



Self-regulatory Framework :Case for the Media Council of Kenya



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Presentation outline

- Presentation has 3 main parts:
 - a) Back Ground of the Media Council of Kenya
 - b) Philosophical foundation of self regulation
 - c) Constitutional and statutory foundation of self regulation
 - d) Essentials for successful self/co-regulation model.
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Introduction and Background

- Media Council of Kenya was founded in 2004
- Brought together Journalists associations, professional bodies, Media owners- These bodies not well managed
- This was triggered by liberalization of airwaves in 1992 and ensuing privatization and commercialisation of the media .

Introduction and Background

- The formation of Task Force on Press laws in 1998 informed the enactment of the Kenya Information and Communication Act 1998.
- The debate on the need for self-regulation heightened in 2002.
- Code of Conduct for the Practice of Journalism in Kenya finalised in 2002 to guide the process

Formation of MCK

In 2004, Media Council was registered as a trust. Key objectives among others were:

1. Set and enforce performance standards as per the Code of conduct for the practice of journalism.
2. Handling of complaints
3. Protect media freedom.

Transition to Co-regulatory model

- Media Act 2007
- Anchor the Council on legislation
- The code becomes part of the Law
- The government becomes a stakeholder
- Brings on board more other related bodies
- Funding by the government but nevertheless remaining free of Government, political and commercial interests
- Complaints handling became more effective

Media self-regulation- Philosophical basis.

□ Media Self-regulation can be said to have originated from a simple liberal idea that:

❖ All Humans are born with a God-given rational mind to know good/bad & therefore;

a) Editors & journalists know & can distinguish what's morally good or bad (**guardians of content**);

b) Societal values (Cultural/socio-economic & political)

c) Intellectually socialized to be accountable to each other & to citizens (society);

d) Understand link between story, policies/values/truth & national interests

Media self-regulation: Meaning

- Self-regulation may have several different meanings but most scholars agree it refers to:
 - Professionals' direct possession of the powers to regulate all or part of their professional conduct...accountability (Campbell, 1999, Hulin & Smith, 2008)

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Constitutional and International basis

- 1) **International & regional basis**
- 2) National basis (Media Act 2007, Constitution 2010 Articles 33,34,35, Media Act 2013
Professional level: code of ethics & blueprint
- 3) **NB: restorative & not acting like policeman**

Rwanda's Media Regulatory Framework

Universal Declaration of Human Rights of 1948 (ratified by Kenya):

➤ Article 19 reads in part, “Everyone has the right to freedom of opinion & expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information & ideas through any media and regardless of frontiers”

International Legal basis

- Limitation of this right by governments is also provided for under Art. 19 which reads:
- That limitation shall be “determined by law solely for the purpose of securing due recognition and respect for the rights & freedoms of others & of meeting the just requirements of morality, public order & the general welfare in a democratic society”

International Legal basis

➤ Basis 2: International Covenant on Civil & Political Rights (1976) Art 19 provides that:

1. “Everyone shall have the right to hold opinions without interference;
2. “Everyone shall have the right to freedom of expression; this right shall include the freedom to seek, receive & impart information & ideas of all kinds...orally, in writing or in print, in the form art, or through media of his choice”

Regional Legal basis

□ Basis 3: African Charter on Human & Peoples' Rights. Art 9 provides that:

❖ “Every individual shall have the right to receive information”

Self-regulation: Challenges

- ❖ Broadly, challenges can be located in four realms:
 - a) Professional (& historical);
 - b) Political environment;
 - c) Economic; &
 - d) Socio-cultural

Self-regulation: Challenges

- a) Professional (& historical) challenges:
 - 1) Solidarity, unity & trust among journalists;
 - 2) Capacity (Financial?)
 - 3) Professional socialization (giving rise to ownership, solidarity, respect, trust & peer pressure to conform)

Self-regulation: Challenges

b) Socio-political & cultural

- 1) How will officials respond to external forces affecting its members?
- 2) Have you brought all powerful and influential players on board?
- 3) What are the incentives for professional uprightness?
- 4) How much does the public know about you and your role as a regulator?

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Self-regulation: Challenges

C) Economic challenges

- 1) Will self-regulatory body be financially sustainable? Able to pay its bills?;
- 2) How much economic reward does professional conduct/independence bring?

Self-regulation: Challenges

d) Therefore:

- 1) Will self-regulatory body have real teeth & power to deploy?
- 2) Will it be able to act independently & be seen to do so?
- 3) Will it be taken seriously and supported by the members

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Key ingredients to successful self regulation

- a) Clear basis of the formation of the self regulatory body.
- b) Networking, ownership and support by members
- c) Solidarity on critical and controversial decision made by the body
- d) Sustainability- Financial, institutional and managerial



Key ingredients

- e. Value addition into the industry. This should be verifiable
- f. Operate within the national laws, international treaties and agreements.
- g. An agreed regulatory code of conduct for members and any other governing documents



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Conclusion: debate!

- Qn:
- How can self-regulation be made to work efficiently, effectively & independently?