

REPUBLIC OF KENYA
IN THE MATTER OF THE MEDIA COUNCIL OF KENYA ACT [2013]
AND
IN THE MATTER OF MEDIA COMPLAINTS COMMISSION.
COMPLAINT NO. MCC 2 OF 2024

NEHEMIAH STONE BIC MISIANI.....COMPLAINANT

VERSUS

NATION MEDIA GROUP LIMITED.....1ST RESPONDENT

MANAGING EDITOR NTV.....2ND RESPONDENT

BRIAN OBUYA.....3RD RESPONDENT

RULING ON ADMISSIBILITY

A. The Parties

1. The complainant, Mr. Nehemiah Stone Bic Misiani, is the director and proprietor of Stone Bic Schools.
2. He identifies as a devoted member of the Seventh-day Adventist (SDA) Church, with his business principles and operations closely aligned with the teachings and beliefs of the church.
3. Nation Media Group Limited is a leading media house in Kenya and the First Respondent.
4. Managing Editor NTV is the person responsible for editorial oversight of the NTV broadcast, named as the Second Respondent.
5. Brian Obuya is a journalist associated with the disputed broadcast and the Third Respondent.

B. Particulars of The Complaint

6. The Complainant lodged the complaint on 16th April 2024 against the 1st, 2nd, and 3rd Respondents regarding a broadcast aired on 7th April 2024 at 9:00 p.m. on NTV.
7. The segment, titled "***Holy Betrayal: Full SDA Cult Exposé Documentary***," is alleged to have contained the following:

8. That the Respondents falsely compared the infamous Shakahola tragedy involving Pastor Paul McKenzie to purported religious extremism within the Seventh-day Adventist (SDA) Church.
9. That the broadcast portrayed the SDA Church as having evolved into a radicalizing cult, a depiction the Complainant contends is baseless and malicious.
10. That Pastor Charles Nyakure, head of the SDA Church's Ranen Administrative Unit, provided clarification and denied the allegations during the broadcast, which the Respondents failed to adequately consider or reflect.
11. That despite evidence and denials, the Respondents continued with the broadcast, which the Complainant alleges was sensationalized to attract viewership and increase profits.
12. That the publication caused reputational damage to the SDA Church and its associated institutions, including the Complainant's business, Stone Bic Schools.
13. That the broadcast was reckless, irresponsible, and unethical, in violation of the standards of responsible journalism.
14. The Complainant seeks a retraction of the story, an apology, and the removal of the publication from online platforms.

C. Respondents Response

15. The Respondents categorically deny that the broadcast portrayed the Seventh-day Adventist (SDA) Church as a radicalizing cult or that it could potentially cause parents to transfer their children from the Complainant's school.
16. The Respondents assert that the broadcast was conducted in full compliance with the *Code of Conduct for the Practice of Journalism*, specifically citing Clause 2 on accuracy and fairness, and Clause 4 on integrity.
17. The Respondents further contend that the broadcast was investigative in nature and followed a thorough process of independent investigation and information gathering. They highlight that:
 - a) The broadcast disclosed its sources to ensure transparency.
 - b) A disclaimer was included within the broadcast to clarify its intent.
 - c) The content was based on a source's personal experience, which was verified before publication.

- d) The broadcast did not, in any manner, refer to or relate to the Complainant or his school.
18. The Respondents assert that the broadcast was factual, carefully verified, and presented with due caution and restraint, especially concerning sensitive religious and ethnic matters.
19. They deny the allegations that the broadcast was misleading, inaccurate, inflammatory, biased, or malicious as claimed by the Complainant.
20. The Respondents pray that the complaint against them be dismissed in its entirety.

D. The Commission's Determination

21. The Commission relies on Sections 31(a) and (b) 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.

22. 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.

23. 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.

24. 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.

25. 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.
26. The 1st Respondent, being a media enterprise, together with the 2nd Respondent, the editor, and the 3rd Respondent, the journalist responsible for the contested broadcast, are all unequivocally subject to the Commission's jurisdiction as stipulated under Sections 31 and 34 of the Act.
27. The complaint meets the criteria set out under Section 34(1)(a) of the Act, as it alleges that the conduct of the media enterprise and the journalist has aggrieved the Complainant. The allegations of ethical breaches in the broadcast justify investigation and determination.
28. Having reviewed the submissions, the Commission finds that the complaint satisfies the requirements of Section 34(1)(a) of the Act.

Orders of The Commission

29. The Commission determines that, on a balance of probabilities, 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. The Commission concludes that the Complainant has raised triable issues that warrant a hearing on merit, either through mediation or adjudication.

The complaint is hereby admitted.

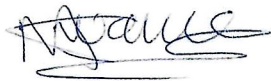
DATED and DELIVERED at NAIROBI this.....5TH ...of December...2024


MR. DEMAS KIPRONO
CHAIRPERSON, MEDIA COMPLAINTS COMMISSION





MS. POLLY GATHONI
VICE- CHAIR, MEDIA COMPLAINTS COMMISSION



MR. KANTIM MWANIK
COMMISSIONER, MEDIA COMPLAINTS COMMISSION

I Certify this to be a True copy
of the Original
Sign:  Date: 11 December 2024
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MS. NASRA HUSSEIN OMAR
COMMISSIONER, MEDIA COMPLAINTS COMMISSION



MR. MASEME MACHUKA
COMMISSIONER, MEDIA COMPLAINTS COMMISSION