

REPUBLIC OF KENYA

IN THE MATTER OF THE MEDIA COUNCIL OF KENYA ACT [2013]

AND

IN THE MATTER OF THE MEDIA COMPLAINTS COMMISSION

MEDIA COMPLAINTS COMMISSION CASE NO.11 OF 2024

RUTH MUMBI/WOMENS COLLECTIVE..... COMPLAINANT

VERSUS

CAPE MEDIA T/A TV47 DIGITAL 1ST RESPONDENT

HEAD OF CONTENT, TV47 DIGITAL..... 2ND RESPONDENT

RULING ON ADMISSIBILITY

A. THE PARTIES

1. The Complainant in this matter is Women Collective, represented by Ms Ruth Mumbi on behalf of Women Collective, a Civil Society Organisation (CSO).
2. The 1st Respondent is **Cape Media Limited T/a TV47 Digital** while the 2nd Respondent is the Head of Content of the 1st Respondent.

B. PARTICULARS OF THE COMPLAINT

3. The Complainant argues that the 1st and 2nd Respondents published a story titled “*Two men caught spooning each other*”. The story further stated that the two men were allegedly “caught” Kissing each other and kissing in public and were then subjected to an attack by irate members of the public.
4. The Complainants further argue that the tone and content of the story were designed to denigrate the LGBTQ community and were inaccurate, sensational, irresponsible, and in breach of the Code of Conduct for the Practise of Journalism. The Complainant further urged the Media Council of Kenya to investigate the Complaint, censure the Respondents, require them to apologise to the LGBTQ community, and lastly, conduct training for the Respondents and staff on inclusivity and diversity.

C. RESPONDENTS' RESPONSE

5. In their Response dated 25 January 2025, the Respondents denied the Complainant's allegations and stated that the publication was accurate, fair, and in the public domain. The Respondents further stated that the intention of the publication was to highlight the vulnerability of the LGBTQ Community.
6. In conclusion, the first and second Respondents stated that the Complaints Commission should dismiss the Complaint.

D. THE COMMISSION'S ASSESSMENT

21. Under **Section 35(3)** of the *Media Council Act*, the Commission is mandated to conduct a preliminary assessment of the complaint to determine its admissibility. The Commission must establish whether the complaint raises triable issues.
22. Notably, **Section 35** does not provide specific criteria for admitting a complaint other than the requirement that the complainant alleges being aggrieved by the conduct of a journalist or media enterprise. However, as a matter of practice, the Commission ensures that: a) The complaint meets the requirements outlined in **Section 34(1)(a)** of the Act. b) No similar proceedings are currently pending before any court of law regarding the same matter.
23. The Complaints Commission derives its jurisdiction from **Sections 31(a) and (b)** of the *Media Council Act, 2013*, which empower it to receive, investigate, and adjudicate media-related complaints concerning ethical issues against journalists or media enterprises.
24. The issues raised in the complaint stem from content published in the 1st Respondent and the complaint was made under **Section 34(1)(a)** of the *Media Council Act, 2013*, which states:

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 for the complaint, the nature of the injury or damage suffered, and the remedy sought.

25. The first Respondent, **CAPE MEDIA T/A TV47 DIGITAL**, is a media enterprise. The second Respondent is head of content of said media enterprise. Both Respondents fall within the Commission's mandate as outlined in **Sections 31 and 34** of the Act.
26. The complaint satisfies the requirements of **Section 34(1)(a)** of the *Media Council Act*, as it alleges that the conduct of the media enterprise and journalists aggrieved the Complainant. The allegations of ethical breaches and the negative impact of the article warrant further investigation.
27. The complaint raises significant concerns related to journalistic ethics, particularly the responsibility of journalists and media enterprises to uphold the standards of **Accuracy and Fairness, Accountability, Integrity, and Opportunity to Reply**.
28. Consequently, the Commission will proceed to examine these issues further to ascertain whether the conduct in question aligns with the ethical standards prescribed in the *Media Council Act*.

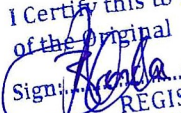
E: ORDERS OF THE COMMISSION

29. Upon assessment, the Commission finds that, on a balance of probabilities, the complaint establishes a *prima facie* case alleging breaches of the *Media Council Act, 2013*, and/or the *Code of Conduct for the Practice of Journalism in Kenya*. The Commission is of the view that the Complainant has raised triable issues that warrant a full adjudication on merit, as contemplated under **Section 31** of the Act.
30. The complaint is hereby admitted.
31. It is so ordered.

DATED and DELIVERED at NAIROBI this.....6th ... FEBRUARY.....2025

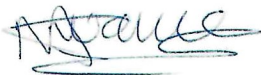


MR. DEMAS KIPRONO
CHAIRPERSON, MEDIA COMPLAINTS COMMISSION

I Certify this to be a True copy
of the Original
Sign:  Date: 12 February 2025
REGISTRAR
COMPLAINTS COMMISSION
www.complaintscommission.or.ke
P.O. BOX 43132 - 00200, NRB



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: 12 February 2025
REGISTRAR
COMPLAINTS COMMISSION
www.complaintscommission.or.ke
P.O. BOX 43132 - 00200, NRB