

**HATE SPEECH AND MISINFORMATION IN THE NIGERIAN DIGITAL SPACE: A
CASE STUDY OF THE NATIONAL BROADCASTING CORPORATION'S
SANCTIONS ON MEDIA NEWS HOUSES**

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CERTIFICATION

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DEDICATION

This research work is dedicated with profound gratitude and unwavering love to my parents, Mr. and Mrs. Ilori. Your belief in me, countless sacrifices and encouragement made the successful completion of this journey possible.

Beyond that, I dedicate this research to the enduring strength of the Nigerian Constitution and to every courageous journalist, media house and citizen who struggles daily for the fundamental right to speak, to know and to report without fear of arbitrary sanction. May the rule of law forever separate the regulator from the judge in our media and public space.

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LIST OF CASES

Incorporated Trustees of Expression Now Human Rights Initiative v Federal Republic of Nigeria ECW/CCJ/APP/41/23; ECW/CCJ/JUD/20/25 [2025] ECOWASCJ 17 (9 April 2025)

9

MRA V NBC, Suit No: FHC/ABJ/CS/1386/2021 (Unreported) delivered on 10 May 2021-----

-----22

LIST OF STATUTES

Cybercrime (amendment) Act, 2024

Electoral Act (as amended) 2024

ICERD (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195, art 4(a)

ICCPR (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 20

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Section 39 Of 1999 CFRN (as amended)

Section 45 CFRN 1999

LIST OF ABBREVIATIONS

- AIT - African Independent Television
- BDCT – Broadcasting and Digital Content Tribunal
- BON - Broadcasting Organisation of Nigeria
- -CFRN- Constitution of the Federal Republic of Nigeria
- COVID-19 - Coronavirus Disease 2019
- DSTV - Digital Satellite Television
- EndSARS - A protest movement named after the disbandment of the Special Anti-Robbery Squad (SARS)
- ICCPR - International Covenant on Civil and Political Rights
- MRA - Media Rights Agenda
- NBC - National Broadcasting Commission
- NCC - Nigerian Communications Commission
- NGE - Nigerian Guild of Editors
- NGO – Non-Governmental Organization
- NITDA - National Information Technology Development Agency
- NTA - Nigerian Television Authority
- NUJ - Nigerian Union of Journalists
- TSTV - Telcom Satellites Television
- UN – United Nations

TABLE OF CONTENTS

TITLE PAGE	i
CERTIFICATION	ii
APPROVAL	iii
DEDICATION	iv
ACKNOWLEDGEMENT	v
LIST OF CASES	vi
LIST OF STATUTES	vii
LIST OF ABBREVIATIONS	viii
TABLE OF CONTENTS	ix
ABSTRACT	xii
CHAPTER 1	1
1.1 GENERAL INTRODUCTION	1
1.2 BACKGROUND TO THE STUDY	2
1.3 STATEMENT OF THE PROBLEM	3
1.4 AIMS AND OBJECTIVES OF THE STUDY	4
1.5 RESEARCH QUESTIONS	5
1.6 RESEARCH METHODOLOGY	5
1.7 LITERATURE REVIEW	6
1.8 SIGNIFICANCE OF THE STUDY	6
1.9 SCOPE OF THE STUDY	6
1.10 CHAPTERS SYNOPSIS	6
CHAPTER TWO	8
CONCEPTUAL FRAMEWORK, THEORETICAL FRAMEWORK AND	8
2.1 Introduction	8
2.2 Conceptual Clarifications	8
2.3 Historical Background and Theoretical Framework	11

2.3.1 Historical Development of Media Regulation in Nigeria	11
2.3.2 THEORETICAL FRAMEWORK	13
2.4 Literature Review	17
2.4.1 Literature review on the National Broadcasting Commission’s Sanctions on Media	17
2.4.2 Legal Analysis of NBC’s Sanctioning Power	22
2.5 Conclusion	25
CHAPTER THREE	26
THE NATIONAL BROADCASTING CORPORATION’S SANCTIONS ON MEDIA	26
3.1 Introduction	26
3.2 Instances of Regulatory Censorship	27
3.3 Targeting Reporting on National Insecurity	28
3.4 Muzzling Political Dissent	28
3.5 Suppressing Crisis Reporting	29
3.6 The Financial Hammer: Licenses and Mass Shutdowns	30
3.7 The Judiciary Intervention: Curbing the NBC’s Power	32
3.8 The Regulatory Counter-Move: An Ongoing Battle for Power	34
3.9 The Lingering Chill: Self-Censorship and the Future of Media Freedom	35
CHAPTER FOUR	39
IMPACT OF NBC’S SANCTIONS ON MEDIA FREEDOM AND FREEDOM OF	39
4.1 Introduction	39
4.2 The Regulatory Overreach: Unfair Sanctions and the Stifling of Free Expression	39
4.3 The NBC’s Regulatory Crisis: Arbitrary Power, Unfair Fines, and the Suppression of... 41	
4.3.1 The Weaponization of Financial Penalties	41
4.3.2 Suppressing #EndSARS Coverage (2020)	42
4.3.3 Punishing Political Dissent (2023)	42
4.3.4 Systematic Violation of Fair Hearing	43
4.4 How NBC's Unfair Sanctions Erode Media Freedom and Undermine Nigerian	44

2.5 The Chilling Effect on Journalistic Practice	44
4.5.1 Impact on Editorial Risk-Taking	44
4.5.2 Erosion of Editorial Independence and Public Trust	45
4.5.3 Partisan Accusations and Regulatory Capture	45
4.5.4 Compromised Credibility	46
4.6 Impairment of Democratic Discourse and Plurality of Voices	46
4.6.1 Limiting Diversity of Information	46
4.6.2 Acute Influence During Elections	47
4.7 Compliance with International Human Rights Standards	48
4.7.1 Proportionality Test Failure	48
4.7.2 The Feedback Loop of Distrust	48
4.7.3 Conclusion	49
CHAPTER FIVE	51
5.1 Summary of Key Findings	51
5.2 The Role and Reach of the National Broadcasting Commission (NBC)	52
5.3 The Controversial Expansion into Digital Media	53
5.4 Constitutional Conflict: The Doctrine of Ultra Vires	54
5.5 Violation of Natural Justice: The Right to Fair Hearing	54
5.6 Findings: The Operational Impact of Regulatory Practices	56
5.6.1 Arbitrary Application and Political Instrumentalization	56
5.6.2 The Chilling Effect: Deterring Free Expression	57
5.7 Recommendations	58
5.7.1 Recommendations for Enhancing Due Process and Transparency	58
5.7.2 Recommendations for Media Stakeholders and Self-Regulation	58
5.8 Recommendations for Legislative Action	58
5.9 General Conclusion	61
BIBLIOGRAPHY	63

ABSTRACT

Nigeria's expanding digital realm is experiencing a troubling surge in hate speech and misinformation which presents a profound risk to national security, social unity, and the credibility of its democratic system. This academic inquiry focuses on the legal and regulatory measures enacted to counter this threat, specifically scrutinizing the actions of the National Broadcasting Corporation (NBC). The study examines the NBC's practice of imposing penalties, such as fines and license revocations, on media organizations and news houses.

By employing a doctrinal methodology alongside a qualitative case study analysis of prominent NBC enforcement actions especially those concerning political coverage and responses to national crises, the research evaluates the legal effectiveness and constitutional validity of the Commission's regulatory authority under the National Broadcasting Act and the Nigeria Broadcasting Code. The research uncovers an ongoing regulatory paradox, in other words; while the NBC is tasked with upholding broadcast standards and public order, its method of imposing unilateral sanctions has consistently been contested in the judiciary. These legal challenges frequently cite violations of the principles of natural justice and an infringement upon the fundamental right to freedom of expression as guaranteed by the 1999 Constitution. The core conclusion of the research is that the existing enforcement framework is widely viewed as arbitrary and prone to regulatory overreach. Consequently, it often fails to achieve the crucial equilibrium between managing harmful content and safeguarding press freedom. The study's ultimate recommendation advocates for targeted legal reforms to ensure that all efforts against misinformation and hate speech are executed within a framework that is both procedurally fair and constitutionally sound, thereby cultivating a responsible media environment instead of a restricted one.

CHAPTER 1

1.1 GENERAL INTRODUCTION

*“The rise of digital technology has transformed how Nigerians access information, connect with one another and participate in public discourse. Social media platforms, online news portals and instant messaging apps have become primary sources of information for millions. While this digital revolution offers immense opportunities for freedom of expression and civic engagement, it has also created fertile ground for the rapid spread of harmful content, hate speech specifically and misinformation”*¹. Misinformation and fake news are significant problems in Nigeria particularly on the internet via social media platforms, causing real harm to individuals, our democracy and overall societal stability. For example, in 2020, the **COVID- 19 pandemic** saw a surge of false information including fake cures and conspiracy theories about the virus’s origin which fueled public fear and confusion. Prior to the **2019 Nigerian general election**, social media platforms were used to spread political disinformation about candidates’ backgrounds and policies aimed at manipulating public opinion and influencing voters. Even Nigeria’s Former Minister of Information and Culture, Lai Mohammed, has publicly called fake news and hate speech “the most horrible monsters capable of ruining social order and peace.”² He sees them as a “clear and present danger to global peace and security” and a “threat to security” and a “threat to democracy,” warning that if people stop trusting the media, society will be in trouble.³These incidents highlight how fake news lead to social disruption, unrest and even death.⁴

These occurrences pose significant threats to Nigeria’s diverse social fabric, national security, and democratic stability. The *National Broadcasting Corporation (NBC)* as the primary

¹ United Nations, ‘Understanding Hate Speech’ UN online, <https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech?hl=en-us> <accessed on 1 August 2025.

² A Adebisi, K Adeosun, T Popoola, M Aliyu and H Adejumo, ‘Media and the Propagation of Hate Speech in Nigeria: A Critical Analysis of Implications For National Security and Social Cohesion’ (2025) 28(1) African Journal for the Psychological Study of Social Issues 64.

³ *ibid*

⁴ Onigbinde, C. O& Oloyede, I.B(2024). Misinformation and disinformation in the Nigerian media landscape. *IMSU Journal of Communication Studies*,8(1), 93-100 <https://doi.org/10.5281/zenodo.11551723> accessed 29 July 2025.

broadcast regulator in Nigeria is mandated to ensure responsible broadcasting. In fulfilling this role, the NBC has imposed sanctions on various media and news houses for alleged breaches of its broadcasting code related to hate speech and misinformation⁵. This research will look at how the National Broadcasting Corporation (NBC) controls hate speech and misinformation in Nigeria's digital space and whether its actions are effective thereby examining the legal and practical implications of these sanctions within the context of the Nigerian digital space.

1.2 BACKGROUND TO THE STUDY

Nigeria is a country with many different ethnic groups, religions and cultures. Historically, these differences have sometimes caused problems⁶. Digital media has made these issues worse allowing hate speech and misinformation to spread very quickly. Hate speech often disguised as free speech aims to create anger, discrimination and even violence against specific groups. Misinformation whether it is deliberately false or just accidental inaccuracies can warp what people believe, destroy trust in important organizations and even lead to real world harm like violence during elections or health crises.

The National Broadcasting Commission was created by Nigerian law⁷ to oversee all broadcasting. They license stations, set standards, monitor content and have the power to punish those who don't follow the rules. They created the ***NIGERIA BROADCASTING CODE***, which is a rulebook for broadcasters including strict rules against hate speech and misinformation. Lately, especially during elections or times of tension, the **NBC** has been active in fining and even temporarily shutting down media organizations that they felt violated these rules⁸. However, these punishments have also drawn a lot of criticism and legal

⁵ ibid

⁶ NCA, 'Culture' <https://www.nigeriaconsulateatlanta.org/culture/?hl=en-US> accessed on 29 July 2025.

⁷ National Broadcasting Commission Act, Cap N11 LFN 2004.

⁸ https://en.wikipedia.org/wiki/National_Broadcasting_Commission?h=en-US accessed on 29 July 2025.

challenges with concerns about their impact on media freedom and the right to a fair hearing⁹. This research aims to understand why the NBC imposes these sanctions, how effective they are and what they mean for media freedom and good journalism in Nigeria's digital age.

1.3 STATEMENT OF THE PROBLEM

The Nigerian digital space has become a significant arena for the propagation of hate speech and misinformation. Studies indicate that platforms such as Facebook, WhatsApp, and X (formerly Twitter) are predominantly used for disseminating such content among Nigerians.¹⁰ The spread of this harmful content is often fueled by political interests, ethnic and religious sentiments as well as an expansive interpretation of freedom of speech.¹¹ This phenomenon has led to social disruption, unrest and even loss of life, instigating conflicts and eroding societal trust.¹²

This challenge lies in finding a delicate balance between upholding the fundamental human right to freedom of expression¹³ and the imperative to curb speech that incites violence, discrimination or hostility. The NBC's approach to regulating this digital content, particularly through sanctions on media and news houses has frequently drawn criticism for its perceived arbitrariness, lack of procedural fairness and potential to stifle legitimate criticism and press freedom.¹⁴

This research will identify the core problems arising from the unregulated spread of hate speech and misinformation in Nigeria. These include but are not limited to incitement of violence, electoral manipulation, erosion of public trust in legitimate news sources and the

⁹ Section 36 of the Constitution of the Federal Republic of Nigeria 1999(as amended) CAP, C23 LFN, 2004.

¹⁰

https://www.researchgate.net/publication/379550344_An_analysis_of_the_major_factors_hate_speech_in_the_Nigerian_digital_environment <accessed on 1 August 2025.

¹¹ *Ibid*; Alakali, Terfa T, Hemen Philip Faga and Jinatu Mbursa, 'Audience Perception of Hate Speech and Foul Language in the Social Media in Nigeria: Implications for Morality and Law' (2018) 8 Academicus Int'l Scientific Journal 161.

¹²

https://www.researchgate.net/publication/379550344_An_analysis_of_the_major_factors_of_hate_speech_in_the_Nigerian_digital_environment accessed 1 August 2025; Onigbinde, C.O. and Oloyede, I.B., 'Misinformation and disinformation in the Nigerian media landscape' (2024) 8(1) IMSU Journal of Communication Studies 93-100.

¹³ Section 39 Of 1999 CFRN (as amended).

¹⁴ Module 6: Hate speech, (Media Legal Defence Initiative 2024).

exacerbation of social tensions. The statement of the problem will further pinpoint the challenges faced by regulatory bodies specifically the National Broadcasting Corporation (NBC) in effectively combating these phenomena while upholding fundamental rights such as freedom of expression. It will question the adequacy and implications of the NBC's current sanctioning regime.

1.4 AIMS AND OBJECTIVES OF THE STUDY

This study aims to:

1. To critically examine the legal and regulatory framework governing hate speech and misinformation in Nigeria, with particular attention to the National Broadcasting Commission Act¹⁵ and the Nigeria Broadcasting Code.
2. To analyze the nature, scope and frequency of sanctions imposed by the NBC on media and news houses for broadcasting content deemed to be hate speech and misinformation.
3. To evaluate the effectiveness of these sanctions in deterring the spread of hate speech and misinformation and promoting responsible journalism.
4. To assess the human rights implications of the NBC's sanctions particularly regarding freedom of speech and press freedom and whether they align with international best practices.
5. To propose policy and legal recommendations for a more balanced, effective and rights compliant approach to regulating hate speech and misinformation in the Nigerian digital space.

¹⁵ LFN 2004 Cap N11.

1.5 RESEARCH QUESTIONS

Flowing from the statement of problem, this research raises the following interrogative research questions which are linked with the specific objectives of the research. The research questions include;

1. What are the main laws and regulations in Nigeria that deal with hate speech and false information on news and broadcast media?
2. How has the NBC used its power to punish Television and radio stations for broadcasting hate speech and false news?
3. Have the NBC's punishments actually helped to stop hate speech and false information being aired?
4. Do these NBC punishments limit people's right to speak freely or stop news companies from reporting everything?
5. Are the NBC's ways of punishing fair and do they match global standards for media control and free speech?
6. What challenges does the NBC face when trying to control hate speech and false information in Nigeria's digital world?
7. What suggestions can be made to make the NBC's approach to hate speech and false information better, fairer and more respectful of human rights?

1.6 RESEARCH METHODOLOGY

This study will primarily adopt a doctrinal legal research approach involving a comprehensive analysis of relevant Nigerian statutes, subsidiary legislations (such as the Nigerian Broadcasting Code), judicial pronouncements and scholarly works on hate speech, misinformation and media regulation. A comparative analysis with other jurisdictions that have grappled with similar issues may also be incorporated to draw lessons and best practices.

Where relevant and feasible, case studies of specific NBC sanctions will be examined to illustrate their application and impact.

1.7 LITERATURE REVIEW

This research will provide a review of existing academic and professional literature on hate speech, misinformation, media regulation in Nigeria and the role of the regulatory bodies like the NBC. It will identify gaps in current research that this research intends to fill particularly concerning a detailed legal analysis of the NBC's sanctions and their broader implications for human rights and democratic principles.

1.8 SIGNIFICANCE OF THE STUDY

This research is significant as it will contribute to a deeper understanding of the complex interplay between freedom of expression, media regulation and public order in the context of the Nigerian digital space. The findings and recommendations will be valuable to policy makers, legal practitioners, media organizations, civil society groups and academics involved in promoting responsible digital citizenship and safeguarding fundamental rights in Nigeria.

1.9 SCOPE OF THE STUDY

The research will focus specifically on hate speech and misinformation as disseminated through traditional media (radio and television) regulated by the NATIONAL BROADCASTING CORPORATION. While acknowledging the broader digital space, the primary case study will be confined to the NBC's sanctions on registered media and news houses within a specified timeframe.

1.10 CHAPTERS SYNOPSIS

This research looks at the big problem of hate speech and misinformation becoming incessant and worrisome in Nigeria and how the National Broadcasting Commission (NBC) tries to control it by punishing media outlets and the effect of this on the freedom of speech and the solution to this big problem of hate speech and misinformation.

Chapter One sets the stage, explaining why this issue is critical for Nigeria's peace and democracy outlining what the study aims to achieve and how the research will be conducted.

Chapter Two dives into the legal side defining hate speech and misinformation according to Nigerian laws and examining past court cases that have challenged these definitions or the NBC's powers.

Chapter Three details the NBC's actions showing the types of punishments it imposes on media houses like large fines and providing real-life examples of stations that have been sanctioned.

Chapter Four explores the consequences of these sanctions, focusing on how they affect media freedom and the right to free expression often leading to self-censorship and legal battles where courts have questioned the NBC's authority.

Chapter Five summarizes all the findings, draws conclusions about the current regulatory challenges and offers recommendations for creating a fairer and more effective system that protects both public order and fundamental rights in Nigeria's digital space.

CHAPTER TWO

**CONCEPTUAL FRAMEWORK, THEORETICAL FRAMEWORK AND
LITERATURE REVIEW**

2.1 Introduction

This chapter provides for the conceptual clarification of the major words to be used throughout this research. The chapter also focuses on the concept of human rights, comprehensively discussing hate speech and misinformation and disinformation, comprehensively discussing their historical background, theories and also undertakes a review of the existing literatures on hate speech and misinformation in the Nigerian digital space and strategies for effectively combating and controlling hate speech and misinformation.

2.2 Conceptual Clarifications

In this chapter, the major words used in the research are defined within the context in which they are used, for the purpose of clarity and to avoid ambiguity. These words are hate speech¹⁶ and misinformation.

The Black's Law Dictionary defines "hate speech" as:

*'Speech that carries no meaning other than the expression of hatred for some group, such as a particular race, especially in circumstances in which the communication is likely to provoke violence.'*¹⁷

Hate speech while lacking a universally accepted definition, is a form of expression that international law mandates seeks to prohibit. Key international instruments such as International Covenant on Civil and Political Rights (ICCPR)¹⁸ and International Convention

¹⁶ Hate speech and discriminatory speech are used interchangeably in this research.

¹⁷ BA Garner's Black's Law Dictionary (9th ed, 2009, West Group) 1988.

¹⁸ ICCPR (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 20.

on the Elimination of All Forms of Racial Discrimination (ICERD)¹⁹ specifically require states to outlaw any acts of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence. This underscores that hate speech must be clearly and narrowly defined, employing objective criteria, and often focusing on the intent to incite harmful actions.²⁰ In common language, “hate speech” refers to offensive discourse targeting a group or an individual based on inherent characteristics (such as race, religion or gender) and that may threaten social peace.²¹ It is also defined as “*any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are , in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.*”²²

It is imperative to differentiate hate speech from merely offensive or critical speech. Freedom of expression, a pillar of democratic societies including Nigeria, gives the right to convey ideas that may be robust, critical or even cause shock or offence.²³ It is also important to note that what constitutes hate speech is intentionally high to prevent undue legitimate public discourse. In Nigeria, while various laws address harmful forms of speech, a precise and concise definitions that meets the international standards remains a dream. A significant legal challenge arose in the ***INCORPORATED TRUSTEES OF EXPRESSION V FEDERAL REPUBLIC OF NIGERIA***²⁴ where the ECOWAS Court stated that the NBC’s provisions concerning hate and offensive speech were completely vague, overbroad and ambiguous

¹⁹ ICERD (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195, art 4(a).

²⁰ Module 6: Hate speech (Media Legal Defence Initiative, revised edn, April 2024) <https://www.mediadefence.org/ereader/wp-content/uploads/sites/2/2022/12/Module-6-Hate-speech-2024.pdf?hl=en-US> accessed 20 August 2025.

²¹ United Nations Organization ‘hate speech’ <https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech> accessed 21 August 2025.

²² United Nations, The UN Strategy and Plan of Action on Hate Speech (18 June 2019), *ibid*.

²³ S 39 CFRN 1999 (as amended)

²⁴ *Incorporated Trustees of Expression Now Human Rights Initiative v Federal Republic of Nigeria ECW/CCJ/APP/41/23; ECW/CCJ/JUD/20/25 [2025] ECOWASCI 17 (9 April 2025).*

thereby infringing on the freedom of expression.²⁵ The Court mandated Nigeria to revise these provisions to conform with international norms.

The ECOWAS Court's emphasis on incitement to discrimination, hostility or violence highlights a major problem with Nigerian law. Nigeria's laws and the rules of the NBC do not have a clear and consistent definition of what constitutes incitement. This lack of clarity means that what is considered "hate speech" can be interpreted very broadly and applied unfairly. As a result, authorities can suppress protected speech under the pretense of fighting hate speech. This vagueness makes it difficult for media organizations to report on sensitive national issues without worrying about excessive penalties. Pertinently, it restricts the free flow of information which is vital for an open and health society.

Misinformation and Disinformation

While misinformation and disinformation both refer to false information, the crucial difference lies in the intent behind their creation and spread. Misinformation is like an honest mistake. It is false information that is shared unintentionally. This often happens due to a genuine error, a misunderstanding or a simple lack of fact checking. The person spreading misinformation does not know it is wrong and is not trying to deceive anyone. For example, if someone forwards a news, they believe is true but is actually false, they are spreading misinformation.

Disinformation, on the other hand, is a deliberate act of deception. It is a false information that is created and shared on purpose to mislead, manipulate or harm others. The people behind disinformation campaigns know the information is false and have a clear often malicious, goal in mind such as influencing public opinion, discrediting opponents or undermining a government. A classic example is a propaganda campaign.²⁶

²⁵ *Ibid* 8.

²⁶ *Ibid* 5.

In Nigeria, the main law that deals with spreading false information is the **Cybercrime Act**.²⁷ This law makes it a crime to intentionally share false messages on computers or on the internet if the purpose is to cause annoyance, danger, hatred or needless worry. The 2024 amended edition made this law more specific, limiting the crime of cyberstalking to only include messages that are pornographic or those that are likely to cause a breakdown of law and order or directly threaten a person's life.

In addition, the Electoral Act²⁸ has its own rules against spreading fake news, specifically targeting false information meant to either help or harm a political candidate during an election. A major issue with Nigeria's Cybercrime Act is that it is difficult to prove intent to harm which is a key element. The law's broad language allows for subjective interpretations and can be used to unfairly target people. This lack of clarity means that individuals and media organizations could face harsh penalties for unintentional errors. This uncertainty and the risk of disproportionate sanctions create a chilling effect that discourages journalists from reporting on sensitive topics. This ultimately harms the free flow of information and public discourse. The difficulty in proving intent leads to the law being applied arbitrarily which undermines legal certainty.²⁹

2.3 Historical Background and Theoretical Framework

2.3.1 Historical Development of Media Regulation in Nigeria

Nigeria's media regulation has evolved from its colonial past, where British authorities used laws like the **Newspaper Ordinance**³⁰ to control information and suppress independence movements. After gaining independence in 1960, successive military governments continued this tradition of control. For example, **Decree No. 4 of 1984**³¹ made it a crime to publish any information that the government considered "false," which shows a continuous history of

²⁷ Cybercrime (amendment) Act, 2024.

²⁸ Electoral Act (as amended) 2024.

²⁹ *ibid* 5.

³⁰ Newspaper Ordinance, 1903.

³¹ Public Officers (Protection Against False Accusation) Decree No. 4 1984.

state efforts to control the media.³² In 1999, Nigeria's shift to a democratic government raised hope for a free press. However, authorities still found ways to regulate the media, often citing the need to protect national security and public order. The NBC has since expanded its role to address the problems and difficulties of the digital era.³³

The rise of the internet and social media has profoundly altered Nigeria's media landscape, creating new opportunities for information sharing while also accelerating the spread of hate speech and misinformation. This has motivated the government to take a more active role in regulating online content. Key initiatives have included the **Cybercrime Act 2015 which was later amended in 2024** to address various online offenses like cyberstalking and racist acts, though critics have raised concerns that its broad provisions could hinder free expression. Despite the 2024 amendment's efforts to clarify the law, these worries still persist³⁴. Similarly, the NBC Act of 1992, has used its National Broadcasting Code particularly through its 2020 amendments, to extend its regulatory oversight to online content and impose higher penalties for violations like hate speech. Additionally, a new code of practice was introduced in 2022 by the National Information Technology Development Agency (NITDA), in direct response to the #EndSARS movement and the twitter ban. This new approach marks a strategic shift towards "co-regulation" placing the responsibility for content management on digital problems themselves rather than solely on individual users.³⁵ Nigeria's approach to regulating the internet, termed "regulatory annexation" involves applying traditional broadcasting laws to the digital space. This method is a way for the government to maintain

³² O.T Adelabu, L.O Adaralegbe & D. O Dada, "Media Censorship in Democratic Nigeria during President Muhammadu Buhari's Administration (2015-2023)" (2025) 2(1) Akungba Communication and Media Journal 15-25.

³³ *ibid.*

³⁴ Harlem Solicitors, 'the menace of cyberbullying and cyberbullying in Nigeria' <https://www.harlemsolicitors.com/2024/06/25/the-menace-of-cyberbullying-and-cyberstalking-in-nigeria/?hl=en-US> accessed 28 August 2025.

³⁵ Cambridge, 'code of practice towards a radical coregulatory turn' <https://www.cambridge.org/core/journals/data-and-policy/article/digital-policy-and-nigerias-platform-code-of-practice-towards-a-radical-coregulatory-turn/F44CAEE7AACDD4E4F47EC77B9F643A77/?hl=en-US> accessed 28 August 2025.

control over the new media landscape.³⁶ However, this strategy is problematic because the internet is inherently decentralized and difficult to control from the top down. This creates a power imbalance, as powerful global technology platforms may disregard Nigeria's local regulations.³⁷ The core issue is a struggle for control: the government wants to regulate information flow, but the nature of the internet makes this difficult, leading to ineffective laws and conflicts over digital rights.³⁸

2.3.2 THEORETICAL FRAMEWORK

Social Responsibility of the Press

The Social Responsibility Theory of the Press argues that media outlets, despite their freedom of expression, have major duties to the society. The theory which critiques pure libertarianism, holds that the press should be truthful, accurate, fair and objective.³⁹ It also states that the media should work to educate the public and protect national security.⁴⁰ According to this theory, if the press does not act responsibly, a public agency should step in to ensure it is held accountable.⁴¹

In Nigeria, media such as print and broadcast outlets are guided by the **Social Responsibility Theory of the Press**. The National Broadcasting Commission, with its authority to enforce compliance with the **Broadcasting Code**, upholds this theory. The NBC's regulations emphasize promoting national unity and cohesion, which aligns with the view that freedom of expression should serve society's interests, not just individual ones.⁴² The **Social Responsibility Theory** is applied in a way that gives the state, particularly agencies like the National Broadcasting Corporation (NBC), the power to define what "responsibility" and

³⁶ *ibid.*

³⁷ *ibid.*

³⁸ *ibid.*

³⁹ Scribd, 'Libertarian and Social Responsibility Theory' <https://www.scribd.com/doc/202299870/Libertaarian-and-Social-Responsibility-Theory-1?hl=en-US> accessed 28 August 2025.

⁴⁰ *ibid.*

⁴¹ *ibid.*

⁴² *ibid.*

“national interest” mean.⁴³ This creates a conflict of interest because the government, which the media is supposed to hold accountable, is also the one setting the rules for what is considered accountable reporting. The government’s broad interpretation of “national interest” can be used to justify censorship and restrict press freedom, effectively turning the theory into a tool for controlling the media. This approach ultimately gives the state more regulatory power, leading to a direct justification for limiting media freedom.

Libertarian Theory of the Press

The Libertarian Theory of the Press posits that the media should be free from government control. The theory is built on the belief that a “free marketplace of ideas” allows people to distinguish truth from lies. This freedom enables the press to pursue truth and critically examine government actions⁴⁴. However, this theory is not absolute; it still recognizes the validity of laws concerning sedition, slander and libel as necessary constraints on this freedom.⁴⁵

Nigeria’s constitution through Section 39,⁴⁶ guarantees freedom of expression aligning with the core tenets of libertarianism. Despite this constitutional guarantee, the Nigerian media system is often described as a hybrid, operating far from a state of true freedom, even under civil rule⁴⁷. The continued existence of criminal defamation laws and the documented incidences of journalists being arrested for criticizing political officeholders underscore significant deviations from pure libertarian principles in Nigeria often presents an illusion of absolute freedom.⁴⁸ This stems from the inherent tension between the theoretical ideal of an unfettered press and the practical demands for order and stability within a diverse and

⁴³ Adelabu O.T, Adaralegbe L.O & Dada D.O. (2025). MEDIA CENSORSHIP IN DEMOCRATIC NIGERIA DURING PRESIDENT MUHAMMADU BUHARI’S ADMINISTRATION (2015-2023) *Akungba Communication and Media Journal* 2(1) 15-25 <https://www.acmjaua.org/public/storage/article/liU4hliJCDDsKs48aecCcVwGoKFXKu3uoBL6Xmr4.pdf> accessed 29 August 2025.

⁴⁴ *ibid* 24.

⁴⁵ *ibid*.

⁴⁶ S 39 CFRN 1999 (as amended).

⁴⁷ IJSSAR, ‘hate speech’ https://www.ijssar.com/uploads/38309_1719781705.pdf?hl=en-US accessed 29 August 2025.

⁴⁸ ‘Paradigm HQ ‘Hate Speech’ <https://paradigmhq.org/hate-speech/?hl=en-US> accessed 29 August 2025.

sometimes volatile society. The state frequently exploits the vulnerabilities of the “market place of ideas” such as the rapid spread of misinformation to justify restrictions. This creates a repetitive cycle where the very problems that a free press is meant to address are used as an excuse to curtail even legitimate critical speech. Consequently, the constitutional right to freedom of expression, while existing on paper, is systematically undermined by a legal and regulatory environment that consistently prioritizes state control over individual liberty resulting in a media space that is far from free.⁴⁹

Chilling Effect Theory

The chilling effect theory explains how people and groups fearing severe consequences like legal trouble or social disapproval stop themselves from expressing their views.⁵⁰ This happens even without a direct threat. This self-censorship is often triggered by unclear or overly broad rules that make people afraid to speak up, even when their speech is perfectly legal.⁵¹

In Nigeria, raising the fine for hate speech in Nigeria from 500 thousand Naira to 5 million Naira, along with the National Broadcasting Commission’s power to arbitrarily impose penalties is making journalists and media organizations censor themselves.⁵² This strict regulatory environment causes media outlets to limit the range of views and information shared by guests on important national topics. Journalists also hold back their own opinions because they fear getting into legal trouble or public backlash. The ECOWAS Court has recognized that using criminal penalties like sedition and defamation discourages journalists

⁴⁹ *ibid* 32.

⁵⁰ Frontiers, ‘communication’

<https://www.frontiersin.org/journals/communication/articles/10.3389/fcomm.2025.1565289/full?hl=en-US> accessed 30 August 2025.

⁵¹ *ibid*.

⁵² *ibid* 33.

from freely expressing themselves. The growing issue of online harassment further contributes to this self-censorship among journalists.⁵³

Also, regulations that are meant to stop harmful content are actually causing a lot of self-censorship. This happens because the rules are unclear and are enforced inconsistently. Instead of uncertainty.⁵⁴ This has a chilling effect acting as a hidden form of censorship that weakens the media's ability to hold those in power accountable. As a result, news organizations become less likely to report on sensitive topics or challenge the government which ultimately harms democracy.⁵⁵

Legal Pluralism Theory

Legal pluralism refers to a condition where multiple legal systems or sources of law coexist and interact with a single jurisdiction. When I look at it from the perspective of media regulation, this concept extends to the overlap of various regulatory bodies, distinct laws and informal laws governing media content.⁵⁶

Nigeria exemplifies legal pluralism with its legal system drawing from customary law, Islamic law and English Common law. In the realm of media regulation, this translates into a complex web of legislative instruments including the NBC Act, the Cybercrime Act, the Electoral Act and various defamation laws alongside a multitude of regulatory bodies such as the NITDA, NCC and NBC.⁵⁷ This multiplicity when combined with regulatory inconsistencies and the arbitrary application of laws creates an environment of uncertainty that significantly limits media freedom. When the regulation of media is governed by multiple, often inconsistent laws and legal system, it creates a strategic advantage for those in

⁵³ Taylor and Francis, 'Beyond "Online Notice-Me": Analysing Online Harassment Experiences of Journalists in Nigeria' <https://www.tandfonline.com/doi/full/10.1080/1461670X.2023.2260499?hl=en-US> accessed 30 August 2025.

⁵⁴ *ibid* 28.

⁵⁵ Reuters institute "Press Freedom" <https://reutersinstitute.politics.ox.ac.uk/news/nigerian-broadcasters-are-fined-airing-critical-documentaries-press-freedom-advocates-fear?hl=en-US> accessed 30 August 2025.

⁵⁶ <https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1022&context=eilr&hl=en-US> accessed 1 September 2025.

⁵⁷ *ibid*.

power rather than just administrative problem.⁵⁸ This legal complexity leads to an unpredictable environment where media organizations find it hard to operate within clear legal boundaries.⁵⁹ This lack of clarity allows authorities to selectively enforce it. Thus, instead of encouraging different ways of regulating, this confusing mix of laws becomes a hidden way to control people and stop them from speaking out.⁶⁰ It leaves media companies weak and constantly unstable.

2.4 Literature Review

Hate speech, misinformation and media regulation and protection has transcended national and regional boundaries due to its important nature. To this end, series of international laws, regional laws and national laws have been ratified and enacted in other to ensure its regulation. In Nigeria, NBC which is the body responsible for regulating hate speech and misinformation has tried their part by regulating and sanctioning media and news houses when need be. I will like to review various instances of the NBC's sanctions on media and news houses and also their lapses.

2.4.1 Literature review on the National Broadcasting Commission's Sanctions on Media and News Houses.

The regulation of Nigeria's broadcast media is governed by a framework that has its roots in the country's transition to a more liberalized media environment in the early 1990s. This framework centers on two key legal instruments which are the **National Broadcasting Commission Act⁶¹** and the **Nigeria Broadcasting Code.⁶²** The Commission by the NBC's Act is charged with a dual mandate: to regulate and control the media space while simultaneously promoting its growth and development.⁶³ This dual role becomes particularly

⁵⁸ *ibid.*

⁵⁹ *ibid.*

⁶⁰ *ibid.*

⁶¹ LFN 2004 Cap N11.

⁶² Nigeria Broadcasting Code 6th ed (2020).

⁶³ *ibid* 46.

hard given the perceived lack of independence of the agency from government influence. The National Broadcasting Commission (NBC) Act lacks provisions for a truly independent regulatory body, a significant flaw noted by legal writers and experts.⁶⁴ This structural issue leads to concerns that the NBC's actions such as imposing sanctions during politically sensitive periods can be viewed not as impartial regulation but as a political tool used to stifle dissenting public or political opinions or also punish and harass media houses that do not align with the government's agenda.⁶⁵ This perception of bias undermines the NBC's authority and its effectiveness in promoting a free and healthy media atmosphere and environment.⁶⁶

The Nigeria Broadcasting Code⁶⁷ is the operational backbone of the NBC Act and serves as the primary instrument for enforcing ethical and professional standards within the broadcast arena. The code prohibits the broadcast of content that could “encourage or incite crime or violence, lead to public disorder, be repugnant to public opinion or be disrespectful to human dignity”.⁶⁸ It specifically forbids the spread of false, misleading or inciting information and unverified news.⁶⁹ The broadcasting code aims to promote national unity and the public good but some of its rules are too vague and subjective causing major concern. For example, it tries to balance free expression with the protection of “national interest”.⁷⁰ While this sounds good, the term “national interest” is not clearly defined, so the regulatory body can interpret it however they want. This lack of a clear standard can lead to unfair application of the rules especially when there is political tension.⁷¹ A media company's professional reporting could

⁶⁴ African Journal of Management and Business Research
<<https://afropolitanjournals.com/index.php/ajmbr/article/download/4741441/877?hl=en-US> accessed 5 September 2025.

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid* 47.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ NBC Code 6th Edition <https://www.scribd.com/document/490616209/NBC-Code-6th-EDITION?hl=en-US> accessed 5 September 2025.

⁷¹ *Ibid.*

be labeled a violation of “national interest”, leading to penalties.⁷² This ambiguity forces journalists and media houses to censor themselves to avoid fines and legal trouble which pertinently stops the free flow of information essential for a healthy democracy.⁷³

To properly analyze the NBC’s regulatory actions, it is essential to reiterate and try to understand the specific concepts of hate speech and misinformation as they are defined and applied in the Nigerian legal and social context.

Hate speech is generally understood as public communication that expresses animosity or encourages violence toward an individual or a group based on intrinsic characteristics such as race, religion, sex or national origin.⁷⁴ While there is no universal legal definition of hate speech under international human rights law, its core elements are an attack on individuals or groups based on perceived identity factors and the use of discriminatory language.⁷⁵ This commission can be conveyed through various forms of expression including speech, writing, images and symbols.⁷⁶

Misinformation refers to false or inaccurate information that is spread unintentionally often because the person sharing it is unaware of its falsehood.⁷⁷

In Nigeria, the legal framework for addressing these issues extends beyond the NBC Act and Code. The Cybercrimes (prohibition, prevention etc.) Act of 2015 criminalizes the dissemination of “fake news” and cyberbullying.⁷⁸ The Nigeria Police Force has said it will use a criminal law to prosecute people who spread false information.⁷⁹ However, the NBC’s

⁷² *Ibid.*

⁷³ *Ibid.*

⁷⁴ Wikiwand, ‘Hate Speech’ https://en.wikipedia.org/wiki/Hate_speech_laws_by_country?hl=en-US accessed 5 September 2025.

⁷⁵ United Nations, ‘Understanding hate Speech’ <https://www.un.org/en/hate-speech/understanding-hate-speech/what-is-hate-speech?hl=en-US> accessed 5 September 2025.

⁷⁶ *Ibid.*

⁷⁷ Onigbinde (n4) 1.

⁷⁸ Nigeria Police Force National Cybercrime Center, ‘Internal security’ <https://nccc.npf.gov.ng/news/internal-security-npf-speaks-t?hl=en-US> accessed 5 September 2025.

⁷⁹ *Ibid.*

actions are administrative and regulatory.⁸⁰ The NBC's frequent use of fine blurs the line between a violation of its broadcasting code and a criminal offence like misinformation. This raises questions about whether administrative fines are a legally suitable or effective way to deal with what might be criminal acts, a matter that could eventually be settled in court.

⁸⁰ *Ibid.*

Case Study of NBC's Sanctions on Media and News Houses

The NBC has a history of sanctioning media houses especially during politically sensitive times or national crises. These incidents show how the conflict between government regulation and freedom of the press plays out in real life:

Sanctions during the 2023 General Elections

The NBC exercised its regulatory power in the 2023 General elections. The Director-General of the NBC, Mr. Balarabe Ilesah, announced that the commission had punished 25 broadcasting stations and given final warnings to 16 others for breaking rules in the Nigeria Broadcasting Code and the Electoral Act.⁸¹ The violations included broadcasting partisan content, announcing election results too early, airing comments that incited violence and broadcasting divisive, ethnic or religious content. The large number of stations sanctioned during the election shows the NBC's major effort to enforce reporting rules.⁸² This highlights the NBC's view of itself as a guardian of social harmony, a role that is closely tied to the government's desire for political stability.⁸³ These consistent actions seen during both a mass protest and a general election suggest a pattern where the NBC is used to control public discussion and the flow of information especially when it is in the government's interest.⁸⁴

Sanctions during the #EndSARS Protests

During the nationwide #EndSARS protests in October 2020, the NBC fined three major media stations which were the African Independent Television (AIT), Arise Television and Channels Television.⁸⁵ The NBC claimed the stations violated the broadcast code by using unverified and unauthentic videos from various social media platforms to cover the protests rather than going to the protest ground themselves to cover happenings live and direct. Each

⁸¹ Nairametrics, '#EndSARS' <https://nairametrics.com/2020/10/26/endsars-nbc-fines-ait-channels-and-arise-tv-over-use-of-unverifiable-footages/?hl=en-US> accessed 5 September 2025.

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

station was fined between Two million Naira and Three million Naira with an extra fine and sanctions threatened against the management of AIT. The fines were immediately and strongly criticized by journalists and other public opinion leaders.⁸⁶ The Nigeria Union of Journalists (NUJ) condemned in strong terms the NBC's actions calling the fines "unnecessary, discriminatory and an attempt to discourage a free, independent media".⁸⁷ The NUJ president argued that the NBC should have instead praised the journalists who took enormous risks to cover the protests thoroughly.⁸⁸

The union compared the fines to the unpleasant memories of military rule which suggested that many people believed the fines were a politically motivated attempt to control the story of a national crisis.⁸⁹ The timing of these fines during a period of widespread public unrest shows a close link between the crisis and the government's attempt to control public discussion. Many people saw this as an act of using regulatory power to silence media outlets seen as against the government.

2.4.2 Legal Analysis of NBC's Sanctioning Power

The Nigerian Constitution guarantees everyone the right to freedom of expression including the freedom to share and receive information without interference⁹⁰. This right is not absolute but any restrictions must be reasonable and justified in a democratic society. This provision of the constitution is the legal basis for challenging the NBC's actions. The conflict in this sense is a legal tussle over the NBC's power and its potential to violate people's constitutional rights.⁹¹ This is where the courts come in, the court's role as the final judge is fundamental for maintaining the system of checks and balances.⁹²

⁸⁶ *Ibid.*

⁸⁷ Nigeria Union of Journalists, 'NUJ slams NBC over fine' <https://thisage.com.ng/nuj-slams-nbc-over-n9m-fine-on-ait-arise-tv-channels-tv/?hl=en-US> accessed 5 September 2025.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

⁹⁰ S 39 CFRN 1999.

⁹¹ Learn Nigerian law, 'human rights/expression' <https://www.learnnigerianlaw.com/learn/human-rights/expression> >accessed on 2 September 2025.

⁹² *Ibid.*

In **Media Rights Agenda v NBC**,⁹³ the Federal High Court in Abuja ruled that the NBC lacked the legal authority to impose fines. The case was brought by the non-governmental organization; **Media Rights Agenda (MRA)** which challenged the fines imposed on 45 broadcasting stations in 2019. The court found that the NBC's actions violated the right to a fair hearing. It held that the NBC is neither a court nor a tribunal so it cannot legally impose sanctions. The court cited two legal principles: "hear the other party and no one should be a judge in their own cause". The court also stated that the NBC as a government entity could not create an offence, investigate it and then act as a judge to impose a fine as this violates the principle of fair hearing.⁹⁴ The court's decision was a strong statement on the limits of administrative power. It ruled that the NBC had acted outside its legal authority cancelled the fines and permanently banned the NBC from imposing such fines in the future. It also went ahead to reiterate that only the courts can impose punishments.⁹⁵

This ruling has major implications as it limits the ability of all administrative bodies in Nigeria to act as both prosecutor and judge.⁹⁶ It also shows the judiciary's commitment to protecting press freedom and preventing government agencies from unfairly restricting the fundamental right of fair hearing. The court's ruling invalidates the section of the Nigeria Broadcasting Code that give the NBC the power to impose fines stating that regulatory bodies should not perform judicial functions.⁹⁷ This judgement helps to strengthen the rule of law and protects civil liberties.⁹⁸

The court's decision has generated a lot of discussion showing a lack of trust in the regulatory system. On the other hand, Some have also show support in the regulatory system. Legal professionals fully support the decision and they argue that the NBC cannot be a judge in its

⁹³ *MRA V NBC, Suit No: FHC/ABJ/CS/1386/2021 (Unreported) delivered on 10 May 2021.*

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

own case and that the court's action was the right thing to do.⁹⁹ They believe the ruling will force the NBC to find more legal ways to regulate like suspending licenses or issuing warnings instead of using fines.¹⁰⁰

Media professionals generally agree pointing out that fines have not been effective and that the NBC has been used to attack media houses that are critical of the government.¹⁰¹ Some also believe the NBC acts as a revenue generating agency, suggesting its actions are financially motivated rather than for genuine regulation.¹⁰²

On the other hand, some academics worry that the ban on fines might disrupt checks and balances and lead to media acting irresponsibly.¹⁰³ They believe that without the threat of punishment, media houses might operate with a greater sense of immunity.¹⁰⁴ However, another academic view is that the ban will actually improve media professionalism by removing the fear of illegal punishments for telling the truth allowing broadcasters to be more objective.¹⁰⁵

These different views show a deep lack of trust in the regulatory powers of the NBC. The NBC's effectiveness depends not just on its legal powers but also on its perceived independence and fairness.¹⁰⁶ When an institution is widely seen as a government tool or a money-making entity, its legitimacy is damaged no matter how good how its actions might seem.¹⁰⁷ This can lead to a cycle of legal challenges and public distrust ultimately weakening the entire media system.¹⁰⁸

⁹⁹ *Ibid* 49.

¹⁰⁰ *Ibid*.

¹⁰¹ *Ibid*.

¹⁰² *Ibid*.

¹⁰³ *Ibid*.

¹⁰⁴ *Ibid*.

¹⁰⁵ *Ibid*.

¹⁰⁶ *Ibid*.

¹⁰⁷ *Ibid*.

¹⁰⁸ *Ibid*.

2.5 Conclusion

A proper understanding of the conceptual and theoretical frameworks on the NBC's sanctions on media and news houses to stem the tide of hate speech and misinformation in the Nigerian digital space is a foundation for examining the violation of the fundamental rights of information, expression and fair hearing. The literature review, through a significant body of research on NBC's sanctions on media and news houses to stem the tide of hate speech and misinformation in Nigeria and different views on the support or dissent for the NBC's sanctions emphasizes the need for strengthened mechanisms in addressing freedom of the press violations and curtailing their excesses when it comes to hate speech and misinformation. This chapter thus provides a solid foundation for further investigation into the state of NBC's sanctions on media and news houses and press rights violations and curtailment of their excesses in Nigeria.

CHAPTER THREE

THE NATIONAL BROADCASTING CORPORATION'S SANCTIONS ON MEDIA AND NEWS HOUSES

3.1 Introduction

It is pertinent to reiterate again that the National Broadcasting Corporation (NBC) is saddled with the responsibility of regulating and overseeing the broadcast industry in Nigeria. This responsibility extends to a diverse range of media organizations including those owned by the federal, state and local governments as well as privately owned media and news houses. A central element of its authority is the power to manage the entire broadcasting ecosystem by issuing and revoking licenses to regulating political reporting and critically regulate content that the media and news houses can air and put out.¹⁰⁹

The NBC has a two-sided job. On one hand, it is meant to help Nigeria's broadcasting industry grow, attract investors and adopt new technology.¹¹⁰ On the other hand, it acts like a censor.¹¹¹ It is required to monitor all content to make sure it does not violate rules about national security, morality and social harmony which are very broad and open to diverse interpretation. The Nigeria Broadcasting Code makes it illegal to air anything that could lead to a crime, cause public chaos, offend the public or disrespect anyone.¹¹²

The penalties the NBC can impose show this dual purpose. It can issue simple warnings and fines and for severe breaches like promoting hate speech, violence or a threat to national security, it has the power to suspend or completely take away a media or news station's license¹¹³. A significant area of tension arises from the NBC's ambition to extend its regulatory actions into the digital realm. While its foundational laws primarily govern

¹⁰⁹ A Odofin, S Sogbetun & T Akeju, 'A Review of the Amendment to the 6th Edition of the NBC Code (2020) ALP Law Briefing, 1, <https://www.alp.company/resources/business-advisory/review-amendment-6th-edition-nigerian-broadcasting-code> accessed 18 November 2025.

¹¹⁰ Aclsites, 'NBC Code' <https://aclsites.wordpress.com/wp-content/uploads/2017/02/nigeria-broadcasting-code.pdf?hl=en-US> accessed 18 November 2025.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ S 2(1)(m), NBC Act, Cap N11, LFN 2004.

traditional broadcasting media like radio and television, the rise of social media as a platform for information dissemination and political mobilization has prompted the commission to seek new powers. The Director-General of the NBC has publicly described social media as a “monster” and has highlighted the need for new legislation to grant the commission to regulate these platforms acknowledging that the current legal framework is insufficient for this purpose.¹¹⁴ This effort to expand its authority reveals a deeper pattern; as digital spaces become central to public discourse, the government through its regulatory agencies seeks to apply traditional control to a new, decentralized media like the emergence of social media.¹¹⁵ This is often justified as a response to the spread of misinformation and hate speech but it is also a means of maintaining control over the flow of information and suppressing dissent that circumvents traditional media gatekeepers.

Thus, in this chapter, I will extensively examine the NBC’s sanctions on media and news houses, analyzing their legal basis, their application in high-profile cases and the profound conflict they generate with the rule of law and democratic principles. It is important to emphasize that the most controversial aspects of the NBC’s operations involve its use of arbitrary fines and its application of license revocation powers, tactics which media advocacy groups argue are designed to suppress dissenting voices and induce a pervasive culture of fear and self-censorship among journalists.

3.2 Instances of Regulatory Censorship

The National Broadcasting Commission (NBC) has developed a clear and controversial pattern in its enforcement activities by leveraging the imposition of heavy fines to target media coverage that is critical of the Nigerian government. These punitive actions are consistently viewed by critics as deliberate attempts by the executive arm of government to

¹¹⁴ Africa News, ‘New social media regulations’ <https://www.africanews.com/2023/10/11/nigeria-proposes-new-social-media-regulations/?hl=en-US> accessed 18 November 2025.

¹¹⁵ *Ibid.*

control and suppress public narratives concerning sensitive national issues, especially state performance, security failures and opposition politics.

3.3 Targeting Reporting on National Insecurity

A Stark example of this pattern emerged in 2022 following the broadcast of documentaries that focused on the severe issue of banditry plaguing Nigeria¹¹⁶. The Federal Government openly threatened to punish media and news houses which include the **British Broadcasting Corporation (BBC)** and **Trust Television Network**, accusing them of producing content that glorified and is capable of enabling and fueling terrorism.¹¹⁷

The NBC swiftly responded by imposing steep fines of 5 million Naira each on several news platforms such as Trust TV Network, Multichoice Nigeria Limited (DSTV), TelCom Satellite Limited (TSTV) and NTA Startimes Limited.¹¹⁸ The justifications given was that these broadcasts violated the National Broadcasting Code by undermining national security.¹¹⁹ This regulatory action immediately faced legal challenge.¹²⁰ Media rights advocates argued in court that the fines were unlawful and unconstitutional asserting that the regulator's true intent was to exert a "chilling effect" on journalistic freedom.¹²¹ They contended that such severe penalties were designed to actively deter media platforms from truthfully reporting on the nation's security situation.¹²² The rapid and harsh nature of these financial sanctions strongly suggests that the goal was not to encourage professional improvement or dialogue but rather immediate, punitive suppression of critical reporting.

3.4 Muzzling Political Dissent

¹¹⁶ Naira Metrics, 'NBC imposes 5 million Naira fine' <https://nairametrics.com/2022/08/03/nbc-imposes-n5-million-fine-on-trust-television-over-documentary-on-banditry/?hl=en-US> accessed 18 November 2025.

¹¹⁷ *Ibid.*

¹¹⁸ Premium Times, 'court nullifies broadcasting code's provision on Fines' <https://www.premiumtimesng.com/news/top-news/659774-court-nullifies-broadcasting-codes-empowering-nbc-to-fine-media-houses.html?tztc=1> accessed 18 November 2025.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ Crossrivers watch, 'Court nullifies provisions of NBC code on fines' <https://crossriverwatch.com/224/01/court-nullifies-provisions-of-broadcasting-code-empowering-nbc-to-impose-fines-on-broadcasters/?hl=en-US> accessed 18 November 2025.

¹²² *Ibid.*

The political climate surrounding the 2023 general elections saw the NBC deploy its sanction powers against media houses airing strong opposition views.¹²³ Channels Television was fined 5 million Naira for alleged violation of the broadcasting code in connection to an interview aired on its “Politics Today” programme.¹²⁴ The fine was specifically imposed because the interview featured former Labour Party vice-presidential candidate in the 2023 presidential election, Datti Baba-Ahmed, who stated that swearing in the declared president, Bola Ahmed Tinubu without meeting certain constitutional requirements would potentially mean “you have ended democracy”.¹²⁵ The regulatory agency claimed the comments broke the broadcasting code of Nigeria because they contained “offensive references” and amounted to “subversion of constituted authority,” which is capable of encouraging public disorder.¹²⁶ The NBC communicated that the fine which was to be paid in the first instance within two weeks and proceeded further by threatening higher sanctions for any further violations.¹²⁷

Thus, this incident reinforced the perception that sanctions are applied most stringently when media and news houses provide a platform for strong opposition voices shortly after sensitive political transitions or moments.

3.5 Suppressing Crisis Reporting

The NBC’s regulatory pattern of censorship is further demonstrated by its actions against media organizations covering moments of significant civil unrest. A key instance of this occurred in the aftermath of the military shooting of unarmed protesters at the Lekki toll gate during the 2020 #EndSARS movement according to reports.¹²⁸

¹²³ Premium Times (n118).

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*

¹²⁶ MRA, ‘Fines on media houses’ <https://mediarightsagenda.org/nbc-fines-channels-tv-n5-million-over-guests-statement/?hl=en-US> accessed 18 November 2025.

¹²⁷ *Ibid.* 123.

¹²⁸ Premium Times, ‘news station sanctions’ <https://www.premiumtimesng.com/news/headlines/423236-media-advocates-fume-as-nigerian-govt-sanctions-tv-stations-over-endsars-coverage.html?hl=en-US> accessed 18 November 2025.

Following the tragic event, the National Broadcasting Commission (NBC) quickly introduced new operational guidelines for media houses reporting on the crisis. Soon after, three prominent stations which comprises of “*AIT, Channels and Arise News were penalized with fines of 3 million Naira each*”.¹²⁹ The commission invoked provisions from the highly criticized amended Broadcasting Code, specifically cautioning broadcasters against using information that adversely affected those emotionally involved in the crisis.¹³⁰

However, critics, including legal professionals and media analysts viewed the fines not as a measure for professional standards or national interest but as a deliberate attempt to suppress independent reporting.¹³¹ The consensus was that these sanctions were designed to “muzzle news platforms that seem to unveil and report underreported stories and some that are not specifically in favour of the government.”¹³²

Thus, this regulatory maneuver is widely considered as a modern continuation of the repressive culture inherited from Nigeria’s era of military rule. In this historical context, executive power consistently prioritizes controlling the information landscape to protect the government from critical public scrutiny.¹³³ By penalizing coverage of a sensitive event like the Lekki toll gate shooting, the NBC signaled that even factual reporting on government actions during a crisis may be deemed a breach if it disputes “normal narrative.”

3.6 The Financial Hammer: Licenses and Mass Shutdowns

The power wielded by the National Broadcasting Corporation (NBC) extends beyond merely fining broadcasters for their content. In other words, it does include the ultimate authority over a station’s existence through licensing control. This was dramatically illustrated and

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*

¹³¹ *Ibid.*

¹³² *Ibid.*

¹³³ *Ibid.*

given clarity to in August 2022 when the Commission carried out an unprecedented mass shutdown by revoking the licenses of 52 radio and television stations nationwide.¹³⁴

The closure affected a wide array of broadcasters including major independent media giants like “African Independent Television (AIT), Silverbird Television, Raypower FM, Classic FM and Beat FM” alongside over twenty-one (21) state-owned stations.¹³⁵ The NBC’s official justification was the news stations’ collective debt which totaled at least 2.6 billion Naira.¹³⁶ The regulatory agency had previously issued a two-week deadline for payment and renewal citing **Section 10(a) of the Third Schedule of the NBC Act.**¹³⁷

The NBC escalated the situation by declaring that the “continued operations of the debtor stations is illegal and constitutes a threat to national security” and ordered the immediate halt of operations within 24 hours.¹³⁸ Although non-payment of license fees is a legitimate regulatory violation, the scale and timing of the mass shutdown at a time of economic fragility and high insecurity drew widespread condemnation.¹³⁹ Critics including the **Nigeria Union of Journalists (NUJ)** described the action as hasty, ill-timed and reckless.¹⁴⁰

The immediate imposition of the ‘**death penalty**’ which in this scenario means “revoking licenses and citing national security” instead of using more gradual financial penalties or negotiating payment plans was widely interpreted as an act of leveraging financial regulatory power for maximum political impact.¹⁴¹ This decision instantly reduced the plurality of media voices hitting independent broadcasters particularly hard.¹⁴² Eventually, following broad

¹³⁴ Mfwa, ‘Government shuts broadcast stations’ <https://mfwa.org/issues-in-focus/nigerias-airwaves-go-almost-silent-as-government-shuts-52-broadcast-stations-over-licence-fees/?hl=en-US> accessed 18 November 2025.

¹³⁵ *Ibid.*

¹³⁶ *Ibid.*

¹³⁷ NBC (Amendment) decree 1999, Sec. 10 (a).

¹³⁸ *Ibid* 26.

¹³⁹ *Ibid.*

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*

appeals from various stakeholders, the NBC was compelled to extend the deadline for the license revocation.¹⁴³

3.7 The Judiciary Intervention: Curbing the NBC's Power

The consistent, one-sided use of heavy fines by the National Broadcasting Commission (NBC) eventually prompted decisive action from civil society organizations, most importantly the **Media Rights Agenda (MRA)** which launched strategic legal challenges.¹⁴⁴ These legal battles have resulted in landmark Federal High Court rulings that significantly restrict the punitive authority of the NBC which thereby strengthens the separation of powers and the protection of fundamental rights.¹⁴⁵

The foundational legal challenge rested on a straightforward but critical constitutional principle. In other words, an administrative body cannot simultaneously act as the accuser, judge and executioner.¹⁴⁶ Nigeria's Constitution guarantees the right to a fair hearing,¹⁴⁷ a right that no regulatory mechanism can bypass.¹⁴⁸

In a Judgement delivered in Abuja, **Justice Rita Ofil-Ajumogobia** declared null and void the provisions of the Nigeria Broadcasting Code that authorized the NBC to impose fines on stations for alleged breaches.¹⁴⁹ The court held that the NBC, not being a court of law, acted beyond its powers by imposing fines in the 2022 banditry documentary cases.¹⁵⁰ The judge issued an order of perpetual injunction restraining the NBC from ever again imposing any

¹⁴³ *Ibid.*

¹⁴⁴ <https://www.cima.ned.org/blog/strategic-litigation-safeguarding-and-advancing-media-freedom-in-nigeria/?hl=en-US> accessed 18 November 2025.

¹⁴⁵ *Ibid.*

¹⁴⁶ Research Gate, 'stakeholders perception of court ban on NBC's powers to impose fine' RSN https://www.researchgate.net/publication/387072748_Stakeholders_Perception_of_Court_Ban_on_NBC's_Power_to_imp ose_Fine accessed 18 November 2025.

¹⁴⁷ S 36 CFRN 1999.

¹⁴⁸ NBC Act.

¹⁴⁹ <https://crossriverwatch.com/2024/01/court-nullifies-provisions-of-broadcasting-code-empowering-nbc-to-impose-fines-on-broadcasters/?hl=en-US> accessed 18 November 2025.

¹⁵⁰ *Ibid.*

fine on any media platform or broadcast station in Nigeria for alleged offences committed under the code.¹⁵¹

This verdict underscored the principle that when individuals or entities breach regulations, they must be brought before a competent court where both parties can present their case.¹⁵²

This procedure ensures the protection of due process and the principles of **Natural Justice** as guaranteed by **Section 36 of the Constitution**.¹⁵³

This ruling was quickly followed by another significant judgement. Justice James Omotosho similarly barred the NBC from issuing fines nationwide, declaring that the commission lacked the judicial competence to impose such penalties.¹⁵⁴ Justice Omotosho also retroactively nullified a previous 500,000 Naira fine imposed on 45 stations in 2019.¹⁵⁵ Furthermore, the Federal High Court in Lagos ordered the NBC to stop using the NBC Act and the Nigeria Broadcasting Code to impose fines, threaten to impose sanctions, harass and intimidate the broadcast stations.¹⁵⁶

Thus, these rulings together form a robust legal precedent against executive overreach, actively safeguarding the freedom of the press.¹⁵⁷ The courts explicitly stated that they would not “sit idly and watch as a government agency arbitrarily imposes fines on a broadcast station which is capable of curtailing the freedom of the press and the media.”¹⁵⁸ By removing the NBC’s ability to impose immediate, unilateral financial penalties, the judiciary has

¹⁵¹ *Ibid.*

¹⁵² (n149).

¹⁵³ S 36 CFRN 1999.

¹⁵⁴ Mustapha Usman, ‘NBC to appeal court ruling that stopped imposition of fines on media houses’ ICIR, (Nigeria, 18 May 2023) <https://www.icirigeria.org/nbc-to-appeal-court-ruling-that-stopped-imposition-of-fines-on-media-houses/?hl=en-US> accessed 18 November 2025.

¹⁵⁵ *Ibid.*

¹⁵⁶ *Ibid.*

¹⁵⁷ <https://globalfreedomofexpression.columbia.edu/cases/media-rights-agenda-v-nigerian-broadcasting-commission/?hl=en-US> accessed 18 November 2025.

¹⁵⁸ *Ibid.*

eliminated the regulatory agency's most effective weapon of arbitrary oppression and suppression.¹⁵⁹

3.8 The Regulatory Counter-Move: An Ongoing Battle for Power

Despite suffering clear legal defeats that stripped it of the authority to unilaterally impose fines, the National Broadcasting Commission (NBC) has indicated that the battle over regulatory control is far from over.¹⁶⁰ The commission immediately declared its intention to appeal the court orders, demonstrating strong resistance to the judicial constraints placed upon its power.¹⁶¹

The NBC's legal strategy and filings indicate a profound commitment to reclaiming its punitive authority. The Commission has filed motions arguing for the need to set aside specific judgements, in some cases claiming the court was unaware of previous, related legal decisions. In its appeal submissions, the NBC contends that the rules of the Federal High Court permit an administrative body to seek to overturn a default judgement under certain recognized legal grounds.¹⁶² This tenacious resistance stems from the regulatory agency's perspective that losing the power to fine severely limits its effectiveness in overseeing the broadcasting industry.¹⁶³

From the NBC's point of view, the power to impose immediate fines is necessary for efficient and prompt compliance by arguing that relying on the slow, resource-intensive process of judicial litigation would paralyze its regulatory function.¹⁶⁴ However, this appeal process while focused on administrative efficiency, simultaneously signals a resistance to democratic principles of due process placing a higher value on punitive speed than on the

¹⁵⁹ *Ibid.*

¹⁶⁰ Mustapha Usman, 'NBC to appeal court ruling that stopped imposition of fines on media houses' ICIR, (Nigeria, 18 May 2023) <https://www.icirnigeria.org/nbc-to-appeal-court-ruling-that-stopped-imposition-of-fines-on-media-houses/?hl=en-US> accessed 18 November 2025.

¹⁶¹ *Ibid.*

¹⁶² *Ibid.*

¹⁶³ *Ibid.*

¹⁶⁴ (n160).

fundamental right to a fair hearing.¹⁶⁵ The continuing legal battle ensures a prolonged period of uncertainty for media houses as they wait for the superior courts to definitively rule on the NBC's scope of authority.¹⁶⁶

3.9 The Lingering Chill: Self-Censorship and the Future of Media Freedom

The most profound and often unseen consequence arising from the NBC's history of heavy-handed regulation is the widespread problem of self-censorship within the Nigerian media. Even though the courts have successfully invalidated the immediate threat of arbitrary fines, the deep-seated fear cultivated over years of unpredictable enforcement remains.¹⁶⁷ Experts are deeply concerned that the continuous use of threats including severe financial penalties, license suspensions, and punitive actions has created a potent "chilling effect."¹⁶⁸ This psychological deterrent causes many media houses to intentionally pull back, choosing to suppress their own reporting.¹⁶⁹ When broadcasters faced the prospect of crippling and enormous penalties such as 5 million Naira fine, they were naturally discouraged from pursuing stories that were critical but vital to the public interest.¹⁷⁰ This reluctance restricts the free flow of essential information to the Nigerian people, with the suppression being most intense when the information is critical of government actions or touches upon sensitive national security issues.¹⁷¹

This regulatory culture, widely described as arbitrary and reactive, appears to be operating largely in isolation from the actual concerns of the public.¹⁷² Although citizens possess a formal channel to lodge complaints with the NBC, data reveals a significant "drought in

¹⁶⁵ *Ibid.*

¹⁶⁶ *Ibid.*

¹⁶⁷ Abdraheem Ismael Opeyemi, 'Democracy and Stiffened Media Freedom in Nigeria: The seemingly unbridgeable gap' Friedrich Ebert Stiftung, (Namibia, 23 November 2022) <https://fesmedia-africa.fes.de/news/democracy-and-stiffened-media-freedom-in-nigeria-the-seemingly-unbridgeable-gap.html?hl=en-US> accessed 18 November 2025.

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*

¹⁷⁰ SERAP, 'SERAP sues FG, wants ECOWAS court to declare NBC broadcasting code illegal', SERAP Online Journal (Nigeria, 2 May 2025) <https://serap-nigeria.org/2021/05/02/serap-sues-fg-wants-ecowas-court-to-declare-nbbc-broadcasting-code-illegal/?hl=en-US> accessed 18 November 2025.

¹⁷¹ *Ibid.*

¹⁷² (n170).

complaints lodgment"; one study indicated that a remarkable 90 % of respondents had never utilized this mechanism to complain about a broadcaster's conduct.¹⁷³ This huge gap suggests that the most consequential sanctions such as the sudden fines and revocations are not triggered by genuine public demand for accountability or social responsibility.¹⁷⁴ Instead, they appear to originate primarily from state monitoring and executive direction, reinforcing the criticism that the regulation is frequently driven by political motives rather than a genuine commitment to public welfare.¹⁷⁵

Therefore, resolving this crisis requires more than just achieving legal victories. While strategic lawsuits have successfully dismantled the NBC's unilateral power to impose fines, there is an urgent and critical need for the Commission to thoroughly re-examine its mission and functions. It must align its operational methods with international best practices for media regulation, ensuring that both the constitutional right to freedom of expression and the public interest are securely protected.¹⁷⁶ To facilitate this necessary change, stakeholders strongly advocate for an immediate transition toward a framework of collaborative dialogue.¹⁷⁷ This involves establishing regular, structured round-table discussions that bring together the NBC, the judiciary, and media practitioners.¹⁷⁸ The aim is to openly address regulatory challenges, foster mutual understanding, and ultimately move the philosophy of media oversight away from a reliance on punitive control and toward a system of responsible, consensual regulation.¹⁷⁹

Conclusion

The controversy surrounding the National Broadcasting Commission's (NBC) sanctions on Nigerian media outlets represents a clear case where necessary regulation was pushed beyond

¹⁷³ *Ibid.*

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*

¹⁷⁶ (n38)

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ *Ibid.*

democratic limits, turning into an instrument of executive overreach. For years, the NBC employed its punitive authority specifically the threat of massive license revocation and the imposition of arbitrary fines to effectively suppress critical voices and tightly manage the public discussion around national crises and governmental legitimacy. These severe penalties were often handed down based on vague legal standards, such as "subversion of constituted authority." This regulatory pressure forced media houses into a difficult choice: they could either operate freely, as guaranteed by the Constitution, or survive financially under the regulator's stringent demands.

The decisive intervention of the Nigerian judiciary has created a crucial turning point. The courts repeatedly affirmed the fundamental principle that the NBC, as a mere administrative body, cannot legally act as a court of law to impose financial penalties. By declaring null and void the code provisions that enabled these fines and issuing perpetual injunctions, the judiciary effectively disarmed the NBC of its main tool for immediate, arbitrary repression. This legal action serves as a strong defense of the rule of law and the constitutional rights of the press, fundamentally shifting the power dynamic from the executive branch to judicial oversight.

However, the NBC's decision to appeal these judgments demonstrates that this democratic consolidation is far from complete. The long-term success of the court rulings will depend not just on winning the legal battle, but on a cultural shift within the regulatory body itself. The NBC must urgently transition away from its outdated model of punitive censorship, which has roots in the country's military-era controls, and move towards a model of collaborative engagement. The future of media freedom in Nigeria hinges on the Commission embracing new regulatory methods that prioritize enhanced monitoring, dialogue, and clear ethical standards, rather than relying on the threat of financial ruin to silence critical

journalism. Only through a commitment to due process and serving the genuine public interest can the Nigerian airwaves truly be free.

CHAPTER FOUR

IMPACT OF NBC’S SANCTIONS ON MEDIA FREEDOM AND FREEDOM OF EXPRESSION

4.1 Introduction

In this chapter, the focus shifts from the theoretical analysis of hate speech and misinformation to the practical impact or effect of the NBC’s sanctions on media freedom and freedom of expression in Nigeria. It examines the core tension between the NBC’s statutory duty to regulate broadcast content, particularly to curb harmful speech and the fundamental constitutional rights to media freedom and freedom of expression guaranteed to Nigerian citizens and media houses. By scrutinizing the impact of sanctions especially the imposition of heavy fines, threats of license suppression and the resulting “chilling effect”, this chapter therefore seeks to determine whether the NBC’s actions function as a legitimate regulatory mechanism to protect public order or if they are disproportionate, arbitrary and ultimately serve to stifle independent journalism, critical discourse and democratic expression.

4.2 The Regulatory Overreach: Unfair Sanctions and the Stifling of Free Expression

The way the National Broadcasting Corporation (NBC) has put its rules into practice shows a clear and worrying pattern. Its history of issuing punishments known as its sanction regime is characterized by decisions that seem random and unfair, punishments that are too harsh for the offense and a consistent failure to follow basic legal fairness (known as natural justice).¹⁸⁰ This behavior has turned the NBC's job from regulating the media into a political tool for pressure which directly violates constitutional rights to fair legal treatment and freedom of the press.¹⁸¹

¹⁸⁰ Ayode Longe, ‘MRA Condemns NBC’s N5 Million Fine on ‘Nigeria Info 99.3FM’ MRA, (Nigeria, 28 August 2020) <https://mediarightsagenda.org/mra-condemns-nbc-n5-million-fine-on-nigeria-info-99-3fm/> accessed 19 November 2025

¹⁸¹ *ibid.*

A critical aspect of the NBC's regulatory method is the dramatic increase in financial penalties.¹⁸² Before 2020, the standard fine for breaking rules, even for serious issues like hate speech was 500,000 Naira.¹⁸³ However, in August 2020, this penalty was increased tenfold by the Minister of Information and Culture soaring to 5 million Naira for hate speech.¹⁸⁴

This massive jump in fines created a huge economic barrier designed to force immediate obedience.¹⁸⁵ Besides these financial threats, the NBC is also legally allowed to suspend or completely take away a broadcaster's license for serious or repeated violations.¹⁸⁶ License revocation is the ultimate punishment; it can entirely destroy a media organization and eliminate its voice from public discourse.¹⁸⁷

The decision to raise the fine to 5 million Naira was a deliberate move to use economic pressure as a form of indirect censorship.¹⁸⁸ A fine this large especially when imposed quickly and repeatedly without giving the accused organization a chance to defend itself is a major, often crippling threat to the survival of small or medium-sized broadcasters.¹⁸⁹

The punishment is so disproportionate that it acts primarily as a punitive economic deterrent.¹⁹⁰ Its real effect is to make media executives practice preemptive self-censorship (editing their own content out of fear) rather than encouraging genuine improvement or correction of content.¹⁹¹ Ultimately, the NBC's approach ensures that media companies

¹⁸² *Ibid.*

¹⁸³ *Ibid.*

¹⁸⁴ *Ibid.*

¹⁸⁵ *Ibid.*

¹⁸⁶ NBC, 'Frequently Ask Questions' NBC Newsletter, (Nigeria, 2025) <https://www.nbc.gov.nq/faqs/> accessed 19 November 2025.

¹⁸⁷ *Ibid.*

¹⁸⁸ Qosim Suleiman, 'NBC fines Channels TV N5 million over Datti's "ending democracy" comment' Premium Times, (Nigeria, 1 April 2023) <https://www.premiumtimesng.com/news/top-news/591249-nbc-fines-channels-tv-n5-million-over-dattis-ending-democracy-comment.html> accessed 19 November 2025.

¹⁸⁹ *Ibid.*

¹⁹⁰ *Ibid.*

¹⁹¹ *Ibid.*

follow regulations not out of ethical commitment, but simply out of the fear of going bankrupt.¹⁹²

4.3 The NBC's Regulatory Crisis: Arbitrary Power, Unfair Fines, and the Suppression of Dissent

The history of how the National Broadcasting Corporation (NBC) enforces its rules reveals a disturbing trend of administrative actions marked by unfairness, punishments that do not fit the crime, and a fundamental failure to ensure basic legal fairness (known as natural justice). This pattern suggests the regulatory body has shifted its purpose from upholding standards to becoming a tool for political pressure pertinently violating constitutional guarantees of due process and press freedom.

4.3.1 The Weaponization of Financial Penalties

A key feature of the NBC's approach is the severe escalation of fines. Before 2020, the typical fine for rule-breaking including hate speech, was 500,000 Naira.¹⁹³ However, in a dramatic shift announced in August 2020, the fine for hate speech was increased tenfold to 5 million Naira.¹⁹⁴ This huge increase serves as a powerful economic deterrent to force compliance.¹⁹⁵

In addition to these financial penalties, the NBC holds the power to suspend or completely revoke a broadcaster's license for serious offenses.¹⁹⁶ In other words, the most severe action possible, capable of silencing and destroying a media company.

Raising the fine to 5 million Naira was a strategic move to use economic coercion as a form of indirect censorship.¹⁹⁷ Such a massive fine especially when imposed without giving the

¹⁹² *Ibid.*

¹⁹³ PMA, 'Channels TV fined by NBC' PMA Newsletter, (Nigeria, 24 April 2023) <https://www.publicmediaalliance.org/channels-tv-fined-by-nbc/> accessed 19 November 2025.

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*

¹⁹⁶ *Ibid.*

¹⁹⁷ IPC, 'MRA, IPC condemns NBC Fines against 3 TV stations over coverage of #Endsars protests' IPC, (Nigeria, 28 October 2020) <https://www.ipcng.org/mra-ipc-condemn-nbc-fines-against-3-tv-stations-over-coverage-of-endsars-protests/> accessed 19 November 2025.

media house a chance to defend itself presents a paralyzing financial threat particularly to smaller broadcasters.¹⁹⁸ The punishment's sheer size suggests its primary goal is not content correction but rather forcing media executives into preemptive self-censorship out of fear of bankruptcy ensuring compliance is driven by financial terror rather than ethical standards.¹⁹⁹ The NBC has repeatedly demonstrated its willingness to use its power to stifle critical reporting on government actions, as seen in two major instances:

4.3.2 Suppressing #EndSARS Coverage (2020)

A clear example occurred during the October 2020 #EndSARS protests. The NBC fined three major stations which included Channels Television, Arise News, and Africa Independent Television (AIT), a total of N9 million for what it vaguely termed unprofessional coverage of the civil unrest.²⁰⁰ Using the vague label unprofessional provided a convenient administrative excuse to censor content that reported critically on the government's handling of the protests.²⁰¹ This action was widely perceived as an effort to limit public knowledge of the protests and undermine the media's duty to scrutinize events of national importance.²⁰²

4.3.3 Punishing Political Dissent (2023)

The politically motivated nature of NBC's sanctions became even clearer following the 2023 General Elections. Channels Television was fined N5 million for airing a live interview with Labour Party Vice Presidential Candidate, Yusuf Datti Baba-Ahmed who asserted there was a constitutional basis to halt the winner's inauguration.²⁰³

¹⁹⁸ *Ibid.*

¹⁹⁹ *Ibid.*

²⁰⁰ PMA, 'Channels TV fined by NBC' PMA Newsletter, (Nigeria, 24 April 2023) <https://www.publicmediaalliance.org/channels-tv-fined-by-nbc/> accessed 19 November 2025.

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ PLAC, 'NBC's fine on Channels TV raises concern about arbitrariness, squeeze on civil space' PLACNG (Nigeria, 6 April 2023) <https://placng.org/Legist/nbcs-fine-on-channels-tv-raises-concern-about-arbitrariness-squeeze-on-civic-space/> accessed 19 November 2025.

The fine was imposed quickly, with the Director General warning the station to prioritize public interest.²⁰⁴ Despite the interviewer challenging Mr. Baba-Ahmed's claims during the broadcast a sign of standard journalistic practice, the maximum fine was still imposed.²⁰⁵ This suggests the penalty was not aimed at correcting bad journalism but at punishing the platform for allowing a dissenting political viewpoint on the election's legitimacy to be heard.²⁰⁶

Critics which Nobel Laureate Professor Wole Soyinka was part of, condemned the fine, noting the injustice of the NBC's action.²⁰⁷ The recurring timing of these sanctions immediately following contentious political events or anti-government coverage buttresses the perception that the NBC is acting partially, using fines as a tool for political retribution.²⁰⁸

4.3.4 Systematic Violation of Fair Hearing

A core criticism of the NBC is its profound disregard for the constitutional principles of natural justice and fair hearing. Advocacy groups consistently argue that the NBC operates as the accuser, prosecutor, and judge all at once.²⁰⁹

In nearly every high-profile sanction, including the fines on Channels TV in 2023 and Nigeria Info 99.3FM in 2020, critics pointed out that the NBC failed to conduct proper investigations, did not allow the accused media house a chance to defend itself or provide clear guidelines for how its sanctioning power was exercised.²¹⁰ This lack of due process and transparency deeply damages the regulator's credibility and fosters the belief that it is simply a government instrument used to restrict press freedoms.²¹¹

²⁰⁴ *Ibid.*

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.*

²⁰⁷ Qosim Suleiman, 'NBC fines Channels TV N5 million over Datti's "ending democracy" comment' Premium Times, (Nigeria, 1 April 2023) <https://www.premiumtimesng.com/news/top-news/591249-nbc-fines-channels-tv-n5-million-over-dattis-ending-democracy-comment.html> accessed 19 November 2025.

²⁰⁸ *Ibid.*

²⁰⁹ Ayode Longe, 'MRA Condemns NBC's N5 Million Fine on 'Nigeria Info 99.3FM' MRA, (Nigeria, 28 August 2020) <https://mediarightsagenda.org/mra-condemns-nbc-n5-million-fine-on-nigeria-info-99-3fm/> accessed 19 November 2025.

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

When independent bodies like SERAP, Amnesty International, and even the Broadcasting **Organization of Nigeria (BON)** widely view the NBC's actions as arbitrary and politically driven, the result is a significant deficit in regulatory credibility.²¹² A body seen as an agent of political censorship cannot effectively enforce genuine ethical or professional standards.²¹³ Importantly, this undermines the entire governance structure of the media, positioning the regulatory agency as a threat to democratic health rather than its protector.²¹⁴

4.4 How NBC's Unfair Sanctions Erode Media Freedom and Undermine Nigerian Democracy

The persistent use of arbitrary sanctions by the National Broadcasting Corporation (NBC), even when its actions are subject to ongoing legal challenges has inflicted systemic damage that extends well beyond individual media organizations. This punitive regulatory environment has created a widespread chilling effect which results to a climate of fear which significantly compromises journalistic independence and fundamentally impairs the health of democratic discourse in Nigeria.

2.5 The Chilling Effect on Journalistic Practice

The high frequency, immediate application, and disproportionate severity of NBC's fines, particularly the 5 million Naira penalty have clearly fostered a state of deep fear and caution across the Nigerian media landscape.²¹⁵ Experts warn that these practices directly inspire self-censorship among journalists and editors.²¹⁶

4.5.1 Impact on Editorial Risk-Taking

²¹² *Ibid.*

²¹³ *Ibid.*

²¹⁴ *Ibid.*

²¹⁵ PMA, 'Channels TV fined by NBC' PMA Newsletter, (Nigeria, 24 April 2023) <https://www.publicmediaalliance.org/channels-tv-fined-by-nbc/> accessed 19 November 2025.

²¹⁶ *Ibid.*

The ability of media houses to pursue important, sensitive stories is severely hampered.²¹⁷ The imposition of rapid, non-appealable penalties often without offering a fair hearing forces media executive to adopt overly cautious editorial policies as a form of preemptive defense.²¹⁸ The financial and existential risk associated with challenging official government narratives covering opposition voices, or reporting on sensitive issues like national security and human rights abuses becomes simply too prohibitive.²¹⁹

For example, the massive fine levied on Channels Television for airing a dissenting view about the election outcome sends a potent signal that covering controversial political figures or publicly questioning state processes carries a significant, costly risk.²²⁰ This deliberate combination of disproportionate fines and administrative speed systematically discourages journalists from taking necessary editorial risks. Media leaders are thereby forced to prioritize financial survival over fulfilling their constitutional duty to hold power accountable, resulting in a less probing and more compliant press.²²¹

4.5.2 Erosion of Editorial Independence and Public Trust

The profound lack of transparency in the NBC's sanctioning process and the recurring pattern of fines coinciding with politically sensitive coverage have fueled severe accusations that the regulator is acting with partisan bias.²²²

4.5.3 Partisan Accusations and Regulatory Capture

Media stakeholders openly accuse the NBC of high handedness and suffocating the broadcast media.²²³ The pervasive and dominant perception is that the NBC is being actively used as a tool by the government to limit press freedoms. When sanctions are deployed immediately

²¹⁷ *Ibid* 207.

²¹⁸ *Ibid*.

²¹⁹ *Ibid*.

²²⁰ *Ibid*.

²²¹ *Ibid*.

²²² *Ibid* 215.

²²³ *Ibid*.

following the coverage of opposition figures (like Datti Ahmed) or anti-government protests like the #EndSARS movement, the mechanism appears to be motivated primarily by political expediency and not the genuine enforcement of ethical breaches.²²⁴ This consistent pattern leads to the conclusion that the NBC suffers from regulatory capture, meaning its enforcement agenda has been systematically aligned with the political sensitivities and interests of the ruling regime.

4.5.4 Compromised Credibility

The NBC's refusal to adhere to the fundamental legal requirement of due process effectively serving as the accuser, prosecutor, and judge simultaneously shatters its credibility as a neutral arbiter of professional standards.²²⁵ A regulatory body whose actions are widely and rightly perceived as arbitrary and politically motivated cannot effectively champion ethical broadcasting or legitimately combat the complex issue of misinformation.²²⁶ Instead, the focus on suppressing critical and uncomfortable information fundamentally undermines the very legitimacy that the NBC requires to fulfill its stated mandate of promoting social harmony and national values.²²⁷

4.6 Impairment of Democratic Discourse and Plurality of Voices

The sanctions regime acts as a systematic barrier limiting the variety of information and viewpoints available to the Nigerian public and severely damaging the essential mechanism of democratic discourse.

4.6.1 Limiting Diversity of Information

The continuous scrutiny and the ever-present threat of economic ruin restrict the broad spectrum of perspectives that broadcasters feel safe airing.²²⁸ This practice minimizes the diversity of opinions on matters of public interest, which the Nigerian Constitution and global

²²⁴ *Ibid.*

²²⁵ *Ibid.*

²²⁶ *Ibid.*

²²⁷ *Ibid.*

²²⁸ S 45 CFRN 1999.

human rights principles recognize as the essential bedrock of broadcasting.²²⁹ The foundational goal of freedom of expression is to allow for the free and wide dissemination of all varieties of information and opinion.²³⁰ By limiting what media houses dare to broadcast out of fear, the NBC severely restricts the media's ability to function as a crucial, multi-faceted platform for national dialogue and debate.

4.6.2 Acute Influence During Elections

The influence of NBC sanctions becomes particularly acute and dangerous during electoral cycles. The sanctions imposed on over 25 broadcast stations for alleged ethical infractions during the 2023 general elections clearly demonstrate the use of regulation to shape, restrict, and control political discourse at a critical democratic juncture.²³¹ When the media is constrained from comprehensive reporting, even if that reporting includes controversial or uncomfortable truths about the process vis-à-vis the public's right to access the full range of information necessary for informed civic participation is fundamentally violated.²³²

A detailed review of the specific sanction cases reveals a clear pattern: the regulatory language of misinformation is often strategically weaponized to suppress legitimate political dissent. The most high-profile sanctions were not levied against cases of verifiable fabrication or deliberate incitement to violence.²³³ Instead, they targeted coverage of mass protests challenging police brutality (#EndSARS) and the airing of opposition figures questioning the legality of the electoral outcome (Datti Ahmed interview).²³⁴ These incidents primarily involve broadcasting information or opinions that are politically uncomfortable for the government rather than verifiably false data intended to cause harm.²³⁵ This pattern

²²⁹ *Ibid.*

²³⁰ S 39 CFRN 1999.

²³¹ *Ibid* 215.

²³² *Ibid.*

²³³ *Ibid* 207.

²³⁴ *Ibid.*

²³⁵ *Ibid.*

strongly suggests that the actual regulatory priority is the preservation of political stability and control, utilizing the fight against misinformation as a convenient administrative cover for censoring legitimate political criticism.²³⁶

4.7 Compliance with International Human Rights Standards

The operational practices of the NBC frequently fail to meet international standards governing freedom of expression.

4.7.1 Proportionality Test Failure

International law, including the standards derived from **Article 19 of the International Covenant on Civil and Political Rights (ICCPR)**, dictates that any restriction on freedom of expression must be necessary and proportional.²³⁷ The fines imposed by the NBC are consistently viewed as excessive relative to the alleged offense.²³⁸ Furthermore, imposing fines without proper legal process when judicial remedies already exist for defamation, incitement and other punishable offenses demonstrates a lack of necessity.²³⁹ The absence of judicial oversight and fair hearing ensures that the NBC sanctions regime is fundamentally incompatible with the requirement that human rights restrictions must be demonstrably "necessary and proportional" in a democratic society.²⁴⁰

4.7.2 The Feedback Loop of Distrust

The arbitrary nature of NBC sanctions initiates a vicious cycle that ultimately undermines the effort to combat digital misinformation.²⁴¹ Arbitrary sanctions lead to self-censorship within mainstream, regulated media.²⁴² This resulting media output is less diverse, less critical and less willing to scrutinize power. When citizens perceive that regulated media is compromised

²³⁶ *Ibid.*

²³⁷ Article 19, International Covenant on Civil and Political Rights, 1966.

²³⁸ SERAP, 'SERAP sues FG, wants ECOWAS court to declare NBC broadcasting code illegal', SERAP Online Journal (Nigeria, 2 May 2025) <https://serap-nigeria.org/2021/05/02/serap-sues-fg-wants-ecowas-court-to-declare-nbbc-broadcasting-code-illegal/?hl> accessed 18 November 2025.

²³⁹ *Ibid.*

²⁴⁰ *Ibid.*

²⁴¹ *MRA v NBC, FHC/ABJ/CS/1386/2021.*

²⁴² *Ibid.*

or biased due to fear of reprisal, they often migrate to unregulated, decentralized digital platforms (social media, encrypted channels) in search of genuinely critical and diverse information.²⁴³ These unregulated spaces, however, are precisely where unverified news, hate speech and actual misinformation flourish.²⁴⁴ Therefore, the punitive and arbitrary regulatory style adopted by the NBC is self-defeating in that it weakens the credibility of regulated media, thereby indirectly amplifying the very digital misinformation problem the Commission claims to be fighting.²⁴⁵

4.7.3 Conclusion

The system of rules that governs Nigerian broadcasting and digital media, as put into action by the National Broadcasting Commission (NBC) has become a stumbling block to both media freedom and the public's right to free expression.

The main problem with this framework is that the NBC, an administrative body has taken over power that rightfully belongs to the courts. This allows the NBC to impose punishments that are often random, unfair, and motivated by politics.

In a significant legal development, the Federal High Court recently stepped in and granted a permanent court order that forbids the NBC from using its power to issue fines. This court decision was a crucial win because it confirmed that the NBC's actions violated the country's core constitutional principles

However, this victory is mostly a procedural one which means that it fixed a part of the process, but the struggle is not over. It requires ongoing attention and defense. The health of Nigeria's democracy which contains its ability to have open political discussions is fundamentally tied to the ability of all media organizations, both traditional broadcasters and digital platforms, to scrutinize and criticize those in power without constantly fearing unfair, politically driven retaliation.

²⁴³ *Ibid.*

²⁴⁴ *Ibid.*

²⁴⁵ *Ibid.*

The core tension between government control (governance) and individual rights (liberty) will continue to exist until two things happen:

- 1.The NBC Act is formally changed to remove the section that illegally hands over the power to punish (punitive power) to the commission.

- 2.The culture of regulatory expediency (making quick, politically convenient decisions instead of following fair legal steps) is completely abandoned.

CHAPTER FIVE

5.1 Summary of Key Findings

Nigeria faces a constant challenge to its national stability due to the rapid growth of hate speech and false information spreading across the country's vast digital space. Recognizing this serious danger, the Nigerian government assigned the National Broadcasting Corporation (NBC) as the main regulatory body responsible for enforcement. However, a close look at how the NBC applies its punishments reveals a major contradiction that the government's efforts to control incitement have been judged by the Nigerian judiciary to be fundamentally flawed and unconstitutional.

The most important finding of this analysis is the fact that the courts completely overturned the NBC's authority to punish. The Federal High Court issued a definitive and permanent court order that declared the NBC's routine practice of imposing fines to be beyond its legal or constitutional powers (known as *ultra vires*). This judgment confirmed that the NBC, acting as an administrative body had violated the constitutional right of citizens and media houses to a fair hearing (due process) and had illegally taken over the exclusive power to judge and punish, which belongs only to the courts under Section 6 of the 1999 Constitution.

Furthermore, the analysis highlights a significant failure in the way the regulation is implemented. The NBC Code uses language that is deliberately vague and ambiguous to define prohibited content, relying on undefined terms like "hate speech" and "offensive reference." This lack of clarity coupled with the regulator's tendency to apply punishments in an unfair and politically convenient manner especially during sensitive periods like the 2023 general elections has created a widespread fear. This punitive environment actively pushes media outlets toward self-censorship, which restricts the public's access to important information and ultimately harms democratic discussion.

The judicial nullification of the NBC's fining power creates a significant regulatory vacuum. To address this crisis, legislative action is mandatory. This research proposes institutionalizing genuine due process and transparency through the establishment of an independent, quasi-judicial body which will be referred to as "**the Broadcasting and Digital Content Tribunal (BDCT)**".

Simultaneously, the Nigerian Broadcasting Code must be amended to incorporate precise, narrowly tailored statutory definitions of hate speech and disinformation, ensuring strict alignment with international human rights standards, specifically the necessity and proportionality requirements enshrined in **Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR)**.

Nigeria, a country defined by its deep ethnic and political diversity is highly vulnerable to conflicts rooted in identity. History has shown that uncontrolled hate speech can quickly worsen tensions, leading to widespread fear of mass violence, as was evident in 2017 following various inflammatory rhetoric and regional tensions. The digital revolution has made this challenge significantly harder. Social media and online news platforms accelerate the spread of falsehoods and incitement forcing the government to create rules and policies to curb these harmful excesses.

The issue of online hate speech is made more complex by the limited media literacy of the population and the very design of digital platforms, where algorithms often prioritize and amplify sensational, emotionally charged, and divisive messages. While the need for the government to act against content that stirs "ethnic hatred" or "inciting hatred and falsehood" is generally accepted, the specific method of regulation chosen has caused great controversy.

5.2 The Role and Reach of the National Broadcasting Commission (NBC)

The National Broadcasting Commission (NBC) is the official body legally responsible for overseeing the electronic media sector. Its main job is to enforce compliance with the Nigeria

Broadcasting Code, which strictly forbids the spread of false, misleading, or inciting information. Historically, the NBC has had the authority to issue fines, suspensions, or even revoke licenses for non-compliance by radio and television stations.

In response to the growing threat of inflammatory content, the NBC launched the **6th Edition of the Nigeria Broadcasting Code in 2019**, specifically aiming to strengthen rules against "hate and dangerous speech" and "fake news." This revised code was partly a response to recommendations made after reviewing conduct during the 2015 general elections. The stated goal was to improve professionalism and better equip the broadcast sector to tackle the increase in hate speech and unprofessional conduct.

5.3 The Controversial Expansion into Digital Media

The Nigerian digital sphere characterized by user-generated content and web-based platforms presents a new regulatory challenge for an agency originally created to handle traditional, terrestrial broadcasting. The NBC Code attempts to bridge this gap through a highly contested practice known as "regulatory annexation."

The provisions governing Web and online broadcasting demand that all persons operating in this space must register with the NBC and ensure their content adheres to the same standards prohibiting hate speech and fake news. Failure to comply exposes them to the same sanctions, including take-down, block, or shutdown orders.

This extension of rules and punishments, originally crafted for traditional broadcasters, onto social media and internet content is driven by the difficulty regulators face in managing content creation in the digital age. For instance, some state governors have publicly called for the NBC to extend its oversight to online radio and television platforms to curb the spread of unverified content. However, this strategy carries significant risks. Attempting to impose the highly restrictive regulatory model of traditional broadcast media which was based on the limited number of available frequencies onto the open and expansive nature of the internet

risks placing unnecessary and unconstitutional restrictions on digital media. It also reinforces the public suspicion that such government regulation, even when framed by concerns over hate speech is primarily intended to suppress free expression and political criticism.

5.4 Constitutional Conflict: The Doctrine of Ultra Vires

The primary dispute surrounding the NBC's punishment system is its direct conflict with the founding principles of the Nigerian state's constitution. This conflict centers on the essential difference between administrative power (which the NBC has) and judicial power (which the courts have).

The Nigerian Broadcasting Code is a subsidiary piece of law which means it gets its authority from the main **NBC Act**. For many years, the NBC used this Code to impose substantial fines on media houses. However, this practice directly violates **Section 6 of the 1999 Constitution** which explicitly reserves judicial power including the authority to impose criminal sanctions or penalties like fines exclusively for the courts of law.

The Federal High Court correctly analyzed that an administrative body by enforcing subsidiary law cannot claim judicial powers reserved by the supreme law of the land. The court therefore determined that the NBC's fining actions were ultra vires, meaning they were entirely outside the scope of its legal authority.

5.5 Violation of Natural Justice: The Right to Fair Hearing

A separate but equally crucial legal failure was the NBC's consistent disregard for the principle of fair hearing, which is guaranteed under **Section 36 of the Constitution**. Court cases revealed that media houses were often fined arbitrarily and severely without first being given the opportunity to defend themselves or respond to the specific allegations.

The court emphasized that the NBC effectively acted as the complainant, the investigator, and the adjudicator in its own cause. This structural failure, regardless of the seriousness of the initial content violation renders the entire sanctioning procedure constitutionally null and

void. The court explicitly stated that it would not sit idly and watch as a government agency arbitrarily imposes fines on a broadcast station which is capable of curtailing the freedom of the press and the media.

Strategic legal challenges, primarily led by the Media Rights Agenda (MRA) were crucial in defending media freedom against the National Broadcasting Commission (NBC).

The first significant legal win occurred in 2019, when the court overturned fines imposed on 45 broadcast stations. This initial decision focused on the NBC's violation of the stations' right to a fair hearing. The ultimate legal victory came on May 10, 2023, when the Federal High Court, in a ruling by Justice James Omotosho, declared the NBC's entire power to issue fines unconstitutional. The court ruled in favor of MRA and issued a perpetual injunction that explicitly forbids the commission from imposing any future fines on the broadcast sector in Nigeria. The judgment was based on the finding that the NBC is neither a court nor a tribunal and therefore lacks the legal authority to conduct criminal investigations or impose sanctions. This judicial decision confirms that the NBC's primary method of punishment which was the arbitrary imposition of fines was based on an illegal assumption of judicial authority for many years. While this victory successfully curtails the NBC's regulatory overreach and protects free expression, it also immediately creates a significant regulatory vacuum.

Serious content violations, particularly those involving incitement to violence or malicious disinformation, now lack a rapid, constitutionally sound, and legitimate mechanism for enforcement. The only remaining penalty short of total institutional reform is the extreme and politically complex step of license revocation. This gap risks fostering a culture of impunity in a sensitive sector, highlighting the immediate necessity for structured institutional and legislative reforms.

5.6 Findings: The Operational Impact of Regulatory Practices

The methods used by the National Broadcasting Commission (NBC) in its operation, especially before the Federal High Court issued the injunction in 2023 clearly showed a pattern of arbitrary power that severely undermined the independence of journalists and generated deep public distrust.

5.6.1 Arbitrary Application and Political Instrumentalization

The NBC has frequently been criticized for imposing heavy fines during sensitive political periods, causing experts to seriously doubt the commission's neutrality. The penalties often appeared to be aimed specifically at media organizations that were critical of the ruling political establishment, strongly suggesting that the content standards were weaponized for political control rather than being used for impartial protection of the public interest.

A very clear example of this targeting occurred during the 2023 election cycle. Channels Television was hit with a staggering N5 million fine (with Arise TV and AIT facing N3 million fines in related instances) for airing an interview with a vice-presidential candidate, Datti Baba-Ahmed. During the broadcast, the candidate had voiced strong opposition to the announced presidential winner, arguing that proceeding with the inauguration would mean the end of democracy. The sanction was imposed swiftly after a petition was filed and notably without giving the station a chance to defend itself or explain that the anchor had, in fact, challenged the candidate's claims during the live interview.

The analysis of this incident suggests that the NBC exploited the vague language of the Broadcasting Code's content standards to punish legitimate political dissent. Imposing such disproportionate monetary penalties on media outlets for hosting critical election commentary strongly suggests the political instrumentalization of regulatory power. These actions reinforce the long-standing public suspicion that the true goal is not merely content

moderation, but rather ensuring political compliance and suppressing unfavorable public dialogue.

5.6.2 The Chilling Effect: Deterring Free Expression

The frequent, massive, and arbitrarily imposed fines such as the 2 million Naira penalty levied against Arise TV or the 5 million Naira against Channels News Station created an oppressive financial environment for media organizations. Operating under a climate where regulatory breaches could lead to crippling financial penalties and the looming threat of license revocation effectively compels media houses toward self-censorship.

This environment means journalists and editors are forced to preemptively avoid covering sensitive topics, particularly those concerning national security such as the reports on banditry that the Media Rights Agenda argued were suppressed, critical government analysis or contentious election discussion. The result is a systematic restriction of the public's constitutional right to receive ideas and information without interference, as guaranteed by **Section 39 of the Constitution**. Although legal action has managed to curb the NBC's fining power, the established history of punitive action and the lingering threat of future sanctions significantly deters robust, independent journalism, leading to a narrowing of the civic space.

The regulatory system in Nigeria is deeply connected to the political economy of the state. The power held by the NBC to both issue and revoke licenses is a potent tool for political leverage. Regulatory actions even the threat of widespread license revocations can be linked to a system where control over media licenses serves to maintain political power.

This tendency was clearly demonstrated in August 2022 when the NBC announced the shutdown of 52 broadcast stations, citing the revocation of their licenses due to the failure to pay renewal fees. This drastic action was criticized by the Nigeria Union of Journalists (NUJ) as hasty, ill-timed and reckless given the challenging economic environment. Even if the immediate cause was financial fees, this large-scale clampdown shows how regulatory power

can be wielded not just to enforce content rules, but also to control the operational viability and market presence of broadcast entities serving political interests beyond their stated public mandate.

5.7 Recommendations

5.7.1 Recommendations for Enhancing Due Process and Transparency

Strict Adherence to Judicial Guidelines: The NBC must strictly comply with the perpetual injunction, completely ceasing the practice of imposing monetary fines or any sanction that constitutes a criminal penalty. Future content violation claims must be referred to a competent judicial or quasi-judicial body.

Establishment of Clear Enforcement Guidelines: The NBC must publish detailed, non-subjective criteria for investigating alleged content infractions. This process should include mandatory public disclosure of all complaints and provide the accused station with a formal, stipulated period and means for defense before any finding of guilt is announced.

5.7.2 Recommendations for Media Stakeholders and Self-Regulation

1. Strengthening Self-Regulatory Mechanisms: Professional bodies, such as the Nigerian Guild of Editors (NGE) and the Nigeria Union of Journalists (NUJ) should collaborate to create and enforce a robust, binding Code of Ethics focused on digital content. This self-regulation should emphasize editorial oversight to distinguish protected criticism from illegal incitement.

2. Promoting Digital and Media Literacy: The NBC, in collaboration with civil society organizations, should dedicate significant resources to public enlightenment campaigns focused on critical media literacy. This strategy recognizes that fighting misinformation requires empowering the audience to discern falsehoods, thereby reducing the dependency on punitive governmental censorship.

5.8 Recommendations for Legislative Action

The National Assembly has a critical obligation to amend the NBC Act to resolve the constitutional conflicts. The current ambiguity and judicial invalidity risk the continued politicization of broadcast regulation. Legislative reform must focus on replacing the unconstitutional fining regime with a specialized adjudicatory structure, ensuring proportionality and due process.

5.8.1 Final Reflections

The history of the National Broadcasting Commission's (NBC) use of punishments clearly shows that its actions are often seen as politically motivated which significantly contributes to a deep-seated distrust between the state and its citizens.

5.8.2 Safeguarding Regulatory Independence

For sensitive content to be regulated effectively, the enforcing body must have unquestionable integrity. Therefore, any legislative reforms must include specific mechanisms to guarantee the institutional and financial independence of the regulator. This means explicitly protecting the appointment and tenure of its board members from undue political interference. A regulator that is truly independent is in a much stronger position to enforce content rules fairly, thereby reducing the need for media organizations to engage in self-censorship out of fear of political retaliation.

5.8.3 Digital Literacy and Responsible Governance

The overarching goal of managing harmful online content is to nurture a healthy and informed public sphere, not simply to silence critical opinions. Given the increasing speed and reach of harmful content, especially when amplified by advanced technology like artificial intelligence, regulatory strategies must be sophisticated and proactive, moving beyond basic censorship. Governance strategies must combine educational measures (to increase digital literacy) alongside strong legal frameworks, thereby shifting the emphasis from reactive punishment to proactive, informed public engagement.

5.8.4 Legal Reform Proposals (The Blueprint for Legislative Change)

This blueprint for a legally durable regulatory architecture centers on four major legislative reforms designed to establish a clear, proportionate, and fair system for content adjudication within the broadcasting sector, while respecting the constitutional framework.

The foundational change involves the institutional separation of powers through an amendment to the NBC Act. This reform would divest the Nigerian Broadcasting Commission (NBC) of its quasi-judicial authority to impose sanctions, replacing it with the establishment of the Broadcasting and Digital Content Tribunal (BDCT). The BDCT must function with complete independence from the NBC administration ideally chaired by a retired High Court Judge and staffed by members with specialized expertise in media law and digital technology. The NBC's role would be strictly reduced to monitoring and investigation while the BDCT would hold the sole power to hear serious infraction cases adhering strictly to the rules of natural justice including mandatory public hearings, the right to legal counsel, and direct appeal to the Court of Appeal. This crucial separation resolves the inherent constitutional conflict of combining the roles of prosecutor and judge.

To ensure compliance with the legality principle and prevent arbitrary enforcement, the next proposal mandates greater precision in the definition of prohibited content. Specifically, the definition of Hate Speech must be significantly narrowed to align with the ICCPR, exclusively targeting the advocacy of hatred that constitutes incitement to discrimination, hostility, or violence against protected groups. This revised definition must explicitly safeguard protected forms of speech such as political satire, criticism of public officials, and expressions of offense. Furthermore, the Code needs to clearly differentiate between misinformation and disinformation reserving the most serious sanctions primarily for intentional disinformation.

The current arbitrary fining system requires replacement with a standardized, proportionate, and remedial penalty regime, which can only be applied after an affirmative ruling by the BDCT. This new system introduces a clear grading structure based on severity, actual harm caused and the intent of the entity. For minor infractions, the **Correction Tier** mandates immediate public retraction and correction of the false content. The **Monetary Penalty Tier** ensures fines are strictly scaled by the licensed entity's economic capacity and degree of fault, avoiding arbitrary punitive figures. The highest sanction, the License Action Tier which is the temporary suspension or revocation must be strictly reserved for systematic and grievous violations concerning incitement or national security, proven beyond reasonable doubt before the Tribunal.

Finally, to resolve the issue of "regulatory annexation," the NBC Act must clearly demarcate the scope of the Commission's digital jurisdiction. The Act should explicitly limit the NBC's authority over web and online broadcasting only to content that is produced, curated and owned by the licensed broadcast organization itself such as their official digital streams and websites. This proposal explicitly excludes content disseminated on unrelated third-party social media platforms where the broadcaster simply maintains an account, reserving enforcement in that external domain for existing instruments, such as the **Cybercrime Act** thereby preventing the traditional broadcast regulator from becoming an indiscriminate internet censor.

5.9 General Conclusion

The in-depth review of the National Broadcasting Corporation's (NBC) approach to penalizing hate speech and misinformation highlights a major conflict between its regulatory goals and Nigeria's constitutional principles. The Nigerian government's move to control the digital sphere through administrative sanctions was judged legally invalid by the Federal High Court. The court issued a permanent order which ruled that the NBC's authority to

impose fines was unconstitutional, exceeding its powers (*ultra vires*), and infringing upon the exclusive authority of the judiciary. This legal decision underscores a core tenet of Nigerian democracy, which means an administrative body cannot take over the judicial powers reserved solely for the courts, nor can it bypass the constitutional right to a fair hearing.

This fundamental issue was compounded by the NBC's methods. The agency used vague and ill-defined terms like "offensive reference" to categorize forbidden content which allowed it to arbitrarily impose excessively high fines. These penalties were often politically motivated and timed particularly those targeting media houses for critical commentary around elections. This practice created a widespread "chilling effect," prompting journalists to resort to self-censorship and ultimately limiting the public's access to crucial information. The regulatory system, consequently operated less as an impartial protector of public interest and more as a tool for enforcing political compliance.

In short, the objective of maintaining a stable and informed digital environment cannot be achieved through unconstitutional means. The judicial removal of the NBC's coercive fining authority has created a legal vacuum, necessitating urgent and well-defined legislative reform. Nigeria must move forward by establishing an independent judicial body such as a specialized tribunal, to separate the role of the regulator (monitor) from the role of the judge. Effective management of incitement, while safeguarding the fundamental rights of a free press, requires the institutionalization of due process, the adoption of narrowly defined limits on speech, and a commitment to transparent enforcement.

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