1 Regulatory mechanisms

Regulation of broadcasting in Uganda is split between two institutions:

- The Broadcasting Council established under the Electronic Media Act which is the primary law that governs the broadcasting sector and specifies the attendant regulatory mechanisms for the industry; and
- The Uganda Communications Commission, which was established by the Uganda Communications Act.

While the Broadcasting Council has oversight over the journalistic, content and production aspects of broadcasting, technical oversight over the sector is the responsibility of the UCC.

The Broadcasting Council

The functions of the Broadcasting Council are:\n
a) To co-ordinate and exercise control over and to supervise broadcasting activities;
b) To be responsible for the standardisation, planning and management of frequency spectrum dedicated to broadcasting and to allocate such spectrum resources in such manner as to ensure the widest possible variety on programming and optimal utilisation of those spectrum resources;

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c) To co-ordinate communication on electronic media with the relevant national and international organisation;
d) To receive and consider applications made to it under this Statute;
e) To set ethical broadcasting standards;
f) To arbitrate, in consultation with the Media Council on disputes between,
   (i) operators of broadcasting stations; and (ii) the public and operators of
   broadcasting stations;
g) To advise Government on all matters relating to broadcasting.

The Broadcasting Council is composed of a chairperson, two representatives of
operators of radio and TV stations, one representative of video and cinema operators,
two members of the public ‘who shall be persons of proven integrity and good
repute’, one lawyer, and one senior officer from each of the following government
departments or public bodies: the ministries responsible for information, for culture,
for communications, for education, and from the Uganda Revenue Authority. The
chair, the representatives of operators and the public and the lawyer are appointed by
the minister responsible for information. He/she is not legally obliged to consult with
stakeholders outside the state. A secretary, who is a senior officer in the Ministry of
Information and National Guidance, oversees the day-to-day business of the Council.

The appointments procedure for the Broadcasting Council is in contravention of
clause 7(2) of the Declaration of Principles on Freedom of Expression in Africa. The
article states:

The appointments process for members of a regulatory body should be open and
transparent, involve the participation of civil society, and shall not be controlled by
any particular political party.

In the case of Uganda, the appointment of the members of the Broadcasting Council
is the prerogative of the minister responsible for information.

Section 10(5) of the Electronic Media Act further undermines the independence of
the Broadcasting Council as a regulator insofar as it allows that ‘the Minister may give
directions of a policy nature to the Council regarding the performance of its functions
and the Council shall comply with the directions’. Given that the law does not define
what constitutes directions of a ‘policy nature’, there is always room to exploit this
 provision for political motives.

The Council is answerable only to government and is suspected to have taken some
of its decisions as a result of political pressure from state authorities. For instance, in
August 2005 the council ordered the closure of the Kampala-based KFM radio for a week. The decision came after President Yoweri Museveni had warned publicly that media houses that compromised ‘national security’ would be punished. In September 2009, the Broadcasting Council, acting on what were believed to be government directives, closed four radio stations accused of promoting sectarianism and inciting violence before and during riots that followed a political standoff between the central government and the Buganda Kingdom (see below for more details).

The Broadcasting Council is financed from government grants, funds generated from services provided by the council, and from a percentage of the revenue raised from the permits and licences it grants.

Although public broadcasting also falls under its purview, the Broadcasting Council has not been known to exercise any meaningful monitoring to ensure that UBC fulfils its public service mandate. This is despite the fact that the opposition has repeatedly accused the public broadcaster of bias, especially during elections. These claims of bias are supported by evidence. A study of the coverage of the 2006 general elections56 found that state-owned electronic media gave NRM candidate and incumbent president Museveni 68 per cent of the time (measured in seconds) that it devoted to campaign coverage. The other four candidates shared the balance: Dr Kizza Besigye of the FDC 16 per cent; Mrs Miria Obote of the UPC 8 per cent; Mr John Sebaana Kizito of the DP 4 per cent; and Mr Abed Bwanika 4 per cent. The study also found that 88 per cent of the sound bites used by the public broadcaster were from President Museveni. Sound bites from the other candidates were used as follows: Mrs Obote 10 per cent and Mr Bwanika 2 per cent. There were practically no sound bites aired either of Dr Besigye or Mr Sebaana.

The Uganda Communications Commission (UCC)

In addition to the licence from the Broadcasting Council, an aspiring broadcaster also needs a licence from the UCC which is responsible for allocating and licensing the use of the radio frequency spectrum and the handling of applications for the allocation of satellite orbital locations. Other duties of the UCC are to set national communications standards, to establish and operate frequency and other monitoring services, and ‘to receive and investigate complaints pertaining to communications services including taking the necessary actions to resolve whatever issues are brought to its attention’.57

The members of the commission are appointed by the minister responsible for

57 Uganda Communications Act, 1997, section 5.
communications with the approval of the cabinet. Although the law says the commission ‘shall exercise its functions independent of any person or body’, it is the minister who grants licences for broadcasters ‘upon the recommendation of the Commission’ (section 33[1] of the UCC Act). In this regard, the UCC Act also falls short of the requirements of the Declaration of Principles on Freedom of Expression in Africa.

To complicate things even further, after securing a licence from the Broadcasting Council and a frequency from UCC, the owner of a broadcasting station is then required to register the facility with the Media Council, which is an entity under a separate law, the Press and Journalist Act. This law has specific provisions that regulate the journalism profession (see chapter 2). Although this requirement adds yet another layer to the protracted licensing process, it is typically a formality that guarantees the right to operate the business of journalism.

There are strong voices arguing for a merger of the Broadcasting Council and the UCC and their functions and mandates. The UCC has the primary responsibility for regulating ICTs and telecommunications. Those advocating for doing away with the duplication of roles between the Broadcasting Council and the UCC contend that technological convergence renders obsolete and unproductive any distinction between content and its vehicle, that is, the means of delivering the content. In fact, these very arguments have been pushed strongly by the chairman of the Broadcasting Council himself, Mr Godfrey Mutabazi.58 There are bound to be turf wars between the two regulators, yet there is no real public debate on the issue. But this could change as soon as the relevant policy proposals are brought into the public domain for discussion.

2 Broadcasting policy

The Broadcasting Council produced a National Broadcasting Policy59 in September 2004 under the slogan: ‘A new broadcasting aspiration for Uganda’. The policy evolved out of the National Electronic Media Performance Study of 2004, an extensive and countrywide research exercise led by Dr Monica Chibita, a communications policy expert at Makerere University.

According to the document:

The policy is to promote the delivery of high quality and efficient broadcasting services by both public and private service providers. The general principle is

that the broadcasters should be provided with a flexible system of managing and utilizing the broadcasting services, within the wider government policies as provided for under the constitution. In addition, the policy seeks to promote local capacity building and protect the broadcasting industry.\textsuperscript{60}

The national broadcasting policy lists 15 key policy areas of the broadcast sector that it seeks to address with specific goals in mind:

1) Institutional framework: To ‘facilitate policy formulation and development by Government, Licensing and Regulation by the Broadcasting Council, and service provision by broadcasters’.

2) Public broadcasting: To ‘introduce a viable, independent, professionally-run public broadcaster accountable to the public to ensure efficiency and quality programming’.

3) Commercial broadcasting: To ‘ensure that commercial operators strike a balance between profit and social responsibility’.

4) Community broadcasting: To ‘promote broadcasting which is for, by and about specific geographical communities or communities of interest, whose ownership and management is representative of those communities, which pursues a social development agenda and which is not-for-profit’.

5) Subscription broadcasting: ‘This area will cover Subscription or pay radio and television in Uganda and its licence obligations considering its unique means of service distribution’.

6) Signal distribution: To ‘re-align the industry by separating the roles of content provision and signal distribution’.

7) Cable and other multi-channel distribution services: To ‘provide a platform for growth of additional television and radio services either via conventional television and radio services or by interactive multi-media, and other services delivered from the internet’.

8) Digital broadcasting: To ‘prepare Uganda for the transition from analogue to digital broadcasting’.

9) Broadcasting and human resources development: To ‘ensure that broadcasting supports the provision of information and education to the Ugandan population, especially those sections that have no access to formal education. It is also designed to ensure the maintenance of appropriate knowledge and skills for broadcast practitioners’.

\textsuperscript{60} Ibid.
10) Ownership and control: To ‘ensure effective regulation of media ownership in order to safeguard pluralism, diversity and the overall national interest’.
11) The film and music industries: To ‘streamline the operations of the film and music industries and promote local production and talent’.
12) Advertising: ‘This area will focus on the growth of this industry as a major source of income for the broadcasting media’.
13) Broadcasting, democracy and good governance: To ‘ensure that broadcasters seen as a whole play a crucial role in providing a level playing field in the electronic media for all political actors so as to promote political and socio-economic development’.
14) Broadcasting frequency planning and allocation: To ‘ensure that the frequency allocated to broadcasting is planned and allocated according to internationally accepted standards while keeping in mind public interest objectives’.
15) Broadcasting, pornography and violence: To ‘ensure that the Ugandan population, especially minors are protected from pornography and violent programming’.

The policy spells out the objectives of public broadcasting as follows:

1) To provide services which will inform, educate and entertain the whole country;
2) To offer a high percentage of local content;
3) To offer programming of a high standard;
4) To enrich the cultural heritage of Uganda through support for the indigenous arts and cultural diversity;
5) To contribute, through its programming, to a sense of national identity and unity;
6) To ensure programming that will cater for the poor and vulnerable;
7) To ensure that the public has access to information;
8) To serve the overall public interest, avoiding one-sided reporting and programming in regard to religion, political orientation, culture, race and gender.

With regard to the public broadcaster the policy commits the government to:

1) Provide an enabling legislation for the establishment of a public broadcaster;
2) Enact laws in tandem with internationally accepted best practices for the smooth and effective operation of the public broadcaster;
3) Adequately fund the public broadcaster[s] in a manner that protects them from arbitrary interference with their budgets.

The broadcasting regulator is committed to:

1) Ensure that the public broadcaster conforms to the requirements of public broadcasting;
2) Ensure that the public broadcaster promotes human rights;
3) Promote the universal access principle so as to ensure service for all Ugandans.

The public broadcaster is committed to:

1) Report news and current affairs impartially, fairly and in a balanced manner;
2) Comply with any relevant regulatory supervision and maintain broadcasting standards;
3) Establish relevant broadcasting facilities for operations across the country;
4) Fulfil universal access in the shortest time possible;
5) Promote national sporting events and the local arts;
6) Ensure that programming promotes diversity;
7) Ensure that programming promotes political and socio-economic development;
8) Ensure that terms and conditions of employment within the station/s conform to national employment policy; and
9) Be accountable to the public.

While on paper these policy provisions appear to be good statements of intent or principles meant to guide the development of broadcast policies over the long term, current realities, as discussed in subsequent chapters, suggest that neither of the stakeholders have fulfilled their commitments. For instance, it will take a number of new pieces of legislation and amendments to existing laws to effect many of these policy intentions. In addition, it will require the government to provide substantial funding for the sector to be able to achieve the goal of universal access to broadcasting services. Similarly, without adequate funding and commitment to these principles, the Broadcasting Council is unlikely to monitor the public broadcaster’s compliance with the requirements of public broadcasting.

In July 2008 the government began designing a new electronic media law that would update the current legislation, review some of its components, and provide a
legal framework for all the policy areas identified in the national broadcasting policy. The process is ongoing.

3 Licensing of broadcasters and enforcement of licence conditions

The Broadcasting Council is mandated to issue licences for the operation of theatres, video and cinematography services, television set ownership and dealings, as well as for radio and TV broadcasting. The Council has powers to enter and inspect the premises of an operator or owner of any of these facilities or services, and to seize or confiscate any apparatus that is presumed to be in breach of the regulations.

Along with their formal application to the UCC for the allocation of a radio and TV broadcasting licence, prospective service providers need to submit:

1) a clearance letter from the Broadcasting Council permitting the applicant to set up a broadcast station in a particular location;
2) a company/organisational profile along with copies of the registration certificate and memorandum/articles of association;
3) an engineering brief of the project containing technical specifications of broadcast and studio transmitter, technical description of the system with diagram of the network, configuration, as well as a network implementation schedule;
4) a form for the transmitter and receiver station to be installed.

For a licence to be issued, the Broadcasting Council requires that:

1) If an individual, the applicant must be a resident of Uganda; if an organisation, the applicant must be a locally registered partnership or a company or a public corporation established by an act of Parliament;
2) The applicant provides evidence of possession of adequate technical facilities;
3) The applicant indicates the location of the station and the geographical area to which the broadcast is to be transmitted.

The Council also takes into account the ‘social, cultural and economic values of the applicant’ in deciding whether to endorse the request for a licence. However, there is no indication in the law how the regulator is supposed to identify these ‘values’.

The typical licensing procedures for radio and TV broadcasting are that after submitting the application, the commission proceeds to verify whether the applicant qualifies for the frequency spectrum applied for. If so, the application is processed and
an invoice for spectrum fees that must be paid within 90 days is issued. There are no standard broadcasting (or spectrum) fees for either TV or radio. Both are calculated using formulae that take into account the number of transmitter stations applied for, the power output in watts (for TV), and the radiated power (for radio). The application processing fees, on the other hand, are standard: Shs 1 000 000 (approx. US$ 500) for TV and Shs 750 000 (approx. US$ 375) for radio.\(^61\)

When the applicant has fulfilled all the requirements and paid the dues, the public is notified through the press for a period of two weeks. If there is no objection to the application during the notification period, the application is considered successful and the licence is granted.

When the applicant has completed setting up the installations within the specified time frame, the applicant is required to invite the commission to inspect them. If they meet the conditions, the broadcasting station receives its frequency licence. Operators of radio and television stations are required to inform the commission before conducting on-air testing of their signals and the commission needs to grant permission for these tests. The testing is supposed to continue for 21 days before the station is issued with an operating licence.

The typical validity period for a licence is one year. This is obviously too short a period given the level of investment required to set up and operate a broadcasting facility, notably TV. Having to renew one’s licence so often could be construed as a form of censorship. There is clear potential for abuse as this requirement might give the authorities an opportunity to get back at broadcasters perceived to be politically hostile.

Compliance with licence conditions is mainly enforced through on-site inspections and frequency monitoring. Violations are usually sanctioned through administrative means. Although the regulations do not specify these sanctions, withdrawal of the licence is the regulator’s obvious recourse.

These procedures, though lengthy, are fair to the extent that they are clearly documented, public and accessible to whoever is interested in applying for an operational licence.

Whereas there are neither set quotas for local content nor public interest obligations specified in the electronic media law, some of the objectives of the national broadcasting policy under the ‘broadcasting, democracy and good governance’ heading point towards such obligations for all broadcasters. At least in principle, the objectives of this policy area call explicitly for diversity in programming and the representation of different social interests and sections of society. These objectives are:

To ensure that broadcasting services seen as a whole: Promote and protect a regional, national and local identity, culture and character; Provide for regular: (a) News services; (b) Actuality programmes on matters of national interest; (c) Programmes on political issues of public interest; (d) Programmes on matters of international, national, regional and local significance; and (e) Offer diversity in their programming and representation. To ensure that broadcasting services regularly devote a portion of their programming to civic education.62

The first schedule of the Electronic Media Act outlines a set of minimum broadcasting standards. It states:

A broadcaster or video operator shall ensure:

1) That any programme which is broadcast (a) is not contrary to public morality; (b) does not promote the culture of violence or ethical prejudice among the public especially the children and the youth; (c) in case of a news broadcast, is free from distortion of facts; (d) is not likely to create public insecurity or violence; (e) is in compliance with the existing law.

2) The programmes that are broadcast are balanced to ensure harmony in such programmes.

3) That adult oriented programmes are appropriately scheduled.

4) That where a programme that is broadcast is in respect to a contender for a public office, then each contender is given equal opportunity on such a programme.63

Evidently, so lofty and sometimes vague are these objectives and standards that it would be unrealistic to expect the industry, even though it is generally growing and maturing rapidly, to comply with them to the letter. Moreover, the Broadcasting Council does not have the human and financial resources to enforce the so-called minimum broadcasting standards on a routine basis.

As suggested earlier, the independence of the Broadcasting Council has been widely questioned. The Electronic Media Act neither specifies the offences that can be punished by closure of a station or by withdrawal of a broadcasting licence, nor does it specify the procedures to be followed. Apart from setting the minimum professional standards for broadcasters, the law left it to the Broadcasting Council to determine these specifics administratively. Some of the council’s punitive decisions seem to have been politically inspired rather than aimed at promoting professional standards.

62 Ibid.
In early 2007, the Broadcasting Council shut down NTV over what, on the surface, the Council portrayed as concerns regarding the broadcaster’s technical standards. Others thought that the station, which is owned by the Nation Media Group, which also owns Daily Monitor and KFM radio, was a victim of politics as the government attempted to penalise the entire group for its critical journalism. Parliament summoned the Council to explain why the station was prevented from broadcasting. The station was able to get back on air after a reported ‘negotiated settlement’ between the president and NMG executives.

Another case in point was the seizure and closure by police and security operatives of a leading private radio station, KFM. In 2005, Andrew Mwenda featured on his talk show a discussion that raised questions about the government’s role in the death of south Sudanese leader John Garang in a Ugandan military helicopter crash. The show, from the government’s perspective, compromised national security. The host was also accused of making seditious allegations.

Dr J.P. Okullu-Mura, the secretary to the Broadcasting Council, said in the letter that ordered the closure of the station:

> Following receipt of numerous complaints and listening to the recording of your programme Andrew Mwenda Live of August 10, 2005 aired between 7:00pm and 8:00pm, the Broadcasting Council has on surface discovered that the programme prima-facie offends the minimum broadcasting standards enshrined in the first schedule of the Electronic Media Act CAP 104 2000 ... The Broadcasting Council has decided to accordingly and with immediate effect suspend your broadcasting licence in order to carry out further investigations into the matter.\(^{64}\)

Mwenda was arrested, charged with sedition and released on bail. Many considered the government’s ordering the station off the air an excessive reaction. Apparently, the Broadcasting Council was brought in to give the semblance of a civilian-led enforcement process. The government seemed to struggle to portray the actions of the police and security agencies as mere execution of the directives of the Council.

In exercising its mandate of enforcing broadcasting standards of a moral nature, the Broadcasting Council typically invokes ‘public morality’ as the reason for its intervention. In November 2007, Radio Simba, which broadcasts in Luganda, was fined close to US$ 1 000 for what the Council described as offending public morality by hosting a lesbian and two gays on a programme that discussed discrimination against homosexuals and the need for HIV/AIDS services for this group.

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\(^{64}\) Daily Monitor, 12 August 2005.
What makes the regulation of broadcasting murky is the absence of clarity on what ambiguous terms like ‘public morality’ and ‘harmony’ are supposed to mean. Not only is it difficult to come up with universally acceptable definitions for these standards; they are also open to subjective and parochial interpretation and abuse. Such has been the case with controversies surrounding media coverage of homosexuality. A clampdown on broadcasters who have dared give homosexuals a voice has largely been driven by the protestations of Christian moral advocates.

Perhaps the most drastic move by the Broadcasting Council was the decision on 11 September 2009 to shut down four radio stations – the Central Broadcasting Service (CBS), Suubi FM, Radio Sapientia, and Radio Two (Akaboozi). The closure followed riots that had been sparked off by a political standoff between the Buganda Kingdom, Uganda’s most populous region, and the central government.

This requires some background information. Uganda’s Constitution recognises kingdoms, which had been abolished in the 1960s, as cultural institutions and their leaders as cultural leaders without ‘political’ authority. Ever since the kingdoms were reinstated in 1993, Buganda has been pushing for a federal form of government under which the Kabaka (king) would have political authority over his kingdom. The government has resisted this campaign and entrenched in the Constitution a provision creating ‘a regional tier of government’, a much watered down form of federalism which Buganda opposes.

On 12 September the Kabaka had been scheduled to visit the Buganda district of Kayunga where the kingdom was to hold Youth Day celebrations. The police and the central government had warned in the days leading up to the occasion that the king should not travel to Kayunga as his security could not be guaranteed. This was because the Banyala, a minority group living in Kayunga, do not recognise the Kabaka of Buganda but pay allegiance to their own cultural leader, called Sabanyala, installed with support from President Museveni.

The Buganda government insisted that the Kabaka would travel to Kayunga as scheduled. The political opposition condemned the government for violating the right to freedom of movement and accused the president of attempting to undermine the Buganda king’s authority. The standoff over the Kabaka’s travel to Kayunga was therefore every inch a political fight between Buganda and the central government.

In the run-up to the disputed event, the airwaves were filled with calls (mainly on talk shows and call-back programmes as well as personal announcements) for the Kabaka to stand his ground and travel to Kayunga, as well as attacks on the president and central government. These calls were mostly aired on the Central Broadcasting Service (CBS), which is owned by the Buganda government and private shareholders, and other Luganda language radio stations.
On 10 September, the prime minister of the Buganda Kingdom and his entourage, who were travelling to Kayunga to ensure that preparations for the Youth Day Celebrations were proceeding smoothly, were stopped by a heavy police and army deployment on the major roads leading to the area. The police maintained that the king would not be allowed to travel to Kayunga. The following day riots broke out in the city and in other towns in Buganda. By the end of the riots on 12 September, 30 people had been reported dead, many of them of gunshot wounds.

This was the context in which the Broadcasting Council announced on 11 September that it had ‘in light of the current unrest ... suspended the operations of the Central Broadcasting Services Ltd due to its consistent breach of the Electronic Media Act and particularly of section 8 of the Electronic Media Act which provides for the Minimum Broadcasting Standards’.

In a press statement issued that day, the chairman of the regulator said:

More particularly, the Broadcasting Council took exception to the role that CBS has been playing in mobilizing and inciting the public to riot around H.H. Kabaka’s planned visit to Kayunga District. This has resulted into the escalation of violence leading to loss of life and property and bringing business to a standstill in the city and surrounding areas.

The regulator also announced the suspension of the operations of Suubi FM, Radio Sapientia and Radio Two ‘due to their breach of section 8 of the Electronic Media Act and more particularly due to their continued role in inciting the public to violence’.

In a press statement on 11 September, the minister of information and national guidance condemned the riots occasioned by ‘groups of marauding thugs’ and said the ‘violence and lawlessness was preceded by inflammatory and sectarian broadcasts from various radio stations, which systematically incited the listeners to cause chaos and destruction wherever they could’.

Neither the Broadcasting Council nor government cited the specific broadcasts that allegedly incited violence or promoted sectarianism. When the president addressed the nation in the midst of the riots and later MPs from Buganda, he defended the closure, especially of CBS, saying he had radio recordings with messages telling listeners to go to Kayunga ‘where [opposition leader Kiiza] Besigye will give you fuel to storm the police stations’. The president is also reported to have said that CBS must stop ‘negative campaigns’ against the ruling NRM and inciting Baganda against the police.65

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66 Ibid.
Critics accused the Broadcasting Council of acting on the orders of a government that was besieged and condemned the decision to shut down the radio stations as a gross infringement on freedom of expression. In a statement, Article 29, a coalition of media organisations and associations working to protect press freedom, said:

We strongly condemn these actions that undermine the independence of journalism, freedom of expression and free flow of information to the public which is critical at this material time. The Broadcasting Council and security agencies should desist from exercising their mandate arbitrarily, excessively and selectively as well as acting outside the constitutional framework and the broadcasting regulations.

In the days following the closure of the radio stations, it became apparent that the Broadcasting Council had been acting on the directives of the government. In fact, Council chairman Mutabazi was quoted in a newspaper interview as saying ‘The government took the decision to close [the radio stations] because at that time, two people were already dead.’67

The closure of the four radio stations also clearly had a chilling effect on journalists from other media houses, who were reported to be exercising self-censorship.68 Others claimed receiving orders from their managers or radio-station owners not to focus on the Buganda kingdom and other controversial political stories.69 Indeed, although commercial television stations carried pictures of police brutality on the first day of the riots, by the second day many of them were playing music, soap operas or live feeds of foreign news from Al-Jazeera and other international stations.

Radio Sapientia, Suubi FM and Radio Two were reopened following negotiations with both the Broadcasting Council and the government. Some journalists and presenters that the government was not comfortable with were dismissed. Suubi FM was also forced to issue an apology and accept self-censorship.70

By the end of February 2010, CBS was still off air following unsuccessful negotiations between the Buganda Kingdom and the central government. In January a Cabinet sub-committee formed to address the CBS closure came up with 12 conditions for reopening the radio station. CBS management was required to apologise to the government ‘through the Broadcasting Council’, relocate its studio from the Kabaka’s palace (Bulange), withdraw a pending court case brought by employees against the government, dismiss journalists and presenters who allegedly participated in inciting the September riots, and follow the broadcasting standards. The station was also

68 HURINET-U, op.cit.
70 HURINET-U, op.cit.
required to change its management, delink itself from the institution of the Kabaka and abandon manifestations of ethnicity in its broadcasts. The station swiftly rejected the government’s conditions and by the end of February 2010 no progress had been made on its reopening.

4 Complaints and conflict resolution systems

The Press and Journalists Act, Electronic Media Act, and the Uganda Communications Act contain mechanisms for lodging and addressing complaints as well as resolving conflicts among the public, the government, and operators. The Media Council has a standing disciplinary committee. While the Broadcasting Council does have the power to enforce discipline too, the law does not provide for a particular disciplinary committee in its case. In principle, therefore, the Media Council’s standing committee plays the same role on behalf of both the Media and the Broadcasting Council (see chapter 2). In practice, however, the Media Council delegates its disciplinary function to the Broadcasting Council on matters that fall strictly within the broadcasting domain.

Unfortunately the public is generally unaware of the existing complaints mechanisms and rarely takes recourse to them, preferring to go to court. Lawyers do not help either. It appears that the prospect of earning lucrative fees from litigation is far more attractive than arbitration through the Media Council’s disciplinary committee. The disciplinary committee would be more credible and effective if the government led by example and made use of these civil processes as provided for by the law. But so far the government has tended to resort to criminal courts instead. The other problem is that because the broadcast regulator and the Media Council are not seen as independent, the autonomy of the complaints procedure is questionable.

With regard to complaints about radio frequency interferences, aggrieved parties or persons are required to forward their issues formally in writing to the UCC. The commission will then investigate and take the necessary action to resolve the matter. ‘During the whole interference resolution process’, the commission has declared, ‘the complainant will be updated of the developments regarding that interference case.’ The commission does not indicate explicitly what the remedies in a proven case of interference are.

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73 http://www.ucc.co.ug/smFAQ.php.
5 Conclusions and recommendations

Article VII of the Declaration of Principles on Freedom of Expression in Africa says: ‘Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.’ This is not the case in Uganda. Instead, instances of government interference abound. The Broadcasting Council has often taken decisions as a result of political pressure exerted by the government. Besides, even if it were to act independently, the Broadcasting Council does not have the human and financial resources to monitor media performance in a manner that would improve broadcasting standards.

Article VII of the Declaration further states: ‘The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party.’ In Uganda the appointments process of members of the Broadcasting Council and the Media Council is controlled by the minister responsible for information. Even when recommendations are sought from particular interest groups and professional or trade associations, it remains the minister’s discretion to appoint the nominees. Moreover, the appointments process is usually conducted out of the public’s view.

The ideals spelt out in the broadcasting policy are not captured by existing legislation or practice. In fact, the policy was prepared long after the enactment of the Press and Journalist Act, the Electronic Media Act and the Uganda Communications Commission Act.

Recommendations

Regulatory autonomy and independence

- The Electronic Media Act should be amended to make the Broadcasting Council an autonomous and independent regulatory body that reports to Parliament, and not the minister responsible for information.
- The appointments procedure for members of the Council should be open and transparent, involve the participation of civil society, and should not be controlled by any particular political party.
- The security of tenure of the members and independence of the regulatory organs should be guaranteed to limit the influence of political authorities on their decisions.
Monitoring performance

- The independent Broadcasting Council should be empowered to perform its functions of monitoring the performance of broadcasters, and in particular ensuring that both public and private broadcasters fulfil their local content remits.

One-stop licensing

- The licensing procedure for broadcast operators should follow the one-stop model of business licensing. Therefore, the permission to produce broadcast content and the permission to use the spectrum to transmit that content should be granted together.

Duration of licence

- The government should extend the broadcast licensing period. The current 12 months is too short to allow for proper business planning. The one-year licence is a disincentive as banks may, for example, be less inclined to give a broadcast operator a loan if they cannot predict that the applicant will have a licence in a year's time. Similarly, the one-year licence may discourage long-term investors in the broadcast industry as they may be wary of political interference in the frequent renewals.

Advocacy

- Civil society, beyond a few media and journalism associations, should take more interest in and engage in advocacy for the reform of broadcasting regulation and legislation.

Preoccupation with security

- Civil society and media organisations should propose clear national norms and values for public broadcasting in order to minimise the preoccupation with security in decision-making on broadcast matters.