



**The Legal Aid Forum**  
Working Together For Equitable Access to Justice



# Report of benchmarking study on Kenya's Media Sector



British  
High Commission  
Kigali





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## I. Background

Since 2011, a comprehensive set of media reforms have been implemented in Rwanda, commencing with the adoption of the 2011 media policy, followed by the enactment of various laws in 2013, as well as the establishment of institutions to support the development of a professional, independent and financially self-sustaining media sector that serves the needs of the public.

The media sector is very dynamic and requires constant review and adjustment of the policy, strategies, and laws to address any emerging issues and inform any policy choices and strategies to be adopted to ensure that the country meets its aspirations as enshrined in NSTI and Vision 2050.

Based on the above and numerous changes that occurred after the adoption of the 2011 Media Policy, Vision 2020, NSTI including the rapid advancement of information, communication and related technologies and digital switchover, a revision of the existing media policy and accompanying laws was necessary to adapt to the changing media environment.

Currently, the Government of Rwanda through the Ministry of Local government is reviewing and developing a new Media Policy. The policy, it is believed, will also ensure the government is able to guarantee that media freedom is protected, promoted, and fulfilled through the adoption of policy actions that are progressive.

As part of supporting the ongoing Rwanda Media Policy review, the Legal Aid Forum (LAF) and Thomson Foundation conducted a benchmarking study in Kenya from 11<sup>th</sup> -15<sup>th</sup> December 2022 to learn from regional best practices for a professional, independent and financially self-sustaining Media Sector that serves the needs of the public.

## II. Composition of the Delegation

The delegation of the study visit will consist of relevant stakeholders of the Media Sector in Rwanda including:

- **Mr. Emmanuel Mugisha** - Executive Secretary, Rwanda Media Commission (RMC)
- **Ms. Solange Ayanone** - Senior Journalist, Media Owner, and representative of Women Media Owners for Change (WMOC).

- **Mr. Jean Paul Ibambe** –Senior Capacity Development Officer, Legal Aid Forum (LAF)
- **Ms. Leonie Mutoni** – Ag. Programs Manager, Legal Aid Forum (LAF)
- **Mr. Christian Tuyishime** – Manager, Media Regulatory unit, Rwanda Utilities Regulatory Authority (RURA)
- **Mr. Gonza Muganwa** – Consultant- Media Policy for Republic of Rwanda.

The delegation met with Henry O. Maina [ a consultant hired by Thomson Foundation to undertake a quick comparative study on media laws and policies] and Joseph Odindo [a consultant hired by the Government of Rwanda to develop the media policy] on the 12th of December 2022 to share their objectives and confirm the itinerary.

### III. Objectives

The objectives of the benchmarking study were for participants, through an open exchange of ideas, knowledge, and sound practices to learn current trends and dynamics of media regulation and policy frameworks, in EAC region, especially in the digital era.

#### Specifically, the study aimed at:

- Gaining practical insights and best practices in Media legal and regulatory framework
- Getting to know how to deal with the promotion of digital media and information literacy
- Learning how best to promote access to information in the community
- Increased professionalism of the media sector
- Greater understanding of sustainability and viability of Media organizations
- Forging new relationships and alliances to enhance future learning
- Collecting ideas that could inspire the ongoing Rwanda media policy review

## IV. Institutions engaged with

The delegation from Rwanda met and engaged representatives of seven agencies within the Kenya media organizations. Those met included three media regulators in Kenya namely: The Media Council of Kenya, the Communication Authority, and the Kenya Film Classification Board; one dispute resolution agency with the sector—the Media Complaints Commission; two media organizations: Kenya Union of Journalists (KUJ) and Association of Media Women in Kenya (AMWIK); and one academic institution: Graduate School of Media Studies of Aga Khan University.

## V. Key Learning Points

From the engagement with the institutions highlighted above, several policy positions emerged worth reiterating. The media industry in Kenya is domiciled in the Ministry of Information, Communication and Digital Economy. However, there have been a few recent changes that have seen the film industry moved to the Ministry of Youth Affairs, Sports, and the Arts.<sup>1</sup> Film industry therefore is domiciled in the State Department for Sports and the Arts. In the previous government (2013–2022), all policy issues in the media industry were led by the Ministry of ICT and Youth Affairs.

Each of the four regulators is established by a different set of law. The relevant laws are:

- The Media Council Act
- The Kenya Information and Communication Act
- The Film and Stage Plays Act
- The Copyright Act

## 1. Regulation

In Kenya, Media is regulated under the system of co-regulation; i.e regulation of the sector is shared among media practitioners and some state agencies. The institutions involved in regulation are:

- Media Council of Kenya
- Media Complaints Commission
- Communications Authority of Kenya
- Kenya Film Classification Board

- ▲ The Communications Authority of Kenya is mandated to regulate the ICT sector including the management of scarce resources such as spectrum, numbering resources and domain names
- ▲ The Media Council of Kenya is an independent national institution mandated to develop and regulate media in Kenya, in order to promote media freedom, professionalism and independence
- ▲ The Media Complaints Commission is under the MCK and ensures the adherence to standards of journalism as provided for in the code of conduct for the practice of journalism in Kenya
- ▲ The complaints commission handles complaints from the public and media houses in instances where people feel aggrieved by publications
- ▲ Journalists and media associations are involved in the selection of members of the Media Council of Kenya and Media Complaints Commission
- ▲ Complaints handling mechanisms in place primarily promote Alternative Dispute Resolutions (ADR)
- ▲ Board members of the Media Council of Kenya and Media Complaints Commission apply for those positions and are rigorously interviewed by a selection panel made of media practitioners among others. The commission is made of 7 commissioners.
- ▲ The orders of the MCC can be appealed against in the High Court
- ▲ The MCC has powers to impose fines but these come in extreme cases
- ▲ The appointment of selected MCC members is done by publishing their names in the Gazette and this is on the basis that they are serving the public.

## 2. Film content and TV Commercials Regulation.

The Kenya Film Classification Board is a state agency that regulates the recorded film content that is created, broadcast, distributed and exhibited in Kenya

- The film industry in Kenya is regulated by the Kenya Film Classification Board (KFCB).
- The KFCB sets standards for any broadcast meant to be displayed for commercial purposes including documentaries, feature films, adverts etc.

- The KFCB registers and licenses film agents, local and international filmmakers, distributors and exhibitors; classify film and broadcast content meant for public exhibition and distribution in the country.
- It prescribes and develops guidelines on film and broadcast content regulation in the country, give consumer advice on content viewership; and monitors compliance to film, broadcast and online content classification guidelines

### 3. The welfare of Journalists

The primary role of the Kenya Union of Journalists is to take care the welfare of members and journalists in general. KUJ draws its members from print, broadcast (TV, radio, online/digital). Further its members include freelancers, writers, reporters, sub-editors, editors, and photographers

- It is the primary role of the Kenya Union of Journalists, the equivalent of ARJ, to advocate for the welfare and good working conditions of journalists
- In Kenya, there is a minimum wage for journalists. What is considered decent pay for journalists should cater for at least monthly rent/accommodation, food, savings and social contributions and can allow the media practitioner to grow
- Veteran journalists are kept within the industry to mentor young, less experienced journalists
- Kenya Union of Journalists also provides legal aid to journalists
- Every member of the Union contributes 1% of his salary to the Union to ensure its sustainability
- KUJ is also a member of the 13-member panel that recruits members of the Media Council of Kenya and Media Complaints Commission.

### 4. Accreditation

The Media Council of Kenya (MCK) is the principal national body mandated to develop and regulate the media industry in Kenya. It is tasked with promoting media freedom, professionalism, and independence



- In Kenya, a journalist is defined as a person working in the media sector, with a university degree in journalism or communications-related fields
- Every journalist in Kenya must be accredited in order to practice
- People working in media without an education background in journalism are accredited as “Media Practitioners” not journalists and are subject to at least 2 weeks of training on Media ethics by the Media Council of Kenya
- MCK does accreditation compliance audit with media houses
- MCK provides digital press cards to journalists for ease of access in spaces such as courts, parliament, etc. This makes it possible to scan authenticity of a journalist’s accreditation.
- MCK conducts trainings on journalists’ code of ethics and conduct
- Applications for accreditation can be done online
- Media Houses are registered by Media Council of Kenya

## 5. Capacity Building

- There are about 60 schools of journalism and communications in Kenya
- The school also runs an Executive Masters in Media Leadership and Innovation Programme which targets mid-senior management media professionals.
- The Media Council of Kenya reviews and approves curriculums for all schools of journalism
- Learning institutions are revising their programs to bridge the gaps between theory and practice.
- Most of the schools are focusing on digital journalism to respond to the emerging market demands
- It is important to build the capacity of journalists to become future media managers because they have a good understanding the industry
- MCK plays a vital role in approving curricula to be dispensed by universities and trains journalists too.

## 6. Gender Mainstreaming

It is a membership organisation with over 300 women members drawn from print, broadcast, and digital media platforms.

- Kenya has a model anti-sexual harassment policy in place developed by the Association of Media Women in Kenya, which media houses are trained on and adopt
- The association also runs programmes on digital safety and online violence disproportionately affects women journalists. The association developed a handbook on digital safety.
- To encourage women to join and stay in journalism, special programs are initiated by the association of media women in Kenya including mentorship by senior women journalists
- Men are also trained to be ambassadors of anti-sexual harassment in the media industry
- There is a partnership between the association of media women in and the Federation of Women Lawyers in Kenya for provision of legal support
- Journalists are encouraged to write positive stories of women making a change is community as a way to promote women's voices

## 7. Media Viability

- In Kenya, the public broadcaster is fully funded by the government and doesn't compete with private media houses for advertisement
- The Government of Kenya provides support to promote public communication through Investing in KBC and Kenya News Agency.
- Kenya has a Government advertisement agency
- Kenya is working to put in place a system to monitor and ensure that money injected in the media industry circulates within the sector for sustainability
- KBC is to split into Public and Private arms. The first arm is supported to do the work of the government and a model to sustain its public support should be a policy action.

## 8. Media digital era

- Social media is regulated using other frameworks and laws such as Cybercrime laws, defamation laws, and penal laws
- Journalists are ethically responsible for the content shared on social media even when it is through their personal accounts. To enforce this, Media houses have policies on how their journalists and media practitioners engage with social media
- One of the ways to regulate social media is to have active flaggers at the communications regulatory authority level and proactive law enforcement agencies.

