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PARLIAMENT OF KENYA



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TWELFTH PARLIAMENT - SECOND SESSION

DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION

THE REPORT ON THE GOOGLE INTERNET ACADEMY WOLMAR, MAURITIUS -7  $^{\rm TH}$  TO 9  $^{\rm TH}$  MARCH , 2018.

DIRECTORATE OF COMMITTEE SERVICES CLERK'S CHAMBERS PARLIAMENT BUILDINGS NAIROBI-KENYA

OCTOBER, 2018

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#### FOREWARD BY THE LEADER OF THE DELEGATION

The 2018 Africa Internet Academy was held in Wolmar, Mauritius from 6<sup>th</sup> to 10<sup>th</sup> March, 2018. The Seminar was conducted under the "Discussing and forging Africa's digital policy together" Initiative which brought together various stakeholders in the ICT sector in Africa. The Conference engaged the participants through presentations and discussions on the following topics:

- 1. Digital policy in Africa;
- 2. Search privacy and security on the internet;
- 3. Copyright and creators;
- 4. Grow with google; and
- 5. Entrepreneurship and innovation in Mauritius.

Consequently, from the discussions and presentations, participants made their contribution at plenary sessions as they interacted with the google fraternity.

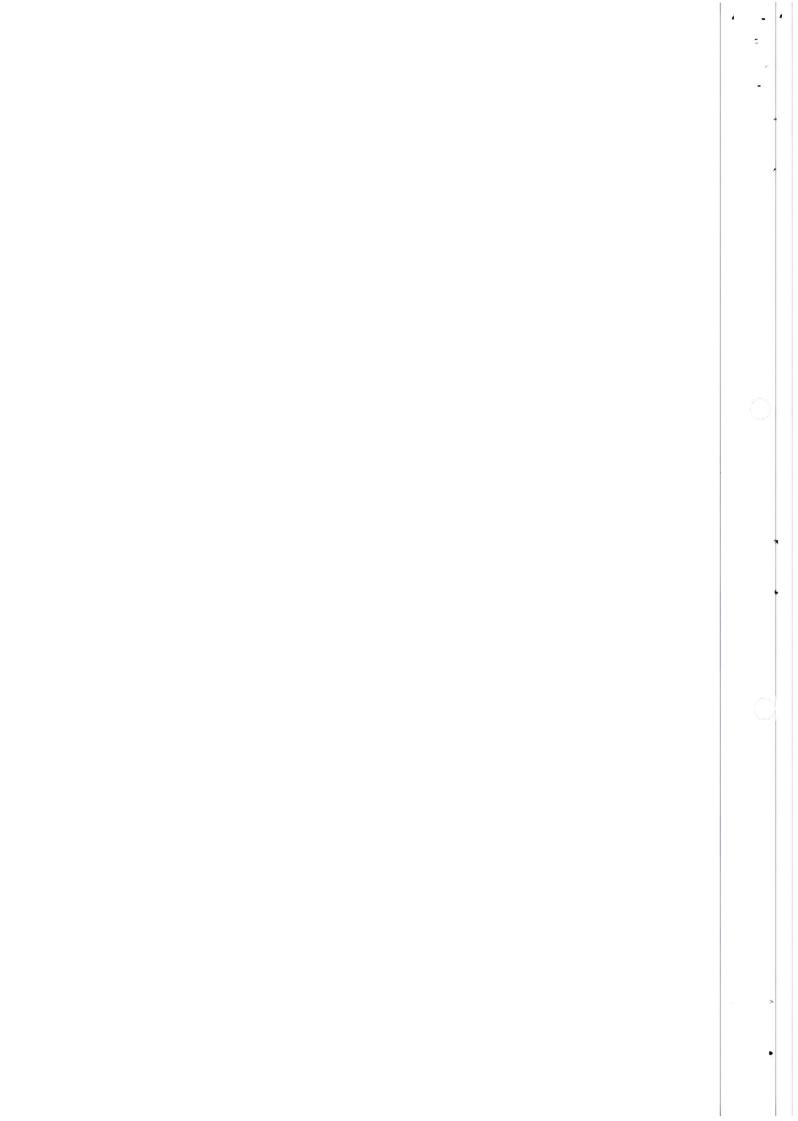
The Committee wishes to register its appreciation to the offices of the Speaker and the Clerk of the National Assembly for the support accorded to it in the execution of its mandate. The Committee also appreciates Google company for their reception, hospitality, organizing and coordinating the Conference logistics.

It is my pleasant duty to present the report of the Departmental Committee on Communication, Information and Innovation on the proceedings of the 2018 Africa Internet Academy from  $7^{th}$  September –  $9^{th}$  March, 2018.

SIGNED:

HON.WILLIAM KISANG, M.P - CHAIRPERSON

DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION



## **ABBREVIATIONS**

ICT Information Communication Technology

ADS Advertisements

ROI Return on investment

AU African Union

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#### **EXECUTIVE SUMMARY**

This report is as a result of the participation of Members of the Committee in the Internet Academy by Google 2018 whose aim was to influence key policy decisions with regard to the Internet in African countries and as such, the Academy provided a suitable and possibly effective way for Google to sell its policy ideas to the policy makers that attended the Conference.

The Committee member's participation in the event provided a lot of opportunities for Networking and staying up-to-date with technological trends in the internet world. The event enabled the Members to appreciate well in advance the innovations on the horizon and to have a head start in crafting appropriate interventions in a timely manner.

As online services become the primary means of media consumption, the relationships between content creators, distributors and consumers continue to evolve to something richer, more direct, immersive and personal, more complex and tougher to manage, but the rewards are significant for those who succeed. There is therefore, need to protect content producers through stringent copyright laws so as to appreciate and encourage creativity.

The dynamic nature of the internet makes it even more complicated to legislate on real time basis but still there is need for legislators and policy makers to be on top of their game in order to be at per with technology.



#### **PREFACE**

#### Mandate of the Committee

The Departmental Committee on Communications, Information and Innovation is established under *Standing Order 216* whose mandate pursuant to the Standing Order 216 (5) is as follows;

- a. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b. Study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- c. Study and review all legislation referred to it;
- d. Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e. Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);

f (a) examine treaties, agreements and conventions;

- g. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- h. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- i. consider reports of Commissions and Independent Offices submitted to the pursuant to the provisions of Article 254 of the Constitution; and
- j. Examine any questions raised by Members on a matter within its mandate.

In accordance with the Second Schedule of the National Assembly Standing Orders, the Committee is mandated to oversee Communication, Information, media and broadcasting (except for broadcast of parliamentary proceedings), Information Communications Technology (ICT) development and advancement of technology and modernization of production strategies.



#### Membership

The committee comprises of: -

- 1. Hon. Kisang William Kipkemoi, M.P Chairperson
- 2. Hon. George Macharia Kariuki, M.P Vice Chairperson
- 3. Hon. Liza Chelule Chepkorir, M.P.
- 4. Hon. Alfah O. Miruka, M.P.
- 5. Hon. Annie Wanjiku Kibeh, M.P.
- 6. Hon. Joshua Kimilu Kivinda, M.P.
- 7. Hon. Marwa Kitayama Maisori, M.P.
- 8. Hon. Mwambu Mabongah, M.P.
- 9. Hon. Maritim Sylvanus, M.P.
- 10. Hon. Mwangaza Kawira, M.P.
- 11. Hon. Jonah Mburu, M.P.
- 12. Hon. Gertrude Mbeyu Mwanyanje, M.P.
- 13. Hon. Wamuchomba, Gathoni, M.P.
- 14. Hon. (Eng) Mark Nyamita Ogola, M.P
- 15. Hon. John Kiarie Waweru, M.P.
- 16. Hon. Erastus Nzioka Kivasu, M.P.
- 17. Hon. Innocent Momanyi Obiri, M.P.
- 18. Hon. Godfrey Osotsi Atieno, M.P.
- 19. Hon. Anthony Tom Oluoch, M.P.

#### **Committee Secretariat**

The Committee Secretariat comprises of-:

- 1. Mr. Nicholas Emejen
- DeputyDirector Committee Services
- 2. Ms. Ella Kendi
- Third Clerk Assistant
- 3. Mr. Ronald Walala
- Legal Counsel II
- 4. Ms. Lorna Okatch
- Research Officer



5. Ms. Catherine Burure

-Fiscal Analyst

## The Delegation

The delegation comprised of the following Members and Parliamentary officers:-

1. Hon. Nzioka Erastus Kivasu, M.P

- Leader of Delegation

2. Hon. Kawira Mwangaza, M.P.

- Member

3. Hon. Mabonga Moses Wekesa, M.P. - Member

4. Hon. Marwa Kitayama Maisori, MP. - Member

5. Ms. Lorna Okatch

-Research Officer /Delegation Secretary

6. Mr. Harrison Owino

-Chief ICT Officer



#### **BACKGROUND**

The Africa Internet Academy is an annual event organized by Google as a platform for engaging leading technology policy shapers in Sub-Saharan Africa in scholar-led discussions on the cutting edge issues in technology policy and law.

At the global level, the Academy (named the Internet Leadership Academy) is organised annually by Google and Oxford University in the United Kingdom and it features an international mix of about fifty (50)participants. The African chapter of the Academy focused on participants from Sub-Saharan Africa. It's inaugural edition was organized in November 2016 in partnership with the LINK Centre of the University of Witwatersrand in the Republic of South Africa. It had thirty eight (38) guests.

The Academy was structured into conferencing, which also served as networking areas, where delegates established contacts with visitors in order to further their business objectives. The conference areas featured on choosing themes like digital policy in Africa, search privacy and security on the internet, copyright and creators, grow with google and entrepreneurship and innovation.

#### **CONFERENCE PROCEEDINGS**

#### DIGITAL POLICY IN AFRICA

Presenter-Dr. Isaac Rutenberg (Director, CIPIT)

The discussion was aimed at analyzing the digital policy in Africa. It has the following features: Multifaceted, Complex, uniquely so, affects everyone and everything and issues are universal, but also local.

#### ICT issues in Africa

- 1. **Economic Growth** which include Infrastructure enabling platform and changing business models.
- 2. Inclusion is a major issue in the ICT sector. Gender inclusion in the ICT sector is massively unbalanced at the top levels. Whereas Sustainable Development Goal 5 talks of gender equality and empowering women/girls, the Web Foundation's Gender Gap Audit (2016), based on research conducted in 10 countries (including Kenya, Mozambique, Ghana, Uganda, Nigeria and Egypt in Africa), raised concerns about



the gender digital divide. It stated that, "without a major escalation of policy effort and investment, most of the benefits of technological change in all 10 countries will be captured by men — making gender inequality worse, not better."

The monthly price of 1GB mobile broadband in many African countries averaged 13% of monthly income. Only Mauritius, Tunisia, Egypt and Sudan had data plans of less than 2% of average monthly income.

- 3. *User empowerment* is another issue. There is serious need to empower ICT users on E-services and E-government, Accountability, Citizen journalism and Activism.
- 4. **Privacy** is a major challenge in the ICT sector. Data Gathering, Processing, Protection of Biometric data, Surveillance has been a great challenge because the internet is prone to hacking and other cyber crimes. On surveillance, it has been observed that the Chinese have been implanting surveillance tools in the AU and other building projects and even noted that the US has banned imports of some Chinese brands.
- 5. *Intellectual Property*. Due to the dynamism in the internet world, Copyright, Trademarks, Patents, Trade Secrets, 3D Printing and Data ownership has continued to be a challenge in the ICT sector.
- 6. **Policy Developments.** Despite the many challenges, African countries are moving fast in coming up with policy legislation to secure and regulate the ICT sector. They include;
  - Zambia (bills for "regulating" social media usage)
  - Kenya (cybercrimes bill, Access to Info Act)

Other policy developments being introduced to Africa include; Block Chain, Big Data, Internet of Things (IOT), Artificial Intelligence, Robotics and Machine Learning and 5G.

#### HOW GOOGLES ADVERTISEMENTS (ADS) WORK

Presenter- Michael Murungi Public Policy Manager, Google, Kenya

- The conference was taken through:
  - 1. **How Display Ads work.** The participants were informed that display ads were an effort to offer a solution to a problem created by the Internet on how to help publishers stay economically viable on the web.It is an online advertising service developed by Google where advertisers pay to display brief advertising content that reaches web users within the Google ad network.
  - 2. **How Search Ads work.** The presenter noted that when a user clicked on an Ad, they wanted him or her to get what he or she was searching for. That's why the Ads are

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- clearly labelled, so that they are easy to distinguish from the rest of other pages. Google's commercial relationships has no impact on algorithmic Search changes and payment for inclusion in organic searches is not accepted
- 3. What an Advertiser Pays For. The participants were informed that he advertisers pay for clicks, impressions and conversions.
- 4. **How YouTube Ads work.** When using YouTube, there are ads playing beforehand or on the video page. Advertisers only pay when someone engages with their ad. Usually, if the user skips it before 30 seconds or the end of the video, the advertiser doesn't pay.
- 5. How Gmail Ads work. The presenter demonstrated that the ads in Gmail are based on data associated with the Google Account (e.g., YouTube, Search). Google does not use keywords or messages in your inbox to show you ads. Nobody reads your email in order to show you ads.

The Benefits of Online Advertising includes:

- a) It target relevant customers;
- b) It helps to manage and control costs;
- c) Measure success; and
- d) Optimize campaign for Return on Investment (ROI)
- 6. Google Principles ensures that google does not target ads based on a user's personal Hardships, Health, Negative financial status, Relationships, Commission of a crime, Abuse and trauma, Imposing negativity, Sexual orientation, Trade union membership, Race and ethnicity, Religious belief, Marginalized groups, Political affiliation outside of U.S, Transgender ID, Partial nudity, Birth control and Family status.
- 7. It was noted that creators must log 4000 hours of watch time within the past 12 months and have 1000 subscribers in order to run ads. There are thousands of employees reviewing content that might violate our policies.
- 8. Participants were informed that google tries to show useful ads by using data collected from devices, including search history and location, websites and used, videos and ads seen, and personal information given like age range, gender and topic of interest.
- 9. When advertisers run ad campaigns, they pay based only on how those ads actually perform and never on any personal information which could include each time

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- someone views or taps an ad, or takes an action having seen an ad, like downloading an app or filling out a request form.
- 10. Shifting habits and new technology has already created a field of powerful ad platform competitor which include, media and telecom companies, Smart TVs and Over the top (OTT) streaming services, Screenless assistants, VR and AR companies Wearables and Connected cars.

#### FUNDAMENTALS OF PRIVACY IN THE DIGITAL ERA

Presenter-TekiAkuetteh Falconer (Mrs.)Data Protection Consultant & IT Lawyer Senior Partner, Nsiah Akuetteh& Co., Ghan

The meeting was appraised on google privacy policy. The presenter clarified that no one should be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation, and that everyone has the right to the protection of the law against such interference or attacks.

*Privacy as a Consumer Issue;* Broad consumer protection laws and not privacy laws per se, used to prohibit unfair or deceptive practices involving the disclosure of, and security procedures for protecting personal information.

Collection of privacy-related laws that regulate the collection and use of personal data for financial, health information, or electronic communications, telemarketing, commercial email, etc.

*Key Privacy Principles*. Fair and Lawful, Purpose specification, Adequate, relevant and not excessive, Accuracy, Security, Retention, Transfer and Data Subject Rights

#### Challenges of the Digital Era

Some of the challenges experienced in the digital era include,

- (i) Purpose/Use Limitations vs Big data for global good.
- (ii) Consent
- (iii)Prohibitions on sale of personal information.
- (iv) Restrictions on direct marketing
- (v) Data sharing limitations
- (vi)Cross-border data flows
- (vii) Data Localisation laws
- (viii) Varied Laws (Regulatory Inconsistency)

#### Some of the ways of addressing these challenges include,

(i) looking for alternatives to Consent.

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- (ii) Establishing frameworks for the use of data for global good.
- (iii)establishing mechanisms to improve cross-border data flows.

#### AN OVERVIEW OF COPYRIGHT LAW IN THE INTERNET AGE

Presenter- Google Africa Internet Academy Ruth L. Okediji Jeremiah Smith Professor of Law Harvard Law School

Copyright law is the law that grants authors a Limited monopoly over certain uses of their works. This monopoly typically includes exclusive rights to reproduce the work, perform or display it publicly, prepare derivative works, and distribute copies. Works generally must be fixed in a tangible medium of expression in order to receive protections.

### Objectives of the Copyright law in different Jurisdictions

- (i) United States: "To promote the progress of science and useful arts..."
- (ii) Berne Convention: "For the protection of the rights of authors in their literary and artistic works" l
- (iii)Other formulations: utilitarian incentive for creativity, protection of authorial personality, reward for labor, cultivating desirable culture

#### Copyright in the Digital Age

The Internet is Changing Copyright in Major Ways

- (i) New, increasingly autonomous creative technologies are revising notions of authorship
- (ii) Copy-reliant architectures make nominal copyright violations commonplace
- (iii)New intermediaries are consolidating market power (e.g. Facebook, Google)
- (iv)Zero-marginal-cost copying of digital goods, coupled with lack of wear-and-tear, calls into
- (v) question the viability of familiar copyright

Copyright can be infringed by; Forwarding email, Copy and paste content on Viber/WhatsApp, Forward a link to content on Youtube/ WhatsApp, Upload a picture you did not take on Facebook, Download pictures from the Internet and Record yourself singing and send to someone else

#### **Innovative LegislativeApproaches for the Digital Age**

The meeting was taken through the doctrine of **Fair** *Use* which has traditionally evoked distinctive images of the U.S. fair use doctrine. As just **one** species of a vision of copyright law that promotes creative production and creative use of protected content, fair use can be

<sup>&</sup>lt;sup>1</sup> http://www.keionline.org/sites/default/files/TheBerneConvention 1948.pdf

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more generously understood as a device of the common law tradition to regulate the relationship between owners, users

and the public at large.

The seeds of modern fair use have been evident since the Statute of Anne which, curiously, modeled the **list-based** model of copyright limitations and exceptions (L&Es). See statute of Anne, Sacs. 4, 5, 7<sup>2</sup>. But also see some limitations in the 1662 Licensing Act (Sacs. 9, 17 – addressing deposit and importation of foreign-language books).<sup>3</sup>

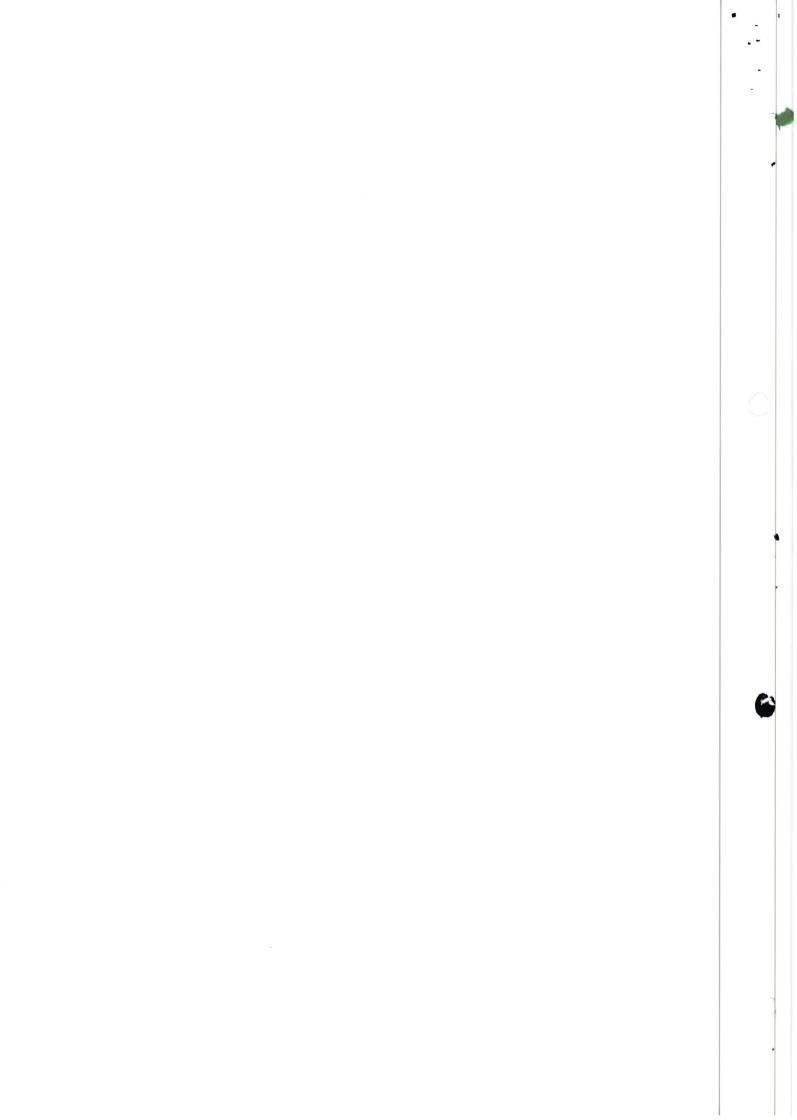
New technologies, shifting cultural expectations/practices, and business models that up-end the idea that monetization of creativity requires property-like entitlements have increased the emphasis on a flexible standard for copyright limitations and exceptions.

In many countries/regions, the daily practice of citizens, cultural institutions, educational practices, and creators are deeply inconsistent with the copyright statutes as written.

The socio-economic and cultural challenges of the global digital environment exert significant pressure on legislatures to create frameworks of copyright protection that "leak."

https://dash.harvard.edu/bitstream/handle/1/17219056/677787.pdf

<sup>&</sup>lt;sup>2</sup> https://juliareda.eu/wp-content/uploads/2017/09/2017-09-06\_Better-Regulation-for-Copyright-Academics-meet-Policy-Makers Proceedings.pdf



#### **CHAPTER 3**

### **COMMITTEE OBSERVATIONS**

The Committee made the following observations;

- Kenya needs to address the fundamental cyber security, question without interfering
  with free trade going forward. There is also need to weigh options Kenya has in
  achieving universal internet access. This will be in line with the four point
  Government agenda ICT being the main driver.
- 2. The dynamic nature of the internet makes it even more complicated to legislate on a real time basis, but still there is a need for legislators and policy makers to be on top of their game in order to be at par with technology.
- 3. There is need to engage more with the facilitators on current legislations currently within the Committee's purview such as Computer and Cyber Crimes Bill, 2017 and Copyright Amendment Bill, 2018.

#### **CHAPTER 4**

#### **COMMITTEE RECOMMENDATIONS**

The Committee made the following recommendations;

- 1. There is an urgent need to protect content producers through amending the Copyright law so as to appreciate and encourage creativity as an economic driver and as a source of employment for the youth.
- 2. There is need to tighten cyber security laws in the African jurisdictions to create stability and trust in the cyber space hence growth in the global economy. This will only be successful with the good will of the African Governments to ratify the international treaties on cyber security which they are signatories to.

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## THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION

## MEMBERS ADOPTION LIST

Invitation to Google Internet Academy in Wolmar, Mauritius on 7<sup>th</sup> to 9<sup>th</sup> March, 2018.

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NO.	NAME	SIGNATURE
	Hon. Kisang, William Kipkemoi, M.P - Chairperson	
1.		
	Hon.George, Macharia Kariuki, M.P - Vice -	
	Chairperson  Hen Line Chalula Chankerin M.P.	Melhin
3.	Hon.Liza, Chelule Chepkorir, M.P.	10000
J.	Hon.Alfah, O. Miruka, M.P.	Misse Com
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	Hon. Annie Wanjiku Kibeh, M.P.	Arc
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	Hon. Joshua Kimilu, Kivinda, M.P.	
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7.	Hon.Marwa Kitayama Maisori, M.P.	Mito
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	Hon.Maritim Sylvanus, M.P.	17/1
9.		James Ale
	Hon.Mwangaza Kawira, M.P.	Alo-
10.	Hara Land Mhara M.D.	
11.	Hon. Jonah Mburu, M.P.	Mourial
11.	Hon. Gertrude Mbeyu Mwanyanje,M.P	
12.		
	Hon. Wamuchomba, Gathoni, M.P.	
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14	Hon (Eng.) Mork Nyomita Ocala M.D.	
14.	Hon.(Eng).Mark Nyamita Ogola,M.P	
15.	Hon. John Kiarie Waweru, M.P.	
16.	Hon. Erastus Nzioka Kivasu, M.P.	
17	Han Godfray Ogotsi Ations M.B.	
17.	Hon. Godfrey Osotsi, Atieno , M.P.	
18.	Hon. Innocent Momanyi, Obiri, M.P.	
19.	Hon.Anthony, Tom Oluoch, M.P.	



MINUTES OF THE  $84^{TH}$  SITTING OF THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION HELD IN BOARDROOM ON  $4^{TH}$  FLOOR PROTECTION HOUSE, PARLIAMENT BUILDINGS ON THURSDAY  $11^{TH}$  OCTOBER, 2018 AT 10.00AM.

#### **PRESENT**

1. Hon. William Kipkemoi, M.P.

-Chairperson

- 2. Hon. George Macharia Kariuki, M.P. -V
  - -Vice- Chairperson
- 3. Hon. Annie Wanjiku Kibeh, M.P.
- 4. Hon. Godfrey Osotsi Atieno, M.P
- 5. Hon. Maritim Sylvanus, MP
- 6. Hon. Mwangaza Kawira, M.P
- 7. Hon. Jonah Mburu, M.P.
- 8. Hon. John Kiarie Waweru, M.P.
- 9. Hon. Liza Chelule Chepkorir, M.P.
- 10. Hon. Alfah O. Miruka, M.P
- 11. Hon. Erastus Nzioka Kivasu, M.P
- 12. Hon. Marwa Kitayama Maisori, M.P
- 1. Hon. Gertrude Mbeyu Mwanyanje, M.P

#### **APOLOGIES**

- 2. Hon. Mwambu Mabongah, M.P.
- 3. Hon. (Eng.). Mark Nyamita, M.P.
- 4. Hon. Joshua Kimilu Kivinda, M.P.
- 5. Hon. Anthony Oluoch, M.P.
- 6. Hon. Wamuchomba Gathoni, M.P.
- 7. Hon. Innocent Momanyi Obiri, M.P

#### **IN ATTENDANCE**

#### **National Assembly Secretariat**

1. Ella Kendi

Clerk Assistant III

2. Ronald Walala

Legal Counsel II

3. Elijah Ichwara

Audio Officer

4. Mary Atieno

Office Assistant

## Consumer Federation of Kenya (COFEK)

1. Stephen Mutoro

Secretary General

2. Benjamin Langat

Vice Chairperson

3. Victor Gilo

Programming Officer

#### MIN.NO./NA/CII/2018/310 PRELIMINARIES

The meeting was called to order at twenty minutes past ten o'clock followed with a word of prayer and introductions thereafter.

MIN.NO/NA/CII/2018/311:

CONFIRMATION OF THE MINUTES OF THE

PREVIOUS SITTING

The agenda was deferred to the next meeting.

# MIN.NO/NA/CII/2018/312: MEETING WITH THE SECRETARY GENERAL, COFEK

#### The Secretary General submitted that;-

- 1. Cofek is Kenya's independent, self-funded, multi-sectoral, non political and apex non-profit federation committed to consumer protection.
- 2. Safaricom holds a higher percentage in the communications industry thus declaring it as dominant is not news and it should operate in a more restricted environment with controlled transparency, marketing and product pricing.
- 3. The potential overlap in powers between CA and CAK is a serious cause for concern as its not clear who between the two is legally most competent to determine, declare and impose conditions for dominance.
- 4. Competition Act needs to be amended to restrict it to over-arching competition policy and competition framework matters. The CAK have no monitoring tools, data and other legal sanctions as compared to the CA
- 5. The National Assembly CII committee has a locus standi on determining competition matters:
  - (i) It ought to demand answers on the process, schedules and intended consequences of their legislative powers from the CA.
  - (ii) It should be sucked into a fever pitch war between telecommunications firms
  - (iii)It is a state holder to the process, and cannot purport to influence and or direct the regulator which has independence under article 34 of the constitution
  - (iv)It needs to recuse itself and wait for the conclusion since it is carrying out a parallel process on a matter that has not been concluded by the sector regulator.
- 6. On matters concerning the market dominance, they were of the view that:

- (i) A person or entity that produces, supplies or otherwise controls not less than one-half of the total goods of any description that are produced, supplied or distributed in Kenya or any substantial part thereof or provides or otherwise controls not less than one half of the services rendered in Kenya or any substantial part thereof
- (ii) A market is therefore dominant when it holds a significant market power
- (iii)A market dominance in most jurisdictions is a market share of more than 50%
- (iv)Safaricom PLC is dominant and its competitors Airtel, Telkom Kenya and Faiba 4G are pale competitors. Thus calling safaricom as the dominant player is still not sure. This is because safaricom is in the same business as airtel and thus yes and no because they are not comparable in terms of market structure
- (v) That safaricom's competitiveness should be questioned. If its services provided if it's improving or declining or if safaricom is competing with itself.
- 7. On the issue of how dominance disrupts competitiveness, dominance affects competitiveness in the following ways;
  - (i) Through promotions when a dominant operator give large discounts or promotions that the competitors can't be replicated,
  - (ii) When a dominant operator puts concerted effort to ensure that a new competitor is not allowed to launch their services / delayed launch for the new competitor
  - (iii)The fear of inability to enter the new market could be informed by insistence of the dominant player.
- 8. On the issue of dominance being decided on the basis of legal regulations or statistical assessment, it was noted that declaration of dominance is determined by both the statistical assessment and the legal regulations.
- 9. In order to protect the structure of measure, a grace period of at least 24 months should be given within which the negotiated interventions, pricing and promotion glide path should be undertaken with a view to establishing the best model of deterring potential abuse of the market leader and by equal measure developing targets and new SLAs which require that the minority competitors enhance their innovation, market access and investment in their respective models.

#### Committee Observations

- 1. The process of negotiated dominance means to progressively introduce remedies to address the anti-competitive behavior in the market. However, applying the process would take longer period to correct the imbalances in the telecommunication market.
- 2. COFEK was doing little to protect the interest of the consumers against exploitation by the operators in the market.
- 3. The public participation conducted by Communications Authority during drafting of the report on market study was not adequate and that there was need for a law that would enhance the thresh hold for public participation.

#### Committee resolutions

The Secretary General was directed submit a brief on;

- 1. Measures taken by other jurisdiction to protect the consumer in market where one operator controls the market.
- 2. Measures COFEK have taken to ensure that the consumers are protected against exploitation by the telecommunication operators in the market.

## MIN.NO/NA/CII/2018/313 ADOPTION OF THE REPORTS ON FOREIGN TRAVEL

The Committee considered the following four reports on conferences attended by the Committee and adopted them as follows-

- (i) Report on Global System Mobile Association Mobile World Congress in Barcelona, Spain on 26<sup>th</sup> February to 1<sup>st</sup> March, 2018 was adopted having been proposed by Hon.George Kariuki MP and seconded by Hon.Annie Kibeh,MP
- (ii) Report on the invitation to Google Internet Academy in Wolmar, Mauritius on 7<sup>th</sup> to 9<sup>th</sup> March, 2018 was adopted having been proposed by Hon.Ersatus Kivasu,MP and seconded by Hon.Mwambu Mabongah,MP
- (iii)Report on 2<sup>nd</sup> Artificial Intelligence For Good Global Summit Held at ITU Headquarters in Geneva, Switzerland from 15<sup>th</sup>-17<sup>th</sup> May 2018 was adopted having been proposed by Hon.Liza Chelule,MP and seconded by Hon.Alfa Miruka,MP
- (iv)Report on National Broadcasters Show held in Las Vegas, Nevada, USA from 7<sup>th</sup> 12<sup>th</sup> April was adopted having been proposed by Hon.Jonah Mburu,MP and seconded by Hon.William Kisang,MP

It was resolved to adopt the following two reports during the next meeting;-

(i) International Broadcasting Convention Conference held in RAI Amstredam, Netherlands on 13<sup>th</sup> to 17<sup>th</sup> September, 2018
 (ii) World Summit on the Information Society (WSIS) Forum held in Geneva,

Switzerland on 19<sup>th</sup> to 23<sup>rd</sup> March, 2018

## MIN.NO/NA/CII/2018/314 ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past twelve o'clock.

HON. WILLIAM KISANG, MP- CHAIRPERSON

