EXAMINING DIGITAL SWITCHOVER IN KENYA IN RELATION TO
PRINCIPLES OF BROADCASTING POLICY

By

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A Research Project Submitted to the School of Journalism and Mass Communication, in partial fulfillment of the requirements for the degree of Master of Arts,

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DECLARATION

This project is my original work and has not been presented in any other university/institution for consideration of any certification. This research proposal has been complemented by referenced sources duly acknowledged. Where text, data (including spoken words), graphics, pictures or tables have been borrowed from other sources, including the internet, these are specifically accredited and references cited using current APA system and in accordance with anti-plagiarism regulations.

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This research project has been submitted for examination with my approval as University Supervisor.

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ABSTRACT

The objective of this study was to examine digital television switchover in Kenya in relation to the principles of broadcasting namely public interest, diversity, localism and competition. This was a qualitative research study based on primary data and secondary data. Key informant interviews and content analysis were used in data collection. Interview method was applied in collecting primary data with convenient sampling being used to obtain a sample 18 respondents. Semi structured interviews with open ended questions were administered face to face and a few delivered to respondents via emails. The obtained data was classified into thematic areas in comprehensible patterns for analysis. Descriptive research design was applied in obtaining secondary data using content deduction from Ipsos Synovate and the Communications Authority of Kenya websites. Gathered data was analyzed using deductive content analysis approach. The principles of broadcasting policy namely public interest, diversity, localism and competition constituted dependent variables whereas digital migration in Kenya was the independent variable. Findings of the study revealed that digital migration in Kenya was in contravention of the principle of public interest, which is the most fundamental principle of broadcasting. The study found that digital switchover propelled the idea of investor and large sector players at the expense of the needs of contemporary local television viewer. Although there is more local content under digital broadcasting, the study found that production of content by locals at community level is still minimal due to the locals’ reliance on corporate and media conglomerates to help them produce their own content. The study further revealed that digital migration in Kenya promoted diversity of content by enabling various communities with varying language and cultural backgrounds to access content in their vernacular languages. This in turn led to an increase in local content on television in compliance with the Communications Authority of Kenya threshold of 60% local content by 2018. The study acknowledges that digital switchover has brought forth the critical role the aforementioned principles have on the success or failure of broadcasting policy in Kenya. This study recommends strict adherence to principles of communication in formulation of broadcast policies.
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CHAPTER ONE
BACKGROUND AND INTRODUCTION

1.1 Overview

This chapter provides an overview of digital switchover, discusses its background, defines the problem statement as well as the objectives of the study and provides justification.

1.2 Background

Kenya executed digital switchover on March 31, 2015 after years of migration exercise characterized by multiple challenges notably conflicts over licensing of frequencies, content distribution and issues around digital set top boxes (STBs) namely their availability, compatibility and affordability.

Having committed to the June 17, 2015 international migration deadline, Kenya gave itself an ambitious target to complete national migration by 2012, three years ahead of the international switch off deadline. However the 2012 deadline was never met as conflicting interests between stakeholders among them local commercial broadcasters, the government and investors prompted the switch off dates to be postponed severally in a bid to accommodate the demands of all parties involved in the migration exercise.

By 2014, just some months to the international migration deadline, the battle for control of digital television market had intensified with various players moving to top courts in the country in search of legal redress on switchover stalemate. Three leading local commercial broadcasters; Kenya Television Network (KTN), Nation Television (NTV) and Citizen Television which control the local television market sought to protect their monopoly by seeking to maximize on the amount of frequencies allocated to them under the new digital television
broadcasting platform. Meanwhile, new entrants and investors in the digital television business were keen to tighten their grip on the emerging digital television market in the country and capture the largest possible share of increasing consumer base under the new platform.

Communication policies have far reaching effects on operations of the media which consequently influence a country’s social, political and economic trends (Napoli, 1999). As such, broadcasting policies such as digital switchover policy in Kenya should not only capture the aspiration of the stakeholders who in the Kenyan context have been defined as the government and business interests, but centrally the consumer.

In telecommunication policy and by extension broadcast policy, a number of principles have been used to examine the effectiveness of broadcasting regimes. These include public interest, competition, diversity and localism. This study examines the digital migration in Kenya television broadcasting and the extent to which the process has addressed and/or met the core principles of broadcasting. Using the core principles of broadcasting allows us to establish the nexus between the different players and stakeholders in digital broadcasting including the audience, government, broadcasters, and content developers among others.

1.1.1 Digital Migration

Digital migration can be defined as the process of migrating television broadcasts from analogue to digital television broadcasting technology. Digital television (DTV) broadcasting technology means transmission of television broadcasts in digital format using computer binary codes of 0’s and 1’s. As opposed to analog television broadcasting technology whereby television signal is sent as one continuous signal over radio frequency, digital television technology breaks down the signal (sound and picture) into binary codes (0’s and 1’s) and transmits the individual
codes to receiving television sets via either satellite, terrestrial, cable or broadband channels. Once the signal reaches a television receiver, the individual binary codes are rearranged or decoded back to their original form as it was at the source before transmission.

This process ensures that there is minimal loss of quality during signal transmission resulting in high quality sound and picture received. To be able to display the received signal, a television set must be able to decode it by either having an in-built decoder, also known as integrated digital television (iDTV) or be connected to a digital converter, also known as set top box (STB). BIPE (2002) defines digital switchover as “the global digital migration process, involving a gradual replacement of analogue broadcasting (transmission and reception) by digital broadcasting (transmission and reception).”

Digital switchovers world over are guided by strict deadlines, often predetermined by an international authority requiring its member states to ensure that they migrate their national broadcasting technology from analog to digital television and that their citizens adopt the technology ahead of an international deadline binding to all member states. It is therefore upon individual member countries to implement an effective digital switchover plan that ensures that citizens are not cut off on the final day of switchover. Among the benefits that digital television broadcasting is touted to bring include a wider spectrum of channels for television content consumers, high quality pictures and sound, increased space for competition among broadcasters due to opened up frequencies that allow new entrants into the broadcasting business, among many others.

One of the most outstanding benefits a country gets from digital switchover is that digital television uses lesser frequencies thus freeing excess frequency resources for other uses. In 1996, the Federal Communications Commission (FCC) estimated the commercial value of freed
frequencies in USA territory at between US $11 billion and US $70 billion (Kruggar & Guerrero 2002). Transmission of television broadcasts using digital technology conserves frequency bandwidth as one frequency which could otherwise be occupied by just one analogue channel can carry at least 4 to 10 channels on DTV system. Analogue broadcasts on the other hand consume a lot of bandwidth as one program has to be assigned a frequency channel just dedicated to it.

In addition to this, analog signals cannot be transmitted on adjacent frequencies, as they would interfere with each another resulting in noise at the receiver end. For instance, it requires 46 analog frequency channels to transmit 5 analogue services covering the entire UK (Starks, 2013), with the 41 frequencies in between providing space between channels to avoid any interferences. This leads to wastage of available frequency bandwidth since ITU allocates every country a limited number of frequencies.

1.1.2 The ITU and Digital Migration

Kenya and the rest of Africa as well as countries in Middle East and Europe which are members of International Telecommunications Union (ITU), a United Nations (UN) body which coordinates information and communication technologies worldwide, committed to implement digital switchover in accordance with the declarations of ITU’s Regional Radio Conference of 2006 (RCC-06), in Geneva Switzerland. During the RCC-06 conference, it was declared that 101 countries from RCC-06 planning areas (Europe, Africa and Middle East) would have digital television broadcasting by June 17, 2015. The decision was made on the condition that beyond June 17, 2015 ITU will not intervene in frequency disputes between its member countries unless those countries migrate their frequencies to digital platform.
Digital migration in Kenya was undertaken under the country’s flagship development blueprint, the Vision 2030 designed to turn the country into an industrializing nation with a high quality life by the year 2030. Vision 2030 is based on three pillars namely political, economic and social pillars. Social pillar targets to address several components such as good health, education and training, clean environment, adequate and descent housing, equity for the less privileged, poverty reduction and internationally competitive technologies and innovation.

Under economic pillar, Vision 2030 seeks to ensure a vibrant and competitive financial sector locally and internationally, improved agriculture through reforms, growth of the tourism sector, vibrant manufacturing sector to serve regional markets, and ensuring that the country has a more efficient marketing system.

Vision 2030 also seeks to realize a more democratic political environment that is people centered and result oriented. Kenya began the journey to digital switchover on December 9, 2009 led by the Digital Television Committee (DTC) with members drawn from Communications Commission of Kenya (CCK), the public broadcaster Kenya Broadcasting Corporation (KBC), Ministry of Information and Communications (MoIC), National Communication Secretariat and Media Owners Association (MOA). After years of challenges in the implementation of digital switchover as a policy, the country finally undertook the final switchover on March 31, 2015.

1.1.3 Digital Migration and Broadcasting Policy

The key principles to communication policymaking namely public interest, competition, diversity and localism provide a strong basis for an incisive analysis of digital migration policy in Kenya. The principles also act as fundamental criteria of operations for any broadcast regulation authority in any country. Seeing the important role that media has in shaping a
country’s social, political and economic trends, digital migration is an important component of Kenya’s flagship project, the Vision 2030.

Therefore the outcomes of digital migration can either contribute positively in Kenya realizing its goals under Vision 2030, or failing to realize those objectives. The Kenya Information Communication Act, part IV A (1998) mandates the Communication Commissions of Kenya (CCK), which was later renamed as Communication Authority of Kenya (CAK), as the country’s broadcast regulator. Under this mandate the functions of CAK within broadcast regulation obligations, among others include, to facilitate the growth of a diverse range of broadcast services in the country, to ensure that broadcasters observe and comply with their public interest obligations while undertaking their duties, promote the development of local Kenyan programs and to promote competition and plurality of views in the Kenya broadcast landscape.

In the USA, the FCC has made it a principle that broadcast licensees pledge that that they would commit actions that benefit the public in reciprocation for being allowed to use public airwaves. Such obligations, according to FCC, would entail ensuring that the views and voices in digital television programming reflect the diverse nature of the country’s populace, that broadcasters provide a source of healthy, safe information to the public whereas protecting the general public, minors and vulnerable groups from exposure to risky content, that broadcasters provide alerts to the public on not only national but also local emergencies and/or events, and that members of the public who are either hearing or visually impaired can access such information like the rest of the public.

Whether digital migration policy in Kenya was informed by local consumer demands or because policy makers judged that the policy was in the best interest of the public is the subject
of this study. It is important however to note that whereas there may have been what Kenyan television content consumers desired in as far as digital migration is concerned, the power to decide what is in the best interest of the public is however held by policy makers and not the public.

Because of this, actions that are undertaken in the best interest of the public may still be condemned as being a threat to the very principle of public interest upon which they are founded. As McQuail (1992) notes, public interest is sometimes used to unjustifiably curtail the freedom of expression with the excuse of acting in the interest of the public. Although this may elicit questions about the criteria used by policy makers to arrive at the conclusion that a communication policy fulfills the obligation of public interest, this study is more interested in making a determination as to whether digital migration in Kenya was an answer to the needs of the consumer or whether and how it was deemed that it was in the best interest of the consumer. Also, this study examines the role of digital migration policy makers in ensuring equal access to information, freedom of expression, frequency allocation, signal distribution and representation of minority groups among others.

Digital migration opens up the space upon which the Communications Authority of Kenya (CAK) can exercise its mandate of facilitating the growth of a diverse range of broadcast services in the country. Although diversity is often viewed from the perspective of a media landscape that provides a wide spectrum of content, an ideal principle of diversity is founded on the concept of marketplace of ideas which can best be exemplified by a competitive and level playing ground free of obstacles for new entrants while at the same time guarding against monopolistic trends.
Marketplace of ideas is a key attribute of a healthy diverse media landscape. This not only implies that the consumer is exposed to a variety of quality competing information to choose from and thus satisfaction in content offered, but also that there is free and fair competition among players such as content providers and signal distributors. A digital television network that is representative of the diverse ethnic and racial background of the larger Kenyan societies is just an example of an ideal scenario of diversity. This can be achieved by offering television viewers a wide spectrum of channels with varying ideologies that not only address national information needs but also local community information needs.

However, the fact that the authority to distribute digital television signal in Kenya is vested in two entities; the state owned KBC under a subsidiary Signet and PANG (Pan Africa Group) elicits the question of how diverse, free and fair television content is under the existing framework. Unlike in the analogue television setup when individual broadcasters distributed their own content, digital television has restricted distribution rights to just two entities. This effectively poses a challenge to the freedom of free, fair and competitive marketplace of ideas. As Freedman (2008) observes, “the desire to foster a wide variety of voices, opinions and outlets in the media is a long standing policy commitment but the terms under which this objective is conducted is by no means clear.”

This consequently elicits the question as to whose obligation it is to interpret the principle of diversity. Do consumers have the power to influence the nature of ideas offered in the marketplace or is it the mandate of content distributors to offer products designed to be in opposition to each other and expose consumers to them? Freedman (2008) notes that diversity puts more emphasis on individual selection than social obligation to provide viewpoints that are in opposition to each other.
Thus with whom does the obligation of ensuring a pluralist and diverse media rest in the Kenyan digital migration set up? Does the general public, both consumers on pay television subscription and free to air service, have an unbiased access to quality, pluralist content? For any communication policy to meet the standards of the ideal diversity principle, Napoli (1999) notes that there has to be diversity at all levels of the information flow starting from the source of the program, the content itself, and at exposure level i.e diversity of content as received by the audience. This study will therefore examine digital migration in Kenya in relation to the principle of diversity based on its key elements namely diversity in competition, diversity in content, source diversity and exposure diversity.

A healthy competition is that which provides a level playing ground for participants by eradicating existing obstacles to new entrants whereas at the same time minimizing on monopoly. For a long time the Kenyan television market had been dominated by three commercial broadcasters NTV, KTN and Citizen Television, and the public broadcaster KBC. The four had been instrumental in enabling access to information especially among a majority of Kenyans who could not afford pay television subscriptions. The monopoly by the four made consumers to have very minimal influence on the quality of programming they received as they had no option but to watch what was available on the four television channels.

Digital migration should therefore provide a conducive environment for competition both in content and operations. Giving consumers access to a pool of competing products to choose from empowers them to make more satisfactory decisions on what they consume. A system that puts emphasis on competition and consumer satisfaction results in an informed citizenry and a well-functioning democracy, notes Napoli (1999). Thus a society which relies on a monopolistic media market is inadequately informed and is at risk of being subjected to domineering opinions.
Meanwhile competition in digital migration works on the laws of supply versus demand, whereby content is supplied based on availability of consumers for the said content.

However the capacity of Kenyan television consumers to uptake digital television content still remains questionable. It is important to note that a true digital television broadcasting system entails gathering of content and production using digital technology, broadcasting the digital content over digital broadcasting systems and reception of content using integrated digital television sets or STBs connected to digital monitors (Kruggar & Guerrero, 2002). This therefore means that regardless of how digital the distribution network is, consumers should not only have digital converter boxes but should also have digital monitors connected to STBs in order to enjoy the superior quality offered by DTV.

In the wake of digital television in the US, for example, television broadcasters were not keen to produce or purchase digital programs for onward transmission to their audiences because there were very limited television sets capable of receiving digital television signal. This consequently led to lack of digital television content. Therefore Americans did not see the need for buying set top boxes as there was no content. In turn, this caused manufacturers to produce fewer digital set top boxes which in turn were sold at less affordable prices owing to increased demand (Galprine, 2004).

Central to communication regulation policies is the principle of localism which can be defined as the production of local content using local producers for the local people. Having mentioned above that the power to decide which actions are in the best interest of the public is held by policy makers and not the public, it is also prudent to say that given the chance, the consumer can address their respective interests by participating in the production of content sent out through the media. The Communication Act, part IV A (1998) mandates the CAK to among
other things promote the development of local Kenyan programs. The essence of localism as a principle, is to empower minority groups to have a say in content that is sent out to them through the media by participating in the production process of programming that is tailor made to serve the needs of their respective groups. In order to enforce the principle of localism the FCC, for example, prioritizes local broadcasters over non-local broadcasters in eligibility for DTV frequencies, under USA’s Telecommunications Act of 1996.

1.2 Statement of the Problem

The government of Kenya through the Ministry of Information, Communications and Technology and the country’s communication regulator, the Communications Authority of Kenya (CAK), devoted considerable amounts of financial and time resources to digital television migration in the country. However disputes characterizing the process namely the dispute between local broadcasters and foreign content distributors over allocation of frequencies, unaffordable and unavailable set top boxes and ultimately 19 day television blackout signify a problematic process.

Although the Kenya Information Communication Act, part IV A (1998) spells out clear principles that guide such policies as digital migration, the challenges experienced in the implementation of the process call for an assessment of the process based on the principles of communication and broadcast policymaking. The four key tenets of communication and broadcasting policy regulation namely; public interest, diversity, localism and competition provide a firm ground upon which digital migration process in Kenya can be examined.
Digital migration in Kenya has been mostly about the government, commercial broadcasters and investors, and very little about the interests of the consumer. The exercise was marred by court battles between local commercial broadcasters, the government and investors over allocation of frequencies and content distribution leading to delay in the planned national migration deadline and even sluggish adoption of the technology thereafter.

Whereas the government was keen to implement digital migration policy and have the country beat the ITU deadline, local broadcasters sought to have a bigger share of the market by demanding for more frequencies to be allocated to them. The broadcasters consisting mainly of three privately owned mainstream media houses namely KTN, NTV and Citizen Television also presented a case in the court citing copyright infringement by content distributors. This was followed by the three leading media houses, which are largely depended on by television viewers in the country, to withdraw their content from GoTV and StarTimes saying that the two were broadcasting their content without consent from them.

Politicians on the other hand read political malice in the digital migration process with the opposition accusing the government of using digital migration as an excuse to subject the country to television blackout and consequently hide corrupt activities in government. In all these accusations and counteraccusations, the place of the consumer was minimally addressed.

The principles of communication and broadcast policy regulation cited above and their application in guiding digital migration in Kenya provides a yardstick to measure the successes or failures of the exercise with regards to the happenings cited above and hence make recommendations.
1.3 Significance of the Study

The significance of this study was to use the principles of communication policymaking as criteria to assess digital migration in Kenya, to establish the successes and failures arising from the same and make recommendations thereof. Using the four principles of communication policymaking namely; public interest, localism, diversity and competition, this study sought to identify and analyze the outcomes of digital migration processes in Kenya and how they impact on broadcasting in the country. The principles were also helpful in finding a connection or lack of it between different actors in digital migration exercise namely the government, local broadcasters, consumers and investors. The conclusions arising from this study may be instrumental to policy makers in monitoring and regulation of digital migration in the country.

1.4 Justification of the Study

Challenges arising from the implementation of digital migration exercise in Kenya elicit the need to examine the process and existing policies. The apparent lack of a harmonized working relationship between the government, local broadcasters and investors, and the clear minimal involvement of consumers in the exercise signifies discrepancies between the implementation process and existing principles that guide public communication.

The urge by the government to meet the international deadline regardless of existing local limitations, the concerns by local broadcasters over allocation of frequencies, the battle for content distribution between local broadcasters and signal distributors and consequently a pessimistic consumer approach to digital migration call for an analysis of the process.
1.5 Objectives and Research Questions

The general objective of this study was to examine digital switchover in Kenya in relation to principles of broadcasting policy.

The specific objectives were:

1. To examine the digital migration process in Kenya in relation to the principles of broadcasting - public interest, competition, diversity and localism;
2. To examine how the fulfillment or non-fulfillment of these principles has affected television broadcasting in Kenya so far;
3. To make recommendation on what needs to be done to ensure effective television broadcasting in Kenya

The research questions that guided this study were:

1. How does digital migration process in Kenya conform with the principles of broadcasting - public interest, competition, diversity and localism?
2. What are the implications of the digital migration on Kenyan broadcast policies in relation to the principles of broadcasting?
3. What changes need to be adopted by communication policy makers in Kenya to ensure effective broadcasting in the country?

1.6 Limitations of the Study

One of the outstanding limitations inherent in this study was the varying and conflicting interpretations of the principles of communication policymaking used in this study to assess digital migration in Kenya.
As Napoli (2003) notes, there is need for policy analysts to have agreeable interpretations of communication policymaking principles in order for them to make accurate assessment of policy decisions. Interpretation of principles such as public interest, diversity, competition and localism has been inconsistent from one context to another, and even between individual policy makers. In order to avoid such inconsistencies and ambiguity this study contextualized and limited the applicable principles to the Kenyan media market to get a more accurate assessment of digital migration policy decisions in the country.

Consumer knowledge of digital television, its advantages and/or disadvantages stood out as another limitation to this study. This is because consumers were not able to carry out an informed critique of digital migration on the basis that some were not adequately informed about the topic. The campaign for digital migration in Kenya concentrated more in getting Kenyans to move to digital television without equipping the consumer with prior knowledge of what digital television really is. This potential lack of understanding of how digital television works stood out as a pitfall in this study. To surmount this challenge, the sample population was divided into stratas with each group responding to specialized set of questions. To complement this, the study also applied deductive content analysis of secondary data.
1.7 Definition of Key Terms

“Watershed Period” is the period between 5:00 a.m. to 10:00 p.m. or such period of time prescribed by the regulatory authority during which content intended for adult viewers is restricted from being aired.

“Watershed” describes a time in radio and television programming during when content deemed unsuitable for children may be broadcast.

“Act” refers the Kenya Information and Communications Act, of 1998, as amended

“Advertisement” can be defined as any broadcast content put on air in return for service payment by a broadcaster who intends to sell to listeners or viewers any service or product, manipulate the listener or viewer to take a predetermined course of action or promoting a service, product, faith, organization, or a person.

“Authority” is the Communications Authority of Kenya created under the Act.

“Board” is the Kenya Film Classification Board obligated in film rating and classification.

“Broadcaster” is any authorized entity which packages radio or television content for further relaying to the larger public.

“Broadcasting station” is a television or radio station equipped to broadcast programs.

“Broadcasting” is conveyance of unidirectional video or sound programs in an encrypted format through radio or other telecommunications means for the public reception.

“Child” is any person below the age of 18 years under Kenyan law.

“Digital switchover” BIPE (2002, p. 17) defines digital switchover as “the global digital migration process, involving a gradual replacement of analogue broadcasting (transmission and reception) by digital broadcasting (transmission and reception).”
“Free-to-air” is a service broadcast with no encryption and open to reception by any conservative broadcast receiver device.

“Investors” used to refer to foreign individuals and/or entities involved in the trade of digital television. Consumer- Users of digital television, also referred to as the audience in this study

“Pluralist” is used to refer to scholars who subscribe to the theory of pluralism

“Regulations” refers to The 2009 Kenya Information and Communications (Broadcasting) regulation, with any subsequent amendments.

“Spectrum” is used to refer to the wide variety of products offered under digital television.

Digital television (DTV) or Digital Terrestrial Television (DTT), as it is commonly known, is certainly the most spectacular development in the history of television broadcasting since the inception of color television sets in the 1950s. Those who conduct digital migration campaigns have described the technology as one that brings with it an array of benefits in broadcasting.

To understand and examine the processes of digital migration in Kenya, this study invokes the application of principles of communication policymaking to measure the successes and failure of the process. In doing this, the study focuses not on the desirable features that digital television is advertised to bring, but how the government of Kenya implemented the process with regards to these key principles.
CHAPTER TWO
LITERATURE REVIEW

2.0 Overview

This chapter provides an insight into perspectives and findings by other scholars on the four principles of communication policymaking and digital migration and identifies merits and potential demerits of the same. In this chapter, the four principles of communication policymaking are explained and their application to digital migration in Kenya illustrated. The chapter also discusses theoretical and conceptual framework upon which the research is based.

2.1 Introduction to Principles of Broadcasting Policy Making

Media regulation has its history dating back to the printing press in the mid-15th century in Europe. Because media operates in a highly dynamic environment, laws governing its operations have evolved over time to cope with the challenges and opportunities presented by new technological innovations in the industry.

Regulation is such a critical aspect of the operations of the media that the UN mandated communication regulatory body the International Telecommunication Union (ITU) has made it a requirement that broadcasters operating within territories of ITU member countries must obtain a license to conduct any media work. It is worth noting that new technological innovations and emergence of free market principles brought about by digital television, for example, have far reaching effects on policies of media regulation and vice versa. For example, traditionally, it was possible to identify the various communication segments and regulate them individually. Telephone, radio, newspaper, television, postal services could have their own set of regulatory frameworks.
However, with digital television comes the concept of convergence whereby television, for example, is capable of serving as radio, newspaper and many other functionalities that it may be capable of performing depending on how technologically advanced it is. Galprin (2004), notes that the advent of digital television presents both opportunities and challenges. Such opportunities include improved universal access to information through diversity and eradication of transmission bottlenecks such as management of frequencies. On the other hand, convergence under digital television, which nearly erases the line between telecom and broadcasting, presents challenges of regulation of these individual components of communication (Galprin, 2004). Based on this, this study invokes the use of principles of communication policymaking as a standard yardstick for any communication policy and particularly digital migration policy in Kenya. The key benefit of digital broadcast technologies is that they use scarce national radio frequency spectrum far more efficiently than analogue technologies (Ardizzon & Ferrari, 2010).

This means that existing broadcasting services can be provided using less of the radio frequency spectrum they currently occupy - hence the additional and dedicated delivery of government information, education, health and SMME programs, digital broadcasting facilitates, the delivery of e-government services, the opportunity for developing new skills and the creation of new jobs, and new investment opportunities (Ardizzon & Ferrari, 2010). In support of these views, Hadland, Aldridge and Ogada (2006: 45) observe that this enables additional capacity to deliver a diverse range of programs in a range of different languages that meet the information, cultural and educational needs of audiences and increased access by people with disability. On the other hand, Banerjee and Seneviratne (2006: 217) argue that not everyone is convinced that DTT is the most efficient route, arguing that a digital satellite platform would be a better long-term investment.
2.1.1 Principle of Public Interest

Although freedom of speech stands out as key principle in broadcast regulation, the sensitive role that the media plays in the society calls for regulation of this freedom. This is because the media has a direct influence on a society’s economics, cultural trends, political trends, values among others (Haenens, 2001). At the core of broadcast media policy however is the principle of public interest. The principle of public interest owes its origin to the US Communications Act of 1934 that established the Federal Communications Commission (FCC) to regulate airwaves in public interest.

Public interest is a key media policy principle that it appears 207 times in the FCC’s broadcast ownership rules of 2003 (Freedman, 2008). A responsible media policy is largely judged by how well it serves the general good of the larger public. Meanwhile the principle of public interest has remained a subject of contention. Freedman (2008) poses the question as to whether public interest implies what the public is interested in knowing or what serves in the best interest of the public.

 Whereas it may be upon the Kenyan public to decide what they want to watch, the decision to determine what is in the best interest of the public is not necessarily upon the said public but rather subject of determination by authorities at the helm of media regulation in the country. Thus the interpretation public interest is the responsibility of communication regulatory authorities such as the Communications Authority of Kenya (CAK) or the Ministry of Information, Communication and Technology. Bozeman (2007) defines public interest as “the outcomes best serving the long-run survival and wellbeing of a social collective construed as a public”.

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Policies that ensure that STBs are not only available across the country, but they are also affordable to a television owner, who works as a small scale farmer in a remote Kenyan village, are public interest policies. Policies that ensure that content carried on digital television are informative and not risky to vulnerable groups like children, policies that ensure that communities are well informed about events around them and nationally among many others work towards fulfilling the principle of public interest.

More often than not, the push for digital migration has been motivated by the need to beat international deadlines, must carry provisions, spectrum of channels, among many others, while ignoring existing local conditions necessary for migration (Napoli, 2003). For digital migration to be successful and for the time and resources being devoted to the process to count, Napoli (2003) notes that policy makers must shift their focus to public interest as a fundamental principle of broadcast regulation. A common characteristic of DTV that may ultimately inhibit public access to television is conditional access whereby content distributors may require television owners to pay to receive programs. Unlike analog television, digital television is an expensive venture which will require consumers to pay in order to sustain production (Brice, 2003).

McQuail (1992) notes that although public interest is a fundamental principle in broadcast regulation it is sometimes used as an excuse to curtail freedom of expression through unjustifiable regulations. He observes that one of the limitations of the concept of public interest is that it can be misinterpreted depending on what an individual considers to be the general good. Veteran journalist Ageyo (2015) asserts that, despite the excitement over attractive features of DTV such as spectrum of channels, the implementation of digital migration could pose a threat to press freedom in Kenya by providing loopholes which the state could use to arbitrarily and
unfairly gag the media. The fact that signal distribution in the whole country is handled by just two entities; government owned KBC and PANG whose ownership still remains unclear, makes it very easy for the state to put the country in media blackout if it so wishes, notes Ageyo (2015).

Perhaps, this explains why Berger (2010) views DTV migration as a non-African concept developed by the developed world, mainly to free up congestion in Europe’s terrestrial spectrum. According to Berger (2010), this is so because the African terrestrial spectrum is not under any major pressure requiring expansion, neither are there strong consumer markets on the continent for digital television. Matter of fact, there exists a considerable population of Africans who do have no access to the currently available analogue television broadcast because either they are too poor to afford a television set or they are not connected to the national electricity grid, among other limitations.

Berger (2010) notes that, the push for digital television by developed countries is supply driven as opposed to demand driven. This is because the African media consumers have not shown any kind of desire or readiness for digital television products. Whereas this may be harmful to exiting Kenyan culture, Freedman (2008) notes that digital television provides the much needed platform for the flow of popular international culture to local market. With the vast space for content created by digital television against unlimited supply of local content to meet the thresholds given by the government, America for instance has a huge export market for its Hollywood movies in Africa. This consequently raises the issue of localism as a principle of broadcast media regulation.
2.1.2 Laws and Regulation on Public Interest

It is quite essential to distinguish clearly between media laws, formal rules entrenched in the constitution as well as the actual existing media policies in the society during the process of analyzing media freedom. In terms of the constitutional framework, Schmidt and Deselaers (2015) notes that the 2010 promulgated Kenya’s new constitution comprised the generally improved checks and balances as well as perceived as a shift of focus in Kenyan media, granting media freedom, information and expression. Maina (2015) notes that the new constitution promulgated in Kenya was perceived by many scholars as one of the best.

The Kenyan constitution, Article 33 and 35 assures freedom of information accessibility and expression respectively, while in the same constitution, Article 34 guarantees freedom and sovereignty of every kind of media, while at the same time shielding media institutions and individual journalist from state interference and control. The constitutional regulation also prevents the government from imposing fines for “any opinion or view or the content of any broadcast, publication or dissemination” (Schmidt & Deselaers, 2015). In addition, the authors note that though Article 33 had comprehensive restrictions in relation to hate speech, violence as well as war propaganda. These essential restrictions targeted on media freedom are not considered as extreme as those in prior constitution.

Maina (2010) compares the Kenya’s constitution of 2010 to hard law which contrasts to a soft approach to initial laws which were amended easily to fit politicians’ interest, for no changes can be made on the constitution without presence of very high support conducted through a popular referendum.

On the other hand, a country’s constitution is not fully sufficient to grant detailed required standards to accord enough regulation within the national level. In consideration of this element,
the Fifth Constitutional Schedule therefore proposes transition period from 2010 to 2013, a three year timetable, for implementing certain elements projected in the constitution through comprehensive legislations focusing on media freedom (Article 19 East Africa 2014).

According to Maina (2015), despite the fact that there has been a substantial development in constitution, its implementation is slowed down by wide scope of individuals’ vested interest which seize every opportunity to incapacitate the constitution efficiency. In contrast to this view, constitutional assures still do compete against the outdated states legislations, policy and documents composed of antithesis media freedom provisions (Simiyu, 2014).

The Preservation of Public Security Act of 1967 empowered the president to control, prohibit, or censor information that is perceived security threat to the nation (Open Society Foundation, 2011). Those a large section defamation and libel cases are tried within civil law, information defamation is perceived as a criminal act within 1930 penal code. Freedom House (2014) and Article 19 of Eastern Africa (2014) notes that the criminal defamation charges was used by the government as a way of silencing journalists.

The sluggishness with which the government implements specific media reforms is reflected in the right to information accessibility where the 2013 Access to Information Bill is an outcome of several campaigning years where various version were previously published (2005, 2008, and 2012) subsequently. The 2012 bill was transformed into the Constitutional Implementation Committee, which later was reformulated into the 2013 Access to Information Bill in waiting for parliamentary debate approval. This transition occurred after conduction of public consultation engineered by Constitutional Implementation Committee (Article 19 Eastern Africa 2014).
A more risky regulation as compared to the outdated media regulations and missing laws linked to information accessibility seems to be presented in the new media regulations formulated under the Jubilee regime. These laws are the 2013, Kenya Information and Communication Amendment Act (KICA) and the 2013 Kenya Media Council Act (MCA). These regulations grant the executive excessive powers to control the media and inflict heavy charges, repealing several guarantees previously availed through the 2010 Constitution thus being termed as most repressive measures in the nation for the last 50 years (Freedom House, 2014).

The constancy in attempt by senior government officials to stick to status quo of old media regulations or stick to retrogressive reforms interlinked to repressive new laws resulted from failure or reluctance to implement the constitutional reforms, an aspect termed by Maina (2015) as “constituticide”. As a matter of fact, the current regulations have in essence modified the media control and regulation system, and the role of a regime in media regulation, through creating new regulatory bodies while shifting their mandates and their existing structures.

The 2013 Media Council Act developed a new legal structure where the Media Council of Kenya (MCK) regulates media conduct as well as discipline journalists (Media Council of Kenya, 2015). The MCK as an institution was created in 2004 by the government as an independent institution that oversees the operations of the Kenyan media firms but later was changed into a legislative, independent public organization operating under 2007 Media Act.

The 2013 Media Council Act has however retained elements presented by “co-regulation media regulation approach” (Media Council of Kenya 2015), introduced through the 2007 Media with intention of controlling MCK members’ appointment procedures. According to final draft of 2013 Act as cited in Article 19 (2013) of the new constitution, the MCK members are independently appointed in which the executive role if restricted to only formalizing appointment,
an element which contrast with initial laws where bill granted the executive power to select council members. The Act however, permits some level of state interference during the council member’s selection as “selection panel” which involves media stakeholders representatives i.e. The Kenya Correspondents Association, Kenya Union of Journalist, or the Media Owners Association, and media related Ministry. In addition, the government provides funding to the Council in which the Council is mandated to avail to parliamentary reports via the Cabinet Secretary on its operations, aspect that may undermine section 12 of 2013 Act which presents that “the Council shall be independent of control by government, political or commercial interests” (Republic of Kenya, 2013).

Within the formal vision of “a professional and free media accountable to the public” (Media Council of Kenya 2015), the MCK is obligated to accredit and register journalists, register media institutions, handle public complaints, as well as develop and publish the Media Freedom in Kenya (Republic of Kenya, 2013).

The functions of MCK in accrediting national and foreign journalists acting at national levels via certification of their authority, credibility, or competence against the set official principles founded on the quality training of journalists in Kenya is challenging due to several reasons. First, the regulation developed illegalized control on practice of and entry to journalism through prescribing limited education levels as prequalification’s for entry (Maina 2015, p.32, Article 19 2013). In the second aspect, opponents of the regulation pointed on its inconsistencies: for it was challenging to scrutinize the way MCK were in a position to accredit journalists focusing on “competence, authority or credibility against official standards based on the quality and training of journalists in Kenya” (Act 2013) while concurrently applying Kenya’s Code of Conduct for the Practice of Journalism which gives describes ‘journalist’ as anyone who
“collects, writes, edits and presents news or news articles in newspapers and magazines, radio and television broadcasts, in the internet or any other manner as may be prescribed” (Article 19 Eastern Africa 2014, p.27). In relation to MCK’s consent to “facilitate resolution of disputes between the government and the media and between the public and the media and intra media”, the 2013 Act illustrates that the Complaints Commission of the Media Council (CC) should be an independent entity from the Media Council of Kenya (Media Council of Kenya, 2015).

The Kenya Information and Communications (Amendment) Act (KICA) allows the state to exercise direct power in controlling media broadcasting law through the enactment of the Communications and Multimedia Appeals Tribunal and the Communications Authority of Kenya (Schmidt and Deselaers, 2015). Through Communications Authority of Kenya (CA), Communications Commission of Kenya (CCK) was replaced as the main regulatory body which governed the communications sector, as well as online media and broadcast. Its core duties consist of licensing to every services and systems in the communications field i.e postal, telecommunications, and courier.

Another pointer to evaluating the role of state in regulation of media operations is reflected in the public broadcasting governance. In this digitization framework, broadcasting law points to digital broadcasting signals distribution. The government of Kenya licensed two signal major distributors that is ‘Signet’, which is KBC subsidiary and the ‘Pan Africa Network Group’, which is a Chinese corporation that has experienced allegation of having links to the Kenyan government. This resulted by the local media pointing accusing remarks that the Kenyan government was seeking more control in the broadcast media, thus the Chinese corporation may be more than willing to constrain specific signals in the future where the government request to do so. As a result of two year court petitioning, the Supreme Court of Kenya in January 2015
permitted the four major TV stations KTN, NTV, QTV and Citizen to have a joint license in distributing digital signals. Despite all these steps taken, the analogue signals in 2015 January were blocked by CA before the four major Media houses were in a position to develop their personal digital distribution stage, leading to nationwide “blackout” (Magango, 2015) hence granting foreign corporations’ superiority over the local companies.

2.1.3 Principle of Localism

For the media to serve in the interest of the public, the public must be involved in the production of content sent out through the media. McCauley (2003) notes that the media can serve under the requirements of public interest but only if the public speaks for itself by producing its own content. This brings into perspective the principle of localism. The original principle of localism is grounded on the concept of developing a media system with “a primarily local orientation”, notes Napoli (2003, p. 374). Thus localism is a principle of broadcast policy that lays emphasis and prioritizes local television content produced by local producers for the local community.

Galprine (2004) notes that localism has for a long time formed the basis for American television. In the 1940’s following the arrival of television, the FCC formed a raft of measures to ensure that the broadcast system prioritized local orientation (Napoli, 2003). Among these measures included to provide each community with at least one television channel dedicated to their service and to provide at least one television channel to serve the entire USA, among other measures. Among the goals that FCC set for digital migration includes to “preserve and promote free, universally available, local broadcast television in a digital world”.

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In Kenya, Communication Act, part IV A (1998) mandates the CAK to among other things to promote the development of local Kenyan programs. In digital television, localism goes beyond television content to allocation of frequencies. USA’s Telecommunications Act of 1996, for example, prioritizes local broadcasters over non-local broadcasters in eligibility for DTV frequencies. Meanwhile, in Kenya, the digital frequency allocation exercise appeared to favor foreign investors with local broadcasters terming the exercise as unfair. Maina (2015), a constitutional lawyer, in an opinion published in Nation Newspaper on January 24, 2015 faults the CAK for harming the principle of public interest by handing over a majority of frequencies; a scarce national resource, to foreign investors against the interest of locals.

While allocating frequencies to signal distributors, PANG, a foreign entity whose ownership remains in dispute was allocated 120 out of a total of 197 frequencies, representing 61% of available frequency resources for the country. Meanwhile, the state run KBC was allocated 51 frequencies with the remaining 26 frequencies shared among local private broadcasters, including the three most watched television channels; NTV, KTN and Citizen Televisions.

However, despite increased opportunities that have been opened up by digital television for localized programming, many Kenyan communities still lack the financial muscle and skills to produce their own programs. In a country where nearly half of the population lives below the poverty line, the dream of communities having their own locally produced content is as good a dream.

Amoah and Adu (2014) point out that Africa is still lacking in its capacity to fully reap the socio-economic benefits of digital television because the continent is limited in its ability to produce content to meet the high demand offered by digital television. It is worth mentioning that
content providers are more likely to focus on programming that appeals to the largest possible audience share as opposed to small segments of the population, notes Napoli (2003). This is because it makes more economic sense to produce such content as opposed to addressing interests of minority groups.

2.1.4 CAK Published Local Content Guidelines on Kenyan Media.

2.1.4.1 General Principles

The Kenyan Constitution upholds and recognizes every individual’s right to freedom of expression, which is composed through freedom to receive, seek or as well impart ideas and information. However, freedom of expression right should not involve ethnic incitement, conflict vilification with intention of causing discrimination or harm. In the perspective of exercising legality in freedom of expression, every individual is required to respect the reputations and rights of others. In accordance with the constitutional obligation, the Programming Code outlines the following standards: Television and Radio broadcasters are obligated to serve the interest of the public at all times. Therefore, the Public Service Obligation of broadcaster involves provisions of undisturbed services in the period of their respective licensing while upholding the local content quota as indicated by the Authority periodically. Moreover, the Public service Obligations also uphold the principle protection of viewers and minors from indecent programming, impartiality and accuracy in collecting and presenting information and news, representation of large scope of opinions and views when broadcasting contentious public interest issues while securing the groups and citizens right to defend themselves when attacked on air thus giving right to reply.
In addition, principles such as separation of editorial from advertising, equal provision of opportunities and coverage to registered political parties partaking elections especially the presidential candidates, ensuring that all candidates are given equal coverage, provision of public notices on disaster or emergency with incentives, considering physically challenged individual during information implementation, and ensure that live education and informative shows targeting children is initiated.

Broadcasting media needs to ensure that every programming aspects respect individual’s dignity as well as basic rights of other citizens or competitors. The media should also ensure that there is freedom in editing and creating programs which respect general accepted values and professional values, moral, and ethical standards while taking responsibility in broadcasted materials from their stations despite the source of information and professional activities of their staffs while refraining from programs misappropriation and adhering to Intellectual property right and generally accepted decency standards. These acceptable standards may involve but not narrowed to cultural, respect to ethnic and religious diversity in Kenya.

2.1.5 Family Programming Policy

Effective legislation which strengthens family programming is reflected in Section 461(2)(a)(b) of the Kenya Information and Communication Act of 1998, and in Sections 20(b), as well as section 34(1)(2) of the Kenya Information and Communication Regulation of 2009. The Programming Code therefore intends to ensure that harmful information for minors and children is not broadcasted during hours when a large population of minors and children are likely to be watching or listening.
Moreover, the programs broadcasted during watershed hours gradually target family audiences evolving into a more adult engaging program from family oriented.

More focus will be accorded to involve and respect diversity which is expressed through differences due to physical or cognitive ability, ethnicity, culture, socio-economic status, religion, age, gender, political persuasion, national origin, educational background, geographic location, or marital status.

The guideline experienced during water shed period apply not only to program but also non-program matter, such as infomercials, advertisement, program listings, program promotions, community service announcements, documentaries, station identification, and interviews.

### 2.1.6 Programming Guidelines During Watershed Period

Programs broadcast between 5.00am to 10.00pm should be accommodating for family viewing and listening. Therefore, all movies or programs rated or classified by the Kenya Film Classification Board (KFCB) as Parental Guidance (PG), General Exhibition (GE), or classified as 16 can be aired within the categorized period. However, the evolution to a more mature programming from family oriented after the classified watershed period, 10.00pm, will be executed gradually.

Consumer guidance such as classification details, labeling, warnings, and other announcements ought to be accorded before telecasting the program or to its trailers. Rating or classification information should be reflected throughout the airing process of the program. However, this aspect does not minimize the broadcaster’s accountability to sensitive programs scheduling to minimize the risk of impacting an offence. The same applies to educational programs which may need graphic details for further clarification where all broadcasting stations
have been blurred from airing discussion session or interactive call in where content is aligned towards adult audience during watershed period.

### 2.1.7 Children’s Welfare and Program Guidelines

Legislations relevant to this section are contained in Section 20(A)(C) as well as Section 31(C) of the Kenya Information and Communications Act of 2009, requiring stations licensed to take responsibility in protecting children while airing programs that enhance their social, mental, and physical potential. This program and welfare structure is applicable to every non program and program matter namely infomercials, advertisement, program listings, documentaries, commentaries, program, promotion, and interviews.

The broadcaster should make sure that at least 5 hours of their TV station and radio programming is committed to suitable programs for underage population. Broadcasting media such as radio should specifically be sensitive to period when their likely audience is children during their programs scheduling. Therefore programs targeting minors should be in a position to promote good morals and social values thus the programs should discard those that are perceived as harmful or dangerous behaviour which can easily be imitated by the children. Moreover, programs that are harmful to children involving scenes portraying liquor or tobacco consumption unless they are accompanied with educational aspect when the context of drama is necessary.

Caution should be taken not to follow up program of different segment (such as children programs being introduced immediately or before adult program) as it may lead to psychological, moral harm, mental, and physical harm. This element also composes those materials, music videos, and adult oriented animation which may cause psychological, moral,
and physical harm to minors in the process or prior to the children’s programs. Therefore, the broadcaster is mandated to put more focus on programs which do enhance educational levels, religious child upbringing, and advantageous moral character.

### 2.1.8 Physically Challenged Persons

The relevant legislation supporting persons living with disability is contained in the Kenya Information and Communication / Broadcasting Regulation of 2009 Section 36. Therefore those involved in broadcasting should take certain measures to promote enjoyment and understanding of the transmitted programs relayed through stations by individuals who are disabled, specifically focusing on individuals with deaf, blind, or partially blind persons.

According to the guideline on persons living with disability, broadcasters ought to initiate specific procedures which will involve persons living with disability in their diverse programs. Moreover, programs designed to involve the physically challenged people will be advantageous towards enhancing their wellbeing and overall welfare. In situations like national event programs, news, education as well as emergencies programs, TV stations will have to avail a sign language interpreters or subtitle insertions. Moreover humor focusing on the physical, sensory or mental challenges should not be condoned including context where malice is absent. Thus in reference to disability programs aired should consider this minority at all time in different context.

### 2.1.9 Principle of Diversity

Diversity or media pluralism as a principle of broadcast policy is brought out in digital television through the technology’s ability to provide a wide spectrum of channels to choose from. However, this view is limiting as a policy that ensures diversity is not entirely satisfactory,
unless it is designed along the concept of marketplace of ideas. Doyle, as cited in Klimkiewicz (2010, p. 262) views media pluralism as “diversity of media supply, reflected, for example, in the existence of a plurality of independent and autonomous media and a diversity of media contents available to the public.” Thus diversity under digital migration in Kenya should go beyond spectrum of channels by ensuring that there is diversity beginning from ownership of individual broadcasters, diversity in content production, policies that allow freedom and autonomy of the media and consequently diversity of content as received by the consumer.

Marketplace of ideas under media policy would be exemplified by a media landscape that allows for free and fair competition between players leading to a more satisfied and informed audience (Napoli, 1999). Diversity as a principle, under marketplace of ideas, ensures that the media provides to the consumer a wide choice of content from varying sources.

Napoli (1999) approaches the principle of diversity from three dimensions namely; content, source and exposure diversity. Diversity in content may mean a pool of channels to select from, however without variety in that content then there is very little diversity. If the network provides political content then it should not be dominated by several channels and programs with identical political ideologies, but rather be open to a variety of differing political ideologies.

Diversity under digital television in Kenya should be representative of the diverse ethnic and racial background of the larger Kenyan society. This can be achieved by offering television viewers a wide spectrum of channels with varying ideologies; what Napoli (1999) refers to as exposure diversity.

Meanwhile diversity of content received is also determined by the source of the program. Such entails diversity in ownership of the source media house, diversity in ownership of the
content being transmitted, diversity in the staff producing the program among other factors play a key role in how diverse digital television is in Kenya. The licensing of government owned KBC, which serves a majority of Kenyans, as a digital signal distributor under a subsidiary Signet is one such move that brings to question diversity of content that consumers would be exposed to in Kenya.

In 2011, the government licensed another signal distributor Pan African Group (PANG) Kenya, a privately owned entity. Thereafter, in anticipation of the final switchover, the country’s three leading commercial broadcasters; NTV, KTN and Citizen Television formed a consortium under the banner Africa Digital Network (ADN) to distribute their content. However, ADN did not take off leaving only PANG and Signet as the sole signal distributors in the country. This therefore implies that although digital migration has opened up the space for multiple voices and ideologies to be heard in Kenya, the diversity of such in the hands of two signal distributors (PANG and Signet) can still be contested.

Doyle (2002) notes that monopoly in media ownership presents the risk of overemphasis of certain political viewpoints, socio-economic views as well as cultural values favored by media owners, at the expense of the larger public. As such Connolly (2008) views pluralism as “a system which develops individual capacities, protects individual rights and freedoms, identifies important social problems, and promotes politics of incremental change while maintaining a long-term stability based on consent.”

This interpretation of the theory of pluralism captures the principles of public interest, localism, competition and diversity in one paragraph. However, pluralist theory has been criticized for focusing so much on competition among elite groups and encouraging class structures in the society.
Traditionally, pluralists’ view of competition has a bias towards elite groups who operate in class structures which provide a social context of some sort enabling competition among them (Connolly 2008). This kind of competition focusing on elite class structure minimizes the place of the consumer and the interests of minority groups. This is exemplified in the battles of supremacy between the government of Kenya, investors and local broadcasters during the implementation of digital migration when the interests of the elite groups took the center stage contrary to the interest of the consumer.

2.1.10 Principle of Competition

Regulating a diverse and pluralistic media calls for laws that ensure a healthy competition by doing away with obstacles to new entrants while prohibiting monopolistic trends (Donders, 2014). Under its mandate to license and regulate the media in Kenya, CAK has to ensure a healthy competition among players. As Connolly (2008) notes, pluralism or existence of various competing ideas generated by various players in the media landscape is healthy for the society as new ideas helpful in solving existing challenges may arise. For a long time, the Kenyan media landscape has been dominated by privately owned broadcasters namely KTN, NTV and Citizen Televisions. The three have been enjoying monopoly in the Kenyan media landscape with a majority of Kenyans relying on the three for information.

The closest rival to the three broadcasters was the public broadcaster KBC. Donders (2014) notes that reliance on media conglomerates can be harmful as they can increase prices of their products, such as advertisements, above competition levels. Additionally, a society which relies on a media market that lacks diversity and is dominated by a few entities is at risk of being subjected to certain dominant positions which is unhealthy for the society.
Market definition is composed by every product created at each level of the five phases of production; advertisers intending to promote a specific service or product, individual; firms, or groups intending to disseminate specific information; consumers and firms wishing to venture into direct commercial transaction among themselves; and consumers intending to purchase information, entertain, or accessing electronic business, or wishing to get involved in alternative interactive services.

However, there is substantial completion from various non-broadcasting information and entertainment sources for consumers as well as outlets essential for groups who intend to publicize information. In this aspect broadcasting do compete for both advertisers and viewers as part of largely differentiated market. There is also various sub markets identified within broadcasting field whose major target is to present information.

Therefore, broadcasting aligned towards mature audience is likely to function in a unique market segment from those targeting the youth as their audience. Entertainment field is further segmented into sporting which acts as a substitute to movies but can further be subdivided into football, martial arts, athletics, indoor sports, and car racing. The field also does classify sporting field into global sporting events and local events.

The markets subdivision can further be segmented in accordance to broadcasting form. This is reflected in the free to air broadcast radio being termed as weak alternative to free to air televisions, in which free to air contrast to pay television form while the satellite television market is differentiated further form the charged terrestrial television. Broadcasting as a concept borders the intersection of both telecommunication and media in sharing competition and regulatory.
As a matter of fact broadcasting field does compete with the rest of media towards creating a convergence between content information that consumer demands and to give audience to the advertisers.

Broadcasting shapes part of, and competes with, a more extensive media industry. The economic theory recommends that where there is a restricted measure of range accessible, competition between broadcasters that depend completely on advertiser backing won’t as a matter of course accomplish open goals of value, versatility and proficiency. Such contentions have been utilized to legitimize a lot of control of conventional free to-air broadcasting including strict licensing standards, rules with respect to content and endowments to open administration broadcasters.

In Kenya, these regulations have unequivocally or verifiably limited passage, to a more noteworthy degree even than is important because of range lack. Kenya equally has a circumstance of rather constrained competition in free to-air TV. Other regulatory limitations, for example, imperatives on the amount of advertising that can be broadcast can be seen as a reaction to an absence of viable competition.

The regulatory confinements on competition can directly affect the gainfulness of incumbent broadcasters and the nature of the items appeared and may likewise restrain the pluralism on the media part. If Kenya limits the passage of new broadcasters it additionally regulates the amount and location of advertising, which can be illustrated. This might be an outline of how regulatory intercession for the situation of a constraint on entry can prompt the requirement for another regulatory intercession for the situation of a direction on the level of advertising, or controls to advance pluralism.
Permit necessities which force quantities on specific sorts of programming may twist competition with less directed media, for example, pay TV and particularly the Internet.

Economies of scale and degree suggest that moderately a couple of purchasers will have a decision of more than maybe a couple fixed wire connections to a telecom i.e. cable system. Albeit such systems face competition from radio-based amenities for instance satellite TV there is a genuine plausibility that a local cable system will profit by a predominant position. Comparable concerns emerge regarding set top boxes also referred to as contingent access frameworks. An organization in a predominant position might have the capacity to utilize that prevailing position to confine competition in its own or another business sector. Kenya has made a regulatory move to guarantee access by content providers to the frameworks of prime cable administrators and set top box providers. A large portion of the regulatory and competition concerns that emerge in broadcasting identify with inhibiting the establishment or misuse of a key position in one of these phases of production.

Specifically, huge competition concerns encompass retail circulation of broadcasting content. Now and again regulatory intercessions may likewise look to avert merchants i.e., cable and satellite administrators from increasing elite access to key content with a specific end goal to limit competition in the infrastructure business sector and related markets for instance voice communication.

There are numerous other individual regulatory intercessions in broadcasting which frequently impacts competition. For instance, Kenya noticed that specific occasions were reserved for free to air TV. Such regulatory standard misshapes competition against the improvement of pay TV. Kenya would also sponsor a commonly state-claimed broadcaster such as KBC. Where what is being bought with these finances is not plainly authoritatively indicated,
such sponsorships can twist competition with other private telecasters and may strife with the relevant regulation standards on state aid.

The monetary premise for such standards is vague. Such standards seem to misshape competition against pay TV and may harm the long haul interests of the broadcasters themselves. Concerns over restrictive rights to major occasions can be tended to through competition law controls. These endowments to open broadcasters may twist competition with private broadcasters and may breach the rules on state aid.

On the account of the utilization propensities for consumers, in spite of the fact that it is recognized that broadcasting rivals with different types of media for example, daily papers, film, magazines for no situation was it shown that a business sector definition was embraced in which broadcasting and different types of media were held to be adequately substitutable as to be in the same business sector from the point of view of the consumers.

Agreements between media contributors for the groundwork of standards can be effectively improved as they can prevent a strategic distance from expensive clashes for the groundwork of accepted measures and can conquer consumer hesitance to buy notwithstanding instability as to which standard will triumph. These agreements can likewise raise competition concerns, particularly where access to the standard setting process or the benchmarks themselves are denied to new contestants or other business sector players. The absolute most imperative regulatory and competition concerns in broadcasting emerge in connection to vertical plans and mergers. In specific circumstances a firm with a prevailing position at one level in the telecom chain of production can utilize that predominant position to confine competition either at a similar standard or in a downstream or upstream market, within selective vertical plans.
The difficulty for rivalry masters and policy creators is to recognize real effectiveness improving vertical courses of action from those game plans which are conceivably anti-competitive. There are proficiency improving reasons why a content supplier may just wish to manage one infrastructure provider in every business sector. There are additionally productivity reasons why an infrastructure provider may wish to just acknowledge one wellspring of content of a given sort. There are four fundamental potential outcomes, relating to the utilization of a predominant position to confine competition in a level or vertical business sector: situations where a prevailing content supplier declines to manage a contending downstream framework supplier; where an overwhelming content supplier demands that a downstream foundation supplier declines to manage a contending content supplier; where a prevailing infrastructure providers demands that a content supplier declines to manage a contending infrastructure providers; or where a predominant infrastructure providers declines to manage a contending content supplier.

With respect to the primary case, an inquiry was raised why content suppliers would consent to offer to one and only infrastructure provider, as content suppliers ought to have the capacity to remove the full imposing business model rent from their item whether it is sold on an elite or on a non-restrictive premise.

Besides, since the expense of replicating the content is little, it is contended that content suppliers ought to dependably wish to offer to as wide a group of people as would be prudent. Be that as it may, these contentions are not as a matter of course right. Restrictive courses of action might be important to acquire certain efficiencies or to abuse the full estimation of a bit of content.
For instance, a restrictive region might be important to actuate the broadcaster to put resources into advancing the content. Then again, it may not be workable for the content supplier to separate the full estimation of the content when sold on a non-select premise.

As a rule, competition concerns are constrained when there are sufficient substitutes for the elite content and/or when the length of the selective rights is no more than should be expected. Parallel competition concerns emerge in connection to the dissent of access by content suppliers to broadcasting foundations (the third and fourth cases). Despite the fact that, by and large, framework suppliers have motivations to give access to a scope of content suppliers, they will, by and large, not give access to content which rivals content which they give themselves at identical terms and conditions. A provider that is incorporated with a content supplier causes the greater part of the settled expenses of delivering the content. In considering whether to allow access to contending content, it will pay the contender close to the costs it spares by not giving the content itself, which could be little or zero, unless the opponent content totally uproots the occupant’s content (Donders, 2014).

2.1.11 Theoretical Framework

This study was informed by pluralism theory. Pluralism theory was first used to define Western political systems. In defining political power in USA, pluralists attested that power is distributed among competing groups representing varying interests, with no single group having too much power at its disposal (Williams, 2003). Amid this clamor for a share of power, the state which acts as the referee uses its laws to ensure that there is fairness and healthy competition among players. In this set up, the media provides a platform upon which competing parties can express themselves and be heard. This theory also lays great emphasis on a free and fair media
providing diversity of views without fear or favor (Williams 2003). Power, as exemplified in this theory, can be likened to the media in Kenya which is an enormous, powerful organ key in setting political, social and economic trends and practices in the country. Pluralism can be loosely translated to mean diversity. Diversity in digital migration in Kenya is achieved through the wide spectrum of frequencies among other ways explained below. The government of Kenya, through Kenya Information Communications Act, part IV A (1998) has the obligation of ensuring that such resources as frequencies are distributed fairly among players and that not one media entity is unfairly favored or disadvantaged in the distribution of the said resources.

The theory holds that the media through its wide range of varying products reflects the diversity of its audience and that the audience is not passive but rather active consumers capable of influencing the media to gratify their needs.

Kenya’s television content under digital broadcasting must reflect the economic, cultural, political and all forms of a diversity of communities that live in the country. Diversity should be felt at every level of television broadcasting namely diversity of ownership, diversity of production crew, diversity of content distributors, and diversity of the content itself among many other forms of diversity. Pluralists also view the role of the media in a society as providing a platform for competitive ideas and where every member of the society can be heard. Williams (2003) notes that “the plurality or diversity of views in society is reflected in the wide range of media products on offer and the range of opinions expressed in the output of the media”. The wide varying products in the media should therefore reflect Kenya’s diverse social, cultural, political and economic views.

At the core of this theory is the critical obligation that is vested in the state to facilitate a free and fair environment for media operations. Pluralism theory thus is the importance of the
regulatory role of the state embedded on the principle of a diverse media environment free from monopolistic trends. The Kenyan government should therefore invoke the law under Kenya Information Communication Act, part IV (1998) and ensure a free and fair competition as a key component of the principle of diversity.

Pluralist’s view that the consumer is rather active than passive and has the power to influence the media to gratify their needs asserts the importance of the principle of localism. This explains the emergence of vernacular television stations that speak to various communities in the country. Additionally, by providing a platform upon which the public can communicate their views, the media reflects diversity in its audience and thus fulfills the principle of public interest.

Pluralism theory designates that power is disseminated among numerous groups to govern an entity. The vital characteristic of the pluralism theory is that it is not controlled by a solo elite but rather by a multiplicity of comparatively smaller groups, many of which are properly systematized and financed. Even though a couple of groups could be grander and more dominant than others, the scope of their influence, unlike being widespread, is constrained to relatively narrow capacities. These groups could include official and non-official coalitions of similar-minded individuals, unions, civil rights activists, trade and certified associations, and commercial lobbyists. These groups influence the establishment and administration of legislations and policies (Preston, 1998).

Because the participants in this course constitute only a miniature percentage of the populace, the public are primarily bystanders in the pluralism theory framework. Within the pluralist model, power is scattered and fragmented, groups deliver a more operational channel of representation, the grander the group the more power it will harness, and policies are instituted through negotiations and compromise and appear to be impartial to everybody in the long run.
Three of the fundamental ideologies of the pluralist school of thought are that resources and prospective power are extensively disseminated throughout society, at least several resources are accessible to virtually everyone, and at all occasions the capacity of potential power surpasses the capacity of actual power (Hirst, 2005).

It seems that at times the emphasis on pluralism and complexity reflects the postmodern opposition towards all kinds of social centralism and planning, leading to a more general critique of all kinds of ‘cultural policing’, which are seen as attempts to stabilize or stifle difference, to create political closure or to define in other ways the acceptable limits of pluralism.

In the absence of alternatives, much of the theoretical reflection on media and democracy remains either explicitly or implicitly based on normative models derived from the Habermasian notion of the public sphere, which critics claim is unnecessarily pessimistic and one-dimensional. As a carry-over from the pessimism of Habermas’s initial formulations of the public sphere, it would seem that growing social disintegration and cultural fragmentation are inevitably counterproductive to the ideals the media ought to serve, imposing a theoretical frame that one critic calls ‘democracy as defeat’ (Jacka 2003).

Consequently, radical-pluralist perspectives have been employed mainly as counter-narratives to the Habermasian approach. For authors with a more optimistic outlook, the key development that is supposedly making a more pluralist media system possible is the growth of channel availability that allows ever greater diversity and choice (Jack 2003). Pluralistic democracy is realized when people can freely construct their identities by choosing from the ever-expanding options in the public sphere.
For instance, Hartley (1999), came up with the notion of ‘semiotic democracy’ to separate democracy from the tediousness of collective action and to re-articulate it with questions of self-realization and the choices people make for themselves.

Interpreting citizenship primarily in terms of identity and difference, Hartley invents the concept of ‘do-it-yourself citizenship’ as ‘the practice of putting together an identity from the available choices, patterns and opportunities on offer in the semiosphere and the mediasphere’ (1999). Seeking ‘democratization without politicization’, predicts a shift from political democracy to semiotic democracy, a future of post-political, post-adversarial citizenship that is based on semiotic self-determination, which is composed by people choices rather than state coercion or paternalism. Such postmodern anti-paternalism leaning on the recognition of complexity and plurality, is founded on resistance to any central rationalist planning and the denial of any systematic or integrative metatheories.

However, based on such praise of individual cultural autonomy and choice, it is no wonder the current stress on popular consumption, active audiences and individual creation of meaning is mistaken for the neoliberal idea of consumer sovereignty. It can be argued that the discussion of pluralism in media studies and media policy has often taken a form of naive celebration of all multiplicity, which all too easily converges with the neoliberal illusion of free choice.

It is precisely this kind of ‘naïve pluralism’ and the evacuation of political economy that the radical-pluralist approach in democratic theory is aimed against. Contrary to the postmodern celebration of pluralism, radical pluralism must be distinguished from the forms of postmodern politics which emphasize on heterogeneity and incommensurability to the extent of valorizing all differences.
Mouffe (2000) argues that, for radical pluralism to be compatible with the struggle against inequality, one must also acknowledge the limits of pluralism.

Equally critical of ideas such as life politics or sub politics, which reflects semiotic democracy notion, Mouffe (2005) has explicitly stressed the need to acknowledge the crucial role played by economic and political power in the structuring of the hegemonic order. Instead of standing for dissolution of politics into semiotic democracy, personal therapy, or individual do-it-yourself citizenship, Mouffe (2005) stresses that the democratization of any social institution is above all a political task.

It is by emphasizing questions of power and exclusion that radical pluralism therefore takes its distance from both the liberal notion of the free market place of ideas and the postmodern praise of all difference. In media studies, the radical-pluralist approach is best interpreted not as praise of multiplicity but as a call to recognize the aspect of power, exclusion and control inherent in all conceptions of the public sphere. Therefore, it departs from the political minimalism of liberal pluralism, for, in contrast to the view that pluralism is best protected by restricting politics to its bare essentials, radical pluralists contend that spaces in which differences may constitute themselves as contending identities are today most efficiently established by political means (Connolly 1991). There is no reason in principle, then, why the radical pluralist perspective should be incompatible with questions of media policy or political economy.

### 2.1.12 Pluralism, Choice and Regulation

Among the central symbols through which policies on media pluralism or other public policy are currently nurtured are the market place and ‘choice’. As Zygmunt (1997) elaborates,
freedom of choice has turned out to be the main stratifying variable in the multi dimensionally stratified societies in which choosing is everybody’s mandate. The only differences are reflected in the scope of realistic choices and the resources needed to make the major symbols.

In the conventional critical political economy of the media, models based on free competition and choice have been faced with criticism for neglecting choice which is usually pre-structured by the existing conditions of competition. However, Splichal (1999) argues that media ‘plurality’ is not an efficient indicator for measuring society’s freedom level since it may create illusion of content diversity through hiding the fact that all mass communication processes are controlled by different aspects of indirect control practiced both by the state and private corporations. This ranges from formal regulation to pressures of advertising and subsidizers, leading to realistic question on whether there will be forms of political intervention or regulation in the future, or rather what form they should take, what values they are based on and how these decisions are arrived at.

Bauman (1999) elaborates that, historically the principal device of ‘setting the agenda for choice’ or pre-selection has been pegged on legislation, a device which the contemporary political institutions are neglected. However, ‘liberalization’ does not automatically mean that the freedom of choice is expanding, but rather that pre-selection power is ceded to non-political institutions, above all markets themselves.

Consequently, the pre-selection criteria are dynamic and provide a basis among the values where choosers are trained to orient their choices, short-term pleasure, hedonism, entertainment and other market generated and needs to occupy privileged place. Therefore, Bauman (2009) notes that, the current emphasis on freedom of choice and individual autonomy has not actually enhanced individual freedom but has rather led to freedom denial, an element reflected in the
transformation of a political citizen into a consumer of market products. This aspect illustrates how the equation of media pluralism with free choice fails to consider the wider power relations where the media are located.

In contrast to the language of ‘the free market place of ideas’ where the market is perceived as a spontaneous, self-regulating mediator, in which the market itself is a politically designed institution, not a homogeneous, unstructured and unregulated natural entity (Keane 1992). The actual market shape should always be designed by legal and political regulation and the market nearly spontaneously emerges as a neutral mediator of civil society. Markets also do impose their own pre-selection criteria and construction of difference thus every kind of system essentially limits the scope of public choices. However, markets have a tendency to present pre-selection process as neutral or natural while in the real context their criteria are inevitably political. Mouffe notes that the major question concerning the public sphere is focused on making power relations visible in political contestation terrain.

Power relations therefore can be customized and space can be created to enable plurality of alternative modes of power. In this aspect the media studies queries are usually informed by radical pluralism hence remains: “what institutional arrangements will best help narrow the gap in participatory parity between dominant and subordinate groups and create a plurality of power structures that are maximally open to democratic contestation” (Fraser 1992). This element provides a basis for understanding radical pluralism and not as a postmodern festivity of spontaneous multiplicity, but rather as a concern to institutional reorganization and macro-politics that also composes the political economy of the media. This point arguably provides a more stable normative framework for media reform as compared to the conventional Habermasian framework.
Through separation of the communicative sphere from the systemic realms of money and power Dryzek (2000), concludes that, there is no provision on how economic and political structures should be democratized further thus it is challenging to perceive Habermas’s theory of democracy as a contribution to critical theory.

Though Habermas perceives that participants in ideal public consideration should be enclosed inequalities and treated each other as equal. Mouffe (2009) purports that, in real sense, the structural inequalities are not separable from the actual communicative practices. This element equates to Nicholas Garnham regarding political identity. While one shape of political identity focuses on recognition and toleration, the other element focuses on resource scarcity, such as accessibility to the media, cultural subsidies or production resources (Garnham 2003).

Radical-pluralist views can therefore be used to preserve real institutional arrangements in media policy. (Craig 1999.)
2.2 Conceptual Framework

Figure 2.1: The Conceptual Framework

Source: Author (2015)

This conceptual framework is an illustration of how the study tested digital switchover in Kenya against principles of communication namely public interest, diversity, localism and competition. Digital migration was the independent variable whereas the principles listed above were dependent variables. The study interrogated the events surrounding digital switchover in Kenya namely; unavailability of set top boxes, conflict over allocation of frequencies, ownership of broadcasters, diversity of information, 19-day television blackout and timeliness of the switchover exercise- among other issues while testing them against the principles of communication.

Principles, like the ones above, are instrumental in assessing policy decisions and their impact in the society. Although their interpretation may vary resulting in inconsistencies, it is those varying interpretations that provide the much needed insight into the policies under scrutiny and their implications from a diverse perspective.
The process of digital migration in Kenya was guided by Kenya Information Communication Act, part IV A (1998), which was formulated based on the four key principles of communication policy making namely public interest, diversity, localism and competition. The outcome of digital switchover in Kenya can thus best be examined using the four key principles after which emerging strengths and weaknesses can be assessed and recommendations made. This study made its findings by interrogating the events surrounding digital switchover and testing them against principles of public interest, diversity, localism and competition.
CHAPTER THREE
RESEARCH METHODOLOGY

3.1 Overview

This chapter describes the applied research methodology, criteria for sample selection, procedures applied in designing research instrument and consequently data collection techniques. This section also describes procedures applied and used in data analysis.

3.1 Research Design

This study adopted a qualitative research approach because it provides an interactive approach, which is the most effective way to examine digital switchover with regards to the principles of broadcast policy. As Marshall & Rossman (2011) note, “qualitative research is pragmatic, interpretive and grounded in the lived experiences of people” (p.2). Qualitative research design thus provides a practical perspective for interrogation of digital switchover in Kenya enabling the researcher to draw conclusions based on reactions and lived experiences of respondents. The researcher adopted qualitative research approach because it would be instrumental in examining the implementation of digital switchover in Kenya and consequently give recommendations based on conclusions drawn from the study. Merriam (2009) holds that qualitative researchers are mostly driven by the desire to understand the world around their subjects, how the subjects interpret their experiences and the meanings they attribute to those experiences.

A descriptive research approach was used to gather data, which was instrumental in examining digital migration in Kenya in relation to the aforementioned principles. Descriptive research approach is particularly essential in a case where the researcher is examining the extent
of the relationship between two or more variables (Kombo & Tromp 2006). In order to assess digital migration policy in Kenya in detail, convenient sampling was used alongside descriptive research approach, whereby the case in this context was digital migration in Kenya. Kombo & Tromp (2006, p72), note that case study approach can be effective in describing a unit “in detail, in context and holistically”.

3.1.1 Variables in This Study

The essence of empirical research is to measure and compare characteristics of a phenomenon, an individual, a group or an organization that is being studied and to generate a description of the research subject based on the measurement of the said attributes, notes Channels (1985 p. 33) who goes further to define variables as “concrete indicators of the broader concepts of interest to the researcher”. Variables can either be dependent or independent.

The major goal of qualitative content analysis as applied in this study was to capture the amount of variation in a sample and to explain why that variation exists as it does and how it was produced. This makes it possible to focus on the relationship between variables thus resulting in a deductive approach.

Variability presents a good qualitative research methodology where standardization and rigid adherence is taken into consideration. Therefore, there exists consistency in data collection throughout the study. This is reflected when the study of one set of data influences the research goal in the selection of successive locations for investigation and selection of respondents who are best placed to provide relevant information. Moreover, research presentation ought to provide rational for every decision reached and analyze the impact that the preference may have on the firms at general.
In this study, the researcher focused on assorted issues that reflect an interest in variation such as why does a particular activity or form of behavior occur in some situations rather than others? Why are some people excluded from participation in certain activities? To what extent do differences in certain kinds of behavior vary because of the different meanings associated with behavior in certain situations? How and why do people’s behavior vary over time? As cited by Mishler in Hardy and Bryman (2009) meaning and behavior need to be understood contextually so as to come up with a valid data hence contextual implication in the study needs to be considered.

The interviews presented the aspect of qualitative data findings as it emphasized on the ordered nature of talk in interaction. The conversation aspect is usually concerned with issues such as organization’s preference regarding the subject of study, which may receive preferred feedback.

The aforementioned principles of broadcast policymaking namely public interest, diversity, localism and competition constituted the dependent variables whereas digital migration in Kenya was the independent variable. A cause-and-effect relationship exists between independent and dependent variable whereby a change in independent variable (digital migration in this case) consequently causes change in the dependent variables (i.e public interest, diversity, competition and localism), notes Johnson & Christensen (2012).

Due to the fact that variables tend to change, they exist in varying levels known as attributes, notes Channels (1985). For example attributes of public interest can be viewed as what is in the best interest of the public according to policy makers or what the public is interested in according to the very public. Every dependent variable is bound to impact differently on digital migration in Kenya based on its varying attributes.
3.2 Data Collection Procedure

This study was carried out within Kenya. A qualitative approach was applied whereby purposive approach was used to select Kenya being the country whose digital migration policy was being examined. The researcher targeted 30 respondents divided into sample groups consisting of media professionals (mainly journalists and media policy experts) and the general public or the consumer.

In order to assess digital migration policy in Kenya in detail, convenient sampling was used alongside descriptive research design, whereby the case in this context was digital migration in Kenya. The deductive process involved categorizing the content into various thematic issues which could easily be focused hence bringing the aspect of clarity, plural, localization of content, and diversity aspect in digital migration era.

3.2.1 Interviews

The interview “involves presentation of oral verbal stimuli and reply in terms of oral-verbal responses” (Kothari, 2004 p. 97). The researcher adopted the use of semi structured interviews and open ended questions to maximize on data collected and data accuracy. This was because semi structured interviews allow a researcher to make further inquiries thus obtaining further information which could easily be forfeited in structured interview model. Pawar (2004) noted that unstructured models are effective when conducting in depth interviews. The interviews (Appendix 1) were administered on one-on-one basis to maximize quality and quantity of data collected.
3.2.2 Secondary Sources

Apart from primary data collection methods mentioned above, this research also used secondary sources of data from CAK and Ipsos-Synovate websites by reviewing content related to subject of study as well as other published material relevant to the topic of study. Pawar (2004) opines that, more often than not, secondary sources provide a considerable amount of data collected as the method is cheaper and takes lesser time. Such sources ranged from books, journals, newspapers, the Kenya Information Communication Act (KICA), data stored in electronic form among others. This method was particularly helpful because data can be easily accessed thus it is relatively cheaper. Secondary sources are also helpful when a researcher is seeking information about organizations or individuals which/who would otherwise be unavailable or inaccessible (Kombo & Tromp, 2006).

3.3 Data Collection

Qualitative research approach was employed in which convenient sampling was chosen as the preferred path to get respondents. About 18 out of 30 participants showed interest and were willing to participate in the qualitative process. This data collection method not only used interviews on individuals but also content analysis approach whereby data from Ipsos Synovate and CAK were used to deduct specific information to be used in the study.

Empirical research relies on data to help in answering research questions and consequently in achieving the research objective, notes Pawar (2004). As such the effectiveness of any research depends heavily on the accuracy of data collected. In order to achieve quality research conclusions, this study used interviews as a research tool to collect information and initiated content analysis approach from Ipsos Synovate and CAK website data.
Kothari (2004) defines primary data as that which is collected by researcher first hand from respondents, whereas secondary data is defined as data which has already been collected by another person and is relevant to the subject of inquiry. Primary data in this study was collected using interviews whereas secondary data was collected through review of related literature such of Kenya Information Communications Act, related books, online sources like CAK and Synovate websites among others. Moreover, content analysis approach applied deductive method whereby specific content was identified, analyzed, and applied in the research process.

This study focused on qualitative research approach and relied on interviews as the primary data collection method. The researcher targeted 30 respondents consisting of media professionals (mainly journalists and media policy experts) and the general public or the consumer. The researcher booked appointments with respective respondents for interview at their convenient time and venue. Interviews were held at a neutral venue deemed comfortable for the respondent and the interviewer.

Semi structured interviews were used to maximize the quantity and quality of data collected. Although interview sessions are intended to be face to face, interview schedules were sent to respondents via email in circumstances where that was the most reliable option. Data from interviews were recorded in writing. This study also used secondary sources as a research tool. This included books, data stored in electronic form, newspapers, journals, and census data among others.

3.3.1 Content Analysis

The data gathered was analyzed using deductive content analysis approach also known as direct content analysis. This chapter initiated the aspect of interviews and content analysis due
to the fact that the study intends to bring out a comparative analysis of existing categories within a specified period of time (2008 to date). Therefore qualitative content analysis presents description on diverse views which may be conflicting or unresolved aspects touching on use as well as procedural meanings, interpretations, and concepts.

Mayring (2000) indicates that direct approach focuses on content which is aligned towards extension or conceptualization of a specific theory. This enables prediction to be made on the specific variable thus injecting deductive application. Content analysis brings out description on different analytical perspectives like impressionistic, intuitive, systematic analysis interpretation, and aspect of strict textual analysis. This study therefore, uses content information from Ipsos Synovate and CAK, which is analyzed to enhance the findings made in the interviews.

Thematic data interpretation approach was used to classify the data collected into comprehensible patterns. Thematic content findings is achieved when the researcher reviews the data collected, makes notes and categorizes it into themes. To ensure accuracy in the interpretation of data, three people developed and reviewed the codes. This helped the researcher in developing themes and sub themes, based on factors such as vocabularies used, frequency of a certain idea among other factors.

To ensure accuracy in interpretation, data coding was also guided by respective categories of participants i.e. professionals and consumer. For interview data, structural coding method was used whereby each question was assigned a code. Guest & MacQueen (2008) note that structural coding is a labeling and indexing tool that helps researchers to pinpoint relevant data to a study from a large data set.
3.4 Ethical Considerations

The researcher obtained a signed and stamped Certificate of Fieldwork (Appendix 2) from The School of Journalism before proceeding to collect data. Ethical statement was included in the research data collection tools, namely interview schedules (Appendix 1) so as to obtain an informed consent from respondents. Best (2012) notes that the codes of research ethics place greater emphasis on consent, anonymity, confidentiality and selection of respondents. As a measure against violation of the set codes of research ethics, the researcher introduced to the respondents the research subject and its intended purpose while encouraging them to read the ethical statement before they could proceed to participate in the research. Researcher defended the project, made requisite corrections and was issued with a certificate of corrections (Appendix 3) and originality report (Appendix 4).
CHAPTER FOUR
DATA PRESENTATION AND INTERPRETATION

4.1 Overview

This chapter presents the findings of the study. The findings are interpreted and discussed using literature review and presented as per the objectives of the study.

4.1.1 Introduction

A total of 30 respondents divided into groups consisting of media professionals- mainly journalists, media policy experts and members of the general public were targeted out of which 18 responded giving a response rate of 60%.

The table below presented by Telecommunication Management Group Inc. (TMG) shows that the government’s role in presenting a new unbundled licensing system freed up to 224MHz in frequencies while at the same time creating space for more television channels thus better access to information.

The unbundling of content in distribution was ensured by awarding of licenses to various stations such as SIGNET a public broadcaster subsidiary (KBC), PANG (Pan African Network Group), DSTV/Go TV, Star Times, and ADN (Digital Network). This also led to increased competition enhanced by government sponsored media campaigns.

The measures taken by the government and other concerned actors led to an increase in TV viewership from 55% in pre-migration (analogue) to 66% post migration (digital) period whereby the number of broadcasters increased significantly from 14 to 65 broadcasting TV stations. (Ardizzon & Ferrari, 2010) notes that key among the benefits of digital broadcast technology, upon which digital television broadcasting is founded, is its ability to use scarce
national radio frequency spectrum far more efficiently than analogue technologies. As can be seen in the table below, digital migration has enabled Kenya to increase five-fold the number of television broadcasters with half the number of frequencies it required to run analog television broadcasting while at the same time reaching many more viewers.

The Kenyan constitution of 2010, Article 33 and 35 prescribes freedom of information accessibility and expression respectively, while in the same constitution, Article 34 guarantees freedom and sovereignty of every kind of media, and at the same time shielding media institutions and individual journalist from state interference and control. As demonstrated by this table, digital migration was instrumental in meeting requirements of the constitution by improving access to information.
4.2 Content Analysis

Table 4.1: Kenya Broadcasting Market

<table>
<thead>
<tr>
<th></th>
<th>PRE-MIGRATION</th>
<th>POST-MIGRATION</th>
</tr>
</thead>
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<tr>
<td><strong>POPULATION COVERED BY TV</strong></td>
<td>55%</td>
<td>66%</td>
</tr>
<tr>
<td><strong>NUMBER OF BROADCASTERS</strong></td>
<td>14</td>
<td>65</td>
</tr>
<tr>
<td><strong>NUMBER OF BROADCASTERS REACHING MULTIPLE CITIES</strong></td>
<td>5</td>
<td>22</td>
</tr>
<tr>
<td><strong>SPECTRUM FOR TV BROADCASTING</strong></td>
<td>448 MHz</td>
<td>224 MHz</td>
</tr>
</tbody>
</table>

*Source: TMG research 2017.*
The Digital element in Media consumption

4.2.1 Digital equipment

Table 4.2: Households owning equipment in Kenya, 2005-2010

<table>
<thead>
<tr>
<th>Year</th>
<th>TV sets (thousand)</th>
<th>% of HH</th>
<th>Radio sets (thousand)</th>
<th>% of HH</th>
<th>PC (thousand)</th>
<th>% of HH</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>1,482.4</td>
<td>20</td>
<td>5,212.9</td>
<td>20</td>
<td>353.2</td>
<td>2.3</td>
</tr>
<tr>
<td>2006</td>
<td>1,526.4</td>
<td>20</td>
<td>5,491.0</td>
<td>20</td>
<td>393.6</td>
<td>2.6</td>
</tr>
<tr>
<td>2007</td>
<td>1,576.8</td>
<td>24</td>
<td>5,790.4</td>
<td>24</td>
<td>458.4</td>
<td>3.3</td>
</tr>
<tr>
<td>2008</td>
<td>1,752.9</td>
<td>27</td>
<td>6,318.6</td>
<td>27</td>
<td>518.5</td>
<td>3.8</td>
</tr>
<tr>
<td>2009</td>
<td>2,415.5</td>
<td>28</td>
<td>6,895.5</td>
<td>28</td>
<td>538.6</td>
<td>3.9</td>
</tr>
<tr>
<td>2010</td>
<td>2,890.2</td>
<td>30</td>
<td>7,093.4</td>
<td>30</td>
<td>702.3</td>
<td>5.0</td>
</tr>
</tbody>
</table>

Source: Kenya 2009 Population and Housing Census, Kenya National Bureau of Statistics, Nairobi, 2010; International Telecommunication Union (ITU); Communications Commission of Kenya (CCK). The figures are also based on calculations from available statistics.

As demonstrated by the Table 1 above, just a mere 30% of the total number of households in Kenya owned television sets in 2010. In addition, the finding that only 30% of total Kenyan populations had access to electricity indicates that most individuals were hindered from powering television sets and other electronic devices of the sort. According to Kenya’s REA (Rural Electrification Authority) only 10% of Kenya’s rural population has access to electricity. This affirms the notion that the Kenyan television consumers still lack the technical capacity to uptake digital television content. This state of affairs is consistent with Freedman (2008) notion that most digital migration policies all over the world tend to pay more attention on providing favorable technical or logistical conditions to enable broadcasters and investors undertake the migration process, while in the contrary paying very little attention to the interests of the consumer.

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The fact that Kenyan government went ahead with digital migration despite only 30% of its households owning television sets and only 30 having access to electricity points to utter disregard for the principle of public interest indicates that although a good idea, digital migration wasn’t at the time the problem of Kenyan television audience. It also affirms that digital migration in Kenya was not demand driven but rather supply driven just like in the developed countries. Berger (2010) holds the notion that, the push for digital television by developed countries is supply driven as opposed to demand driven.

4.2.2 Platforms

Table 4.3: Platform for main television reception and digital take-up, 2005-2010

| Platform for main television reception and digital take-up, 2005–2010 |
|---|---|---|---|---|---|---|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| No. of HH | % of TVH | No. of HH | % of TVH | No. of HH | % of TVH | No. of HH | % of TVH |
| Terrestrial reception of which digital | 1,489.4 | 20 | 1,526.4 | 20 | 1,558.6 | 24 | n/a | n/a |
| Cable reception – of which digital | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a |
| Satellite reception – of which digital | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a |
| IPTV | n/a | n/a | n/a | n/a | n/a | n/a | n/a | n/a |
| Total – of which digital | 1,489.4 | 20 | 1,526.4 | 20 | 1,558.6 | 24 | 2,245.6 | 28 |

Note: HH: households owning the equipment; TVH: total number of TV households; n/a: not available. Source: KNBS, Kenya 2009 Population and Housing Census, Nairobi, 2010; ITU; CCK. The figures are also based on reporters’ estimates from available statistics.

Source: KNBS, Kenya 2009 Population and Housing Census, Nairobi, 2010; ITU; CCK. The figures are also based on reporters’ estimates from available statistics.

For a long period of time, digital television broadcasts were only accessible in Nairobi and its immediate surroundings such as Machakos, Thika, Kiambu, Kajiado, as well as sections of Murang’a and Embu as opposed to rural areas. This gave digital television a scope of
availability to about 120 kilometers outside the environs of Nairobi, the capital city. The extension of digital migration outside Nairobi to cover 70% of Kenya as pointed out in 2008-2012 by the Ministry of Information and Communications Strategic Plan is an indication of how high costs involved in the migration process contributed to a slow roll out of digital TV broadcasting in most parts of Kenya. Apart from high migration costs involved, the high costs linked to purchase of set top boxes also slowed down the uptake of digital television in the most parts of the country.

4.2.3 Media Preferences

Television News Programs

The fact that only 30% of households in Kenya owned television sets by the year 2010, with a similar percentage of households having access to electricity can be interpreted to mean that television is not yet a basic requirement but rather a luxury item for most Kenyan households. As a result, a majority of the households who own television are majorly concerned with news programs as demonstrated in the figure below.
Based on the figure above, it is evident that Kenyan television audience were more interested in news programs followed by soap operas and music programs which were already available on analog television channels. This was the case despite the finding that at the time only 30% of households had television sets. In order to promote access to information, the government ought to have come up with policies that would empower its citizens economically to acquire television sets, improve coverage of existing analog all across the country and enhance electricity supply from the paltry 30%. Only after putting up such infrastructures would it have been decided whether television viewers in the country needed digital television broadcasting.

However all the power to regulate broadcast policy is vested on the state under the Kenya Information and Communications (Amendment) Act (KICA) which allows the state to exercise direct power in controlling media broadcasting through the enactment of the Communications and Multimedia Appeals Tribunal and the Communications Authority of Kenya (Schmidt & Deselaers, 2015).
The figure above demonstrates a scenario in 2010 when the Kenyan media landscape was dominated by four broadcasters with one (Citizen Television) enjoying near monopoly. Citizen Television as demonstrated in the figure above leads in viewership hence the most popular in the country, with its ‘Citizen News at 9:00 p.m’ bulletin attracting the highest viewership among programs. The station is closely followed by NTV, KTN, and the state broadcaster KBC in the fourth position. The near dominance of Citizen Television, over the rest of the privately owned broadcasters is pointer to lack of diversity in the Kenyan broadcast platform at the time consequently raising concerns to the principle of free marketplace of idea.

Doyle (2002) notes that monopoly in media ownership presents the risk of overemphasis of certain political viewpoints, socio-economic views as well as cultural values favored by media owners, at the expense of the larger public. This scenario was evident when the three leading local commercial broadcasters; Kenya Television Network (KTN), Nation Television (NTV) and Citizen Television which control the local television market conspired and turned off their transmitters plunging the country in 19 days of television blackout. The move was to protect
their monopoly by seeking to maximize on the amount of frequencies allocated to them under the new digital television broadcasting platform.

4.3 Findings from Respondents

4.3.1 Examination of Digital Migration Process in Kenya in Relation to the Principles of Public Interest

Findings of this section revealed that the implementation of the digital migration in Kenya was not in the interest of the public. This was explained by the fact that the public were in the first place not prepared for the migration and that many could not afford the set top boxes. These findings are in line with that of Napoli (2003) who found that more often than not, the push for digital migration has been motivated by the need to beat international deadlines, must carry provisions, spectrum of channels, among many others, while ignoring existing local conditions necessary for migration. One of the respondents mentioned that:

*RP: The implementation process did not take into account poverty as a key determinant of adopting the technology and as such did not consider the public’s ability to afford the set top boxes among other things. It could have been in the interest of the general public but the mere advantages of clearer signals could not justify the switch off. It has even denied majority of Kenyans accessibility to information relayed through TV am many could not afford the set boxes and the monthly subscriptions.*” (RP, November 6, 2015)

For digital migration to be successful and for the time and resources being devoted to the process to count, Napoli (2003) notes that policy makers must shift their focus to public interest as a fundamental principle of broadcast regulation. Berger (2010) views DTV migration as a non-African concept developed by the developed world, mainly to free up congestion in Europe’s terrestrial spectrum. According to Berger (2010), this is so because the African terrestrial spectrum is not under any major pressure requiring expansion, neither are there strong consumer markets on the continent for digital television.
Those who were of the opinion that the implementation of digital migration in Kenya was in the interest of the public explained that its implementation increases access to information among the public and that it improves TV experience among consumers in terms of quality, sound and that it offer variety of channel to chose from. They further explained digital migration allowed entry of new broadcast players considering that the digital space offers more possibilities with a better signal quality. The respondents further explained that digital migration allows for segmentation of the market where TV stations tend to concentrate on a particular market niche. For example, a TV station may want to concentrate on pure music and entertainment broadcast while others on cartoon graphics. This makes it easier for one to choose a particular station which best suits his/her interest depending on the categories such as age, race and culture.

The platform would also offer space for any independent content producer who has access to production equipments to produce locally and sell cheaply to media houses. Digital migration also brings about sprouting of many production and TV stations hence offering a variety of choices for the varied Kenyan audiences. This therefore creates employment amongst many talented Kenyans. These findings are in line with that of Ardizzon & Ferrari (2010) who found that the key benefit of digital broadcast technologies is that they use scarce national radio frequency spectrum far more efficiently than analogue technologies. This means that existing broadcasting services can be provided using less of the radio frequency spectrum they currently occupy -hence the additional and dedicated delivery of government information, education, health programmes, digital broadcasting facilitates, the delivery of e-government services, the opportunity for developing new skills and the creation of new jobs, and new investment opportunities (Ardizzon & Ferrari, 2010). One of the respondents mentioned that:

PO: “Though digital migration was extremely costly for both the government as well as the citizens of Kenya, it has a rippling positive impact on the state
broadcasting and the economy. The Sports market will categorically benefit from this due to diversification in sports. This is due to demand for international football, this thus generates public interest. The move has facilitated establishment of new stations which promote competitive elements in the market. We are seeing the coming of regional stations which did not exist in the analogue dispensation where only few TV stations could use the local languages.” (PO, October 14, 2015)

On the role of the government of Kenya in protection of television consumers and vulnerable groups like children against harmful content the respondents mentioned that the government has done very little. According to Communications Authority of Kenya (2014), Parliamentary acts such as The Consumer Protection Act, 2012 is designed to ensure that consumers are provided with full information including the price and quality of any product or service intended to be purchased. Besides the fact that the Government has various institutions that guide the operation of the media as well as a regulatory arm that gets to determine appropriateness of what is carried by the various TV stations, the stations still present content which is not suitable especially for children in terms of adverts. One of the respondents mentioned that:

PN: “The Government has not taken stern action against protecting children from harmful content as exemplified by the trust condom advert which are running on prime time segment instead of late night.” (PN, October 14, 2015)

The respondents were of the opinion that the government should penalize broadcasters who distribute/air content that is not safe for the vulnerable. They also mentioned that the government should create policies and enforce them to ensure protection of its citizen from harmful content. Bodies such as the CAK should enforce stringent regulation and content audit. The government through the Communications Authority of Kenya has a mandate to regulate and control the content that is broadcasted by various TV stations. Bodies like COFEK should effectively play their watch dog role. The government should however not attempt to regulate
content production and development by the various players in the media industry as they have attempted to do previously. One of the respondents mentioned that:

*RZ:* “In a society shaped by morals, it is always right to sensor/regulate on the type of content that goes on air. In a free market country like Kenya, unscrupulous business or media owners might take advantage to subject the masses especially children to undignified program all in the name of attracting the audiences. In this, the role of the Government censorship comes in handy in the name of protecting the vulnerable groups. Needless to say, the regulations should not negate the freedom of speech that’s granted in the constitution of the country.” (RZ, November 6, 2015)

Those who were of the opinion that the government has played their role in protecting the public explained that the government has in place the policies that prevent the broadcast of ‘mature content’ at certain times and those that prohibit the use of violence and sexual content in local and international programs to ensure the protection of the children. However, parents have a role to play in this as well. One of the respondents mentioned that:

*RB:* “The introduction of television content rating systems by the regulator to TV stations has played an important role in protection of television consumers. This has been evidenced by circumstances warnings at the beginning of programs which do not fit a specified age group. The government has also come up with laws and regulations that guide TV stations on what time to broadcast certain content, especially those deemed watched by adults. Certain adverts such as for cigarette companies have also been outlawed or they come with extreme warning to smokers. As such, we believe the government is playing their role.” (RB, October 16, 2015)

The study further sought to assess how the adoption of digital migration affected different aspects of public interest such as consumer protection, access to information, distribution of digital signal among the actors, ensuring that communities are well informed on the events around them and nationally, protection of the minors from risky content, provision of alerts to the public on emergencies and accessibility of the information to the hearing or visually impaired.
4.3.1 Consumer Protection

Those who held the opinion that digital migration was not in the best interest of consumers explained that increased access to content under digital migration translated to equally higher risk of exposure to inappropriate content. It also allowed many entrants especially in the provision of set boxes consequently leading to substandard free to air decoders in the Kenyan market. One of the respondents mentioned that:

PF: “I believe with the introduction of many TV stations in the market has affected the aspect of consumer protection in that, with competing interests among TV stations, the notion of ‘winning viewers” comes into play and many outlets might introduce program which are not ‘morally correct” just to appease the market.” (PF, November 6, 2015)

Those who were of the opinion that digital migration has enabled consumer protection explained that it has offered a platform where variety of programs are aired thus giving consumers a choice of what they want to watch. Consumers therefore have the power of choice and thus do not have to stick to services that are affronting to their rights or those that are exploitative among other things. Distributors are required to have approved and licensed set up boxes for the consumers, promote consumer awareness on access and utilization of the set up boxes and in this way protecting them from unscrupulous dealers. On consumer protection with regard to access to information, the respondents were of the opinion that digital migration has improved information access among the Kenyans. This they explained by the fact that through the digital platform, many players can be licensed to operate and thus providing a wide platform for access. It has also enabled offering of variety of channels thus giving choices to consumers. One of the respondents explained that:
RA: “With the introduction of varied TV stations I believe the scope of access to information among the audiences in Kenya has widened. Different TV stations have a specific targeted audience, covering almost 80% of the shared market segment from low end to middle class to high end of audiences and as such, all are well covered.” (RA, October 14, 2015)

Respondents who were of the opinion that the digital migration has not done much in terms of consumer protection explained that it has limited access to information especially for those who are unable afford the set up boxes. This they justified by the fact that most Kenyans living in the margins of society and even urban slums are unable to access information at no cost and have to rely on news from other sources such as radios and word of mouth.

4.3.2 Distribution of Digital Signal among Actors

On the distribution of digital content among actors, the study found that foreign firms such as Chinese owned PANG and Signet enjoyed more content as compared to their local counterparts. The study found that the allocation of content distribution rights was marred with controversy, accusations and counter accusations by various players in the sector. In line with these findings, a study by Wokabi (2015) revealed that CAK withdrew a permit that allowed three leading media houses to carry their own signals on the digital platform, leaving them to depend on other licensed signal distributors such as Signet and Star Times. Since some players within the sector deemed the decision not to have been fair, the move by some media houses to withdraw their content from being distributed by foreign content distributors was foremost more of a self-preservation measure and guised as an act in the interest of the public. One of the respondents explained that:

PM: “The distribution was not fair for the players because of government awarding the distribution to specific player. However, following the appeal by media council of Kenya I believe the playing field has been leveled. Competing
interests and business rivalry has seen fierce competition for audiences. At one point we saw major TV stations in Kenya switching off their TV stations for almost a month in the name of unhealthy competition among the signal carriers that the Government had licensed. The public was ‘Starved’ of major information flow including news and entertainment.” (PM, October 16, 2015)

4.3.3 Ensuring that Communities are well Informed on the Events Around Them

The respondents mentioned that digital migration has not ensured that communities are well informed on events surrounding them. This was evidenced by the fact that not many people in rural settings have an idea what digital migration is all about. This they justified by the fact that the government did not carry out sufficient public awareness to the benefits of migrating to digital platform.

Those who were of the opinion that digital migration has helped in ensuring that communities are informed on what is happening around them mentioned that it has expanded the broadcasting platform by bringing on board other players that could not have afforded or survived the infrastructure of analogue transmission. Of importance is the emergence of vernacular TV stations that can inform the targeted public in a language and way they can understand best. Further, specialized TV stations have emerged targeting specific segments of the population with a specific product. In support of these views, Hadland, Aldridge & Ogada (2006) observed that this enables additional capacity to deliver a diverse range of programs in a range of different languages that meet the information, cultural and educational needs of audiences and increased access by people with disability. This provides a more enhanced platform for engagement and even feedback hence enhancing participation in national issues. One of the respondents explained that:

PW: “Public Interest is covered through the diversification of frequency which has led to the introduction of Vernacular TV stations such as Njata TV, Inooro TV, Kass TV. This vernacular station expands information reach that targets
audiences who neither consume English nor Kiswahili. This also supports devolution because Vernacular stations go down to audience segmentation, which focuses on county development.” (PW, October 14, 2015)

4.3.4 Protection of Minors from Risky Content

Regarding the protection of the minors, the study found that this right had been infringed as it seemed that there is little if any control over digital content. Digital migration opens the floodgate of information flow into living rooms making it a challenge to monitor information flow aimed at ensuring that no harmful content gets to the minors. One of the respondents explained that:

PE: “Digital Migration did not factor in minor protection as there is no restriction on age and to what minors access through then service. It facilitates internet consumption and with the rise of the internet, minors are exposed to adult information which they ought not to access until they attain a legally acceptable age. YouTube is an example whereby a minor can lie about his/her age to have access to information that they ought not to.” (PE, November 16, 2015)

Those who were of the opinion that digital migration has helped in the protection of minors explained that with digital broadcasting comes the set top boxes or generally decoders. Unlike in analogue broadcasting, most set top boxes come with the provision that enables one to set channels that can be accessed through the device. Thus, parents have a little more control under digital migration compared to the analogue way. This was justified by the fact that most digital decoders have parental control features that can lock out harmful content from minors. However, online based broadcasting still makes this a problem even with digital broadcasts. They added that digital migration requires distributors and those involved to develop content regulation which protects minors from risky content. Organizations such as the filming and censorship boards are doing an average job on keeping public interest on the subject.
4.3.5 Provision of Alerts to the public on emergencies

The respondents noted that ideally digital migration should lead to more channels and programs that can communicate to the people in their diversities, but again this is only possible if people can afford the technology. On the other hand, the study found that digital migration has made the flow of information faster than it used to be before due to the enhanced reach brought about by broader coverage as a result of numerous channels and enhanced audience segmentation capabilities under digital migration. With digital migration, information has become more prompt and widely available to a larger number of citizens. One of the respondents explained that:

PW: “Provision of alerts has improved in a great way that we no longer have to rely on mainstream media to access information. Through social media like twitter, Facebook and Instagram its possible for one to put across emergency information and alerts to the public. This can be exemplified through the Alshabab alerts and various terror alerts that are passed to the public through Websites and social media.” (PW, October 12, 2015)

4.3.6 Accessibility to information by the disabled

The study found that digital migration has not put measures in place to cater for the needs of such people in the society. Respondents’ argument was that sign language interpreters existed even before digital television. They noted that sign language interpreters are helpful only to the hearing impaired, not the visually impaired or people with other disabilities. One of the respondents explained that:

PA: “Digital migration has not had any effect on these specialized groups in Kenya yet, but it definitely could offer more options in this regard in future.” (PA, October 12, 2015)
The respondents were asked to suggest how Kenyans can use digital television broadcasting to serve in the interest of the public. Some respondents noted that:

1. There should be restrictions on content distribution giving priority to content developed by Kenyans.
2. Digital migration should encourage creation and sharing of content in Kenya as that will in turn support local film industry.
3. Lower initial infrastructure and set up costs, license more players offering free to air content and target specific segments of the population to deepen reach and hopefully reach saturation.

With increased spectrum, digital broadcasting offers more channels giving room for vernacular speaking stations targeting the diverse communities in the country with content tailor made for every respective community. This consequently increases reach as viewers who do not understand English and Kiswahili which were initially the languages used by mainstream media under analog television, can now search for their vernacular channels and follow events as they unfold or even send their contributions. With the feedback that is obtained, content developers are able to tailor content and information based on the preference of the public. This therefore means that digital television has also empowered the viewers to play a role in the flow of information rather than being just passive.

On the other hand, this study found that digital TV has practically forced Kenyans to pay for TV. Many Kenyans, mostly poor, are currently unable to access TV and have TVs sitting as decorations in their living rooms because they could not afford the digital converter boxes. To make it more accessible, the set-top-boxes should be made affordable to the poor in Kenya.
Access in rural areas has also been hindered as most Kenyans rely on solar power. This should also be explored further.

Popularizing digital television among Kenyans through advertisements like Bamba TV and Star Times has done thus reaching the targeted users. Kenya Television broadcasters should also invest in covering local stories and airing local programs. This justifies the bit of localism instead of realism.

**4.3.7 Examination of Digital Migration Process in Kenya in Relation to the Principles of Competition**

Respondents were asked to explain the implication of digital migration on Kenyan broadcasting policies in relation to the principle of competition. Respondents who were of the opinion that digital migration has worked against the principle of competition opined that the implementation of the exercise was largely in favor of large scale investors. This study found that although digital migration has introduced many programs, well known local media conglomerates still enjoy monopoly and dominate the airwaves. As Connolly (2008) noted, pluralism or existence of various competing ideas generated by various players in the media landscape is healthy for the society as new ideas helpful in solving existing challenges may arise.

Those who were of the opinion that digital migration worked in the interest of the public in relation to the principle of competition mentioned that it provides a wide choice of content for viewers to choose from. This, to some extent, has reduced the domination by major channels such as Citizen, KTN and NTV. They also mentioned that the competition brought about by digital migration has enabled improved service delivery thus enhancing quality standards within
this sector and ensuring that the public gets value for money and their time. It has also allowed for the creation of policies which promote the production of local programs which are aired in the local stations in the native languages. According to Ardizzon & Ferrari (2010), in analogue transmission system, broadcasters are assigned a TV broadcasting frequency which can accommodate only one TV program channel. Therefore, a large number of potential TV broadcasters are denied the opportunity to invest in TV broadcasting due to scarcity and non-availability of TV broadcast frequencies and/or the prohibitive cost of having to put up transmission infrastructure. This, in effect, and to a great extent, hinders competition in the sector.

One of the respondents mentioned that:

*PC*: “Digital migration has opened up room for competition in that it has eliminated discrimination of upstart stations by the established ones. They all get to be on the platform and in this way competition is enhanced because viewership therefore is centered around who produced the best content as opposed to who has the most resources.” (PC, October 14, 2015)

The findings of this study is an indication that if the current vision of having the entire African continent migrate to digital television is realized then its prospects would be open not only to Kenya but also for the rest of the continent. The overall impact of digitalization will not only benefit the internal stakeholders but also affect the external dynamics, considering the current connectivity of the world.

Asked to comment on the role of the government, those who mentioned that the government has not played its role explained that the government was arm-twisted by private stations which enjoyed market monopoly under analog broadcasting and thus it was biased in exercising control over the process. It was also mentioned that the government was biased on allocation of signal distribution rights to Signet. One of the respondents commented that:
PB: “The government plays a big role but should not overstep or have vested interest in their control. As such, the government role should be purely regulatory and neutral. So far the impression given in this regard is that there are certain players who are favoured by the government over the others, something which kills competition within the industry.” (PB, October 12, 2015)

Another respondent explained that:

PD: “On the macro perspective only three countries, South Africa, Namibia and Mauritius have managed to complete their transition to my knowledge whereas sixteen percent have partially implemented, which includes Kenya. Thirty two percent are still conducting pilot programs while twenty eight percent have initiated the planning phase. The role of the government has however been draconian this is exemplified by them shutting down the various television stations transmission earlier in the year.” (PD, November 12, 2015)

Those who were of the opinion that the Government has played its role explained that it has helped in controlling competition by protecting the market from players who resort to unorthodox practices in order to gain an unfair competitive mileage over other their counterparts. They added that a self-regulated sector is good but the government has the responsibility of keeping order within the sector hence need for some control.

In assessing the effect of digital migration on monopoly, some respondents were of the opinion that digital migration has enabled broadcasting of more content and consequently enabling competition for viewership. These findings are in line with those of Freedman (2008) who found that in digital migration, the consumer is exposed to a variety of quality competing information to choose from and thus satisfaction in content offered, but also that there is free and fair competition among players such as content providers and signal distributors. One of the respondents explained that:

RT: “By introducing digital migration, the process of breaking monopolies has been kicked off. It might not pay off immediately due to the market being held by various players but the diversity in itself of broadcasters will slowly shift the focus from the key players at the moment.” (RT, October 14, 2015)
Those who were of the opinion that digital migration has promoted monopoly explained that leading media conglomerates still command the market.

The respondents were of the opinion that digital migration has positively impacted on the cost of advertisement by reducing the cost of advertising. This was projected to be realized over time through the effect of the new entrants which will finally eliminate monopoly which was deemed as exploitative. As more stations come up, especially those using vernacular language are now used to pass a message cheaply to the target community.

Donders (2014) notes that reliance on media conglomerates can be harmful as they can increase prices of their products, such as advertisements, above competition levels. Additionally, a society which relies on a media market that lacks diversity and is dominated by a few entities is at risk of being subjected to certain dominant positions which is unhealthy for the society. One of the respondents explained that:

\textit{RP: “With the segmentation of the market by various new entrants, advertisers have a wider choice of broadcasters to market their products hence the bargaining rights fall squarely into their hands as compared to a smaller market where few existing conglomerates enjoy monopoly.”} (RP, November 6, 2015)

Digital migration has also enabled the introduction of many TV stations in the country with some targeting varied markets niche. One of the respondents mentioned that:

\textit{PS: “Digital migration is the best thing that ever happened for new entrants to the market as it automatically kicked out artificially generated barriers to entry which have previously been used by the more established stations to lock out new competitors.”} (PS, October 12, 2015)

However, due its multiplicity nature, successful implementation of digital migration is bound to result in a market rich with content due to increased opportunities for content developers which consequently translates to demand for employees to work in content production to satisfy the increased demand.
On the other hand, heightened demand for content has attracted new entrants in signal conveyance, a phenomenon that has in turn led to a considerable reduction in the cost of the set boxes.

The contribution of digital migration on market place of ideas has been greatly enhanced. In a bid to outdo each other, broadcasters have come up with great ideas through the emergence of single focus players in the market which has in turn enriched the overall appeal of sector ideas. Due to the increased diversity of content being generated, the market place of ideas has also been expanded greatly. With the introduction of digital migration, many ideas are emerging as many youths and Kenyans who harbored creative ideas now have the opportunity to share and channels to broadcast their works.

Digital migration has also allowed for more creativity and diversity as there are conditions put in place for broadcasters to accept to air content especially those that are locally produced. Key for digital broadcasting is the creation of content through the introduction of new programs. This has enabled the communication industry to be a rich market place of ideas. Ideas shape content, whereas diversity of contents shapes programming.

4.3.8 Suggestions on how Kenya can use Digital Television Broadcasting in

Controlling Competition

The government of Kenya should put measures in place to regulate the number of channels an investor can own. The government should reduce the hurdles of entry for new players, considerably reduce initial set up and infrastructure costs, strengthen the self-regulatory bodies, together with sector players
develop effective operating guidelines as well as ensuring compliance, and objectively monitor sector operations.

The government should come up with terms of operation and termination of contracts to ensure that all players compete within the allowed rules. These laws will also ensure that all players are held accountable to promote “healthy and fair competition”.

The Government can use the digital platform to gauge the seriousness of one’s content input and avoid duplication of ideas from content producers to avert any legal implications. In digital platform, everyone has a piece of the pie if only one churns their content to be acceptable and attractive to the audience.

Introduction of variety Television stations that support local programming. Diversification of Television stations will lead to control of competition for example the emergence of vernacular television stations will lead to decentralization of advertising budget. For example government being a key spender when it comes to advertising will spread its budget across different stations and this spreads competition.

4.3.9 Examination of Digital Migration process in Kenya in relation to the principle of Diversity

The respondents were asked to explain the implication of digital migration on Kenyan broadcast policies in relation to the principle of diversity. Those who were of the opinion that the implementation of the digital migration in Kenya promoted the principle of diversity explained that it has introduced a rich and diverse content allowing Kenyans to access numerous channels. As such, it has enabled the contribution of different players with varied products to enter the market to serve diverse segments of the market. Doyle (2002) notes that monopoly in media
ownership presents the risk of overemphasis of certain political viewpoints, socio-economic views as well as cultural values favored by media owners, at the expense of the larger public. As such Connolly (2008) views pluralism as “a system which develops individual capacities, protects individual rights and freedoms, identifies important social problems, and promotes politics of incremental change while maintaining a long-term stability based on consent”.

Through diversity, different communities can now access programs which depict cultures that are different from their own. Because media shapes the public viewpoint, it is therefore important that all these viewpoints are represented carefully. Digital migration has also led to the proliferation of channels dedicated to airing content targeting viewer blocks based on religion, education, agriculture, current affairs, and children among others. Digital Migration has shaped policy in terms of content and evidenced by the fact that one of the key rules and regulations states that 60% of programs aired on local television stations need to be local content.

4.3.10 Role of the Government in Ensuring Diversity among Broadcasting Houses in Kenya

As asked to mention the role of the Government in ensuring diversity among TV stations in Kenya, the study revealed that the government has not done a lot in terms of ensuring diversity though it has established institutions to deal with this such as the Competition Authority. This was justified by the fact that different media conglomerates still own too many stations under different names controlled by one voice. The government has also not implemented policies which encourage new entry.
4.3.11 Influence of Digital Migration on the Representation of Kenyan Diverse Culture

On the influence of digital migration on the representation of Kenya’s diverse culture, the study found that digital migration has promoted accessibility to the culture of different communities. This has been evidenced by proliferation of local TV stations airing in vernacular. The introduction of segmented TV content ideas has brought about investments in various subjects in the diverse social cultural communities in Kenya. This shows a radical change from the Western allied programming that used to rule the airwaves a while back. One of the respondents mentioned that:

PV: “The representation of Kenyan diverse culture has always been there even before digital migration. The only advantage is that the migration has allowed for more broadcasters who specialize on local content. Unfortunately some of those programs are in local languages thereby causing a barrier to access.” (PV, October 14, 2015)

4.3.12 Influence of Digital Migration on the Reflection of Culture, Opinion and Social Condition of the Population as a whole

In this regard, the respondents mentioned that digital migration has ensured more exposure to local content that propagate cultural values. Thus society has been opened up as people get to understand different cultures. With the availability of diverse content, different people are able to get what they can relate with because they can have a place where their culture is reflected or a culture they are interested in. Furthermore, with the changes and adaptation of the “new generations”, diversity allows them to have their own different social opinions regardless of what they subscribe.
4.3.13 Influence of Digital Migration on the Choice of Channels

A majority of respondents interviewed shared the opinion that digital migration has brought about choices in terms of availability of channels. The segmented niche market taps into one’s viewership tastes based on one’s mood, time of the day or season. Digital migration has enabled many more broadcasters to enter into the market thereby partially increasing the viewers’ choice. However this might not be entirely true as some of these channels are not entirely free to view.

4.3.14 Influence of Digital Migration on Diversity of Content

Digital migration was found to have allowed the presentation of diverse content. Digital migration has given latitude for so much content to be readily available which is good for competition.

4.3.15 Influence of Digital Migration on Ownership of Content

Digital migration has made it possible to distribute content on the many channels available. This has enabled diversification of content ownership. It has also led to increased demand for content, thus more producers get into business consequently ensuring diversity of content. Digital switch has enhanced patents and copyrights among independent content producers as compared to the analogue transmission where copyrights belonged to the hosting outlet leaving one with less negotiating power.
4.3.16 Influence of Digital Migration on Diversity of Source of Content

In terms of source of content, the study found that digital migration has opened opportunity for more content to be produced by different people of diverse background in programs presentation, international and national program presentation. This has enabled more local producers with an opportunity to have their content broadcast. Amoah & Adu (2014) point out that Africa is still lacking in its capacity to fully reap the socio-economic benefits of digital television because the continent is limited in its ability to produce content to meet the high demand offered by digital television. With a varied choice of selling content, there has being a scaled up competition in terms of sourcing of content among producers which has brought forth the issue of ‘first come first served’ notion.

In terms of diversity of staff producing the content, it was revealed that digital migration has negatively affected diversity in terms of staff as everyone wants to work on his own content and sell at a viable rate as compared being confined to employment. Finally, in terms of TV channel ownership, it has increased the ownership by enabling the proliferation of more stations. Ownership of a TV channel has being simplified as long as one comes out with a viable content line.

4.3.17 Suggestion on how Kenya can use Digital Television Broadcasting to Ensure Diversity

The Communications Authority of Kenya should regulate the content of what is aired in the TV stations. This will ensure that only relevant content is aired and the timing. They should also come up with policies that ensure diversity and emphasize on airing of local content by broadcasting channels in Kenya.
It was also suggested that the Government of Kenya should reduce barriers in setting up TV stations and encourage investment in TV broadcasting to deepen reach so as to work towards global targets of access to information for its citizens.

4.3.18 Examination of Digital Migration Process in Kenya in Relation to the Principle of Localism

Regarding the principle of localism, the respondents were asked to explain the implication of digital migration on Kenyan broadcast policies in relation to the principle of localism. The study found that digital migration has actually worked against the principle of localism as more content of the available channels is not local. This was evidenced by the fact that the Kenyan content is increasingly suffering from unfair competition generated by foreign content on digital TV.

On the other hand, some respondents mentioned that it has actually opened opportunities for production of local content as many local dialect TVs have been opened. Galprine (2004) notes that localism has formed the basis for American television for a long time. In the 1940’s following the arrival of television, the FCC formed a raft of measures to ensure that the broadcast system prioritized local orientation, (Napoli, 2003). Among these measures included to provide each community with at least one television channel dedicated to their service and to provide at least one television channel to serve the entire USA, among other measures. One of the respondents mentioned that:

R: “Digital migration has allowed more content coming from outside into the local channels thus posing unfair competition on locally produced content.” (R, November 12, 2015)
4.4 Role of the government of Kenya in promoting the principle of localism in Kenya

The findings of the study revealed that the government of Kenya has not done much in terms of ensuring that local content is well represented. This has been evidenced by lack of policies on the promotion of airing of local content. One of the respondents explained that:

*PS: “Initially, I didn’t find the government very helpful as it was opposed to local broadcasters and it preferred Chinese and South African companies. It had to be pushed by the Supreme Court to issue a license to a company owned by three local media houses to broadcast their content.”* (PS, October 12, 2015)

4.4.1 Influence of Digital Migration on Local Content Production

The respondents mentioned that digital migration has promoted the local content production. This is evidenced by the fact that it has led to the setting up of local TVs airing on vernacular languages thus creating a demand for local content. These findings are in line with that of Napoli (2003) who found that among measures of ensuring localism in digital migration included to provide each community with at least one television channel dedicated to their service and to provide at least one television channel to serve the entire USA, among other measures. One of the respondents explained that:

*PG: “With the introduction vernacular Television Stations, content will focus on the local scene instead of international Scene. This can be exemplified by the Royal Media Services introduction of Vernacular TV stations specifically, Ramogi TV, Inooro TV, Musyi TV.”* (PS, October 12, 2015)

In terms of content orientation, the findings showed that there has been a shift on content orientation favoring localism. This has been evidenced by the fact that the much concentrated Mexican soap operas dominance on TV sets have gone down with the invent of new ideas that bring forth production of cheap local shows that supplement the Mexican ones which were deemed cheap. However, the challenge still exists where the international content seems to have
more quality compared to the local content thus posing unfair competition. Most of the foreign content has also been made more available on free to air channels. One of the respondents mentioned that:

**PR:** “There is still a challenge since a lot has been influenced by market forces. There is a general attempt by almost all players to carry more local content though it differs among the players. International content is still prominent though.” (PR, November 6, 2015)

Regarding the frequency allocation to local content, the study found that at least some effort has been put to allocate more frequencies to the local content. By setting up local TV stations airing in vernacular, priority has been given to producers of local programs thus increasing the demand for the locally produced shows. Digital platform is also quite effective in terms of frequencies that can be locked to a single TV broadcaster thus giving more space for more stations to be started.

On the influence of digital migration on Local TV channels, the study found that it has enabled rapid increase in the number of channels in the country due to the allocation of more frequency and demand. Players broadcasting local content in local languages have been licensed to operate based on their targeted audience and the strength of the content they generate. One of the respondents mentioned that:

**PR:** “Localization in Kenya is displayed through the inception of Kass TV, MusyiTv, Inooro Television and Njata TV this was not possible back in the days because acquisition of frequencies was such an expensive measure.” (PR, October 12, 2015)

In terms of the production of local programs, it was revealed that digital migration has led to demand for local content consequently occasioning the emergence vernacular stations airing in vernacular. The emergence of vernacular television stations coupled with advancement in
technology, such as digital hand held devices (like smartphones) capable of recording and processing still pictures as well as videos has consequently opened space for local producers specializing in vernacular content.

4.5 Suggestion on what can be Done in Kenya to Promote Localism

The government of Kenya should ensure that there are legislations governing frequency allocation, ownership, content and all that ensures the spirit of localism is embodied.

The government should also recognize local film industry and support it to grow. This can be done by reducing of the cost of procuring equipment’s of production as well as reduce on the licensing costs ensuring property rights to the local content.

The government should license more regional based broadcasters, provide varied platforms for airing the produced local content as well as enact policies on the threshold for local based programming.

The local content should also be made attractive by ensuring the quality of production of the local content. This will make the local content compete favorably with the international content.

4.5.1 Study Findings

This study focused on 'examining digital switchover in Kenya in relation to principles of broadcasting policy' namely public interest, competition, diversity and localism. It examined the extent to which fulfillment or non-fulfillment of these principles affected television broadcasting in Kenya and sought to make recommendations.
The study found that digital television switchover in Kenya was in fulfillment of the principles of broadcasting. Data obtained through content analysis indicated that the population of Kenyans who owned television prior to the switchover was approximated at 55% with 14 only television broadcasters. The study found that the percentage of television owners increased to 66% with 65 broadcasters after the implementation of digital migration.

Following the switchover and consequently full implementation of digital migration, the number of television stations increased from just 5 in major cities under analogue broadcasting to at least 22 across the country. This, the study found, enabled television viewers to gain access to a wider variety of better quality programmes from different broadcasters due to wider spectrum of channels under digital broadcasting. Although 43.45% (17.38) of the general population in 2011 were already in a position to access digital television content via internet enabled devices, the number has since increased due to digital migration.

The presence of different content distributors under digital television broadcasting has opened up space for more television broadcasters, both local and foreign, to reach the audience they couldn’t reach before under analog broadcasting due to limited frequencies. This has consequently led to television channels dedicated to local vernacular programs, Swahili language, education, culture consequently satisfying the needs of viewers in the most diverse and localized manner.

The study finds that though digitization in television broadcasting in Kenya met the threshold of broadcasting principles, the process however gave birth to some socio-economic challenges among television viewers. This study finds that increase in television content under digital broadcasting is counterproductive with lack of proper laws to protect vulnerable members of the society like children. This uncontrolled access to television content is in contravention of
the family programme policy (Section 461(2)(a)(b) of the 1998 Kenya Information and Communication Act and Sections 20(b), and section 34(1)(2) of the 2009 Kenya Information and Communication Regulation) and laws guiding the minors (Section 20(A)(C), Section 31(C) of the Kenya Information and Communications Act 2009).

The call for viewers to purchase digital set boxes as the only way to access digital television broadcasts while there are very few free to air content distributors such as Bamba TV and ADN, exposes some viewers to additional monthly subscription costs to access content via distributors like Zuku, GoTV/DSTV and AZAM.

This study, therefore, finds that the implementation of digital migration in Kenya by CAK was conducted in accordance with the principles of broadcasting. However, the study also finds that more need to be done to address social and economic impact of digital orientation to the public in order for digital migration to be a success. This will ensure that vulnerable groups like minors are protected from harmful content. It will also ensure that families, especially poor households, do not have to incur monthly expenses in order to access information under digital broadcasting.

4.6 Discussion

4.6.1 Examination of the Digital Migration Process in Kenya in Relation to the Principle of Public Interest

The major target of the Government of Kenya was for digital migration to be implemented in the best interest of the public. However, findings obtained from the participants revealed otherwise as this was explained by the fact that the public were in the first place not prepared for the migration and that many could not afford the set top boxes.
These findings are in line with Napoli (2003) who found that more often than not, the push for digital migration has been motivated by the need to beat international deadlines, must carry provisions, spectrum of channels, among many others, while ignoring existing local conditions necessary for migration. This is because respondents perceived that the implementation did not take into account poverty as the major factor that determined adoption of technology hence ignored the public ability to acquire the set top boxes among other things. Therefore, this step could have been effective if the general public interest was taken into consideration to acquire clearer signals. On the contrary the switching of analogue has denied most Kenyans the right to access information presented through the TV. This leads as to Freedman (2008) question as to whether public interest implies what the public is interested in knowing or what serves in the best interest of the public. This is because many of the citizens could not afford the presented set boxes which are accompanied with monthly subscription and thus being subjected to what they were not ready for. Therefore, Napoli (2003) advocates that policy makers must shift their focus to public interest as a fundamental principle of broadcast regulation.

In order for digital migration to be effective in accordance with the time spent and resources invested in the process, Napoli (2003) advices that policy makers should shift their focus to take into account the public interest as a fundamental principle of broadcast regulation. This is further emphasized by Berger (2010) who views that DTV migration was a non-African concept which was generated by the developed world with the aim of decongesting Europe’s terrestrial spectrum. Berger (2010), also does conquer with Napolis’ notion, by stating that African terrestrial spectrum is not in any case experiencing major pressures calling for such decongestion and neither are there large and reliable consumer markets on the continent for
digital television. However, the few participants who perceived that digital migration implementation in Kenya was at the interest of the public indicated that its implementation would enhance ease in information accessibility among the public. Freedman (2008) conquers with this view by noting that digital television provides the much needed platform for the flow of popular international culture to local market. On the contrary, digital implementation proponents indicated that the process would enhance TV experience among consumers as per the quality and sound reflected while offering a variety of channels to chose from. In addition digital migration permits emergence of new broadcast actors in view that the digital space offers a large scope of options with improved signal quality.

Some of these respondents to contrast with Amoah & Adu (2014) analysis that points that Africa capacity to fully exploit the socio-economic opportunities presented by digital television is wanting as the continent is ability is still limited to generating content that meets the high demand offered by digital television. The interviewees indicated further that digital migration encouraged market segmentation in which TV stations tended to focus more on a specific market niche. This is reflected where a TV station may tend to focus on pure music and entertainment broadcast or cartoon graphics. This option makes it much easier for consumers to choose a specific station which best suits their interest as per the available categories such as age, race and culture.

The digital platform is also viewed to offer market space for independent content producers who have access to production devices to produce and sell locally to media houses. These interview feedbacks conquer with Ardizzon & Ferrari (2010) indications that the major digital broadcast technologies benefit is noted where use of scarce national radio frequency spectrum is far more efficient in comparison to analogue technologies. As a result, existing
broadcasting services are availed to the public at a limited radio frequency spectrum which they currently occupy enabling dedicated delivery of government information, education, health programs, digital broadcasting facilities, the delivery of e-government services, opening up opportunity for developing new skills and the creation of new jobs (Ardizzon & Ferrari, 2010). All this aspect is summarized in Maina (2015) analysis on the new promulgated Kenyan constitution, Article 33 and 35 which assures freedom of information accessibility and expression respectively, and Article 34 which guarantees freedom and sovereignty of every kind of media, shielding media institutions and individual journalist from state interference and control.

4.7 Consumer Protection

The interviewees noted that the government has largely failed in its obligation to protect television consumers as well as vulnerable groups such as children against harmful content. In relation to the Communications Authority of Kenya (2014), Parliamentary acts such as The Consumer Protection Act, 2012 was created so as to ensure that consumers are provided with full information such as the price and quality of any product or service which they intend to purchase. Though the Government composes diverse institutions which provide guidance on media operation and regulatory arm that determines the appropriateness various TV stations face, these stations are noted by the respondents as still presenting content which is not suitable especially for children in terms of adverts. This goes against Section 20(a)(c) and Section 31(c) of the Kenya Information and Communications regulations of 2009, which requires the stations licensed to take responsibility in protecting children while initiating programmes that enhance their social, mental, and physical potential.
Therefore respondents purported that the government should entrench strict penalties on broadcasters who air unsafe content to vulnerable group. Moreover, the government ought to create policies and enforce them to ensure protection of its citizen from harmful content. This should be ensured through bodies like CAK which is mandated to enforce stringent regulation and content audit. Institutions such as COFEK should play the watch dog role effectively. However, the authority should refrain from regulating content production and development by various players in the media industry consequently denying citizens freedom of speech and access to information.

Some interviewees were of the opinion that supported the government sensor action by noting that it has played its role in protecting the public from harmful content. This, they opined, is achieved through policies that prevent the broadcast of ‘mature content’ at certain times and those that prohibit the use of violence and sexual content in local and international programs. This view is in line with present legislation intended at strengthening family programming as per Section 461(2)(a)(b) of the Kenya Information and Communication Act of 1998, and Sections 20(b), as well as section 34(1)(2) of the Kenya Information and Communication Regulation of 2009. This Programming Code intends to ensure that harmful information for minors and children is not broadcasted during hours when a large population of minors and children are likely to be watching or listening. On the other hand, the interview notes that parents have a role to play in this as well.

However, interviewees who were of the opinion that digital migration has not done much in terms of consumer protection, opined that citizens experienced limited access to information especially those unable afford the set top boxes. This opinion is supported by the fact that most Kenyans citizen living in the rural areas as well as urban slums are usually not in a position to
access information thus they have to rely on news from other sources such as radios and word of mouth.

Berger (2010) perceives this move of DTV migration as a non-African concept which was developed by the developed world with an aim of freeing up the congestion in Europe’s terrestrial spectrum. Moreover Berger (2010) holds that the African terrestrial spectrum is not under any major pressure which requires expansion, neither does the continent’s consumer need digital television technology nor possess the buying power necessary to own digital television. This argument is further emphasized by the existence of a considerable population of Africans who lack access to the already available analogue television broadcast services because of either poverty or lack of electricity connection, among other limitations.

4.7.1 Distribution of digital Signal among Actors

Distribution of digital frequencies among actors has been largely contested. Most notably literature in this study found that foreign firms such as Chinese owned PANG and Signet were favoured in allocation of frequencies at the expense of their local counterparts during the introduction of digital migration. Moreover, allocation of content distribution rights was noted to have been marred with controversy, accusations and counter accusations by various players in the sector. This is emphasized further by Wokabi (2015) who notes that the CAK withdrew distribution permits of the three leading media houses (NTV, Citizen, and KTN) consequently barring them from transmitting their own signals on digital platform. This left the media houses in question with the sole option of relying on the already licensed signal distributors such as Signet and Star Times. This resulted in the said media houses feeling shortchanged thus withdrawing their content from foreign content distributor platforms in protest. The move that
was mostly a self-preservation stance by the local media turned out to work against public interest. One of the interviewees agreed with this as they deemed the move as unfair as government favored a specific actor, however, the inception of media council of Kenya led to cut throat competition in which some opted to switch off their signals from the licensed distributors.

Ageyo (2015) asserts this view in his analysis by noting that, despite the excitement over attractive features of DTV such as spectrum of channels, the implementation of digital migration could pose a threat to press freedom in Kenya by providing loopholes, which the state could use to arbitrarily, and unfairly gag the media. This was evident in the fact that signal distribution in the whole country was handled by just two entities; government owned KBC and PANG, making it very easy for the state to put the country in media blackout if it so wishes (Ageyo, 2015).

The interviewee response indicating that digital migration did not consider that communities ability to acquire enough information on events surrounding them thus going against their right to access information. These claims were evident where many people in rural settings lacked ideas on what digital migration entailed. The justification point is reflected where the government did not carry out sufficient public awareness on the benefits of digital platform migration.

However, those who supported digital migration purported that the process has assisted in making sure that communities are well informed in their environments. Most of these actors initially were not in a position to afford or survive the existing analogue transmission infrastructure. This is reflected through the emergence of vernacular TV stations that are strategically positioned at informing the targeted public in a language and way they can understand best. This is further complimented with emergence of specialized TV stations that target specific population segment with a specific product. Hadland, Aldridge & Ogada (2006)
support the interviewee’s opinion that this process will enable additional capacity to deliver a diverse range of programs offering different languages that meet the information, cultural and educational needs of audiences while increasing access to people with disability. The element of enhancement in the engagement platform speed up acquisition of feedback and participation in national issues is improved. This is noted in one of the respondent’s opinion which noted that presence of vernacular stations expanded the scope of information available to audience.

### 4.7.2 Protection of Minors from Risky Content

Protection of minors as a fundamental obligation of the media was noted to have been violated as very little was seen to have been done to protect minors exposed to risky content as a result of digital television. This is because digital migration is predicted to open the floodgate of information flow into living rooms hence making it difficult to monitor information targeted by ensuring that no harmful content reaches the minors in the family. As one of the respondents noted, the inception of digital migration did not consider protection of the minor through filtration of the required content to air or access. This is experienced through easy access to uncontrolled internet content accessibility by the minors. This element contravenes Section 20(a)(c) and 31(c) of the Kenya Information and Communications regulations of 2009, which requires licensed stations to take responsibility in child protection but encouraged initiate socially, mentally, and physically uplifting programs presented through infomercials, advertisement, program listings, documentaries, commentaries, program, promotion, and interviews.
On the other hand, those participants whose opinion deemed that digital migration has assisted in the protection of minors in comparison to analogue broadcasting, in which most set top boxes are accompanied with the provision that enables one to set channels that can be accessed through the device. In the aspect of digital migration, parents have some level of control as compared to the analogue way. As noted in the study, most digital decoders have parental control features that can be used to lock out harmful content from minors. On the contrary, online based broadcasting still do make this a challenge even where digital broadcasts exists. It can be noted therefore that institutions (the filming and censorship board) are doing an average job on keeping public interest on the subject.

4.7.3 Accessibility to Information by the Hearing or Visually Impaired

According to literature in the study, digital migration lack measures put in place to cater for the visually impaired needs. One of the respondents validates the involvement of measures to cater for visually impaired persons, by stating that sign language interpreters did exist even before digital television. This contravenes the Kenya Information and Communication / broadcasting Regulation of 2009 Section 36 which requires that those involved in broadcasting should take measures that promotes enjoyment and understanding of the transmitted programmes relayed through stations by individuals who are disabled, specifically focusing on individuals with deaf, blind, or partially blind persons.

However, sign language interpreters are only helpful to the hearing impaired persons, but not to the visually impaired or people with other disabilities or as well those who lack the knowledge. Therefore, the respondent’s perception that the impact of digital migration on special groups is very minimal offers an opportunity for future expansion on the subject.
4.7.4 Examination of Digital Migration Process in Kenya in Relation to the Principle of Competition

Some of the respondents held the opinion that digital migration has operated against the principle of competition as the implementation of the process largely favored large-scale investors. Thus, despite the fact that digital migration introduced many programs that are familiar to local media, large conglomerates still do enjoy monopoly enabling them to dominate the airwaves. Connolly (2008) opines that pluralism, which is the existence of various competing ideas generated by various players in the media landscape, is healthy within the society due to that fact that new ideas are essential in solving existing challenges that our societies face.

However, those respondents who held that digital migration worked in favor of public interest as per the principle of competition said that it empowered viewers to have a wider option to choose from. To some level this measure has led to reduction of domination of market by a few channels while enhancing service delivery thus injecting quality standards within the sector. This empowers audience to get value for their money at the required time thus policies developed will be in a position of promoting local programs production aired native languages in the local stations. Ardizzon & Ferrari (2010) note that broadcasters in analogue broadcast system are assigned TV dissemination frequency which can accommodate only one TV programme channel thus, a large scope of potential TV broadcasters are denied the opportunity to invest in TV broadcasting.

Regarding the implication of digital migration on Kenyan broadcast policies in relation to the principle of competition, those who mentioned that digital migration worked against the principle of competition explained that digital migration propelled the ideas of investors and large sector players thus making competition unfair. It was also found that digital migration
introduced many programs, but key local media conglomerates still enjoyed monopoly. On the other hand, those who were of the opinion that digital migration worked in the interest of the public in relation to the principle of competition mentioned that it has enabled access to many channels by viewers thus people have choices. This has reduced the domination by major channels such as Citizen, KTN and NTV. They also mentioned that the competition brought about by digital migration has enabled improved service delivery thus enhancing quality standards within this sector and ensuring that the public gets value for money and their time.

4.8 Government

The government is perceived not to have played its role in creating a favorable environment. This is explained through the government arm-twisting private stations by empowering government corporations to enjoy market monopoly under analog broadcasting thus this was biased in exercising control over the process. Donders (2014) notes that regulating a diverse and pluralistic media calls for laws that ensure a healthy competition by doing away with obstacles to new entrants while prohibiting monopolistic trends. However, the bias element in the government operation reflected in allocation of signal distribution rights to Signet goes against this principle.

However, those in support of the government controlling competition move noted that there was market protection from actors who opt for unorthodox practices in order to gain an unfair competitive mileage over other their counterparts. According to the interviewees’ view self-regulated sector is not bad; however, the government has the responsibility to maintain order within the sector thus requires some level of control.
Though the government has to protect the market, the move to strain its local broadcasting is unjust and infringes on the rights of its citizens to access information in the best way available.

The inception of digital migration monopoly has led to broadcasting environment transmitting more content and receiving more viewership competition. This opinion is in accordance with Freedman (2008) analysis, that perceived that consumers in communication field are exposed to diverse quality competing information to choose from, leading to content satisfaction in the process of implementation of free and fair competition among players.

4.8.1 Examination of Digital Migration Process in Kenya in Relation to the Principle of Diversity

The effect of digital migration on Kenyan broadcast policies in relation to the principle of diversity is met with different views. Some respondents noted that digital migration implementation in Kenya promoted the principle of diversity, an element which introduced a rich and diverse content that permits Kenyans to readily access various channels. This has permitted different players contributing various products to enter the market to reach at diverse market segments. Doyle (2002) identifies that media ownership monopoly presents the risk of over focusing on certain political, socio-economic viewpoints, as well as cultural values that is preferred by media owners, at the expense of the larger public. Connolly (2008) brings out another view noting that pluralism as a market structure is designed in a way that protects persons freedom and rights, promotes development focused politics, nurtures individuals capacities towards maintaining consistent and long lasting consent.
This view therefore acknowledges that diverse communities can access programs which portray different cultures from their own thus through this various view point are taken into consideration and therefore shaping the public thinking. As noted by the respondent, digital migration results to proliferation of channels which are dedicated at airing content focusing on consumer block based on education, religion, children, or current affairs among others.

Napoli (1999) affirms the issue of diversity by stating that a concept marketplaces under media policy would be exemplified when a media landscape that allows free and fair competition between players leads to a more satisfied and informed audience. Therefore, diversity as a principle, under marketplace of ideas, will ensure that the media provides to the consumer a wide choice of content from varying sources hence principle of diversity is pegged on content, source and exposure diversity.

4.8.2 Influence of Digital Migration on the Representation of Kenya’s Diverse Culture

The study noted that digital migration has promoted accessibility to various cultures. This is reflected through increase in local TV stations airing in vernacular. Some of the respondents note that introduction of segmented TV content concept results to emergence of investments in various topics in the different areas in Kenya’s social cultural communities. This evolution is noted to reflect radical transformation from the conventional Western allied programming. The process of offering viewers a wider choice spectrum is noted by Napoli (1999) as exposure diversity an aspect which has permitted Kenya broadcasting field representing the diverse ethnic and racial background of the larger Kenyan society. Doyle (2002) however notes that monopolizing media ownership presents the risk of overemphasis of certain political viewpoints,
socio-economic views as well as cultural values favored by media owners, at the expense of the larger public. This may be dangerous to the diverse ethnic representation in the Kenyan contest as it alienates some individuals and social classes in the society.

The respondents were of the opinion that the implementation of the digital migration in Kenya promoted the principle of diversity and explained that it has introduced very diverse content allowing Kenyans to access numerous channels. As such, it has enabled the contribution of different players with varied products to enter the market to serve diverse segments of the market. Through diversity, different communities can now access programs which depict cultures that are different from their own. The fact that media shapes the public viewpoint it is important that all this viewpoints are presented carefully. It has also led to the proliferation of dedicated channels airing contents such as religion, education, agriculture, current affairs and cartoons.

4.8.3 Examination of Digital Migration Process in Kenya in Relation to the Principle of Localism

Digital migration as per respondents view has worked against the principle of localism due to the fact that more content available on channels are not local. This was reflected where the Kenyan content is currently increasingly suffering from unfair competition inflicted by existence of foreign content on digital TV.

However, some respondents ascertained that digital migration has actually increased opportunities for local content production due to the fact that many local dialect TVs have been opened. This view is further noted by Galprine (2004), who indicates that localism has acted as a foundation for American television for a long period in history. Napoli (2003) affirms Galprines view by noting that following the arrival of television during the 1940’s, the FCC
developed several of measures that ensured that the broadcast system only prioritized local orientation. Some of these measures involved providing every community with at least one television channel that was dedicated to their service.

Moreover, the broadcaster was to at least provide one television channel to serve the entire USA, among other measures. This view presented by Napoli (2003) and Galprines (2004) is in line with one of the interviewees’ opinion stated that digital migration permitted existence of more foreign content into the local context thus presenting unfair competition.

4.8.4 Role of the Government of Kenya in Promoting the Principle of Localism

In the local context, the Kenyan government has not achieved much in terms of making sure that local content is fairly represented as the environment lacks policies governing promotion of airing of local content. According to respondents, the Kenyan government did not advocate for local broadcast promotion but rather promoted South African and Chinese firms till the Supreme Court ruled in favor of local broadcasters.

4.8.5 Influence of Digital Migration on Local Content Production

The respondents mentioned that digital migration promoted the local content production. This is evidenced by the fact that it’s presence resulted to the setting up of local TV stations that focus on airing vernacular languages hence developing demand for local content. These findings are in line with that of Nepoli (2003) whose analysis noted that digital migration measures should be initiated to ensure that localism in digital migration is accessible to each community with at least one television channel dedicated to their service and to provide at least one television channel. According to one of the respondents, introduction of vernacular television
stations leads to shift of focus from international scenes which are given more focus to local scenes. In Kenya this is reflected through emergence of vernacular TV stations such as Inooro TV, Ramogi TV, Musyi TV among others.

4.9 Content Distribution

There has been a shift on content orientation favoring localism in relation to content orientation in Kenya. As noted in the findings, is a reflection where the level of Mexican soap operas dominance on TV sets is reducing and the inception of new ideas influencing production of cheap local shows supplementing the Mexican shows which were deemed cheap.

On the contrary, challenges are still experienced where the international content production seems to of higher quality as compared to the local content hence presenting unleveled competition environment. This adds up on the advantage that most foreign content is more available on free to air channels than the local content. This according to Connolly (2008) is well presented where pluralism or existence of various competing ideas are generated by various players in the media which provides landscape which is healthy for the society as new ideas emerge which are helpful in solving existing challenges which may arise. However, standards monetary premise pegged on digital migration seem to misshape competition against pay TV and may harm the long haul interests of the broadcasters themselves.

4.10 Local Program Production

In relation to local programs production, the study indicated that digital migration has resulted to increase in the local content demand. This is reflected where one of the respondents noted that the transformation context has been characterized by starting up of local stations airing
in vernacular. By the fact that there has been entrant of new regional TV broadcasters airing with their most preferred languages being local, it can be noted that the local programs are getting their way on to TV screens. As noted by one of the respondents, integration of advanced technology has led to emerging of local producers being witnessed, introducing usage of simple gadgets such as mobile phone to produce a program piece.
CHAPTER FIVE
SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This chapter presents the recommendations and conclusion of the study. The chapter contains recommendations on the changes which can be adopted by communication policy makers in Kenya to ensure effective broadcasting in the country.

5.2 Conclusions

From the findings of the study, it can be concluded that the implementation of the digital migration in Kenya was not in the interest of the public. This is evidenced by the fact that the public were in the first place not prepared for the migration and that many could not afford the set top boxes.

The study also concludes that digital migration worked in the interest of the public in relation to the principle of competition. This was evidenced by the fact that it enabled access to many channels by viewers thus people have choices thus reducing the domination by major channels such as Citizen, KTN and NTV.

The study further concludes that the implementation of the digital migration in Kenya promoted the principle of diversity. This was evidenced by the fact that it enabled the contribution of different players with varied products to enter the market to serve diverse segments of the market. Through diversity, different communities can now access programs which depict cultures that are different from their own.
The study finally concludes that digital migration has actually created more room for the production of local content. The principle of localism will thus be realized more in the near future as currently most of content of the available channels is not local.

5.3 Recommendations

The following were the recommendations of the study:

1. The Government of Kenya should put in place sufficient policies aimed at ensuring adherence to the principles of communication. This should entail ensuring responsive policies, participatory and inclusive policy making process, empowered regulatory institutions, self-conscious broadcasting as well as less intrusive and less zealous and objective monitoring by government. The policies should favor the production and consumption of locally produced content.

2. More consultative forums should be created where stakeholders can come up with ideas that may bring forth effective and acceptable laws and regulations among them.

3. Programming content should be changed to provide time slots for Kenyan content or rather locally generated content, focus need to shift away from internationally bought program. This is specifically geared towards content policy makers who use communication as a tool of programming creation.

5.4 Recommendations for Further Research

This study examined digital switchover in Kenya in relation to principles of broadcasting policy. The study recommends that another study be done to assess the impact of digital migration in the advertising industry in Kenya, an area which was not the concern of this study.
REFERENCES


Kenya Information and Communications Act, 1998


http://www.qualitative-research.net/fqs-texte/2-00/02-00mayring-e.htm (19th June, 2017)


APPENDICES

Appendix 1: Interview Schedule

I am a Master of Arts student at The University of Nairobi carrying out a study to examine
digital switchover in Kenya in relation to principles of broadcasting policy. The four principles
of broadcasting policy are: public interest, competition, diversity and localism. These are
explained below.

Public interest - A responsible media policy is largely judged by how well it serves the general
good of the larger public.

Competition - Existence of various competing ideas generated by various players in the media
landscape is healthy for the society as new ideas helpful in solving existing challenges may arise

Diversity - Diversity or media pluralism as a principle of broadcast policy is brought out in
digital television through the technology's ability to provide a wide spectrum of channels to
choose from.

Localism - The production of local content using local producers for the local people. Grounded
on the concept of developing a media system with "a primarily local orientation"

PUBLIC INTEREST

1. Explain the implication of digital migration on Kenyan broadcast policies in relation to the
principle of public interest? (would you say it was in the best interest of the
public).______________________________________________________________

2. What would you say on the role of the government of Kenya in protection of television
consumers and vulnerable groups like children against harmful content? _____________

3. In your opinion, how has the adoption of digital migration affected the following aspects of
public interest as a principle of communication policy?

   i) Consumer protection:________________________________________________

   ii) Access to information:______________________________________________
iii) Distribution of digital signal among the actors (PANG, Signet etc): ______________

iv) Ensuring that communities are well informed on the events around them and nationally:

v) Protection of the minors from risky content:

vi) Provision of alerts to the public on emergencies:

vii) Accessibility of the information to the hearing or visually impaired:

viii) Any other?

4. In your opinion, how can Kenya use digital television broadcasting to serve in the interest of the public?

COMPETITION

5. Explain the implication of digital migration on Kenyan broadcast policies in relation to the principle of competition?

6. What would you say on the role of the government of Kenya in controlling competition among broadcasting houses in Kenya?

7. In your opinion, how has the adoption of digital migration affected the following aspects of competition as a principle of communication policy?
   i) Monopoly:
   ii) Cost of advertisements:
   iii) New entry into the market:
   iv) Frequency allocation:
   v) Market place of ideas:
vi) Any other?

18. In your opinion, how can Kenya use digital television broadcasting to control competition?

________________________________________________________________________

DIVERSITY

9. Explain the implication of digital migration on Kenyan broadcast policies in relation to the principle of diversity? ____________________________________________________________

________________________________________________________________________

10. What would you say on the role of the government of Kenya in ensuring diversity among broadcasting houses in Kenya? __________________________________________

________________________________________________________________________

11. What would you say on the representation of Kenyan diverse culture through television programming brought about by digital migration? __________________________________________

________________________________________________________________________

12. In your opinion, how has the adoption of digital migration affected the following aspects on diversity as a principle of communication policy in regard to the following indicators?

i) Reflection of culture, opinion and social condition of the population as a whole: __________________________________________

________________________________________________________________________

ii) Choice of the channels: __________________________________________

________________________________________________________________________

iii) Diversity of content: __________________________________________

________________________________________________________________________

iv) Ownership of content: __________________________________________

________________________________________________________________________

v) Diversity of source of content: __________________________________________

________________________________________________________________________

vi) Diversity of staff producing the content: __________________________________________

________________________________________________________________________

vii) Ownership of TV channels: __________________________________________

________________________________________________________________________

viii) Any other? __________________________________________

________________________________________________________________________

13. In your opinion, how can Kenya use digital television broadcasting to ensure diversity? __________________________________________

________________________________________________________________________

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14. Explain the implication of digital migration on Kenyan broadcast policies in relation to the principle of localism?

15. What would you say on the role of the government of Kenya in promoting the principle of localism among broadcasting houses in Kenya?

16. In your opinion, how has the adoption of digital migration affected the following aspects on Localism as a principle of communication policy in regard to the following indicators?
   i) Content production:
   ii) Content orientation (Local or international):
   iii) Frequency allocation:
   iv) Local TV channels:
   v) Local programs:
   vi) Local producers:
   vii) Any other?

17. In your opinion, how can Kenya use digital television broadcasting to promote localism?

18. What changes need to be adopted by communication policy makers in Kenya to ensure effective broadcasting in the country?

Thank you for your time and cooperation
Appendix II: Certificate of Fieldwork

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