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HOLDING NIGERIAN PRESS TO ACCOUNT: AN EVALUATION OF MODELS, MILESTONES AND SUSTAINABILITY

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Abstract

Since 1992, seven years before Nigeria returned to democratic paths, the military government in collaboration with several press associations in Nigeria, inaugurated the Nigerian Press Council. The Council's mandate, among others, is to receive complaints from aggrieved members of the public on the one hand and complaints from aggrieved members of the media on the other, and resolve the cases in one of several specified ways.

Twenty years after the inauguration, the council received over 150 complaints but resolved only 17---five by ordering republication, eight by ordering apologies, two by withdrawal and two by retraction. A total of 133 cases could not be resolved for reasons that suggest lack of public trust and political interference. Consequently, a section of the press in 2009 established the Nigerian Ombudsman, a body made up of a retired judge, audience representatives and journalists, without government representatives. In more than four years, the Ombudsman received 17 complaints and resolved none, an indication that the inability to resolve cases may not be a function of lack of public trust or political interference but a matter of modus operandi.

This paper argues that both models of press accountability (government/ press collaboration and press self-regulation) have not fulfilled their mandates satisfactorily for reasons that go beyond political interference and lack of trust. It is, therefore, concluded that the second model, if modified, introducing open hearing and free complaints registration procedure, may be more successful and sustainable than both models running concurrently at the moment.

Keywords: Media Accountability, Nigeria, Models, Press Council, Ombudsman.

Background to Study

Journalism profession serves as a bulwark of democracy in view of its enormous responsibilities with regard to the provision of an arena for debate and formation of public opinion, provision of quality news to readers and upholding of responsible freedom of expression. In accomplishing these functions, the press is naturally expected to be responsible and respect the rights and sensibilities of its audience, an expectation which often gives birth to organisations charged with the duty of watching the watchdog. This is the principal reason for the establishment of Press Councils or Press Ombudsman the world over. The existence of such bodies notwithstanding, conflict between the media and their audience remain a constant feature of most democracies. In Nigeria, this has been part of the history of the media over the past 155 years. Some of the conflicts were expressed in letters – to – editor, court cases and complaints of diverse nature. By 1986, rancorous outcomes of long – lasting litigations had become a source of worry to the media, the government and other stakeholders. A natural response to the incessant conflicts was the mobilization of affected parties in 1992 to set up a Press Council. The inauguration of the Council was expected to bring these conflicts to an end, or at least reduce them.

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Section 3 (a) of the enabling law setting up the Nigerian Press Council (Decree No. 85 of 1992) specifically imposes on it the duty of "enquiring into complaints about the conduct of the press and the conduct of any person or organization towards the press and exercising, in prospect of the complaints, the powers conferred under this Decree" (Ojang, 2000: 146). In other words, the mandate of the council is to maintain the character of the press in accordance with the highest professional and commercial standards, and to consider complaints about the conduct of the press, deal with the complaints and record the outcome. Dissatisfactory performance of this duty resulted in little recourse to the council as an adjudicator and led to increase in complaints and court cases with some of the cases questioning the existence of the council itself.

Statement of the Problem

If democracy is to be sustained in any society, public arena must be secured to bolster the confidence of the public towards participatory political conversation. Since 1992, the Nigerian Press Council took up the responsibility for holding the press to account for this purpose. But after 22 years, it is not clear whether the NPC is actually fulfilling its mandate, especially with complaints of partiality and government interference giving rise to the birth of the Nigerian Ombudsman, a rival body. There is also no evidence that periodic assessment of the corporate performance of these organisations, even when they are described variously as "toothless bulldog", "non-performer" or "irrelevant" has been conducted. This work is, therefore, an attempt to evaluate the performance of the two bodies in the past 22 years against the background of the mandate they claim to fulfil. The aim, in specific terms, is to evaluate the two models to ascertain how many cases the bodies received from and resolved for newspaper and magazine audience in Nigeria. The study is also designed to evaluate their performance in terms of the kinds of resolution attained and to what extent such resolutions or lack of them fulfil their mandates. To a lesser extent, the study examines sustainability concerns and recommends solutions.

Research Questions

How many complaints did the council and the ombudsman receive from 1992 to 2012 and 2009 to 2012? How many cases were resolved by the bodies? How many cases were filed by media houses against the audience? What are the forms of resolution accomplished and to what extent is the performance an accomplishment of the mandate of the two bodies under study? These questions were answered with data covering a twenty-year period beginning from 1992 through 2012, with emphasis on newspapers and magazines published in Nigeria within this period.

Literature Review

Accountability Models and Milestones: Three models press accountability are clearly discernible in journalism literature. These are self-regulation, statutory regulation and coregulation. In many contexts, accountability is hardly maintained by only one organisation (Muller, D (2005). The very first press council established in the world is the Swedish Press Council established in 1916 (Atoyebi, 2010). It was and still is a self-regulation, voluntary body funded by four press organizations. Continued complaints of violation of journalistic best practices subsequently led to the establishment of an ombudsman which, first, handles a matter before it is either referred to the Press Council for adjudication or dismissed. The arrangement is supportive and complimentary unlike the Nigerian situation where the Ombudsman is not only a competing body but established as an alternative. Currently, the Swedish council receives between 350 and 400 complaints annually with about 30% of the cases adjudicated and about 70% written off for various reasons. Offending media and journalists are made to pay an administrative fee. In this self regulation class are the British and the Australian Press Councils (Muller, D (2005).

Another model of self regulation worthy of note is the Canadian model described as a justice-focused model and made up of the Ontario Press Council and the Quebec Press Council. The two councils were well received by journalists. Thus, their patronage resulted to a reduction in libel cases in the country; and by 1980, judges had begun to use press council decisions to support their judgments in libel cases (Atoyebi, 2010). The Australian council receives about 700 complaints annually, a sign that there is a high level of confidence in its competence to handle such cases satisfactorily. Thus, between 2001 and 2003, it considered 298 letters of complaint, bordering on inaccuracy and misrepresentation (13%) imbalance (12.1%) offensive coverage (9.5%) and religious disparatement or racism (8.2%). Only 17.6% of the cases were forwarded for adjudication.

In the statutory category are the press councils of Nigeria, India, and Sri Lanka which were established by governments, either by an act of parliament or by a decree. Besides the fact that the council or commission is usually funded by government, membership of the body is also wholly or partly determined by government often leading to control and manipulation by politicians to the detriment of both public rights and freedom of the press (Odunewu, 2000). Like Nigeria, Sri Lanka also has a second accountability body, Press Complaints Commission which is a self- regulation body. But it appears that the bodies have the full cooperation of the editors. The council received 1241 cases between October, 2003 and December, 2012 and resolved 328. In 2013 alone, the council received 163 complaints.

In cases like Nigeria and India, statutory councils and media owners and professionals are expected to work out a co-regulation arrangement. But the complaint has been that co-regulation sooner or later sneaks in authoritarian instruments into social responsibility environments. For instance, some Nigerian journalists insist that the clause requiring media houses to apply to the council before commencement of business is tantamount to registration or indirect licensing which is an authoritarian instrument.

Their British conterpart was established in 1953, after a high-powered Royal Commission met between 1947 and 1949 on the Press. The Commission did not agree that state control of the press was advisable. It, therefore, advised that the press itself, rather than the government, should regulate its activities. Consequently, newspaper owners established the Press Complaints Commission, PCC. In 2010 alone, it received 7000 complaints and reached amicable solutions with regard to 1687 of the cases.

The Nigerian Model (Press Council and the Nigerian Ombudsman)

The Nigerian Press Council (NPC) was inaugurated on December 29, 1992, after a consensus was reached between the media community and the Federal Government. It was statutorily established by the Nigerian Press Council Decree No. 85 of 1992 (Omole, 2000). It operates the code of ethics adopted by Nigerian Press Organization (NPO), comprising the Nigerian Union of Journalists (NUJ), Newspaper Proprietors' Association of Nigeria (NPAN), and the Nigerian Guild of Editors (NGE). According to Obe (2000), the NPC Decree makes provision for the membership of the Council to be spread across the various professional bodies in the media though the appointment of the Chairman is done by the President of Nigeria on the recommendation of the Minister of Information and Culture. The law which sets up the council assigned the following responsibilities to it: enquiry into complaints about the press and the conduct of any person or organization towards the press, research into contemporary press development, updating of press documentation, review of developments likely to restrict the flow of information and advice on measures aimed at remedying such developments. It is also charged with the duty of ensuring the protection of rights and privileges of journalists in lawful performance of their professional duties as well as fostering of the achievement and maintenance of high professional standards by the press.

Arguing that the NPC was not in position to fulfill the objective of promoting freedom of the press, due to the inherent contradictions embodied in the law establishing it, the Nigerian Guild of Editors and the Newspaper Proprietors' Association of Nigeria (NPAN) challenged the

1999 amendment of the Nigerian Press Council Act in court. Consequently a Lagos high court ruled that 17 of the 36 sections of the Act were capable of being used to restrict the rights guaranteed under section 39 of the 1999 constitution. By 2009, the two bodies established the Nigerian Ombudsman, a self-regulation body of journalists headed by a retired judge. (Garba, 2009). The Nigerian Union of Journalists, arguing that the presence of a judge is yet another form of contradiction and directed its members not to appear before it. In this unfolding confusion are buried the self-serving interests of government (public officers) NPAN/NGE (mainly media owners) and NUJ, made up of mainly media employees (Atoyebi, 2010).

Sustainability Concerns and Strategies: There is an intricate relationship between modern democracy, power and media accountability. The general understanding is that the media wield enormous power in every environment of freedom. Accompanying this power is the need for accountability without which democracy will be endangered. Where accountability thrives, it must go with certain ingredients including fairness (balance, accuracy and clarification) performance, redress and punishment (Muller, 2005). Where the press misuses its power, accusations border on falsehood, bias, inaccuracies, distortion, exaggeration, suppression or misinformation, and redress would often entail clarification, correction, compensation, apologies etc. In all cases, sustainability requires that a press accountability should include an effective redress system (Mulgan, 2003). Without this, a press system can only function as a toothless bulldog, and may not be sustained.

To address the issue of sustainability, media houses and professionals in different countries have approached a solution from different perspectives. Australia, for instance, has experimented with about six accountability bodies including a Press Council, Media Entertainment and Arts Alliance (MEAA) Australian Competition and Consumer Commission, Australian Broadcasting Authority, in-house charters for different organizations and *Media Watch*, a prime time television programme devoted to media ethics for journalists (Pearson, 2003). Whereas some of these bodies were set up by government, others were set up by journalists and their associations or employers. Of all the systems in operation, only the television programme, *Media Watch*, has absolutely no regulatory power, yet it is feared and respected by journalists (Pearson, 2003). The press council of India has introduced modified procedures to encourage an effective complaints system. For instance, complaints can now be sent by e-mail provided that the complainant had first complained to the editor. On the issue of "paid news" alone, the council received 39 complaints in four years, 2009 to 2012 (*Times India*, 2012).

In the United Kingdom, the Press Complaints Commission, a self-regulatory body set up by owners of media organizations, developed a code of practice covering over 16 articles and delving into new area of conflict such as listening devices online offences, discrimination and payment for articles. Regarding procedure, complainants are not expected to pay a fee for lodging a complaint, neither do they need legal representations. These, according to Osae-Brown (2013) were probably responsible for the performance of that commission in 2010 when it received 7000 complaints and resolved 1,687(24.1%).

The press accountability systems reviewed so far, adopted a statutory, co-regulation or self regulation system but none of the accountability systems is without challenges and complaints. Whereas proponents of statutory regulation dismiss self-regulatory bodies as a network of "old boys" assembled to adjudicate on matters in which they are interested parties, advocates of self-regulation insist that regulation inevitably leads to censorship as experienced in Nigeria and Hungary (Osae-Brown, 2013). Failure of regulation in a place like Nigeria has led to co-regulation in which government is currently perceived to be indirectly in control thereby leading to distrust and a seemingly dismal patronage.

Baumeister and Heatherton (1996) studied the causes of failure of self-regulation and concluded that under-regulation occurs due to deficiency in standards, inadequate monitoring or inadequate strength whereas mis-regulation takes place due to false assumptions or

misdirected efforts. They explained further that limited-resource model leads to loss of control, a situation which seems to be playing out in the Nigerian case. It is possible also to get the accountability system wrong right from the conception especially if the objective is not aligned with the real purpose for which societies call for accountability. That is, if the terms of reference of an accountability body misses the fact that both freedom and regulation should go hand-in-hand in order for news media to provide the public with the needed service. Often, statutory regulation bodies muddle this up. But Bertrand (n a) argued that the three central purposes of every media accountability system should be to help journalists serve the public better, to help them form a profession solidarity and to help them recover public trust, public support and resist political and economic pressure (Puddephatt, 2011).

It appears, however, that the Nigerian systems have done little to build up the profession, at least not as much as they have attempted to protect public interest. Bertrand (n a) also argued that real media power is in the hands of media owners, yet most media codes or laws focus on journalists who commit "minor sins" rather than media owners who commit "mortal sins". In other words, where media owners are the real threat to freedom and democracy, a code aimed at journalists alone is bound to fail. Related to this is concern raised about inadequacies in the code, the procedures or the remedies. For instance, there seems to be a relationship between existence of complaint fee, funding of prosecution or investigation and increase in number of complaints (Coad, 2003).

Theoretical Perspectives on Media Accountability

Conflict Resolution Theory: One of the basic assumptions of the Conflict Resolution Theory is that fundamental human needs be met as a precondition for the resolution of conflict. These needs include the need for control, security, justice, stimulation, response, meaning, rationality and esteem or recognition. Two alternatives to the needs-based approach to conflict resolution are the 'power-based' and the 'rights-based' approaches which are highly adversarial, and generally result in win/lose Preferred types of conflict-handling mechanisms include coercion, avoidance, arbitration, adjudication, negotiation, mediation and reconciliation. Fisher as cited by Mills (2006) explained that adjudication of conflict involves a third party who pronounces a judgment on a grievance. This third party is most often connected with the state. For this study, five approaches (mediation, negotiation, arbitration, reconciliation and adjudication) are examined. Social Responsibility Theory: The Social Responsibility Theory was propounded by, F.S. Siebert, T.B. Peterson and W. Schramm in the year 1963 the idea was first developed in the 1940s. The major premise of the theory is that freedom carries concomitant obligation, and the press, which enjoys privilege position under a government is obliged to be responsible to the society for carrying out certain essential functions of mass communication. In general, socially acceptable press behaviour is to be anchored on self regulation, but if the press would not voluntarily give them, then there must be certain social structures to ensure that it behaves in compliance with recognised social standards (Anaeto et al, 2008).

Basic assumptions of the theory stated by McQuail (1987) and cited by Anaeto et al (2008) are: That media should accept and fulfil certain obligations to the society, that media through professional standards should maintain truth, accuracy, objectivity and balance; that media should regulate itself within the framework of law and established institutions to be able to carry out its responsibilities; that whatever might lead to crime, violence and civil disorder or offence of the minority groups, should be avoided by the media; that media should reflect society's plurality, giving access to various points of view and granting rights of reply to all; that based on principle (1), the society has the right to expect high performance from the media and intervention can only be justified to secure public good; that media should ensure that accountability of media professionals should be to the society, employers and the market. Five functions of the media specified by this theory are:

- 1) To serve the political system by making information, discussion and consideration of public affairs generally acceptable.
- 2) To inform the public to enable it take self determined action.
- 3) To protect the rights of individuals by acting as a watchdog over the government.
- 4) To serve economic system, for instance by bringing together buyers and sellers through the medium of advertising.
- 5) To preserve financial autonomy in order not to become dependent on special interest and influence (Pitner, 2009).

In connection with the topic under investigation, the Government of Nigeria set up the Nigerian Press Council to intervene between media practitioners and media consumers in times of conflict.

The Feedback loop Model: This study is anchored on the feedback-loop model of self-regulation which posits that when there is failure in a self-regulation system, the investigator should follow one of three or all three pathways: examine standards, examine monitoring patterns and the Operating path. The central argument is that self-regulation failure can occur due to weak standards and inefficient monitoring. It could also occur despite the existence of appropriate standards and effective monitoring if the regulator is unable to bring about the desired change (Baumeister and Heatherton, 1996).

Mulgan's model for thinking about media accountability is used as framework for some of the research questions guiding this study. The model probes four dimensions of accountability with these questions: Who are accountable? To whom are they accountable? For what are they accountable, how are they accountable? This study is designed to answer the question on how they hold the media to account (models) and in addition, to find out the extent to which they have been accountable, that is, the milestones (Muller, 2005).

Methodology

The primary design adopted for the study is evaluation. Evaluative research design uses exploratory, descriptive and experimental studies to measure outcomes, analyze issues, examines operational accounts, performance, rate of improvement and challenges. It also determines whether or not a programme was effective in achieving its stated goals, how efficient it was and what changes are required to improve efficiency (Gilani, 2012; Gilani, 2012). The primary source of data is interview while the secondary source includes examination of case files, newspapers, magazines, books and other official records. Interview sessions and examination of documents took place at the Abuja office of the Nigerian Press Council. Additional information was mailed to the Lagos office of the council between September, 2012 and August 2014.

Data Presentation and Analysis

This chapter deals with the presentation of data and analysis of data gathered on the performance of the Nigerian Press Council and the Press Ombudsman during the period, 1992 – 2012. The data are presented in tabular format with explanations, in line with the stated research questions.

How many complaints were received by the NPC from 1992 to 2012?

It was found that the Nigerian Press Council has received 150 complaints from members of the public within the period under review and published 33 other uncategorised breaches that occurred between April and December, 2012, in its journal without indicating whether they were reported by complainants or identified by the media monitoring unit of the council (*The Press*, June, 2012).

How many cases were received each year?

Table 1: Distribution of cases across years (1992 - 2011)

YEAR	NUMBER OF CASES	PERCENT
1993	18	15.5
1994	11	9.51
1995	12	10.34
1996	16	13.8
1997	11	9.51
1998	6	5.17
1999	10	8.6
2000	1	0.86
2001	18	15.5
2002,2003,2004, 2005	13	11.2
TOTAL	116	100

Source: Field Data

According to the data supplied by the Nigerian Press Council, there were a total of 150 cases received by the Nigerian Press Council but only 116 (77.33%) of 150 had usable recorded data at the time of the interview. The other 34 (22.67%) of 150 have not been recorded. According to Mohammed (2011) in an interview, these were the cases from 2006 till date but some of the cases have not been concluded. The table above shows that the highest frequency of cases occurred in 1993 and 2001, with 18 (15.5%) cases each. This also suggests that most of the cases were received in 1993 and 2001. The lowest frequency came in 2000 with just 1 or 0.86% of the cases. It indicates that all other cases from 1994, 1995, 1996, 1997, 1998, and 1999 have 11(9.5%), 12(10.4%), 16(13.8%), 11(9.5%), 6(5.17%), and 10(8.6%) cases respectively. The breakdown of the years from 2002 till 2005 is not stated in the case files, hence the joining of the data together in one category.

How many cases were resolved by the Nigerian Press Council?

Table2: Cases resolved by the Nigerian Press Council.

YEAR	NUMBER OF CASES RESOLVED	PERCENT
1993	5	33.3
1994 - 1996	7	46.7
1997 - 1998	3	20
1999 - 2005	NA	NA
TOTAL	15	100

Source: Field Data

Table 2 indicates that 15 cases were resolved within the period. Out of that number, 5 or 33.3% were resolved in 1993, 7 or 46.7% were resolved in 1994-1996, while 3 or 20% were resolved in 1997-1998 and none was resolved in 1998-2005.

How many cases were filed by media houses against the audience?

Table 3: Cases Filed by Media Houses.

YEAR	NUMBER	PERCENT
1993	1	25
1994	2	50
1999	1	25
TOTAL	4	100

Source: Field Data

The cases filed by media houses during the period was 4 (2.67%) out of the 150 cases. In the years 1993 and 1999, the cases filed by media houses were 1 (25%) each, while in the year 1994 has 2 (50%), all the other years the Nigerian Press Council in its existence, it was not recorded that any media house took any person, body or organization to the Council.

Table 4: Forms of resolution accomplished

RESOLUTIONS	NUMBER RESOLUTIONS	OF	PERCENT
Republications	5		11.76
Apology	8		29.41
Withdrawal	2		47.06
Retractions	2		11.76
TOTAL	17		100

Source: Field Data

Table 4 displays types of resolution accomplished by the Nigerian Press Council and its performance in each category. Withdrawal can also be seen as a form of resolution in which the parties involved wish to remove the case(s) and maybe settle outside the council. The total number of parties that retracted is the same as the total number of parties that withdrew their cases, the least in terms of frequency of resolutions accomplished, 2 (11.76%). Apology was used the highest number of times, 8 (29.41%), while republication of the news stories was a solution in 5 cases (11.76%).

Nigerian Ombudsman

For the Nigerian Ombudsman, no substantial data were available for the reason that the organisation is still undergoing teething problems having taken off less than five years to the time of the field work. Below are data available from the office of the ombudsman:

- Year of inauguration 2009
- Cases received by 2011 17
- Number resolved as at December, 2012 0

Discussion

The discussion, answers the question: to what extent is the above performance an accomplishment of the mandates of Nigerian Press Council and the Nigerian Ombudsman and examines transparency and record keeping concerns? The Nigerian Press Council has records of cases, covering the period 1992 – 2012, but the researcher was given data covering 116 cases received during 1993 to 2005. For this reason, the performance of the council could not be adjudged as optimal. The number of cases received (150) shows that members of the audience were initially interested in exploring the avenue. The fact that very few (only 10%) of the cases were successfully resolved raises questions that need to be answered by the council or other researchers. For instance, why did the number of cases suddenly reduce? Why did record of complaints show information only up to 2005? Why were members of the audience unable to send complaints between 2006 and 2011? The mandate of the press council requires that it should make a difference by providing speedy and more peaceful solutions to cases in contrast with the situation obtainable in law courts.

The inability to fulfil this aspect of the mandate has been blamed on several factors. One of them is that the law that established it made the council to be dependent on government subventions and controls thereby introducing unnecessary bureaucracy in their operations. This is why most of the 150 cases could not be resolved (90%). In connection with this poor performance, Atoyebi (2010) argued that a section of the media setup the Nigerian Ombudsman as an alternative body because they believed that the Nigerian Press Council (NPC) was not an impartial arbiter and often takes instructions from government officials. With the foregoing, it is clear that the NPC has not fulfilled its mandate for the following reasons: Ten percent success over a period of 22 years is a poor performance, especially when compared with councils in Australia, with average annual complaint rate of about 700 cases, which received 1391 complaints between 2010 and 2013 from 713 complainants and successfully handled 476 and Sri Lanka council which received 1241 cases from 2003 to 2012 and resolved 328.

Two major inferences could be made from the performance figures of the NPC: there are record keeping and transparency concerns. Besides the fact that it could not provide up to date information, it is probable that the records are either non-existent or hidden away from public glare. An attempt to examine online documents of the council and some of the councils mentioned in the literature indicates that Australia and Sri Lanka are more transparent with information. Availability of successful adjudication records online could be a motivating factor to a visitor searching for reasons to trust an ombudsman. It also does appear that the problems of the NPC and the Nigerian Ombudsman, to a lesser extent, stem from their inability to enlighten the public on the fact that they are there to serve even when the ombudsman has access to and could negotiate free public service advertisements with all the print media in the country.

Concluding Recommendations

In view of the findings, the following recommendations are made:

This study has only succeeded in appraising the performance of the two accountability bodies but it made no attempt to investigate causes, effects and correlates of poor performance. It would make an interesting study to find out why journalists and members of the public seem not to be excited about dealing with these organisations because the over emphasised issue of distrust and government interference seem to be insufficient to explain the poor performance, poor record keeping, lack of transparency and the problem of general apathy.

The *Media Watch* system, an evolving model, is a complimentary and supporting system which is worth researching. Given the level of media engagement of Nigerian readers and the negative views they hold about journalistic ethics, this option may act as a catalyst to both media responsibility and audience responsiveness. Moreover, it is time probable that if a retired judge is replaced with a retired journalist with legal background, the NUJ would direct its members to accept the Nigerian Ombudsman. If this should happen, then it might also be appropriate to make the ombudsman the "court" of first call for all complaints and the NPC would act as the final arbiter as is the case in Sweden. Thus, the two would collaborate instead of competing.

At the moment much conflict is noticeable online but it seems that none of the bodies, especially the NPC, is prepared for adjudication of cases emanating from online journalism complaints. The sooner they modify their scope of operations to accommodate citizen journalism and other aspects of online journalism prone to conflict the better. An examination of NPC's website indicates that its level of transparency leaves much to be desired. The Nigerian Press Ombudsman probably does not think it is necessary to maintain a presence online, and this might be a reflection of how inactive it has been since 2009. It should consider a virile online presence as indispensable.

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