

From Data Protection and Data Privacy to Digital Surveillance – Unpacking the Kenya Information and Communications (Amendment) Bill, 2025

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Introduction

Aldai Member of Parliament Hon. Marianne Kitany, has published a Private Member’s Bill that proposes significant changes to the Kenya Information and Communications Act. Here is what you need to know:

- a. The bill redefines a telecommunication operator to explicitly include Internet Service Providers (ISPs).
- b. ISPs will be required to implement metered billing systems that assign unique, traceable internet meter numbers to customers, monitor usage, and generate consumption-based invoices.
- c. It also requires ISPs to submit detailed subscriber data annually to the Communications Authority of Kenya (CA).
- d. Additionally, the Bill introduces mandatory age verification for social media users using national IDs to protect children from harmful content.
- e. Telecom operators must collect extensive personal details: full names, ID numbers, date of birth, and physical address.

Why the Bill is Considered Problematic

1. Privacy and Surveillance Concerns

The requirement for ISPs to assign unique meter numbers and submit detailed user data to the regulator enables government surveillance of individuals' online activities. This raises serious privacy issues, as it allows the state to monitor and potentially control internet usage. Such provisions could lead to abuse of power and infringe on citizens' right to privacy and freedom of expression, and represent a clear regression from the progress Kenya has made under the Data Protection Act, 2019, and undermine established principles for personal data.

2. Potential for Government Overreach and Censorship

Mandating metered billing based on consumption could increase costs for consumers and complicate billing for ISPs. It may also limit affordable access to the internet, which is critical for social and economic development.

3. Age Verification and Social Media Access

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4. Privacy and Surveillance Concerns

While protecting children online is important, requiring all social media users to verify their age using national IDs raises privacy concerns and could limit access to digital platforms. This measure might exclude vulnerable populations who lack official identification or fear data misuse, thus restricting digital inclusion.

CONCLUSION

Without substantial revisions, the bill risks reversing the gains made under the Data Protection Act, 2019.

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