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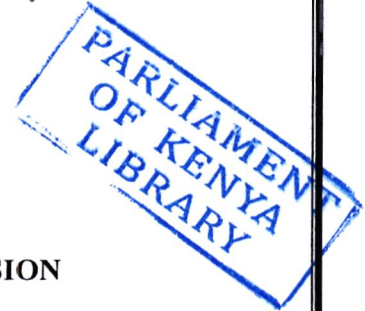
11/3/2020

REPUBLIC OF KENYA




THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FOURTH SESSION



THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION
AND INNOVATION

REPORT ON THE CONSIDERATION OF THE COUNTY OUTDOOR
ADVERTISING CONTROL BILL, 2018 (SENATE BILL NO. 19 OF 2018)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	11 MAR 2020 Day: Wednesday (Pm)
TABLED BY:	Hon. William Kisang Chair, Communication, Information & Innovation.
CLERK AT THE TABLE:	<i>R. K. K.</i>

DIRECTORATE OF COMMITTEE SERVICES

CLERK'S CHAMBERS

PARLIAMENT BUILDINGS

NAIROBI-KENYA

MARCH, 2020

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CHAIRPERSON'S FOREWORD

The report contains the Committee's proceedings on the consideration of the County Outdoor Advertising Control Bill, 2018 which was passed by the Senate on 19th June 2019 and transmitted to the National Assembly on 3rd July 2019. The Bill was read a first time in the National Assembly on 30th July, 2019 and committed before the Committee for consideration.

The principal object of the Bill is to ensure that outdoor advertisements respect amenity and do not prejudice public safety, including road safety and that the display of outdoor advertisements contributes positively to the appearance of a well-cared for and attractive environment in the counties.

This Bill seeks to provide a legal framework for the control of outdoor advertising in order to achieve a balance between the need to advertise and the protection of amenity and public safety. The Bill further proposes to provide for the procedure for the application for and issuance of an outdoor advertising license.

Advertising is a rapidly growing industry and now forms part of everyday culture, often adding colour to our streets. Outdoor advertising is a key element of the industry and contributes to the creation of a vibrant and competitive economy. There is however a need to balance the requirements of the industry with the protection and, where possible, enhancement of the character and appearance of our counties.

The Committee placed an advertisement in the local dailies on Friday 21st February, 2020 inviting the public to submit their views on the Bill on or before 27th February, 2020.

The Committee received one memorandum and after receipt of the same, the Committee held a total of four meetings to consider the Bill and the submission from the Outdoor Advertising Association of Kenya which is incorporated in this report.

On behalf of the Departmental Committee on Communication, Information and Innovation and pursuant to the provisions of the Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the County Outdoor Advertising Control Bill, 2018

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. Finally, I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.

Hon. William Kisang, M.P.

PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Communications, Information and Innovation is established under Standing Order 216 whose mandate pursuant to the Standing Order 216 (5) is as follows;
 - a. Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
 - b. Study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
 - c. Study and review all legislation referred to it;**
 - d. Study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - e. Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - f. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
 - (fa) examine treaties, agreements and conventions;
 - g. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - h. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - i. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - j. Examine any questions raised by Members on a matter within its mandate.

1.2 Mandate of the Committee

2. In accordance with Second Schedule of the Standing Orders, the Committee is mandated to oversee Communication, Information, media and broadcasting (except for broadcast of parliamentary proceedings), Information Communications Technology (ICT) development and advancement of technology and modernization of production strategies.
3. In executing its mandate, the Committee oversees the following Departments;
 - i.) State Department of Broadcasting and Telecommunications and
 - ii.) State Department of ICT & Innovation

1.3 Committee Membership

4. The Departmental Committee on Communication, Information and Innovation was constituted by the House in December 2017 and comprises of the following Members-

Hon. Kisang William Kipkemoi, M.P (Chairperson)
MP for Marakwet West Constituency
Jubilee Party

Hon. George Macharia Kariuki (Vice Chairperson)
MP for Ndia Constituency
Jubilee Party

Hon. Liza, Chelule Chepkorir, MP
M.P for Nakuru County
Jubilee Party

Hon. Gertrude Mbeyu Mwanyanje, MP
MP for Kilifi County
Orange Democratic Party

Hon. Alfah O. Miruka, MP
M.P for Bomachoge Chache Constituency
Kenya National Congress

Hon. Wamuchomba, Gathoni, MP
MP for Kiambu County
Jubilee Party

Hon. Annie Wanjiku Kibeh, MP
MP for Gatundu North Constituency
Jubilee Party

Hon. (Eng.) Mark Nyamita Ogola, MP
MP for Uriri Constituency
Orange Democratic Party

Hon. Joshua Kimilu, Kivinda, MP
MP for Kaiti Constituency
Wiper Democratic Party

Hon. John Kiarie Waweru, MP
MP for Dagoretti South
Jubilee Party

Hon. Marwa Kitayama Maisori, MP
MP for Kuria East Constituency
Jubilee Party

Hon. Erastus Nzioka Kivasu, M.P.
MP for Mbooni
New Democrats Party

Hon. Mwambu Mabongah, MP
MP for Bumula Constituency
Independent

Hon. Innocent Momanyi Obiri, MP
Bobasi Constituency
People's Democratic Party

Hon. Maritim Sylvanus, MP
MP for Ainamoi Constituency
Jubilee Party

Hon. Godfrey Osotsi Atieno, MP
Nominated
African National Congress

Hon. Mwangaza Kawira, MP
MP for Meru County
Independent

Hon. Anthony, Tom Oluoch, MP
MP for Mathare Constituency
Orange Democratic Party

Hon. Jonah Mburu, MP
MP for Lari Constituency
Jubilee Party

1.4 Committee Secretariat

5. The Committee is facilitated by the following secretariat: -

Ms. Hellen Kina
Clerk Assistant II/ Lead Clerk

Ms. Ella Kendi
Clerk Assistant II

Ms. Marlene Ayiro
Senior Legal Counsel

Mr. Gorod Abdirahaman
Fiscal Analyst II

Mr. Donald Manyala
Research Officer

2.0 OVERVIEW OF THE COUNTY OUTDOOR ADVERTISING CONTROL BILL, 2018

6. This Bill is an Act of Parliament that seeks to provide a legal framework for the regulation of outdoor advertisement in the counties; and for connected purposes.
7. Clause 1 to 3) of the Bill provides for preliminary provisions and sets out the exemptions from the application of the Act
8. Clause 4 of the Bill provides for the procedure for application of a license and provides that the applicant interested in outdoor advertising shall submit an application to the respective County Executive Committee Member responsible for matters relating to outdoor advertisement.
9. Clause 5 of the Bill provides for the factors to be put in consideration when processing the application for a license
10. Clause 6 provides for the issuance of the license which may be issued within a period of 14 days from the date of application and an approval shall lapse if the advertisement is not erected within six months of the grant of the license.
11. Clause 7 of the Bill provides for consultation by the County Executive Member to relevant public bodies that have an interest in the safe display of advertisements in considering an application where appropriate.
12. Clause 8 of the Bill provides that the duration of the existence of an outdoor license shall be the one specified in the license.
13. Clause 9 of the Bill provides that a licensee shall not alter, remove, re-erect or upgrade an advertisement for which a license has been issues unless with approval of the CEC
14. Clause 10 of the Bill provides that a license may be renewed at least one month before the expiry of the license and sets out the renewal procedure.
15. Clause 11 of the Bill provides for the revocation of a license by the CEC while Clause 12 provides for review of the decision by the CEC in the court within fourteen days.
16. Clause 13 proposes that the advertisement should be removed within seven days of the revocation or expiry of an advertisement.
17. Clause 14 of the Bill provides for the maintenance of signs and posts which shall be done by the licensee who shall also be required to meet all costs arising from the maintenance or removal of the advertisement.
18. Clause 15 of the Bill provides that subject to this Act or any other written law, no other government entity shall levy fees on outdoor advertising.
19. Clause 16 of the Bill provides that the CEC shall publish a notice of an application for the grant or renewal of a license in the county website and displayed on notice boards and sites accessible to the public.
20. Clause 17 of the Bill provides for inspection of advertisements with due regard to decency, orderliness and the right to property under *Article 40* of the Constitution.
21. Clause 18 of the Bill is on vandalism of advertisement and provides that a person who willfully or recklessly destroys or damages any advertisement belonging to another person, commits the offence of vandalism and provides the attendant penalty.

22. Clause 19 of the Bill provides for dispute resolution where a dispute arises under this Act and encourages alternative dispute resolution (ADR) before resorting to judicial proceedings.
23. Clause 21 of the Bill provides for county legislation: In essence this clause is allowing County Assemblies to enact specific legislations for the implementation of this Act in the respective county.
24. Clause 23 of the Bill provides a consequential amendment to section 3 of the Physical Planning Act.

3.0 PUBLIC PARTICIPATION

25. Pursuant to *Article 118(1) (b)* of the Constitution and National Assembly Standing Order No. 127(3) which provides that the Parliament shall facilitate public participation, the Committee placed an advert in the local dailies on 21st February, 2020 inviting the public to submit their views to the Clerk of the National Assembly on or before 27th February, 2020.
26. By the deadline for submission, the Committee had received one memorandum from the Outdoor Advertising Association of Kenya (OAAK). The stakeholder raised the following issues on specific clauses-

Clause 4 (1-3) on Application for licence

27. Proposed an entire deletion of the clause relying on the justification that the same is making provision for what is outside the scope of what a National Law should do and that this is a County function.

The Committee disagreed with the proposal of the stakeholder on the premise that the Bill is an umbrella law with the sole view of having uniform standards that shall be applicable to all the counties. It was also observed that not all counties have formulated their respective County Outdoor Advertising Control laws and in the absence of a national legal framework the system is bound to be manipulated by various stakeholders including business entities. It is not in contention that outdoor advertising is a function of the counties pursuant to the provisions of *Article 186* of the Constitution and the fourth schedule of the Constitution. The Bill as drafted does not in any way take away the functions of the counties, Clause 21 of the Bill expressly provides that County Assembly may enact county specific legislation

Clause 4 (2) on Application for licence

28. Outdoor advertising association of Kenya sought to include a provision that will encourage self-regulation of the association of outdoor advertisers and that outdoor association of Kenya shall formulate a code of Ethics for its members.

The Committee was of the view that the clause as provided for in the Bill deals with application for licence and matters of regulation, membership and formulation of code of ethics are misplaced and if acceptable to the committee it should be provided for in a different part of the Bill altogether.

Clause 5 (a) to (g) on consideration of application

29. OAAK proposed an entire deletion of the clause relying on the justification that the same is making provision for what is outside the scope of what a National Law should do and that this is a county function.

The Committee in disagreeing with the proposal was of the view that the Bill is an umbrella law with the sole view of having uniform standards applicable to all the counties. Not all counties have formulated their respective county outdoor advertising control laws and in the absence of a national legal framework the system is bound to be manipulated by various stakeholders including business entities.

Clause 5 (1) to (4) on issuance of a licence

30. The stakeholder proposed an entire deletion of the clause relying on the justification that the same is making provision for what is outside the scope of what a National Law should do and that this is a county function.

The Committee opined that the Bill is an umbrella law with the sole view of having uniform standards applicable to all the counties. Not all counties have formulated their respective county outdoor advertising control laws and in the absence of a national legal framework the system is bound to be manipulated by various stakeholders including business entities.

Clause 8 (b) of the Bill on the duration of a licence

31. They ought to amend paragraph (b) of the clause by providing a ceiling on the period within which a licence may be in operation as follows
“(b) remains in force for the period specified in the licence which period shall not exceed six years.”

The Committee did not agree with the proposal and felt that the same is a provision that should be included in regulations that shall be formulated.

Clause 9 (1) and (2) of the Bill on advertisement not to be altered

32. The stakeholder proposed an entire deletion of the clause relying on the justification that the same is making provision for what is outside the scope of what a National Law should do and that this is a county function.

The Committee did not agree with the proposal and was of the view that the Bill is an umbrella law with the sole view of having uniform standards applicable to all the counties. Not all counties have formulated their respective county outdoor advertising control laws and in the absence of a national legal framework the system is bound to be manipulated by various stakeholders including business entities.

Clause 10 (1) (2) of the Bill on Renewal of Licence

33. The stakeholder proposed an entire deletion of the clause relying on the justification that the same is making provision for what is outside the scope of what a National Law should do and that this is a county function

The Committee in disallowing the proposal stated that the Bill as formulated by the Senate is an umbrella law with the sole view of having uniform standards applicable to all the counties. Not all counties have formulated their respective county outdoor advertising control laws and in the absence of a national legal framework the system is bound to be manipulated by various stakeholders including business entities.

Clause 11 (1) -(4) of the Bill Revocation of Licence

34. The stakeholder proposed an entire deletion of the clause relying on the justification that the same is making provision for what is outside the scope of what a National Law should do and that this is a county function.

The Committee was of the opinion that the proposal should not be carried as the Bill is an umbrella law with the sole view of having uniform standards applicable to all the counties. Not all counties have formulated their respective county outdoor advertising control laws and in the absence of a national legal framework the system is bound to be manipulated by various stakeholders including business entities.

Clause 13 of the Bill is on Removal of the Advertisement

35. The stakeholder proposed an entire deletion of the clause relying on the justification that the same is making provision for what is outside the scope of what a National Law should do and that this is a county function.

The Committee in disagreeing with the stakeholder opined that the Bill is an umbrella law with the sole view of having uniform standards applicable to all the counties. Not all counties have formulated their respective county outdoor advertising control laws and in the absence of a national legal framework the system is bound to be manipulated by various stakeholders including business entities.

Clause 15 (1) - (3) of the Bill on No other government entity to levy fees.

36. They sought to have the clause deleted however the Committee noted that the section cited in the brief was the wrong clause as clause 16 deals with publication of a licence, and not on levying of fees.

Clause 16 (1) -(3) of the Bill provides for public partition

37. The stakeholder proposed an entire deletion of the clause relying on the justification that the same is making provision for what is outside the scope of what a National Law should do and that this is a county function.

The Committee did not agree with the stakeholder and stated that the Bill is an umbrella law with the sole view of having uniform standards applicable to all the counties. Not all counties have formulated their respective county outdoor advertising control laws and in the absence of a national legal framework the system is bound to be manipulated by various stakeholders including business entities.

Clause 17 of the Bill on inspections

38. The stakeholder proposed to have the clause deleted however, the Committee noted that the section is the wrong clause as clause 16 deals with publication of a licence.

Clause 19 (2) (b) of the Bill on dispute resolutions

39. The Committee noted that the section cited in the memorandum is the wrong clause as clause 19 deals with dispute resolution.

Clause 21 County legislation

40. The stakeholder proposed an amendment to paragraph 2(b) that for fees and charges to be paid and states that no county Assembly shall enact county specific legislation purporting to charge fees in connection with outdoor advertising structure which shall exceed Kshs. 2500 per square meter, which fees shall be charged annually.

The Committee agreed the proposal but emphasized on the need to come up with a rate card that will allow counties to set the minimum and maximum fees changeable for the services that they render.

4.0 COMMITTEE RECOMMENDATIONS

In light of the submissions in the Memoranda, the oral representations made before the Committee and the Committee deliberations on the Bill, the Committee made the following recommendations—

CLAUSE 2

THAT, Clause 2 of the Bill be amended—

- (a) by inserting the following definitions in their proper alphabetical sequence—
“rate card” means a document containing prices and descriptions for various advertisement placement options available from a service sector, which sets out the minimum and maximum price of a service.

Justification:

The essence of this amendment is to provide for the definition of a rate card which respective counties shall be required to come up with stating the prices for their service in a bid to provide for economic predictability as investors seek to invest in different counties.

CLAUSE 4

THAT, Clause 4 of the Bill be amended by inserting the words “that has been granted a licence from another county” immediately after the words “a moving vehicle” appearing in subparagraph (ii) of paragraph (b).

Justification:

The essence of this amendment is to avoid double taxation of businessmen from one county to another.

CLAUSE 15

THAT, Clause 15 of the Bill be amended by inserting the words “regulate,” immediately after the words “government entity shall”

Justification:

This amendment seeks to carve a special niche that is exclusively a function of county governments shall be the sole one stop shop that regulates, controls, levies fees and handles all matter relating to outdoor advertising. The county governments will be required to come up with enabling legislation that ensure that business people are served at one point as opposed to moving from one office to another looking for different regimes of licensing. Outdoor advertising is a function of county governments pursuant to *Article 186* of the Constitution and the Fourth schedule of the Constitution.

CLAUSE 21

THAT, Clause 21 of the Bill be amended by deleting paragraph “b” and substituting therefor-

“(b) a rate card that shall be reviewed from time to time stating the fees and charges to be paid in respect of any matter required for the purposes of this Act.

Justification:

The purpose of the amendment is to obligate county governments to provide rate cards that shall be reviewed from time to time, which rate card will allow for predictability of the fee that is to be charged in a respective County. The import of this provision is to open up the business sphere and allow for ease of doing business in the country.

SIGNED..........DATE.....11/03/2020

THE HON. WILLIAM KISANG, MP

CHAIRPERSON

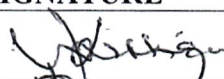

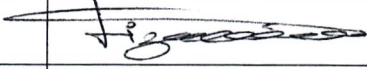
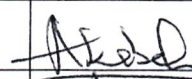








THE DEPARTMENTAL COMMITTEE ON COMMUNICATION,
INFORMATION AND INNOVATION

**THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION
AND INNOVATION**

ADOPTION LIST

**ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE COUNTY OUTDOOR
ADVERTISING CONTROL BILL, 2018 (SENATE BILL NO. 19 OF 2018)**

DATE 18/8/2018 TIME 11:30 AM VENUE Deleke's house 1st flr

NO.	NAME	SIGNATURE
1.	Hon. Kisang, William Kipkemoi, M.P - Chairperson	
2.	Hon. George, Macharia Kariuki, M.P - Vice – Chairperson	
3.	Hon. Liza, Chelule Chepkorir, M.P.	
4.	Hon. Alfah, O. Miruka, M.P.	
5.	Hon. Annie Wanjiku Kibeh, M.P.	
6.	Hon. Joshua Kimilu, Kivinda, M.P.	
7.	Hon. Marwa Kitayama Maisori, M.P.	
8.	Hon. Mwambu Mabongah, M.P.	
9.	Hon. Maritim Sylvanus, M.P.	
10.	Hon. Mwangaza Kawira, M.P.	
11.	Hon. Jonah Mburu, M.P.	
12.	Hon. Gertrude Mbeyu Mwanyanje, M.P.	
13.	Hon. Wamuchomba, Gathoni, M.P.	
14.	Hon. (Eng). Mark Nyamita Ogola, M.P.	
15.	Hon. John Kiarie Waweru, M.P.	
16.	Hon. Erastus Nzioka Kivasu, M.P.	
17.	Hon. Godfrey Osotsi, Atieno, M.P.	
18.	Hon. Innocent Momanyi, Obiri, M.P.	
19.	Hon. Anthony, Tom Oluoch, M.P.	

MINUTES OF THE 10TH SITTING OF THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION & INNOVATION HELD IN THE BOARDROOM ON 11TH FLOOR PROTECTION HOUSE, PARLIAMENT BUILDINGS ON TUESDAY 10TH MARCH, 2020 AT 11.30AM

PRESENT

1. Hon. William Kipkemoi, M.P. - Chairperson
2. Hon. George Macharia Kariuki, M.P. - Vice- Chairperson
3. Hon. Annie Wanjiku Kibeh, M.P
4. Hon. Wamuchomba Gathoni, M.P
5. Hon. Joshua Kimilu Kivinda, M.P.
6. Hon. Mwangaza Kawira, M.P
7. Hon. Mwambu Mabongah, M.P
8. Hon. Liza Chelule Chepkorir, M.P
9. Hon. Marwa Kitayama Maisori, M.P
10. Hon. Maritim Sylvanus, MP
11. Hon. Godfrey Osotsi Atieno, M.P
12. Hon. Erastus Nzioka Kivasu, M.P
13. Hon. Anthony Oluoch, M.P.
14. Hon. Jonah Mburu, M.P

APOLOGIES

1. Hon. Alfah O. Miruka, M.P
2. Hon. (Eng.). Mark Nyamita, M.P
3. Hon. John Kiarie Waweru, M.P
4. Hon. Innocent Momanyi Obiri, M.P
5. Hon. Gertrude Mbeyu Mwanyanje, M.P

IN ATTENDANCE

THE SECRETARIAT

1. Mr. Douglas Katho - Clerk Assistant II
2. Ms. Marlene Ayiro - Senior Legal Counsel
3. Mr. Abdirahman Gorod - Fiscal Analyst
4. Mr. Wilson Angatangoria - Serjeant-At-Arms
5. Ms. Iqra Hassan Bare - Legal Counsel (LoM)
6. Mr. Eugene Luteshi - Audio Recording Officer
7. Ms. Angela Wangui - Parliamentary Budget Office

MIN.NO/NA/CII/2020/041: PRELIMINARIES

The Chairperson called the meeting to order at twenty two minutes past eleven followed by a word of prayer.

MIN.NO/NA/CII/2020/042: CONFIRMATION OF THE MINUTES

The agenda was deferred to the next meeting.

**MIN.NO/NA/CII/2020/043: ADOPTION OF THE REPORT ON THE
CONSIDERATION OF THE COUNTY OUTDOOR
ADVERTISING CONTROL BILL, 2018**

The Committee Members unanimously adopted the Report on the consideration of the County Outdoor Advertising Control Bill, 2018 on a proposal by the Hon. Godfrey Osotsi Atieno, M.P and Seconded by the Hon. Liza Chelule Chepkorir, M.P. The Committee made the following recommendations—

CLAUSE 2

THAT, Clause 2 of the Bill be amended—

- (a) by inserting the following definitions in their proper alphabetical sequence—
“rate card” means a document containing prices and descriptions for various advertisement placement options available from a service sector, which sets out the minimum and maximum price of a service.

Justification:

The essence of this amendment is to provide for the definition of a rate card which respective counties shall be required to come up with stating the prices for their service in a bid to provide for economic predictability as investors seek to invest in different counties.

CLAUSE 4

THAT, Clause 4 of the Bill be amended by inserting the words “that has been granted a licence from another county” immediately after the words “a moving vehicle” appearing in subparagraph (ii) of paragraph (b).

Justification:

The essence of this amendment is to avoid double taxation of businessmen from one county to another.

CLAUSE 15

THAT, Clause 15 of the Bill be amended by inserting the words “regulate,” immediately after the words “government entity shall”

Justification:

This amendment seeks to carve a special niche that is exclusively a function of county governments shall be the sole one stop shop that regulates, controls, levies fees and handles all matter relating to outdoor advertising. The county governments will be required to come up with enabling legislation that ensure that business people are served at one point as opposed to moving from one office to another looking for different regimes of licensing. Outdoor advertising is a function of county governments pursuant to *Article 186* of the Constitution and the Fourth schedule of the Constitution.

CLAUSE 21

THAT, Clause 21 of the Bill be amended by deleting paragraph “b” and substituting therefor-

“(b) a rate card that shall be reviewed from time to time stating the fees and charges to be paid in respect of any matter required for the purposes of this Act.

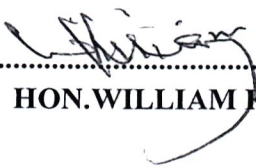
Justification:

The purpose of the amendment is to obligate county governments to provide rate cards that shall be reviewed from time to time, which rate card will allow for predictability of the fee that is to be charged in a respective County. The import of this provision is to open up the business sphere and allow for ease of doing business in the country.

MIN.NO/NA/CII/2019/044: ADJOURNEMENT

There being no other business, the meeting was adjourned at ten minutes past one o'clock

SIGNED.....



HON. WILLIAM KISANG, MP

DATE.....

11/03/2020

CHAIRPERSON

Coronavirus > Kenyans in Wuhan continue to plead with government for help to leave

State dims light on evacuation talk

Oguna says option of bringing students home is not off the table, but they risk infection en route

BY ELIZABETH MERAB
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AND PHYLLIS MUSASIA
pmusasia@ke.nationmedia.com



Government spokesperson Cyrus Oguna in a past photo. He has said Kenyan students in Wuhan are better off in China due to the potential risk of infection while travelling.

The government and Kenyan students in Wuhan, the epicentre of the coronavirus outbreak, continue to engage in a war of words over getting the latter home safely.

In the latest episode, while the government insists it's doing everything to ensure the students live comfortably during the ongoing lockdown, the students including two who are expectant, say not much has been done.

As the death toll from the novel coronavirus (Covid19) continues to soar, hopes of Kenya evacuating its citizens also dimmed as Government Spokesman Cyrus Oguna said the students were better off in Wuhan.

In-flight infection

He insisted the government was addressing the matter objectively.

He, however, said that the option of bringing the students home was not completely off the table, but cited some apprehensions with the move. Mr Oguna raised the risk of in-flight infection.

"If we were to put them together and in the event one is infected, then it means all of them will be exposed. In your own mind and thinking, where are they better off?"

"Let's be rational in our thinking and take into consideration all eventualities. We're not doing things based on what others are doing," Col (rtd) Oguna said.

About 100 Kenyans are stuck in the Chinese city, 91 of them students. Nine artists, said to have travelled to Wuhan for an entertainment activity, are also caught up in the lockdown.

"We're aware there are two expectant Kenyans and they've been receiving

medical services. They have the necessary support and are in good health," he said in a briefing yesterday.

To make their stay liveable, the spokesman said on Wednesday that the government would disburse Sh1.3 million for their upkeep.

Anxious appeals

Col (rtd) Oguna also said Sh500,000 worth of provisions from the Chinese government was being processed.

The move follows anxious appeals from Kenyans living in China after a coronavirus lockdown left students confined to their residences and unable

"If we were to put them together and in the event one is infected, then it means all of them will be exposed."
Government spokesman
Cyrus Oguna

to procure groceries.

The government added that parents with students in China were being offered psychosocial support, while students were getting the same support via WeChat.

"We're a responsible government that looks at things from a rational perspective and not emotive. Let's address issues from an objective perspective" the spokesman said.

Some students who spoke to *Nation* via WhatsApp, said that although they appreciate the government's aid, they preferred to be brought back home where they can heal from trauma, find comfort and peace of mind.

"The situation here is very tense and even though the government says it will give us money for upkeep, I don't think that will be of any help to us. We cannot buy food and any other thing physically or online due to the lockdown," a student said.

The death toll from the novel coronavirus (Covid19) had reached 2,118 after 114 new deaths were reported.

Police busine brutal

BY MARY WAM

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Family member... travelled to India...

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The family did... postmortem findin...



CONSULTANCY OPPORTUNITY RURAL WATER MANAGEMENT ADVISORY SERVICES

Kenya Markets Trust is a Kenyan not for profit organisation that works in partnership with the private sector, county and national governments, associations, local and international partners to unleash large scale, sustainable market growth by changing the underlying incentives, capacities and rules that shape how market systems work. We work in three sectors namely, livestock, water and agricultural inputs.

KMT has been supporting national institutions and selected utilities in finding ways to improve water services delivery in Kenya. KMT worked with WASREB to develop guideline for provision of water and sanitation service for rural and underserved areas in Kenya with an aim of improving management of rural water services. KMT in partnership with WASREB, Water Sector Trust Fund (WSTF) and selected County Governments is in the process of operationalising the recently launched guidelines with selected counties and water utilities. This will pave the way for greater regulation and professionalization of rural water management.

KMT is seeking to recruit a firm/consultant with sector wide expertise in water service regulation, governance, business & commercial management and licensing processes of water utilities to aid in operationalising the recently launched guideline for provision of water and sanitation service for rural and underserved areas in Kenya.

For more information on this consultancy, the Terms of Reference, application and submission criteria, kindly visit our website: <https://www.kenyamarkets.org/opportunities/> Interested individuals/firms should submit their expression and all accompanying documents to:

The Chief Executive Officer
Kenya Markets Trusts
14 Riverside, Cavendish Block, 2nd Riverside Drive
P.O. Box 44817-00100,
Nairobi, KENYA.

All bids should be received on or before **Friday 6th March 2020 by 4.00pm** and clearly marked 'EOI/KMT/RURAL WATER MANAGEMENT ADVISORY SERVICES' with separate technical and final proposal sealed in one envelop.

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY TWELFTH PARLIAMENT - FOURTH SESSION

- In the matters of consideration by the National Assembly:-
1. The County Outdoor Advertising Control Bill, 2018 (Senate Bill No. 19)
2. The National Cohesion and Peace Building Bill, 2018 (Senate Bill No.35)

SUBMISSION OF MEMORANDA

Article 118(1) (b) of the Constitution provides that, "Parliament shall facilitate public participation in the legislative and other business of Parliament and its Committees" Standing requires the Departmental Committee to which a Bill is committed to facilitate public participation through an appropriate mechanism, which include inviting submission of memoranda, holding public consulting relevant stakeholders in the sector and experts on technical subjects, and take into account recommendations of the public when the Committee makes its report to the House.

The County Outdoor Advertising Control Bill, 2018 (Senate Bill No.19) main objective is to provide framework for the regulation of outdoor advertisement in the counties and for connected purpose

The National Cohesion and Peace Building Bill, 2018 (Senate Bill No.35) seeks to provide for the est. of the National Cohesion and Peace Building Commission; outlaw discrimination on ethnic gro provide for the establishment of an institutional framework for national cohesion and peace buildin

The County Outdoor Advertising Control Bill, 2018, (Senate Bill No.19) and the National Cohesion and Peace Building Bill, 2018 (Senate Bill No.35) have undergone First Reading as pursuant to Standing Or and have been committed to the Departmental Committee on Communication, Information & I and the Select Committee on National Cohesion & Equal Opportunity respectively, for consider reporting to the House

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the r Committees invite interested members of the public to submit written submissions they may have c Bills. The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 4184 Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed: parliament.go.ke; to be received on or before Thursday, 27th February, 2020 at 5.00 pm.

Copies of the Bills can be accessed from the parliamentary website www.parliament.go.ke/the-national-assembly/house-business/bills.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

He notes that the number of... people living with HIV will continue to grow and hence the need to come up

Nelson Otuoma, the executive director of the Network for the Empowerment of

Dr Peter Lerner...



Outdoor Advertising Association of Kenya

P.O. Box 935-00606 Sarit Centre, Nairobi Tel: 550950-4,
Fax: 550958 Email: outdoor@magnate-ventures.com

① D/coms
Please deal-
~~work~~
28/02/20

27th February 2020

Clerk of the National Assembly,
P.O. Box 41842 - 00100,
Nairobi.
Hand Delivered to the Office of the Clerk,
First Floor, Main Parliament Buildings
Nairobi
Email: clerk@parliament.go.ke

Dear Sir/Madam,

RE: MEMORANDUM ON THE COUNTY OUTDOOR ADVERTISING CONTROL BILL 2018.

We refer to the above matter.

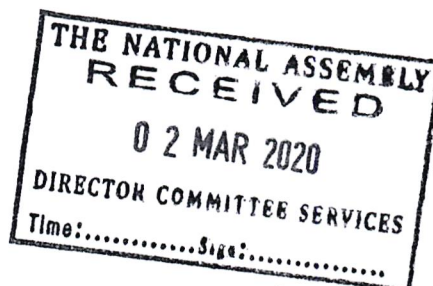
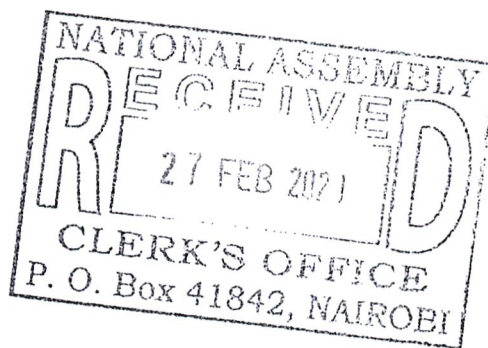
We forward herewith the Memorandum on the County Outdoor Advertising Control Bill 2018, prepared by ourselves. The Memorandum is prepared pursuant to the public participation that occurred on the Bill on 27th February 2020.

We trust that the foregoing will be useful.

Yours faithfully,

Teresia Ndirangu
Legal Manager,
Outdoor Association of Kenya

② KINA
please deal
for
02/3/20





Outdoor Advertising Association of Kenya

P.O. Box 935-00606 Sarit Centre, Nairobi Tel: 550950-4,
Fax: 550958 Email: outdoor@magnate-ventures.com

MEMORANDUM

To: Clerk of the National Assembly
P.O. Box 41842 - 00100, Nairobi.
Hand Delivered to the Office of the Clerk,
First Floor, Main Parliament Buildings
Nairobi
Email: clerk@parliament.go.ke

From: Outdoor Advertising Association of Kenya (OAAK)

Subject: County Outdoor Advertising Control Bill, 2018

Date: 27th February 2020

Introduction

The Outdoor Advertising Association of Kenya (OAAK) is an umbrella body made up of distinct legal entities involved in Outdoor advertising that is duly registered and recognized as such by the Laws of Kenya.

The main goal for which the Association was formed is to lobby for the interests of its members involved in the outdoor advertising industry in Kenya. Our members have business interests in all counties in Kenya.

As an association we are committed to having fruitful partnerships with County governments under which we operate and participate in generating reasonable revenue for the County as well as running a profitable and sustainable business.

We vehemently believe that our views if not incorporated will bring uncertainty into a very important industry that is one of the largest contributors to the exchequer.

We humbly submit our memorandum with the clauses we opine should be changed.

Objective.

The purpose of this memorandum is to petition and bring to the attention the County Outdoor Advertising Control Bill, 2018 and the clauses contained therein.

Right to Petition.

The Association makes this petition pursuant to section 15(1) of the County Government Act, 2012 that is bolstered by Article 196(1) (b) of the Kenyan Constitution which empowers a citizen to participate in the legislative process.

Clause Number	Clause Name	General Provisions	Our Recommendation
4(1)-(3)	Application for Licence	<p>(1) A person who intends to engage in outdoor advertising shall submit an application for an outdoor advertising licence to the respective county executive Committee member.</p> <p>(2) An application for an outdoor advertising licence shall be in the prescribed form and shall be submitted together with-</p> <p>(a) the prescribed application fee;</p> <p>(b) the written consent of —</p> <p>(i) the owner of the site or any other person with an interest in the site entitled to give consent; and</p> <p>(ii) the Kenya National Highway Authority, where the advertisement is to be displayed on land situated along a highway land;</p> <p>(c) a block plan of the property upon which an advertising sign is to be erected, drawn to a scale specified by the county executive committee member —</p> <p>laying out every building line and servitude on the site;</p> <p>(ii) the position and dimensions of the advertising sign in relation to the two boundaries of the property closest to the proposed advertising sign; and</p>	<p>The Clause should be deleted entirely as it is very prescriptive which we believe is outside the scope of what a National Law should do.</p> <p>The Constitution is quite clear that Outdoor Advertising is a function of the Counties. As such, it is imperative that the Senate does not usurp the powers granted to the Counties and therefore have the Counties prescribe specific laws governing outdoor advertising.</p> <p>Instead the Clause should be general and provide that application for a licence shall be in such a manner as shall be prescribed by each specific County Assembly.</p> <p>Further Issue 2 (ii) has been adequately ruled on by various Judgements that can be referred to. In both Petition_472_of_2014- Council of Governors Vs KenHA, KURA and Anor. and Real Deals Limited And 3 Others (Petitioners) Vs Kenya National Highways Authority (Kenha) & Another (Respondents); Council Of Governors-Interested Party –The Courts have ruled that Outdoor Advertising is a function of the County Governments and thus the authorities formed pursuant to the Kenya Roads Act have no jurisdiction on the matter.</p>

		<p>(iii) the location of any public street or any building on a property adjacent to the property upon which such sign is to be erected;</p> <p>(d) an artistic impression showing the detail, location and measurements of the proposed advertising sign;</p> <p>(e) a diagram of the property laying out the position of the proposed advertisement in relation to other free-standing advertisements and the closest two boundaries of the property; and</p> <p>(f) any other information which may be prescribed in the county legislation.</p> <p>(3) The county executive committee member may extend the period within which an application for a licence in any case may be made and may prescribe such conditions as the committee member may consider necessary for the application of a licence outside the prescribed time.</p>	
4 (2)	Application for Licence	N/A	<p>We propose that the following insertions be made as sub-clauses 4 (2)</p> <p>In a bid to encourage self-regulation in the outdoor advertising industry, whether the applicant is a member of</p>

			<p>the Outdoor Advertising Association of Kenya.</p> <p>The Code of Ethics as shall be established by the Outdoor Advertising Association of Kenya.</p>
5 (a) – (g)	Consideration of Application	<p>In considering an application for a licence under section 4, the county executive committee member shall take into account —</p> <p>(a) the effect the advertisement will have on the general characteristics of the area, including its effect on any features of historic, archaeological, architectural, landscape, cultural or other characteristics;</p> <p>(b) whether the proposed advertisement will —</p> <p>(i) endanger or obscure anyone using any highway, railway, waterway, dock, harbour or aerodrome;</p> <p>(ii) hinder the reading or interpretation of any traffic sign, railway signal or aid to navigation by water or air;</p> <p>(iii) hinder the operation of any device used for the purpose of security, surveillance or for measuring the speed of any vehicle;</p> <p>(iv) be so distracting or confusing as to pose a hazard to road users in the vicinity of the advertisement; or</p> <p>(v) obscure any existing and legally erected</p>	<p>The Clause should be deleted entirely as it is very prescriptive which we believe is outside the scope of what a National Law should do.</p> <p>The Constitution is quite clear that Outdoor Advertising is a function of the Counties. As such, it is imperative that the Senate does not usurp the powers granted to the Counties and therefore have the Counties prescribe specific laws governing outdoor advertising.</p> <p>Instead the Clause should be general and provide that consideration for a licence shall be in such a manner as shall be prescribed by each specific County Assembly.</p>

		<p>advertisement;</p> <p>(c) the position of the advertisement on the host building, its scale, size dominance and sitting in relation to that building and characteristics of the surrounding area;</p> <p>(d) the effect of the proposed advertisement when read with other advertisements on the building or in the surrounding area and whether the erection of the advertisement will result in clutter;</p> <p>(e) the design and materials of the advertisement or the structure containing the advertisement and its impact on the appearance of the building on which it is to be erected;</p> <p>(f) in the case of a freestanding advertisement, the design and materials of the structure and its impact on the appearance and character of the area where it is to be located; and</p> <p>(g) the impact of the advertisement, including its size, scale and levels of illumination, on the amenities of people living nearby and the potential for light pollution.</p>	
6 (1) –(4)	Issuance of a Licence	<p>The County Executive Committee Member shall notify the applicant in writing of any decision made under subsection (1) within seven days of the decision being made.</p> <p>Noting that Subsection 1 provides for a timeline of</p>	<p>The Clause should be deleted entirely as it is very prescriptive which we believe is outside the scope of what a National Law should do.</p> <p>The Constitution is quite clear that Outdoor Advertising is a function of the Counties. As such, it is imperative that the</p>

		fourteen days for the consideration of an application	<p>Senate does not usurp the powers granted to the Counties and therefore have the Counties prescribe specific laws governing outdoor advertising.</p> <p>Instead the Clause should be general and provide that issuance of a licence shall be in such a manner as shall be prescribed by each specific County Assembly.</p>
8 (b)	Duration of Licence	An outdoor advertising licence (b) Remains in force for the period specified in the licence.	The Clause should be amended by adding the words "provided that the period specified shall not be less than six years"
9(1) – (2)	Advertisement not to be altered or removed.	A licensee shall not alter, remove, re-erect or upgrade an advertisement which a licence has been issued unless the licensee has applied for has applied and obtained the approval of the county executive committee member	<p>The Clause should be deleted entirely as it is very prescriptive which we believe is outside the scope of what a National Law should do.</p> <p>The Constitution is quite clear that Outdoor Advertising is a function of the Counties. As such, it is imperative that the Senate does not usurp the powers granted to the Counties and therefore have the Counties prescribe specific laws governing outdoor advertising.</p> <p>Instead the Clause should be general and provide that application for upgrade, alteration, removal and re-erection shall be in such a manner as shall be prescribed by each specific County Assembly.</p>
10 (1)	Renewal of Licence	A licensee may at least one month before expiry of the	The Clause should be deleted entirely as it is very prescriptive

		licence, apply to the county executive committee member for the renewal of the licence.	which we believe is outside the scope of what a National Law should do.
10 (2) (b) (ii)	Renewal of Licence	An applicant for the renewal of a licence under subsection (1) shall submit to the county executive member: (ii) the written consent of the Kenya National Highway Authority, where the advertisement is to be displayed on land situated along a highway land;	The sub-clause should be deleted entirely for reasons as above.
11 (1) – (4)	Revocation of Licence	(1) The county executive committee member may revoke or permit the continual licensing of the licensee as issued under section 6 as the member may consider necessary with reasons therefor where the advertisement— (a) by its design, prejudices operations to the area in which it is located; (b) constitutes or has become a danger to any person or property; or (c) obscures any other advertisement, natural feature, architectural feature or visual line of civic, architectural, historical or heritage of significance. (2) The county executive committee member shall not revoke a licence or impose a condition under subsection (1) unless the county executive committee member — (a) issues to the licensee, a notice of at least twenty	The Clause should be deleted entirely as it is very prescriptive which we believe is outside the scope of what a National Law should do. The Constitution is quite clear that Outdoor Advertising is a function of the Counties. As such, it is imperative that the Senate does not usurp the powers granted to the Counties and therefore have the Counties prescribe specific laws governing outdoor advertising. Instead the Clause should be general and provide that revocation of a licence shall be in such a manner as shall be prescribed by each specific County Assembly.

		<p>one days of the intention to revoke the license or impose a condition for the continued licensing of the licensee; and</p> <p>(b) grants the licensee an opportunity to be heard on the revocation or intended conditions.</p> <p>(3) The county executive committee member shall consider any representation made by a licensee under sub section (2) and shall notify the licensee of the decision with the reason therefor within seven days of making the decision.</p> <p>(4) A revocation issued under subsection (1) shall specify the date on which the display shall be removed.</p>	
13	Removal of the advertisement	A licensee shall remove, an advertisement within seven days of the revocation or expiry of an outdoor advertising licence	The Clause should be deleted entirely as it is very prescriptive which we believe is outside the scope of what a National Law should do.
15 (1) (2) and (3)	Public Participation	<p>(1) The county executive committee member shall cause a notice of an application for the grant or renewal of a licence to be published in the prescribed form on the county website and displayed on notice boards and sites accessible to the public.</p> <p>(2) The county executive committee member shall, in the notice under subsection (1) invite any interested member of the public to submit comments or representations on the application.</p>	<p>This Clause should be deleted entirely.</p> <p>A requirement for public participation before the granting of or renewal of a licence would make the whole process extremely long and unnecessarily tedious. It is not practical given the volume of applications.</p>

		(3)The county executive committee member shall consider all comments or representations received pursuant to a notice under subsection (2) before determining an application under this Act.	
16 (1)	Inspections	The authorized officer may, on any day other than a Sunday or public holiday, carry out an inspection of any advertisement.	The Clause should be deleted entirely as it is very prescriptive which we believe is outside the scope of what a National Law should do.
19 (2) (b)	County Legislations	the fees and charges to be paid in respect of any matter required for purposes of this Act;	We propose the addition of the following proviso: (b) the fees and charges to be paid in respect of any matter required for purposes of this Act provided that no County Assembly shall enact county specific legislation purporting to charge fees in connection with any outdoor advertising structure which shall exceed Kshs. 2500 per square metre, which fees shall be charged annually;
19 (3)	County Legislations	N/A	We propose the addition of the following Clause: (3) No entity other than the specific County Governments may levy fees or any other charges in connection with the carrying out of any outdoor advertising functions.

We note that since the Constitution in the Fourth Schedule grants the regulation of Outdoor Advertising to the County Governments, the enactment of a Senate Bill that is very prescriptive may lead to unnecessary duplicity of laws and lead to contradictions in the interpretations. In addition the Physical Planning Act is a national law that details processes in outdoor advertising. Also, particular counties have been enacting Outdoor Advertising Acts to govern the industry for instance the Nairobi County Outdoor Advertising Act 2018. As such we would urge against multiple

laws being enacted to govern the same industry as duplicity would lead to confusion and this in itself is not good for the development of the industry.

Further as an Association it is important that we expound further on the issue of exorbitant rates that are being charged by the Counties in Outdoor Advertising. There is no set criteria used to arrive at the fees and levies charged, and as such the said fees charged do not give the true reflection of the marketability of the advertisement given the prevailing retail market rates.

A cap on the fees as per our proposal in Clause 19 (2) of this Memorandum will prevent arbitrary and prohibitive fees from being charged by the Counties and will further achieve the following:

- i. It will bring certainty in the industry which is vital to any investor.
- ii. It will improve the business environment leading to increased investment.
- iii. It will also safeguard the thousands of jobs that have been created in the industry.
- iv. It will also protect the property and investments made in the industry as guaranteed in the Constitution, which risk being brought down if current circumstances persist.

In support of this we have attached the following;

- a. A copy of the rates as set out in the relevant County Acts.
- b. A copy of the Memorandum duly acknowledged by Mombasa County and Kisumu County

CONSTITUTIONAL AND STATUTORY PROVISIONS IN SUPPORT OF OUR PETITION

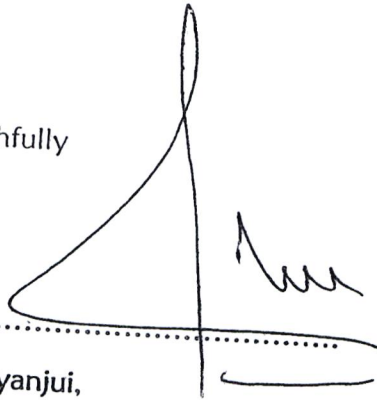
In this petition we wish to rely on the following Constitutional and statutory provisions;

1. Article 10(2) (a) states that "participation of the people" is one of our country's values and principles of governance.
2. Article 232(1) (d) instructs public servants to include citizens "in the process of policy making."
3. Article 196 Public participation and county assembly powers, privileges and immunities.
A county assembly shall-
(b) facilitate public participation and involvement in the legislative and other business of the assembly and its committees.

County Governments Act, 2012

87. Citizen participation in County governments shall be based upon the following principles—
- (b) *reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;*
 - (d) *legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;*

Yours Faithfully

A handwritten signature in black ink, consisting of a large, stylized loop on the left and a series of smaller, connected loops on the right. The signature is positioned above a horizontal dotted line.

Stanley Kinyanjui,
Secretary,
Outdoor Advertising Association of Kenya