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Newsletter

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PHRASE OF THE WEEK

Operationalization : This term as currently popularized in the AI ethics world captures the essence of transferring the theory of AI ethics into real world environments(read as technologies and communities) As the field of AI Policy grows, different sects are equally developing standards and procedures to see to it that AI ethics & principles are operationalised.

HAPPENING THIS WEEK AT THE LAWYERS HUB

6th & 7th October Data Protection Training

With the Office of the Data Protection Commissioner of Kenya setting up things in order to prepare for the long work ahead, it is in order that capacity building follows suit. The Lawyers Hub Africa and the Africa Digital Policy Institute have put together this training to contribute towards efforts to offer aspiring data protection experts necessary information for their work. Be sure to sign up, details are in the poster below.



DATA PROTECTION TRAINING

Data Protection, Data Security and Compliance

6TH & 7TH | OCT. 2022 | Duration: 2 Days

Sign up: hello@lawyershub.ke or Call +254784840228
www.lawyershub.org

Africa Startup Incorporation Policy Hackathon

Date: Thurs, 29th September, 2022.

Time: 9:30 A.M - 4.00 PM EAT

Founders are no strangers to the difficulties that come with starting a business. Setting up shop in a new country can be particularly challenging, given the uncharted waters. Hence, familiarising regulations related to business incorporation and the specific business model or industry the startup will be operating in is necessary to set a good foundation. The Lawyers Hub in Partnership with Mozilla has put together this space to solve challenges around startup incorporation policies in Africa. The Hackathon is organized for Startup Founders, Enablers, Enthusiasts, Tech Developers, Lawyers & Policymakers. Sign Up here: <https://bit.ly/startuphackathon>



AFRICA STARTUP INCORPORATION POLICY HACKATHON

DEVELOPING ENABLING STARTUP REGISTRATION POLICIES IN AFRICA

THURSDAY, 29TH SEPTEMBER 2022 | 9:30 A.M - 4:00 P.M EAT

Sign up to participate: <https://bit.ly/startuphackathon>

HOSTED ON ZOOM & IN-PERSON AT LAWYERS HUB
www.lawyershub.org

LAWYERS HUB | mozilla

Africa Startup Policy Forum

The Lawyers Hub in partnership with Mozilla will host the first annual Africa Startup Policy Forum on the 17th of October 2022 in Nairobi Kenya. Convened as a hybrid event at the Lawyers Hub in Nairobi Kenya, the one-day policy forum will bring together African tech innovators, policymakers, startup ecosystem enablers, lawyers, and entrepreneurs interested in startup policy to discuss and develop solutions to the startup policy ecosystem in Africa. As the forum draws its focus on the theme, Navigating Regulatory & Policy Barriers to Startup Growth Across Africa, it will address 5 startup policy blocks identified by the IFC e-Economy Report 2020 i.e Innovation & Growth policies, Policies on Doing Business Digitally, Sector and Industry policies, Taxation of Digital Business Policies, and Africa Pension Fund policy reforms for startup investment.

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Photo: David Becker/AFP

Can local firms keep up with newly established big tech firms salary margins?

<https://bit.ly/3fn2ysl>

■ Since setting up shop in the country this year, 2022- Amazon, Google and Microsoft have set clear strategies to onboard tech talent paying up to Sh1.8 million monthly for principal tech specialists. Smaller local companies such as Wasoko, Flocash, Twiga foods, Lori Systems, and Sendy, who had invested in and trained young engineers, have been speedily outbid. This move is rapidly disrupting the business plan of local firms and smaller foreign tech companies impacted by the pressure of these new market standards. Plans by the big tech companies reveal that the three intend to channel more investments in the region. Microsoft Kenya country boss Phyllis Migwi says it is not just about the money, multinationals offer young people an opportunity to create an impact as well as the opportunities to work in diverse and inclusive working environments. The result of these new developments have the potential destabilise existing local players. However, assuming an optimistic perspective, this shift could act as a motivator for local firms to adopt better strategies and capitalize on employee welfare to meet their business goals, albeit within their capacity.

Digital Lenders kept on their toes by CBK demands to uphold user privacy standards

<https://bit.ly/3dYW96e>

■ Last year, 2021, the Kenyan parliament approved the Central Bank of Kenya (Amendment) Bill which bestowed the Central Bank with the power to regulate digital lenders. The approval subjects digital lenders to the Data Protection Act, which prevents them from violating users' privacy through debt-shaming. Disregarding the necessity of debt shaming to ensure debt collection will remain a controversy in proponents circles. But more importantly, users who have been in the position to engage some of these notorious e-lenders can attest to the assault that is debt shaming! Back to the subject of regulation, early this year in March, the CBK published the Digital Credit Providers Regulations 2022, which requires digital lenders to obtain licences from the CBK in order to operate in the country. In the same breath, the regulator gave all digital lenders an ultimatum to apply for operational licences by September 17, 2022.

In what some may term as an unexpected twist, Kenyan regulator drops money laundering cases against Nigerian companies



Photo: Google

<https://bit.ly/3UOnsAT>

■ The Asset Recovery Agency (ARA) which is a body created by the Proceeds of Crime and Anti-Money Laundering Act in Kenya has dropped lawsuits against three Nigerian companies, Avalon Offshore Logistics Limited, OIT Africa Limited, and RemX Capital Limited, after their bank accounts were frozen over suspicion of money laundering and crime. It was alleged that bank accounts belonging to these companies were used to receive funds from dubious sources before these funds were rapidly transferred or withdrawn to other countries in order to mask their nature and purpose. A Kenyan high court, however, later lifted a freeze order on a total of KSh 5.6 billion belonging to the three companies after the ARA told the court that they found the response given by the companies for holding these funds satisfactory.

Brazilian unicorn, Ebanx, expands into Africa

<https://bit.ly/3LQ5Bp8>

■ EBANX, a multinational fintech company, has announced plans to expand its payment gateway solution and operations for the first time outside Latin America to Africa. Present in 15 countries in Latin America, the 10-year-old unicorn has processed over \$1 billion in payments and wants to initially focus on mobile money in Africa. EBANX already started operations in Kenya, South Africa, and Nigeria in late August and chose these three countries because, together with Egypt, they account for 32% of the continent's population, 51% of its GDP, and 73% of the startup accelerators active in Africa today.

Equity closes deal to acquire teachers-owned Spire Bank

<https://bit.ly/3dPy9CL>
<https://bit.ly/3dRss7b>

■ On Monday, September 12th, Equity Bank completed the purchase of Mwalimu Sacco's owned Spire Bank in a deal dubbed as 'Project Gamma'. Spire Bank has been unable to access cash from peer banks due to many of its financial challenges. Equity bank, which has a Sh1.3 trillion asset base, will take over Sh945 million in loan assets from struggling Spire Bank and deposit liabilities of Sh1.3 billion from Mwalimu Sacco, a massive teachers' savings and credit cooperative society. Equity Bank is expected to inherit over 20,000 depositors and 3,700 loan customers in the teachers-owned Spire Bank by November this year. The Central Bank of Kenya (CBK) said on Monday that it had been approached by both Equity and Spire Bank of the proposed acquisition, which it said was subject to regulatory approvals. The CBK has agreed to financially back the deal in a bid to avoid a collapse of the lender and the ensuing banking crisis that saw three banks collapse within months just five years ago. According to Dr. Mwangi, the Equity Group CEO, this deal will see Equity Bank acquire a new foothold in the race for the teachers' client base, with the purchase making it home to over 100,000 teachers accessing its services across the country through its many branches.

Uber wants court to nullify Kenya's new ride-hailing law that caps service fee at 18%

<https://tcrn.ch/3y2BOUC>

■ Uber has appealed to Kenya's apex court to annul the new digital taxi-hailing regulations claiming that some aspects are unconstitutional, discriminatory, discouraging to foreign investments and infringing on its rights and those of its riders and partners. Uber is contesting Kenya's decision to cap commission charged per ride at 18% and evaluate pricing structure, saying it would dent its earnings and discourage further investment in the country. Uber currently charges a 25% commission on earnings per trip, and the new rate will force it to lower its service fee by 28%. The company argues that Kenya is a free market, where ride-hailing companies have the right to negotiate commercial agreements without external influence. It also claims that the regulations were made and gazetted without following due process and public participation. Uber also faulted the condition that all ride-hailing companies must obtain a transport network license from NTSA to operate, saying that it was not a transport service but an app offering intermediation service. It said the regulations are discriminatory because it only allows people with Kenyan Personal Identification Numbers (PINs) to obtain the mandatory license. Additionally, only entities that are legally registered in Kenya and have physical offices in the country will qualify for the permit. Ride-hailing companies in Kenya, including Bolt and Little, are also required to share drivers and riders' data upon the request of the authority. Uber said that this would be a contravention of the new Data Protection Act.

Office of the Ombudsman responds to public complaints about being blocked on social media by KPLC citing illegality

<https://bit.ly/3rhMBXe>

■ According to the Commission for Administrative Justice (CAJ), the use of social media platforms such as Twitter and Facebook by government officials and State departments to communicate public information requires them to provide full access to all Kenyans under the Access to Information Act 2016. Blocking certain users is a violation of section 4 of the act as it denies citizens the right to access public information. The same act provides that an offence of this kind attracts a penalty of up to one million shillings in fines and or imprisonment for up to three years.

In a tweet, the Office of the Ombudsman responded to questions from Kenyans on Twitter, who were blocked by the State-owned electricity distributor, Kenya Power after complaining about Kenya Power's poor customer service. According to the Ombudsman, in cases where users are blocked because of abusive language or harassment directed at public accounts, the institution should revert to other laws to handle the cases. Similar jurisprudence from the United States converges with this argument as seen in a case where a federal court in New York last year ruled that it was illegal for the former President, Donald Trump, to block critics from his social media accounts. The court found that Trump violated the First Amendment – equivalent to Kenya's Access to Information Act, 2016 - since he used the platform to conduct official business.

"Lack of resources puts enforcement of individuals' data protection rights at risk" says EDPB & EDPS

<https://bit.ly/3Smer0d>

■ In an open letter to the European Parliament and the European Council, members of the European Data Protection Board (EDPB) and the European Data Protection Supervisor (EDPS) are deeply concerned that their budget may be too little to allow them to fulfill their tasks accordingly in accordance with the General Data Protection Regulation (GDPR) and Regulation 2018/1725. The EDPB budget forms part of the broader budget of the EDPS. The budget is proposed by the European Commission and approved by the European Parliament and the Council of the European Union (article 314 of the Treaty on the Functioning of the European Union [TFEU]). During the preparation of the General budget of the European Union 2023, the EDPS made two consecutive budget proposals to the European Commission requesting an increase of staff and financial resources, to enable the EDPB and EDPS to manage their expanding range of tasks and growing workload. The requested increase, below the ceiling of the EU's seven-year financial plan, was rejected by the European Commission. From the letter it has been noted that the EDPB is essential for the implementation of the GDPR. There are high expectations from society at large regarding the GDPR, especially with regard to its enforcement vis-a-vis big tech firms; considering the large amounts of data involved in their operations. However, the EDPB Secretariat is currently understaffed and, according to EDPS & EDPB, at risk of no longer being able to fulfil its legal duties at the service of the EDPB and of the GDPR.

INTELLECTUAL PROPERTY NEWS

Alumnus sues her alma mater for unauthorised use of her image for marketing: Wanjiru v Machakos University



Photo: Google

<https://bit.ly/3SumQPy>

■ A lady by the name of Wanjiru who is an alumna of the respondent, Machakos University sued the latter for infringing her intellectual property rights, image rights, right to privacy and human dignity by using her photograph (taken by the university during Wanjiru's graduation) in advertising and marketing of the computer packages courses it offers at Ksh 7,000. Wanjiru argued that the motive of using the photograph was commercial gain seeing as people would pay to take the advertised courses and that the use of her image resulted in people assuming that there was an employment or a brand ambassador contract between the parties when there was none. The Petitioner therefore sought declaratory reliefs regarding the infringement of her rights; injunctions to restrain the Respondent from further infringement and an order for damages in the sum of Ksh 10million (approximately \$83,000) per violation of each right. However, the court held that even though the Petitioner's image rights and right to privacy, dignity and property were infringed, she did not sufficiently prove any resulting injury, damage or loss.

The battle for trademarks; does commercial activities of an earlier incorporated company before an official trademark owner amount to trademark infringement? Intel Corporation v Intel Computers Ltd

<https://bit.ly/3Cih51n>
<https://bit.ly/3E5c4ec>

■ In August 2022, the Commercial Division of the High Court in Kampala gave a ruling for the case above in Civil suit No. 821 of 2019. The defendant, INTEL Computers Limited was incorporated in Uganda in 2002 (9 years before the registration of INTEL trademark in Uganda by the Plaintiff) and used the name INTEL in its company name, as well as using the dropped 'e' INTEL logo on its storefront. The defendant deals in computer equipment, repair, software installation and networking services. INTEL Corporation sued the defendant for trademark infringement under Ugandan Trademarks Act 2010 and sought orders directing the defendant to change its company name to one that does not incorporate the INTEL mark. Intel Corp submitted that the use of the INTEL word in the defendant's storefront with a dropped 'e' logo amounted to infringement, submitting that it creates a likelihood for confusion as it is descriptive of the plaintiff's field of operation and commercial activities. The court decided in favour of the defendants that the use of the word INTEL and the dropped 'e' logo did not amount to an infringement on the part of the defendants; a decision that is deemed controversial in regards to the argument that the protection under a trademark as an IP right should extend to all kinds of commercial recognition.

LEGAL-TECH NEWS

HaystackID Acquires Business Intelligence Associates

<https://bit.ly/3Slvwra>

■ HaystackID, a specialized eDiscovery services firm in the US supporting law firms and corporate legal departments, this week announced it has acquired Business Intelligence Associates (BIA), an end-to-end eDiscovery service provider, as part of a deal facilitated by majority investor and leading middle-market private equity firm, Quad-C Management, Inc. "BIA is a leader in eDiscovery, and this combination further expands our capabilities in the support and delivery of complex enterprise discovery solutions, especially in New York," said HaystackID CEO Hal Brooks. The BIA acquisition is HaystackID's fifth major investment event since April



Photo: Google

2018, when it acquired Envision Discovery, an eDiscovery managed services provider, and Inspired Review, a managed review and remote review services provider. In January 2019, HaystackID acquired eTERA Consulting, an eDiscovery managed services provider. Additionally, in February 2020, HaystackID completed a strategic recapitalization with Quad-C to support the continued growth and expansion of the company, before acquiring NightOwl Global in August 2020. With the BIA addition, HaystackID strengthens its position for continued growth in cyber discovery/incident response, privacy/compliance, information governance, and enterprise managed solutions.

DIGITAL ID NEWS

Nigeria finds more ineligible registries in latest biometric deduplication round

<https://bit.ly/3rezK87>

■ According to Premium Times, the latest round of Automated Biometric Identification System (ABIS) deduplication by Nigeria's Independent National Electoral Commission (INEC) has discovered many multiple and ineligible registrations to the country's voter rolls. The duplicates and ineligible registrations were found in a comparison of entries from the continuous voter registration exercise between January 15 and July 31 of this year. This has been seen as a threat to the electoral integrity of Nigeria's polls. The deduplication round is nearing completion, and updated voter roll statistics will be published once the process is completed.

Ghana biometric SIM registration Paused after criticism



Photo: The Business & Financial Times

<https://bit.ly/3UMyxlU>

■ Telecoms in Ghana have been instructed by The National Communications Authority (NCA) to stop blocking SIM cards of persons who are yet to complete the registration of their SIM cards, roughly a week after they were due to begin implementing the sanctions on subscribers. Ghana's SIM re-registration exercise has a September 30th deadline, but mobile network operators in the country were instructed to begin blocking outgoing calls on data from those yet to do so for two days a week as of September 5th. A lawsuit has been brought against the September 30th deadline by activism group the People's Project, a pressure group led by musician and social activist, Kwame A-Plus. Another may follow from IMANI Center for Policy and Education, Ghana, on grounds that the government has no right to interfere in existing contracts between Mobile Network Operators (MNOs) and their subscribers. The deadline for the re-registration exercise has already been pushed back multiple times, and a telecom expressed concern earlier this year that slow Ghana Card (a national Identity card that is issued by the Ghanaian authorities to Ghanaian citizens – both resident and non-resident, and legally and permanently resident foreign nationals) issuance was holding back the process.

AI NEWS

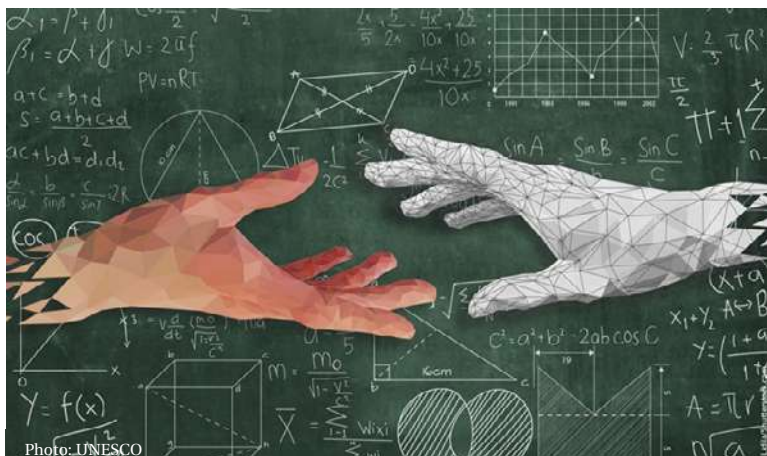


Photo: UNESCO

UNESCO recommends use of AI to improve Indian educational system in recent report titled '2022 State of the Education Report (SOER) for India: Artificial Intelligence in Education – Here, There and Everywhere'

■ UNESCO made recommendations to the Indian government in a policy report published on September 20, 2022, to use AI systems in their educational system as a strategy to achieve Sustainable Development Goal 4. SDG 4 focuses on inclusive, equitable, high-quality education, and opportunities for lifelong learning. Part of the recommendations emphasize the need for techniques to eliminate bias in systems, as well as steps to promote AI literacy and public trust for successful adoption. **The education system is overdue for radical changes to improve the quality of learning. Adoption of AI systems towards this aim will offer new opportunities for development of the education systems all over the world.**

BLOCK CHAIN AND
DIGITAL CURRENCIES NEWS

European Central Bank plans to develop digital euro prototypes

<https://bit.ly/3y12UeN>

<https://bit.ly/3SoJwAm>

■ The European Central Bank plans to test how well the technology underlying a digital euro integrates with user interfaces developed by companies. Earlier in April this year, the European Central Bank (ECB) made calls for partners and has now bagged 5 of them namely, Caixa-Bank, Amazon, Worldline, Nexi and European Payments Initiative (EPI; a group of 31 banks and credit institutions). While Amazon will work on e-commerce payments, CaixaBank will focus on producing a prototype for P2P online payments using the digital euro and is expected to develop a mobile app that simulates the steps individuals will need to transfer digital euros to their account and/or transfer digital euros to other individuals. Worldline is responsible for developing the P2P offline payments use-case, while EPI and Nexi will work on point-of-sale retail payments. "The future will be built on new technologies that enable modern, fast, and inexpensive payments," said Max Bardon, Vice President of Amazon Payments.

POLICY NEWS



Photo: Getty Images

Gender rule to cost extra Sh298m yearly

<https://bit.ly/3BT3NY2>

■ Under the new Kenyan regime of President William Ruto, it will cost an extra Sh298.2 million every year in salaries for additional MPs required to meet the two-thirds gender rule if lawmakers approve the recommendations made by the new Kenya boss. Compliance with this proposal will mean that the Kenyan Parliament must come up with a formula to accommodate an extra 34 women while the Senate needs one female to meet with the provisions of the 2010 Kenyan Constitution. Each of the 416 member-bicameral Parliament earns a monthly salary of Sh710,000.

“Only 10 out of 288 Digital lenders are licensed” CBK reports.

<https://bit.ly/3dN4Kcp>

<https://bit.ly/3SKkvzF>

■ The Central Bank of Kenya (CBK) in the latest press release on the 19th of September 2022 reports that of the 288 Digital Credit Providers (DCPs) that made applications, only 10 have been licensed. These are Ceres Tech Limited, Getcash Capital Limited, Giando Africa Limited, Jijenge Credit Limited, Kweli Smart Solutions Limited, Mwanzo Credit Limited, MyWage-pay Limited, Rewot Ciro Limited, Sevi Innovation Limited, and Sokohela Limited. Other applicants are at different stages in this process, largely awaiting the submission of requisite documentation. On March 21, 2022, the Central Bank of Kenya (CBK) announced the publication of the Central Bank of Kenya (Digital Credit Providers) Regulations, 2022 (the Regulations) on March 18 pursuant to Sections 57(1), 57(3) and 57(4) of the Central Bank of Kenya Act (the CBK Act). All previously unregulated DCPs were required to apply to CBK for a license within six months of the publication of the Regulations, i.e., by September 17, 2022, or completely stop their operations. A directive has been given to all the other unregulated DCPs that did not apply for licensing to cease and desist from conducting digital credit business.

PRODUCT UPDATE

Vodacom and MTN’s business models under threats from a game-changer technological innovation

<https://bit.ly/3yoWJl5>

■ New developments in tech have enabled mobile phones to connect directly to low Earth orbit satellites are a game-changer which can threaten mobile operators’ current business models. This follows the announcement of the new iPhone 14 by Apple a few days ago. Apple announced that its software allows the new phones’ antennas to connect directly to satellites but only for emergency services outside of cellular or Wi-Fi coverage. This service can expand to other services in the future as is the case with any technology. Developing nations in Africa with low mobile network penetration could benefit significantly from satellite networks. Mobile network operators (MNOs) should consider the benefit of investing in partnerships with satellite providers like Lynk Global, SpaceX, and AST SpaceMobile to cushion themselves against the risk of losing data revenue, as was the case when WhatsApp came up and reduced their SMS and voice revenue.



Photo: Reuters

Twitter Launches collaborative tweet feature

<https://bit.ly/3E36E3i>

Twitter, is the latest platform to introduce collaborative posts as it tests out the new feature in select countries and accounts. An example of how this feature works is when you post an image created by an upcoming artist – you could alert them to the share, and ask them to approve it, which would then also add their profile details to the tweet. Twitter says that co-tweeting will be available for a limited time, during which select accounts in the US, Canada and Korea will be able to initiate a co-authored tweet with other accounts.

Twitter Launching interesting Instagram-like features

<https://bit.ly/3CjwWgk>

Microblogging social media site, Twitter is rolling out a feature similar to Instagram’s close friends that allows users to make select tweets visible to a small group of people. The feature which is called Twitter Circle was successfully tested in May this year and is now available to everyone on the mobile app and desktop web.

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