

# Policy Brief

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## Consumer Experiences Across Key Service Sectors in Kenya

Daniel Asher

### Introduction

There is a general consensus that informed consumers are empowered citizens, who are able to demand quality products and services in a country. At the root of consumer protection policy is the recognition that an unequal relationship exists between consumers and producers/businesses. Consumer welfare is achieved by setting minimum quality standards for goods and services, and establishing avenues for consumer redress. An enabling policy and regulatory framework is necessary to offset the inherent disadvantages that consumers face *vis-à-vis* the producers.

In recent times, Kenya has been experiencing new developments in the area of consumer protection with the recognition of rights of consumers in the Constitution under Article 46; and the establishment of the Competition Authority of Kenya under the new Competition Act. The Competition Act has provisions for consumer representation and protection in the country.

However, the country is yet to underscore the importance of consumer protection through the enactment of a comprehensive consumer protection law. This has resulted in often exposing consumers to poor quality goods and services in the market place, even when their costs are high. A draft Consumer Protection Bill is doing the rounds in the Parliament, with little public information about the period set for its enactment into law.

Consumer Unity & Trust Society (CUTS), Nairobi has been implementing a project entitled 'Consumer Rights Empowerment for Social, Economic Justice and Good Governance in Kenya (CONSREG), since February 2012 with support of the *Akiba Uhaki Foundation*.

One of the activities under this project was to develop a *State of the Kenyan Consumer 2012* report to be used for advocating the need for greater

attention to consumer protection issues in the country, in conformity with international standards for improvement of consumer justice and the general welfare for Kenyan citizens.

This report analyses the current state of an average Kenyan consumer *vis-à-vis* the eight 'rights of a consumer' as recognised under the United Nations Guidelines on Consumer Protection (1985, expanded in 1999). It also includes an assessment of consumer experiences across five sectors in the country, viz.: water supply, public transport, electricity, telecommunication and public healthcare. This assessment was undertaken through a survey covering four towns in Kenya namely Kisumu, Mombasa, Nyeri and Nairobi.

This policy brief summarises the findings of this study in order for the busy policymakers to take cognisance of urgent issues pertaining to consumer protection in the country.

### Consumer Experiences

In **Water Supply**, consumer problems include frequent water shortages, contamination, and high tariffs level. Consumers lack information on redress in the water service delivery. Unreliability, inefficiency, sluggishness and inaccessibility of water service providers hinder consumer access to quality water services and prevent them from lodging complaints about poor quality water services.

**Public Transport** brings the challenge of frequent fare hikes, reckless driving of public service vehicles, and time wastage as a result of heavy traffic jam. There is perpetual increase on fuel cost affecting other sectors of production of consumer goods and services.

In **Electricity**, frequent power cuts, high tariff charges, delays in redress after filing complaints and incorrect billing are key issues. Redress for consumer

is hampered by lack of information. Others include unreliability of Kenya Power staffs, bureaucratic red-tape within Kenya Power and corruption. Kenya power is rife with inefficiency and slow response to complaints. A larger segment of consumers have registered their concerns about unbecoming rude staffs at the Kenya Power.

In **Public Healthcare** problems include poor facilities and services, perennial drug shortages in the health facilities and high health care cost beyond their reach. Complaints of negligence by medical practitioners which often lead to health complications or death to patients coupled with shortages of medical practitioners and access problems to health facilities. Lack of information on redress process and bureaucratic red-tape in the public health institutions coupled with unreliability and access constraints to the public health facility.

In **Telecommunication**, challenges faced by consumers include poor mobile network connectivity, slow internet speed, high call tariff charges, high internet cost and access problem, mobile phone fraud and unsolicited short messages via mobile phone, Slow customer service response, general lack of information on the redress, unreliability and poor customer relation by service providers and general lack of awareness on available redress in the telecommunication sector.

- **Electricity:** Most consumers (70 percent) indicated that cost of electricity was high. Half of the consumers were unaware about redressal mechanisms in this sector. Almost as many (47 percent) were unhappy about the ‘quality of service’ in this sector.
- **Public Transport:** Most consumers of this service (75 percent) conveyed their ignorance about the redressal mechanisms in this sector. Half of the consumers surveyed complained about high cost of transportation. Nearly as many (47 percent) were unhappy with the quality of service in this sector.
- **Water Supply:** The biggest consumer concern (60 percent) in this sector was the lack of awareness about redressal mechanism. Close to half of the consumers surveyed felt that the quality of services was a problem. A third of the consumers complained about high cost of water services.
- **Telecommunication:** Nearly half of the consumers surveyed did not know about the redressal mechanism in the telecom sector. Only a few (16 and 15 percent respectively) complained about the quality of service and cost of telecom services.

**Emerging Common Findings**

**(i) Consumer Experience Across Selected Sectors**

- **Public Health:** Most of the consumers interviewed (80 percent) indicated that ‘quality of service’ was the biggest challenge in this sector. It was closely followed (72 percent) by the number of consumers who were unaware about redressal mechanisms in this sector

**(ii) Prominent Consumer Concerns in Sectors**

- All three aspects of consumer concerns (in terms of cost, quality and information) were found to be prominent in the Public healthcare sector
- Two of the three consumer concerns (cost and information) were prominent in the Electricity and Transport sectors
- Only one consumer concern (information on redress) was prominent in the Water supply sector
- None of the consumer concerns were found to be prominent in the Telecommunication sector

Table 1: Consumer Feedback Across Sectors					
Consumer Concerns	Consumer Feedback (%)				
	Water Supply	Electricity	Public Healthcare	Transportation (city, town)	Telecommunication (mobile, internet)
High costs	32%	70%	50%	50%	15%
Bad services	44%	47%	80%	47%	16%
Lack of awareness on redressal	60%	53%	72%	75%	45%

**Table 2: Prominence of Consumer Concerns**

Sectors	High Costs	Bad Services	Lack of Redressal Information
Public Health			
Electricity			
Transport			
Water Supply			
Telecommunication			

**INDEX: Consumer Concerns in Sectors**

	= PROMINENT (Above 50%)
	= MODERATE (40-50%)
	= LOW (30-40%)
	= LITTLE (Less than 30%)

### (iii) Sectoral Weaknesses *vis-à-vis* Consumers

- Lack of redressal mechanism emerged as the most common consumer concern across four of the five sectors. Each of the responsible Ministries and regulatory agencies in these sectors should urgently embark on a mission to promote consumer awareness regarding existing redressal mechanisms;
- Cost of services turned out to be the concern across three of the five sectors. This raises question about the mechanism for price setting in these sectors, and the extent to which such a process is participatory. The respective ministries and/or regulators should take into consideration 'ability to pay' before setting the prices.
- Quality of service is a concern only in the public healthcare sector – and should be taken seriously by the respective Ministry. This combined with high costs and lack of consumer awareness regarding redressal in this sector, makes consumers seeking healthcare services extremely vulnerable.

### Generic Recommendations

- Given the low awareness levels of consumers about their rights and responsibilities in the country, the government should develop long-term programmes for consumer awareness and

education, to be implemented in cooperation with credible civil society/consumer organisations, especially in specific sectors.

- Consumer organisations need to unify their efforts, to make a lasting impact and stimulate a consumer movement in the country. It is essential that institutions specialising in sectors start engaging on consumer protection issues, etc.
- Consumer organisations and existing institutions should develop a framework of cooperation to achieve pro-consumer targets in key sectors.
- A draft Consumer Protection Bill 2011 is in place, and should be transformed into an Act at the earliest. It should be implemented through a decentralised system of enforcement by empowering counties to establish Consumer Fora, for easy and quick redress of most consumer grievances.
- Existing sector regulators (especially in the services sectors) need to reduce their distance with the consumers, and make it easy for the aggrieved consumers to reach them easily without spending time and costs.
- Government should decentralise consumer protection system in the country with branches spread at county level with an established dedicated consumer courts at each county to deal with consumer cases as they get reported.
- Government to allocate sufficient resource for consumer access to justice and strengthen the existing medium for consumer dispute resolutions while adopting legislations for alternative dispute resolution or binding arbitrations.
- Government to establish small claims courts to assist consumers file suits involving small but non-trivial amounts, enacting a comprehensive consumer protection law with legislations to relieve consumers from the obligation of establishing negligence while reversing the burden of proof to the defendant.

### Sector Specific Recommendations

#### Water Supply

Water is a basic need without which human beings cannot survive. The UN Guidelines on Consumer Protection, 1985 gives due recognition to drinking water. Drinking water not only come under the overall right to health but also precedes the latter. The right to safe drinking water and sanitation is a necessary condition for survival of civilisation. In the context the issue is not only that of quantitative availability of drinking water or of people's ability to access to

drinking water and sanitation but also more importantly, the quality of water.

#### *Key Recommendations*

- The government to make a comprehensive plan with the broad objective of the consumer's right to safe drinking water at the county level and to decentralise various schemes and financing mechanism to provide better access to safe drinking water.
- The government to facilitate capacity building at the local level on responsible use of safe drinking water through established water action groups and to develop a consumer-friendly and effective information management system to facilitate monitoring of physical and financial progress of water supply facilities periodically by consumers to enhance accountability.
- The government to ensure proper maintenance of assets created through involvement of the community and involving women in the selection and maintenance of the water supply system. The government to gazette detailed rules and regulations governing the water sector and devolve water management at the county level.

### **Electricity**

Reliable electric power is key to economic development, education, and medical care. Electricity is fundamental for many essential services, including those that increase income and benefit rural areas. Of essence is increasing the efficiency in the production and use of created capacities which continue to undermine the financial viability of energy units. The solution, therefore, rest on energy policy reforms that involve institutional reforms with holistic objective of improving efficiency as well as equity in electricity distribution. Electricity being a utility sub-sector, the role and functions of an 'independent' regulatory authority is important to ensure that the consumers are able to acquire quality service at fair prices.

#### *Key Recommendations*

- The Ministry of Energy should put more resources in the development of non-renewable sources of energy (such as solar and

wind energy) in areas of potential but off the main grid, which are relatively less-costly but whose potential remains largely untapped. This would reduce the cost incurred by consumers and would also increase the penetration rate particularly by the unserved and underserved populations.

- The Ministry of Energy should bring to light and put into practice the consumer provisions under its comprehensive regulatory framework (covered by the Energy Act and the Sessional Paper No. 4). This is to enable consumers to take advantage of such provisions and engage effectively in the regulation process. This can be done through daily newspapers advertisements and through the social media.
- The ministries of energy and finance should embrace the development of new programmes to ensure sustainability in efficiency of the country's power sources and oil fuel refinery facility. The ministries of energy and finance to initiate stakeholder's dialogue on synergic power grid configurations (from generation to distribution) and facilitate wider diffusion of more efficient electrical devices complemented with customer education on the smart use of energy.
- The Energy Regulatory Commission (ERC) should help create awareness among the consumers on the available channels through which their complaints and concerns can be addressed and the product price formulation process to enable consumers to appreciate all the factor that add up to the retail prices of oil fuel and electricity. This calls for a massive public education by the regulatory agency on the regulatory process.

### **Public Transport**

Public transport is a vital link between the production centres, distribution units and consumers; a basic infrastructural requirement for the satisfaction of consumers' basic needs and for economic development. Commuting is extremely important factor for the survival of the consumer in terms of travelling to work, for pleasure or societal needs. In dealing with the identified consumer concerns in Kenya's public transport, the following priorities should be undertaken:

### *Key Recommendations*

- The Ministry to develop stakeholder consultation strategy document, to consult with consumer organisations in Kenya and to develop and adopt passenger-centred approaches that involve bridging the gap between services, ensuring safety and cost effectiveness to consumers.
- The Ministry to consult with registered consumer organisations in the review of the traffic act to reflect today's reality in respect to challenges facing consumers in the sector.
- The government needs to have in place new independent authority to regulate the public transport to make it reliable, affordable and safe for the public and profitable for the operators.
- The Ministry of Transport to develop rules and regulations to curb the problem of overcharging by public service vehicle. This should include requirement that passenger service vehicles undertake predefined advance ticketing for specified routes to guard against consumer exploitation from over charging by rogue motorists in the pretext of rain drops or traffic jams.
- To make a requirement for operators of public service vehicles to have their bus tickets sold not only in the buses but also be made available at grocery stores, offices and at food joints.
- The Ministry of Transport to develop stringent legislations with severe penalties for reckless driving and over speeding. To complement the rules by advanced technology including alcohol blow gadget in all traffic police check points across the country.
- The Ministry to re-introduce public-owned transport system to enhance competition and to end the prolonged exploitation of private passenger service vehicles by enhancing consumer choice and curbing against unscrupulous passenger service vehicle which are fond of uncalled for fare hikes and mistreatment of consumers.

### **Telecommunication Services**

Communications industry (telecommunications and the Internet) plays a critical role in enhancing economic development across the world. However, it comes with a lot of challenges to

unsuspecting consumers some of which require the intervention of a dedicated regulatory regime to bring to an end.

### *Key Recommendations*

- The government to enact stringent rules and strengthen its enforcement agencies to ensure that criminal use of communication facilities/ services and vandalism is minimised if not eliminated.
- The Communication Commission of Kenya (CCK) to spot and address issues that arise from changes such as shifts in the competitive landscape (e.g. through introducing number portability), the advent of new technologies (e.g. M-PESA, ZAP, Pesa Pap et al), costs associated with services such as Internet access from mobile phones, and unfairly bundled services (broadband, mobile, etc.) from one provider. Such issues (like handset subsidies) might not be immediately apparent to consumers and will not be easy for them to address hence sole intervention by CCK is vital.
- CCK to develop regulations to compel all companies to have complaints procedures to keep customers satisfied and to address their problems. CCK to ensure that such channels for complaints are clearly specified and communicated to customers, including procedures for escalation, specifying the regulator as the referee of last resort for resolving only those individual cases that cannot be settled with the operator concerned. The reporting of operator complaints to CCK should help identify issues that need addressing more generally. CCK to engage in publication of complaints information as away to keep operators focused on customer service.

### **Public Healthcare**

Healthcare and the well being of consumers require that all pharmaceutical products and equipments are of good quality, available in adequate quantities and affordable. Government needs to implement the UN proposal for international code of ethics for pharmaceutical industry and provide information on banned, withdrawn or restricted pharmaceutical products.

### *Key Recommendations*

- To establish a universal healthcare system largely financed by the Central Government's National Health Insurance. Physicians both in private and public health facilities draw their income. This "Universal Health Coverage" a practice in France should see patients get refunds of 70 percent of most healthcare costs, and 100 percent in case of costly or long-term ailments. Consumers can then supplement coverage from private insurers, most of whom should be non-profit, mutual insurers.
- To establish institutions with specific clear mandates and consumer representations as a way of enhancing public access to quality health services. These should include a 'Health Service Commission' to streamline issues regarding terms of services for public health workers, Hospital management authority with specific responsibility for the running of all public health facilities including ensuring steady supply of medical equipments and drugs while the ministry is left to undertake the development of policies, guidelines and regulations to ensure smooth and quality health service delivery to consumers.
- To strengthen the existing health sector regulatory agencies to be able to enforce the existing laws, guidelines and health standards to curb the operation of quacks and to enhance better service delivery.
- To develop rules on consumer information on the possible health hazard on the use of goods and services to be relayed in diligent and proper manner using national language (English). The risks must be indicated clearly on the labels on the products and to ensure that all pharmaceutical products necessary for healthcare and the well being of consumers are of good quality, available in adequate quantities and affordable.
- The government needs to ensure proper health budgetary allocation both at national and county level to facilitate drugs procurement in public health facilities, facility improvements, man power training as way of reforming the health services in the country coupled with an enabling system and environment for community participation in ensuring accountability and in demanding better health service provision in public health facilities.

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