

Chronicle of The ANZ Case

11 September 2003

Supreme Court refuses to hear ANZ case

The Supreme Court refused to hear the ANZ case, on the basis that the newspaper publisher had approached it with 'dirty hands' by refusing to apply for registration in the first place.

12 September 2003

Government bans The Daily News and The Daily News on Sunday

The government closed *The Daily News* and *The Daily News on Sunday*, as police armed with automatic rifles burst into the newspapers' offices in central Harare at about 5pm and ordered all staff to leave. Nqobile Nyathi, the editor, and Simon Ngena, the production manager, were arrested and taken to Harare Central Police Station. They were later released. Tafataona Mahoso, Chair of the Media and Information Commission, was quoted as saying he would have been surprised if the police had not taken any action because "the Daily News does not exist in terms of the laws of the country". (*The Herald*, 13 May 2003). These actions were widely condemned by both local and international actors as being a serious violation of media freedom.

15 September 2003

ANZ newspapers apply for registration

The ANZ newspapers applied for registration with the Media and Information Commission.

16 September 2003

Police seize The Daily News' equipment

The Daily News was charged under AIPPA for operating without a licence; police confiscated computers and other equipment at *The Daily News* offices, saying the equipment would be retained as exhibits. ANZ, in turn, applied to the High Court for an order for the equipment to be released because the police did not have a court order to seize the exhibits.

18 September 2003

High Court rules paper may resume operations

High Court judge Justice Yunus Omerjee ruled that ANZ could resume publication. Omerjee's ruling followed an urgent application by the newspaper organisation to have its equipment returned and to be allowed to resume publication. Omerjee noted that the Supreme Court judgment had not convicted the paper of a criminal offence but had merely declared that the newspaper was acting outside of the law. The company's equipment could only be seized pursuant to a court order. The judge further noted that ANZ had started operating within the law from the day it lodged its application for registration with the Media and Information Commission.

19 September 2003

MIC refuses to register the ANZ newspapers and police defy High Court order

The MIC unanimously refused the ANZ newspapers' registration application on the basis that it had not met the 31 December 2002 deadline, had been operating in breach of the law and had openly stated it would not register.

Armed police officers refused to vacate the paper's offices and prevented staff from accessing its offices. The police also refused to return *The Daily News*' computers and other equipment, allegedly seized as exhibits.

23 September 2003

ANZ applied to Administrative Court for review of MIC registration denial

The ANZ appealed to the Administrative Court against the refusal of the MIC to register its newspapers.

1 October 2003

Journalists charged for practising without being accredited

Six *The Daily News* journalists, Philemon Bulawayo, Margaret Chinowaita, Kelvin Jakachira, Sydney Saizi, George Muzimba and Lawrence Chikuvira, were charged with practising without being accredited. This brought to 15 the number of journalists from the Associated Newspapers of Zimbabwe who have been charged for this offence under AIPPA. The other nine, charged on 25 September 2003, are Luke Tamborinyoka, Pedzisai Ruhanya, Fanuel Jongwe, Precious Shumba, Chengetai Zvauya, Cornelius Mabasa, Conway Tutani, Gladwin Muparutsa and Darlington Makoni and Francis Mdlongwa.

24 October 2003

Court orders Media and Information Commission to grant ANZ licence

Judge Michael Majuru, President of the Administrative Court, held that the refusal of the MIC to register the ANZ newspapers was illegitimate, including because the MIC was improperly constituted and could not therefore issue or deny certificates of registration. He held that if, by November 30, the MIC was not properly constituted and, in that capacity, had not ruled on the ANZ case, the ANZ newspapers would be deemed duly registered to operate a media business.

25 October 2003

The Daily News publishes again

The Daily News hit the newsstands again for a day following its successful Administrative Court appeal, only to be reoccupied by the police within hours.

1 November 2003

MIC appeals Administrative Court ruling

The MIC appealed to the Supreme Court against the Administrative Court ruling, arguing that Justice Majuru and his two assessors erred in their finding that the Commission was not properly constituted.

13 November 2003

ANZ directors' application dismissed

Magistrate Mishrod Guvamombe dismissed an application by four ANZ directors asking the Court to reject the case in which they were charged with publishing *The Daily News* in breach of the law, in light of the Administrative Court ruling that the MIC should be properly constituted by 30 November 2003 or the ANZ would be deemed duly registered. Guvamombe said there was reasonable suspicion that the four had committed an offence by publishing before the 30 November deadline. The four directors, Samuel Sipepa Nkomo, Stuart Mattinson, Brian Mutsau

and Rachel Kupara, who are on \$50 000 bail each, were ordered to appear in court on 6 February 2004, but this hearing was further remanded.

24 November 2003

Hearing of ANZ application deferred

An application by ANZ to the Administrative Court asking for its newspapers to be allowed to publish pending the outcome of the MIC appeal against its ruling of 24 October is postponed to the next day.

25 November 2003

Judge Majuru recuses himself from the ANZ case

On the morning that the Administrative Court's president, Michael Mujuru, was expected to preside over the ANZ application, the government-controlled daily, *The Herald*, reported that authorities were investigating his conduct pertaining to the pending application. The paper reported that the judge had allegedly told some members of the public of the decision he was going to make on the ANZ application. The ANZ case was postponed after Majuru recused himself as the presiding judge in the matter. He said it would be improper for him to hear the matter given the reports carried by *The Herald*.

25 November 2003

MIC files an urgent application with the Supreme Court

As the drama pertaining to Majuru's recusal unfolded, the MIC filed an urgent application with the Supreme Court seeking to bar the Administrative Court from hearing the ANZ application. In his application, Mahoso, the MIC chairman, said the Administrative Court had no jurisdiction to hear the application as it had already passed judgment in favour of ANZ on 24 October.

30 November 2003

Administrative Court reserves judgment

The Administrative Court reserved judgment in the ANZ case against the Media and Information Commission. Administrative Court judge Selo Nare said he was satisfied that the Court had jurisdiction to hear the application. The judge, however, reserved judgment on whether the ANZ newspapers could begin publishing, saying he needed more time to study submissions from the two parties.

19 December 2003

Administrative Court rules ANZ newspapers may publish but police continue to occupy its premises

Administrative Court judge Selo Nare ruled that the ANZ newspapers may publish, pending proper constitution of the MIC in accordance with the Court's 24 October ruling. Despite this, the police refused to vacate the premises.

9 January 2004

Police defy order to vacate banned newspapers premises

The High Court ordered the police to vacate premises of ANZ but the police refused to comply.

22 January 2004

The Daily News hits the streets against

The Daily News, banned since 12 September 2003, reappeared on the streets again, following a High Court order on 21 January again ordering the police to leave the ANZ premises.

2 February 2004

ANZ journalists apply for accreditation

A number of journalists working for the ANZ newspapers apply for accreditation with the MIC.

5 February 2004

IJAZ judgment causes The Daily News to cease publishing

The IJAZ judgment, released on 5 February 2004, upheld the provisions of AIPPA which require journalists to be accredited to practice. ANZ journalists had previously refused to file for accreditation, just as their newspaper had not applied for registration, on the basis that the law was unconstitutional. At the time of the IJAZ judgment, ANZ journalists were not registered. As a result, they had no choice but to cease working until they gained accreditation. As a result, *The Daily News* stopped publishing.

11 February 2004

MIC rejects ANZ journalists' applications for accreditation

The MIC rejected ANZ journalists' applications for accreditation on the basis that they had not met the requisite conditions, which include either working for a registered media house or proving that they are freelance journalists.

4 March 2004

Supreme Court reserves judgment in the ANZ case

The Supreme Court reserved judgment in three cases involving the ANZ newspapers – *The Daily News* and *The Daily News on Sunday* – and the Media and Information Commission (MIC) and the Minister of Information, Jonathan Moyo. These include the substantive constitutional challenge to the provisions of AIPPA that require newspapers to register and the appeal against the refusal of the MIC to register the ANZ newspapers.

20 September 2004

ANZ Directors acquitted

ANZ Directors Samuel Sipepa Nkomo, Rachel Kupara, Michael Mattinson and Brian Mutsau acquitted on charges of contempt of court and publishing the Daily News without a license.

27 January 2005

Judgement date set

Judgement in the matter in which the ANZ was fighting to resume publication reportedly set for 27 February 2005.

23 March 2005

Supreme Court refers ANZ back to MIC

The Supreme Court referred the ANZ back to the MIC for resubmission of its application to be registered. The court also upheld the sections of AIPPA that were being challenged by the ANZ as constitutional.

12 May 2005

High Court dismisses ANZ application

The High Court dismissed an application by ANZ seeking a declaratory order for its journalists to be accredited with the MIC in terms of AIPPA.

13 June 2005

Daily News reporters summoned to court

Eight journalists from the Daily News were served with summons to appear in court for practising journalism without accreditation in terms of AIPPA. they were expected to appear in court on 12 October.

23 June 2005

ANZ files application for registration

The ANZ said it had filed a application for registration with the MIC in terms of AIPPA.

20 July 2005

ANZ to appeal against MIC

Samuel Sipepa Nkomo, the ANZ chief executive told journalists that they would appeal against the decision by the MIC to deny them an operating license.

27 July 2005

ANZ appeals against decision by MIC to deny them a license

The ANZ filed its appeal with the Administrative Court following the MIC's refusal to grant them a license.

The ANZ argued the MIC erred by refusing to duly register them on the basis of contravening AIPPA in the absence of a criminal prosecution and conviction against the publishing company.

4 August 2005

Daily News reporter tried for practising without accreditation

Kelvin Jakachira, a reporter with the Daily News, was tried for practising without accreditation in terms of Section 83(1) Chapter 10:27 of AIPPA. The trial was postponed to 11 August at the request of his lawyer.

11 August 2005

Jakachira applies for acquittal

Defence applies for his acquittal on charges of practising journalism without accreditation.

17 August 2005

Magistrate dismissed Jakachira's application for acquittal.

31 August 2005

Jakachira acquitted

Harare magistrate Prisca Chigumba acquits Kelvin Jakachira saying he had complied with the application procedures and the state's evidence was vague and confused.

16 September 2005

ANZ hearing date set

The ANZ appeal in which it was challenging the government-controlled MIC's decision to deny them an operating license is set for 21- 22 September 2005 in the Administrative Court.

21 September 2005**ANZ hearing postponed**

The hearing that had been set for the Administrative court was postponed to an unknown date. This followed the MIC's strong objection to the presence of two assessors who had presided in a previous matter in which the court ruled in favour of the ANZ.

18 July 2005**MIC refuses to register ANZ**

The MIC refused to register ANZ because it had contravened Sections 66, 72, 76 and 79 of AIPPA. The sections in question deal with the registration of a mass media service provider, operating without an operating license and accreditation of journalists.

1 December 2005**Former MIC member implicates Central Intelligence in ANZ case**

The weekly Financial Gazette reported that the Central Intelligence Organisation (CIO) had allegedly reversed a decision by the government-controlled MIC to register ANZ. According to papers filed with the High Court, Jonathan Maphenduka, a former MIC board member, the regulatory body had on 16 June agreed to register ANZ.

8 February 2006**Judge rules ANZ application should be reconsidered**

High Court Judge, Rita Makarau quashed the MIC's refusal to grant ANZ an operating license and ordered that the application for registration be considered afresh. She made the ruling on the grounds of Mahoso's perceived bias, which raised reasonable apprehensions that the ANZ would not receive a fair trial in the Supreme Court.

17 March 2006**Twist to Daily News legal battle**

The MIC chairman admitted that the High Court ruling by Justice Rita Makarau barred it from involvement in the ANZ case. This shifted the resolution of the matter to Minister Jokonya to appoint a special board to determine the application or instruct the MIC secretariat to issue a certificate of registration.

20 April 2006**Minister files opposing papers in ANZ case**

Minister of Information and Publicity, Tichaona Jokonya, says he can only appoint an independent committee to adjudicate over the ANZ's application to be licensed if AIPPA is duly amended. The High Court judgment by Justice Rita Makarau meant that the minister had to appoint an independent commission to preside over the case. Minister Jokonya argued that AIPPA did not provide him with powers to appoint an ad hoc commission when such a scenario arises.

9 June 2006**Minister has mandate to appoint committee to register ANZ**

ANZ insists that the minister has powers to appoint an ad hoc committee to deal with registration of the media house. In papers filed with the High Court, acting ANZ chief executive officer, John Gambanga, argued the minister could appoint the committee because the current MIC is an ad hoc committee as its three year term of office has expired.

5 October 2006

Daily News Appeal Case postponed

The case in which ANZ, publishers of the banned Daily News and Daily News on Sunday, is seeking a High Court order to be duly licensed was on 5 October 2006 postponed to 9 October 2006 at the request of the state-controlled Media and Information Commission (MIC).

9 October 2006

Judgment reserved in ANZ case

Hearing into the case in which ANZ is seeking an order to be duly licensed opens before Justice Anne Mary Gowora. Lawyers representing the publishing company argued that the decision to grant ANZ, publishers of the banned Daily News and Daily News on Sunday, now rests with the High Court.

Advocate Eric Matinenga representing ANZ in the matter, said the licensing authority, the Media and Information Commission (MIC), and the Ministry of Information and Publicity had failed to deal with the application within the stipulated period. Judgment was reserved indefinitely.

9 May 2007

High Court throws out yet another ANZ Application

Justice Anne Mary Gowora dismissed an application in which ANZ were seeking an order to be duly licensed. Strangely, the court still reaffirmed the inability of the MIC to consider its application impartially.

She said the most appropriate route for the ANZ would be for them to apply for an order for the Minister of Information to be directed to institute the appropriate administrative measures and a legal framework for the application to be considered and determined despite finding that the responsible Minister had no intentions of acting accordingly.