

Vuma Reputation Management vs New Frame

Complaint 9021

Ruling by the Deputy Press Ombud

Date of article: 9 July 2021

Complainant: Vuma Reputation Management

Respondent: New Frame

Headline: 'PR operation to mask repression in eSwatini'

Author: Unknown

Particulars

- [1.] In what may be termed an unusual complaint, a public relations firm complains about a press statement by a media organisation.
- [2.] This ruling is based on written representations by Vuma Reputation Management ("Vuma") joint CEOs, Tshepo Sefothelo and Palesa Madumo, as well as Monica Laganparsad, associate editor of New Frame.

Complaint

- [3.] The events leading to this complaint occurred in neighbouring eSwatini. Widespread protests against the regime of King Mswati III erupted in June 2021 and the consequent fall-out made international headlines.
- [4.] New Frame journalists Magnificent Mndebele and Cebelihle Mbuyisa were covering the unrests on 4 July when they were detained and assaulted by eSwatini forces. Their treatment was also widely reported and condemned by various organisations.
- [5.] On 9 July 2021, New Frame issued a press release on their social media accounts to give an update on Mndebele and Mbuyisa after their return to Johannesburg. New Frame condemned the 'organised effort to deny the plain fact that (their) journalists were tortured in the Sigodvweni police station'. This was with reference

to an article published in the Swazi Observer and, of significance for this complaint, the attempt of Vuma to set up media interviews with eSwatini officials. The thrust of the press release was that Vuma attempted to 'bend the narrative towards the interests of a highly repressive police state'.

- [6.] Vuma says it has never attempted to 'bend the narrative' and New Frame defamed the public relations firm. Attempts to engage with New Frame's management about the press release were futile as New Frame refused to engage with them.
- [7.] Vuma contends various breaches of the Press Code, most notably Clause 1 (gathering and reporting of news) and Clause 3 (privacy, dignity, and reputation). If New Frame relies on Clause 7 (protected comment), Vuma alleges a breach of that Clause as well as New Frame did not have regard to the relevant facts.

Preliminary issue of jurisdiction

- [8.] New Frame questioned the jurisdiction of the Press Council to consider the complaint – firstly because it was not published on its news platform (website) and secondly because of the unique nature of the subject matter, being a 'press release'.
- [9.] Under the heading, 'Application of the Press Code', it is stated that the Code applies to the following content published by members:
- 'All content that is published in a printed edition;
 - All content that is published on a website operated by a member;
 - All content that is published on a social media account operated by a member; and
 - All content that is created by a member and published on any platform that is available on the world wide web (i.e. online) or in digital format.'
- [10.] Although 'content' is not defined in the Code itself, the descriptions quoted above makes it clear that any and all content published by a member publication fall within the ambit of the Code. In my view, it is not the form or substance of the content that is the focus of the definition, but rather the fact that it is content published by a member.
- [11.] I am accordingly satisfied that a 'press release' published by a member publication on its social media accounts falls within the ambit of the Code.
- [12.] The subsequent question is how the 'press release' should be judged. New Frame says:
- 'A press statement is a fundamentally different genre of writing to journalism. There are no fixed ethical standards by which press statements are

governed and the ethical standard by which a press statement is informally assessed in the public sphere are clearly not the same as those applied to news reports. If an analogy is made between a press statement issued by a media company and a journalistic article published by a media company it would be an opinion piece.'

[13.] The argument that there are 'no fixed ethical standards' for press statements is unconvincing. As I've already remarked, it is not the form or substance of the content that is dispositive of the conundrum, but rather the fact that it is a member publication publishing the content. A member publication remains bound to the ethical standards set out in the Press Code. It cannot abide by the standards for some of its content, but free itself of its voluntarily assumed ethical obligations if it slaps a different label on certain content.

[14.] However, I am inclined to agree that the press statement will not be viewed as a news report by its readers. It was clearly marked as a 'press statement', was not published as news content alongside New Frame's news articles, was written in first person, and contained the cell phone number of the associate editor 'for more information'. Seen from this perspective, I agree that the press statement should be treated as an opinion piece along the same lines as an editorial.

The facts

[15.] The facts are largely common cause.

[16.] Vuma has been contracted since 2019 by the eSwatini government to perform public relations services to that government. Vuma stresses that it had a very specific mandate 'to position the country to attract foreign direct investment' to eSwatini.

[17.] By the time the civil unrest broke out in June 2021, Vuma was still contracted by the eSwatini government. On 7 July 2021, Vuma sent an e-mail to New Frame which reads:

'As per your telephonic discussion with Vincent, we are writing in response to the recent media reports regarding police brutality and the alleged torture and censorship of journalists in Eswatini, the government of Eswatini would like to schedule a meeting with your team to engage and get to the bottom of what transpired.'

[18.] New Frame declined the request and issued the press statement. Another attempt by Vuma on 12 July to engage with Richard Pithouse, editor-in-chief of New Frame, via WhatsApp, also got a cold reply. Pithouse responded:

'I don't think I want to talk to people that were happy to work for a murderous dictatorship while it was killing, maiming and torturing its people... If we do a story on your company we would, of course, give you a full and fair right to reply. However, I will not be engaging you on the (press) statement.'

- [19.] On 11 July, Vuma issued a press statement of its own emphasising that it is an ethical company and announcing that it has decided to resign the eSwatini account. Vuma said this was because it was not possible to perform its mandate to position eSwatini as an attractive investment destination 'in the current environment'. Vuma emphatically stated that it has 'never requested nor attempted to manipulate the media to act unethically, as they too will attest to, and reject any inferences to the contrary'.

The offensive sentences in the press statement

- [20.] The first sentence Vuma complains about, reads:

'It (Vuma) has also contacted journalists in other media organisations with the aim of bending the narrative towards the interests of a highly repressive police state, a state that has recently murdered numerous activists – figures range from around 40 to more than 70.'

- [21.] This was followed by two more punches:

'We condemn the publication of demonstrable untruths in the 'Swazi Observer', the circulation of demonstrable untruths by the Swaziland Editors Forum, and the attempts by Vuma Reputation Management to "manage" the reputation of a murderous and systemically dishonest dictatorship...

'We call on all South African media organisations to keep a critical and principled distance from Vuma Reputation Management and any other PR firm working in the interests of violently repressive dictatorships.'

Analysis

- [22.] Clause 1 of the Code pertains to the gathering and reporting of news. As the content in question was an opinion piece, this clause is not applicable.

- [23.] Clause 7 of the Code regulates protected comment:

'7.1. The media shall be entitled to comment upon or criticise any actions or events of public interest; and

7.2. Comment or criticism is protected even if it is extreme, unjust, unbalanced, exaggerated and prejudiced, as long as it is without malice, is on a matter of public interest, has taken fair account of all material facts that are either true or reasonably true, and is presented in a manner that it appears clearly to be comment.'

[24.] The events were undoubtedly in the public interest. Moreover, New Frame had a very real interest in the events in that two of their journalists were detained in eSwatini while performing their professional duties. The interests of New Frame are declared in the 'press statement'. I have already found that the text was marked as comment. There is no serious allegation of malice.

[25.] The only contentious issue is therefore whether New Frame has taken fair account of all material facts that are either true or reasonably true. It is on this score that the parties have vastly different perspectives: Vuma says it is simply not true that they attempted to 'bend the narrative', while New Frame says 'reputation management by definition is an effort to influence the way in which people perceive an organisation, brand or person'.

[26.] Vuma's stance is therefore that New Frame stated as fact that the PR firm tried to 'bend the narrative'. I am, however, not convinced that a reasonable reader would have read the sentence as anything other than comment from New Frame.

[27.] The facts relied upon by New Frame to substantiate its opinion that Vuma intended to 'bend the narrative', include:

1. The track-record of the Eswatini government, particularly during the civil unrest.
2. The widely known fact that the eSwatini government was a client of Vuma at the time.
3. The torture and detainment of their journalists and the subsequent alternative narrative advanced in eSwatini media.
4. The fact that Vuma approached New Frame to set up interviews to 'get to the bottom of' what transpired.'

[28.] I find Vuma's e-mail approach on 7 July to New Frame particularly enlightening. Firstly, it makes it clear that the approach relates to 'recent media reports regarding police brutality' – i.e. not Vuma's initial mandate of selling eSwatini as an investor haven. Secondly, it refers to the 'alleged' torture and censorship of journalists. This is a clear indication that Vuma did not acknowledge the censorship and torture of journalists. A seasoned public relations firm knows, or

ought to have known, that a reference to the 'alleged torture' of New Frame journalists would convey a denial of the torture of the journalists in question on behalf of their client. Given the denial, it was not unreasonable for New Frame to infer that the aim of the 'engagement' with eSwatini officials would be from that angle.

[29.] Perceptions matter greatly in matters of reputation. As reputation management experts, Vuma must have known that it attracted a reputation risk for itself through its continued association (at that time) with the eSwatini government. It is a risk Vuma assumed voluntarily, and a risk that was open to criticism.

[30.] In conclusion, I find that New Frame may rely on Clause 7 as justification of its press release.

[31.] The complaint based on Clause 3 stand to suffer the same fate. The relevant part of the Clause reads:

'3.3. (The media shall) exercise care and consideration in matters involving dignity and reputation, which may be overridden only if it is in the public interest and if:

3.3.1. the facts reported are true or substantially true; or

3.3.2. the reportage amounts to protected comment based on facts that are adequately referred to and that are either true or reasonably true;'

[32.] The subject matter was comment on a matter of public interest. I have already dealt with the facts referred to in New Frame's press release. The expressed opinion of New Frame that Vuma attempted to 'bend the narrative' is the crux of the comment (as opposed to a reported fact in a news report) and a reasonable reader would have understood the press statement within that context.

[33.] In all fairness, it should be stressed that I do not find the statement of attempts to 'bend the narrative' to be an established fact. It is, however, a protected and sufficiently substantiated opinion New Frame is entitled to in terms of Clause 7.

Conclusion

[34.] In the premises, Vuma's complaint is **dismissed**.

Appeal

The Complaints Procedures lay down that within seven working days of receipt of this decision, either party may apply for leave to appeal to the Chairperson of the SA Press

Appeals Panel, Judge Bernard Ngoepe, fully setting out the grounds of appeal. He can be contacted at Khanyim@ombudsman.org.za.

Herman Scholtz

Deputy Press Ombud

6 September 2021