

*The Media Bill, 2007*

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**THE MEDIA BILL, 2007**

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*Clause*

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**A Bill for**

**AN ACT of Parliament to provide for the establishment of the Media Council of Kenya and the Media Advisory Board; for the conduct and discipline of journalists and the media; for the self-regulation of the media and for connected purposes**

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

**PART 1– PRELIMINARY**

Short title.

1. This Act may be cited as the Media Act, 2007.

Interpretation.

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

“Board” means the Media Advisory Board established under section 19;

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

“journalist” means any person who 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;

“Minister” means the Minister for the time being responsible for information and broadcasting;

“nominating authority” means a body charged with nominating members of the Council in terms of sections 7 (1) (b) and 20;

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“political party” means any registered political party as defined in the 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; and

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

## **PART II – THE MEDIA COUNCIL OF KENYA AND MEDIA ADVISORY BOARD**

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 business and affairs of the Council shall be conducted in accordance with the First Schedule.

Headquarters.

**4.** The headquarters of the Council shall be in Nairobi.

Functions of the Council.

**5.** The functions of the Council are to—

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

media practitioners;

- (i) make recommendations on the employment criteria for journalists;
- (j) uphold and maintain the ethics and discipline of media practitioners as set out in this Act and any other relevant law;
- (k) do all matters that appertain to the effective implementation of this Act.

Operations  
of Council.

**6.** The Council shall operate without any political or other bias or interference and shall be wholly independent and separate from the government, any political party, or any nominating authority.

Composition of  
the Council.

**7. (1)** The Council shall comprise of—

- (a) a Chairperson appointed by the Minister from amongst the members appointed to the Council;
- (b) fourteen other members nominated by the following bodies in accordance with section 20, and appointed by the Minister—
  - (i) Kenya Union of Journalists;
  - (ii) Media Owners Association;
  - (iii) Law Society of Kenya;
  - (iv) Editor’s Guild of Kenya;
  - (v) Media Educators and Trainers Association;

- (vi) Kenya Correspondent's Association;
- (vii) Association of Practitioners in Advertising;
- (viii) Central Organisation of Trade Unions (COTU);
- (ix) the joint forum of religious organizations described in subsection (3);
- (x) Association of Professional Societies in East Africa;
- (xi) United Disabled Persons of Kenya;
- (xii) Kenya Bankers Association;
- (xiii) Kenya National Chamber of Commerce and Industry; and
- (xiv) Kenya Private Sector Alliance.

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

- (a) not a Kenyan citizen and ordinarily resident in Kenya;
- (b) directly or indirectly an owner, shareholder, director or partner of a media establishment in Kenya.
- (c) a government employee or holds a position of profit in the government;
- (d) at the relevant time, an office bearer or employee of a political party or any



body of a political nature;

(e) an undischarged bankrupt.

(3) The joint forum of religious organizations referred to in subsection (1) (b) (ix) shall consist of representatives of—

(a) the Supreme Council of Kenya Muslims;

(b) the Kenya Episcopal Conference;

(c) the National Council of Churches of Kenya;

(d) the Evangelical Fellowship of Kenya; and

(e) the Hindu Council of Kenya.

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

Requirements for appointment.

**8.** (1) Without prejudice to the provisions of section 7(2), a person shall not be eligible for appointment to the Council unless such person—

(a) is a holder of a degree from a recognized institution of learning and possess, by virtue of his learning and experience, expertise in the areas of media policy and law, media regulation, business practice and finance, journalism, entertainment, education, advertising practice or related social issues;

(b) is committed to constitutional freedom of expression, responsible journalism, the right of the public to be informed,

transparency and accountability of public officers;

(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) fairness, freedom of expression, openness and accountability; and
- (b) upholding and protecting the constitution and other laws of Kenya.

Tenure of office of Council members.

**9.** 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:

Provided that in the case of the initial members of the Council, the Council shall, at its first meeting, cast a ballot and elect—

- (a) seven members whose terms of office shall expire at the end of two years; and
- (b) seven other members whose terms of office shall expire at the end of three years.

Election of vice-chairperson of the Council, etc.

**10.** (1) The Council shall elect a Vice-chairperson from amongst its members, and the Chairperson and Vice-chairperson shall at all times be of opposite gender.

(2) The Chairperson shall preside over the meetings of the Council.

(3) If the Chairperson is absent or incapacitated, or if the office of the Chairperson is vacant, the Vice-Chairperson shall act as the Chairperson, and if both are absent or incapacitated, or if both those offices are vacant, the Council shall elect one of its own members to act as Chairperson for a period not exceeding thirty days during which a substantive replacement shall be made.

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 permission of the Chairperson;
- (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;
- (e) is convicted of fraud, forgery, uttering a forged document, or for any offence under the Anti-Corruption and Economic Crimes Act;
- (f) is declared bankrupt;
- (g) is unable or unfit to discharge the functions of a member of the Council;  
or
- (h) dies.

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(2) Every vacancy in the Council shall be notified at once to the nominating authority, and the nominating authority shall, as soon as is reasonably practical, nominate and deliver to the Board the names of two persons, one of whom shall be appointed to fill the vacancy for the un-expired term of office of the departed member.

Remuneration of members of the Council.

**12.** The members of the Council shall be paid such remuneration, fees, allowances and disbursements for expenses as may be approved by the Minister for the time being responsible for finance.

Secretary.

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

(2) The Secretary shall hold office for such period and on such terms and conditions of employment as the Council may determine.

(3) The Secretary shall be an *ex-officio* member of the Council but shall have no right to vote at any meeting of the Council.

(4) The Secretary 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.

Functions of the Secretary.

**14.** (1) The Secretary 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 Secretary 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) compile and maintain a register of journalists 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.

Delegation by the Council.

**15.** The Council may, by resolution either 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.

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.

The common seal of the Council.

**17.** (1) The common seal of the Council shall be kept in the custody of the Secretary 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 Secretary:

Provided that the Council shall, in the absence of either the Chairperson or the Secretary, 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 Secretary.

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 and 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.

Establishment of the Board.

**19.** (1) There is hereby established a Board to be known as the Media Advisory Board.

(2) The Board shall be an unincorporated body comprising of—

- (a) a Chairperson;
- (b) the Permanent Secretary in the Ministry for the time being responsible for information and broadcasting;
- (c) one person each nominated by each of the following bodies—
  - (i) Media Owners Association;
  - (ii) Kenya Union of Journalists;
  - (iii) Marketing Society of Kenya;
  - (iv) Central Organization of Trade Unions.

Nomination and appointment of Council members.

**20.** Each of the bodies listed in section 7 (1) (b) shall forward the names of two persons to the Board, being their nominees for appointment to the Council, and the Board shall receive and consider the nominees and forward one of each to the Minister for appointment.

Functions of the Board.

**21.** (1) The principal function of the Board is to advise the Council generally on the exercise of its powers and the performance of its functions under this Act.

(2) The Board shall have such other functions as may be conferred on it by or under this Act.

Independence of the Board.

**22.** In the performance of its functions, the Board shall not be subject to the direction or control of any person or authority.

Chairperson and  
Vice-chairperson  
of the Board.

**23.** (1) The Board shall, once in each year, elect from amongst its members a chairperson and a vice-chairperson who shall hold their respective offices for that year.

(2) If the chairperson of the Board is absent or unable to act as such, the vice-chairperson shall act as chairperson and when so acting, the vice-chairperson shall have the powers, and shall discharge the duties, of the chairperson.

(3) If the chairperson and the vice-chairperson are both absent from any meeting of the Board, the members present shall elect one of their number present to preside at that particular meeting, and the person so elected shall, during the absence from that meeting of the chairperson and vice-chairperson, have all the powers and discharge all the duties of the chairperson.

(4) If the chairperson or vice-chairperson vacates office before expiry of his tenure, a new chairperson or vice-chairperson, as the case may be, shall be elected at the meeting of the Board next following such vacation of office for the unexpired period for which the chairperson or vice-chairperson whose seat has become vacant was elected.

Conduct of  
business of the  
Board.

**24.** (1) The business and affairs of the Board shall be conducted in accordance with the Second Schedule.

(2) Except as provided in the Second Schedule, the Board may regulate its own procedure.

(3) Four members of the Board shall constitute a quorum for the transaction of any business of the Board.

(4) The Board may invite any person to attend any of its meetings and to participate in its deliberations but such a person shall not have a vote in any decision of the Board.

**PART III – FINANCIAL PROVISIONS**

Funds of the Council.

**25.** 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 payable to the Council pursuant to this Act or any other written law;
- (c) such monies as may be appropriated by Parliament for the purposes of the Council;
- (d) donations, gifts and endowments from lawful organizations or sources;
- (e) proceeds of any investments by the Council; and
- (f) grants.

Financial year.

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

Annual estimates.

**27.** (1) 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 the members of the Board; 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.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Minister for approval.

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Council given with prior written approval of the Minister, and the Permanent Secretary to the Treasury.

Accounts and  
audit.

**28.** (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 Controller and Auditor-General 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 accounts of the Council shall be examined, audited and reported upon annually by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act.

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#### **PART IV – COMPLAINTS AND DISPUTE RESOLUTION**

Complaints  
Committee.

**29.** (1) There shall be a Complaints Committee which shall consist of not less than five persons appointed by the Council, among whom shall be a journalist, an advocate of the High Court and a member of the public.

(2) Members of the Complaints Committee shall appoint one of their number to be the Chairperson.

Establishment of  
panels.

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

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

(3) Members of a panel established under subsection (1) may, if necessary, consult with the Complaints Committee

for purposes of ensuring consistency of decisions of the Council.

Complaints.

**31.** (1) Any person aggrieved by–

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

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.

(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 Committee for determination.

Procedure upon complaint

**32.** (1) Upon receipt of a complaint, the Complaints Committee 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 Committee and shall thereby require such party to respond to the complaint in writing.

(2) The Complaints Committee 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 may publish its findings if it considers it in the public interest to do so.

(3) The Complaints Committee 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 Committee shall conduct its hearings in private.

Decision of  
Complaints  
Committee.

**33.** (1) Without prejudice to the generality of section 32 (2), the Complaints Committee 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;
- (d) order that the journalist concerned be removed from the register of journalists or the accreditation list for a specified period.

(2) The Complaints Committee or any of its panels may make any or a combination of the orders set out in subsection (1).

Record of  
proceedings.

**34.** The Secretary of the Council shall keep or cause to be kept a record of all proceedings of the Complaints Committee.

Publication of  
decisions.

**35.** Every decision made by the Council or the Complaints Committee in a matter the subject of a dispute shall be published in the Gazette.

Appeals.

**36.** (1) Any party aggrieved by the decision of the Complaints Committee 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 Committee, 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.

Enforcement of decisions.

**37.** A decision of the Complaints Committee, 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 Court.

#### **PART V—MISCELLANEOUS**

Information by media.

**38.** (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 Third Schedule to this Act.

(3) Subject to section 38 (2), the Council shall not seek to control or direct journalists in the execution of their professional duties.

Accreditation of journalists.

**39.** (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 measures 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.

Rules.

**40.** The Minister may, after consultation with the Council, make regulations generally for the better carrying into effect the provisions of this Act.

**FIRST SCHEDULE** (s.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 seven 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.24)

**PROVISIONS AS TO THE BOARD**

- Tenure of office.           **1.** The Chairperson and members of the Board shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years on such terms and conditions as may be specified in their instrument of appointment, but shall be eligible for reappointment for one more term of a period not exceeding three years.
- Mode of appointment.           **2.** (1) Members of the Board shall be appointed at different times so that their respective dates of expiry of their terms of office shall fall at different times.
- (2) Appointment to the Board shall be by notice in the Gazette.
- Removal from office.           **3.** A member of the Board may—
- (a) at any time, by notice in writing addressed to the Minister, resign from office;
  - (b) be removed from office if the member—
    - (i) has been absent from three consecutive meetings of the Board without permission of the Chairperson;
    - (ii) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;
    - (iii) is convicted of fraud, forgery, uttering a forged document, or for any offence under the Anti-Corruption and Economic Crimes Act;
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- (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months, or to a fine exceeding ten thousand shillings;
- (v) is incapacitated by prolonged physical or mental illness; or
- (vi) is unable or unfit to discharge the functions of a member of the Board.

Agenda for meetings.

**4.** The agenda at a meeting of the Board shall consist of such matters as the Council may from time to time refer to the Board for consideration, and such other matters as the Board may, with the agreement of the Council, receive to consider.

Quorum.

**5.** A quorum at a meeting of the Board shall be one-half of the members of the Board.

Resolution of the Board.

**6.** A resolution at a meeting of the Board shall require the affirmative votes of one half of the members present except the Chairperson, who shall have a casting vote only.

Staff of the Board.

**7.** The secretary and any other staff of the Board shall be seconded to the Board from among the staff of the Council.

Minutes.

**8.** The Board shall cause minutes of all proceedings of the Board to be entered in books kept for that purpose.

**THIRD SCHEDULE** (s.38(2))

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

**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. 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 stereotype and present a diversity of expressions, opinions, and ideas in context.
- (i) Journalists and other media practitioners should present analytical reporting based on professional perspective, not personal bias.

### **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 sponsorship of 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' judgement and content inappropriately.

### **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 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.

### **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.

### **Opportunity to Reply**

A fair opportunity to reply to inaccuracies should be given to individuals or organizations when reasonably called for. If the correct 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.

### **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.

### **Confidentiality**

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

### **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.

### **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.

### **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.

### **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.

### **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.

### **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.

### **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.

### **Sex Discrimination**

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

### **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.

## **MEMORANDUM OF OBJECTS AND REASONS**

The principal object of this Bill is to provide for the establishment of the Media Council of Kenya and the Media Advisory Board, bodies

which will regulate the practice of journalism in Kenya. It seeks to create a framework that will allow journalists and other media practitioners to exercise their freedom freely and responsibly in a sound and professional manner and also seeks to promote self-regulation and accountability in the media industry.

**PART I** provides for preliminary matters.

**PART II** provides for the establishment and functions of the Media Council of Kenya and the Media Advisory Board. The Council is established as a body corporate while the Board is established as a non-corporate body. It also provides for the appointment of the Secretary of the Council who will be the chief executive officer of the Council, and who will be responsible for the day to day management of the affairs of the Council.

**PART III** contains financial provisions. Clause 25 defines the sources of funds of the Council. These include money provided by Parliament, donations, gifts, any fees payable in respect of the functions of the Council and contributions or grants received from various sources. Clause 27 obligates the Council to prepare estimates of its revenue and expenditure for each financial year while clause 28 provides for the keeping and auditing of the Council's accounts. Such accounts are to be audited in accordance with the provisions of the Public Audit Act, 2003.

**PART IV** contains provisions on making of complaints and resolution of disputes that may arise. Clause 29 provides for the formation of a Complaints Committee as body which will be charged with the responsibility of hearing and determining disputes that may arise in the media industry. Clause 30 empowers the Complaints Committee to establish a panel to hear and determine any matter on its behalf. Clause 31 provides for the making of a complaint while clause 32 provides for the procedure to be followed once such a complaint is made. Clause 36 provides for the appeal to the Media Council from any decision of the Complaints Committee by any party aggrieved by such decision.

**PART V** contains miscellaneous provisions. Clause 38 provides for the manner in which the media is to inform the public of issues of public interest. It also obligates media practitioners to maintain high professional standards having due regard to the Code of Conduct of journalists. Clause 39 provides for the accreditation of foreign journalists

by the Media Council while clause 40 empowers the Minister for the time being responsible for information and broadcasting to make rules for the better carrying into effect the provisions of the Bill once enacted into law.

The First Schedule contains provisions as to the conduct of the business and affairs of the Media Council.

The Second Schedule contains provisions as to the Media Advisory Board.

The Third Schedule sets out the Code of Conduct for the practice of journalism in Kenya.

The enactment of the Bill shall occasion additional expenditure of public funds to be provided for in the estimates.

Dated the 5<sup>th</sup> April, 2007

MUTAHI KAGWE,  
*Minister for Information and Communications.*