

REPUBLIC OF KENYA
IN THE MATTER OF MEDIA COUNCIL ACT (2013)
AND
IN THE MATTER OF THE COMPLAINTS COMMISSION
COMPLAINT NO. 4 OF 2024

JOSEPH OCHONG'A KINANGA COMPLAINANT

-VERSUS-

MWAMOGUSII TV 1ST RESPONDENT

DENNIS ONYAMO 2ND RESPONDENT

HEAD OF CONTENT, MWAMOGUSII TV 3RD RESPONDENT

DETERMINATION

A. INTRODUCTION

1. This matter came before the Complaints Commission (hereinafter "the Commission") by way of a Complaint dated 12th September 2024, filed by Joseph Onchonga Kinanga (hereinafter "the Complainant") against the Respondents. The Complaint arises from a broadcast published on the Respondents' YouTube platform on or about 21st July 2022, titled "*Amuuu mamake kwa kusingizia ni mchawi (Suneka Bonuendo)*".
2. The Complainant alleged that the broadcast was misleading and inflammatory, and that it violated the Code of Conduct for the Practice of Journalism in Kenya, specifically Clause 2(1) on Accuracy and Fairness, Clause 4 on Integrity, and Clause 6 on Opportunity to Reply.
3. The Respondents, in a Replying Affidavit sworn by the 2nd Respondent, Dennis Onyamo, denied any wrongdoing, contending that their report was based on information from the Complainant's relatives and constituted neutral reportage on a matter of public interest.

B. COMPLAINANT'S CASE

4. The Complainant posits that the impugned broadcast falsely and maliciously accused him of engaging in witchcraft by sacrificing his daughter and murdering his mother.
5. He contends that the Respondents failed in their professional duty to verify these grave allegations before broadcasting and further denied him a right to reply, thereby breaching core tenets of journalistic ethics.

6. The Complainant avers that as a direct consequence of the broadcast, he has suffered immense harm, including:
 - i. Loss of his employment;
 - ii. Severe psychological trauma and health complications;
 - iii. Social ostracization and permanent damage to his reputation within his community; and
 - iv. Continued distress as the content remains accessible on the Respondents' YouTube channel.
7. In seeking redress, the Complainant has prayed for the following reliefs:
 - i. An award of damages for defamation, loss of employment, and psychological suffering;
 - ii. Exemplary and aggravated damages;
 - iii. An order compelling the Respondents to issue a public apology of equal prominence to the original broadcast;
 - iv. An order for the immediate removal of the video from all online platforms; and
 - v. The costs of this complaint.

C. THE RESPONDENT'S RESPONSE

8. The 2nd Respondent, Mr. Dennis Onyamo, filed an affidavit in response to the complaint, in which he unequivocally denies the allegations made by the Complainant. He characterizes the complaint as unfounded and injurious to his reputation and that of Mwamogusii TV.
9. The Respondent avers that the broadcast in question was initiated following a request from the Complainant's relatives residing in the United States, namely, Mary Mariita and Eileen Marita, identified as the Complainant's aunt and cousin, respectively. Acting on their instructions, he proceeded to the Complainant's rural home to cover what was presented as a family dispute surrounding the death of the Complainant's mother.
10. The Respondent states that the broadcast was based on interviews conducted with the Complainant's close family members, mainly his brother, Mr. Lawrence Kinanga, and his stepsister, Ms. Elmeridah Nyaboke Kinanga. Both individuals allegedly made statements implicating the Complainant in their mother's death.
11. The Respondent contends that at no point did the Complainant reach out to him to seek clarification or to exercise a right of reply regarding the broadcast. He further argues that the

Complainant has not taken any legal or disciplinary action against the family members who were the original sources of the allegations and instead seeks to hold the media accountable for reporting their statements.

12. On these grounds, the Respondent submits that the complaint lacks merit and ought to be dismissed.

D. COMPLAINANT'S EVIDENCE

13. The Complainant, Mr. Joseph Ochong'a Kinanga, adopted his witness statement dated 23rd July 2025 as his evidence-in-chief. He also relied upon a publicly accessible YouTube clip, forming part of the evidentiary record, available at: <https://www.youtube.com/watch?v=95KkmcsF5HI>
14. The Complainant testified that the 2nd Respondent, Mr. Denis Onyamo, was invited to the Complainant's rural residence on 21st July 2022 by his stepbrother, Mr. Lawrence Kinanga, shortly following the death of their mother. During this visit, the Respondent conducted interviews with several family members, including the Complainant's uncle, Mr. Aloyce, his stepmother, Ms. Joyce, and his elder sister, Ms. Elmeldah. These individuals allegedly made grave and damaging accusations implicating the Complainant in the circumstances surrounding their mother's death.
15. The Complainant asserted that the Respondent subsequently published these allegations in a broadcast aired on the "Mwamogusii TV" YouTube channel, without ever contacting him to verify the claims or to allow him to respond. The Complainant testified that he first became aware of the broadcast when his cousin forwarded him the link. He expressed dismay that the Respondent had failed to undertake any independent verification of the serious allegations prior to publication.
16. He further contended that the Respondent denied him the basic journalistic courtesy of a right of reply, thereby presenting a one-sided and unbalanced account of a complex and sensitive family matter. In his view, the broadcast lacked fairness and objectivity and served to amplify unverified claims to the detriment of his reputation.
17. During cross-examination, the Complainant was questioned by the Respondent as to why he had not proactively reached out to provide his version of events. In response, the Complainant expressed frustration at being the sole target of the broadcast and testified that he was effectively excluded from any opportunity to engage or respond prior to the publication.

E. RESPONDENT'S EVIDENCE

18. The 2nd Respondent, Mr. Dennis Onyamo, appeared before the Commission and defended his journalistic conduct during both examination-in-chief and cross-examination.
19. The Respondent stated that he was invited to cover the story by relatives of the Complainant residing in the United States of America. These individuals allegedly requested that he investigate and report on a family dispute following the death of the Complainant's mother.
20. Acting on this invitation, the Respondent visited the Complainant's rural home, where he interviewed the Complainant's brother, Mr. Lawrence Kinanga, and stepsister, Ms. Elmeldah Nyaboke Kinanga. He was also shown what was described as physical evidence at the scene, including bloodstains.
21. The 2nd Respondent emphasized that he had no personal stake in the matter and was merely fulfilling his professional duties as a journalist reporting on a matter of public interest involving family conflict.
22. He candidly admitted that he does not possess formal training in media or journalism.
23. The Respondent maintained that the substance of the broadcast was derived from firsthand accounts provided by the Complainant's immediate family members, whom he considered credible sources.
24. In support of his position, the Respondent filed affidavits from Ms. Elmeldah Nyaboke Onchimbo and Mr. Aloys Ndegere Masagara. However, these deponents were not made available for cross-examination, and their evidence remains untested.
25. The Commission notes that the Respondents did not file final written submissions, despite having been granted the opportunity to do so.

F. COMPLAINANT SUBMISSION

26. In support of his case, the Complainant filed submissions dated 6th October 2025 through M/s Karoki Mwangi & Company Advocates. Counsel sought to highlight:
 - a. Whether the Respondent's broadcast was false, malicious, and defamatory of the Complainant;
 - b. Whether the Respondent breached the Media Council Code of Conduct and journalistic standards;

- c. Whether the broadcast caused the Complainant loss, damage, and psychological harm; and
 - d. Whether the Complainant is entitled to the reliefs sought.
27. The submissions detail the grievous impact of the impugned broadcast aired by Mwamogusii TV on or about 21st July 2022, which falsely alleged that the Complainant had sacrificed his daughter and mother in acts of witchcraft. Counsel emphasized that the broadcast was aired without verification, without seeking the Complainant's comment, and in blatant disregard of journalistic ethics under the Media Council Code of Conduct.
28. The Complainant's testimony outlined the emotional trauma, reputational damage, loss of employment, and social ostracism suffered as a direct consequence of the broadcast. Counsel further submitted that the continued availability of the video online perpetuates the harm and underscores the Respondent's ongoing malice.
29. The reliefs sought include damages, a public apology, removal of the video, and any other redress the Commission may deem just. The submissions urge the Commission to find in favor of the Complainant and to uphold the integrity of ethical journalism.

G. ISSUES FOR DETERMINATION

30. Pursuant to Section 34(2)(b) of the Media Council Act, 2013, a valid complaint must clearly set out the grounds upon which it is brought, specify the nature of the harm or injury alleged, and identify the remedies being sought. The Commission is satisfied that the Complainant has met this statutory threshold. Having heard both parties and carefully reviewed the pleadings and submissions, the Commission distilled the following three (3) issues for determination.
- a) Whether the Code of Conduct for the Practice of Journalism applies to the 2nd Respondent, a digital content creator not accredited by the Media Council of Kenya.*
 - b) Whether the Respondents breached the Media Council Act and Code of Conduct for the practice of journalism in Kenya.*
 - c) Whether the complainant is entitled to the reliefs sought.*

ISSUE (a): Whether the Code of Conduct for the Practice of Journalism applies to the 2nd Respondent, a digital content creator not accredited by the Media Council of Kenya.

31. Although the parties did not expressly raise the issue, this Commission finds it necessary to determine, on its own motion, whether the Code of Conduct for the Practice of Journalism applies to the 2nd Respondent, a digital content creator who is not accredited by the Media Council of Kenya. This determination is compelled by the evolving nature of media practice in Kenya, where individuals without formal recognition increasingly engage in journalistic activities. The Commission, therefore, must pronounce itself on whether such conduct, irrespective of accreditation status, brings the 2nd Respondent within the regulatory scope of the Code.
32. The starting point for this analysis is the **Media Council Act (2013)**, which provides the relevant statutory framework. Section 2 of the Act defines a “**journalist**” as “*any person who is recognised as such by the Council upon fulfilment of a criteria set by the Council,*” and “**journalism**” as “*the collecting, writing, editing and presenting of news or news articles in newspapers and magazines, radio and television broadcasts, in the internet or any other manner as may be prescribed.*” These definitions are central to determining whether the 2nd Respondent’s activities fall within the ambit of regulated journalistic practice, and whether the ethical obligations under the Code of Conduct are thereby engaged.
33. The 2nd Respondent openly acknowledged and admitted that he lacks formal journalism training and accreditation from the Media Council of Kenya, having begun as a videographer before establishing his YouTube channel, “Mwamogusii TV”. This scenario represents a growing phenomenon where individuals without traditional credentials engage in news dissemination to substantial public audiences.
34. The Commission finds that the question of whether the Code applies must be determined by the substantive nature of the activities undertaken, rather than technical compliance with accreditation requirements. The evidence demonstrates that the 2nd Respondent, through the platform of Mwamogusii TV:
 - a) Operates a channel with approximately 266,000 subscribers, representing a significant public platform;

- b) Admits to regularly "covering cases" in Kisii, indicating a pattern of news gathering and dissemination;
- c) Created and published the impugned content, which addressed matters of serious public concern; and
- d) Presented the channel under the banner "Mwamogusii TV," holding itself out to the public as a news source.

35. **The Media Council Act (2013)** defines a "media enterprise" as "*an organization whose business involves the collection, processing and dissemination of news or news articles.*" The 1st Respondent, Mwamogusii TV, falls within this statutory definition. It is the operational identity and vehicle through which the 2nd Respondent conducts his media business.
36. This interpretation is supported by a purposive construction of the Act, which is necessary to address the realities of the modern media landscape. The objective of the Code of Conduct is to uphold ethical standards in public communication, a goal that would be fundamentally undermined if individuals could evade these standards simply by operating without a formal accreditation.
37. The Respondents' actions, including the deliberate gathering of information about the Complainant's family, its conversion into a broadcast product, and its distribution to a significant online audience, amount to the operation of a media enterprise within the meaning of the Media Council Act.
38. As the principal content creator and driving force behind the broadcast, the 2nd Respondent engaged in activities that fall squarely within the statutory definition of journalism under the Media Council Act. By voluntarily collecting, producing, and disseminating news and commentary to the public through a digital platform, the 2nd Respondent assumed the mantle of journalistic responsibility. This role carries with it binding ethical obligations and professional standards, which apply irrespective of accreditation, platform, or medium. Accordingly, the 2nd Respondent is subject to the regulatory framework governing the practice of journalism in Kenya.
39. The Commission, therefore, finds that the principle of liability applies to the 2nd Respondent in his capacity as the directing mind and controlling force behind the 1st Respondent, a media enterprise engaged in the systematic dissemination of news to the public. This position is reinforced by the established legal maxim "*ignorance of the law is no excuse*". The High Court reaffirmed this doctrine in *Dhanjal v Standard Group & Another* [2023] eKLR, by

holding that individuals are presumed to know the law, whether directly or constructively . The 2nd Respondent cannot evade the ethical obligations imposed by the Code of Conduct by citing a lack of formal accreditation.

40.

ISSUE (b): *Whether the Respondents breached the Media Council Act and Code of Conduct for the practice of journalism in Kenya.*

41. The Commission has examined the Respondent's conduct against the specific provisions of the Code of Conduct for the Practice of Journalism in Kenya. The evidence establishes clear violations of multiple clauses.
42. **First**, the Respondent stands in breach of **Rule 2 on Accuracy and Fairness**, which provides:
- 2(1) A person subject to this Act shall write a fair, accurate and unbiased story on matters of public interest.*
- 2(2) All sides of the story shall be reported, wherever possible.*
- 2(3) Comments shall be sought from anyone who is mentioned in an unfavorable context and evidence of such attempts to seek the comments shall be kept.*
43. The Respondent acted as a mere conduit for sensational allegations, broadcasting claims of murder and witchcraft without undertaking any independent verification or investigation to establish their truth. This passive dissemination of unsubstantiated assertions, particularly of such grave and damaging nature, constitutes a serious breach of journalistic responsibility. The Commission finds that this conduct amounts to a clear violation of **Rule 2(1)** of the Code of Conduct, which requires media practitioners to uphold accuracy and fairness. The Respondent's failure to exercise editorial judgment or ethical diligence falls far below the standard expected of any entity engaged in the dissemination of news to the public.
44. Having aired a fundamentally one-sided broadcast, presenting only the accusatory narrative from one segment of the Complainant's family, the Respondent is in breach of **Rule 2(2)** of the Code of Conduct. The Commission rejects any suggestion that the Respondent maintained neutrality by merely "reporting" these allegations. True impartiality in journalism requires a proactive effort to present all significant perspectives, particularly where the subject matter involves direct and damaging accusations against an individual. The complete exclusion of the Complainant's perspective rendered the story inherently biased, unfair, and ethically deficient.

45. It is uncontested that the Respondent did not attempt to contact the Complainant for comment before airing the broadcast, thereby contravening **Rule 2(3)** of the Code of Conduct. The Complainant was the central figure accused of heinous acts, placed in the most unfavorable context imaginable. In such circumstances, the obligation to seek his comment was not discretionary but absolute. The Respondent's failure to discharge this duty, compounded by the absence of any record of attempts to do so, amounts to a fundamental breach of ethical journalism.
46. **Second**, the Commission finds that the 2nd Respondent violated **Rule 6** of the Code of Conduct for the Practice of Journalism, which requires that *"a fair opportunity to reply to inaccuracies shall be given to individuals or organizations when reasonably called for..."* The Respondent's failure to seek a right of reply is not merely a procedural lapse but a substantive breach of journalistic ethics.
47. The Respondent's line of questioning, which implied that the Complainant bore responsibility for presenting his side of the story, reveals a complete misunderstanding of the journalist's duty to ensure fairness and accuracy. This misunderstanding is plausibly attributable to the Respondent's lack of formal training and accreditation, which may have left him unaware of the non-delegable obligations imposed by the Code of Conduct. However, ignorance of professional standards does not absolve one from accountability when voluntarily engaging in the dissemination of news to the public. By assuming the mantle of journalistic responsibility, the Respondent became bound by the ethical framework governing such conduct, and his failure to uphold the right of reply constitutes a serious deviation from those standards.
48. The Commission is guided in the case of *Kantai v Royal Media Services Limited (Civil Case E280 of 2021) [2024] KEHC 1035 (KLR)*. The court emphatically found that the defendant **"did not bother to contact the plaintiff to know his side of the story,"** and that such a failure was a critical factor in determining the irresponsibility of the publication.
49. **Third**, the Respondent stands in breach of **Rule 12** in its entirety, a provision designed to prevent media content from inflaming social and communal discord.
50. The broadcast delved into allegations deeply intertwined with culturally sensitive and potent beliefs surrounding witchcraft and ritual killings, subjects that fall within the scope of **Rule 12(1)** of the Code of Conduct, which mandates that *"news, views or comments on ethnic, religious or sectarian dispute shall be published or broadcast after proper verification of facts and presented with due caution and restraint."*

51. The Commission finds that the Respondent approached these grave allegations with egregious disregard for this mandatory standard. No effort was made to verify the claims, and the presentation was overtly sensational, devoid of the caution and restraint required when addressing such incendiary and potentially harmful subject matter. In doing so, the Respondent not only breached the Code but also risked inflaming public sentiment and perpetuating harmful stereotypes.
52. The Respondent's approach was not merely negligent; it demonstrated a reckless abandonment of the core journalistic principle of verifying facts before publication, especially on matters that touch upon deeply held cultural beliefs.
53. The Commission finds that the Respondent's broadcast was a textbook violation of **Rule 12(2)** of the Code of Conduct, which provides that "*news reports or commentaries shall not be written or broadcast in a manner likely to inflame the passions, aggravate the tension or accentuate the strained relations between the communities concerned.*"
54. By airing unsubstantiated allegations of matricide in a sensational and emotionally charged manner, the Respondent did not merely report on a family dispute, it actively exacerbated it. The broadcast weaponized community sentiment against the Complainant, converting a private tragedy into a public scandal. Its tone and presentation were precisely of the kind likely to provoke outrage and deepen existing divisions within the family and the broader community. This is the very mischief that **Rule 12(2)** was enacted to prevent, and the Commission finds the breach both serious and injurious.
55. The Commission is satisfied that the Respondent's broadcast had a clear and foreseeable potential to exacerbate communal trouble, in direct contravention of **Rule 12(3)** of the Code of Conduct, which provides that "*articles or broadcasts with the potential to exacerbate communal trouble shall be avoided.*"
56. The Complainant's uncontroverted evidence that he is now ostracized from his community and regarded as a "wanted man" in his rural home stands as stark proof of the corrosive social impact of the broadcast. The Respondent did not merely report an allegation; he effectively tried and convicted the Complainant in the court of public opinion, resulting in his social exclusion and reputational ruin.
57. This outcome underscores the critical importance of the ethical injunction to avoid content likely to inflame communal tensions. The Respondent's failure to observe this duty constitutes

a grave ethical breach with profound and lasting consequences for the Complainant's standing within his community.

58. The Commission is guided by the reasoning of the High Court in *Andama v Director of Public Prosecutions & 2 Others; Article 19 East Africa (Interested Party) (Constitutional Petition No. 3 of 2019) [2021] KEHC 12538 (KLR)*. The Court explicitly recognized the legitimate public interest in restricting publications that are "*likely to cause fear and alarm to the public or to disturb the public peace.*" This constitutional principle validates the very objective of Rule 12 of the Code of Conduct which is to prevent media content from inflaming social and communal discord.
59. The cumulative effect of these breaches demonstrates a fundamental disregard for the ethical standards governing journalism in Kenya. The Respondent's failure to verify facts, present all sides of the story, seek comments from the adversely mentioned party, uphold the right of reply, and exercise caution in reporting culturally sensitive matters represents a comprehensive failure of journalistic responsibility.
60. Accordingly, the Commission finds the Respondents in violation of Clauses 2(1), (2), and (3), Clause 6 and Clauses 12(1), (2), and (3) of the Code of Conduct for the Practice of Journalism in Kenya.

ISSUE (c): Whether the complainant is entitled to the reliefs sought.

61. Having established that the Respondents breached the Code of Conduct, the Commission turns to the question of relief. The Complainant's pleadings must be evaluated against the Commission's remedial powers as set out in **Section 38 of the Media Council Act**. The Commission's mandate is to provide redress for ethical breaches and to secure compliance with the Code.
62. Regarding the claims for general, exemplary, and aggravated damages for defamation, the Commission reiterates its jurisdictional limits. These are remedies rooted in civil law for the tort of defamation and fall outside the scope of this Commission. Consequently, **Prayers 1 and 2 of the Complainant's pleadings are disallowed.**
63. However, the Commission finds that the Complainant is entitled to significant relief under the Act. The egregious nature of the breaches which caused demonstrable reputational harm, psychological distress, and social ostracization, demands a robust response to provide meaningful redress and to deter future misconduct.

64. **Prayer 3, for a public apology, is granted.** This is a cornerstone remedy under **Section 38(1)(a)**. An apology will serve to correct the public record, vindicate the Complainant's reputation, and affirm the standards of the journalism profession.
65. **Prayer 4, for the removal of the broadcast, is also granted.** The continued availability of the content constitutes a continuing breach of the Code. Its immediate removal, pursuant to **Section 38(1)(i)**, is necessary to cease the ongoing harm to the Complainant.

H. ORDERS

66. Having considered the Commission's jurisdiction, the gravity of the violations, and the ongoing accessibility of the impugned content on YouTube, the following orders are issued to provide effective redress and prevent further harm:
- I. The Respondents are hereby directed to permanently delete the video titled "*Amuna mamake kwa kusingizia ni mchawi (Suneka Bonuendo)*" from the YouTube channel "*Mwamogusii TV*" and any other affiliated digital platforms within twenty-four (48) hours of the issuance of this ruling.
 - II. Within seven (7) days of removing the video, the Respondents shall publish a clear, written, and unequivocal retraction and apology to the Complainant on the "*Mwamogusii TV*" YouTube channel.
 - III. The apology shall be uploaded as a standalone, unmonetized video titled "***Retraction and Apology to JOSEPH OCHONG'A KINANGA***" and must remain publicly accessible on the channel for a minimum of thirty (30) consecutive days.
 - IV. The 1st Respondent, *Mwamogusii TV*, is ordered to pay a fine of Kenya Shillings Two Hundred Thousand (KShs. 200,000) to the Media Council of Kenya within thirty (30) days of this ruling.
 - V. The 2nd Respondent, *Dennis Onyamo*, is ordered to pay a fine of Kenya Shillings Fifty Thousand (KShs. 50,000) to the Media Council of Kenya within the same period.
 - VI. The 2nd and 3rd Respondents are hereby **restrained** from publishing, broadcasting, or disseminating, whether through the "*Mwamogusii TV*" YouTube channel or any other digital or traditional media platform, any content that amounts to news reporting, public interest commentary, or investigative journalism concerning any individual. This restraint shall remain in effect until the Respondents furnish the Media Council

of Kenya with a valid Certificate of Completion from a training program in media ethics and standards accredited by the Council.

63. Each party shall bear its own costs.

64. It is so ordered.

DATED and DELIVERED at NAIROBI this 18th day of November 2025.

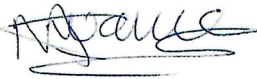


MR. DEMAS KIPRONO
CHAIRPERSON, MEDIA COMPLAINTS COMMISSION

I Certify this to be a True Copy of the Original
Sign: *Demas Kiprono* Date: 18th November 2025
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