21 June, 2022

#KeepItOn: A call to the government of Kenya — keep the internet and social media platforms open and secure during the 2022 elections and beyond

Your Excellency Uhuru Kenyatta, President of the Republic of Kenya,

CC:
Hon. Kenneth Lusaka, Speaker of the Senate; Hon. Justin Muturi, Speaker of the National Assembly; Hon. Justice Martha Koome, Chief Justice and President of the Supreme Court; Joe Mucheru, Cabinet Secretary, Ministry Information and Communication Technology, Innovation and Youth Affairs; Dr. Fred Matiang'i, Cabinet Secretary, Ministry of Interior & Coordination of National Government; Hon. Justice (Rtd) Paul Kihara Kariuki, Attorney General of Kenya; Wafula Chebukati, Chairperson, Independent Electoral and Boundaries Commission (IEBC); Ezra Chiloba, Director-General, Communications Authority of Kenya; and Hillary Mutyambai, Inspector General of Police.

Peter Ndegwa, Chief Executive Officer, Safaricom PLC; Mugo Kibati, Chief Executive Officer Telkom Kenya Limited; Prasanta D. Sarma, Managing Director and Chief Executive Officer, Airtel Networks Kenya; Joshua K. Chepkwony, Chief Executive Officer, Jamii Telecommunications Limited; Adil Youssefi, Chief Executive Officer, Liquid Intelligent Technologies Kenya; Thomas Hintze, Chief Executive Officer, Wananchi Group Kenya Limited; Will Meng, Chief Executive Officer, Huawei Kenya; Thomas Sonesson, Chief Executive Officer, American Towers (ATC) Kenya; Mercy Ndegwa, Public Policy Director, East & Horn of Africa, Meta; and Fiona Asonga, Chief Executive Officer, Technology Service Providers of Kenya (TESPOK).

Nations across Africa, and the world, must ensure people can access open and free internet when they need it the most — during important national events. This election, we urge the government of Kenya to [uphold your pledge](#) and #KeepItOn.

We, the undersigned organizations and members of the #KeepItOn coalition — a global network of over 280 organizations from 105 countries working to end internet shutdowns[1] — write to urgently appeal to you, President Uhuru Kenyatta, to ensure that the internet, social media platforms, and all other communication channels remain free, open, secure, inclusive and accessible prior to, during, and after the general election scheduled for Tuesday, August 9, 2022.

As the people of Kenya prepare to vote for their representatives across the country's 290 constituencies and 47 counties, it is essential that your government adopts and prioritizes measures to ensure that the election process is inclusive, free, and fair by providing everyone with unfettered access to information and avenues for free expression, assembly, and association — both offline and online.

The internet and social media platforms play a critical role in enhancing participatory governance and promoting the realization of fundamental human rights in a democratic society as required under the *Constitution of Kenya*, 2010. These platforms provide spaces for communicating, public debate, seeking information on election processes and candidates, reporting and documenting events and outcomes, conducting political campaigns, relaying election results, and holding governments accountable for their actions. Unlike other countries in the region that have imposed internet shutdowns during key national events, Kenya remains an example of the few countries in Africa that continue to #KeepItOn.

On at least three occasions this year — first in May, then again twice in June — authorities have committed to keeping the country connected during the August 9 elections.However, Kenyan authorities have made several attempts to exert control over information flow in the country during past election periods. For example, during the 2007 elections, authorities gave themselves control over the flow of information by imposing a ban on live broadcasts, leading some broadcasters to suspend news coverage of the disputed elections. Again, following the highly contested 2017 general election, the government implemented a seven day shutdown of most major television outlets, impeding the opposition's plans to carry out a parallel presidential swearing in ceremony. Also, the government ignored court orders to restore the affected media stations, claiming the blocking was necessary to facilitate investigations into "subverting and overthrowing the lawfully-elected government."

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[1] An internet shutdown is defined as an intentional disruption of internet or electronic communications, rendering them inaccessible or effectively unusable, for a specific population or within a location, often to exert control over the flow of information. See more at: https://accessnow.org/keepiton.

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Internet shutdowns harm human rights, exacerbate crises, and stop the free flow of information

Research shows that internet shutdowns and violence go hand in hand. Shutting down the internet during times of conflict, protests, and, most recently, a deadly pandemic adds fuel to the fire, and cuts off access to vital, timely, and life-saving information, and to emergency services. Shutdowns violate fundamental human rights such as freedom of opinion and expression, access to information, freedom of the press, and freedom of peaceful assembly. By disrupting the flow of information, shutdowns exacerbate existing tensions, potentially instigate or conceal violence and human rights violations perpetrated by both state and non-state actors, and spur the spread of misinformation.

Shutdowns also make it extremely difficult for journalists and the media to carry out their work thereby denying people both inside and outside of the country access to credible information. The Independent Electoral and Boundaries Commission (IEBC), human rights defenders, election observers, political parties, election candidates, civil society actors, and other election stakeholders count on the internet to monitor and report on elections, facilitating transparency and openness in the process.

Additionally, imposing internet shutdowns interferes with people's livelihoods and costs nations billions of dollars as businesses, companies, public and private institutions which rely on the digital economy stand to lose huge sums of money during shutdowns.

Internet shutdowns contravene international laws

Kenya has ratified regional and international frameworks such as the legally-binding *International Covenant on Civil and Political Rights* (ICCPR), and the *African Charter on Human and People's Rights*, which provide for the protection and promotion of the rights of freedom of opinion and expression, assembly, and access to information — both offline and online. Furthermore, the *Declaration of Principles on Freedom of Expression and Access to Information in Africa 2019* calls upon States not to "engage in or condone any disruption of access to the internet and other digital technologies for segments of the public or an entire population."

The 2016 *African Commission on Human and Peoples' Rights (ACHPR) Resolution* recognizes the "importance of the internet in advancing human and people's rights in Africa," and expressed concern over the "emerging practice of State Parties interrupting or limiting access to telecommunication services such as the internet, social media, and messaging services." Moreover, the UN Secretary General and experts affirm that, "blanket Internet shutdowns and generic blocking and filtering of services are considered by United Nations human rights mechanisms to be in violation of international human rights law."

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Telecom companies must respect human rights

Likewise, telecommunications companies and businesses have a responsibility under the _UN Guiding Principles on Business and Human Rights_ and the _OECD Guidelines for Multinational Enterprises_ to respect human rights, prevent or mitigate potential harms, and provide remedy for harms they cause or contribute to.

Telecommunications and internet service providers operating in Kenya — including Safaricom, Airtel, Telkom Kenya, Jamii Telecom, Wananchi, and Liquid Telecom — have a responsibility to provide quality, open, and secure access to the internet and digital communication tools.

Internet shutdowns — whether in Kenya or other countries — must never be allowed to become the norm, and we encourage Kenyan enterprises to integrate these principles and practices for responding to censorship and network disruption requests in all markets where they operate.

Recommendations:

As organizations that believe in the power of the internet and digital platforms as an enabler of many other human rights, we respectfully request that you use the important positions of your offices to:

1. **Publicly assure the people of the Republic of the Kenya that the internet, including social media and other digital communication platforms, will remain open, accessible, inclusive and secure across Kenya before, during and after the election;**

2. **Refrain from ordering the interruption of telecommunications services, social media platforms, and other digital communication platforms before, during or after the elections;**

3. **Ensure that telecommunications and internet service providers implement all necessary measures to provide high-quality, secure, unrestricted and uninterrupted internet access throughout the election period and thereafter in line with their quality of service and license conditions; and,**

4. **Ensure that telecommunication and internet service providers inform internet users of any potential disruptions, and to take all reasonable steps to fix any identified disruptions likely to impact the quality of service they receive.**

Kindly let us know how the #KeepItOn coalition can support you in upholding a free, open, secure, inclusive, and accessible internet for all in Kenya.

Sincerely,

ORGANIZATIONS

Access Now
Advocacy Initiative for Development (AID)
Africa Freedom of Information Centre (AFIC)
Africa Media and Information Technology Initiative (AfriMITI)
Africa Open Data and Internet Research Foundation (AODIRF)
African Youth Commission
AfricTivistes
Alliance for Affordable Internet - A4AI
Amnesty International Kenya
ARTICLE 19
ARTICLE 19 Eastern Africa
Bareedo Platform Somalia
Beam Reports
Bloggers Association of Kenya (BAKE)
Change.Org, Kenya
Collaboration on International ICT Policy for East and Southern Africa (CIPESA)
Committee to Protect Journalists (CPJ)
Common Cause Zambia
Digital Rights Kashmir
Freedom House
Gambia Press Union (GPU)
Give1Project Gambia
Haki na Sheria Initiative
Human Rights Activists in Iran (HRA)
Innovation For Change (I4C) South Asia
International Press Centre (IPC)

JCA-NET(Japan)
Katiba Institute
Kenya Human Rights Commission(KHRC)
Kenya ICT Action Network (KICTANet)
Kijiji Yeetu
Media Foundation for West Africa (MFWA)
Miaan Group
Namibia Media Trust
Open Observatory of Network Interference (OONI)
OpenNet Africa
Organization of the Justice Campaign
Paradigm Initiative (PIN)
Peace and Cohesion CBO, Migori County
PEN America
Reporters Without Borders (RSF)
Rudi International
Sassoufit collective
Securing Organizations with Automated Policymaking (SOAP)
Small Media Foundation
Southeast Asia Freedom of Expression Network (SAFEnet)
Ubunteam
Unwanted Witness Uganda
Women ICT Advocacy Group (WIAG)
Women of Uganda Network (WOUGNET)
World Wide Web Foundation
Zaina Foundation