

Report on the Parliamentary Portfolio Committee on Information, Publicity and Broadcasting Services public hearings on the Zimbabwe Media Commission Bill

Compiled by

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And

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1. INTRODUCTION

The Zimbabwe Media Commission Bill forms part of the three laws that will repeal the Access to Information and Protection of Privacy Act (AIPPA) [Chapter 10:27]. The Bill will give effect to Sections 61 and 62 of the Constitution, which provide for citizens' right to freedom of expression, media freedom and access to information.

As obtained in Section 141 of the Zimbabwean Constitution, the Parliamentary Portfolio Committee on Information, Media and Broadcasting Services conducted public hearings on the ZMC Bill. This report summarises submissions made by organisations and members of the public during the Parliamentary Committee hearings. MISA Zimbabwe and MAZ participated in all five (5) public hearings conducted throughout the country.

2. METHODOLOGY

Subject to the provisions of Section 141 of the 2013 Constitution, the Committee invited members of the public to express their views on the proposed Bill in public meetings and through written submissions after convening meetings in Gweru, Bulawayo, Masvingo, Mutare and Harare.

3. ATTENDANCE BY MEMBERS OF THE PUBLIC

Statistics of attendance to the public hearings by members of the public were as follows:

Venue Attendance	Date	Estimated Total
Gweru	14 October 2019	50
Bulawayo	15 October 2019	45
Masvingo	16 October 2019	35
Mutare	17 October 2019	40
Harare	18 October 2019	63
Grand Total		233

4. SUBMISSIONS FROM MEMBERS OF THE PUBLIC

4.1 Interpretation:

Members of the public were implored to base their submissions on the country's Constitution as the Bill is among the laws that are being proposed for realignment with the country's supreme law.

The predominant issue raised in all the public hearings was on the need for the proposed law to recognise media self-regulation as the most democratic and effective form of regulating the media. Given that the Constitution effectively entrenches statutory regulation through the Zimbabwe Media Commission, media stakeholders and members of the public that participated in these public hearings urged Parliament to incorporate provisions that will give effect to co-regulation of the media.

Members of the public submitted that the preamble to the Bill should buttress the importance of self-regulation of the media. There was widespread concern that the proposed law entrenches statutory regulation, which is against international best practices.

It was argued that entrenching statutory regulation in the Bill defeats the constitutional provision that provides mechanisms for implementing co-regulation. The general view was that the Constitution envisages co-regulation when it recognised that the ZMC could delegate some of its functions.

Other issues that were raised during the public hearings included provisions that give the Executive, through the responsible minister, powers to interfere with the operations of the Commission. These provisions compromise the independence of the Commission, which would render them unconstitutional.

Concern was also raised on sections that have the likelihood of imposing criminal penalties for journalistic offenses, the involvement of police in investigating professional journalistic matters and issues pertaining to media sustainability.

Participants, that included journalists, media publishers, the academia and other stakeholders, stressed the need for a Media Development Fund and buttressed the need for co-regulation. Journalists also expressed concern that the Bill does not adequately protect them and is susceptible to abuse by those with political authority.

Media Development Fund

It was the general view in all the five provinces, that there should be provisions in the Bill that facilitate the setting up of a Media Fund as a sustainability mechanism for the industry. The envisaged Fund would draw resources from the taxes and levies that the media sector pays to the

ZMC. Another source of funding would be through journalists' accreditation fees. It was also submitted that the Fund should benefit wider society whose views are not covered by the media.

It is MISA Zimbabwe and MAZ's considered view that the absence of a provision for a Media Development Fund in the current Bill is retrogressive and that there is need for this provision to be included in order to cater for the development needs of the media industry.

Accreditation

Stakeholders expressed concern over the issue of multiple-accreditation arguing the duplicity in fees, for instance during elections, was burdensome and hindered them from doing their work. Journalists submitted that a centralised form of accreditation would serve the industry better.

Media law reforms

Media lawyer and journalist Chris Mhike said there is need to recognise the supremacy of the Constitution during this law making process. He said that there is need to take cognisance of provisions and standards that are provided in international instruments, most of which Zimbabwe is a signatory or state party to.

He said that the African Commission on Human and People's Rights (ACHPR) recognizes self-regulation as the most democratic model of promoting media professionalism and accountability.

Amendment of Section 7 of the Bill

It was submitted during the hearings, that the responsible minister (of Information), should not be involved in the businesses of the Commission, as that would compromise the independence of the Commission. Participants submitted that the inclusion of the Minister in these sections of the Bill, gives the Executive excessive powers over the affairs of the Commission. The public highlighted that by including the Minister in the clauses, it was a violation of the constitutional provision relating to independent Commissions.

Amendments of Section 8, 9 and 10

It was suggested that Section 10 (3) be amended, as it was tantamount to criminalising the work of journalists. Some participants argued that retaining provisions that involve the police in investigating journalistic professionalism could be interpreted as smuggling criminal defamation despite the Constitutional ruling that outlawed the offence.

Attempts to smuggle criminal defamation are retrogressive, argued the participants, with some suggesting that the provision is draconian and a threat to freedom of the press. Rather, it was suggested that efforts should be made towards strengthening a media a self-regulatory body that could handle cases of journalistic misconduct.

Academic, Alexander Rusero, said, there is general agreement on co-regulation as espoused in the Constitution while also taking into consideration the positive pronouncements by the Ministry of Information, Publicity and Broadcasting Services on the issue at hand.

He said that Section 249 (1) (d) of the Constitution says it is the role of the ZMC to encourage the formulation of codes of conduct for persons employed in the media and where such code exists, to formulate and enforce one. This implies that the Commission can delegate this role while journalists pointed out that this could be delegated to the Voluntary Media Council of Zimbabwe (VMCZ).

In addition, it was submitted that the Bill should be in tandem with other regional and international best practices on media regulation.

Amendment of Section 12 of the Bill:

Section 12 (3) (a) and (b) be amended so that the Bill does not include the criminalisation of journalism. It was also noted that the Bill was silent on the following:

1. On the working conditions of journalists, wherein the Bill could have established a framework to enhance the conditions of service for journalists and by extension address their safety and security concerns. Journalists recommended that there should be a clause in the Bill, which protects journalists. This was highlighted in Masvingo and Bulawayo.
2. The Bill does not recognize the Voluntary Media Council of Zimbabwe's (VMCZ) Code of Conduct, which journalists in Masvingo said they adhered to. It was recommended that the role of the VMCZ be recognized and that the self-regulatory body be capacitated to deal with media issues as it is already doing.
3. Participants observed that provisions that give excessive powers to the Minister could be prone to abuse. Giving the minister too much power compromises the independence of the Commission noting that the Bill was silent on how the Commission would retain its independence.
4. Concerns were raised over the involvement of the police in investigations into professional journalistic inquiries. There was a feeling that the involvement of the police is tantamount to criminalising the profession and that the Bill is silent on setting the parameters of this involvement.
5. Journalists argued that the Commission should investigate cases brought by complainants and should not be empowered to carry out investigations on their own as currently obtained in the Bill. In Mutare, journalist Simbarashe Muparaganda said that the ZMC must not investigate at its own instigation without a complaint having been lodged with

it. There should therefore be laid down procedures on submitting complaints before the Commission.

5. MISA ZIMBABWE/MAZ FINDINGS AND RECOMMENDATIONS

MISA Zimbabwe and MAZ were generally satisfied with the turnout and stakeholder representativeness during the public hearings when compared with other parliamentary hearings. It was also evident that the citizens had studied the Bill resulting in enriching submissions and discussions.

However, there was poor communication between Parliament and some members of the public as some citizens made general submissions that were not related to the Bill. MISA Zimbabwe and MAZ recommend that Parliament should invest in raising public awareness prior to and well ahead of its public hearings.

Fair gender balance in terms of attendance was noticeable during the hearings. However, there was gender disparity in terms of the contributions as more males tended to dominate the proceedings. Women need to be encouraged to participate in these public meetings.

Most of the participants generally echoed MISA Zimbabwe/MAZ's positions that were submitted before Parliament and the Executive. It is thus our encouragement and hope that these views will be taken on board during debates in Parliament and before the Bill is passed into law.

MISA Zimbabwe and MAZ also recommend that in future, these public hearings should not be restricted to urban areas as those in rural and marginalised communities also have a right to be heard.

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