Child Consumer Protection
Online Child Safety Case for Kenya

– Daniel Okendo Asher

The internet has, in a short space of time, become fundamental to young people's education and entertainment needs. More than a billion people worldwide use it, both at work and in their social lives. As an increasing number of children use the Internet in their daily lives, the benefits they enjoy and the risks they face grow exponentially. Amidst the emerging and evolving cybercrimes globally, Kenyan children are becoming an easy target in the online world as the country grapples with a weak regulation which fails to provide respite to victims and penalties to the offenders.

Children's consumer protection efforts are still at a nascent stage and require special efforts, technical assistance and resource commitments. Children as consumers have the right to enjoy all eight consumer rights including right to safety, information and education. The government need to spearhead the enactment of a stronger legal and policy regime that governs the protection of children within cyberspace. Government, parents, teachers and the civil society working on consumer rights need to come together to educate children on the perils of the cyberspace and how they could safeguard themselves.

Background

Kenya has had the formal child protection system up-and-coming since independence with enactment of legislation to address children's issues including the Children's and Young *Person's Act, the Guardianship of Infants Act, and the Adoption Act which remained in* legal force up and until March 2002, when the new Children's Act of 2001 was enacted.

The Children's Act, Cap 586 Laws of Kenya, is comprehensive legislation on children's matters. It recognises that any child shall be entitled to protection from physical and psychological abuse, neglect and any form of exploitation including sale, trafficking or abduction by any person. It also establishes that every child shall be protected from economic exploitation and any work that is likely to be hazardous or to interfere with the child's health or physical, mental, spiritual, moral or social development.

Kenya is also a signatory to the United Nations Convention on the Rights of the Child (UNCRC) since July 31, 1990 and the enactment of the Children's Act of 2001 gave effect to the obligations of Kenya under the CRC and the African Children's Charter. Since its ratification, Kenya has been working to implement its legislation concerning childcare and protection. The new Constitution provide for the protection of children in the Bill of Rights and a National Council for Children's Services, involving government and non-governmental actors, is operational where children are active participants through area advisory councils (AACs).

The primary functions of AACs are to protect rights and welfare of children in their jurisdiction, supervise and regulate planning, financing and coordination of children's welfare programmes; mobilise resources and facilitate funding, promote and create public awareness on child rights and protection and facilitate partnership, linkages and networking.

However, in the wake of technology,[1] the Internet has, in a short space of time, become fundamental to the global economy. More than a billion people worldwide use it, both at work and in their social lives. Millions of Kenyan children have found themselves swallowed up in online exchange of e-mails, short messages, chat groups, posting and reading messages in news groups which are sometimes called bulletin boards, surfing the wide world web and many other online activities.[2]

As more and more children use the Internet every day, the benefits they enjoy and the risks they face grow exponentially. A study by THE CRADLE indicate that 54 percent of children while online engage in viewing and downloading music, 51 percent playing games, 50 percent communicating with friends, 29 percent

chatting and 28 percent on social networking while online. These statistics showed that the increasingly burgeoning cyberspace was making Kenyan children permanent residents and citizens of cyber society.[3]

The growth and use of ICT tools, Internet, in Kenya has not only provided children with opportunities to expand their knowledge and skills but their innocence has enhanced their vulnerability as a result of unpreparedness – for increase in internet use.[4] Advancement in technology has accelerated children access to the internet on hand held devices such as cellular phones putting children at vantage in the use of internet without the supervision of an adult.

There has been augmented[5] child cyberspace frequency in the country with greater access particularly as a result of expanded broadband, increased mobile phone internet use and general reduction in internet prices. The country now has over 50 licensed Internet Service Providers, 20 licenced Public Data Communication Network Operators, 14 Local Loop Operators, 4 Cellular Operators namely; Safaricom, Airtel, Esar [Yu] and Telkom Orange.

Children in Kenya, like those around the world, have been born in the digital age and are fast adapters of technology with mobile phones becoming the most preferred in social networking among children followed by emails. Most often, Children go online from personal computer at home, friend's houses, and in school library or cyber café, on cellular phones but often without the supervision of an adult.

Emerging Online Challenges Facing Children in Kenya

Amidst the upsurge in cybercrimes globally, Kenyan children are becoming a target on the cyberspace as the country grapples with a feeble Children's Act which fail to provide sufficient protection to victims as well as stringent penalties to the offenders. The Children's Act 2001 which safeguards the child from both physical and psychological abuse, does not provide sufficient provisions to protect the child from cybercrimes such as cyber bullying, exposure to adult content, deceptive marketing practices, lottery scams, cyber entertainment, pseudo-attacks among others.

Kenyan children are faced with enormous challenges in regard to access and use of internet with studies on children's internet safety and security levels indicating that a quarter of Kenyan children with internet access are exposed to sexual explicit materials, with only 24 percent of the children reporting such incidences to parents or guardians.[6]

The study also showed that 90 percent of the children surveyed used the internet, with 50 percent spending between one to two hours online every day. There is increased tendency by public internet access points to admit unaccompanied minors and with no parental consent and often fail to restrict prohibited online sites from access by children. It also note that children are at risk from sexual abuse as a result of being exposed to adult sites with most of the children (40 percent)

engaged in sending sexual messages for fun, while another 26 percent doing it to impress others.

There is limited knowledge or information among the parents and guardian in Kenya as to where their children go online and the sites they visit. Children often remain silent even under situations of online harassment and exposure to sexual predators with few of them opening up to inform their parents, guardian or those in authority on what they do or where they go online with a similar reporting to parents/guardian when harassed while online or on cell phone.

There is a general problem of generational digital divide between children and parents/guardians as children venture into the use of social network groups including face book, MySpace and tweeter where they end up sharing personal information and pictures to the unknown world. Children are now faced with the problem of compulsive behaviour where they end up in virtual relationships with pedophile gaining their trust and setting up face to face meetings.

Children are not only faced with the danger of identity theft and involvement in hate or cult websites, they are exposed to unmonitored commercial services: buying and selling of stolen goods without their knowledge, access to online gambling, violence: sites selling weapons, hacking sites, and sites providing recipes for making drugs or bombs, encountering demeaning, or harassing messages via chat, e-mail, or cellular phones which end up ruining their self-esteem and a big threat to their psychological well-being.

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More often, children have found themselves downloading viruses which have ended up causing damages to computers and cell phones. Children have ended up downloading suspect programmes exposing computers to risk of a 'hacker' gaining remote access, jeopardising family privacy and safety, online fraud where children may end up exposing parent's credit card numbers, children exposure to pornography – newsgroups that contain sexually explicit stories, illustrations and photographs.

Policy Recommendations

Children's consumer protection efforts are challenging and require special efforts, technical assistance and resource commitments. Children, as consumers, have the right to enjoy all eight consumer rights including right to safety, information and education. Children are the future of our society hence requires consolidated protection to be able to grow into responsible citizens.[7] In this ICT era, their protection as consumers is very paramount as the internet knows no boundaries and exposes them to harmful activities including cyber bullying, and harassment, identity theft and online abuse such as children seeing harmful and illegal contents, grooming for sexual purposes.

Cyber crime has become a multi-sectoral issue that requires the support and collective effort of different stakeholders with various competencies. Efforts to curb the menace need to be aligned to the International Telecommunications Union's Child Online Protection (COP) initiative launched in November 2010 with the objective to develop industry codes of conduct, establishing national hotlines, roadmaps and legislative tool kits and training of parents, teachers, guardians and educators.

The government needs to develop a national strategy to identify all sources of threats and risks that might face children, not only through the Internet, but that also include all ICT medias. There is need for the establishment of a permanent national cooperation framework between the government, the civil society, and the private sector to continuously update the protective measures and meet the challenges arising from the ongoing technological advances in the country

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The government needs to enact comprehensive legislations to protect the safety of children while online in the wake of increasing dangers of sprawling cyber criminals. Various stakeholders including consumer organisations and key government authorities, such as competition and communication

The government through the Ministry of Information and Technology need to spearhead the enactment of a stronger legal and policy regime that governs the protection of children within cyberspace. This should entail clear provisions and stiffer penalties to ensure that children are safeguarded from internet predators and further from un-constructive internet contents. The government needs to establish a holistic victim support services to offer children psychological assistance and legal recourse.

commissions should be involved in drafting a formidable 'practical' legislative framework and tools that will enable it to minimise the risks to children. There should be greater emphasis on preventive strategies through legislative frameworks that meet international standards. Hence, the importance of raising public awareness, by warning young people and parents of the risks inherent in internet use by children is crucial.

The Ministry of Information Communication and Technology in conjunction with Communications Commission of Kenya (CCK) should develop a comprehensive framework that protects the safety of children on the Internet, following increasing dangers of prowling cyber criminals. Various stakeholders

should be involved in coming up with 'practical' tools that will enable it to minimise the risks to children.

In order to control the rampant cases of child exposure to potential sex predators and other online risks, the government through the Ministry of Information and Technology need to spearhead the enactment of a stronger legal and policy regime that governs the protection of children within cyberspace. This should entail clear provisions and stiffer penalties to ensure that children are safeguarded from internet predators and further from un-constructive internet contents. The government needs to establish a holistic victim support services to offer children psychological assistance and legal recourse.

The government needs to take actions[8] to enable minors to make responsible use of on-line information services by improving the level of awareness among parents, teachers and trainers. This calls for government allocation of substantial resources for awareness campaigns on the issue of child internet safety and security to parents, learning institutions and to internet providers as a way to minimising the current ignorance and disinterest which has been a recipe for unprecedented trouble. Parents/guardians need to arm themselves with information such as which sites their children visit so that they can advise

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them on the use and possible dangers of the internet. There is a need for greater knowledge of ICT-related sexual exploitation and violence against children within the arena of ICT development while providing information on internet filtering software to parents and schools.

Both the government and the civil society working on consumer rights need to allocate resources for the purpose of holding national children conferences to educate children on the perils of surfing the Internet and how they could safeguard themselves, and to the teachers and child helpline's response partners to better understand the nature of cyber-crime on children and impart them with skills and knowledge to deal with this nature of crime. It is also paramount for the government to borrow some best practices from the US Federal Law – the Children's Online Privacy Protection Act of 1998 (COPPA).

Endnotes

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8   Children Protection in Cyberspace Telecommunications Regulatory Authority, Lebanon Beirut, October 14,
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