

REPUBLIC OF KENYA
IN THE MATTER OF THE MEDIA COUNCIL OF KENYA ACT [2013]
AND
IN THE MATTER OF THE MEDIA COMPLAINTS COMMISSION
COMPLAINT NO 5 OF 2024

SENATOR FATUMA ADAN DULLO.....COMPLAINANT

VS

RADIO NAGAA FM (FORMERLY BALITI FM)1ST RESPONDENT

EDITOR, RADIO NAGAA FM (FORMERLY BALITI FM).....2ND RESPONDENT

MR. ADANOR ABDULLAHI.....3RD RESPONDENT

BACKGROUND

1. Senator Fatuma Adan Dullo filed a complaint with the Complaints Commission on August 13, 2024, against the 1st, 2nd, and 3rd respondents. This complaint arises from an interview conducted by Mr. Adanoor Abdullahi at approximately 20:00 hours on June 11, 2024, with Governor Abdi Ibrahim Hassan, also known as Guyo, which aired on Radio Nagaa FM, formerly known as Baliti FM.
2. The complainant alleges that during this interview, Governor Hassan made statements that were false, grossly offensive, distasteful, indecent, obscene, derogatory, and discriminatory towards the Senator. The Complainant alleged that Mr. Abdullahi failed to uphold the ethical standards of journalism by not challenging these statements during the broadcast.
3. The relief sought by the Complainant is for the Commission to take prompt and appropriate action against Mr Abdullahi as contemplated in section 38 of the Media Council Act.
4. Pursuant to section 35 (1) of the Media Council Act the Complaints Commission issued a notice of the complaint to the Respondents.
5. In their statement of response dated 25th October 2024, the Respondents denied all allegations made by the complainant and averred that the interview happened over a phone call and not within the premises of Nagaa radio.
6. The Respondents contended that the interview focused on the status of Isiolo County rather than on the complainant. The Respondents further argued that the doctrine of

neutral reportage imposes an obligation to report on matters of public interest while maintaining neutrality, thus precluding the need to take sides or challenge the statements made during the interview.

7. The Respondents asserted that the complaint is fundamentally inconsistent with Article 34 of the Constitution of Kenya, which guarantees freedom of the media. Specifically, they referenced Clause 2(b), which prohibits the state, which might as well be construed to be this Commission or any state agency, from penalizing individuals for their opinions, views, or the content of publications or disseminated information.
8. The Respondent also stated that the complaint is sub judice as the complainant had also filed a defamatory suit against the interviewer and the Respondent at the Milimani court in **CMCC No. E4366 of 2024; Fatuma Adan Dullo vs. Abdi Ibrahim Hassan alia Guyo, Adanoor Abdullahi alia Adesh & Nagaa radio (formerly Baliti FM)** seeking the same or substantially the same orders as sought in this complaint.
9. The respondent prayed that the complaint be dismissed with costs.

THE COMMISSION'S ASSESSMENT

8. Under section 35 (3) the commission is required to conduct a preliminary assessment of the complaint to determine the admissibility or otherwise of the complaint lodged. the commission is expected to determine whether the complaint has raised triable issues.
9. It is noteworthy that Section 35 does not outline specific criteria for the admission of a complaint, apart from the requirement that the complainant alleges being aggrieved by the conduct of a journalist or media enterprise. Nonetheless, as a matter of practice, the Commission aims to ensure that:
 - a) The complaint satisfies the requirements outlined in Section 34(1)(a) of the Act.
 - b) No similar proceedings are currently pending in any court of law concerning the same matter.
10. The Commission relies on Sections 31 (a) and (b) of the Media Council Act 2013, which grants it jurisdiction to receive, investigate and deal with media-related complaints against journalists or media enterprises on ethical issues. The issues complained of emanated from an interview conducted and aired by the Respondents, which complaint was made under Section 34 (1) (a) of the Media Council of Kenya Act 2013, which provides that;

A person aggrieved by any publication or conduct of a journalist or media enterprise may make a written complaint to the Complaints Commission setting out the grounds of the complaint, nature of the injury or damage suffered, and the remedy sought.

11. Section 34 (1) of the Media Council Act 2013 provides for the Complaint, as an aggrieved party, to write to the Complaints Commission.
12. The 1st Respondent is a journalist, the 2nd Respondent is the editor, and the 3rd Respondent

is a media enterprise. All three individuals and the entity fall squarely within the mandate of the Commission as outlined in Sections 31 and 34 of the Act.

13. The complaint meets the requirement of section 34(1)(a) of the Media Council Act, as Senator Dullo alleges that she is aggrieved by the conduct of the journalist. The allegations of ethical breaches and the negative impact of the statements made during the interview warrant investigation.
14. The complaint raises significant issues related to journalistic ethics, specifically the responsibility of journalists and media enterprises to uphold standards of fairness and accuracy, particularly when reporting on individuals in a potentially adverse light. The Commission will therefore proceed to interrogate these matters further to determine whether the conduct in question met the ethical standards as provided for in the Media Council Act.
15. When this matter came up for mention on 17th October 2024, counsel for the complainant stated that the issues presented in the defamation case in the Milimani case CMCC No. E4366 of 2024; Fatuma Adan Dullo vs. Abdi Ibrahim Hassan alias Guyo, Adanoor Abdullahi alias Adesh & Nagaa radio (formerly Baliti FM) differ from those raised in this complaint MCC No. 5 of 2024 Senator Fatuma Adan Dullo vs. Radio Nagaa FM (formerly Baliti FM), editor, radio Nagaa FM (formerly Baliti FM) & Mr. Adanoor Abdullahi and that the remedies sought are not the same. The Counsel clarified that the two matters are distinct and do not overlap in jurisdiction.

ORDERS OF THE COMMISSION

The commission finds that on a balance of probability, there is a Prima facie case in the complaint alleging Breaches or violations of the Media Council Act 2013 and/or the code of conduct for the practice of journalism in Kenya and is of the view that the complainant has raised triable issues that ought to be heard on merit before the Commission either through mediation or adjudication.

The Complaint is hereby admitted.

DATED and DELIVERED at NAIROBI this 31st day of October 2024.

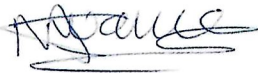


MR. DEMAS KIPRONO
CHAIRPERSON, MEDIA COMPLAINTS COMMISSION



MS. POLLY GATHONI

VICE- CHAIR, MEDIA COMPLAINTS COMMISSION



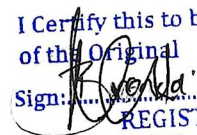
MR. KANTIM MWANIK
COMMISSIONER, MEDIA COMPLAINTS COMMISSION



MS. NASRA HUSSEIN OMAR
COMMISSIONER, MEDIA COMPLAINTS COMMISSION



MR. MASEME MACHUKA
COMMISSIONER, MEDIA COMPLAINTS COMMISSION

I Certify this to be a True copy
of the Original
Sign:  Date: 4 November 2024
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