Maldives: Analysis of Media and Broadcasting Regulation Act

October 2025

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In late August, Member of Parliament Abdul Hannan Abubakr submitted the Maldives Media and Broadcasting Regulation Bill to the People's Majlis or parliament of the Maldives. According to local sources, no consultations with media or other stakeholders were held prior to the Bill being tabled in parliament. Then, the Bill was rushed through parliament, being adopted on 16 September 2025 as the Maldives Media and Broadcasting Regulation Act (Media Act), and signed into law by President Dr. Mohamed Muizzu a couple of days later.[1] Local stakeholders issued statements condemning both the manner in which the Bill was adopted and the substance of its provisions.[2] The Media Act will fundamentally transform the media environment in the Maldives, among other things by abolishing the Maldives Media Council and the Maldives Broadcasting Commission and replacing them with the omnibus Maldives Media and Broadcasting Commission (Commission).

There are numerous problems with the Act. It fails to provide robust protection for the independence of the Commission, it imposes unduly controlling regulatory requirements on media outlets and journalists, it defines the types of entities which are subject to regulation far too broadly, and it establishes restrictive content rules for media actors.

[1] President's Office, "President ratifies Maldives Media and Broadcasting Regulation Bill", 18 September 2025, https://presidency.gov.mv/Press/Article/34936.
[2] See, for example, Al Jazeera, "'War on free speech': Outcry after Maldives passes controversial media bill", 17 September 2025, https://www.aljazeera.com/news/2025/9/17/war-on-free-speech-outcry-after-maldives-passes-controversial-media-bill.

This Analysis[3] was prepared in response to requests from local stakeholders for an assessment of the Media Act based on international human rights standards. It sets out the main concerns of the Centre for Law and Democracy with the Act, in the hope that this information can help those advocating for the repeal or supporting the legal striking down of the Act.[4] We note that in various places the Act refers to matters set out in the Broadcasting Act, No. 16/2010. This Analysis does not address freedom of expression concerns arising from the Broadcasting Act.

It is fundamental that any legislative developments which affect freedom of expression and/or media freedom should be the subject of robust consultations with interested stakeholders, something that has clearly not happened in this case. That alone is enough to warrant the repeal of the Media Act. But, as this Analysis makes clear, the profound human rights problems with the substance of the Media Act also warrant it being repealed.

In January 2025, The Centre for Law and Democracy published a detailed report, *Maldives: Overview of the Environment for Media*,[5] which included a detailed Blueprint for Change: Promoting Freedom of Expression. One of the recommendations in the Blueprint read as follows:

> The Maldives should avoid introducing replacement legislation for the now withdrawn Maldives Media and Broadcasting Commission Act, with the aim of merging MMC and MBroadCom. Should any future legislation be introduced to merge these bodies or create new media regulatory bodies, any such proposal should align with international standards.

It is clear that in the adoption of the Media Act, no attention has been paid to this recommendation.

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[4] We note that the comments in this Analysis are based on an informal translation of the Media Act provided to the Centre for Law and Democracy. We believe that the translation is of good quality but we take no responsibility for errors in the Analysis based on translation.

[5] Available at: https://www.law-democracy.org/maldives-report-on-the-environment-for-media/.

General Comments

As a first general comment, we note that it is fairly clear from its content that the Media Act has not been carefully designed, following a process of consultation, to address shortcomings in the media environment in the Maldives. Instead, it is an attempt to impose major structural changes on media regulation in the country without taking into account constitutional or international human rights guarantees, the practical needs of the media sector, or consistent recommendations from local and international experts about what is needed in this area. The Media Act should be repealed and a proper consultation on the best way forward for the Maldives, involving all interested stakeholders, should be held.

As a second general comment, we note that the Media Act does not take a clear or appropriate position in terms of whom or what different parts of it cover. A first and serious problem, addressed in greater detail below, is the significantly overbroad definition of media and then different types of media. "Media", for example, includes, among other things, "publications that disseminate news, information, and current affairs, whether printed or published through internet-based software, websites, or applications", which clearly goes beyond what would normally be considered as media activity since many websites which are not media disseminate what might be considered to be news, such as commentary on current events.

The specific references in the Media Act to which media actors are covered vary. For example, section 2(a)(2) refers to "those working in media and journalists, including broadcast media". Section 7(k) refers to the code of conduct applying to "broadcasters, media personnel and journalists". This would appear to exclude newspapers. The very next provision, section 7(l), describes the system for enforcing the code as applying to "broadcasters, media outlets, media personnel and journalists". Instead of using different terms in different provisions, the Act should define key terms (such as "media" and/or "media actors") and then use them consistently when setting out obligations.

Professional regulation of the media, and in particular the print media – normally as against a code of conduct – is in most countries done quite separately from other regulatory functions, such as licensing broadcasters or registering print media outlets. Different actors are often involved, with professional regulation often being undertaken on a self- or co-regulatory basis and other forms of regulation being undertaken by a statutory regulator, such as the Commission. And the regime of sanctions for breach of a code of conduct is normally separate from, and lighter than, sanctions for breach of other regulatory rules.

The Media Act's approach to this does not align with international standards. The same Commission looks after all regulatory functions, and the same set of rules, including sanctions, applies to everything. This is very problematical because minor breaches of a code of conduct should not be treated in the same manner as fraud in the licensing or registration of a media outlet. Equally seriously, this is certainly not a self-regulatory or even a co-regulatory approach, as the Commission has three members who are appointed by the parliament (People's Majlis) and four members who are "elected by the media". In contrast to that, a self-regulatory system is run entirely by the media, with no formal or legal backdrop, while a co-regulatory system is set up by law but is dominated by media representatives. The Maldives is a perfect candidate for a co-regulatory approach to promoting media professionalism. Such a system can only be set up in close consultation with media actors.

The Media Act includes a number of references to unduly vague, restrictive ideas. These are not appropriate in a law which regulates media freedom. For example, section 2(a)(8) sets out as an objective of the law to prevent activities by the media which "mislead for a specific purpose or to achieve a specific objective". Of course the media should not seek to mislead people, but this is a vague reference which could easily be misused, and setting this out as a general objective of the law signals its overriding aim of controlling the media. Section 6(b), setting out principles to be followed by the Commission, is even more concerning, stating that "freedom of the press entails responsibilities and obligations higher than the public's right to know" and that those working in the media have a responsibility to the public as a whole. It is entirely unclear what this means. On the other hand, some of the more positive statements in the Media Act appear to be there just for show. For example, section 6(e) sets out as a principle for the Commission to "provide appropriate protection and security to media, those working in media and journalists" but this is never given effect or even referred to again in the rest of the Act, including the following section, setting out the responsibilities of the Commission.

Recommendations

- The Media Act should be repealed in its entirety and the government should engage in open consultations with concerned stakeholders before introducing any legislation along these lines.
- The definitions of media actors should be revised (see below) and the Media Act should refer consistently to who is covered by its provisions.

- The system of professional regulation should be transformed into a self- or co-regulatory approach.
- The numerous vague and restrictive provisions in the Media Act should be removed.

Independence of the Commission

It is very well established under international law that bodies which exercise regulatory powers over the media or digital communications should be independent of government, as well as the sectors they regulate, including through robust protections against the possibility of political interference in their work.[6] In practice, this needs to be achieved in law in various ways, including through the manner of appointment of members, allocation of funding and ensuring accountability, as well as through how staff, including senior staff, are appointed.

The Media Act states formally in section 5 that the Commission is an "independent legal entity", requires members to act independently (section 25(h)) and refers to the idea of "an independent administrative system" of regulation (sections 2(a)(2) and 6(b)). While positive, such blanket statements are not effective unless they are backed up by practical provisions supporting independence.

In terms of members, section 16 provides for seven members of the Commission, while section 17 provides for three members to be appointed by the People's Majlis and four to be elected by the media, of whom two shall represent broadcasters and two other media. The People's Majlis shall, pursuant to section 19, make a public announcement for individuals to apply to be a member within 15 days of the law coming into force. A majority vote of the total membership of the People's Majlis shall lead to the appointment of these individuals by the President (section 20(2)).

While this is preferable to the original Bill which was tabled, which allocated a greater role to the President, it still gives a lot of control to the legislature, which is especially problematical when that body is controlled by a single party, as is manifestly the case in the Maldives at the moment. This is particularly the case since, according to section 22(a), the People's Majlis also appoints and may remove the President of the Commission (on which, see below). In light of that, the fact that the media representatives formally outnumber those

[6] See, for example, Centre for Law and Democracy, *Maldives: Overview of the Environment for Media*, note 5, pp. 12-15.

appointed by the People's Majlis, albeit only by one, is not enough to guarantee the independence of the body.

There are other alternatives to this. For example, many countries have in place fully competitive processes, whereby individuals apply to be members and are then vetted by an independent appointments body, based on criteria which are established in advance, perhaps with five of six names being put forward to the legislature, which then pares that down to the required three. Another option is to have established independent bodies, such as a bar association, academic association or civil society networks, put forward names to be appointed.

The four media representatives are elected by registered broadcasters and media outlets, in elections run by the Elections Commission (section 21). This is a reasonable approach, although there is a problem in the Maldives whereby a number of non-functioning media outlets remain registered, which could skew the vote. An alternative here would be to give media organisations, including those representing journalists, the power to nominate members. At a minimum, there should be rules as to a media outlet being active, say over the year preceding the election. Another challenge here is that organising such an election is rather time-consuming. According to section 21(e), if a media representative needs to be replaced, that shall be done via another election. Elections are manageable where the term of all media members comes to an end and the members roll off, but it is rather impractical where just one member leaves and needs to be replaced.

As noted, according to section 22(a), the President of the Commission is appointed by the People's Majlis, while the Vice President, pursuant to section 22(b), is elected by the members of the Commission. It would be far preferable if the members also elected the President, as is the case with the interim committee appointed to administer the Commission's affairs until the proper Commission members are appointed (see section 15(d)).

Section 18 sets out requirements and prohibitions on members. For the most part, these are reasonable. However, the scope of expertise for members, set out in section 18(c), which stipulates having a first degree in journalism, broadcasting, policy-making or management, or five years of experience in the media field, is rather narrow, especially for a smaller-population country like the Maldives. Other areas of expertise set out for such positions often include law and engineering. In terms of prohibitions, the combined effect of section 18(d), which bars editors and other responsible persons, and section 18(k), which bars those with business interests in the media, may be somewhat limiting although at least the previous additional bar on anyone with any "personal interests" in the media has been removed (as

this would presumably have barred any journalist from being appointed). The provisions of sections 18(e) and (f), which bar those who are elected or appointed under the Constitution or a law, or hold a position in a political party, are positive, but it would be preferable to extend them back for a period of two or three years (i.e. require that members not hold or have held such a position for the last two or three years). It would also be useful to bar senior government officials from being appointed to these positions.

According to section 26, the tenure of members is five years and no reappointments are envisaged. Five years is a reasonable period of tenure, although it is common to allow for one period of reappointment, again taking into account the relatively small population of the Maldives. Section 28 sets out the conditions upon which a position on the Commission shall become vacant, including where a member commits an act "unbecoming of the position of member" or becomes incapable of carrying out his or her duties (sections 28(a)(3) and (4)). In these cases, the People's Majlis may remove a member by a majority vote. While these grounds for removal are not unreasonable, they are at the same time open to widely varying interpretations, thus giving significant discretion to the People's Majlis to decide on whether specific cases warrant removal. Given the important implications of removing a member, as well as the possibility of control of the People's Majlis by one party, it would be preferable if a two-thirds majority vote were required for this.

Section 33 sets out the rules for meetings of the Commission. According to section 33(c), which was added to the original draft, in addition to regular meetings, a special meeting, to be held within 48 hours, can be called with the signatures of three members or "by a state institution". The former is appropriate for special meetings but it is completely inappropriate to allow a State institution to force a meeting of the Commission.

Section 34 sets out the rules on conflicts of interest for members. These must be declared by the member concerned and recorded in the minutes, and the member shall then not participate in any discussion or decision relating to the matter in question. It is important to have rules on conflicts of interest, but this approach is too rigid. It would be preferable to require all possible conflicts, even minor ones, to be declared, but then leave it up to the other members to decide whether or not the member concerned should be recused from the matter thereafter. This is likely to lead to a more robust approach towards declaring possible conflicts, and then a more appropriate approach regarding whether the member is then barred from discussing the matter.

In terms of funding, section 79(a) provides for this to come from four sources: broadcasting licence fees, grants from local or foreign parties, funds allocated from the State budget (added

to the original version), and other legal sources. This is appropriate. The salary and benefits of Commission members are to be set by the National Pay Commission (section 27). It would be preferable to link them to those of an existing position, such as a certain level of judge, to minimise any possibility of political interference.

Section 81 provides for the presentation by the Commission of an annual report to the President and People's Majlis. This is an important accountability mechanism, especially when combined with section 78, which empowers the People's Majlis to require members to appear before it. It would be preferable, however, to require the annual report to be published.

While it is important for the members of the Commission to be independent, it is also important for the members to have full control over their staff (i.e. for the operational body itself to be independent). Section 36 now provides for the Secretary General of the Commission to be appointed "from the Civil Service Commission". This is a serious impediment to the independence of the Commission, as well as just a general fetter on its ability to operate effectively.

As regards the staff of the Commission, the Media Act takes a rather confusing approach. According to section 14, the current staff of the Maldives Media Council and the Maldives Broadcasting Commission shall be transferred to the Commission, with protection for their "period of service". Section 37 then provides that staff of the Commission shall be "civil servants", that the Commission shall set its own staffing structure and that the Civil Service Commission "shall appoint and dismiss employees needed by the Commission as per that structure and in consultation with Commission members". Section 37(d) empowers the Commission to transfer former Media Council and Broadcasting Commission staff within that structure, and to dismiss staff and appoint new staff, but only in accordance with the Civil Service Act (Law No. 5/2007).

As a first point, we note that the Commission should not be limited to hiring only civil servants and that the Civil Service Commission should play no role in the appointment of Commission staff. Both of these measures undermine the Commission's independence and its ability to run its own affairs in an efficient manner. Furthermore, we understand that the Broadcasting Commission does not operate with these constraints but, rather, has power over its own staff (see, for example, section 14 of the Broadcasting Act). Second, while we understand the reasons behind this, requiring the Commission to absorb all of the staff of the former Media Council and Broadcasting Commission, and to dismiss and hire staff only in

accordance with the Civil Service Act, will enormously constrain its ability to set up a new and effective organisation, with independent and appropriately allocated staff.

Finally, section 15 of the Media Act provides for the appointment, by the Civil Service Commission, of a five-person "interim committee" to manage the affairs of the Commission. We understand this body has already been appointed and that it comprises only senior government officials.[7] This interim committee has the power to administer the Commission, receive (but not process) complaints and register media outlets (but not cancel registrations) (section 15(g)). This is probably a needed interim measure, but it would have been preferable to have had at least some independent members on the interim committee.

Recommendations

- The system for appointing members of the Commission should be reconsidered in favour of one which allocates less power to the People's Majlis and more to independent actors, while only media which demonstrate an active record over a period of time should be allowed to vote for the media members.
- Both the President and Vice President of the Commission should be elected by the members.
- The types of expertise required of members should be broadened.
- The prohibitions on members' political activities should be expanded to include senior officials and to cover the last two or three years.
- Consideration should be given to allowing members to be reappointed for a maximum of two five-year terms and removal of members on discretionary grounds should require a two-thirds vote of the People's Majlis.
- State institutions should not have the power to compel a meeting of the Commission.
- The system for addressing conflicts of interest should be amended so that the other members determine whether the concerned member needs to be recused after declaring an interest.
- Consideration should be given to linking the salary and benefits of members to those of other positions, such as judges.
- The Commission should be required to publish its annual report.
- The Commission should have full control over its staff and Secretary General, who should not be required to be civil servants and not be appointed by the Civil Service Commission.

[7] See Adhadhu, "Interim committee formed under media control act", 21 September 2025, https://english.adhadhu.com/article/73032.

Scope

The primary problem with the Media Act in terms of its scope is the definitions in section 84. There are several definitions of media actors, including “newspaper”, “broadcasters”, “electronic media” and “media”. The all-important definition of the latter is confusing. It starts by referring to the idea of disseminating “news, information, entertainment, opinions and advertisements to the public”, which is incredibly broad (including “information” and “opinions”), and then adds that this content should be disseminated via a long list of means, including “internet-based software, websites, or applications” and “printed or published through internet-based software, websites, or applications”. It is difficult, reading this sentence, to understand exactly what is covered but it would potentially include any website which carried information which, in turn, would certainly cover social media websites.

The definition of “electronic media” is similarly extremely broad, covering the dissemination not only of “news” but also “information” through “through electronic devices, including audio and video, digital or tape, and the internet”. This again would cover any website, including any social media website. It may be noted that section 61 provides that the rules regarding newspapers, including registration and so on, shall also apply to electronic media, “to the extent relevant”, while the rules for journalists shall also apply to those working in electronic media, again “to the extent relevant”.

The definition of a newspaper is again very broad, covering not only daily and weekly publications but also other registered publications which carry “information, news, opinions and advertisements”, however their content is disseminated. Subject to the reference to registration, this would again cover any website. “Broadcasters”, on the other hand, are defined more narrowly to cover only entities which are licensed under the Broadcasting Act.

These definitions should all be cast far more narrowly so that they are limited to proper media outlets, as such, and not the wider dissemination of information online. A key characteristic which is often used to define a media outlet is the presence of an editorial process, as opposed to just an individual communicating their own views. In some countries, such as Indonesia, entities which do not have an editorial process, such as bloggers, may also opt into the system (thereby benefitting from its protections while also taking on its responsibilities). Another key characteristic of a media actor as compared to others who disseminate information is their commitment to professionalism, and this can also be incorporated into the definition. It probably also makes sense to limit the definition of a media outlet, for purposes of the Act, to entities which disseminate news and current affairs content, on a regular basis, to the public as a whole or a segment of the public.

The term "journalist" is not defined in section 84 but a working definition is found in section 59(b), which covers both those who work for media and others who are "engaged in disseminating news and information through electronic means". The latter is clearly inappropriate, as it would cover anyone who posts anything (i.e. "information") on social media, or over 70% of all Maldivians.[8] The definition of a journalist should be linked to the definition of a media, and comprise anyone who contributes regularly to the provision of content through the media, whether professionally or on a volunteer basis, and whether as an employee or freelancer.

As noted above, under General Comments, the Media Law is not consistent in the way it refers to those who are covered by its rules. Thus, section 7(k) refers to the code of conduct being followed by "broadcasters, media personnel and journalists", while the very next provision, section 7(l), refers to complaints about violations of the code by "broadcasters, media outlets, media personnel and journalists". Clearly such inconsistencies need to be addressed. The issue of which actors the code should apply to is addressed both under General Comments and again under Code of Conduct and Content Restrictions.

A few provisions in the Media Act seem to suggest that its scope spills over into the area of regulating social media, as opposed to media *per se*. Thus, section 7(n), setting out the responsibilities of the Commission, refers to it instructing "relevant authorities and service providers to take necessary measures to stop platforms that spread false news", which seems to go beyond just media actors. Similarly, section 2(7), setting out the objectives of the Act, refers to the idea of preventing "the spread of false information and fake news", which is far more closely associated with social media than media. Section 2(8) refers to preventing organised activities through the media to "deliberately conceal facts or mislead for a specific purpose or to achieve a specific objective". While this is specifically tethered to media activities, it again seems to refer more to activities which take place on social media.

Recommendations

- The various definitions of media actors and journalists in the Media Act, as found in sections 59, 61 and 84, should be fundamental revised, in line with the above, so as to apply only to media actors, *per se*, and not to cover all forms of dissemination of information online, including through social media.

[8] See, for example, https://datareportal.com/reports/digital-2025-maldives.

- The Media Act should be fully consistent in describing the scope of application of the various responsibilities it creates for different media actors.
- Those provisions in the Media Act which appear to extend its rules beyond media actors to cover social media should be amended to make it clear that the Act only applies to media actors.

Regulation of the Media

A number of provisions in the Media Act make positive comments about regulation of the media. Thus, section 7(f) calls on the Commission to "promote the freedom of the press and freedom of expression", section 7(g) calls on it to "submit to relevant authorities matters that appear to hinder freedom of the press, freedom of expression, and freedom to seek and receive information" and section 7(h) calls on it to conduct research into "factors that hinder the freedom to disseminate information to the public and the public's right to know, and to rectify such matters".

Chapter 7 of the Act, titled Registration of Newspapers and Magazines, covers both that issue and the register of journalists. Pursuant to section 61, these rules are extended to electronic media and journalists working for them.

Section 45 requires all newspapers and magazines to be registered with the Commission before they start publication, with a few exceptions (section 45(d)). Few details are provided as to how registration shall work, although section 46 provides for this to be done via the form issued by the Commission, and for documentation relating to the responsible person to be provided. Under international law, technical registration systems which do not allow for registration to be refused, apart from on very limited technical grounds, such as using a name which is already taken (as provided for in section 47) are acceptable, although they are also not considered to be necessary. The rules in the Chapter 7 do not provide enough detail to determine whether this is a technical registration system or something else. Better practice is to set out in more detail how registration shall work, including by providing explicitly that there is no discretion to refuse registration.

A few other rules in Chapter 7 are either unnecessary or unrealistic, as follows:

- Section 48 stipulates that the process of registration must include the language(s) of publication and that if other languages are used, the Commission must be notified. This is not very burdensome but it is also unnecessary and may lead to technical

breaches (for example if a newspaper publishes a letter in another language and fails to notify the Commission).

- Section 49(c)(3) prohibits legal entities against which "a court judgment has been issued" in the past two years from being a responsible party for a newspaper. This is not realistic or fair. For example, a legal entity may have been sued over what another party deemed to be a contractual breach and have lost the case. This is no reason to bar it from being a responsible party.
- Section 50 addresses cases where the position of responsible party for a newspaper becomes vacant, requiring the party to be replaced in 30 days. This is a very short period, taking into account that it may be difficult to find a replacement. Furthermore, pursuant to section 50(c), a failure to appoint a new party within that time period may lead to the registration of the newspaper being cancelled, which is an unduly draconian sanction.

As noted above, the Media Act does not really define a journalist but, instead, provides for a register of journalists to be published and for press passes to be issued to individuals who are included on the register (sections 59 and 60). The pass should enable the holder to "enter places that are generally not accessible to the public during events, incidents, and disasters". This is generally positive, especially since the category of individuals who may be registered is defined broadly, essentially to cover anyone working for a media outlet, although, as noted above, it also includes others who disseminate information through electronic means, which is too broad.

Section 52 allows the Commission to set requirements for editors working in registered media outlets. This is not legitimate. It should be up to newspapers to decide on their own who they feel should work for them as an editor. This is especially the case given that the Media Act already provides for each registered media to have a responsible party, and sets clear conditions for such parties (section 49).

Recommendations

- The rules on registration in sections 45 and 46 should be expanded to include more detail on the process and, at a minimum, should stipulate that this is a technical registration regime, with no discretion to refuse registration.
- Consideration should be given to repealing section 48 on languages used in a newspaper.

- The condition that legal entity responsible parties not be an entity against which a court judgment has been issued in the last two years, in section 49(c)(3), should be repealed.
- Consideration should be given to allowing for more than 30 days to replace a responsible party and the sanction for not doing so within the time limit should be far less intrusive than repealing registration.
- The part of the definition of those who are eligible for getting a press pass contained in section 59(2)(b) should be repealed.
- Section 52, allowing for conditions to be set on who may be an editor, should be repealed.

Code of Conduct and Content Restrictions

The Media Act has a number of somewhat confusing and overlapping rules relating to content, including via the code of conduct. Sections 7(k) and (l) set out as responsibilities of the Commission to adopt a code of conduct and to establish a system for receiving and processing complaints based on the code.

The main provisions on the code are found in Chapter 6, running from section 38 to section 44, which is titled "Code of Conduct". Section 38 requires the Commission to adopt a code of conduct, in accordance with the principles in section 39, within three months. Section 39 sets out a number of principles. Section 40 then sets out a list of matters to be included in the code. Sections 41 and 42 set out, respectively, standards for disclosing personal information and information on matters of public interest. Section 43 sets out certain rights of the public, while section 44 imposes some additional responsibilities on the media, both with a strong focus on accuracy.

As a first point, it may be noted that this approach is unduly complicated and repetitive. In most cases, laws providing for professional systems for the media, revolving around codes of conduct, simply have one provision setting out the key issues which the code should address. This could, in a general fashion, cover all of the issues listed in sections 39 to 44, to the extent that they are legitimate. There is no need to distinguish between principles and matters to be included in the code, let alone standards for personal and public interest information and then accuracy or truth. Also, the law should, at most, merely describe the issues to be addressed in a code, leaving it up to the party who is responsible for drafting the code to elaborate on the details.

Second, as noted above, it is not appropriate to have a statutory body which is not dominated by media actors, like the Commission, prepare and oversee the implementation of a code of conduct. This should be done via either a self-regulatory or a co-regulatory system, and the Commission does not qualify as either.

Third, various provisions in Chapter 6 apply to different actors. Sections 38 (and by implication 40), 39 and 44 apply to "broadcasters, media personnel and journalists". Sections 42 and 44 apply to information which is broadcast or published in the media, and section 41, on personal information, applies largely to journalists. There would appear to be no particular rationale or logic to these variances.

Fourth, it is not appropriate to apply the code of conduct to journalists and other media workers, as the Media Act does (see, for example, section 38, stating that the Code shall be followed by "media personnel and journalists", as well as broadcasters). While a number of countries do apply professional systems, including codes of conduct, to individual journalists, this represents a misunderstanding about the proper nature of these codes. Dissemination of content by a media outlet, which is what primarily causes the harms sought to be avoided by codes of conduct, is a collective exercise, not just a result of the actions of one person (i.e. a journalist). Thus, a journalist may fail to investigate a matter properly, and make a mistake in his or her initial report, but it is only after that report has been approved for dissemination by an editor that it will in fact be disseminated, causing the harm. Similarly, a report might include private information but harm to privacy will occur only if that report is disseminated. As a result, more sophisticated professional systems only apply to media outlets, *per se*, and not to individual journalists. Furthermore, some of the remedies in section 72, focused on journalists, are not within their reach. Thus, a journalist cannot rectify a breach of the code or publish a correction as these are things only a media outlet can do.

Fifth, the sanctions for broadcasters, newspapers and journalists in, respectively, sections 70-72, apply in a blanket fashion to breaches of the Act or the code of conduct (and licence conditions for broadcasters). This is not appropriate. Separate regimes of sanctions should apply to the code, on the one hand, and other breaches, on the other.

When it comes to the substance of the content restrictions, there are numerous problems, of which some of the more serious are as follows:

- Many of the items in section 39, titled "Principles", are simply not appropriate for the media. It is not the responsibility of the media to protect national security, safety, social conduct and public order. Of course the media need to respect the Constitution

and laws, like everyone, but this is not something to single out for mention in a media law.

- Other items in section 39 are cast too generally for the media to be expected to follow them, as compared to saying that these things should be elaborated upon in a code of conduct (where more detail can be provided). This applies to respecting Islam, protecting people's dignity, human rights and privacy, giving space to different ideas, and protecting vulnerable groups and children.
- There are numerous references in Chapter 6 to the ideas of truth and avoiding false content (sections 39(f), 40(k), 41(c), 42(b), 42(c), 42(e), 43 and the whole of 44). This repetition is not only unhelpful but actually creates confusion and different standards for the media. It may be noted that most inaccurate information in most societies is disseminated over social media, not media, *per se*, and that the media are simply not responsible for this wider problem. Furthermore, many of the statements do not align with international standards, which call for the media to make a professional effort to ascertain the truth before disseminating information, but not for the media not to make mistakes (which everyone does at least occasionally). There should be one statement about this, namely that this issue should be addressed in the code of conduct, and it should conform to the international standards just noted.
- Subject to the above, section 40, on issues to be covered by the code, is less problematical. However, some provisions are overly broad, such as section 40(e), prohibiting any depiction of sexual organs, even for medical or educational purposes, section 40(f), which prohibits any statement which might diminish respect for someone, even if perfectly legitimate (such as accurately exposing someone for engaging in corruption), and section 40(k), on false information (addressed above). In addition, section 40(i), on respecting individual freedoms, is simply not something the media should be required to do, beyond a few specific areas (this is an obligation for the State).
- While it is appropriate for a code of conduct to impose rules on protection of privacy, albeit subject to a public interest override, most of section 41 appears to confuse this issue with the issue of protection of personal data, which is not a specific media obligation (although media may, like other private businesses, be subject to data protection regimes). Much of the language here – such as in section 41(b) about only using personal data for the purpose for which it was sought and in section 41(c) about information being true, complete, accurate and up-to-date – reflects general data protection rules and is simply not appropriate for the media.

- It is hard to understand the purpose of section 42, given that international law provides special protections for freedom of expression in relation to public interest content, while section 42 imposes additional limitations on it. Most of the provisions in section 42 are already addressed in other provisions (such as those relating to accuracy, privacy and protection of vulnerable groups). Others, such as distinguishing between facts and opinions and disclosing conflicts of interest, could be added to the list of issues to be addressed by a code of conduct. Otherwise, there is no need for this section.
- Section 43, setting out rights of media consumers, is both inappropriate and unnecessary. It is inappropriate inasmuch as it raises unrealistic expectations among members of the public about what the media should do. And it is unnecessary since all of the issues it addresses are already addressed in other provisions. The correct approach here is to impose professional standards on the media via a code of conduct and then to enable public complaints based on that code. Which other provisions in the Media Act already do.

In addition to the issue of sections 70-72 eliding the sanctions for breach of the Act with those for breach of the code of conduct, many of these sanctions are not appropriate for breach of a code of conduct. For the most part, breaches of a code of conduct should only lead to light sanctions, normally either a warning or a requirement to disseminate a correction, reply or acknowledgement of the breach, perhaps along with the decision of the oversight body. At the very most, small fines may be warranted. In contrast to this, sections 70-71 provide for significant fines (sections 70(e) and 71(e)), the suspension of programmes (section 70(f)), the temporarily revocation of registration of newspapers (section 71(f)) and the cancellation of dissemination of content (sections 70(g) and 71(g)). These sanctions are in addition to the possibility of the Commission applying to court to cancel a licence or registration (sections 70(i) and 71(h)). As noted above, for the most part, the sanctions in section 72, for journalists, are not within their reach to provide. Section 73, setting out a separate and largely repetitive regime of sanctions for the dissemination of incorrect information (see sections 70(c) and 71(c)), is unnecessary and reflects an undue focus on the dissemination of false information.

Recommendations

- The complicated system of content restrictions and the code of conduct should be reconsidered in favour of a simple system which addresses all content issues through the code of conduct.

- Instead of having the Commission develop and apply the code of conduct, the system should instead be run on a self- or co-regulatory basis.
- The code of conduct (and any other content rules) should apply consistently to media outlets only and not to journalists and other media workers.
- A separate regime of sanctions should be developed for breaches of the code of conduct and this should be limited to lighter sanctions such as warnings and requirements to publish corrections, replies and the decisions of the oversight body, with smaller fines only being envisaged for repeated and serious breaches. Sections 72, providing for sanctions for journalists, and 73, providing for separate sanctions for disclosing incorrect information, should be repealed.
- The specific content rules in sections 39-44 should, in addition to being brought together into one section setting out matters for the code of conduct to address, be amended to reflect the comments above about overreach, inappropriateness and duplication.