COUNTRY REPORT

MAPPING DIGITAL MEDIA:
KENYA

OPEN SOCIETY
FOUNDATIONS

Mapping Digital Media: Kenya

A REPORT BY THE OPEN SOCIETY FOUNDATIONS

WRITTEN BY

George Nyabuga (lead reporter)
Nancy Booker (reporter)

EDITED BY

Marius Dragomir and Mark Thompson (Open Society Media Program editors)
Aboubakr Jamaï (regional editor)

5 February 2013

Contents

Mapping Digital Media

The values that underpin good journalism, the need of citizens for reliable and abundant information, and the importance of such information for a healthy society and a robust democracy: these are perennial, and provide compass-bearings for anyone trying to make sense of current changes across the media landscape.

The standards in the profession are in the process of being set. Most of the effects on journalism imposed by new technology are shaped in the most developed societies, but these changes are equally influencing the media in less developed societies.

The **Mapping Digital Media** project, which examines the changes in-depth, aims to build bridges between researchers and policymakers, activists, academics and standard-setters across the world. It also builds policy capacity in countries where this is less developed, encouraging stakeholders to participate in and influence change. At the same time, this research creates a knowledge base, laying foundations for advocacy work, building capacity and enhancing debate.

The Media Program of the Open Society Foundations has seen how changes and continuity affect the media in different places, redefining the way they can operate sustainably while staying true to values of pluralism and diversity, transparency and accountability, editorial independence, freedom of expression and information, public service, and high professional standards.

The Mapping Digital Media project assesses, in the light of these values, the global opportunities and risks that are created for media by the following developments:

- the switch-over from analog broadcasting to digital broadcasting;
- growth of new media platforms as sources of news;
- convergence of traditional broadcasting with telecommunications.

Covering 60 countries, the project examines how these changes affect the core democratic service that any media system should provide—news about political, economic and social affairs.

The **Mapping Digital Media** reports are produced by local researchers and partner organizations in each country. Cumulatively, these reports will provide a much-needed resource on the democratic role of digital media.

In addition to the country reports, the Open Society Media Program has commissioned research papers on a range of topics related to digital media. These papers are published as the **MDM Reference Series**.

Mapping Digital Media: Kenya
Executive Summary

The new constitution of Kenya, promulgated in August 2010, is considered a major positive development in ensuring the free flow of information. It provides for freedom of media as a right and fundamental freedom. Section 34 guarantees the independence of electronic, print, and all other types of media but does not extend to any expression of propaganda for war, incitement to violence, hate speech, or advocacy of hatred.

The government has also pledged to enhance Kenya's technological infrastructure. It is working on "digital villages" to enable people even in remote parts of the country to access broadband internet. It has invested in the roll-out of fiber-optic cable throughout the country. The process started in 2009 when the cable connecting the country to the rest of the world reached the coastal city of Mombasa, promising faster internet connection at reduced costs.

Market forces are playing their part in allowing ordinary Kenyans to benefit from the new possibilities offered by digitization. Campaigns by mobile service providers Safaricom, Airtel, Orange, and Yu—offering cheap access to news and entertainment sites—have accelerated the uptake of such facilities. The development of news websites, in particular by media organizations like the Nation, the Standard, Capital FM, and KBC means that Kenyans are increasingly able to access digital news.

Kenyans in the diaspora are especially reliant on such platforms. In addition, the availability of user-controlled facilities such as Facebook and Twitter combined with news websites has increased the amount of information and the number of digital platforms accessible to Kenyans.

Stiff competition in the mobile phone market has lowered access costs. Young people with little disposable income can easily access mobile news outlets. An important milestone was the purchase of mobile phone service provider Zain by the Indian company Airtel in late 2010. By injecting more competition into the market, this move contributed to the rise in digital news consumption.

The significant increase in news diversity is a direct result of the convergence of internet, television, and radio on mobile platforms.

Urban-based media organizations are not the only beneficiaries of this trend. Community outlets such as Pamoja Radio, Radio Mang'elete, and Ghetto Radio often use digital technologies in their broadcasts. Even though these are small outfits, the use of mobile telephony means listeners are able to call in and discuss issues that affect them. As one journalist puts it: "Mobile phones have replaced reverse calls from booths."

Field bureaus are now connected and file their reports to their headquarters mostly in Nairobi, via intranet facilities. Newsrooms of the Nation Media Group, the *Standard*, and *The Star* are all connected via fiber-optic networks, making work processes easier and faster.

Available technologies have also changed and improved journalists' working habits. People working in newsrooms are now expected to be multiskilled. Whereas previously photographers accompanied reporters to the field, now reporters carry digital cameras and take their own pictures, particularly if the assignments are in far-flung areas.

The Kenyan media ecosystem does not escape the dark side of the internet. In online journalism, the virtues associated with ethics—accuracy, honesty, truth, impartiality, fairness, balance, respect for autonomy of ordinary people—are barely respected, largely because there is no effective way of policing this, and there are no legal penalties. While not confined to online platforms—unethical practices are present offline as well—the publication of dubious material involving trivialization, sensationalism, obscenity, vulgarity, racism, sexism, and homophobia is on the rise. There is often a failure to distinguish between privacy and secrecy.

Technology has contributed to the worst but also to the best of political and societal activism. Many people refer to the post-election violence of December 2007 and January 2008 as good examples of what technology can do. It is now acknowledged that the masterminds of the post-election violence used mobile telephony and more specifically Short Message Service (SMS) to engage their supporters in violence.

The 2010 referendum on the constitution was another good example of how mobile telephony and especially SMS can be used to mobilize people. Supporters and critics of the constitution regularly used texts to reach out to their fellow countrymen.

Kenyans have also taken full advantage of the enhanced communicative capabilities of new technology. One of the best-known digital activist groups is Ushahidi (Kiswahili for "testimony"). Ushahidi software was used to map trouble-spots during the post-election violence of late 2007 and early 2008 resulting from the bungled general election of December 2007. Ushahidi was used to post messages and pictures sent in by ordinary people using their mobile phones to track unfolding events and warn people of trouble-spots. Since then it has been used in different countries including Haiti, South Africa, and Democratic Republic of Congo

Another great example of the empowering effect of technology is Mzalendo. Mzalendo (Kiswahili for "patriot"), a Kenya Parliament Watchdog, has been used particularly during election periods to let citizens know about the performance of their representatives.

Concentration of ownership has increased in the last five years. For example in April 2012, the Nation Media Group added another media outfit, QTV, to its portfolio. Most of the mergers and consolidations of ownership in Kenya have been detrimental to pluralism and diversity. An increase in the number of outlets over the last couple of years has not made for a more pluralistic media landscape. In fact, most of these newcomers are extensions of existing media.

Kenya has witnessed a continued concentration of media in the hands of a few key influential people and politicians supported by the government. Politicians still dominate the sector, influencing content and the revenue streams available to media houses. They have even been aggressively buying out struggling media outlets such as K24, a television station, Milele FM, and the *People* newspaper. The existing oligopolies have political leanings. Along with the pursuit of profit, the political allegiances of most media outlets are the most detrimental factors for media diversity, pluralism, and independence.

Transparency in ownership of media has improved only slightly over the past five years. The government controls media licensing—a process that is shrouded in secrecy, so that it is difficult to establish who owns which media house.

The overall framework of policy and law is not yet adequate for digitized media in Kenya. This is because the existing overall framework of policy and law was formulated for the analog era. The switch-over strategy faces numerous challenges. A lack of resources to build the digital infrastructure is one of them. Another daunting obstacle is consumer ignorance of what the switch means. Lastly, there are serious concerns as to whether the public can afford the end-user devices that they need for their analog devices or the digital receivers.

The legal and regulatory framework of Kenyan broadcasting encourages diversity of news and information. The aim of the liberalization of the airwaves was to encourage more players and to bring on board private media outlets. However, the current players do not exhibit diversity in ownership and content.

The national ICT policy of 2006 committed the government to support and encourage pluralism and diversity. While this led to a proliferation of channels, it did not do much for content diversity, because of the level of concentration of media. However, the plan to allocate one television channel to every county may advance diversity and plurality, since counties will have to generate their own content and not rely on the government.

Context

Kenya is a multicultural country. Its population is now officially over 40.5 million, a majority of whom are under 15.[1] There are 42 official ethnic communities, and many people can speak at least three languages, namely English, Kiswahili, and their mother tongue. More than 67 percent of Kenyans live in rural areas where poverty levels are higher and the quality of services like education and health are lower. The total adult literacy rates in Kenya between 2005 and 2010 stood at 87 percent.[2] In terms of religion, Kenya is largely a Christian country, with 83 percent of the people professing some Christian faith.[3]

In the last decade Kenya has made great strides not only in terms of economic growth but also democratic governance and media freedom. It has also seen a significant growth in mobile phone uptake, with statistics showing that there were more than 29.7 million mobile phone subscriptions as of October 2012.[4] According to the Communications Commission of Kenya (CCK), this figure means mobile phone penetration in Kenya is now over 75 percent. The phenomenal growth in mobile telephony uptake in the last 10 years is attributable largely to the liberalization of the telecommunication sector, with the breakup in 1999 of the Kenya Posts and Telecommunication Corporation (a monopoly parastatal) into three entities: Telkom Kenya (fixed line operator), the Postal Corporation of Kenya (postal services), and the Communications Commission of Kenya (CCK), the regulatory body. This development led to falling call charges and handset costs, encouraging people to communicate and use other mobile phone services such as money transfer, payment of bills, and internet access.

Mobile phone uptake alone is now considered to have had a significant impact on the social, cultural, economic, and political lives of Kenyans. For example, statistics indicate that millions of Kenyan shillings were transferred using the mobile money transfer services run by the four operators, Safaricom, Airtel, Orange, and Yu.[5]

---

1. Figures based on *Kenya 2009 Population and Housing Census*. The statistics indicate that over 42 percent of the population is under 14 years. Slightly over 55 percent are between 15 and 65 years old. See Kenya National Bureau of Statistics (KNBS), *Kenya 2009 Population and Housing Census*, KNBS, Nairobi, 2010.
2. The sources of this information include the *Kenya 2009 Population and Housing Census,* KNBS, Nairobi, 2010, at http://www.unicef.org/infobycountry/kenya_statistics.html (accessed 9 January 2013).
3. See *Kenya 2009 Population and Housing Census*, KNBS, Nairobi, 2010.
4. See the latest CCK statistics, at http://www.cck.go.ke/resc/statcs.html and http://www.cck.go.ke/resc/downloads/SECTOR_STATISTICS_REPORT_Q4_11-12.pdf (accessed 9 January 2013).
5. See http://www.cck.go.ke/resc/downloads/SECTOR_STATISTICS_REPORT_Q4_11-12.pdf (accessed 9 January 2013).

Despite all this and the appearance of a rising middle class, the picture is not all rosy. Many Kenyans remain poor and unemployed. Unemployment stands at 40 percent. Inflation rates continue to rise, although there was a drop from 13.98 percent in 2011 to 9.64 percent in 2012. Fears abound that inflation will rise because of the general election scheduled for 4 March 2013. Such concerns are not unfounded, as evidence from the widespread election violence in December 2007 and early 2008 shows. During the violence that ensued from a bungled presidential election, more than 1,300 people were killed and over 600,000 displaced from their homes and farms. Some of that violence was blamed on the use of mobile telephony to mobilize tribal vigilante groups via text messages to attack other ethnic communities or political opponents.[6] The violence caused significant dents in economic growth, with statistics showing a negative growth rate of 3.9 percent after the chaos.[7]

The promulgation of a new constitution in August 2010 to some extent allayed fears of a repeat of the 2007/2008 chaos. Although the political culture and behavior have not changed much, the new constitution provides for greater freedoms, including for the media and the person, as well as transparent, responsible, and accountable political and economic governance.[8] Moreover, the constitution created and devolved power to 47 counties. This is intended to decentralize power and enhance grassroots economic development, so that there will be more investment by the media in catering for the needs of county populations, who have long complained that most existing media organizations concentrate on urban areas, particularly the capital, Nairobi.

6. See, for example, Joshua Goldstein and Juliana Rotich, "Digitally Networked Technology in Kenya's 2007–2008 Post-Election Crisis," Internet & Democracy Case Study Series, Berkman Center for Internet & Society, Harvard University, Cambridge, MA, 2008, p. 8 (hereafter Goldstein and Rotich, "Digitally Networked Technology in Kenya's Post-Election Crisis").

7. This is based on Kenya National Bureau of Statistics figures.

8. See the Constitution of Kenya 2010.

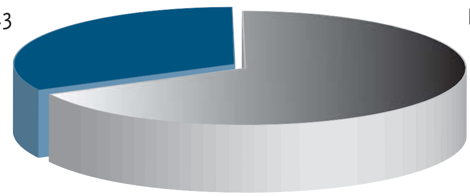
Social Indicators

Population (number of inhabitants): 40.51 million (2010)

Number of households: 8.83 million (2010)

Figure 1.

Rural–urban breakdown (% of total population), 2009



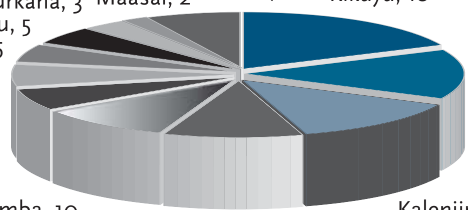
Source: *Kenya 2009 Population and Housing Census*, Kenya National Bureau of Statistics (KNBS), Nairobi, 2010

Linguistic composition

Officially Kenya has 42 ethnic communities. Many Kenyans speak at least three languages: English, Kiswahili, and their mother tongue. Kiswahili is spoken widely in Kenya and is considered the national language. The ethnic groups speak languages whose names are similar to their names. For example, the Kikuyu speak a language also known as Kikuyu.

Figure 2.

Ethnic composition (% of total population), 2010

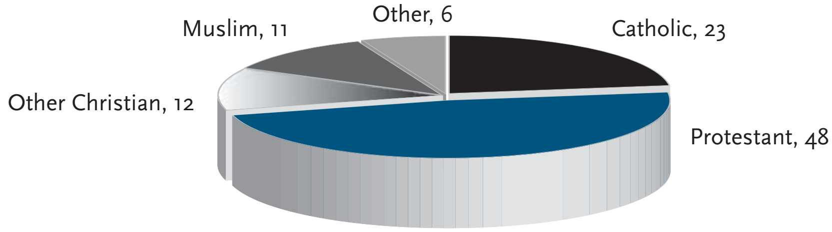


Note: "Other" includes groups such as the Teso comprising 0.88 percent of the population, Embu 0.84 percent, Taita 0.71 percent, Kuria 0.67 percent, Samburu 0.61 percent, Tharaka 0.46 percent, Mbeere 0.44 percent, Borana 0.42 percent, Basuba 0.36 percent, Swahili 0.29 percent, Gabra 0.23 percent, Orma 0.17 percent, and Rendile 0.16 percent.

Source: *Kenya 2009 Population and Housing Census,* KNBS, Nairobi, 2010

Figure 3.

Religious composition (% of total population), 2010



Note: "Other" includes Hinduism which accounts for 0.14 percent, traditionalists 1.65 percent, other religion 1.44 percent, no religion 2.39 percent, and those who do not know what they subscribe to, 0.16 percent

Source: *Kenya 2009 Population and Housing Census,* KNBS, Nairobi, 2010

Economic Indicators

Table 1.

Economic indicators, Kenya, 2005–2013

	2005	2006	2007	2008	2009	2010	2011	2012	2013
GDP (current prices), in US$ billion	18.73	22.54	27.16	30.03	30.58	32.09	38.10	40.63	45.47
GDP (current prices), per head in US$	546.5	637.2	746.7	801.4	792.2	807.5	882.4	965.1	1,049.5
Gross National Income (GNI), per head, current $	1,350	1,440	1,540	1,590	1,650	1,680	n/a	n/a	n/a
Unemployment (% of total labor force)	40	40	40	40	40	40	40	n/a	n/a
Inflation (average annual rate in % against previous year)	9.8	6.0	4.2	15.1	10.5	4.1	13.98	9.64	5.0

Notes: n/a: not available; data for 2011–2013 are forecasts except the inflation rates for 2011 and 2012, which are the actual figures

Sources: International Monetary Fund (IMF) (GDP and inflation figures); World Bank (GNI); KNBS (unemployment)

1. Media Consumption: The Digital Factor

1.1 Digital Take-up

1.1.1 Digital Equipment

Offline media—particularly radio—still predominate in Kenya. While mobile telephony and television are now generally available, radio continues to be the mainstay of news consumption in the country.

Kenya still lags behind the rest of the world in access to digital media. Although recent developments, particularly the drop in the cost of mobile phone handsets and services due largely to competition among the four players namely Safaricom, Airtel, Orange, and Yu, have caused a significant uptake of mobile telephony, many Kenyans still do not have access to even analog television. In fact, only 30 percent of households have a television set.[9] In addition, only 7.9 percent of households have access to a computer, so that many people do not have access to the internet.

Moreover, the fact that only about 30 percent of Kenya is connected to an electricity supply means most people cannot power such media as television and computers. As statistics show, even urban areas including the capital, Nairobi, still do not have universal electricity connection as only 53.4 percent of total households have access to electricity. In North Eastern and Western Provinces the connection rate is 14.5 percent and 14.7 percent respectively.[10] In fact, according to Kenya's Rural Electrification Authority (REA), 90 percent of rural Kenya does not have electricity.[11] Overall, only 20 percent of Kenyans have access to electricity.

---

9. *Kenya 2009 Population and Housing Census,* Kenya National Bureau of Statistics, Nairobi, 2010 (hereafter KNBS, *2009 Population and Housing Census*).

10. Kenya Institute for Public Policy Research and Analysis, *A Comprehensive Study and Analysis on Energy Consumption Patterns in Kenya*, Nairobi, 2010, at http://www.cofek.co.ke/ERCStudy_ExecSummary_02082010.pdf (accessed 18 January 2012).

11. See http://www.rea.co.ke/index.php?option=com_content&task=view&id=50&Itemid=72 (accessed 18 January 2012).

Statistics from the Communications Commission of Kenya (CCK) show that 28.08 million people or over 70 percent of the population have subscribed to cellular services.[12] This indicates that a majority of Kenyans have access to digital media via third-generation (3G) mobile telephony, now widely available. However, due to rural poverty and the fact that 67.7 percent of Kenyans live in rural areas,[13] most of those with access to digital media live in urban areas. The result of poverty and poor infrastructure is that this digital divide will not be closed in the near future.

Table 2.

Households owning equipment in Kenya, 2005–2010

	2005		2006		2007		2008		2009		2010	
	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH	No. of HH ('000)	% of HH
TV sets	1,489.4	20	1,526.4	20	1,958.6	24	2,262.9	27	2,456.6	28	2,650.2	30
Radio sets	5,212.9	70	5,495.0	72	6,039.1	74	6,201.9	74	6,489.5	74	6,978.8	79
PCs	253.2	3.4	339.6	4.4	446.4	5.4	523.8	6.2	615.3	7.1	702.3	7.9

Notes HH: households

Sources: *Kenya 2009 Population and Housing Census*, Kenya National Bureau of Statistics, Nairobi, 2010; International Telecommunication Union (ITU); Communications Commission of Kenya (CCK). The figures are also based on calculations from available statistics

1.1.2 Platforms

In broadcast media, specifically television, the digital broadcasting signal is now available in Nairobi and surrounding areas such as Kajiado, Kiambu, Machakos, Ngong, Thika, and parts of Embu and Muranga,[14] so that the digital signal is available about 120 km outside the capital Nairobi.

The government promised in December 2009 that the migration from analog to digital television broadcasting would be extended to other remote towns and cities like Webuye, Nyeri, Mombasa, Kisumu, Nakuru, Eldoret, Meru, Kisii, and Malindi before the start of the 2010 World Cup in South Africa. According to officials of the Digital Kenya Secretariat at the CCK, this was not achieved because of lack of funds. In its *Strategic Plan* for 2008–2012, the Ministry of Information and Communication also acknowledged that the high cost of migration has contributed to the slow roll-out of digital television broadcasting.[15]

---

12. Communications Commission of Kenya (CCK), "Quarterly Sector Statistics Report: Second Quarter October–December 2011/2012," 2012, at http://www.cck.go.ke/resc/downloads/SECTOR_STATISTICS_REPORT_Q2_2011-12.pdf (accessed 18 April 2012) (hereafter CCK, "Quarterly Sector Report: Second Quarter 2011/2012").
13. KNBS, *2009 Population and Housing Census.*
14. See CCK report on the availability of the digital signal at http://www.cck.go.ke/news/2012/DVB_T2_in_Nairobi.html (accessed 18 April 2012).
15. See Ministry of Information and Communication, *Strategic Plan 2008–2012: Towards a Knowledge Based Economy*, Ministry of Information and Communication, Nairobi, 2008.

However, the government promised that the DVB-T2 digital television signal would be available across 70 percent of the country by July 2012.[16] There were signs that the government was keen to spread the digital television signal, although this figure had not been achieved by October 2012, when the CCK stated that digital switch-over would not be achieved in 2012. The CCK pushed back the deadline until mid-2013,[17] although a subsequent High Court ruling in Nairobi may have muddied the waters.[18] The organization cited the high cost of set-top boxes as the reason for the postponement. Currently, the digital signal is only available in seven towns in Kenya, namely Nairobi, Mombasa, Webuye, Kisumu, Meru, Embu, and Eldoret, so that most parts of the country have yet to receive digital television.[19]

Table 3.

Platform for main television reception and digital take-up, 2005–2010

	2005		2006		2007		2008		2009		2010	
	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH	No. of HH ('000)	% of TVHH
Terrestrial reception	1,489.4	20	1,526.4	20	1,958.6	24	2,262.9	28	2,456.6	28	2,650.2	30
– of which digital	n/a											
Cable reception	n/a											
– of which digital	n/a											
Satellite reception	n/a											
– of which digital	n/a											
IPTV	n/a											
Total	1,489.4	20	1,526.4	20	1,958.6	24	2,262.9	28	2,456.6	28	2,650.2	30
– of which digital	n/a											

Notes: HH: households owning the equipment; TVHH: total number of TV households; n/a: not available

Source: KNBS, *Kenya 2009 Population and Housing Census*, Nairobi, 2010; ITU; CCK. The figures are also based on reporters' estimates from available statistics

There has been a meteoric growth of mobile telephony, accompanied by a rise in internet penetration, which most Kenyans now access via their mobile phones rather than conventional wireline connections. More

16. This is according to Dr Bitange Ndemo, Permanent Secretary at the Ministry of Information and Communication (the department responsible for migration from analog to digital) on 11 April 2012. He was addressing stakeholders on the status of the migration process.

17. See Paul Wafula, "CCK postpones digital broadcast migration deadline," *Daily Nation*, 29 October 2012, at http://www.nation.co.ke/business/news/CCK+postpones+digital+broadcast+migration+deadline/-/1006/1606028/-/view/printVersion/-/crylhv/-/index.html (accessed 29 October 2012).

18. The High Court in Nairobi in January postponed the switch-off of analog television to an unspecified date after the 4 March 2013 general election. On 11 January 2013, Justice Isaac Lenaola granted orders sought by the Consumer Federation of Kenya (COFEK) to delay switch-over until after the election. The judge advised COFEK and the CCK to agree a date. He proposed 60 days after the elections, but said the court would accept any agreement reached by the parties. COFEK had petitioned the court in December 2012 to postpone switch-over until the global deadline of 2015. See, e.g., Paul Juma, "Reprieve as court stops analogue TV switch-off," *Saturday Nation*, 12 January 2013, at http://www.nation.co.ke/News/Reprieve-as-court-stops-analogue-TV-switch-off/-/1056/1663518/-/jqif3iz/-/index.html (accessed 12 January 2013).

19. Paul Wafula, "CCK postpones digital broadcast migration deadline," *Daily Nation*, 29 October 2012, at http://www.nation.co.ke/business/news/CCK+postpones+digital+broadcast+migration+deadline/-/1006/1606028/-/view/printVersion/-/crylhv/-/index.html (accessed 29 October 2012).

than 6.15 million Kenyans have subscribed to the internet, although only 22,587 have fixed fiber-optic subscriptions.[20] The rest access the internet via mobile telephony. Actual internet usage stood at 17.38 million people, or 43.45 percent of the total population, in 2011.[21]

Table 4.
Internet penetration rate (total internet subscriptions as % of total population) and mobile penetration rate (total active SIM cards as % of total population), 2005–2010

	2005	2006	2007	2008	2009	2010
Internet	2.9	3.0	3.1	7.8	8.6	9.7
– of which broadband	n/a	n/a	n/a	n/a	n/a	35.9
Mobile telephony	15.7	21.6	33.6	35.2	48.5	62.4
– of which broadband	n/a	n/a	n/a	n/a	n/a	23.5

Note: n/a: not available

Sources: ITU; CCK

Although the government has invested in fiber-optic cable and is seeking to connect remote and rural areas where there is little or poor infrastructure, the internet has yet to be diffused widely in the country. There are, of course, other factors besides poor infrastructure. Poverty and computer and internet illiteracy are other factors that have contributed to poor penetration and uptake of the internet.

1.2 Media Preferences

1.2.1 Main Shifts in News Consumption

Despite numerous developments in the media sector, radio remains the biggest source of news for a majority of Kenyans. This is largely because radio is affordable and broadcasts, mostly from the Kenya Broadcasting Corporation (KBC), reach even the remotest parts of the country. The cost of buying and running radio sets is low. What is more, even cheap mobile telephones have radio facilities. This means that the dual mobile-phone-radio handsets are becoming ever more popular not only among rural people but also among young people who are increasingly attracted to radio because of entertainment, especially music, offered on FM stations.

Moreover, the number of both national and local radio stations has grown exponentially in the last 20 years due largely to the liberation and privatization of the economy and the media sector. Before 1990, Kenya had only one television station, the state-run KBC, which ran English and Kiswahili services. Kenyans have for years had access to international radio stations like the British Broadcasting Corporation (BBC), Voice

20. CCK, "Quarterly Sector Statistics Report: First Quarter July-September 2011/2012," 2012, at http://www.cck.go.ke/resc/downloads/SECTOR_STATISTICS_REPORT_Q1_11-12.pdf (accessed 18 January 2012) (hereafter CCK, "Quarterly Sector Report: First Quarter 2011/2012").

21. CCK, "Quarterly Sector Report: Second Quarter 2011/2012."

of America, Radio Netherlands, and Deutsche Welle Radio, all of which have a Kiswahili service. Lack of independent broadcast media meant that a majority of people had to rely on the media which were controlled by the government and the political elite, although the number of independent stations has risen significantly since the government's relaxation of broadcasting regulations and legislation.

Some 74 percent of Kenyans have access to the country's 120 radio stations, most of them FM stations owned by individuals and various organizations including the government (for example KBC, which mainly operates as a government mouthpiece).[22] Television is the second most popular medium, accessed by 28 percent of the population.

A sizeable number of people in Kenya read newspapers. Figures from Ipsos-Synovate show that slightly over 3 million Kenyans read a newspaper every day,[23] although many of these do not buy their own copies. One of the reasons why newspaper readership is low is the cost of the daily papers. In a country where at least 50 percent of people live below the poverty line, most people can hardly afford to buy a newspaper given that the average cost is KSh40 (US$0.5).[24]

Since the liberalization of the media industry in 1989, Kenyans have had access to more radio and television stations. For instance there are now 11 television stations, KBC Channel 1, Citizen, NTV, KTN, Kiss, Metro TV, K24, Classic TV, Kiss TV, Family TV, and Good News Broadcasting Systems (GBS). The international television companies Al-Jazeera and China TV set up offices in Kenya in early 2012.

Since the start of the migration from analog to digital in December 2009, three new television stations, Kiss and Classic (both owned by the Radio Africa Group) and GBS, have started broadcasting. Although only GBS currently offers news broadcasts, Kiss TV is in the process of starting news bulletins. GBS, which is fully digital, was launched in February 2010 three months after the inauguration of digital television services in Kenya.

The falling cost of mobile phone handsets and related services, the increasing access to the internet, however slow the connection speeds, and falling costs of such access, mean a significant number of Kenyans have started to enjoy the benefits of digitization of media in the last five years. "The cellphone has revolutionized news production and consumption in Kenya," says Dr Rahab Nyaga, a communication scholar at Daystar University.[25] "

Whereas the mainstream media were the main sources of news a few years ago, other sources of information have emerged. People who have access to the internet can easily read or consume foreign news or even local

22. This includes national, local language (vernacular), and community radio stations, which are owned by the communities in which they operate and broadcast in the language spoken by the community.

23. See Ipsos-Synovate, *KARF Audience Research Establishment Survey: Q1 2011*, Ipsos-Synovate Kenya, Nairobi, 2011 (hereafter Ipsos-Synovate, *KARF Audience Survey*).

24. The biggest newspapers in Kenya, *Daily Nation* and *The Standard* cost KSh40 for the daily editions. The weekend editions (*Saturday Nation*, *Sunday Nation*, *The Saturday Standard*, and *The Sunday Standard*) cost KSh50.

25. Interview with Dr Rahab Nyaga, Nairobi, 15 August 2011.

content from foreign sources, so that they do not have to rely on local newspapers, radio, and television stations for news. "Mobile as a media now rivals radio," said Ipsos-Synovate in a 2011 report.[26]

Even though mobile phones are limited to mostly those in urban areas where the infrastructure is more developed and the facilities readily available either because of cost or proximity, access to other sources, however modest, means the sources of news in Kenya are slowly changing. Moreover, the availability of mobile television and radio gives people access to news whenever they need, and consequently they do not have to be at a physical location at a particular time to consume news. These conclusions are supported by Ipsos-Synovate's findings indicating that many Kenyans now have access to radio, television, and newspapers via the internet and mobile phones.[27]

1.2.2 Availability of a Diverse Range of News Sources

Despite the growth of the media in Kenya, there is no significant improvement in the quality of news (for example, investigative journalism and more serious research) in the media. What has improved is the diversity and not the quality per se. This is evidenced by, for example, the fact that media with online presence merely replicate what is offered in either their broadcast or print media platforms. This is true in the cases of major media groups like the Nation, Standard, and Radio Africa. In short, even though there are shifts in the diversity of the sources of news, and greater choices than before, the content remains largely the same as that available in traditional media. This may mean more diverse and perhaps attendant good-quality content, albeit not digital.

1.3 News Providers

1.3.1. Leading Sources of News

1.3.1.1 Print Media

Newspapers in Kenya are recognized for their originality and credibility as news providers. Most newspapers are published by media conglomerates that also have broadcasting and online platforms. For example, the *Daily Nation, Saturday Nation, Sunday Nation, Taifa Leo, Business Daily,* and *The East African* are published by the Nation Media Group, the *Standard,* the *Standard on Saturday* and the *Standard on Sunday* by the Standard Group, *The Star* by Radio Africa Group, and *The People* by Media Max Networks.

The largest newspaper by daily circulation is the *Daily Nation*, followed by the *Standard*, *Taifa Leo, The Star, Business Daily*, and *The People*. While circulation is low in Kenya, with figures in 2010, for example, indicating that only 320,000 newspapers were bought daily, the readership is significantly higher given the fact that about 10 people share a newspaper daily. This is supported by findings by Ipsos-Synovate that says Kenya's daily print readership stands at slightly over 3 million while the weekend figure is slightly over

26. See Ipsos-Synovate, *KARF Audience Survey.*

27. See Ipsos-Synovate, *KARF Audience Survey*.

6 million.[28] Weekly newspapers like *Saturday Nation, Sunday Nation,* the *Standard on Saturday*, the *Standard on Sunday*, *The East African*, as well as *Citizen Express* all have a wide readership. The *Citizen Express* is interesting because of its often sensationalist coverage of political and other issues.

Table 5.

Circulation figures for newspapers, 2005–2010

Year	Weekly newspapers	Daily newspapers
2005	250,000	200,000
2006	300,000	220,000
2007	480,000	400,000
2008	350,000	320,000
2009	380,000	280,000
2010	400,000	320,000

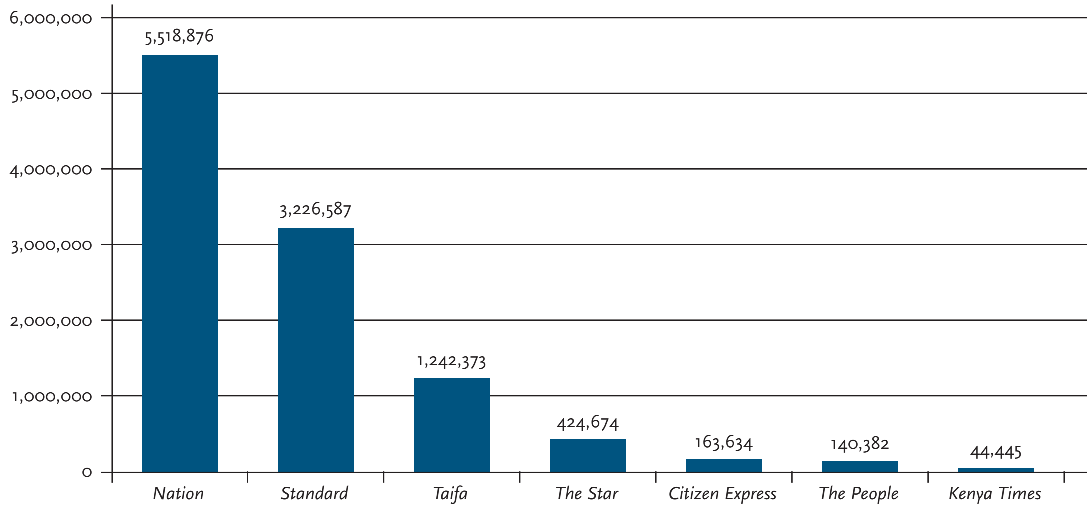
Source: Reporter's calculations based on interviews with newspaper editors in Kenya

The data above show fluctuations in newspaper circulation. During an election year, for example 2007, newspaper circulation in Kenya tends to rise due to heightened interest among readers.

In 2010, two newspapers ceased publication. The *Kenya Times* which was owned by the former ruling party, the Kenya African National Union (KANU), and the *Daily Metro* owned by the Nation Media Group collapsed due to financial difficulties and dwindling circulation respectively. Despite this, some newspapers such as *The Star,* launched in 2007, have continued to grow their circulation figures. Interviews with editors of *The Star* indicated that the newspaper was selling some 15,000–20,000 copies a day in 2010 compared with a low of 5,000–8,000 when it was launched.

Figure 4.

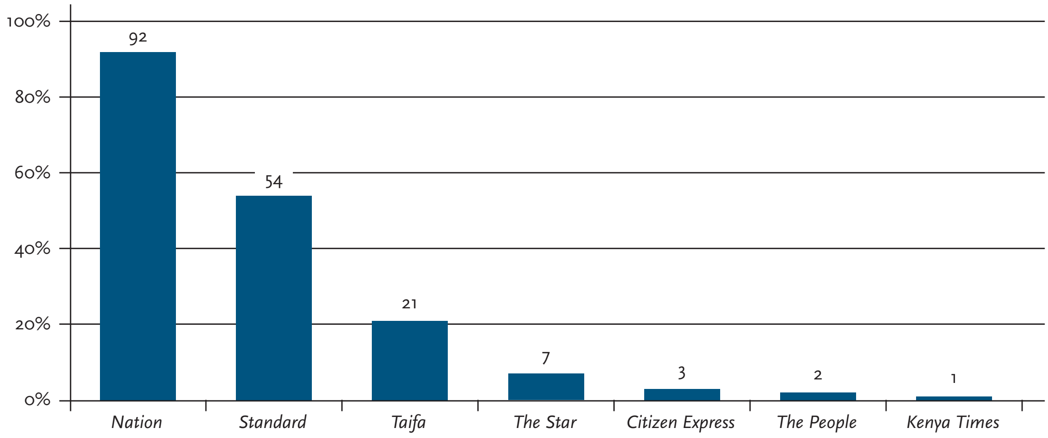
Top print titles' (combined daily and weekly) readership, 2011



Source: Ipsos-Synovate, *KARF Audience Research Establishment Survey: Q1 2011*, Ipsos-Synovate Kenya, Nairobi, 2011

28. See Ipsos-Synovate, *KARF Audience Survey*.

Figure 5.
Newspapers read in the past seven days, 2011



Source: Ipsos-Synovate, *KARF Audience Research Establishment Survey: Q1 2011*, Ipsos-Synovate Kenya, Nairobi, 2011

1.3.1.2 News Websites

According to Alexa.com, the most popular websites in Kenya are Google.com, Google.co.ke, Facebook, Yahoo.com, YouTube.com, Twitter, Blogspot.com, Wikipedia.org, LinkedIn, and the Nation Media Group (Nationmedia.co.ke) (see section *3*).[29] This shows perhaps that few people access online news sources, since *Daily Nation* comes in only at number 10 and other news organizations like BBC Online (Bbc.co.uk) and Standard (Standardmedia.co.ke) are ranked 12th and 15th respectively. The only other Kenyan news organization in the top 100 is *The Star* (*the-star.co.ke)* which occupies position 49 on the Alexa.com table. Kenya's public broadcaster KBC's website (Kbc.co.ke) is ranked number 552.

Given that many Kenyans now access the internet via their mobile phones, it is interesting to note that the rankings are similar to those offered by the Opera website (Opera.com). The top 10 rankings according to Opera lead with Facebook, followed by Google.com, Wapdam.com, Yahoo.com, Wikipedia.org, Youtube.com, Bbc.co.uk, My.opera.com, Reference.com, and Nation.co.ke. These rankings do not, however, reflect popularity in terms of news consumption. Nonetheless, the ranking of Daily Nation, BBC Online, and Standard among the top 20 most visited sites indicates the popularity of news sites for those visiting online platforms.

29. See http://www.alexa.com/topsites/countries/ke (accessed 15 March 2011).

Table 6.

Most popular mobile websites, as ranked by Opera, 2010

Ranking	Site
1	Facebook.com
2	Google.com
3	Wapdam.com
4	Yahoo.com
5	Wikipedia.org
6	Youtube.com
7	Bbc.co.uk
8	My.opera.com
9	Reference.com
10	Nation.co.ke

Source: Opera, at http://www.opera.com/smw/2010/12

1.3.1.3 Radio

Radio remains the most popular news source for most Kenyans. The rising number of radio stations, especially community and FM stations (mostly local-language, often popularly referred to as vernacular, radio), have changed news consumption patterns.[30]

Statistics from Ipsos-Synovate in 2011 indicated that 93 percent of Kenyans in 2010 had listened to the radio in the previous seven days. This is a slight improvement on the 2008 figure of about 90 percent.

Radio consumption patterns are changing with the growing number of local-language radio stations. The Ipsos-Synovate research indicates that 70 percent of radio audiences listen to Swahili stations compared with 68 percent and 52 percent for vernacular and English broadcasting stations respectively. The rise of local-language stations has undoubtedly contributed to the popularity of Royal Media Services, which has eight vernacular stations in addition to its two Swahili and one English stations (see Table 7).

According to the Ipsos-Synovate 2011 study, top radio broadcasting languages by time spent listening are Luo (28 percent), Kiswahili (26 percent), Kikuyu (25 percent), Kalenjin (24.8 percent), and Kamba (22 percent). Local-language radio audiences spend at least three hours per day listening to the broadcasts. Local-language stations have gained in popularity because people believe that community media directly address the concerns of the audiences, as opposed to national media that may have little or no content touching on the issues that affect them. FM stations combine entertainment and news and this seems to attract more people.

30. See Ipsos-Synovate, *KARF Audience Survey*.

In addition, the creation of counties in Kenya as a consequence of the recently promulgated constitution means there is a great movement towards having community-based media that will directly cover local issues. Although this is a recent development that may take some years to be felt, community and FM radio stations have without doubt affected news consumption patterns, as the country currently has 120 operational radio stations.[31] However, it is difficult to determine the popularity of these stations in terms of news sources.

Two of the most popular stations in terms of ratings are Radio Citizen and KBC Swahili Service (Idhaa ya Taifa, meaning "national service"). These are followed by QFM and Kiss FM.[32] One of the reasons for their popularity is their offer of entertainment content, especially Nigerian films and local soap operas such as "Inspekta Mwala," "Tahidi High," "Mother-in-Law," "Machachari," and "Papa Shirandula." Although Idhaa ya Taifa offers mostly news and current affairs content, its close relationship with the state has caused it to lose credibility over the years because it rarely questions government policy and has been seen to support the status quo.[33]

Besides the above issues, the fact that radio broadcasts are in English, Kiswahili, or other indigenous languages means that audiences have grown in areas where people prefer to listen to the radio in their own language.

Table 7.
Top radio stations ranked by audience, 2005 and 2009

Radio station	Ranking 2005	Ranking 2009
Kiss FM	1	5
Citizen FM	2	1
Easy FM	3	4
KBC Kiswahili	4	2
Capital FM	5	n/a
Kameme	6	n/a
KBC English	7	n/a
Inooro	8	3

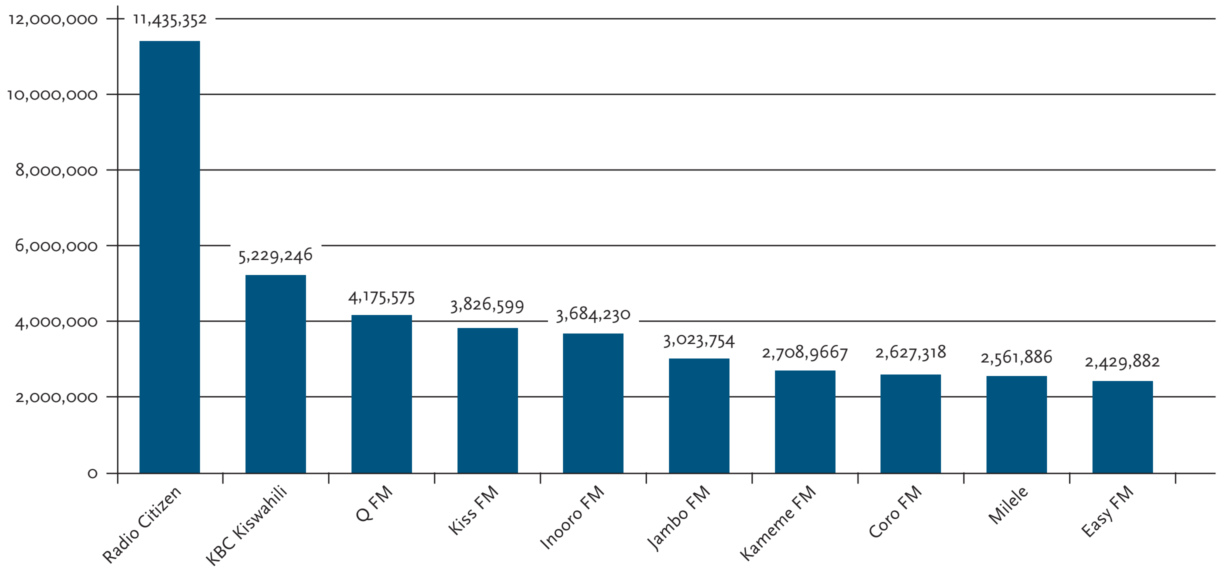
Note: n/a: not available

Sources: Steadman Research Services International-Kenya, *Kenya media diaries. Quarter 4,* Steadman Group-Kenya, Nairobi, 2005; AudienceScapes, *National Survey of Kenya*, Washington, DC, July 2009

Although Table 7 reflects the national picture, the statistics may not be accurate due to the segmentation of listenership brought about by local-language broadcasting. Moreover, there have been significant shifts in audience share, although Citizen Radio and KBC Kiswahili seem to be holding on.

31. CCK, "Quarterly Sector Report: First Quarter 2011/2012."
32. See Ipsos-Synovate, *KARF Audience Survey*.
33. This view is corroborated by numerous scholars and experts including Dr Muiru Ngugi and Dr Peter Oriare Mbeke, both of the University of Nairobi, Dr Rahab Nyaga of Daystar University, Wilson Ugangu of Multimedia University and Martin Masai, the secretary of the Alternative Media Network (AMNET).

Figure 6.
Top 10 radio stations according to audience, first quarter of 2011

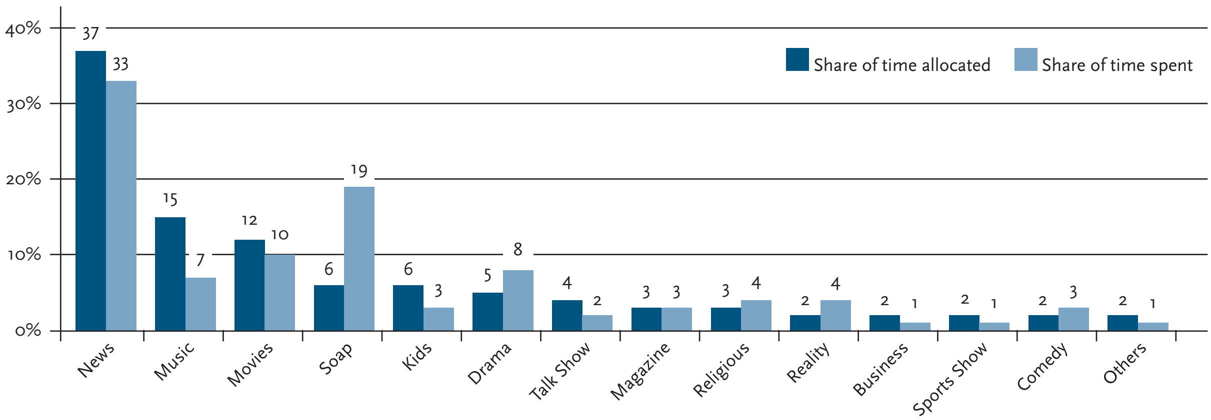


Source: Ipsos-Synovate, *KARF Audience Research Establishment Survey: Q1 2011*, Ipsos-Synovate Kenya, Nairobi, 2011

1.3.2 Television News Programs

Since only 30 percent of Kenyan households had television sets in 2010, television is still a luxury in Kenya and is a trusted medium of news and information. Most television consumers in Kenya are mainly interested in news.

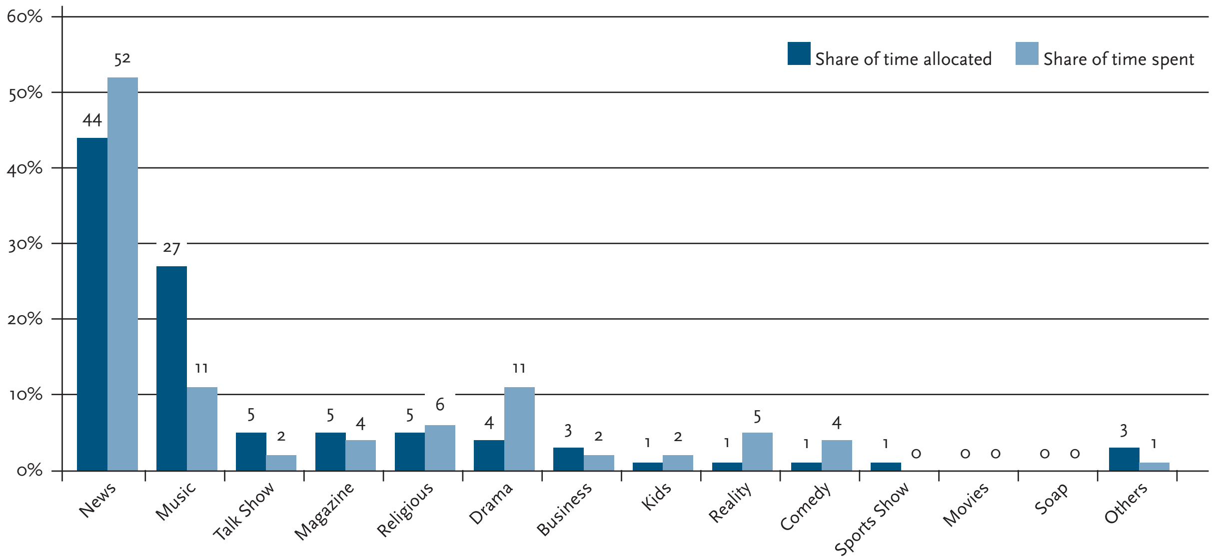
Figure 7.
Time allocated to different types of programs vis-à-vis time spent viewing them, first quarter of 2011



Source: Ipsos-Synovate, *KARF Audience Research Establishment Survey: Q1 2011*, Ipsos-Synovate Kenya, Nairobi, 2011

Figure 8.

Time allocated to different program genres compared to time spent viewing local productions, first quarter of 2011



Source: Ipsos-Synovate, *KARF Audience Research Establishment Survey: Q1 2011*, Ipsos-Synovate Kenya, Nairobi, 2011

There is stiff competition in the television industry in Kenya, and there has been a shift in the popularity of many television stations. Statistics indicate that Citizen Television is the most popular station in Kenya with its Citizen News at 9 p.m. every day. It is followed by Nation TV with its NTV Tonight bulletin, KTN is third with its primetime news, and KBC is fourth.[34] However, figures show that while Citizen has increased its share of national viewership, there is a constant fluctuation in viewership for many other television stations, as Figures 9 and 10 show. KBC, for instance, dropped from second to fourth position.

As noted above, KBC's audience share has been significantly eroded because of its apparent closeness to those in power and because it is seen as representing the views of the political elite. This is evidenced by the fact that it was set up by an Act of Parliament whose mandate is, inter alia, "to assume the Government functions of producing and broadcasting programmes or parts of programmes by sound or television."[35] KBC also has a 9 p.m. news bulletin. The fact that it is controlled by the executive (the country's president and the Minister for Information and Communication appoint its management) means it suffers credibility problems particularly as a source of news. K24 also has Kiswahili and English bulletins, "Mchipuko wa Habari" and "Big Story," at 7 p.m. and 9 p.m. respectively. All the television stations have English news bulletins at 1 p.m. Shorter Kiswahili bulletins are also carried by the stations throughout the day, with the most popular ones broadcast at 7 p.m. KTN has "KTN Leo" (KTN Today), NTV "Jarida la Jambo" (Latest Newsletter), Citizen has "Citizen Nipashe" (Guardian), and KBC "Darubini" (Telescope).

34. Research done by Ipsos-Synovate shows that KBC ranks fourth behind Citizen, Nation, and KTN. See Ipsos-Synovate, *KARF Audience Survey.*

35. The KBC Act can found in Chapter 221 of the Laws of Kenya, at http://www.law.co.ke/klr/fileadmin/pdfdownloads/Acts/KenyaBroadcasting-CorporationCap221.pdf (accessed 22 March 2012).

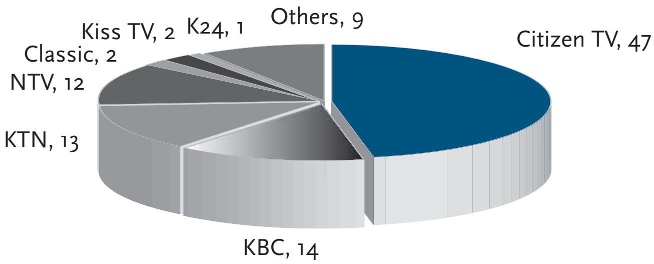
The reasons for offering both Kiswahili and English bulletins relate to the language and level of comprehension of the different audiences. Kiswahili bulletins are mostly suitable for rural audiences, some of whom cannot speak English. English bulletins are seen as addressing urban and more sophisticated audiences. These include Kenyans and foreigners, diplomats and decision-makers. This is because the English bulletins are longer and often have expert interviews and analyses.

Most of the stations have long morning interactive news programs. Nation runs "NTV This Morning" between 6 a.m. and 9 a.m., KTN has "Sunrise Live," Citizen "Power Breakfast" at the same time, and KBC broadcasts "Good Morning Kenya" between 8 a.m. and 9 a.m.

English is the language for all the bulletins at 9 p.m. Kiswahili is used in the 7 p.m. news bulletins.

Figure 9.

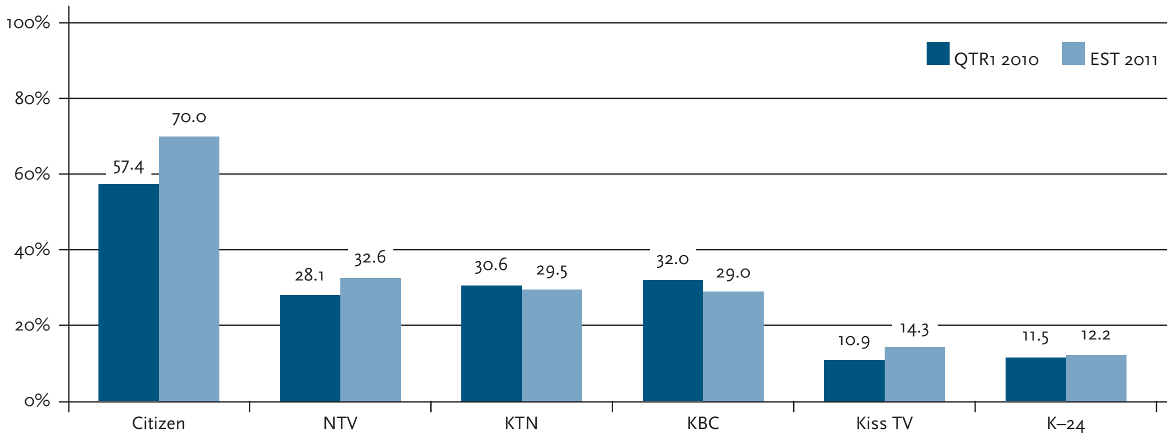
TV viewing share (% of total viewership), 2010



Source: Ipsos-Synovate, *KARF Audience Research Establishment Survey: Q3 2010*, Ipsos-Synovate Kenya, Nairobi, 2010

Figure 10.

Station performance index (%), first quarter of 2010 and estimates for 2011



Note: The station performance index is based on reach and share of viewership

Source: Ipsos-Synovate, *KARF Audience Research Establishment Survey: Q1 2011*, Ipsos-Synovate Kenya, Nairobi, 2011

1.3.3 Impact of Digital Media on Good-quality News

Although new technologies have effected changes the amount of information and the rate of reception, it is not clear whether these have had any significant effect on the quality of information and news. In fact, there are claims that rising competition and the obsession to provide exclusive news may have negatively affected the quality, reliability, and validity of information. This is especially true of the breaking news facility operated by media groups like the Nation Media Group and the Standard, which charge consumers about KSh10 (US$ 0.10) per mobile phone text.

Although immediacy is important particularly among audiences which want to know what is going on around the country, sometimes the media houses do not have the time, capacity, or other resources to authenticate the information sent out as breaking news. This means the new technologies may in fact contribute to unreliable and raw information that may affect the credibility of established or conventional news media organizations to provide reliable news.

The bigger established media houses in Kenya have websites. One of the most active is the Nation online, which is updated throughout the day. This is largely because the Nation Media Group (the biggest media organization in East and Central Africa by revenue), controlled by the Aga Khan,[36] has resources to employ a dedicated team. The Standard Group, Capital FM, and others have websites, although these are mostly updated once a day. What is noteworthy is that the information contained on the websites is exactly the same as that provided in print. What the web offers is an immediate publication of the information. Accordingly, the quality of the information published online is trustworthy since the newspapers are famous for the credibility of their news.

1.4 Assessments

Various factors determine the audience selection of news platforms. Although access is one of the key determinants, there is an overarching view that the popularity of news content is determined by the issues covered.

The emergence of digital news outlets, mainly mobile telephony, has affected the amount of news output, especially among young technologically savvy people without the means to afford newspapers and television. One of their key sources of news now is the mobile telephone and the internet. This is because the cost of access to news and the internet via mobile telephony has fallen significantly. The purchase of the mobile phone service provider Zain by the Indian company Airtel in late 2010 particularly contributed to the rise in consumption of digital news. Due to stiff competition in the mobile phone market, the companies now offer low access costs, so that young people with little disposable income can easily access mobile news outlets. The convergence of media on the mobile phone—internet, television, and radio—means the diversity of news available has increased significantly.

---

36. The Nation Media Group is a publicly listed company, although the Aga Khan has a controlling stake in the organization.

Campaigns by mobile service providers Safaricom, Airtel, Orange, and Yu offering cheap access to news and entertainment sites, as well as Facebook, have undoubtedly improved the uptake of such facilities. The development of news websites, in particular those associated with media organizations like the Nation, the Standard, Capital FM, and KBC means Kenyans increasingly can access digital news. Kenyans in the diaspora are especially reliant on such platforms for their news needs. In addition, the availability of user-controlled facilities such as Facebook and Twitter has increased the amount of information and the number of digital platforms accessible to Kenyans.

2. Digital Media and Public or State-administered Broadcasters

2.1 Public Service and State Institutions

2.1.1 Overview of Public Service Media; News and Current Affairs Output

The only public service or state media in Kenya is the KBC. It operates two television channels (Channel 1 and Metro TV) and 20 radio stations. These are national Kiswahili (Idhaa ya Taifa) and English (KBC English Service) radio stations as well as numerous local language stations spread across the country. Metro FM broadcasts mostly entertainment material. Pwani FM targets the coastal region of Kenya. Coro FM is a national Luo (a local language) station. Besides broadcasts in English and Kiswahili, KBC broadcasts in 18 local languages, including Borana, Burji, Embu, Kalenjin, Kamba, Kikuyu, Kisii, Kuria, Luhya, Luo, Maasai, Meru, Pokot, Rendile, Somali, Suba, Teso, and Turkana.

KBC operates like any other commercial station, and is allowed by the state to raise revenue to cover some of its costs. Its offerings are intended to enhance its position in what is becoming a highly competitive media market.

Until 1990 when the media were liberalized, KBC was the only television station available. It was formed in 1961 and was nationalized in 1964 under an Act of Parliament to become the Voice of Kenya. In 1989 another Act of Parliament changed its name back to KBC. The Act, revised in 2009, establishes the KBC "to assume the Government functions of producing and broadcasting programs or parts of programs by sound or television." As a state broadcaster it is meant to undertake public services and provide "independent and impartial broadcasting services of information, education and entertainment, in English and Kiswahili and in such other languages as the Corporation may decide" (KBC Act 2009, Article 8(1)a).[37]

37. The KBC Act can be found in Chapter 221 of the Laws of Kenya, at http://www.law.co.ke/klr/fileadmin/pdfdownloads/Acts/KenyaBroadcastingCorporationCap221.pdf (accessed 22 March 2012).

KBC has a national reach, although its market share has been eroded due to numerous factors. The fact that people now have access to a number of other television and radio stations means that KBC, which is seen as supporting the government and the political elite, has lost a significant amount of its audience share.[38] Interviews with experts indicated that politicization, especially in terms of pro-establishment content as well as interference and influence in decision-making, has been the biggest problem with KBC because it is run and funded by the government. "This makes it hard to compete with others seen as independent and reliable," says Dr Muiru Ngugi, a media scholar at the University of Nairobi.[39] This view is shared by Martin Masai, secretary of the Alternative Media Network (AMNET).[40] Mr Masai thinks the relationship with the government impedes its independence and capability to provide Kenyans with "objective and reliable" content.[41]

KBC still produces a significant amount of current affairs programs. This is because it is meant to address issues affecting society as well as serve the government and its various branches and officials. It streams live parliamentary debates as stipulated in the KBC Act. From Tuesday until Thursday, KBC offers at least six hours of continuous broadcasting from Parliament. It then shares the signals with other television stations. It also broadcasts live presidential and other major government events, which it also shares with other television stations. In essence, most of the television stations, including NTV, KTN, and Citizen, rebroadcast parliamentary debates during the week. They also dedicate good periods of time to analyzing political, economic, and religious events.

The government does not require KBC to offer a minimum number of news or current affairs programs. Nonetheless, an analysis of its content shows that the time given over to current affairs varies from day to day; such programs include panel discussions of political or social issues. For example, most television stations, including KBC, have devoted a significant space since 2005 to discussions on constitutional issues, and how they affect the affairs of the country, the government, and citizens. Similarly, the concerns surrounding the post-election violence of 2007–2008 and attendant consequences have been widely aired.

The station also has news bulletins at 8 a.m., 1 p.m., 7 p.m., and 9 p.m. These last at least an hour; the 1 p.m. news bulletins are mostly 30 minutes. However, all the television stations carry a significant number of news and current affairs programs. The offerings in television and even radio bulletins vary, with notable increases around election time or when there is an important public event like national celebrations (for example, independence day, heroes' day), which will be broadcast live by television stations, including KBC, NTV, Citizen, and KTN. It is difficult to state exactly what amount of time is allocated by the stations in any typical week on news bulletins or current affairs programs.

---

38. This view is shared by many experts and scholars including Wilson Ugangu, a media scholar with the Multimedia University, Dr Rahab Nyaga, and Professor Robert White, a communication and media scholar.
39. Interview with Dr Muiru Ngugi, Nairobi, 12 August 2011.
40. AMNET is an association bringing together owners and managers of FM and community broadcast media. Interview with Martin Masai, Nairobi, 31 July 2011.
41. Interview with Martin Masai, Nairobi, 31 July 2011.

Table 8.

Output of news and current affairs on major television and radio stations, 2010

Station		News and current affairs programming		
		News	Current affairs	Total programming (minutes per week)
KBC	(broadcast minutes per week)	1,050	1,100	10,080
	% of total programming	10.42	10.91	100.0
KTN	(broadcast minutes per week)	1,150	1,260	10,080
	% of total programming	11.41	12.50	100.0
NTV	(broadcast minutes per week)	1,150	900	10,080
	% of total programming	11.41	8.93	100.0
Citizen	(broadcast minutes per week)	1,425	1,030	10,080
	% of total programming	14.14	10.22	100.0
KBC (Idhaa ya Taifa)	(broadcast minutes per week)	1,085	600	10,080
	% of total programming	10.76	5.95	100.0
KBC (English Service)	(broadcast minutes per week)	1,085	360	10,080
	% of total programming	10.76	3.57	100.0

Note: The amount of time allocated to news is fairly similar due to the fact that the stations rebroadcast BBC, CNN, and Al Jazeera news bulletins from midnight to 6 a.m.

Source: Author, calculated using daily schedules provided in the newspapers

Television stations dedicate good periods of time to local news and current affairs. However, given that they broadcast 24 hours, the time allocated to local news and current affairs is only a small percentage of the total content. Nonetheless, the fact that KBC also runs numerous local-language radio stations means it broadcasts news content to audiences across the country. But Table 8 also reveals that as a single station Citizen invests a lot more in news and current affairs. KBC and Citizen broadcast the BBC World Service and Al Jazeera respectively after midnight. KTN connects to CNN mostly after 1 a.m. until 6 a.m. NTV turns to CNN mostly after midnight until 6 a.m.

2.1.2 Digitization and Services

Since the advent of digitization, KBC has been given the mandate to lead the migration from analog to digital media. In fact, the government set up the Digital Video Broadcasting-Terrestrial (DVB-T) Centre at KBC's Broadcasting House based in the capital Nairobi. The DVB-T platform is currently hosting 16 television channels and four radio stations.[42] These are all analog channels hosted on a digital platform.

Although KBC runs a website (Kbc.co.ke), content thereon is not significantly different from that offered on its broadcast platform. However, the fact that it uploads clips of some of its news bulletins and other programs means expatriate Kenyans and others interested in what is going on in the country can easily

42. These are: KBC channel 1; KTN (channel 2); Bunge (Parliament) TV (channel 3); NTV (channel 4); Citizen TV (channel 5); Family TV (allocation 6); EATV (channel 7); EDU (channel 8); K24 (channel 9); Kiss TV (channel 10); Classic TV (channel 11); EATN (channel 12); CBC (channel 13); Express TV (channel 14); GBS (channel 15); and Shalom TV (channel 16).

access audiovisual material. It should be noted, however, that the expansion of KBC and other media is not a consequence of digitization alone but a combination of factors including competition and challenges such as dropping audience share. However, other than radio being available on mobile phones as a feature in many modern handsets, KBC has not engaged in any serious innovative services via mobile telephony. This is not, however, peculiar to KBC, as other radio broadcasters have not been innovative either.

2.1.3 Government Support

The migration from analog to digital is a state project funded by the exchequer. The Ministry of Information and Communication is charged with the responsibility of overseeing the project. It started off by setting up and funding the Migration from Analogue to Digital Broadcasting Taskforce that was meant to prepare the country for the technological transition.

The Treasury has thus far given KSh 164 million (approx. US$1.8 million) of the KSh 200 million (US$2.2 million) earmarked for the first phase of the migration from analog to digital. Over KSh4 billion (almost US$44 million) will be required to successfully complete the digitization process, although it is not yet clear when the government will release these funds, or whether indeed it can afford the money, given the numerous budgetary priorities and constraints.

In effect, there is both state and political support of the digitization process despite funding and other problems being experienced.

2.1.4 Public Service Media and Digital Switch-over

The media in Kenya, particularly media owners, are both excited and resistant to the digital switch-over. The excitement is premised on the fact that digitization will offer them opportunities for more frequencies and investment in diverse content. However, broadcast media organizations have been unhappy and resistant to the digital switch-over especially because they are required to offer 40 percent local content as a precondition for getting a digital license, and also because Signet, a subsidiary formed specifically for the purpose by KBC, and now a Chinese-owned company, Pan African Network Group, have been licensed to offer digital services in Kenya. Pan African Network Group beat various companies in the bid to become the second digital content provider after Signet.

The groups that bid for the license included Signal Distributors, Mayfox, Globecast Africa, Africa Link Agencies, and a consortium of local broadcasters put together by the Nation Media Group and Royal Media Services. The license was issued on three conditions: that broadcasting will be on an open access platform and must have national coverage; and the investor must show proof of resources or funding needed for installing the national infrastructure.

The channels created as a result of digitization will suffice to meet current demand, and ensure that the more than 60 applicants currently awaiting licenses are granted licenses to start broadcasting.

Since the migration process started, KBC has been at the forefront of the digitization process. It was in fact mandated by the government to drive the process. Through Signet, KBC has sought to spread its reach and influence. In fact, existing companies seeking to offer digital content have to be based on this platform. Signet uses a single multiplex accommodating up to 10 channels and operates on an open basis to provide broadcasters with a route to switch from analog to digital transmission and minimize anti-competitive behavior.

At the inception of the simulcast period, local television stations are said to have agreed to produce local content that could be aired via the Signet platform. This was in agreement with conditions set for the awarding of digital licenses. However, despite the pledges, some broadcasters were unable or indeed refused, according to Dr Bitange Ndemo, the Permanent Secretary at the Ministry of Information and Communication, to honor the agreements to develop new local content as "the main inducer for viewers to migrate." This means that local broadcasters either do not think local content will attract audiences or they do not have the resources necessary to develop it as agreed. However, some broadcasters, particularly Citizen TV, have seen their ratings rise as a result of producing interesting local content that people can easily relate to, and which can be termed public service content especially when it is intended to communicate important messages. Citizen has local drama, entertainment, and other programs in addition to news bulletins, and this has contributed to its popularity. It is rated the biggest television station in Kenya in terms of audience share and revenue (see Figure 9).

2.2 Public Service Provision

2.2.1 Perception of Public Service Media

In the last two decades, the liberalization of the airwaves, declining reputation of KBC as a conveyor of truth, and manipulation by the state and the political elite have had negative consequences on public service broadcasting.

The state media started to enjoy some freedom in 1997 after the Inter-Parties Parliamentary Group (IPPG) meeting suggested radical changes to the way state media specifically covered and offered political coverage. Before the 1997 general elections, there were severe recriminations about media bias against opposition parties and politicians. Without adequate media coverage and the freedom of expression still constricted, opposition parties forced the government to accede to concessions aimed at leveling the electoral process.

Meeting under the aegis of the IPPG, ruling-party and opposition politicians agreed to amend legislation inhibiting free expression, and the right to access and use media of mass communication and assembly. Recognizing the need for change, the parties agreed to reform the KBC Act of 1990 to liberalize the media and chart a new democratic course by making the political process more open and transparent.[43]

---

43. The Kenya Broadcasting Corporation Act states that the station is established to "assume the Government functions of producing and broadcasting programs or parts of programs by sound or television; to provide for the management, powers, functions and duties of the Corporation; to provide for the control of broadcast receiving sets, and for the licensing of dealers, repairers and importers of broadcast receiving sets; and for connected purposes." See section *2.1.1*.

The IPPG meeting consequently agreed that the state-owned KBC would accord both the ruling and opposition parties and politicians equal and unbiased coverage as a means of leveling the communication and political processes. Subsequently, the Statute Law (Miscellaneous Amendments) Act, 1997 amended the KBC Act to provide a fair and balanced coverage of political activities. The Act revised in 2009 states that KBC is required to:[44]

> keep a fair balance in all respects in the allocation of broadcasting hours as between different political viewpoints … and in consultation with the Electoral Commission, during the campaign period preceding any presidential, parliamentary or local government election, allocate free air time to registered political parties participating in the election to expound their policies.[45]

Despite these provisions, KBC is still considered part of the government, and experts interviewed for this research believe this has contributed to the drop in its audience share. Besides, the fact that the Minister for Information and Communication has a significant say in how it manages its operations has dented its standing in Kenyan society. This is reinforced by the fact that it often gives more coverage and airtime to those in government and other elite political actors than opposition politicians and others who may seem to oppose the government. In fact, election observers in 2007 roundly criticized KBC for its bias against Raila Odinga, now prime minister, and partiality for President Kibaki.[46]

The European Union Election Monitoring Mission was especially fiercely critical of the public broadcaster, which it said had failed to fulfill its legal obligations:

> The Kenya Broadcasting Corporation (KBC), in particular, failed to fulfill even its minimal legal obligations as a public service broadcaster set out in the Kenya Broadcasting Corporation Act, the IPPG agreement 1997 and international and regional standards. KBC Radio's English and Kiswahili language services demonstrated a high level of bias and granted a combined total of 76 percent of coverage to the PNU coalition partners.[47]

Even Samuel Kivuitu, the discredited chairman of the now disbanded Electoral Commission of Kenya, condemned the station for being openly biased in favor of President Kibaki and berated it for not according equal coverage to the presidential candidates as set out in the KBC Act. He called it a disgrace to the taxpayer. "KBC has let us down as taxpayers, in an election year reporting should show competition; it cannot be that others [candidates] are so stupid that they have nothing which cannot be reported."[48]

---

44. See the Kenya Broadcasting Corporation Act 1988 (amended in 2009), at http://www.kenyalaw.org/klr/fileadmin/pdfdownloads/Acts/Kenya-BroadcastingCorporationAct_Cap221.pdf (accessed 28 January 2013).
45. This is contained in section 8 (clauses 'j' and 'k') of the KBC Act (1988).
46. Electoral Institute for the Sustainability of Democracy in Africa, "Kenya Election Domestic Observation Forum Report," Richmond, South Africa, 2008.
47. See European Union Election Observation Mission, "Kenya Final Report General Elections 27 December 2007," 3 April 2008, at http://www.eeas.europa.eu/human_rights/election_observation/kenya_2007/final_report_en.pdf (accessed 9 January 2013).
48. See the BBC World Service Trust Policy Briefing, #1 April 2008, at http://downloads.bbc.co.uk/worldservice/trust/pdf/kenya_policy_briefing_08.pdf (accessed 20 February 2011).

Those interviewed for this research echoed the fact that the politicization, control, and manipulation of KBC were contributing to its downfall. Dr Oriare is particularly concerned with what he thinks is political control of the station. "This makes it look a propaganda tool for the government," he says.[49] Dr Nyaga says that the government's control of KBC makes it unattractive to many Kenyans, who have never trusted it to give an "objective view of what is going on. Although KBC has changed in the recent past, its past reputation means people are yet to start trusting it."[50]

Mr Masai is particularly critical of KBC, which he thinks has failed to deliver on its "public service mandate. The station is captive to political forces. This has undermined public trust in KBC. Kenyans have to look for alternatives."[51] According to him, alternative media now address the information needs of the Kenyan citizenry better than KBC. However, Dr Ngugi thinks KBC's public interest mandate has "shackled its creativity. Anything it does must be seen through this lens. This means it cannot compete against others with the license to produce content that audiences like. This is compounded by competition which offers better content that meet[s] audience needs and expectations."[52] The views expressed here may mirror those of the public, although no study has been conducted to gauge Kenyans' perception of the public broadcaster.

2.2.2 Public Service Provision in Commercial Media

There are no explicit legal or other requirements imposed on commercial media to produce or disseminate public service content. However, from time to time, the government has recommended that television stations' local content portion comprises at least 40 percent local content of total programming. In fact, one of the suggestions made by the government during the launch of the digitization process is that they should use the opportunity to produce local content. However, there is little evidence to indicate that television stations are willing to produce or indeed capable of producing 40 percent local content, as the government suggests. "During the past one year of piloting the digital platform, local broadcasters did not honor an agreement for development of new, local content as the main inducer for viewers to migrate," Dr Ndemo wrote in the *Daily Nation* newspaper on 17 December 2010.

It will be quite difficult for the government to compel commercial broadcasters to produce local content, given the liberalized environment in which they operate.

2.3 Assessments

Despite the start of the migration from analog to digital in December 2009, the country has not experienced much change in public service media. What has changed over the years, however, is the increasing amount of information on the internet and the use of mobile telephony.

---

49. Interview with Dr Peter Oriare, Nairobi, 12 August 2011; Dr Oriare's sentiments are shared by others, especially Dr Muiru Ngugi also of the University of Nairobi, Dr Rahab Nyaga of Daystar University, Wilson Ugangu, Tom Maliti, a local journalist, and Martin Masai.
50. Interview with Dr Rahab Nyaga, Nairobi, 15 August 2011.
51. Interview with Martin Masai, Nairobi, 31 July 2011.
52. Interview with Dr Muiru Ngugi, Nairobi, 12 August 2011.

In addition, KBC seems to be the biggest beneficiary of the digital switch-over because it was given the mandate to lead and some of the funds required for the digitization exercise. However, since the launch of the simulcast process in December 2009, the government has not released much money other than that mentioned above. This has considerably slowed down the digitization process. This means that although KBC was allowed to form Signet to lead the process and provide the platform for other media, the process is frustrated by lack of funds. As such, this has been a lost opportunity for Kenyans and the media companies to benefit from the digitization process.

This stagnation notwithstanding, KBC and other media companies have benefited greatly from mobile television offered via mobile phones and other collaborations between themselves and mobile phone service providers. The benefits for this relationship include increased audiences and advertising revenue, although these have not been quantified thus far.

Even though Kenya has had public service media since before independence, recent events, especially the liberalization of the media and attendant competition, have had serious negative consequences on KBC as a state public broadcaster. Accordingly, KBC has suffered significantly due to a combination of factors, including political control and interference and manipulation, such as the Minister for Information and Communication being in charge of appointing KBC's board as well as approving the hiring of the managing director. KBC's reliance on state funding has affected its capacity to operate independently.

The independence brought about by political change and IPPG agreements has been seriously eroded. The accusations leveled against KBC by local and international election observers after the bungled 2007 general elections seriously dented its image as an independent broadcaster. Although its image has never been good, the bias and skewed coverage of the election damaged its reputation and standing even further.

The government's offer to KBC to lead the digitization process may have given it a lifeline. Its investment in companies like DSTv may help it raise the required capital. Nonetheless, the competition from other broadcasters and the growing prominence of private television and FM radio stations make it extremely difficult to compete.

However, KBC remains an important actor in public service provisions. This is mainly due to the fact that it still has the widest reach, and its infrastructure and network are still incomparably greater than what other broadcasters in the country have. In essence, even though its prominence is being chipped away by the day, it will take a while before other companies can muster the finances necessary for investment in infrastructure and networks across the country.

What is urgently required is proper management and delinking from the government of the day to regain its place as a genuine public broadcaster. But as noted above, although KBC is taking the lead in the digitization process, it has itself yet to digitize its broadcasting. By giving KBC the mandate to lead the process, the authorities are increasing its revenue by diversifying its operations.

3. Digital Media and Society

3.1 User-Generated Content (UGC)

3.1.1 UGC Overview

The most popular websites in Kenya in 2010 are either search engines like Google or social networking sites like Facebook and YouTube. The most authoritative source for the ranking is Alexa.com, which offers data for many countries.[53] However, Alexa.com does not distinguish between local and general websites, although its rankings show clearly which are the most popular.

Predictably, the most popular sites are those offering search and email facilities like Google and Yahoo!, social networking, file sharing, and information repositories. Alexa.com ranks the top 10 sites in Kenya as Google, Google.co.ke, Facebook, Yahoo!, YouTube, Twitter, Blogspot.com, Wikipedia, LinkedIn, and the *Daily Nation* in that order.[54] What the figures demonstrate is that social networking sites, particularly Facebook, and file sharing ones like YouTube are becoming ever more popular especially among urban young people who post information and pictures about themselves, interact, and make friends on these websites.

On the Alexa.com list, those that can classified as UGC include Facebook, YouTube, Twitter, and Blogspot. Besides these sites, the *Daily Nation* uploads UGC including pictures and feedback on specific content produced by the media organization itself. The *Daily Nation* website also has a blog section where blogs by their own employees are published alongside those of contributors.

Both the *Daily Nation* and the *Standard* have their own Facebook, YouTube, and Twitter accounts, where they not only upload their content but also allow for interaction with audiences, which further enhances UGC.

---

53. See www.alexa.com/topsites/countries/ke (accessed 10 May 2012).

54. See http://www.alexa.com/topsites/countries/ke (accessed 15 March 2011).

Table 9.
Top 10 visited websites, 2012

Ranking	Website
1	Google
2	Google.co.ke
3	Facebook
4	Yahoo!
5	YouTube
6	Twitter
7	Blogspot.com
8	Wikipedia
9	LinkedIn
10	Daily Nation

Source: Alexa.com

3.1.2 Social Networks

The most popular social network site in Kenya is Facebook with more than 2 million members. This has gained significant numbers due to mobile phone usage and the cheap rates offered by mobile phone service providers to access it. There are a number of other popular social network sites. According to Alexa.com, the top five social networking sites are Facebook, YouTube, Twitter, Blogspot.com, and LinkedIn. These occupy the third, fifth, sixth, seventh, and ninth positions in the Alexa ranking in Table 9.

Table 10.
Top visited social networking sites, June 2012

Ranking	Website
1	Facebook
2	YouTube
3	Twitter
4	Blogspot.com
5	LinkedIn
6	Blogger.com
7	Tagged
8	Tumblr
9	Badoo
10	Flickr

Source: Alexa.com

However, there are no reliable statistics of how many Kenyans subscribe to these sites, or how many people visit them regularly. In 2009, Ipsos-Synovate reported more than two million Kenyans had Facebook accounts and indicated that the social networking website was slowly edging out email as the preferred mode of electronic communication. The research showed that 79 percent of internet users in Kenya visit the website, using it as a primary means to talk to friends, relatives, and workmates.[55]

News media, celebrities, and other organizations have Facebook pages. Moreover, the media often advertise their Facebook accounts and ask people to comment on issues they may be handling. They also post audiovisual clips on YouTube. The Nation and Standard sites often post their video clips on YouTube. They also have Twitter and Facebook accounts. Chat facilities on sites like Facebook and MSN have also made these facilities quite popular.

"The implications are significant, this could be a game-changing phenomenon especially as we see more businesses start to use the service as an alternate tool to talk to their customers," said Joe Otin, Media Research and Monitoring Director for pan-Africa at Ipsos-Synovate. The report also revealed that on average Kenyan internet users spent about 70 minutes on the internet per visit. "This level of media usage is close to the average time spent on television daily. We are seeing significant shifts in the way people receive content, and this could have implications for traditional media going forward," said Mr Otin.[56] Recently, mobile phone service providers Orange Kenya and Safaricom started offering Facebook Zero, which allows users to access text only on their phones.

3.1.3 News in Social Media

News sites like the Nation, Standard, and Capital FM regularly use Facebook, Twitter, and YouTube in their operations, uploading videos, for example, that can also be accessible via YouTube.

While such facilities as Twitter, Facebook, and YouTube provide opportunities for big media organizations to deliver news and enhance interactions with audiences and users, blogs have sometimes become key sources of information. Blogs are hosted on platforms like Blogspot.com and Blogger.com. Kenya is home to several well-known blogs, and some of the bloggers like the Kenyan Pundit, Afromusing, Bankelele, Gathara's World, Joseph Karoki, Mama Junkyard's, Mental Acrobatics, Kumekucha, Thinker's Room, and Mzalendo (Kenya Parliament Watchdog) often carry commentary.

The Kenyan Pundit, written by Ory Okolloh, one of the founders of Ushahidi, the digital mapping open-source software that has recently become popular due to its use in trouble-spots around the world, is a popular blogger not only in Kenya but around the world. Now it is readily acknowledged that Kenya has one

---

55. Synovate (2009). *A Long Way Down the Digital Divide! Starts to Narrow,* at http://www.rich.co.ke/rcfrbs/downloads/TheDigitalDivide.ppt (accessed 10 March 2012).

56. Mr Otin was quoted in the *Business Daily newspaper. See* Kinyanjui, Kui, "Facebook now clicks trouble for TV, radio." *Business Daily,* 11 February 2010, at http://www.businessdailyafrica.com/Corporate-News/-/539550/859636/-/14whj7jz/-/index.html (accessed 10 January 2012).

of the largest blogging communities in sub-Saharan Africa, some of whom offer information and news. This was particularly the case when the government banned media broadcasts in the wake of the damaging post-election violence of December 2007 and early 2008.[57]

Kumekucha, for example, boasts of having published exclusive news that cannot be touched by mainstream media because of its explosiveness and sensitivity.

3.2 Digital Activism

3.2.1 Digital Platforms and Civil Society Activism

There is significant online activity in Kenya. Civil society activists, politicians, and other actors constantly use the internet to campaign for various issues, although its efficacy has yet to be determined. For example, Mzalendo (Kiswahili for "patriot"), a Kenya Parliament Watchdog, has been used particularly during election periods to let citizens know about the performance of their representatives. Mzalendo was particularly useful in revealing the amount of work parliamentarians did and their contributions in the House prior to elections. Bunge la Mwananchi (Kiswahili for "People's Parliament," at Bungelamwananchi.org) provides space for people to articulate their own concerns and seeks to expand the democratic space.

Mzalendo has been in the forefront of providing information on the performance of Kenyan parliamentarians. According to reports, Mzalendo set out to keep track of every bill, every speech, and every MP that passes through Kenya's parliament. Reports indicate that because the founders of Mzalendo did not have the right to write from Parliament, they sometimes relied on journalists to contribute to the site. One of the founders, Ory Okolloh, says they relied on volunteer bloggers and freelance journalists for eyewitness accounts of debates. Before long, even MPs started contributing, seeking often to correct information posted on the site, and answering various questions posted by ordinary people. Subsequently, even organizations like Transparency International were tapping on to the Mzalendo website when analyzing the work of parliamentarians as part of their mandate to track and document corruption in Kenya.

Ushahidi

One of the best-known digital activist groups in Kenya is Ushahidi (Kiswahili for "testimony"), co-founded by the blogger and social activist Ory Okolloh. The Ushahidi software was used to map trouble-spots during the post-election violence of late 2007 and early 2008 resulting from the bungled general election of December 2007. Ushahidi was used to post messages and pictures sent in by ordinary people using their mobile phones to track unfolding events and warn people of trouble-spots. Since then it has been used in different countries including Haiti, South Africa, and Democratic Republic of Congo.

57. Goldstein and Rotich, "Digitally Networked Technology in Kenya's Post-Election Crisis."

The use of the internet for civil society activism has been growing in Kenya rapidly; the causes include many different factors but especially because people are attempting to consolidate democracy and make politics more transparent and accountable. The fact that Kenya has over 2 million Facebook registered users has generated optimism—and fears—that this huge network of online users may easily be activated for political purposes. Although in Kenya this has yet to acquire the scope of Tunisia, where people used Facebook to communicate and topple the regime in early 2011, there is now an overarching view that this could easily happen in Kenya because of the growth of social networking facilities especially among young people. According to some scholars, for example Dr Nyaga of Daystar University and Ms Grace Githaiga, a media researcher with a special interest in broadcasting and ICT, this is one of the greatest benefits accruing from internet use in Kenya.[58]

3.2.2 The Importance of Digital Mobilizations

Mobile telephony has played a significant role in digital mobilization in Kenya. For example, the recent famine in Kenya has demonstrated the power of mobile telephony, and particularly the use of money transfer facilities. Most of the money collected from Kenyans for the famine victims came in via Mpesa, a money transfer system,[59] and advertisements and Safaricom asked donors to send in their contributions using this vehicle. The capacity of mobile telephony to mobilize such resources has changed the profile of mobile phones.

The speed, interactivity, reliability, and communicative capabilities of digital media are often hailed as having a transformative power in Kenya, and many people refer to the post-election violence of December 2007 and January 2008 as good examples of what technology can do. It is now acknowledged that the masterminds of the post-election violence used mobile telephony and more specifically Short Message Service (SMS) to reach out to their supporters to engage in violence.

The referendum on the constitution in Kenya in 2010 was another good example of how mobile telephony and especially SMS can be used to mobilize the people. Supporters and non-supporters of the constitution regularly used texts to reach out to their fellow countrymen. The Interim Independent Electoral Commission charged with organizing and supervising the exercise used mobile telephony as a way of encouraging people to vote during the plebiscite.

Politicians like Martha Karua, William Ruto, and Uhuru Kenyatta have now taken to Facebook and Twitter as facilities for mobilizing support. According to Ms Githaiga, digital communication platforms have enabled the use of new mobilization strategies. "Kenyans are using social sites and texts to solicit funds, sign up to causes, invite people to functions. Politicians are also using the sites to engage with the populace to articulate what they stand for. Martha Karua and Uhuru Kenyatta are both on Facebook and active on Twitter. A good example is during 2011 Kenya's budget process, the Minister of Finance got over 3,000 messages via Facebook and Twitter on budget ideas," Ms Githaiga stated.[60]

---

58. Interviews with Dr Rahab Nyaga, Nairobi, 15 August 2011, and Grace Githaiga, Nairobi, 16 August 2011.
59. Mpesa is owned by Safaricom. It allows people not only to transfer money among themselves but also to pay for goods and services. It can be used as a mobile bank as it allows people to keep up to KSh 135,000 (US$ 1,500) in their accounts.
60. Interview with Grace Githaiga, Nairobi, 16 August 2011.

The use of such facilities as Ushahidi, Mzalendo, and Ugatuzi, a budget tracking tool initiated by the Social Development Network (SODNET) to provide a collaborative platform for grassroots communities to proactively engage in public resource management, have helped mobilize several segments of society to participate in various activities.[61] For example, the mapping of post-election violence and its consequences for ordinary people mobilized people in different countries to collect funds for humanitarian aid. Ms Githaiga says that platforms like Ushahidi have not only allowed and enhanced interaction, and the creation and sharing of information, but also what she calls "crowd sourcing on different issues. It has become a great resource in times of crisis. It provides tools for communities to crowd source real time information using text messages, emails and social networks."[62]

Ms Githaiga argues that groups organizing through online platforms have done so without fear of being subverted and prosecuted by state security apparatuses and authorities. They have also been able to mobilize without traditional modes of support, including the conventional media. Ms Githaiga specifically mentions Bunge la Mwananchi ("People's Parliament"), which has utilized its three Facebook pages and has a following of over 20,000 people. For Ms Githaiga, such groups are able to reach many more people because of the duplicative capacity of digital media.[63]

Although some of the activities coming out of mobile telephony are positive, its use in the spread of hate speech and the violence that followed the disputed presidential poll of December 2007 reveals the damaging consequences of some digital media. Goldstein and Rotich's study actually details the use of mobile telephony, particularly SMS, in the spread of hatred and violence. They argue that the digital network technologies "were a catalyst to both predatory behavior such as ethnic-based mob violence and to civic behavior such as citizen journalism and human rights campaigns."[64]

What we see here is a complementarity of traditional and new media; the two seem to work together to enhance mobilization for various causes. This is especially critical for people who may not have access to new media platforms or those who privilege traditional media. Besides, in a country like Kenya, it would be difficult to view the impact of one type of media (particularly the new media) in isolation from another, given the influences they have on each other.

---

61. SODNET describes itself as an organization interested in empowering society by placing "the necessary strategic tools for social mobilization and action in the hands of the key stakeholders." It provides a platform through which local groups can reflect and take action on a myriad of social, economic, and political issues. It is particularly interested in facilitating effective strategic alliances among interested people's and social movements to influence policy-making on issues of social development, in particular with regard to resource management, globalization, and information. The organization's website was under construction on 28 January 2013, when we attempted to access it.

62. Interview with Grace Githaiga, Nairobi, 16 August 2011.

63. Interview with Grace Githaiga, Nairobi, 16 August 2011.

64. Goldstein and Rotich, "Digitally Networked Technology in Kenya's Post-Election Crisis," p. 2.

3.3 Assessments

Digitization has introduced numerous changes to the way media operate in Kenya. It has offered opportunities for greater interactions between producers and consumers of information. It has also enhanced opportunities for people to produce content and perhaps challenge the power of established media. Despite these arguments, it is sometimes difficult to vouch for the quality of the news, especially that which is sourced from citizen journalism sites and blogs offered through some of these facilities.

Recent events, particularly those political in nature, have raised the quantity and even quality of civil and political activism via the internet and mobile telephony. As has been acknowledged, Kenya is home to one of the richest blogging traditions in sub-Saharan Africa.[65]

Besides, as evidence from Ushahidi and Mzalendo indicates, Kenyans are fast warming to the idea of using the internet and mobile telephony to mobilize and participate in civil and political activism. The use of mobile telephony, and especially SMS, is undoubtedly considered one of the most efficacious in civil and political activism. Although SMS has acquired a somewhat bad political reputation because of what is now referred to as viral politics, it remains one of the most potent forces for social good. The recent rise of Mpesa and similar services by other mobile service providers, such as Zap by Airtel, has raised the profile of mobile telephony as a social change agent in Kenya.

Nowadays it is common to receive messages from the government and its various branches seeking support for various causes. In the constitutional referendum of August 2010, mobile telephony and the internet were used to drum up support for or against the constitution. As indicated above, the Interim Independent Electoral Commission subsequently used mobile telephony to encourage people to vote in the plebiscite.

In essence, digital media are now used extensively for civic activism in Kenya, and the examples of Ushahidi and Mzalendo as well as the constitutional referendum come to mind. The popularity of Ushahidi demonstrates the ingenious use of digital media in Kenya.

65. Goldstein and Rotich, "Digitally Networked Technology in Kenya's Post-Election Crisis," p. 8.

4. Digital Media and Journalism

4.1 Impact on Journalists and Newsrooms

4.1.1 Journalists

Several changes have been experienced in the media in Kenya as a consequence of digital technologies. The use of mobile telephony and the internet, for example, have increased the pace of news collection, analysis, packaging, and dissemination, as evidence from media organizations demonstrates. There has also been increased UGC as media organizations seek to cultivate new relationships with audiences which now regularly contribute content or are encouraged to post comments on already published material.

This trend is not only felt in urban-based media organizations. Community media, for example Pamoja Radio, Radio Mang'elete, and Ghetto Radio, often use digital technologies in their broadcasts. Even though these are small outfits, the use of such facilities as mobile telephony means listeners are able to call in and discuss issues that affect them.

Journalists and editors interviewed for this research from media organizations like the Standard, Nation, BBC, KBC, and The Star thought digital technologies had transformed journalism in the country. There were negative aspects of digital technologies, but the advantages far outweighed the disadvantages. For instance, journalists in Kenya now file stories, pictures, and even audio and visual clips from the field using their laptops and mobile internet connection facilities. In the past, they either had to go back to their newsrooms, or use payphones to file stories. This has enhanced what Ben Agina, the News Editor at the *Standard* newspaper, calls the real-life business of news collection and dissemination.[66]

Mr Agina says the Standard Group has started to:

> create an all-digital production environment in which content and metadata is accessible to all users and on all Standard Group distribution platforms. This plan is changing almost every aspect of Standard Group's production system and, more importantly, the workflow.

66. Interview with Ben Agina, Nairobi, 19 May 2011.

> It is an enormous and challenging undertaking and one, in my estimation, that will put Standard Group in the forefront of production worldwide. Standard Group is altering the very core of its system requirements; our plans call for not just digital updates of existing equipment but, instead, we are leading digital media house to develop new systems and approaches. Our journalists and editors are able to research, access, create and modify all aspects of content from their desktop. And they are able to create content that can be used in a variety of distribution platforms. Because the tools and digital media are more flexible and adaptive, they are able to use a common infrastructure to both expand and refine the rolls of the editorial and technical staffs.[67]

These views are echoed by David Ohito, regional editor of the *Standard* newspaper. According to him, former ways of operating are slowly being confined to the annals of history. "Voices and pictures are recorded digitally. The darkroom technologies have been taken into museums. Stories are digitized, program design and layout have improved. Mobile phones have replaced reverse calls from booths," he says.[68]

Besides, field bureaus are now connected and file their reports to their main offices or headquarters, which are mostly in Nairobi, via intranet facilities. The newsrooms of the Nation Media Group, the Standard, and The Star are all connected via fiber-optic, making work processes easier and faster. Previously reporters and journalists used land transport to get their films and video clips to newsrooms for development and dissemination. Now all they need are mobile phones and laptops to work from the field. The pace of communication and publication has improved significantly. It also means that it is possible to broadcast live from the field using either internet or outside broadcasting facilities. "Technology has revolutionized newsrooms," says Mr Ohito.[69] He believes networked newsrooms have made the work of journalists easier due to technology. "We now have video conferencing facilities for press briefings and communication. Deadlines have become flexible as printing is faster thanks to digital technology."[70]

Besides the above benefits, media organizations have been able to cut down on bureaucracy and the time spent producing news. The Nation and the Standard regularly send out breaking news texts as part of keeping their audiences informed.

Although these developments are welcome in a fast-changing media environment, the quality and even credibility and reliability of news and information are sometimes questionable. "Because news is to be covered at an alarming rate, it has made the job of the traditional journalist more difficult. While news sources want to reveal news as soon as possible, there is only so much accuracy one can obtain in a short amount of time," says Mr Agina.[71]

---

67. Interview with Ben Agina, Nairobi, 19 May 2011.
68. Interview with David Ohito, Nairobi, 21 May 2011.
69. Interview with David Ohito, Nairobi, 21 May 2011.
70. Interview with David Ohito, Nairobi, 21 May 2011.
71. Interview with Ben Agina, Nairobi, 19 May 2011.

The relationships between sources of news, for example, the government, politicians, political parties, and parliament, to name but a few, have also been altered as a consequence of new technology. Instead of sending press releases via courier, for instance, email communications between, for example politicians and other sources and journalists have become the norm. This has reduced the amount of time it takes to collect and process stories.

Available technologies have also changed and improved journalists' working habits. People working in newsrooms are now expected to be multiskilled. Whereas previously photographers accompanied reporters to the field, now reporters carry digital cameras and take their own pictures, particularly if the assignments are in far-flung areas. As a consequence of these new practices, newly graduated journalists who have been trained to be multiskilled are being hired, especially at the Nation, Standard, and Capital FM. The Nation's Media Lab hires graduates straight from university, whom they train in the Media Lab for nine months to report for various platforms. This has forced older journalists to learn new skills.

Moreover, media houses are now investing in converged newsrooms. Those with radio, television, newspaper, and online sections now have a single newsroom instead of different ones for their different platforms. The Standard Group, for example, has a converged newsroom where reporters working for the radio, television, online, and newspaper products share stories, pictures, and videos. This has reduced the cost of news collection, and enhanced the capacities of those who work in the media group. Conversely, this has reduced the number of those working in the newsrooms and put pressure on journalists' and other media workers' productivity. "Those who cannot fit in have lost their jobs," says Mr Ohito.[72]

The new working environments seen in places like the Nation and Standard have been replicated at Capital FM, The Star, and Media Max where journalists also are now required to be multiskilled as the groups try to maximize on the human resources they have to report for their various platforms. This seems to be the norm in Kenya as major media groups embrace new technologies.

4.1.2 Ethics

The intense competition engendered by new technologies means news media have had to innovate to survive. The breaking news facility, mobile television, as well as competition for audiences have encouraged unethical behavior among journalists and media houses, which often employ unorthodox means of acquiring the material. The use of hidden cameras, microphones, and other gadgets in investigative journalism is now commonplace.

Although there have always been difficulties with the ethical behavior of journalists in Kenya, the digital era is the source of numerous new problems, one of which is plagiarism. Journalists have often been caught plagiarizing material from online sources without attribution. Media regularly pick material and pictures from the internet without attribution also, causing serious copyright issues. "Technology has made journalists

72. Interview with David Ohito, Nairobi, 21 May 2011.

lazy," says Haron Mwangi, the Executive Director of the Media Council of Kenya (MCK), an organization concerned with raising the standard of journalism in Kenya.[73] "Journalists no longer worry about researching stories. They do a lot of copying and pasting from the internet. They do not have time to invest in serious stories because of competition."[74]

Mr Agina, Kenney Osir, the Chief News Editor at KBC TV, and David Okwemba, the BBC Managing Editor for East Africa, support Mr Mwangi's sentiments that laziness and plagiarism are now major problems in the newsrooms. "Most players in the industry are now reluctant to conduct the research. They often now copy and paste information without minding the consequences. This has encouraged laziness in the newsroom. There is no creativity, no imagination because information has become so easy to find," says Mr Agina.[75]

For Mr Okwemba there is little creativity and originality, as journalists can easily "pick other people's ideas, change it a bit to make look fresh, and publish it as their own,"[76] and this kills investigative journalism.

These issues have also raised questions about the validity and accuracy of published material. Moreover, the breaking news facility now used by various media makes it difficult to ascertain the quality, credibility, and reliability of the information, because of the obsession with immediacy and scoops; according to Mr Agina, "there is sometimes little time to fact-check and edit for credibility."[77] David Aduda, the Editorial Administration Manager at the Nation Media Group, says this pressure is the bane of journalism. "Some journalists have resorted to cheating, to manipulating information and content," he says. "There is now a problem with the authenticity of information, the originality of information."[78]

The publication of stories online has also had consequences for the ethical standards of journalism. While print and broadcast material are subject to high ethical standards, sometimes the media houses do not apply the same criteria to material published online and even on mobile telephony. Media houses are wary of the penalties for defamation, and avoid material—pictures, commentary, stories, and other texts—that could easily be deemed defamatory if published or broadcast offline; but they let people publish material that is injurious to reputations and is clearly defamatory. Comments allowed on newspapers' online sites are sometimes inaccurate and full of invective.

The Facebook pages of the newspapers and broadcast media either intentionally, or because of a lack of moderation, allow the publication of material that could be considered unethical. "The quality of journalism online has gone down. Citizen journalism does not make it any better," says Otuma Ongalo, a senior editor

73. Interview with Haron Mwangi, Nairobi, 12 August 2011.
74. Interview with Haron Mwangi, Nairobi, 12 August 2011.
75. Interview with Ben Agina, Nairobi, 19 May 2011.
76. Interview with David Okwemba, Nairobi, 22 July 2011.
77. Interview with Ben Agina, Nairobi, 19 May 2011.
78. Interview with David Aduda, Nairobi, 26 July 2011.

in charge of quality at the *Standard* newspaper.[79] "The online material is not subject to the high standards expected of print or broadcast journalism in Kenya."

Mr Ongalo's views are echoed by Mr Mwangi, who believes technology has made it easier to breach journalistic ethics. He says the publication of "false information, manipulated images" has become too common in Kenya.[80] "There is little accuracy in some of the information online. The journalists sometimes do not verify the veracity of information they get from online sources. In the process the value of the news is completely lost. The ethical values are sacrificed because of cheap stories."[81]

The publication of dubious material involving trivialization, sensationalism, obscenity, vulgarity, racism, sexism, and homophobia is on the rise in Kenya. There is often failure to distinguish between privacy and secrecy. However, this is not confined to online platforms; it applies to both online and offline platforms. In online journalism, the virtues associated with ethics—accuracy, honesty, truth, impartiality, fairness, balance, respect for the autonomy of ordinary people—are barely respected, largely because there is no effective way of policing this, or because there are no legal penalties. Ethics are being ignored due to commercial pressure and the competition for audiences—especially since breaking news has become a common phenomenon.

4.2 Investigative Journalism

4.2.1 Opportunities

Digital technologies have had both positive and negative consequences for investigative journalism in Kenya. Those interviewed praised and criticized digital technologies almost in equal measure. For example, while Mr Ohito says technologies have made investigative journalism much more exciting,[82] Mr Mwangi thinks media houses now do not want to invest in serious investigative journalism:[83] "The journalists would rather source the material from online sources. They do not have the time and resources to do serious research, serious investigative journalism," he says.[84] He thinks that journalists and media houses often prefer to do online research. Accordingly, there is no increase in the amount of investigative journalism due to digitization.

Nonetheless, the internet, for example, has aided research and often provided leads or tips and background material for investigative reports. This is especially true since the launch of the Kenya Open Data Portal, which contains information on the government that is readily accessible to anyone with internet access.[85]

79. Interview with Otuma Ongalo, Nairobi, 13 June 2011.
80. Interview with Haron Mwangi, Nairobi, 12 August 2011.
81. Interview with Haron Mwangi, Nairobi, 12 August 2011.
82. Interview with David Ohito, Nairobi, 21 May 2011.
83. Interview with Haron Mwangi, Nairobi, 12 August 2011.
84. Interview with Haron Mwangi, Nairobi, 12 August 2011.
85. On 8 July 2011, President Kibaki launched the Kenya Open Data Portal in Nairobi. See Kenya News Agency, "President Kibaki Launches Kenya Open Data Portal, Urges Kenyans to Utilize it to Enhance Accountability and Improve Governance," at http://www.kenyanewsagency.go.ke/index.php?option=com_content&view=article&id=168:president-kibaki-launches-kenya-open-data-portal-urges-kenyans-to-utilize-it-to-enhance-accountability-and-improve-governance-&catid=1:headline-news&Itemid=1 (accessed 12 July 2011).

Mr Agina and Mr Aduda consider the availability of such information as complementary to the work of investigative journalists. Mr Agina said: "This provides writers with secondary information which saves more time and cost given that there is little funding in the sector. Nevertheless, a journalist will have to conduct primary research on the subject that he is writing about although the availability of online information reduces the time taken to complete a story."[86]

The availability of a large number of government documents has without doubt made the work of investigative journalists easier. For instance, it was near impossible a few years ago to access government documents, research data, or even policies. It is noteworthy that investigative journalists can use these sites as data mines to enhance their articles. For example, Kenya Television Network's investigations into the operations of the Kenya Ports Authority and Kenya Revenue Authority (KRA) in 2009 was aided by documents available online. Documents on tax payments as well as agent operations helped disprove the notion that those accused of tax evasion after collusion with KRA officials were unaware of state requirements with respect to tax.

However, Andrew Teyie, *The Star* newspaper's investigative editor, is not convinced. He feels that new technologies have made it difficult for investigative journalists in Kenya. He says it has increased the level of state surveillance, and so is a threat to investigative journalists. "People no longer trust the mobile phone, they do not trust emails. I have had to personally meet sources. This is safer for both investigative journalists and sources. The traditional modes of information collection are coming back because of technology," says Mr Teyie.[87]

Platforms like the Centre for Investigative Journalism and the International Consortium of Investigative Journalists, among others, have had a remarkable effect on the quality of investigative journalists' output.[88] Mr Agina, for example, argues that such platforms have become learning forums for investigative journalists in Kenya: "Most writers can learn and adopt a few skills from such platforms."[89]

The internet has become a home for some investigative reports that cannot be published in newspapers or broadcast on radio or television due to threats, political and commercial pressures, and other reasons. For example, Argwings Odera, a Kenyan investigative journalist, was able to publish online his stories on the negative environmental impact of dams in Kenya when no newspaper was willing to publishing them. "Without that the world would not have known the consequences of such dams. They were considered of enormous benefit to the country but few wanted to risk publishing material on the negative environmental consequences as well as the negative effects they had on the lives of rural villagers," says Mr Odera, who

86. Interview with Ben Agina, Nairobi, 19 May 2011.

87. Interview with Andrew Teyie, Nairobi, 10 June 2011.

88. Founded in 2003, the Centre for Investigative Journalism (CIJ) describes itself as a charity that champions critical, in-depth reporting, and the defense of the public interest. It is also interested in providing a center of excellence in training professional journalists to ensure that high professional standards in investigative reporting are raised and maintained. See http://www.tcij.org. On the other hand, the International Consortium of Investigative Journalists is an active global network of 160 reporters in more than 60 countries who collaborate on in-depth investigative stories. It was set up in 1997. See www.icij.org. (Websites accessed 28 January 2013.)

89. Interview with Ben Agina, Nairobi, 19 May 2011.

got funding from the Centre for Investigative Journalists and the Fund for Investigative Journalism for his work.[90] Similarly, the tapes containing incriminating evidence against top government officials in the Anglo Leasing case that cost the country millions of dollars were first published on WikiLeaks before being picked up by local media. The internet has become a safe and convenient place for publishing information that local media cannot touch for legal, political, or commercial reasons, or because of threats.

4.2.2 Threats

The fact that it has become easy to store information on servers, which are prone to hacking, is a major threat to investigative journalism in Kenya—as indeed it is elsewhere. What is more, hacking or destruction of material can cripple media organizations relying on digital systems.

As media companies increasingly rely on servers to store material and online facilities to send and receive stories, pictures, and audiovisual material, this has become an ever too common threat especially for media houses conducting investigative journalism. This is because the state possesses the necessary resources to sabotage or engage in activities that threaten the work of investigative journalists. By the same token, workers can damage computer and other technologies upon which media rely for communication, storage, and retrieval of material. For example, the unreliability of internet connections in Kenya causes frequent system breakdowns. Some system administrators and even journalists are also known to work as spies and moles for particular individuals, so they can interfere with investigative and other reports. This is evidenced by, for example, the government's attack on the Standard Group in March 2006, when state agents carted away computers they claimed contained material "harmful to state security."[91]

Publication of unsubstantiated information on blogs like Kumekucha (Kumekucha.blogspot.com/) and Mashada (Mashada.com) as investigative journalism has affected its quality and credibility. Although the sites are part of the growing UGC and blogs, they claim to offer material that established media are either unable or unwilling to publish. This is based on the fact that defamation laws are more prohibitive of offline material, and news organizations are fearful of incurring the huge damages often awarded to claimants who say their reputations have been injured as a consequence of news or media publications.

4.2.3 New Platforms

It is widely acknowledged that Kenya has one of the most dynamic bloggers' spheres in sub-Saharan Africa. While they have provided information, for example, during the post-election violence and were able to publish articles and pictures of the atrocities committed during the violence of late 2007 and early 2008, the majority of these are mostly opinion. During the post-election violence period and following the government's ban on

90. Interview with Argwings Odera, Nairobi, 10 May 2011.

91. On the night of 2/3 March 2006, the Kenyan security apparatus raided the *Standard* newspaper and its television company, the Kenya Television Network (KTN) in what the Security Minister, John Michuki, said was aimed at protecting the state against threats from recalcitrant journalists and media organizations. In that attack, reported widely all over the world, on the internet and in traditional media, the government confiscated and set ablaze thousands of copies of the newspaper, dismantled the press, and beat up staff. The thugs, who later turned out to be security officers, switched off the television station for 24 hours and took away computers they claimed contained material harmful to state security.

live broadcasting on 30 December 2007, bloggers such as Kenyan Pundit, Mental Acrobatics, and Bankelele may have become citizen journalists providing information that mainstream media could not.

The closest Kenyan bloggers have come to investigative journalism is through the Mzalendo (Mzalendo.com/blog/) blog, which regularly reviews the Kenyan Parliament's Official Hansard Report to assess the performance of members of parliament. This is critical because MPs are often accused of lethargy in the performance of their legislative work and so it helps Kenyans to measure the performance of their MPs.

4.2.4 Dissemination and Impact

Major news media's online presence enables them to disseminate their material to wider audiences. This is especially true of, for instance, the Nation and Standard media groups that publish video clips of their investigative reports on their websites. The same can also be viewed on their YouTube and Facebook accounts.

The online reports enable Kenyans to receive information quickly. WikiLeaks may have changed the general view that the internet is a safe place to deposit investigative reports. This started when WikiLeaks published a report on corruption in Kenya, the Kroll report, on 31 August 2007. The report detailing the "looting of Kenya," as the British newspaper *The Guardian* later called it, documented the massive pillaging the country suffered during President Daniel arap Moi's quarter-century in power (1978–2002).[92] The report was based on an investigation by a British company, Kroll Associates, commissioned by the Kenyan government to track down money stolen from public coffers during Moi's era. After the publication of the story online and in *The Guardian,* local media were brave enough to republish it.

However, often it is not the publication of the report online that gets the government to act, but the republication of the reports by traditional local media, particularly newspapers, television, and radio stations, that forces the government to take action. This is because most consumers of such reports live in Kenya and their awareness of crimes committed by politicians and the political leadership might stimulate action, be this in the form of political protests, demonstrations, or legal prosecutions.

4.3 Social and Cultural Diversity

4.3.1 Sensitive Issues

One of the most sensitive issues in Kenya is ethnicity. The post-election violence in Kenya, for example, pitted one ethnic group against another, causing tensions across the country and especially in peri-urban, rural, and even some urban informal settlements. For example, after the disputed presidential poll of 2007, the violence in Nairobi's informal settlements of Kibera and Mathare was mostly between the Kikuyu and

---

92. According to the report compiled by Kroll Associates UK Ltd under the instruction of the NARC government, Moi, his family, and cronies allegedly pillaged more than £1 billion (US$1.48 billion) from the Kenyan coffers during his rule. The report, dated 27 April 2004, gives details of who held what, and where. After the posting of the report online, *The Guardian* picked it up, publishing it on its front page on 31 August 2007. See X. Rice, "The looting of Kenya," *The Guardian*, 31 August 2007, p. 1.

the Luo. In Kisumu, a town in western Kenya inhabited predominantly by the Luo, several Kikuyu and members of other communities were killed in the post-election chaos. Similarly, in Naivasha and Nakuru, cosmopolitan peri-urban centers, several Luo and people from other communities were killed.

In a country with more than 42 ethnic groups, sometimes with distinct beliefs and languages, power struggles have become increasingly polarized along ethnic lines. Commonly referred to as tribalism in Kenya, the problem of ethnicity started after independence when the founding president Jomo Kenyatta, a Kikuyu, filled plum government positions with people from his community and allocated his tribespeople state resources such as land. When Moi ascended to power in 1978 he pledged to follow Kenyatta's footsteps, adopting the *Nyayo* (a Kiswahili word literally meaning "footsteps") dictum as he vowed to follow the political trajectory set by his predecessor. One thing he did differently, though, was to dismantle Kenyatta's Kikuyu hegemony—although he was following the example already established—as he set out to bulwark his position using his Kalenjin tribesmen and women.

Although polarization along ethnic lines in the civil service spread and worsened under Moi, there is little doubt that Kenyatta and his cabal cronies laid the foundation for this trend immediately after independence, and continued to provide vital patronage for its survival and growth until his death in 1978. To this day, there is a common belief that membership of the right tribe[93] brings political benefits that other ethnic communities can only dream of. Ministerial and senior government positions, project funds, and development projects are sometimes allocated along ethnic lines. The inability or indeed unwillingness of the country's leadership to steer clear of ethnicity is often seen as part of selfish attempts by those in authority to use their ethnic groups to maintain the status quo or acquire power.

While issues relating to young people, women, religion, and sexual orientation are also sensitive, they do not approach the stark prominence of ethnicity. Admittedly, religion has recently become a concern, because some people feel marginalized because of their membership of particular groups. Muslims are aggrieved about the fight against terrorism, and Muslim leaders often complain that their members are targeted unfairly due to the supposition that Islam supports terrorism.

Young people's and women's issues have emerged as sensitive in Kenya. This is largely because of the old leadership, unemployment, and other social problems. Being a patriarchal society, women feel marginalized because of dominant customs and beliefs.

Sexual orientation has also recently become a sensitive issue in Kenya. Although gay and lesbian relationships are banned in Kenya, a small group of people are openly challenging legislation that prohibits same-sex relationships and there has emerged a small but vocal cohort championing the rights of homosexuals.

93. This is commonly associated with the president's tribe.

4.3.2 Coverage of Sensitive Issues

The serious consequences of the 2007–2008 post-election violence and its attendant crises have affected media coverage of ethnic tensions and conflicts. The ramifications of the post-election violence led to the formation of a National Cohesion and Integration Commission (NCIC), whose mandate is to facilitate and promote equality of opportunity, good relations, harmony, and peaceful coexistence between persons of different ethnic and racial backgrounds in Kenya.

To forestall the recurrence of ethnic conflicts in Kenya, the NCIC on 3 November 2010 launched the Guidelines for Monitoring Hate Speech in the Electronic Media in Kenya. The guidelines stipulate that the media cannot publish material promoting ethnic, religious, and other stereotyping as well as hate speech. The publication followed the prosecution by NCIC of politicians using hate speech ahead of the highly contested constitutional referendum campaigns of 2010.

Besides, the Second Schedule of the Media Act 2007 on the Code of Conduct for the Practice of Journalism in Kenya criminalizes media content that incites ethnic, religious, racial, and other tensions. Section 11 of that Code states:

- News, views or comments on ethnic, religious or sectarian dispute should be published or broadcast after proper verification of facts and presented with due caution and restraint in a manner which is conducive to the creation of an atmosphere congenial to national harmony, amity and peace.
- Provocative and alarming headlines should be avoided.
- News reports or commentaries should not be written or broadcast in a manner likely to inflame the passions, aggravate the tension or accentuate the strained relations between the communities concerned. Equally so, articles or broadcasts with the potential to exacerbate communal trouble should be avoided.

Section of 25 of the Code refers to hate speech. It states: "Quoting persons making derogatory remarks based on ethnicity, race, creed, color and sex shall be avoided. Racist or negative ethnic terms should be avoided. Careful account should be taken of the possible effect upon the ethnic or racial group concerned, and on the population as a whole, and of the changes in public attitudes as to what is and what is not acceptable when using such terms."

Despite these regulations, the media regularly carry bigoted content about marginalized groups. For example, gays and lesbians are often labeled aliens, obscene, vulgar, and offensive, something attested by David Kuria, an official of the Gay and Lesbian Coalition of Kenya (GALCK, Galck.org).[94] After the 17 October 2009 wedding in London of two openly gay Kenyan men Charles Ngengi and Daniel Chege Gichia, for instance, several homophobic articles were published in mainstream newspapers and broadcast media.[95] The

94. Interview with David Kuria, Nairobi, 27 May 2011.

95. See *Daily Nation,* "Two Kenyan men wed in London," 17 October 2009, at http://www.nation.co.ke/News/-/1056/673614/-/uo10l1/-/ (accessed 4 April 2011).

media seem to be capable of disregarding anti-discrimination regulations because homosexuality is a crime punishable by up to 14 years in jail.[96] Whereas the media feel the need for restraint on issues touching on ethnic tensions and conflicts, homosexuality continues to be rejected by the media. The state criminalization and prosecution of hate speech after the post-election violence of December 2007 and early 2008 as well as the NCIC's prosecution of hate-mongers have perhaps convinced the media of the need to steer clear of hate speech. Besides, the NCIC has used and continues to use state and commercial media in its attempts to promote ethnic tolerance and cohesion. The tacit agreement between the media and NCIC to steer clear of hate speech and hate-mongers has somewhat mitigated ethnic tensions.

However, there is no explicit legal or regulatory requirement for minority issues to be covered. This is left to the discretion of the media houses, even in the case of the public broadcaster KBC. Special features and programs, for example, for International Women's Day or World Aids Day, may be carried by individual media houses not because there is a requirement for them to do so but because they feel they have a social responsibility or they may have interested people and organizations or audiences. The coverage of minority and sensitive issues is in fact voluntary, based on individual media interests.

4.3.3 Space for Public Expression

There are few marginalized groups in Kenya, but one of the most visible is the gay community, whose rights are not recognized by the state. And because of persecution and bigoted reports by the traditional media, the homosexual community has found space on the internet through which they can interact with other members in the country and abroad, according to Mr Kuria.[97]

GALCK and the gay and lesbian community, supported by the Gay Kenya Trust (Gaykenya.com), have websites where they can share their experiences, and since homosexuality is illegal, it has become extremely difficult for these groups to operate openly. Other than persecution under the law, there have also been instances where gay people been assaulted by people who consider homosexuality an abomination. For example, in February 2010 an armed group raided a government health center that provides help for HIV/AIDS patients and tried to "flush out the gays," according to a Human Rights Watch report.[98]

These threats were reported extensively online, and perhaps informed Mr Odinga's retraction of the statement despite it being given prominence both in electronic (especially radio and television) and print media. Consequently, Human Rights Watch accused the government of "sitting silent while mobs … assault people they suspect are gay."[99]

---

96. See also Kenya Human Rights Commission, *The Outlawed Amongst Us: A Study of the LGBTI* [Lesbian, Gay, Bisexual, Transgender, and Intersex] *Community's Search for Equality and Non-Discrimination in Kenya*, Kenya Human Rights Commission, Nairobi, 2011.
97. Interview with David Kuria, Nairobi, 27 May 2011.
98. See the "Human Rights Watch Letter to the Kenyan Government on Recent Attacks Against Health Workers and Activists," at http://galck.org/index.php?option=com_content&view=article&id=58:human-rights-watch&catid=7:news&Itemid=5 (accessed 30 March 2011).
99. Human Rights Watch, "Kenya: Halt Anti-Gay Campaign: Protect Health Workers, Activists; Condemn Mob Violence, Incitements to Hate," Human Rights Watch, 17 February 2010, at http://www.hrw.org/news/2010/02/17/kenya-halt-anti-gay-campaign_(accessed 20 February 2011).

Given such threats, digital media offer the homosexual community and other outlawed groups such as the banned Mungiki and Chinkororo the space to freely express themselves. Reports in various publications online, alongside the websites of the GALCK and the gay and lesbian community, provide gays in Kenya with the space to articulate issues that affect them. They would find it difficult, if not impossible, to express themselves without these facilities.

4.4 Political Diversity

4.4.1 Elections and Political Coverage

Competition for political positions, especially in Parliament, has encouraged the use of digital media for political (and other) communication. The use of mobile phones, especially SMS, and sometimes of tools like Facebook and Twitter, has become common among techno-savvy politicians like presidential candidates Martha Karua, Uhuru Kenyatta, and William Ruto. The same trend was experienced during the constitutional referenda of both 2005 and 2010, although then the internet and mobile telephony were mostly employed.

In spite of this, however, there are no specific regulations about digital media in the coverage of elections and other political activities. As mentioned in section *4.3.2*, the NCIC has established guidelines for the coverage of elections, and particularly political speeches that could be considered hate speech. As noted, the NCIC asks media organizations not to publish material promoting ethnic, religious, and other stereotyping as well as hate speech and bigotry. The NCIC can prosecute media houses breaching this provision.

4.4.2 Digital Political Communications

Political communication has benefited greatly in the last 10 or so years as a result of the diffusion of new technologies. Since 2000, political parties, politicians, and other political actors have used the internet and even mobile telephony to communicate political messages to supporters and citizens in general.

Before the 2002 and 2007 general elections, several politicians, political parties, and even civil society organizations set up websites to communicate with donors, supporters, and other audiences.

In what was regarded as a move to improve its relationship with its citizenry, the Kenyan government started using the internet in 2004 to disseminate information it considered vital to the consolidation of participatory politics and democracy. Promising to improve communication "between government and citizens either as voters/stakeholders from whom the public sector should derive its legitimacy, or as customers who consume public services," the government also sought to "talk to citizens" by providing people with "details of public sector activities and information such as the Kenya Gazette, Laws and Regulations, etc. through websites."[100]

---

100. Government of Kenya, *E-Government Strategy: The Strategic Framework, Administrative Structure, Training Requirements and Standardization Framework*. Nairobi: Cabinet Office, Office of the President, Nairobi, 2004, p. 11; Ministry of Information and Communication, *National Information & Communications Technology (ICT) Policy*, Nairobi, January 2006.

These promises were contained in government policies aimed at making new technologies part of the government's operations. Two documents, *E-Government Strategy: The Strategic Framework, Administrative Structure, Training Requirements and Standardization Framework*, and the *National Information and Communications Technology (ICT) Policy*, highlighted the fact that information communication technology could play an important role in the development of not only an open communication ethos but also instill within its operations a culture of efficiency and accountability.

The documents pointed to a change of tack for the government as it sought to improve communication processes to provide information necessary for economic, social, and political development. Indeed, President Kibaki promised that the government would make greater use of the internet to reach out to the people to communicate policy, because this medium has "become an integral part of the modern world."[101]

Since the publication of the two documents, the government has made great strides in its efforts to "internetize" its operations. With government departments online, there is increased optimism about the authorities' efforts to enhance political communication in Kenya. The executive and legislative arms of government have now developed websites through which people can easily access official and government information. Evident from the official government websites is the fact that there is a large amount of information relating to the executive's work and that of other departments. One of the most active departments is the Office of Public Communications (commonly known as Office of the Government Spokesman), which has used its online presence to provide a huge repertoire of "important" government information.[102] The Government Spokesman, Dr Alfred Mutua, regularly uses the website to brief and notify Kenyans and those interested in state actions, policies, and news. In the media section, for example, there are several press briefings accompanied not only by text but also by video and audio clips.

Several political parties and politicians have used the internet and mobile telephony to reach out to the electorate. In the 2002 and 2007 elections several political parties and presidential as well as parliamentary candidates had websites.

In 2007, most presidential candidates had websites. Raila Odinga (Raila2007.com) and his new party, Orange Democratic Movement (ODM, Orangenocampaign.com), developed websites in early 2007. Presidential candidates like Kalonzo Musyoka, Julia Ojiambo (initially with ODM but later with an offshoot of the party, ODM-Kenya), William Ruto, and Musalia Mudavadi, Najib Balala (all from ODM), and Uhuru Kenyatta of KANU all had websites.[103] President Kibaki was a latecomer online and his website (Kibaki.co.ke) was set up and inaugurated on 22 November 2007.

---

101. In a speech during the official launch of the New Partnership for Africa's Development (NEPAD) e-schools initiative at Isiolo Girls' Secondary School on 27 September 2005, President Mwai Kibaki said the use of computers, the internet, satellite, and other communications technologies had become key tools in the communication process. See speech at http://www.statehousekenya.go.ke (accessed 20 January 2011).

102. See http://www.communication.go.ke (accessed 28 March 2011).

103. For more on individual sites see the websites of Kalonzo Musyoka (http://www.kalonzomusyokaforpresident.com/default.php); William Ruto (http://www.williamruto.com/home.htm); Musalia Mudavadi (http://www.mudavadiforkenya.com/index.htm); Najib Balala (http://www.najibbalala.net/home.html); Julia Ojiambo (http://www.electjulia.com/index.html); Uhuru Kenyatta (http://www.uhurukenyatta.co.ke/); and NARC Kenya (http://www.narckenya.or.ke/news.php) (websites accessed 1 August 2007, but these sites are no longer active).

In spite of intense online activity just before the election date, the websites were deactivated shortly after the vote. The politicians are most likely to reactivate the websites before the 2013 general election, just as they did before the December 2007 election.

Besides the internet, mobile telephony has been employed by the government, politicians, political parties, and even civil society. The government now regularly sends out SMSs to people notifying them of certain information, developments, and news. For example, the Office of Public Communications has a breaking news facility through which subscribers can receive news about government officials, especially the president, vice-president, and prime minister. What is more, government departments have introduced facilities through which citizens can request and receive information on particular events. For instance, exam results from the Ministry of Education can now be accessed via SMS. Similarly, people can track their passport, birth certificate, and identity card application progress via the SMS facility. As indicated above, these developments have been introduced as the government tries to make its operations transparent and seeks to empower its fight against corruption.

The platforms offered by media organizations via their online platforms have encouraged the sharing of views and somewhat expanded the political space. Mr Aduda, for example, argues that the feedback mechanism on the Nation website encourages discussion of issues published on the site. "This helps in the aggregation of opinions, and ultimately in public opinion formation," says Aduda.[104]

All these developments have generated interest not only in politics but also in the government and its operations. By making communication with the government, politicians, political parties, and other political actors easier, it is expected that people will take greater interest in political activities.

4.5 Assessments

Digitization has affected the work of journalists in many ways. Internet and mobile telephony use has offered journalists facilities through which they can access key information for their work. Although the internet has to some extent encouraged laziness and plagiarism, it has made it easier to research stories. Email facilities, mobile telephony, and computers have made it easier for journalists to file stories, pictures, and even audiovisual clips from the field, even remote areas.

However, journalists are also now expected to be multiskilled. Print journalists are expected to know how to write, edit, and even lay out pages on computers. Broadcast journalists are also expected to be adept at reporting, and know how to operate cameras and recording equipment at the same time.

104. Interview with David Aduda, Nairobi, 26 July 2011.

Converged newsrooms are becoming the norm. The converged newsroom at the Standard, where sometimes journalists are expected to report for all its platforms, namely television, radio, online, and newspaper, is a good example of what it means to be multiskilled. This has cut operating costs and increased revenues for media organizations, although it is not clear whether such savings are invested in staff remuneration, training, and career development.

Due to competition and the search for new revenues, news organizations, particularly the Nation and the Standard, now send subscribers breaking news via mobile phone. Subscribers pay for this service. Accordingly, journalists are now expected to constantly brief their editors on stories from the field to determine whether these can make good material. Although this promotes immediacy and citizen awareness of events, it sometimes affects the accuracy of information. Because of the competition for scoops and to be the first one to break the news, journalists often get things wrong because some of the information sent out as breaking news has not been verified. This has also made journalists and others pander to corporate and workplace pressures that have affected the quality of journalism practiced in Kenya.

The availability of digital facilities has affected the work of investigative journalism. As indicated above, the internet and mobile telephony have made it easier to research stories, and sometimes publish stories, particularly where self-censorship is common. This has made it easier for investigative journalists to circumvent or avoid the dangers they face as a consequence of their investigative work. It has also made it easier for sources to share information with investigative journalists.

Because of little legal protection for whistle-blowers in Kenya, some sources may feel comfortable to post material online instead of physically handing it over to journalists. Email facilities may also be used when personal or phone communications may be monitored or tapped.

Accordingly, investigative journalists have benefitted. However, because in a majority of cases these reports have to be published in traditional media and later uploaded online, the effects of digital media as primary sources and platforms may not be readily acknowledged. As indicated above, digitization has had little effect on elections. This could be a consequence of the fact that some of these technologies are not widely diffused. Although mobile telephony and especially SMS are gaining popularity as a way of reaching sparsely distributed people, they have yet to acquire the status of traditional platforms like radio.

Digital media, especially the internet, have made it possible for some marginalized communities to express themselves. The example of the gay community reveals that the internet has provided space and protection for free expression. Due to state and even societal persecution, as well as traditional media discrimination and bigotry, some marginalized communities have found the internet useful largely because it is user-controlled and accessible through their private space.

5. Digital Media and Technology

5.1 Broadcasting Spectrum

5.1.1 Spectrum Allocation Policy

The growth and competition in the telecommunications industry in Kenya has necessitated the need for careful allocation of spectrum and licensing of service providers, not only to regulate the market but also to ensure security, consumer protection, and satisfaction. Moreover, the growth has also seen the depletion of analog broadcasting spectrum, which has been used by the country's regulator, the CCK, as the basis for delaying the award of broadcasting licenses (for analog spectrum) to several firms and individuals. So it can be seen that issues have to be addressed, including policy and related matters such as allocation, management, and regulation, which will clarify the connections between technology and policy.

The CCK is the body charged with allocating broadcast spectrum. It lists its mission as "to facilitate access to communications services," where access is broadly defined to include "affordability, quality and reach."[105] The CCK was established in February 1999 by the Kenya Communications Act, 1998, to license and regulate telecoms, radio communication, and postal services in Kenya. It licenses mobile phone operators and assigns frequencies to telecoms service providers and broadcasters. It also acts as the watchdog of the consumer by making sure that standards of quality are maintained particularly for the equipment.[106]

More specifically, the law as spelled out in the Kenya Communications Act demands that public interest issues be addressed in whatever allocations CCK makes. Art. 46A, subsections A and C, state that the CCK should promote public interest. Subsection A states that CCK should "promote and facilitate the development, in keeping with the public interest, of a diverse range of broadcasting services in Kenya." Subsection C asks CCK to "promote the observance at all times, of public interest obligations in all broadcasting categories." Subsection D demands that CCK "promote[s] diversity and plurality of views for a competitive marketplace of ideas." Art. 46D on eligibility for licensing and considerations for granting of licenses also demands in

105. See the Mission and Vision of CCK, at http://www.cck.go.ke/about/vision_mission.html (accessed 25 January 2013).

106. CCK, *Strategic Plan: 2000–2013*, Nairobi, 2011, p. 4.

section 2A that "in considering applications for the grant of a broadcasting license, the Commission shall have regard to observance at all times of public interest obligations in all broadcasting categories."

Although since its formation in 1999 the CCK has issued many licenses to whomsoever requested one, there are many pending applications because the government says more analog frequencies are not available: more than 60 TV and 150 radio license applications are in this position. Due to the digitization process, no more analog licenses are being issued, and applicants have been told to wait until the roll-out of the digitization process is complete. But as indicated in section *2*, the DVB-T Center currently hosts 16 TV channels and four radio stations.

The CCK says it allocates licenses based on the services to be offered and the prevailing market demands, although it acknowledges that available analog frequencies are insufficient to meet the current demand: "The Commission is involved in the process of migration from analog to digital television broadcasting … This will help ease the pressure on demand for frequencies in the broadcasting sector which still has a considerable number of applicants on the waiting list."[107]

In a bid to expand the mobile telephony industry and make it more competitive, the CCK has since 2000 licensed numerous mobile phone service providers. These include Safaricom, the largest operator, followed by Airtel (originally Kencell before changing its name to Celtel, then Zain),[108] the French company Orange, and Essar Telecom, operating as Yu. There are two operational local loop operators, Flashcom and EM Communications (branded as Popote Wireless).

Third-generation (3G) mobile telephony is now widely available. Companies were initially expected to buy a 3G license at US$25 million, which was reduced to US$10 million in June 2010 after months of lobbying by Zain Kenya, Telkom Kenya, and Essar Telecom Kenya. (Safaricom, which had paid US$25 million, has demanded a refund.)

The increase in 3G mobile services has been caused by the growing demand for high-speed mobile data and multimedia services. This is because many people now seek data services, and Safaricom, Orange, and Airtel all provide data services as part of their diversification programs in what is now a highly competitive mobile phone market.

5.1.2 Transparency

The CCK claims that it continuously revises the frequency allocation table and makes the schedule available for public scrutiny.

Since Daniel arap Moi's presidency, there have been accusations that the government allocates frequencies to people close to the government and the political elite, something Mr Masai says is affecting the capacity of

107. CCK, *Strategic Plan: 2008–2013,* Nairobi, 2011, p. 8.

108. The company still officially operates under the name Celtel.

small operators to operate equitably in Kenya.[109] Accordingly, groups like Royal Media Services have been allocated numerous channels when other applicants do not have any.

The fact that Royal Media, for example, holds idle frequencies supports concerns that the allocation is not transparent. This is contrary to its pledge to periodically audit spectrum utilization in order to determine their use. In fact, Art. 46J (c) of the Kenya Information and Communications Act says the CCK should revoke a license for broadcasting frequencies not used for a year after the license was issued.[110] After numerous complaints from some players, the CCK finally won a court case in January 2013, declaring that Royal Media was operating some of the broadcasting stations illegally. In early February 2013, the CCK moved to enforce the court ruling by shutting down some of the Royal Media transmitters.[111]

In addition to the reports above, there have been reports (some unsubstantiated) that service providers have had to pay bribes to get their licenses. In late 2010, some officials in the Kenyan government were accused of receiving US$20 million in bribes allegedly paid by the French telecoms giant Alcatel-Lucent for the award of Kenya's second mobile phone license to Kencell 10 years ago.[112] This was revealed when Alcatel-Lucent was found guilty of violating the internal controls and records provisions of the Foreign Corrupt Practices Act (FCPA) in a U.S. Federal Court in Florida. Alcatel reached a US$ 137 million settlement with the Department of Justice regarding the foreign bribery charges.[113] The case records show that Alcatel-Lucent's three subsidiaries, which provide telecoms equipment and services, were found to have hired agents without proper controls in Kenya, Nigeria, Bangladesh, Ecuador, Nicaragua, Angola, Côte d'Ivoire, Uganda, and Mali.

The case revolved around the award of a second GSM license to Vivendi's KenCell in 2000, for more than US$60 million. Although the bid was technically made by Kencell, personnel from Vivendi handled the bidding process. In Kenya, the transaction was handled by officials from the Treasury, the Ministry of Information and Communication, and the CCK.

However, the CCK has denied claims of impropriety. "The documents are there and the processes are documented and if anyone would want to see how it was done there is evidence," Mr Charles Njoroge, the CCK's director general, told the media. Despite such assurances, however, there is an overarching view in

---

109. Interview with Martin Masai, Nairobi, 31 July 2011.

110. Government of Kenya, Kenya Communications (Amendment) Act, 2009.

111. On 2 February 2013, the CCK shut down six Royal Media Services broadcast transmitters that it says were operating without licenses and using unauthorized or "grabbed" frequencies. The CCK said in a press release that "the six are part of 17 transmitters put up illegally by Royal Media Services in the recent past without a license from CCK, and therefore in contravention of the law. Some of the transmitters are located in non-designated broadcasting sites thus causing interferences to other critical services including aviation. A further 22 FM and two TV unauthorized frequencies that Royal Media Services acquired in the same manner between 2008 and 2012 are pending adjudication in the courts." See http://www.cck.go.ke/news/2013/Unauthorized_broadcast_transmitters.html (accessed 3 February 2013). The High Court gave a temporary reprieve to Royal Media Services on 3 February 2013 when it stopped the CCK from shutting down the transmitters. However, the following day, the court again ruled that CCK acted legally when it shut down the transmitters. See CCK, "Court ruling supports CCK's action on illegal frequencies," at http://www.cck.go.ke/news/2013/Court_ruling.html (accessed 5 February 2013).

112. See Mwaura Kimani and Kui Kinyanju, "Probe lifts lid on kickbacks in telecoms tender award," *Business Daily,* 2010, at http://www.businessdailyafrica.com/Corporate%20News/Probe%20lifts%20lid%20on%20kickbacks%20in%20telecoms%20tender%20award/-/539550/1081254/-/qgcyy5z/-/index.html (accessed 12 February 2011) (hereafter Kimani and Kinyanju, "Probe lifts lid").

113. Kimani and Kinyanju, "Probe lifts lid."

Kenya that there is impropriety and favoritism in the award of licenses. For example, there has never been a convincing explanation why Royal Media Services possesses a total of 62 FM frequencies when some applicants have been made to wait for years for one. While the CCK's mandate is limited to assignment of frequency spectrum, the Ministry of Information and Communication issues broadcasters with permits, authorizing them to provide services within designated parts of the country.

Besides, the migration to digital broadcasting has been beset by reports of impropriety. This came up recently after the Media Owners Association (MOA) complained that the contract for a Swedish company, Smart TV, to broadcast digital content belonging to local broadcasters was apparently given without the permission of the owners.[114] Although Signet, the company set up by KBC to provide the platform for digital broadcasts, implicitly had the capacity to offer digital services, it later subcontracted Smart TV to offer the services. The MOA is especially piqued by what it sees as state chicanery in the award of digital licenses without regard for the proper procedures. Signet apparently sold Smart TV the rights to broadcast the eight channels belonging to local broadcasters. "At what point did Smart TV come in? And who said Smart TV was the one having the power to roll out this program?" asked Kiprono Kittony, MOA's vice-chairman, during a Parliamentary Committee on Energy, Information, and Communication hearing on 1 March 2011.

However, according to Dr Ndemo, the Permanent Secretary in the Ministry of Information and Communication, all local broadcasters were given an opportunity to provide digital content, which they apparently were unable to do. "We gave every broadcaster a free channel so that they give us new content as they continue to advertise on the analog system, but for one full year they never gave us any content," said Dr Ndemo when he appeared before the Parliamentary Committee on Energy, Information, and Communication on 1 March 2011.

5.1.3 Competition for Spectrum

There has been huge competition for spectrum among mobile phone providers and even broadcast companies. According to the CCK, the number of applicants awaiting allocation for television frequencies increased from 143 in 2007 to 192 in 2008.

As indicated above, the CCK claims to have run out of analog spectrum, and will only award applicants licenses once the digitization process is complete. This also came out clearly when President Kibaki launched the digital switch-over in Nairobi in December 2009. At that time, President Kibaki announced that there were applications pending for 60 television licenses and more than 150 for radio. Surprisingly, in March 2012, the CCK reported that 70 percent of the total 436 radio frequencies allocated were in use. In television, the CCK said 25 frequencies, or 23 percent of the total spectrum allocation in Kenya, were not currently on-air.[115] The organization said it would thus recall the unused spectrum and reallocate it to applicants who are still awaiting an allocation, as seen above.

---

114. Peter Opiyo, "Media owners battle Smart TV over rights." *Standard*, 1 March 2011, at http://www.standardmedia.co.ke/InsidePage.php?id=%202000030274&cid=159&story=Media%20Owners%20battle%20Smart%20TV%20over%20rights (accessed 20 March 2011) (hereafter Opiyo, "Media owners battle Smart TV").

115. For more details, see http://www.cck.go.ke/news/2012/competition_study_on_the_broadcasting_industry.html (accessed 27 March 2012).

The fact that CCK does not allow the transfer, leasing, or resale of spectrum licenses means holders can only surrender them back to the regulator. However, the use-it-or-lose-it principle does not seem to have worked, because unutilized frequencies have not been returned, and no action has been taken about those still hoarding them.

Competition is also driven by television and the financial rewards generated. There is, for instance, rising competition in pay-TV. More television stations are expected, as the country adopts digital broadcasting. South Africa's DSTv has the biggest share of the market, and new entrants like Smart TV and Wananchi Group's Zuku TV have not yet dislodged it. In 2010, three companies, Smart TV, My TV, and Star TV, joined the market, although little has been heard of the last two.

Developments in both voice and data services in the mobile phone industry are driving competition for spectrum. In early 2012, for example, Safaricom asked the CCK to surrender broadcasting frequencies in the 700 MHz band to mobile and other service providers for use in the deployment of 4G services. However, the CCK declined the request, saying this would only be available to the service providers in 2015 after the completion of the digital switch-over. This is based on agreements with other African countries at the World Radiocommunication Conference 2012 (WRC-12) in early 2012 to have the 700 MHz band, currently earmarked for broadcasting, to be opened up for mobile use from 2015.

Given the competition for limited analog spectrum, some broadcasters (for example Royal Media Services) have been accused of hoarding available spectrum. This anti-competitive practice will change once the country digitizes fully and makes available sufficient spectrum to meet market demand.

5.2 Digital Gatekeeping

5.2.1 Technical Standards

The Digital Kenya Secretariat has tried to advance the public's understanding of digital migration. In January 2011, it was involved in a public campaign through newspaper advertisements explaining what digitization means and the technical details of these broadcasts. It has also published facts about what equipment people need to watch digital television, for instance.

The advertisements became more frequent once the government banned the import and sale of DVB-T set-top boxes and recommended that DVB-T2 set-top boxes should be used instead. The Digital Kenya Secretariat explained that the change from DVB-T to DVB-T2 was necessitated by the enhanced features of the latter; the subsequent roll-out of digital broadcasting infrastructure in Kenya would be on a DVB-T2 platform. "We slowed down the uptake of DVB-T since the technology had changed but we should get back to an aggressive program of promoting DVB-T2," said Dr Ndemo.[116] The change had implications both for people who had imported the boxes and consumers who had already bought them for between KSh 3,000 and 6,000 (US$38–63).

116. Information based on an email interview with Dr Bitange Ndemo, 17 August 2011.

There were no public or stakeholder discussions to sanction the move from DVB-T to DVB-T2. However, there seems to be an agreement in the industry that the change from DVB-T to DVB-T2 will enhance the quality of broadcasting and perhaps save the country's resources when the migration from analog to digital is completed.

5.2.2 Gatekeepers

There are no requirements by the government or any other agency for the publication of an electronic program guide (EPG). Each station or channel is responsible for its own guide, although the formation of the Broadcasting Content Advisory Council[117] in 2010 indicated the broadcasting industry stakeholders' willingness to produce content that does not offend national and cultural sensitivities. The Advisory Council is responsible for monitoring broadcast content as part of the government's efforts to determine the suitability of broadcast material for Kenyan audiences. The MCK is also charged with the responsibility of monitoring content and censuring print or broadcast media organizations for publishing unpalatable and culturally insensitive material.

The rebroadcast of local television material by the digital multiplex operator Smart TV has not gone down very well, especially with the MOA, which has demanded that Smart TV stop rebroadcasting its content.[118] This is due to what they see as anti-competitive actions taken both by the government and especially Signet, which was charged with the responsibility of providing a platform for digital broadcasting.

5.2.3 Transmission Networks

There have been no cases of network operators intervening in the distribution of spectrum resources. Organizations like AMNET have long campaigned for fair distribution of spectrum resources, but have had no capacity to ensure this is done. As noted above, the seemingly unfair allocation of spectrum to some companies has been the basis for AMNET's concern that some of its members have not been awarded frequencies. This is also despite the fact that some 30 percent of the allocated frequencies are not in use, as shown above.

5.3 Telecommunications

5.3.1 Telecoms and News

The cable market is not well developed in Kenya. However, Wananchi Group, an internet service provider (ISP), recently started offering cable television on an internet platform. The company's subsidiary Zuku offers a combined television and internet service, although Zuku's broadband services are only available in four towns, namely Nairobi, Mombasa, Nakuru, and Nyeri. Cable television is available only in a few affluent areas of Nairobi. Combined cable television and broadband is only accessible in Nairobi and Mombasa.

117. The Advisory Council is based at the CCK.

118. Opiyo, "Media owners battle Smart TV."

Due to the growing diffusion of mobile telephony in Kenya, media organizations are increasingly partnering with mobile phone companies to offer news. Such partnerships and the opportunities for news dissemination have undoubtedly increased the amount of news that Kenyans consume, although there are no figures to support this. The popularity of these facilities has also risen because even ordinary mobile handsets have radio facilities. However, it is not news per se that people mostly seek from the mobile radio facilities, but the entertainment, mostly music, offered by the numerous FM stations. Granted, the FM stations often have hourly news bulletins, so that the consumption of news has risen with increased mobile phone diffusion. The provision of hourly news is, however, not an indication that news providers are compelled to do this.

5.3.2 Pressure of Telecoms on News Providers

There is no evidence of telecoms operators exerting pressure on news providers.

5.4 Assessments

Although there is some level of transparency in the issuance of licenses, there are still cases of unfair distribution of spectrum. For instance, as mentioned, the Royal Media Services has a total of 62 FM frequencies while more than 60 television and 150 radio license applications are pending because of lack of frequencies.

Claims of favoritism abound and the number of frequencies allocated to Royal Media Services somewhat corroborates this claim. This contradicts the CCK's claim that it manages spectrum resources on behalf of the public; that public interests determine the allocation of spectrum in the country. Moreover, the fact that the director general of the CCK is appointed by the government often lends credence to the politicization of the organization, claims of interference, and lack of transparency in its operations.

Issues of concentration, particularly by big media companies like Royal Media Services, the Nation Media Group, the Standard Group, and Radio Africa Group have raised concerns about levels of competition. Thus even though the government has issued licenses to several broadcasters, many of the big ones are based in the capital city Nairobi, where they are assured of profitability.

Nonetheless, the digitization process promises better things in Kenya. Digitization will create more frequencies to meet local demand. Even though there are preconditions for the issuance of digital licenses, most notably the government requirement that awardees provide at least 40 percent local content on their platforms, there is increased optimism that that will improve both the quantity and quality of digital media and technology. This development is also expected to enhance transparency in the issuance of the licenses, and reduce competition for spectrum.

However, issues of commercial and even political vested interests sometimes determine the allocations. This is something civil society and other organizations concerned with allocations, as well as with the quality of broadcasts and plurality of content, have regularly complained about, because of existing white spaces.

6. Digital Business

6.1 Ownership

6.1.1 Legal Developments in Media Ownership

The trend over the last five years has been cross-media ownership, a practice that has seriously affected media diversity. Article 34 of Kenya's constitution guarantees freedom and independence of electronic, print, and all other types of media in the country.[119] This will be complemented by the Media Bill 2011 and the Independent Communications Commission of Kenya (ICCK) Bill 2011 which are still to be tabled in Parliament.

The Kenya Broadcasting Corporation Act of 2009 stipulates in Art. 52 A and 52 B that anyone who wants to start a broadcasting business must get the approval of the government before getting a license.[120] The Kenya Information and Communications Act of 2009 also restricts cross-media ownership to minority shareholding by stating that one of the key functions of the CCK in broadcasting services is to promote diversity and plurality of views so as to achieve a competitive marketplace of ideas, but this has not been enforced as the Act has no relevant provisions, nor does it detail the penalties for infractions.

There is no direct legislation on media ownership in Kenya. Consequently, a number of established media houses have taken advantage of this loophole to engage in cross-media ownership. A number of media companies, for example, the Nation Media Group, the Standard Group, and Radio Africa media group, have print, radio, and television establishments. This media concentration, according to Daniel Obam of the National Communications Secretariat, is deleterious to plurality and diversity of opinion.[121]

119. See Constitution of Kenya 2010.

120. See the Kenya Broadcasting Corporation Act (revised) 2009.

121. Interview with Daniel Obam, a communications, radio, and technology expert at the National Communications Secretariat, Nairobi, 27 April 2012.

6.1.2 New Entrants in the News Market

The number of new entrants in the news market has grown significantly in the past seven years. Most of the media organizations offering news are private FM radio stations, some of which broadcast in specific ethnic languages. The number of FM radio stations has increased from about 40 to the almost 95 that are currently on-air. Although most of these focus on entertainment, they also offer news content.

Those broadcasting in specific ethnic languages provide a forum for people in rural parts of the country to articulate their concerns.

During the last five years Nation Media Group launched QFM radio station and recently QTV, a Swahili-language television station targeted at the low-income members of the public. The Standard Group has a new radio station, Radio Maisha. Royal Media Services has also increased the number of radio stations in its stable, most of which broadcast in local languages. K24, originally owned by Regional Reach, is now part of the Media Max group which owns a newspaper (*The People*) and a radio station, Kameme FM. Two television stations, Kiss TV and Classic TV, launched in 2009, offer news segments. Kiss TV was previously a purely entertainment channel playing Kenyan and international music, with 50 percent local content, but it started broadcasting news in 2012.

New newspapers have also been started up in the last few years: *The Star* by Radio Africa and the *Daily Metro* and *Business Daily*, both owned by the Nation Media Group. The *Daily Metro* folded in 2009 after only two years. The Ministry of Information and Communication has also joined the players by introducing a weekly paper called *Kenya Today*, focusing on development news. It folded in 2012.

6.1.3 Ownership Consolidation

Concentration of ownership has increased in the last five years. For example in April 2012, the Nation Media Group added another media outfit, QTV. Most of the mergers and consolidations of ownership in Kenya have tended to be detrimental to pluralism and diversity. There is no diversity in the range of content on offer.

Even though there has been an increase in the number of outlets over the last couple of years, what is evident is that most of them are extensions of already existing media, what Mr Mwangi refers to as the "constrained pluralism of media."[122] He adds that the government in Kenya has left the private media to dominate the industry by providing "very limited funding to the public service broadcaster, KBC." The Standard Group, for example, bought Radio Simba and named it Radio Maisha (see also above) to enhance its media stable as it was the only major media player without a radio station.

According to Professor Levi Obonyo, the chair of the MCK, "the liberalization of airwaves was done without the benefit of legislative statutes to guide the operations of FM stations which now number 200."[123] The

122. Interview with Haron Mwangi, Nairobi, 12 August 2011.

123. Interview with Professor Levi Obonyo, Nairobi, 12 November 2012.

Minister for Information and Communications, Samuel Poghisio, also points out that media concentration does not necessarily lead to pluralism and that "people are likely to be given the same information based on the agenda of the owner or his/her friends."[124] What we witness in Kenya today is predominantly the same content but played out in various platforms, hence the choice the public has over the choice of platform but not content.

The media in Kenya are controlled by very few players, key being Nation Media Group which owns a radio station, QFM, two television stations, NTV and QTV, and various daily and weekly publications such as the *Daily Nation* and the *East African* respectively. Royal Media services owns a television station, Citizen TV, and several radio stations that broadcast in various national and ethnic languages in the country, such as Radio Citizen, Ramogi, Musyi, Mulembe, and Muuga FM, to name but a few. Standard Group owns a newspaper, the *Standard*, a television station, KTN, and a radio station, Radio Maisha. Radio Africa owns a daily paper, *The Star*, a television station, Kiss TV, and several radio stations, such as Kiss FM, Classic FM, and Radio Jambo.

However, hope lies in the digital arena where one will not need huge sums of money to set up a station. Individual program makers will have an opportunity to provide single programs to television stations. Media houses will also not need to worry about content distribution as this will be handled by the signal distributors. Instead what they will need to do is produce content which they can then forward to the signal distributor for broadcasting. The Ministry of Information and Communication will also ensure that each of the 47 counties in the country will have its own television station, which will not be driven by commercial interests but by public service. However, it remains to be seen whether this will provide the much needed diversity in content.

The least beneficial mergers at this point would be of those stations broadcasting in local ethnic languages, as they target different audiences. They have a very strong appeal to people who live outside urban areas and offer news and entertainment. They have hence brought media to a number of people who have been cut out by media predominantly using English and Kiswahili as the two languages of communication. Examples include Musyi FM (Kamba), Ramogi (Luo), Mulembe FM (Luhya), Inooro FM (Kikuyu), and Muuga FM (Meru). The diversity provided by these stations is in the music played, the topical issues discussed, and the developmental agenda of the communities that they reach, but there is not much diversity in the news they deliver. Mr Mwangi argues that for variety to be seen in content, the government must fund the state broadcaster. He adds that "this is the only way that they can moderate the commercial media and through the excellent performance of the state media."[125]

6.1.4 Telecoms Business and the Media

The significant business involvement of the telecoms industry in the media sector has been the introduction of new mobile service providers in the country such as Yu and Orange (by Telkom Kenya), joining the

124. B. Wekesa, "An explosion of radio raises the hackles of Government officials. But is it all bad?." *The Media Observer,* November–December 2009, p. 10 (hereafter Wekesa, "An explosion of radio."

125. Interview with Haron Mwangi, Nairobi, 12 August 2011.

dominant two, Safaricom and Airtel. These additions have led to reductions in call costs for the local population, allowing them to access media content cheaply through call-ins and text messaging.

Safaricom and Airtel are currently the biggest advertisers in media, hence they provide financial stability for most media houses. In 2010, the two mobile service providers allocated a total of KSh7.6 billion (approximately US$8.5 million) of their spending to advertising alone, the bulk of which was channeled to media houses.[126] Some of the mobile service providers have also partnered with media houses to promote them across the country through road shows such as those put on by Royal Media Services and Safaricom.

Mobile service providers have also collaborated with media houses in the development of mobile television, so that the public can watch KTN, NTV, DSTv, and Citizen TV on their mobile phones (depending on the model of the handset). In addition, media houses such as Nation Media Group and the Standard Group provide breaking news via mobile telephony. The internet is also now easily available through mobile phones, allowing subscribers to access news media organizations' websites. This trend could continue if recent drops in access costs continue.[127]

6.1.5 Transparency of Media Ownership

The transparency of media ownership in Kenya has improved only slightly over the last five years. The media houses are in fact controlled by a few major players and the government. Any person who wants to register a media house as a company is required to register it with the registrar of companies. However, sometimes the names of the owners are kept secret since a number of these companies are owned or co-owned by the political elite and the ruling class.

A report, *The Media We Want*, by Peter Oriare, Rosemary Okello, and Wilson Ugangu confirms that the problem lies with the Ministry of Information and Communication and the CCK, which have records of the media owners but keep them secret. The report says: "the [media] owners are largely anonymous. The government has issued hundreds of broadcast licenses to individuals and organizations but their true identities remain obscure."[128]

The report adds that even the MCK, which was mandated by the Media Act of 2007 to keep a register of media owners, has not succeeded in collecting ownership information,[129] although it has a list of some of the owners and some of the information is also with the Ministry of Information and Communication. Indeed, the lack of disclosure laws makes it difficult to get information. Citizens therefore cannot find out through any publicly available information who or which institution controls the media. The print media is somewhat more transparent since they are required to make returns to the Attorney-General's office.

---

126. See *Business Daily*, 2 August 2011, p. 1.
127. Safaricom, Airtel, Orange, and Yu have cut their prices as a result of intense competition.
128. P. Oriare, R. Okello, and W. Ugangu, *The Media we Want*, Friedrich Ebert Stiftung, Nairobi, 2010, p. 43 (hereafter Oriare et al., *The Media we Want*).
129. See Media Council of Kenya, *State of the Media Report 2008*, Media Council of Kenya, Nairobi, 2008.

However, the ownership of the prime media companies, such as Nation Media Group and the Standard Group, is known, because they are listed on the Nairobi Securities Exchange (the bourse) and are required to comply with the requirements of the Capital Markets Act and its regulations as well as adhere to the guidelines on corporate governance for public listed companies in Kenya. These guidelines require public listed companies to conduct their activities in a transparent, responsible, accountable, and fair manner. Transparency requires that these media companies disclose all material information in relation to the company, including a list of the shareholders, including the preference shareholders (those who own a majority shareholding in the company). These large companies comply with these obligations.

6.2 Media Funding

6.2.1 Public and Private Funding

A specific challenge facing the media scene in Kenya has been the lack of transparency of funding, which is a result of the lack of transparency of media ownership. Media houses make submissions of their returns to the KRA at the end of the financial year, but these are confidential documents. The available information cannot be considered to be fully reliable because the annual budgets of media houses are also confidential. According to Mr Aduda, another problem is that "there is no regular data because research on advertising is not constantly done."[130] Mr Obam agrees with this: "it is difficult to know who is generating what from advertising."[131]

Broadcasting television stations such as KTN, Citizen, and NTV generate most of their revenue from advertising. In 2009, for example, television advertising revenue accounted for about 34 percent of the total advertising cake or KSh10.8 billion (US$13.5 million), with about 20 stations competing for the revenue.[132] The total advertising revenue for 2007, for example, was about KSh17 billion (approximately US$19 million).[133] This amount has since tripled: the advertising revenue in 2010 rose to KSh49.2 billion (US$50 million).[134]

This sharp rise can be attributed to the increased competition among manufacturers in Kenya and the entry of foreign products and service providers into the market, among other factors, thereby putting pressure on companies to advertise their products and services. Digital broadcasting will present opportunities and challenges for media houses in the generation of funds. For example, the advertising money will be spread too thinly across the many media outlets that are opening up. The number of media houses is envisaged to go up with the complete migration to digital broadcasting.

130. Interview with David Aduda, Editorial Administration Manager, Nation Media Group, 4 January 2012.

131. Interview with Daniel Obam, communications, radio, and technology expert, National Communications Secretariat, 27 April 2012.

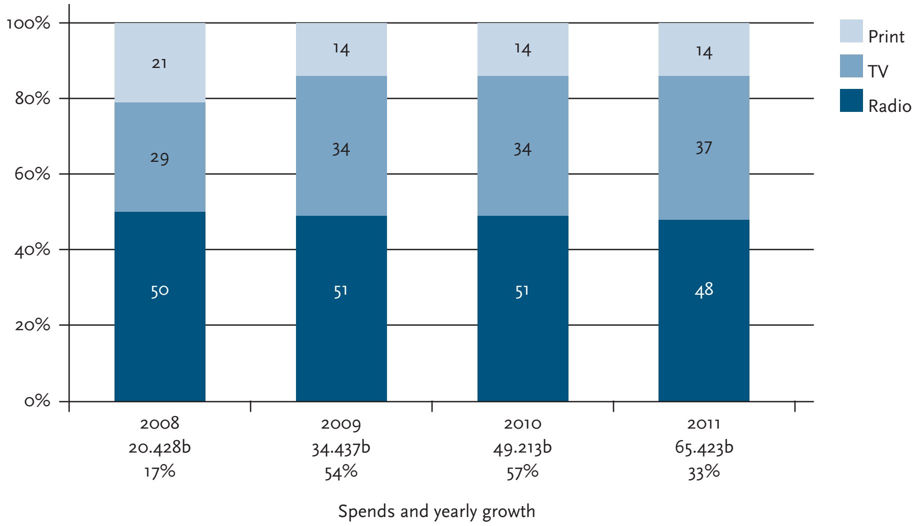
132. Synovate Ipsos ad spend for 2010–2011, Nairobi: Synovate Ipsos, 2011.

133. Oriare et al., *The Media we Want*, p. 54.

134. *Business Daily*, 2 August 2011, p. 1.

Figure 11.

Industry advertising expenditures by medium (KSh billions), 2008–2011



Note: Figures are rounded off to the nearest 10. 'b' denotes billion

Source: Synovate Ipsos ad spend for 2010–2011, Nairobi: Synovate Ipsos, 2011

The government is still a major advertiser, having spent about KSh5 billion (US$59 million) in 2010 despite the directive by the finance ministry to other ministries to cut spending on advertisement and other non-essentials, with the law only requiring the government and its various agencies to advertise in at least three major media outlets at any given time. KBC also still expects the government to fully fund it, although the KBC Act allows it to engage in business to enhance its revenue. Despite this, KBC still struggles to improve its quality of service. With stiff competition brought on by digital broadcasting, media houses will have to find new sources of funding. Dr Ndemo said there would be over 600 channels in Kenya by the end of 2012.[135]

The private sector advertises in the media in Kenya. Safaricom and Airtel, the two key mobile service providers in the country, dominate the advertising scene. They not only advertise, but they sponsor programs, game shows, and road shows for many of the media houses. Safaricom spent close to KSh5 billion (US$59 million) on advertising in 2011. Other key advertisers include Population Services International (PSI), Unilever, Reckitt Benckiser (RB), and East African Breweries, each of which spent about KSh1 billion (US$12 million) on advertising in 2011.[136] Many companies are also opting to book advertisements directly with media houses rather than use media buying agencies, as a way of reducing costs. Some of the heavyweights, such as banks, which have previously pumped billions into advertising, have started in recent years to hold back and reduce their advertising costs and are instead opting for other methods of customer acquisition, retention, and brand growth.

135. Views expressed by Dr Bitange Ndemo, Permanent Secretary, Ministry of Information and Communication, addressing the press in Nairobi, July 2011.

136. See http://www.standardmedia.co.ke (accessed 7 January 2013).

Table 11.
The largest advertising spending sectors, 2010–2011

Sector	Spending (KSh billion)		Change, %, year on year
	2010	2011	
Communications	6.208	7.957	28
Corporate	5.024	6.998	39
Financial services	3.872	5.315	37
Household	2.684	3.871	44
Pharmaceuticals	2.258	3.689	63
Media	1.864	3.477	87
Beverages	2.448	2.732	12
Foods	1.854	2.416	30
Publishing	1.615	2.565	59
Personal care	1.587	2.099	32
Tourism	1.516	1.710	13
Transport	0.696	0.938	35
Veterinary	0.504	0.548	9
Retail	0.373	0.501	34
Others	0.328	0.4667	42
Total spend	32.830	45.278	38

Note: The figures are rounded off to the nearest 10

Source: Synovate Ipsos ad spend for 2010–2011, Nairobi: Synovate Ipsos, 2011

Other revenue models have involved content sponsorships and public funding of various programs. Various organizations regularly fund education programs. For example, the United Nations Development Program (UNDP) and the British Department for International Development (DFID) are among the international organizations that have funded the production of local programs on issues of national interest such as child immunization, health, HIV/AIDS, the constitution, and other issues such as its implementation and peace-building initiatives after the post-election crisis in the country in 2008.

Technology has also meant that media houses in Kenya have had to develop online advertising as a source of revenue. An increasing number of Kenyans are accessing media through a number of online platforms. This means that there is likely to be a decline in revenues from hard-copy newspaper sales and advertising and traditional radio and television programs. Young people are becoming highly techno-savvy and their increasingly stable financial base is likely to become attractive to advertisers. Television is likely to retain its leadership among the other media in terms of total revenue, which includes subscriptions, advertising, and pay-TV, which is now accessible to Kenyans.

Private spending on media houses over the last five years has been higher than public spending on media. With increased competition from local and international companies, a number of private companies are increasingly turning to the media for customer acquisition. Many of these companies dominate the print media, radio breakfast shows, and primetime television programs with their adverts. Many companies are also using the online platform to make their products and services known, thanks to the number of people who can access online platforms on their phones and even in the comfort of their homes, which was not the case five years ago.

Many companies today have an online presence and they use this to market themselves. This is likely to be detrimental to traditional media houses, which for a long time have charged advertisers prohibitively. Radio, however, still remains the major avenue that companies opt for, partly due to its narrowcasting approach to broadcasting and also because it still remains a lot more affordable compared with print and television.

6.2.2 Other Sources of Funding

The media industry in Kenya has become financially sophisticated. The media industry has largely depended in the past on selling space and time in order to generate funds to finance their operations, but this trend is changing and new sources of funding are being developed. Some of the new sources of funding include road shows where media houses partner with a company to brand its product(s) in different locations around the country. The latest example has been the partnership between Royal Media Services and Safaricom in their music road shows (see above).

SMS services via mobile phones are used by media houses to raise funds. Subscribers pay to receive texts of breaking news, which are charged above the normal rates. Other sources of funding are giant, digital outdoor billboards and the sponsorship of popular programs such as drive-time talk shows, interview programs on television, sports programs, weather updates, traffic updates, and news. The print media also gain income by selling inserts in their publications to companies.

6.3 Media Business Models

6.3.1 Changes in Media Business Models

Digital migration in Kenya will increase the country's broadcasting frequencies by more than tenfold and this will permit the government to license more operators. This switch scheduled to start later in 2013 will see one frequency accommodate eight channels as opposed to a single channel under the analog platform. Dr Ndemo expects the television channels alone to increase by 80 in the first year of digital operation and this will lead to a fierce battle for advertising revenue between new entrants and the existing players.[137]

137. Dr Bitange Ndemo, Permanent Secretary, Ministry of Information and Communication, addressing the press in Nairobi, July 2011.

Digitization is prompting the media outlets to change tack. The new technology and accompanying consumer behavioral change are putting pressure on media houses to adopt new business models. Local content, subscription-based content, and video on demand seem to be the direction that the media in Kenya is taking. Digital media have transformed the media landscape in a big way, with converged newsrooms serving various platforms, resulting in new cost-effective ways of gathering and distributing news and information. Many of the leading media houses such as the Standard Group and the Nation Media Group are also using mobile telephony to send news alerts to subscribers for a small fee.

Mr Aduda, the Editorial Administration Manager at the Nation Media Group, says that one of the effects of digitization is that the group has started selling the *Nation* online; subscribers can access the full version of the newspaper before the printed version is available on the streets. The monthly subscription for this is about US$10, which is cheaper than the printed copy by about US$15. However, the subscription figures have been dismal and Mr Aduda attributes this to the fact that the payment for this service is by credit card and the credit card culture has not yet taken root in Kenya, which is largely a cash culture.[138]

The other change in media business models prompted by digitization is what Mr Aduda refers to as the emergence of "day two journalism,"[139] where newspapers no longer break news because this is accessed through digital platforms. A number of consumers today are not buying newspapers for news, hence the challenge for newspapers is to provide added value via extra content, for example in the form of features. However, the process of writing features is costly, as it involves extensive research and travel.

Audience fragmentation both in print and broadcast is also likely to grow with consumers having variety that they can choose from. The government is now also very keen on implementing the rule that requires broadcasters to have 40 percent local content, once the two cases in court challenging this rule are finalized. The Kenya Television Network (KTN), for example, which for a long time targeted high-end consumers with its foreign programming, has recently changed direction and introduced a variety of local content to meet the demand in the market that is expensive to produce compared with syndicated programming. The upside of this is that advertisers find the local shows appealing as they attract more audiences, hence an increase in revenue for the stations.

Digitization will help media houses cut costs and also lead to a reduction in the advertising revenue that these media houses have had a monopoly over. To this end, media houses will shift towards sponsored content and subscription content. Most of the content aired by media houses will be negotiated by the sponsors.

138. Interview with David Aduda, Editorial Administration Manager, Nation Media Group, Nairobi, 17 October 2012.

139. Interview with David Aduda, Editorial Administration Manager, Nation Media Group, Nairobi, 4 January 2012.

6.4 Assessments

Despite the fact that the real effect of digitization has still to be felt in Kenya, it is expected to rid the country of the media's consolidation and the various dominant positions in the media market. What we see in Kenya is a continued concentration of media in the hands of a few key influential people and politicians whom the government continues to license. Politicians still dominate the playing field; they not only influence content and the revenue streams available to media houses but they have even been aggressively buying out struggling media outlets such as K24, a television station, Milele FM, and the *People* newspaper which now belong to Media Max. The already existing oligopolies have political leanings. There has also been little transparency in ownership of media over the past five years.

While the number of radio, television, and print media has increased, content has essentially remained the same. Local content is increasing quantitatively, in number of hours of programming, and this is evident in the programming of local television stations such as Citizen TV, KTN, NTV, and KBC, but the emergence of a variety of themes and program genres is yet to be seen.

Media ownership has not had a significant impact on the performance of media under the digital regime. Digitization has been only partial, with digital platforms being viewed as extensions of existing analog media. Digitization in Kenya is still at an infant stage.

Advertising still remains the source of revenue for most of the media outlets in the country. While some media houses have succeeded in transforming their newsrooms and their content and diversifying the platforms on which their content is available, others have not yet changed direction. A number of media houses have also tried to monetize content, but with very limited success, as audiences in Kenya have not adapted to the concept of paying to receive content.

It is difficult to pinpoint one financing model that would lead to the production of news that is more relevant to the public. A government financing model seems to be the closest that members of the public can rely on. This is largely because the private media not only have business interest and drive, but some also have political leanings and more often than not serve certain vested interests. Even the KBC is influenced by advertiser interest, although at this point it remains the most dedicated in meeting public needs as far as news is concerned. This is because the law requires it to produce content that meets public interest objectives. It covers news from all parts of the country and it struggles to do that due to limited resources and subsidies allocated to it.

Most detrimental to media diversity, pluralism, and independence are the profit motive and the political allegiances of most of the media outlets. Most of the media in Kenya also target educated, middle-class, urban audiences, hence leaving out rural people. The other viable model has been that of community media such as Radio Mang'elete and Pamoja FM, because they are run and driven by the interests of the local communities they serve.

7. Policies, Laws, and Regulators

7.1 Policies and Laws

7.1.1 Digital Switch-over of Terrestrial Transmission

7.1.1.1 Access and Affordability

The government has stated that it is committed to ensuring that members of the public are protected during the transition from analog to digital television. Under the new digital broadcasting regime, KBC will operate as the country's multiplex operator carrying broadcasting digital signals for other broadcasters through Signet.

To access the digital signals citizens will need set-top boxes whose specifications have changed over the years. The original set-top box (DVB-T) has been enhanced to DVB-T2 which has high picture and video quality (MPEG-4), and can also allow up to 32 channels on one frequency, which in the analog era was used by only one station. According to the KBC's managing director, Waithaka Waihenya, the new set-top box has a more advanced technology and KBC was set to roll out the pilot project to test the new boxes by April 2012.[140] However, this had only happened in the three major cities of Nairobi, Mombasa, and Kisumu by June 2012. The reason was the lack of the infrastructural development to support the initiative.

The public does not understand the switch from analog to digital, nor the reasons behind it. Many also do not understand what will happen to the set-top boxes that they had already bought, the variance in the specifications between the two models and what this means in terms of signal transmission. The Digital Kenya Secretariat has attempted to demystify this by answering some of the questions about the migration to digital television broadcasting.[141] Some of the questions answered included the advantages of digital migration, the difference between analog and digital television, the need to buy a set-top box or an integrated digital television receiver, and the timetable for the migration. The Ministry of Information and Communication also placed public announcements in the media and on the CCK website about the switch from DVB-T to DVB-T2 and the migration from analog to digital broadcasting.[142] However, the tax relief on the set-

140. See *Kenya Today*, 28 February–6 March 2011, p. 6.

141. See "What Kenyans need to know about migration to Digital TV Broadcasting," at http://www.cck/go.ke/about/downloads/dtv_migration.pdf (accessed 20 March 2011).

142. See the announcement at http://www.cck.go.ke/links/public_notices/2010/Public_ann_Dt2.pdf (accessed 20 March 2011).

top boxes (see below) has not yet been put in place to ensure that they are affordable. If this is not done, a majority of the rural communities and the urban poor may not be able to access digital television.

The other consideration that might enable citizens to access the digital platform might be found in the Constitution of Kenya 2010, which in Art. 35 states that every citizen has the right of access to information.[143] Thus the state should ensure that citizens are able to possess the necessary equipment for access to news and information once the switch is made to the digital platform. However, no one in Kenya has used this argument as leverage against the government.

7.1.1.2 Subsidies for Equipment

The government initially set aside KSh 200 million (US$2.2 million) for the development of the digital infrastructure to oversee the migration from analog to digital by 2012.[144] However, the Nation Media Group's Digital Division Manager, Ian Fernandes, said that this sum was not enough and that about KSh4 billion (US$44 million) was needed; the KSh 200 million would only be sufficient for Nairobi.

Even with this sum of money set aside, many Kenyans will not be able to afford the new digital-ready sets with in-built DVB-T2 receivers by the time stipulated for the switch-off from analog and what many will opt for are the set-top boxes. The government's provision to subsidize digital reception equipment is tax relief on the set-top boxes through reducing value added tax (VAT) and customs tax, which reduces the price by up to 40 percent, thus making them more affordable. But even at US$38–63 the boxes remain inaccessible to many Kenyans, especially in the rural communities, and the urban poor who live on less than US$1 per day, and in fact the boxes sell for anything up to US$ 100, as retailers take advantage of people's ignorance of the government's recommended retail price. There are currently no provisions by the state to provide any other subsidies on digital equipment or to buy decoders for needy families. The digital television sets also retail from about US$ 825, making them way above the reach of many Kenyans.

Besides the price of the set-top boxes, buyers have to factor in the cost of installation, maintenance, and repair. At present, buyers are expected to cover these costs.

7.1.1.3 Legal Provisions on Public Interest

The legal framework that exists says that 40 percent of stations' content must be local so as to serve public interest. When getting a license from CCK, one is required to also show that the content will serve public interest. However, this has not been enforced.

The president of Kenya is on record as saying that the government will ensure that public interest is secured when the private sector is permitted to exploit digital technology. According to Henry Maina, the Director of Article 19 in East Africa, the Kenyan constitution is clear about public interest in its list of the national

143. See the Constitution of Kenya 2010.

144. Ian Fernandes was addressing the Parliamentary Committee on Energy, Information, and Communication hearing on 1 March 2011.

values (chapter 2). He adds that even with this provision in the constitution, "the current migration process is largely guided by procurement regulations where the highest bidder is granted the license."[145] However, nothing is being done to ensure that public interest is the overriding factor while the country switches to digital technology. Mr Maina is optimistic that once the signal distribution tender is finalized, the subsequent phases will have a "bigger tilt towards public interest than the current commercial interest leanings,"[146] because going digital will allow for more media players and rid the country of the monopoly. The government is also looking at having all the 47 counties have their own radio and television stations that will serve public interest because these media outlets will be guided by the needs of the local communities in selecting the content and will not only be driven by financial interests.

7.1.1.4 Public Consultation

Citizens have been involved in decision-making on the policies and legal provisions of digital broadcasting. The government set up a taskforce in March 2007 to advise it and to make recommendations on the switch from analog to digital broadcasting.[147] It consisted of broadcasting experts and representatives drawn from the Ministry of Information and Communication, the National Communication Secretariat, the CCK, the MOA, KBC, MCK, and the Association of Practitioners in Advertising (APA). Public consultations were also carried out for two weeks in July 2010 by the digital migration taskforce and their recommendations were taken into account in the report, but questions abound over the extent and effectiveness of the public consultations.

Many citizens are still unaware of the provisions of digital broadcasting and other concerns. The CCK has continued to run advertisements under the "Digital Kenya" banner in the print media, educating the public on digital broadcasting, and this is expected to continue until the country is fully migrated. Feedback from the public is also sought via contact details on the CCK's website and in the print media. The CCK has also provided opportunities for face-to-face visits, so as to educate people on this topic.

However, much more needs to be done through consumer campaigns, so that citizens understand the issues surrounding digital migration before they can participate in policy decision-making. So far, only the CCK has been involved in campaign efforts, which mainly dwell on the technicalities of the migration. The Ministry of Information and Communication and consumer groups should embark on aggressive campaigns that focus on the consumer aspects of the migration. The weight of the civil society groups has also yet to be felt in actively engaging the government on digital migration and in trying to be part of the decision-making. According to John Walubengo,[148] the civil society presence in the campaigns has not been felt largely

---

145. Interview with Henry Maina, Nairobi, 20 July 2011.
146. Interview with Henry Maina, Nairobi, 20 July 2011.
147. See Ministry of Information and Communication (2007), *Report of the Taskforce on Migration from Analogue to Digital Broadcasting in Kenya*, Nairobi, 2007 (hereafter Ministry of Information and Communication, *Report of the Taskforce*).
148. John Walubengo is the Dean, Faculty of Information Science and Technology at Multimedia University College of Kenya, and is also a board member at the African Network Information Center (AFRINIC), the regional internet registry for Africa.

because it is unaware of the implications of the switch from analog to digital. The process should begin with sensitizing these groups before they champion the human public interest issues surrounding the transition.

7.1.2 The Internet

7.1.2.1 Regulation of News on the Internet

Any organization, company, or individual is required to seek a license from the CCK in order to disseminate news on any platform, including the internet and mobile telephony. The newspapers are required to seek a license from the Ministry of Information and Communication. The online and mobile telephony news is administered under the ICT regulations, which are to be found in the Kenya Broadcasting Corporation (Revised) Act of 2009 and the Kenya Information and Communications (Amendment) Act of 2009. With the convergence of media, the existing legislation is inadequate because most of it does not include the online world. and in 2006 the ICT policy framework (*National Information and Communications Technology (ICT) Policy*, see above) provided guidelines for responses to the changes in the ICT sector.

This document also included provisions for setting up a Broadcasting Content Advisory Council to advise the CCK on broadcasting content standards. The council would work closely with the Kenya Film Censorship Board in advising the CCK. This was meant to enable the CCK to monitor broadcast content; handle complaints from operators and consumers; monitor the compliance of broadcasters with the programming code and broadcasting ethics compliance.[149]

News disseminated online is accessible by visiting the site or by subscription. The Media Act 2007 established the MCK whose mandate is, according to Mr Mwangi, to "promote high professional standards amongst journalists, promote ethical standards among journalists and in the media, ensure the protection of the rights and privileges of journalists in the performance of their duties, and uphold and maintain the ethics and discipline of journalists."[150] As part of its mandate the council is also required to monitor media publications and programs. The word "publication" is used in the Act to mean "the dissemination to the public of any written, audio or video material, and includes materials disseminated through the internet." "Program" is defined as meaning "sounds or visual images or combination of sounds and visual images that are intended to inform, enlighten or entertain."[151] The real effect of the MCK in promoting high professional standards has not yet been felt and many citizens feel that it is just a Utopian ideal.

Be this as it may, the MCK concentrates on monitoring newspapers, magazines, and television and radio programs. It has a complaints mechanism for asking media houses to retract content that is unfavorable or that they be more responsible in their future content. Media houses found to have been unethical in their practice appear before the complaints commission at the MCK to make their case heard. If the complaint is

---

149. See *National Information and Communications Technology (ICT) Policy*, Ministry of Information and Communication, Nairobi, January 2006.

150. Interview with Haron Mwangi, Nairobi, 12 August 2011.

151. See Media Act 2007, p. 5.

upheld, a fine is imposed and the courts ensure that these fines are paid by the offender. For example, in 2012 the MCK fined the Radio Africa Group KSh 800,000 (US$9,411) for content that was found to have been in bad taste and demeaning to those living with HIV/AIDS.[152]

There are no new regulations for the internet or mobile news services as most media enterprises that provide news online use the same self-regulatory framework that all journalists are supposed to comply with. The journalists' code of ethics was developed by the MCK to promote responsible and ethical journalism. Although one cannot be categorical about some media enterprises not having a regulatory framework, there are some outlets which by virtue of their content seem to reveal that they do not have one. This is because their sources are questionable, which may mean that they do not have systems for vetting the material that they post online.

News on mobile telephony is accessible to subscribers who will pay for such content, and its regulation is non-existent. The only law that ensures that content on the mobile platform is regularized is the requirement that citizens register their SIM cards, so that the owner can be summoned by the authorities if necessary. After the post-election violence of December 2007 and early 2008, the government ordered people to register their SIM cards so that individuals could be held responsible for whatever communication is sent from their cell phones. But according to Mr Maina, "there should be no such laws at all as they may unnecessarily infringe on freedom of expression."[153] He adds that mobile communications should be treated like all other platforms and only restricted or limited in instances where the content advocates hatred, violence, or discrimination.

The consistent and adequate monitoring by the MCK of these two platforms is problematic, however, because the monitoring systems are not sufficient.

7.1.2.2 Legal Liability for Internet Content

The Kenya Communication (Amendment) Act 2009 does not detail legal liability for internet content. There is no regulation that holds the ISPs responsible for the content to which they facilitate access. The Act does not regard the present convergence of the media industry as a problem that necessitates legal restriction. Legal liability exists for internet content as an extension of that applied to traditional media which merely upload their material online. This, however, depends on who owns the site publishing the content in question. A media enterprise (an organization whose business involves the collection, processing, and dissemination of news or news articles, or entertainment and education through the media) that owns a website of any kind, be it interactive or not, is responsible for the content found therein. In 2010, for example, The Nation Media Group paid KSh6 million (US$ 67,000) as a fine for comments posted by a reader on their site following a story that it carried. According to Churchil Otieno, the online editor at the Nation Media Group, "it is still a battle on who should be accountable for comments being sent … unfortunately we lost the first case

152. See Aids Law Project, "ALP VS Classic FM and Ciku Muiruri," 8 June 2012, at http://www.aidslawproject.org/2012/06/08/alp-vs-classic-fm-and-ciku-muiruri/ (accessed 20 October 2012).

153. Interview with Henry Maina, Nairobi, 20 July 2011.

that came up, we lost and this might set a precedent for the coming cases."[154] The court's decision was that the Nation Media Group be held liable for the content, because through its site it provided a platform for libelous information to be posted about an individual.

The Media Act 2007, Art. 26 empowers any person aggrieved by any publication or any conduct of a journalist or media enterprise to make a written complaint to the Complaints Commission, established under the Act, setting out the grounds for the complaint, the nature of the injury or damage suffered, and the remedy sought. The decision of the Complaints Committee is treated as a court order. The defamation law[155] allows any aggrieved party to seek legal redress in court for any publication or broadcast by any media enterprise.

For example the MP for Juja, William Kabogo, went to court to seek an injunction to stop the Standard Media Group from publishing or broadcasting anything with regard to his alleged involvement in drug trafficking. The MPs Martha Karua (Gichugu), Chirau Ali Makwere (Matuga), and the Deputy Prime Minister and Minister for Finance, Uhuru Kenyatta, have all sued the media for defamation arising from articles in the press and by extension on the websites of newspapers such as the *Daily Nation* and the *Standard*. In effect, the legislation that applies to printed material and broadcast material also applies to online material, blogs, and wikis.

7.2 Regulators

7.2.1 Changes in Content Regulation

Even though Kenya is moving towards digitization, there is no legislation concerning digital media content. The yet to be enacted Media Bill 2011 and the ICCK Bill 2011 propose that existing laws regulate both traditional and digital content. These draft bills state that existing offline content restrictions also apply to online content.

Currently, the CCK through the Kenya Communication (Amendment) Act 2009, section 46, regulates the programming code for content for all ages. The MCK is also being used to regulate media content. Although it has not been effective, this will change once it (MCK) becomes a statutory body after the Media Bill 2011 has been enacted. The organization was set up in 2004 by media stakeholders as a self-regulatory body. It will therefore have a pivotal role in monitoring and regulating media content.

7.2.2 Regulatory Independence

The main regulators in the media industry are the MCK and the CCK. The CCK is a state-owned corporation that is the independent regulatory authority for the communications industry.[156] It is funded by the government and its board members are appointed by the government. Some of its board members

154. Interview with Churchil Otieno, Nairobi, 10 August 2012.

155. See the Defamation Act, Cap. 36, of the Laws of Kenya.

156. See http://www.cck.go.ke (accessed 28 January 2013).

are drawn from government ministries such as the Ministry of Information and Communication and the Ministry of Finance. This is the body that has played a key role in media regulation both in the analog and in the digital era.

The MCK was set up as part of efforts to stimulate self-regulation. Its funding was drawn mainly from well-wishers such as local media houses and civil society and donors. However, the Media Act 2007 established it officially in Art. 3. The Media Act protects the council from interference from either political or government interests. The membership is well outlined and specific and is drawn from numerous organizations and stakeholders. The Kenya Union of Journalists and schools of journalism at recognized universities have two members each, and the MOA three. The Law Society of Kenya, the Kenya Editors' Guild of Kenya, the Kenya Correspondents' Association, the Public Relations Society of Kenya, the Kenya Institute of Mass Communications, and the Kenya News Agency each have one member on the council.

In terms of power and jurisdiction, the CCK has the upper hand and it is responsible for enforcing content restrictions since it is the regulator. Despite the fact that the MCK also ensures some of the responsibility of the media houses in terms of content, it cannot effectively do this since it is a self-regulatory outfit that should just arbitrate. The MCK's independence in arbitrating may also be questionable, because some of its members are drawn from media houses.

7.2.3 Digital Licensing

The system of licensing has often been considered unfair because of the biased distribution of frequencies to the politically connected. For example, the fact that the Royal Media Group, owned by S.K. Macharia, a private media business owner and a close ally of those in the government, possesses numerous radio frequencies when other applicants do not have licenses has given rise to accusations of favoritism. Mr Masai has for one complained that his organization's members are unable to get licenses due to skewed allocation.[157] The government has tried to explain the allocation anomalies as being a consequence of the lack of frequencies due to the analog situation. For example, when inaugurating the first phase of the transition to digital broadcasting on 9 December 2009 at the KBC, President Kibaki pointed out that digitization would free up space and allow the government to meet the demand for frequencies.

The argument claims that the present lack of frequencies will be addressed by the digitization process, a position promoted by the Digital Kenya Secretariat, which argues that digitization will accommodate eight channels on one analog frequency broadcasting in an MPEG-4 format on the digital platform and it is right.[158] Moreover, there are hopes that constitutional mechanisms will make frequency allocation more transparent and fair. Mr Maina, for instance, thinks that "once compliant with the constitution and all broadcasters and ISPs are subjected to the new rules, then the licensing regime will be fairly assessed."[159] In essence, the availability of more channels is likely to provide some fairness in the digital era.

157. Interview with Martin Masai, Nairobi, 31 July 2011.

158. See Ministry of Information and Communication, *Report of the Taskforce*.

159. Interview with Henry Maina, Nairobi, 20 July 2011.

7.2.4 Role of Self-regulatory Mechanisms

The MCK is one mechanism through which self-regulation is achieved. Within the MCK, there is the Complaints Commission that listens to grievances from members of the public and civil society regarding complaints about the print and broadcast media. They arbitrate over disputes between media houses and news subjects who are unfairly treated in news reports.

Professor Murej Mak'Ochieng, a member of the Complaints Commission, says that "each media enterprise is, however, also meant to have its own way of regulating itself."[160] The power is especially vested in chief and legal editors who look at the stories before they are published. In addition, each house has a style book that guides media houses when developing content. Online media outlets are also keen to ensure that they act responsibly. They do this by adding on to their portals rules or codes of conduct that are publicly available. These guidelines are also to be followed by those who wish to post comments, as they are requested to act responsibly when they contribute to the online discourse.

The Telecommunications Service Providers Association of Kenya (TESPOK), established in 1999,[161] is another self-regulatory body that represents the interests of the telecoms service providers and operates independently of government. There is no legal obligation on service providers to monitor communications and it would be illegal for them to do so unless required by the CCK. The TESPOK engages in lobbying the formal system of regulation.

A number of media houses such as the Nation Media Group, The Star, and the Standard, have also employed moderators as a measure of self-regulation, whose work is to monitor and sieve out comments that are not decent, have strong language, or are likely to injure reputations. But even with these mechanisms in place, some of these comments skip past the eye of the moderators and they get published, leading to court cases like Uhuru Kenyatta versus Nation Media Group, mentioned above.

7.3 Government Interference

7.3.1 The Market

The government has used the media's dependence on advertising to control and influence the publication of content critical of the authorities and the state administration. The government is one of the single biggest advertisers. In 2010, it spent KSh2.7 billion (US$30 million) on advertising,[162] which is about one-third of the total advertising spend per year; hence any company opposed to the government may be denied advertising space. This view is supported by Mr Maina, who argues that "compliant media houses readily receive advertising revenue and those perceived to be adversarial denied." In 2007, the government withheld

---

160. Interview with Professor Murej Mak'Ochieng, Nairobi, 5 July 2011.

161. See http://www.tespok.co.ke (accessed 28 January 2013).

162. See *Business Daily*, 2 August 2011, p. 1.

state advertising from private media organizations that were seen to be in opposition.[163] Instead advertising was channeled through the public service broadcaster and private media supporting the government. The disputed presidential elections in December 2007 which sparked nationwide riots led the government to ban live electronic coverage of news, and only KBC was allowed to cover news events, thereby causing many commercial media houses to lose revenue.

It is also widely believed that the government is biased in favor of the telecoms companies that it owns, such as Telkom Kenya. There have been delays and limits in the liberalization of the telecoms market because of government interests, and this protection has had a negative impact on broadband costs.

A number of government ministers also sit on the boards of private companies and are shareholders in some of the companies and media outlets. With this kind of clout, they allocate advertising to the media houses that seem to favor them or where they have some stake in the shareholding. Some observers believe that this is unfair, as it denies revenue to small media companies that do not have political backing.

The digital signal subsidy that was awarded to Signet came under sharp criticism from the MOA, which considered that KBC violated procurement laws during the digital frequency allocation, and that KBC has been giving preferential treatment to pay-TV firms buying frequencies on the digital platform, to the detriment of other players who have been kept waiting for a long time. This is likely to distort the market because it will make it difficult for private competition to flourish as a result of signal distribution.

7.3.2 The Regulator

Cases of digital regulators abusing their powers have been reported. The MOA, for example, is questioning the circumstances under which Smart TV was contracted by the government through the CCK to broadcast digital content without conforming to the procedures laid down.[164] The MOA also blames the government for giving Smart TV the right to broadcast digital content without their knowledge and permission.

Local television stations had initially made their signals available to be carried for testing purposes during the simulcast period. Questions abound as to why Signet opted to sell to Smart TV the rights to broadcast the eight channels which belong to local broadcasters. The case is yet to be resolved.

7.3.3 Other Forms of Interference

Tensions between the government and the media are commonplace. Commercial, political, and legal challenges are often used to influence media performance. For example, journalists who investigate corruption are often subjected to physical harm. Moreover, corruption is also sometimes used to influence journalists' decisions on whether to publish material critical of those in power or about criminals. Such threats and challenges affect the media's decisions regarding the publication of material.

163. Interview with Henry Maina, Nairobi, 20 July 2011.

164. Ian Fernandes was addressing the Parliamentary Committee on Energy, Information, and Communication hearing on 1 March 2011.

The present political environment is, however, much more accommodating of media practices and the new constitution promulgated in August 2010 allows for greater freedom than before. There are no specific cases where the state authorities have exerted extra-legal pressure in the area of digital media. The government has not interfered with Kenyan e-journalists basically because of the slight impact of citizen journalism and other such work.

Prior to this and to the elections in 2007, state interference was more widespread. There were many incidents of harassment by Kenyan security apparatuses of journalists and media outlets. Professor Obonyo asserts that in the recent past "we witnessed instances where goons hired by the government or acting at the behest of the government unleashed violence against journalists."[165]

In some cases, the harassment was spontaneous. The newspaper offices of the Standard Group, which owns the *Standard* newspaper, KTN, and Radio Maisha, were raided by armed police in March 2006. The printing plant was disabled and tens of thousands of the next day's edition were burned.[166]

Powerful individuals have also interfered with media houses. For example, in May 2005, the First Lady, Lucy Kibaki, stormed the Nation Media Group newsroom and harassed journalists and assaulted a cameraman, Clifford Derrick Otieno, alleging media interference in the affairs of the first family.

However, with the change in the political climate the state authorities' interference in media operations has decreased. There are, however, isolated cases where individual journalists are harassed, threatened, or assaulted, and/or where commercial or political pressures have been exerted on the media to influence their decisions and performance.

7.4 Assessments

The overall framework of policy and law is not yet adequate for digitized media in Kenya. This is because the existing overall framework of policy and law was formulated for the analog era. The taskforce on digital migration proposed that the government establishes a multi-stakeholder working group to be known as the Digital Broadcasting Migration Board. The government has since established the Digital Television Committee under the guidance of the Ministry of Information and Communication.

This initiative operates under Digital Kenya, whose secretariat is housed at the CCK. This committee is mandated to manage the migration process, develop the appropriate switch-over strategy, and regulate the digital media environment. But it faces numerous challenges, such as the lack of resources to build the digital infrastructure and the need for more proactive consumer awareness publicity. Most citizens are still unaware

165. Interview with Professor Levi Obonyo, Nairobi, 12 November 2012.

166. See *Standard*, 2 March 2006.

of what the switch portends for them. The Ministry of Information and Communication has also requested tax relief on set-top boxes so that the public can afford them; according to Mr Obam, it has had to pay KBC to build the infrastructure to complete the switch-over. Even so, there are concerns as to whether the public can afford the end-user devices that they need for their analog devices or the digital receivers.

There has been an increase in public consultations concerning the new media technologies through debates and participation, with a variety of stakeholders brought on board to contribute to policy and regulation. This, however, has not been caused by the introduction of digital media, but rather by the new constitutional dispensation, whereby citizens are increasingly aware of their rights, and petition to be included in the discussion of issues that concern them.

The legal and regulatory framework of broadcasting in Kenya encourages the diversity of news and information. The aim of the liberalization of the airwaves was to encourage more players and to bring on board private media outlets. But the current players do not exhibit diversity in ownership and content.

The government controls the licensing of the media as it shapes public opinion. Licenses are awarded on the basis of having met the requirements stipulated by the CCK and not on the basis of a public tender. The process is shrouded in secrecy, so that it is difficult to establish who owns which media house.

The national ICT policy of 2006 stated that the government would support and encourage pluralism and diversity. This has been achieved in the form of myriad channels but not in content, owing to the concentration of media in a few hands. The legal framework is likely to lead to some media independence, since the availability of many channels will present an opportunity for more players to get into the media scene and provide an avenue for the dissemination of diverse content.

The government's plan to allocate one television channel to every county will also advance diversity and plurality, since counties will have to generate their own content and not rely on the government. The Ministry of Information and Communication supports online user education and is taking steps to ensure that members of the public are educated about using the internet sites and learn to take public responsibility when they use the internet. It is hoped that all this will increase pluralism and diversity in broadcasting in Kenya.

8. Conclusions

8.1 Media Today

8.1.1 Positive Aspects

- One of the key developments in the last five years has been the promulgation of the new constitution on 27 August 2010. The Kenya Constitution 2010, also referred to as the new constitution, provides for freedom of media as one of the rights and fundamental freedoms. Section 34 guarantees the independence of electronic, print, and all other types of media but does not extend to any expression of propaganda for war, incitement to violence, hate speech, advocacy for hatred that constitutes ethnic incitement, vilification of others, or incitement to cause harm, or that which is based on the grounds of discrimination.

  The constitution bars the state from exercising control over or interfering with any person engaged in broadcasting, the production or circulation of any publication, or dissemination of information by any medium. The constitution states that the state shall not penalize any person for any opinion or view or the content of any broadcast, publication, or dissemination. The constitution guarantees freedom of establishment for all broadcasting and other electronic media subject only to licensing procedures that are necessary to regulate the airwaves and other forms of signal distribution.

  Parliament is charged with enacting legislation that provides for the establishment of an independent body free of government, political and economic pressure, and control. Ideally, the body should represent the interests of all sections of the society, set media standards, and regulate and monitor compliance with those standards. There are two bills relating to the media that are still under consideration: the Media Bill 2011 and the ICCK 2011, which seek ways of making the media more independent while advancing public interest.

- The analog-to-digital migration has engendered positive developments in the media. Although this is a consequence of technological, economic, and political developments, the growth in the media industry has been positive. The number of radio stations, newspapers, and television stations has gone up rapidly in the last five years. At the same time, the number of online platforms offering news has gone up. Digitization is expected to increase the number of platforms offering not only enriched but more importantly local content. It will also increase the number of frequencies available to meet local demand. The investments made from such available resources will undoubtedly increase the number of opportunities in employment, production, etc., for media practitioners.

- Growth and competition in the mobile and internet industries have increased. There are four mobile phone service providers—Safaricom, Airtel, Orange, and Yu—which shows that competition in this sector is intensifying and users benefit from a drop in prices and a concomitant rise in quality. The increase in the number of ISPs is a result of developments in internet infrastructure, and this has of course led to an increase in internet penetration in the country.

  The government is working on what it calls "digital villages" to enable people even in remote parts of the country to access broadband internet. It has invested in the enhancement of infrastructure particularly in the roll-out of fiber-optic cable throughout the country. The process started in 2009 when the cable connecting the country to the rest of the world landed at the coastal town of Mombasa, promising faster internet connection at reduced costs. The prices of connection have not yet dropped, although companies promise that this will happen at some point in the near future once they recoup their investments.

- Competition in the mobile phone industry has caused a significant drop in the access costs of both mobile phone and internet services and many Kenyans are now benefitting. The cost of data is also falling, such that people can afford to access the internet and mobile television via mobile phones.

- There is growing diffusion and use of mobile telephony because handsets and good-quality service are both affordable. In addition, money transfer facilities (for example, Safaricom's Mpesa and Airtel's Zap) require access to mobile phones. Thus many more Kenyans will have access to communication facilities which they can use to access news and other media products.

- Despite funding problems, the government's intention to complete the digitization process by 2012 was a positive development. As indicated above, the digitization process will take longer than the government planned, due to budgetary and legal constraints. As of early February 2013, the CCK was yet to start negotiations with the Consumer Federation of Kenya (COFEK) on the possible date for analog switch-off. Moreover, the CCK had indicated in October 2012 that digitization would only be completed in mid-2013.

- The availability of technologies for the media and for citizen journalists has significantly aided their work. The fact that journalists can now use such facilities as mobile telephony and the internet to communicate ideas and disseminate different products is a boon to media and journalism, given the intense competition and rising audience expectations.

  As a result journalists can easily access research material, information, and sources. This is especially critical for technical and important issues for which there may be little archival material—print, audio, or video—locally. Media organizations, civil society, and others are able to publish print and audiovisual material online, so that Kenyans—wherever they are—can easily access media products and keep themselves informed of news in Kenya.

  Civil society organizations are also able to engage more in activism. This enhances their participation in the political process in their attempts to make Kenya's leadership more transparent and accountable. The new technologies have also encouraged the practice of citizen journalism, by means of wikis and blogs, and Twitter and Facebook accounts for social interaction, as well as the production and dissemination of information and other material.

- Greater political interaction and participation in politics and the affairs of government have been facilitated by the new technologies. It is now possible to access government information via mobile telephony and the internet, which was hardly possible a couple of years ago. However, this is not a consequence of technology alone, but also the consolidation of democracy, and transparent and accountable political leadership.

8.1.2 Negative Aspects

- Competition in the media industry has intensified the search for profit, concentration, and suppression of diversity and independence. This is because the media houses own a variety of platforms, print, online, radio, and television. Big media companies like Royal Media Services, the Nation Media Group, the Standard Media Group, and Radio Africa group are slowly stifling diversity and plurality of opinion. This is because they command most of the audience and advertising revenue share. What is left is inadequate to support small and community media. The media are sometimes unwilling to invest in the production of expensive local digital content.
- Technology and decline of media and journalistic credibility and professionalism: Opportunities for plagiarism as well as copyright infringement have risen as a consequence of technology, particularly the internet and mobile telephony. Cases of plagiarism are on the rise in Kenya. The number of stories and pictures used without crediting original authors or producers is increasing by the day. This means that sometimes it is not easy to rely on such media.
- Despite efforts to invest and spread access to digital media, most people, especially those who live in rural areas, are unable to benefit from such developments because of widespread poverty. There is little support even though the government plans to remove duty on facilities like set-top boxes and modern television sets. Moreover, the change from DVB-T to DVB-T2 means investors and ordinary people have lost money entirely because of the government's ineffective actions.

8.2 Media Tomorrow

There are numerous prospects for growth and independence in the media sector in the next five years. One of the reasons for this optimism is the new constitution, which promises greater freedom in the media as a conveyor of information and other products.

The constitution has created and devolved power to the counties. Whereas now most national media organizations are based in Nairobi, this will change significantly once the counties are operational. This promises to be a good move for people who have long complained that reports emanating from Nairobi do not address their issues. There is an anticipated growth in digital and other media in many parts of the country due to devolution. This may spell doom for existing national media as audiences and revenues become fragmented. This may reduce investment in the media industry.

The increasing diffusion of new technologies, specifically broadband internet and mobile telephony, accompanied by falling costs, is also great for the country. This will make communication and access to information easier for many Kenyans. These facilities will also make it easier, cheaper, and faster for media organizations to collect and disseminate information and other products. It will also see the growth of citizen journalism, and participation online via mobile telephony because mobile phone companies are now taking advantage of their own growth to provide data and media services to subscribers. The problem arising from such increased use will be the credibility and reliability of media operating in such a commercialized and technology-driven environment. In other words, we ought to think about the negative as well as positive consequences of the availability of internet and mobile technologies.

Ultimately, the migration from analog to digital is expected to bring numerous benefits to the media in Kenya. Besides the quality of digital broadcasts, consumers will have access to more channels and local content. This will allow more investment in broadcast media and the production of local content. The popularity of local content at the moment indicates that there is a market for such material, and this gives local producers, writers, and workers in the media industry hope that their talents and experiences will find greater use.

List of Abbreviations, Figures, Tables, and Companies

Acronyms and Abbreviations

AFRINIC	African Network Information Center
AMNET	Alternative Media Network
APA	Association of Practitioners in Advertising
BBC	British Broadcasting Corporation
CCK	Communications Commission of Kenya
COFEK	Consumer Federation of Kenya
DFID	Department for International Development (UK)
DVB-T	Digital Video Broadcasting-Terrestrial
EPG	electronic program guide
GALCK	Gay and Lesbian Coalition of Kenya
GBS	Good News Broadcasting Systems
ICCK	Independent Communications Commission of Kenya
IMF	International Monetary Fund
IPPG	Inter-Parties Parliamentary Group
ISP	internet service provider
ITU	International Telecommunication Union
KANU	Kenya African National Union
KBC	Kenya Broadcasting Corporation
KNBS	Kenya National Bureau of Statistics
KRA	Kenya Revenue Authority
KTN	Kenya Television Network
MCK	Media Council of Kenya
MOA	Media Owners Association
NCIC	National Cohesion and Integration Commission
ODM	Orange Democratic Movement
REA	Rural Electrification Authority

SMS	Short Message Service
SODNET	Social Development Network
TESPOK	Telecommunications Service Providers Association of Kenya
UNDP	United Nations Development Program

Figures

Tables

Companies

Africa Link Agencies
Airtel
Alcatel-Lucent
Al-Jazeera
China TV
DSTv
East African Breweries
EM Communications
Essar Telecom (Yu)
Essar Telecom Kenya
Flashcom
Globecast Africa
Golden Dreams
Good News Broadcasting Systems (GBS)
Kencell
Mayfox
Media Max
My TV
Nation Media Group
Orange
Orange Kenya
Pan African Network Group
Population Services International (PSI)
Radio Africa Group
Reckitt Benckiser (RB)
Regional Reach
Royal Media Services
Safaricom
Signal Distributors
Smart TV
Standard Group
Star TV
Telkom Kenya
Unilever
Wananchi Group
Yu
Zain
Zain Kenya
Zuku

Mapping Digital Media: Country Reports (published in English)

1. Romania
2. Thailand
3. Mexico
4. Morocco
5. United Kingdom
6. Sweden
7. Russia
8. Lithuania
9. Italy
10. Germany
11. United States
12. Latvia
13. Serbia
14. Netherlands
15. Albania
16. Hungary
17. Moldova
18. Japan
19. Argentina
20. South Africa
21. Turkey
22. Lebanon
23. Macedonia
24. Bosnia and Herzegovina
25. Poland
26. Montenegro
27. Georgia
28. Nigeria
29. Colombia
30. Croatia
31. Slovenia
32. China
33. Peru
34. Chile
35. Spain

Mapping Digital Media is a project of the **Open Society Media Program** and the **Open Society Information Program.**

Open Society Media Program

The Media Program works globally to support independent and professional media as crucial players for informing citizens and allowing for their democratic participation in debate. The program provides operational and developmental support to independent media outlets and networks around the world, proposes engaging media policies, and engages in efforts towards improving media laws and creating an enabling legal environment for good, brave and enterprising journalism to flourish. In order to promote transparency and accountability, and tackle issues of organized crime and corruption the Program also fosters quality investigative journalism.

Open Society Information Program

The Open Society Information Program works to increase public access to knowledge, facilitate civil society communication, and protect civil liberties and the freedom to communicate in the digital environment. The Program pays particular attention to the information needs of disadvantaged groups and people in less developed parts of the world. The Program also uses new tools and techniques to empower civil society groups in their various international, national, and local efforts to promote open society.

Open Society Foundations

The Open Society Foundations work to build vibrant and tolerant democracies whose governments are accountable to their citizens. Working with local communities in more than 70 countries, the Open Society Foundations support justice and human rights, freedom of expression, and access to public health and education.

For more information:

Open Society Media Program
Open Society Foundations

7th Floor Millbank Tower, 21–24 Millbank
London SW1P 4QP, United Kingdom

mappingdigitalmedia@osf-eu.org
www.mappingdigitalmedia.org
www.soros.org/initiatives/media

Cover Design: Ahlgrim Design Group
Design and Layout: Judit Kovács l Createch Ltd.

OPEN SOCIETY
FOUNDATIONS