

**RECORD OF THE FOURTH MEETING OF EACO
WORKING GROUP 1 ON ICT POLICY &
REGULATORY FRAMEWORKS
HARMONIZATION FROM 16TH TO 20TH MARCH
2015, KIGALI, RWANDA.**

1. List of Attendees

Refer to Annex 1.

2. Agenda for the Meeting

- (i) Adoption of the Agenda
- (ii) Any other Business
- (iii) Closure of the meeting.
- (iv) Communication from the Liaison Manager
- (v) Develop Regional EAC Policy Implementation, Monitoring and Evaluation Framework
- (vi) Discussion of the draft EAC Model Regulatory Framework
- (vii) Discussion on draft EAC Model ICT Policy
- (viii) Drafting of Introduction and Recommendations of the Congress Report
- (ix) Introduction of members
- (x) Opening of the meeting
- (xi) Review the Existing ICT Policies.
- (xii) Review the existing Regulatory Frameworks

3. Opening of the meeting

The third meeting of EACO Working Group 1 on ICTs Policy and Regulatory Frameworks Harmonization (WG01), was held in Kigali, Rwanda; from 16th – 20th March 2015, with a welcome remark by the Chairperson Ms. Fortunata Mdachi, - from Tanzania Communications Regulatory Authority (TCRA) Tanzania.

Members present were welcomed by the Liaison manager Mr. Godliving Kessy noting the absence of representative from Ugandan. It could not however be

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established during the meeting on why many of the members to this group could not attend as there were no regrets from their offices towards their absence.

4. Introduction of members.

With many former members absent only seven of former members thus including Chairperson and Vice chairperson attended. However we had two new members attended from IPOSITA and Airtel Rwanda as the list of attendance in **Annex 1** indicates.

5. Appointment of Rapporteurs

As the members who had been rapporteurs in previous WG 1 meetings were not present, Ms. Lyn Cheroni (CA of Kenya) and the Liaison Manager/Counsellor, WG 1 temporarily took up them rapporteurship.

6. Adoption of the Agenda

The proposed agenda as shown in item 2 of this report was adopted by the meeting.

7. Communication from the Liaison Manager

The Liaison Manager, Mr. Godliving Kessy emphasized that the attendance to this 4th Meeting of WG1 poses a huge needs of working beyond “business as usual” as we need to have the final report before the Congress published in the EACO Website.

He also indicated that during the forthcoming 21st Congress, members to WGs will not be allowed to have back-to-back meetings thus necessitating for the WG2 ensure it finishes/complete its final Report between now and end of May 2015. There is thus a need for diligent evaluation of available inputs so far and built up the report to verify gaps. Thorough communication with members that may be absent so that all parties make and ensure that all earmarked contributions are timely made available in order to facilitate our final report before the May 31, 2015.

8. Brief Recap on the 3rd WG1 meeting held in Kigali, Rwanda during 13rd – 15th October 2014 and the resultant Agreed

The Chairperson expressed her concerns on how not only her WG1 could not meet the deadlines agreed to send their inputs online and also that except WG3 and 2 only have responded as at this time of the 4th meeting, responded on the WG1 Liaison Statement sent to them earlier.

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She shared her convictions that online meetings unless the Secretariat take over follow-up of such, they may not be effective as are thought to be.

9. Deliberations on various submission of inputs and/or contributions from WG1 members as assigned

The Chairperson led the discussions on various submissions already made by members in the process of collecting the information and contributions from other Working Groups following the Liaison Statement from WG1 which was sent to all other ten Working groups asking for their comments and contributions from their respective jurisdictions to be inputted into harmonizing the model Policy and Regulatory frameworks for the EAC Region. Responses from other Groups was termed as very poor save for WG03 which sent in a complete document on E-Transaction Policy for the EAC Region. WG02 just acknowledged and put their input on promise, the rest never even responded.

9.1 Main ICT issues included in the Group discussion were adduced as follows:-

The following issues have been identified as common items in a number of ICT Policies globally;

- Legal and regulatory framework in ICTs
- ICT Infrastructure Development
- Cross border Infrastructure Connectivity
- Human Resources Development
- ICT Industry Development
- E- Governance
- ICT and economic development
 - Agriculture
 - Trade and Commerce
 - Tourism
 - Minerals, oil and natural gas
- ICT and social development
 - Education
 - Health
 - Government
 - Gender
 - Safety and Environment (i.e. E-waste management, Climate Change)
- Rural connectivity and Universal access
- Research and Development in ICT
- Norms and Standards
- Content Development
- ICT Awareness
- Cyber security

In the deliberations of the above issues, the Group came up with a number of Policy Issues as well as extending possible recommendations towards addressing the same for the Policy makers informed decisions in the EAC Region. These are enumerated in the table **ANNEX II:-**

9.1 Main ICT Issues included in the Group discussion were adduced as per table attached herewith as ANNEX II.

9.2 Main Regulatory Issues included in the Group discussion were adduced as per table attached herewith as ANNEX III.

10. Brief review of the Working Group 1 (WG01) Terms of Reference

The Terms of Reference were discussed in brief and members were reminded on what was required from them in an effort to achieve the objectives set out through the 20th EACO Congress and the approved Terms of Reference.

11. Discussion of the Action Plan (Activities, time frame and allocation of duties)

Members were reminded that this was the last physical meeting before presentation of the final report to Congress by 22nd – 26th June 2015, Serena Hotels, Kampala, Uganda. Therefore, all inputs required to fine-tune the report be submitted/availed during this last meeting.. All members were encouraged to work together online and on voice communications to make sure that the Group finalize the report as expected.

New WG 1 members were taken through the ToRs, allocation of duties and activities of which members are reporting on presently.

It was however noted that Working Parties (WP) could not be held any more as has been during earlier schedules mainly due to poor attendance. Other reasons for poor attendance in the Working Groups generally, were also explored as a result of frequent staff turn-over with operators and last minute postponement of meetings.

It was thus urged to members of the WGs (1 to 11) as well as their respective Heads to recommit & rededicate to the assignment for enhanced Integration and serving the populace of EAC Region.

12. Proposal on Date for the next online meetings for the WG1

The Chairperson had indicated her utter dissatisfaction to having any meeting online as she clearly recapped on how the whole group had failed badly to submit their agreed inputs in set times previously.

13. Any Other Business

The chairperson expressed her dismay too on the way the WG01 Liaison Statement to the rest of the EACO WGs was not honored hence missing the valuable contributions which would go a long way beefing up the Model Policy and Regulatory Frameworks harmonization by WG01.

It was suggested that, EACO Secretariat assist in following up the Liaison Statements once the same are sent out with timeframe as such are usually stated.

14. Closure of the meeting

There being no other matters for discussion, all members thanked the Chairperson for her strictness – “ZEGE HAILALI” and the groups highly disciplined cooperation from the beginning to the end, and the exemplary participation and engagement rendered by the new comers. All wished each other safe journey back home.

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Ms Fortunata Mdachi

Chairman, WG01.

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Ms Lyn Cheron
Legal officer, CAoK

.....
Mr. Godliving KESSY
LM/RA & Counsellor WG01.

**ROUND 4-WORKING GROUP 1: POLICY AND REGULATORY HARMONIZATION
16th – 20th March 2015 KIGALI, RWANDA**

LIST OF PARTICIPANTS

| No | Names | Position & Institution | Country | Phone No | E-mail | Signature |
|----|--|---|---------|----------------|--|-----------|
| 1. | Mr Alexis SINARINZI | Legal Officer-ARCT | Burundi | +257 79907266 | alesinarinzi@yahoo.fr | |
| 2 | Mr. Jean Marie Vianney NDAYISHIMIYE | Standardization Network and Services/ ARCT | Burundi | +257 79925998 | njmvi@yahoo.fr | |
| 3. | Ms Marie Chantal Gakima | Licensing & Legal Drafting Officer-RURA | Rwanda | +250 788549627 | chantal.gakima@rura.rw | |
| 4. | Ms Beata Mukangabo | HoD/ CLIA-RURA | Rwanda | +250 788576779 | beata.mukangabo@rura.rw | |
| 5. | Mr. Baker Shema | Legal & Regulatory Officer/ Airtel Rwanda | Rwanda | +250 731000063 | baker.shema@rw.airtel.com | |

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|----|---------------------|---|---------------|----------------|--|--|
| 6. | Mr. Sendama ABRAHAM | Legal Officer/National Post Office (NPO) | Rwanda | +250 788819456 | isura3@gmail.com | |
| 7. | Ms Fortunata Mdachi | Deputy Director Licensing & Enforcement -TCRA | Tanzania | +255 686424242 | mdachi@tcra.go.tz | |
| 8. | Ms. Lyn Cheronno | Legal Officer/ CA | Kenya | +254722454259 | cherono@ca.go.ke | |
| 9. | Godliving J. KESSY | Liaison Manager/RA | EACO - Rwanda | +250 786874466 | gkessy@eaco.int ; | |

ANNEX II: Assessment of the existing EAC ICT policies

| Focus Areas | Policy Issue | Recommendations |
|--|---|---|
| Legal and regulatory frameworks in ICTs | <ul style="list-style-type: none"> i. Inadequate law and regulatory frameworks particularly on emerging areas like: cyber-security, data protection, e-transaction, convergence ii. Slow response of the law to technology and industry developments iii. Limited stakeholder participation in the development of the legal and regulatory framework. iv. Duplex regulators in the ICT Sector | <ul style="list-style-type: none"> i. Member states to enact laws on: cyber-security, data protection, e-transaction, convergence and other emerging issues ii. Member states to enhance capacity for research and development in ICTs to ensure prompt response to legal and regulatory issues iii. Member States to put in place a mechanism for public consultation in the development of the legal and regulatory framework v. Member States to have a single regulator in the ICT Sector |
| ICT infrastructure Development | <ul style="list-style-type: none"> i. Limited Interoperability of infrastructure ii. Limited Infrastructure sharing and collocation iii. Interconnectivity Challenges iv. Capacity Challenges | <ul style="list-style-type: none"> i. Member States to put in place a framework for interoperability of infrastructure ii. Member States to put in place a framework for infrastructure sharing and collocation iii. Member States to put in place a framework on interconnectivity iv. Member States to encourage the sharing of the capacity of public and private utility providers to develop the national |

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| Focus Areas | Policy Issue | Recommendations |
|---|---|--|
| | | <p>information infrastructure</p> <p>v. Member States to enhance capacity to promote convergence of voice, data, computing, video, etc.</p> |
| Cross border Infrastructure connectivity | <ol style="list-style-type: none"> 1. Lack of framework on cross border connectivity 2. Inadequate cross border connectivity | <ol style="list-style-type: none"> i. Member States to put in place frameworks for cross-border connectivity issues including: infrastructure standards, maintenance, infrastructure planning, No-man's land management, Interoperability, etc.. |
| Complimentary Services | Limited complimentary services e.g. Roads, Electricity, Water | <ol style="list-style-type: none"> i. Member States to align provision of supportive infrastructure utilities to enhance provision of ICT Services |
| Human Resources Development | <ol style="list-style-type: none"> i. Low competencies and skills in ICTs ii. Poor mechanism in evaluation and certification of ICT trainings and programs iii. Lack of incentives for private sector to organize/support IT capacity-building; iv. Migration of ICT workers from EAC.(brain drain) | <ol style="list-style-type: none"> i. Member states to incorporate ICTs in their educational curricular development and enhance computer literacy at all levels. ii. Member States to ensure standardization of ICT syllabus and Training Institutions iii. Member States establishes mechanism for skills transfer from multinational Corporations operating in the Region. iv. Member States establish incentives for Private sector to organize/support ICT |

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| Focus Areas | Policy Issue | Recommendations |
|---|--|--|
| | | <ul style="list-style-type: none"> v. capacity building Member States to develop mechanism for attracting and retaining skilled human resources |
| ICT Industry Development:- Ensuring sustainable investment in the ICT sector | <ul style="list-style-type: none"> i. Insufficient finance and investment in the ICT sector (High cost of ICT infrastructure , services) ii. Limited Technological transfer iii. Limited use of local and open source software. iv. Limited capacity-building of SMEs in the ICT sector; | <ul style="list-style-type: none"> i. Member States develop appropriate financing and fiscal mechanism for ICT entrepreneurs ii. Member States establishes mechanism for technology transfer iii. Member States to establish mechanisms for innovation, sensitization on available local and open source software and protection of the Intellectual Property Rights. iv. Member States establish incentives for SMEs capacity building (i.e. Investment incentives, Taxation, enabling Regulations, |
| E- Government, e-governance | <ul style="list-style-type: none"> i. Limited interoperability of government ICT systems ii. Duplication and inefficient resource management. iii. Government processes are to a large extent paper- based | <ul style="list-style-type: none"> i. Member States to digitize Government processes and Services to reduce transaction cost and ensure efficient and quality public service delivery ii. Member States to ensure accessibility and integration of government ICT Systems |
| ICT and economic development | <ul style="list-style-type: none"> i. Lack of Coordination of trade links and e-markets. ii. Need for integration of ICTs in | <ul style="list-style-type: none"> i. Member States to ensure coordination of trade links and e-markets at National and regional level |

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| Focus Areas | Policy Issue | Recommendations |
|--|--|---|
| <ul style="list-style-type: none"> • Agriculture • Trade and Industry • Services • Minerals, oil and natural gas | <ul style="list-style-type: none"> iii. Unavailability of timely and reliable information iv. Lack of information sharing amongst key productive sectors v. Multiple taxes and levies in the ICT sector | <ul style="list-style-type: none"> ii. Member states to develop a framework for collaborating with private sector to accelerate development of e-commerce iii. Member States to harmonize taxation regimes related to the ICT sector. iv. Member States to put in place Infrastructure for accessing national, Regional and International market information. v. Member States to establish National Resource centers for Economic Activities |
| <p>ICT and social development</p> <ul style="list-style-type: none"> • Education • Health • Culture | <ul style="list-style-type: none"> i. Lack of awareness on the opportunities offered by ICTs for social development ii. Unavailability of affordable ICT services for social development | <ul style="list-style-type: none"> i. Member States to create awareness of the opportunities offered by ICT as a tool for social development. ii. Member States to ensure that ICT services are available and affordable to the public. |
| <p>Rural connectivity and Universal access/Universal access fund</p> | <ul style="list-style-type: none"> i. Limited and Poor rural connectivity ii. Affordability and availability of ICTs in underserved areas iii. Lack of knowledge-sharing networks at grass root level | <ul style="list-style-type: none"> i. Member States to establish Universal Access Service Fund (UA/SF) for the ICT sector to meet Universal Access ii. Member States to use the UAF to subsidize the cost of ICT Infrastructure roll out and expansion to un-served and underserved areas by operators. iii. Member States to leverage on community access points to provide smart services |

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| Focus Areas | Policy Issue | Recommendations |
|--|--|---|
| Research and Development in ICT | <ul style="list-style-type: none"> i. Limited R&D and insufficient institutional capacity to innovate ICT products and services. ii. Insufficient Financial resources in R&D iii. Poor protection of Intellectual Property rights | <ul style="list-style-type: none"> i. Member states to develop Strategies to support R & D and Innovation ii. Member States to put in place a mechanism for financing R & D in ICTs iii. Member States put in place mechanism for protection of IP rights |
| Norms and standards | <ul style="list-style-type: none"> i. Absence of standards ii. Insufficient standards, where they exist iii. Limited capacity to develop, monitor and enforce standards | <ul style="list-style-type: none"> i. Members States to standardize Government systems and processes ii. Member States to put in place mechanism for developing, monitoring and enforcing standards |
| Ecommerce/ e-Transaction | <ul style="list-style-type: none"> i. Lack of awareness about E-commerce ii. Lack of privacy and security as regards e-commerce iii. Unreliability of payment and delivery networks | <ul style="list-style-type: none"> i. Member State to put in place a mechanism to raise public awareness at all levels on the opportunities created by e-commerce. ii. Member states put in place Legal Framework and infrastructure required to ensure cyber-security and Data Protection. |
| E-Content Development | <ul style="list-style-type: none"> i. Insufficient Local Content ii. Limited digitization and access to local content | <ul style="list-style-type: none"> i. Member States promote electronic publishing, collection and preservation of local content ii. Member States to put in place Strategies to support development and use of local content iii. Member States put in place legal framework for protection of local |

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| Focus Areas | Policy Issue | Recommendations |
|--|---|---|
| | | <ul style="list-style-type: none"> iv. artistic works Member States to Develop and Manage Knowledge Resources for the purpose of their National heritages. |
| Health, Safety and the Environment i.e. E-waste management, Climate Change, | <ul style="list-style-type: none"> i. Lack of policy and Legal frameworks on e-waste ii. High cost of e-waste management iii. Limited application of ICTs to minimize environmental degradation and manage natural disasters; iv. Limited use of ICT in providing solutions for mitigating climate change | <ul style="list-style-type: none"> i. Member States to put in place policy and legal frameworks on e-waste ii. Member States to put in place strategies for Management of e-Waste iii. Member States to establish systems using ICTs to provide solutions to mitigate climate change and monitor Natural and manmade disasters |
| Cyber security | <ul style="list-style-type: none"> i. Inadequate capacity to address cyber-security threats and incidents ii. Limited awareness among ICT users on cyber-security iii. Limited collaboration between iv. n countries on cyber-security: v. Limited national institutional/sector collaboration on cyber-security | <ul style="list-style-type: none"> i. Member States to establish adequate policy and legal frameworks to deal with Cyber-security. ii. Member States to promote information sharing/awareness on cyber-security. iii. Member States to establish mechanisms for Regional and International cooperation on cyber-security. iv. Member States put in place mechanism for cooperation amongst national institutions dealing with cyber-security. |

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Table III: Assessment of the existing EAC ICT Regulatory Frameworks

| Regulatory area | Recommendation |
|--|---|
| Separation of powers | Member States should guarantee the separation of functions relating to policymaking, regulation and service provision. The law must clearly define the responsibilities each player in the sector |
| Establishment and functions of The National Regulatory Authorities (NRAs) | <p>a) Establishment of the NRAs Law establishing NRAs to be clear and precise on the mandate and powers.</p> <p>b) Independence of the NRAs Guarantee the regulatory, financial and administrative independence and autonomy of the NRAs.</p> <p>c) Board members and CEOs of NRAs NRAs Board Members and CEOs, appointed on the basis of competence and integrity, in consultative manner and with appropriate professional qualifications.</p> <p>Other issues that law should cover include:</p> <ul style="list-style-type: none"> • Vacation from office. • Meetings of the Board of NRA. • Remuneration of Board Members. |
| Staff of the NRAs | <ul style="list-style-type: none"> • Appointment on the basis of their competence and competitive manner. • Protection of employees. |
| Financial and related provisions | Member States to ensure that the law establishing NRAs provides sufficient power, independence and authority to the NRA for it to gather information and acquire the human and financial resources for it to impartially, swiftly and transparently carry out the will of the legislature. |
| Licensing | <p>The provisions relating to licensing should include:</p> <ul style="list-style-type: none"> • License categories • Procedure for license application. |

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| | <ul style="list-style-type: none"> • Obligations with respect to licenses. . • Suspension and revocation of licenses. • Transfer of license • Amendment of licenses. • Renewal of licenses. |
| Inter-connection and access to facilities – | <p>The provisions should include terms and conditions:</p> <ul style="list-style-type: none"> • Interconnection. • Access to facilities. • Infrastructure Sharing. |
| Universal Service/Access and Prices | <p>The provisions should include:</p> <ul style="list-style-type: none"> • Set up of the Fund • Management of the Fund • Sources of the Fund. • Application of the Fund • Fund’s annual returns and audit |
| Spectrum Management, | <ul style="list-style-type: none"> • Allocation of frequency bands. • Harmful interference. • Retrieval of spectrum |
| Numbering. | <ul style="list-style-type: none"> • Numbering plan. • Allocation of numbers • Number portability |
| Enforcement | <ul style="list-style-type: none"> • Power to request information. • Entry, search and seizure of equipment • Inspection • Investigation • Compliance hearing procedures • Sanctions |
| Consumer rights and obligations | <ul style="list-style-type: none"> • Consumer Rights. • Consumer Obligations |
| Sanctions | Ensure that the ICT Law provides the regulatory authority with a wide |

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| | <p>range of sanctions for breach of the law and license conditions including:</p> <ul style="list-style-type: none"> • Fines • Suspension • Revocation of license • Compensation |
| Fair competition and equality of treatment | <p>The provisions should include:</p> <ul style="list-style-type: none"> • NRA to encourage fair competition. • Prohibition of acts exhibiting unfair competition. • Exceptions to fair competition. • Breach of fair competition. • Equality of treatment. • Significant market power |
| ENFORCEMENT | <p>The provisions should include:</p> <ul style="list-style-type: none"> • Power to request information. • Entry, search and seizure of equipment • Inspection • Investigation • Compliance hearing procedures • Sanctions |
| Miscellaneous provisions | <ul style="list-style-type: none"> • Transitional provisions. • Emergency Communications. • Road works. • Repair and restoration. • Right of way • Access to lands for inspection and maintenance. • Installation of facilities on private land or buildings |