KICTANet
The Power of Communities

Memorandum on the Budget Priorities FY 2024/25 for the ICT Sector

Submitted to:
The Institute of Economic Affairs for presentation to the Treasury and Parliament for consideration.

29th January 2024

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29 January 2024

The Chief Executive Officer,
Institute of Economic Affairs (IEA Kenya),
ACK Garden House, 5th Floor,
1st Ngong Avenue,
P.O. Box 53989 - 00200,
Nairobi.

Dear Sir,

RE: Memorandum on the Budget Priorities FY 2024/25 for ICT Sector

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Greetings from KICTANet.

KICTANet is a multistakeholder think tank for ICT policy and regulation. KICTANet's overall mission is to promote an enabling environment in the ICT sector that is robust, open, accessible, and rights-based.

Attached is our memorandum in response to the call for input to make budget submissions for the forthcoming budget 2024/25 and on the budget priorities for ICT Sector in Kenya during the Institute of Economic Affairs annual pre-budget hearing held on Tuesday, 30th January 2024 for presentation to the Treasury and Parliament for considerations.

We have included a matrix presentation that captures our concerns, and highlights our proposals on relevant provisions of various Regulations and ICT sector crucial budget priorities for your review and consideration.

Should you require any further input or clarifications on the same, do not hesitate to contact the undersigned.

Sincerely,

Grace Githaiga

Dr. Grace Githaiga
CEO and Convenor,
KICTANe

Memorandum on the Budget Priorities FY 2024/25 for the ICT Sector

Kenya has a dynamic and fast-growing ICT sector which is making significant contributions to the country's digital economy and digital landscape. Current statistics show growing fixed and mobile internet access and mobile money usage, and robust investments in ICT infrastructure such as fibre-optic and broadband networks networks which have improved internet connectivity. Further, Kenya is a hub for tech startups and innovation,with government initiatives such as Konza Technopolis supporting tech development. The contribution of the ICT sector to Kenya's economy is growing and has also created significant employment opportunities.

However, there are challenges. A widening digital divide remains of concern as several rural areas still lag in internet access and digital literacy, hindering wider digital inclusion. Furthermore, this is exacerbated by a widening skills gap especially in advanced ICT skills needed for high-level tech jobs in a sector where data science and artificial intelligence are becoming mainstream. Moreover, embracing the digital economy has resulted in increased data collection and raises significant concerns regarding privacy protection and cybersecurity, which call for greater vigilance, oversight and investment.

Lastly, as the country embraces its digital economy, it is imperative to assess the short and long-term economic and social benefit of taxes and regulatory actions and ensure the measures imposed do not impede, but facilitate greater innovation, investment and growth of the ICT sector. Achieving these aims will ensure greater domestic revenue mobilisation, facilitate meeting wider economic growth targets and promote digital inclusion.

	Proposal	**Justification**
1	Allocate sufficient budget for public participation and engagement for the Ministry of ICT and the Digital Economy	In the dynamic landscape of the Information and Communication Technology (ICT) sector, the infusion of Artificial Intelligence (AI) presents unprecedented opportunities and challenges. The swift integration of AI technologies calls for a proactive and collaborative approach to policy development that addresses its multifaceted impacts. Recognizing the need for an inclusive and forward-thinking strategy, we propose the initiation of multistakeholder consultations to craft an AI policy tailored to the specific demands and intricacies of the ICT sector. The rapid integration of AI into the ICT sector demands a collaborative and forward-thinking approach. These consultations, involving government bodies, industry leaders, academic experts, and operational sectors, will ensure a comprehensive and adaptable policy. Diverse perspectives will contribute to legitimacy, ownership, and

		the ability to address the sector's evolving needs ensuring the formulation of a comprehensive and adaptable policy framework.
2.	Adopting a categorization approach to charges to access information from the IPRS. This can be akin to the Office of the Data Protection Commissioner for private sector companies based on annual turnover and workforce size, promoting inclusivity for start-ups.	The government, specifically the State Department of Immigration and Citizen Services, has revised charges for services (14th November 2023), including the Integrated Population Registration System (IPRS). The IPRS, a centralised database, is the authoritative source of information on all registered individuals in Kenya, encompassing citizens and foreign nationals. It facilitates automated verification services for national identification and passport numbers, benefiting both government and private entities, notably the financial sector (banks) and telecommunications companies (Safaricom and Airtel). Addressing the current Ksh. 1 Million annual subscription, ICT sector proposes a downward revision, as this amount appears excessive. It’s uncommon for Software as a Service to impose both a “Subscription Fee” and “Per Service Fee.” I suggest eliminating the “Subscription Fee” entirely and reducing the "Verification Fee” to a maximum of Ksh. 5. This adjustment not only aligns with industry norms but also supports start-ups, and ensures fair financial burdens, promoting economic growth and efficiency across sectors.
3.	In order to enhance the efficiency of government-related cyber units and avoid potential turf wars, it is proposed that a dedicated multistakeholder and multisectoral cybersecurity agency be established with clear authority and leadership. This entity would oversee the coordination and implementation of regulations, coordinate efforts among	The cybersecurity landscape in Kenya is facing growing challenges as cyber threats continue to evolve rapidly. To address these concerns, the Computer Misuse and Cybercrimes (Critical Information Infrastructure) Regulations were introduced noting the need to promote coordination, collaboration, cooperation, and shared responsibility among stakeholders. Maintaining the status quo with the Communications Authority at the centre of coordinating multi stakeholder efforts might be seen as effective, but given the dynamic nature of cybersecurity threats, a more proactive approach is necessary. The proposed dedicated cybersecurity agency or task force would streamline operations, reduce bureaucratic processes, and foster a more responsive

	stakeholders, and focus on adapting to evolving cyber threats. The NC4 would be disbanded and integrated into the new agency.	environment to address emerging challenges. This approach aligns with the need for a comprehensive national cybersecurity strategy that provides a long-term vision for securing cyberspace, ensuring relevance and adaptability in the face of evolving threats. Domestic affairs can still be handled by government and independent agencies, such as the Communications Authority, but the proposed entity would serve as the central coordinating body for cybersecurity efforts. To avoid potential overextension, it is crucial to clarify NC4's role, emphasising its focus. For a more effective and tailored approach, encourage a multi-stakeholder model where entities, particularly critical infrastructure providers, conduct customised cyber awareness assessments based on their specific needs, sectors, and risk profiles. This approach, supported by sector-specific guidelines and risk-based strategies, ensures relevance and effectiveness in addressing diverse threats. Additionally, promote self-regulation to address cybersecurity challenges originating from social engineering. In the budget, allocate resources to support this targeted and adaptable cybersecurity awareness strategy, emphasising the need for clarity in roles and promoting a collaborative, sector-specific approach.
4.	Recommend the increase of budgetary allocation to the Office of the Data Protection Commissioner (ODPC) by 50%.	This proposal is founded on the need for a comprehensive and adaptive data governance strategy. By empowering the ODPC it will enhance its capacity to tackle emerging threats to personal data, and foster a more cohesive and cooperative data governance framework, strengthening the nation's overall resilience against evolving data breaches.
6.	We propose a re-evaluation of the requirement for infrastructure owners to notify the Committee before outsourcing operations.	The current provision may lead to administrative overheads, slow decision-making, and unintended security risks, impacting the efficiency of cybersecurity measures. Clarity and flexibility need to be integrated into the process, taking into account potential conflicts with existing regulatory authorities. The regulatory framework governing critical information

		infrastructure ownership introduces challenges related to outsourcing decisions, with potential implications for bureaucratic hurdles and delays. This poses concerns about innovation limitations, delayed responses to cybersecurity risks, and potential conflicts with existing regulatory bodies. These considerations are crucial in shaping budget priorities for the sector. The existing regulation could undermine the functions of established regulatory bodies, such as the Communications Authority and the Office of the Data Protection Commissioner, potentially causing operational inefficacy. In the budget, it is crucial to allocate resources for refining and streamlining the outsourcing notification process. This includes the potential amendment or removal of certain requirements to mitigate bureaucratic challenges and facilitate a more responsive approach to emerging cybersecurity threats. The budget should prioritise adaptability without compromising regulatory oversight, ensuring a balance between security measures and operational efficiency. Allocate funds for the necessary legal amendments, stakeholder consultations, and communication strategies to ensure a smooth transition. Additionally, invest in training programs to educate infrastructure owners on the revised processes, promoting compliance and efficiency. This strategic allocation of resources aligns with the need for adaptability and innovation in the cybersecurity sector.
7.	Increase budgetary allocation by 25% to DCI Cyber Crimes Unit, Office of the Director of Public Prosecutions and the Judiciary to tackle growing cybercrimes, including cyber fraud and online gender-based violence.	This proposal urges immediate action to address the surge in cybercrimes. Recent femicide cases highlight the urgent need to confront technology-facilitated violence targeting vulnerable populations, particularly women, evidenced by recent femicide cases. Further, growing cyber crimes such as SIM swap fraud, hacking, mobile money fraud continue to pose significant threats to individual privacy, digital safety, mental health,

		and societal trust in digital or online platforms, which threaten Kenya's digital economy. To address this, we propose allocating a budget to fund enhanced legal measures, public awareness campaigns, collaboration with tech companies, support services, law enforcement training, and research efforts. This holistic approach aims to create a resilient and secure digital environment, mitigating the risks associated with technology-facilitated violence and further growing the digital economy.
8.	Provide tax incentives for ICT research and development (R&D) expenditures	Such incentives can encourage innovation in the ICT sector. These could be applied to hardware, software, personnel and training costs.
9	Zero-rate taxes on ICT equipment and devices manufactured locally or eliminate import duties on raw materials and equipment used for local manufacturing.	These measures will stimulate the growth of local ICT manufacturing by reducing production costs, creating jobs and enhancing technology transfer and skills development in Kenya. Further, it would make ICT equipment more accessible and affordable to a wider population, reduce the digital divide and encourage the growth of the digital economy. Local production could also provide foreign exchange from exports to regional markets, growth of supportive industries and increased tax revenue from local production. Such benefits have been seen in the automotive industry. A further requirement for the government to source ICT products locally could spur greater investment.
10	Impose tax on e-waste disposal	Impose tax on electronic waste disposal especially for those containing hazardous materials or having shorter lifespans to encourage and promote responsible practices within the ICT sector and prevent dumping of e-waste in Kenya. There has been a growing market of user or second-hand devices in Kenya which is creating a challenge as the devices being brought are mostly obsolete, energy inefficient and no longer supported by equipment manufacturers. Such measures will reduce e-waste generation, promote recycling, reduce environmental and health risks, discourage illegal dumping and increase government revenue.

11	Provide tax exemptions on ICT talent development and ICT equipment for education purposes.	To attract investment in ICT education and skills development, expenses incurred by companies to train their employees on ICT should be tax deductible. This will also address the skills gap in the sector and address the talent gap. Also, ICT equipment and devices acquired for education purposes e.g. by students in education institutions or by the institutions should be zero-rated. Such measures can be valuable to boost Kenya's digital economy and long-term economic growth. In particular, they can boost the ICT workforce to address the skills in the sector, attract ICT investment that capitalises on the skilled workforce, enhance adoption of e-learning in schools, facilitate bridging of the digital divide, foster knowledge driven innovation and empower the next generation in a growing digital world.
12	Provide tax incentives for investment in ICT infrastructure, especially in underserved areas.	Encourage private sector investment in the expanding broadband internet access across the country, especially by start-ups, ICT hubs and community networks. This can include a 5 year tax holiday for such organisations. This will enable improved digital access and participation in the digital economy in rural and underserved areas. Further, they could enhance productivity, innovation and entrepreneurship while also attracting greater investment and development in the ICT sector.
13	Reduce the convenience fee for access to e-citizen services to KES 5.	The standard convenience fee charged is KES 50, which is excessive for many people who are living below the poverty line. The fee should be reduced to KES 5. This will ensure greater access and inclusivity, by removing the cost barrier that limits people especially marginalised groups and low income communities from accessing essential government services online.
14	Make access to e-citizen services free	Enter into partnerships with telecommunications services providers and ISPs to provide preferential data bundles or connections specifically to access e-citizen services. This will make online services accessible to all, especially the economically disadvantaged Kenyans. This will ensure greater access and inclusivity, by removing the cost barrier that limits people especially marginalized groups and low income communities from accessing essential government

		services online.
15	Provide incentives to promote PPP in ICT projects in the ICT MasterPlan	This will be critical to promote investment in achievement in the ICT MasterPlan.
16.	Simplify and make the KRA e-filing iTax portal user friendly and user-centred	While the iTax platform has brought convenience to tax filing in Kenya, there are still some challenges ordinary users face when accessing and using the portal. Key challenges include the complicated and confusing user interface, complex menus and navigation, compatibility problems with devices and browsers, lack of information and support in navigating portal functions and features, data security concerns, and understanding of complex tax calculations. These challenges increase time, administrative and financial cost of compliance as many taxpayers, especially those with low level of tax and digital literacy have to rely on external help to file their tax returns. Assisted help could further compromise their privacy and heighten cybersecurity risks as a lot of personal information is exposed or left in the hands of third parties such as cyber cafes, which may not safeguard the information. To facilitate greater tax compliance, an overhaul of the portal would be required to make tax compliance easier, simple and more efficient. In particular, the portal should embrace a user-centered and user-friendly design, plain and local language (e.g. swahili), accessibility for persons with disability, security, privacy, mobile-friendly, help and support, simplified workflows and automation, and feedback channels.
17.	Require all government websites and documents published online to be in open data and accessible formats.	Kenya is a member of the Open Government Partnership (OGP), which requires government information to be published in open data formats for increased access, use, and interoperability across various datasets. This will ensure PWDs have access to websites and government/ public documents, including those relating to finances. Specifically, financial documents e.g. budgets and expenditure should be published online as spreadsheets and not in PDF form.

18.	Review and consider scrapping the Digital Service Tax	The DST was introduced to apply to certain digital services. The tax has been touted as discriminatory and subjects transactions in the digital economy to additional taxation. Kenya should consider joining the Organization for Economic Cooperation and Development (OECD) Inclusive Framework on taxing multinationals. A recent study by Research ICT Solutions does show that doing away with the DST, joining the OECD and focusing on improving broadband penetration could have greater impact in driving economic growth and development.
19.	Reduce to 10% and put thresholds on excise duty levied on mobile money and mobile banking transactions.	Kenya has some of the highest taxes on mobile money transactions in Africa, which currently stand at 15%. We propose a threshold to cushion the majority of the population whose transactions are below KES 2,000 to be exempted from the levy. Likewise, the levy should be reduced and capped to 10%. This will protect underprivileged and low income communities, and promote financial inclusion, as higher taxes have resulted in a significant part of the population resorting back to the cash transactions. Studies such as by GSMA do indicate that increases of these taxes could have an adverse impact.
20.	Reduce excise duty on telephone and internet data services to 10%	The ICT sector has been instrumental in transitioning and growing Kenya's digital economy. The migration of services online, including government services means that the cost of telephone and internet data services have become critical. Whereas the rate was reduced from 20% in the previous year, a further reduction would be critical to promote digital inclusion, mobile and internet penetration, access to broadband internet (3G, 4G, 5G and fibre optic networks) and e-commerce. Studies such as by GSMA do indicate that increases of these taxes could have an adverse impact.