# Kenyan Media Landscape

The Nation Media Group and Standard Group dominate media ownership with the two leading television channels and daily newspapers. Increasing competition arises from the Royal Media Group that owns *Citizen Radio* and *Citizen TV*. Alternative media are small and vulnerable and perceived as “gutter press” (BBC WST, 2006). They did have a market initially but now have a credibility problem. (*Ibid.*) The mainstream media concentrated in the Standard Group, Nation Group and Royal Media Group are seen to “serve the ruling class” (RSF, 2008), and while most Kenyans get their news from radio and television, private radio and television networks have only recently expanded outside Nairobi.

Kenya has 49 radio stations (including international stations and region-specific subsidiaries of stations and only two (experimental) community stations). The majority of stations are regional, and include large numbers of religious stations and increasing numbers of ethnic stations. Nationally Kiss FM, which has a youth market, has the highest audience share (57.5%), followed by Citizen (42%) and Easy FM (41.2%). There is high plurality of ownership, and the number of stations frequently changes.

Kenya has 13 national television stations. Three of them are state-owned Kenya Broadcasting Corporation (KBC) outlets – KBC English, KBC Kiswahili and KBC Metro FM – and the rest are private commercial stations. The state-owned TV channel remains the only channel with over 90% geographical coverage in the country. It is heavily indebted and has no mandated editorial independence. The two most popular channels in the country, Nation TV and KTN-TV, are owned by the Nation Media Group (NMG) and Standard. There is also access to two subscription satellite services and an international cable television network which together total hundreds of international channels.

Kenya has five daily newspapers, six weeklies, and several monthlies. There are no significant local or regional papers – almost all the papers are national. *The Daily Nation* is the leading daily in the country in terms of readership, followed by *The Standard* (2006). The two major dailies have regional editions with different deadlines and often different headlines. All other dailies fall far below these leading newspapers in readership. The state no longer runs a newspaper, although the ruling party operates one.

Use of the internet is unrestricted; however, only 3 percent of Kenyans were able to access the internet in 2006 owing to the high costs involved. (Freedom House, 2007)

# Legal and regulatory environment for media in Kenya

Kenya has no specific media law in place, and particularly, there is no broadcasting legislation or regulatory system in place.

Section 79 (1) of the Constitution of Kenya states: “Except with own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say freedom to hold opinions without interference, freedom to receive ideas and information without interference and freedom from interference with his correspondence.”

The guarantee of freedom of expression is conditional. The constitution allows for laws to be passed that restrict this freedom in the interests of defense, public safety, public order, public morality or public health, which are all undefined, and the government routinely restricts this right by widely interpreting various laws. These include the Official Secrets Act, the Law of Sedition (defining sedition to include anything which might “bring into hatred or contempt or to excite disaffection amongst the inhabitants of Kenya”), the Defamation Act, criminal libel legislation, and Section 77 of the Penal Code which prohibits acts exciting disaffection against any public officer. The Penal Code further provides for prohibition of publications by the “Minister” without clearly stating the grounds and procedures for a ban.

The Miscellaneous Amendment Act of 2002, raised publishers’ mandatory insurance bond to one million Kenyan shillings (about US$13,100), has had a negative impact on numerous independent newspapers that cannot afford to pay the increased fees and negotiate elaborate administration.

Defamation is criminalized in Kenyan law, but in a 2005 defamation case the attorney general declared that the archaic law would no longer be used to suppress freedom of expression, and no journalists were prosecuted for criminal libel in 2006. Prior to this, libel cases had been rising massively, with no limit on the amounts claimed for damage.

There have been a number of media bills presented to parliament over the last few years, including a 2007 Proposed ‘Kenya Media Bill’ to allow courts and police to force journalists to reveal their sources not signed by president. The Kenya Communication Bill would have restricted media ownership and granted the government wide-ranging powers of search and seizure without judicial or parliamentary approval in the case of possible threats to national security. Both are still pending after having been sent back for redrafting. A Media Council Bill (1998) which would have imposed a statutory regulatory body on the media was shelved in favour of media self-regulation.

## Reality

The Kenyan government routinely acts against the press through legal and extralegal means. During December 2007 political unrest government banned all live broadcast reporting from the first day of disturbances, 30 December. “The ban was only partially followed, was poorly defended by the authorities and not lifted until 4 February 2008.” (RSF, 2008)

Journalists continue to be held for alleged offences without due process. “In a case in early 2006, two journalists from the Standard newspaper were held for publishing an allegedly ‘false’ story regarding an alleged meeting of President Mwai Kibaki with a powerful opposition politician. The two arrested journalists were held without clarity as to which law they had contravened” (AMDI, 2006).

There have been several recent examples of ‘physical attack’ (RSF 2007) on press offices. In March 2006 the offices of the independent daily the *Standard* were raided by armed police officers. “Three journalists were arrested for questioning in connection with a story of political intrigue within the government. Approximately 20,000 copies of the March 2 issue were seized and burned, printing equipment was vandalized, and computers were confiscated. A similar armed raid resulted in the closure of the national broadcasting station, Kenya Television Network, which is also owned by the Standard Group” (Freedom House, 2007). Reporters Without Borders describes several more such raids on other media offices in 2006, involving the arrest of staff to ‘settle scores’. (RSF 2007)

The government advised public sector groups not to advertise in the Standard Group media in a public services ministry email circulated at the beginning of April 2007 after *The Standard* reported on an alleged plot by a government minister to kill the former president’s son. (IPI, 2007)

A number of investigative journalists have received threats and politicians have interfered in newsrooms. For example, in 2006 First Lady Lucy Kibaki forced her way into offices belonging to *The Nation* in order to complain about negative coverage she had received, and hit a cameraman (MSI, 2007).

# Economics, training and supporting institutions and ethics issues in Kenya

There is a strong link between economics and ethics in Kenyan journalism. There is widespread reference to corruption in the media in reports. According to the MSI,

many journalists ask for transport from organizers of events. Editors ask for money to kill stories or give more coverage to certain people, institutions, or businesses. Self-censorship is practiced at all levels. Negative stories on big advertisers are not run in order to protect revenue.” (2007).

In addition to this, “potential advertisers seem to be afraid of being seen to do business with certain media that are perceived as critical of government. Examples cited were the now defunct *Weekly Review* in 1979 and the *Kenya Times* in 1981 when advertisements were withdrawn after the papers took an increasingly bold stance on public issues. To many advertisers and media houses alike this seems to have been a lesson still far from forgotten.” (BBC WST, 2006). Media houses also have a tradition of seeking to be “politically correct” with existing regimes and changing political re-alignments.

At the same time, Kenya’s broad middle class provides substantial advertising revenue, thus allowing for a more diverse media landscape than in many African countries. Advertising is a well-developed industry in Nairobi, with a number of advertising firms that work for different media outlets. But for individual journalists, it is understood that remuneration is usually not adequate to discourage corruption. “Pay remains low for most freelance journalists who form the majority—75 to 80 percent—of the profession. Freelancers based in up-country stations are particularly poorly paid.” (MSI, 2007)

While the media maintains a broad public service responsibility, their alignment with elites often leads them into difficult ethical positions. One very important example was the violence around the December 2007 election. “The alleged fraud in a presidential election was clearly an urgent matter for the media and its journalists. But in the interests of restoring public order they deliberately chose to ignore it while thousands of Kenyans poured into the streets in search of “truth” and “justice.” “Growing pressure on freedom of expression and the media’s own fear of exacerbating violence and ethnic divisions dominated the behaviour of editors and journalists and they firmly chose restraint in their coverage of the situation.” (RSF 2008)

Kenya has no independent media regulator, but the self-regulatory Media Council of Kenya (MCK) came into operation in 2004. The Council enjoys wide support from journalists, editors and owners of the mainstream media, who willingly appear before the council when called, and is used by government.

Kenya has many media-related professional associations, but most of them exist in name only with no evidence of real work, and most journalists are un-affiliated with professional associations. Examples include the decades-old Kenya Union of Journalists and the Kenya Correspondents Assocation. There are several other beat related organizations. Most media owners are reluctant to improve terms for correspondents even though they restrict them to working for their respective companies.

There are several NGOs that support the media, including numerous foreign donors but this is not well documented (AMDI, 2006). Several NGOs are very vocal in lobbying and advocacy around media bills.

Kenya had 23 institutions offer media training in 2006 and the output of trained journalists is now much higher than what the market can absorb. However the practical orientation of courses is still very limited. (BBC WST, 2006)

# Recommendations

Kenya needs to take advantage of its well-funded media organizations to enhance the role of journalism in the country by eliminating widespread corruption in the industry. The most important part of this would be to elevate the status of the country’s numerous underpaid freelance journalists who are exploited, and adopt corrupt practice out of desperation. An important role in this could be played by functional media support organizations or unions. There might even be a role to be played by media regulation, or an independent regulatory authority. According to Moggi and Tessier (2001), raising the status of journalists in the country would be one of the best and most efficient ways of improving standards (AMDI 2006)

Training also needs to focus on quality, rather than quantity, and include specialized training regarding business and economics reporting and investigative reporting.

Outside of this, there is urgent need for a comprehensive media law to protect the media from government aggression and to promote a more responsible role for the media. Ideally, freedom of the press should be fully enshrined in law. Media workers need to be able to do their jobs free from legal and extralegal intimidation, and this needs to begin in the legal and regulatory sphere. Substantial efforts need to be instituted to overcome the legacy of past repression. Business and political organizations need to be discouraged from using the media as a tool, which requires that the independence of the media be strengthened.

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