

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 7 OF 2024

KENYA PIPELINE COMPANY LIMITED COMPLAINANT

VS

STANDARD GROUP PLC1ST RESPONDENT
EDITOR, FRANCIS ONTOMWA2ND RESPONDENT
EDITOR NDUNG’U GACHANE 3RD RESPONDENT

RULING ON ADMISSIBILITY

THE COMPLAINT

1. The Complainant is the **KENYA PIPELINE COMPANY LIMITED**.
2. The 1st Respondent is a newspaper called **THE STANDARD**, which **STANDARD GROUP PLC** operates.
3. The 2nd Respondent, **FRANCIS ONTOMWA**, is a correspondent with the 1st Respondent and appears in the byline of one of the impugned newspaper reports.
4. The 3rd Respondent, **NDUNG’U GACHANE**, is also a correspondent with the 1st Respondent and appears in the byline of one of the impugned newspaper reports.
4. The Complainant lodged the complaint on 27th August 2024 against the 1st, 2nd and 3rd Respondents regarding a story published by The Standard Newspaper on 20th and 21st August 2024 respectively under the headlines and titles:

"KENYA PAYS SH40B EXTRA IN PIPELINE CONSTRUCTION DEAL."

and

"KIBOKO OIL LEAD EXPOSED BAD JOB, AFFECTED MANY PEOPLE"

5. The Complainant stated that the impugned publication was misinformation and deliberately misrepresented facts. The Complainant further states that the 1st, 2nd and 3rd Respondents never reached out to hear the Complainant's side of the story.

6. The Complainant further alleged that the article violated the code of conduct for the practice of journalism regarding fairness and accuracy, that the publications were biased, and that they were backed by unnamed sources.
7. The Complainant prays for a prompt retraction, apology, clarification, and explanation with due prominence.
8. Under Section 35(1) of the Media Council Act, the Complaints Commission issued a notice of the complaint to the Respondents.

RESPONSE BY 1ST, 2ND AND 3RD RESPONDENTS

9. In their response statement dated 4th September 2024, the 1st, 2nd and 3rd Respondents denied breaching the code of conduct governing journalism practice. They asserted that the publications were truthful and in the public interest.
10. The 1st, 2nd and 3rd Respondents further asserted that the complaint was a ploy to muzzle the media.
11. In conclusion, the Respondents prayed for the Complaint to be dismissed with costs.

THE COMMISSION DETERMINATION

12. 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.
13. Section 34(1) provides as follows: -

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.

14. Section 34(2) A complaint under section 31 may be made— (a) orally, either in person or by any form of electronic communication; or (b) in writing, given to the Registrar of the Complaints Commission setting out the grounds for the complaint, nature of the injury or damage suffered, and the remedy sought.
15. Further, Section 35(1) provides that: -

“Upon receipt of a complaint, the Complaint 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.”

16. Section 35(3) requires the Commission to conduct a preliminary assessment to determine the admissibility or otherwise of the complaints lodged within fourteen days upon receipt of the submissions from both the Complainant and the Respondent to determine whether the Complaint is admissible or within the Commission's jurisdiction.
17. The 1st Respondent is a media enterprise, and the 2nd and 3rd Respondents contributed to the impugned publications. As such, they fall squarely within the Commission's mandate, as outlined in Sections 31 and 34 of the Act.
18. The complaint meets the requirements of Section 34(1)(a) of the Media Council Act, as it alleges that the conduct of the media enterprise and the journalists aggrieve the complainant. The allegations of ethical breaches carried in the newspaper articles warrant investigation and determination.
19. The complaint satisfies the requirements outlined in Section 34(1)(a) of the Act

ORDERS OF THE COMMISSION

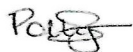
20. The commission finds that, on a balance of probability, there is a *prima facie* case in the complaint alleging Breaches or violations of the Media Council Act 2013 and/or the code of conduct for the practice of journalism in Kenya. It is of the view that the complainant has raised triable issues 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.....21stof ...November.....2024

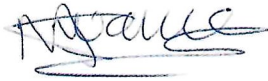


MR. DEMAS KIPRONO
CHAIRPERSON, MEDIA COMPLAINTS COMMISSION



MS. POLLY GATHONI
VICE- CHAIR, MEDIA COMPLAINTS COMMISSION

I Certify to be a True copy
of the Original
Sign: Date: 21st November 2024
REGISTRAR
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MR. KANTIM MWANIK
COMMISSIONER, MEDIA COMPLAINTS COMMISSION



MS. NASRA HUSSEIN OMAR
COMMISSIONER, MEDIA COMPLAINTS COMMISSION



MR. MASEME MACHUKA
COMMISSIONER, MEDIA COMPLAINTS COMMISSION