

GAZETTE NOTICE No. 12067

THE STATE CORPORATIONS ACT

(Cap. 446)

THE KENYA PIPELINE COMPANY

APPOINTMENT

IN EXERCISE of the powers conferred by section 6 (1) (e) of the State Corporations Act, the Minister for Energy appoints—

JAMES OWINO OKWERO (ENG.)

to be a member of the Board of Directors of the Kenya Pipeline Company Limited, for a period of three (3) years, with effect from 13th November, 2009. The appointment of Ngeso Okolo*, is revoked.

Dated the 5th November, 2009.

KIRAITU MURUNGI,
Minister for Energy.

*G.N. 6069/2009.

GAZETTE NOTICE No. 12068

THE STATE CORPORATIONS ACT

(Cap. 446)

THE TEA RESEARCH FOUNDATION OF KENYA

APPOINTMENT

IN EXERCISE of the powers conferred by section 6 (1) (b) of the State Corporations Act, the Minister for Agriculture appoints—

FRANCIS WACHIRA (DR.)

to be the Director of Tea Research Foundation of Kenya, for a period of three (3) years, with effect from 10th November, 2009.

Dated the 10th November, 2009.

WILLIAM ARAP RUTO,
Minister for Agriculture.

GAZETTE NOTICE No. 12069

THE TEA RESEARCH FOUNDATION OF KENYA

APPOINTMENT

IT IS notified for the information of the general public that pursuant to article 32 of the Articles of Association of the Tea Research Foundation of Kenya, the Minister for Agriculture appoints—

SAMMY K. CHEPKWONY

to be the Chairman of the Board of the Foundation, for a period of three (3) years, with effect from 5th October, 2009.

Dated the 11th November, 2009.

WILLIAM ARAP RUTO,
Minister for Agriculture.

GAZETTE NOTICE No. 12070

THE KENYA INFORMATION AND COMMUNICATIONS ACT

(No. 2 of 1998)

INFORMATION AND COMMUNICATIONS TECHNOLOGY
SECTOR POLICY GUIDELINES

AMENDMENT

IN EXERCISE of the powers conferred by section 5A of the Kenya Information and Communications Act, 1998, the Minister for Information and Communications amends the policy guidelines issued vide Gazette Notice No. 2431 of 2006 by inserting the following new subparagraph at the end of paragraph 3.3.9—

(g) Recognizing the International Computer Driving Licence (ICDL) Certification as the entry level computer certification designed to demonstrate competence in computer use.

Dated the 2nd November, 2009.

SAMUEL POGHISIO,
Minister for Information and Communications.

GAZETTE NOTICE No. 12071

THE KENYA INFORMATION AND COMMUNICATIONS ACT,
1998

(No. 2 of 1998)

THE KENYA MEDIA POLICY GUIDELINES

IN EXERCISE of the powers conferred by section 5A of the Kenya Information and Communications Act, 1998, the Minister for Information and Communications issues the policy guidelines set out in the Schedule.

SCHEDULE

Vision

A prosperous knowledge-based society

Mission

Our mission is to promote a pluralistic, diverse and self-sustaining media and to enable the people of Kenya to freely and fully exchange and discuss information, ideas and knowledge so as to build a just and prosperous nation.

1. Introduction

A free and independent media is crucial to the development of democracy and good governance in the country. Without a vibrant media, free and open debate that is indispensable to the development of public policy cannot take place and the public's right to receive information on matters of public interest especially relating to the political process, the positions taken by government, corruption, and human rights issues, among other things, can be seriously compromised. Media also provides the much needed entertainment and plays an important role in the provision of educational services.

The Government is aware that the majority of Kenyans rely on the media, particularly radio and newspapers for news. The Government is also aware that propagation of public policy affecting the livelihoods of Kenyans can best be achieved and articulated through the media and hence the need for a media policy that will make this possible.

1.1 Print media

The print media in Kenya is owned by two major publishing houses, i.e the Nation Media and Standard Groups. The Nation Media Group was established in 1960 and publishes the Daily Nation and the Sunday Nation newspapers. It also owns the East African - a regional weekly paper with its core market in Kenya, Uganda and Tanzania. The Standard Group, whose flagship is "The Standard" (formerly the "East African Standard") was established in 1902. It also owns the Kenya Television Network (KTN). The other two dailies are "The Kenya Times" established in 1983 and "The People Daily" established in 1992.

1.2 Electronic Media

Electronic media in Kenya has traditionally been dominated by the public broadcaster, Kenya Broadcasting Corporation (KBC). The Corporation was formed in 1961. In 1964, it was converted into a department in the Ministry of Information and renamed as the Voice of Kenya. In 1989 it reverted to its original name under the new Kenya Broadcasting Corporations Act. It operates radio and television broadcasting services in English, Kiswahili and various local languages.

The other local free-to-air TV stations are Nation Television owned by the Nation Media Group, The Kenya Television Network owned by the Standard Media Group and the Citizen Television owned by Royal Media House.

Several international broadcasters have full-time FM relay of their services in Nairobi, Mombasa and Kisumu. They include the British Broadcasting Corporation (BBC), Radio France and Voice of America (VOA). Multichoice operates the only satellite pay-TV service in Kenya while Cable TV Network (CTN) operates a cable pay-TV service.

1.3 Recent Developments on Media Policy in Kenya

Important events particularly the advent of multiparty politics in 1992 led the government to consider the introduction of press laws. In 1993 a "Task Force on Press Laws" was appointed, to address issues relating to information access and dissemination, ethical and professional standards for journalists and their enforcement, self-

regulation of the media and media ownership, licensing and development. The task force submitted its recommendations to the Attorney General in November 1998.

In 2001, a Code of Conduct for journalists and the mass media, was finalized by the Media Industry Steering Committee comprising stakeholders from the Kenya Union of Journalists, Media Owners Association, Editors Guild of Kenya, the Alternative Press, Kenya Correspondents Association, Media NGOs and the state media. The Code has subsequently been reviewed many times with the last version being launched in April 2006 by the Media Council of Kenya.

In early 2006, the International Council of Jurists, the Media Owners Association, the Kenya Union of Journalists and other stakeholders developed a Draft Media Bill aimed at establishing the Media Council of Kenya.

1.4 Overall Policy Objective

This media policy seeks to promote a pluralistic, diverse and self sustaining media in Kenya whose role shall be to inform, entertain, educate and stimulate debate on topical issues. In addition, it seeks to create a framework that ensures freedom of expression and allows journalists and media owners to exercise the freedom freely and responsibly.

2. The Media Policy

2.1 Scope & Objectives

This policy covers the various mass communication media operating in Kenya including print media and electronic media. It seeks to achieve the following broad objectives:

- (a) To promote the existence of free and pluralistic media which reflect a diversity of ideas and opinions;
- (b) To sustain an atmosphere free of censorship and arbitrary controls on the flow of information;
- (c) To ensure that access to information and means of communication and services, where available, are effectively used for the benefit of all people of Kenya.

2.2 Freedom of Expression

In line with the Constitution, the Government is committed to upholding the freedom of expression as a means of fulfilling the public's right to receive and impart information and ideas without interference.

Freedom of expression must respect the rights and reputations of others, the need for preservation of national security, public order, public health and morals.

2.3 Print Media

The Government will provide an enabling environment for the print media to thrive. The print media shall not be subject to special restrictions on the content of what may be published, over and above restrictions found in laws of general application.

2.3.1 Regulation of Print Media

Self-regulation and responsible journalism shall be recognized as the legitimate means of governing the practitioners in the print media sector.

There shall be no special licensing requirement for print media service providers, other than pursuant to the Books and Newspapers Act (Cap. 111 Laws of Kenya) and general rules governing all bodies seeking to engage in commercial or nonprofit activities.

2.4 Electronic Media

The Government will provide an enabling environment for the electronic media to thrive. Electronic media shall be considered to include broadcasting, film and new media.

2.4.1 Regulation of Electronic Media

The Communications Commission of Kenya (CCK) will be the regulator for the broadcasting sector in accordance with the Information and Communications Technology Sector policy published in the *Kenya Gazette* issue Vol. CVIII – No. 24 of 31st March, 2006.

The regulation of broadcasting shall be governed by international best practices and guided by the following principles:

- (a) Licensing regime that is fair and transparent and based on the need to promote pluralism and diversity in the broadcasting sector, as well as the need to have equitable allocation of licences at all levels and tiers of broadcasting;
- (b) Development and implementation of frequency spectrum management plans that shall take into account equitable access to broadcasting frequencies; and
- (c) A broadcasting system that provides for the development of a code of conduct for broadcasters developed in a consultative manner, as well as the implementation of the programming code including sanctions for breach.

2.4.2 Broadcasting Content Advisory Council

An independent broadcasting Content Advisory Council will be set up under a regulatory framework to advise CCK on broadcasting content standards to enable it to:

- (a) Monitor broadcast content;
- (b) Receive, analyze and evaluate complaints from operators and consumers;
- (c) Monitor the compliance of broadcasters with the programming code; and
- (d) Monitor broadcasting ethics compliance.

The Council will work in liaison with the Kenya Film Censorship Board and will be funded by CCK.

2.4.3 Professional Standards in Broadcasting

Programming decisions will be made by broadcasters based on professional criteria and the public's right to know. All broadcasters will be required to act in the public interest and be guided by a programming code which will *inter-alia* address—

- (a) broadcast of material suitable for children;
- (b) broadcasts that contain scenes of violence, sexually explicit conduct and offensive language;
- (c) audience advisories to assist audiences in choosing programmes;
- (d) the need to report news truthfully, accurately and fairly, without intentional or negligent departure from the facts;
- (e) the need to exercise care in dealing with individuals' privacy; and
- (f) the need to accommodate diversity of opinion; and
- (g) the need for broadcast stations to adhere to regulations and guidelines issued for fair coverage at all times.

2.4.4 Political Broadcasting

Broadcasters shall endeavor to give equitable opportunities to all political parties.

2.4.5 Recordings of Parliamentary Proceedings

Broadcasters must ensure that extracts of Parliamentary proceedings are not used:

- (a) In any light entertainment programme or in a programme of political satire. However, creative interpretation of Parliamentary proceedings will be allowed.
- (b) In party political broadcasts, except where it features a member of the party making the broadcast, and the member's consent has been obtained; and the use of general scenes of either chamber or material featuring exchanges between the parties are not included; or
- (c) Directly in any form of advertising and promotion.

2.4.6 Children's Programming

Every television and radio broadcasting licensee is encouraged to serve the educational and informational needs of children through both the licensee's overall programming and programming specifically designed to serve such needs. Licensees must inform children at the beginning of such programmes, and must provide information identifying such programmes to publishers of programme guides.

2.4.7 Obscenity and Indecency

Radio and television broadcasters shall not broadcast obscene, indecent or profane language. To be obscene, material will have failed a three prong test, i.e (1) an average person, applying contemporary

community standards, must find that the material, as a whole, appeals to the prurient interest; (2) the material must depict or describe, in a patently offensive way, sexual conduct specifically defined by applicable law and (3) the material, taken as a whole, must lack serious literary, artistic, political, or scientific value.

2.4.8 Film Classification

The Kenya Film Censorship Board will classify films for exhibition in cinemas and television stations and encourage the exhibition of constructive entertainment and educational films through improved collaboration between the Censorship Board, the television industry and cinema halls. Broadcasters and cinemas will be expected to comply with film classifications and quotas laid down for locally produced films and may be required to screen specified short films.

2.4.9 Film Promotion

The Government will encourage and support the production of films by both private and public agencies. Government agencies will be required to include film and video production as part of their media unit's policies and plans.

The Government will support the showing of documentaries in schools and training institutions; and encourage the operation of mobile cinemas in the rural areas.

The Kenya Film Commission will develop and support a system to promote, and coordinate all film-making in the country and encourage co-production of films between local and international firms or institutions.

2.4.10 Internet-based Media

The internet-based media shall not be subject to special restrictions on the content of what may be published, over and above restrictions found in laws of general application.

2.5 News Agencies

Although many individual media houses make independent arrangements for gathering national news and subscribe directly to agencies supplying world news, there are obvious advantages for centralizing and sharing of these services.

The Government shall put in place structures that will encourage news agencies to gather and disseminate information in a competitive manner. The Kenya News Agency will be restructured to improve its competitiveness in the new liberalised environment.

2.6 Media Ownership

The Government shall create a conducive environment to encourage competition in the media industry.

Cross-media ownership will be regulated through broadcasting regulations and competition laws. The government will regulate foreign media investment.

2.7 Access to Public Information

2.7.1 Freedom of Information Law

Legislation, more commonly referred to as freedom of Information, will be enacted to promote access to information held by public bodies subject to certain exceptions. Under the law, everyone will have a right of access to information held by the public sector. Public bodies will be under obligation to publish information proactively under approved publication schemes covering a wide range of information about their activities and information that they hold other than pursuant to the provisions in the Constitution and other laws covering privacy and protection of personal data.

A clear and well defined list of exceptions to the right of access shall be set out in the law to ensure that access is only denied where disclosure poses risk of harm to legitimate protected interests and that such denial serves the overall public good.

Clear and transparent procedures for processing requests for information by the public shall be established.

Individuals and organizations shall be able to appeal to a tribunal, to be established by the law, against refusal by a public body to provide access to information in its possession.

All secrecy laws shall be reviewed and revised as necessary to bring them in line with the provisions of this policy.

2.7.2 Public Relations in Public Institutions

All Government ministries and public institutions will establish offices whose specific role will be the dissemination of information to the public as part of the government's public relations.

Public relations officers will serve as spokespersons for their ministries under the guidance of the responsible minister.

Public relations officers will be posted to Foreign Missions or hired from residents of the foreign country where necessary.

2.8 Advertising

All advertisements shall comply with the Advertiser's Code of Kenya.

2.9 Human Resource Development

The Government in consultation with the Media Council will introduce incentives and measures to improve the education and training of media professionals to ensure qualitative and quantitative growth of the media industry.

National professional bodies for media practitioners will be encouraged to participate in setting standards.

Media training institutions will be encouraged to provide structured specialized programmes that cater for people with talent for creative writing, film production, animations creativity and other technical aspects required in the media industry.

2.10 Media and The Information Society

The Government reaffirms its commitment to the principles of freedom of the press and freedom to seek, receive, impart and use information for the creation, accumulation and dissemination of knowledge, which are required for the development of the Information Society.

2.11 Standards & Ethics

2.11.1 Media Associations

Practitioners in the print and electronic media shall have the right to organize themselves into associations with leadership elected from amongst them. The various professional associations shall have the right to establish their own internal accreditation systems for their members.

2.11.2 Promotion of Standards

The Government in collaboration with the stakeholders in the media industry will encourage and promote acceptable media industry standards by providing enabling incentives such as scholarships and other awards.

2.11.3 The Media Council of Kenya

The Media Council will have the primary responsibility for setting a framework to check professional conduct and violation of ethics by media professionals and practitioners.

The funds of the Council shall be derived from such sums as may, from time to time, be appropriated by Parliament and all sums of money as may be received by the council from its operations.

The Code of Conduct and Practice of Journalism in Kenya maintained by the Media Council of Kenya shall be recognized as the official conduct/ethics code binding all journalists in Kenya.

The Council will investigate, on its own initiative or upon a complaint by any person or group of persons, the violation of the Code of Conduct and Practice. The Council shall, however, not investigate any matter pending before a court or a judicial tribunal.

The Council may for the purposes of conducting an investigation utilize the services of a public servant or public agency.

The Media Bill shall be presented to Parliament to establish the Media Council of Kenya.

If either party is not satisfied with the Council's resolution the aggrieved party shall have the right to take legal action according to the existing laws.

2.11.4 The Programming Code

The Communications Commission of Kenya will develop in collaboration with other stakeholders and maintain the Broadcasting Programming Code which will cover issues such as family viewing,

offence to good taste, decency, portrayal of violence, respect for human dignity, privacy, fairness, impartiality, political parties, parliamentary broadcasting, terrorism, crime, anti-social behaviour, charitable appeals, religion, commercial references in programmes, amongst others.

2.11.5 Collaboration with Foreign Media Houses

All media houses are to maintain the same ethical practices when collaborating or importing programmes from foreign media houses.

2.11.6 Codes of Conduct/Ethics for Media Professionals

At a minimum, codes of conduct/ethics for media professionals and practitioners shall include commitment to the following principles—

- (a) Accuracy and fairness in news gathering and reporting, and in the methods used to obtain news, photographs and documents;
- (b) Non-discrimination in relation to race, ethnicity, religion, sex and sexual orientation;
- (c) Sensitivity in reporting on vulnerable groups such as children and victims of crime;
- (d) Presumption of innocence in reporting on criminal procedures;
- (e) The duty to protect sources of information obtained in confidence and to rectify published information found to be inaccurate or harmful; and
- (f) Taking into account the cultural and economic environment prevailing in the country.

2.11.7 Welfare of Media Practitioners

Media houses shall apply fairness in dealing with their employees, putting in consideration gender, disability and conforming to acceptable labor practices as stipulated by statute.

3.0 Policy Implementation Framework

The existence of a cohesive and well-functioning institutional framework is essential for the attainment of all the objectives of this policy. The aim of the framework is to ensure that the various institutions within the media sector effectively play their respective but inter-dependent roles with a view to enable the people of Kenya to freely and fully exchange and discuss information, knowledge and ideas through an efficient and sustainable media industry.

The following will play important roles in the implementation of this policy:

- (a) Government,
- (b) Communications Commission of Kenya
- (c) Media Council of Kenya
- (d) Media professionals/Practitioners
- (e) Media owners,
- (f) Civil Society,
- (g) Advertisers;
- (h) Consumer Organizations, and
- (i) Media Training Organizations

3.1 Role of Government

The role of government will include, inter alia:

- (a) The development, implementation and coordination of this policy including the establishment of a legal framework that guarantees freedom of expression and allows journalists to exercise their profession freely;
- (b) Coordination and dissemination of information in line with that of public service obligations including national news agencies and public broadcasting;
- (c) Regulation and licensing broadcasters and other electronic media service providers; and
- (d) Provision of an enabling environment for investment in the sector.

3.2 Role of Communications Commission of Kenya

The role of the Communications Commission of Kenya will include:

- (a) licensing broadcasters;
- (b) Managing the national radio frequency spectrum
- (c) Developing, maintaining and ensuring compliance with the programming code
- (d) Monitoring broadcast content; and
- (e) Handling complaints from operators and consumers.

3.3 Role of the Media Council

The role of the media council shall be—

- (a) To receive process, conciliate, mediate or arbitrate in disputes between the government and the media, and/or between the public and the media and intra-media.
- (b) To promote and protect freedom and independence of the media.
- (c) To promote free access to information and its dissemination.
- (d) To strengthen media association and regulation in the country.
- (e) To promote high professional standards amongst media practitioners.
- (f) To enhance professional collaboration amongst media practitioners.
- (g) To promote ethical standards.
- (h) To ensure the protection of the rights and privileges of journalists on the performance of their duties.
- (i) To advise on matters pertaining to professional education and the training of journalists and other media practitioners.
- (j) To make recommendations on the employment criteria including remuneration; and
- (k) To uphold and maintain the ethics and discipline of media practitioners

3.4 Role of Media Professional/Practitioners

The role of media professionals and practitioners shall be—

- (a) To exercise responsibility to look for and communicate the facts as they become known through reasonable research;
- (b) To express opinions only based on actual facts and to act in good faith, and to signal negligence, injustice and abuse of any kind; and
- (c) To exercise their profession through certain rights and obligations and freedoms and responsibilities as stated in the codes recognized in this policy.

3.5 Role of Media Owners

The role of Media owners shall be to:

- (a) Provide quality service with pluralism of choice to listeners and viewers;
- (b) Participate in the provision of universal services/access; and
- (c) Ensure efficiency, credibility and good corporate governance in the media industry.

3.6 Role of Civil Society

The role of the civil society will be to inform the media policy-making process by making relevant contributions in regard to freedom of expression, access to information, professional standards and ethics.

3.7 Role of Advertising Bodies/Agencies

The role of advertising bodies/agencies will be to ensure *inter-alia* that:

- (a) Advertisements comply with the Kenya Advertisers' Code;

- (b) Advertisements ensure that consumers of goods and services are fully informed so as to enable them to make informed choices about goods and services being advertised;
- (c) Advertising induces the free flow of information about goods and services offered for sale;
- (d) Advertising enhances markets' performances by stabilizing prices of goods and services; and
- (e) Information that advertising conveys to consumers is useful and correct

3.8 Role of Consumer Organizations

The role of Consumer Organizations will be to ensure that consumers are generally well educated about their consumption choices and rights including:

- (a) Providing consumers with timely and accurate information that allows them to make informed choices about media goods and services in the market;
- (b) Encouraging the government to adopt policies that facilitate the development of a sound and sustainable media industry; and
- (c) Lobbying the government to ensure the interests of consumers in the media industry are protected.

3.9 Role of Media Training Institutions

The role of media training institutions will be to develop appropriate curriculum for the media industry and train media practitioners and professionals as well as build human resource capacity to meet the objectives of this policy.

Dated the 2nd November, 2009.

SAMUEL POGHISIO,
Minister for Information and Communications.

GAZETTE NOTICE No. 12072

THE AUCTIONEERS ACT

(No. 5 of 1996)

APPOINTMENT

IN EXERCISE of the powers conferred by section 3 of the Auctioneers Act, the Chief Justice appoints—

Stephen N. Riechi—(*Member*),
Kennedy L. Kandet—(*Secretary*),

to the Auctioneers Licensing Board, with immediate effect.

The appointment* of Maureen A. Odero, Kiarie W. Kiarie, is revoked.

Dated the 5th November, 2009.

J. E. GICHERU,
Chief Justice.

*G.N. 5588/07 and 6242/2008.

GAZETTE NOTICE No. 12073

THE LAW OF SUCCESSION ACT

(Cap. 160)

APPOINTMENT

IN EXERCISE of the powers conferred by section 47 of the Law of Succession Act, the Chief Justice appoints—

ONGONDO JAMES ONGONDO

Resident Magistrate, Homa Bay, to represent the High Court for the purposes of that section, with effect from 1st November, 2009.

Dated the 27th October, 2009.

J. E. GICHERU,
Chief Justice.

GAZETTE NOTICE No. 12074

THE CIVIL PROCEDURE ACT

(Cap. 21)

APPOINTMENT

IN EXERCISE of the powers conferred by section 81 (1) and (1A) of the Civil Procedure Act, the Chief Justice appoints—

ABDULQADIR R. LOROT

to be Secretary of the Rules Committee, with effect from 1st November, 2009. The appointment of J'Orum Abuodha*, is revoked.

Dated the 28th October, 2009.

J. E. GICHERU,
Chief Justice.

*G.N. 5854/2007.

GAZETTE NOTICE No. 12075

THE CHILDREN ACT

(No. 8 of 2001)

APPOINTMENT

IN EXERCISE of the powers conferred by section 73 (d) (ii) of the Children Act, 2001, the Chief Justice appoints—

RONALDINE M. WASHIKA

Resident Magistrate at Kapenguria, to preside over cases involving children in respect of Rift Valley Province, with effect from 1st November, 2009.

Dated the 15th October, 2009.

J. E. GICHERU,
Chief Justice.

GAZETTE NOTICE No. 12076

THE CHILDREN ACT

(No. 8 of 2001)

APPOINTMENT

IN EXERCISE of the powers conferred by section 73 (d) (ii) of the Children Act, 2001, the Chief Justice appoints—

GEORGE R. SAGERO

Resident Magistrate at Molo, to preside over cases involving children in respect of Rift Valley Province, with effect from 1st November, 2009.

Dated the 27th October, 2009.

J. E. GICHERU,
Chief Justice.

GAZETTE NOTICE No. 12077

THE MAGISTRATES' COURTS ACT

(Cap. 10)

INCREASE OF LIMIT OF JURISDICTION

IN EXERCISE of the powers conferred by section 5 (1) of the Magistrate's Courts Act, the Chief Justice, increases the limit of jurisdiction of—

DOMINICA W. NYAMBU

Principal Magistrate, to Kenya shillings one million (KSh. 1,000, 000), with effect from 1st November, 2009.

Dated the 14th October, 2009.

J. E. GICHERU,
Chief Justice.