



Our Ref: **UCC/NBS/SCA/1/2025**

27th November, 2025

Executive Director,
UCC House
Plot 42-44, Spring Rd,
Bugolobi,
P.O Box 7376,
Kampala-Uganda.

Dear Sir

REPLY TO THE SUBMISSIONS/COMPLAINT BY ADELEGAL INTERNATIONAL LIMITED AGAINST NBS TELEVISION LIMITED

The above captioned matter refers.

We make reference to the final submission from AdLegal International Limited and hereby provide our comprehensive response to the central issue raised

1. BACKGROUND:

The AdLegal International Limited filed a complaint against NBS Television Limited on 23rd January 2025 alleging breach of the split-screen advertising rules prescribed under the Uganda Communications Commission (UCC) Advertising Standards, 2019, in respect to NBS TV's programs Morning Breeze, NBS Frontline, and NBS Eagle which stream current affairs program.

The Commission wrote a letter to us and we responded however, to enable it make its final decision, we do hereby respond to the submissions from following the central issues raised by Adlegal;

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NBS Television Limited

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13 Summit View Road, Naguru
P. O. Box 7613, Kampala, Uganda

2. CENTRAL ISSUES RAISED BY ADLEGAL

- i. Whether the use of "squeeze backs" by NBS TV during current affairs broadcasts amounts to prohibited split-screen advertising under the Advertising Standards, 2019.
- ii. Whether the regulation of Split Screen Advertising during current affairs programs outdated?
- iii. Whether the economic considerations of NBS TV can justify the use of squeeze back advertisements during current affairs programs, in light of the regulatory prohibition against split-screen advertising.
- iv. Whether NBS TV's prior discussions with UCC (2020–2022) justify the use of squeeze back ads in current affairs programs under the broadcast standards.
- v. Whether NBS TV's use of split-screen advertising during current affairs programming violates the Minimum Broadcasting Standards.

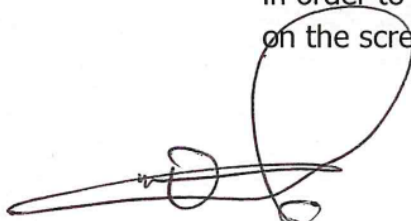
OUR SUBMISSIONS IN RESPONSE

1. First Central Issue

WHETHER THE USE OF "SQUEEZE BACKS" BY NBS TV DURING CURRENT AFFAIRS BROADCASTS AMOUNTS TO PROHIBITED SPLIT-SCREEN ADVERTISING UNDER THE ADVERTISING STANDARDS, 2019?

1.1 Impractical Legal Misinterpretation and Trade Custom, An Overlooked Regulatory Reality

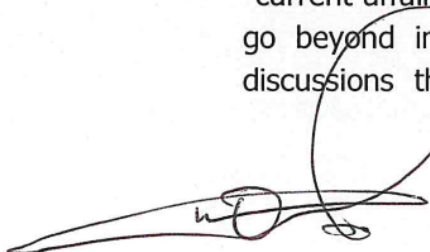
- a. We acknowledge the legal principles and authorities cited by AdLegal regarding purposive interpretation and the doctrine of "substance over form." On a purely theoretical level, their interpretation of the static text of the 2019 Standards has merit but practically in **Trade Custom of Broadcast and Technological Application; Split Screens and Squeeze Backs are different not Superficial and Irrelevant**
- b. For emphasis, squeeze back means a sequence of television footage or a graphic produced specifically to promote the sponsor, program or any other message other than commercial advertisements, which is screened from time to time during the Broadcast for a duration of approximately 10 (ten) seconds and not exceeding 15, which is shown when the main picture is reduced in size in order to allow such footage or graphic to be screened in the available space on the screen surrounding the actual picture. Whereas;

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- c. A split-screen advertisement is an advertising technique which allows the simultaneous presentation of editorial content and commercial information on the same screen, divided into two or more parts on the screen.
- d. Split-screen advertising does not exceed 50% of screen space and only one split-screen advertisement appears at any given time. Whereas Squeeze backs only consume about 20-30% of the screen space.
- e. Therefore, this complaint is not merely an academic exercise in statutory interpretation but a failure to appreciate the trade custom of broadcast technique especially because Television is Linear and thus if interpreted without context may give rise to misinterpretation that the format does not matter but the probable impact. It is a practical matter concerning the survival and operation of commercial broadcasters within a regulatory framework that has demonstrably evolved in practice since 2019.
- f. AdLegal's submission, while somewhat legally sound in a vacuum, critically ignores the technological and practicality of squeeze backs and split screens living inflexible application of these standards as agreed upon by the Ministry, the regulator and the industry it oversees in light of the changing realities and dynamics of media evolution, qualifying it as a cosmetic variation is lack of understanding of the broadcast industry

1.2 Distinctions in a Modern Context

- a. **"Editorial Content" is an Impermissible Expansion:** AdLegal's importation of the term "editorial content" is, with respect, a far-fetched expansion of Annex 7. The provision explicitly prohibits the technique in "news or current affairs broadcasts," whereas all news is "editorial content." Not all editorial content is news nor all current affairs editorial content. The original mischief was the risk to impartial news reporting. To equate an in-depth, hour-long or more political discussion with a fast-paced news bulletin is to ignore the material difference in format, audience expectation, and risk of advertiser influence.
- b. **Clarifying Current Affairs:** The current regulations do not explicitly define "current affairs," yet this genre encompasses a broad spectrum of topics that go beyond immediate news reporting. It includes in-depth analyses and discussions that engage audiences on vital socio-political matters. NBS's



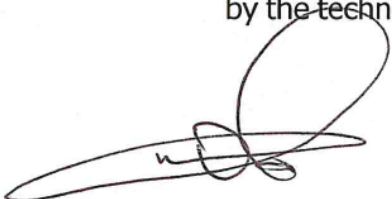
various programs including NBS Frontline, Morning Breeze, and NBS Eagle innovatively contribute to this discourse while engaging commercial interests responsibly.

1.3 The "Mischief" And Its Modern Application

- a. The fundamental "mischief" that the prohibition in Annex 7 seeks to address is **the potential for undue commercial influence to compromise the impartiality and integrity of core news reporting**. The rationale is that during a straight news bulletin where facts must be presented swiftly, objectively, and without dilution the simultaneous presence of a paid advertisement creates an unacceptable risk of perceived or actual bias, thereby eroding public trust in the primary source of factual information.
- b. This rationale, however, does not translate to analytical current affairs programming such as morning Breeze or Frontline. These are not live news reports but structured, in-depth discussions and debates. The audience for a program like NBS Frontline or morning Breeze comes with different expectations, opinions, it is not tuning in for raw, unmediated facts but for analysis, opinion, and context. The risk of a brief, non-intrusive promotional graphic unduly influencing the content or the audience's perception of it is not a consideration on the audience mind/minimal.
- c. The presenters and guests are expected to provide their expert or partisan views or somewhat biased views, and the format is inherently discursive, not purely factual. Therefore, while the prohibition remains essential for protecting the sanctity of news bulletins, its strict application to current affairs is a misapplication of the original intent, failing to distinguish between the presentation of foundational facts and the analysis of those facts.

1.4 An Agreed-Upon Flexible Approach for Commercial Survival does not infer the intended/Probable Impact on the audience/Consumers

- a. **The 2020 to 2022 Stakeholder Consensus as De Facto Implementation:**
A dialogue ensued between the National Association of Broadcasters (NAB), the ICT Ministry, and the UCC during the referenced period, whereas the same did not result into an updated Annex 7. The consensus was not an informal chat but a critical regulatory review process in light of realities and practicalities. It was driven by the technological realities and existential evolutions needed in difficult economic



times, exacerbated by the Covid-19 pandemic, which forced a re-evaluation of how broadcasters could generate revenue amidst shrinking attention spans and changing media consumer habits.

- b. It was explicitly understood that while the prohibition would be strictly enforced during straight news bulletins, a more permissible stance would be adopted for programs/shows including the NBS Frontline, Morning Breeze, and NBS Eagle.
- c. **A Widespread Industry Practice:** This agreed-upon flexibility explains why the strict prohibition has not been implemented against any broadcaster in Uganda for using such techniques on political or current affairs shows. This is not an oversight but a deliberate and consistent application of the stakeholder consensus. This practice of "regulatory forbearance" demonstrates that the regulator itself recognizes the need for a nuanced approach distinct from the 2019 pilot or prior text in Annex 7
- d. **Parallel Precedent:** The 2% Gross Revenue Levy: This pattern of adaptive regulation is not unique to advertising. The UCC Act's provision for a 2% levy on gross revenue was, following the same industry Consensus, correctly understood not to apply to broadcasters, despite being a statutory provision. This was a substantive decision that overrode the literal text to serve the broader legislative intent and industry reality. The situation with split-screen advertising is analogous: the substance of the regulatory intent has evolved to support broadcaster viability.

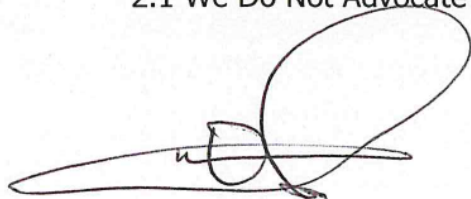
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The global norm is conditional permission, not universal prohibition. These jurisdictions have found ways to allow broadcasters to boost economic streams while protecting core editorial integrity through smart regulations on duration, size, and placement. Uganda's de facto flexible approach aligns with this international best practice.

2. Second Central Issue

WHETHER THE REGULATION OF SPLIT SCREEN ADVERTISING DURING CURRENT AFFAIRS PROGRAMS OUTDATED?

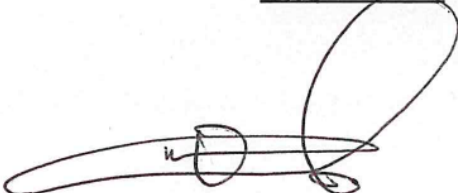
2.1 We Do Not Advocate for Abolition, But for Contextual Application and Regulation

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NBS Television does not argue that the principle of regulating advertising within editorial content is outdated. The need to maintain a clear separation between commercial and editorial matter to preserve public trust is, and will remain, a cornerstone of responsible broadcasting.

The Global Standard is Regulation, Not Prohibition

- a. This was reinforced by comparative observations with international practices where countries like Switzerland and within the EU have allowed various forms of split-screen advertising under specific conditions, thereby enabling broadcasters to adapt to viewer engagement that can generate revenue without sacrificing editorial integrity:
 - i. **Switzerland:** Split-screen advertising was addressed in the Ordinance on Radio and Television (RTVO) of March 9, 2007, which specified conditions under which it is permitted (e.g., must not exceed one-third of the screen, must be clearly separated from editorial content, **and is not allowed during news, children's programs, or religious services**).
 - ii. **European Union (EU):** The "Television Without Frontiers" (TWF) Directive (1989, amended in 1997 and 2007/2010) established the general principle of separating advertising from editorial content. The European Court of Justice (CJEU) later ruled in a 2016 case involving a Finnish broadcaster (Sanoma) that national legislation **can permit split-screen ads as long as they adhere to the core principles of the directive, such as clear separation and time limits**.
 - iii. **Turkey:** The practice has been regulated under the Regulation on Advertising dated November 20, 1994, which specifies rules on its insertion, **such as limiting the size and duration and prohibiting acoustic advertising**.
 - iv. **United States:** In the U.S., split-screen advertising became common practice, especially during sports events, with networks like the Golf Channel starting in 2013 and the NFL in 2017. **There is no universal ban, though loudness rules for all ads were introduced with the CALM Act in 2010.**

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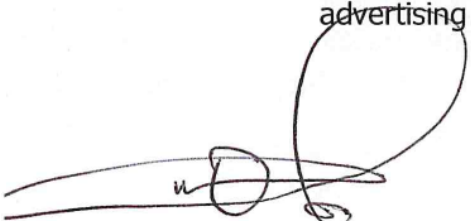
- v. **Norway:** Specific regulations for split-screen advertisements were introduced as Section 3-7a of the Regulation relating to broadcasting and audiovisual on-demand services, though the exact date of introduction in the legislation is not specified in the snippets. Instead of a single global date of a "prohibition," regulation of split-screen advertising has varied by **country and jurisdiction, often emerging as a response to new advertising techniques in the early to mid-2000s.**

b. AdLegal's Examples Prove the Need for Nuance, Not Rigidity

- i. The cases from Germany and the UK are instructive, but they are being misapplied. A closer examination reveals that these jurisdictions are not imposing a blunt, universal prohibition but are engaging in a sophisticated, context-specific application of the rules.
- ii. **The German Case (Das Supertalent):** This ruling was about ensuring "clear visual separation," not an absolute ban. It adjudges that the method of integration matters. This aligns with our position that the technique and execution are crucial. More importantly, it involved an entertainment show, not a current affairs program, demonstrating that the rules are applied differently across genres, a nuance we advocate for in Uganda.
- iii. **The UK Ofcom Guidance:** Ofcom's continued reference to these rules does not mean UK broadcasters are forbidden from all integrated advertising. On the contrary, the UK market is replete with sophisticated advertising formats that blend with content under strict conditions. The guidance exists to police the boundaries, not to eliminate the practice. It is a framework for managed flexibility, which is precisely what the UCC-NAB understanding achieved.

c. The Fatal Flaw in AdLegal's Comparison: A False Equivalence of Economic Scale, AdLegal's submission inadvertently makes our strongest case for us. They correctly note that Germany and the UK have "highly competitive and lucrative media sectors, with broadcasters enjoying substantial revenues from diverse streams."

- i. This is a critical admission. Broadcasters in these mature markets have robust, diversified income streams (subscriptions, international syndication, high-value ad deals) that can withstand a more restrictive interpretation of advertising rules.

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- ii. The Ugandan market, by contrast, is "relatively young and far smaller in economic terms." **For commercial broadcasters in Uganda, spot advertising during high-viewership current affairs programs is not merely one revenue stream; it is often the primary financial lifeline.**
- iii. Therefore, to impose the same restrictive application of the **rules on a nascent market as on a mature one is not "upholding best practices"; it is imposing an economic model that is fundamentally incompatible with local realities.** The "balance" between commercial interests and public trust must be calibrated to the economic context. An imbalance that leads to broadcaster insolvency serves no one's interest, least of all the public's.

d. True Best Practice is Adaptive Governance: International best practice is not merely the text of a regulation, but the quality of the regulatory governance that adapts it to changing realities. The true alignment with mature jurisdictions like the UK and Germany would be for the UCC to continue its path of proactive engagement with industry to update the application of standards.

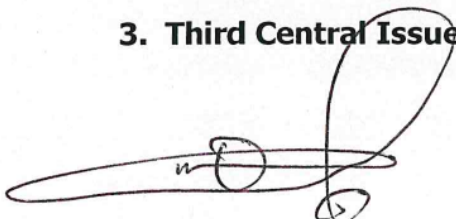
e. The 2020/2022 stakeholder dialogue, which acknowledged the need for flexibility in the post-pandemic era for specific program genres, is a textbook example of this sophisticated, adaptive governance. It demonstrates that the UCC is a forward-thinking regulator, not one bound by a rigid, one-size-fits-all approach.

On issue 2 therefore, the regulation of split-screen advertising is not outdated in its principle. However, a rigid, unyielding application of a 2019 pilot standard to a 2025 media economy is outdated and economically unsustainable.

The Ugandan solution is a carefully considered, informally sanctioned flexibility for commercial broadcasters during analytical current affairs programming is not a deviation from international norms. It is a pragmatic and necessary adaptation of those norms to ensure the survival of a vital pillar of public discourse. It represents a "best practice" in regulatory stewardship for developing media markets.

We therefore pray that the Commission recognizes that its own evolved approach, forged in consensus with the industry, represents the most prudent and contextually appropriate application of the advertising standards.

3. Third Central Issue

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WHETHER THE ECONOMIC CONSIDERATIONS OF NBS TV CAN JUSTIFY THE USE OF SQUEEZE BACK ADVERTISEMENTS DURING CURRENT AFFAIRS PROGRAMS, IN LIGHT OF THE REGULATORY PROHIBITION AGAINST SPLIT-SCREEN ADVERTISING?

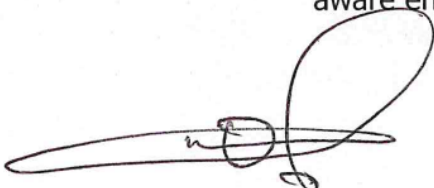
a. Economic Viability is a Relevant and Mandatory Factor in the UCC's Statutory Duty to Foster a Sustainable Communications Sector.

AdLegal fundamentally mischaracterizes NBS's position. This is not a plea for special treatment based on private hardship. It is a submission that the economic sustainability of the broadcast sector in general is a matter of public interest, directly within the UCC's statutory mandate to consider which it did in the 2020/2022 consensus.

The Uganda Communications Act, 2013, charges the UCC with a broad and dynamic mandate under Section 5. This includes not only regulating standards but also "facilitating the development of" and "fostering the provision of" communications services. A regulatory interpretation that willfully leads to the financial insolvency of licensees is antithetical to this core statutory duty. The UCC cannot "foster" a sector it regulates into extinction.

b. The UCC's Mandate is Holistic, Not Punitively Narrow: AdLegal's assertion seems to suggest that the UCC's mandate is purely regulatory and excludes any consideration of commercial viability, this is a dangerously narrow interpretation of the law.

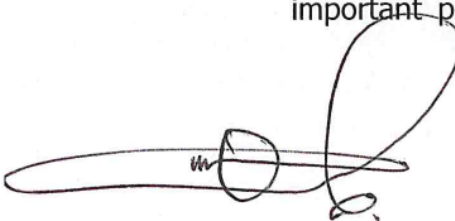
- i. The UCC's role is not that of a traffic officer issuing tickets without regard for the destination. It is the steward of Uganda's entire communications ecosystem.
- ii. As such, the Commission is not "abdicating" nor did it abdicate its statutory mandate by relaxing on the strict implementation of Annex 7, considering economic realities; it is fulfilling it. A regulator that ignores the economic consequences of its enforcement actions is acting arbitrarily and failing to consider a "relevant consideration," which is a recognized limit on discretionary power, as cited in *Smart Protus Magara*.
- iii. The Exercise of Regulatory Discretion is Inherently Contextual AdLegal is correct that discretion must be exercised within legal limits and not be arbitrary. However, they incorrectly equate the UCC's considered, context-aware enforcement with arbitrariness.



- iv. The authorities cited (Magara, Nyika) state that discretion must be exercised reasonably and by considering relevant factors. The financial sustainability of a key industry sector is undeniably a relevant factor.
- v. The UCC's apparent agreement with NBS's position is not "bias"; it is the result of a reasoned and evidence-based process. The Commission has engaged in stakeholder dialogues, reviewed the market data, and understood the technological shifts. Its "predisposition" is not a preconceived prejudice but an informed regulatory conclusion reached after years of consultation and observation. This is the very essence of informed discretion. To allege bias simply because the regulator has done its homework and reached a logical conclusion undermines the entire purpose of having an expert commission.

c. Distinguishing the Precedent: "No Illegality Can Be Tolerated"

- i. The **case of Pearce v Brooks (1866)** is wholly inapplicable. That case involved a contract for an illegal purpose (hiring a carriage to be used as a display for prostitution). The principle that "no illegality can be tolerated" presupposes a clear, unambiguous, and current breach of the law.
- ii. Our core argument is that there is no clear and unambiguous breach in this case. The application of the 2019 standard has been superseded by subsequent stakeholder agreement and consistent regulatory practice. The UCC is not "tolerating an illegality"; it is interpreting and applying its own standards in a modern context, as it is empowered and expected to do.
- iii. To use a 19th-century English case about an illegal act to stifle a 21st-century Ugandan policy debate on regulatory adaptation is to take legal precedent out of context.
- iv. NBS's economic argument is not a plea to break the law for profit. It is a demonstration that the strict, 2019 interpretation of the standard is incompatible with the UCC's broader statutory duty to foster a sustainable and developed communications sector and new technology
- v. The UCC's consideration of this reality is not a surrender to commercial pressure but a responsible exercise of its statutory discretion. It balances the important principle of separating advertising from content with the equally

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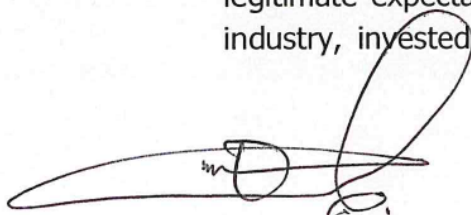
important principle of ensuring that Uganda has a vibrant, independent, and financially viable commercial broadcast media.

- vi. We therefore pray that the Commission affirms that its mandate includes the health of the sector it regulates and that its informed position on this matter represents a lawful, reasonable, and necessary exercise of its regulatory discretion for the public good.

4. Fourty Central Issue

WHETHER NBS TV' S PRIOR DISCUSSIONS WITH UCC (2020-2022) JUSTIFY THE USE OF SQUEEZE BACK ADS IN CURRENT AFFAIRS PROGRAMS UNDER THE BROADCAST STANDARDS?

- a. The Stakeholder Dialogue Represents not just with NBS TV but entire industry headed by NAB is a Lawful Evolutionary Step in Regulatory Policy, Creating a Legitimate Expectation of its Application.
 - i. AdLegal seeks to minimize the 2020-2022 engagements as "unsubstantiated discussions." This is a mischaracterization. These were not casual chats but structured stakeholder consultations between the UCC, the Ministry, and the National Association of Broadcasters (NAB), the officially recognized industry body. This process was the direct result of the 2019 Standards being acknowledged as requiring review.
 - ii. Suffice to note that, besides the split screen and squeeze back consensus, 2% levy has also been relaxed and has never been implemented all in the same spirit
- b. **The Principle of Lawful Adaptation, Not Contravention:** The case of *AG of Hong Kong vs Ng Yuen Shiu* is distinguished. The UCC is not acting "contrary to existing rules"; it is defining the contemporary application and scope of those rules through its regulatory practice. A regulator is not a passive automaton but a dynamic body that must interpret and apply its standards in a changing environment. The outcome of the stakeholder dialogue is the regulatory position for this specific issue, representing a lawful and practical interpretation of the standard.
- c. **The Legitimate Expectation is Grounded in Public Policy:** The doctrine of legitimate expectation is precisely applicable. NBS, and the entire broadcasting industry, invested significant resources and restructured commercial strategies



based on the clear and consistent assurance from the regulator that a flexible approach for current affairs programming was permissible.

- d. The case of R v MAF exp Hamble is not a bar but a guide:** the "duties under the statute" here include the UCC's duty to foster the sector. Honoring the agreed-upon flexibility is consistent with that duty. To allow broadcasters to rely on this understanding for years and then retrospectively punish them would be a classic "abuse of power" that the doctrine of legitimate expectation is designed to prevent. The UCC has a duty to act fairly and consistently, and it would be grossly unfair to penalize a practice it itself sanctioned and is estopped given the many years of non-implementation

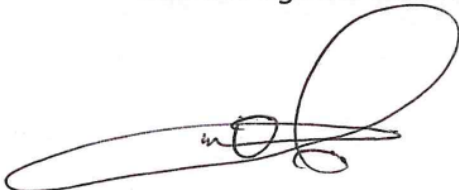
5. Fifth Central Issue

WHETHER NBS TV' S USE OF SPLIT-SCREEN ADVERTISING DURING CURRENT AFFAIRS PROGRAMMING VIOLATES THE MINIMUM BROADCASTING STANDARDS.

- a. There is No Violation Because the Practice Complies with the Law as per the aforementioned submissions and Contextually Understood and Applied.
- b. This issue is entirely contingent on the Commission finding a breach of the Advertising Standards. For the comprehensive reasons provided throughout our submissions:
- c. There has been no breach of the Advertising Standards, as the practice in question operates within the flexibility agreed upon in the 2020/2022 stakeholder reviews.
- d. Therefore, there can be no violation of Schedule 4(a)(v) of the Uganda Communications Act, which requires compliance with "existing laws."
- e. The Commission's past cautions to other broadcasters are irrelevant, as they pertained to different factual circumstances, such as clear breaches during straight news bulletins, and not the sanctioned use during analytical current affairs programming as agreed with NAB.

PRAYERS

For the reasons set forth in our submissions, NBS Television Limited respectfully prays that the Uganda Communications Commission:

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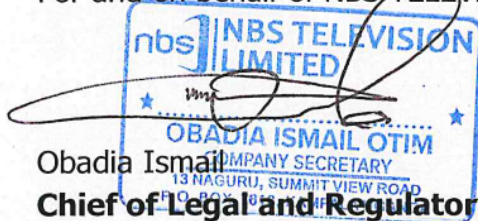
1. Find and Declare that the use of limited-duration squeeze back advertisements during analytical current affairs programs (such as NBS Frontline, Morning Breeze, and NBS Eagle), as practiced under the understanding derived from the 2020/2022 stakeholder engagements, does not constitute a breach of Annex 7 of the UCC Advertising Standards, 2019.
2. Find and Declare that the said practice similarly does not violate the Minimum Broadcasting Standards under Schedule 4 of the Uganda Communications Act, 2013.
3. Dismiss the complaint by AdLegal International Limited in its entirety.
4. Update or issue Guidance (should the Commission deem it necessary) to formally clarify the interpretation of Annex 7 in line with the established stakeholder consensus, thereby providing certainty to the entire industry.

CONCLUSION

The complaint by AdLegal is anchored in a rigid, textualist interpretation of a 2019 standard, willfully ignoring the subsequent regulatory evolution that has taken place. NBS Television and the industry has acted in good faith, relying on clear stakeholder agreements and the UCC's own consistent enforcement practice, which recognized the need for commercial broadcasters to adapt to survive.

To uphold this complaint would be to disregard the ministry, the industry and UCC's own expert judgment, undermine the stability of the regulatory environment, and deal a severe blow to the financial viability of commercial broadcasting in Uganda. It would elevate legal formalism over practical reality and harm the very sector the UCC is mandated to foster.

For and on behalf of NBS TELEVISION LIMITED



The stamp contains the following text:
nbs NBS TELEVISION LIMITED
★ OBADIA ISMAIL OTIM ★
COMPANY SECRETARY
13 NAGURI, SUMMIT VIEW ROAD
P.O. BOX 10000, KAMPALA

Obadia Ismail
Chief of Legal and Regulatory Compliance