

NBC imposition of fines on broadcast stations, unconstitutional – Court

A Federal High Court sitting in Abuja, has given an order of perpetual injunction restraining the National Broadcasting Commission (NBC) from henceforth, imposing fines on broadcast stations in the country. In cutting the wings of arbitrariness of the NBC, the Court granted an order of perpetual injunction restraining the commission from further imposing fines on broadcast stations in the country. The Court in a judgment, held that the NBC Code, which gave the commission the arbitrary power to impose sanction, is in conflict with Section 6 of the Constitution that vested judicial power in the Court of law. It also held that the NBC is not a Court of law, therefore has no power whatsoever, to impose sanctions as punishment on broadcast stations. The Court presided over by Justice James Omotosho, also set aside the N500,000 fines imposed, on March 1, 2019, on each of the 45 broadcast stations. Justice Omotosho declared that the court would not sit idle and watch a body imposing fine arbitrarily without recourse to the law and stressed that the commission failed to comply with the law when it sat as a complainant and at the same time, the court and the judge on its own matter.

The Court held that the Nigeria Broadcasting Code, being a subsidiary legislation that empowers an administrative body such as the NBC to enforce its provisions cannot confer judicial powers on the commission to impose criminal sanctions or penalties such as fines. Justice Omotosho further agreed that the NBC, not being the Nigerian police, had no power to conduct criminal investigation that would lead to criminal trial and imposition of sanctions. The trial judge said; "This will go against the doctrine of separation of powers. What the doctrine sought to achieve was to prevent tyranny by concentrating too much powers in one organ. The action of the respondent qualifies as excessiveness as it had ascribed to itself the judicial and executive powers". The NBC had on March 1, 2019, imposed the sum of N500, 000 each on 45 broadcast stations in the country over alleged violation of its code. However, the Incorporated Trustees of Media Rights Agenda had, in an originating motion marked: FHC/ABJ/CS/1386/2021, sued the NBC as sole respondent in the suit. In the motion dated Nov. 9, 2021 by its lawyer, Noah Ajare, the group sought a declaration that the sanctions procedure applied by the

NBC in imposing N500,000 fines on each of the 45 broadcast stations on March 1, 2019 was a violation of the rules of natural justice. Ajare also said that the fines were in violation of the right to fair hearing under Section 36 of the 1999 Constitution (as amended) and Articles 7 of the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act (Cap AQ) Laws of the Federation of Nigeria, 2004. It further argued that this was so because the code, which created the alleged offences for which the broadcast stations were accused was written and adopted by the same NBC.



According to the group; "The same code also gives powers to the said commission to receive complaints of alleged breaches, investigate and adjudicate the complaints, impose sanctions, including fines, and ultimately collect the fines, which the commission uses for its own purposes". The group therefore, sought an order setting aside the N500,000 fines purportedly imposed by the NBC on each of the 45 broadcast stations on Friday, March 1, 2019. It also sought an order of perpetual Injunction restraining the respondent (NBC), its servants, agents, privies, representatives or anyone acting for or on its behalf, from imposing fines on any of the broadcast stations or any other broadcast station in Nigeria for any alleged offence committed under the Nigerian Broadcasting Code. In his judgment, Justice Omotosho declared that the NBC's act was ultra vires and held that the fines imposed by the NBC as punishment for commission of various offences under its code were contrary to the law and therefore unconstitutional, null and void.