DIGITAL COMBAT
An assessment of media coverage of the digital migration process and debate in Kenya
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<td>ADN</td>
<td>Africa Digital Network</td>
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<tr>
<td>BSD</td>
<td>Broadcast Signal Distributor</td>
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<td>CA</td>
<td>Communication Authority</td>
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<td>DVBT</td>
<td>Digital Video Broadcasting Terrestrial</td>
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<td>FTA</td>
<td>Free To Air</td>
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<td>MCK</td>
<td>Media Council of Kenya</td>
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<td>KBC</td>
<td>Kenya Broadcasting Corporation</td>
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<td>ITU</td>
<td>International Telecommunication Union</td>
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<td>NSN</td>
<td>National Signal Networks</td>
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<td>PPAB</td>
<td>Public procurement Administrative Board</td>
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<td>TCRA</td>
<td>Tanzania’s Telecommunications Regulatory Authority</td>
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Foreword

The digital migration process in Kenya and indeed in majority of African countries has faced numerous challenges. No single country has achieved a smooth digital migration & transition in Sub-Saharan Africa. The digital migration process in Kenya witnessed a number of challenges just like in the rest of the countries.

The Communication Authority of Kenya (CA) and the Ministry of Informations Communications and Technology on one hand racing against time to roll out exercise ahead of the 17th June 2015 global deadline and a section of the media, on the other hand, calling for an extension. The standoff, which saw NTV/QTV, KTN and Citizen TV cease broadcasting on both digital and analogue platforms for about three weeks was the climax of a process that had for long been characterized by mistrust, misinformation, acrimony and litigation.

The impasse and related accusations and counter accusations eroded the public’s confidence in the process and the ignorance about the merits and demerits of the switch-off was apparent amongst Kenyans. Stakeholders made strategic efforts to address the impasse and eventually the process progressed.

The migration to digital broadcasting has enormous advantages including presenting more room for growth in the number of free to air channels available as the transition will free up the bandwidth to allow more broadcast channels in the process promising unprecedented content variety in Kenyan households as well as the attendant benefits of the digital dividend. The next frontier will then be content development, with the audience reach being even thanks to the uniform digital television signal distribution across the country.

Broadcasters will have to appeal to their audience and grow their viewership by offering relevant, educative and entertaining programs. With the successful migration to the digital platform, the freed spectrum space will be utilized by mobile operators to improve their networks, thus fast-track the adoption of 4th Generation technology in the country.

The technology is expected to offer high-speed wireless services as consumers use tablet computers and smartphones more to surf the web. The consumers will benefit from the many opportunities that come with the switch to digital platform.

How the media covered the process, given that they had serious interest cannot be ignored as it raises a number of ethical issues including conflict of interest considerations in the process. How did the media present and navigate the challenges of covering an issue that they had vested interests? How was their adherence to the Code of Conduct for the Practice of Journalism? Are there lessons to be learnt from the coverage?

HARON MWANGI
Chief Executive Officer & Secretary to the Council
Executive summary

Kenya’s journey to full digital broadcasting has been marked by legal drama that has impacted negatively on the media environment in Kenya. The Kenyan media landscape has been characterized by technical and infrastructural challenges which have led to teething challenges in the media industry. The process was dogged by unending legal and administrative setbacks that led to ugly run-ins between the regulator, the Communications Authority of Kenya (CA) and media houses.

The media in Kenya was caught up in a difficult situation of presenting facts on digital migration with clarity and objectivity considering that they were interested parties in the digital combat. From this study, it was clear that some of the articles that the media published contained information that was not factual and accurate concerning the digital migration process.

It was indeed clear that majority of the opinions and commentaries published during the period of analysis supported the view that the government and Communications Authority of Kenya were wrong, misguided and non-patriotic in the way it handled the digital migration process.

Majority of the editorial stories were those that were favoring the opinion of Africa Digital Networks (ADN), a consortium of the three largest media houses comprised of NTV, KTN and Citizen and vilified the CA over its handling of the digital migration exercise. Some articles analysed did not separate facts and opinions on the digital migration issue.

The Code of Conduct for the Practice of Journalism states that, journalists, while free to be partisan, should distinguish clearly in their reports between comment, conjecture and fact. Generally, the media did not objectively cover the issue of digital migration with regards to the tenets of ethical and professional journalism.

The rules of balance, fairness and right of reply require the media, when covering a story, to give both sides fair and truthful treatment. This requires the media not to passively do this, but to actively go out to seek the other side of the story, place both sides at the disposal of their audience and let the public draw their opinion. By holding a piece of the story, the media are engaging in active process of shaping public opinion.

It is evident that the media in Kenya is yet to achieve a level of professionalism and ethical maturity where it would cover issues that even concern itself in an objective manner. While the passions of perceived injustice may be allowed even among the media practitioners, such sentiments should not be inscribed in the journalistic writing because the media shapes opinions and perceptions of audience.

That the media refused to accord CA an opportunity to either present their side of the story or even air their paid adverts on digital migration is an affront violation of freedom of expression and access to the information. This is especially inappropriate when it is perpetrated by media institutions themselves. Whether or not the ADN was not satisfied with the handling of the digital migration process, such tussles should not manifest or even reflect in the manner in which professional journalist cover the issue.
Key findings

- The highest mentioned digital signal distributor in the articles analysed was ADN at fifty one percent (51%) followed by PANG at twenty six percent (26%) and lastly by signet at eleven percent (11%).

- Thirty six percent (36%) of the articles analysed contained assertions that were not accurate and fair made by the three media houses (ADN) concerning the switching off of the analogue platform.

  Some of the assertions that lacked factualness included:

  - More than 90% of Kenyans staring at blank screens as analogue transmitters of the three media houses are switched off. It should be considered that 90% of 40 million Kenyans do not amount to the correct figure of Kenyans who view TV let alone own TV and therefore experienced the blackout.

  - The government forcibly switched off analogue frequencies and that the switch-off was inappropriate whereas the Supreme Court ruled that the timelines agreed on for the phased switch-off remain valid. The enforcement action taken by CA therefore, was a mere enforcement of the ruling for non-compliant media houses.

  - The deadline for migration is movable. The international deadline for digital migration of 17th June 2015 is set and cannot be changed.

- Thirty seven percent (37%) of the articles analysed during the one year period were published in the front pages. Forty nine percent (49%) were in the middle pages. It was also evident that fifty six percent (56%) of the articles in the front pages pursued arguments in favour of the three media houses while five percent (5%) reported assertively on the position of the Communications Authority with regards to the digital migration row.

- Media owners and managers were highly covered actors in the digital migration issue at thirty percent (30%) while state officers came second at twenty one percent (21%) while politicians were covered in nine percent (9%) of the total articles analysed.

- From the analysis of opinions and commentaries, sixty six percent (66%) of the stories analysed were opinions and commentaries that supported the view that the government and Communications Authority were wrong, misguided and non-patriotic in the way it handled the digital migration process.

- Seventy percent (70%) of the articles analysed were done by reporters, thirteen percent (13%) were commentaries, and four percent (4%) were done by the editorial team while thirteen percent 13% consisted of the reader’s opinion.

- Seventy four percent (74%) of the editorial stories were those favouring the opinion of ADN and also vilified the Communications Authority of Kenya over its handling of the digital migration impasse.

- Forty nine percent (49%) of the commentaries and opinion pieces had only one viewpoint which was largely against the Communications Authority and the government in general. The Code of Conduct For the Practice of Journalism states that an editor while free to determine which opinion pieces to publish should make an honest attempt to ensure that what is published is not one-sided but presents a fair, balanced perspective of an issue presenting the pros and cons therein.
• Thirty two percent (32%) of the articles analysed did not give a fair chance of reply to those mentioned adversely as required by the code of conduct. A fair opportunity to reply to inaccuracies should be given to individuals or organizations when reasonably called for.

• Forty four percent (44%) of the stories were one sided, twenty eight percent (28%) were two sided and only fourteen percent of the stories were three sided on digital migration. Majority of stories failed to provide different perspectives and sides of the story on the digital migration row. This raises questions as to whether the media houses involved in the digital migration row might have been overtly inconsiderate of the ethical principles as the digital migration debate heated up.

• Nineteen percent (19%) of the articles analysed dealt with the court cases. Thirty seven percent (37%) dealt with general digital migration while eleven percent (11%) of stories focused on set-top boxes.

• Eight percent (8%) of the articles analysed did not separate facts and opinions on the digital migration issue. The code of conduct states that, journalists, while free to be partisan, should distinguish clearly in their reports between comment, conjecture and fact.

• Twelve percent (12%) of the articles analysed used figures and statistics in support of the reports on digital migration. However some of the figures and statistics used were incorrect and were largely speculative especially those relating to the number of TV viewers in Kenya, number of set-top boxes sold and also on possible losses incurred by the three media houses in terms of revenue due to the shutdown.

• Twenty nine percent (29%) of the articles included the voice of mwananchi in the debate on digital migration while forty eight percent (48%) did not. The digital migration debate somehow ignored the important voice of mwananchi as it turned out to be a contest between the media houses, CA and the government.

• Eighty seven percent (87%) of the articles analysed were discussions on digital migration that happened on a national level. Thirteen percent (13%) were done at the county level. While those on the county level projected nationwide concerns on digital migration, very few of the articles discussed specific implications to the county citizens.
# Chapter One

## Introduction

Media coverage of the digital migration process has raised numerous questions on ethical and professional practice of journalism in the country. This is partly because controversy and confusion have marked Kenya’s transition from analogue to digital broadcasting in keeping with the 2015 International Telecommunication Union deadline when all analogue signal transmission ceased.

It is not in doubt that the digital migration has numerous benefits for Kenyan media consumers since it will give more choice and better quality programs and other services. However, the process has faced various hurdles which compelled the government to postpone the switch several times in the past few years.

It is obvious that the media is an interested party in the digital migration process and maintaining their objectivity, accuracy and fairness are some of the key challenges when covering such stories. One of the stories that raised eyebrows on the objectivity of the media is a story by one of the leading dailies which claimed that the International Telecommunications Union had granted five-year extension to about 30 African countries not to migrate to digital broadcasting.

Arguments abound that both the CA and the media stations did not handle the digital migration story very well. The regulator may have not clinically dealt with content distributors, who denied the public access to free-to-air content when consumers failed to renew their monthly subscriptions. Despite such challenges the media ought to remain ethical and professional because they are accountable to the wider public.

The rules of balance, fairness and right of reply require the media, when covering a story, to give both sides fair and truthful treatment. This requires the media not to passively do this, but to actively go out to seek the other side of the story, place both sides at the disposal of their audience and let the public draw their opinion.

Following the legal battles that ended at the Supreme Court, the contest was fiercer and took the shape of nebulous altercations where no one was telling the real truth. The Supreme Court ruling implied that any stations still broadcasting on the analogue platform in the areas already switched off were required to migrate to the digital platform with immediate effect. The Authority gave media houses on the analogue platform up to midnight of 13th February 2015 to migrate to the digital platform. CA alleges that all media houses migrated to the digital platform except the three media houses, Nation Media Group, Standard Group and Royal Media Services. CA on Saturday 14th February, 2015 took necessary regulatory action to switch-off their analogue signals. The three on their own volition went ahead and withdrew their content from the digital platform (SIGNET and PANG and selected pay TV service providers (Star Times, DStv and GOTv).

Consequently, CA alleges that they (ADN) went ahead to claim that they had been unfairly switched off from both analogue and digital platforms. Another issue that has been raised is the prohibitive and unsubsidized cost of set-top boxes that average Ksh 3000 in a country where the minimum wage is about Ksh 6000.
Objectives

The objectives of the study were as follows:

i. To establish whether the media in Kenya adhered to ethical and professional conduct during the coverage of digital migration process.

ii. To establish the topical issue, angles and perspectives focused by the print media during the digital migration debate and process in Kenya.

iii. To establish if the media practiced inclusivity, objectivity and impartiality in the manner it covered the issue of digital migration in the print media.

Methodology

The study used content analysis of the print media to achieve its objectives. Content analysis was done on the four major daily newspapers which covered issue of digital migration for the last one year 2014/2015. The selection of the daily newspapers was done based on the readership as per the available audience ratings published by the Kenya Audience Research Foundation. The four daily newspapers sampled for the study are The Daily Nation, The Standard, The People Daily and The Star.

The digital migration as a topic received much coverage in the last months of 2014 and the early months of 2015 because of the court battles and the analogue switch off by CA. Some of the ethical and professional indicators that were considered during the development of a code sheet for content analysis included the following:

- Chance to comment: Whether the parties mentioned adversely were given a chance to comment.
- Number of sides reported: How many sides of the story were reported?
- News actors and sources: Who were the news actors and sources in the articles?
- Prominence: Which areas was stories on digital migration covered?
- Nature of stories: What were the types of stories done on digital migration?
- Accuracy and Fairness: Was the story accurate and fair?
- Separation of facts and opinion: Did the story separate fact and fiction?
- Nature of headline: What is the nature of the headlines?
- Gender centrality: Are all genders well represented in the articles?
- Topical issues: What was the topical focus of discussion?
Chapter Two

Background of digital migration in Kenya

The digital migration process began in early 2000 when a number of countries from the International Telecommunication Union (ITU) including Europe, Africa, and Middle East expressed interest to introduce digital broadcasting. According to a write up by CA titled “Facts about Digital migration”, the ITU held the Regional Radio communications Conference in Geneva in June 2006 for planning of Digital Terrestrial Broadcasting Service in the frequency bands and drew up the Agreement and associated plans. The Agreement, known as the Geneva 06 (GE06), covered the use of Terrestrial Digital Video Broadcasting (DVBT) standard for Digital Terrestrial Television Broadcasting Service and Terrestrial Digital Audio Broadcasting (T-DAB) standard for Digital Terrestrial Sound Broadcasting Service. Kenya is party to this Agreement.

The GE06 Agreement came into force on 17th June 2007 while the Transition period is from 17th June 2006 to 17th June, 2015, during which the existing analogue assignments shall be protected. Thereafter, the analogue frequencies will be cancelled by the ITU and cease to be used in the countries party to agreement. The International Telecommunication Union (ITU) set a worldwide digital terrestrial television migration deadline of 17th June, 2015. Kenya has on various occasions tripped along the path towards this digital migration, especially with the convergence of technology and policy related issues. However, the Kenyan government announced the calendar for the analogue switch-off, with the process set to begin in Nairobi on 31st December 2014.

The digital migration was set to take place in three switch-off phases:

• The first being on December 31, 2014 which saw the switch-off in Nairobi and its environs.
• The second in February 2, 2015 affecting Mombasa, Malindi, Nyeri, Kisumu, Kakamega, Kisii, Nakuru, Eldoret, Machakos, Narok.
• The last and the final phase occurred on March 31 and covered places like Garrisa, Kitui, Lodwar, Lokichogio, Kapenguria, Kabarnet, Migori, Kibwezi, Namanga among others.

Media owners in Kenya have complained about issues such as the availability of DTT receivers and foreign ownership rules which had not been addressed. The Supreme Court ruled to allow that more players be licensed to transmit the digital signal.

Footprint of digital migration process in Kenya

The process of digital migration in Kenya has been a controversial one from the onset. This is because the process was laden with commercial & political interest. The digital migration process is pegged to the achievement of Vision 2030 as contained in the Economic pillar. CA has been involved in the legal and regulatory management of the digital migration process as it is mandated to do under the Kenya Information and Communications Act, 2014. Under CA, the process is being spearheaded by Digital Kenya which is a team of experts mandated to advise the government and streamline the digital transition in Kenya.

The process of digital migration has been a long tedious and windy one that started by the launching of the DVB-T signal on December 2009. Following this launch, KBC under its subsidiary Signet was the first
government authorized Broadcast Signal Distributor (BSD). The government consequently adopted the DVB-T2 signal and an infrastructure roll-out plan, initiating the necessary procurement procedures where the CA called for competitive bidding for the second BSD provider, the first signal distributor being the Signet by KBC. t Pan Africa Network Group Kenya (PANG), which is associated to Star Times of China, won the tender.

The local broadcasters, under the consortium of National Signal Networks (NSN), who lost the bid were dissatisfied with the procurement process and claimed it was not transparent. They consequently appealed to the Public Procurement Administration Review Board (PPARB), who declared the CA procurement process as above board. Dissatisfied with the decision of the Public procurement Appeal board, the NSN group sought judicial remedy and consequently filled a petition at the High Court of Kenya challenging the decision of PPARB. The high court upheld the decision of the Procurement Board and the NSN filed an appeal at the Court of Appeal who squashed both the High Court order and that of the PPARB and further ordered that NSN be granted a BSD license. Being dissatisfied with the decision of the court of appeal, the Ministry of ICT and the CA filed an appeal at the Supreme Court of Kenya.

Among other things, the Supreme Court directed the parties to engage in dialogue with a view to resolve the impasse within 60 days failure to which the court would make a final determination. As a result of this, the three media houses under the auspices of ADN were granted a BSD license in November 2015.

However, following the controversies surrounding other issues like copyright infringement and lowest frequency allocation compounded by claims by ADN of insufficient time to acquire equipment in readiness for the migration deadline, the discontent of ADN continued and they decided to run adverts in their TV station to discredit Pay TV as carrying their content illegally. CA while quoting the exercise of anti-competitive behavior withdrew the signal distribution licenses that had been issued to ADN in January, 2015.

The Supreme Court ordered for the lifting of the suspension in February, 2014 but did not restrain CA from executing any orders towards the switch off. CA consequently ordered for digital migration by midnight and switched off the analogue signals rendering TV screens in majority of homes blank.

**Implications of digital migration; Why all the fuss?**

Digital migration is set to introduce a lot of changes in the Kenyan TV industry. It means that we have more players, more choice, and more power for the consumer. The changes that will result from digital migration are set to be both positive and negative and range from financial ramifications to content implications for all media houses. The contentious issues that have inevitably led to the digital migration row include the following:

**a) Foreign ownership of frequencies considered as a National resource:**

At the centre of the digital migration row was the argument by ADN that it is not good practice for a foreigner to have a large stake of media ownership in a country with growing democracy. PANG is cited to have 120 of the existing 211 frequencies which are over and above the 54 that Signet, a government entity has and 21 for the ADN consortium. There have also been fears that KBC is government and with the Chinese affiliation of PANG, this is a potential platform to suppress freedom of expression by local media houses housed on their platforms.
PANG has linkages with Star Times TV which is a set-top box provider that is deemed to be supported by the government. While the ownership of PANG has never been clear, it is purportedly linked to Star Times in China that has presence in 14 African countries. Signet is also affiliated with Go TV that is a product of Multichoice which is a South African Company. Local broadcasters see this as having foreign monopoly in the media industry.

b) Protection of Intellectual property in terms of copyright of content

Another contentious issue raised is the copyright issue surrounding the “must-carry” principle as demanded by distributor license issued by the CA. Under the regulations, local media houses are bound by the “must-carry” principle that enables BSD license holders to pick their content for free on the digital platform. Local broadcast houses argued that production and packaging of content is an expensive investment and their media products need to be paid for by BSD licensees.

It should be considered that the BSD license holders need consent from the major Free-To-Air broadcasters to air their content. This consent can be accepted or denied. The fear of FTA media houses is that their content is not safe since it can be interfered with or distorted at the will and whims of the government. While the rationale for the “must-carry” rule is to preserve the free circulation of information of public interest through access to television channels, such as national public television channels and private television channels, content owners have questioned the rationale therein.

c) Media freedom and the tide of digital media regulation

The question of signal switching raised various concerns about digital media regulation and its impact on the freedom of the media. Following the judgment of the Supreme Court, CA acted in its discretion and switched off the analogue frequencies of all FTA broadcasters. The three media houses in protest, switched themselves off from the digital platform as well.

The three media houses were not pleased with the decision of CA and raised concerns about government’s commitment to uphold media freedom in the country. In fact one journalist noted “From now on our radio waves for transmission and reception of information on TVs is in the hands of two bad guys; the government (Signet) and Chinese (PANG). A government with powers and ability to directly control radio waves and censor broadcast content is the worst that could have happened to a young democracy like Kenya. .. One would only want to remember the good old days of KBC-VoK-KBC monopoly; the days when if one had to own a radio or TV then he/she had to acquire a permit from KBC. Imagine this: KTN has its Jicho Pevu series against Kenya Police and drug trafficking. In the series they have mentioned names and numbers – dates and events. They have identified who said what and where and to who. They have even included some footage secretly captured during the underground investigations. Then they give this programme to KBC to air.”(Identity withheld).

Court battles in the digital migration process

The digital migration process in Kenya has witnessed immense court battles between various parties. This has been cited as one of the reasons that delayed the digital migration process in Kenya. The legal battles only stopped after some of the parties exhausted the appeal platforms as provided for in the judicial systems in Kenya.
High court:

CA awarded PANG a signal distribution license following a contentious" procurement process that saw rothe three media houses seek review by the PPARB. After it lost the review case, the consortium filed Petition No.557 of 2013 Royal Media Services Ltd & 2 others v Attorney General & 8 others [2013] eKLR in the High Court, seeking among others, an order compelling the then Communications Commission of Kenya (CCK) to issue them with Broadcasting Signal Distribution (BSD) licenses and frequencies; and an order restraining the Commission, from switching off their broadcasting services and repossessing broadcasting frequencies previously assigned to them. The High Court delivered judgment on the 23rd December, 2013 dismissing the petition by the media houses.

The judge indicated that the petitioners had actively participated in the formulation and implementation of the digital migration policy. They were represented on the Migration Taskforce which developed the policy agenda for digital migration and the DTC which was the implementing body and did not have any grounds to seek halting of the migration process. The Judge ruled that the petitioners had not established a violation of the Constitution or the law to enable the Court correct the course of digital migration and they found no reason to forestall digital migration. The judge also indicated that there will be no convenient date for everyone.

Court of Appeal:

Following the dismissal of their petition, the three media houses filled another petition an appeal against the decision of the High Court. Royal Media, Nation Media and Standard Group moved to court to stop the digital migration and also challenged the following issues:

- The issuance of high number of BSD license to Pan African Network which it considered foreign
- They sought a favourable ruling to have a BSD license for their consortium considering their substantial investment in the media industry;
- Challenged the constitutionality in the establishment and constitution of CA.
- Alleged infringements of Intellectual Property Rights through the “must-carry” rule.
- The Court of Appeal Judges delivered separate, but largely concurring judgments on the 28th March 2014, setting aside the judgment of the High Court. The Court of Appeal directed the CA to issue BSD licence(s) to the three media houses, cancelled the BSD license issued to PANG and postponed the analogue switch off to no later than 30th September 2014.

The Court of Appeal in delivering its judgment ruled that because the three media houses had invested extensively in the broadcast industry they had a legitimate expectation to be given the BSD licenses. On this basis, the Court of Appeal ordered that an independent regulator grant the respondents a BSD license and revoked the BSD license that had been issued to PANG. It is against this judgment that the appellants filed the appeal. It rules that when CA was making the decision to issue the BSD licenses it failed to take into consideration the imperatives of national values and principles as decreed in Article 10 of the Constitution. CA’s decision to exclude the Royal Media Services Limited and Nation Media Group Limited on a technicality was not in line with the constitutional values, it chose to be constrained by the technicalities of procedures as if this was an ordinary procurement of goods and services.
Supreme Court:

Being dissatisfied by the decision of the Court of Appeal, the CA and the Ministry of ICT filled an appeal at the Supreme Court of Kenya. The Supreme Court delivered its judgment on 29th September, 2014. It overturned the decisions of the Court of Appeal and ordered CA to consider the merits of applications for a BSD license by the three media houses and any other local private sector actors in the broadcast industry whether jointly or separately.

Secondly, the court also ordered CA to ensure that the BSD license issued to PANG is duly aligned to constitutional and statutory requirements. The Supreme Court also directed the CA in consultation with all the parties to the suit, to agree on a timeline for digital migration pending the international analogue switch off date of 17th June, 2015.

Following the Supreme Court ruling, CA issued a Self-Provisioning Broadcasting Signal Distribution (SPBSD) License to the three media houses. This license enables a licensee to set up a broadcasting infrastructure network to carry their own content. Accordingly, CA began the process of granting the SPBSD license and issued a gazette notice to that effect. In the meantime, the Authority issued the consortium with temporary authorization on 25th November, 2014 to enable them to start preparations for self-provisioning of signal distribution services prior to conclusion of the due process for licensing. The authorization stipulated the terms and conditions as well as the 21 TV frequencies to be assigned.

The advert and then the media black-out

While the three media houses were setting up infrastructure for digital broadcasting, they carried an advertisement alleging that StarTimes and GOtv were illegally carrying the content of the three media houses thereby infringing on their copyright. The advertisement went further to instruct consumers not to purchase StarTimes and GOtv pay-tv set-top boxes to watch CITIZEN Television, NTV, KTN and QTV. In addition, the advertisement alleged that the three media houses were the exclusive vendors of Free-To-Air set-top-boxes that can enable the public to view their channels. The advert is reproduced below.

“Citizen TV, NTV, KTN and QTV wish to advise viewers that Star Times and GOtv are broadcasting their content without their consent. The four stations are taking the necessary steps to stop this infringement on copyright. This is to caution our esteemed viewers not to be duped into purchasing GOtv and Star Times pay TV set-top boxes as a means to access and watch Citizen TV, NTV, QTV and KTN. The four stations will soon launch their own set-top boxes to distribute their free to air television signals to consumers.”

In response, the CA alleged that the advertisement was misleading to the public, offensive to the extent of causing disaffection and gross violation of the legal and regulatory framework governing the sector, the content and timing was intended to cause confusion and disrupt the digital migration programme. On that basis, the Authority decided to withdraw the temporary authorization granted to ADN and subsequently the three media houses were off-air on both the digital and analogue platforms for close to three weeks.
Chapter Three

Analysis and Findings

a) Frequency of articles analysed

The highest frequencies of articles analysed were published by the Daily Nation and the Standard newspaper being 127 and 99 respectively. While the issue was of great interest to all the media houses, some media houses were able to accord much more coverage in terms of space and page allocation to the discussions on digital migration.

b) Space allocation in CM²

Business Daily, 1543.2

Daily Nation, 5962.54

The Standard, 5124.42

The Star, 2892.11

The People, 3021.54
The Standard and the Daily Nation allocated the largest space to discussions on digital migration at 5962 Cm and 5124 Cm² respectively. The percentage of space allocation by the Daily Nation was Thirty two percent (32%) while the Standard was twenty Eight percent (28%). There were la articles published, in terms of placement and size; for example; 24.01.2015, pg.10 “Supreme confusion: How authority, court muddled the copyright law”, 26.01.2015, pg.10-11: “Freedom of media in court: is article 34 of the constitution dead”. Covering over one page each demonstrates the extent of prominence of the topic. Big sized articles were published in the Standard newspaper as well which were both big in space and size. For instance on 23.01.2015, a two paged article headlined “CORD condemns move against top three stations” 24.01.2015; “Turning Kenya into a pay-tv nation unfair to consumers”.

c) Prominence of Digital Migration stories

While the majority of the news stories on the front pages gave objective news articles to the readers, some of them did not consider facts and accuracy in reporting. Considerably a majority of the articles analysed especially during the early part of 2015 when the digital migration row intensified argued in favour of ADN and against the Communications Authority. From this analysis, it was evident that 56% of the articles in the front pages pursued arguments in favour of the three media houses, 39% were on general issues that did not specifically touch on sensitive issues while 5% reported assertively on the position of the Communications Authority. Majority of the article that were found in the middle pages included commentaries and opinions which were generally written in favour of both sides of argument on the digital migration issue. That both sides of this altercation did not handle the

Thirty seven percent (37%) of the articles analysed during the one year period were published in the front pages. Forty nine percent (49%) were in the middle pages. The prominence that was accorded to the stories on digital migration is evident in the pagination that the leading daily newspaper gave to the story.
The media, on the other hand, angered by the act of the regulator to go at them, as our colleagues from Western region would put it, mundu khu mundu (man to man) decided that they were not going to cover the regulator, the Communications Authority of Kenya. When the authority could not get its message to the media, it resorted to seeking to pay for the messages but the media literally refused its money in terms of advertising. This is a clear fact that is in public domain.

Some of the articles that were framed on the front page included the following:

**“Kenyans support key TV stations in row” Sunday Nation. 22.02.2015. Pg 1**

This article indicated that Kenyans country-wide were unhappy with the shutdown of the three media houses over the digital migration row. It stated that the government was largely insensitive to the fact that it would render majority of employees in the media houses jobless. The article sighted a poll released by Ipsos Synovate on the same and indicated that between 73 and 85 per cent of Kenyans are dissatisfied with the alternative sources of news. Generally, the article blamed CA for the woes that was affecting the industry and argued that Kenyans were suffering from the shutdown which was against their constitutionally enshrined freedoms and rights.

**“Anger, frustration as CA shuts down television stations” Sunday Nation 15/02/2015. Pg 1.**

The story reported that television viewers were left staring at blank screens on Saturday after the communications regulator raided the transmission site of four leading stations and switched off their signals. Under heavy police guard, officials of the Communications Authority of Kenya forced their way into the site in Limuru from which NTV, QTV, Citizen TV and KTN broadcast their analogue signals for Nairobi and its environs and stopped transmission. The decision by the regulator follows the Supreme Court ruling on Friday, which upheld December 31, 2014, as the deadline for analogue television broadcasting for Nairobi, disregarding an appeal by the three media houses for more time to prepare for the transition.
e) Format of story where the digital migration story is published

From the analysis of opinions and commentaries, sixty-six percent (66%) of the stories analysed were opinions and commentaries that supported the view that the government and the CA were wrong and non-patriotic in their digital migration debate.

f) Specific newspaper and format of publications

News articles had the highest frequency of articles published in all the newspapers analysed. From this six percent (66%) of the stories analysed were opinions and commentaries that supported the view that the
Media Coverage of Digital Migration Process and Debate in Kenya

Analysis it was evident that a number of opinions and commentaries and even news articles considered the black-out of television in terms of constitutional privileges and freedoms. In their arguments, the articles indicated that the constitutional right of every Kenyan citizen to access information was severely threatened by the Communication Authority of Kenya’s move to forcefully switch off analogue television transmission.

In addition, some of the articles considered who was to blame over the switching of analogue signals where CA accused the three media houses of switching themselves off digital transmission. CA stated the media houses opted to screen inaccurate and misleading messages in a deliberate effort to incite the public and portray the regulator in a negative and bad light. Both switching themselves off digital transmission and screening inaccurate messages was termed by CA as illegal and in blatant breach of the conditions of their licensing.

In an article “Forceful switch-off is in bad faith” The Standard, February 15th, 2015, the author argues that the regulator (CA) has excelled in placing hurdles in the way of a smooth transition by falling short of being a neutral arbitrator in managing conflicts pitting the ADN and foreign players. The article argues that the timeframe given to ADN by the regulator to switch over is practically inconceivable. The move by CAK to switch off the analogue signals for channels within the ADN consortium can only be interpreted within the prism of partiality in an attempt to unfairly benefit Pay TV players in the market. “We have pointed out and protested that the decision by the Chinese investors to carry our signals without our consent as required by law is a blatant infringement of copyright but the regulator has completely refused to act on our complaint”. Although the article was an opinion, Communications Authority ought to have been given an opportunity to reply to the allegations using the same article and prominence.

G) Author of the articles analysed

Seventy percent (70%) of the articles analysed were done by reporters, thirteen percent (13%) were commentaries, four percent (4%) were done by the editorial team while thirteen percent 13% consisted of the reader’s opinion. Seventy four percent (74%) of the articles were those on opinions and commentaries favoring the opinion of ADN that vilified the CA over its handling of the digital migration impasse.
Some of the articles include; “Favoring foreign firms over local ones a dangerous trend”. *Saturday Nation*, 24/01/2015. “A government ill at ease with media has something to hide” *Daily Nation*. Friday, February 20, 2015. These are some of the articles that argued against the government handling of the digital migration issue. One of the articles states that before the dust raised by the draconian media laws has settled, ‘we are grappling with a new storm in the form of digital migration. The country has been thrown into darkness for unclear reasons. Kenya is in deep crisis and the President and his deputy are uncharacteristically quiet’.

h) Fair representation of various players in an article

Forty four percent (44%) of the digital migration stories were one sided, twenty eight percent (28%) were two sided and only fourteen percent of the stories were three sided on stories. Majority of stories failed to provide different perspectives and sides of the story on the digital migration row. This raised questions as to whether the media houses involved in the digital migration row might have been overtly inconsiderate of the ethical principles as the debate digital migration heated up. The code of conduct for the practice of journalism states that both sides of the story should be represented as much as possible.

The Star newspaper 2/2/2015 “CA slams local media houses” which stated that the CA had accused three media houses engaged in the digital migration dispute of playing politics. This article did not seek an opinion from any of the media houses over the allegations.

The Standard 17/2/2015 “Raila hits at Jubilee over TV switch of “ The article indicated that the Coalition for Reforms and Democracy (CORD) leader Raila Odinga had accused the Jubilee administration of abetting impunity by switching off three local television stations. The CORD leader claimed that the switching off amounts to violation of rights and freedoms as enshrined in the Constitution of Kenya. However, the article did not carry the side of the government on the issue.

The Daily Nation 22/2/2015 “TV viewers unhappy with switch-off, want end to crisis” The article indicated that television viewers across the country have continued to protest the hasty switch off of the major television stations, which has entered its second week.
The overtones of accusation against the CA and the government were evident in the article. However CA was not given a chance to comment on the issue. The media’s one-sided reporting of the digital migration impasse was evident because journalists were either unable or unwilling to separate the interests of media conglomerates from those of the public. On the contrary, the media through subtle tones and schemes simply tried to sell the company line as the national cause. Often the line between media owners and editors has increasingly been blurred as the latter are co-opted into the formers’ domain, meaning the editors no longer exclusively pursue professionalism.”

i) Separation of facts and opinion in a story

Eight percent (8%) of the articles analysed did not separate facts and opinions on the digital migration issue. The code of conduct states that when stories fall short on accuracy and fairness, they should not be published. Journalists, while free to be partisan, should distinguish clearly in their reports between comment, conjecture and fact. Some of the misconceptions perpetuated in some of the articles included that digital migration as designed by government was to push for a Pay-TV market domination which means paying monthly fees to watch TV programmes including the free to air. Consumers who may not want to subscribe to pay- TV have the option of buying type approved set-top boxes which will enable them receive free-to-air channels for free.

From the analysis of the articles, the following issues lacked factuality:

i. More than ninety percent (90%) of Kenyans staring at blank screens as analogue transmitters of the three media houses are switched off. It should be considered that 90% of 40 million Kenyans do not amount to the correct figure of Kenyans who view TV and therefore experienced the blackout. According to CA more than 1.2 million households have purchased set-top boxes and can therefore access the channels on the digital platform. The market has more than two million set-top boxes currently in stock with more under importation. The estimated numbers of television sets that need to be migrated are four million. The switch-off was only affected in the regions earmarked in Phase 1 and 2. It is important to also note that only analogue transmissions were switched off in the exercise.
ii. The deadline for migration is movable and other countries had applied and obtained extension while CA was adamant about the set deadline. The truth is that the international deadline for digital migration of 17th June 2015 was set and cannot be changed. The same was set by members set through ratification and required same membership to have an extension.

iii. Another issue published in the articles which was not factual was that the government wanted to transform Kenya into a Pay TV nation where access to Free-to-Air model. The fact that CA had managed to licence Radio Africa Group as one of the set-top distributors defies the above argument. The market has two types of set-top boxes. Free-to-Air and subscription based set-top boxes. TV providers have the choice to purchase the pay television subscription set-top-box. Pay TVs set-top-boxes attract a monthly subscription fee according to the bouquets offered by the service providers.

iv. The government is curtailing media freedom and infringing on rights of citizens to information. Such assertion fails to consider the benefits of digital migration which will enhance press freedom and expanded democratic space as facilitated by the media. There will be enhanced media pluralism which will translate to greater democratic space by the citizens. It should be noted that Kenya’s failure to migrate would negatively impact on the frequency planning in the country and neighbouring countries. This is fact that some of the articles failed to consider in their arguments.

v. Another instance where facts and comments were not separated was when some articles indicated that the Set Top Boxes in the market have been specifically designed by the Digital Signal Distributors to limit themselves to specific channels and not all free to air channels. It is however clear that all channels broadcasting the approved digital frequency and is licensed by CA to broadcast will be received via approved STB decoders. Before anyone is allowed to sell STBs in the local market, they must obtain approval by the CA. The approval process is to ensure the decoder receives clear signal, the decoder receives all channels, and that the signal received does not fluctuate beyond predefined limits.

The Sunday Nation article of February 22, 2015 titled: ‘World agency allows 30 African States to delay digital TV move’ reported that “thirty African countries have been allowed by the International Telecommunications Union to extend their digital migration beyond the June, 2015 global deadline.” It stated that the “countries that have asked for, and been granted, an extension include the technologically advanced North African giants Tunisia, Morocco, Algeria and Egypt,” adding that “Kenya’s neighbours Ethiopia, Sudan, Somalia and Eritrea further afield, have also been allowed to continue using analogue signals beyond June.” This revelation contradicts a key argument by the Communications Authority of Kenya’s Director-General, Mr Francis Wangusi, that Kenya must migrate by June or attract sanctions,” notes the Sunday Nation article. “Kenya had made a commitment to adhere by the ITU deadline and will not seek an extension. We have to migrate or we may attract sanctions if we do not remove transmitters that are within 20 kilometres from international borders since we will be interfering with broadcasting signals of neighbouring countries that will have migrated,” Wangusi reportedly told the Sunday Nation.
Thirty two percent (32%) of the articles analysed did not give a fair chance of reply to those mentioned adversely as required by the Code of Conduct. A fair opportunity to reply to inaccuracies should be given to individuals or organizations when reasonably called for. If the request to correct inaccuracies in a story is in the form of a letter, the editor has the discretion to publish it in full or in its abridged and edited version, particularly when it is too long.

In some instances as depicted by the articles analysed, the chance to comment was not given to CA and the ministry of Information on allegations of mismanaging digital migration. Some good example is in news article on:  
*The Standard newspaper, 2/12/2014. Pg 2 “Media owners want digital migration date pushed by four months”.* Another news article where CA was not given a chance to comment appeared in:  
*The Daily Nation, 16/2/2015 “Opposition condemns regulator” Pg 4*. Another news article where some of the media houses mentioned were not allowed to respond included:  
*The Star Newspaper 16/02/2015 “Matiang’i vows to punish KTN, NTV ADN Citizen”* 

In some of the allegations, the articles indicated that the regulator had harmed the public interest, first by ignoring mandatory constitutional principles, then by taking a scarce national resource – radio frequencies and handing the bulk of these frequencies to foreigners contrary to government policy and to best practice the world over, and then, by taking decisions in a manner that is not transparent, principled or accountable.
k) Number of news sources

Forty six percent (46%) of the articles analysed used one source of information in their stories, twenty six percent (26%) used two sources, Sixteen percent (16%) used three sources, five percent used four sources while only six percent (6%) used more than five sources. Whereas it should be considered that opinion pieces need not necessarily have more than one news sources because of their nature, news articles should refer to more than one news source. The use of multiple sourcing enhances objectivity, accuracy and fairness in reporting, a fact which as lacking in some of the news stories analysed.

Majority of stories that dealt with the court processes had single sourcing. Examples of such stories included: *The People newspaper*, 8/4/2014 “Digital TV row now moves to Supreme Court as CAK appeals”, *The Star newspaper*, 12/04/2014 “Supreme Court rules on digital migration” and also on *The Daily Nation* 22/1/2015 “Broadcasters accuse regulator of bias against local investors”

In some of the articles analysed, the one side taken favored the opinion shared by A.D.N on digital migration.

Three media houses accused the communications authority of hostility against Kenyan-owned companies and favoring foreign firms in the ongoing competition for digital TV. Nation Media Group, Royal Media Services and the Standard group. While it was not clearly evident from the analysis whether such omission of multiple voices was deliberate to silence the alternative voices of those who supported or did not support the stand of government on digital migration, it clearly gave a lopsided perspective of the whole debate.
Forty eight percent (48%) of the total articles analysed had one viewpoint. Twenty four percent (24%) had two viewpoints while sixteen percent (16%) had three viewpoints. The number of viewpoints was directly linked to the number of news sources and the number of sides reported on an issue.

Diversity of viewpoints is very important in presenting the various sides of the digital migration debate. It is said that truth is often the first casualty of war. This has been no exception considering how the media covered the issue of digital transition. First, was an impression that digital migration wass an impasse between the media houses and the government. As both sides have sought to sway public opinion to their cause, honesty and objectivity have been tossed out of the window. On the one hand, the government tried to paint it as a fight to tame intransigent, monopolistic-minded media companies scared of the level field that comes with digital migration. On the other, the companies portrayed it as a struggle against a deaf, authoritarian-minded regime intent on auctioning off national resources to the Chinese.

The use of various viewpoints would have accorded journalists the luxury of having balanced and objective reporting while demonstrating an apt adherence to the Code of Conduct. Considering that the use of various viewpoints presents the reader with various options that enable them to make independent decisions and judgments for themselves. The media houses may have stifled the use of divergent viewpoints in the article in order to advance particular set of ideologies that they wanted the public to buy into.
Ninety three (93) articles out of one hundred and six (106) of the commentaries and opinion pieces had only one viewpoint which was largely against the Communications Authority and the government in general. The code of conduct states that an editor who decides to open his/ her columns on a controversial subject is not obliged to publish all the letters received in regard to that subject. He/she may select and publish only some of them either in their entirety or the gist thereof. However, in exercising this right, he/she should make an honest attempt to ensure that what is published is not one-sided but presents a fair balance of the principal issue. The editor has the discretion to decide at which point to end the debate in the event of a rejoinder upon rejoinder being sent by two or more parties on a controversial subject.

Some of the articles that violated this article of the code of conduct included the following: The Daily Nation. 29/3/2014. “Victory for Kenyans as judges halt rush to digital migration” .The Star newspaper. 24/01/2015. “Favoring foreign firms over local ones a dangerous trend” The opinion article published indicated that the decision by the Communications Authority of Kenya to withdraw the interim digital license allowing the three main local media houses to gradually develop their digital infrastructure is absolutely strange, bizarre, callous and unpatriotic and gravely unfair. However, the other viewpoints of the story were not considered.
Inclusions of Mwananchi voice in articles

Twenty nine percent (29%) of the articles included the voice of mwananchi in the debate on digital migration while forty eight percent (48%) did not. The digital migration debate somehow ignored the important voice of mwananchi as it turned out to be a contest between the media houses, CA and the government.

In an article by The Star newspaper 12/2/2015 ‘COFEK roots for minority in digital television switch” A consumer lobby group is reported to have asked CA to draft policies that would cater for special interest groups in the on-going digital migration. Consumer Federation of Kenya said that the regulatory body should come up with laws that compel various providers of digital services to include options that cater for the deaf, blind and other users who were disabled so as to include them in the process of migration. The CA had indicated that it would embark on a policy framework that aimed address needs of minority groups after the whole digital migration process.

The article reported that the end of the analogue broadcasting in Kenya had become a reality with its termination in most parts of the country amid acrimony between key players in the industry and the regulator, the CA. The article documents the concerns of Kenyans across the board and provides an instance where mwananchi’s voice was heard.

The Standard 15/2/2015 “Kenyans plunged into darkness as analogue signal is switched off”
m) Geographical location of digital migration discussions

Eighty seven percent (87%) percent of the articles analysed were discussions on digital migration that happened at national level. Thirteen percent (13%) were done at the county level. While those at the county level projected nationwide concerns on digital migration, very few of the articles discussed specific implications to the county citizens.

n) How is the headline of the story?

In general, provocative and alarming headlines should be avoided. Headings must reflect and justify the matter printed under them. Headings containing allegations made in statements should either identify the body or the source making them or at least carry quotation marks.

An example of a headline that did not substantiate its content was one that was published in the *The Star Newspaper 8/02/2014. “State wants to control media through digital migration”*. The article indicated that the digital migration process was an
opportunity by the government to control the media. It quoted lawyer Paul Muite who said that through the Communication Authority of Kenya, the state deliberately locked out during the tendering stage the bid by Royal Media Services and Nation Media Group to be the third signal distributor. By then, licenced signal distributors are Signet and Pan Africa Ltd.

In Forty two percent (42%) of the articles, men were central to the story; in forty three percent (43%) both men and women were central to the story. However in 2% of the story, women were central to the story. The Code of Conduct for the Practice of Journalism states that women and men should be treated equally as news subjects and news sources.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{gender-centrality.png}
\caption{Gender centrality in the news article}
\end{figure}

\textbf{0) Gender centrality in the news article}
Fifty nine percent (59%) of the articles were written by men, thirteen percent (13%) were written by women, twelve percent (12%) were done by the editorial team while in twelve percent (12%) of the articles, the authors were not specified at all.

**q) Which was the most covered digital signal distributor?**

The highest mentioned digital signal distributor in the articles analysed was ADN at fifty one percent (51%) followed by PANG at twenty six percent (26%) and lastly by signet at eleven percent (11%). The primary driver of such coverage of ADN might have been because of the legal tussles that the media houses had faced over the past one year. The three media houses were seen to be...
pulling the patriotic card of following claims they claim that CA favored foreigners over locals while awarding the frequencies.

In view of this argument perpetrated by the three media houses, it has been a glaring contrast in objective argument because some of the media houses under ADN are owned by foreigners too in terms of shareholding or debts.

Some articles mentioned various distributors in a single article. This analysis showed that ADN received the biggest coverage among the various signal distributors in the past one year at 22% while PANG came second with 11% while signet itself was covered in 9% of the articles analysed.

PANG which is associated with Star Times from China was among those covered prominently in the debate on digital migration. China has featured prominently in Kenya’s and indeed Africa’s rollout of the International Telecommunication Union (ITU) sanctioned transition from analogue to digital television broadcasting. This is largely because Star Times, a Chinese company, has won contracts to roll out the lucrative transition in no less than 20 African countries. In the Kenya case, the Pan Africa Network Group (PANG), seen as an affiliate of Star Times, has been drawn into the unrelenting controversies coming with the big switch.
basis that its involvement with digital migration in Africa had been nothing but disastrous. However some articles extolled Chinese influence with regards to digital technology in the Kenyan context.

All the newspapers covered the issue ADN highly per individual media house as compared to other signal distributors.

s) **Specific Signal distributor and specific newspaper**

![Bar chart showing coverage by newspapers](chart.png)
i. **Accuracy and Fairness in media houses’ narrative: Who switched off who?**

The Communications Authority of Kenya switched off four TV stations in the country for non-compliance with the pre-agreed analogue-digital migration schedule. The four stations, NTV, KTN, Citizen TV and QTV were switched off following a ruling by the Supreme Court that the set dates for migration in Nairobi and its environs would remain 31st December, 2014 and for other major towns in the country on 2nd February, 2015, which in essence meant that the four stations were in violation of the schedule having not earlier made the switch.

The three media houses had argued that they needed more time to move to the digital platforms as they were in the process of importing their own set top boxes. However, the Supreme Court said that in the spirit of competition, it was necessary for all stations to shift to the digital network in-order to allow a fair playing field as every other station apart from the four had already moved. Engineers from the CA switched off the signals belonging to the four stations at their respective Limuru transmission stations. The development thus means that the four are not available to Kenyans on analogue or digital platforms within Nairobi and its environs and other major towns.

Thirty six percent (36%) of the articles analysed contained assertions that were not accurate and fair made by the three media houses (ADN) concerning the switching off of the analogue platform by CA. The standoff, which saw NTV/QTV, KTN and Citizen TV cease broadcasting from 14th February, 2015, for 18 days under circumstances that none of the protagonists was honest about, was the climax of a process that has for long been characterized by mistrust, lack of transparency, flexing of muscles and underhand dealings. The truth about the tension and mistrust that had been building for more than two years was lost in the ensuing accusations and counter accusations, with the management of the three media houses maintaining that the government had switched them off air and the government asserting the opposite – that the stations had deliberately switched themselves off air to blackmail the government.
Nineteen percent (19%) of the articles analysed dealt with the court cases. Thirty seven percent (37%) dealt with general digital migration while eleven percent (11%) of the stories focused on set-top boxes. Two years after losing the case at PPARB and when the national switch off date was imminent, Royal Media, Nation Media and Standard Group moved to court to stop the digital migration and among others: Challenged the issuance of BSD license to Pan African Network; Sought declarations that they (through National Signal Network) are entitled to BSD license in view of their substantial investment in the media industry; Challenged the constitutionality of CCK; and Alleged infringement of Intellectual Property Rights.
Media owners and their spokesmen were highly covered actors in the digital migration issue at thirty percent (30%) while state officers came second at twenty one (21%) while politicians were covered in nine (9%) of the total articles analysed.

Majority of the politicians covered condemned the government and the CA on the manner it handled the digital migration row. Following the near three-week shutdown of four leading television stations, In one of the news articles, Raila Odinga, the leader of Coalition for reforms and democracy (Cord) accused the government of muzzling the press in the melee that has been the digital migration in Kenya. “Governments that want to institute dictatorship start by dominating and directing the media and information systems. How the media system is structured is, therefore, a significant indicator on whether a nation is democratising or sliding into a dictatorship,” Odinga said suggesting that the country is sliding back to the 80’s and 90’s were there was a tight leash on media.
In one of the surveys by the media houses, it claimed that only 200,000 Set Top Boxes had been sold by dealers in preparation for digital platform era. A further 400,000 were still in stock. However, the Government released information indicating that there were over 1.1 million STBs in stock. This is also a supply demand scenario. The statistics does not make sense because Nairobi alone demands 2.3 million such decoders meaning that the suppliers will not avail less decoder especially considering their appetite for profit. Countrywide, the demand stands at about 8.5 million.

Twelve percent (12%) of the articles analysed used figures and statistics in support of the reports on digital migration. However some of the figures and statistics used were incorrect and were largely speculative especially those on number of TV viewers in Kenya, number of set-top boxes sold and also on possible losses incurred by the three media houses in terms of revenue due to the shutdown.

The companies requested for more time to import their own set-top boxes that would distribute their content. Two providers - one owned by the Kenyan government and the other by a Chinese firm - are already in operation. About a third of Kenya’s households own a television set, the main news source in urban areas. the Communications Authority of Kenya said that 60% of those who had acquired a set-top box were to receive digital signals. On the other hand, the media houses pointed out that up to 90% of Kenyans had been left without access to television. “The four stations NTV, QTV, Citizen Television are said to control over 90% of the country’s viewership - they have been off air since Saturday”.

v) The erroneous use of digital statistics and figures: who is fooling who?

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Only twenty one percent (21%) of the articles analysed were considered to have educational content while sixty percent (60%) did not. Educative content considered in this analysis included articles that served to inform the audience more about the digital migration process through factual and analytic information. Some of the educative content contained in some of the articles included what digital migration would mean to ordinary viewers and information concerning the set top boxes that they needed to buy.

The Star newspaper 26/02/2015 “Digital switch debate” explained how analogue TV broadcasting transmits sound and picture through airwaves. Each TV Station then gets a license for a single frequency that can only carry one channel. Analogue TV broadcasting is therefore limited in signal space, spectrum and frequency. Other limitations included poor quality of sound and picture if frequencies are interfered with. One channel would carry eight frequencies leading to spectrum efficiency and curbing the limitation for space.

The Daily Nation 27/02/2015 “Advanced set top boxes on the way Boxes to be launched in three weeks” established to the readers that digital TV broadcasting ideally separates broadcasting of content signal from the transmission signal that is held by those with direct broadcast licenses. Digital TV broadcasting brings in more players in both content development and distribution of content. This means that the existing business models in analogue TV broadcasting that were based on the then production-packaging-distribution business model must be altered to focus on the production-packaging business model for digital TV broadcasting and leaving distribution to the entities that have broadcasting signal distribution licenses.

Did the media play its educative role on digital migration?
x) Nature of stories on digital migration

Majority of stories on digital migration were follow-up stories in all the newspapers. Not many stories offered new insights or new perspective or fresh story angles. Those stories were a buildup of the previous occurrences, events and happenings. Eighty six percent (86%) of the stories in Business daily were follow-up’s, Seventy three percent (73%) in Daily Nation, Seventy one percent (71%) in The People Daily, Eighty two percent (82%) in The Standard and Seventy percent (70%) in The Star newspaper.

y) Were there any reference to legal & regulatory, policy and procedures in the articles?
The media tries to at least shed light on the legal, regulatory, policy and procedural issues regarding the digital migration issues in the various articles analysed. Forty percent (40%) of the articles in the *Business Daily*, forty-three percent (43%) in the *Daily Nation*, thirty-eight percent (38%) in *The People Daily* newspaper, forty-nine percent (49%) in *The Standard* and thirty-five percent (35%) in the *Star* newspaper.

Among the legal and regulatory issues majorly featured by majority of articles analysed were the argument fronted by the three media houses was based on four arguments: That Article 34 of the Constitution of Kenya had been violated to their detriment; that the Constitution requires the State to establish an independent broadcast regulator and that the CCK was not that body; that the decision of the CA authorizing pay TV to carry their content without their consent was an illegal use of copyrighted materials and so a violation of intellectual property rights; and, that by reneging on the promise to grant them a BSD license, the government had frustrated their legitimate expectation arising from its own policy documents.
Legal and Regulatory issues on digital migration in Kenya

There are various legal and regulatory policies and procedures that guide digital migration in Kenya. Some of them are partly contained and enshrined in the constitution of Kenya while others are regulatory formulations of the concerned regulation bodies in Kenya. In Kenya the body tasked with facilitating the digital switchover is the CA. This is provided for in Regulation 45 of Kenya Communications Authority of Kenya (Broadcasting) Regulations 2009.

The ITU is the United Nations specialized agency for information and communication technologies (ICTs). Some of the legal and regulatory framework governing the digital migration process in Kenya is derived from the international policies signed by Kenya in its capacity as a signatory. Kenya is a signatory to the ITU Convention and therefore, it is bound to observe the digital migration switchover date. The ITU has set the deadline for digital migration as 17th June 2015. In preparation to meet its International obligations, Kenya set up a task force to come up with recommendations on digital migration. The task force was also mandated to manage the digital migration process in the country.

There are various legal and regulatory issues that have stalled the digital migration process in Kenya. The process has been marred by bruising legal battles that have exhausted all appeal avenues in our judicial system resulting in some parties to grudgingly accept the verdicts of the Supreme Court. Some of the three vital legal and regulatory issues that came up during the digital migration included the following:

I. Digital frequency regulation and freedom of the press in Kenya

A. Assertion:
The three media houses claimed that the ‘forceful’ switch of by CA was an exercise of inappropriate digital frequency regulation that threatened the freedom of the media. They further claimed that the switch off was a ploy by the government to surrender their signals to government-owned Signet and Chinese-owned Pan African Network Group (PANG). The CA was accused of misreading its mandate and functions and thereby misapplying it towards restraining the media freedom that was constitutionally enshrined.

B. What does the Constitution say?
The constitution provides for freedom of the media with responsibility. It envisages the creation of institutions that will undertake media regulation in Kenya. Article 34(3) of the Constitution states; “Broadcasting and other electronic media have freedom of establishment, subject only to licensing procedures that: are necessary to regulate the airwaves and other forms of signal distribution; and are independent of control by government, political interests or commercial interests.”

The above article guarantees the freedom of establishment of broadcasting and other electronic media but subject to licensing procedures that are necessary to regulate the airwaves and other forms of signal distribution.

C. What does the CA policy & regulation say?
The Kenya Information and Communication Act (KICA) grants the CA the powers to regulate frequencies in Kenya. Pursuant to Regulation 14 (2) (b) of Kenya Information and Communication Regulations 2009, the CA is mandated to grant licenses all broadcasters in Kenya. CA is supposed to carry out its function in consultation with the government in carrying out its mandate.

D. What was the Supreme court ruling and interpretation?
The Supreme Court in the case above held that CA had exclusive powers under section 5(1) of the Kenya Information and Communications Act to issue broadcast
licenses. It court stated that CA is responsible for regulating broadcasting and other electronic media as described in Article 34(5) of the Constitution. However, it was noted that it could not disengage from other players in public governance in performing its regulatory function. Section 46 of the Kenya Information and Communications Act bars persons from providing broadcasting services except in accordance with a license issued by CA. It is an offense to contravene this law, on conviction, is punishable by a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or both.

The three media houses in the Supreme Court Case claimed that as local investors they had legitimate expectation that they would be issued with the BSD. They claimed that the Cabinet Secretary in charge of Information Technology had promised this to them during a Consultation process. The court held that the Cabinet Secretary had no mandate in issuing of the BSDs licenses and therefore the promise made was illegal. The court further asserted that licensing was a mandate of the CA, which was purely administrative.

II. Protection of intellectual property right

A. Assertion:
The three media houses feared that the application of the “Must-Carry” rule by CA would consequently be in contravention of their intellectual property rights. CA application of this rule offended the media houses because it required them to offer foreign companies the ability to air their content and they feared that their intellectual property rights will be violated by the “Must-Carry” rule under this regulation.

B. What does the constitution say?
The Constitution of Kenya explicitly protects the intellectual property rights of Kenyans. Article 40 (5) of the Constitution states that the state shall support, promote and protect the intellectual property rights of the people of Kenya. In addition, the indication of who an author is with regards to broadcast content is clear as indicated in Section 2 of the Kenya Copyright Act, which defines an author, in relation to broadcasting, to mean the first broadcaster of certain work. This means that the TV stations have the intellectual property rights over what they broadcast.

C. What does the CA regulation say?
The Kenya Information and Communication (Broadcasting) Regulations empowers the CA to order a person granted a BSD license to distribute on it digital platform: Free to Air (FTA) and subscription broadcasting services. This is with regards to the “Must-Carry” principle which has been adopted in other countries as well. A distinct feature of “must-carry” rules is that the obligation can only be imposed if the respective networks are the principal means of receiving radio and television channels for a significant number of end-users of these networks. In the case of Digital Terrestrial TV broadcasting in Kenya, BSDs are the principal means receiving television channels for a significant number of consumers.

Further, Regulation 16 (2)(a), states that ‘The Commission may require a person granted a license under paragraph (1) to-Distribute on its digital platform free to air and subscription broadcasting services and related data on behalf of other licensed broadcasters.’

D. What was the Supreme court ruling and interpretation?
The Supreme Court further made a ruling on fair dealing as an exception to copyright law and cited Section 26 of the Copyright Act 2001 which provides for fair dealing rule as a defense against copyright infringement. The rule holds that the use of other people’s materials for purposes of scientific research, private use, criticism, review or the reporting of current events subject to acknowledgements of the source, does not amount to infringement. The Supreme Court held that the “must-carry” rule which required the BSD Broadcasters to carry the signals of FTA Broadcasters was not inconsistent with the requirement of fairness. Both the BSD and Pay TV broadcasters satisfied the “fair dealing” defense, and thus did not infringe upon the copyright.
III. Right to Information and principle of public interest

A. Assertion:
The media houses claimed that the forceful Digital switch off would lead to the violation of Article 35 of the constitution as it would deny the public access to information as provided by this provision. It also claimed that CA was not acting in the interest of the public by switching off the analogue signals since ‘statistics’ indicated that very few Kenyans had acquired required set top boxes and were ready for the digital migration process.

B. What does the Constitution say?
The right to information is guaranteed in the Constitution under Article 35. However, under the terms of the new constitutional order this right is limited and is only guaranteed to the citizens. Article 35 of the Constitution states that every citizen has the right of access to; Information held by the State; and Information held by another person and required for the exercise or protection of any right or fundamental freedom.

Considering that the media houses constitute legal persons, the above clause of the constitution applies. Any limitation of the right to access to information ought to adhere to Article 24 of the Constitution. This Article provides that the right to access information can be limited by law, only to the extent that the limitation is reasonable and justifiable in an open democratic society.

C. What does the CA regulation say?
Regulation 20 of Kenya Information and Communication (Broadcasting) Regulations 2009 is specific that a frequency license does not confer any ownership rights of the frequency to the licensee. Regulation 30 of Kenya Information and Communication (Broadcasting) Regulations 2009 empowers CA to disable or confiscate any radio communication apparatus or stations operated in contravention of the condition of license or in contravention of the Act and the Regulations.

The “Must-Carry” rule is established under Regulation 16 of the Kenya Information and Communications (Broadcasting) Regulations 2009. Regulation 16(1), “the Commission may upon application grant in the prescribed form a licence for the provision of terrestrial digital broadcasting signal distribution services.”

This rule was developed to ensure that the right of the Kenyan consumer to receive information is protected as well as to ensure that they receive high quality information. Under the “must-carry” rule, transmission frequencies for radio or television broadcasting and telecommunication were considered national resources for the public interest. The rationale for the rule was to preserve the free circulation of information through access to the most important television channels such as national public television channels as well as the principal private television channels.

D. What was the Supreme court ruling and interpretation?
The supreme court held that the “Must-Carry” rule was essentially consistent with the terms of Article 11 which requires the Government to promote all forms of national and cultural expression through communication, information and mass media, Article 35 which gives citizens access to information and finally Article 46 which protects the rights of consumers. The Supreme Court also approved the issuance of a separate license to KBC, which is the public broadcaster. The court said that this was in line with the needed to always keep the citizens informed. However, the courts expressed its concern that there was a problem with the way the SIGNET network was being divided as it was being used for other purposes other than the designated use of informing the members of the public. The Court therefore recommended a check.
Possible implications of digital migration on Kenya’s Media Industry

Digital migration generally comes with various opportunities and benefits to the industry and audience. Such benefits include; efficient use of the frequency spectrum, (a scarce resource), more channels, better picture quality, lower transmission costs, optimal utilisation of the transmission infrastructure and reduction of the negative impact of the broadcasting infrastructure. Other impacts include:

A. Market Structure

i. Media pluralism will be enhanced considering that previously the media industry existed as an oligopoly, meaning that there were few dominant players in the industry. Digital Migration promises to intensify competition due to reduced licensing costs for broadcast and the costs associated with setting up a broadcasting studio. Additionally, the frequency spectrum with analogue allows for about 18 channels to be on air within a broadcast region but digital technology promises to expand this to above 100.

ii. Digital migration will lead to vertical and horizontal integration as TV stations will strive to cut production costs, control content quality and enhance competitive advantage. This will not necessarily eliminate external content producers from the production chain because in-house content production may not sufficiently supply all program needs. TV stations will establish content production academies to supply the needs of their niche markets where they can comfortably cater for advertisers needs and audience demands.

iii. A great deal of partnerships and mergers & acquisitions will happen in the media industry. The previously popular TV stations will retain their top-of-mind status among the audience and will remain powerful but they will establish partnerships with content creators, hence a balanced competition. In the long run, some TV stations will buy off the smaller but well performing TV stations based on their niche targets. They may opt to leave them to run as independent revenue streams in form of subsidiaries.

iv. Digital migration opens up a host of economic opportunities for the information and communication technology (ICT) sector and the local content and creative industries. It also enables new business models within the media industry by separating signal distribution providers from content producers. The media structure is set to expand tremendously to include ICT players and other equipment suppliers who will have a strategic role in media reach and share dynamics in the TV industry. The digital television value chain will afford all players the chance to have a piece of the pie. These include not only broadcast signal distributors and broadcasters but also importers, distributors and retailers of digital-receiving equipment, the media, and providers of common carrier infrastructure such as optical fibre among others.

B. Media Regulation

Media regulators like MCK, CA, KFSB are likely to find it hard to inhibit the flow of information as viewers will have the option of viewing international channels which cannot be muzzled locally especially with convergence of digital media platforms. Managing the large number of programs in terms of rating and ethics will be a big challenge unless there is increased capacity by the regulators to keep up the tasks of regulating thousands of programs that will be aired in many TV stations. There will be need to reformulate some of the legal and regulatory framework that guides the media and the ICT industry in Kenya. With the merger of different digital platforms using ICT technology, the will arise the need to establish laws that will govern
previous TV stations however; they will explore different TV content in search of their relevant content equilibrium. This means that consumers will increasingly watch television content on multiple platforms contributing to the fragmentation of traditional viewing experience due to convenience of variety.

Digital migration will also mean that TV audiences will become fragmented. The concept of mass audience will be no more. It means that audience research will have to be granulated to the extent that programs developed will drive audience viewership and attachment to the remote control. It means reaching the audience on a real time basis. Competition will revolve around provision of fast, accurate and factual information on a real time basis to the audience.

Variety of programs will advantage the consumers as various TV stations will create bouquet of programs. TV stations will establish a concoction of local and international programs with a greater focus on specialisation to achieve taste and preferences of various audiences. Within the bouquet will be religious channels, social life channels, sports channels among others. This will lead to a more enlightened viewers with more comprehension of global issues and greater taste from the current audience in the country who are constrained by local programming.

Audience research will be pushed to a new level where interactivity on social media will be important in enhancing audience feedback on various programs. Research devises that can be attached to set-top boxes will be possible to monitor channel switching by TV audiences. The option of real time feedback from the audience will be vital in developing TV brands. It will also be essential in driving advertiser’s interests and investments in the TV stations.

E. Advertising
Advertisers will be faced with multifaceted technicalities as they endeavour to choose the platform to reach their target market. With more than
100 TV channels, advertisers will have to understand their audience, products and specific TV stations niche markets and appeal before they engage in advertising their products. As compared to previous market structure, TV stations will be more content driven to gain audience and advertisers will have to analyse whether the content produced actually appeals to the kind of audience that they target and whether they actually consume such content.

The advertising revenue that has been previously shared by the few players in the oligopolistic structure will now be divided among various players. Advertisers haggling powers will be enhanced with the increased industry players. While TV audiences will reduce with digital migration in the short run, advertising costs will increase as TV broadcasters will eventually transfer the cost of digital setup infrastructure to viewer.

Annual advertising revenue is dependent on the economic capacity of the country. This means that the advertising revenue may not increase tremendously in the short run but the current revenue will be shared among all the players in the TV industry. More players will target same advertising revenue pool initially shared by few players. Who gets the largest revenue share will depend on brand positioning, audience appeal and also niche targets by advertisers.

**F. Job Market**

Inevitably, there will be job cuts as media houses will be forced to be lean and efficient in order to survive the competition. Unfortunately, employees who attract revenues through quality content and audience appeal will not be axed in a ‘survival for the fittest' scenario that will visit various newsrooms due to digital migration.

Notably, there will be job creation in the sense that the expanded TV platforms will create an insatiable thirst for TV content. More jobs will be created for production crew, reporters, marketers, directors, station managers and even within regulatory institutions. Perhaps the worry would be in terms of quality and quantity of remuneration packages of the created jobs considering that majority of the TV stations will depend on advertising revenue. Kenya’s creative potential is hardly tapped. Young Kenyans interested in advancing their creative careers have a historic opportunity awaiting them in the digital broadcasting era.

Multi-platform convergence will ensure that journalists and media workers are able to tailor their content to various media platforms. The element of specialisation may be blurred as a result. Digital TV owners will be available on various other platforms as well meaning that content will be created to be shared even on social media platforms. With the growth in the number of broadcast channels and the quest to have premium content, comes employment creation through independent multi-platform content developers who will have a ready market to absorb local productions, further growing the current and upcoming rich creative talent available in Kenya.

**G. More Impacts**

Digital Migration would enable better and faster internet in Kenya because it will utilise analogue spectrum currently held by analogue broadcasting to enhance 4th Generation internet connectivity. The successful migration to the digital platform will create freed spectrum space which will be utilized by mobile operators to improve their networks, this will fast-track the adoption of 4th Generation technology in the country. The technology is expected offer high-speed wireless services as consumers use tablet computers and smartphones more to surf the web.

With digital broadcasting and owing to the technological merger of television, the computer and the telephone, new business models will emerge in the broadcasting and telecommunication markets. This merger of technology and the provision of electronic data services through different infrastructure might alienate a cross-section of the population which might be socially or economically disadvantaged.
Chapter Six

Conclusions and Recommendations

A. Conclusions

Digital Migration in many parts of Africa has been dogged with controversies with the main issues being lack of awareness that caught broadcasters and viewers off guard, prices of set top boxes, competition between foreign and local investors within the media space and lack of adequate infrastructure for its implementation.

The media in Kenya was caught up in a difficult situation of presenting facts on digital migration with clarity and objectivity considering that they were interested parties in the digital combat. While the media ought to have served the public interested as required in its social responsibility theorem, it should be noted that public interest does not necessarily mean media interest. There are times when media interest may synchronize with public interest, but it is not always the case.

The rules of balance, fairness and right of reply require the media, when covering a story, to give both sides fair and truthful treatment. This requires the media not to passively do this, but to actively go out to seek the other side of the story, place both sides at the disposal of their audience and let the public draw their opinion. By focusing on a piece of the story, the media are engaging in active process of shaping public opinion. That is where the danger is.

While the media were entitled to reject the adverts paid by the communications Authority considering that they are business entities, their social responsibility to be fair and accurate is not pegged on their commercial establishment. There is need for humility on the part of the media the realization that the media do not always get it right and thus should be open to correction where such is called for.

There are various issues that were not handled very well by all players in the digital migration process. Hard questions were not asked. There are policy issues dealing with frequency allocation, platform selection and licensing of channels that may have not been adequately addressed during the migration process. Some of these issues include; which signal distribution model was ideal for the country between Single publicly owned national carrier, Public-private Partnership, Self-provisioning, private and public career.

B. Recommendations

i. The media ought to have presented the issue of digital migration with accuracy and fairness giving a chance to all parties mentioned adversely the opportunity to respond. It is therefore important for media practitioners to observe ethical and professional journalism when undertaking their coverage of various issues.

ii. Covering public interest stories is very important role of the media. Majority of stories did not seek to educate and inform Kenyans on the digital migration process. Majority of media houses covered the debate with a media interest perspective. The media should understand that they shape public opinion and this should happen through factual and objective reporting.

iii. Editors should exercise their role as gatekeepers in line with the Code of Conduct for the Practice of Journalism. The Code states that an editor who decides to open his/ her columns on a controversial subject is not obliged to publish all the letters received in regard to that subject. He/she may select and publish only some of them either in their entirety or the gist thereof. However, in exercising this right, he/she should make an honest attempt to ensure that what is published is not one-sided but presents a fair balance of pros and cons of the principal issue.

iv. Fair coverage in terms of space allocation and commentaries should be accorded to all players on digital migration debate. Both sides of the story should be represented while efforts to seek various viewpoints should be facilitated to ensure that stories are balanced and fair.
Bibliography


Digital TV migration, what will change for TV audiences (2014) Report by Ipsos Synovate, Kenya


http://digitalkenya.go.ke/news-updates