Position Paper
Impact of digital migration on broadcast television in Kenya

Robi K. Ochieng

This document highlights the history of the global migration from analogue TV broadcasting to digital TV broadcasting and links it to the Kenyan experience to date. It outlines the key strengths and weakness that both broadcasting structure have, articulates the controversies in the Kenyan digital migration process and maps the implications on the advertising and Public Relations industry.
Background

The debate on the migration from analogue broadcasting to digital broadcasting began before the 90’s in conferences manned by the UN International Telecommunications Union (ITU). ITU previously existed as International Telegraph Union formed in 1865 and became a specialized agency of the United Nations (UN) in 1947 that is responsible for issues that concern information and communication technology. The ITU coordinates the use of radio spectrum and assigns satellite orbits globally as it develops policy and standards that guide the improvement of telecommunications infrastructure.

ITU is based in Geneva, Switzerland, and its membership includes 193 Member States and more than 700 Sector Members and Associates who comprise of the world’s largest manufacturers and carriers to small, innovative players working with new and emerging technologies, along with leading R&D institutions and academia. Kenya is among member states in Africa, who alongside others from Europe, Middle East and the Islamic Republic of Iran, signed a resolution on the 16th June, 2006 at an international ITU conference in Geneva to migrate from analogue to digital broadcasting by 17th June 2015. Therefore due to this binding convention, the landscape of broadcasting in Kenya has forever changed and this has immense implications on the business models of media houses and subsequently of the Advertising and Public Relations industry that have a symbiotic relationship with media.

Digitization of broadcasting is envisioned to establish pluralism by building an equitable, just people-center information society by using technology to connect those in the most remote parts of the global, providing enhanced sound and picture quality and enabling hosting of more channels that will offer audiences a vast selection of content.
What is the difference between analogue and digital broadcasting?

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 factors of limitation include poor quality of sound and picture if frequencies are interfered with.

In Nairobi, Communications Authority of Kenya (CAK) licensed only 17 TV stations that would not allow the entry on another player unless a new business interest would buy off the frequency from another. There was just no room for expansion. This explains why there was a monopoly of few media players who adopted the commercial media business model that was driven by Advertising and Public Relations as their main revenue stream. Media houses also organized their business into three major areas: production, packaging and distribution content.

Currently, Communications Authority of Kenya (CAK) has 60 digital television stations of which only 20 are active. One channel will carry eight frequencies leading to spectrum efficiency and curbing the limitation for space. 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.
The status of digital migration process in Kenya

After the ITU conference in 2006, the journey to digital migration began in earnest in March 2007 with an advisory taskforce which recommended the formation of the Digital Television Committee (DTC) which was to set up and implement digital migration in Kenya. DTC was chaired by the then Permanent Secretary for Information and Communications, Dr. Bitange Ndemo and members from the Ministry of Information and Communications (MoIC); Communications Commission of Kenya (CCK); Kenya Broadcasting Corporation (KBC); National Communication Secretariat (NCS); and representatives from the Media Owners Association (MOA).

Digital migration was adopted by the government as a Vision 2030 flagship project under the Economic Pillar. DTC which received logistical support from the Digital Kenya Secretariat at CCK. Kenya’s migration from analogue to digital broadcasting is being spearheaded by Digital Kenya, the brand name for the digital migration process that was started by the launching of the DVB-T signal on December 9, 2009.

In same year, the Kenya Broadcasting Corporation under its subsidiary Signet was the first government authorized Broadcast Signal Distributor (BSD). In December 2010, the government adopted the DVB-T2 signal and an infrastructure roll out plan. There were various stakeholders forums in 2011 before the then CCK called for competitive bidding for the second BSD provider. This bid was won and the tender was issued to Pan Africa Network Group – Kenya (PANG) which is said to be owned by Star Times of China. The local broadcasters, under the National Signal Networks (NSN) who were second, appealed to the Public Procurement Appeal Review Board (“Tribunal”) who upheld the CCK tender process. NSN moved to the high court and the court of appeal who asserted their legitimacy to get a BSD license. The then ,Permanent Secretary Ndemo and CCK agreed to give a license to local broadcasters , on an affirmative basis, if they formed a consortium. A promise to offload shares in Signet was also proposed but shelved.
The Africa Digital Networks Ltd consortium (ADN) comprising of Kenya Television Network, Royal Media, Nation TV and QTV was issued with a license on 26th November 2014 only for it to be suspended 21st January, 2015 on grounds of for competitive advertising. The Supreme Court ordered for the lifting of the suspension on 13th February, 2014 and on the same day, CAK ordered for digital migration by midnight and switched off the analogue signals.

**Emerging Controversies**

1. **Broadcast Signal Distribution Licenses.**

   a.) Many of the local TV stations were in support of digital migration until they realized that there were few BSD licenses on offer, as it was reflective at world over. The Media owners had been active stakeholders right from 2008 in the Digital Television Committee (DTC) since 2008.

   b.) The consortium of local broadcasting were hopeful that they would be issued with the 3rd BSD license after the affirmative action initiated by PS Ndemo Bitange was to be issued. The then, National Signal Network (NSN) took so long to form the consortium that exits as the Africa Digital Networks Ltd consortium (ADN)

   c.) The 3rd license issued to ADN was issued and withdrawn after the members of the consortium asked consumers not to buy other set-top boxes from their competitors on the basis that their content will be free to air on those set boxes. This competitive advertising move prompted CAK to suspend their license. CAK lifted the suspension on 13th February 2014 and ordered for the move to digital migration on the same day at midnight.

   d.) On 14th February, 2014 ADN switch off their signals from other competitor distributors platforms citing copyright over their content and consent of the
airing of their content for free by other BSD license holders. This is the situation to date in spite of negotiations, summons and discussions going on between ADN and other stakeholders.

2. Media Ownership

a. ADN and other allied stakeholders assert that it is not common practice to allow foreigners to have such a large state in media ownership in other countries. PANG is cited to have 120 of the existing 211 frequencies which is over and above the 54 that Signet, a government entity has and 21 for the ADN consortium. They cited fears that that KBC is government and with the Chinese affiliation of PANG, this can be used to suppress freedom of expression by local media houses housed on their platforms.

b. PANG is said to have linkages with Star Times TV which is a set-top box provider that has perceived government support. PANG is also 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.

c. The same entity is purported to have invested in Top TV in South Africa that competes with DSTV at Satellite TV Company in South Africa and dominates Satellite TV in Africa.

d. Prohibitive and unsubsidized cost of set-top boxes that range at 3000 Ksh in a country where the minimum wage is about 6000 Ksh.
3. Copyright Infringements

a. Local media houses are bound by the MUST-CARRY regulation by CAK that enables BSD license holders to pick their content for free on the digital platform yet the Licensee’s will need to buy international content to support their pay-Tv business stream.

b. Local broadcast houses argue that production and packaging of content is an expensive endeavour and their media products need to be paid for by BSD licensees.

c. For broadcasting of content, then the BSD license holders need consent from the major local broadcasters to air their content. This consent can be denied.

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