INTRODUCTION

On August 19, 2022, the National Broadcasting Commission, NBC, revoked the operating licences of 53 broadcast stations in the country, citing failure to renew their licenses after several discussions as the reason for the revocation. With the general elections around the corner, it was important to have a conversation about the impact of this revocation on press freedom, which is a critical institution in the frontline of safeguarding democracy.

In view of this, the Centre for Journalism Innovation and Development hosted a panel discussion via zoom. It was moderated by Stephanie Adam-Douglas, Deputy Manager, Media Freedom, CJID. The panel comprised Busola Ajibola, Deputy Director, Journalism, CJID; Chris Isiguzo, President, Nigerian Union of Journalists; Angela Agoawike, Principal Partner and Coordinator, Journalism & Development seminars Initiative; Kere Ahmed, CEO Zuma FM and Kolawole Oluwadare, Deputy Director, SERAP.

The NBC revocation generated stormy reactions from Nigerians, especially civil society organizations and media organizations. Against the backdrop of its claims as a fitting mechanism for addressing illegality and fighting insecurity, the revocation itself has been described as an illegality and a desperate attempt to breach the fundamental rights of citizens to information and the press. With the general elections around the corner, the revocation has been described as just one of many attempts by the government to muzzle free press and all opposition voices. Nothing justifies the decision to shut down such a large number of media houses at a time when Nigerians are relying on the media for public enlightenment towards the 2023 General Elections. There is no doubt that the timing of the revocation by the NBC is inappropriate.

THE LEGAL FRAMEWORK FOR PRESS FREEDOM IN NIGERIA

Section 39 of the constitution of the Federal Republic of Nigeria 1999, provides for the Right to freedom of expression and the press. It states that:

1. Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference

2. Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions:
There is a *proviso* to section 39 (2) but that will be analyzed subsequently.

Section 22 of the constitution also provides for the obligation of the mass media by stating that:

*The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people.*

However, this section neither empowers nor protects the media to discharge its duty as journalists or lawyers cannot cite any provision of that chapter as a defence in litigations on matters pertaining to publications or broadcast.

**NBC STATUTORY CLAIM**

The NBC relied on the following provisions of the law as statutory backing for the revocation:

The *proviso* to section 39 (2) of the constitution of the federal Republic of Nigeria, 1999 which states that:

*Provided that no person, other than the Government of the Federation or of a State or any other person or body authorized by the President on the fulfillment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.*

The NBC strengthened their stand with the provision of Section 10 (a) of The National Broadcasting commission NBC Act CAP N11, laws of the Federation of Nigeria, 2004, which third schedule states that: *'A licence may be revoked by the Commission in the following cases, that is (a) where the prescribed fee has not been paid on the due date.’*

**FREEDOM OF EXPRESSION DELIMITED**

The right to Freedom of expression as provided under the CFRN 1999 is not an absolute right. Subsection (2) and (3) of section 39 provides that:

*"No person, other than the government of the federation or of a state or any other person or body authorized by the president on fulfillment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.”*

Notwithstanding the derogation of these rights provided for under the section 39(2)(3) CFRN as it affects the ownership, establishment and operation of any medium for the dissemination of information, there are also some hard knots in form of procedures that are set down by the National Assembly under the National Broadcasting Commission Act. The requirements for establishing a medium of dissemination of information are in themselves a delimiting trap aimed at muzzling and stifling the press in Nigeria.

**FACT IN ISSUE**

Section 10 (a) of the NBC Act conflicts with section 39 of the constitution which guarantees freedom of expression, thereby rendering section 10(a) of the NBC Act null and void. Also, the NBC Act permits the Commission to be the complainant, the accuser and the prosecutor. This is a flagrant disregard for the principle of natural justice (*Nemo judex in causa sua*) which restrains a body from being the judge and the enforcer in its own case without any recourse to law.

**A THREAT TO FREEDOM OF EXPRESSION:**

The news media industry serves a critical democratic function. They do this by informing audiences, facilitating debate and performing critical oversight. Therefore, the attempt to whittle
down the critical influence of the media in Nigeria is a threat to democracy and as stakeholders, we will not fold our arms and watch reckless political appointees ridicule and derail the hard-earned gains of democracy in Nigeria.

The NBC failed to question the morality of the revocation before making it known to the public. Many media houses are struggling to keep afloat amid dwindling fortunes of the economy and, like every other business in other sectors, the news media industry is also faced with the impact of COVID-19 which has resulted in dwindling revenues. One would expect that the NBC would factor some of these economic realities into its decision making but it did not. Although the NBC has based its reason for the revocation on failure of the media houses to renew their licenses, the timing suggests a furtherance of government’s attempts to gag the media and suppress press freedom in Nigeria.

RECOMMENDATIONS

- Provisions of the constitution or any act such as Section 39 of the constitution and section 10 (a) of the National Broadcasting Commission Decree of 1992, now known as the NBC Act which cedes the power to grant a media license to any government official, must be expunged.

- Even though press freedom is granted in section 22 of the constitution, it is not justiciable, therefore, it is safe to say that there is no statutory backup for press freedom in Nigeria. This reveals the urgent need for a reform of the legal framework for press freedom in Nigeria, in order to inspire good practices guided by clear, predictable legal principles and enforcement.

At a time Nigerians are relying on the media for information towards the 2023 General Elections, the revocation of the licenses of over 53 media houses by the National Broadcasting Commission is completely mistimed. The NBC as an agency of government funded by taxpayers, should at this critical time prioritize citizens’ need for concrete news over revenue generation through sales of licenses.

While we do not encourage the failure of the affected media houses to renew their licenses, we strongly recommend for a dialogue with the NBC towards a review of the costs of license and frequency in Nigeria as it remains one of the highest in the ECOWAS subregion.

Despite the role media plays in helping to build free and open societies, media development programs are often fragmented and poorly funded, making up a tiny fraction of overall development spending in Nigeria. We need to find a way to get the government to see that the media is not the enemy. Everyone, including the media, is working to see that we have a nation that works. Therefore, Media Investment funds and aids should be provided by government.
Published in Nigeria in 2022 by
Centre for Journalism Innovation and Development - CJID (formerly PTCIJ)
53 Mam bolo Street, Zone 2, Wuse, Abuja.
www.thecjid.org
info@thecjid.org

Copyright © Centre for Journalism Innovation and Development

No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, scanning, or otherwise, except as permitted by the Nigerian Copyright Act, without either the prior written permission of the Publisher, or authorisation from Centre for Journalism Innovation and Development.

NBC VS THE MEDIA; EXAMINING THE BOUNDARIES OF REGULATION AND SUPPRESSION.

Design Editor: Asari Ndem
Design: Richard Ofunrein

For general information on The Centre for Journalism Innovation and Development, please contact us through: info@thecjid.org. An on line version of this handbook is published on: https://thecjid.org/publications/

About CJID
The Centre for Journalism Innovation and Development (CJID), formerly the Premium Times Centre for Investigative Journalism (PTCJI), is a West African media innovation and development think (and do) tank. Founded in 2014 as a non-governmental organisation in Nigeria. The Centre has been a leader in investigative journalism, civic technology, open data, verification, safety of journalists, elections and freedom of information and expression. It has a presence in Nigeria, Ghana, Sierra Leone, Liberia and The Gambia.