FREEDOM OF INFORMATION – CHALLENGES, AND THE WAY FORWARD

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Introduction:

It gives me great pleasure to be amongst you today and to address you all at this very important gathering.

Bringing together professionals from various places and institutions to share knowledge is a step in the right direction, especially in the area of developing strategies for information sharing that will lead to improving leadership and management systems and practises and promoting good governance and accountability.

My brief presentation today will focus on "freedom of Information" – drawing from the current status of this practise with avid approach to challenges and implications on the news media.

Background.

Papua New Guinea (PNG) has encountered numerous challenges to the media and fledging democracy since independence in 1975. It is fortunate that the freedom of the media is enshrined in its Constitution and all threats to this freedom have been vigorously and successfully opposed. Many of our politicians, leaders, prominent and influential citizens, all declare they are firm believers in the principles of a free media and will strive to embrace it. There are instances however, where many comment negatively when the media spotlight is on them or their institutions or cohorts.

Against the backdrop of critical challenges facing the media and the Constitutional right to freedom of information, the media continues to ride its battles.

Global trends are such that PNG is not exceptional to link up with the rest of the world in the dissemination and delivery of information through the various means and mediums of communication, both electronically and the press.

Global issues are ever present in the PNG cultured media embracing the norms of society as principles of governance and respect. But the way in which the PNG media embraces the international media in my view has become so persuasive in eroding national cultures and traditional values with the programs aired on the BBC and ABC – free to air radio networks and from pay TV broadcasts on CNN and a number of channels in Bahasa, French and Korean.

Foreign influence in the form of material covered and presented in the PNG media is so huge. There is a great need to focus on PNGoriented program, events and issues.

The recently launched Government television network, Kundu Two, is a beginner to embracing this notion of broadcasting home grown material, but more needs to be done to improve the service to its audience as there is still scarcity of local content.

Freedom of Information

There are three main components that underpin the right to information in many Pacific States including PNG.

Firstly, the right to request information from public authorities and from private bodies where information is needed for the exercise or protection of a right. An applicant for such a request does not have to justify why he or she needs this information from public bodies.

In the case of Papua New Guinea, where there is yet to be enacted an Information Act to regulate the provision or non provision of the request for information, the National Court had in 1998 made an interesting decision when a defendant (to an originating summons) who was a member of the National Parliament for Tambul-Nebilyer Open Electorate refused to release to the plaintiff information relating to monies granted to him for use in the electorate.

The plaintiff sought to enforce his right under *Section51 of the Constitution* to ensure accountability of the defendant member of the National Parliament.

Section51 of the Constitution states;

- (1) Every citizen has the right to reasonable access to official documents, subject only to the need for such secrecy as is reasonable in a democratic society in respect of
- (2) Provision shall be made by law to establish procedures by which citizens may obtain ready access to official information.

The National Court held the following:

- (1) A citizen has the right to access information relating to monies allocated to his or her Member of Parliament where the monies are allocated to the member for use in the electorate.
- (2) The freedom of the citizens to access the courts to enforce his or her constitutional right cannot be precluded by the normal operations of constitutional offices and state organisations.

The court went on to say that "The National Court is not necessarily restricted to the causes of action that are usually found in common law system. The National Court has an unlimited jurisdiction and this jurisdiction includes many matters which originate in rights and responsibilities referred to in the Constitution."

There is clear indication that the courts in PNG will not hesitate to utilize the available provisions in the Constitution relating to rights and freedoms to promote access to information from governmental bodies by interested applicants.

The second component underpinning the right to information is the actual availability of information or its records. The right to promotion and access to information is one thing but the more important one is the actual availability of records. In many government departments record keeping and its maintenance

was and continue to be given a very low priority in government business. Why record keeping or proper record keeping, data collection and the training of personal for such purposes were never on the agenda of an average public body. Only recently through various development initiative with the development partners that we in Papua New Guinea are beginning to realise again the importance of record keeping and its management and developing various systems to accommodate our relevant needs.

It is important therefore that governments within the region should have systems in place to process request for information, including effective records management systems to enable systematic, structured and managed release of information.

Properly trained records and information management staff are necessary with an independent leader within that operational 'set up' should be tasked to supervise and ensure that requests are properly screened and processed.

The final component of the right to information is the duty of government to provide certain baseline information proactively and on very much a routine basis without request to encourage and promote trust between the government and its people and to allow for that process that many democratic governments preach and stand for.

In Papua New Guinea, the government now utilizes its government owned National Broadcasting Commission through its 'government talk-back show program' on both radio and television to disseminate government policies and initiatives.

Public are also invited to phone in and make comments and observations. This is a good start and should be encouraged with wider publicity on the issues and contents to be covered with reasonable time to allow for debate or information dissemination.

Having said that, this freedom must be kept in check by exercising great responsibility.

The Ombudsman Commission in PNG often oversights these constitutionally guaranteed freedoms and its' demarcations and stresses the importance of leaders who oversee the information industry to uphold their integrity.

Likewise, the same challenge to those operating and managing information and its dissemination to uphold their integrity and that means, wholeness and soundness of a person who is honest in his or her dealings. In this connection the questions to pose are:

- Are we honest in how we conduct ourselves?
- Are we honest in our dealings with colleagues, stakeholders and the wider community?
- Are we biased, opinionated, or bribed into what we are do?

The Media Code of Conduct/Ethics should act as a reminder to guide us in our day to day roles and responsibilities by putting the interest of the public good and that of our organization first rather than our own.

In the PNG context a former Chief Ombudsman the late Sir Charles Maino (1995) raised concerns about the power of the media and its need to be responsible. He said that the freedom of the press was not a privilege but a responsibility that required the mass media to be independent, impartial, honest and fair in all mediums and methods of reporting.

Another former Chief Ombudsman Simon Pentanu encouraged more investigative reporting to complement the role of the Commission in fighting corruption leading to accountable and transparent governance.

The recently proposed Hon. Moses Maladina Bill/ Amendment does leave a lot to be desired. In fact the proposed amendment has now created a wave of public debates calling on Parliaments halt to the amendment affecting the powers of the Ombudsman Commission.

One of the amendments to the Constitutions (S.27(4)) removes the power of the Ombudsman Commission from issuing directions that will prevent abuse or misappropriation of public funds by a leader. This provision is used to protect the integrity of the leader and the integrity of the Government in Papua New Guinea and has been used on previous occasions to protect millions of public funds from misuse by leaders.

The availability of information or the reasonable access to such information can be difficult to obtain without the existence of expressed provisions of the law but due to the energy and drive of the media in PNG, they are able to obtain and mount people's

frustrations and concerns in relation to issues affecting PNG utilising the broad provisions of the Freedom of Information (S.51) and the Freedom of Expression (S.46) of the Constitution.

CONCLUSION

It is important to note that the role the media plays in society is not for them alone, but all professionals and laity and the civil society can also facilitate transparency and awareness of important issues. The media has an important role to play. It is also a watchdog to expose corruption and safeguard development and investment.

Media in developing countries like PNG and other Pacific island countries have the same roles, but the conditions under which they exercise their profession may vary due to economical and social factors.

The Media has no obligation to publicise any specific issue and addresses each issue when it arises. Media agencies or companies are in the business of generating revenue, often at the expense of good governance, despite giving rebates such as free plugs or coverage up to a certain point.

However, to prevent such outcomes, those in the front line of reporting should impart factual information, report fairly and in a balance manner – and help open up doors to development and investment.

Whilst the media has demonstrated that it can cover global and governance issues, it neglects the potential to be a responsible partner, especially in developing countries such as Papua New Guinea and to an extent the Pacific. However, this partnership can be strengthened with the media industry and government departments and agencies working to improve their ability to work with each within their regions and abroad to achieve social, economical and political mileage.

Finally, freedom of information and a free media is about upholding the freedom we currently enjoy in a democratic society, as it is about our freedom to express ourselves and be informed appropriately and responsibly. But is there a limit to freedom of information? And when can information be controlled and tailored to meet demands and needs?

In my view this would be done only when freedom of information is seen to question or overstep the boundaries of national sovereignty and national interest as provided for under section 51 of the PNG Constitution.

So would it be fair to end with this question? Is a free media all about upholding the freedom we currently enjoy as citizens of our democratic societies or is it about our freedom to express ourselves and be informed in any manner or form whatsoever?

Thank you.