

CONSTITUTION OF THE MEDIA COUNCIL OF ZAMBIA (MECOZ)

PREAMBLE

We the Zambian journalists believe that good faith with the public is the foundation of all worthy journalism. We should be accountable to the public for our reports, and the public should be encouraged to voice any grievances against the media. Open dialogue with our readers, viewers and listeners should be actively encouraged.

In order to strengthen and preserve the bond of mutual trust and respect between the public and the media and promote the stewardship role a free media plays in creating and maintaining an open society and democratic governance in our country, we hereby establish a non-statutory, voluntary, self-regulatory Media Council to adjudicate complaints as set forth in this Constitution, to enhance our credibility. And to this end, we declare acceptance of the Code of Ethics herein set forth.

1.0 ESTABLISHMENT OF THE MEDIA COUNCIL OF ZAMBIA

There is hereby established the Media Council of Zambia (MECOZ), a non-statutory, voluntary, self-regulatory media council, hereinafter referred to as the “ Council ”.

2.0 OBJECTIVES

- 2.1 To promote professionalism by enforcing journalism ethics
- 2.2 To promote freedom of the press
- 2.3 To promote understanding between the media and the public
- 2.4 To arbitrate complaints between the public and the media
- 2.5 To promote gender equity in media practice, and
- 2.6 To do such things as may be in the interest of the media and the public

3.0 ORGANIZATION

- 3.1 All policy matters of the Council shall be vested in the Board, subject to the direction of members at the Annual General Meeting, or any other meeting of members called in accordance with this Constitution.
- 3.2 There shall be a Secretariat headed by the Executive Secretary, who shall be responsible for the management of all Council activities in line with policy directions of the Board.

4.0 MEMBERSHIP

- 4.1 The membership of the Council shall be in two categories. These shall be institutional and individual. Membership shall be open to the following:
 - (a) Media houses;
 - (b) Journalism training institutions;
 - (c) Professional journalists associations;
 - (d) Press clubs; and
 - (e) Individual journalists
- 4.2 The Board shall accord the status of associate membership to any professional association or individual whose aims and objectives complement, support or relate to the Council’s objectives.
- 4.3 Membership fees shall be determined by the Board and approved by the Annual General Meeting of members and the same shall be due at the start of each financial year, which shall be the first day of April in each calendar year.

4.4 Membership of the Council shall cease in the following circumstances:

- (a) On a member's resignation in writing to the Board;
- (b) On failure to renew the annual subscription;
- (c) On the cessation of operations of a media organization;
- (d) On one's death for individual members
- (e) In accordance with the procedures set out in the disciplinary rules;
- (f) For gross professional misconduct ;
- (g) For failure to adhere to the Constitution.

5.0 ANNUAL GENERAL MEETING

- 5.1 The Annual General Meeting of the Council shall be held at least once every year, but not later than three months after the end of each financial year.
- 5.2 The Annual General Meeting shall receive, consider and approve reports from the Chairperson, audited accounts for the preceding financial year, and appoint members of the Board of the Council.
- 5.3 The Board shall give at least twenty one (21) days notice of the Annual General Meeting to all members in writing and by placing notices in the media, clearly stating out the agenda, venue and time for the meeting.
- 5.4 At the Annual General Meeting, each paid up institutional member shall be entitled to two votes, while individual members shall have one vote in all proceedings.
- 5.5 The Annual general Meeting shall be the supreme organ of the Council, and shall be responsible for the formulation and direction of policy of the Council

6.0 EXTRAORDINARY GENERAL MEETING

- 6.1 An Extraordinary General Meeting shall be convened at the request, in writing, of not less than one third of the members, provided such members present a full agenda of the business intended and resolutions proposed to be passed at the meeting.
- 6.2 The Board shall call for an Extraordinary General Meeting to attend to any urgent matter if in its discretion it is in the best interest of the Council to do so.
- 6.3 Notice for an Extraordinary General Meeting shall not be less than fourteen (14) days and shall be served in accordance with this Constitution.

7.0 BOARD OF DIRECTORS

- 7.1 There shall be a Board of Directors of the Council whose membership shall consist of nine part-time members, consisting of five public representatives and four media representatives.
- 7.2 The Chairperson and the Vice Chairperson shall be elected by the members from among themselves, provided that the Chairperson and the Vice Chairperson shall not be drawn from the media representatives.

7.3 PUBLIC REPRESENTATIVES

7.3.1 Public representatives shall consist of:

- (a) A senior lawyers qualified to be appointed to the High Court or Supreme Court bench or a retired Supreme Court or High Court judge, or any person with extensive experience in press law or adjudication;
- (b) One member nominated by the Law Association of Zambia;
- (c) One member nominated by a media training institution;
- (d) One member nominated by the Zambia Association of Chamber of Commerce and Industry;
- (e) One member nominated by a Church mother body

7.3.2 Public representatives shall be persons who at the time of appointment are not engaged are not engaged in publishing or other media activities in an administrative, editorial or journalistic capacity.

7.4 MEDIA REPRESENTATIVES

7.4.1 The media representatives shall consist of:

- (a) Two members from the private media; one from the print media and the other one from electronic media;
- (b) Two members from the state owned media, one from the print media and one from the electronic media.

7.4.2 Media Representatives shall be persons who at the time of appointment are actively engaged in publishing, broadcasting or other media activities in an administrative, editorial or journalistic capacity. They should have a minimum of five years experience.

7.5 All members of the Council should be human rights oriented and understand that membership of the Council would require them to be impartial and independent in their judgment and apply the rules of natural justice.

7.6 The term of office of the Board of Directors shall be for a period of two years, and shall be subject to renewal.

7.7 Members of the Board of Directors shall not be holders of office in a political party or the Government.

7.8 All members should be persons who are committed to freedom of the press and freedom of expression.

7.9 There shall be such ad-hoc committees as may be set up by the Board from time to time to attend to any matter which in the discretion of the Board can best be dealt with by a committee.

7.10 The Board shall meet at least once in every quarter. At least half of the membership shall constitute a quorum for all meetings convened by the Board.

7.11 A member of the Board who absents himself or herself in three successive meetings without the approval of the Chairperson shall cease to be a member.

7.12 The Council shall keep a record of the proceedings of each meeting which shall be retained in form of minutes and permanently retained by the Secretariat together with all other records of the Council.

7.13 Decisions of the Council shall be by majority vote and the Chairperson shall be entitled to a casting vote.

8.0 FUNCTIONS OF THE BOARD

The Board shall have power to do the following:

- (a) Engage the Executive Secretary for the purpose of managing the affairs of the Council as a full time employee on such terms and conditions as shall be set by the Board;
- (b) Ensure that the affairs of the Council are managed in accordance with its Constitution and objectives;
- (c) Invite persons considered suitable to advise the Council on such matters as the Council may in its absolute discretion deem fit to seek such advice, and;
- (d) Enforce the Code of Ethics

9.0 ETHICS COUNCIL

The Board may reconstitute into an **Ethics Council** on the advice of the Executive Secretary, for the purpose of adjudicating complaints.

10.0 The procedure of the Ethics Council shall be as may be prescribed by the Board from time to time

11.0 EXECUTIVE SECRETARY

11.1 The Executive Secretary shall be the Chief Executive Officer of the Council and shall under the direction of the Council be responsible for;

- (a) The management and administration of the Council
- (b) The implementation of decisions of the Council
- (c) Being the Secretary to the Board

12.0 COMPLAINTS PROCEDURE

12.1 A complainant must lodge his or her complaint in writing with the Executive Secretary and must sign the complaint.

12.2 The complaint must be lodged within thirty days of the publication or broadcast in respect of which the complaint arises. The Executive Secretary may accept a late complaint if there are satisfactory reasons why the complaint was not lodged earlier.

12.3 The written complaint must contain :

- (a) Full particulars of the complaint;
- (b) Copies of relevant correspondence;
- (i) in respect of the publication, a copy of the publication containing the matter complained of;
- (ii) in respect of a television or radio broadcast, a video or audio recording of the broadcast complained of or a written transcript of that broadcast; and ;
- (iii) any other evidence, including affidavits from witnesses in support of the complaint.

13.0 NON-ACCEPTANCE OF CERTAIN COMPLAINTS

The Executive Secretary may not accept any complaint:

- (a) Unless the Executive Secretary is satisfied that the complainant has taken all reasonable steps to resolve the matter himself or herself and, if this has not been done, the Executive Secretary will advise the complainant on steps he or she must take before the complaint will be accepted by the council;
- (b) Where the complainant has chosen to remain anonymous and has not signed the complaint;
- (c) Where the Executive Secretary considers the complaint to be frivolous or vexatious and this view is confirmed by at least one media representative, and at least one public representative of the Council.
- (d) Where the complainant has threatened legal action or has commenced legal proceedings against the respondent, unless the complainant waives the right to claim civil relief in writing to the Executive Secretary.
- (e) Where the complainant has intimated that he or she intends to bring legal action against the respondent, unless the complainant undertakes in writing to refrain from pursuing such action and instead have the matter dealt with by the Council

14.0 RESPONSE FROM THE RESPONDENT

- 14.1 Not more than seven (7) days after the receipt of the complainant's statement, the Executive Secretary must send a copy of the complaint statement to the respondent
- 14.2 Within seven (7) days of receipt of the complainant's statement, the respondent must send to the Executive Secretary a written response to the complaint together with supporting evidence, including affidavits from witnesses.
- 14.3 A media institution against which a complaint has been brought must nominate a person involved in the management of the institution to represent it in all proceedings taken under this Constitution in relation to the complaint

15.0 CONCILIATION BY THE EXECUTIVE SECRETARY

- 15.1 Where possible, the Executive Secretary must attempt to persuade the parties to arrive at a mutually acceptable settlement of the case.
- 15.2 The process of attempted conciliation must be completed within fourteen (14) days of the expiry of the period given to the complainant to reply to the response of the respondent
- 15.3 Where it appears to the Executive Secretary that a complaint is well founded, the Executive Secretary must seek to persuade the respondent to make a reasonable offer of settlement to the complainant either by way of publication of an apology, or by way of a sum of compensation to the complainant. If the respondent refuses to do this, the Executive Secretary shall refer the case (complaint) to the Council.
- 15.4 If the respondent admits to a violation of the Code of Ethics and makes what, in the opinion of the Executive Secretary, is a reasonable offer of settlement by way of publication of a correction or apology, the Executive Secretary may decline to proceed with the complaint. The complainant may appeal against this decision to the Council.

16.0 REFERAL TO THE COUNCIL

- 16.1 If the matter has not been resolved by conciliation within two weeks of receipt of the respondent's response, the Executive Secretary must convene a meeting of the Council to determine the dispute.
- 16.2 The Council meeting must be convened not later than two weeks from the date upon which the Executive Secretary decides that it is not possible to resolve the matter by conciliation.
- 16.3 The Executive Secretary shall appoints a date upon which the Council will sit to deliberate upon the complaint.
- 16.4 At the hearing, the Executive Secretary will report on his or her efforts to achieve a settlement of the dispute
- 16.5 The Executive Secretary will also advise the Council whether, in his or her opinion, the matter should proceed by way of written submissions or by way of an oral hearing. In this regard, the Executive Secretary must inform the Council whether the complainant has indicated a preference that the matter proceeds by way of an oral hearing.
- 16.6 Where it is possible to deal with the matter fairly on the basis of written submissions from the complainant and the respondent, the Council will decide the matter on the basis of the written submissions
- 16.7 Where the Council decides that the matter cannot be fairly decided on the basis of written submissions alone, it may either:
- (a) direct the Executive Secretary to call upon the parties to the dispute to submit further written submissions on certain specified matters; or
 - (b) direct the Executive Secretary within two weeks of the hearing to which the parties to the disputes are invited, to attend by giving them one week's notice of such meeting
- 16.8 At any oral hearing in terms of this constitution, the following rules of procedure will apply:
- (a) the complainant and the respondent will not be entitled to be represented by a legal practitioner, but may have present an advisor to assist. The advisor will not be entitled to cross-examine any witnesses that may be called to address the Council;
 - (b) the parties to the dispute are entitled to call any relevant witnesses to testify before the Council and the Council may request that relevant witnesses testify even if the parties have not called such witnesses;
 - (c) the proceedings must be conducted in a simple and fair manner and in accordance with the principles of natural justice;
 - (d) no media practitioner may be required to disclose the identities of confidential sources of information, but the media practitioner may be questioned about the authenticity and reliability of such sources.
- 17.0** The Council must attempt to arrive at a consensus decision. If that is not possible, the decision may be arrived at on a majority vote.
- 18.0** If there is an equality of votes in relation to its decision, the Chairperson of the Council will settle the matter by exercising a casting vote.

19.0 If the Council decides that the complaint is well founded, it may impose one or more of the following penalties on the media institution concerned.

- (a) An order reprimanding the media organization complained of;
- (b) An order to correct the error within a period of not more than two weeks;
- (c) An order to print or broadcast an apology within a period of not more than two weeks;
- (d) An order to pay compensation to the complainant;

20.0 PUBLICATION OF DETERMINATION OF THE COUNCIL

20.1 A media institution will be obliged to publish the findings of the Council against it.

20.2 The Council will also supply details of its findings in each case to all other media institutions for publication in their discretion.

21.0 BINDING DOCUMENTS AND ENFORCEMENT

All members are required to sign documents in a form prescribed by the Council with the view to ensuring their voluntary submission to the jurisdiction of the Council, and the binding effect and enforcement of orders and directions which may be made by the Council for or against them. Such documents shall include a provision for the acceptance of the obligation to cause compliance therewith in so far as it is within the members' power to do so.

22.0 ALTERATION OF THE CONSTITUTION

Alteration of this Constitution shall require the approval of two thirds of members attending the Annual General Meeting.

23.0 DISSOLUTION OF THE COUNCIL

The Council may at any time terminate its existence if it appears to the members that the Council has outlived its usefulness. A resolution to dissolve the Council must be passed at an Extraordinary General Meeting called for the purpose, by a two-thirds majority of members of the Council

24.0 CODE OF ETHICS

EXPLANATORY NOTE

The purpose of distributing news and informed opinion is to serve the general welfare of the public. Journalists who use their professional status as representatives of the public for selfish or other unworthy motives violate a high trust. Journalists uphold the right to speak unpopular opinions and privilege to agree with the majority while at the same time respecting the will of the minority.

A journalist shall at all times defend the principle of the freedom of the press in relation to the collection of information and the expression of comment and criticism. Council members therefore agree to abide by the following ethics:

- (i) The public has the right to know the truth, therefore journalists have a duty to report the truth either as representing objective reality or representing what the source says fairly, accurately and objectively
- (ii) Newspaper headlines should be fully warranted by the contents of the articles they accompany. Photographs and telecasts should give accurate picture of an event and not highlight an incident out of context
- (iii) Journalists should respect the confidentiality of sources to whom they have pledged anonymity

- (iv) Only fair methods should be used to obtain news, photographs and documents except where overriding public interest justifies the use of other means
 - (v) The journalists should regard as grave professional offence the acceptance of bribes in any form in consideration of either dissemination or suppression of information.
 - (vi) The journalists shall rectify promptly any harmful inaccuracies, ensure that correction and apologies receive due prominence and afford the right of reply to persons criticized when the issue is of sufficient importance
 - (vii) The journalists shall be aware of the danger of discrimination being furthered by the media, and shall do the utmost to avoid facilitating such discrimination based on among other things race, sex, religious, political or other opinions of national or social origins.
 - (viii) Secondary employment, political involvement, holding public office, and service in community organizations should be avoided if it compromises the integrity of journalists and their employers. Journalist and their employers should conduct their personal lives in a manner that protects them from conflict of interest, real or apparent. Their responsibilities to the public are paramount.
 - (ix) Plagiarism is dishonest and unacceptable.
 - (x) Journalists must respect the moral and cultural values of the *Zambian* society. Journalists should respect people's privacy unless when public interest demands otherwise.
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