

Principal Secretary, ICT & Innovation
Ministry of Information, Technology and Communication
Teleposta Towers
P.O Box 30025-00100,
Nairobi.

01-Oct-2018

Dear Sir,

RE: ADDITIONAL COMMENTS AND SUGGESTIONS ON THE PROPOSED DATA PROTECTION BILL 2018

Further to my earlier comments, here is an additional set of comments.

On **lawful processing of data**, where a data processor or controller is in breach of the provisions, the proposed penalty is a fine not exceeding Kenya Shillings five million or imprisonment for a term no exceeding five years. In my view, the penalty seems arbitrary. I would suggest the penalty to be dependent on the severity of the breach, which can be based on guidance as per my earlier submission. If a careless data controller/processor (e.g a bank) lost data that exposed customer data to fraud or say a hospital or insurance company was breached and medical records of many were exposed, surely 5M is very little. If one guy who gave his or her data to a security firm at the gate and that one piece of record was breached, then maybe 5M is reasonable.

The rules should be tight enough and penalties equitable enough to be taken seriously by all the parties.

Kind Regards,

Peter Muya,

ICT Consultant

A handwritten signature in black ink, appearing to read 'Peter Muya', is written over a light gray rectangular background.