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NATIONAL ASSEMBLY BILLS, 2025

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NATIONAL ASSEMBLY
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DIRECTOR LEGAL SERVICES
P.O. BOX 41042-00100 NAIROBI

**THE KENYA INFORMATION AND
COMMUNICATIONS (AMENDMENT) BILL, 2025**

A Bill for

**AN ACT of Parliament to amend the Kenya
Information and Communications Act**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Kenya Information and Communications (Amendment) Act, 2025.

Short title.

2. Section 2 of the Kenya Information and Communications Act (in this Act referred to as “the principal Act”) is amended in the definition of “telecommunication operator” by inserting the words “and includes an internet service provider” immediately after the expression “section 79.

Amendment of
section 2 of Cap
411A.

3. Section 27A of the principal Act is amended by inserting the following new subsections immediately after subsection (3B) —

Amendment of
section 27A of
Cap 411A.

“(3C) An internet service provider shall operate a meter billing system which shall —

- (a) assign to each customer a unique and identifiable meter number;
- (b) monitor customer usage;
- (c) convert customer usage into readable details;
- (d) create invoices based on consumption; and
- (e) allow for user verification of invoices.

“(3D) An internet service provider licensed under this Act shall submit to the Authority, at least once in every financial year, information on the billing system including internet meter numbers issued to subscribers.”

4. The Fifth Schedule to the principal Act is amended by inserting the following new paragraph immediately after paragraph (2)—

Amendment to the
Fifth Schedule to
CAP 411A.

“(2A) Upon coming into force of this Act—

- (a) all licenses and registrations held by internet service providers shall remain valid until the expiry; and
- (b) subsequent licensing and registration of internet service providers shall be issued under this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Kenya Information and Communications Act Cap 411A to provide for internet billing by internet service providers for metered billing of internet use, based on consumption in order to mitigate exploitation and to secure economic interests of internet users in line with Article 46 of Constitution.

The Bill seeks to require Internet service providers to develop and deploy quality metered billing system capable of monitoring customer usage, convert to readable details and creating invoices based on consumption and align their metrics with the value the customers get from various internet services.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement as to whether the Bill concerns counties within the meaning of Article 110(1)

The Bill does not concern County Governments in terms of Article 110 (1) (a) of the Constitution and it does not affect the functions and powers of County Governments recognized in the Fourth Schedule to the Constitution.

Paragraph 18 part 1 of the Fourth Schedule of the Constitution provides for transport and communication, including, in particular telecommunication as a function of national government.

Further the Bill seeks to secure economic interest of internet consumer in line with Article 46 of the Constitution. Consumer protection is a function of national government as provided for under paragraph 14 part I of the Fourth Schedule.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution.

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 21st February, 2025.

MARIANNE JEBET KITANY,
Member of Parliament.

Section 2 CAP 411A which it is proposed to amend—

(1) In this Act unless, the context otherwise requires—

“access” in relation to any computer system, means instruct, communicate with, store data in, retrieve data from, or otherwise make use of any of the resources of the computer system;

“act of vandalism” means any willful, negligent, reckless or malicious act of stealing, destroying, damaging or breaking into telecommunications apparatus, lines, installations, hardware, software or plant used for telecommunication services and systems;

“advanced electronic signature” means an electronic signature which meets all the following requirements—

- (a) is uniquely linked to the signatory;
- (b) is capable of identifying the signatory;
- (c) it is created using means that the signatory can maintain under his sole control; and
- (d) it is linked to the data to which it relates in such a manner that any subsequent change to the data is detectable;

“agreement” includes decisions or practices;

“Board” means the Board of Directors constituted under section 6;

“broadcaster” means any legal or natural person who composes or packages distributes television or radio programme services for reception by the public or sections of the public or subscribers to such a service, irrespective of technology used;

“broadcasting” means unidirectional conveyance of sounds or television programmes, whether encrypted or not by radio or other means of telecommunications, for reception by the public;

“broadcasting service” means any service which consists of the broadcasting of television or sound broadcasting programs to the public, sections of the public or subscribers to such a service;

“broadcasting signal distribution” means the process whereby the output signal of a broadcasting service is taken from the point of origin, being the point where such signal is made available in its final content format, from where it is conveyed to any broadcast target area by means of a telecommunication process and includes multi-channel distribution;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for information, communication and technology;

“certificate” means a record which is issued by a certification service provider for the purpose of supporting a digital signature which purports to confirm the identity or other significant characteristics of the person who holds a particular key pair; identifies the certification service provider issuing it; names or identifies the person to whom it is issued; contains the public key of the person to whom it is issued; and is signed by a responsible officer of the certification service provider issuing it;

“certification service provider” means a person who has been granted a licence to issue a digital signature certificate;

“Commission” means the Communications Authority of Kenya;

“community” includes a geographically founded community or any group of persons or sector of the public having a specific, ascertainable common interest;

“community broadcasting service” means a broadcasting service which meets all the following requirements—

- (a) is fully controlled by a non-profit entity and carried on for non-profitable purposes;
- (b) serves a particular community;
- (c) encourages members of the community served by it or persons associated with or promoting the interests of such community to participate in the selection and provision of programmes to be broadcast in the course of such broadcasting service; and
- (d) may be funded by donations, grants, sponsorships or membership fees, or by any combination of the aforementioned;

“computer” means any electronic, magnetic, optical or other high-speed data processing device or system which performs logical, arithmetic and memory functions by manipulations of electronic, magnetic or optical impulses, and includes all input, output, processing, storage, software and communication facilities which are connected or related as a system or network;

“computer service” includes data processing and the storage or retrieval of data;

“computer system” means a device or collection of devices including input and output devices but excluding calculators which are not programmable and capable of being used in conjunction with external files which contain computer programmes, electronic instructions and data that perform logic, arithmetic, data storage, data retrieval, communication control and other functions;

“country code top-level domain” means top-level domain .ke used and reserved for Kenya;

“courier services” means any specialised service for the collection, despatch, conveyance, handling and delivery of postal articles;

“customs law” means any law relating to the collection of customs duties or transfer tax;

“cyber security” means the collection of tools, policies, security concepts, security safeguards, guidelines, risk management approaches, actions, training, best practices, assurance and technologies that can be used to protect the cyber environment;

“data” means information recorded in a format in which it can be processed by equipment operating automatically in response to instructions given for that purpose, and includes representations of facts, information and concepts held in any removable storage medium;

“Director-General” means the Director-General of the Commission appointed under section 6;

“document of title” means a formal document that is considered sufficient proof that the person who possesses it is entitled to receive, hold, and dispose of the instrument and the goods that it covers;

“dominant telecommunications service provider” means a licensee determined to be a dominant telecommunications service provider pursuant to the criteria set out in sections 4 and 23 of the Competition Act (Cap. 504);

“e-Government services” means public services provided electronically by a Ministry or Government department, local authority, or any body established by or under any law or controlled or funded by the Government;

“electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

“electronic form” with reference to information, means any information generated, sent, received or stored in magnetic, optical, computer memory, microfilm or similar device;

“electronic *Gazette*” means the Kenya *Gazette* published in electronic form;

“electronic record” means a record generated in digital form by an information system, which can be transmitted within an information system or from one information system to another and stored in an information system or other medium;

“electronic signature” means data in electronic form affixed to or logically associated with other electronic data which may be used to identify the signatory in relation to the data message and to indicate the signatory's approval of the information contained in the data message;

“encryption” means a method transforming signals in a systematic way so that the signal would be unintelligible without a suitable receiving apparatus;

“equipment” includes any appliance, apparatus or accessory used or intended to be used for communication services;

“former Commission” means the Communications Commission of Kenya immediately existing before the commencement of this Act;

“free-to-air service” means a service which is broadcast without encryption and capable of being received by conventional broadcasting receiving apparatus;

“financial year” means a financial year within the meaning of section 18;

“franking machine” means a machine for the purpose of making impressions on postal articles to denote pre-payment of postage and includes any meter or meters and any franking or date-stamping die incidental thereto;

“function” includes logic, control, arithmetic, deletion, storage and retrieval and communication or telecommunication to from or within a computer system;

“Fund” means the Universal Service Fund established by section 84J of this Act;

“information and communication technologies” means technologies employed in collecting, storing, using or sending out information and include those involving the use of computers or any telecommunication system;

“installation or plant used for posts” includes all buildings, lands, structures, machinery, equipment, boxes and receptacles used or intended for use in connection with the transmission of postal articles by post;

“intercept” in relation to a function of a computer, includes listening to, or recording a function of a computer, or acquiring the substance, its meaning or purport of such function;

“Kenyan programme” means sounds or vision or a combination of both whose content comply with the classification of local content as may be required by the Commission from time to time;

“letter” means any written or printed communication conveying from one person to another particular information upon matters personal to such persons or information upon which it is intended that the recipient should reply, act or refrain from acting, but does not include any written or printed communication which is a newspaper or a periodical accompanied by any other communication;

“licence” means any licence issued under this Act;

“mail bag” means any bag, container, envelope or covering in which postal articles are conveyed;

“market” means a market in Kenya or a substantial part of Kenya and refers to the range of reasonable possibilities for substitution in supply or demand between particular kinds of goods or services and between suppliers or acquirers, or potential suppliers or acquirers, of those goods or services;

“media” means broadcast, electronic and other types of media but does not include print and book publishing;

“Media Council” means the Media Council of Kenya established under the Media Council Act (Cap. 411B);

“modification” means a modification of the contents of any computer system by the operation of any function of that computer system or any other computer system as a result of which-

- (a) any program or data held in the computer system is altered or erased;
- (b) any program or data is added to its contents; or
- (c) any act occurs which impairs the normal operation of the computer system;

“parcel” means a postal article which is posted at the office of a licensee as a parcel or is received at another office:

Provided that the said parcel is not smaller than the minimum size or heavier than the maximum weight prescribed;

“password” means any data by which a computer service or a computer system is capable of being obtained or used;

“possession”, “be in possession of” and “have in possession” have the meanings assigned to such expressions in section 4 of the Penal Code (Cap. 63);

“post”—

- (i) when used with reference to telecommunication includes any pole, standard, stay, strut or other above-ground contrivance for installing, carrying, supporting or suspending a telecommunication line; and
- (ii) when used with reference to the transmission of postal articles by post, means any system for the collection, despatch, conveyance, handling and delivery of postal articles;

“post office” means any building, house, room, receptacle, vessel, vehicle or place where postal articles are received, delivered, sorted, made up or despatched;

“postage” means the fee chargeable for the transmission by post of postal articles;

“postage stamp” means any label or stamp for denoting any postage or other sum payable in respect of a postal article, and includes an adhesive postage stamp or a stamp printed, impressed or otherwise indicated on a postal article, whether issued by the Government of Kenya or any other country;

“postal article” means any article or thing transmissible by post, including but not limited to letters, aerogrammes, postcards and parcels but does include such article or thing as the Commission determines not to be transmissible by post;

“postal service” means any service by post;

“postcard” means a card recognised as a postcard in accordance with the terms of the Convention regulating the affairs of the Universal Postal Union;

“posting box” includes any pillar box, wall box, any other box or receptacle provided by or under the authority of the public postal licensee for the purpose of receiving postal articles for transmission by or under the authority of the public postal licensee;

“private broadcaster” means a person licensed by the Commission under this Act to provide commercial broadcast services;

“private letter box/bag” means any receptacle whether identified by a distinctive number or not rented to a person for the receipt of postal articles and capable of being used whether the person or company renting it has his business premises open or not;

“programme” means sound, vision or a combination of both, intended to inform, educate or entertain, but does not include text or data;

“public broadcaster” means the Kenya Broadcasting Corporation established by the Kenya Broadcasting Corporation Act (Cap. 221);

“public broadcasting services” means broadcasting services of the public broadcaster;

“public postal licensee” means the Postal Corporation of Kenya established under the Postal Corporation of Kenya Act (Cap. 411);

“public postal licensee’s installation or plant” means any installation or plant used for postal purposes belonging to or used by the public postal licensee;

“radio communication” means the emitting or receiving over paths which are not provided by any material substance constructed or arranged for that purpose, of electro-magnetic energy of a frequency not exceeding three million megahertz being energy which either—

- (i) is capable of being transmitted through a telecommunication system; or
- (ii) is used in connection with the determination of position, bearing or distance, or for the gaining of information as to the presence, absence or, motion of any object or objects of any class;

“radio communication apparatus” means any apparatus capable of being used or adapted for radio communication and where the context so requires, includes a radio communication station;

“radio communication station” means any telecommunication station capable of being used or being adapted for radio communication;

“registration agent” means a person contracted or otherwise engaged by a telecommunications operator to carry out registration of SIM-cards;

“repository” means a system for storing and retrieving certificates or other information relevant to certificates;

“signatory” means a person who holds a signature-creation device and acts either on his own behalf or on behalf of the natural or legal person or entity he represents;

“signature-creation data” means unique data, such as codes or private cryptographic keys, which are used by the signatory to create an electronic signature;

“signature-creation device” means configured software or hardware used to implement the signature-creation data;

“significant market power” means a position of economic strength enjoyed by a licensee which enables it to prevent effective competition

being maintained on the relevant market by affording it the power to behave independently of its competitors, customers and consumers;

“SIM-card” means the Subscriber Identity Module which is an independent electronically-activated device designed for use in conjunction with a telecommunication apparatus to enable the user of the telecommunication apparatus to transmit and receive indirect communications by providing access to telecommunication systems and enabling such telecommunication systems to identify the particular Subscriber Identity Module and its installed information;

“subscription management service” means a service which consists of the provision of support services to a subscription broadcasting service which support services may include, but not limited to, subscriber management support, subscription fee collection, call centres, sales and marketing, and technical and installation support;

“telecommunication apparatus” means apparatus constructed or adapted for use in transmitting anything which is transmissible by a telecommunication system, or in conveying anything which is transmitted through such a system;

“telecommunication line” means any wire, cable, tube, pipe or other similar thing which is designed or adapted for use in connection with the operation of a telecommunication system or a radio communication apparatus with any casing, coating, tube or pipe enclosing the same and any appliances and apparatus connected therewith for the same; and includes any structure, post or other thing in, by or from which any telecommunication and radio-communication apparatus is or may be installed, supported, carried or suspended;

“telecommunication officer” means any person employed either permanently or temporarily by a telecommunication operator in connection with a telecommunication system licensed under section 79;

“telecommunication operator” means a telecommunication operator licensed under section 79;

“telecommunication service” means any of the following—

- (i) a service consisting of the conveyance by means of a telecommunication system of anything falling within subparagraphs (i) to (v) in the definition of “telecommunication system”;
- (ii) a service consisting of the installation, maintenance, adjustment, repair, alteration, moving, removal or replacement of apparatus which is or is to be connected to a telecommunication system; or

- (iii) a directory information service, being a service consisting of the provision by means of a telecommunication system of directory information for the purposes of facilitating the use of a service falling within subparagraph (i) above and provided by means of that system;

“telecommunication system” means a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of—

- (i) speech, music and other sounds;
- (ii) visual images;
- (iii) data;
- (iv) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sound, visual images or data; or
- (v) signals serving for the activation or control of machinery or apparatus and includes any cable for the distribution of anything falling within (i) to (iv) above.

“Tribunal” means the Appeals Tribunal set up under section 102 of this Act;

“vandalize” means to commit an act of vandalism;

“vessel” includes any ship, boat, air-cushioned vehicle or floating rig or platform used in navigation.

(2) For the purpose of this Act, a telecommunication system is operated by the person who controls and manages it by himself or through servants or agents.

(3) In this Act—

- (a) a postal article shall be deemed to have been delivered—
 - (i) to the addressee, if it is delivered into the private letter box of the addressee, leaving it at the house, or office of the addressee as set out thereon, or with his employee or agent or other persons authorised to receive it and, where the addressee is a guest or is resident at a hotel, hostel or lodgings, it is left with the proprietor or manager thereof or with his agent; or
 - (ii) to a postal services operator licensed under section 51, if it is deposited into a posting box or handed over to an employee or agent of a postal services operator authorised to receive it;

- (b) a postal article shall be deemed to be in the course of transmission by post from the time of its being delivered to the public postal licensee until the time of its being delivered to the addressee, or it is returned to the sender or otherwise disposed of under the provisions of this Act;
- (c) save as otherwise agreed to between the originator and the addressee—
 - (i) the dispatch of an electronic record occurs when it enters a computer resource outside the control of the originator;
 - (ii) if the addressee has a designated computer resource for the purpose of receiving an electronic record, receipt occurs at the time when the electronic record enters the designated computer resource; or
 - (iii) if the electronic record is sent to a computer resource of the addressee that is not the designated computer resource, receipt occurs at the time when the electronic record is retrieved by the addressee; or
 - (iv) if the addressee has not designated a computer resource along with specified timings, if any, receipt occurs when the electronic record enters the computer resource of the addressee;
 - (v) an electronic record is deemed to be dispatched at the place where the originator has his place of business, and is deemed to be received at the place where the addressee has his place of business; and
 - (vi) the provisions of subparagraph (v) shall apply notwithstanding that the place where the computer resource is located may be different from the place where the electronic record is deemed to have been received under subparagraphs (ii) or (iii).

Section 27A CAP 411A which it is proposed to amend—

27A. Duties of telecommunications operators.

(1) Before a telecommunications operator sells a SIM- card or otherwise provides telecommunication services to a person, it shall obtain—

- (a) from natural persons, the person's full name, identity card number, date of birth, gender, physical and postal address;

(b) from corporate persons or statutory bodies, official name, postal and physical address, particulars of registration, incorporation, enabling legislation or *Gazette* notice, as the case may be; and

(c) such other information as may be prescribed from time to time.

(2) A telecommunication operator shall ensure that—

(a) existing subscribers register their SIM-cards within such time period as may be prescribed;

(b) proper physical or electronic records are kept of the information referred to in subsection (1) and any change in such information;

(c) the registration details of a subscriber are kept in a secure and confidential manner, and shall not be disclosed without the written consent of the subscriber.

(3) Notwithstanding the provisions of subsection (2)(c), a telecommunications operator may disclose the registration particulars of a subscriber—

(a) for the purpose of facilitating the performance of any statutory functions of the Authority;

(b) in connection with the investigation of any criminal offence or for the purpose of any criminal proceedings; or

(c) for the purpose of any civil proceedings under the Act.

(3A) Subject to subsection (3B), a telecommunication operator shall, before levying or allowing to be levied, any specific charge relating to a premium rate service provided to a subscriber, disclose the fact, amount, and frequency of the charge to the subscriber.

(3B) Subsection (3A) shall not apply to services rendered by a telecommunications operator on behalf of a public body.

(4) Any telecommunications operator who contravenes this section commits an offence and shall be liable on conviction to a fine not exceeding five million shillings.

Fifth Schedule CAP 411A which it is proposed to amend—

1. Interpretation

In this Schedule, unless the context requires otherwise, “broadcasting permits” means any authority given prior to the commencement of this Act by the Cabinet Secretary in charge of broadcasting authorizing any person to undertake broadcasting services.

2. Broadcasting permits granted by the Cabinet Secretary.

The Commission shall respect and uphold the vested rights and interests of parties holding broadcasting permits issued by the Cabinet Secretary prior to the commencement of this Act;

Provided that—

- (a) such parties shall be granted a period not exceeding one year or such longer period and subject to such terms and conditions as the Cabinet Secretary may by notice in the *Gazette*, specify during which they may continue to operate in accordance with their existing permits; and
- (b) before the expiry of the one year or such longer period as aforesaid period, such parties shall apply to the Commission to be licensed under this Act.

3. Domain administrators

The Commission shall respect and uphold the vested rights and interests of parties that were actively involved in the management and administration of the .ke domain name space at the date of commencement of this Act provided that—

- (a) such parties shall be granted a period not exceeding twelve months during which they may continue to cooperate in respect of their existing delegated sub-domains; and
- (b) before the expiry of the one year or such longer period as the Cabinet Secretary may, by notice in the *Gazette*, specify period, such parties shall apply to the Commission to be licensed under this Act.





