

## THE MEDIA PRACTITIONERS' CODES OF CONDUCT

IN EXERCISE of the powers conferred by Section 50 (1) of the Media Council Act, 2013 the Cabinet Secretary for the Ministry of Information Communications and Technology makes the following Regulation

### 1. EFFECTIVE DATE

This Regulation shall come into force from the date of Gazettement

### 2. AMENDMENTS

This Regulation may be amended by the Council in consultation with the Cabinet Secretary, as and when required.

### 3. SCOPE OF APPLICATION

This Regulation shall apply to all Media Practitioners operating within Kenya

### 4. INTERPRETATION OF TERMS

In this Code, the following terms shall have the meanings ascribed, or be interpreted in the following manner:

The **“Council”** means the Media Council of Kenya.

**“Media Content”** means an interview, broadcast or any publication by a media practitioner

**“Media Practitioner”** means any person who practices their trade in media and includes, media content-hosts, continuity announcers, anchors, presenters, photojournalists, camerapersons, graphic designers, content producers, Media Practitioners under the Kenya Information and Communications Act, a publisher engaged in publication and the manager or proprietor of a publication or broadcasting station.  
media content.

**“Abusive treatment”** is the treatment of an issue or individual in a manner that causes injury or gives offence without reasonable justification as outlined in the Code.

**“Basic package”** refers to the package available within the basic subscription tariff which is geared towards viewing by general audiences.

**“Child”** means a child as defined in the Children Act Cap 141

**“Children’s Media content”** refers to a Media content that is intended for audiences under the age of eighteen 18

**“Context”** refers to the circumstances within which particular Media content is broadcast having regard to the following factors:

- the editorial aspects of the Media content;
- the service on which the material is broadcast;
- the time of broadcast;
- what other programs are scheduled before and after the Media content
- the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in the Media content generally or Media content Media contents of a particular description;
- the likely size and composition of the potential audience and likely expectation of the audience;
  - the extent to which the nature of the content can be brought to the attention of the potential audience, for example, by giving information; and,
- the effect of the material on viewers or listeners who may come across it unawares.

**“Expert opinion”** refers to an opinion given by a person recognized by a wide cross section of people as experienced in the practice and art, or through relevant qualifications from an accredited institution, as knowledgeable in a specific field.

**“Fair”** This term is used in the Code in the sense of not acting unjustly, of being upfront and open about intentions so as not to deceive, and adhering to established good journalistic practice in treating with members of the public. It does not mean “treating people or issues equally”. The term’s other meaning of “appropriate in the circumstances” will be defined by reference to public interest considerations.

**“Life-changing advice”** means advice upon which persons could reasonably be expected to act or rely in respect of their health, finances, employment, or personal relationships.

**“Optional package”** refers to premium content available only to subscribers paying additional monthly or other fees to their subscription TV providers.

**“Matters of political or industrial controversy”** refer to matters on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example, non-governmental organizations, relevant Caricom institutions, etc.

**“Personal view/authored Media content”** means Media content presenting a particular view or perspective. Personal view Media content can include the outright expression of highly partisan views. Such opinions may be expressed by a person who is a member of a lobby group and is campaigning on the subject; or they may be the “authored” view of a journalist, commentator, or academic with professional expertise or a specialisation in an area which enables them to express opinions which are not necessarily mainstream.

**“Pornographic content”** means content describing or exhibiting explicit sexual activity, intended to simulate erotic rather than aesthetic or emotional feelings.

**“Public figure”** refers to any person who occupies a position or office through which they regularly interact with citizens personally or through the media, and whose names and/or appearance are known to significant numbers of persons with whom they have no personal relationship.

**“Public interest”** concerns matters which may reasonably be judged to have an impact on the population as a whole, or groups of citizens. It includes, but is not limited to detecting or exposing crime or serious impropriety, corruption or professional incompetence that affects members of the public; protecting public health or safety; or preventing the public from being misled by an action or statement of an individual or organization.

**“Racial group”** means a group of people distinguished from others on the basis of common heritage or common genetically linked physical characteristics.

**“Young persons”** refers to persons over the age of thirteen (13) years but under the age of eighteen (18) years.

## **5. SCOPE AND APPLICABILITY**

**5.1** Any person granted a session to broadcast or publish media content shall comply with the provisions of the Code.

**5.2** Where the Council considers it appropriate, it may establish, by publication in the Gazette and in two daily newspapers in circulation in Kenya Guidelines on any rule contained in this Code, which shall be used to aid other persons in the interpretation of that rule, or to provide clarity as to the manner in which compliance with the rule may be achieved. The Council may at any time amend or modify any guideline established in accordance with this Code, such amendment to be effected in the same manner as establishment.

## **6. Protecting children and young persons**

**6.1** Media practitioners shall use appropriate scheduling to protect children and young persons from unsuitable material. **“Appropriate scheduling”** should be judged according to: - The nature of the content; - The likely number and age range of children in the audience, taking into account the time of transmission, weekends and school holidays; - The start time and finish time of broadcasting or publishing Media content; - The nature of the channel or station and the particular Media content; and - The likely expectations of the audience for a particular channel or station at a particular time and on a particular day.

**6.2** Media Practitioners must conversant with the watershed hours

## **Language**

**6.3** The most offensive language shall not be aired outside the watershed.

6.4 Offensive language shall not be broadcast outside the watershed, unless it is justified by the context. In any event, frequent broadcast of offensive language outside the watershed must be avoided.

6.5 Offensive language shall not be used in children's shows.

### **Violence**

6.6 Non-animated children's shows shall only portray violence when it is essential to the development of character and plot.

6.7 Children's shows shall not contain realistic scenes of violence which minimize or gloss over the effects of violent acts. Any realistic depictions of violence shall portray in human terms the consequences of that violence to its victims and perpetrators.

6.8 Children's shows on television shall deal carefully with themes which could invite children to imitate acts which they see on screen.

### **Sexual themes**

6.9 Media content which portray children in a sexual fashion are not acceptable, except where justified in the context of a dramatic or information Media content dealing with the specific issue of sexuality, in which case the portrayal must be as limited as possible within the context of the particular Media content and must in any event be inexplicit.

6.10 Media Practitioners shall ensure that Media content that take incest or child abuse as their topic or themes shall provide suitable warnings prior to airing and shall be appropriately scheduled in accordance with Rule 1.1. Media Practitioners shall also provide information on relevant help-lines. Material of this nature should be treated with the utmost care and sensitivity by Media Practitioners, bearing in mind the psychological effects it might have on child victims.

6.11 Representations of sexual intercourse must not be broadcast outside the watershed (See Interpretation of Terms for explanation of "watershed") unless there is a serious educational purpose. Any discussion or portrayal of sexual behaviour broadcast outside the watershed must be appropriately limited and inexplicit.

### **Nudity and pornographic material**

6.12 Nudity on television before the watershed must be justified by the context, appropriately limited and inexplicit.

6.13 Pornographic content must not be broadcast at any time.

### **Drugs, Alcohol, Solvents and Smoking**

6.14 The use of illegal drugs, the misuse of alcohol, solvent abuse and smoking must not be condoned, encouraged or glamorized in Media content broadcast outside the watershed hours.

### **Participation of children in broadcasting or publishing Media content**

6.15 If a contributor to Media content is under eighteen (18) years of age, consent shall be obtained from a parent or guardian or other person of eighteen or over in loco parentis. In particular, persons under eighteen (18) years should not be asked for views on matters likely to be beyond their capacity to answer properly without such consent.

6.17 Children must not be caused unnecessary distress or anxiety by their involvement in broadcasting or publishing Media contents.

### **Children and crime**

6.18 Where children are accused or convicted of crimes, Media Practitioners shall at all times avoid broadcasting their names and/or images.

6.19 In talking about certain kinds of crime, such as sexual assaults or incidents involving children, the time of transmission and the need for protection of the children involved must be considered and the degree of explicit detail matched to the probable presence of children listening or viewing. Steps should be taken to minimize psychological trauma to children, and the fact that it may not comply with all provisions of the Code, and that adequate parental control mechanisms have been implemented.

## **7. Harm, Abuse and Discrimination**

7.1 Media Practitioners shall ensure that their programming contains no gratuitously abusive or unduly discriminatory material or comment which is based on matters of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, or physical or mental disability.

7.2 Media content shall not contain information about any natural or legal person or any event, which the Media Practitioner Media Practitioner knew, ought to have known, or would have discovered through reasonable investigation to be incorrect or misleading. Where a Media Practitioner discovers that despite its reasonable endeavours untrue or misleading information has been broadcast, the Media Practitioner should take steps quickly to broadcast a correction of the information, and shall broadcast an apology to any person about whom the incorrect or misleading information was broadcast. The Media Practitioner shall transmit the correction and apology at such times and in such a manner as is appropriate to reach as much as possible of the audience that would have seen the original broadcast.

7.3 Where a third-party, for example a caller during broadcasting of media content, does not comply with the rules set out in this Code, Media Practitioners shall terminate such calls or otherwise prevent the person from continuing and make an apology immediately or as soon as possible thereafter.

7.4 Humorous or satirical Media content shall not be treated to be in breach of the rules contained in this clause provided that the humorous or satirical intent is clear to any reasonable person. However, this does not permit the use of threats toward any individual or group.

7.5 Media content must not include material (whether in individually Media content Media contents or Media content Media jointly) which, considering the context, condones or glamorizes violent, dangerous or seriously antisocial behavior and is likely to encourage others to copy such behavior.

7.6 If television Media Practitioners broadcast violent or graphic images, an appropriate warning shall be given before such images are put on screen.

7.7 Television Media Practitioners shall avoid broadcasting material which displays cruelty to persons or animals. This rule shall not apply to news items or documentaries dealing with this issue or to dramatic presentations, provided that such depictions are limited to the extent necessary to achieve the aims of the Media content, and that no person or animal has been harmed for the purpose of producing the Media content.

7.8 Demonstrations of exorcism, the occult, the paranormal, divination or practices related to any of these that purport to be real (as opposed to entertainment) must be treated with due objectivity and must not contain life-changing advice directed at individuals.

7.9 Details of methods of suicide and self-harm shall not be included in Media content.

## **8. Crime**

8.1 Material likely to encourage or incite the commission of crime or to lead to disorder shall not be aired.

8.2 Descriptions or demonstrations of criminal techniques which contain essential details which could enable the commission of crime must not be broadcast unless editorially justified.

8.3 Media Practitioners shall not act in a way that might prejudice the detection and prevention of crime, endanger lives, or prejudice the success of attempts to deal with crime.

8.4 Media Practitioners shall not transmit any Media content, information or other material which endangers the security of the Republic of Kenya.

## **9. Race**

9.1 Media Practitioners shall avoid the use of derogatory racial labels, save where justifiable by the context.

9.2 Media Practitioners shall not allow any statements which denigrate or negatively stereotype individuals on the basis of race, when such statements imply that all individuals possess the same negative traits solely on the basis of race. This rule shall not apply to Media content which are solely satirical.

9.3 When statements which offend against Rule 9.1 or 9.2 are made by callers who call-in during broadcasting of Media contents, the presenter(s) should correct or make clear the inappropriateness of such statements to the callers. Where the caller persists with the objectionable conduct, the Media Practitioner should terminate the call.

9.4 When broadcasting documentaries that treat with racial matters, Media Practitioners should ensure that opportunities are provided for different viewpoints to be included in the broadcast.

## **10. Elections**

10.1 During the period of elections, Media Practitioners who broadcast or publish current affairs Media content, shall ensure that in the course of their reporting of the political campaigning and elections process the Media Practitioner provides a reasonable and balanced opportunity for all political parties and persons contesting local or general elections to have their views, positions and opinions aired. What is “reasonable”, in terms of time given and number of persons, shall be determined based on the number of seats being contested by each party.

10.2 When hosting political discussions or debates involving partisan speakers, the Media Practitioner shall make clear throughout the broadcasting or interview of the Media content the political nature of the Media content and the specific partisan affiliations of the speakers.

10.3 Media Practitioner shall not use race, ethnicity or religious beliefs as a basis for denigration of persons’ political affiliation. This clause does not apply to political analyses based on race, ethnicity, or religion.

10.4 Where a Media Practitioner takes a decision to support a political party during an election campaign, this decision shall be communicated to the audience before any editorial comment.

10.5 Broadcasts by or on behalf of political parties shall be identified as such.

## **11.0 Fairness**

11.1 Media Practitioners must avoid unjust or unfair treatment of individuals or organizations.

11.2 Media Practitioners shall be fair in their dealing with potential contributors and contributors to Media content unless it is justified in the public interest or under other Clauses of this Code. When Media content is edited, contributions shall be presented fairly.

11.3 Where Media content includes a contribution from a vulnerable person who by reason of ill health, mental or physical disability or otherwise is not in a position to give consent, their guardian or other person with primary responsibility for their care should normally give it on their behalf.

11.4 Guarantees given to contributors, for example relating to the content of Media content, confidentiality or anonymity shall be honored unless justified.

11.5 If Media content alleges wrongdoing or incompetence or makes other significant allegations, the Media Practitioner should seek comments from the person against whom the allegation has been made.

11.6 Where a person approached to contribute to Media content chooses to make no comment or refuses to appear in a broadcast, the Media Practitioner shall make clear that the individual concerned has chosen not to appear and shall give the explanation given by the individual for not appearing, if it would be unfair not to do so.

11.7 Where it is appropriate to represent the views of a person or organization that is not participating in the Media content, this must be done in a fair manner.

11.8 Media content hosts should not use deception to obtain information, audio or film unless either it is warranted in the public interest, or the material is for entertainment purposes and the consent of all the identifiable participants has been obtained prior to broadcast.

## **12 Privacy**

12.1 An individual's privacy shall not be infringed, unless warranted, in Media content, or in connection with obtaining material included in Media content.

12.2 Information which discloses a person's contact details or location of a person's home or family shall not be broadcast without that person's permission, unless it is warranted in the public interest to do otherwise.

12.3 When people are caught up in events in any place including a public place, which are covered by the news, Media Practitioners shall respect their right to privacy in both the publishing and the broadcast of Media content, unless it is warranted to infringe it. This applies both to the time when these events are taking place and to any later Media content that revisit those events.

12.4 Media Practitioner shall ensure that words, images or actions filmed or recorded in, or broadcast from a public place, do not require prior consent if broadcasting would constitute an invasion of privacy.

12.5 Any infringement of privacy in broadcasting or publishing of Media content should be with the person's and/or organization's consent or be otherwise warranted.

12.6 If the broadcast of Media content would infringe the privacy of a person or organization, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted. Callers to phone-in shows are deemed to have given consent to the broadcast of their contribution.

12.7 If an individual or organization's privacy is being infringed, and they ask that the filming, recording or live broadcast be stopped, the Media Practitioner shall do so, unless it is warranted to continue.



12.8 When filming or recording in institutions, organizations or other agencies, permission shall be obtained from the relevant authority or management, unless it is warranted to film or record without permission. Individual consent of employees or others whose appearance is incidental or where they are essentially anonymous members of the general public, will not normally be required.

12.9 Media Practitioners shall not broadcast recordings of the actions or words of private individuals in public places, when such recordings would result in humiliation, embarrassment, or in public opprobrium to such individuals. This practice shall not apply to public figures, in whose behavior citizens may reasonably be expected to have an interest. (See Interpretation of Terms for meaning of “public figure”.)

12.10 People who are in a state of distress should not be placed under pressure to take part in broadcast of Media content to provide interviews unless it is warranted.

12.11 Media Practitioners shall take care not to broadcast the identity of a person who has died or of victims of accidents or violent crimes unless it is clear that the next of kin has been informed of the event, unless it is warranted.

12.12 Media Practitioners shall as far as possible, seek to reduce the potential distress to victims and relatives when making or broadcasting Media content intended to examine past events that involve trauma to individuals unless it is warranted to do otherwise. This applies to dramatic reconstructions and factual dramas as well as factual Media content.

12.13 Information which is already legitimately in the public domain is not subject to Rule 8.1.

### **13 Information and Warnings**

13.1 Media Practitioners shall warn or advise viewers in advance and throughout the Media content when broadcasting material which contain scenes of extraordinary violence, or which include graphic reporting on sensitive subject matters. Similarly, warnings and advice should be given when radio or television programming includes mature subject matter or scenes with nudity, sexually explicit material, coarse or offensive language, or other material which is likely to cause offence. This rule does not prejudice the limitations on the broadcast of such material contained in other parts of the Code.

### **14 Advertising and sponsorship**

14.1 Media Practitioners shall ensure that advertising material used when broadcasting or publishing Media content is clearly distinguishable from the Media content.

14.2 The fact that Media content is sponsored shall be clearly indicated by the Media Practitioner.

14.3 Media Practitioners shall ensure that there is no influence by advertisers or sponsors, or the perception of such influence, on the reporting of news or current affairs, which must be accurate, balanced, and objective.

14.4 Any advertisement which offer health cures must include a disclaimer if such cures are not based on scientific data. (See Interpretation of Terms for meaning of “scientific data”). If such advertisements are aired, the Media Practitioner shall include a disclaimer stating that the product, remedy or process has not been proven by scientific research to be effective. Media Practitioners who do not include such a disclaimer must have readily available in the event of a query from a member of the public or from the Authority, the sources to confirm any such claim.

14.5 Any advertisement which purports to offer educational courses provided in Kenya (including courses provided via correspondence) must include a statement stating whether the courses have been duly accredited or not and whether the institution has been recognized or registered by the relevant authorities.

14.6 There shall be no advertising of alcohol and tobacco outside the watershed.

14.7 Media Practitioners shall not broadcast advertising of alcohol or tobacco during children’s Media contents.

14.8 Media Practitioners shall take all reasonable steps to avoid broadcasting advertisements that contain statements or claims that are false or misleading.

14.9 The Rules which apply to programming shall apply to all advertisements and sponsorships.

Application to subscription broadcasting

14.10 Rule 14.6 shall not apply to advertising in optional packages or premium content broadcast by subscription Media Practitioners provided that the Media Practitioner informs the adult subscriber of the nature of the programming and the fact that it may not comply with all

## **15 Religion**

15.1 The religious views and beliefs of those persons belonging to a particular religion or religious denomination, or persons, who follow no religious doctrine, must not be subject to abusive treatment in material broadcast.

15.2 Media Practitioners shall ensure that religious Media content is not used to attack another race or religion.

15.3 Where a religion or religious denomination is the subject or one of the subjects of religious Media content, then the identity of the religion and/or denomination under discussion must be made clear to the audience.

15.4 Religious Media content must not seek to promote religious views or beliefs by stealth by concealing the religious views of the makers, sponsors or hosts of the Media content or by presenting as support for specific religious beliefs certain facts, theories, or opinions as though such opinions are purely disinterested, scientific, or representative of a consensus.

15.5 Religious Media content must not improperly exploit any susceptibilities of the audience.

15.6 Religious Media content that contains claims that a living person or group has special powers or abilities, must treat such claims with due objectivity. If such claims are aired, the Media Practitioner shall include a disclaimer stating that the claim has not been proven. Media Practitioners who do not include such a disclaimer must have readily available in the event.

## **16. Religion**

All Media Practitioners stations shall adhere to Intellectual Property Rights and shall refrain from any misappropriation of media content.

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