

Paper laid to the Table
of the House by the
Hon. James Kamukama
on the 29/10/2013



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PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT
FIRST SESSION (2013)

**THE DEPARTMENTAL COMMITTEE ON ENERGY,
INFORMATION AND COMMUNICATION**

REPORT ON THE
MEDIA COUNCIL BILL, 2013

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

OCTOBER, 2013

Approved for tabling.
[Signature]
JWA
29/10/13

1.0 INTRODUCTION

On **17th of August 2013** Kenya National Assembly carried an advertisement in the local daily newspapers calling for public memoranda on the *Media Council Bill, 2013* to be submitted to the Clerk of the National Assembly within seven days from then.

On **Wednesday, 18th September, 2013**, the *Media Council Bill, 2013* went through the *First Reading* and referred to the Departmental Committee on Energy, Pursuant to *Article 118* of the Constitution and Standing Order 127, the *Departmental Committee on Energy, Information and Communication* facilitated Public Participation by engaging the stakeholders on the Bill. The Committee met with the **Ministry of Information, Communication and Technology**, the **Media Council of Kenya** and **Communication Commission of Kenya**.

The Sixth schedule of the Kenya Constitution 2010 stipulates that Bills operationalizing **Article 34** be enacted by **27th of August 2013**. However an extension was sought by the National Assembly on Wednesday **the 31st July 2013** for period of four (4) months pursuant to the Article 261(2) of the Constitution to allow for further discussions and engagements with stakeholders and players in the Media and Information sector.

The principal object of this Bill is to provide for the establishment of the Media Council of Kenya, a body which will regulate the practice of journalism in Kenya. The Practice of Journalism in Kenya which has grown to remarkable levels and therefore the Bill will seek to create a framework that will allow journalists and other media practitioners to exercise their freedom freely and responsibly in a sound and professional manner and also seeks to promote self-regulation and accountability in the media industry.

The Constitution envisages an independent Media Council in line with Article 34 of the Constitution that spells out that freedom and independence of electronic, print and all other types of media, and expressly bars the State from exercising control over or interfering with any person engaged in broadcasting, the production or circulation of any publication or the dissemination of information by any medium. Therefore the

Media Council of Kenya is intended to be free of control by government, political or commercial interests subject to *Article 34* of the Constitution. It is charged with setting media standards, regulating and monitoring compliance, and to oversee the conduct and discipline of journalists and the media industry and further enforce compliance to the code of ethics by the media industry.

2.0 COMMITTEE MEMBERSHIP

The Committee on Energy, Communication and Information was constituted by the House in May, 2013 comprising of the following Members:

The Hon. Jamleck Kamau, MP.....Chairperson
The Hon. Jackson Kiptanui, MPVice –Chairperson
The Hon. James Rege, MP
The Hon. John Oyioka, MP
The Hon. (Eng) Nicolas Gumbo, MP
The Hon. Mithika Linturi, MP
The Hon. Mohammed Elmi, MP
The Hon. Aramat Lemanken, MP
The Hon. Athur Papa, MP
The Hon. Banticha Abdullahi, MP
The Hon. Daniel Kazungu, MP
The Hon. Esther Gathogo, MP
The Hon. Fathia Mahbub, MP
The Hon. James Lomenen, MP
The Hon. Aburi Mpuri, MP
The Hon. Joe Mutambu, MP
The Hon. Junet Sheikh, MP
The Hon. Kanini Kega, MP
The Hon. Mary N. Mbugua, MP
The Hon. Mati Munuve, MP
The Hon. Mike Wanjohi, MP
The Hon. Nicholas Ngikor, MP
The Hon. Onesmus Njuki, MP
The Hon. Rachael Amolo, MP
The Hon. Roba Duba, MP
The Hon. Ndungu Githingi, MP
The Hon. Vincent Musau, MP
The Hon. William Kisang, MP

3.0 MANDATE OF THE COMMITTEE

The Departmental Committee on Energy, Communication and Information derives its mandate from provisions of *Standing Order 216 (5)* which outline functions of the Committee as being:

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) To study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) To study and review all the legislation referred to it;
- d) To study, access and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objective;
- e) To investigate and inquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a Cabinet Secretary;
- f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments); and
- g) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.**

In accordance with Second Schedule of the Standing Orders, the Committee is mandated to consider:-

- a) Fossil fuels exploration
- b) Development of energy
- c) Production of energy
- d) Maintenance and regulation of energy
- e) Communication
- f) Information
- g) Broadcasting
- h) Information Communications Technology (ICT) development and management

4.0 COMMITTEE OBSERVATIONS

<i>CLAUSE</i>	<i>JUSTIFICATION</i>
<i>Clause (2)</i>	Cabinet Secretary means the Cabinet Secretary for the time been responsible for the matters relating to ICT
<i>Clause 8(15)</i>	The Committee observed that the selection panel should only be dissolved upon completion of its duty since the Chairperson and members of the Council may all not be appointed at the same time. In sub clause (15) by deleting the word "or" appearing immediately after the word "chairperson" and substituting therefor the word "and"
<i>Clause 9 (2c)</i>	The Committee observed this section should be deleted because it denies politicians from engaging in meaningful and gainful employment after active politics. The committee is of the opinion politicians should also be considered as professionals who can give leadership in any public body, Commission or Council.
<i>Clause 24(a and c)</i>	The Committee observed that there is need to amend Clause 24 (a) and (c) to ensure that there is a differentiation between the two houses of parliament and further that all monies received for or on behalf of the Media council are known to the public through the National Assembly and the intentions of such resources.
<i>PART IV</i>	The Committee observed that there is need to have an autonomous body independent of both the Media Council and the Communications Authority of Kenya so as to have independence of these bodies intact. Relevant amendments will be proposed and thus delete the entire part IV of the bill.

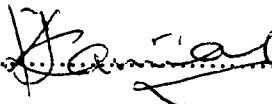
<i>Clause 45(2)</i>	The Committee observed that it is the legitimate role of the National Assembly to amend any existing law and that this role cannot be exercised by any other authority as contemplated by the intended amendment. The committee will thus be making some amendments.
<i>Clause 49(1, 2, and 3 (a))</i>	Delete 49 (2) and 49 (3) by deleting the words "Cabinet Secretary" appearing in paragraph (a) and substituting therefor the Word "Council" The Committee observed that the Media Council be empowered to make its own regulations instead of the Cabinet Secretary. This Amendment is in line with <i>Article 34</i> of the Constitution and ensures self regulation of the Media.

5.0 ACKNOWLEDGEMENTS

The Committee wishes to thank the good Offices of the Speaker and the Clerk of the National Assembly for the support to the Committee extended to facilitate smooth execution of its mandate. The Committee also appreciates the Secretariat for their promptness in the preparation of this report.

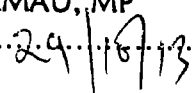
I also wish to express my sincere appreciation to the Honourable Members of the Committee who sacrificed their time to participate in the activities of the Committee and especially preparation of this report. I wish to report to the House that we achieved and maintained our quorum at the beginning and end of all meeting.

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Energy, Information and Communication to table this report on the **Media Council Bill, 2013** and commend it to the House for adoption pursuant to the provisions of Standing Order 127 of the National Assembly.

Signed 

CHAIRPERSON

HON. JAMLECK KAMAU, MP

Date: 

**MINUTES OF THE 38TH SITTING OF THE DEPARTMENTAL COMMITTEE
ON ENERGY, INFORMATION & COMMUNICATION HELD ON FRIDAY, 4TH
OCTOBER, 2013, IN 4TH FLOOR CONTINENTAL HOUSE, PARLIAMENT
BUILDINGS AT 9.00 AM.**

PRESENT

Hon. Jamleck Kamau, MP. (**Chairperson**)
Hon. Jackson Kiptanui, MP (**Vice Chair**)
Hon. Mike Wanjohi, MP.
Hon. Aramat Lemanken, MP
Hon. Fathia Mahbub, MP.
Hon. Joe Mutambu, MP.
Hon. Esther Gathogo M.P
Hon. Racheal Ameso Amolo, MP.
Hon. Vincent Musau, MP
Hon. William Kisang, MP.
Hon. Eng. James Rege, MP
Hon. Chris Bichage, M.P
Hon. Dan Kazungu, MP
Hon. Kanini Kega, MP
Hon. Nicholas Gumbo MP
Hon. Mati Munuve, MP
Hon. James Lomenen, MP
Hon. James Lomenen, MP
Hon. Nicholas Ngikor, MP
Hon. Esther Gathogo M.P

ABSENT WITH APOLOGIES

Hon. Junet Sheikh Nuh, MP.
Hon. Banticha Abdullahi, MP
Hon. Mary Njoki Mbugua, MP
Hon. Ndungu Gethenji, M.P
Hon. Aburi Mpuri, M.P
Hon. Mithika Linturi M.P
Hon. Artur Papa Odera M.P
Hon. Mohamed Elmi, M.P
Hon. Nicholas Ngikor, MP
Hon. Onesmus Njuki, MP.
Hon. Roba Duba, MP

IN ATTENDANCE

Mr. Ngaira Erick
Mr. William Oketch
Mr. Nelly Matheka
Mr. Kiprono Kittony
Mr, Harun Mwangi
Mrs. Rosemary Nyaole
Ms. Mercy Odada
Mr. Erick Orina
Dr. Muiru Ngugi
Mr. Ezekiel Mutua

MEDIA COUNCIL OF KENYA

Complaints Officer
Complaints Commissioner
Council Member
Council Member
CEO, Media Council
Member
Member
Member
Member
Member

IN ATTENDANCE

Mr. Amos Kiangwe – Clerk Assistant III
Ms. Cammelyne Anguche – Junior Legislative Fellow
Mrs. Maureen Atamba – Secretary

NATIONAL ASSEMBLY

MIN. NO. 85/2013

PRELIMINARY

The meeting was called to order at fifteen minutes past nine o'clock, prayers were said. The Chairperson welcomed the Members to the meeting to deliberate on the Media Council Bill, 2013.

MIN. NO. 86/2013

MEDIA COUNCIL OF KENYA

The Media Council of Kenya informed the Members that an Act of Parliament is to provide for the realization of the right to freedom of expression and freedom of the media and for the establishment of the Media Council of Kenya to set media standards and regulate and monitor compliance with those standards; for the conduct and discipline of journalists and the media and for connected purposes.

MIN. NO 87/2013

MEMORANDUM OF OBJECTS AND REASONS

The Committee was informed that the main objective of this Act is to provide for the realization of the right to freedom of expression and freedom of the media as enshrined in Articles 33 and 34 of the Constitution of Kenya.

The Committee was further informed that the Media Council of Kenya, to set media standards and regulate and monitor compliance with those standards and the Media Complaints Tribunal to do the following:

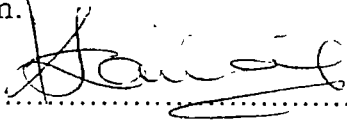
- a) Mediate or adjudicate in disputes-between the government and the media and between the public and the media and intra media
- b) Ensure the adherence to high standards of journalism as provided for in the Code of Conduct for the Practice of Journalism in Kenya.
- c) Achieve impartial, speedy and cost effective settlement of complaints against journalists and media enterprises, without fear or favour.
- d) Part I provides for preliminary matters.
- e) Part II provides for the establishment and functions of the Media Council of Kenya. The Council is established as a body corporate. It also provides for the appointment of the Chief Executive Officer of the Council who will be the chief executive officer of the Council, and who will be responsible for the day to day management of the affairs of the Council.
- f) Part 111 contains financial provisions. It defines the sources of funds of the Council. These include money provided by Parliament, donations, gifts, any fees payable in respect of the functions of the Council and contributions or grants received from various sources. It obligates the Council to prepare estimates of its revenue and expenditure for each financial year while providing for the keeping and auditing of the Council's accounts.
- g) Part IV provides for training and accreditation of journalists as a proactive means of instilling high standards, in liaison with training institutions.
- h) Part V provides for the establishment of the Media Complaints Tribunal and the procedure of making of complaints and resolution of disputes that may arise. It provides for the formation of a Complaints Tribunal as body which will be charged with responsibility of hearing and determining disputes that may arise in the media industry. It empowers the Complaints Tribunal to, at the first instance, resolve a dispute through mediation, or establish a panel to hear and determine any dispute. It provides for the making of a complaint and the procedure to be followed once such a complaint is made. It also provides for the appeal to the High Court from any decision of the Complaints Tribunal by any party aggrieved by such decision.
- i) Part VI provides for regulation of the broadcasting content by the Media Council of Kenya.
- j) Part VII contains miscellaneous provisions which provides for the manner in which the media is to inform the public of issues of public interest. It also obligates media practitioners to maintain high professional standards having due regard to the Code of Conduct of journalists and provides for the accreditation of foreign journalists by the Media Council and

empowers the Council to make rules for the better carrying into effect the provisions of the Bill once enacted into law.

- k) The First Schedule contains provisions as to the conduct of the business and affairs of the Media Council.
- l) The Second Schedule sets out the Code of Conduct for the practice of journalism in Kenya The enactment of the Bill shall occasion additional expenditure of public funds to be provided for in the estimates.

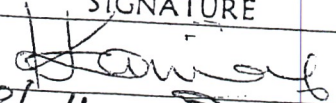
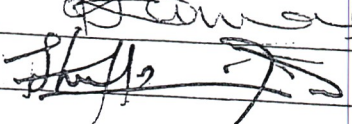
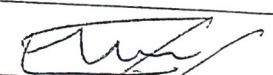
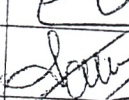


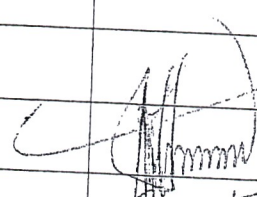
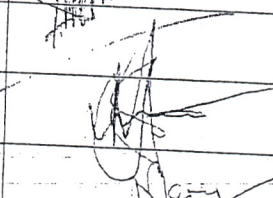
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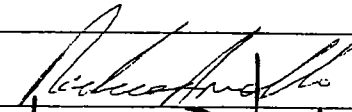
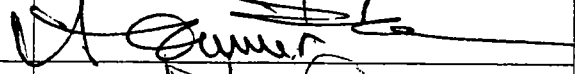

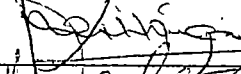


There been no other business for discussion the Chairperson adjourned the meeting at 11.55am.

Signed.....

(CHAIRPERSON)
HON. JAMLECK KAMAU, MP

Date.....25/12/13

NAME	SIGNATURE
1. HON.JAMLECK KAMAU, MP(CHAIRPERSON	
2. HON JACKSON KIPTANUI, MP(VICE CHAIR)	
3. HON.BANTICHA ABDULLAHI, MP	
4. HON. DAN KAZUNGU, MP	
5. HON.ESTHER GATHOGO, MP	
6. HON. FATHIA MABBUB, MP	
7. HON. ARTHUR PAPA MP, MP	
8. HON. ENG. JAMES REGE, MP	
9. HON. JAMES LOMENEN, MP	
10. HON. ARAMAT LEMANKEN, MP	
11. HON. JOE MUTAMBU, MP	
12. HON. JUNET SHEIKH, MP	
13. HON. KANINI KEGA, MP	
14. HON. MARY N. MBUGUA, MP	
15. HON. MATI MUNUVE, MP	
16. HON. MIKE WANJOHI, MP	
17. HON. MITHIKA LINTURI, MP	
18. HON. MOHAMMED ELMI MP	

19. HON. NICHOLAS NGIKOR, MP	
20. HON. ONESMUS NJUKI, MP	
21. HON. RACHEAL AMOLO, MP	
22. HON. ROBA DUBA, MP	
23. HON. VINCENT MUSAU, MP	
24. HON. WILLIAM KISANG, MP	
25. HON. ENG. NICOLAS GUMBO, MP	
26. HON. OROO OYIOKA, MP	
27. HON. ABURI MPURI, MP	
28. HON. NDUNGU GETHENJI, MP	

ABDULLAHI ADEN

For: CLERK OF THE NATIONAL ASSEMBLY