



Kenya report on intermediary liability, August 2012.  
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## Introduction

Internet access in Kenya has increased exponentially and is now estimated at 11.8<sup>1</sup> million users, at over 28.7<sup>2</sup>% of the population. According to a report by market research firm, TNS RMS, *77% of Kenyan Internet users access the Internet via their mobile phones*<sup>3</sup>, others access through Internet service providers, data processing and web casting providers. Companies such as Access Kenya, Kenya Data Networks and Wananchi - are transforming into tier two and three companies by offering converged voice, data and video/entertainment data services and rolling out national and municipal fiber backbones and wireless broadband access networks. A Kenya ICT Board<sup>4</sup> report on how Kenyans use the Internet, notes that most Kenyan Internet users go online everyday mainly to communicate and search for information. Internet intermediaries play a critical role in facilitating this sharing and exchange of information and knowledge.

According to the OECD (2011, p.21), 'Internet intermediaries bring together or facilitate transactions between third parties on the Internet. They give access to, host, transmit and index content, products and services originated by third parties on the Internet or provide internet based services to third parties.' Further, OECD (2010, p. 9) identifies Internet intermediaries to include 'Internet access and service providers (ISPs), data processing and web hosting providers including domain name registrars, internet search engines and portals, internet payment systems, e-commerce intermediaries and participative networking platforms which include internet publishing and broadcasting platforms that do not themselves create or own content being published or broadcast'.

From a Kenyan perspective, it is important to consider mobile service providers as intermediaries since mobile telephony continues to set the stage for adoption of Internet access even though they are regulated under telecom laws. The Communications Commission of Kenya introduced a Unified technology neutral licensing and regulatory framework for the ICT sector in 2009, under which the following 3 categories are Internet intermediaries.

<b>Network Facilities Provider (NFP)</b>	Can own and operate any form of communications infrastructure (e.g. satellite, terrestrial, mobile, or fixed)
<b>Applications Service Provider (ASP)</b>	Provides all forms of services to end users using the network services of a facilities provider
<b>Contents Services Provider (CSP)</b>	Operates content platforms for information services, Data processing services, IPTV, Premium Rate, etc.

<sup>1</sup> [http://www.cck.go.ke/resc/downloads/SECTOR\\_STATISTICS\\_REPORT\\_Q3\\_JUNE\\_2012.pdf](http://www.cck.go.ke/resc/downloads/SECTOR_STATISTICS_REPORT_Q3_JUNE_2012.pdf) (page 6)

<sup>2</sup> Ibid. Page 27

<sup>3</sup> <http://www.cio.co.ke/news/top-stories/Digital-life,-Kenya-findings/>

<sup>4</sup> Julisha: Kenya ICT Market Survey Report 2011

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Source:[http://www.cck.go.ke/links/consultations/closed\\_consultations/unified\\_licensing.html](http://www.cck.go.ke/links/consultations/closed_consultations/unified_licensing.html)

Internet intermediaries play a role in shaping how Internet users perceive and manage their personal information. By providing access and understandable privacy options, backed up by privacy friendly default settings that allow users to stay anonymous, Internet intermediaries can help users to control their personal data (OECD, 2010, p. 42). Hosting providers facilitate forums for expression, which are open and mostly free of charge. This openness means that some users will post content that is unlawful or offensive but in the same breath this can be looked at as enabling individuality and self-expression.

According to the Centre for Democracy and Technology (2010, p. 1) 'Intermediary liability arises where governments or private litigants can hold Internet intermediaries liable for unlawful or harmful content created by users of their services.' Unlawful or offensive content can result in litigation for Internet intermediaries since they are the easiest to deal with considering they have an office, an address, and a bank account. According to the OECD (2010), however, Internet intermediaries facilitate the dissemination process as opposed to making decisions on what content passes through their infrastructure. The role of Internet intermediaries as well as their limitations on enabling communication and facilitating information flows has recently placed a policy focus on Internet intermediaries

### **Internet Service Providers**

The Internet Service Providers (ISPs) industry is competitive. There are 72 licensed ISPs of which about half are operational.<sup>5</sup> The mass market is controlled by mobile telecom companies and thus harder to penetrate. The cost of deployment/setting up shop is high. Further, there are several licensing requirements needed before starting a business in Kenya.

ISPs are required to register with the Communications Commission of Kenya. The licensing regulations are found under the Kenya Information and Communication Act<sup>6</sup> (s. 24 and 25), and the Kenya Information and Communications (Licensing and Quality of Service) Regulations 2010. CCK operates a Unified Licensing Framework (ULF). Applicants are required to provide the commission with information in the prescribed forms that include: registration/identification documents (entities should be registered in Kenya, information on shareholding (20% to be held by Kenyans on or before the end of 3 years after receipt of license), directors etc.), contact information (registered offices and premises), detailed business plans (where applicable), details of experience in managing proposed services/activities, any other relevant information e.g. evidence of tax compliance. Applicants must also pay the

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<sup>5</sup> See: <http://www.internetworldstats.com/af/ke.htm>

<sup>6</sup> See: <http://www.cck.go.ke/regulations/downloads/Kenya-Information-Communications-Act-Final.pdf>

prescribed fees after which the applications will be considered and response given within 135 days.

The legislation encourages self-regulation, since the existing legislation may not be exhaustive or comprehensive in all cases. In light of this, Kenya has an industry association- Telecommunications Service Providers Association of Kenya (TESPOK)<sup>7</sup> a professional, non-profit organization representing and advocating for the interests of Telecommunication service providers in Kenya established in 1999. TESPOK is not recognized in regulation. However, it plays a key role as stakeholder in policy and legislation development processes.

The Kenya ICT Action Network (KICTANet) and the Telecommunications Service Providers Association of Kenya (TESPOK) introduced, and are spearheading debate, including research on intermediary liability.

The first series of debate was introduced by KICTANet's discussions on Internet Governance during the Kenya Internet Governance Forum (KIGF-2012), which begun with mailing list discussions conducted on three mailing lists, KICTANet, Skunkworks and ISOC-Kenya Chapter. The Kenya and East Africa IGF's held in August held sessions that introduced the issue for the first time.

## **Constitutional and Legislative Environment**

### **The Constitution**

The Constitution of Kenya 2010 is the country's supreme law. Other laws applicable in Kenya include: statute and subsidiary legislation, customary law, English common law, the doctrines of equity and English statutes,<sup>8</sup> the general rules of international law and treaties and conventions ratified by Kenya, provided that they are not inconsistent with the Constitution, for which they shall be void to the extent of the inconsistency.<sup>9</sup>

This Constitution, replaced Kenya's old Constitution upon its Promulgation in August 2010. It also introduced far-reaching changes to the governance of the Country, most notably; the devolution of power and separation of Sovereign power with an independent Judiciary, an Executive and Parliament; with the latter two having devolved structures and legislative assemblies respectively, in each of the 47 counties across the country.

The Constitution, in its Bill of Rights<sup>10</sup> provides protection for the rights of both Consumers and Intermediaries alike. However, and subject to stated limitations, it also creates duties and responsibilities on all persons, the breach of which would give

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<sup>7</sup> See: <http://www.tespok.co.ke/>

<sup>8</sup> Those in force in England on the 12<sup>th</sup> August 1897

<sup>9</sup> Article 2, Constitution of Kenya, 2010

<sup>10</sup> Chapter 4, Constitution of Kenya 2010

rise to various forms of liability. These include among others: Article 31, which guarantees the right to privacy; Article 32, which guarantees freedom of conscience, religion and opinion; Article 33, which guarantees freedom of expression Article 33 “(2): the right to freedom of expression does not extend to—

(a) Propaganda for war; (b) incitement to violence; (c) hate speech; or (d) advocacy of hatred that— (i) constitute ethnic incitement, vilification of others or incitement to cause harm; or (ii) is based on any ground of discrimination specified or contemplated in Article 27 (4). (3) In the exercise of the right to freedom of expression, every person shall respect the rights and reputation of others.”

Article 34, which guarantees freedom of the media; Article 35, which provides for the right of access to information; Article 46, which provides for the rights of consumers; Article 47, on the right to fair administrative action; Article 48, which guarantees access to justice and Article 50, which guarantees fair hearing to all persons.

## **Legislative and Regulatory Environment**

### **Proposed Legislation**

Kenya has several bills that refer to intermediary liability. These include the Consumer Protection Bill 2011, Freedom of Information Bill 2012 and the Data Protection Bill 2012.<sup>11</sup>At the time of writing, the bills are undergoing internal review and stakeholder consultation, a process being spearheaded by the Commission for the Implementation of the Constitution (CIC).<sup>12</sup>Further, the Consumer Protection Bill 2011 may come into force earlier than the other two as it is already before Parliament<sup>13</sup>and the Constitution stipulates that it must be passed before 2014.<sup>14</sup> Moreover, while there is no specific date when the latter two bills will come into force, it is expected that they shall be presented to Parliament within a year of their publication or soon thereafter.

The Consumer Protection Bill provides for consumer rights and warranties, regulates consumer agreements and unfair trade practices in consumer transactions, provides remedies to consumers, and establishes a Consumer Protection Agency. The Freedom of Information Bill provides for a framework for the implementation of the right to access to information held by the state, while the Data Protection Bill seeks to regulate the collection, processing, storage and use of personal information. However, while the bills are silent on, and do not directly define Internet intermediaries, they do give rise to new rights and duties which would in effect, amount to the introduction of new forms of liability.

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<sup>11</sup> <http://cickenya.org/legislation?page=3>

<sup>12</sup> This is an Independent Constitutional Commission whose function is to monitor, facilitate, coordinate and oversee the development of the legislation and administrative procedures required to implement Kenya’s 2010 Constitution.

<sup>13</sup> Bill Tracker, 24<sup>th</sup> July 2012, Kenya National Assembly. Retrieved from:

[http://www.parliament.go.ke/index.php?option=com\\_docman&task=doc\\_download&gid=1889&Itemid=](http://www.parliament.go.ke/index.php?option=com_docman&task=doc_download&gid=1889&Itemid=)

<sup>14</sup> Fifth Schedule, Constitution of Kenya, 2010,

## Legislation possibly affecting intermediary liability

Legislation governing intermediaries and circumstances under which they are liable include among others:

1. The National Cohesion and Integration Act<sup>15</sup> of 2008 - s.62 makes liable any newspaper, radio station or media enterprise for publishing any utterance which amounts to the offence of ethnic or racial contempt. .
2. The Sexual Offences Act<sup>16</sup>- makes any person liable under - s.12 for the promotion of sexual offences with children through the manufacture, distribution, supply or display of articles or content; under s.14. for the promotion of child sex tourism; and under s.16 for the distribution of child pornography.
3. The Kenya Information and Communication Act<sup>17</sup>- s. 31, makes a licensed telecommunication operator liable should they intercept, or disclose the contents of messages sent through their telecommunication systems outside the course of their business. Also, s. 84 makes any person liable for the publication or transmission of obscene information.
4. The Penal Code<sup>18</sup> - s.194 makes a person liable for defamation if they publish or convey defamatory material. In addition, in s.117, it criminalises any act, which in any way interferes or prevents the execution of any legal process.
5. The Copyright Act<sup>19</sup>- s.35 creates liability on any person for the violation of any copyrights, and this includes among others, the distribution, broadcast and the availing to the public of protected works without the licence or consent of the copyright owner. Under the Act, a plaintiff shall not be entitled to damages where defendant was not aware that the works to be infringing, and had no reasonable grounds for suspecting the subsistence of copyright in the works so infringed.
6. The Trademark Act<sup>20</sup>- s.7 outlaws the use of identical or near resembling marks likely to deceive or create confusion.
7. The Industrial Property Act<sup>21</sup>- creates liability for the facilitation of patent infringement.

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<sup>15</sup> Act No. 12 of 2008

<sup>16</sup> Act No. 3 of 2006

<sup>17</sup> Cap 411A (Rev. 2009)

<sup>18</sup> Cap 63 (Rev. 2009)

<sup>19</sup> Act No. 12 of 2001

<sup>20</sup> Cap 506 (Rev. 2009)

<sup>21</sup> Act No. 3 of 2001

## Obligations of intermediaries

Intermediaries are responsible for filtering, removing and blocking content that is considered illegal. However, they have no obligation to monitor content/data traffic on their networks unless they are made aware of an illegal/unauthorized content or activity. It is important to note that as stated above, the interception of messages or the disclosure of their content is criminal.<sup>22</sup> While it is not clear whether intermediaries face pressure from government or powerful interest groups to police online behavior, the influence of government agencies or their power cannot be underestimated or overlooked.

In addition, there are no laws that impose penalties on service providers for failing to block or remove content. Moreover, no legislation currently provides safe harbour provisions or similar provisions; although common law defences may be applicable should such matters go before court. On the same vein, there are no stated take down laws, policies or procedures, hence the main remedy remains court-sanctioned orders.

### A self-regulatory environment?

As a result, intermediaries strive to conform to existing laws and regulations and adhere to take down requests once they have been informed of the infringing material, in addition to taking proactive actions, which may serve to mitigate or avoid liability. Therefore, they will remove content deemed as hate speech, obscene material, copyrighted, or patented once they are informed or become aware, mostly to avoid adverse action against them, especially since unclear legislation may in some cases e.g. copyright and hate speech, present the possibility of interpretation that may give rise to liability.

Given the circumstances, service providers rely heavily on their customer service agreements and policies to enforce compliance with the law. Such agreements for example, state the actions that would lead to the suspension or termination e.g. use of the services for illegal purposes.<sup>23</sup> Unfortunately, these internal administrative processes are oft subjectively applied and are neither regulated nor accord to any cohesive set of agreed upon principles or norms. . However, it is worth noting that most service agreements make provision for parties to seek legal recourse through arbitration<sup>24</sup> or mainstream Courts as alternative avenues to resolve disputes arising under the agreements.

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<sup>22</sup> Per s.31 of the Kenya Information and Communication Act, the term intercept includes listening to, or recording a function of a computer, or acquiring the substance, its meaning or purport of such function.

<sup>23</sup> Terms and Conditions of the Safaricom Domain Name Registration and Web Hosting Service. Available at: <http://domains.safaricom.co.ke/terms.pdf> Accessed 28 August 2012

<sup>24</sup> Under the Arbitration Act No. 4 of 1995

## Hate speech

Most of Kenya's previous elections since 1992 have been characterized by inter-ethnic violence among various local communities. The most recent was the 2007-2008 post-election violence where it was reported by an inquest following the violence that 1,133 persons died, 3,561 were injured, and more than 350,000 were displaced.<sup>25</sup> The inquiry revealed that hate speech, distributed through channels such as email, SMS, FM Radio and TV broadcasts, played a key role in fanning the violence that ensued.

Following this, the National Cohesion and Integration Act was passed by Parliament in 2008, to among others, regulate and stem the spread of hate speech. One of its key provisions, s.62, holds liable any media enterprise for publishing any utterance, which amounts to hate speech. While this provision can be invoked to remove or block content including online content, it has also been useful in promoting proactive action by service providers and other state agencies in monitoring and stemming the spread of hate speech. Such action has become increasingly important not only because of the increased usage and access to mobile telephony and the Internet across the country, but also to avert possible recurrence of violence as the country approaches the next general elections, scheduled for March 4<sup>th</sup> 2013.

Notably, organizations like the Nation Media Group have since put in place guidelines on blogging coupled with moderation of all comments on its websites in an effort to curb the spread of hate speech.<sup>26</sup> In addition, mobile phone service provider Safaricom has in the recent past, released guidelines for political mobile advertising on its premium rate-messaging network.<sup>27</sup> Furthermore, the industry regulator Communications Commission of Kenya (CCK) has also released for comments from the public, proposed guidelines for political messages.<sup>28</sup>

More importantly, it must be stated that given the current state of affairs, the true extent of the liability of intermediaries is not clear and such it must be assessed on a case by case basis.

## Institutions

Several institutions are relevant to intermediaries in Kenya. They are:

- The Communications Commission of Kenya (CCK), which was established in 1999 as a semi-autonomous regulatory authority. It carries out several functions within the communication industry such as licensing and regulation of

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<sup>25</sup> Report of the Commission of Inquiry into Post-Election Violence, 2008. Available at: <http://wlstorage.net/file/wakireport-2008.pdf> Accessed 17 September 2012

<sup>26</sup> See: <http://www.nation.co.ke/meta/-/1194/1132038/-/88lbspz/-/index.html>

<sup>27</sup> See: <http://bloggers.or.ke/safaricom-issues-tough-guidelines-for-political-messaging/>

<sup>28</sup> See:

[http://www.cck.go.ke/links/consultations/current\\_consultations/National\\_Guidelines\\_for\\_Bulk\\_Political\\_SMS\\_-\\_Draft.pdf](http://www.cck.go.ke/links/consultations/current_consultations/National_Guidelines_for_Bulk_Political_SMS_-_Draft.pdf)

the industry; management of the country's frequency spectrum and numbering resources; development of e-commerce; approval of communication equipment; consumer protection; tariff regulation; and management of the universal access fund.

- Kenya Copyright Board which was established in 2001 and is mandated to administer and enforce copyright and related rights in Kenya. Its functions include administration, coordination and oversight of implementation of copyright legislation; regulation of collective service management societies; training; civic education and maintaining a data bank of authors and their works.
- Kenya Industrial Property Institute (KIPI) is a government parastatal established in 2002. Its functions include among others: the administration of industrial property rights i.e. patents, utility models, industrial designs and technovations; provision of technological information to the public; promotion of invention and innovation and the provision of training on industrial property.
- The National Cohesion Integration Commission (NCIC) was established in 2008 as an independent body to spearhead national reconciliation, cohesion and integration and to eliminate discrimination especially ethnic, racial or religious discrimination after Kenya went into post-election violence.
- The Competition Authority was established in 2010 as an independent body and its mandate is to promote and safeguard competition in Kenya and to protect consumers from unfair or misleading conduct through the enforcement of the law. Functions include: compliance, investigation, public education, etc.
- The Central Bank of Kenya was established in 1966 to implement Kenya's monetary policy and ensure the stable functioning of the country's financial system. In addition, the bank is responsible for the licensing and supervision of authorised dealers, and the regulation and supervision of payment, clearing and settlement systems.

The Kenya Film Classification Board (KFCB) is the public regulator of films destined for public exhibition, distribution and broadcasting in Kenya. Its functions include examining, rating and approving films according to age suitability. It gives advice, having due regard to the protection of women and children against sexual exploitation or degradation in cinematograph films and on the Internet. Further, it issues licenses and certificates to distributors and exhibitors of films in the country and develops guidelines to be applied in classification and ratings of films.

### **Extra Legal**

In Kenya, there are no regulatory frameworks that place a requirement on intermediaries to police online behavior. However, most intermediaries cooperate

with law enforcement, despite the absence of legislation on due process. Further, there is no evidence that intermediaries have had pressure from government or corporate actors to give preference to certain type of content although they do throttle speeds and enforce data caps based on their fair use principles.

Corporate agreements between service providers and media companies do not oblige intermediaries to police the use of content and to punish infringements on intellectual property. However, the user agreements include clauses which outlaw the conduct of unlawful activity by users while also indicating the service provider readiness to cooperate with law enforcement agencies should the outlawed conduct/activity be detected or reported.

### **Take Downs, appeals and legal cases**

The Duncan Muriuki vs Baobab Beach Resort and Spa (2012) court case is ongoing.<sup>29</sup> On May 29, Muriuki complained that some words published by the hotel on its Face book page were defamatory. The comments Muriuki complained about were posted on the beach resort's Face book page after a dispute between him and the management of the hotel on alleged denial of entry to the hotel. At the interlocutory stage, an order was obtained mandating the respondent to remove infringing content that had been posted on the said Facebook page.

More recently, in July 2012, a book, "Peeling Back the Mask", by Miguna Miguna was the subject of a copyright infringement claim.<sup>30</sup> The book, according to the author, was released as a soft copy in PDF to the Nation Media Group for serialization in its daily, the *Daily Nation*. Following this, email, web, and social networking sites such as Twitter circulated copies of, and links to the book within days of the launch of the book.

However, a cursory search online conducted in September 2012, reveals that some of the websites that had, or were linked to the said book had since deactivated them following take down requests, notably under the US Digital Millennium Copyright Act,<sup>31</sup> which is indeed indicative of a response to legal action. Moreover, the matter does highlight some of the challenges posed to the role of intermediaries and to the law with regard to Internet distribution of content and more so on the question of jurisdiction and the conflict of laws, since most internet hosts are not locally based companies.

### **The Mobile Internet**

There is no legislation applied differently to the mobile Internet. However, the adoption of mobile Internet usage has to some extent changed the intermediary

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<sup>29</sup> See: [http://www.standardmedia.co.ke/?articleID=2000059762&story\\_title=Judge-faults-hotel-for-ignoring-order-on-Facebook-posts](http://www.standardmedia.co.ke/?articleID=2000059762&story_title=Judge-faults-hotel-for-ignoring-order-on-Facebook-posts)

<sup>30</sup> Karongo C. (2012, July, 19). Miguna 'to sue NMG over copyright breach'. Capital News. Retrieved from <http://www.capitalfm.co.ke/news/2012/07/miguna-to-sue-nmg-over-copyright-breach/>

<sup>31</sup> See: <https://dl.dropbox.com/u/92492293/Peeling%20Back%20the%20Mask.pdf>. Accessed 17 September 2012

liability landscape. While the positions on liability remains unchanged, the increase in the number of users has brought to focus, the absence of, and gaps in existing legislation, as more people begin to interact more with the Internet. In addition, service provider contracts now provide extensively for exclusion of liability, and some e.g. Safaricom a local mobile phone service provider, have initiated preventative measures<sup>32</sup> i.e. screening SMSes meant for the masses especially as Kenya approaches 2013 general elections.

### **International Agreements**

So far, the government of Kenya does not have any commitments regarding intermediary liability pertaining to any international agreements. However, Kenya is a party to the Berne Convention for the Protection of Literary and Artistic Works and to the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), which contains requirements for national laws to meet copyright and specifies enforcement, remedies and dispute resolution procedures. Developing countries were allowed additional time to implement the applicable changes to their national laws, in two tiers of transition according to their level of development. The transition for least developed countries was extended to 2013. Further, review of legislation will therefore be required to take into account global developments since 2001, when the legal regime on intellectual property rights was last revised.

### **Defamation/Libel**

The Duncan Muriuki vs. Baobab Beach Resort and Spa (2012) - is an ongoing case on defamation and discrimination where the subject matter is posted on Face book. An interlocutory order has already been issued requiring the respondent to remove infringing posts from Facebook.

### **Conclusions**

Kenya continues to experience exponential growth in Internet use with mobile telephony enhancing the uptake. Internet intermediaries are among the key stakeholders in the development of the Internet. Their increasing influence as well as their evolving role continues to create debate regarding their liability in relation to illegal online activity and content, their role in facilitating the Internet's development, and creating a trusted online environment.

The new 2010 Constitution as the supreme law of the land and its bill of rights offers protection of consumers and intermediaries alike and further creates duties and responsibilities, the violation of which would give rise to liability. While there are several bills are under stakeholder review, which make reference to intermediary liability they do not define Internet intermediaries and conditions under which they would be held liable.

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<sup>32</sup> See:

<http://www.nation.co.ke/News/politics/Safaricom+issues+tough+guidelines+on+political+messages+/-/1064/1429144/-/95yclmz/-/index.html>

Nonetheless it is not clear if intermediaries face pressure from government or powerful interest groups to police online behaviour. What is clear that the influence of government's agencies cannot be underestimated or ignored.

## **Recommendations**

Some Internet intermediaries have been misused or engage in illegal and harmful activities and the government is rightly concerned about this. To address these legitimate policy concerns, there is a need to explore a variety of approaches, which may include legislation, co-regulation, various forms of self-regulation, offering users tools and guidance for content management, developing new business models, collaborating with law enforcement and responding promptly to notices of illegal activity and content.

Current laws in Kenya are reactive and there is need to ensure that the laws make clear provisions in relation to the Internet service providers and other Internet intermediaries

Intermediaries should therefore aim to engage proactively and take actions beyond just responding to specific requests. They should, through their business policies, notifying users of alleged wrongdoing and their rights and courses of action available with regards to takedown procedures. Intermediaries should but also actively engaging in policy processes.

Governments on the other hand need to provide a conducive policy and regulatory environment to facilitate the type of innovation and competitiveness that leads to socio-economic and political benefits as more people find innovative and creative ways to use the Internet. In developing policies, there is a need to involve all relevant stakeholders to encourage full range of views in creating policy regulatory solutions and to promote ownership and commitment by stakeholders in the implementation of the policies, due process, efficient notice and take down procedures with reasonable timeframes and lastly, clear definitions of the roles of intermediaries.

More research in this area is required to encourage informed policy development as well as to assess costs and benefits of various policy options.

In addition exploring new There is a need for discussion of new approaches to the intellectual property rights regime to address some of the challenges brought by the Internet including among others Peer to peer (P2P) and other forms of sharing online.