

STARTUP & COMMERCE NEWS

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DATA PROTECTION NEWS

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LAWYERS HUB
Tech for Justice

Newsletter

ISSUE 45 | NOVEMBER 14 | 2022

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PHRASE OF THE WEEK

Community Networks

These are internet-based organizations, ideally run by community members to promote local needs and goals through the internet. The Communications Authority of Kenya developed a [Community Networks Licensing Framework](#) in May 2021 to promote the growth of such networks. Aiding regulations are quite necessary since obtaining internet licensing is expensive and out of reach for most communities. Community Networks can, and usually is, a newfound hope for locals to address information access, connectivity, and opportunity needs.

LAWYERS HUB EVENTS

COMING UP: AFRICA LEGAL INNOVATION WEEK 2022

Date: Tuesday 22nd - Monday 28th November 2022

Event type: In-person/virtual

Location: Nairobi, Kenya & Addis Ababa, Ethiopia

AFRICA LEGAL INNOVATION WEEK 2022

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This year, The Lawyers Hub in partnership with the Africa LawTech Association and the 17th Internet Governance Forum (IGF) will bring together various actors in the fields of law, justice, and technology to discuss the theme: **Legal-Tech and AI Shaping the Future of Justice and the Legal Industry in Africa**. These reports will be launched during the Innovation Week: **Artificial Intelligence and the Future of Judicial Systems in Africa, The State of Legal Tech in Africa 2022**, and the **Africa Law Tech Report 2022**. The conference will also feature a **Coding Class for Lawyers, the Africa Legal-tech & Innovation Awards 2022**, legal tech exhibitions (MORE INFO TOWARDS THE LAST PAGES), and the **Africa Legal Practice and New Frontiers Session** at the 17th IGF Conference in Ethiopia, among others. For more information, please visit our website: africalawtech.com.

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LAST WEEK: Community Networks and the Female Legal Practitioner



■ This event was a concerted effort of APC, SPACESHIP mentorship program, TNET, and Risper Onyango, Digital Policy Lead and Trainer, Lawyers Hub Kenya. The program was designed to be a fundamental introduction to community networks and their regulation in Kenya. It was also intended to encourage Female Lawyers to explore diverse practice areas. The speakers took the participants through different topics, including;

- Understanding the telecom ecosystem
- Universal service Fund & Community Networks, Innovative Approaches to Financing Community Networks in Kenya
- Creating a Network of Legal Practitioners Supporting Community Networks
- Licensing Framework For Community Networks

STARTUP & COMMERCE NEWS

More Fintechs? No worries: CEO MPESA Africa expresses confidence in company amidst Fintech rise



■ Despite business uncertainties; Mpesa Kenya mobile money and main telco side(Safaricom) probable split, reinforced by the rising number of Fintechs in Africa, Mpesa continues to refine its brand name. In an interview with CNBC Africa, Sitoyo Lopokoiyit, Mpesa Africa's CEO, shared the company's continued commercial success. From a business perspective, Mpesa has diligently managed to capitalize on arising market needs. In the [interview](#), the CEO shared how Fuliza's introduction was both brilliant timing and a necessity. To paraphrase his remarks: "...at the time, the company statistics reflected that there were about Ksh 50 billion failed transactions which, in 3 days, later went through." The implication is that Fuliza was born of the need to offer working capital where the transactions would be a result of temporary unavailability. As for the relatively high-interest fees and additional charges, Sitoyo mentioned that the company aims to reduce costs with new milestones. With that in mind, on [28th September 2022](#), Safaricom announced a 50% reduction on transactions below Ksh1000 and no daily maintenance costs for the first 3 days after 'ku-fuliza'. Back to the rise of Fintechs. Again, very strategically placed. Mpesa Africa CEO gracefully clarified, to the company, more fintech in the scene means better collaboration. The company offers a simplified payments support portal, whose part intro reads 'Welcome to M-Pesa's Developer Portal! In this web portal, we have exposed API endpoints and provided an automated workflow to easily integrate with the M-Pesa Payments Gateway for accessing and using M-Pesa services.' Whether this activity has any implication on competition, is outside the scope of this publication. The highlight, for now, for all players, is undoubtedly the upsides of MPESA's open API initiative.



Nala integrates both Google Pay & Apple Pay

■ Collaboration is the new wave in the Financial Sector. To paraphrase [Global Payments](#) mantra, 'Your Software, Our Payments, One Simple API.' Nala's story captures this bit. The Tanzanian-born Fintech recently pulled off a trifecta, improving its payment solution service. In October alone, Nala integrated into its software, global payment systems: Mpesa, Apple Pay, and Google Pay. The upward trend is steadily positioning the startup as a major player in the East Africa Fintech space. Nala was first launched in 2018 as a personal finance management service. It slowly morphed into an International finance transfer service. Later, the team introduced direct local transfers to be made in one's local currency through payment gateways such as Mpesa. This would enable Africans in the diaspora to pay their local bills while maintaining control of the transfer. The aforementioned has been an existing gap, as most existing services would normally require a middleman. According to the company's public [product roadmap](#), they have been heavily driven by customers' needs. The decision to integrate Apple Pay and Google Pay was informed by statistics indicating that the majority of East Africans in the diaspora live in the UK and US, necessitating the inclusion of popular global payments in those regions.

Goodbye Gatekeeping? Digital Markets Act enters into force

■ Although the new act does not regulate regular gatekeeping in our social circles, it's interesting to note that gatekeeping is slowly losing its grip on us. The lengths we are at times willing to go to keep a simple, useful, and valuable product 'to ourselves!' Gatekeeping gets petty and funny in some instances once you hear personal stories of everyday products and services involved. However, in the digital space, gatekeeping becomes more serious. So far, several online platforms have amassed insurmountable influence in the digital world. This applies to digital markets. The Digital Markets Act officially came into force on 1st November and will start to apply on 2nd May 2023. Platforms that qualify as Gatekeepers under the DMA, either qualitatively or quantitatively, are positioned to be potential 'rule makers' in these digital spaces. In a normalized fashion, businesses are barred from contacting users or unfair and arbitrary preconditions are imposed. The Digital Markets Act is a part of the EU's digital service package under the 'EU fit for the Digital Age Programme.' One of the main objectives of the act is to level the playing field for small and medium businesses in the digital sphere. It's impossible not to notice how thoroughly drafted the EU's digital economy policies are. The list of ten core platform services that a gatekeeper would have control over does not exclude services that appear to be excludable at first glance. Search engines and virtual assistants are examples of this. The relentless pursuit of a unified and standardized legal framework reigns through, with the goal of incentivizing more businesses to participate as economic actors. The European Commission is charged with being the sole enforcer of the act, with the National Courts assisting. The fine system mirrors that of the GDPR. Check out more on the [DMA official Q & A section](#).

DATA PROTECTION NEWS

44th Global Privacy Assembly Highlights: Adopted resolutions; Kenya becomes 12th African Country admitted to GPA; Kenya's ODPC learnings from Europe



■ Let's begin with a brief background about the Global Privacy Assembly. [The Global Privacy Assembly](#) first convened in 1979 as the International Conference of Data Protection. The main objective of the Assembly is to influence and promote privacy and data protection policy and enforcement standards globally. Over 130 countries have since qualified to be participating members. Kenya's ODPC team attended this year's 44th Global Assembly. After meeting the given prerequisite, Kenya's data protection authority is [officially](#) the 12th African Data Protection Authority to join the Assembly. Part of the crucial qualities for a Data Protection Authority to make it to the assembly is that it has to be an autonomous office and demonstrate freedom to carry out its enforcement activities. Immaculate Kasait, The Data Protection Commissioner, gave a quick rundown on [Linked In](#) of the learnings her team noted on their benchmark in a number of Data Protection Authorities they were able to visit. A need that can't be overlooked going forward is supporting research centers to progress privacy and data protection work in the country. As expressed in the Data Protection Commissioner's [sentiments](#), together with the 44th Assembly adopting a resolution on [Cybersecurity & Cyber Harms](#), developers and legal officials inevitably carry this work forward jointly. To realize a healthy global economy, that materializes the uses of data, every worker at every level of the supply chain should take Cybersecurity seriously. To wrap it up, the three resolutions adopted by the 44th General Assembly were;

1. [Resolution to amend the road map on the future of the International Conference.](#)
2. [Resolution on International Cooperation Capacity Building for Improving Cybersecurity Regulation & Understanding Cyber Incident Harms.](#)
3. [Resolution on Principles & Expectations for the appropriate use of personal info in Facial Recognition Tech.](#)

Absa Kenya ordered to pay Sh1.5billion in a data row after failing to file defence in time

■ As reported by [Nation Africa](#), New Mega Africa Ltd, a clinker transport company, filed a case before the Commercial and Admiralty division of the High Court in Mombasa seeking a KSh1.5 billion compensation against Absa Kenya. The allegation was a disclosure of confidential information to third parties on account standing by the accused. The company's director, David Abai, claimed that as a result of the leakage, insurers canceled his insurance policy, and he suffered stalled operations, low business, and harassment by auctioneers, including financial turmoil. The firm holds that the bank ought to have maintained the secrecy of the client's account, and shouldn't have printed the client's financial statements or shared the same with strangers without its prior express authority and consent. Even though the bank had entered a memorandum of appearance, it failed to file defence within the stipulated period of time, having already been served by the claimant, New Mega Africa Ltd. The company has already written and served the bank with a letter that explains its intention to proceed with the execution of the interlocutory judgment.

AI NEWS

Privacy & Data Protection regulators agree on Facial Recognition guiding principles

■ Simplicity and Reinforcement in advocacy can be divine. The 44th General Privacy Assembly agreed on [six guiding principles](#) to guide the use and adoption of Facial Recognition Technology (FRT). To disregard the ethical dimension of the development and diffusion of FRT would be a grave error. For one, FRT uses unique, sensitive, personally identifiable, and duplicatable biometrics data. This can be put to use for identity validation, live CCTV, and criminal proceedings. To give indifference no chance, the potential harms of Facial Recognition Technology need to be emphasized. Even more horrifying than the widely publicized identity theft is the development of Emotional AI. This new technology is intended to read and analyze facially decoded emotions, and can also be put to whatever use the deployer desires. Let's use our imagination to shape our perspective. Notably, most research indicates that emotional AI is untrustworthy, which is understandable given the subjectivity of facial expressions. Two words come back to mind: simplicity and reinforcement. Simple principles are based on careful research that weighs both the risks and benefits of FRT. Then comes the enforcement. Most developing AI regimes are wisely adhering to this caution. The six guiding principles agreed upon by the 44th Assembly's privacy and data protection experts are as follows:

1. Lawful Basis
2. Reasonableness
3. Protection of Human Rights
4. Transparency
5. Accountability
6. Data Protection Principles

All eyes on you: 15,000 cameras with facial recognition technology will be watching the 2022 FIFA World Cup attendees in Qatar



Image: Benoit Prieur

■ As captured by [Insider News](#), Facial recognition technology has once again found its way into the football court. It has been in the public domain since 2010 that Qatar would be hosting the 2022 FIFA World Cup. Niyas Abdulrahiman, the executive director of tournament ICT, is quoted saying that the entire event including the attendees will be monitored at Qatar's technical hub, the Aspire control and command center, using 15,000 cameras equipped with facial-recognition technology simultaneously across the 8 stadiums and during all the 64 matches running between November 20 to December 18. The center will operate 24/7 during the World Cup with a staff of not less than 85 in the room at all times. With over 1 million expected visitors, the novel surveillance is a move to strengthen security during the scheduled 64 matches against threats such as terrorism and hooliganism during the tournament, Qatar organizers say the control center, bristling with alarms and sensors, will set a benchmark for global sports events. Much has been said about the risks that outweigh the potential benefits of FRT. Today, dear reader, we leave you with a thought to ponder over. How much of ourselves are we willing to give for security?

INTELLECTUAL PROPERTY NEWS

Let's get one thing clear, music is important: Newly appointed CS Youth Affairs, Sports and the Arts, meets key players in the music copyright sphere to chart a way forward.



Image: Denish Ochieng, Standard

■ On 31st October, on his first day in office, CS Ababu Namwamba met with the Music Copyright Society of Kenya, Permanent Presidential Music Commission, Kenya Copyright Board, Kenya Association of Music Producers, and Performers Rights Society of Kenya. The consensus in the room was to provide adequate support and oversee fair remuneration for musicians and artists.

Hope and Justice for artists' work: Court orders Equity to pay Edwin Obiero 5 million for 'Wings to fly' musical rights infringement

■ As reported by [business daily](#), the case goes back to 2013 when Edwin Obiero, a high school student then, was approached by Equity Bank to come up with a composition for the bank's 'Wings to Fly' program. Before making his submission, Edwin registered the song with the Music Copyright Society of Kenya. After which, he demanded that he be compensated 10 million. Later, Edwin says that the Bank tried to negotiate a 2.5 million payout plus a settlement of his school fees. This proved unsuccessful. At some point, he was lured into the Bank's Fraud Investigation Unit and accused of fraudulently seeking a settlement. At 16, the Bank brought fraud charges against him and his brother before the court. He was later cleared in 2017 after the prosecution failed to present satisfactory evidence. Edwin later sued both Equity and the ODPP for illegal use of his song and unlawful arrest respectively. The court awarded damages of Ksh 250,000 to be paid by the ODPP and 5 million by equity. The facts around the case are disheartening. From the often disregarded rights of artists to the inhumane treatment of minors. In Edwin's words, indeed 'he fought the good fight.'

Eyes on #COP27

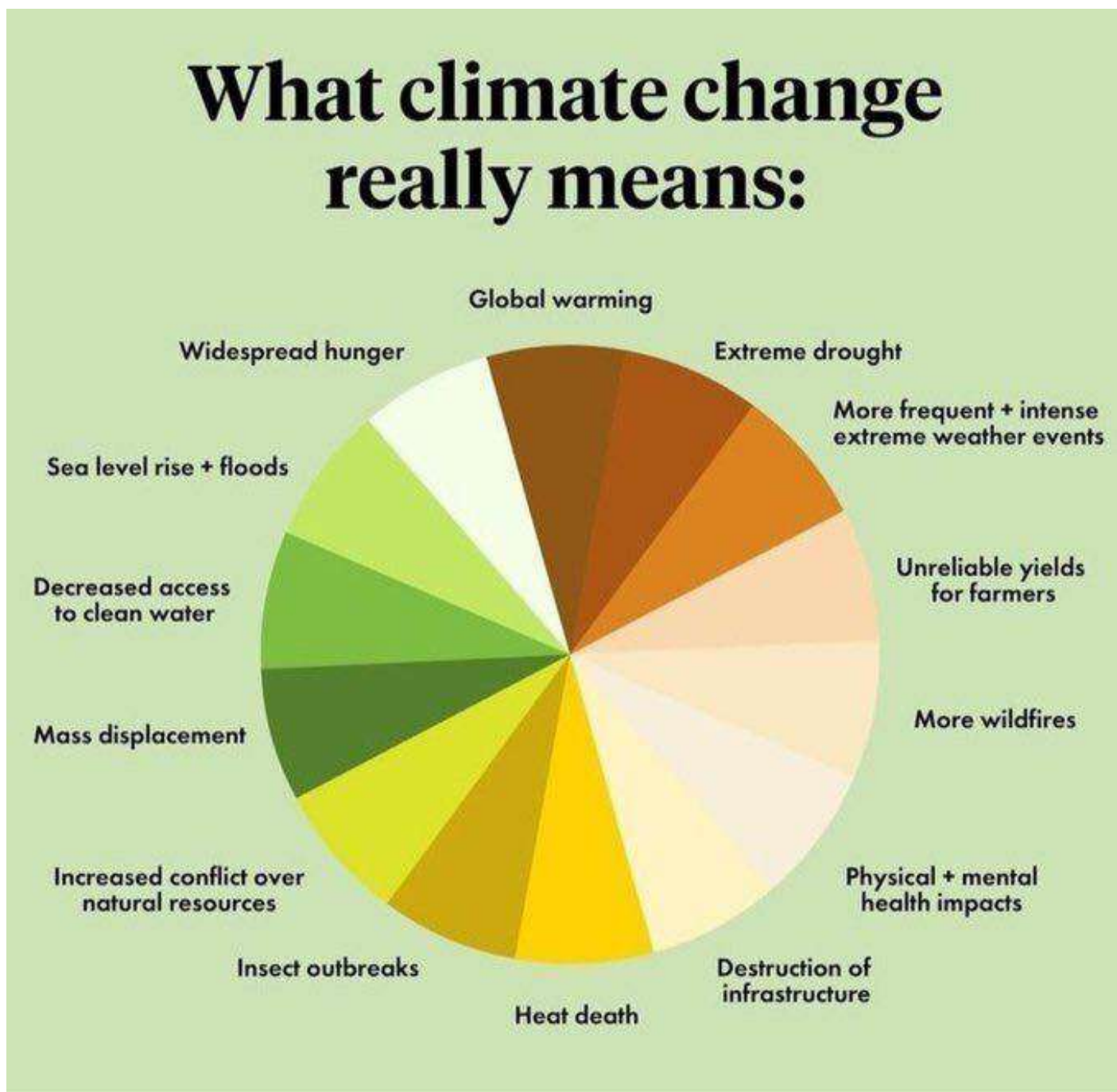
The UN 27th Climate Change annual Conference of the Parties(COP 27) took place in Sharm El- Sheik, Egypt from 6th - 7th November 2022. The theme was 'Implementation.' Climate change advocates and researchers have been on their feet sounding warnings of the climate crisis. It's time for action. COP 27 sole focus was to direct energy into enforcement of previous commitments agreed upon by states toward climate change. Points of focus on action were;

- mobilising funds for climate action
- monitoring emission reduction by major polluters
- crisis support for disaster stricken areas
- Fulfilment of Glasgow Commitments

According to the [Business Daily](#), the Kenyan head of state, Dr. William Ruto, who was in attendance, said that Kenya has made investment deals with the UK and private sector developers in upwards of KSh3.6 trillion (\$30 billion) at the ongoing conference.

Let's take a moment below, to internalize what climate change really means.

Image source: [EcoToronto](#)



EVENTS

[IAPP Data Protection Congress 14th -17th November 2022, Brussels](#)

[Decoding future of African Tech ALN, November 15th - 17th](#)

[17th Internet Governance Forum 28th November - 2nd December Addis Ababa, Ethiopia](#)

[Conference on Digital Transformation in Africa 2022, Dec 15th- 16th Geneva](#)

More on The Africa Legal Innovation Week 2022...

The Africa Legal Innovation Week 2022 presents

The Africa Legal Innovation Week 2022 presents the [Africa Legal Tech & Innovation Awards 2022](#). These Awards seek to acknowledge exceptional achievements and ground-breaking strides in the world of law and technology. Hosted by the [Lawyers Hub](#), the awards recognize those enabling and creating ethical technology and justice policy solutions by building inclusive societies and improving access to justice in Africa. Lawyers, policymakers, legal innovators, researchers, and relevant actors in the justice sectors across Africa are among the groups encouraged to apply.

Please fill in this [form](#) to Nominate a Candidate of your choice. The deadline for Nomination is **Monday 14th November 2022**.



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