



**FOURTH SESSION – NINTH PARLIAMENT**

**REPORT BY A DELEGATION OF THE PORTFOLIO COMMITTEE ON  
INFORMATION, MEDIA AND BROADCASTING SERVICES**

**BENCHMARKING VISIT TO KENYA ON THE LEGISLATION AND OPERATIONALISATION OF  
COMMUNITY RADIO STATIONS**

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**ORDERED IN TERMS OF STANDING ORDER No. 18:**

- i.** At the commencement of every session, there shall be as many Committees to be designated according to government portfolios as the Standing Rules and Orders Committee may deem fit.
- ii.** It shall be the function of such committees to examine expenditure administration and policy of government departments and other matters falling under their jurisdictions as Parliament may, by resolution determine.
- iii.** The members of such committees shall be appointed by the Standing Rules and Orders Committee, from one or both Houses of Parliament, and such appointments shall take into account the expressed interests or expertise of the Members and Senators and the political and gender composition of Parliament.
- iv.** Each select committee shall be known by the portfolio determined for it by the Standing Rules and Orders Committee.

**TERMS OF REFERENCE OF PORTFOLIO COMMITTEES S.O 21**

Subject to these Standing Orders a Portfolio Committee shall:

- a) Consider and deal with all Bills and Statutory Instruments or other matters which are referred to it by or under a resolution of the House or by the Speaker;
- b) Consider or deal with an appropriation or money bill or any aspect of an appropriation or money bill referred to it by these Standing Orders or by or under resolution of this House;
- c) Monitor, investigate, inquire into and make recommendations relating to any aspect of the legislative programme, budget, rationalization, policy formulation or any other matter it may consider relevant of the government department falling within the category of affairs assigned to it, and may for that purpose consult and liaise with such a department;
- d) Consider or deal with all international treaties, conventions and agreements relevant to it, which are from time to time negotiated, entered into or agreed upon.

## **SPEAKER'S ANNOUNCEMENT**

On Tuesday, 27 October, 2021, the Speaker announced that the Committee on Standing Rules and Orders had nominated the following Members to serve on the Portfolio Committee on Information, Media and Broadcasting Services: -

Hon. Bhudha -Masara S; Hon. Dube G; Hon. Hamauswa S; Hon Miranzi B; Hon. Mamombe J; Hon. Masiya D.; Hon Mokone S; Hon. Moyo L.; Hon. Mudarikwa S; Hon Mudau M; Hon. Ndebele A.; Hon. Nguluvhe A.; Hon. Nyabani T.; Hon. Nyathi E.; Hon Sawuke J; Hon. Shamu W.K.; Hon. Sithole Josiah.

**Hon. Mokone S to be Chairperson**

## **1.0 Introduction**

Community radios are an effective tool of communication due to their affordability and ability to reach a large audience in the community, even to the poorest population in the remotest part of the world with inadequate infrastructure. The Broadcasting Authority of Zimbabwe recently licensed 14 Community Radio Stations which are yet to be fully operational. This prompted the Portfolio Committee on Information, Media and Broadcasting Services to conduct a benchmarking visit to the Parliament of Kenya so as to share best practices and experiences with regards to the legislation and operationalisation of Community Radio Stations in Zimbabwe. The benchmarking visit was scheduled for 13 to 20 November 2021 with a delegation of five Members of the Committee and 2 support staff. To that end, this report provides highlights of the Committee's findings, observations and recommendations with respect to the legislation and operationalization of Community Radio Stations.

### **1.1 Composition of the delegation**

The delegation to Kenya comprised the following Members of Parliament and staff:

- i) Hon. Mokone Sipho (*Leader of the Delegation*)
- ii) Hon Hamauswa Shakespear
- iii) Hon. Masiya Denford
- iv) Hon. Nguluvhe Albert
- v) Hon. Sithole Josiah
- vi) Ms. Maria Hlasera (*Secretary to the Committee*)
- vii) Mrs. Betty Munowenyu (*Researcher to the Committee*)

## **2.0 Objectives of the benchmark visit**

2.1 The principal objectives of the visit were as follows:

- 2.1.1. To enhance Members of the Committee's understanding of the broadcasting laws governing the operationalization of Community Radio Stations in Kenya with the view of adopting and recommending best practices in Zimbabwe.
- 2.1.2. To accord the Members of the Committee an opportunity to discuss challenges faced in the operationalisation of Community Radio Stations and measures which were put in place to curb the challenges.

## **3.0 Background to the study visit**

**3.1** Media monopoly has been a bone of contention in the media sector throughout the years, hence, the opening up of the airwaves in 2020, came at an opportune time, with the introduction of Community Radio Stations. Community Radio Stations can provide a valuable service to members of the town, city, or municipality in which it serves. In addition, a community radio can easily keep listeners abreast of important news at the local level. In Zimbabwe, the Broadcasting Services Act of 2001 provides for the implementation of community broadcasting. Article 7, subsection 2, subsection (b) of the BSA states that the Broadcasting Authority of Zimbabwe shall authorize the licensing of a community broadcasting service. Presently, a host of other African countries now have operational community radio stations. A tour by all or some of the Members of the Committee gave Members an appreciation of how they were introduced and an insight on how they are being operated.

**3.2** After realizing the fact that Kenya has a vibrant radio sector made up of public, community, faith based, international, private and pan-regional radio stations, the Committee resolved that, a tour by the Members of the Committee to Kenya was crucial for experience and best practices purposes. With a population of about 47 million in Kenya, the Committee was impressed by the fact that access to radio is regarded very high for both urban and rural populations, with 95% of rural and 94% of urban respondents having access in the home. Of note, over 50% of Kenyans get their news from the radio, especially in the rural areas. Having gathered this crucial information, the Committee felt that Kenya was the ideal country to conduct a bench marking visit on.

#### **4.0 Summary of the study visit programme**

**4.1** The Committee attended the National Assembly Liaison Committee meeting where it met with the Speaker of the National Assembly. In his welcome remarks, the Speaker submitted that the Liaison Committee was established under the provisions of Standing Order No. 217 and consists of the Deputy Speaker as the chairperson, a member of the Speaker's Panel who is also the First Chairperson of Committees who is the Vice-chairperson and the Chairpersons of all Committees of the House. The delegation observed that the composition of the Liaison Committee in Kenya differs with that in Zimbabwe which comprises of all Committee Chairpersons, Party Whips and their Deputies, the Chairperson and Vice- Chairperson of the Women's Caucus. The Speaker highlighted measures that were implemented with regards to the discharge of Committee Business amidst the Covid-19 pandemic. These included amendment of the Standing Rules and Orders to

provide for hybrid meetings, integration of video conferencing facilities with the existing system and the launch of live broadcast to notify citizens of the proceedings.



Figure 1: The delegation posing at the National Assembly of Kenya’s Liaison Committee

4.2 The Committee had an engagement with its counterparts from the Departmental Committee on Communication, Information and Innovation. The delegation learnt that the Committee was established under Standing Order No. 216 and it oversees communication, information, media and broadcasting, Information Communications Technology (ICT) development and modernization of production strategies. The Chairperson of the Committee on Communication, Information and Innovation indicated that Community Radio Stations were growing rapidly and extensively. He also stated that they provided an important platform for communities to engage on issues affecting their communities.

4.3 The delegation met with the Select Committee on Parliamentary Broadcasting and Library in Kenya. It was observed that the Select Committee oversees broadcasting of Parliamentary proceedings. Whilst Zimbabwe broadcasts Parliamentary proceedings on the public broadcaster, namely the Zimbabwe Broadcasting Corporation, the delegation learnt that the Select Committee had adopted a report on the formulation of Parliamentary Broadcasting channel that will broadcast Parliament house issues and Committee business on a twenty-four-hour basis.

4.4 The Committee also had the privilege to engage with the Communications Authority of Kenya (CAK), at their offices, where they were informed that CAK is mandated to license broadcasting operators, content regulation, and to implement and review broadcasting policies. It was also

further submitted that the Authority also deals with stakeholder complaints, managing and assigning frequency spectrum and issuing industry regulations, codes of practice and handling violations. The delegation observed that the mandates of the CAK were similar with that of the Broadcasting Authority of Zimbabwe. During the meeting, the delegation learnt that Kenya has 186 FM radio stations of which 42 were Community Radio Stations. The 42 Community radio Stations were licensed according to their local languages and dialects as broadcasts were held in the local languages and their dialects. In comparison, Zimbabwe recently licensed 14 Community Radio Stations and these were licensed according to the sixteen officially recognised languages provided for in the Constitution and the Stations are not yet fully operational.



Figure 2: The delegation interacting with officials from the Communication Authority of Kenya

4.5 The delegation visited the Daystar University Community Radio Station where they learnt that the station was managed by students guided by their lecturers. The studios at Daystar were operating at a radius of 30 kilometers airing programs related to issues of drug abuse, mental health, sexual reproductive health, Covid-19 and other community related issues. In Zimbabwe, we also have Great Zimbabwe University Campus Radio Station, (Varsity Radio of Choice), which is Zimbabwe's first campus radio station, established by Great Zimbabwe University in 2020. The signal reaches across the Masvingo metropolitan area.

4.6 The Committee had an opportunity to meet with the United States International University Africa (USIU) Community Radio Station. The delegation learnt that proper research and planning

were essential for starting and operationalizing Community Radio Stations. The Deputy Director of USIU highlighted that they were guided by the national broadcasting legislation for their operations. The Committee also learnt that the University offered technical courses on transmitters and equipment for studios, amongst others. The Deputy Director also pointed out that the Community Radio Station came up with a programme policy that ensured the maximum community and student access and participation. The delegation observed that in Zimbabwe the Broadcasting Authority of Zimbabwe licensed seven campus radio station which were managed by students and only one was operational.

4.7 The Committee engaged with the Centre for Parliamentary Studies and Training wherein they were informed that the Centre conducts courses for the exposition and enhancement of knowledge, skills and experience of Members of Parliament and staff.

## **5.0 Findings**

5.1 It was illuminated to the delegation that the Constitution of Kenya (2010) provides that broadcasting and other electronic media have freedom of establishment. This is subject only to licensing procedures that are necessary to regulate the airwaves and other forms of signal distribution; and are independent of control by government, political interests or commercial interests. The Committee observed that Kenya and Zimbabwe have the same provisions in their Constitutions which provides for the freedom of establishment of the broadcasting and the electronic media.

5.2 In Kenya Community Radio Stations are also licensed guided by the Kenya Communication Act (1998). The delegation learnt that the Act led to the establishment of the Communication Commission of Kenya which is currently named Communication Authority of Kenya. The Act highlights that the Ministry is responsible for issuing broadcasting licenses, whilst CAK provides technical regulation of broadcasting services in as far as management of the broadcasting spectrum resources is concerned. In Zimbabwe, the Broadcasting Authority of Zimbabwe is established in terms of the Broadcasting Services Act (Chapter 12:06). Whilst in Kenya broadcasting licenses are issued by the Ministry, in Zimbabwe they are issued by the Authority.

5.3 The Committee was apprised that the Communications Act was amended in 2008, the amendments made in 2008 resulted in the Kenya Information and Communications Act of 2009



(KICA 2009). The KICA of 2009 recognizes broadcasting as a distinct sector, and distinguishes between public broadcasting, private broadcasting, and community broadcasting. The Committee learnt that the KICA outlines the legal parameters of what it considers as community, community media, and the conditions under which community media are allowed to operate. The KICA defines a community and community broadcasting as follows:

- i. *“community” includes a geographically founded community or any group of persons or sector of the public having a specific, ascertainable common interest;*
- ii. *“community broadcasting service” means a broadcasting service which meets all the following requirements—*
  - (a) *is fully controlled by a non-profit entity and carried on for non-profitable purposes;*
  - (b) *serves a particular community;*
  - (c) *encourages members of the community served by it or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and*
  - (d) *may be funded by donations, grants, sponsorships or membership.*

5.4 The delegation learnt that this definition gives an opportunity for community radio stations to be owned or controlled by non-profit organisations or management board making decisions with the community interests at heart. This scenario raises questions regarding the independence of the community radio stations and it also leaves them open to the interpretation on how to ensure that the station is actually being run for the good of the community.

5.5 In Zimbabwe community means a group of people bound together geographically, with shared norms, values and tradition whose control is domiciled in members of that geographical space.

5.6 The Broadcasting Authority of Zimbabwe further defines a “Community broadcasting service” as follows: *“a free to air (radio or television) broadcasting service not operated for profit or as part of a profit-making enterprise which provides programmes that-*

- a) *Are for community purposes*
- b) *Are capable of being received by commonly available equipment; and*

c) *Do not broadcast programmes or advertisements on behalf of any political party*”.

5.7 The Committee was apprised that the amended Act guided the Authority in granting community radio licences. It was explained that in granting the licenses the Authority considered the following:

- i. The community of interests of the persons applying for the licence;
- ii. Whether a significant proportion of the community have consented to the application;
- iii. The source of funding for the broadcasting service;
- iv. Whether the broadcasting service to be established is not-for profit, and
- v. The manner in which members of the community will participate in the selection and provision of programmes to be broadcast.

5.8 In Zimbabwe licensing and operationalisation of Community Radio Stations is provided for in the Broadcasting Services Act (Chapter 12:06) which is yet to be amended and the Statutory Instrument (S.I) 39 of 2020. The Statutory Instrument provides factors to be considered when granting licenses for Community Radio Stations and these are similar to that in Kenya except that in Zimbabwe Community Radio Stations are required to provide source and proof of funding of the broadcasting Services.

5.9 The Committee learnt that Section 6 (part c) of the KICA (2009), encourages selection and provision of programmes to be broadcasted by not only community members but also ‘persons associated with or promoting the interests of such community. The persons by implication, may not necessarily be bona fide community members, but are involved in promoting the interests of the community.

5.10 Apart from the regulation of community broadcasters as institutions, in Kenya there is also legislation in place to regulate the professional conduct of the individuals in the media industry as a whole, and not just in community broadcasting. Key among these is the Media Council Act, most recently updated in 2013. The delegation was informed that the Act instituted the Media Council of Kenya (MCK). The Council is mandated with upholding professional standards in media practice through the accreditation of journalists, monitoring media organisations for compliance with content and conduct requirements, while upholding the freedom of the media. The Council is also tasked with conflict resolution in case of any complaints against a media house by members

of the public. Zimbabwe is yet to come up with the relevant piece of legislation to support the establishment of the Media Council of Zimbabwe. Currently, the Zimbabwe Media Commission oversees the upholding of professional standards, accreditation of journalist and upholding of the freedom of the media, among others.

**5.11** The delegation was informed that non-spectrum-based licenses were awarded on a first come first served basis whereas spectrum-based licenses were awarded based on the availability of spectrum and competitive selection. It was further submitted that in Kenya communities apply for broadcasting licenses by downloading the application forms from their website and filling in the required information. The delegation was informed that they provided a platform of online application using smart phones and that the internet services were affordable. It also emerged that the CAK licenses community radios for marginalized groups such as youths, women and people living with disabilities who can be concentrated in a specific geographic area.

5.12 In Zimbabwe the BAZ used a phased approach in licensing community radio stations and in the first phase they identified areas that were traditionally underserved in terms of coverage. Additionally, in the second phase BAZ identified officially recognized languages spoken in Zimbabwe according to Section 6 of the Constitution and they considered areas with languages that had limited expression on the currently licensed broadcasters. Further, in Zimbabwe licenses were not issued to the marginalized groups such as youths under the circumstances that the radio frequency spectrum was a limited resource.

5.13 The delegation learnt that in Kenya they license Free-to-Air Community Radio Stations for a period of 10 years and they pay an application fee of 9 United States dollars (USD), initial license fee of USD132 and an annual operation fee of USD 132. It was further highlighted that they also have Free-to-air community televisions which pay an application, initial license and annual operation fees of 9 and 263 United States dollars respectively. The delegation was informed that they benchmarked the fees with other countries and their fees were very low and affordable to the licensee as they were paid on an annual basis.

5.14 Community Radio Stations in Zimbabwe pay an application fee of USD 321, a basic licensee fee of USD 646 per annum and a monthly frequency fee of USD26 per month.

5.15 The delegation learnt that in a majority of cases the funding for Community Radio Stations in Kenya came from outside sources in the forms of grants and donations, as opposed to membership fees contributed by the community. The Committee also learnt that the Commission monitors community broadcasters to ensure that the funds generated from operations of a community broadcasting station are re-invested in activities benefiting the community.

5.16 In Zimbabwe only foreign donations and contributions are prohibited and any funding model is permissible. In most cases funding comes from the community through membership fees and donations. However, the regulations permit Community Radio licensees to come up with sponsored programmes for the sustenance of the Radio Station.

## **6.0 Challenges faced in operationalizing and regularizing the FM Community Radio Stations**

**6.1** Misconceptions of a definition of a Community FM station was the main challenge in Kenya. It was submitted that others defined a community station as a low power station. However, the CAK came up with a definition that was aligned to the UNESCO Community Radio Handbook, 2001 so as to clear the misconceptions. UNESCO defined Community broadcasters as those which are independent, not for-profit, and governed by and in the service of the communities they serve.

6.2 The delegation was informed that the Community FM station faced a challenge of airing of unverified news and information and biased reporting especially in representation of different groups and interests in the community. It was submitted that another challenge faced by community FM stations was of participation in politics, ownership by private entities under the guise of the community and poor management. The CAK official highlighted that they were yet to come up with solutions to some of the challenges encountered. However, the delegation was apprised that they have a Media council which provides code of practice for journalists to deal with issues of biased reporting. Further, it was submitted that they ensure that every broadcaster has an editorial policy so as to reduce the airing of unverified news and they also have a monitoring system that monitors the information broadcasted in line with the code of conduct.

6.3 Misappropriation of funding from donations, grants, membership fees, sponsorship or advertising, and non-inclusion of minority and marginalized groups were some of the challenges faced by community radio stations. The delegation was informed that to deal with the issue of misappropriation of funds, they continuously conduct stakeholder engagement whereby the

community stations provide quarterly returns to the Authority showing how much funds were disbursed and utilised. The CAK in conjunction with the Media Council, provides training to the stations so as to equip them with knowledge on journalism, reporting and management of funds.

6.4 The Committee learnt that Community Radios have been facing high turnover of personnel as stations cannot afford to pay staff. In this regard, they use volunteers who use the stations as stepping stones to better jobs.

### **7.0 Key observations by the Committee**

7.1 The delegation noted that the legal definition of community in the Kenyan broadcast legislation is flexible and allows for various groups of people to apply for a community media license, as long as they can demonstrate shared interests. Broadcasting Authority of Zimbabwe's current definition of a community was determined solely by geography, yet within a specific geography there are multiple communities with different interests.

7.2 The delegation observed that in Kenya any persons associated with or promoting the interests of such community can broadcast the programme at Community radio stations. It was noted with concern that this may create the possibility of different or external agendas being played out in community stations. For instance, conflict could arise between community members and these other associated persons, in the case where the two groups have different priorities. The delegation highlighted that these 'associated persons' could manage the daily affairs and the programming of a community broadcaster in the name of promoting the interests of the community, without having gained the consent of bona fide community members. In Zimbabwe broadcasting is done by the community and for the community.

7.3 The Committee noted that Kenya had a Media council that observes and supervises the operations of Community Radio Stations to ensure that they are not broadcasting unverified news and information and inciting hate speech. Zimbabwe is yet to establish a Media council, despite the introduction of the proposed Media Practitioner bill which is yet to be gazetted.

7.4 The Committee noted with great concern that the license fees for Community Radio Stations in Zimbabwe are very exorbitant as compared to those paid in Kenya. This was evidenced by late payment of application fees by the licensees within the initial deadline given by the Broadcasting Authority of Zimbabwe.

7.5 CAK licenses community radios for marginalized groups such as youths, women and people living with disabilities who can be concentrated in a specific geographic area. In Zimbabwe there is an outcry that the BAZ was not licensing marginalized groups such as youths.

7.6 In Zimbabwe Community radio stations were licensed in accordance with the sixteen official languages recognised in the Constitution of Zimbabwe. It was noted that the 42 Community radio stations in Kenya were licensed in accordance with their local languages as well as their dialects.

7.7 Whilst the Communication Authority of Kenya provides a platform of online application using smart phone, Broadcasting Services Authority requests that application be submitted physically to their offices.

7.8 The delegation noted that funding of Kenyan community radio stations through grants and foreign donations has some negative impact on their operation. The community will not be in control of the financial aspect of the community radio station. It was further noted that this limits the station's ability to truly be community-owned and run, because final decisions at the station would be made in consideration of the funder's requirements rather than community preferences.

7.9 It was further observed that setting up community radios were made easier by the fact that Kenya was fully digitized.

## **8.0 Committee Resolutions**

**8.1** The Committee recommends the following:

8.1.1 That the Ministry of Information, Publicity and Broadcasting Services should review the Broadcasting Services Act to include a provision that outlines the legal parameters for source of funding of Community Radio Stations by December 2022;

8.1.2 That the BAZ should consider the community of interests of the persons applying for the licence when licensing Community Radio Stations by October 2022;

8.1.3 That the Ministry of Information, Publicity and Broadcasting Services should establish a Media Council that will provide a code of conduct for community radio journalists to deal with issues of biased reporting by Community Radio Stations by December 2022;

8.1.4 That the Broadcasting Authority of Zimbabwe should lower the fees for licenses to ease the financial burden for applicants in community broadcasting by October 2022;

8.1.5 That the BAZ should provide a platform of online application for Community Broadcasting licensing by November 2022;

8.1.6 That through the Broadcasting fund, the Ministry of Information, Publicity and Broadcasting Services should provide financial and technical support to Community Radio Stations by September 2022;

8.1.7 That the Broadcasting Authority of Zimbabwe should put in place effective mechanisms to monitor Community Radio Stations and ensure that funds generated from the operations are re-invested in activities benefiting the community by November 2022;

8.1.8 Additionally, that the Ministry should come up with laws that will discourage interference on ownership and programming by these organisations by December 2022; and

8.1.9 That the Ministry of Information, Publicity and Broadcasting Services should come up with laws that discourages broadcasting of hate speech by December 2022.

## **9.0 Conclusion**

**9.1** Kenya is one of the countries that is growing rapidly and extensively with regards to the licensing and operationalization of Community Radio Stations. Their Community Radio Stations are not only run by, but serves the interests of the community, thus the Ministry of Information, Media and Broadcasting Services should adopt the best practices of the Parliament of Kenya and the Communication Authority of Kenya.