

# THE PRESS COUNCIL OF SA...

Presentation to Portfolio Committee on Communications  
on Films and Publications Bill 37-2016

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The Press Council urges the Committee to consider the following amendments to the Bill:

“16 (1) Any person may request, in the prescribed manner, that a publication, other than a newspaper, magazine **or online publication** that is published **by a member of the Press Council** and that subscribes and adheres to a code of conduct that must be **enforced by the Press Council**, and, other than an advertisement that falls within the jurisdiction of the Advertising Standards Authority of South Africa, which is being distributed in the Republic, be classified in terms of this section.”;

- This amendment will encompass the online members of the Press Council.
- Current exemption has been working well for our newspapers, but now that magazines are being added, we may just as well include our online members

Press Council also urges the Committee to consider the following changes in the Definitions:

“ **‘Press Council of South Africa’** means a voluntary independent **co-regulatory body** established in terms of the Constitution of the Press Council of South Africa and which has adopted the Press Council Constitution, **the Code of ethics and conduct for South African print and online media and Complaints Procedures;**

**‘Press Ombud’** means the **Ombud** appointed in terms of the Constitution of the Press Council of South Africa;’

- These changes are recommended to tally with the Constitution of the Press Council



# Press Council of SA

- ▶ Who are we?
- ▶ How did we get here?
- ▶ What's next?

## Who are we?

- *Code of Ethics and Conduct for South African Print and Online Media,*
- *Complaints Procedures and*
- *Constitution*

Voluntary co-regulatory mechanism created and funded by the print and online media through membership fees

Broadcasters have the Independent Communications Authority of South Africa (statutory) and Broadcast Complaints Commission of SA (voluntary)



# Cornerstone of our work

Section 16 of the Bill of Rights in the South African Constitution says: “Everyone has the right to freedom of expression, which includes:

- a) Freedom of the press and other media;
- b) Freedom to receive and impart information or ideas...

# Architecture

- Press Council,
  - Eight media and eight public representatives, chaired by retired judge
- Public Advocate – champion of the complainant
- Ombud
  - arbitrates in complaints
- Panel of Adjudicators, chaired by a retired judge
  - eight media and ten public representatives

# Code of Ethics and Conduct for SA Print and Online Media

## Preamble

The media exist to serve society. Their freedom provides for independent scrutiny of the forces that shape society, and is essential to realising the promise of democracy. It enables citizens to make informed judgments on the issues of the day...

Our work is guided at all times by the public interest, understood to describe information of legitimate interest or importance to citizens. As journalists we commit ourselves to the highest standards, to maintain credibility and keep the trust of the public. This means always striving for truth, avoiding unnecessary harm, reflecting a multiplicity of voices in our coverage of events, showing a special concern for children and other vulnerable groups, exhibiting sensitivity to the cultural customs of their readers and the subjects of their reportage, and acting independently.

# History

- 1962 – Press Board of Reference
- 1960s – Media Council
- 1997 – Press Ombudsman’s Office
- 2007 – Press Council of SA
- 2007 to now – threats of a statutory Media Appeals Tribunal
- 2013 – Revamped Press Council
- 2016 – Latest incarnation

# Code and children (1)

## **8. Children**

8.1. The Bill of Rights (Section 28.2) in the South African Constitution states: “A child's best interests are of paramount importance in every matter concerning the child.” The media, applying the spirit of this section, shall therefore:

8.1.1. exercise exceptional care and consideration when reporting about children. If there is any chance that coverage might cause harm of any kind to a child, he or she shall not be interviewed, photographed or identified without the consent of a legal guardian or of a similarly responsible adult and the child (taking into consideration the evolving capacity of the child), and a public interest is evident;

## Code and children (2)

8.1.2. not publish child pornography; (Child Pornography is defined in the Film and Publications Act as: Any visual image or any description of a person, real or simulated, however created, who is or who is depicted or described as being, under the age of 18 years, explicitly depicting such a person who is or who is being depicted as engaged or participating in sexual conduct; engaged in an explicit display of genitals; participating in or assisting another person to participate in sexual conduct which, judged within context, has as its predominant objective purpose, the stimulation of sexual arousal in its target audience or showing or describing the body or parts of the body of the person in a manner or circumstance which, in context, amounts to sexual exploitation); and

## Code and children (3)

8.1.3. not identify children who have been victims of abuse, exploitation, or who have been charged with or convicted of a crime, without the consent of their legal guardians (or a similarly responsible adult) and the child (taking into consideration the evolving capacity of the child), a public interest is evident and it is in the best interests of the child.

# International experience

- A review carried out by the New Zealand Press Council in 2007, found that the overwhelming majority – fully 86% - of press councils in its survey were non-statutory.

- *“This Committee and its predecessors have investigated these matters from time to time, most recently in our 2007 Report Self-regulation of the press, which concluded that self-regulation continued to be the best way to maintain press standards while ensuring freedom of the press.*

*“We do not believe that there is a case for a statutory regulator for the press, which would represent a very dangerous interference with the freedom of the press. **We continue to believe that statutory regulation of the press is a hallmark of authoritarianism and risks undermining democracy.** We recommend that self-regulation should be retained for the press, while recognising that it must be seen to be effective if calls for statutory intervention are to be resisted.” - British Parliamentary Select Committee on Culture, Media and Sport 2010*

- *“Effective self-regulation is the best system for promoting high standards in the media.”*
  - *Declaration of Principles on Freedom of Expression in Africa, 2002*

# Back home

“When the press sets up its own mechanism, it is important that it should function as an independent adjudicating entity, which complies with the requirements of a fair and independent rule-maker, even though funded by the press. The fact that it is so funded would not, in itself, lead to the system being legally suspect.

” It is the distance from the founding body, the manner in which officials and adjudicators are appointed, the style (objectivity) in which decisions are taken and motivated, and the chairing of the appeal body by a retired judge which gives a regulatory structure independence and standing.

“The Commissioners believe that the decision to format the SA regulatory system as an independent co-regulatory system meets these criteria.”

- Former Chief Justice Pius Langa and the Press Freedom Commission.

For detailed information on media regulation and ethics in South Africa, visit

Visit [www.presscouncil.org.za](http://www.presscouncil.org.za)

Click on *Reports*, then *Archive*, download *Press Council's Review* and the *Press Freedom Commission's Report*.

***Thank you, realeboga...***