

COMMENTS AND PROPOSALS ON THE ADDITIONAL REQUIREMENTS TO ENHANCE ACCESSIBILITY OF BROADCASTING SERVICES BY PWDs

I. Comments

NO.	CONSULTATION QUESTION	STAKEHOLDERS COMMENTS AND PROPOSALS	
1.	Should the implementation of the proposed amount of television programming made accessible to PWDs be phased out as per table 1?	Jack Owiti	YES - We note that it is both captioning and sign language insert require budgetary planning since there is human, machine and technological investments needed it varies from where and how these are sourced
		MOAK	Currently, Free-To-Air the broadcast license agreements do not cater for these provisions thus implementation of the above and the timelines proposed is not realistic. 1. Audio descriptions will require a data channel where closed captioning can be incorporated thus allowing the viewer the option to select subtitles. We cannot embed text in our programs, as subtitles are subjective.
			2. It is an additional expense incurred towards infrastructure and human resources thus will require to provide a mechanism where equipment required for this feature is provided to decoder distributors who carry our signal. 3. Captioning on “Other Programming” is possible however it begs the question as to who decides when to include the 180

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			minutes per week. Will this be at the regulators or broadcasters discretion?
			4. Captioning in “Advertising” needs to be dealt directly with the advertiser as this is a production cost. As a broadcaster, our role is to ensure that the ads placed meet the watershed period requirements and are in line with the Programming Code.
		Bellington Lopua, Ag. DSO, NCPWD- Turkana County	Table one. No. it caters the needs for PWDs
		EBRU TV	Yes
		GOtv	See proposal in table 1(c)
		KBC	w.r.t “Insert audio descriptions when relaying emergency information and announcements of public interest” <i>At the moment this requirement is not within our reach because of capital investment that it entails. Technology investment in state of art equipment will make it easily attainable. Three years period should be adequate to achieve this.</i>

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2.	Do you agree with timelines proposed and if no, provide your reasons and justification including alternative timelines of implementation.	Jack Owiti	YES three years is sufficient time.
		MOAK	<p>As a licensed media company in Kenya, the proposed timelines are unrealistic as stated above. CAK, in conjunction with organizations dealing with Persons with Disabilities (PWDs) need to first address the concerns raised above, in addition to:</p> <ol style="list-style-type: none"> 1. Ensuring the organization(s) protecting the interests of Persons with Disabilities (PWDs) is fully equipped with the required number of human resource. At the moment, few institutions provide training on sign language or audio descriptions, if at all.
			<p>1a). We also have more than <i>40+ licensed broadcast TV stations?</i> that transmit in different languages so need to consider this during training.</p>

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			<ol style="list-style-type: none"> <li data-bbox="1173 323 2007 539">2. With the progressive change in technology, CAK needs to ensure that the infrastructure laid out for implementation will not become obsolete in less than 5 years, or more. This is an additional expense that CAK and the consumer may have to incur should changes occur and may disrupt broadcast of the programs to allow time for adoption. <li data-bbox="1173 547 2007 687">3. A lot of time is required for consumer awareness and sensitization. Adopting a new system of consumption for Persons with Disabilities (PWDs) may require more time to implement.

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			<p>3a).Consideration needs to be given to purchase of new equipment in addition to alternative services such as accessibility to the new service and training of staff. An additional cost to the consumer may be required. See proposed timelines in Annex 1(b).</p>
		Bellington Lopua, Ag. DSO, NCPWD- Turkana County	NO. The time of getting service is limited and must be extended.
		EBRU TV	Yes

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		GOTV	<p style="text-align: center;">PROPOSALS:</p> <p>Accordingly, we propose:</p> <ol style="list-style-type: none"> 1. The Authority provide for a period of 18 months prior to the first year beginning to run, and that the "effective date" therefore be defined as "18 months after the gazettelement of the requirements". This will enable capacity building in respect of provision of accessibility services, which will aid in more comprehensive compliance with the requirements. <hr/> <ol style="list-style-type: none"> 2. The period for implementation of the proposals in the table be extended to ten years, in order to ensure that the proposals are fully implemented in a manner that does not threaten the viability of broadcasters, while ensuring increased accessibility over time.
		KBC	There are cost implications to this. Additional edit suites will be required. This can be achieved but within the limits of facilities expansion for a duration of five years.
3.	What additional accessibility initiatives should be proposed and	Jack Owiti	<p style="text-align: center;">PROPOSAL:</p> <ol style="list-style-type: none"> 1. "Other programmes" that are not made accessible, it's

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	what are the proposed implementation timelines?		important to look into the possibility of including captioning/subtitling and Sign language insert in the writing to avoid the leaving out of one option or the other as stipulated by the persons with disability Act of 2015.
		MOAK	Broadcasters are usually left with the enormous task of informing and educating their audiences using their services. This however needs to be done in consultation with other respective bodies, such as the Communications Authority of Kenya. For broadcasters to execute this service to our consumers, the following needs to be put into consideration: see Annex 2 PROPOSALS: 1. Research to boost local content. 2. Training/Awareness/Sensitization of all stakeholders 3. Cost implications
		Bellington Lopua, Ag. DSO, NCPWD- Turkana County	Additional initiatives 1. Provision of T.V screen readers for Visually Impaired 2. Provison of braille displaying T.V 3. Increase sign language interpreters Proposed time line: By year of after issuance of license
		EBRU TV	PROPOSAL: 1. Introducing a program for PWDs, which will enable them to catch-up with current affairs, should be for 30mins in a week
		GOtv	We do not believe that additional accessibility initiatives are required. As discussed above, we believe that the Authority

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			<p>should adopt a flexible approach and encourage broadcasters to explore different technology solutions that are aimed at making programming accessible to people with disabilities in the most effective and efficient manner.</p>
		KBC	<ul style="list-style-type: none"> • Insert captioning in at least 120mins per week of Other Programming aired during the watershed period. <ol style="list-style-type: none"> 1. <i>There are cost implications to this. Additional edit suites will be required. . This can be achieved but within the limits of facilities expansion for a duration of eight years.</i> • Ensure captioning in at least 50% of advertising <i>This will have to come with the adverts so as to avoid conflicts/ breach of contracts. It will require more time to sensitize clients. It may also require their feedback.</i>
4.	What additional proposals would you suggest to enhance accessibility of broadcasting services by PWDs?	Jack Owiti	<p>The issue of quality of picture - the size of the box (insert), the color, lighting and qualification of the interpreters hired to deliver these services should be regulated by guidelines from CA since if left alone there will be varied and poor quality services rendered just to comply with the requirements just as it is being done now by the current licensees.</p>

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			<p>Inclusion of persons with disabilities as news anchors, reporters, editors etc are other issues that need to be addressed in enhancing opportunities for the PWDs to be visible and be part of the broadcast media.</p>
		Elias Njoka	<p>In my opinion the proposed measures are good but the CAK should have proposed these measures with statistics of those with disabilities to be served and the likely implication on this on economy. Taking broadcasting as a private venture and a promoter of our economy the investors should be encouraged not be discouraged from venturing into broad casting.</p> <p style="text-align: center;">PROPOSAL:</p> <ol style="list-style-type: none"> 1. Include statistics indicating implications of these changes on the economy
		MOAK	<p>In line with the practice in developed jurisdictions such as UK and the USA, we have to remain cognizant of the fact that TV consumer viewing trends in Kenya vary. With the increase to data accessibility, more people are consuming content through online platforms such as Netflix, YouTube, and other sites leaving the Free-To-Air broadcaster vulnerable to competition.</p> <p style="text-align: center;">PROPOSALS:</p> <p>In this regard, for broadcasters to enhance accessibility of</p>

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		<p>broadcast services on television:</p> <ol style="list-style-type: none"> 1. Each household out of the 45+ million Kenyans should have access to a TV set. FTAs generate revenue from advertising and the more households we reach, the higher the revenue thus allowing us to provide better quality services to our users, including PWDs. 2. Broadcasters can develop content that includes PWDs in their programming schedule. PWDs can and are able to take part in different genres ranging from dramas, talk shows, magazine or reality. This must however be preceded by intensive training programs. 3. Media training for Persons with Disabilities (PWDs) should be incorporated into their curriculum. Currently, there is no institution providing this service thus when it comes to job employment, they do not qualify for any position hence lose out on many opportunities. 4. The government should support initiatives for Persons with Disabilities (PWDs) with potential for broadcast. Daddy Owen is the first and only artist to take on this initiative with support from well wishers and launched “<i>The Malaika Awards</i>” in 2012. 5. KUZA Awards (CAK) introduced a category for “People’s Accessibility Award” late 2017 yet no broadcaster has received information regarding the requirements nor clearly stated whether it is mandatory or optional. This would bring

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			broadcasters to the table
		Bellington Lopua, Ag. DSO, NCPWD- Turkana County	More training of accessing information to world refresh course
		EBRU TV	Collaborating with institutes for PWDs
		GOtv	<p>1. Compliance with the requirements proposed in the Consultation Paper is not feasible in the context of multichannel subscription broadcasting services. We therefore propose that all accessibility requirements apply to free to air channels packaged in Kenya, and not to multichannel subscription broadcasting services (whether provided from within Kenya or from outside Kenya). However, we are of the view that multichannel subscription broadcasters should be encouraged to explore different technology solutions that are aimed at making programming accessible to people with disabilities in the most effective and efficient manner. We therefore propose that the following requirement apply to multichannel subscription broadcasting services:</p> <p>2. To the extent that requirements are imposed on multichannel subscription broadcasters, we propose that:</p>

NO.	CONSULTATION QUESTION	STAKEHOLDERS COMMENTS AND PROPOSALS	
			<ol style="list-style-type: none"> 1. The Authority set different requirements for different types and categories of broadcasting services. 2. We propose that the public broadcaster bearing the greatest responsibility for ensuring access by PWDs to broadcasting services, commercial free to air broadcasters bearing a slightly lesser responsibility than the public broadcaster, and multichannel subscription broadcasters bearing minimal obligations in this regard.
		KBC	<ul style="list-style-type: none"> • Insert captioning in at least 180mins per week of Other Programming aired during the watershed period. <i>1). There are cost implications to this. Additional edit suites will be required.</i> • Ensure captioning in at least 75% of advertising <i>This will have to come with the adverts so as to avoid conflicts/ breach of contracts, providing for allowance for feedback and input from advertisers, can be done in 10 years.</i>

I. Proposed Additional Features with Timelines

1(a) Proposals by CA

No.	Timeline	Condition
1	Within 1 year after issuance of license or effective date, whichever is later	<ul style="list-style-type: none"> • Ensure 100% signing during news and events of national importance • Insert audio descriptions when relaying emergency information and announcements of public interest • 100% signing in emergency announcements
2.	Within 3 years after issuance of license or effective date, whichever is later	<ul style="list-style-type: none"> • Insert captioning in at least 60mins per week of Other Programming aired during the watershed period
3.	Within 5 years of license issuance or effective date, whichever is later	<ul style="list-style-type: none"> • Insert captioning in at least 120mins per week of Other Programming aired during the watershed period • Ensure captioning in at least 50% of advertising
4.	By year 7 after issuance of license or effective date, whichever is later	<ul style="list-style-type: none"> • Insert captioning in at least 180mins per week of Other Programming aired during the watershed period. • Ensure captioning in at least 75% of advertising

1(b) Proposals from MOAK

No.	Brief	Timeline	Responsibility
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1.	License Provision: Provides broadcast service providers with a license to incorporate the PWDs requirements, exclusive of audio-video descriptions	1 YEAR (from time of adoption)	CA
2.	Infrastructure & Human Resource: Enables broadcast service providers to source the right equipment and train staff that will implement this initiative for PWDs on Television	2 YEARS (from license provision)	CA, Broadcasters, PWD Organizations
3.	Consumer Awareness & Education: Enables broadcast service providers to inform and educate PWDs on the new TV viewing experience and its implications.	1 YEAR (from purchase & training of staff)	CA, Broadcasters, PWD Organizations
4.	Service Roll Out: Broadcasters roll out the service in phases, evaluating and monitoring feedback for possible adjustments and improvements.	1 YEAR (from consumer awareness)	CAK, Broadcasters, PWD, Organizations
5.	Full Service Implementation: Consumer survey conducted based on variable factors, e.g. accessibility, satisfaction, cost, content, etc.	Ongoing process	CAK, Broadcasters, PWD, Organizations

1(c) Proposal from GOtv

No	Condition	GOtv's comments
1	Ensure 100% signing during news and events of national importance	<p>100% signing is extremely onerous and costly, particularly for a 24 hour news channel, such as KTN News. The financial implications for broadcasters would be severe, given that they would need to employ a large number of sign language interpreters in order to comply with the requirement. The internationally accepted standard for sign language interpreters, as recommended by the World Federation of the Deaf in association with the World Association of Sign Language Interpreters, is that interpreters work in pairs, taking turns to interpret, and changing every 15 to 20 minutes. The cost of having sign language interpreters on call throughout the day is very expensive and not viable. In France for example, where accessibility features have been in place for many years, the cost for sign-language-translated programmes is between €1,045 and €7,500 per hour.</p> <p style="text-align: center;">PROPOSALS:</p> <p>We propose that this requirement apply –</p> <ul style="list-style-type: none"> • only to news carried on a general interest broadcasting channel packaged in Kenya; and • to news and events of national importance broadcast during prime time.

No	Condition	GOtv's comments
1	Insert audio descriptions when relaying emergency information and announcements of public interest	<p>As the Authority is aware, audio descriptions are currently available for only a handful of programs because they require substantial amounts of resources and personnel. It is especially difficult to produce audio descriptions during live broadcasts. Technology for providing audio descriptions for live broadcasts is in its nascent stages and is not widely available for use at reasonable prices to content providers in Kenya. For example, the cost, in France, of producing audio description is between €1,674 and €3,600 per hour.</p> <p>Emergency information and announcements of public interest are not usually scheduled but are mostly broadcast live or at very short notice. Timing does not usually permit for the making of audio descriptions (since in our experience, on average, it takes up to 2 weeks to produce an audio description soundtrack for just 100 minutes of content) prior to broadcast.</p> <p style="text-align: center;">PROPOSAL:</p> <p>1. We propose that this requirement be applicable only where feasible.</p>
1	100% signing in emergency announcements	<p>By their nature, emergency announcements are usually not scheduled, but are made on an ad hoc urgent basis. In order to ensure 100% signing in emergency announcements, broadcasters would have to have sign language interpreters on call 24 hours a day in case of an emergency announcement. This is simply not feasible.</p> <p>Given that emergency announcements are made by Government or government authorized agencies, and not by broadcasters, it would be more appropriate for the party making the announcement to bear the responsibility for providing a sign language interpreter.</p> <p style="text-align: center;">PROPOSALS:</p> <p>We propose that –</p> <ul style="list-style-type: none"> • this requirement be applicable only where feasible; and • the party making the announcement bear the responsibility for providing a sign language interpreter.

No	Condition	GOtv's comments
2, 3, 4	Insert captioning in other programming aired during the watershed period	<p>There are instances where content is provided to broadcasters with burnt-in subtitles, and these subtitles ought to count towards compliance with captioning requirements.</p> <ol style="list-style-type: none"> 1. Captioning may not be appropriate for genres of content which are primarily live or unscripted, such as news, reality, sport or music. It is our understanding that it takes approximately 31 hours to create captioning for 100 minutes of content. It is the lengthy time required to produce accessibility captioning which makes the implementation of services of this nature unfeasible for live or unscripted programming <p style="text-align: center;">PROPOSALS:</p> <p>We propose that –</p> <ul style="list-style-type: none"> • these requirements be expanded to enable compliance by broadcasters through implementation of other methods of visual presentation, such as burnt-in subtitles; and • the term "other programming" be defined to exclude news, current affairs, events of national importance, reality, sport and music.

No	Condition	GOtv's comments
3, 4	Insert captioning in advertising	<p>We note that accessibility features in respect of advertising are primarily imposed in developed countries, where such features and the applicable technologies are more established. It may therefore be more appropriate for those countries to require advertisements to be captioned. However, in Kenya, accessibility features are relatively new and therefore still in their developmental stages. We should focus our efforts on ensuring accessibility to programming content, and turn our attention to advertising once accessibility of programming content is well established.</p> <p>Given the volume of advertising that is broadcast throughout the day, the cost and time of complying with the requirement to insert captioning into advertising will be more than envisaged in respect of programming content. It is simply not feasible for resources to be spent on captioning advertisements, at the expense of developing the accessibility of programming content.</p> <p>Advertising is packaged by advertisers, and aired on broadcasting channels for a fee.</p> <p>In order to comply with the advertising captioning requirements, broadcasters (or channel providers) will have to incur the high costs of captioning advertising received for airing (which costs will have to be passed to the advertisers), or will be obliged to accept only advertisements that are already captioned. This will threaten the revenue source of free to air broadcasters in the country, who rely on advertising as their major source of revenue.</p>

		<p style="text-align: center;">PROPOSALS:</p> <p>We propose that:</p> <ol style="list-style-type: none">1. The Authority remove all requirements pending a review of the progress of implementation of accessibility features in programming content. This review should take place after sufficient time has passed to enable broadcasters to implement the requirements. In this regard, we propose that the review take place five years after the effective date.2. We propose that captioning of advertisements be required only during prime time, with the responsibility for ensuring that advertisements are captioned being borne by the advertiser or advertising agency concerned.	
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2 Additional initiatives to enhance accessibility by PWDs

2(a) MOA

No.	Activity	Timeline
1.	Research: There is need for adequate research on PWDs to be conducted that will guide content development, including advertising and other parties.	1 year
2.	Training: All stakeholders including CAK, Broadcasters and PWD organizations need to conduct a training program that will sensitize all audiences on the new initiative	2 Years
3.	Cost: Broadcasters will require a sufficient amount to roll out the initiative and cost implications need to be factored into this during the decision process	2 Years