THE MEDIA COUNCIL ACT
CAP 411B

MEDIA COUNCIL (COMPLAINTS COMMISSION) RULES, 2025

ARRANGEMENT OF RULES

Rule

PART I—PRELIMINARY

1—Citation.
2—Interpretation.
3—Application.
4—Scope and objectives.

PART II—ADMINISTRATION OF THE COMMISSION

5—Duties of the Chairperson.
6—Duty panels.
7—Role of the Registrar.
8—Sittings of the Commission.
9—Language of the Commission.
10—Sealing of Commission documents.
11—Registry.
12—Maintenance of the Register.

PART III—CASE MANAGEMENT

13—Filing of documents.
14—Anonymous and Public interest matters.
15—Processing of complaints.
16—Preliminary Assessment.
17—Application for review on decision.
18—Procedure for application for review.

PART IV— MEDIATION OF DISPUTES.

19—Referral to mediation.
20—Principles of Mediation.
21—Submission to mediation.
22—Commencement of mediation.
23—Disclosure by mediator.
24—Appointment of mediators.
25—Role of the Mediator
26—Role of parties
27—Attendance, Representation and Authority

28—Duration, venue, and time
29—Identification of issues
30—Confidentiality of mediation
31—Settlement
32—Conclusion of mediation

PART V – HEARING AND CONDUCT OF PROCEEDINGS

33—Scheduling conference
34—Hearing
35—Decisions of the Commission
36—Failure to attend.
37—Computation and extension of time.
38—Service and transmission of documents.
39—Further pleadings.
40—Representation before the Commission.
41—Participation of friends of the Commission
42—Interested parties.
43—Admission of additional evidence.
44— Dismissal for want of prosecution
44— Summary Dismissal
46—Execution.

PART VI — APPLICATIONS

47—Interlocutory applications.
48—Urgent applications.
49—Non-attendance at the hearing of applications.
50—Abatement of applications.

PART VII: APPEALS

51—Notice of Appeal.
52—Memorandum of Appeal.
53—Statement of fact
54—Processing.

PART VIII— GENERAL PROVISIONS

55—Preliminary objections.
56—Notice to parties.
57—Forms and procedure.
58—Consolidation of disputes.
59—Disclosure of documents
60—Recusal.
61—Notices.

62—Amendment of pleadings.
63—Recording of evidence.
64—Evidence and Interrogatories
65—Substitution and addition of parties.

SCHEDULE—Forms

THE MEDIA COUNCIL ACT
CAP 411B

MEDIA COUNCIL (COMPLAINTS COMMISSION) RULES, 2025

IN EXERCISE of the powers conferred by sections 44 of the Media Council Act , the Complaints Commission makes the following Rules of Procedure to Regulate its Procedure—

MEDIA COUNCIL (COMPLAINTS COMMISSION) RULES, 2025

PART I – PRELIMINARY

Citation

1. These Rules may be cited as the Media Council (complaints commission) Rules, 2025

Interpretation

2. In these Rules, unless the context otherwise requires—
"Act" means the Media Council Act .

"Appellant" means a person who has lodged an appeal against a decision made by the Council under section 42 of the Act.

"Certificate of acceptance of settlement" means a document issued to both parties after successful mediation proceedings by a mediator;

"Chairperson" means the Chairperson of the Complaints Commission appointed under section 28(1)(a) of the Act;

"Chief Executive Officer" means the Chief Executive Officer of the Council as appointed under section 17 of the Act;

"Commission" means the Complaints Commission established under section 27(1) of the Act.

"Commissioner" means a member of the Complaints Commission appointed under section 28(1)(b) of the Act:

"Complaint" a statement of claim alleging an unsatisfactory, unacceptable, or prejudicial act or conduct, relating to matters under sections 34(1), 34(5)(b) or 34(8) of the Act and lodged by any person or entity.

"Complainant" means a person or entity who lodges a complaint pursuant to section 34(1), 34(5)(b) or 34(8) of the Act.

"Complete complaint file" means a file in which the complaint has been responded to and parties have filed all supporting documents;

"Council" means the Media Council of Kenya established under section 5 of the Act.

"Dispute" means a disagreement between one or more parties on facts, legal rights, reliefs, or interests over matters regulated under the Act for which the Commission has jurisdiction to resolve.

"Duty panel" means a panel of the Commission as established by the Chairperson and assigned to deal with preliminary procedures during their time on duty;

"mediation" means a facilitative and confidentially structured process in which parties attempt by themselves, on a voluntary basis, to reach a mutually acceptable settlement agreement to resolve their dispute with the assistance of an independent third party called a mediator;

"Hearing" means a sitting of the Commission or a panel thereof for the purpose of conducting proceedings to determine a complaint or matter either substantively on its merits or on an interlocutory motion.

"Mediator" means a member appointed by the Chairperson under Section 36(1) of the Act to facilitate mediation process.

"Mediation agreement" means a contract clause within a written contract or a separate written agreement entered into by the parties agreeing to submit to mediation a dispute which has arisen or which may arise between them in respect of a defined legal relationship;

"Mediation process" means all the steps taken in an attempt to resolve a dispute by mediation from the time a dispute is referred to mediation or a party sends an invitation to submit a dispute to mediation to the other party up to the time the mediation report is drawn up;

"Mention" means a scheduling of a matter before the Commission or panel for the purpose of taking directions on preliminary procedural issues before hearing.

"Panel" means a set of at least three (3) members of the Commission as may be constituted by the Chairperson in connection with any matter before the Commission;

"Party" means a person or an entity to a dispute, and includes a natural or legal person;

"Preliminary procedures" means presentation made before a panel, on a matter that is preparatory in nature;

"report" means the mediation report prepared by a mediator at the time of termination of appointment of the mediator or at the end of the mediation process setting out the nature of the dispute, the stage the matter had reached and the outcome, and any relevant matter;

"Registrar" means the administrative head of the Complaints Commission's functions as recommended by the Commission and appointed by the Council;

"Respondent" means any person or entity against whom a complaint or appeal is made.

"Secretariat" means the offices of the Council headed by the Secretary of the Council.

"Settlement" means a final and binding agreement voluntarily entered into by the parties before a mediator after successful mediation.

Application

3. "These Rules shall apply to—

(a) any complaint or dispute arising under the Act; and

(b) any appeal against a decision of the Council."

Scope and objectives

4. (1) These Rules apply to proceedings conducted by the Commission and include—

(a) mediation;

(b) investigations; and

(c) adjudication.

(2) In applying or interpreting these Rules of Procedure, the Commission, a panel, mediator, or any officer of the Commission shall—

(a) be guided by the values and principles set out under Articles 10(2) of the Constitution; and

(b) apply the Rules in a manner as to ensure that the Commission is accessible, fair, expeditious, affordable, and efficient resolution of complaints or disputes governed by the Act.

(4) The Commission shall, where appropriate, apply technology in—

(a) the conduct of its proceedings; and

(b) the management of its operations.

(5) In conducting its proceedings, the Commission shall—

(a) interpret and apply these Rules with flexibility and without undue regard to legal technicalities; and

(b) not be bound by the rules of evidence under the Evidence Act, in accordance with section 33(2) of the Act.

Cap. 80

PART II—ADMINISTRATION OF THE COMMISSION

Duties of the Chairperson

5. (1)The Chairperson shall —

(a) coordinate of the activities of the Commission;

(b) constitute panels to hear and determine any matter filed before the Commission;

(c) appoint mediators under section 36(1) of the Act;

(d) assign duty panels under section 37(2) of the Act;

(e) preside on all meetings and sessions of the Commission;

(f) in consultation with the members, determining the sittings of the Commission and the matters to be disposed of at such sittings; and

(g) act as the spokesperson for the Commission.

(2) The Chairperson may, where unable to perform the duties under sub-rule (1) due to incapacity, absence, or being away on official business, delegate those duties to the Vice-Chairperson.

(3)A delegation under this sub rule (2) shall not prevent the Chairperson from performing the delegated duty upon resumption.

Duty panels

6. The Chairperson may appoint duty panels for purposes of—

(a) dealing with fixing of dates;

(b) hearing and giving directions on applications for certification of urgent matters; and

(c) convening and scheduling conferences.

Role of the Registrar

7. (1) The Registrar is appointed by the Council in consultation with the Commission.

(2) Under the general direction of the Commission the Registrar shall-

(a) receive and process all complaints and disputes lodged at the Secretariat;

(b) assist parties to reduce complaints in accordance with the Commission's practice directions for filing;

(c) Co-ordinate all the necessary administrative and secretarial support services to the Commission;

(d) ensuring the preparation of reports or minutes of Commission meetings;

(e) transmit all documents required by the Commission;

(f) establish for each case, a master Registry file which shall record all actions taken in connection with the preparation of the case for hearing, the dates thereof and the dates on which any document or notification forming part of the procedure is received or dispatched;

(g) maintaining relations with the parties by giving notice of any directions approved by the Commission; and

(h) perform any other assigned duties for the efficient functioning and disposal of the Commission's caseload.

(3) The Registrar, if unable to act, either due to absence or illness, shall be assisted or deputized in his duties by an official appointed by the Chief Executive Officer.

Sittings of the Commission

8. The Commission may hold sittings on any day, including weekends and public holidays, as the Chairperson considers necessary for the performance of its functions.

Language of the Commission

9. (1) The language of the Commission is English, Kiswahili or Kenyan Sign language.

(2) The Commission shall at its own cost provide an interpreter where deemed necessary.

(3) A party who intends to address the Commission in any language other than the language of the Commission shall give the Registrar notice of that intention at the time of filing a complaint or a defence.

(4) The decisions of the Commission shall be prepared in English.

(5) A party may request a translation of a decision into Kiswahili or any other language.

(6) The Commission may grant the request under sub-rule (5) upon payment of such fee as it may determine.

Sealing of Commission documents

10. The Registrar shall sign and seal with the seal of the Commission any summons, warrant, order, notice or other formal document issued by the Commission.

Registry

11. (1) The Main Registry of the Complaints Commission is located in Nairobi.

(2) The Commission may establish sub-registries of the Commission within any of the regional offices of the Council.

Maintenance of the register.

12. (1) The Registrar shall maintain a register of all documents lodged in the registry.

(2) A register shall contain particulars of documents including—

(a) the sequential numbering of the complaints or disputes;

(b) the recording of documents;

(c) in the case of a referral, the file number of the proceedings in the referring court or body;

(d) the names of the parties; and

(e) the date when any action is required to be taken.

(3) Subject to these procedures, the Commission may publish or disclose to any person any information held on the Register where such publication or disclosure is necessary for raising public awareness or improving the complaints system.

PART III—CASE MANAGEMENT

Filing of documents

13. (1) A complaint may be filed—

(a)at the Commission's offices in Nairobi;

(b) at any designated sub-registry; or

(c) electronically, through email or any other verifiable electronic means approved by the Commission

(2) All complaints and disputes under sections 34(1), 34(5)(b) and 34(8) of the Act received at the Secretariat shall be directed to the Registrar for processing according to these Rules of Procedure.

(3) A complaint may be lodged by any person as provided for in Section 34(1) of the Act either in person or by a person acting on their behalf or by such other persons lawfully authorized to act in a representative capacity.

(4) The Registrar shall require all complaints as reduced under sub-rule 4 to be verified and signed by such complainants.

(5) The Commission may reject a complaint if on the date of filing twelve months have lapsed since the subject matter of the complaint arose and no sufficient cause has been shown for the delay in making the complaint.

(6) The Registrar shall not reject any document filed for want of specification to a technical design.

(7) A document prepared for use in the Commission proceedings shall be deemed to be automatically admissible without adherence to judicial form and substance.

(8) Despite the above provisions, the Commission may, where necessary, vary the requirements relating to filing of documents.

Anonymous and Public interest matters.

14. Where an anonymous complaint is lodged under section 34(5)(b) of the Act, the Registrar shall notify the Council to take up the complaint and the Council shall be deemed to be the Complainant for purposes of registration, processing, and determination of the complaint.

Processing of complaints

15. (1) Upon receiving a complaint, the Registrar shall acknowledge receipt by affixing the official stamp of the Commission on the duly completed Complaint Form

(2) 1) Upon receipt of a complaint, the Registrar shall, within fourteen days, issue a written notice to the Respondent—

(a) stating the nature of the complaint;

(b) identifying the specific breach, act, or omission complained of;

(c) indicating the date on which the matter shall be considered by the Commission; and

(d) requiring the Respondent to respond in writing or appear before the Commission at the hearing of the complaint.

(2) The notice shall be in **Form 2** set out in the Schedule

(3) The Respondent shall, within fourteen days from the date of receipt of the notification under sub-rule 3 respond in writing to the issues raised in the complaint.

(4) The Complainant's allegations as stated in the Complaint Form as well as the Respondent's reply together with all supporting documents shall be deemed to be the parties' respective submissions for the purposes of conducting a preliminary assessment as per section 35(3) of the Act.

Preliminary Assessment

16. (1) Within three (3) days of close of pleadings the Registrar shall notify and forward to the Commission particulars of complete complaint files for purposes of scheduling preliminary assessment.

(2) The Chairperson shall assign complete complaint files either to a panel constituted under section 37(4) or to the Commission at a plenary session for purposes of conducting a preliminary assessment.

(3) (1) Upon assessing a complaint under this Part, the Commission or a panel may—

(a) admit the complaint;

(b) refer the complaint for mediation or further inquiry;

(c) reject, stay, or dismiss the complaint, giving written reasons.

(4) A complaint may be rejected, stayed, or dismissed under sub-rule (3)(c) if the Commission or panel determines that—

(a) the complaint is admissible;

(b) the complaint is devoid of merit or substance;

(c) the matter falls outside the mandate of the Commission;

(d) the matter is the subject of ongoing court proceedings;

(e) the complaint is vexatious, frivolous, or otherwise an abuse of the Commission's process;

(f) the complaint is substantially the same as a previous complaint by or on behalf of the same person, or relates to the same subject matter, and no fresh evidence is presented that was not reasonably available when the earlier complaint was made; or

(g) the matter has already been determined by the Commission.

Application for review on decision

17. (1) A party may within fourteen days of a decision being made under Rule 16 apply for review or variation of the Commission's or panel's decision in accordance with section 35(5) of the Act.

(2) An application under sub-rule (1) may only be made on the basis of—

(a) discovery of new and important matter or evidence which, despite due diligence, was not within the knowledge of the applicant at the time the dismissal was made;

(b) a mistake or error apparent on the face of the record; or

(c) any other sufficient reason, as the Commission may determine.

(3) An application for review shall be handled by the same panel that made the decision to reject, stay, or dismiss the complaint..

(4) where the initial rejection was made by the Commission at plenary, the application for review shall be handled in a similar manner.

(5) Every member of a Commission or panel as the case may be, shall as far as is possible participate in deliberations of a matter from its commencement to its conclusion.

Procedure for application for review

18. (1) A person who is dissatisfied with the decision may within sevens day apply for review.

(2) An application for review under this rule shall specify–

(a) the date on which the Complainant was notified of the rejection of the Complaint;

(b) the reasons relied upon for review;

(c) Any supporting documents.

(3) The Commission or a panel shall consider the application for review and may allow or reject it, and notify the applicant of its decision in writing, giving reasons thereof.

(4) The Commission or a panel may, for purposes of determining an application for review under this rule, request for information from any person as it considers necessary.

(5) Where an application for review is rejected, the complaint shall lapse, and the Complainant shall be notified accordingly.

PART IV—MEDIATION OF DISPUTES

Referral to Mediation

19. . (1) Pursuant to Section 36(1) of the Act, the Chairperson may refer a complaint to mediation at any stage before final determination.

(2) The Chairperson may, upon consultation with the parties and in consideration of the subject matter of the complaint, appoint a mediator from among the members of the Commission or an external mediator from a panel maintained by the Commission

(3) Complaints lodged before these Rules' commencement shall be screened for mediation suitability.

(4) Parties may, by mutual consent, request referral to mediation.

(5) Referrals may also originate from a court or another person under Section 36(2).

(6) Mediation shall be voluntary, and parties may withdraw by written notice to the mediator and other parties.

Principles of Mediation

20. The following principles shall apply to mediation under these Rules —

(a) Voluntariness, with the right to withdraw at any time;

(b) a party to mediation process has the right to resolve a dispute and be informed of this right before mediation process commences;

(c) Privacy and confidentiality;

(d) Timely resolution, time taking into account the nature of the dispute;

(e) parties shall take reasonable measures in resolution of disputes as provided under Rule 4;

(f) Mediator impartiality, with disclosures at the preliminary session;

(g) Prohibition on mediators providing legal advice or using mediation information for personal gain; and

(h) Parties shall act in good faith to seek resolution.

Commencement of Mediation

21. (1) Mediation commences upon—

(a) referral by the Chairperson;

(b) agreement by the parties to mediate;

(c) acceptance of an invitation to mediate by the other party;

(d) referral by a court or other competent authority.

(2) Failure to accept an invitation to mediate within fourteen days of receipt shall be deemed a rejection.

Appointment of Mediator

22. The Chairperson may appoint—

(a) a member of the Commission; or

(b) an external mediator from a panel of accredited mediators.

(2) Where the parties object to the appointed mediator or fail to agree, the Chairperson shall appoint another mediator in consultation with the parties.

(3) The Chairperson may, under exceptional circumstances, appoint more than one mediator who shall act jointly.

(4) If parties are unable to agree on a mediator, the Chairperson may deem the mediation process to have failed and refer the matter to adjudication.

Revocation and Resignation

23. (1) The Chairperson may revoke the appointment of a mediator who:

(a) is objected to by any party;

(b) fails to commence or proceed with mediation without reasonable cause;

(c) A mediator may resign by giving written notice to the Chairperson.

(3) A mediator who resigns or is revoked shall submit a report on the status of the mediation to the Commission and the parties within seven days.

Mediation Agreement

24. (1) At the commencement of mediation, the parties shall sign a mediation agreement in the prescribed form as prescribed in Form Three provided in the schedule.

(2) The mediation agreement shall include —

(a) the names of the parties;

(b) appointment of the mediator;

(c) terms of the mediation process; and

(d) confidentiality clause.

Role of the Mediator

25. (1) A mediator shall—

(a) act independently and impartially;

(b) facilitate discussions between the parties;

(c) assist parties in identifying issues and exploring settlement options;

(d) prepare and authenticate settlement agreements

Role of the parties

26. (1) A parties shall—

(a) co-operate with the other party and the mediator;

(b) participate in good faith in mediation process;

(c) maintain confidentiality as required in these rules ;

(d) if an agreement is reached, ensure the agreement is written and signed by all parties to the agreement; and

(e) endeavour to reach an amicable settlement of the dispute..

Attendance, and Representation

27. (1) Parties may attend in person or be represented by an authorised agent.

(2) Representatives shall disclose their authority and provide written proof to the mediator and other party at least seven days before participation.

(3) Non-parties may attend only with the consent of both parties and the mediator.

(4) Experts may be engaged upon agreement of the parties.

Duration, venue, and Time of Mediation

28. (1) A mediator shall, in consultation with the parties, determine the date, time and place of a mediation session.

(2) (2) Mediation shall ordinarily be held at the Commission's premises.

(3) Parties may agree to hold mediation at an alternative venue, in which case the costs and logistical arrangements for the alternative venue shall be borne by the parties.

(4) The Registrar shall provide logistical support for mediation held at the Commission premises and, where possible, assist with coordination for offsite sessions.

(5) Sessions shall be held between 0900 and 1600 hours, unless agreed otherwise.

(6) Mediation shall be conducted in English, Kiswahili, or Kenyan Sign Language.

(7) The mediation process shall be completed within thirty (30) working days unless extended by the Chairperson upon request..

(8) Chairperson may, on the request of the Mediator or the parties, arrange for language translators, sign language interpreters, or other assistance in order to facilitate the mediation.

Identification of Issues

29. (1)) Each party shall submit a statement of issues at least seven days before the first session.

(2) A a statement of issues shall contain—

(a) a written or oral statement of that party's position;

(b) the facts and grounds in support of that position; and

(c) any documents and evidence the party considers appropriate.

(3) A mediator may request a party to submit additional information at any stage of the mediation process.

Confidentiality of mediation

30. (1) All mediation proceedings, records, and settlements shall be confidential.

(2) Information disclosed in mediation shall not be used in other proceedings except:

(a) with consent of all parties;

(b) when required by law; (c) to protect life or property;

(c) for enforcement of a settlement;

(d) in case of mediator misconduct.

(3) Caucus discussions with one party shall remain confidential unless consent to disclose is given.

Settlement

31. (1) If parties reach agreement, the mediator shall prepare a settlement agreement.

(2) The agreement shall be signed by all parties and authenticated by the mediator.

(3) A signed agreement shall be binding and enforceable.

(4) The mediator shall issue a certificate of settlement in the prescribed form.

Conclusion of Mediation

32. (1) Mediation shall be deemed to be concluded when—

(a) the parties execute a settlement;

(b) a mediator, after consultation with the parties, makes a declaration that further mediation is not feasible;

(c) the parties jointly address a declaration to the mediator that the mediation process is terminated; or

(d) a party makes a declaration to the mediator and the other party that the mediation process is terminated;

(e) If the parties fail to reach an agreement within thirty (30) days of commencement of mediation;

(f) the parties are involved in illegal or fraudulent conduct;

(g) the parties have not acted in good faith in the mediation;

(h) one of the parties dies;or

(i) If the mediation process fails to register progress after more than thirty (30) days from commencement unless extended by the Chairperson.

(2) Where mediation fails, the Commission shall resume hearing and notify both the parties within seven days.

PART V—HEARING AND CONDUCT OF PROCEEDINGS

Scheduling conference

33. (1) The Registrar shall within seven days after the failure of mediation convene a scheduling conference to determine preliminary matters including—

(a) ascertaining contested and agreed issues;

(b) certifying that settlement by mediation had failed;

(c) confirming the form of evidence to be adduced by the parties, and the number of witnesses parties will call;

(d) whether to allow any friend of the Court, or interested party in the proceedings; and

(e) receiving proposals and give directions on the—

(i) proposed time-frame for hearing

(ii) duration of oral submissions; and

(iii) filing of written submissions, lists and bundles of authorities, by parties;

(f) any other matter requiring determination in the scheduling conference.

(2) The scheduling conference may be conducted by a panel or Commission at plenary as advised by the Chairperson.

Hearing

34. (1) The parties shall abide by the Commission's directions on hearing as given in the scheduling conference.

(2) The Commission or panel shall convene a hearing and notify both parties the date on which the matter shall be considered by the Commission within three days of the close of scheduling conference.

(3) Hearing of complaints shall be before the Commission or a panel as determined by the Chairperson under section 31(2) of the Act.

(4) The Commission or panel shall give the parties at least fourteen (14) days' written notice of a hearing unless the parties agree to a shorter period of notice.

(5) The Commission or panel shall at the hearing of a complaint, hear the Complainant and his witnesses first and thereafter the Respondent shall be given an opportunity to cross examine the witnesses, if any.

(6) Before a case is concluded, the evidence of the Respondent shall be heard, and the Complainant shall be given the opportunity to cross examine each witness followed by re-examination by the Respondent after which the parties may make oral or written submissions.

(7) The Commission may prescribe the time allowed for making oral presentations, address by the parties, their advocates, or other recognized representatives.

(8) The Commission or panel may, at any time, put questions to either party or to any witness, and may, at its discretion, call additional evidence as it may deem necessary for further clarification of the issues raised at the hearing of a complaint.

(9) In all session of the Commission or panels, the Chairperson or panel chair shall preside as the case may be.

(10) The Complaints Commission shall conduct its hearings in public unless the Commission upon recorded compelling reasons certifies any particular session as closed.

(11) In the alternative and without prejudice to the sub rules 5 to 8, the Complaints Commission may conduct its hearings by way of affidavit evidence and submissions only.

Decisions of the Commission

35. (1) The Commission shall deliver its determination within fourteen (14) days from the date of close of proceedings.

(2) A unanimous or majority decision of the hearing panel or Commission shall be adopted as the decision of the Commission.

(3) All deliberations of the Commission shall be kept confidential.

(4) Any member of a panel or Commission may append a separate, dissenting, or concurring opinion.

(6) Determinations shall be issued in writing and shall state the reasons, facts, and law on which they are based. Where the Commission

reserves the reasons for a decision, any member of the Commission may deliver the reasons on a determined date.

(7) Determinations shall be drawn up in English, and a signed original shall be deposited in the master file.

(8) The Commission shall notify the parties of their right under section 42(2) of the Act.

(9) The Registrar shall transmit a copy of the determination to each party.

Failure to Attend

36. (1) Where a party to a dispute, their advocate or a duly authorized agent fails to attend the hearing, the Commission may—

(a) continue with the proceedings;

(b) adjourn the proceedings;

(c) give notice for dismissal of the matter; or

(d) give any other direction the Commission or any of its panels may deem fit.

(2) In exercising discretion under sub rule (2), the Commission or any of its panels shall take into account—

(a) whether a party, the advocate or duly authorized agent has been served;

(b) whether a party, the advocate or duly authorized agent has previously failed to attend proceedings in respect of that dispute or

(c) any sufficient reason given for that party advocate or authorized agent's failure to attend.

Computation and extension of time

37. (1) The computation of time for any action under these Rules shall be in accordance with—

(a) any timeline provided for in the Act;

(b) section 57 of the Interpretations and General Provisions Act;

(c) any directions of the Commission.

(2) The Commission may extend the time limited by these Rules or by any decision of the Commission either on its own motion or on the application of a party.

(3) Where a party applies for extension of time such application shall include particulars on—

(a) the extent of delay;

(b) the reasons for the delay;

(c) the referring parties, prospects of succeeding with the referral and obtaining the relief sought against the other party;

(d) any prejudice to the other party; and

(e) any other relevant factors.

Service and transmission of documents

38. (1) Service of documents under these Rules shall be effected in accordance with the Civil Procedure Act (Cap. 21) and the Civil Procedure Rules made thereunder.

(2) Where the Commission is satisfied that a document cannot be served in accordance with any of the preceding Rules, it may, upon application, order that the document be served by substituted service. The substituted service may be effected in any manner provided for under the Civil Procedure (Amendment) Rules, 2020, any other written law, or as guided by section 1B(1)(e) of the Civil Procedure Act.

Further pleadings.

39. (1) A party may only file further pleadings or affidavits with the leave of the Commission, and with reasonable notice to the other party.

(2) An application for leave under this rule may be made orally.

(3) Any pleadings, affidavits or other documents filed under this rule shall be served in accordance with these Rules.

Representation before the Commission

40. (1) A party may in any proceedings—

(a) appear in person;

(b) be represented by an advocate, legal representative or guardian; or

(2) (1) Where the complainant is a child or a person with a disability, the complaint may be lodged by a guardian or next friend.

(2) The Commission may, where necessary—

(a) appoint a guardian or next friend to act on behalf of the child or person with a disability in the conduct of proceedings; or

(b) remove or substitute the guardian or next friend appointed under paragraph (a), for sufficient cause.

(4) A party may remove or substitute a representative at any stage of the proceedings.

(5) A party seeking to remove, substitute, nominate or otherwise change a representative, shall lodge with the Registrar a notice of change, and serve the notice upon other parties to the proceedings.

(6) An advocate may at any stage in the proceedings apply to the Commission to cease acting for a party.

(7) An advocate who applies to cease acting, shall serve the application upon the other party or parties involved.

Participation of friends of the Commission

41. (1) The Commission may on its own motion, or at the request of any party, permit a person with particular expertise to appear in any matter as a friend of the Commission.

(2) The Commission shall before admitting a person as a friend of the Commission, consider—

(a) proven expertise of the person;

(b) independence and impartiality of the person; or

(c) the public interest.

(3) Any fees or expenses incurred by a person appointed by the Commission as a friend of the Commission shall be borne by themselves.

(4) An application to be admitted as an amicus or a friend of the Commission shall be done within seven days upon filing of a response in any proceedings before the Commission.

Interested parties.

42. (1) A person may, within seven (7) days of filing a response in any proceedings, apply for leave to be joined as an interested party.

(2) An application under sub-rule (1) shall include—

(a) a description of the interested party;

(b) a depiction of such prejudice as the interested party would suffer if the intervention was denied; and

(c) the grounds or submissions to be advanced by the interested party, their relevance to the proceedings, and their departures from the standpoint of the parties.

(3) An application under this rule shall be determined on the basis of written submissions.

Admission of additional evidence.

43. (1) The Commission may call or admit additional evidence in any proceedings.

(2) A party seeking to adduce additional evidence shall make a formal application to the Commission.

(3) In any appeal from a decision of the Council, the Commission may—

(a) call for or receive any record on any matter connected with the proceedings;

(b) re-appraise evidence and draw any inferences of fact;

(c) take additional evidence; or

(d) direct the Registrar to summon any witnesses.

(4) Where the Commission takes additional evidence either orally or by affidavit, the Commission may allow any witness to be cross-examined.

(5) A party to an appeal is entitled to be present when additional evidence is being taken.

Dismissal for want of prosecution

44. (1) Where a party fails or neglects to respond to communication from the Commission within a period of three months, or fails to take steps to prosecute the matter for a consecutive period of six months from the date of filing, the Commission may deem the complaint to have lapsed.

(2) Before dismissing a matter under paragraph (1), the Commission shall issue a notice to the party of its intention to dismiss the complaint for want of prosecution

(3) If no response is received within thirty days of the notice, the Commission may dismiss the complaint.

Summary dismissal

45. (1) A party may, with the leave of the Commission, withdraw the proceedings at any time before the delivery of a final determination.

(2) The Commission may summarily dismiss a complaint at any stage where it is satisfied that—

(a) the complaint is frivolous, vexatious, or an abuse of process;

(b) the complaint discloses no prima facie breach of the Code or the relevant law; or

(c) the subject matter of the complaint has been previously and finally determined.

Execution.

46. (1) The Registrar shall certify every decision of the Commission and notify the Council of the execution.

PART VI—APPLICATIONS

Interlocutory applications.

47. (1) Every interlocutory application to the Commission shall be filed together with written submissions and shall be determined by way of written submissions.

(2) An interlocutory application shall not be originated if a complaint, dispute, or appeal is not filed with the Commission.

(3) An interlocutory application together with written submissions shall be served within seven days of filing.

(4) A response to the interlocutory application together with written submissions shall be filed and served within seven days.

(5) The applicant, upon service of the response, shall file a rejoinder which may include supplementary submissions within seven days.

(6) An interlocutory application shall be by way of a Statement or any manner convenient to the parties.

Urgent applications.

48. (1) A party seeking to have an application heard on a priority basis shall file the application—

(a) accompanied by a certificate of urgency; and

(b) supported by an affidavit attesting to the urgency.

(2) An application shall be placed before the Commission as soon as it is practical for determination.

Non-attendance at hearing of application

49. (1) If, on the date fixed for the hearing of an application—

(a) neither party attends the hearing, the application may be dismissed; or

(b) where either the applicant or the respondent does not attend to the Commission, the Commission may proceed as it deems fit.

(2) A party who, for a sufficient cause, did not attend to the Commission and is aggrieved by the decision of the Commission under sub-rule (1), may apply to the Commission to have the application heard afresh.

(3) The Commission, in the case of sub-rule (2), shall consider a request for a fresh determination, and may set aside or vary the decision made: Provided that the party shall demonstrate sufficient cause for non-attendance.

Abatement of complaints.

50. (1) An application shall abate at the option of the parties on the death of any party, but the Commission may, on the application of an interested person, cause the legal representative of the deceased to be made a party in place of the deceased.

(2) If no application is made within twelve months from the date of death, the application shall abate.

(3) A legal representative of a deceased party or any other interested person may seek leave to apply for an order to revive an application which has abated.

(4) The Commission shall, if it is proved that an applicant was prevented by sufficient cause from continuing with the application, revive the application on such terms as to costs, or otherwise, as the Court may deem fit.

PART VII—APPEALS

Notice of Appeal

51. (1) A party aggrieved by a decision of the Council made pursuant to Section 6 of the Act, may file a notice of appeal against the decision of the Council to the Commission and serve the Council within thirty (30) days from the date of the decision.

(2) A notice of appeal to the Commission shall be—

(a) in Form 5 set out in the Schedule; and

(b) submitted to the Registrar of the Commission within thirty days upon receipt of the decision by the Council.

Memorandum of Appeal.

52. (1) The appellant shall, within fourteen (14) days from the date of filing the notice of appeal, submit copies of a memorandum of appeal including the following;

(a) grounds of appeal;

(b) statement of facts;

(c) the remedy sought;

(d) Proceedings of the Council resulting in the decision;

(e) Decision being appealed against; and

(f) or other document that may assist the Commission to determine the appeal.

(2) A memorandum of appeal referred in rule 55 (1) shall-

(a) be signed by the appellant;

(b) set out concisely under distinct heads, numbered consecutively, the grounds of appeal without argument or narrative:

(c) contain an index of all documents in the appeal with number of pages at which they appear; and

(d) be accompanied by a copy of the—

(i) Council's decision or order; and

(ii) notice of appeal.

Statement of fact

53. (1) Statements of fact signed by the appellant shall set out Statement of facts precisely all the facts on which the appeal is based

and shall refer of appellant specifically to documentary evidence or other evidence which it is proposed to adduce at the hearing of the appeal.

(2) The documentary evidence referred to in paragraph (l) shall be annexed to the statement of fact.

Processing.

54. (1) Upon service of the appeal to the Council, the Council shall file its response with the Commission and serve the appellants within fourteen (14) days.

(2) After filing of the appeal and service of the response if any, the file shall be placed before the Commission for directions

(3) The Commission or panel shall at the hearing of an appeal hear the appellant and his witnesses first and the respondent shall be given an opportunity to cross examine the witness, if any.

(4) Before an appeal is concluded, the evidence of the respondent shall be heard, and the appellant shall be given the opportunity to cross examine each witness followed by re-examination by the respondent after which the parties may make oral or written submissions.

(5) For purposes of hearing the appeal, the Commission shall be properly constituted if it consists of at least five (5) members of the Commission.

(6) upon considering the appeal, the Commission may either—

(a) vary, set aside, or confirm the decision or order in question;

(b) exercise any of the powers which could have been exercised by the Council in the proceedings in connection with which the appeal is brought;and

(c) make any such other order, including an order for costs, as it deems fit and just to grant.

PART VIII—GENERAL PROVISIONS

Preliminary Objections.

55. Issues of objections to jurisdiction if raised by the parties shall be determined in the first instance and in a summary procedure by way of written evidence.

Notice to parties.

56. (1) In all applications for –

(a) extension of time;

(b) joinder or substitution of a party;

(c) variation or rescission of an order; or

(d) preliminary or interlocutory order.

(2) The party bringing an application shall give sufficient notice to all persons who have an interest in-

(a) the title of the matter;

(b) the complaint number assigned to the matter by the Commission;

(c) the relief sought;

(d) the address at which the party delivering the document will accept delivery of all documents and proceedings;

(e) that any party that intends to oppose the matter must deliver a notice of opposition and answering affidavit within fourteen (14) days after the application has been delivered to it; and

(f) that the application may be heard in the absence of a party that does not comply with subparagraph(e).

Forms and Procedure

57. (1) Except as provided in these Rules, the forms used under these Rules shall be such forms as the Commission may, from time to time, design or approve with such modification as may be necessary.

(2) In fulfilment of sections 33(2) (3) of the Act and in exceptional circumstances where it deems fit, the Commission may dispense with the use of any form or procedure if it's in the interest of justice or convenience to the parties.

Consolidation of disputes

58. The Commission or any of its panels may, of its own accord or on application, consolidate more than one dispute so that the disputes may be dealt with in the same proceedings provided that—

(a) the same question of law or fact arise in both cases;

(b) the reliefs claimed in the disputes arise out of the same transaction or series of transactions;

(c) the consolidation shall not prejudice or confer undue advantage to either party.

Disclosure of documents

59. (1) Any party to a dispute may request the Commission or any of its panels to make an order as to the disclosure of relevant documents as per sections 32(d) and 33(1)(b) of the Act.

Recusal

60. (1) A member of the Commission who has real or perceived conflict of interest shall declare the interest and recuse themselves from the matter.

(2) A party may make a reasoned request for the recusal of a member on the grounds of conflict of interest to the Commission, which, after seeking comments from the member, shall decide on the request and shall inform the party of the decision in writing.

(3) A decision by a member to recuse themselves shall be communicated to the parties concerned by the Registrar.

Notices

61. The Registrar shall upon consultation with the Commission or panel give all parties not less than (14) days' notice of the date fixed for the first hearing or mention of a matter in Form 8 in the Schedule to these Rules.

Amendment of pleadings

62. A party may at any time before the closure of the case, apply to amend its pleadings and the Commission may, at its discretion, allow such application on such terms and conditions including granting leave to the other party to amend its pleadings provided the amendments do not raise new issues.

Recording of evidence

63. ((1) The proceedings of the Commission, including the evidence of the parties and witnesses, shall be recorded in such form or manner as the Commission may determine.

(2) The record under paragraph (1) may be in handwritten form, shorthand, or produced by mechanical or electronic means.

(3) The record shall be authenticated by the members of the Commission present at the proceedings.

(4) Where the proceedings are recorded by mechanical or electronic means, a transcript of the recording, if certified as correct by the Chairperson, shall be deemed to be the official record of the proceedings.

Evidence and Interrogatories

64. (1) Where the Commission requires evidence to be received by means of affidavits or interrogatories, the affidavits or interrogatories

and the answers shall be by such means and in such form as the Commission may direct.

(2) A party may present its evidence to the Commission either orally, by affidavit, statement on oath, electronic virtual means or by combination of any of these methods.

Substitution and addition of parties

65. (1) Where a complaint has been filed in the name of the wrong person(s), as complainant or respondent, or where it is doubtful whether it has been instituted in the name of the right complainant or respondent, the Commission may at any stage of the matter, if satisfied that the complaint has been instituted through a bona fide mistake, and that it is necessary for the determination of the real matter in dispute to do so, order any other person to be substituted or added as complainant or respondent upon such terms as the Commission deems fit.

(2) The Commission may at any stage of the proceedings, either upon or without the application of either party, and on such terms as may appear to the Commission to be just, order that the name of any party improperly joined, whether as complainant, appellant or respondent, be struck out, and that the name of any person who ought to have been joined, whether as complaint, appellant or defendant, or whose presence before the court may be necessary in order to enable the Commission to effectually and completely adjudicate upon and settle all questions involved in the issue, be added.

(3) Where a party is added or substituted, the complaint or appeal shall be amended as necessary, unless the Commission directs otherwise.

(4)The amended complaint or appeal, together with a summons, shall be served on the new respondent, and may also be served on the original respondent, if the Commission considers it necessary.

SCHEDULE

FORM (1) One

(r. 13(6))

REPUBLIC OF KENYA
THE MEDIA COUNCIL ACT 2013
COMPLAINT NO ……. OF ……..
COMPLAINTS COMMISSION

COMPLAINT FORM

1. Complainant Identity

Name of the Complainant (Person, Firm, or Institution):
……..

Address: …….

Telephone Number: ……..

Email: ……

2. Respondent Details

Name of Respondent (Person, firm, or Institution):
…….

Address: …….

Telephone Number: ……..

Email address: ……

3. Description of Complaint

…….

……
……
……
……

(Attach any document or statement that may be of help in your case. Description should entail grounds of the complaint, damages suffered, or remedies sought and attachment of any documents of statements and attachment of eg links, social media handle etc)

I hereby certify that the particulars given above are correct and true to the best of my knowledge.

Name …….

Signature ……..

Date: …….

For official use: -

Received by:

Time:

Stamp:

FORM (2) Two

(r. 15(2))

REPUBLIC OF KENYA
MEDIA COUNCIL ACT, 2013
COMPLAINT NO ……. OF …….
COMPLAINTS COMMISSION

NOTIFICATION OF COMPLAINT

To. ……..

of ……..

TAKE NOTICE that a Complaint, annexed hereto has been lodged against you on …….

…….. day of …….. 20 ……..

You are required to respond to this complaint within 14 days.

TAKE FURTHER NOTICE that this matter will be mentioned on……

ISSUED under my hand this …….. Day of ……..
20…….…….

REGISTRAR

COMPLAINTS COMMISSION

FORM (3) Three

(r. 26(1))

REPUBLIC OF KENYA
THE MEDIA COUNCIL ACT 2013
COMPLAINT NO …… OF …….
COMPLAINTS COMMISSION
MEDIATION CONFIDENTIALITY AGREEMENT

(This Agreement is part of the Rules and Regulations of the Media Complaints Commission)

The Undersigned:

……

(Mediator)

And the Parties:

……(Complainant)

and

…….(Respondent)

1. In order to promote honest and candid communication among the parties and the mediators, and to facilitate resolution of the dispute, the parties, their counsel and representative and the mediators hereby enter into this Confidentiality Agreement.

2. This Agreement governs all aspects of the mediation process, including those that pre-date the execution of this Agreement, including, but not limited to, the selection of the mediators, the convening of the Pre- mediation conference and the mediation process , all phone calls, correspondence, e-mail and other documents relating to the mediation and the mediation process, all person to person meetings, conferences of any kind, and any post-mediation communications or conferences relating to the mediation.

3. All statements made during the course of the mediation are privileged settlement discussions, are made without prejudice to any party's legal position, and are non-discoverable and inadmissible for any purpose in any later legal or administrative proceeding whatsoever. However, evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its disclosure or use during the mediation proceedings.

4. The privileged character of any information is not altered by disclosure to the mediators. Disclosure of any records, reports, or other documents received or prepared for or by the mediators cannot be compelled. The mediators shall not be summoned or otherwise compelled to testify in any later proceedings, including, but not limited to civil, criminal, and administrative proceedings, and shall not be required to produce any notes or documents, as to any aspect of the dispute that was the subject of the mediation proceedings or was otherwise communicated to the mediators in confidence.

5. No aspect of the mediation shall be relied upon or introduced in the evidence in the existing legal process or any legal, administrative or other proceedings, including but not limited to:
    a) Views expressed or suggestions made by a party with respect to a possible settlement of the dispute;

    b) Admissions made in the course of the mediation proceedings;

    c) Proposals made or views expressed by the mediators or the response of any party, and

    d) The fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediators.

6. The parties further agree that confidentiality does not apply to any executed settlement document unless the parties explicitly stipulate that the terms of settlement are to remain confidential. However, should the settlement agreement be required as proof in the existing court proceedings to enforce the Terms of settlement or to record a consent Judgment, such settlement agreement shall no longer have the privilege of confidentiality and may be introduced into evidence.

7. Because the parties are disclosing sensitive information in reliance
   Upon this privilege of confidentiality, any breach of this agreement could cause irreparable injury for which monetary damages would be inadequate. Consequently, any party to this agreement may obtain an injunction to prevent Disclosure of any such confidential information in violation of this agreement.

8. Any party breaching this agreement shall be liable for and shall indemnify the non-Breaching parties and the mediator for all costs, expenses, liabilities, and fees, including lawyer's fees, which may be incurred as a result of such breach.

9. The parties fully understand the following with respect to the Mediation process:

    a) The mediator is free to meet and communicate separately with each party both before and during the mediation session. Such private caucuses are very beneficial in facilitating a resolution of the dispute.

    b) The mediator reserves the right to share information learned in the private caucuses with the opposing party if the mediator believes that such information.

    c) Will facilitate a resolution of the dispute. However, should a party divulge certain information that they do not want the party to know, such party will clearly inform the mediator that such information is to be held in strict confidence and not to be shared with the other disputant.

    d) The mediator is a neutral party who may not act as an advocate for any party during the course of the mediation. Though the mediator may freely express his views to the parties on the legal issues of the dispute and his suggestion of a settlement proposal if such appears beneficial to the resolution of the case, he/she does not have an advocate –client relationship with any of the parties.

    e) All participants in the mediation shall be bound by the terms of this Agreement and shall be required to sign this Agreement as a condition to their participation.

Name: ……
Signature:
…….
Dated: …….

Name:……
…….
Signature:……
……
Dated:
……
….

Name:……
…….
Signature:……
……

Dated:
……
….
Name:……
…….
Signature:……
……
Dated:
……
….
Name:……
…….
Signature:……
……
Dated: ……

FORM (4) Four

(r. 33(4))

REPUBLIC OF KENYA
THE MEDIA COUNCIL ACT 2013
COMPLAINT NO …… OF …….

COMPLAINTS COMMISSION

Complainant: ……..

Respondent: …….

CERTIFICATE OF ACCEPTANCE OF SETTLEMENT

The undersigned parties, on this ……. day of …… 20 ……. have agreed to the following settlement or their dispute concerning
……
……
……
……
and hereby Acknowledge acceptance of the settlement according to the following terms:
……
……
……
……
The Settlement Agreement is binding on the parties and is admissible in court for enforcement purposes.

In order to facilitate the above-specified terms of settlement, the parties further agree that on or before the ……. day of ……., 20 …….

they will execute a Complete Release and a Stipulation of Dismissal. Defendant will then transfer settlement proceeds to Plaintiff(s) and his/her attorney.

Signed

On behalf of Party A ……

Signature …….

On behalf of Part B ……. Signature ……

The Complaints Commission ……. Signature ……

FORM (5) Five
(r. 43(2)(a))

REPUBLIC OF KENYA
BEFORE THE COMPLAINTS COMMISSION
AT .....REGISTRY

APPEAL/APPLICATION NO.....OF

INTHE MATTER OF

(r. 55(2)(a))

.APPELLANT
AND
RESPONDENT

NOTICE OF APPEAL

TAKE NOTICE that.....being dissatisfied with the decision of the Council given

at..... .. on the .....day of..... intends to appeal to the Commission against the whole/part of the said decision.

The address for service of the Appellant is

DATED AT ……..THIS…….…….DAY OF 20……..

APPELLANT

TO: -

The Registrar of the Commission at.....Registry **LODGED** in the.....Registry , this ... ……..... day of……

……

REGISTRAR

Form 6
(r. 48(2))
To ……

……
……

Whereas …….. was summoned to appear before the Commission on the …… day of ……. 20 ……. and the said person, without sufficient cause failed to appear in obedience to the said summons, you are hereby directed to arrest the said person and to cause his appearance before the Commission on the ……. day of ……. 20 ……..

Complaint Details

Name of the Complainant (Person, Firm, or Institution): ……

……

Name of Respondent (Person, Firm, or Institution): …….

……

Nature of the Complaint ……

……

……

ISSUED under my hand this ……. day of ……. 20 …….

Your attention is particularly drawn to section 49 of the MEDIA COUNCIL ACT 2013 that makes it an offence for anyone to refuse to comply with the requirements of the Commission.
Section 49 of the Media Council Act 2013 reads: "A person who contravenes any provision of this Act or regulations made thereunder for which no penalty is specifically provided

for shall be liable, upon conviction, to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding six months or both."

In the name of the Complaints Commission

……..
REGISTRAR

FORM 7
(r.48(2))

To ……..

of …….

Whereas this Commission is investigating the above complaint; you arc therefore required to attend before the Media Council of Kenya Complaints Commission in regard to the complaint below on ……. day of …… 20 …….. at ……. o' clock, and so from time to time as the commission may request until the matter is disposed of, to give evidence on behalf of …… and also bring with you and to produce at the time and place aforesaid……
……(Specify documents to be produced)
……

Complaints Details

Name of the Complainant (Person, Firm, or Institution)

Name of Respondent (Person, firm, or Institution)

Nature of the Complaint ……

……
……
……

ISSUED under my hand this …… day of …… 20 ……

Your attention is particularly drawn to section 49 of the MEDIA COUNCIL ACT 2013 that makes it an offence for anyone to refuse to comply with the requirements of the Commission.

Section 49 of the Media Council Act 2013 reads: "A person who contravenes any provision of this Act or regulations made thereunder for which no penalty is specifically provided for shall be liable, upon conviction, to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding six months or both.

FORM 8
(r.58)

REPUBLIC OF KENYA
BEFORE THE COMPLAINTS COMMISSION
AT .....REGISTRY
COMPLAINT/APPEAL/APPLICATION NO.....OF…….
IN THE MATTER OF..... .....APPELLANT/COMPLAINANT
AND
……RESPONDENT

HEARING/MENTION NOTICE
TO:

TAKE NOTICE that the above Complaint/ Application/ Appeal dated ....wi11 be heard/mentioned on .....day of 20……..at .....o clock in the forenoon/afternoon or so soon thereafter at.....

FURTHER TAKE NOTICE that in default of your attendance on the said dates and time,

the Commission will proceed with the hearing of the said matter and such orders may be made as the Commission Tribunal may find just and expedient.

DATED at.....this day of…….

REGISTRAR

ACKNOWLEDGEMENT OF SERVICE

Full name

Address/Official stamp

Date and time

In the name of the Complaints Commission.

mad