



6. On 12<sup>th</sup> September, 2024, the Complainant lodged a formal complaint against the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Respondents concerning an interview conducted and moderated by the 3<sup>rd</sup> Respondent at around 20H00 on 11<sup>th</sup> June,2024
7. The Complainant describes herself as the Senator for Isiolo County, and, therefore, a highly respected public figure.
8. The Complainant alleges that at around 20H00 on 11<sup>th</sup> June,2024, the 3<sup>rd</sup> respondent conducted and moderated an interview with the Governor of Isiolo County, Abdi Ibrahim Hassan (Alias Guyo), on RADIO NAGAA (Formerly Baliti FM) on the Station's programme, Ghadis Nagaa Show. The interview was misleading and misconstrued.
9. That the Respondent allowed the interviewee on his show to disparage the Complainant with statements that were false, grossly offensive, distasteful, indecent, obscene, derogatory, and discriminatory, thereby damaging her reputation.
10. That the Respondent encouraged and enabled the interviewee to continue to make these false and misleading statements about the Complainant, went further by agreeing with these statements, and allowing these statements to be made unchallenged on his programme.
11. Further, the Complainant alleges that the 3<sup>rd</sup> Respondent failed to uphold the ethical standards of journalism as stipulated in the Code of Conduct for the Practice of Journalism by not challenging these statements during the interview.
12. That the Complainant was not given a fair chance to give her comments and clarify any misinformation.
13. That the contents of the interview breached the following regulations of the Code of Conduct for the Practice of Journalism: **Clause 2(1) on Accuracy &Fairness, Clause 4 (1) on Integrity, and Clause 6 (1) on Opportunity to Reply, Clause 24 on Editor's Responsibility and Clause 26 (1) on Hate Speech.**
14. Consequently, the Complainant prays for the following reliefs:
  - i. The Commission to take prompt action against Mr Adanoor Abdullahi as contemplated in Section 38 of the **Media** Council Act (2013).

### **C. THE RESPONDENTS' CASE**

15. The Respondents aver that the interview happened over a phone call and not within the premises of Nagaa Radio and as such did not have reasonable control over the interviewee's statements.
16. Further, the Respondents deny endorsing or affirming the alleged defamatory statements and aver that the alleged defamatory statements were the interviewee's independent expression of opinion.
17. That the interview was based on the status of Isiolo County and not the Complainant and that the doctrine of Neutral Reportage demanded that they had a duty to report on matters of public interest, maintain neutrality and not take unnecessary sides.
18. That the opinion by the interviewee that the Complainant was harassing him out of political interest is a matter within the public domain as had been made in other public fora, particularly the Senate.
19. That the complaint flies on the face of Article 34 of the Constitution of Kenya (2010) which guarantees freedom of the media in particular Clause 2 (b).
20. That they had no intention of defaming anyone, in particular the Complainant herein, and were simply conducting a neutral interview without any malice.
21. That the complaint is *sub judice* as the Complainant had filed a defamatory suit against the interviewee and the Respondents in Milimani CMCC No E.4366 OF 2024: Senator Fatuma Adan Dullo -v-Abdi Ibrahim Hassaan, Alias Guyo, Adanoor Abdullahi, Alias Adesh & Nagaa Radio (Formerly Baliti Fm).
22. The Respondents urge the Commission to dismiss the complaint in its entirety.

### **D. ISSUES FOR DETERMINATION**

21. The Commission has distilled the following issue: -
  - (i) **Whether the broadcast breached the Code of Conduct for the Practice of Journalism in Kenya**

### **E. THE COMPLAINANT'S SUBMISSIONS**

22. The Complainant submitted that the Respondents' conduct violated principles and standards applicable to journalists, media practitioners, and media enterprises as codified in the Media Council Act, 2013, including the Code of Conduct for the Practice of Journalism.
23. The Complainant submitted that the Respondents failed to ascertain the accuracy of the claims made against her by Mr. Guyo, specifically regarding corruption and soliciting bribes.
24. The Complainant submitted that the Respondents did not demand any evidence or clarification from Mr. Guyo during or after the interview, and instead, the 3<sup>rd</sup> Respondent agreed with these claims and encouraged Mr. Guyo to continue.

25. The Complainant further submitted that the interview was published without securing such clarification or evidence. This conduct, the Complainant submitted, violated Section 3(2) of the Media Council Act, which mandates accuracy, and Clause 2(8) of the Code, which prohibits publishing stories that fall short of factual accuracy and fairness.
26. The Complainant submitted that during the interview, Mr. Guyo made obscene, derogatory, and vulgar statements about her concerning her gender, age, and sex life, which the Respondents neither stopped nor asked to retract. The Complainant submitted that the Respondents aired and published the interview with these statements without editing them out. These omissions and commissions, as submitted, violated Clause 10(1) of the Code, which prohibits publishing obscene or vulgar material unless it contains news.
27. The Complainant submitted that before airing and publishing the interview, the Respondents did not contact her to confirm the veracity of the claims or seek her comments or response. This, the Complainant submitted, violated Clause 2(2) of the Code, which requires reporting "all sides of the story wherever possible"; Clause 2(3), which mandates seeking comments from anyone mentioned in an unfavorable context and keeping evidence of such attempts; and Clause 6(1), which obligates providing a fair opportunity to reply to inaccuracies. The Complainant cited the High Court case of;

*Kantai v Royal Media Services Limited (Civil Case E280 of 2021) [2024] KEHC 1035 (KLR) (Civ), which emphasized the cardinal journalistic principles of accuracy and fairness and held that all sides of the story should be reported, and comments sought from those mentioned unfavorably.*

28. The Complainant further submitted that despite being alerted to the false or inaccurate nature of Mr. Guyo's claims via demand letters dated July 2, 2024, the Respondents refused to correct the record by pulling down the recording or allowing the Complainant to respond. This, the Complainant submitted, ignored Clause 2(4) of the Code, which requires prompt correction of inaccurate, misleading, or distorted stories; Clause 2(5), which specifies that corrections should present correct information; and Clause 5(b), which obligates respondents to "respond to public concerns, investigate complaints and correct errors promptly".
29. The Complainant emphasized that the Respondents were given an opportunity to correct the record and offer an apology, which they ignored.
30. The Complainant countered the Respondents' assertion that the complaint seeks to stifle freedom of expression and media. The Complainant reiterated that Articles 33 and 34 of the Constitution, while guaranteeing these rights, are self-limiting and do not extend to hate speech, discriminatory content, or content that disregards the rights and reputation of others. This limitation, the Complainant submitted, is also reflected in the Code of Conduct. The Complainant cited the Supreme Court of Kenya in *CMM (Suing as the Next of Friend of and on Behalf of CWM) & 6 others v Standard Group & 4 others (Petition 13 (E015) of 2022) [2023] KESC 68 (KLR)*, which held that freedom of expression and media are subject to limitations, including not extending to hate speech or advocacy of hatred, and must respect the rights and reputation of others. The Supreme Court, the Complainant noted, also stated that the Media Council Act establishes a regulatory body to set and monitor media standards and that the Code of Conduct demands accurate and fair reporting.

31. In conclusion, the Complainant submitted that she had established that the Respondents' acts of commission and omission violated the Media Council Act, 2013, including the Code of Conduct for the Practice of Journalism, and respectfully requested the Commission to grant the remedies sought in the Complaint.

#### F. DETERMINATION

32. The primary issue for determination before this Commission is whether the broadcast in question breached the Code of Conduct for the Practice of Journalism in Kenya. Upon careful review of the evidence and submissions, the Complaints Commission finds that the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Respondents indeed breached multiple clauses of the Code of Conduct for the Practice of Journalism and statutory obligations.
33. Section 3(2) of the Media Council Act 2013 mandates that media enterprises, journalists, and media practitioners ensure accuracy and fairness, accountability, transparency, and respect for the dignity, privacy, and rights of others, while demonstrating professionalism.
34. The Code of Conduct further stipulates that before broadcasting a telephone conversation live or recording it for broadcast, a station must inform all parties of its intention to broadcast the conversation.
35. Clause 4(1) requires journalists to present news with integrity and common decency, explicitly prohibiting the publication of obscene or vulgar material unless it contains news value.
36. The Commission acknowledges that in the dynamic environment of a live interview, a journalist may not possess foreknowledge of every statement an interviewee intends to make. However, this does not absolve the journalist, the media house, or the editor of their fundamental ethical obligations.
37. Even if the disparaging remarks against the Complainant were unexpected, the 3<sup>rd</sup> Respondent, as the interviewer, failed in his immediate duty to moderate the discussion when Mr. Guyo made unsubstantiated claims regarding the Complainant's alleged corruption and solicitation of bribes.
38. There was no attempt to demand evidence or clarification from Mr. Guyo during the live broadcast. Instead, the 3<sup>rd</sup> Respondent simply agreed with these claims and encouraged Mr. Guyo to continue, allowing the interview to veer into and include highly indecent language.
39. Specifically, Mr. Guyo made derogatory and vulgar statements about the Complainant, touching upon her gender, age, and sex life, including the highly inappropriate comment: "*Anaenda kwa maofisi ya serikali anasema unajua Governor Guyo hana capacity, Governor Guyo analala na fulani kwani anataka nilale na yeye?*".
40. The Respondents neither intervened to stop Mr. Guyo from making these statements nor requested their retraction. Instead, the interview was allowed to proceed and was subsequently published on online platforms without any clarification, evidence, or editing out of the offensive remarks.
41. The Commission concurs with the Complainant that the Respondents' failure to exercise editorial control during the live broadcast, compounded by the subsequent decision to disseminate the same content unedited, represents a breach of journalistic ethics.
42. The material in question demonstrably lacked discernible news value and was replete with language that fell below the threshold of common decency. As defined in legal jurisprudence, drawing from concepts such as

those found in Black's Law Dictionary, "*decency*" refers to conformity to the prevailing standards of propriety, morality, and respectful conduct within a community. Content that falls "below this threshold" thus signifies a violation of these widely accepted minimum standards of appropriate behavior and speech in public communication.

43. The Respondents' conduct, in allowing such vulgar statements to be broadcast and remain unedited, stands in direct contravention of Section 3(2) of the Media Council Act, which mandates fairness, accuracy, and accountability in media practice.
44. The nature and tone of the broadcast, when viewed holistically, critically implicate Clause 10(1) concerning the avoidance of obscene or vulgar material, as the offensive content aired was devoid of any redeeming news value.
45. The Commission finds persuasive the reasoning articulated in *Kantai v Royal Media Services Limited (Civil Case E280 of 2021) [2024] KEHC 1035 (KLR)*, where the High Court unequivocally underscored the imperative of balanced reporting and the indispensable obligation to seek responses from individuals cast in adverse light, principles which the Respondents failed to uphold in their handling of the impugned broadcast.
46. The Respondents violated Clause 2(8) of the Code of Conduct, which expressly prohibits the publication of stories that fall short of factual accuracy and fairness. Their failure to manage the content of the interview appropriately, both during and after the live broadcast, demonstrates a disregard for these foundational principles.
47. The Commission is persuaded by the Complainant's submission that, following the broadcast of disparaging remarks during the interview, the Respondents failed in their professional obligation to verify the serious allegations made against the Complainant.
48. No effort was made to contact her for comment or clarification. This omission constitutes a clear breach of the ethical standards set out in the Code of Conduct. Specifically, Clause 2(2) mandates that "*All sides of the story shall be reported, wherever possible,*" while Clause 2(3) imposes a duty to seek comments from individuals mentioned in an unfavorable context and to retain evidence of such efforts.
49. The Respondents' failure to act in accordance with these provisions reflects a disregard for the foundational principles of fairness and balance in journalism, and the Commission finds this lapse to be both unjustified and professionally negligent.
50. Clause 6(1) of the Code obligated the Respondents to provide the Complainant a fair opportunity to reply to inaccuracies in the interview. The role of the journalist while moderating live interviews is important in upholding the principle of right of reply. A journalist is not merely a conduit for information but bears the profound responsibility to ensure fairness, accuracy, and balance.
51. The obligation of the Respondents did not end with the live broadcast; it extended to taking appropriate remedial action thereafter. Their subsequent inaction compounds their failure to challenge unsubstantiated claims or indecent language during the broadcast. Despite being duly notified through a demand letter dated July 2, 2024, the Respondents neither removed the impugned recording, issued a correction, nor afforded the Complainant a right of reply.

52. This conduct demonstrates a clear and deliberate disregard for their responsibilities under Clause 2(4), which mandates prompt correction, and Clause 5(b), which obliges a broadcaster to respond to public concerns and rectify errors without delay.
53. In a live setting, where unchecked statements can cause immediate and widespread harm, the journalist has an even greater duty to interrupt, question, seek substantiation, or at the very least, commit to providing a right of reply. The journalist's agreement with, and encouragement of, unsubstantiated remarks, as presented in this case, represents a severe abdication of this moderating responsibility.
54. The Commission finds that the responsibility of the Editor, as articulated under Clause 24(1) of the Code of Conduct for the Practice of Journalism, was fully and unequivocally engaged in this matter. As the principal gatekeeper of the station's editorial content, the Editor bore a non-delegable duty to ensure that all material broadcast adhered to the ethical standards prescribed by the Code.
55. The failure to exercise this oversight, manifested in the airing and continued accessibility of content containing unsubstantiated allegations and indecent language, constitutes a grave dereliction of editorial duty. The Editor's omission to facilitate the Complainant's right of reply, even after being duly notified, amounts to a direct infringement of the Complainant's entitlement under the Code, thereby undermining the integrity of the editorial process.

**G. FINAL DETERMINATION AND ORDERS**

56. The Commission concludes that the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> Respondents breached both statutory and ethical obligations under the Media Council Act, 2013 and the Code of Conduct for the Practice of Journalism in Kenya.
57. Subsequently, the Complaints Commission orders the following:
- i. An Apology: The Respondents shall, within fourteen (14) days of this judgement, publish a prominent apology and retraction on Radio Nagaa FM in the same program slot, and in other online platforms where the same content was aired or published.
  - ii. A fine of Kes. 50,000 for the media enterprise (**Nagaa Radio, Formerly Baliti Fm**).
  - iii. A fine of Kes. 30,000 for the Editor.
  - iv. A fine Kes. 20,000 for the 3<sup>rd</sup> Respondent (**Mr. Adanoor Abdullahi**).
  - v. The Respondents to report to MCK on compliance with these orders within thirty (30) days of this decision.

**DATED and DELIVERED at NAIROBI this.....17<sup>th</sup> .....JULY.....2025**



**MR. DEMAS KIPRONO**  
**CHAIRPERSON, MEDIA COMPLAINTS COMMISSION**

I Certify this to be a True copy  
of the Original  
Sign: *A. Kiprono* Date: *18 July 2025*  
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I Certify this to be a True copy  
of the Original  
Sign: *A. Ganda* Date: *18 July 2025*  
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*Polly*

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