

REPUBLIC OF KENYA
IN THE MATTER OF THE MEDIA COUNCIL ACT [2013]
AND
IN THE MATTER OF THE MEDIA COMPLAINTS COMMISSION
MEDIA COMPLAINTS COMMISSION CASE NO. 1 OF 2025
ANTHONY JOHN CYSEWSKI.....COMPLAINANT
VS
CAPE MEDIA LTD/RADIO 47.....1ST RESPONDENT
KENNETH KAZUNGU, EDITOR RADIO 47..... 2ND RESPONDENT
RULING ON ADMISSIBILITY

A. THE PARTIES

1. The Complainant is **ANTHONY JOHN CYSEWSKI**, an investor based in Kilifi.
2. The Respondents are: **CAPE MEDIA LTD/RADIO 47** and
3. **KENNETH KAZUNGU, EDITOR RADIO 47.**

B. PARTICULARS OF THE COMPLAINT

1. The Complainant's complaint is against the Respondent for airing a false and misleading radio broadcast on Radio 47 on 7th October, 2024.
2. The Complainant alleges that the broadcast is misleading, incomplete, inaccurate, inflammatory, biased, racist, promotes ethnic animosity and sexist, and that the Respondent did not provide the Complainant with an adequate right of reply.
3. The Complainant claims that the Respondent's actions contravene the Media Council Act, 2013, and the applicable journalism standards in Kenya.
4. The Complainant seeks the following remedies:
 - a) Publication of a letter of apology by the Respondent.
 - b) A certified copy of the transcript of the broadcast.
 - c) Provide the name and ID of the person who made the report.
 - d) Provide the name of the person and ID of the person who paid for the broadcast.
 - e) Make a broadcast to correct the facts.

C. RESPONDENTS' RESPONSE

4. The Respondents, in their Response dated 14th April, 2025, refuted the Complainant's allegations and claimed that right of reply did not apply in this case as no specific individual or investor was accused in the broadcast.
5. The Respondents claim that they exercised due diligence in verifying the information and that the story was published under a sense of public duty and without malice to the Complainant.
6. The Respondents argue that the allegations made in the aired story were fair and accurate information on matters of public interest and that the aired script and audio did not use the word "foreigners" in any form.

D. THE COMMISSION'S ASSESSMENT

7. The Commission relies on Sections 31(a), (b), and (c) of the Media Council Act, 2013, which grants it jurisdiction to receive, investigate, and address media-related complaints against journalists or media enterprises on ethical issues.
8. Section 34(1) of the Act provides:
A person aggrieved by -
(a) any publication by or conduct of a journalist or media enterprise in relation to this Act; 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 Complaints Commission setting out the grounds for the complaint, nature of the injury or damage suffered, and the remedy sought.
9. Section 34(2) permits complaints under Section 31 to be made:
(a) orally, either in person or by any form of electronic communication; or
(b) in writing, addressed to the Registrar of the Complaints Commission, detailing the grounds for the complaint, the nature of the injury or damage suffered, and the remedy sought.
10. Section 35(1) stipulates:
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 of the complaint,

stating the nature of the complaint, the breach, act, or omission complained of, and the date on which the matter shall be considered by the Commission.

11. Section 35(3) mandates the Commission to conduct a preliminary assessment to determine the admissibility of complaints within fourteen days of receiving submissions from both the Complainant and the Respondent, ensuring that the complaint falls within the Commission's jurisdiction.
12. The issues raised by the Complainant include:
 - a. Whether the Respondent published false and misleading information.
 - b. Whether the Respondent accorded the Complainant the right of reply.
 - c. Whether the Respondent breached the Media Council Act, and the Code of Conduct for the Practice of Journalism in Kenya.
13. The issues raised by the Respondent include:
 - a. Whether the allegations in the Radio broadcast are false.
 - b. Whether the Complainant was granted the opportunity to respond by the Respondent
 - c. Whether the publication was an exercise of freedom of expression, freedom of the media, and in the public interest.
14. The Commission has assessed the arguments and the law and finds that the complaint meets the threshold for admissibility under section 34(1)(a) of the Media Council Act, 2013. The complaint raises issues regarding the conduct of the Respondent in airing the radio broadcast and whether the publication adhered to the required journalistic standards and legal obligations.
15. The 1st Respondent, as a media enterprise, and the 2nd Respondent, as its editor and a journalist, fall under the jurisdiction of this Commission, as outlined in Sections 31 and 34 of the Act.

E. ORDERS OF THE COMMISSION

16. 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.

I Certify this to be a True copy
of the Original
Sign: *[Signature]* Date: *15 May 2025*
REGISTRAR
COMPLAINTS COMMISSION
www.complaintscommission.or.ke
P.O. BOX 43132 - 00200, NRB

17. The Complaint is hereby admitted.

DATED and DELIVERED at NAIROBI on this 15th May 2025.

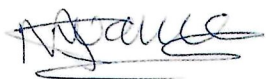
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MR. DEMAS KIPRONO
CHAIRPERSON, MEDIA COMPLAINTS COMMISSION



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