

MALAWI HUMAN RIGHTS COMMISSION

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OFFICE OF THE CHAIRPERSON

Ref. No. HRC/09/01

29th September, 2020

Honourable Gospel Kazako
Minister of Information and Communication Technology
Private Bag 310
Lilongwe 3

CC: The Chairperson, MISA Malawi
The Chairperson, Media Council of Malawi
The Chairperson, Public Relations Society of Malawi
The Executive Director, CONGOMA

ADOPTION OF REGULATIONS FOR THE IMPLEMENTATION OF THE ACCESS TO INFORMATION ACT (ATIA).

Reference is made to the aforementioned subject matter.

As you are aware, Government adopted a freedom of information regime with the enactment of the Access to Information Legislation in 2016. This law obligates information holders to make information held by them accessible to information seekers to enable those information seekers exercise their rights as guaranteed under the Constitution of Malawi or any other law.

Section 55 of the Access to Information Act require the Minister to develop regulations for the implementation of the Act. The Human Rights Commission (the Commission) commends you Sir for ensuring that these regulations have been developed and are due for gazetting after they have been laid down before Parliament.

The Commission has the responsibility to oversee the implementation of the Act and has noted concerns raised by some sections of the Malawian Society regarding the need to subject the regulations to further scrutiny before they are gazetted. It is the view of the Commission that the observations are valid and there is need to delay the gazetting and allow for further scrutiny of the same. As you would appreciate, Sir, the draft regulations have not been subjected to wide publicity among stakeholders for their input.

We therefore propose that your ministry should delay the gazetting of the regulations by at least two months up to 30th November 2020 and that in between, a road map should be developed that includes further consultations with key stakeholders including the following:-

1. Heads of Government Ministries, Departments and Agencies
2. The Media fraternity (Media Council of Malawi; Media Institute for Southern Africa (MISA) Malawi; Public Relations Society of Malawi and other media umbrella organisations
3. Civil Society Organisations such as the NGO Gender Coordination Network; Civil Society Agriculture Network (CISANET); Civil Society Education Coalition (CSEC) etc.
4. The Private Sector: Malawi Confederation of Chambers of Commerce and Industry (MCCCI)
5. Malawi Law Society (MLS) and Women Lawyers Association (WLA)
6. District Commissioners and Chief Executives of Local Government Councils; Malawi Local Government Association (MALGA)
7. Human Rights organisations such as Human Rights Consultative Committee (HRCC); Malawi Human Rights Resource Centre (MHRRC) and Centre for Human Rights Rehabilitation (CHRR)
8. Council for Non-Governmental Organisation in Malawi (CONGOMA).

It is the view of the Commission that the proposed consultations with stakeholders will enhance the state of our preparedness as a country to implement the Access to Information Act. As a Commission, we are fully committed to ensuring that the Access to Information Act is implemented without any further delays while ensuring that the process is meticulous for a successful and effective implementation of the Act and you have our full support in that regard.

Sincerely Yours,



Reverend Patrick Semphere
CHAIRPERSON