



By: Ms Matshediso Mosalagae, Executive Secretary

The presentation will look at the establishment of the Press Council of Botswana, its organs particularly the Complaints Committee and the Appeals Committee, and how they operate.

Introduction

The Press Council of Botswana (PCB) was registered in 2002 in response to the Government's attempt to introduce a law intended to establish a statutory press council (state run and controlled). The bill known as the Mass Media bill of 1997, was solely focused on ways to and means to control and punish the 'irritating' media, especially the private press, which was said to be out of control due to lack of regulating legislation.

The PCB was officially launched in February 2003, with the managing director of the Gazette as the chair. She resigned a year later and Ms Pamela Dube who is the editor of The Voice took over. She still holds the position; after an Annual General meeting confirmed the election and the current board was elected into office.

The PCB Board of trustees is the governing council, but there are other, very critical independent bodies of the council which are the Media complaints Committee and the Media Appeals Committee. These are appointed to office by an independent Appointments Panel

The procedures for this are as follows

- The secretariat, in consultation with the Board issues adverts to call for nominations and or applications for members of the appointments panel. The panel is comprised of nine members from the public, civil society, media leaders and if necessary, a government body.
- Once in place, the Appointments panel issues an advert calling for applications for the two committees. Once satisfied with the response, the panel calls for public interviews, where anybody can sit through the interviews.
- The complaints committee comprise of nine members (5 from the public and 4 from the media). The chair is a member of the public. And I must point out that he is an employee of UNDP and was actually scheduled to be here, his name is Marx.

- The appeals committee has three members: The Chair (who ideally should be a retired judge, but any one with legal qualification can assume the position), a member of the public, and a media representative.

The independence of these structures is guaranteed in the Deed of Trust and can never be undermined. Through the recent Media Practitioners bill, the Government of Botswana is trying to take away the transparency and the independent nature of appointing these committees, by giving the Minister the powers to appoint these committees. At this point, please allow me to explain procedures of lodging a complaint with the Complaints and Appeals Committees.

COMPLAINTS PROCEDURE

Lodging a complaint with the Media Complaints Committee about a newspaper article, radio or television broadcast is free, easy and effective. The following rules apply for registering a Complaint with the Media Complaints Committee:

- 1) Complaints may be submitted by: a) Parties that are directly affected by the media publication or broadcast, or b) People not directly affected, but raising significant issues of press ethics.
- 2) The statement of complaint shall be expressed either in Setswana or English and the working language to be used shall be English. Arrangements for interpretation where need be shall be made.
- 3) Complaints have to be **in written form and signed for**, before processing, and can be registered: a) By Telephone: **267 3500378 (to be signed for)** b) By Fax: **267 3161196** c) In person, at the Press Council Secretariat: **Plot 398, Kgasa Close, Extension 4, opposite Lesedi Community Hall, Gaborone.** d) In writing to: **The Chairperson, Media Complaints Committee, P O Box 301315, Tlokweng.**
- 4) A complaint has to be lodged with the Media Complaints Committee within a period of **twenty-eight (28) days** of the publication of the article or broadcast. However, the Committee may grant an extension of **up to six (6) months** where sound reasons are provided.
- 5) The Complainant's name must be clearly stated; no anonymous complaints will be accepted. The person complained against must also be clearly stated. If possible, the Complainant should state what clause of the Media Code of Ethics was breached.
- 6) The Complainant must clearly state what **action** they want to be taken from the complaint, for example, a correction, an apology etc.

7) Legal representation shall not be allowed, as the primary objective is amicable settlement and reconciliation. For this reason, the Media Complaints and Appeals Committees reserve the right to request that any party who submits to their jurisdiction sign a Waiver of Legal rights.

8) Depending on the complexity of the case, the average time for dealing with and concluding on a complaint is **thirty (30) working days**.

9) It is important to note that the Committee is bound to publicize the complaint registered and its outcome for the sake of transparency, this includes mentioning the names of Complainants and their Respondents.

STEPS TO FOLLOW WHEN AGGRIEVED BY THE MEDIA

MEDIA COMPLAINTS COMMITTEE

1) The first thing a complainant should do when coming across something in a newspaper or broadcast which violates media ethics, is to write to or contact the editor, or person in charge of the broadcast about the matter as soon as possible and resolve it before involving a third party. If the editor or person in charge has not given a response within **five (5) working days**, or the response is not satisfactory, then the complainant should get in touch with the Media Complaints Committee as soon as possible, taking note of the rules stated above.

2) When lodging a complaint, the aggrieved person should supply the Committee with evidence such as supporting documents and relevant material e.g. a clear photocopy of the offending article, in addition to the statement of complaint, within **seven (7) working days** of registering a complaint.

3) On receipt, the Committee will formally inform the Respondent of the complaint and provide **five (5) working days** of notification for a response. The Committee will make a follow up within the said period.

4) Where the Committee receives a defense statement from Respondent, the Committee shall, within **three (3) working days** inform and deliver the defense statement to the Complainant and simultaneously call for a reply from the Complainant within **five (5) working days**. The Committee may at this stage call for more evidence from the Complainant. Where the Committee does not receive a defense statement, the Committee shall inform the Respondent that it shall proceed to consider the matter in the absence of his/her defense statement.

5) When the Committee receives a complete compilation of the record, which would comprise of statement of complaint, statement of defense, if submitted, reply and relevant material, it will adjudicate the matter. The Committee may uphold or reject the matter and deliver its decision within **ten (10) working days** of the final submission of documents or within a reasonable time depending on the urgency of the matter.

6) The Committee will publish the decision promptly, after informing the Complainant and Respondent.

7) Either Complainant or Respondent may appeal against the decision **within 14 days** of the release of the decision by writing the statement of appeal and reasons and deliver them within the aforesaid period to the Media Complaints Committee, the Media Appeals Committee, and to the other party.

MEDIA APPEALS COMMITTEE

1) If a party wishes to appeal against the decision of the Media Complaints Committee they should, within **fourteen (14) working days** of the release of the decision: a) Submit the statement of appeal and reasons for appeal in writing; and b) Notify and deliver the aforesaid documents to the other party, the Media

Complaints Committee and the Media Appeals Committee.

2) The Respondent should submit a statement to the Media Appeals Committee within **five (5) working days** of notification and defend the decision of the Media Complaints Committee. The Media Appeals Committee may call evidence within three (3) working days of receiving the statement from the Respondent.

3) The Media Appeals Committee will adjudicate the matter and deliver judgment within **ten (10) working days** or as soon as practicable in the circumstances.

4) The Media Appeals Committee will promptly publish its decision in writing, after notifying the parties.

Summary Of cases

In the first year of existence **2005**, the Complaints committee received a total of twelve cases. Three of the cases were withdrawn, five were adjudicated upon and four were resolved between the parties concerned-which is something that is often encouraged by the Complaints committee.

In the following year, **2006**, a total of four complaints were received. Two of the cases were adjudicated on and the other two were withdrawn.

In 2007 a total of eight complaints was received. Four of the complaints were adjudicated upon, three complaints were withdrawn and one was appealed.

Since its existence the complaints committee has dealt with a total of twenty-four. The cases involved issues ranging from defamation to inaccuracy to imbalance.

The work of the Committees started off slowly due to the slow support by the Media. There has also been a problem with lack of resources to undertake public education about the work of the Press Council and the two committees. But despite this, a significant reduction of lawsuits against the media has been recognized. This is a sign that indeed the Media is taking extra caution in reporting responsibly and working

within the code of conduct, which was drawn up by the Media Fraternity, recognizing the centrality of the media development.

Recently the Botswana media was faced with Media practitioners Bill which members of the Media and civil society thought is the minister's way of gaining control of the private media as she does with government media. The Bill also falls short of the principles of independency, political non-interference and promotion of self-regulation. (The minister intends to appoint the Complaints and the Appeals Committees) Though the minister insisted that the press needed to be regulated and that Media Practitioners asked that such a bill be drawn up, the opposite is the truth. The above statistics are a reflection that self-regulation within the media is in existence and in full effect.

Another important aspect of the PCB was the drawing of the Media Code of Ethics that was done in 2003. The Code has been accepted by the government and has the SADC parliamentary Forum has since adopted the Code as the best, to be used as a training manual for self-regulatory authorities for media councils in the region.

Generally, the PCB process has been welcomed by the Media, especially the private media, who see it as a way to professionalize the media and also, a platform where disputes can be settled without going through expensive legal law suits in the courts of law. The PCB is set as a tool to advance the media freedom and editorial independence. It is not viewed as stifling, since the Code, used in all the adjudications, was an agreed position of the media; it speaks to the professionalism and parameters of reporting.

Ideally, PCB would like to have more interaction with the public as there is still little or no knowledge of its work nationally. The challenge is to sell, and this is where funds play a pivotal role.

I THANK YOU