



THE PROGRAMMING CODE FOR FREE-TO-AIR RADIO AND TELEVISION SERVICES IN KENYA

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DEFINITIONS:

“**Act**” means the Kenya Information and Communications Act, 1998, as amended and any subsequent amendments;

“**Advertise**” means to broadcast any item in return for payment or other valuable consideration to a broadcaster with the intention of:

(a) Selling to a viewer/listener, any product or service;

(b) Convincing a viewer or listener of a belief or course of action, person or organization;
or

(c) Promoting a product, service, belief, course of action, person or organization;

“**Authority**” means the Communications Authority of Kenya established under the Act;

“**Block timers**” means an independent journalist/producer who buys airtime in order to broadcast programmes on radio or television;

“**Broadcasting**” means unidirectional conveyance of sounds or television programmes, whether encrypted or not by radio or other means telecommunications, for reception by the public;

“**Broadcaster**” any legal or natural person who composes or packages or distributes television or radio programme services for reception by the public or sections of the public or subscribers to such a service, irrespective of technology used;

“**Broadcasting station**” means a station equipped to broadcast radio/television programmes;

“**Board**” means Kenya Film Classification Board responsible for film classification and rating;

“**Child**” means any human being under the age of eighteen (18) years;

“**Child of tender years**” means child under the age of ten (10) years;

“Commentary” means the descriptive account of an event or performance as it happens;

“Editorial” means an item on radio/television that expresses the opinion of the station;

“Electoral Body” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“Election Period” means the period between publication of a notice by the electoral body for a presidential, parliamentary or county election and the gazettment of the election results;

“Free to air” means a service which is broadcast without encryption and capable of being received by conventional broadcasting receiving apparatus;

“Minor” means a child of tender age;

“News” means information about recent events or happenings, especially as reported by newspapers, periodicals, radio, or television;

“Occultism” means the belief in or the study of the action or influence of supernatural or supernormal powers, agencies, or phenomena;

“Para-psychological Programmes” means programmes that are meant to impart behaviours, events or perceptions that are outside normal human understanding;

“Parental Guidance” means a programme that requires parents/adults to provide guidance for the viewership of children of tender years;

“Policy” means the ICT Policy Sector Guidelines of 31st March 2006 or its subsequent amendments;

“Political Party” means a party registered by the Registrar of Political Parties as a political party in Kenya under the *Political Parties Act, 2007*, and other successive Acts;

“Political Propaganda” means techniques used by political parties/individuals in political campaigns;

“Proselytism” means the act of attempting to force people to convert to a particular religion;

“Programme” means a body of live or recorded material consisting of images, sounds or both embodied in signals and emitted for the purpose of ultimate broadcasting;

“Programming” means scheduling of programmes;

“Programme Classification or rating” means the rating or classification as described below allocated to a programme or film by the Kenya Film Classification Board as mandated by *Film and Stage Plays Act, Cap 222*;

GE means General Exhibition or programmes suitable for general family viewing or viewers of all ages;

PG means Parental Guidance or programme that may contain scenes unsuitable for children under age 10 years and which require parental guidance for young viewers;

16 means programmes containing medium or moderate impact classifiable elements of an intensity and frequency and are not suitable for persons under the age of 16 years;

18 means programmes may contain scenes suitable for adults only and whose viewing is restricted to persons aged 18 years and above;

“Programming Code” means a code of practice for both radio and television broadcasters setting the standards for the time and manner of programmes to be broadcast by a licensee prescribed by or approved by the Authority

“Public Affairs Programme” means a programme on news or events happening in Kenya;

“ Warranted Public interest programme” shall mean the subject matter treatment or audio visual presentation of themes relating to social evils, gender or criminal or disreputable behavior, protecting public health or safety; exposing misleading claims made by individuals or organizations; or disclosing significant incompetence or corruption that affects the public.

“Radio” means a communication system that broadcast audio programmes to the audience;

“Regulations” means the *Kenya Information and Communications (Broadcasting) Regulation, 2009, and any subsequent amendments;*

“Television” means a communication system that broadcast video programmes to the audience;

“Text Crawls” means sliding of text across the television screen;

“Trailer” means an advertisement of a feature of a video/film to be broadcast at a later time;

“User Generated Content” (UGC) means broadcast content that is created or produced by the end-user and is publicly available.

“Watershed” is used to describe time in television and radio schedules after which material more adult in nature can be broadcast.

“Watershed Period” means the time between 5:00 a.m. and 10:00 p.m. or such other time as may be prescribed by the Authority, within which content intended for adult audience is not to be aired.

SECTION 1: PREAMBLE

1.1 Regulatory Framework of the Code

The Communications Authority of Kenya (the “Authority”) is required under the *Kenya Information and Communications Act 1998*, as amended (the “Act”) and the *Kenya Information and Communications (Broadcasting) Regulations, 2009*, to prescribe a Programming Code for free-to-air radio and television services setting out standards for the time and manner of programmes to be broadcast by licensed broadcasters under the Act. Section 46H (d) of the Act mandates the Authority to ensure compliance to the Programming Code prescribed under the Act. This code is to be known as the Kenya Programming Code for Free-to-air Radio and Television (the “Programming Code” or the “Code”).

1.2 Scope

In drawing up this Code the Authority has taken into account the objectives of the Act and the fundamental values, rights and freedoms enshrined in the Constitution of Kenya, 2010. It is the responsibility of broadcasters to ensure that their programmes and services comply fully with this Code. Broadcasters are also required to satisfy the Authority that they have adequate procedures to fulfill this requirement.

This Code will not apply where a broadcaster is a member of a body which has proved to the satisfaction of the Authority that its members subscribe and adhere to a programming code enforced by that body by means of its own mechanisms and such programming code and mechanisms have been filed with and accepted by the Authority.

The provisions set out in this Code should be read in conjunction with the Act, the Regulations, the policy and the respective broadcasting licence conditions. In this Code where the context admits, references to any provisions of the Act, policy or Regulations includes any reference to those provisions as amended or re-enacted or as their application is modified by other provisions from time to time.

1.3 Objectives of the Code

Broadcasting by its nature exerts a strong influence on a community. It is a medium for entertainment, information and education. Both radio and television combined are accessible to nearly all the people of Kenya, including children. Because of its impact, programmes over Free-To-Air radio and television must at all times maintain a standard that is acceptable to the Kenyan communities. This Code desires that:

1.3.1 Broadcasting in Kenya should reflect the national values, aspirations, hopes and dreams of Kenyans;

1.3.2 Broadcasting is regarded as a powerful medium for influencing culture, beliefs and values as well as a tool for economic growth and development;

1.3.3 Broadcasting has an immediate and lasting impact on the public and therefore demands that its practitioners display a high sense of responsibility, morality, fairness and honesty at all times;

1.3.4 Broadcasting services are expected to uphold the values and customs of civilized society, maintain the respect of the rights and sensitivities of all people, preserve the honour and sanctity of the families and homes, protect the sacredness of individual dignity, and promote national unity and cohesion.

SECTION 2: GENERAL PRINCIPLES

The Constitution of Kenya recognizes and upholds every person's right to freedom of expression, which includes freedom to seek, receive or impart information or ideas. The right to freedom of expression does not extend to propaganda for war, incitement to violence, hate

speech or advocacy of hatred that constitutes ethnic incitement, vilification of others or incitement to cause harm or discrimination. In the exercise of the right of freedom of expression, every person is expected to respect the rights and reputations of others. In line with these constitutional requirements, this Programming Code outlines the following principles:

- 2.1 Radio and television broadcasters have an obligation to serve the public interest at all times. In this regard, the Public Service Obligations of broadcasters include but are not limited: provision of uninterrupted services throughout the entire term of their respective licences; observance of the local content quota as prescribed by the Authority from time to time; protection of minors and viewers from indecent programming; accuracy and impartiality in gathering and presentation of news and information; representation of a wide range of views and opinions when broadcasting controversial issues of public interest; safeguarding the right of citizens and groups to defend themselves if they have been attacked on air (right of reply); separation of advertising from editorial programming; providing equitable coverage and opportunities to registered political parties participating in an election and in particular to presidential candidates; ensuring special access and rates for appearances by political candidates; provision of public notices of emergency or public disaster announcements at no charge upon the request of a person authorized by the Government; special rate card for and mandatory airing of commercials on issues of public interest; access to broadcasting services by persons with disabilities particularly news and events of national importance; dedicate part of their programming to educational and information shows for children.
- 2.2 Radio and television broadcasters should ensure that all aspects of their programming respect the dignity of individual and basic rights of others;
- 2.3 Radio and television stations are free in creating and editing programmes while respecting professional and generally accepted values, ethical and moral standards;
- 2.4 The broadcasters are responsible for the broadcast materials relayed on their stations, regardless of their source, as well as professional activities of its employees;
- 2.5 All broadcasting stations shall adhere to Intellectual Property Rights and shall refrain from any misappropriation of programmes;

- 2.6 Broadcasting stations are expected to schedule programme materials that adhere to generally accepted standards of decency. These standards include but are not limited to respect of ethnic, cultural, economic and religious diversities in Kenya;
- 2.7 Broadcasting stations shall take care not to schedule para-psychological programmes that intend to manipulate individual interpretations of viewers/listeners;
- 2.8 It is the duty of broadcasting stations to ensure special attention in programmes is dedicated to treatment of vulnerable persons who appear in these programmes;
- 2.9 It is the responsibility of broadcasters to ensure that employees observe their ethical obligation to protect their sources of information;
- 2.10 Broadcasters shall be obliged to abide by Section 9 of this Code in relation to election period and political parties. But this does not preclude them from abiding by the rules of the electoral body and the country's laws related to elections.
- 2.11 All broadcasting stations shall fully and factually represent facts and events, and also promote freedom in expressing opinions;
- 2.12 Broadcasters shall publish and make their editorial policies publicly available.

SECTION 3: FAMILY PROGRAMMING /GOOD TASTE AND DECENCY

Relevant legislation to this section includes Section 461 (2) (a) (b) of the *Kenya Information and Communications Act, 1998*, and Sections 20 (b), and 34 (1) (2) of the *Kenya Information and Communications (Broadcasting) Regulations, 2009*. .

3.1 Scope

This Programming Code seeks to ensure that unsuitable material for children and minors is not broadcast at times when there is likely to be a large audience of young listeners or viewers. The Code further seeks to ensure programmes broadcast during the watershed period are suitable for family audiences and the transition from family-oriented to a more adult programming after the watershed period is gradual. Attention will be given to include and respect diversity such as may be expressed through differences due to, but are not limited to, cognitive or physical ability, culture, ethnicity, religion, socio-economic status, gender, age, national origin, political persuasion, marital status, educational background or geographic location.

The watershed period guidelines apply to all programme and non-programme matter, namely advertisements, infomercials, programme promotions, programme listings, community service announcements, station identifications, commentaries, interviews and documentaries.

3.2 Guidelines to programming during the watershed period

- 3.2.1 All programmes broadcast between 5.00am and 10.00pm must be suitable for family listening and viewing. Any programmes or movies classified or rated by the Kenya Film Classification Board (KFCB) as General Exhibition (GE), Parental Guidance (PG) or rated 16 may be aired during this period. The transition from family-oriented to a more adult programming after the watershed period of 10.00pm shall be gradually executed.
- 3.2.2 Consumer advice such as warnings, labeling, classification details and other announcements should be given prior to the telecast of the programme or its trailers. Classification details or rating should be shown throughout while the programme is running. However, this does not diminish the broadcaster's responsibility for sensitive scheduling of programmes to reduce the risk of causing offence.
- 3.2.3 Save for educational programmes which may require graphic details, no broadcasting station shall air programmes including interactive call-ins or discussion sessions whose content is suitable for adult only audience during the watershed period.
- 3.2.4 Promotional material and music videos which contain scenes of violence, sexually explicit conduct, occultism and/or offensive language intended for adult audiences shall not be broadcast during the watershed period.

3.3. PROGRAMME CLASSIFICATION AND RATING

This means the rating or classification as described below allocated to a programme or film by the Kenya Film Classification Board (KFCB) as mandated by the Film and Stage Plays Act, Cap 222.

3.4 Scope

Classification guidelines as prescribed by the Kenya Film Classification Board (KFCB) apply to all programme and non-programme matter, namely commercials, infomercials, documentaries, programme promotions, programme listings, community service announcements and station identifications.

3.5 Guidelines for programme classification or rating

- 3.5.1 Programmes requiring parental guidance (PG) usually contain adult themes or content that may be sensitive in nature but may be of particular education or entertainment value to children. Programmes classified as PG require parental guidance for young viewers and, therefore, can only be aired during the watershed period if they are preceded by at least a five seconds advisory warning that also includes their rating.
- 3.5.2 Broadcasters are encouraged to include in all parental guided programmes warnings in other publicity materials like the TV page in newspapers and TV guides.
- 3.5.3 All trailers and promotional material shown before the watershed period must comply with the programming during the watershed.
- 3.5.4 Trailers for programmes rated 16 and 18 should not be broadcast during the watershed period.

SECTION 4: CHILDREN PROTECTION

Relevant legislation to this section includes Section 20 and 31 (c) of the *Kenya Information and Communications (Broadcasting) Regulations, 2009* which require licensees to take due caution to protect children and to encourage programming that develops their physical, mental and social potential.

4.1 Scope

Children are involved in programmes in a number of ways and programme makers must have due regard to their welfare at all times. Particular care should be taken to avoid causing any

distress or alarm to children involved in programmes. Under no circumstances may children be put at physical or moral risk.

The Children's Programmes and Welfare guidelines apply to all programme and non-programme matter namely advertisements, infomercials, programme promotions, programme listings, commentaries, interviews, and documentaries.

4.2 Guidelines on coverage involving children

4.2.1 The right to privacy of the children must be respected. Since undue publicity or wrong labeling can cause harm to them, children who are victims of abuse or conflict with the law shall not be identified, directly or indirectly. Any information that might cause them to be identified shall not be aired.

4.2.2 Surprise and unplanned ("ambush") interviews of children are not allowed.

4.2.3 Child victims, child suspects, child accused of a crime, child arrested or detained on suspicion of wrong-doing, and child that are undergoing trial shall be protected from further suffering emotional distress or trauma; they shall be interviewed only upon consent of their parent or legal guardian, unless the parent or the guardian is the accused.

4.2.4 Children should not be required, coerced or bribed to recall and narrate traumatic experiences, demonstrate horrific acts, or describe them in graphic details. Programmes and materials involving children must comply with all pertinent laws, rules and regulations of this country, such as the children's Act.

4.2.5 A person who is, or depicted as being, under the age of 18 years shall not participate in, engage in or aid another person to engage in sexual misconduct or lewd display of nudity.

4.2.6 A broadcaster shall not discriminate in choosing children to interview based on gender, race, age, religion, status, education background or physical abilities.

4.2.7 Ensure that the child or guardian knows they are talking with a reporter. Explain the purpose of the interview and its intended use.

4.2.8 Pay attention to where and how the child is interviewed. Limit the number of interviewers and photographers. Try to make certain that children are comfortable and able to tell their story without outside pressure, including from the interviewer.

4.3. Guidelines to children's programmes and welfare

- 4.3.1 Broadcasters should ensure that a minimum of five hours of their radio or TV station programming per week is devoted to programmes suitable for children. Radio broadcasters should particularly be sensitive to times when children are the likely audience during scheduling of their programmes. This guideline shall not apply to stations with niche programming..
- 4.3.2 Broadcasters shall ensure that children's programmes promote appreciation of good social and moral values.
- 4.3.3 Children's programmes shall not foster violence as a desirable means of resolving conflicts and problems. Any unavoidable depiction of such violence must portray the consequences of such violence to its victims and perpetrators.
- 4.3.4 Children's programmes shall not depict inappropriate sexual subjects or violent actions.
- 4.3.5 Broadcasters should avoid programmes that portray any dangerous or harmful behaviour easily imitated by children.
- 4.3.6. Children's programmes should avoid scenes depicting the consumption of liquor or tobacco products unless an educational point is being made, in very exceptional cases if the dramatic context makes it absolutely necessary.
- 4.3.7. Advertisements of products or services which are not suitable for children or which might cause them physical, mental, psychological or moral harm shall not be aired in or adjacent to children's programmes.
- 4.3.8. No material which might be physically, mentally, psychologically, or morally harmful to children shall be aired immediately before, during or immediately after a children's programme.
- 4.3.9 Animated programming for children, which is an accepted style of story-telling, can contain non-realistic violence. It should, however, not have violence as its central theme, and should not invite dangerous imitation.
- 4.3.10 Demonstrations of exorcisms, occult practices and the paranormal, must not be shown when children are particularly likely to be watching or listening.

- 4.3.11 Music videos with content that may be harmful to children in terms of lyrics, video images and dressing should be avoided during the watershed period when most children are likely to be watching or listening
- 4.3.12 Broadcasters should ensure trailers for post-watershed content are not scheduled during the watershed period.
- 4.3.13 Broadcasters should give more time and emphasis on programmes that promote educational standards, positive moral character, and religious upbringing of the child.

SECTION 5: NEWS AND PUBLIC AFFAIRS

Relevant legislation to this section includes Sections 46I (d), 6 (3) (i), 21, 22, and 30 (a) of the Kenya Information and Communications Act , 1998 as amended and Section 32 of the Kenya Communications (Broadcasting) Regulations, 2009.

5.1 Scope

The Programming Code seeks to ensure that news and information are broadcast and presented in a balanced manner, without prejudice or negligent departure from facts pursuant to provisions in the Act.

5.2 General Guidelines

- 5.2.1 The objective of news and public affairs programmes shall primarily target to inform the Kenyan public on important current events and issues rather than merely entertain.
- 5.2.2 For broadcasting stations which provide news as part of their daily programming, news schedules shall be not less than one and half hours of the station’s daily programming.
- 5.2.3 News reports shall be fair, factual, accurate and objective.
- 5.2.4 Receiving bribes, gifts, privileges or any consideration to favour one side of the story, stop a story from airing, or put any person in either bad or favourable light is not allowed.
- 5.2.5 Side comments expressing personal opinions while a news item is being reported or delivered are prohibited to prevent the listener from mistaking opinion for news.
- 5.2.6 When presented as part of the news programme, editorials or commentaries must be identified as such and presented as distinct from news reports.

- 5.2.7 Presenters and speakers on radio and television serve as role models, as far as the use of language is concerned. Broadcasting stations should ensure at all times that their presenters and participants in their programmes speak language appropriate to the programme and of the highest possible standard.
- 5.2.8 When broadcasting controversial issues of public interest during live broadcasts a wide range of opinions and views should be represented.

5.3 News Sources

- 5.3.1 Care must be taken in selecting news sources since the credibility of the news rests upon its sources.
- 5.3.2 News sources must be clearly identified, except when confidentiality of the source was a condition for giving information.
- 5.3.3 Before airing information provided by a confidential source, an effort should first be made to look for a source who can be identified or who can corroborate the information provided by the confidential source.
- 5.3.4 Press releases may be used as news sources only after the station has verified that it has come from an authentic source.
- 5.3.5 Suspects or fugitives from the law may be interviewed as news sources. However, they should not be aided, abetted, or encouraged when in the act of planning or committing a crime nor shall they be accompanied on their way to committing a crime.
- 5.3.6 No payment shall be made to persons involved or engaged in crime or other notorious behaviour, in order to obtain information concerning any such behaviour, unless compelling societal interests indicate the contrary.

5.4 Unconfirmed Reports

- 5.4.1 Unconfirmed reports shall not be aired unless there is an immediate and urgent need for the public to know about them, for example when the public needs to be warned of the possibility of an imminent danger. When such reports are aired, it must be emphasized that they are unconfirmed.

- 5.4.2 An unconfirmed report must be verified as soon as possible. If an unconfirmed report is found to be false, an announcement saying so must be made as soon as possible.
- 5.4.3 Broadcasters shall ensure that broadcasts from its station are based on fact and that are not founded on opinion, rumour, supposition, or allegations unless the broadcast is carried out in a manner that indicates these circumstances clearly.
- 5.4.4 Broadcasters shall ensure that they do not broadcast any report where there is sufficient reason to doubt its accuracy and it is not possible to verify the accuracy of the report before it is broadcast.

5.5 News and Interviews

- 5.5.1 Text crawls will not be allowed for advertising during a newscast. However, text crawls running news headlines shall be required throughout the newscast.
- 5.5.2 Interviews must be presented in the proper context. Replies of interviewees to questions must not be edited or editorialized in a way that would distort their intended meaning.
- 5.5.3 Selecting and phrasing of questions during an interview shall be the primary responsibility of the interviewer. Such questions must be determined primarily by the public interest to be served.
- 5.5.4 When the interviewer is not free to choose his questions or the interviewee or source has imposed conditions on the interview, this fact must be made clear to the public during broadcast.
- 5.5.5 Broadcasters shall request for permission to conduct an interview with a minor from the minor's parents or guardian before conducting an interview.
- 5.5.6 Broadcasters shall ensure that any person who is to be interviewed in any of their broadcasts is: advised of the subject of the interview; and is informed, before the interview takes place, to determine whether the interview is to be recorded or broadcast live.

5.6 Unconventional News Gathering and Reporting

- 5.6.1 In the most extreme circumstances, when information being sought is vitally important to the interest of Kenyan public or necessary to prevent profound harm, the use of hidden cameras or microphones and other similar techniques of news gathering and reporting may be resorted to. Before resorting to such techniques, conventional methods must first be exhausted. In all cases, the use of such techniques must conform to the law.
- 5.6.2 When material obtained through such techniques is broadcast, this must be presented fairly, factually and in proper context. The right to privacy must be observed and harm to the innocent avoided.
- 5.6.3 When materials that have been obtained through unconventional techniques are received from third parties, their broadcast must be in conformity with the relevant provisions under this section.
- 5.6.4 Broadcasters shall endeavor to ensure that when broadcasting controversial issues of public interest during live broadcasts, a person or organization whose views on any controversial issues of public interest have been criticized during a broadcast, and who wishes to reply to such criticism is given an opportunity by the broadcaster to reply to such criticism within a reasonable time,
- 5.6.6 A reply to criticism is given a similar degree of prominence and shall be broadcast on a similar time-slot, as soon as is reasonably possible.

5.7 News Production Aids and Techniques

- 5.7.1 News production aids should not mislead the public.
- 5.7.2 Archived file video, photo, and audio materials should be properly labelled as such when aired and must not be presented in a manner that may cause the viewer/listener to mistake them as a broadcast of a live or more recent event.
- 5.7.3 Subjects of video and voice clips should be clearly identified.
- 5.7.4 The simulation or re-enactment of actual events must be clearly labeled as such to avoid misleading the viewer/listener.

5.7.5 Text crawls shall not be used for advertising messages during a newscast except during the closing credits.

5.8 Sensationalism

5.8.1 The presentation of news and commentaries must always be in good taste.

5.8.2 Broadcasters shall take into consideration the likely composition of the viewing audience at the time of broadcast.

5.8.3 Morbid, violent, sensational or alarming details not essential to a factual report are not permissible.

5.8.4 Presentation of news and commentaries must not be done in a way that would create unnecessary panic or alarm.

5.8.5 Broadcasters shall ensure sensitivity in the case of material likely to cause some distress to a substantial number of viewers such as images or interviews with victims of traumatic incidents. Such material should only be used when deemed editorially essential, and if so, sparingly.

5.9 Station Editorials

5.9.1 Station editorials shall be clearly identified as such and the station assumes responsibility for the views expressed in the editorials.

5.9.2 Station editorials may be prepared only by persons who are qualified and expressly authorized by the station to do so.

5.10 Advertisements in the News

5.10.1 Broadcasters must maintain independent editorial control over programming.

5.10.2 Advertisements must be clearly distinguished from the news.

5.10.3 Advertisements in the guise of news are not allowed.

5.10.4 No advertisement of products that is not permissible to children by the laws of Kenya shall be allowed during the watershed period.

SECTION 6: ANALYSIS AND COMMENTARIES

6.1 This section of the code seeks to ensure that any commentaries that are broadcast by a licensee are presented in a manner that clearly indicates that they are based on facts pursuant to Section 27 of the Broadcasting Regulations.

6.2. Guidelines for Analysis

6.2.1 Airing of public affairs programmes is encouraged, particularly to give the public the opportunity to participate in discussions of current issues, concerns and events.

6.2.2 Public affairs programmes shall be handled only by persons who have thorough knowledge of the subject and practice broadcast ethics.

6.2.3 Public affairs programmes shall aim to enlighten the Kenyan public on significant issues, concerns and events.

6.2.4 Public affairs programmes shall strive to elicit responsible views on public issues, concerns and events from all the sections of Kenyan society.

6.2.5 Public affairs programmes aired on time contracted to other parties (such as block timers) shall name who is responsible for producing programmes every time they are aired.

6.2.6 Opposing or contrasting sides of public issues should be fairly presented.

6.2.7 Personal bias or prejudice on public affairs programmes shall not be allowed to distort facts.

6.3. Guidelines for Commentaries

6.3.1 Airing of Commentaries is encouraged, particularly to give the public opportunity to participate in discussions of current issues, concerns and events.

6.3.2 Commentaries shall be handled only by persons who have thorough knowledge of the subject and practice broadcast ethics.

6.3.3 Personal bias or prejudice in commentaries shall not be allowed to distort facts.

SECTION 7: FUNDAMENTAL RIGHTS

Relevant legislation to this section include Section 46I (f) of the Kenya Information and Communications Act, 1998, which obligates broadcasters to respect the right to privacy of individuals.

7.1 Scope

The rights of an individual are an integral part of Kenya's democratic state and are a framework for social, economic and cultural policies. The media as an agent for information, entertainment and education is expected to play a pivotal role in promoting individual rights.

7.2 Guidelines on Fundamental rights

- 7.2.1 The right to privacy of individuals shall be respected. Intrusion into purely personal matters which have no bearing on the public interest is prohibited.
- 7.2.2 Persons affected by tragedy or grief shall be treated with sensitivity, respect and discretion.
- 7.2.3 Persons who have suffered grief should not be subjected to stalking by the media
- 7.2.4 News coverage must not violate nor interfere with an individual's right to be presumed innocent until proven guilty.
- 7.2.5 Care and reasonable discretion should be exercised in disclosing the identities of persons, by face or by name, so as not to harm their reputation and safety. Proper labeling of a person as a "suspect," "alleged perpetrator," "accused," or "convict(ed)," is required.
- 7.2.6 The broadcast of material showing arrested or detained persons being physically assaulted or verbally abused in a manner that demeans or humiliates them should be avoided.
- 7.2.7 Telephone calls or interviews must not be aired without informing the other party before hand.

- 7.2.8 Broadcasting stations are not permitted to share phone-in commentaries, including names and phone numbers of the participants without first seeking their consent.
- 7.2.9 Broadcasters shall not broadcast any information acquired from a person without that person's consent, unless the information so acquired is essential to establish the credibility and authority of a source, or where the information is clearly in the public interest.

SECTION 8: PERSONAL ATTACKS

Relevant legislation to this section includes Section 46I (j) of the Kenya Information and Communications Act, 1998.

8.1 Scope

Kenya is a multi-cultural, multi-ethnic and multi-religious society. It is imperative that our national unity is upheld and safeguarded against any form of non-cohesive actions.

8.2 Guidelines on Personal attacks

- 8.2.1. Personal attacks, that is, attacks on the character of an individual, institution or group, on matters that have no bearing on the public interest are prohibited.
- 8.2.2. Programmes intended to malign, unfairly criticize or attack a person, natural or juridical, are prohibited.
- 8.2.3. Personal attacks against fellow broadcasters are prohibited.
- 8.2.4. When personal attacks against any person, institution or group are aired, that person, institution or group shall be given a fair opportunity to reply immediately in the same programme, if possible, or at the earliest opportunity. If not, the opportunity to reply should be given under similar conditions.

SECTION 9: ELECTION PERIOD AND POLITICAL PARTIES

Relevant legislation to this section includes Section 25 of the Kenya Information and Communications (Broadcasting) Regulation, 1998, that directs broadcasters to provide equitable coverage and opportunities to registered political parties participating in an election and in particular to presidential candidates.

9.1 Scope

It is the duty of the media to uphold the democratic principles of our nation especially during the election period by providing equitable coverage and opportunities to political parties and candidates.

9.2 Guidelines on Election Period and Political Parties

- 9.2.1 Equitable opportunities in the access of unpaid airtime shall be given to candidates and political parties.
- 9.2.2 No programme or sponsor shall be allowed to manifestly favour or oppose any candidate or political party. However, the right to objectively inform the public on significant issues and events and the duty to provide a forum for the discussion of such issues and events shall be respected.
- 9.2.3 The amount of airtime allotted to political propaganda and the rates to be charged for it shall be consistent to all parties and candidates.
- 9.2.4 If a person working on programmes for a station becomes a candidate or is employed or retained in any capacity by a political aspirant or a political party, he/she shall go on leave for the duration of the election period or his employment may be terminated by the station.
- 9.2.5 All broadcasts of election propaganda shall be identified through the words “paid for by” followed by the name of the candidate or political party for whom the election propaganda is being broadcast.
- 9.2.6 No broadcasters shall treat news during the election period to deliberately give some candidates undue advantage over their rivals.

- 9.2.7 Broadcasters shall not employ technological gimmicks like doctoring pictures of political rallies to enlarge the crowds.
- 9.2.8 All programmes related to campaigns and elections shall be subject to the relevant provisions of this Code and all other Laws of Kenya governing elections.
- 9.2.9 Broadcasters shall ensure that political messages do not contain attacks on individuals, their families, ethnic background, race, religion or their associations.
- 9.2.10 Broadcasters shall ensure that political messages do not contain offensive, threatening, abusive, obscene or profane language.

SECTION 10: CRIME AND CRISIS SITUATIONS

10.1 Scope

A crisis can be defined as an emotional and physical response to some participating event or series of events that disrupts our normal day-to-day functioning. In some cases, the experience can be overwhelming leading to one's self esteem suffering. In this case, media plays a vital role in either encouraging or preventing such situations.

10.2 Guidelines on coverage of crisis situations

- 10.2.1 The coverage of crimes in progress or crisis situations such hostage-taking or kidnapping shall not put lives in great danger than what is already inherent in the situation. Such coverage should be restrained and care should be taken so as not to hinder or obstruct efforts by authorities to resolve the situation.
- 10.2.2 Coverage should avoid inflicting undue shock and pain to families and loved ones of victims of crimes, crisis situations, disasters, accidents, and other tragedies.
- 10.2.3 The identity of victims of crimes or crisis situations in progress shall not be announced until the situation has been resolved or their names have been released by the authorities. The names of the fatalities should be released only when their next of kin have been notified or their names released, by the authorities.
- 10.2.4 Coverage of crime or crisis situations shall not provide vital information or offer comfort or support to the perpetrators.

10.2.5 Stations are encouraged to adopt standard operating procedures consistent with this Programming Code to govern the conduct of their news personnel during coverage of crime and crisis situations.

10.2.6 Persons who are taken into custody by authorities as victims or for allegedly committing private crimes (such as indecency or lasciviousness), shall not be identified, directly or indirectly unless a formal complaint has already been filed against them. They shall not be subjected to undue shame and humiliation, such as showing them in indecent or vulgar acts and poses.

SECTION 11: COPYRIGHT

Relevant legislation to this section includes Section 46I (g) of the Kenya Information and Communications Act, 1998, and Cap 130 of The Copyright Act of the laws of Kenya.

Guidelines on Copyright

11.1 The Broadcaster shall be responsible for all obligations and liabilities to any third party associated with copyright or other rights that may arise from the broadcast of copyright programme.

11.2 The Broadcaster must have contracts with copyright licensing bodies or authorized legal vendors before broadcasting copyrighted material.

11.3 The Broadcaster is obliged to have contracts for broadcast of copyrighted material and it must, upon request, submit such contract to the Authority.

SECTION 12: RELIGIOUS PROGRAMMES

Relevant legislation to this section includes Section 20 (d) of the *Kenya Information and Communications (Broadcasting) Regulations, 2009*.

12.1 Scope

Kenya is multi-religious nation whose laws guarantee, safeguard and protect the freedom of worship and association.

12.2 Guidelines on Religious programmes

- 12.2.1 All religious programmes shall be geared towards emphasizing the positive role of religion in the society.
- 12.2.2 Religious programmes shall not spread false charges or accusations against persons or organizations with different beliefs. Such programmes shall not be used to maliciously attack, insult, harass, or ridicule other churches, faiths, sects or denominations or their followers merely because of their beliefs.
- 12.2.3 Religious programmes shall give due regard to the freedom of religion and religious expression.
- 12.2.4 Broadcasters shall ensure that religious programmes do not improperly exploit any susceptibilities of the audience for such a programme e.g. religious personnel should not misuse religion to exploit audiences by asking them to support them financially or abuse of a person's belief in order to convince that person to change her /his belief and subscribe to the beliefs of the person challenging her/him.
- 12.2.5 Broadcasters shall not discriminately treat religious groups over the others in religious programming. This rule shall not apply to stations specializing on religious programming.
- 12.2.6 Religion and religious activities of those belonging to a particular religion shall not be misinterpreted. Broadcasters must use their best endeavors to provide accurateness and correctness of the content of religious programmes.
- 12.2.7 Individual religious groups shall not be treated inappropriately in the programme.
- 12.2.8 Broadcasters shall not engage in proselytism.
- 12.2.9 Religious programmes shall comply with other pertinent provisions of this Code.

SECTION 13: ADVERTISEMENT

Relevant legislation to this section includes Section 46I (i) of the Kenya Information and Communications Act and Section 33 (1) of the Broadcasting Regulations.

13.1 Scope

Broadcasters are responsible for advertising material transmitted by their stations and must therefore ensure that all advertisements are legal, honest, decent, truthful and conform to the rules of fair competition. Broadcasting, and particularly radio and television broadcasting, because of its constant presence in the home, raises problems which do not necessarily occur in other media and it is therefore essential to maintain a consistently high quality broadcast advertising.

13.2. Guidelines on Advertising

Advertising shall **not** –

13.2.1 prejudice respect for human dignity,

13.2.2 include any discrimination on grounds of race, sex or nationality,

13.2.3 be offensive to religious or political beliefs

13.2.4 Encourage behaviour that is prejudicial to the protection of the environment.

13.2.5 A licensee shall ensure that ALL advertisements aired on its station contain
at least 40% local content footage .

13.2.6 Advertisements shall be clearly distinguishable as such and recognisably separate from the other items of the programme service by optical and/or acoustic means. In principle, they shall be transmitted in blocks and isolated advertising spots shall remain the exception.

13.2.7 Advertisements shall not feature, visually or orally, persons regularly presenting news and current affairs programmes, and the expression "News Flash" must not be used as an introduction to an advertisement, even if preceded by an advertiser's name.

13.2.8 No television advertisement may include any technical device, which, by using images of very brief duration or by any other means, exploits the possibility of conveying a message to, or otherwise influencing the minds of, members of an audience without their being aware or fully aware, of what has been done.

13.2.9 Advertisements should not encourage behaviour prejudicial to health or safety. Advertisements should not without justifiable reason depict or describe situations which

show dangerous practices or a disregard for safety. Special care should be taken in advertisements directed towards or depicting children.

- 13.2.10 All forms of advertising for cigarettes, cigars and other tobacco products shall be prohibited.
- 13.2.11 Advertisers must exercise the utmost care and discrimination with regard to the content and presentation of advertisements transmitted during breaks within or near or adjacent to programmes designed for children.
- 13.2.12 Advertisements shall not exhort children to buy a product or service by exploiting their inexperience or credulity.
- 13.2.13 Advertising shall not exploit the special trust minors place in parents, teachers or other persons.
- 13.2.14 Advertisements shall not directly encourage minors to persuade their parents or others to purchase or make enquiries about the goods or services being advertised.
- 13.2.15 Advertisements shall not unreasonably show children in dangerous situations.
- 13.2.16 Advertisements shall not contain any descriptions, claims or other material which may, directly or by implication, mislead members of the public in relation to the product or service advertised, or about its suitability for the purpose recommended;
- 13.2.17 Advertisements should not unfairly attack or discredit, directly or by implication, any other advertisers, products or advertisements.
- 13.2.18 Advertisements should not exceed seven (7) minutes in any 30 minutes of television broadcasting.
- 13.2.19 Advertisements are not to be aired during live screening or broadcasts of national holiday ceremonies, parliamentary proceedings, and state of nation address. Broadcasts of such live events shall not be open for sponsorship.

SECTION 14: OCCULTISM AND SUPERSTITION

Relevant legislation to this section includes Section 46I (c) of the Kenya Information and Communications Act, 1998.

14.1 Scope

Occultism is a belief in the efficacy of various practices based on hidden knowledge about the universe and its mysterious forces. In order to avoid glamourising occultism and to avoid its undesirable consequences to the people of Kenya, the following guidelines shall apply

14.2 Guidelines on Occultism and superstition

- 14.2.1 Programmes featuring superstitious and pseudo-scientific beliefs and practices, such as supernatural powers, foretelling of the future, astrology, phrenology, palm-reading, numerology, mind-reading, hypnotism, faith healing or similar subjects shall be carefully presented as not to mislead the viewer/listener. Care should be taken to prevent the exploitation of people who may be easily swayed by such superstitious and pseudo-scientific beliefs and practices.
- 14.2.2 Programmes or programme materials that promote or encourage occult practices, black magic, witchcraft and similar activities are not admissible during the watershed period.

SECTION 15: DISCRIMINATION

Relevant legislation to this section includes Section 46I (j) of the Kenya Information and Communications Act, 1998, and Part IV Section 19 (d) of the Broadcasting regulations.

15.1 Scope

Viewers/listeners have the right to expect that broadcast services will reflect their responsibility to preserve human dignity, as far as possible, in respect of both individuals and communities.

15.2 Guidelines on Discrimination

- 15.2.1 No programme should be transmitted which is intended to stir up tribal, racial, religious or, ethnic hatred taking into account the circumstances that are likely to do so: where appropriate, schedules should give a fair reflection of the contribution of all communities to the society.
- 15.2.2 Racist terms, insensitive comments or stereotyped portrayal, which may cause offence, should be avoided. Their inclusion is acceptable only where it can be justified within the context of the programme.

15.2.3 Broadcasters must exercise sensitivity and avoid humour which offends good taste and decency. Examples include jokes based on race, gender, disability as such humour (even malicious intent) can easily cause hurt or humiliation.

15.2.4 All television stations shall provide a sign language insert and subtitles in all newscasts and in all programmes covering emergencies and events of national significance to facilitate enjoyment of the programming by Persons with Disabilities

SECTION 16: SEX, OBSCENITY AND PORNOGRAPHY

The relevant legislation to this section includes Section 46I (c) of the Kenya Information and Communications Act and Section 19 (1) (b) of the Kenya Broadcasting Regulations.

16.1 Scope

Much great fiction and drama is concerned with love and passion which can shock and disturb. Careful consideration should be given to programmes involving sex and nudity and any portrayal of sexual behavior must be defensible in context.

16.2 Guidelines on Sex, Obscenity and Pornography

16.2.1 Sex and related subjects must be treated with care and must conform to what is generally acceptable to the Kenyan society. Any programmes involving such subjects must conform to the requirements of the watershed and rating by the Kenya Film Classification Board or its successor thereof.

16.2.2 Explicit depiction of sexual arts in any programme including music, sexual perversions, nudity and pornography are prohibited during the watershed period and can only be allowed thereafter to the extent that is permitted by the Kenya Film Classification Boards or its successor thereof.

16.2.3 Unless there is a strong editorial justification, explicit or graphic descriptions of sexual organs, other sensitive parts of the body, and acts generally considered indecent or offensive are prohibited.

16.2.4 Offensive, obscene, blasphemous, profane and vulgar double meaning words and phrases are prohibited, even if only understood by the segment of the audience.

SECTION 17: LIQUOR, CIGARETTES, AND DANGEROUS DRUGS

Relevant legislation to this section includes Section 461 of the Kenya Information and Communications Act, 1998, and Section 45 of Alcoholic Drinks Control Act.

17.1 Scope

Consumption of tobacco and alcoholic products may constitute health risks. It is, therefore, desirable that programmes generally should not include smoking and drinking unless the context or dramatic veracity requires it.

17.2 Guidelines on Liquor, cigarettes and dangerous drugs

17.2.1 The use of liquor and use of dangerous drugs shall never be presented as socially desirable or acceptable.

17.2.2 Drug abuse, smoking and alcohol abuse shall not be presented in the programmes primarily intended for minors, except in cases where programmes are indicating consequences of such abuse.

17.2.3 Drug abuse, smoking and alcohol abuse shall not be promoted as acceptable, nor shall it be encouraged or justified in the station's programming.

SECTION 18: PROPORTION OF LOCAL CONTENT IN TELEVISION/RADIO PROGRAMMES

Relevant legislation to this section includes Sections 35(1) and 46I (b) of the Kenya Information and Communications Act, 1998.

18.1 Scope

For purposes of this Code, Local content means the total of all television or radio programmes excluding news and advertisements, which fulfill any five of the following conditions:

- (a) the production is made in either Kenya's indigenous or official languages;

- (b) production and post-production was wholly or partly done in Kenya;
- (c) the content deals with issues that are unique and relevant to Kenyan audiences;
- (d) at least twenty percent (20%) of the share of the production company are owned by Kenyans;
- (e) at least fifty percent (50%) of the leading actors, major supporting cast appearing in the program and technical crew are Kenyans;
- (f) the location of shooting, in case of audiovisual programmes or performance was wholly or partly in Kenya;
- (g) the author(s) of the program are Kenyan (whether or not the program is produced in conjunction with a co-producer, an executive producer or director who is not Kenyan)

Incase of an animated program the program satisfies at least three of the following requirements;

- i. the production designer is Kenyan
- ii. the character designer is Kenyan
- iii. the supervising layout artist is Kenyan
- iv. the supervising storyboard artist is Kenyan
- v. The key background artist is Kenyan
- vi. The director is Kenyan

18.2 Guidelines on Local Content

18.3 Broadcasting stations shall ensure, within one year of award of licence, not less than 40% of their station's programming is local content. Broadcasters' local content programming should increase to 60% within four years after receipt of licence. The local content programming referred to in this paragraph excludes news, and advertising.

18.4 Any broadcaster that does not comply with the local content quota shall be required to pay such an amount of money as may be prescribed by the Authority for every year they are in contravention.

SECTION 19: USER GENERATED CONTENT

Relevant legislation to this section includes Section 19 (1) (a) of the Kenya Information and Communications (Broadcasting) Regulations.

19.1 Scope

UGC may be relayed through traditional as well as non-traditional sources of media such as twitter, you-tube, facebook, blogs, podcasts and even mobile telephony to mention but a few.

The proliferation of UGC comes with a set of risks and pitfalls which have made it necessary to take precautionary measures and mitigation.

19.2 Guidelines on User Generated Content

Broadcasters shall:

19.2.1 Ensure no harmful UGC is broadcast on their stations

19.2.2 No libelous, threatening and hate UGC is aired on their stations.

19.2.3 Guard against copyright and trademark infringement on their UGC broadcasts

19.2.4 Avoid obscene, indecent, and spam in their UGC programmes; and

19.2.5 Ensure the UGC broadcast generated by their stations are accurate and reliable.

SECTION 20: PERSONS WITH DISABILITIES

Relevant legislation to this section includes Section 36 of the Kenya Information and Communications (Broadcasting) Regulations, 2009.

20.1 Scope

Broadcasters are expected to take specific steps to promote the understanding and enjoyment of programmes transmitted through its stations by persons who are physically challenged and in particular, persons who are deaf or hard of hearing, or who are blind or partially sighted.

20.2 Guidelines on Persons with Disabilities

20.2.1 Broadcasters shall take specific steps to include Persons with Disabilities in different programmes. In addition, broadcasters should air programmes focusing on persons with disabilities with a view to improving their general welfare and wellbeing.

20.2.2 In the case of news, programmes covering national events, emergencies and educational programmes television stations shall provide a sign language insert or subtitles.

20.2.2.1 The presentation of the signer on the intended display screen should be of sufficient size and resolution to show all movements of the full upper trunk together with arms, hands and fingers, shoulder, neck and all relevant facial movements and expressions.

20.2.2.2 The size of the overlay must ensure that the body and facial expressions referred to above are easily discernible from normal viewing distances. It is important that the person signing can be clearly distinguished.

20.2.3 Broadcasters should ensure the use of experienced Sign language interpreters with relevant qualification in the Kenyan Sign Language from the Kenya National Examination Council or its equivalent

20.2.4 Humour based on physical, mental or sensory disability, even where no malice is present should be avoided. Reference to disability should only be included where relevant to the context.

SECTION 21: PUBLIC COMPLAINTS

Relevant legislation to this section includes Section 39 of the Kenya Information and Communications (Broadcasting) Regulations, 2009.

21.1 Scope

For the purposes of this Code, a complaint is an assertion:

- a) Made in writing by letter, e-mail or fax by an aggrieved viewer/listener who provides his/her identification including the address;
- b) made to a broadcaster or a person at the television/radio station concerned who is acting with the apparent authority of the broadcaster that the broadcaster has broadcast matter which, in the opinion of the complainant, breaches this Code. Complaints need not specify the section of the Code to which the complaint relates, but must adequately identify the material broadcast and the nature of the complaint.

21.2 Guidelines on Public Complaints

This Code directs the following on the submission of complaints:

- 21.2.1 The broadcaster must make appropriate arrangements to ensure that complaints are received and recorded by a responsible person during normal office hours.
- 21.2.2 Listeners who telephone a station alleging a breach of the code, and who wish to make a complaint, will be asked to make the complaint in writing, in accordance with the provisions of this Code.
- 21.2.3 Written complaints must be conscientiously considered by the broadcaster and the broadcaster must use its best endeavours to respond substantively in writing within 30 days of the receipt of the complaint. If the broadcaster needs to investigate the complaint or obtain professional advice and a substantive response is not possible within 30 days, the broadcaster must, in any event, acknowledge receipt of the complaint within 30 days and provide a final reply within 45 days of receiving the complaint.
- 21.2.4 The response must inform the complainant that he or she has the right to refer the complaint to the Authority if the complainant is not satisfied with the response by the broadcaster.
- 21.2.5 If a complaint is made more than 30 days after the broadcast of the material on which the complaint is based, the broadcaster is not obliged to comply with the requirement of this Broadcasting Code with respect to that particular complaint. The broadcaster shall have

the discretion to respond to the complaints lodged beyond the stipulated period, except where compelled by the Authority.

21.2.6 The broadcaster must make every effort to resolve complaints made in accordance with this Code, except where the complaint is, in the reasonable opinion of the broadcaster, frivolous, vexatious or an abuse of the complaint process under the Code.

21.2.7 The broadcaster is under no obligation to respond to or record complaints provided anonymously to the broadcaster.

21.2.8 A record of complaints must be kept by the broadcaster in written form and must include:

21.2.8.1 The date and time the complaint is received;

21.2.8.2 The name and address of the complainant;

21.2.8.3 The substance of the complaint;

21.2.8.4 The substance and date of the broadcaster's response(s)

21.2.9 And each such record must be retained by the broadcaster for a period of (1) year from the date of receipt of the complaint.

21.2.10 The broadcaster must cause an extract of the records of complaints and responses to be supplied to the Authority in the prescribed form.

SECTION 22: COMPLIANCE WITH THE CODE

22.1 Complaints of violations of this Code shall be handled by the Authority, which shall hear and rule on such complaints in accordance with their duly established rules of procedure. An appeal against the decision of the Authority shall lie with the Communications and Multi Media Appeals Tribunal.

22.2 Persons, natural and legal, who are granted airtime, whether by sale or donation (including *blocktimers* and independent producers) shall be required to execute an undertaking that they shall be liable, jointly and severally with the station, for all

applicable penalties that may be imposed for violations of this code in their programmes. Individuals who go on air during such a time shall also be required to execute the same undertaking.

22.3 Persons who regularly go on air and news writers, scriptwriters, editors and directors whose job is to produce material which go on air are expected to know and understand the provisions of this code.

22.4 Copies of this Code shall be provided by the station to all its personnel who go on air, produce materials for airing or who participate in such work, all persons granted programming airtime and those who go on air during such time.

SECTION 23: OFFENCES AND PENALTIES

23.1 Any person who contravenes any provision of this Code commits an offence and shall be liable to penalties under the Act.

SECTION 24: ENTRY INTO FORCE

24.1 Broadcasters will be given a duration of six months within which they are expected to implement this Code, with the exception provided in section 18 on Local Content which has its own specific timelines.

Signed for and on behalf of the Authority



Director General

02 – 12 - 2015

Date