

Media standards and entitlements

A discussion note for public consultation

A free, independent and diverse media with high ethical standards and professional competence, dedicated to provide a wide range of information and ideas to citizens, while serving as a public forum for well-informed democratic dialogue, is indispensable for the building and maintaining of democracy in Sri Lanka. The government is committed to creating an enabling environment for the media sector which is based on respect for internationally recognised professional standards and practices, and which ensures media accountability to those who rely on the media as a credible source of news and information.

The government has examined the comprehensive assessment of the overall environment for media development as set out in the report *Rebuilding Public Trust: An Assessment of the Media Industry and Profession in Sri Lanka*, which was presented to the Hon. Prime Minister on 3 May, World Press Freedom Day, 2016 by the multi-stakeholder partnership for media reforms. The report contained a set of evidence-based recommendations developed through a multi-stakeholder consultative process and based on UNESCO's widely accepted Media Development Indicators.

Similarly, the recently concluded International Conference on RTI Sri Lanka and Media Reforms also deliberated several challenges of the media sector while making some cardinal recommendations.

Some of the key recommendations of the report as well as the international conference require the adoption of enabling legislation. Based on this, the government wishes to undertake a consultation with all interested stakeholders on the measures needed to provide adequate legal protection for journalists and to strengthen systems for media self-regulation.

The government is ready to ensure legal protection for freedom of the press, including by protecting the media's right to gather news and information, by repealing the Sri Lanka Press Council Act, No 5 of 1979, and by introducing an independent oversight mechanism to foster professional standards, with mandatory powers over media outlets.

In this regard, the government invites the views of interested stakeholders in relation to its proposals to introduce legislation:

1. To recognise media freedom and the right of the media: (a) to gather and disseminate news and information; (b) to engage in critical reporting on matters of public interest; and (c) to participate in the process of forming public opinion.
2. To make it a penal offence for anyone wilfully to obstruct the legitimate collection of news and information by a journalist working for a media outlet.
3. To put in place systems to promote the safety of journalists.
4. To protect journalist's right to not to disclose their confidential sources of information.
5. To make it a penal offence to subject anyone to any legal or employment related sanction or other form of discrimination for providing information to journalists working for a media outlet

concerning public affairs or on matters of public interest, except where the secrecy of the information is justified by a larger public interest.

6. To make it illegal to impose sanctions on or to terminate the employment of an editor or a journalist because of his or her refusal to violate recognised professional codes of practice.
7. To establish an independent Council with a mandate to develop and apply codes of practice for media outlets, based on internationally recognised standards for the media.

The proposed Council will function as the oversight mechanism of a system of self-regulation and will have the power to apply sanction for wilful violations of its codes of practice. The approaches towards ensuring the independence of the Right to Information Commission will also be applicable to the Council, which will comprise eminent persons of whom two-thirds are nominated by organisations representing the media and journalists and one-third are nominated by civil society organisations.

To ensure the credibility of and the public confidence in the Council, a Judge of a court of law nominated by the Judicial Services Commission in consultation with the Bar Association of Sri Lanka will serve as Chairperson. The tenure of Council members will be protected and, in particular, removal will only be possible by vote of Parliament following a recommendation of the Constitutional Council.

The functions and powers of the Council will include the following:

- a. Adopt professional Codes of Practice, following a public consultation involving journalists' and editors' associations, media unions and civil society.
- b. Monitor the performance of media outlets to ensure due compliance with the Codes of Practice.
- c. Hold inquiries into alleged violations of the Codes of Practice based on complaints or the monitoring of the Council, and issue decisions.
- d. Conduct public consultations to assess the public perception of media outlets' compliance with the Codes of Practice.
- e. Maintain a database of information on registered media entities.
- f. Co-operate with or undertake training and educational activities, including by producing training materials on the effective implementation of the Codes of Practice.
- g. Exercise powers which are similar to those wielded by the Right to Information Commission in terms of conducting inquiries, with provisions for appeals to the courts against the Council's decisions.
- h. In terms of sanctions, the Council will have the power to issue warnings to media outlets and to order a media outlet to publish or broadcast the Council's decision in the manner prescribed by the Council.
- i. Mediate between employers and employees of media outlets in relation to disputes concerning the enforcement of the Codes of Practice.

The proposed legislation will be applicable to all print and broadcast media outlets, as well as to online media outlets which formally agree to comply with the Codes of Practice.

It shall be an offence for any media outlet to refuse to comply with or to give effect to a decision of the Council, which may be punished by the imposition of a fine after a summary trial before a court of

law. Similarly, obstructing the legitimate collection of news and information by a journalist, forcing a journalist to disclose a confidential source of information or discriminating against a journalist who refuses to violate the Codes of Practice will be offenses.

The government invites media organisations, owners and publishers associations, journalists' unions and associations, civil society organisations and members of the public to express their views on this proposal. Please send your views in writing to the address given below before 31st December 2016.

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