

# MEDIA BILL 2010

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**AN ACT of Parliament to provide for the realization of the right to freedom of expression and freedom of the media, for the establishment of the Media Council of Kenya; for the conduct and discipline of journalists and the media and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

**PART 1- PRELIMINARY**

1. Short title

1. This Act may be cited as the Media Act, 2010.

2. Interpretation

2. In this Act, unless the context otherwise requires —

Cap.

“Code of Conduct” means the code of conduct for journalists and media enterprises set out in the Second Schedule;

“Council” means the Media Council of Kenya established under section 3;

“encrypt” means to treat electronically or otherwise for the purpose of preventing intelligible reception;

“foreign journalist” means any journalist who is not a citizen of Kenya;

“High Court” means the High Court established under the Constitution of Kenya.

“journalism” means the collecting, writing, editing and presenting of news or news articles in newspapers and magazines, radio and television broadcasts, and in the internet;

“journalist” means any person who holds a diploma or a degree in mass communication from a recognized institution of higher learning and is recognized as such by the Council, or any other person who was practicing as a journalist

immediately before the commencement of this Act, or who holds such other qualifications as are recognized by the Council, and earns a living from the practice of journalism, or any person who habitually engages in the practice of journalism and is recognized as such by the Council;

“media” includes both electronic and print media engaged in any production for circulation to the public, but does not include book publishing;

“media enterprise” means an organization whose business involves the collection, processing and dissemination of news or news articles, or in entertainment and education through the media;

“nominating authority” means a body charged with nominating members of the Committee in terms of section 8(4);

“political party” means any registered political party as defined in the, Political Parties Act, National Assembly and Presidential Elections Act, or any alliance of such registered parties, as the case may be, which for the purpose of any particular election, has, before the commencement of the relevant election period, submitted a list of candidates for the National Assembly or local government authority;

“programme” means sounds or visual images or combination of sounds and visual images that are intended to inform, enlighten or entertain; and

“publication” means the dissemination to the public of any written, audio or video material, and includes materials disseminated through the internet.

## **PART II- THE MEDIA COUNCIL OF KENYA**

### **3. Establishment of the Council.**

- 3. (1) There is hereby established a Council to be known as the Media Council of Kenya.**

- (2) The Council is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—
- (a) suing and being sued;
  - (b) purchasing or otherwise acquiring, holding, charging and disposing of moveable and immovable property;
  - (c) entering into contracts;
  - (d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.
- (3) The headquarters of the Council shall be in Nairobi and the Council may establish such other offices as it considers appropriate to conduct its affairs and the business and affairs of the Council shall be conducted in accordance with the First Schedule.

#### 4. Functions of the Council

##### 4. The functions of the Council are to—

- (a) mediate or arbitrate in disputes between the government and the media and between the public and the media and intra media;
- (b) promote and protect freedom and independence of the media;
- (c) promote high professional standards amongst journalists;
- (d) enhance professional collaboration among media practitioners;
- (e) promote ethical standards among journalists and in the media;
- (f) ensure the protection of the rights and privileges of journalists in the performance of their duties;
- (g) advise the government or the relevant regulatory authority on matters pertaining to professional, education and the training of journalists and other media practitioners;
- (h) make recommendations on the employment

criteria for journalists;

- (i) uphold and maintain the ethics and discipline of journalists as set out in this Act and any other relevant law;
- (j) do all matters that appertain to the effective implementation of this Act.
- (k) compile and maintain a register of journalists, media enterprises and such other related registers as it may deem fit;
- (l) conduct an annual review of the performance and the general public opinion of the media, and publish the results thereof in at least two local newspapers.

#### 5. Operations of Council

- 5.** The Council shall operate without any government, political, commercial or other bias or interference and shall be wholly independent and separate from the government, any political party or organization, any commercial enterprise or enterprises or any nominating authority.

#### 6. Composition of the Council.

- 6.** (1) The Council shall comprise seven members, appointed in accordance with the provisions of this Act.

#### Qualifications of Chairperson and Members

- 7.** (1) A person is qualified for appointment as a member if such person—
- (a) is a citizen of Kenya;
  - (b) possess a degree from a recognized university;
  - (c) have knowledge and experience of at least ten years including past or continuing membership to industry or other professional body in matters relating to any of the following fields —
    - (i) law,
    - (ii) Journalism,
    - (iii) Finance,
    - (iv) gender and human rights,
    - (v) performing arts, or

8. Procedure for the appointment of members

- (vi) advertising;
  - (d) meets the requirements of chapter six of the Constitution and
  - (e) has had a distinguished career in their respective fields.
- (2) The chairperson of the Commission shall be a person who is qualified to hold the office of judge of the High Court under the Constitution.
- 8.** (1) The Chief Justice shall, within fourteen days of the commencement of this Act, and every time vacancies shall arise in the Council, by notice in the gazette declare such vacancies in the Council and request for applications.
- (2) An application under subsection (1) shall be forwarded to the Judicial Service Commission within fourteen days of the notice and may be made by any –
- (a) qualified person; or
  - (b) person, organization or group of persons proposing the nomination of any qualified person;
- (3) The names of all applicants under subsection (2) shall be published in the Gazette;
- (4) (1) The Judicial Service Commission shall, within seven days of the expiry of the period prescribed under subsection (2), convene an appropriate Committee comprising further of one (1) representative from the: —
- (a) Media Owners Association;
  - (b) Kenya Union of Journalists;
  - (c) Ministry of Justice, National Cohesion and Constitutional Affairs;
  - (d) State Law Office;
  - (e) Editors Guild of Kenya
- for the purposes of considering the applications, interviewing and short listing at least three persons qualified for appointment as chairperson and nine persons qualified for appointment as members;
- (5) The failure of attendance at the Committee of any of the representatives that do not affect a stated quorum shall not invalidate the process and result of the Committee.
- (6) The Judicial Service Commission shall within seven days forward the shortlisted names of Chairperson and members of the Council to the Chief Justice.
- (6) The Chief Justice shall, within fourteen days consider all shortlisted persons received under subsection (6) and appoint any nominee to be Chairperson or member subject to the

9 Disqualification from membership to the Council.

provisions of this Act.

9(1) A person shall not qualify to be appointed to the Council if such person is—

- (a) a member of the National Assembly;
- (b) a member of a County Government or local authority;
- (c) an undischarged bankrupt;
- (d) likely to have a conflict of interest in relation to the exercise of their functions under this Act;
- (e) not a Kenyan citizen and ordinarily resident in Kenya;
- (f) at the relevant time, an office bearer or employee of a political party or any body of a political nature;
- (g) A State Officer;
- (h) A person in the public service;
- (i) An employee of a media enterprise
- (j) A person convicted of a criminal offence and sentenced to more than 1 year imprisonment.

(2) Appointment to the Council shall be by notice in the Gazette.

10 Requirements for appointment

10(1) Without prejudice to the provisions of section 7 (1), a person shall not be eligible for appointment to the Council unless such person—

- (a) is a holder of a degree from a of learning and his learning and experience, expertise in the areas of media policy and law, media regulation, business practice and finance, journalism, the performing arts, entertainment, education, advertising practice or related social issues;
- (b) is committed to constitutional freedom of expression, media freedom, responsible journalism, the right of the public to be informed, and the national values under Chapter Six of the Constitution of Kenya.

(2) A person appointed to the Council shall, before taking up office, take an oath or affirm before a judge of the High Court, that he is committed to—

- (a) freedom of expression,
- (b) media freedom,

- (c) responsible journalism,
- (d) the right of the public to be informed, and
- (e) the national values under Chapter Six of the Constitution of Kenya

10. Tenure of office of Council members.

10 The members of the Council shall hold office for a period of three years and shall be eligible for re-appointment subject to a maximum of two terms:

11. Cessation of membership of Council

11(1) A person shall cease to be a member of the Council if such person—

- (a) is absent from three consecutive meetings of the Council without good cause;
- (b) resigns in writing addressed to the Chairperson, giving one month's notice of intention to do so;
- (c) becomes incapacitated by prolonged mental or physical illness;
- (d) is convicted of a felony, fraud, forgery, uttering a forged document, or for any offence under the Anti-Corruption and Economic Crimes Act, 2003;
- (e) is unable or unfit to discharge the functions of a member of the Council; or
- (f) dies.

(2) Every vacancy in the Council shall be notified at once to the appointing authority, and the appointing authority shall, as soon as is reasonably practical, appoint and deliver to the Council the names of the person appointed to fill the vacancy for the un-expired term of office of the departed member.

12. Remuneration of Members of the Council

12 The members of the Council shall be paid reasonable allowances and disbursements for expenses.

13. Director

13(1) There shall be a Director who shall be appointed by the Council.

(2) The Director shall hold office for such period and on such

terms and conditions of employment as the Council may determine.

- (3) The Director shall be an ex-officio member of the Council but shall have no right to vote at any meeting of the Council.
- (4) The Director shall be the chief executive officer of the Council and shall, subject to the direction of the Council, be responsible for the day to day management of the Council.

#### 14. Functions of the Director

14(1) The Director shall, in consultation with the Council, be responsible for the direction of the affairs and transactions of the Council, the exercise, discharge and performance of its objectives, functions and duties.

- (2) The Director shall —
  - (a) ensure the maintenance of efficiency and discipline by all staff of the Council;
  - (b) manage the budget of the Council to ensure that its funds are properly expended and accounted for;
  - (c) keep registers of journalists, media enterprises and such other registers as the Council may, from time to time, require; and
  - (d) perform such other duties as the Council may, from time to time, assign.

#### 15. Delegation by the Council

15. The Council may, by resolution generally or in any particular case, delegate to a committee or any officer, member of staff or agent of the Council, the exercise of any of the powers or the performance of any of the functions or duties of the Council under this Act.

#### 16. Staff of the Council.

16. The Council may employ such staff as may be necessary for the proper and efficient discharge of its functions under this Act, upon such terms and conditions of service as the Council may determine.

#### 17 The common seal of the Council

17(1) The common seal of the Council shall be kept in the custody of the Director or of such other person as the Council may direct, and shall not be used except upon the order of the

Council.

- (2) The common seal of the Council, when affixed to a document and duly -authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Council under this section shall be presumed to have been given.
- (3) The common seal of the Council shall be authenticated by the signature of the Chairperson of the Council and the Director:

Provided that the Council shall, in the absence of either the Chairperson or the Director, in any particular matter, nominate one member of the Council to authenticate the seal of the Council on behalf of either the Chairperson or the Director.

#### 18. Protection of Council from Liability

18.Liability shall not attach to the Council. or to any of its staff, or to a member of the Council for loss or damage sustained by any person as a result of any act or omission done or made in good faith arid without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed or conferred by or under this Act.

### **PART III FINANCIAL PROVISIONS**

#### 19. Funds of Council

- 19.The funds and assets of the Council shall consist of -
- (a) such monies or assets as may accrue to or vest in the Council in the course of the exercise of its powers or performance of its functions under this Act;
  - (b) such monies as may be set aside for its purposes by the National Assembly;
  - (c) such monies as may be payable to the Council pursuant to this Act or any other written law;
  - (d) such levies and fees as may be imposed by the Council in accordance with section 19;
  - (e) donations, gifts and endowments from lawful

organizations or sources which shall not be from foreign governments or foreign entities;

- (f) proceeds of any investments by the Council; and
- (g) grants which shall not be from foreign governments or foreign entities.

## 20. Registration fees.

20.(1) The Council may, by notice in the Gazette, impose a levy in respect of all media enterprises operating in Kenya, and an annual registration fee in respect of all journalists whose names appear in the registers kept by the Council.

(2) The levy and the annual registration fee payable shall be determined by the Council from time to time and in such manner as the Council may specify in the Gazette.

(3) The levy and annual registration fee imposed in accordance with subsection (1) shall be payable at the commencement of each calendar year.

## 21. Financial Year

21. The financial year of the Council shall be the period of twelve months ending on the thirtieth of June in each year.

## 22. Annual estimates

22.(I) At least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Council for that financial year.

(2) The annual estimates shall make provisions for all estimated expenditure of the Council for the financial year concerned, and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the staff of the Council;
- (b) payment of pensions, gratuities and other charges in respect of former staff of the Council;
- (c) proper maintenance of the buildings and grounds of

- the Council;
- (d) maintenance, repair and replacement of the equipment and other property of the Council;
- (e) payment of allowances of the members of the Council; and
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Council may deem fit.

### 23. Accounts and audit

23(1) The Council shall cause to be kept proper books and other records of accounts of the income, expenditure, assets and liabilities of the Council.

- (2) Within a period of three months after the end of each financial year, the Council shall submit to the independent firm of auditors appointed annually by the Council the accounts of the Council, in respect of that year, together with
  - (a) a statement of income and expenditure during that financial year; and
  - (b) a statement of the assets and liabilities of the Council on the last day of that financial year.
- (3) The audited accounts of the Council shall be published in at least two daily newspapers having countrywide circulation.

## **PART IV — COMPLAINTS AND DISPUTE**

### **RESOLUTION**

### 24. Complaints

24. There shall be established a Complaints Commission which shall consist of five persons appointed by the Council, who shall not be members of the Council, as follows—

- (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) four other persons possessing experience and expertise in any one of the following areas, that is, journalism, media policy and law, media regulation, business practice and finance, the performing arts, entertainment, education, advertising or related social issues.

## 25. Establishment of Panels

25.(1) The Complaints Commission may establish conciliation, mediation or arbitration panels, each consisting of not less than three members of the Complaints Commission, to deal with, hear and determine any matter for and on behalf of the Complaints Commission.

- (2) A panel established under subsection (1) shall exercise all the powers and shall perform all the duties and functions of the Complaints Commission in relation to any matter before the panel.

- (3) Members of a panel established under subsection (1) may, if necessary, consult with the Complaints Commission for purposes of ensuring consistency of decisions of the Council.

## 26. Remuneration of members of the Complaints Commission.

26. Members of the Complaints Commission shall be paid reasonable allowances and disbursements for expenses.

## 27. Complaints

27.(1) Any person aggrieved by—

- (a) any publication, or any conduct of a journalist, media enterprise or the Council; or

- (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, 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.

- (c) (2) Upon receipt of a complaint, the Council shall, within fourteen days from the date of receipt of the complaint, refer the complaint to the Complaints Commission for determination.

## 28. Procedure upon complaint

28(1) Upon receipt of a complaint, the Complaints Commission shall notify, in writing, the party against whom the complaint has been made, within fourteen days of receipt thereof, stating the nature of the complaint, the breach, act or omission in question and the date on which the matter shall be considered by the Complaints Commission and shall thereby require such party to respond to the complaint in writing.

- (2) The Complaints Commission shall, having heard the matter the subject of the complaint, make a report, issue any decision as it deems appropriate and give directions in connection with the complaint, and shall publish its findings if it considers it in the public interest to do so.
- (3) The Complaints Commission shall communicate its decision to the parties concerned within fourteen days from the time the decision is made.
- (4) Except upon the request of a party, and approval of such request by the Council, the Complaints Commission shall conduct its hearings in public.

## 29. Powers of the Complaints Commission.

29.(1) 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 section 26;
- (b) appear before the Complaints Commission for examination concerning matters relevant to the investigation of any complaint made under section 26.

- (2) The Complaints Commission may not be bound by the rules of evidence as set out in the Evidence Act. Cap. 80
- (3) Except as expressly provided in this Act or any regulations made there under, the Complaints Commission shall regulate its own procedure.

### 30. Decision of Complaints

30.(1) Without prejudice to the generality of section 27

- (2) the Complaints Commission or any of its panels may, after hearing the parties to a complaint—
  - (a) and being of the opinion that the complaint is devoid of merit or substance, dismiss such complaint;
  - (b) order an offending party to publish an apology and correction in such manner as the Council may specify
  - (c) issue a public reprimand of the journalist or media enterprise involved.
- (3) The Complaints Commission or any of its panels may make any or a combination of the orders set out in subsection (1)

### 31. Record proceedings.

31.The Director shall keep or cause to be kept a record of all proceedings of the Complaints Commission.

### 32. Publication of decisions

32.Every decision made by the Council or the Complaints Commission in a matter the subject of a dispute shall be published in the Gazette.

### 33. Appeals

33(1) Any party aggrieved by the decision of the Complaints Commission may appeal to the Council in the prescribed manner against such decision, within fourteen days from the date such decision was made.

- (2) The Council shall consider such an appeal and shall either vary, reverse or confirm the decision of the Complaints Commission, and any decision that the Council arrives at shall be communicated to the parties concerned within fourteen days from the time the decision is made.
- (3) Any person aggrieved by a decision of the Council may, within twenty-one days from the date of such decision, appeal to the High Court on a point of law:

Provided that no appeal shall be admitted by the High Court unless a judge of the High Court has certified the existence of an issue of law.

34. Enforcement of Decisions

34.A decision of the Complaints Commission, or the Council, against which no appeal has been preferred within thirty days from the date on which the decision was made shall be adopted and enforced as an order of the High Court.

35. Complaints Commission

35.Subject to the provisions of this Act, the Complaints Commission may, in consultation with the Council, make rules governing the procedure of the Complaints Commission and of the panels.

**PART V—MISCELLANEOUS**

36. Information by media.

36(1) The media shall, in a free and independent manner and style, inform the public on issues of public interest and importance in a fair, accurate and unbiased manner whilst distinctly isolating opinion from fact and avoiding offensive coverage of nudity violence and ethnic biases.

- (2) The media shall keep and maintain high professional and ethical standards and shall, at all times, have due regard to the Code of Conduct set out in the Second Schedule to this Act.

- (3) Subject to subsection (2), the Council shall not seek to control or direct journalists in the execution of their professional duties.

37. Accreditation of journalists.

37.(1) The Council shall consider and approve applications by foreign journalists for accreditation to practice in Kenya.

- (2) The accreditation shall, upon payment of the prescribed fees, be valid for one year and shall be renewable.
- (3) During accreditation, the Council shall take r to ensure that suitably qualified citizens of Kenya receive priority, and have equal employment opportunities and are equitably represented in all media practice activities and levels in the workforce of all media houses.

38. Offenses

38(1) A person who—

- (a) refuses or fails to comply with the requirement of the Complaints Commission which is applicable to him, to the extent to which he is able to comply with it; or
  - (b) obstructs or hinders the Complaints Commission in the exercise of its powers under this Act;
  - (c) furnishes information or makes a statement to the Complaints Commission which he knows to be false or misleading in any material particular; or
  - (d) when appearing before the Complaints Commission for examination, makes a statement which he knows to be false or misleading in any material particular, commits an offence.
- (2) A person convicted of an offence under this section shall be liable to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding three months, or both.
- (3) Where an offence under this section is a continuing offence, the person convicted shall, in addition to the

penalty prescribed in subsection (2), be liable to a fine of one thousand shillings for each day during which the offence continues, or to imprisonment for a term not exceeding three months, or both.

#### 39. Penalty

39A person who contravenes any provision of this Act or regulations made thereunder for which no penalty is specified 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.

#### 40. Rules

40. Subject to the provisions of this Act, the Council may, by notice in the Gazette, make rules—

- (a) governing its own procedure
- (b) amending the Second Schedule.

The Council shall in any event amend the Second Schedule every two years following a public, participatory and consultative approach.

#### **FIRST SCHEDULE (s.3 (3))**

#### **PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL**

1. (1) The Council shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- (2) Ordinary meetings shall be convened by the Chairperson.
- (3) Notwithstanding the provisions of sub-paragraph (1), the Chairperson shall convene a special meeting of the Council at any time upon receipt of a requisition signed by not less than five members of the Council calling upon the Chairperson to do so, and such special meeting shall be held not later than twenty-one days from the date of receipt of the requisition.
- (4) Unless three quarters of the total members of the Council

otherwise agree, at least fourteen days' written notice of every meeting of the Council shall be given to every member of the Council.

- (5) The quorum for the conduct of the business of the Council shall be five members.
  - (6) The Chairperson or, in the absence of the Chairperson, a member elected to act as Chairperson at a particular meeting of the Council, shall preside at each meeting of the Council and the person presiding at any meeting shall have a deliberative as well as a casting vote.
  - (7) Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
  - (8) Subject to paragraph (4), no proceedings of the Council shall be invalid by reason only of a vacancy among members thereof
  - (9) Subject to provisions of this Schedule, the Council may determine its own procedure and for the attendance of other persons at its meetings and may make standing orders in respect thereof.
2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, ask questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

- (2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
- (3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed on behalf of the Council by any person generally or specially authorized by the Council for that purpose.

**SECOND SCHEDULE (s.35(2))**

**CODE OF CONDUCT FOR THE PRACTICE OF JOURNALISM**

**1. Accuracy and Fairness**

- (a) The fundamental objective of a journalist is to write a fair, accurate and an unbiased story on matters of public interest. All sides of the story shall be reported, wherever possible. Comments should be obtained from anyone who is mentioned in an unfavourable context.
- (b) Whenever it is recognized that an inaccurate, misleading or distorted story has been published or broadcast, it should be corrected promptly. Corrections should present the correct information and should not restate the error except when clarity demands.
- (c) An apology shall be published or broadcast whenever appropriate in such manner as the Council may specify.
- (d) When stories fall short on accuracy and fairness, they should not be published. Journalists, while free to be partisan, should distinguish clearly in their reports between comment, conjecture and fact.
- (e) In general, provocative and alarming headlines should be avoided. Headings should reflect and justify the matter printed under them. I-headings containing allegations made in statements should either identify the body or the source making them

or at least carry quotation marks.

- (f) Journalists should present news fairly and impartially, placing primary value on significance and relevance.
- (g) Journalists should treat all subjects of news coverage with respect and dignity, showing particular compassion to victims of crime or tragedy.
- (h) Journalists should seek to understand the diversity of their community and inform the public without bias or
- (i) stereotype and present a diversity of expressions, opinions, and ideas in context.
- (j) Journalists and other media practitioners should present analytical reporting based on professional perspective, not personal bias.

## **2. Independence**

Journalists should defend the independence of all journalists from those seeking influence or control over news content. They should -

- (a) gather and report news without fear or favour, and vigorously 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 erode journalistic duty and service to the public.
- (e) recognize that sponsor the news should 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.

## **3. Integrity**

Journalists should present news with integrity and decency, avoiding real or perceived conflicts of interest, and respect the dignity and intelligence of the audience as well as the subjects of news. They should—

- (a) identify sources whenever possible. Confidential sources should 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.

Journalists should not—

- (a) pay news sources who have vested interest in a story;
- (b) accept gifts, favours or compensation from those who might seek to influence coverage;
- (c) engage in activities that may compromise their integrity or independence.

#### **4. Accountability**

Journalists and all media practitioners should recognize that they are accountable for their actions to the public, the profession and themselves. They should—

- (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.

## **5. Opportunity to Reply**

A fair opportunity to reply to inaccuracies should 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 should be an effective reply to the allegations.

## **6. Unnamed Sources**

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

## **7. Confidentiality**

In general, journalists have a professional obligation to protect confidential sources of information.

## **8. Misrepresentation**

Journalists should 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.

## **9. Obscenity, Taste and Tone in Reporting**

- (a) In general, journalists should avoid publishing obscene, vulgar or offensive material unless such material contains a news value which is necessary in the public interest.
- (b) In the same vein, publication of photographs showing mutilated bodies, bloody incidents and abhorrent scenes should be avoided unless the publication or broadcast of such photographs will serve the public interest.

## **10. Paying for News and Articles**

When money is paid for information, serious questions can be raised about the credibility of that information and the motives of the buyer and the seller. Therefore, in principle, journalists should not receive any money as an incentive to publish any information.

## **11. Covering Ethnic, Religious and Sectarian Conflict**

- (a) News, views or comments on ethnic, religious or sectarian dispute should 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 congenial to national harmony, amity and peace.
- (b) Provocative and alarming headlines should be avoided.
- (c) News reports or commentaries should 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. Equally so, articles or broadcasts with the potential to exacerbate communal trouble should be avoided.

## **12. Recording Interviews and Telephone Conversations**

- (a) Except in justifiable cases, journalists should 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 also apply to electronic media.
- (b) Before recording a telephone conversation for broadcast, or broadcasting a telephone conversation live, a station should inform any party to the call of its intention to broadcast the conversation. 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.

### **13. Privacy**

- (a) The public's right to know should be weighed against the privacy rights of people in the news.
- (b) Journalists should stick to the issues.
- (c) 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 should itself be legitimate and not merely prurient or morbid curiosity. 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 impinge upon the public.

### **14. Intrusion into Grief and Shock**

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

### **15. Sex Discrimination**

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

### **16. Financial Journalism**

- (a) Journalists should not use financial information they receive in advance for their own benefit, and should not pass the information to others.
- (b) Journalists should 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.

- (c) Journalists should 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.

### **17. 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 should 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.

### **18. Protection of Children**

Children should 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 should 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. Children should not be approached or photographed while at school and other formal institutions without the permission of school authorities.

In adhering to this principle, a journalist should always take into account specific cases of children in difficult circumstances.

### **19. Victims of Sexual Offences**

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

Such publications do not serve any legitimate journalistic or public need and may bring social opprobrium to the victims and social embarrassment to their relations, family, friends, community, religious order and to the institutions to which they belong.

#### **20. Use of Pictures and Names**

As a general rule, the media should apply caution in the use of pictures and names and should avoid publication when there is a possibility of harming the persons concerned. Manipulation of pictures in a manner that distorts reality should be avoided. Pictures of grief, disaster and those that embarrass and promote sexism should be discouraged.

#### **21. Innocent Relatives and Friends**

The media should generally avoid identifying 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.

#### **22. Acts of Violence**

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

#### **23. Editor's Responsibilities**

The editor shall assume the responsibility for all content, including advertisements, published in a newspaper. If responsibility is disclaimed, this shall be explicitly stated before hand.

#### **24. Advertisements**

The editor should not allow any advertisement which is contrary to any aspect of this Code of Conduct. In this regard, and to the extent applicable, the editor should be guided by the Advertiser's Code of Conduct.

#### **25. Hate Speech**

Quoting persons making derogatory remarks based on ethnicity, race, creed, colour and sex shall be avoided. Racist or negative ethnic terms should be avoided. Careful account should 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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