

Is Kenya about to introduce control from the backdoor as it throws the switch?

By Henry Maina

That analog TV stations all over the world are adopting digital transmission technology has been lauded by many free speech commentators, like ARTICLE 19, for a number of varied reasons.

Most of them believe the switchover has the potential to usher in new openness as it will allow plurality of operators and diversity of voices to the airwaves because it allows the creation of multiple new channels. To social justice enthusiasts, digital switchover saves the poor from market-oriented fundamentalism-where commercial operators with financial might are always allocated more frequencies and licences sometimes at the expense of public service broadcasting. This throwing of the switch is believed would open the market to competition. In other words, digitalisation gives us all an opportunity to be part of dialogue be it in politics, pop culture, government expenditure among others.

It also opens the airwaves to more actors previously cut out by states in the name of managing limited frequency spectrum. By this digital technology would be able to send programming to tiny screens of cellphones and bring interactive services to remote areas that have no internet connections like Shitsitswi village in Kakamega County. The digital switchover also promises to ensure that viewers enjoy better clarity of sound and video with high resolution. According to Internet World Statistics about 4 million Kenyans have access to internet with a 2.5 penetration rate.

But some are worried if the digital technology will make good its promise in Kenya which with 63 radio stations and 18 television stations has been rated as relatively free and its media diverse and vibrant in comparison to its neighbours. Kenya has set itself a deadline for the digital migration to be June 2012 three years earlier than the worldwide deadline of June 2015 set by International Telecommunications Union. So why is the horizon of the digital switchover becoming red and chocking its enthusiasts in Kenya?

The challenge is not technological even for a developing poor country like Kenya. The problem is that it is quite pricey and that the process is exceedingly politicised. This presents real dangers to the free flow of information and thus to democracy at least for a number of reasons already manifest in Kenya.

The switchover is also likely, if not well managed, to leave a large number of viewers without TV service at least for two reasons. First, most viewers who have old analog TV sets are not likely to have bought digital TVs or set-top converter boxes-digital receiver equipment due to their inhibitive cost. Second, where such viewers have managed to buy converter boxes, they may be living outside the smaller broadcast neighbourhoods of digital stations. So what should government do to protect consumers? The government must offer tax waivers on the converter boxes and other digital receiver equipment for at least the first five years. This will ensure most citizens interested in embracing the new technology and its profits can do so with least pain financially. Already some viewers who bought the first converter boxes on the market have had

to discard them for superior versions but not for free. A Chinese company Smart DTV won the bid to supply set-top converter boxes.

Broadcasters that are financially weak or at odds with their governments could be pushed off the air in the relicensing process or otherwise disadvantaged. Currently as we speak, there is no broadcaster that is legally licensed to the best of my understanding. This is because all broadcasters were expected to seek fresh licensing under new terms and conditions with the coming into force of the Kenya Communications (Amendment) Act and its subsidiary regulations. To ensure openness and transparency, there is need that any licensing is done in a public auction to avert the current scenario where some broadcasters obtained frequencies because of their political-connectedness and now hawk them as if it were a private resource.

Thus the decision that there will be three signal distributors in Kenya is welcome at least for two reasons. First, it ensures that even small broadcasters can remain on-air without necessarily having to have a huge capital outlay to do digital signal distribution themselves. This is because the system will allow interoperability and underwrite universal service obligation. Second, the licensing of signet, a subsidiary of Kenya Broadcasting Corporation, as the first signal distributor is appreciated and its promise to unleash over 600 channels of free-to-air with over 40 per local content welcome. However, there is dire need to reform the state-owned broadcaster into a public service media to ensure no direct governmental control. Kenya Broadcasting Corporation cannot continue to operate as it did since independence, as only such reforms will ensure that signet is used to control what Kenyans view. If KBC is not reformed, the fears by stakeholders could as well be well founded as signet and Pan African Network Group could subject to government control keep our screens blank. The Constitution in Article 34 abhors control from government, political and commercial interests.

That there is protestation from private media owners about the award of the second distributor licence to a wholly Chinese owned company only registered and licensed to operate in Kenya a few months ago, calls for better engagement.

This is because the so called all-inclusive Digital Transitional Committee tasked with guiding the migration may not be able to head off all the negative effects of digital conversion. The committee, the Communications Commission of Kenya and the Public Procurement Oversight Authority must assure that decisions to award licenses for signal distribution, import of digital receiver equipment and use of airwave space are free of political pressure and that they are made in an open and fair manner.

All decisions on the digital switchover must be made public prior to things going soar. Such proactive disclosure will ensure that public interest is safeguarded against inclination for state-control and commercial privilege.

A properly conducted switchover should safeguard human rights, including freedom of the media and the right to access information.

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