



2nd August 2021

Terms of Reference-Policy Brief on Digital and Data Infrastructure Policies to Promote an Inclusive and Secure Digital Economy

About Mzalendo Trust

[Mzalendo](#) ('Patriot' in Swahili) Trust is a Kenyan non-partisan Parliamentary Monitoring Organization started in 2005 and whose mission is to promote '*open, inclusive, and accountable Parliaments in Kenya and Africa.*' We do so by creating and managing civic tech tools, producing evidence-based research, and leading and facilitating advocacy and partnerships with Parliaments, citizens and other relevant stakeholders. We believe that success in our work will build more effective and responsive legislation and political processes that ultimately support Kenya's national development goals.

About the Project

With support from the Collaboration on International ICT Policy for East and Southern Africa (CIPESA), Mzalendo is implementing a project titled *Securing Kenya's Digital Economy Space*. The project seeks to define, address and highlight digital corruption in light of the increased uptake in the use of digital platforms to carry out trade and business. This project also comes against the backdrop of the recently enacted Data Protection Act, 2019 and processing of its enabling Regulations.

Background Information

The Constitution of Kenya recognises the right to privacy and provides that this right extends to every person, their home, property, possessions and their communications. Further, information relating to their family or private affairs should not be unnecessarily required or revealed. As at January 2021, there were [21.75 million](#) internet users in Kenya. Out of that, those aged between 16 to 64 years who use online applications to carry out business and shopping comprise [49.1%](#).

In May 2019, Kenya unveiled the Digital Economy Blueprint that documents a conceptual framework adopted by Kenya in its quest for the realisation of a successful and sustainable digital economy. It is anchored on five pillars: digital infrastructure, digital government, digital business, innovative-driven entrepreneurship and digital skills & values. Increased internet penetration has led to increased uptake in the use of digital platforms to carry out trade and business.

In 2020, Kenya introduced two types of taxes targeted at digital commerce/economy, namely: Digital Service Tax (DST) and Value Added Tax on Digital Marketplace Supply (VAT-DMPS). Resident and non-resident entities who offer digital services that are within the scope of DST in Kenya are liable to DST payable at a rate of 1.5% of the gross transaction value, effective from 1 January 2021. These regulations relate to any supply of a service made over a platform that

enables the direct interaction between buyers and sellers of services through electronic means. The objective of this tax is to net in the revenue made from digital economy. According to the Kenya National Economic Survey report of 2019, the value of the ICT sector expanded by 12.9% from Ksh345.6 billion in 2017 to Ksh 390.2 billion in 2018, driven by growth in the digital economy.

Increased reliance on technology to undertake business transactions comes with risks and challenges. Among the most prominent is digital corruption. This is defined as the overarching element that allows cybercrime, lack of encryption in digital economy applications, online fraud and privacy violations to thrive in the digital economy. Digital corruption is caused by lack of proper infrastructure; weak policy, legal and administrative structures; and lack of citizen awareness on the existing legislative and regulatory framework. This therefore lessens citizens' trust in digital economic systems and affects the flow of money in the larger financial ecosystem. Ultimately, this poses huge risks to citizens, especially those who are economically vulnerable, as mobile money applications, mostly used to carry out digital economy transactions, seek to offer financial inclusion.

In light of this, Mzalendo seeks to develop a Policy Brief on digital and data infrastructure policies to promote an inclusive and secure digital economy. The Brief will present the current existing frameworks, highlight challenges that exist in the digital economy and provide actionable recommendations.

Objective and Scope of Work

It is against the foregoing that Mzalendo seeks to engage a Consultant to prepare a Policy Brief that will review the existing digital policies and the challenges faced.

The main duties and responsibilities of the Consultant will be to:

1. Interview key respondents to gain primary data;
2. Review existing legislation and policies on the digital rights and the digital economy;
3. Identify policy and legislative interventions raised to address these challenges;
4. Highlight challenges and violations of existing legislation and policies in relation to the digital economy; and
5. Provide recommendations to mitigate the effects highlighted.

Proposed Methodology

The proposed methodology will build on a brief review of relevant literature but is primarily focused on gathering and analyzing primary data; both qualitative and quantitative. Data collection tools such as surveys, key informant interviews participatory workshops will be utilized.

The Consultant, in collaboration with the project team, will:

- Agree on methodology of the assignment, prepare adequate tools putting into consideration the objectives and timelines of the project.
- Prepare for and conduct the studies highlighted in this term of reference.
- Present findings of the study.

In undertaking the research, the Consultant will be expected to undertake desk review. Cognizant of the challenges posed by the COVID-19 pandemic, which remains a challenge, the safety of staff and consultants remains the priority of Mzalendo Trust. Applicants are encouraged to develop and demonstrate protocols for doing research during the pandemic.

Key deliverables

- Inception report, including tools to be applied for the study;
- Draft Report;
- Final Report and;
- Facilitation of validation meeting and report launch.

Profile of the Consultant

The Consultant will be required to demonstrate –

1. Masters' Degree in Law, Political Science or related field;
2. Relevant experience of at least 10 years;
3. Experience in research methodology, selecting and evaluating information as well as
4. Conducting and evaluating interviews e.g. FGDs and KII methodologies;
5. Relevant professional/educational qualifications;
6. Ability to work independently within strict timeframes;
7. Availability during engagement period;
8. High level of professional integrity and;
9. Good communication skills.

Contract Period

The Consultant will be engaged for a period of 10 days spread over August and September, 2021 and effective from the signing of the contract. The final report should be made available to Mzalendo on or before **24th September, 2021.**

Nr.	Deliverables	Tentative timeframe/deadline
1.	Inception report including tools to be applied for the study	23 rd August 2021
2.	Draft Policy Brief	14 th September 2021
3.	Facilitation of Validation Meeting	17 th September 2021
4.	Final Policy Brief	24 th September 2021
5.	Facilitation of Report Launch	30 th September 2021

How to Apply

1. The Consultant is required to submit a technical and financial proposal as part of their application.
2. The technical proposal should include a summary of the applicant's qualifications, experience and a detailed methodology, outlining how they will approach and complete the quantitative and qualitative aspects of the assignment within the timeframe outlined.
3. The technical proposal should also contain CVs of key team members and professional references.
4. The financial proposal should indicate the all-inclusive fixed total contract price and be supported by a breakdown of costs by activities.
5. The proposal should be sent to **community@mzalendo.com** on or before **16th August 2021 COB**.
6. The application subject line should clearly indicate 'Policy Brief on Digital Economy.'
7. Any clarification should be emailed to community@mzalendo.com before **15th August, 2021**.

With support from:

Collaboration on International ICT Policy for East and Southern Africa (CIPESA)