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SNA
25/10/18

PARLIAMENT OF KENYA



Paper laid by the
Chairperson Departmental Committee
on C&I
rpf
Tuesday 25/10/2018

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SECOND SESSION - 2018

DEPARTMENTAL COMMITTEE ON COMMUNICATION INFORMATION AND
INNOVATION

REPORT ON THE 2ND ARTIFICIAL INTELLIGENCE FOR GOOD GLOBAL
SUMMIT HELD AT ITU HEADQUARTERS IN GENEVA, SWITZERLAND FROM
15TH - 17TH MAY 2018.

CLERK'S CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES,
PARLIAMENT BUILDINGS,
NAIROBI

OCTOBER, 2018

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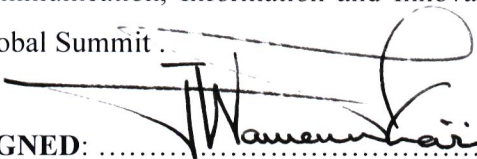
FOREWARD BY LEADER OF DELEGATION

Artificial Intelligence (AI) is advancing dramatically and already transforming our world, socially, economically and politically. We face a new frontier, with advances moving at warp speed. Artificial Intelligence can help analyze enormous volumes of data, which in turn can improve predictions, prevent crimes and help governments better serve people. But there are also serious challenges, and ethical issues at stake. There are real concerns about cybersecurity, human rights and privacy, not to mention the obvious and significant impact on the labour markets. The implications for development are enormous.

Developing countries can gain from the benefits of AI, but they also face the highest risk of being left behind. This Summit ensured that AI charts a course that benefits humanity and bolsters shared values. Kenya stands ready to be a universal platform for discussion. The delegation from the Communication, Information and Innovation committee of the National Assembly will strive to ensure that Artificial Intelligence will be used to enhance human dignity and serve public good.

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 delegation also appreciates the Ministries of Information, Communication and Technology and that of Foreign Affairs and the Permanent Mission of the Republic of Kenya to the United Nations Office in Geneva, Switzerland for their reception, hospitality, organizing and coordinating the Conference logistics.

It is my pleasant duty therefore to present the report of the Departmental Committee on Communication, Information and Innovation on the proceedings of the 2018 AI for Good Global Summit .

SIGNED:  DATE: 11 OCT 2018

HON. JOHN KIARIE, M.P. - LEADER OF DELEGATION

EXECUTIVE SUMMARY

The 2018 Artificial Intelligence forum was held from 15th – 17th May, 2018 in Geneva, Switzerland and brought together participants from all over the world having been a global open public forum. Kenya was represented at the Summit by Members of Parliament from the Committee on Communication, Information and Innovation and the Parliamentary Broadcasting and Library Committee of the National Assembly.

The *AI for Good Series* is the leading United Nations platform for dialogue on Artificial Intelligence (AI). The action-oriented 2018 Summit identified practical applications of AI and supporting strategies to improve the quality and sustainability of life on our planet. The summit continued to formulate strategies to ensure trusted, safe and inclusive development of AI technologies and equitable access to their benefits.

While the 2017 summit sparked the first ever inclusive global dialogue on beneficial Artificial Intelligence, the action-oriented 2018 summit focused on impactful AI solutions able to yield long-term benefits and help achieve the Sustainable Development Goals.

'Breakthrough teams' demonstrated the potential of AI to map poverty and aid with natural disasters using satellite imagery, how AI could assist the delivery of citizen-centric services in smart cities, and new opportunities for AI to help achieve Universal Health Coverage, and finally to help achieve transparency and explainability in AI algorithms.

The Breakthrough Teams proposed impactful AI strategies able to be enacted in the short term, guided by an expert audience of mentors representing government, industry, academia and civil society. Strategies were evaluated by the mentors according to their feasibility and scalability, potential to address truly global challenges, degree of supporting advocacy, and applicability to market failures beyond the scope of government and industry. The exercise connected AI innovators with public and private-sector decision-makers, building collaboration to take promising strategies forward.

The report gives a detailed background of AI, its functions and the achievements and setbacks realized to date towards achieving the Sustainable Development Goals (SDG's). It further highlights the participation, engagement and the way forward for Kenya in the AI world.

The breakaway teams engaged the participants through presentations and discussions on the following topics;

- (i) AI and satellite imagery- Team leader: Stuart Russell, University of California at Berkeley
- (ii) AI and health- Team leaders: Marcel Salathé, EPFL; Ramesh Krishnamurthy, World Health Organization (WHO); Sameer Pujari, World Health Organization (WHO); "AI for health - A Primer"
- (iii) AI and smart cities & communities- Team leader: Renato de Castro, SmartCity Expert; Alexandre Cadain, ANIMA
- (iv) Trust in AI- Team leaders: Huw Price, University of Cambridge; Francesca Rossi, University of Padova and IBM Research; Stephen Cave, Leverhulme Centre for the Future of Intelligence at the University of Cambridge.

On the last day in plenary, findings of each team were summarized and presented. Consequently, from the discussions and presentations, participants made their contribution at plenary sessions and made recommendations that the AI should adopt in order to make it universal.

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

The Departmental Committee on Communications, Information and Innovation is established under Standing Order 216 whose mandate pursuant to 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);
- g. examine treaties, agreements and conventions;
- h. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- i. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- j. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- k. Examine any questions raised by Members on a matter within its mandate.

In accordance with Second Schedule of the 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.

1.2 Committee Membership

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

1.3 Committee Secretariat

- | | |
|------------------------|------------------------------------|
| 1. Mr. Nicholas Emejen | Deputy Director Committee Services |
| 2. Ms. Ella Kendi | Third Clerk Assistant |
| 3. Mr. Ronald Walala | Legal Counsel |
| 4. Ms. Lorna Okatch | Research Officer |
| 5. Ms. Catherine Gati | Fiscal Analyst |

1.4 Composition of Delegation

The delegation comprised the following Members and Parliamentary officers:-

1. Hon. John Kiarie Waweru, MP – **Leader of delegation**
2. Hon. Alfah Ondieki Miruka, MP - Member
3. Hon. Liza Chepkorir Chelule, MP - Member
4. Hon. Erastus Kivasu Nzioka, MP - Member
5. Mr. Nicholas Emejen – Deputy Director Committees
6. Ms. Lorna Atieno Okatch – **Secretary to the Delegation**

CHAPTER TWO

2.0 BACKGROUND

The Summit comes at a critical time and should help increase policymakers' awareness of the possibilities and challenges associated with AI. The downside is that it may encourage undue optimism, by giving short shift to the significant risks that AI poses to international security.

Although many policymakers and citizens are unaware of it, narrow forms of AI are already here. Software programs have long been able to defeat the world's best chess players, and newer ones are succeeding at less-defined tasks, such as composing music, writing news articles, and diagnosing medical conditions. The rate of progress is surprising even tech leaders, and future developments could bring massive increases in economic growth and human well-being, as well as cause widespread socioeconomic upheaval.

The forum provided a much-needed opportunity to discuss how AI should be governed at the global level—a topic that has garnered little attention from multilateral institutions like the United Nations. The draft program promises to educate policymakers on multiple AI issues, from sessions on “moon shots” to ethics, sustainable living, and poverty reduction, among other topics. Participants included prominent individuals drawn from multilateral institutions, Non Governmental Organizations (NGOs), the private sector, and academia.

This inclusivity is typical of the complex governance models that increasingly define and shape global policymaking—with internet governance being a case in point. Increasingly, NGOs, public-private partnerships, industry codes of conduct, and other flexible arrangements have assumed many of the global governance functions once reserved for intergovernmental organizations. The new partnership between ITU and the XPRIZE Foundation suggests that global governance of AI, although in its infancy, is poised to follow this same model.

For all its strengths, however, this “multi-stakeholder” approach could afford private sector organizers excessive agenda-setting power. The XPRIZE Foundation, founded by outspoken techno-optimist Peter Diamandis, promotes technological innovation as a

means of creating a more abundant future. The summit's mission and agenda hews to this attitude, placing disproportionate emphasis on how AI technologies can overcome problems and too little attention on the question of mitigating risks from those same technologies.

This is worrisome, since the risks of AI are numerous and non-trivial. Unrestrained AI innovation could threaten international stability, global security, and possibly even humanity's survival. And, because many of the pertinent technologies have yet to reach maturity, the risks associated with them have received scant attention on the international stage.

One area in which the risk of AI is obvious is electioneering. Since the epochal June 2016 Brexit referendum, state and non-state actors with varying motivations have used AI to create and/or distribute propaganda via the internet. An Oxford study found that during the recent French presidential election, the proportion of traffic originating from highly automated Twitter accounts doubled between the first and second rounds of voting. Some even attribute Donald J. Trump's victory over Hillary Clinton in the U.S. presidential election to weaponized artificial intelligence spreading misinformation. Automated propaganda may well call the integrity of future elections into question.

Another major AI risk lies in the development and use of lethal autonomous weapons systems (LAWS). After the release of a 2012 Human Rights Watch report, *Losing Humanity: The Case Against Killer Robots*, the United Nations began considering including restrictions on LAWS in the Convention on Certain Conventional Weapons (CCW). Meanwhile, both China and the United States have made significant headway with their autonomous weapons programs, in what is quickly escalating into an international arms race. Since autonomous weapons might lower the political cost of conflict, they could make war more commonplace and increase death tolls.¹

A more distant but possibly greater risk is that of artificial general intelligence (AGI). While current AI programs are designed for specific, narrow purposes, future programs may be able to apply their intelligence to a far broader range of applications, much as

¹ <https://news.itu.int/economic-impact-ai/>

humans do. An AGI-capable entity, through recursive self-improvement, could give rise to a super intelligence more capable than any human—one that might prove impossible to control and pose an existential threat to humanity, regardless of the intent of its initial programming. Although the AI doomsday scenario is a common science fiction trope, experts consider it to be a legitimate concern.

Given rapid recent advances in AI and the magnitude of potential risks, the time to begin multilateral discussions on international rules is now. AGI may seem far off, but many experts believe that it could become a reality by 2050. This makes the timeline for AGI similar to that of climate change. The stakes, though, could be much higher. Waiting until a crisis has occurred to act could preclude the possibility of action altogether.

Rather than allocating their limited resources to summits promoting AI innovation (a task for which national governments and the private sector are better suited), multilateral institutions should recognize AI's risks and work to mitigate them. Finalizing the inclusion of LAWS in the CCW would constitute an important milestone in this regard. So too would the formal adoption of AI safety principles such as those established at the Beneficial AI 2017 conference, one of the many artificial intelligence summits occurring outside of traditional global governance channels.

Multilateral institutions should also continue working with non-traditional actors to ensure that AI's benefits outweigh its costs. Complex governance arrangements can provide much-needed resources and serve as stopgaps when necessary. But intergovernmental organizations, as well as the national governments that govern them, should be careful in ceding too much agenda-setting power to private organizations. The primary danger of the AI for Good Global Summit is not that it distorts perceptions of AI risk; it is that Silicon Valley will wield greater influence over AI governance with each successive summit. Since technologists often prioritize innovation over risk mitigation, this could undermine global security.

2.1 SUMMARY OF THE SUMMIT PROCEEDINGS

The breakaway teams engaged the participants through presentations and discussions on the following topics:

2.1.1 Team 1 : AI + Satellite Imagery

The team was led by Stuart Russel. It discussed how satellite imagery together with artificial intelligence and machine learning can help meet the Sustainable Development Goals (SDGs). The team identified challenges to large-scale automated analyses of satellite imagery libraries that served to create partnerships among the artificial intelligence community, satellite imagery providers, research labs, analysts, sustainable development implementers in Member States and the United Nations system, and others.

As implementing the SDGs presents enormous policy challenges, this group was ambitious in its scope, it discussed artificial intelligence methods for rapid and accurate analysis of satellite imagery that can feed into decision-making processes at national levels. Informing national decision-making for sustainable development requires effective knowledge systems, linking data and information to policy across almost all sectors. Satellite imagery is particularly potent for such purposes as it can potentially measure multiple indicators repeatedly over time and across large areas. Such information allows analysis of underlying issues affecting multiple SDGs and can inform knowledge systems addressing key policy issues. Operational and digital knowledge systems of this type may be relatively far off but the elements involving satellite imagery can already be actively explored by the global research and policy communities. The team discussed how to create a framework for 'challenges' whereby specific satellite imagery analytical tasks are posed to the machine learning community to solve.

2.1.2 Team 3: AI and smart cities & communities

Team leader: Renato de Castro, SmartCity Expert; Alexandre Cadain, ANIMA and Ecole normalesupérieure

The idea of a ‘tailored smart city’ is a very important one. We can, through AI, enhance the cultural heritage of each city to make sure that there are as many different definitions of a smart city as there are cities in the world.²

The smart cities breakthrough team pitched seven projects to the summit, projects that aim to support linguistic diversity within cities, combat gender violence, enable blockchain-based decision-making, and provide virtual testbeds for the simulation of smart city projects.

These projects include a ‘Project Zero’ targeting the establishment of an ‘Internet of Cities’, a global network able to share the data, knowledge and expertise required to replicate successful smart city projects elsewhere in the world.

Project Zero would entail three main elements, the definition of a global repository to share best practices; the development of AI-driven simulations of city environments; and the connection of these best practices and simulations with a more human approach and one enabling ‘city builder video games’ empowering citizens to identify solutions to local problems.

Smart Cities must place citizen needs first, earn trust. It focuses on the idea that people, citizens, can actually be the first source to help us identify problems to be a part of the bottom-up approach.

2.1.3 Team 4: Trust in AI

The team was lead by Huw Price, Francesca Rossi, Zoubin Ghahramani, Claire Craig
Members: Stephen Cave, Kanta Dihal, Adrian Weller, Seán Ó hÉigeartaigh, Jess Whittlestone, Charlotte Stix, Susan Gowans, Jessica Montgomery
Theme Managers: Ezinne Nwankwo, Yang Liu, Jess Montgomery

The Importance of artificial intelligence (AI)

1. Imagine an app that could enable farmers to achieve the most efficient use of water possible, but farmers don’t use the app. It could save money and water, but they don’t use it because they are not familiar with the app’s developer or how the app will use their data.

² <https://dig.watch/resources/ai-smart-cities-and-communities>

2. Imagine two countries competing for leadership in AI. One country announces breakthroughs. The other fears it is falling behind and redirects resources in a bid to catch up, ceasing investment in ethical AI and 'AI for Good'.
3. Imagine a medical system able to diagnose a type of skin cancer with 95 per cent accuracy, but it uses an opaque form of machine learning. Doctors can't explain the system's decisions. The doctors one day see the system making a mistake that they never would have made. Confidence in the system collapses.
4. Artificial intelligence (AI) had the potential to dramatically accelerate the pace at which the United Nations' Sustainable Development Goals (SDGs) can be achieved. Maximising AI's potential for good will strongly depend on building trust in AI, in several dimensions. This track will focus on three dimensions of trust. Developers of AI solutions must earn the trust of communities to which such solutions are offered. AI developers and others working for beneficial AI must trust each other, across cultural, national and corporate boundaries and AI systems themselves must be demonstrably trustworthy.³

Theme A: Building trust for beneficial AI – stakeholder communities

- Building better care connections: establishing trust networks in AI mental healthcare – Dr. Dina Machuve (Nelson Mandela African Institute of Science and Technology and Technical Committee Member for Data Science Africa)
- Assessing and Building Trust in AI for East African Farmers: A Poultry App for Good – IrakliBeridze (United Nations Interregional Crime and Justice Research Institute, UNICRI)
- Building Trust in AI: Mitigating the Effects of AI-induced Automation on Social Stability in Developing Countries & Transition Economies⁴

Theme B: Building trust for beneficial AI – developer communities

- Cross-cultural comparisons for trust in AI – Dr.KantaDihal (Leverhulme Centre for the Future of Intelligence, Cambridge)
- Global AI Narratives – Prof. David Danks (Carnegie Mellon University, CMU)
- Cross-national comparisons of AI development and regulation strategies: the case of autonomous vehicles

³ <https://news.itu.int/challenges-and-opportunities-of-artificial-intelligence-for-good/>

⁴ https://www.itu.int/en/itu/news/Documents/2017/2017-01/2017_ITUNews01-en.pdf

Theme C: Building trust for beneficial AI – trustworthy systems

- Trust in AI for governmental decision-makers – Dr. Rumman Chowdury (Accenture)
- Trustworthy data: creating and curating a repository for diverse datasets. Dr. Krishna Gummadi (Max Planck Institute, Saarbrücken) and Dr. Adrian Weller (Leverhulme Centre for the Future of Intelligence, Cambridge and Alan Turing Institute, London)
- Cross-cultural perspectives on the meaning of ‘fairness’ in algorithmic decision making.

CHAPTER THREE

3.0 OBSERVATIONS

The delegation observed that:-

1. Unrestrained AI innovation could threaten international stability, global security, and possibly even humanity’s survival. And, because many of the pertinent technologies have yet to reach maturity, the risks associated with them have received scant attention on the international stage.
2. One area in which the risk of AI is obvious is electioneering. Since the epochal June 2016 Brexit referendum, state and nonstate actors with varying motivations have used AI to create and/or distribute propaganda via the internet. An Oxford study on *Junk News and Bots during the French Presidential Election (2017)*⁵ found that during the recent French presidential election, the proportion of traffic originating from highly automated Twitter accounts doubled between the first and second rounds of voting.
3. Another major AI risk lies in the development and use of lethal autonomous weapons systems (LAWS). After the release of a 2012 Human Rights Watch report, *Losing Humanity: The Case Against Killer Robots*, the United Nations began considering including restrictions on LAWS in the Convention on Certain Conventional Weapons (CCW). Meanwhile, both China and the United States have made significant headway with their autonomous weapons programs, in what is quickly escalating into an international arms race. Since autonomous

⁵ <https://comprop.oii.ox.ac.uk/wp-content/uploads/sites/93/2017/04/What-Are-French-Voters-Sharing-Over-Twitter-v10-1.pdf>

weapons might lower the political cost of conflict, they could make war more commonplace and increase death tolls.

4. Another possibly greater risk is that of artificial general intelligence (AGI). While current AI programs are designed for specific, narrow purposes, future programs may be able to apply their intelligence to a far broader range of applications, much as humans do. An AGI-capable entity, through recursive self-improvement, could give rise to a superintelligence more capable than any human—one that might prove impossible to control and pose an existential threat to humanity, regardless of the intent of its initial programming.

4.0 RECOMMENDATIONS

The Committee recommends the following, that

1. Artificial Intelligence can help analyze enormous volumes of data, which in turn can improve predictions, prevent crimes and help government's better serve people. But there are also serious challenges, and ethical issues at stake. There are real concerns about cyber security, human rights and privacy, not to mention the obvious and significant impact on the labour markets. The implications for development are enormous and the government through the Ministry of Information, Communication and Technology should strive to embrace AI for Good.
2. Kenya stands ready to be a universal platform for discussion on AI. Kenya will have to make sure that Artificial Intelligence will be used to enhance human dignity and serve public good.
3. The Government through the Ministry of Health should embrace AI for the attainment of its Big 4 Agenda and particularly in the attainment of universal health care. AI can be used to monitor health conditions at a greater frequency and lower cost as more information about the health status of individuals becomes digital in a systematic manner.

THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION

MEMBERS ADOPTION LIST

Report on 2nd Artificial Intelligence For Good Global Summit Held at ITU Headquarters in Geneva, Switzerland from 15th-17th May 2018.

11th October 2018

NO.	NAME	SIGNATURE
1.	Hon. Kisang, William Kipkemoi, M.P - Chairperson	
	Hon. George, Macharia Kariuki, M.P - Vice – Chairperson	
3.	Hon. Liza, Chelule Chepkorir, M.P.	
4.	Hon. Alfah, O. Miruka, M.P.	
	Hon. Annie Wanjiku Kibeh, M.P.	
6.	Hon. Joshua Kimilu, Kivinda, M.P.	
7.	Hon. Marwa Kitayama Maisori, M.P.	
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17.	Hon. Godfrey Osotsi, Atieno, M.P.	
18.	Hon. Innocent Momanyi, Obiri, M.P.	
19.	Hon. Anthony, Tom Oluoch, M.P.	

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

PRESENT

1. **Hon. William Kipkemoi, M.P.** -Chairperson
2. **Hon. George Macharia Kariuki, M.P.** -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 26th February to 1st 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 7th to 9th March, 2018 was adopted having been proposed by Hon.Ersatus Kivasu,MP and seconded by Hon.Mwambu Mabongah,MP
- (iii)Report on 2nd Artificial Intelligence For Good Global Summit Held at ITU Headquarters in Geneva, Switzerland from 15th-17th 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 7th - 12th April was adopted having been proposed by Hon.Jonah Mburu,MP and seconded by Hon.William Kisang,MP

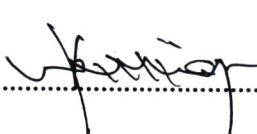
It was resolved to adopt the following two reports during the next meeting:-

- (i) International Broadcasting Convention Conference held in RAI Amstredam, Netherlands on 13th to 17th September, 2018
- (ii) World Summit on the Information Society (WSIS) Forum held in Geneva, Switzerland on 19th to 23rd March, 2018

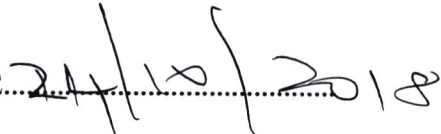
MIN.NO/NA/CII/2018/314 ADJOURNMENT

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

SIGNED.....



DATE.....



HON. WILLIAM KISANG, MP- CHAIRPERSON