

# Consumers Federation of Kenya

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August 7, 2023

**Dr Jane Makau**  
**Chairperson**  
**Betting Control and Licensing Board (BC&LB)**  
**3rd Floor, KCS House**  
**Mama Ngina Street**  
**NAIROBI**  
Email: [info@bclb.go.ke](mailto:info@bclb.go.ke) (Advance copy by Email)



Dear **Dr. Makau,**

**REF: DEMAND FOR IMMEDIATE CENSURE AND MITIGATION MEASURES  
AGAINST PREDATORY SPEED DIAL BROWSER INTERNET FEATURE**

We, the Consumer Federation of Kenya (COFEK), a non-political and non-profit society registered under the Societies Act Cap 108 (Section 10) Laws of Kenya, committed to consumer protection, education, research, consultancy, litigation, anti-counterfeits campaign, and business rating on consumerism and customer care issues, hereby wish to address you as hereunder; -

The Betting Control and Licensing Board, having the oversight mandate conferred upon it by the Betting Lotteries and Gaming Act CAP 131, has continuously neglected, failed and or refused to protect consumers from predatory advertising practices by its' licensees.

While guidelines for advertising mediums such as TV, radio, outdoor, and print were well-detailed in the BCLB's Advertising Regulations dated 12th July 2021, as contained under REF: BCLB 8/71 VOL.I (46), speed dial browser internet appears to be an exception. These guidelines set out specific timeframes, advertising content, and the context in which betting companies can advertise their services, with a focus on responsible gaming messages and restrictions around children's shows, religious programs and family shows. Comprehensive guidelines for digital channels were glaringly omitted. This is notwithstanding the fact the a free internet is equivalent to a Free To Air (FTA) in broadcasting arena. After all, the internet is major global broadcast platform enjoyed by among others your licensees.

Alarmingly, these omitted channels host significant advertising activities and are instrumental in swaying behavioural change. Based on our research and consultations with line experts, we hereby confirm that browser providers, such as **Opera**, have introduced a "speed dial" feature, specifically curated for the Kenyan market. This offending feature, sponsored by betting firms



(your licensees), ensures these betting services are prominently displayed, regardless of the user's age, religion and other diversities. It particularly creates a significant risk to millions of minors with and or those who can intermittently access smartphone access – either with and or without express permission of their parents and or guardians.

A child, as defined by the Constitution of Kenya, 2010 and the Children's Act, 2001, is any individual under eighteen (18) years. These laws ensure children are shielded from all forms of real and or potential abuse and exploitation. However, online access, particularly through features that prioritize betting sites (your licensees), exposes children to potential serious and irreversible harm. Such features starkly are in sharp breach of the Communication Authority of Kenya's child online protection campaign, jeopardizing the protective online environment intended for our youth. The Draft Guidelines aim to balance a child's right to information access with protection from potential harm arising from ICT services and products.

### **“Speed dial” interference with Internet Neutrality**

These "speed dial" features blatantly disregard the ongoing campaigns by the Communication Authority of Kenya focusing on child online protection, a campaign that is of paramount importance considering that minors frequently access and interact with their parents' phones. The blatant display of betting sites can potentially lead to underage exposure and participation in online gambling, thereby undermining the concerted efforts in place to safeguard the online environment for our young ones.

This glaring gap in the Advertising Regulations is an alarming issue that requires urgent redress. The implications are far-reaching as they do not only expose our young ones to age-inappropriate content but also fuels an unregulated gambling culture that has seen an alarming increase in addiction among the youth, with Opera benefiting at the expense of Kenyan society more so our innocent children.

In light of the aforementioned, it is imperative that the Betting Control and Licensing Board (BCLB) and the Communication Authority of Kenya commit to and indeed urgently revisit the advertising guidelines to incorporate explicit provisions on digital channels, specifically on the responsible use of features such as "speed dial" by browser providers. The safety of our young ones and the future of our Nation depend on these urgent amendments and mitigation transitional measures.

It must be noted that these channels are dominant in advertising and critical in influencing behaviour. Alarmingly, we've observed that browsers like **Opera** have a speed dial feature tailored for Kenya, which on any given day, offers 5-7 shortcuts for leading betting firms. This feature, backed by betting firms, ensures these entities are frequently showcased regardless of user age, risking exposure to minors with smartphones. This is flies in the face of the Competition Act, Cap 504 and is indeed a discriminatory fraud under Article 27(4) of the Constitution of Kenya.

The Opera and Opera Mini and other Browsers are engineered to ensure that once a user logs in to the browser, their first point of contact is undoubtedly a betting site with the psychology behind it being to reinforce and condition the user to spend more time on a betting website. The predatory





practices of these tech companies, under the guise of market customization, must be scrutinized and urgently regulated.

In the same breath the Worldcoin collection of eyeball data further demonstrates the government's failure to address data safeguards under the Data Protection Act 2019. The evolution of the internet requires hands-on intervention through regulation as opposed to the multi-agency knee jerk reaction witnessed by government agencies with each of them taking a different stand on the matter which border of National Security where unknow foreign agencies are collecting Kenyan personal security data for monetization.

### **High Court Petition E251 Of 2023 Constitutional and Human Rights Division**

Most recently, a petition Number E0251 of 2023 filed before the Milimani High Court by three lobby groups, claims that both radio and television continue to advertise gaming and gambling and lotteries during their regular programming. This petition notes that the Communication Authority of Kenya had earlier, in a letter dated 9th September 2021, issued a stern warning to all broadcasters which has since been ignored or perhaps forgotten.

Whereas this is one approach, the answer lies with curtailing the actual platforms where the betting happens - which are the browsers imposing predatory practices that sway youth into betting and thereafter drug use and suicide to deal with the losses they face. The responsibility, therefore, lies with the BC& LB and the Communications Authority to ensure that Kenyans, while exercising their right to access information safeguarded under Article 35 of the Constitution, are not redirected to the vice that is gambling.

These predatory gimmicks are simply the latest in a series of shifting tactics in an industry aggressively continuing to evolve in a bid to ensure consistent customer acquisition for the gaming companies. They are profiting hand over fist and must be curtailed through **IMMEDIATE** censure to ban these predatory sports betting advertisements from our mobile devices and airwaves. The Kenyan consumer is burdened with tax, with entities such as Opera and Opera Mini raking in untaxed hundreds of millions each month from the economy. This again falls under the mandate of the BC&LB for imposition and recovery of Taxes.

Based on the foregoing and we categorize the issues raised hereinabove a matter of general public interest and further in contravention of consumer rights.

We, in the premise, do **DEMAND** from you, **WHICH WE HEREBY DO**, that you; -

- i. **IMMEDIATELY** issue a cease-and-desist directive to all browser operators within the Republic of Kenya, including but not limited to Opera and Opera Mini, who are operating a "speed dial" feature.
- ii. **IMMEDIATELY** compel those browser operators drawing income from Betting Companies within the Republic of Kenya to remit commensurate applicable taxes to the Kenya Revenue Authority

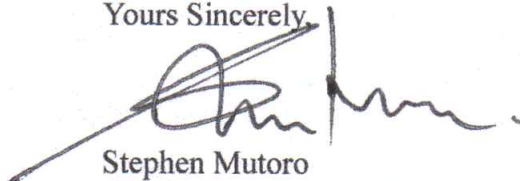


iii. **IMMEDIATELY** cease and desist from imposing betting content and advertisement on internet users and minors within the Republic of Kenya.

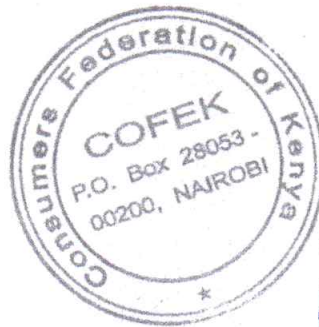
**TAKE NOTICE** that if you do not comply with the afore mentioned **DEMANDS**, within the next **Seven (7) days**, as a matter of public interest we shall swiftly, and without any further reference to you, institute such legal action without further reference to yourselves.

By copy, the respective agencies are requested to action the respective aspects of their mandate as relates to this complaint. They are advised that they will be named either as further Respondents (over and above BC&LB) or as Interested Parties should the matter proceed for legal determination within the Court of Law.

Yours Sincerely,



Stephen Mutoro  
**SECRETARY GENERAL**



**CC:**

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