies, banditry and terrorist activities in a manner that glorifies such anti-social conduct.
- (2) Newspapers shall not allow their columns to be used for writings which tend to encourage or glorify social evils, warlike activities, ethnic, racial or religious hostilities.

### **Editor's responsibilities**


- (1) The editor shall assume the responsibility for all content, including advertisements, published in a newspaper.
- (2) If responsibility is disclaimed, this shall be explicitly stated beforehand.

### **Advertisements**

- (1) The editor shall not allow any advertisement which is contrary to any aspect of this Code of Conduct.
- (2) The editor shall be guided by the advertiser's code of conduct issued under this Act.

## **Hate speech**

- (1) Quoting persons making derogatory remarks based on ethnicity, race, creed, colour and sex shall not be allowed.
- (2) Racist or negative ethnic terms shall be avoided.
- (3) Careful account shall be taken of the possible effect upon the ethnic or racial group concerned, and on the population as a whole, and of the changes in public attitudes as to what is and what is not acceptable when using such terms.



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