



Session Title:

Hello Regulator? Regulatory Authorities' Communication Practices

**Kenya ICT Action Network Online discussions on
E-communication strategies for the
Communications Commission of Kenya (CCK)**

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Acknowledgments

This E-Discussion on the electronic communication (E-Communication) strategies for regulators was conducted at a politically significant time as the Kenyan elections were upcoming. We must therefore acknowledge those Kenyans who managed to stay focused on this important topic as well as those international participants who gave valuable input to the E-Discussion.

Executive summary

Some of the existing communication tools such as radio, TV, (mobile) telephony and Internet have matured and become relatively prevalent in society. This electronic discussion (E-Discussion) aimed to investigate how information and communications regulatory bodies can take advantage of these electronic communication tools to improve their service delivery and reach, specifically, the excluded members of society.

In order to investigate if and how the functions of the regulators could be enhanced through the use of contemporary electronic tools, the discussion commenced with the fundamental goal of establishing the stakeholders and understanding the role of the regulators. In review were the current challenges, the opportunities that arise and the threats that regulators face as they adapt these tools. Of particular importance, the type of E-content that regulators should be sharing with their stakeholders was comprehensively discussed.

Stakeholders felt that the main broad issues that affected consumers are quality of service, tariffs and access. Although the CCK emphasizes their consumer protection initiative under these three main issues, participants felt that the process is too formal and is not user friendly. Also important to acknowledge is that the regulator is not just a source of information, but also a conduit and destination for information from consumers and other stakeholders. Creative use of avenues of communication other than merely website is imperative to enable two way communication. Therefore the need for creative use of not only websites but other avenues to enable two way communications.

The generic role of the Regulator is to enhance the socio-economic welfare of the citizens through facilitative regulation and oversight of the Information and Communication industry. Typical stakeholders included Consumers, Citizens, Telco-Operators, Service Providers (IT, Postal, Broadcast), and Associations. Participants felt that the national regulator should pro actively involve customers, and indeed consumers, in their work and should ensure that customer/consumer issues and concerns are taken into account in regulating the sector.

Several opportunities were identified that included using the web, radio, TV and mobile phones to reach the stakeholders. The common cyber-threats such as denial of Service attacks and Identity theft were cited as some of the challenges. The type of E-content regulators and their stakeholders should be exchanging was established and categorised broadly as Industry-Statistical, Consumer-Oriented and Operator-Oriented data. These data would constitute the core part of the E-Communication strategies for the regulators.

It was revealed that the regulator was challenged in several ways when it came to electronically delivering the above data. First and foremost, some of the stakeholders (Operators) were less willing to submit the source data particularly the consumer-oriented type. Secondly, the Regulator may indeed have the (public) data but was compelled by other factors not to share it. Some of the stakeholders could not access the data even if it was availed due to geo, social, technical or economic disadvantages.

1.0 Background

The KICTANet mailing list discussion explored how regulatory bodies can take advantage of electronic communication tools to improve their service delivery and reach, in particular, the excluded members of society.

The discussion was largely based on the perspective of the Regulator as a corporate entity aiming to serve its customer base or stakeholders such as operators, consumers, and service providers. Using the typical regulatory objectives, participants brainstormed methods and electronic tools that the Regulator could use to serve them better.

1.1 Aim: To use online tools as a means of investigating and discussing the ways and means of delivering regulatory functions electronically.

1.2 Objectives of the exercise included:

- To raise awareness of Information and Communication Regulators' role and of their objectives
- To establish the opportunities provided by the Internet to achieve regulatory objectives
- To establish threats that that Internet presents to regulatory functions
- To develop appropriate E-Communication strategies & practices for Regulators
- To contribute, as KICTANet, to the APC/ LIRNE.NET and Hello Regulator?: Regulatory Authorities' Communication Practices GK3 session.

1.3 Main outcomes/deliverables

The key outcomes of the exercise comprised:

- Summary of participants' contributions
- Final Report for subsequent submission to the Ministry of Information & Communication, the Regulator and other stakeholders.
- Presentation of the report at the GK3 event in Malaysia, December 2007.

1.4 Tools

1. Online tools (email, list server, internet)
2. Brainstorming techniques/Aids.

1.5 Discussion design and methodology

1.5.1 Data collection:

The online discussion was structured along the following themes that were discussed electronically over a period of 2 weeks according to the following schedule:

- What is the Role of Information Communication Regulators? – 1 day
 - Vision, mission, objective and functions
 - Customer base (public, consumer, operators, CSO, etc.)
- How can Regulators utilise the Internet to achieve their objectives? -5 days
 - What are the opportunities and threats that the Internet presents to Regulators?

- What are the current web-based challenges and practices for Regulators?
- What content should Regulators provide online?
- What are the available e-communication strategies for Regulators? – 3 days
 - What are the possible e-tools that Regulators can deploy in their service provision?
 - How can Regulators use the e-tools to synergize with consumers, CSO and other players?
- Way forward and recommendations -1 day.

1.5.2 Report writing

The various contributions from the participants were analysed and collated into a final report. This report, to be presented at the Global Knowledge Partnership event in December 2007, informs stakeholders, and in particular the CCK, on the methods and means that modern communication technologies can be leveraged to improve the delivery of service.

2.0 Theme 1 - What is the role of the national regulatory authority?

The Kenya Communications Act of 1998, separated the Kenya Posts and Tele Communications (KPTC) into five entities and created the Communications Commission of Kenya (CCK).

The major task of the CCK is to “ensure that communications services are provided throughout Kenya and that the interests of all users of these services are protected with respect to prices charged for and the quality and variety of those services among other responsibilities.” As the body that links both operators and consumers, the CCK provides for the rights and obligations of both parties by liaising with consumers, operators and service providers, as explained in the sector: (http://www.cck.go.ke/role_of_cck/)

As part of its consumer awareness/protection activities, the commission provides information on consumer issues largely through its web site as well as frequent public announcements in print media and more recently, broadcast media as well. In Kenya, one of the greatest challenges to accessing information is lack of access to the Internet, therefore the consumer’s ability to access much of the information provided by the commission is hampered by these factors.

Acknowledging this fact the commission urges consumers to post letters and has also started using broadcast media to convey information.

Further, the commission has established a consumer department. Although the commission does not currently work with civil society and advocacy organisations, the consumer department will want to engage with these bodies. CCK defines stakeholders as private sector entities and the public at large.

The role of regulatory authorities as identified by participants of the forum includes:

- Facilitation of the industry for consumer interest and aid of local industry to grow and innovate.
- Provision of industrial oversight

- Protection of consumer rights and interests. (In this regard national regulatory authorities should be required to take into account views of end-users, consumers, manufacturers and service providers.)

2.1 Who are the Regulators' stakeholders?

Participants of the KICTANet mailing list discussion identified the following as stakeholders:

- All citizens of the country (consumers)
- Government
- Telco operators
- IT & broadcast service providers
- Postal service providers
- Manufactures of communications equipment

3.0 Theme 2 How can the Regulator use the internet to achieve their objectives?

- What are the opportunities and threats that the internet presents to Regulators?
- What are the current web-based challenges and practices for Regulators?
- What content should Regulators provide online?

The Regulator could open up an e-forum where stakeholders could openly discuss industry issues. The Regulator could then harvest a lot of industry thinking from those discussion-logs and use them appropriately. They would get to 'know' their customers better in order to serve them better.

Although most ICT players and consumers are concentrated in urban centres, Regulators could reach new players and consumers in the rural centres using the web. Routine services like license applications, renewals and payments could be completed without visiting the capital cities where most Regulators live. Further, consumer complaints could also be dealt with virtually.

New Regulatory e-Services may arise from the web. These could be new regulatory functionalities such as monitoring ISP/ASP web graphics, their bandwidth provisioning and utilization, the amount of spam they generate or simply mapping out the internet traffic patterns in the country.

Regulatory authorities could also use the internet to provide information to consumers. To yield better results, online interface/forms made easy to use with pull down menus and checkboxes could be provided that would facilitate consumers' input of data and selection of service, duration of contract and terms of payment. This approach might yield better results. A recent Internet Study (2007) commissioned by CCK identified the greatest challenge to obtaining empirical data for the study as the inability to obtain clear and accurate internet tariffs and terms of service for the various products from ISPs/ASPs.

In response to this issue, participants in the KICTANet discussion felt strongly that the CCK should intervene by compelling operators to provide transparent, up-to-date

information on applicable prices and tariffs. According to one participant, one of the simplest, most common consumer questions faced is: "Who is the fairest among the telecommunication providers?" The CCK website recently added some spreadsheets which could provide data to civil society organisations/advocacy groups which could then publish detailed comparative tariffs to assist consumers in making informed decisions.

However, this information is provided in a very formal non user friendly format and judging by the dates of most documents on the website, this information would need to be updated frequently.

CCK could also go further and provide data to allow for the publication of comparable, adequate and up-to-date information on the quality of communication service providers.

3.1 What are E-content requirements for the regulator and consumers?

What kind of data/information or content would stakeholders wish to access on regulator's websites and/or what kind of data or content would stakeholders wish to submit via Regulator's websites?

The three broad issues that affect consumers and merit accessible, easy to use, publication, as identified in the KICTANet discussion are: access, price and quality of service. Regulators are not just sources of information. As conduits and destinations for information received from consumers and other stakeholders, Regulators must creatively use websites as well as other available methods to enable two way communications. The aim is to strike a balance between promoting the interests of citizens, ensuring effective competition, and good quality of service while providing for a minimum of regulatory intervention in order to establish a common level of rights for all.

Information requirements were divided into four broad categories by the participants:

3.1.1 Factual information: includes communications acts, freedom of information, statistical indicators, etc.

3.1.2 Consumer and citizen information: includes information of interest to end-users or prospective end-users, about universal service, consumer rights (including reporting abuses) and tariffs. In addition to actual legislation and formal guidelines, FAQs, or frequently asked questions must be present and easily understandable to ordinary consumers who consider these to be very important. Information ought to be available on the following: coverage space of all service providers, their tariffs, subscriber base (market share), categorized by region, provinces, etc., intended coverage space regional partnerships and their footprints, regional customer service points, links to service provider websites, service related poll tools and blogs, among others.

- Regulators should also work with radio stations and print media to ensure that the information that is available on their website and the consumer rights are well communicated.
- If the commission chooses E-services, their stakeholders must be educated about the anticipated mutual benefits. For example, in the case of the Kenya Capital Market Authority (CMA) and the Nairobi Stock Exchange Regulator, investors had resisted and disrupted the automation of the stock market information exchange due to misplaced perceptions. Further, Regulators should

re-structure or creatively disrupt their old procedures and practices in order to support the new (electronic) ones. Otherwise, they risk having a poor uptake due to lack of understanding as well as an overly formal tone.

- The existence and obligations of Codes of Conduct (covering the rights and responsibilities of consumers) of the various licence for operators must be published.

3.1.3 Business information: This relates to information required by current and prospective operators and investors such as licensing procedures, technical requirements, interconnection agreements, online forms for certification, authorization etc. Information which explains and describes the procedures and requirements is needed, rather than mere provision of access to formal documentation and legislation.

3.1.4 Telecom policy and regulatory information and other features to further disseminate information. This final category ensures access to information of Regulatory news and developments to researchers and journalists who can further disseminate regulatory information nationally and internationally. Often these features contextualize the site information and make it more intelligible.

The CCK has a service charter that sets out public expectations in interactions with the Commission and its staff. The charter, called 'The Customer Service Charter', outlines the rights, responsibilities and procedures to follow if CCK service standards are not met and also includes a 'consumer centre' page on the website. This page has some useful links advising consumers how they can make a complaint, what they need to know about telecoms services etc. However, the CCK site is overly formal and could be more user friendly. For example, the further instructions on the complaints process are disheartening. The commission considers itself the point of "last resort" once a consumer has exhausted all other avenues. Although service providers have the responsibility to resolve complaints they receive from their clients, there is no requirement for service providers to provide information on complaints from their clients/consumers.

Kenya has only one active consumer organization. However, a few individuals passionate about consumer protection issues have also taken on the crusader role to protect consumer issues in the ICT sector. One of the recommendations is for the regulator to work with the local consumer advocacy groups to strengthen them and make them a better resource for consumers and the regulator. Developing a strong relationship with the consumer advocacy groups would diminish the burden on regulators in terms of improving communication and disseminating information to consumers via these groups.

3.2 What are the challenges for the commission?

It is expected that once the commission avails their services online, they will face the same challenges as any other entity that gets online. These challenges would revolve around the following:

3.2.1 Social barriers: Most Regulator customers (Operators, Consumers, etc) are not aware of how the Regulator can help/assist them. The ones that know are often frustrated by the 'official-dom' or red tape presented by most Regulators. Because stakeholders (consumers) may not know where or how to communicate electronically or otherwise with Regulators, the challenge is to orient the stakeholders to the Net and educate them in the facilities available. Imitating and building on the successful

awareness campaigns of the Kenya Revenue Authority (KRA), the commission could model their own website and services to be user friendly, facilitating the retrieval of information and basic knowledge on use of the website facilities. Confidentiality: restricting data to the authorised person/entity
Integrity: ensuring that the stored data is not illegally modified.

3.2.2 Legal barriers: Kenya's jurisdiction does not have compelling legislation that empowers consumers to demand and get certain information within reasonable periods of time. There is no freedom of information nor consumer protection legislation. The CCK is mandated with oversight of the Kenya Communications Act (1998); this mandate extends to collecting performance statistics annually from service providers. This information is not made public. However, to protect the consumer, the commission is empowered to investigate the accuracy of the performance returns if any doubts exist about the provided data. Kenya has a monopolies and prices commissioner who is empowered to protect the interests of consumers by:

- empowering consumers through information and redress.
- protecting them by preventing abuse.
- promoting competitive and responsible supply.

Responses to consumer complaints and issues from the CCK and the competition are usually very supply oriented and rarely do the two pro-actively seek input from the demand aspect: the consumers. There is a need to look for a combination of supply and demand principles for consumer protection.

The Kenya Bureau of Standards (KBS), which is responsible for ISO standards 33 (Telecommunications) and 35 (Information Technology) also deals with consumer comments, input and complaints. Complaints are used for developing new standards and for revision and amendment of the existing national standards but only the technical aspects, for example telephones, are covered and the KBS is not designed to help with complaints about quality of service, access to service and tariffs.

3.3.3 Political barriers: Within emerging democracies, the theory of regulatory independence rarely gets to be practised. As such, regulatory communication (electronic or otherwise) with consumers is hampered by the need to cross-check with the political 'God-fathers.' For example, while this discussion was taking place, the ministry and the commission held a public meeting to discuss the implementation of the submarine cable project. When the director general of the CCK and the Permanent Secretary of the ministry of information and communication had both presented power point presentations, the stake holders requested a presentation from the CCK director of IT but they were told that the P.S. had to give the go ahead.

3.3.4 Technological barriers: Communicating with regulators could be hampered by lack of telecommunication infrastructure. Even if the material was online, how many of the target group can access it? Availability: ensuring that online services are operational when and as required by the customers/stakeholders. Non-repudiability: ensuring that e-Transactions can be traced back to the originator. Further security challenges: e.g. hacking/breaking into websites: remote file injection (RFI) into databases, defacing and denial of service attacks (DDoS). E-Regulators would attract attention and thus the information placed online would therefore require them to deploy advanced security features & systems to mitigate these types of attacks, including identity thefts, phishing

Beyond making information available, even if it were provided directly to mobile phones, what practical avenues exist to redress complaints? What mechanisms would provide greater bargaining power for consumers?

4.0 Theme 3 – What are the available e-communication strategies for the regulator?

4.1 Key questions posted to the list:

- What are the possible e-Tools that the Regulator can deploy in their service provision?
- How can Regulators use the e-Tools to encourage synergies with consumers, CSO and other players?
- Way forward and recommendations

The communications commission of Kenya does not have a space that is fully dedicated to communicating with its customers or that provides a forum for stakeholders to discuss industry issues. The commission should dedicate space in the website to allow for two way discussion and to act as a sounding board for the regulator to get input on critical policy and regulatory issues.

Further, regulators needed to "walk the talk", as one participant expressed it. They commission needs to stay updated on technology advancements. The commission needs actively participate in the necessary forums such as KICTANet for example. Other examples:

- Comic Book - targeted towards helping semi-literate stakeholders to understand what regulation is, why regulators are needed and who their regulator is.
- E-Book - all regulations in e-book format (a simple converter will do this from a word/PDF document). E-Books should also be downloadable from the net.
- Radio programming – Titled appropriately such as "know your regulator", could be delivered as series (4-6 weeks) and repeated twice a year
- TV programming – Titled for example "Communications Regulation in Kenya" for a documentary type approach; "How to E" for a youth-oriented, more lively approach? -In addition, interaction with local movie or soap producers so that the Regulator's roles and functions could be featured within a local domestic setting.

4.2 Recommendations:

From all the issues collated from the KICTANet mailing list discussion as well as a number of studies, most notably the IDRC study entitled "Holding Companies to Account", the following recommendations are provided:

- As there is no explicit consumer protection legislation, strong consumer networks or advocacy groups must be established that could work with the CCK and help address issues of consumer interest in their discussions with industry. This would encourage competition and help address the issues of tariffs and quality of service.

- The commission needs to compel service providers to publicise code of conduct/service charters that protect the rights of users while stating the responsibilities of service providers
- The CCK needs to provide more user friendly information and a clear complaints procedure. The regulator also needs to publicise their own received consumer complaints data to influence the review of regulation and broader policy development. The CCK should also compel service providers to publicly publish information relating to customer complaints and the procedures followed to resolve these complaints. This would act as an empowerment tool and enhance freedom of choice as it would encourage users to provide information to the regulator and enhance the two way communicating/information flow.
- CCK has adapted performance contracts/obligations that are part of the government policy yet the commission should extend this to providing indicators for monitoring and evaluating service providers and operators. The results of this should be made public.
- The regulator has conducted a consumer satisfaction survey, however, the survey focused on private sector customers rather than the consumers. The CCK needs to undertake frequent studies on the satisfaction of consumer/end users of communication services satisfaction
- The commission needs to update its website with up to date information, statistics and data as well as ensuring that the site is user friendly enough to attract all levels of consumers. For Kenyans who do not have access to the internet, the commission needs to develop creative strategies (e.g. E-books)

Annex 1

Participants

During the discussions, the KICTANet list server had 180 (one hundred and eighty) subscribers. Only ten of them contributed actively to the mailing list discussions. This could be due to the shifted focus of the local community towards the forthcoming general elections and to the incorrect perception that the topic was a 'Regulatory' rather than 'Stakeholder' affair.

1. Eric Osiakwan: African ISPs Association
2. Alice Munyua KICTANet CCK: Facilitator
3. Brian Longwe Inhand, Enables
4. John Walubemngo: Moderator, Kenya Communications College of Technology
5. Fatma Bashir: Cyber Schools
6. Alex Gakuru: Consumer Protection Association
7. Jonathan Somen: Telecommunication Service providers of Kenya (TESPOK)
8. Nancy Bosire (Kenya Private Sector Association)
9. Bill Kagai: MediaCorp Limited
10. Rebecca Wanjiku: KICTANet ICT Journalists' Caucus
11. Badru Ntege: one2net.co.ug
12. Judy Okite: KCCT
13. Monica Kerrets-Makau
14. Chanuka Wattedgama: LIRNEasia

Annex 2

Resources

Facilitator (online) Alice Munyua
Moderator (Online) John Walubengo
Participants (Online) See participants list

Mahan, A.K. (2005). "Benchmarking African NRA Websites". In Mahan, A.K. and Melody, W.H. (Eds.), *Stimulating Investment in Network Development: Roles for Regulators*. World Dialogue on Regulation for Network Economies (WDR).
<http://www.regulateonline.org/content/view/435/65/>

Mahan, A.K. (2005). "Benchmark Indicators for Latin American and Caribbean Regulatory Authority Websites," WDR Working Paper 0501. World Dialogue on Regulation for Network Economies (WDR).
<<http://www.regulateonline.org/content/view/354/69/>>

Wattegama, Chanuka (2005). "Benchmarking National Telecom Regulatory Authority websites of Asia-Pacific Region," LIRNEasia Study.
<http://www.lirneasia.net/projects/completed-projects/regulatory-web-survey>

Recommended websites

Communications Commission of Kenya (CCK)

<http://www.cck.go.ke>

Role of CCK

http://www.cck.go.ke/role_of_cck/

International Development Research Centre (IDRC) – IDRC Publications section.

http://www.idrc.ca/en/ev-8574-201-1-DO_TOPIC.html

Kenya Bureau of Standards

<http://www.kebs.org/>

KICTANET mail list

<http://kictanet.or.ke/mailman/listinfo/kictanet>

Learning Initiatives on Reform for Network Economies – LIRNE.NET

<http://lirne.net/>