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GENERAL NOTICE No. 106



MALAWI COMMUNICATIONS REGULATORY AUTHORITY

PUBLICATION OF FINE AND ORDER OF THE MALAWI COMMUNICATIONS REGULATORY AUTHORITY ON BREACH OF LICENCE CONDITIONS AND THE COMMUNICATIONS ACT BY ZODIAK BROADCASTING STATION

(Section 54(5) Communications Act)

1. The Malawi Communications Regulatory Authority (the Authority) hereby confirms the findings published on 1st November 2016 on breach of licence terms and conditions and the Communications Act by Zodiak Broadcasting Station.
2. In August, 2016, Zodiak Broadcasting Station (Zodiak) broadcast an interview with Honourable Kamlepo Kalua MP seeking his reaction on the State President's 24 hour ultimatum for Hon. Kalua to provide the names of cabinet ministers allegedly involved in the cash-gate scandal.
3. During the interview Hon. Kalua digressed and alleged that former President of the Republic, late Bingu wa Mutharika (and the Democratic Progressive Party administration) killed Robert Chasowa and that former President of the Republic, Bakili Muluzi (and the United Democratic Front administration) killed Fanikiso Phiri and Evison Matafale. The Authority found the broadcast by Zodiak to be in breach of its broadcasting licence and the Communications Act.
4. The licence requires Zodiak to comply with the Code of Conduct for Broadcasters contained in the Third Schedule to the Communications Act.
5. Section 5 of the Code of Conduct requires Broadcasters, when presenting a controversial issue of public importance, to make reasonable efforts to present differing points of view in the same programme or in a subsequent programme within a reasonable period of time and in substantially the same time slot. The Authority has found that Zodiak did not afford the Democratic Progressive Party an opportunity to respond to the allegations by Hon. Kalua within a reasonable time and in substantially the same time slot of the original broadcast. Zodiak therefore failed to comply with the requirements of section 5 of the Code.

6. Section 2 of the Code of Conduct requires broadcasters not to broadcast any material which is likely to prejudice public order or tranquility. The Authority notes that the deaths of Robert Chasowa, Fanikizo Phiri and Evison Matafale are politically sensitive matters. In the Authority's assessment, the allegations by Hon. Kalua, which so far have not been proven to be true, had the potential of inciting supporters of political parties mentioned and other members of the general public to violence. Zodiak thus breached Section 2 of the Code
7. Section 4 of the Code of Conduct gives broadcasters the right to comment on and criticize any actions of public importance. The comment however must be an honest expression of opinion. The Authority finds that opinions of Hon. Kalua, as broadcast by Zodiak and therefore attributed to the radio station, were not honest expressions of opinion and not in good faith. The statements by Hon. Kalua have not been proven to be true and further they were made against a person who is deceased and therefore could not defend himself. Zodiak therefore breached section 2 of the Code.
8. Pursuant to section 54(5) of the Communications, the Authority hereby imposes on Zodiak Broadcasting Station, a fine of US\$1250 which is a quarter of Zodiak's annual licence fees. Further Zodiak is hereby warned on its conduct and directed to desist from any further non-compliance with the terms and conditions of its licence and the Communications Act.

Dated this on the 28th day of November 2016.

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