

COMMUNICATIONS COMMISSION OF KENYA

REPORT ON ANALYSIS OF STAKEHOLDERS FEEDBACK ON THE UNIVERSAL SERVICE FUND (USF) FRAMEWORK

1. INTRODUCTION

The Commission on the 25th June 2013 through a Consultative Paper on the Universal Service Fund (USF) Framework posted on its website www.cck.go.ke, invited the public and stakeholders to review and give comments on the proposed USF framework by the 5th July 2013. The Public and industry were expected to submit their comments on the proposed key aspects, considerations and guiding principles as well as raise any fundamental issues that would further enrich the framework.

The electronic and written submissions were received from the following organizations / firms;

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| i. Safaricom Limited | vii. Fargo Courier |
| ii. Airtel Kenya | viii. Courier Industry Association of Kenya |
| iii. Postal Corporation of Kenya | ix. Jamii Telecom |
| iv. Essar Telecom Kenya (yu) | x. DHL Worldwide Express (K) Ltd |
| v. Telkom Kenya limited | xi. Hatari Securities |
| vi. Wananchi Group | |

2. METHODOLOGY OF ANALYSIS

Content analysis was used to analyze the stakeholder's contributions. The method entailed going through the submissions and grouping the comments into relevant areas of the USF Framework and based on key issues in the document. Subsequently, 10 key thematic areas were identified as follows:

- a) General comments
- b) Objectives of the Fund
- c) Governance – USAC
- d) Governance- Accountability and Management of the Fund
- e) USF Levy and Licensees Contribution to the Fund
- f) USF Programs

- g) Guiding Principles of the Fund
- h) Operating Procedures
- i) Enabling Policy and Regulatory interventions
- j) Access Gaps Study

3. ANALYSIS OF STAKEHOLDER FEEDBACK

3.1 General Comments

Stakeholders were generally receptive of the collaborative and consultative approach that the Commission adopted in the development of the USF Framework. There is a general recognition of the statutory mandate of the Commission to implement the Universal Service Fund (USF) and its significance in facilitating ICT access in Kenya.

While the stakeholders are supportive of the USF framework, they listed a numbers of comments that are aimed at improving the clarity and usability of the proposed framework. The stakeholder's responses on key thematic areas are highlighted in subsequent sections, while the summary of the submissions made by respective institutions are presented in Annex 1.

3.2 Objectives of the Fund

Stakeholders noted that the USF framework has retained the purpose and intent of the Fund as specified in the Kenya Information and Communications (Universal Access and Service) Regulations of 2010. However, most stakeholders felt that the objectives of the Fund in their current form are too general and needed to be expressed in specific, measurable, attainable, relevant and time bound (SMART) manner. In addition, stakeholders expressed the need to be engaged in the development of USF objectives and targets including key milestones to be attained. The Commission on its part noted that the USF framework is a high level outline of the fundamental aspects of the fund. Details of specific projects are expected to be defined in the USF's strategic plan that shall at some point be shared with stakeholders for review and comment.

A recommendation was made to include aspects of the national broadband strategy to the USF objectives. In response, the Commission noted that the

NBS is a much broader national roadmap that denotes the USF among its strategies.

Some postal and courier service providers expressed concern and reservation over their contribution to the USF. The Commission noted that the issue is beyond the scope of the USF framework as it is policy related.

3.3 Governance - USAC

Stakeholders noted that the legislative framework fails to clearly outline the roles and responsibilities of the USAC including the selection criteria and removal of its members. Subsequently, several recommended the appointment of USAC members through a competitive process that is independent from government and political influence. Noting the legislative nature of the issues, the Commission considered this as an issue that is outside the scope of the USF framework which aligns itself to the existing legislative framework.

While stakeholders lauded the proposed consultative approach to USF activities, they raised concern that this would be at the discretion of CCK as it is not binding. To ensure industry participation, the inclusion of industry in the USAC was highly recommended. On its part, the Commission generally concurred with this principle while recognizing its policy orientation and therefore not falling within the scope of the USF framework.

Stakeholder impressed upon the Commission the need for a governance manual that addresses USAC's general constitution, its role and functions vis a vis CCK board, Management executives and staff as well as defining the financial management and reporting framework. Consistent to good corporate practice, the Commission committed to provide a governance framework that defines the roles and relationships between the USAC, CCK Board and its management amongst other relevant provisions.

With regard to stakeholder concerns that the Commission may overlook industry inputs during project planning. The Commission assured stakeholders that it is committed to upholding and adhering to the principle objectives of the fund as defined in the Act and Regulations. In addition the Commission recognises stakeholder consultation as a key success factor in the work of the USF.

3.4 Governance - Accountability and Management of the Fund

Stakeholders noted the need for the Commission to open and maintain an independent and separate bank account, operating budget, and associated accounting procedures for the fund. Further, that for accountability purposes, quarterly and annual reports be provided in respect to amounts spent, past and projected fund activities, levies collected and disbursed among other key issues affecting performance of the fund. In addition to observance of independent audits and dissemination of reports through daily newspapers and websites.

Given the necessity of transparency in management of the fund, there is recommendation for an autonomous structure within the Commission to manage the fund in order to safeguard against future conflicts. The Commission noted that as stated in the framework, it shall maintain and operate a separate accounting framework for the fund in addition to ensuring that annual audits are undertaken by independent auditors selected through a competitive process.

Stakeholders also suggested a criteria to determine subsidy and further that it should be a one off payment. It's the view of the Commission that the Subsidy amounts shall be determined on a case to case basis largely driven by the principle of least subsidy requirement by bidders.

Regarding the call for clarity on the eligibility criteria for beneficiaries to the fund, the Commission noted that the framework has provided a general outline that will be further refined in the operational procedures consistent to provisions in the Act and Regulations.

3.5 USF Levy and Licensees Contribution to the Fund

Stakeholders commented that the fund should not run in perpetuity and instead have a defined time period as well as have a mechanism for periodic reduction based on progressive development and subsequent closing of gaps. In response the Commission noted the dynamic and evolutionary nature of ICT services and the associated challenge of accurately predicting accessibility of 'basic services' as this is redefined over time in tandem to technological changes and development needs.

On the comment that contribution levy that is set at 0.5% of a licensee's annual gross revenue be reviewed to reflect fund requirements in relation to its objectives, the Commission noted that the Access Gap study undertaken in 2009 estimated funding requirements totaling Ksh.74 Billion which based upon a 0.5% contribution would take up to 10 years and 47 years to close the voice and

data Gaps respectively. Therefore the appropriate measure would be to increase the levy in order to hasten the achievement of the overall objectives of the fund.

The Commission noted the validity of the comment regarding provision of loans through the USF and wishes to register that this issue has been revised in the KICA Bill.

Some stakeholders on one proposed that USF contributions should be based upon a maximum limit or cap for purposes of equity while on the other hand some proposed a standard levy. In response the Commission noted that the framework is based upon the existing legal and regulatory provisions.

3.6 USF Programs

Stakeholders called for USF programs that are very specific and measurable with clarity around the form, process and timelines of stakeholder consultations. Further, that a separate manual be developed to guide implementation before operationalizing the fund activities. Regarding this the Commission has developed a draft operating manual for the fund and which it shall share with stakeholders in due course.

An additional comment was made regarding the need to fully operationalize NOFBI along with ensuring fair pricing and access mechanism noting the opportunity it presents in facilitating roll out of services to rural areas. In response the Commission noted that efforts by the Ministry to streamline the operations of NOFBI are expected to address the concerns.

Stakeholders representing the courier and postal operators noted that the programs spelt out in the USF framework appear to have no relevance to their operations. In response the Commission pointed out that projects related to this sub-sector fall within the special Programs category of the USF programs.

3.7 Guiding Principles, Projects Planning and Implementation

Stakeholders seemed to be receptive to the principles of the USF framework but called for detailed procedures through an operations procedures manual which elaborate on some issues such as guidelines on participation by operators, procurement procedures, fund disbursement amongst others. These are represented in the Commission's operating manual which shall soon be shared with stakeholders.

Stakeholders impressed upon the Commission the need to ensure a robust and well organized project design that ensures that collision by operators and award of projects to incompetent firms are eliminated. In addition the Commission is urged to undertake pilot projects to test and enhance the auction process. In reaction to this the Commission assured stakeholders that it shall endeavor to safeguard the fund against potential abuse by bidders/operators. It shall also undertake an infrastructure based pilot project with support from the Global Broadband and Innovation Program of the USAID in order to gather lessons and enhance the effectiveness of the USF framework, guidelines and procedures. Industry consultation during project planning is expected to further enrich the process.

With regard to the view that the Commission should desist from interfering with the market and negating the principles of Competition through the USF, it is to be noted that the fund's objective is to compliment private sector investments in high cost areas that are generally not considered economically viable by industry.

Stakeholders expressed the need for a more detailed guideline on the criteria for disqualification from the fund and involvement of non-licensees in the bidding process. This view was noted and will be acted upon in subsequent documentations.

With regard to the call to avoid the public procurement process due to perceived bureaucracy and the long time it takes, the Commission commits to endeavor to explore regulatory process such as the licensing process which may be more efficient while upholding the principles of competition.

In response to the call for long term planning and timely information to service providers for purposes of financial planning, the Commission reiterated that it shall undertake the fund activities in active collaboration with the industry. Project planning and design will take into account stakeholder views.

3.8 ICTs Access Gaps Study

Stakeholders expressed the need to conduct periodic gap analysis and urged that this information be shared with all stakeholders. In addition there was a view that the fund projects should commence once a fresh gap analysis has been undertaken.

The objective of the study that the Commission undertook in 2010 was to provide a baseline for the access gaps. The gap status has continuously been updated based on information provided through operator returns. In addition, the Commission in collaboration with the Kenya National Bureau of Statistics is working towards institutionalizing a periodic national ICT survey to ensure availability of accurate and up to date demand side statistics.

Further, in undertaking USF projects, the Commission shall ensure that extensive research is undertaken to confirm availability of services in target areas in addition to adopting a stakeholder consultation process during the planning phase to ascertain operator presence and expansion plans.

3.9 Enabling Regulatory Framework

Stakeholder noted the need to ensure supportive regulatory provisions are encouraged including sharing of resources such as fiber optic cables, telecoms masts and power generators so as to drive down the cost of expansion of services. The Commission noted that it has commenced the process of establishing and enforcing Infrastructure sharing guidelines.

ANNEX 1: ANALYSIS OF FEEDBACK RECEIVED FROM STAKEHOLDERS ON THE USF FRAMEWORK CONSULTATIVE PAPER

Name of Stakeholder	Theme 1: Objectives of the Fund	Commission’s Analysis, comments and Recommendations
Telkom Kenya	<p>The objectives should be refined to bring out clearly and from the onset services that the fund seeks to establish, why, where and what needs ought to be addressed. Moreover, they should be specific, clear and measurable. The document should be enhanced further to address matters regarding sustainability of the projects to be funded by USF.</p> <p>USF funds should be strictly used in the development of ICT.</p>	<ul style="list-style-type: none"> • The USF framework is a high level outline on fundamental aspects of the fund and does not therefore spell out detailed project details. However the Commission notes the useful comments related to setting the fund objectives and assures stakeholders of its commitment to uphold best practice in it program/ project planning, implementation and reporting. • Implementation of the USF is denoted as a strategy within the National Broadband Strategy. • The Act and Regulations define all licensees operating on a commercial basis as contributors to the fund. Further, it’s the Commission’s view that postal and courier services are critical communication services that support and facilitate a robust broadband/digital based economy. Subsequently the framework recognizes Postal projects within the special programs category.
Safaricom Ltd	<p>In addition to providing the general objectives the commission ought to express them as specific, measurable, attainable, relevant and time-bound (SMART objectives). They should be prepared in consultation with industry and stakeholders. The USF Programs ought to be set out as specific and measurable as stated in section 2 of this memorandum. Moreover, clarification ought to be done on the form, process and timelines of stakeholder consultations with regard to refining and expansion of USF programs. This should be included in a separate manual set in place prior to implementation of USF.</p>	
Airtel Kenya	<p>Prior to implementation of USF it’s important to set out clear objectives that are achievable. They should be specific, well defined in terms of services to be provided, standard and level of penetration expected.</p>	
Essar (Yu)	<p>There is need for clarity on the roles of USAC.</p>	
JTL	<p>The objectives of the fund must be clearly measurable indicating service coverage and service delivery targets. It must articulate measurement parameters that will allow milestones and achievements. Additionally they must be subject to annual review and adjustment in consultation with industry stakeholders.</p>	
Hatari Securities	<p>The establishment of Universal Service Fund is a good idea that will enable improvement of information technology in rural areas and these will boost the economic growth in country and create jobs in the rural areas.</p>	

CIAK	The Courier Industry of Kenya reintegrates that the main objective of USF is to expand the accessibility of the ICT Sector. This is clearly indicated within the objective section of the framework. Notably, the framework assumes ICT includes courier operators which is inaccurate.	
Fargo Couriers	As stakeholders we do not have a clear understanding of how the fund intends to assist on our nationwide operations.	
DHL	The scope of USF and the specified programs (as defined in clause 4) have no relevance to the operations of DHL. It is important to offer clarification on what basis the framework requires DHL to contribute to the development of industries it does not operate in.	
Hatari Securities	The establishment of Universal Service Fund is a good idea that will enable improvement of information technology in rural areas and these will boost the economic growth in country and create jobs in the rural areas.	
Theme 2: Governance - USAC		Commission's Comments / Recommendations
Telkom Kenya	Provision for consultation does not oblige the CCK and USAC to implement projects as proposed by the industry and public stakeholders. Thus, there is pressing need to include stakeholders in the fund's governing body.	<ul style="list-style-type: none"> • The framework responds to issues related to USAC as defined in the legislative framework. Therefore concerns related to its composition, appointment of members and mandate are best addressed by the Ministry of ICT. • The Commission shall define a clear relationship between the Board, USAC, Management and staff premised on the legislative framework and shall provide this
Safaricom Ltd	The legislative framework does not clearly outline the roles and responsibilities of USAC. Apart from the foregoing, the governance structure for establishment of USF has not been clearly stated in law. The NSSF may be used as a national benchmark for USF. KICA regulations do not provide for other critical roles that are necessary for a transparent USF governance framework.	

Airtel Kenya	The recruitment of Universal Access Advisory Council members ought to be very competitive so that it is independent from government and political influence. On a similar note, a governance manual should be developed so as to address such issues as the general constitution, role and functions of USAC, CCK board, Executives and staff, the management of finances and reporting requirements.	<p>information to stakeholders.</p> <ul style="list-style-type: none"> • Roles of the USAC are well articulated in the Kenya Information and Communication Regulations 2010.
Wananchi Group	USF should be managed through a public-private sector partnership	
JTL	As regards the USAC, it is important to legislate matters regarding the appointment of USAC members, selection criteria, removal and mandate. The council must include representatives of different groups from industry.	
Theme 3: Governance - Accountability and Management of the Fund		Commission's Comments / Recommendations
Safaricom Ltd	USF should be completely separated from the operations of the commission by ensuring it has its own independent bank accounts, operating budget, and associated accounting procedures. The USF framework must provide for reporting that includes annual report that account for monies spent, past and projected fund activities, levies collected and disbursements and other key issues affecting the performance of the fund. Lastly, recipients of the fund must provide audited reports on their progress and performance so as to ensure accountability and transparency	<ul style="list-style-type: none"> • As defined in the USF framework, the Commission shall operate separate bank accounts and operating procedures for the USF in addition to upholding best practice in fund management. • A comprehensive operational manual that provides greater detail on the fund's operating procedures is being finalized and will soon be shared with stakeholders. It shall address the issues that have been highlighted here. • The USF framework has outlined an eligibility criteria for the fund.
Telkom Kenya	The framework should clearly outline the methodology/criteria that will be implemented to ensure transparency in disbursement of funds. On the same note, there is need for clarity on how the commission intends to ensure accountability or success of projects on the part of fund beneficiaries. The monies collected from the fund investments should be utilized to ensure that the fund is self-sustaining hence there will be no need to perpetually continue collecting money from operators	

Airtel Kenya	<p>The fund should have its own associated accounting procedures, operating budgets as well as accounting for project related costs. The necessary financial controls should be put in place to ensure accountability. For accountability purposes, quarterly and annual reports should be provided to the relevant stakeholders. Similarly, the funds and accounts should be independently audited on annual basis and the results made public through daily newspapers and websites. There should be efficiency and transparency to enable the speedy disbursement of funds and to enable the USF targets to be met within a short period of time. Moreover, there should be criteria for determining the amount of subsidy that is necessary for each project. In order to achieve SMART subsidies, they should be one off, encourage cost saving and market growth, encourage service provision in severely underserved areas, and link subsidies to optimal results.</p>	
JTL	<p>An effective and successful USF should have the ability to easily adjust levies in order to accommodate actual funding requirements. There is need for clarity on who is eligible for the fund. Furthermore, it is important to establish in regulation the eligibility criteria of applicants to avoid abuse and ensure certainty. Given the necessity of transparency in management of the fund, an autonomous structure ought to be put in place to avoid future conflicts.</p>	
Theme 4: USF Levy and Licensees Contribution to the Fund		Commission's Analysis and comments
Safaricom Ltd	<p>The USF Framework ought to clearly set out operator's contribution to the USF and provide a mechanism for periodic reduction of this contribution as USF objectives are met. To ensure equity, a maximum limit or cap ought to be set for a single operator's contribution for USF. Operator's contribution to USF ought to be time-bound in line with projected achievement of USF objectives.</p>	<ul style="list-style-type: none"> • The framework responds to the existing legal and regulatory frameworks which has stipulated the levy amount and defined the contribution criteria.
Telkom Kenya	<p>The USF framework has failed to address the issue of contribution as relates to operators. In 2011, the contribution levy was set at 0.5% of a licensee's annual gross revenue. The amount is not informed by any formula or criteria. It is also necessary to relook at the application of the percentage on the gross revenue.</p>	<ul style="list-style-type: none"> • However, the Commission notes the dynamic and evolutionary nature of ICT services and the

	Lastly, there should be a set duration for the collection of the levy since this can't be run in perpetuity because at some point the gaps will be bridged and the proposed investment of the fund would yield income hence there will be no need for continued collection by the fund.	<p>associated challenge of accurately predicting accessibility of 'basic services' as this is redefined over time in tandem to technological changes and development needs.</p> <ul style="list-style-type: none"> • The Access Gap study undertaken in 2009 estimated funding requirements totaling Ksh.74 Billion which based upon a 0.5% contribution would take up to 10 years and 47 years to close the voice and data Gaps respectively. Therefore the appropriate measure would be to in fact increase the levy in order to hasten the achievement of the overall objectives of the fund. • Concern over disbursement of loans by the USF is expected to be addressed in the revised Communications Act.
Airtel Kenya	There is need for certainty on the level of contribution as well as the period during which the amount will be levied. The fund should be structured in a way such that at some point it will become self-sustaining so that the players either completely stop remitting any contribution or contribute less toward the fund. It is also important to note that the requirements of the fund will change as universal access targets are adjusted. Thus, retaining the levy for a long period without review may result in collections that do not meet policy objectives or market realities.	
Wananchi Group	Why is CCK going to levy operators money and then loan the same back to them at interest as per section 84L of the Act? the fees should be based on the size of the company- rates should be applied proportionately, not same rate across the companies regardless of the size	
DHL	There are significant concerns on the levy being applied on gross revenue given the revenue of operators substantially comprises of services that do not fall within the scope of USF. Clause 3.1 should be amended such that the levy is calculated only based on licensed services.	

Theme 5: Guiding Principles of the Fund

Commission's Analysis and comments

Telkom Kenya	The principles of USF as outlined in the proposed framework are sound	<ul style="list-style-type: none"> • The guiding principles will be enhanced and elaborated upon in the Fund's Operating Procedures Manual that is under development and soon to be shared with stakeholders. The operating manual shall define in a detailed manner project and auction design including
Safaricom Ltd	For purposes of certainty, it is necessary to document the details of the guiding principles in a separate document-Manual of Operating procedures. An independent procurement process, independent from public procurement legislation, with respect to USF also needs to be set in place in the Manual of Operating Procedures.	

Essar (yu)	The rules and guidelines intended to guide participation of licensees and ensure fair and equal opportunity for all should be developed and shared beforehand. The rules should also be incorporated into this framework in form of an annex/schedule.	<p>subsidy related issues.</p> <ul style="list-style-type: none"> • The Commission shall undertake pilot projects with support from the Global Broadband and Innovation Program of the USAID in order to gather lessons that shall enhance the effectiveness of the USF framework, guidelines and procedures. • The Commission is a public entity that is obliged to comply to statutory requirements including compliance to the public procurement process. • The purpose of the procurement process and related evaluation mechanisms is to ensure that only qualified and competent firms are awarded USF projects. • The government's ICT policy of 2007 that informed creation of the fund through the Kenya Information and Communications Act 2009 anticipated that it shall complement private sector investment. The framework therefore defines that the intentions of the Fund are not to distort the market and it is on this premise that stakeholder consultation is a key feature of USF management.
Airtel Kenya	Taking into account that the public procurement process is too lengthy and might lead to delay of implementation of USF projects, it would be recommendable to use it as a guide. The commission should develop further guidelines which will stipulate the various issues in regards to the entire management of the fund. These guidelines will serve as reference in issues such as reverse auction, investments of the fund, disbursement of the fund, subsidy criteria and cost model to be adopted. The goals of reverse auction must be clear and well defined. Moreover, the opportunities to collude signal or game the process should be minimized and if possible eliminated through auction design. Lastly, pilot auctions should be considered in order to refine the auction process.	
Wananchi Group	To avoid unfair distribution of projects, operators limited by experience, expertise and technology need to be thoroughly vetted. The basic notion here is inexperienced operators win the contracts and in turn seek for assistance from those capable of doing the work. Chances of projects not taking off as a result of disagreements between the subcontracted parties will be very high. Thus, there is need for a council made up of telecoms operator representatives and the government to oversee the fund and ensure equitable allocation of the funds to operators. Generally, CCK ought not to interfere with market forces; eventually competition will prevail upon the operators, forcing them to move to the unreached areas and / or come up with products that appeal to those areas	
DHL	The USF seeks to interfere with the private sector market competition contrary to clause 5.4 of the framework. This is because many providers of courier and freight are not licensed to provide postal services. Such providers will not be	

	levied hence placing DHL at a competitive disadvantage	
Theme 6: Operational Procedures		Commission's Analysis and comments
Safaricom Ltd	It is important to document the details of the project planning and implementation in the Manual of Operation. However, the manual should include; USF's governance and accountability provisions, the roles of USF administration, management, oversight board and USAC, the governance charter, procurement procedure, financial controls, reporting processes and requirements, selection criteria, monitoring and evaluation requirements.	<ul style="list-style-type: none"> • A comprehensive operational manual that provides greater detail on the fund's operating procedures is being finalized and will soon be shared with stakeholders. It shall address the issues that have been highlighted here. • The Commission has been and shall continue to promote public consultation on key issues including the USF in order to encourage stakeholder buy-in and participation. • The Commission shall uphold best practice in fund management in order to ensure its efficiency and effectiveness in addition to timely communication to stakeholders
Essar (yu)	The criteria for disqualification should be expanded. The non licensees bidding for projects should be allowed to do so provided they partner with a licensee. Disqualification criteria should also include disqualification for the failure to meet the fair and equal opportunities thresholds guided by the set rules discussed under guiding principles. However, a minimum time frame of quarterly review should be explicitly provided in this framework.	
Wananchi	The bidding process should include a requirement for bidders to demonstrate genuine execution capability. Not just financial but actual ability to technically execute construction. A couple of vague letters from related party banks and equipment vendors is not enough. Generally, there needs to be a methodical, predictable process. Operators need to be told what the roadmap is so that they can plan long way in advance of tenders coming out. Last minute work with short deadlines in the absence of understanding long term roadmap by the Fund makes it impossible for operators to either plan or justify the necessary investment to their boards and to integrate them with commercial budgeting processes.	
Hatari Securities	The USF framework will enable more strong relation between the Communication Commission of Kenya and the Operators in their participation	

	in the Competitive Bidding / Reserve Auction Framework	
Theme 7: Enabling Policy and Regulatory Interventions		
Wananchi Group	<p>Before a formal adoption of the fund, regulations are needed to encourage operators to share resources such as fiber optic cables, telecoms masts and power generators so as to drive down the cost of expansion of services.</p> <p>To get the much touted economic GDP benefits from broadband uptake there is need to promote the growth of fixed line infrastructure. NOFBI has so far had challenges due to poor management and prices are too high. Distributing bandwidth is simply too expensive. Furthermore any attempts at a "National Lit Backbone" will fail because it creates constant conflict on the question of "what is the right price" to which the answer is "zero". If operators could get access to dark fiber on IRU basis at subsidized prices (or better still dark fiber on all of Nofbi on IRU basis at lower onetime cost) then it would make the marginal cost of transport to rural towns much easier to justify.</p>	<ul style="list-style-type: none"> • The Commission has commenced the process of establishing and enforcing Infrastructure sharing guidelines. • Efforts by the Ministry to streamline the operations of NOFBI are expected to address the related concerns.
Theme 8: Access Gaps Study		Commission's Analysis and comments
Safaricom Ltd	There is urgent need for a fresh ICT access gap study as an important process prior to the implementation of USF.	<ul style="list-style-type: none"> • The ICT Access Gaps study of 2010 provided baseline information that is updated regularly based on information collected from operator returns. • Periodic Access Studies shall be undertaken in collaboration with the Kenya National Bureau of Statistics.
Telkom Kenya	USF programs should be informed by an updated access gap study since operators have continued with network expansion hence some services may have already been adequately rolled out.	
Essar (yu)	Setting of goals should be done after a fresh access gaps study has been conducted. Moreover, going forward there should be periodic review of the gaps in order to provide guidance on prioritization of programs to be implemented.	

Airtel Kenya	There is need to review the access gap study in order to reflect the current state of affairs considering that a lot has changed since the last study was conducted	
JTL	Regulations ought to be enacted to ensure periodic gap analyses are carried out and determine the steps to be taken when the gap reduces.	