KICTAnet
KENYA ICT ACTION NETWORK

Review and analysis

Of

THE KENYA INFORMATION AND COMMUNICATIONS BILL 2006

Contact

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1.0   Context and background

The Ministry of Information and Communications has published the Kenya Information and Communications Bill 2006 in Feb 2006. The Ministry developed the Bill 'to provide for the institutional and legal framework required to implement the National Information and Communications Technology Policy (NICTP)'. This National Information and Communications Technology policy was approved by the Cabinet in January 2006.By publishing the Bill the Ministry is seeking comments to enrich the Bill but most importantly create awareness of the opportunities that the Bill seeks to create for the country.

In 2004/5 when the Ministry invited comments on the draft NICTP,   Kenya ICT Action Network (KICTAnet) took the initiative   to coordinate comments on the policy and prepared a document was a critical input to the policy formulation process. Based on the experience gained in collating the input to the policy process, KICTANET intends to use its infrastructure of wide ICT stakeholder membership to contribute to the Bill review using the same format. KICTAnet intends to therefore create an infrastructure to coordinate and collate views from a wide stakeholder perspective   and then present proposals at   appropriate levels for attention. This is an invitation for comments from all stakeholders .

2.0   About KICTAnet

The Kenya ICT Action Network (KICTANet) was created in October 2004 and currently comprises over 50 organisations and networks of ICT initiatives in the country. It is a multi-stakeholder network with members from the private sector, civil society, media, academia, development partners and government. It is a network of committed volunteers from organisations, networks and groups, who believe in collaborative policy advocacy activities and the sharing of resources and skills. The advocacy activities are focused on the development and use of ICT to support poverty reduction and the transformation of livelihoods. For the past year, KICTANet has acted as a central meeting point and platform for collaboration and activity for various stakeholders (media, civil society, private sector, development partners and government) interested in greater and more affordable access to Internet and Communications Technologies (ICTs) and services in Kenya.

The multi-stakeholder model for advocacy and input in ICT policy has proven to be very effective. For the 2 years that the Network has been in operation, members have contributed time, provided in-kind and cash contributions as required implementing activities.

The Catalysing Access to ICTs in Africa (CATIA) through the Association for Progressive Communications (APC) acts as the convenor of the network.

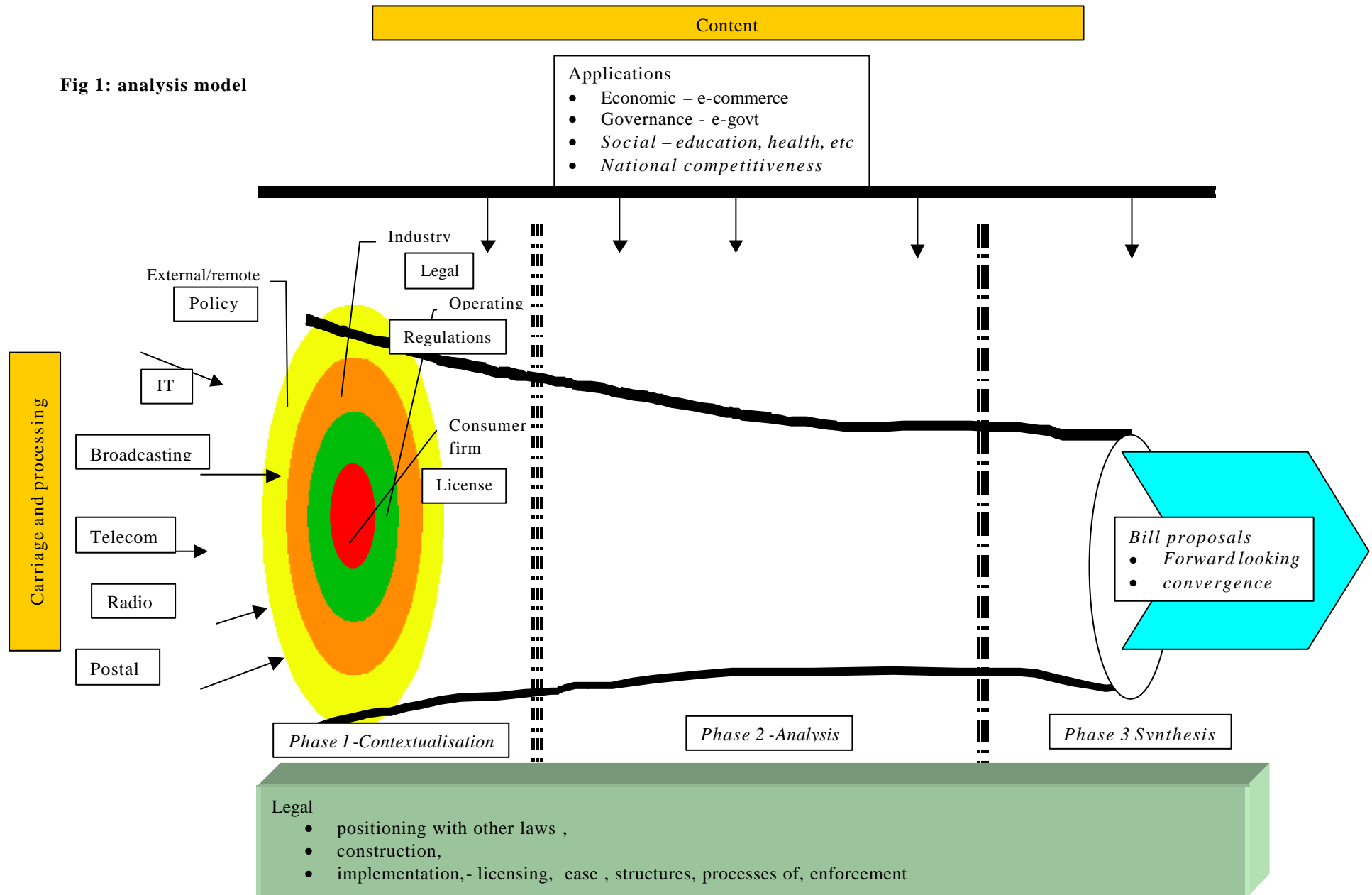Objective s of the Kenya ICT Action network are:

- To improve the effectiveness of ICT policy advocacy work by expanding base for support of ICT initiatives, providing support for members actions and audience for members ideas
- Encourage engagement in mutually supportive activities for lasting change
- Facilitate effective dissemination channels regarding the ICT policy process to keep everyone updated on what is going on in the sector
- Provide access to varied and multiple resources/skills
- Pool limited resources for the common goal to achieve effects that single organisations cannot
- Form a nucleus for action and attract other networks
- Link organisations and networks working at the community level to those specialised and working in the broader political space

It is this resource that KICTAnet used to support the Policy formulation and intends to create similar synergy to enrich the Bill.

3.0 Bill review context

KICTAnet will use a three dimensional approach selected to take into account the central role of the ICT in positioning Kenya into the emerging information society. These dimensions are illustrated in Fig 1. The dimensions comprise of the carriage and processing system, content and applications and finally the environment of supply and consumption and are illustrated in Fig 1

Fig 1: analysis model

Content

Applications
- Economic – e-commerce
- Governance - e-govt
- *Social – education, health, etc*
- *National competitiveness*

Carriage and processing

External/remote

Policy

IT

Broadcasting

Telecom

Radio

Postal

Industry

Legal

Operating

Regulations

Consumer firm

License

Bill proposals
- *Forward looking*
- *convergence*

Phase 1 -Contextualisation

Phase 2 -Analysis

Phase 3 Synthesis

Legal
- positioning with other laws ,
- construction,
- implementation,- licensing, ease , structures, processes of, enforcement

3.1 Carriage and processing system

This dimension (X) addresses the means, mechanisms or technologies to capture, process and transfer data from a source to the end consumer as illustrated in the fig 1. The technologies illustrated in   Fig 1 are borrowed from   the Bill and include   Information Technology, broadcasting, telecommunications, radio and postal services. It can be argued that this may not be comprehensive an issue that will be part of the review process.

3.2 Content and applications

This dimension (Y) relates to the value that needs to be captured and transferred by the carriage system and processing infrastructure. In our model this is the vertical dimension from top to bottom along the carriage system. This comprise the content for e-learning, e-governance, e-commerce , telemedicine etc

3.3 Environment of the supply ICT services

This third dimension (Z)   breaks down the framework influencing the supply and provision of services into   four layers. At the core is the **consumer on one hand and the firm supplying services**. The firm could be the ISP, telecom operator, or broadcasting station. These service providers and the consumer are within pre-defined **operating environment**. This is also set within the context of many players contributing in a value chain within the ICT **industry**. Finally, the industry is set within a context an **external/remote** environment outside ICT to which it serves. Thus the ICT industry has to respond to the socio-economic dynamics of Kenya   as well as the political needs to address poverty, wealth creation etc.

At the same time, ICT industry has to take into account the changing international trends in the emerging information society. Within this context of layering, we recognize that the society has defined tools to organize activity at every layer. At the core the behaviour/operation of the firm is defined by **licenses** issued by Communications Commission of Kenya (CCK), while at the operating level the service providers are defined by **Regulations** issued by the Minister in terms of Kenya Communications Act of 1998 and at the industry level   this is currently regulated by the **Kenya Communications Act 1998.** External environment which shaped the role of ICT is defined by the **National ICT Policy** published in Jan 2006. Other published government policies as well as international trends may define the policy and thus required a change in the other documents. The final Bill is a trade –off of what it should carry and what should be properly in the Regulations, licences and even the policy

These three dimensions will help to incisively and comprehensively review the Bill with a view to contribute on

- the context and the philosophy of the Bill and who is the audience
- whether it adequately provides Kenyans with a framework to exploit   ICTs now and in the near future,
- whether the Bill construction lends itself easy for implementation cost effectively

- whether there are conflicts with other laws and finally,
- whether the structures created by the Bill have the capacity to implement and are properly funded.

4.0 Bill review approach

In order to realise a comprehensive review, the review process is divided into three phases as shown in fig 1

4.1 Contextualisation

In this phase, the team will undertake literature review as well as capture experiences from broad sources on expectations of Kenyans, international trends and experiences. A key document is the National ICT Policy. This information will seek to define the context of the Bill and therefore define what should/should not be in the Bill or belongs to other documents e.g. regulations, licences etc

4.2 Analysis

In this phase the team will map the context to the Bill and determine what needs to be done to enrich the bill. This may be add/delete or leave as is.

4.3 Synthesis

In this phase, the team will make proposals with justifications of the Bill that enhances it to be forward looking and takes into account convergence among other critical parameters

5.0 Stakeholder involvement

KICTAnet's mission is to work for the good of all Kenyans in its area of expertise of ICTs. In doing this, a cornerstone for its activity is wide stakeholder consultation to ensure ownership of the process and product, consequently this is an open process that will seek wide stakeholder involvement. A lot of this involvement is through internet due to cost constraints augmented by peer review workshops and a national workshop

This will be achieved through the following steps

- the core team that operates openly
- each theme will have a mailing list to post issues
- a half day workshop is scheduled on May 12th to present findings , this will also be a peer review process
- a national workshop towards the end of May to present the final proposals

Among the key stakeholders to be involved in the process is the Ministry of Information and Communications among other government agencies

6.0 Resources

Key resource for the process is the Kenya National Information and Communications Policy published in Jan 2006, the Bill itself and the guide to the Bill available at www.information.go.ke . Facilitators will review other relevant documents as may be necessary

7.0 The Bill Review Facilitation Team

KICTAnet has identified a team of facilitators to coordinate review, animate discussions and collate the views. To facilitate the process the theme based mailing lists have been established to post comments as below

theme	facilitator	email	Mailing list address
Telecommunication	Muriuki Mureithi:	mureithi@summitstrategies.co.ke	telcoms@kictanet.or.ke
Legal/regulatory	J N Kihanya Warigia Bowman:	kinyajn@yahoo.com warigiabowman@hotmail.com	legal@kictanet.or.ke
Social dimension and gender,	Dorcas Muthoni:	dmuthoni@openworld.co.ke	social@kictanet.or.ke
Broadcasting/media	Grace Githaiga	ggithaiga@hotmail.com	media@kictanet.or.ke
Academic	Victor Kyalo	vkyalo@kenet.or.ke	
Internet and information technology	John Walubengo	JWALUBENGO@kcct.ac.ke	internet@kictanet.or.ke
Economics	Ndungu G Kimani	ndungu@ieakenya.or.ke	economics@kictanet.or.ke
			postal@kictanet.or.ke
Technical support	Catherine Adeya:	n_awino@hotmail.com	
	Alice Munyua	alice@apc.org	

Those interested in contributing to the process are requested to post comments to the relevant mailing list or contact the facilitator directly.

8.0 Timeline

The team expects to complete phase one on April 19th and commence on phase two and review the progress of the phase two on May 10th. On May 12th the team will organise a half day peer review workshop to present its work. Following the review, a national workshop is due to be held in the last week of May or early June.