

REPUBLIC OF KENYA
IN THE MEDIA COMPLAINTS COMMISSION
COMPLAINT NO. 9 OF 2024

BETWEEN

VINTMARK TRAVEL AGENCY LTD.....COMPLAINANT

VERSUS

NATION MEDIA GROUP LTD.....1ST RESPONDENT

THE EDITOR, NMG2ND RESPONDENT

SIMON CIURI.....3RD RESPONDENT

JUDGMENT

1.0 BACKGROUND TO THE DISPUTE

1. The Complaint before this Commission was lodged on 25th September 2024 by **VINTMARK TRAVEL AGENCY LTD** (hereinafter “the Complainant”) against **NATION MEDIA GROUP LTD**, its **EDITOR**, and journalist **SIMON CIURI** (hereinafter collectively “the Respondents”).
2. The dispute arises from a news article published on the front page of the Daily Nation newspaper on 24th September 2024, under the headline authored by the 3rd Respondent, focusing on the Complainant and its director, Mr. Ceaser Wagicheru King’ori.

“FRAUDSTER IN THE PRESIDENT’S TOUR” NTV Television Station

“HOW 720M JOBS FRAUD SUSPECT EXPLOITED ROTOS GERMANY TOUR” Nation Newspaper

3. The Complainant alleges that the article and several subsequent related publications were **false, inaccurate, and published without adequate right of reply**. The Complainant contends that the publications portrayed its directors as fraudsters and scammers, leading to a catastrophic loss of business, reputational ruin, and the eventual closure of the company. The Complainant seeks several remedies, including orders for an apology, publication of the decision, fines, and a recommendation for the suspension of the 3rd Respondent.
4. The Respondents, in their defence, justify the publication as fair, accurate, and on a matter of significant public interest. They assert that the 3rd Respondent attempted to contact Mr King’ori for comment before publication and that the core facts reported, such as Mr King’ori’s travel to Germany, police summonses, and client complaints, were admitted by the Complainant’s witness. The Respondents deny any breach of the Code of Conduct and pray for the dismissal of the Complaint.
5. The matter proceeded to a hearing on 24th June 2025, where the Complainant testified for the Complainant’s side and Mr. Simon Ciuri, the author of the impugned publications, testified for the Respondents’ side.

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2.0 ISSUES FOR DETERMINATION

6. Based on the pleadings, evidence, and submissions of both parties, the following are the key issues for determination by this Commission
 - a. **Whether the publication was fair and accurate** as required by Clause 2 (1) of the Code of Conduct for the Practice of Journalism in Kenya.
 - b. **Whether comments were adequately sought** from the Complainant before publication as per Clause 2 (3).
 - c. **Whether the Complainant is entitled to the remedies sought.**

3.0 ANALYSIS AND DETERMINATION

ISSUE 1: WHETHER THE PUBLICATION WAS FAIR AND ACCURATE

7. The cornerstone of ethical journalism is captured in **Clause 2 of the Code of Conduct**, which mandates that a story must be fair, accurate, and unbiased. All sides of a story shall be reported wherever possible.
8. The Commission has carefully considered the impugned article and the testimony of both witnesses. It is not in dispute that certain factual elements within the article were accurate. Mr. King'ori confirmed under oath *that Mr Kingori travelled to Berlin, Germany, during the President's trip to sign bilateral labour agreements; that the Complainant had received numerous complaints from clients regarding denied visas; and that Mr Kingori had been summoned by police for questioning in relation to these complaints.*
9. Accuracy is not just the cornerstone of journalism, but an overriding value developed out of objectivity that virtually all journalism practitioners agree on. It is a fundamental duty of each practitioner to strive to report facts accurately, or else they risk losing credibility. Accuracy is achieved through a combination of commitment, skill, transparency, or correction and ensuring that as a journalist, one reports accurate information that they have verified personally, without allowing time pressures (publication haste) to affect the accuracy standards or the temptation to skip procedures in an accuracy checklist.
10. The duty of a journalist extends beyond reporting isolated facts; it requires presenting those facts in a context that is not misleading. The crux of the Complainant's case is that the overall tenor, tone, and implication of the article were grossly inaccurate and sensationalised.
11. The article used highly descriptive language, referring to Mr King'ori by the alias "**Shrewd,**" alleging a "**Sh720m jobs fraud,**" and stating he had left a "**trail of victims.**" It further described him as being "**untouchable**" and of influencing police transfers. The Respondents presented no concrete evidence to substantiate these severe allegations. No victim statements, police reports, court judgments, or official confirmations of a licence revocation were tendered before this Commission.

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12. While the Respondents have a duty to investigate and report on matters of public interest, the leap from “client complaints and police inquiries” to a definitive label of a “Sh720m jobs fraud suspect” and a “racket” is a significant one.

13. A poignant quote from a book titled “Media Helping Media, Free Training Resources for Journalists and Managers,” David Brewer in which he states that;

“Fairness in journalism means exploring all sides of an issue and reporting the findings accurately. Members of the public should never be used to exaggerate the importance of a story. As a journalist you have a responsibility to examine your own motives and ensure that your personal feelings and emotions do not influence what you report, whom you talk to, or determine which elements of the story you highlight. You also need to think carefully about the language and tone you use to ensure that it doesn’t give an inaccurate and unfair representation of the facts, your job is to inform the public debate, not manipulate that debate. You are working on behalf of the public, not them for your own ends. A journalist should have no other motivation other than presenting sourced and verified facts, they should not have a desired outcome. That’s activism”

14. This Commission finds that the publication, in its entirety, presented allegations as established facts without the requisite evidentiary support, thereby breaching the standards of accuracy and fairness required by **Clause 2 (1) of the Code of Conduct**. To buttress this, we employ the wisdom by the Complaints Commission in Complaint No 89 of 2010 - Esther Passaris vs The Weekly Citizen where the Commission pronounced itself as follows:

“...we site that the respondent cannot rely on a fair comment defense as the statements were not opinions on a matter of public interest, or if they were they were not based on true facts. We, therefore, find that the respondent breached clause 1 (a) of the Code of Conduct, which clearly states in part: The fundamental objective of a journalist is to write a fair, accurate and an unbiased story on matters of public interest”

ISSUE 2: WHETHER COMMENTS WERE ADEQUATELY SOUGHT

12. **Clause 2 (3) of the Code of Conduct** states: “Comments shall be sought from anyone who is mentioned in an unfavourable context and the evidence of such attempts to seek the comments shall be kept.” **Clause 3** further emphasises the principle of fair hearing and the right of reply.

13. The 3rd Respondent testified that he attempted to call the Complainant but received no answer. Mr. King’ori admitted that he subsequently called the 2nd and 3rd Respondents upon hearing of the impending story. This sequence of events is critical.

14. The Commission finds that a single unlogged and unverified phone call on a story of this magnitude, alleging criminal activity, falls woefully short of the standard of diligence required by the Code. The Respondents knew the location of the Complainant’s offices (Kenindia House) and had access to its official email address, but made no effort to use these alternative channels. Furthermore, no attempt was made to contact other directors or the company’s general manager.

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15. This is in contrast of the Honourable Ukur Yatanni – Ambassador vs Nation Media Group (MCC 03/2021), where the Complaints Commission found that Nation Media Groups' attempts at comments were sufficient in the following words:

‘While there is no prescribed format which a right of reply should take it was sufficient that the parties were in actual and continuous conversation on the subject matter by way of telephone and email and the complainants were given enough information and detail about the allegations enough to understand and give an informed response, which they only did after the publication. As such the Respondents discharge the duty of seeking comments and giving an adequate opportunity to reply’

16. The fact that Mr King'ori initiated contact upon hearing of the story does not absolve the Respondents of their primary duty to actively seek comment *before* publication. The subsequent republication of the story's themes without further attempts to seek the Complainant's views on the new angles (e.g., the transfer of police officers) compounds this failure.
17. Consequently, the Commission finds that the Respondents breached **Clause 2 (3) of the Code of Conduct** by failing to make adequate and diligent efforts to seek the Complainant's comments prior to publication.

ISSUE 3: WHETHER THE COMPLAINANT IS ENTITLED TO REMEDIES & THE ISSUE OF DAMAGES

17. The Complainant's complaint, testimony and submissions are replete with assertions of severe financial loss, reputational damage, and emotional distress suffered as a result of the publication. It is crucial at this juncture to delineate the mandate of this Commission.
18. **This Commission's mandate is limited to determining breaches of the Code of Conduct for the Practice of Journalism.** It is a quasi-judicial body established to uphold ethical standards within the media industry. It is **not a court of law** vested with the jurisdiction to adjudicate claims for damages for defamation, economic loss, or injury to reputation.
19. This position was succinctly articulated by the Court of Appeal **in *Standard Ltd vs. Dr. Christopher Ndarathi Murungaru [2009] eKLR***. The Court held that the Media Complaints Commission provides remedies for breaches of the code of conduct by journalists but **does not have the powers to award the kind of remedies contemplated for violated constitutional rights, such as the right to reputation and dignity**. The Court unequivocally stated that such a body is **not a substitute for the High Court** in matters of the enforcement of fundamental rights and freedoms.
20. Therefore, while the Commission acknowledges the Complainant's assertions of harm, it **expressly refrains from making any finding or declaration on the quantum of damages, defamation, or economic loss suffered**. Any claim for monetary compensation for such injuries is a matter properly falling within the jurisdiction of the civil courts.
21. Regarding the specific remedies sought under the Media Council Act,

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- A. **Apology and Correction:** Having found breaches of Clauses 2 (1) and 2 (3) of the Code, an order for an apology and correction is warranted to remedy the ethical lapses and provide a measure of balance.
- B. **Publication of Decision:** This is a standard order to promote transparency and adherence to the Commission's rulings.
- C. **Fines:** The breaches identified are serious and merit a financial penalty to underscore the importance of accuracy and the duty to seek comment.
- D. **Suspension of the 3rd Respondent:** The Commission finds that the breaches, while serious, do not rise to the level of gross professional misconduct that would warrant a recommendation for suspension from the register. The remedy of a fine is considered a sufficient sanction in this instance.

4.0 ORDERS

22. In conclusion, and for the reasons stated above, the Complaint is merited. The Commission hereby makes the following Orders:
- I. A declaration is hereby issued that the Respondents breached **Clause 2 (1) (Accuracy and Fairness)** and **Clause 2 (3) (Duty to Seek Comment)** of the Code of Conduct for the Practice of Journalism in Kenya.
 - II. The Respondents are jointly and severally directed to publish a **correction and an apology** to the Complainant on the front page of the Daily Nation newspaper and on the www.nation.africa website.
 - III. The 1st Respondent is hereby fined **Kenya Shillings One Hundred Thousand (Kshs. 100,000.00)** payable to the Media Council of Kenya within thirty (30) days from the date of this Judgment.
 - IV. The prayer for a recommendation to suspend the 3rd Respondent from the register of journalists is **dismissed**.
 - V. Each party shall bear its own costs.
23. It is so ordered.

DATED AND DELIVERED AT NAIROBI THIS 2nd DAY OF SEPTEMBER 2025

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