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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT- SECOND SESSION - 2023

AD HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

REPORT ON

THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

VOLUME - I

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CLERK-AT-THE-TABLE: Anne Shibuko

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National Assembly
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CHAIRPERSON'S FOREWORD

This Report contains proceedings, observations and recommendations of the *Ad hoc* Committee established on 15th August, 2023 to inquire into the activities of Worldcoin in Kenya.

The inquiry was prompted by a request for a statement from the Hon. Gitonga Mukunji, MP on Wednesday, 2nd August 2023, on the floor of the House. The issues raised in the Statement were not satisfactorily responded to by the Cabinet Secretary for the Ministry of Interior and National Administration and the Cabinet Secretary for the Ministry of Information Communication and the Digital Economy, leading to a ruling by the speaker of the National Assembly through the Speaker's Communication No. 055 of 2023, for the formation of an *Ad hoc* committee to inquire into the activities and operations of Worldcoin in Kenya. The speaker further directed the committee to engage concerned parties, but not limited to the relevant Ministries, Departments and Agencies, whose mandates have a bearing on the matter.

In conducting the inquiry, the *Ad hoc* committee set out nine (9) Terms of References including and not limited to; inquire into the operations and ultimate objectives of the activities of Worldcoin in Kenya; inquire into the legal and regulatory compliance of operations of Worldcoin, and its agents in Kenya; inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya; inquire into the nature, use and safety of data collected by Worldcoin in Kenya; inquire into the organizational structure and the activities of Worldcoin; inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries; inquire whether Kenyans were exposed to any health hazards as a results of the activities of Worldcoin in the country; inquire into the legal and regulatory gaps that permitted operations of Worldcoin in Kenya; and other emerging issues from the inquiry, which further generated several sub themes under them.

The *Ad hoc* Committee was to consider submissions by witnesses into the inquiry and make necessary observations and recommendations into the matter and submit its report to the House by Thursday, 28th September, 2023.

Further, into their inquiry, the *Ad hoc* Committee isolated the issues under consideration into two (2) broad categories of Data Protection and Virtual Assets. In dissecting the issues under consideration, the committee sought to understand the current legal framework which was noted to include the constitution of Kenya 2010, Article 31 (c) & (d) that provides that every person has the right to privacy, which includes the right not to have information relating to their family or private affairs unnecessarily required or revealed; and the privacy of their communications infringed. The other major statutes included the Data Protection Act, 2019, the Computer Misuse and Cybercrimes Act, 2018, the Kenya Information and Communications, 1998, the Companies Act, 2015 and the Kenya Information and Communications (Importation, Type Approval and

Distribution of Communications Equipment) Regulations, 2010. The major provisions relate to the registration of foreign firms in Kenya and the registration of data controllers and processors.

The committee went further to seek out best practices from other jurisdictions to help it appreciate data protection and virtual Assets. It was noted that the data protection law in the United States is a complex and evolving topic and that there is no single federal law that covers all aspects of data privacy, but rather a patchwork of sector-specific and state-level laws that regulate how personal data can be collected, used, shared and protected. The Committee noted that Worldcoin operated in Kenya despite the lack of regulation on virtual assets, but did not operate in the USA which they claimed lacked regulatory clarity on cryptocurrency leaving an impression that they exploited the weak legal framework in Kenya while respected that of USA despite the fact that both countries did not have regulations on virtual assets.

The Committee also reviewed jurisdictional comparisons of Brazil, South Africa and the United Arab Emirates. Of interest is the South African model which highlighted six principles to guide the approach on regulating CASPs in South Africa, to promote responsible innovation and regulate the conduct of these providers. Further, the United Arab Emirates (UAE) enacted Law No. 4 of 2022 on the Regulation of Virtual Assets ("VAL"). The law also established the Dubai Virtual Assets Regulatory Authority ("VARA"). It covers all virtual assets, including crypto assets and non-fungible tokens (NFTs). The Objectives of the Authority include to promote Dubai as a regional and international hub for Virtual Assets and related services; to boost its competitive edge at the local and international levels; and to develop the digital economy in Dubai.

In conducting the inquiry, the *Ad hoc* Committee also received witness submissions from the National Computer & Cybercrimes Coordination Committee (NC4), the Attorney General, Kenyatta International Convention Centre (KICC), the Communications Authority of Kenya (CA), the Cabinet Secretary, Ministry of Health (MoH), the Directorate of Criminal Investigations (DCI), the Central Bank of Kenya (CBK) and the National Treasury and Economic Planning, the Office of the Data Protection Commissioner (ODPC), the Cabinet Secretary, Ministry of Information, Communication and the Digital Economy, Sense Marketing Limited, the Capital Markets Authority (CMA), the Financial Reporting Centre (FRC), the Cabinet Secretary, Ministry of Interior and National Administration and the National Intelligence Service (NIS). Further, there were three members of the public who at the time were university students who participated in the Worldcoin activities. The Committee also invited Tools for Humanity Corp and Tools for Humanity GmbH (both trading as Worldcoin).

The *Ad hoc* Committee made findings based on each term of reference and drew general observations. The *Ad hoc* Committee observed that the Worldcoin project was founded with the mission of creating a digital identification platform (World ID) that aims to provide each person on earth with a convenient way to verify that they are real human and not a bot and further use

the attendant data to train AI algorithms for future technological advancements. The Committee observed that TFH Corp and TFH GmbH started operating in Kenya, way before making application for registration as data controllers and continued to operate in total disregard to the cessation orders and directives issued by Kenyan Authorities. Their activities therefore, violated the Kenyan laws.

The Committee further observed that Worldcoin's objective of decentralizing global monetary system is a threat to statehood. Unlike the fiat currency, cryptocurrency is a digital, encrypted and decentralized medium of exchange and that there is no central authority that manages and determines the value of the digital currency. Instead, the determination of the value of the virtual currency is through speculative tendencies of the users of the cryptocurrency. Cryptocurrencies pose security concerns due to their potential for anonymity, borderless transactions, difficulty in tracing decentralization, lack of third-party intermediaries, and limited regulation in Kenya.

In addressing the issues under determination from the findings and observation, the committee made the recommendations that will address the gaps in the legal framework and guide on the space of virtual assets in Kenya moving forward.

The Ad Hoc Committee wishes to thank the Office of the Speaker of the National Assembly, and the Office of the Clerk of the National Assembly for the support extended to the Committee in the execution of its mandate and the Secretariat for supporting the Committee. The Committee also extends its profound appreciation to all witnesses and members of the public that appeared before the Committee or submitted Memoranda for their informative and eloquent submissions on the matter.

It is now my pleasant duty and privilege, on behalf of the Ad Hoc Committee pursuant to Standing Order No. 259C(4) of the National Assembly Standing Orders to present this Report to the National Assembly.

Hon. Gabriel Tongoyo, MP
Chairperson, *Ad Hoc* Committee on the Inquiry into the Activities of Worldcoin in Kenya

ACRONYMS AND ABBREVIATIONS

AFJOC	African Joint Operations against Cybercrime
AFRIPOL	African Union Police Initiative
AG	Attorney-General
AI	Artificial Intelligence
AWS	Amazon Web Services
BRS	Business Registration Service
CA	Communications Authority of Kenya
CAR	Cyber Activity Report
CBDCs	Central Bank Digital Currencies
CBK	Central Bank of Kenya
CFC	Cyber Fusion Centre
CII	Critical Information Infrastructure
DCI	Directorate of Criminal Investigations
DDoS	Distributed Denial of Service
EAPCCO	East Africa Police Chiefs Co-operation Organization
GBP	Great British Pound
GDPR	General Data Protection Regulation
ICO	Information Commissioner's Office
IGCI	Global Complex for Innovation
INTERPOL	The International Criminal Police Organization
IRA	Insurance Regulatory Authority
ISP	Internet Service Providers
KE-CIRT/CC	Kenya Computer Incident Response Team Co-ordination Centre
KES	Kenyan Shillings
KICA	Kenya Information and Communications Act, 1998.
KICC	Kenyatta International Conventional Centre
KRA	Kenya Revenue Authority
MoICT	Ministry of Information and Communication and Technology
NC4	National Computer and Cybercrimes Coordination Committee
NCB	National Central Bureau
NCSC	National Cyber Security Steering Committee
NFTs	Non-Fungible Tokens
NFTs	Non-Fungible Tokens
NSC	National Security Council
NSCC	National Security Council Committee
ODPC	Office of the Data Protection Commissioner
OTTs	Over-The Top Services
P2P	Peer-to-peer

PS	Principal Secretary
PVOC	Pre-Export Verification of Conformity Standard
RBA	Retirement Benefits Authority
SASSRA	Sacco Societies Regulatory Authority
UAE	United Arab Emirates
UNCTAD	United Nations Conference on Trade and Development
USD	United States Dollar
USDT	United States Department of the Treasury
VAT	Value Added Tax
WLD	Worldcoin Token
WTO	World Trade Organization

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CHAPTER ONE

1. PREFACE

1.1 Establishment of the Committee

The *Ad hoc* Committee on the Inquiry into the Activities and Operations of Worldcoin in Kenya was established by the National Assembly pursuant to Standing Order 259C on Tuesday, 15th August 2023, vide Communication from the Speaker No. 055 of 2023 ***(Annex 3)***.

1.2 Mandate of the Committee

Through a Communication from the Speaker, the Committee was mandated to among other things, inquire into the activities and operations of Worldcoin in Kenya and engage concerned parties, but not limited to the relevant Ministries, Departments and Agencies, whose mandates have a bearing on the matter.

During the first sitting held on Monday, 21st August, 2023, the Committee formulated Terms of Reference of the Inquiry as follows:

1) To inquire into the operations and ultimate objectives of the activities of ***Worldcoin*** in Kenya;

2) To inquire into the legal and regulatory compliance of operations of ***Worldcoin,*** and its agents in Kenya;

3) To inquire whether due diligence was undertaken by the relevant government agencies before ***Worldcoin*** started its operations in Kenya;

4) To inquire into the nature, use and safety of data collected by ***Worldcoin*** in Kenya;

5) To inquire into the organizational structure and the activities of **Worldcoin**;

6) To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;

7) To inquire whether Kenyans were exposed to any health hazards as a results of the activities of ***Worldcoin*** in the country;

8) To inquire into the legal and regulatory gaps that permitted operations of ***Worldcoin*** in Kenya; and

9) To recommend necessary legislative intervention.

1.3 Timeline of the Committee

The *Ad hoc* Committee was required to consider and inquire into the matter and submit its Report to the House by Thursday, 28th September, 2023.

1.4 Membership of the Committee

In Communication No. 058 of 2023 dated 17th August, 2023 ***(Annex 4)*** the Speaker directed that the Committee shall comprise fifteen (15) Members, five (5) Members each drawn from three Departmental Committees of the National Assembly whose mandate have a bearing on the matter, namely the Departmental Committee on Administration and Internal Security; the Departmental Committee on Communication, Information and Innovation; and the Departmental Committee on Tourism and Wildlife. Nomination of the Members was done through writing to the Speaker by the respective Committees Chairpersons.

The nomination took into consideration the Majority Party and Minority Party in the House. The Majority Party was allocated three (3) slots while the Minority Party was allocated two (2) slots, by each Committee.

The Speaker appointed the Hon. Gabriel Tongoyo, MP, as the Chairperson of the *Ad hoc* Committee from amongst Members of the Departmental Committee on Administration and Internal Security.

In Communication No. 058 of 2023 dated 17th August, 2023, the Speaker co-opted three other Members into the Committee.

The Membership of the Committee is as follows:

Hon. Gabriel Tongoyo, MP - Chairperson Departmental Committee on Administration and Internal Security	
Hon. Kareke Mbiuki, CBS, MP - Chairperson Departmental Committee on Tourism and Wildlife	**Hon. John Kiarie Waweru, MP - Chairperson** Departmental Committee on Communication, Information and Innovation
Hon. Peter Kaluma, MP Departmental Committee on Administration and Internal Security	**Hon. Sarah Korere, MP** Departmental Committee on Administration and Internal Security

Hon. Mburu Kahangara, MP Departmental Committee on Administration and Internal Security	**Hon. Caroline Ng'elechei, MP** Departmental Committee on Administration and Internal Security
Hon. Shakeel Ahmed Shabbir, CBS, MP Departmental Committee on Communication, Information and Innovation	**Hon. Geoffrey M. Wandeto, MP** Departmental Committee on Communication, Information and Innovation
Hon. Gideon Kimaiyo Kipkoech, MP Departmental Committee on Communication, Information and Innovation	**Hon. Irene Nyakerario Mayaka, MP** Departmental Committee on Communication, Information and Innovation
Hon. Capt. Ruweida Obo, MP Departmental Committee on Tourism and Wildlife	**Hon. Geoffrey Ruku, MP** Departmental Committee on Tourism and Wildlife
Hon. (Dr.) Edwin Mugo Gichuki, MP Departmental Committee on Tourism and Wildlife	**Hon. Innocent Mugabe, MP** Departmental Committee on Tourism and Wildlife
Hon. Gitonga Mukunji, MP Co-opted Member	**Hon. Umulkher Harun Mohamed, MP** Co-opted Member
Hon. Fredrick Ikana, MP Co-opted Member	

1.5 Committee Secretariat

Mr. Daniel Mutunga Deputy Director, Departmental Committees

Ms. Hellen Kina Clerk Assistant I	**Mr. Philip Lekarkar** Clerk Assistant I
Mr. Douglas Katho Clerk Assistant I	**Dr. Donald Manyala, PhD** Principal Research Officer
Ms. Everlyne Claudia Orina Clerk Assistant III	**Mr. Boaz Chebiego** Research Officer
Ms. Delvin Onyancha Research Officer	**Mr. Daniel Ominde** Research Officer
Ms. Veron Aluoch Research Officer	**Ms. Brenda Michira** Research Officer
Mr. Martin Sigei Research Officer	**Ms. Winnie Kiziah** Media Relations Officer
Ms. Judith Kanyoko Legal Counsel II	**Ms. Joyce Kakya Maleve** Hansard Officer II
Ms. Rhoda Muchori Hansard Officer II	**Mr. Danton Kimutai** Audio Officer
Mr. Kelvin Lengasi Audio Officer	**Ms. Victoria Wanjiku** Intern
Mr. Samuel Nyambei Serjeant-At-Arms	

CHAPTER TWO

2. BACKGROUND OF THE INQUIRY

2.1 INTRODUCTION

2.1.1 Request for Statement by Hon. Gitonga Mukunji, MP

1. On Wednesday, 2nd August, 2023, the Hon. Gitonga Mukunji, MP, sought a statement ***(Annex 5)*** from the Cabinet Secretary for Interior and National Administration and the Cabinet Secretary, Ministry of Information Communication and the Digital Economy through the Leader of Majority Party as follows;
   a) Given that the Ministry of Interior and the National Administration and Data Commissioner has cast doubt on the safety of Data collection by Worldcoin, could the Ministry provide the steps the government is taking to ensure control of data access, collection and storage especially by foreign entities.
   b) Who authorized the biometric data collection by Worldcoin and were the correct procedures followed?
   c) What are the safety guarantees that the government is making to ensure that the data will be exclusively used for the intended purpose and that citizens will suffer no loss?
   d) Has the government established the ultimate objective of this exercise and for what purpose will the data collected be used?
   e) Was there prior public participation to inform the public of the risks involved in the exercise?
   f) What is the source of the money being paid to participants and who stand to benefit from the exercise?

2.1.2 Response from the Cabinet Secretary for Interior and National Administration and the Cabinet Secretary for Information, Communication and the Digital Economy

2. In response to the Statement sought by the Hon. Gitonga Mukunji, M.P, the Cabinet Secretary for the Ministry of Interior and National Administration and the Cabinet Secretary for the Ministry of Information, Communication and the Digital Economy issued a joint preliminary response to the House on Wednesday, 9th August, 2023 ***(Annex 6)***.

3. In their joint statement, they stated that:

   a) They had received information that an entity calling itself Worldcoin was reported to be harvesting eyeball/iris data from Kenyans in exchange for cryptocurrency tokens worth approximately KES 7,000 on condition that the beneficiaries allowed the scanning of their eyeballs/iris.
   b) The entity was not registered as a legal entity in Kenya.

c) Preliminary investigations had revealed that the entity had hired a local company in Kenya called Sense Marketing to do the data capture for them in the country.
d) the local representatives of Worldcoin, Mr. Emmanuel Otieno who is described to be in charge of operations and Ms. Rael Mwende who is described as the Country Manager, had been interrogated by the Directorate of Criminal Investigations (DCI).
e) Among the foreign nationals associated with Worldcoin, are Mr. Poitr Piwowarczyk who was on record of having entered Kenya on several occasions, the last one being in June 2023 having arrived in the country on 11th June, 2023 and left on 25th June, 2023.
f) On 2nd August 2023, the Government through the Ministry of Interior and National Administration had suspended the activities of Worldcoin in Kenya.
g) Consequently, criminal investigations had been commenced to establish the authenticity and legality of the aforesaid activities, the safety and protection of the data being harvested and how the harvesters intended to use the data.
h) It would be critical that the assurances of public safety and integrity of the financial transactions involving such a large number of citizens be satisfactorily provided upfront.
i) All the activities of Worldcoin and any other entity that may be similarly engaging the people of Kenya stood suspended until the relevant public agencies certify the absence of any risks to the general public whatsoever.
j) As a precautionary measure, the Immigration authorities had been directed to ensure that no persons whether Kenyan or foreign nationals associated with this entity left Kenya without the clearance of the Director of Criminal Investigations who is in charge of the ongoing investigations.
k) The investigations would also cover any persons of interest who may be outside the territory of Kenya in accordance with relevant international procedures and protocols on Mutual Legal Assistance (MLA) and the exercise of extra- territorial jurisdiction.
l) Earlier, the Office of the Data Protection Commissioner learnt that the company had setup booths across the country to scan the iris of interested Kenyans on 19th April 2022. This was in anticipation of the launch of their cryptocurrency. The Office of the Data Protection Commissioner commenced its assessment of the organisation in May 2022. In the course of its assessments, the Office initially suspended the operations of Worldcoin in May 2022 for a period of 60 days to ascertain the lawful basis and safeguards adopted by Worldcoin.
m) Subsequently, the Office of the Data Protection Commissioner conducted a spot check on 24th May 2023. The Office, again, raised concerns with the processing activities of the entity and wrote to the entity on 30th May 2023 directing the immediate cessation of processing of sensitive personal data, namely: iris and facial data of data subjects. The Office had further directed that Worldcoin safely restricts processing of any data that had already been processed and advise on the safeguards placed on the restricted data.
n) The Government had registered Worldcoin as a data controller, pursuant to the Data Protection Act, 2019 and the Data Protection Registration of Data Controllers and Data

Processors Regulation, 2021 (Registration Regulations) which requires that entities processing data should be registered with the Office of the Data Commissioner. Such registration was to be done by applying through the ODPC registration portal.

o) An application for a certificate of registration only signified that an entity had complied with section 18 and 19 of the Act and did not endorse an entity's compliance with the Data Protection Act or its subsidiary regulations, nor was it a valid license for an organisations to operate in Kenya or authorize the operations of an entity. The certificate merely signified that an entity was known to the Office of the Data Protection Commissioner that it processes personal data of persons located in Kenya. Further, it did not amount to certification of the processing activities of an entity or serve as an endorsement of an entity's compliance with other provisions of the Act or any other laws.

p) A registration certificate had been issued to Worldcoin on 18th April 2023 following receipt of the requisite documentation pursuant to the Data Protection Registration Regulations.

q) The Government had commenced investigations to ensure that Worldcoin complied with the data collection, storage and sharing principles. Immediate mitigation steps had been undertaken and constitution of a multi-agency team comprising of security, financial services and data protection agencies had commenced inquiries and investigations to establish the legality of the activities of Worldcoin, the safety and the protection of data collected with the aim to safeguard personal data and mitigate against any adverse practices.

r) The government was not aware of any prior public participation exercise by the crypto firm. This was the reason the Government had issued cautionary statements by the Office of the Data Protection Commissioner on 28th July 2023 advising the public to be vigilant when engaging with Worldcoin and, in particular, when providing sensitive personal data.

s) Further, the Communications Authority and the Office of the Data Protection Commissioner had issued a joint statement on 2nd August 2023 raising concerns on the operations of Worldcoin as they related to cybersecurity, data protection and consumer protection.

t) The Government was not aware of the source of funds and that part of the multi-agency team mandate would be to investigate the source of the money that had been issued to the participants and the beneficiaries of this activity.

u) The Government had expressly directed Worldcoin to cease the collection of personal data and to restrict the further processing of any data that had already been collected from persons located in Kenya. Further, there was need to sensitize Kenyans on the risks of cybersecurity attacks, data breaches and the need for full disclosure before giving consent.

v) The suspension of the processing of sensitive personal data was not lifted by the ODPC. In particular, the Office raised concerns on whether the consent sought from individuals was voluntary or illusory. In this regard, the Office noted that persons were requested to

give consent and a monetary incentive was provided for the exchange of sensitive personal data.

2.1.3 Establishment of *Ad hoc* Committee of the National Assembly to inquire into the activities and operations of Worldcoin in Kenya

4. In the Speaker's Communication No 055 of 2023, it was noted that the Cabinet Secretaries could not satisfactorily respond to all the issues raised forthwith, as it became apparent that their explanations raised more Supplementary Questions than provided answers.

5. In this regard, the Cabinet Secretary for Interior and National Administration; and his counterpart for Information, Communication, and the Digital Economy, were asked to retreat and come before the plenary of the House on Wednesday, 16th August, 2023, to provide more comprehensive responses on the activities and operations of Worldcoin in the country.

6. In the Communication, the speaker noted that he had received a request from the Cabinet Secretary for Interior and National Administration on the subject matter, seeking his consideration of various approaches for inquiring into the activities and operations of Worldcoin in Kenya. In the request, the Cabinet Secretary suggested the following options –

    i) That, the relevant Cabinet Secretaries, whose mandates had a bearing on the matter, including the Attorney General, appear separately before the plenary of the House to respond to the matter;

    ii) That, the relevant Cabinet Secretaries and Heads of Agencies, whose mandates had a bearing on the matter, appear before the relevant Departmental Committees or an ad hoc Committee; or

    iii) That, the relevant Ministries, Departments and Agencies, whose mandates had a bearing on the matter, provide information on the subject matter to the Prime Cabinet Secretary, who would then appear before the plenary of the House.

7. Having carefully considered the three suggested options and to avoid any further equivocation on the matter, the Speaker directed that an Ad hoc committee be formed to inquire into the activities of Worldcoin in Kenya.

8. On Tuesday 15th August 2023, the Speaker of the National Assembly, informed the House vide Communication No. 055 of 2023 on the establishment of an *Ad hoc* Committee to inquire into the activities and operations of Worldcoin in Kenya.

9. In the Communication, the Speaker directed that an *Ad hoc* Committee of the House comprising fifteen (15) Members, five (5) each drawn from the Departmental Committee on Administration and Internal Security, Departmental Committee on Communication

Information and Innovation and the Departmental Committee on Tourism and Wildlife, to investigate into the activities and operations of Worldcoin. Further, the Speaker in Communication 058 of 2023, coopted three (3) Honourable Members to the Committee.

10. The nomination of Members to the *Ad hoc* Committee was to be in writing to the Speaker, by the respective Chairpersons of the three Committees, taking into consideration the majority party and minority party membership of the House. In this case, the Majority Party was to be allocated three (3) slots while the Minority Party was to be allocated two (2) slots, by each Committee.

11. The mandate of the *Ad hoc* Committee was to inquire into the activities and operations of Worldcoin in Kenya and engage the concerned parties, but not limited to the relevant Ministries, Departments and Agencies whose mandates have a bearing on the matter. The *Ad hoc* Committee was to consider and inquire into the matter and submit its report to the House by Thursday, 28th September 2023.

2.2 LEGAL FRAMEWORK

12. The activities of Worldcoin fall under two thematic areas, that is data protection and virtual assets. This section sets out the applicable laws in Kenya.

2.2.1 The Constitution of Kenya, 2010

13. Article 31 (c) & (d) of the Constitution provides that every person has the right to privacy, which includes the right not to have information relating to their family or private affairs unnecessarily required or revealed; and the privacy of their communications infringed.

2.2.2 Data Protection Act, 2019

14. In order to implement Article 31(c) and (d) of the Constitution, Parliament enacted the Data Protection Act of 2019. The objectives of the Act include the regulation of personal data processing, adherence to the principles of data processing, safeguarding the privacy of individuals, establishing the necessary legal and institutional framework for personal data protection, and granting data subjects rights and remedies to safeguard their personal data.

15. Section 4(a) of the Data Protection Act provides that the Act applies to the processing of personal data, whether automated or non-automated, entered into a record, and conducted either by or for a data controller or processor. It is important to note that when personal data is processed through non-automated means, it must be part of a filing system, either in its entirety or as a component, to fall within the Act's jurisdiction.

16. Additionally, section 4(b) of the Data Protection Act extends the applicability of the Act to the processing of personal data by a data controller or data processor. The Act envisions data controllers and processors to include those entities that are either physically established or ordinarily resident within Kenya and engage in personal data processing while within the country's borders. It also covers situations where the data controller or processor is not physically based or ordinarily resident in Kenya but is involved in processing personal data of individuals situated in Kenya.

Registration of data controllers and processors

17. The Data Protection Act requires the registration of both data controllers and data processors. For instance, section 18(1) of the Act explicitly states that no individual or entity can function as a data controller or data processor unless they have completed the registration process with the Data Commissioner. Furthermore, under section 18(2) of the Act, the Data Commissioner is tasked with the responsibility of establishing the specific thresholds that necessitate mandatory registration for data controllers and data processors. The threshold is determined by considering factors such as the nature of the industry, the quantity of data being processed, and whether sensitive personal data is involved.

18. Section 19 of the Act sets out specific requirements for the registration application process for those seeking to become data processors or data controllers. These requirements are designed to provide a comprehensive understanding of the intended data processing activities and ensure adherence to data protection standards. For instance, an applicant must provide a detailed description of the personal data the applicant intends to process as a data controller or processor.

19. The application must also articulate the purpose behind processing this personal data, shedding light on the objectives driving these data processing activities. The application must also specify the category or categories of data subjects to whom the personal data relates, ensuring clarity on the individuals whose data is involved. It must also contain the contact details of the data controller or data processor are essential for communication and administrative purposes.

20. An application for registration should also incorporate general description of the potential risks, along with the safeguards, security measures, and mechanisms to protect personal data. Moreover, applicants are required to outline any measures aimed at indemnifying data subjects against potential unlawful use of their data by the data processor or data controller, emphasizing the protection of individual rights.

21. If satisfied that a data controller or data processor has met the requirements for registration, the Data Commissioner shall issue a certificate of registration valid for a period determined

at the time of the application after taking into account the need for the certificate, and the holder may apply for a renewal of the certificate after expiry of the certificate.

22. The Data Commissioner may, on issuance of a notice to show cause, vary terms and conditions of the certificate of registration or cancel the registration where any information given by the applicant is false or misleading; or the holder of the registration certificate, without lawful excuse, fails to comply with any requirement of the Data Protection Act.

Cancellation or variation of the certificate

23. Section 23 of the Data Protection Act outlines the authority of the Data Commissioner to conduct periodic audits of data controllers and data processors. The primary objective behind these audits is to verify and ensure compliance with the Data Protection Act. In essence, this provision empowers the Data Commissioner to periodically assess and evaluate the data handling practices of these entities to ascertain that they adhere to the stipulated data protection regulations.

24. Section 22 of the Act empowers the Data Commissioner to issue **notice to show cause**, a procedural step that allows the Commissioner to seek explanations and justifications from the parties involved. If, during this process, it is determined that the applicant provided false or misleading information during the registration process, or if the holder of the registration certificate fails to comply with any requirements laid out in the Act without a lawful excuse, the Data Commissioner has the prerogative to either vary the terms and conditions of the certificate of registration or cancel the registration.

Principles of data protection

25. Section 25 of the Data Protection Act lays down essential principles that every data controller and data processor must uphold in their handling of personal data. These principles serve as a foundational framework for ensuring the protection of the right and privacy of the data subjects. For instance, the Act requires data processing to be conducted in a lawful, fair, and transparent manner in relation to the data subject.

26. Additionally, the collection of personal data should be explicit, specified, and for legitimate purposes, with strict limitations on any further processing that might be incompatible with these initial objectives. Furthermore, the data collected should be adequate, relevant, and limited to what is strictly necessary for the intended purposes.

27. Moreover, when information regarding family or private affairs is required, it should only be collected when a valid explanation is provided, underlining the sensitivity and discretion necessary in such cases. Accuracy in maintaining personal data is crucial, with steps taken to promptly erase or rectify any inaccuracies as needed. The Act further stipulates that data

should not be retained in a form identifying data subjects for longer than necessary for the original purposes of collection.

28. Lastly, transferring personal data outside of Kenya is permissible only when adequate data protection safeguards are in place or with the explicit consent of the data subject.

29. Section 26 of the Data Protection Act guarantees the subjects the right to be informed about how their personal data will be used, ensuring transparency in data processing practices. Data subjects also have the right to access their personal data held by data controllers or processors, promoting transparency and control over their information.

30. Further, data subjects have the right to object to the processing of all or part of their personal data, giving them a say in how their data is utilized. In cases of false or misleading data, data subjects have the right to request corrections to ensure the accuracy of their information. Data subjects can also request for the deletion of false or misleading data concerning them, emphasizing their right to control the integrity of their personal information.

Collection and processing of personal data

31. Section 28(1) of the Data Protection Act obligates data controllers and data processors to collect personal data directly from the data subject. However, personal data may be collected indirectly where the data is publicly available, the data subject has intentionally made their data public, consent from the data subject is obtained for collection from another source, the data subject is incapacitated (with consent from their guardian), or collecting from another source does not harm the interests of the data subject.

32. Section 32(1) of the Data Protection Act requires a data controllers or processors to ensure that a data subject has given consent for the processing of their personal data for a specific purpose. Further, section 32(2) guarantees the right of data subjects to withdraw their consent at any time, unless otherwise specified in the Act. Importantly, section 32(3) clarifies that the withdrawal of consent does not impact the legality of prior data processing activities based on the initial consent. Finally, section 32(4) highlights that when assessing the freedom of consent, factors such as whether the performance of a contract or service is contingent upon unnecessary data processing consent must be considered, reinforcing the importance of voluntary consent in data processing practices.

33. Section 28(3) emphasizes that personal data must only be collected, stored, or used for lawful, specific, and explicitly defined purposes. Before gathering personal data, section 29 of the Data Protection Act mandates data controllers and processors to inform data subjects about their rights, disclosing the fact that personal data is being collected, specifying the purpose for collection, indicating any third parties to whom the data may be transferred (along with details of protective measures), providing contact information for the data controller or

processor, mentioning whether any other entity may receive the collected data, describing the security measures in place to maintain data integrity and confidentiality, stating if data collection is based on any laws, and outlining the consequences if the data subject fails to provide requested data.

34. Moreover, section 30(1) (a) stipulates that data controllers and processors cannot process personal data without the consent of the data subject. Section 30(1)(b) further specifies conditions under which personal data may be processed without explicit consent. The conditions include performance of a contract involving the data subject, compliance with legal obligations, protection of vital interests, public interest tasks, tasks carried out by public authorities, legitimate interests of the data controller or processor (except when it unjustly harms data subject rights), and purposes related to historical, statistical, journalistic, literary, artistic, or scientific research.

Retention, rectification, erasure and transfer of personal data

35. Section 39(1) of the Data Protection Act dictates that personal data should only be retained for as long as necessary for its intended purpose, except when retention is mandated by law, needed for lawful purposes, authorized by the data subject, or required for historical, statistical, journalistic, literary, artistic, or research purposes. Further, section 39(2) obligates data controllers and processors to delete, erase, anonymize, or pseudonymize personal data that no longer needs retention as specified when the retention period expires.

36. Further, section 40(1) of the Data Protection Act grants data subjects the right to request data controllers or processors to promptly correct inaccuracies, out-of-date, incomplete, or misleading personal data, or to erase or destroy data that is no longer authorized for retention, irrelevant, excessive, or obtained unlawfully. Section 40(2) emphasizes the responsibility of data controllers or processors to inform third parties with whom they have shared personal data for processing when a data subject requests corrections or erasure of their data.

37. For transfer of personal data outside Kenya, section 48(a) of the Data Protection Act permits the transfer of personal data to another country, provided the data controller or processor can demonstrate to the Data Commissioner that appropriate safeguards ensuring the security and protection of personal data are in place. Section 48(c) outlines specific scenarios where data transfers are permissible, including for contract fulfillment, public interest matters, legal proceedings, protection of vital interests, or the pursuit of legitimate interests by the data controller or processor, as long as they do not infringe upon the rights and freedoms of data subjects.

2.2.3 Companies Act, 2015

38. According to Section 974(1) of the Companies Act, a foreign company is prohibited from conducting business in Kenya unless it is duly registered or has submitted an application for registration, which remains unprocessed within the prescribed time frame. Section 974(2) of the Act expands the definition of carrying on business in Kenya to encompass activities such as offering debentures in Kenya or acting as a guarantor for debentures offered in Kenya. Engaging in business activities without fulfilling the registration requirement constitutes an offense attracting a fine of up to five million shillings.

Procedure for registration of foreign companies

39. To register as a foreign company, an application must be submitted along with several documents, including a certified copy of the certificate of registration of the foreign company from its home country or an equivalent document; and a certified copy of the company's constitution. The company is also required to submit a list of directors and shareholders with their personal information. If the list includes directors residing in Kenya and serving on a local board, the company shall also submit a memorandum outlining their powers. The Act also requires details of any existing property charges that would require registration under the Companies Act.

40. Upon registration, the Registrar is required to allocate the company a unique identifying number and issue to the company a certificate of compliance. Section 975(5) requires the certificate of compliance to state the name of the company, its unique identifying number, the fact that the company is registered as a foreign company, the date of its registration as a foreign company and the date of its incorporation in its place of origin.

Local representatives of foreign companies

41. Section 979(1) of the Companies Act stipulates that a foreign company cannot be registered unless it has at least one local representative who meets the prescribed requirements. The local representative of a registered foreign company assumes responsibility for ensuring that all required actions are taken on behalf of the company and can be held personally liable for any penalties imposed on the company due to violations or non-compliance with the Companies Act.

42. Further, section 979(3) of the Companies Act provides that failure by a registered foreign company to adhere to the local representative requirement results in an offense, with both the company and any officer in default subject to potential fines of up to five hundred thousand shillings upon conviction.

2.2.4 Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010

43. Regulation 24 of these Regulations makes it an offence to deal in or use communication equipment without type approval or acceptance, and prescribes a penalty of a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

2.3 INSTITUTIONAL FRAMEWORK

44. Having noted that the activities of Worldcoin fall under two thematic areas, that is data collection and virtual currency, this section now sets out the relevant institutions in Kenya mandated to oversee the implementation of the applicable laws.

2.3.1 The Office of the Data Commissioner

45. Section 5 of the Data Protection Act, 2019 establishes the Office of the Data Protection Commissioner (ODPC) as the central institution responsible for overseeing and enforcing the Data Protection Act and maintaining a register of data controllers and data processors. Section 8(1) of the Act assigns the ODPC a comprehensive set of functions to ensure the effective implementation and enforcement of Data Protection Act and the attendant regulations.

46. The ODPC has the authority to scrutinize data processing activities, whether initiated independently or upon a data subject's request, to verify their alignment with the Act. It thus plays a role in fostering self-regulation among data controllers and processors.

47. The functions of the ODPC extend to conducting assessments of public and private entities, either on its own motion or upon request, to ascertain compliance with data protection laws. It also serves as a platform for individuals to file complaints regarding infringements of their rights under the Data Protection Act. Furthermore, the ODPC is responsible for public awareness efforts, disseminating information about data protection provisions.

48. As a regulator, the ODPC conducts inspections of both public and private organizations to assess how personal data is being processed. Internationally, the ODPC promotes cooperation in data protection matters and ensures the country's adherence to data protection obligations outlined in international conventions and agreements. Lastly, it conducts research to stay abreast of developments in personal data processing and assesses potential risks or adverse effects on individuals' privacy, thereby upholding the overarching goal of safeguarding personal data in the digital age.

49. Further, section 9 of the Act confers significant authority on the Data Commissioner to execute a range of crucial functions essential for the effective implementation and

enforcement of data protection measures. For instance, the Data Commissioner possesses the autonomy to initiate investigations independently or in response to complaints from data subjects or third parties. In pursuit of these investigations, the Commissioner can seek professional assistance, consultation, or advice from relevant individuals or organizations, whether within or outside the public service.

50. Furthermore, the Data Commissioner has the prerogative to require any entity subject to the Data Protection Act to furnish explanations, information, and assistance, both in person and in writing, to aid in compliance and enforcement efforts. Notably, the Commissioner possesses the authority to impose administrative fines in cases of non-compliance with the Act, thereby promoting adherence to Data Protection Act and regulations.

51. In line with their mandate, the Data Commissioner is entrusted with the flexibility to undertake any necessary activities to fulfill the functions of the Office. Additionally, they can exercise any powers prescribed by other relevant legislation, ensuring a comprehensive approach to data protection and regulatory enforcement. This multifaceted authority underscores the important role of the Data Commissioner in upholding data protection standards and safeguarding individuals' privacy rights.

2.3.2 Communications Authority of Kenya

52. The Kenya Information and Communications Act, 1998 establishes the Communications Authority of Kenya (CA), responsible for licensing and regulating postal, information, and communication services in accordance with the provisions of the Act. Any person intending to operate a telecommunication system must follow the prescribed application process with the Communications Authority of Kenya. A license granted under the Act can authorize the connection of other telecommunication systems and specified telecommunication apparatus to the system covered by the license.

2.3.3 Central Bank of Kenya

53. The Central Bank of Kenya is established under the Central Bank of Kenya Act, 491. Its principal object is to formulate and implement monetary policy directed to achieving and maintaining stability in the general level of prices. This includes regulation of cryptocurrencies through regulations and issuance of advisories.

2.4 COMPARATIVE ANALYSIS

54. This is an analysis of the status of data protection and cryptocurrency in a few jurisdictions around the globe, highlighting their legislative, policy and institutional interventions.

2.4.1 United States of America

Data Protection

55. The data protection law in the United States of America is a complex and evolving topic. There is no single federal law that covers all aspects of data privacy, but rather a patchwork of sector-specific and state-level laws that regulate how personal data can be collected, used, shared and protected.

56. It incorporated both general federal legislative and policy frameworks that impact data protection on data protection which among others include:

    a) The Federal Trade Commission Act (FTC Act), which empowers the FTC to enforce consumer protection and data privacy regulations against unfair or deceptive practices by businesses.

    b) The Health Insurance Portability and Accountability Act (HIPAA), which sets standards for how health care providers and other covered entities can use and disclose personal health information.

    c) The Gramm-Leach-Bliley Act (GLBA), which requires financial institutions to protect the privacy and security of customer information and to provide notice and choice about how such information is shared.

    d) The Children's Online Privacy Protection Act (COPPA) prohibits the online collection of personal information from children under 13 without verifiable parental consent and requires online services to post privacy notices and implement reasonable security measures.

57. In addition to these federal laws, several states have enacted their own data privacy laws that offer more protection or rights to their residents. For example, California has the California Consumer Privacy Act (CCPA), which grants consumers the right to access, delete, and opt out of the sale of their personal information by businesses that operate in California or collect data from California residents.

58. Other states, such as New York, Virginia, and Colorado, have also passed or proposed comprehensive data privacy laws that are similar to or inspired by the CCPA.

59. Data protection law in the United States is influenced by the developments in other jurisdictions, especially the European Union, which has a comprehensive data privacy law called the General Data Protection Regulation (GDPR). The GDPR majorly applies to organizations that offer goods or services to individuals in the EU or monitor their behaviour, regardless of where the organization is located.

60. The GDPR grants an individual various rights over their personal data, such as the right to access, rectify, erase, restrict, port, and object to the processing of their data. The GDPR also imposes strict obligations on data controllers and processors, such as conducting data protection impact assessments, appointing data protection officers, and reporting data breaches within 72 hours.

Virtual Assets

61. The regulatory landscape for cryptocurrencies in the United States is currently in a state of evolution, marked by a mix of agency viewpoints, overlapping jurisdictions, and ongoing efforts to coordinate regulatory measures. While the Securities and Exchange Commission (SEC) is often perceived as the most influential regulatory body, other agencies like the Treasury's Financial Crimes Enforcement Network (FinCEN), the Federal Reserve Board, and the Commodity Futures Trading Commission (CFTC) have each offered their distinct interpretations and guidance on cryptocurrency-related matters. To foster cohesion and clarity within this complex regulatory environment, the White House issued an Executive Order, mandating greater collaboration and coordination among these agencies.

62. Diverging views on cryptocurrencies abound among these regulatory bodies. The SEC frequently classifies many cryptocurrencies as securities, emphasizing investor protection and disclosure requirements. In contrast, the CFTC designates Bitcoin as a commodity, stressing the importance of market integrity and oversight. Meanwhile, the Treasury Department categorizes cryptocurrencies as a form of currency, focusing on matters related to money laundering and financial crime prevention. Addressing these discrepancies in definitions, regulatory scope, and jurisdictional boundaries is paramount, and two key entities, the President's Working Group and the Financial Stability Oversight Council, are expected to play crucial roles in shaping a cohesive and comprehensive regulatory framework for the future.

63. From a tax perspective, the Internal Revenue Service (IRS) has defined cryptocurrencies as a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value. In line with this definition, the IRS has issued tax guidance that requires cryptocurrency investors to report their annual cryptocurrency activities on their tax returns. This underscores the U.S. government's commitment to ensuring compliance and revenue collection in the rapidly growing cryptocurrency sector.

64. Notably, the United States holds a prominent position in the global cryptocurrency ecosystem. It boasts the largest number of crypto investors, houses numerous cryptocurrency exchanges and trading platforms, hosts a substantial presence of cryptocurrency mining operations, and is home to a flourishing ecosystem of cryptocurrency investment funds. This significant

involvement underscores the country's role as a key player in shaping the future of cryptocurrencies, both in terms of regulation and market development.

2.4.2 Brazil

Data Protection

65. The LGPD, or Lei Geral de Proteção de Dados, is Brazil's General Data Protection Law that regulates the collection, processing, disclosures, and erasure of personal data. The LGPD borrows heavily from the GDPR especially on the definition of personal data and the data subject rights.

66. As does the GDPR, the LGPD provides for extraterritorial jurisdiction. Art. 3 states that the law applies to any processing operation carried out by a natural person or a legal entity of either public or private law, irrespective of the means, the country in which its headquarter is located or the country where the data are located.

67. The legal foundations for data processing vary between the regulations, with the LGPD including research activities and credit score safeguarding. Furthermore, the LGPD doesn't define a specific timeframe for reporting data breaches, and its penalties for violations are comparatively less severe than those under the GDPR.

68. Both the LGPD offer protection for processing of sensitive data and specifically protection against biometric data processing.

69. The LGPD and the Kenyan Data Protection Act both provide for data protection clauses in regard to research activities. The LGPD further protects data privacy in relation to processing for credit score activities unlike the Kenyan Data Protection Act.

Virtual Assets

70. According to CoinMarketCap, approximately 10 million Brazilians participate in the crypto market. This has led to Brazilian Legislators proposing a series of regulations on cryptos in the past several years as well as creating a regulatory sandbox. They came up with regulatory framework for the virtual currency market in order to reduce the risks of virtual currencies against the financial stability of the economy, reduce the possibility of them financing illegal activities and to protecting the consumer against possible abuses.

71. The virtual asset service provider carries out the exchange between virtual assets and national or foreign currency, exchange between one or more virtual assets, transfer of virtual assets, custody or administration of virtual assets or instruments that enable control over virtual assets and participation in financial services and provision of services related to the offering by an issuer or sale of virtual assets.

72. In order to provide virtual asset services, virtual service providers must comply with certain guidelines such as free initiative and free competition, good governance practices and risk-based approach, information security and protection of personal data, protection and defense of consumers and users, protection of popular savings, soundness and efficiency of operations and prevention of money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction, in alignment with international standards.

73. The government has also declared that bitcoin is an asset and therefore is subject to capital gains taxes and that the existing Anti-Money Laundering (AML) laws extend to virtual currencies in certain contexts. The Special Department of Federal Revenue of Brazil has published a document on cryptocurrency taxes in the country that establishes and regulates the obligation to provide information relating to operations carried out with cryptoactives to the Special Secretariat of the Federal Revenue of Brazil (RFB).

74. Further, Companies must follow standards for communicating financial operations, identifying customers and maintaining records. Institutions authorized to operate by the Central Bank of Brazil may exclusively provide the service of virtual assets, or combine it with other activities, in accordance with the regulations to be issued by a body or entity of the Federal Public Administration indicated in an act of the Executive Branch.

75. The Brazilian government has classified the crime of fraud in the provision of virtual asset services as organizing, managing, offering portfolios or intermediating operations involving virtual assets, with the aim of obtaining an illicit advantage, to the detriment of others, inducing or keeping someone in error, through artifice, ruse, or any other fraudulent means. The penalty is imprisonment for four to eight years and a fine. If the virtual asset service provider operates without authorization, it will be committing a financial crime, with imprisonment for one to four years and a fine.

76. To promote innovation in payment services, demanded by the accelerated digital transformation underway in the global economy, the discussion about the issuance of digital currencies by central banks (Central Bank Digital Currencies - CBDCs) has gained prominence over the last few years in Brazil. The Banco Central do Brasil (BCB) has been promoting discussions, internally and with its international peers, aiming at the possible development of a CBDC that may keep up with the dynamic technological evolution of the Brazilian economy, enhance the efficiency of the retail payment system, foster new business models and other innovations based on technological advances and favor Brazil's participation in regional and global economic scenarios, increasing efficiency in cross-border transactions with consideration that any developments stemming from this environment of innovation will be consistent with the BCB's mission of ensuring the stability of the currency

purchasing power, fostering a sound, efficient and competitive financial system and promoting the economic well-being of society.

2.4.3 South Africa

Data Protection

77. Section 14 of the Constitution of the Republic of South Africa, 1996, provides that everyone has the right to privacy: - the right to privacy includes a right to protection against the unlawful collection, retention, dissemination and use of personal information; the State must respect, protect, promote and fulfil the rights in the Bill of Rights.

78. The Protection of Personal Information Act[1] (POPIA) is a comprehensive data protection and privacy law in South Africa. It was enacted in 2013 and fully implemented on July 1, 2021.

79. Section 1 provides for definitions, for example 'biometrics'' which means a technique of personal identification that is based on physical, physiological or behavioural characterisation including blood typing, fingerprinting, DNA analysis, retinal scanning and voice recognition, "personal information'' means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to— biometric information relating to a person, information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person, among others.

80. Section 5 of the Act provides that, a data subject has the right to have his, her or its personal information processed in accordance with the conditions for the lawful processing of personal information including the right:

    a) to establish whether a responsible party holds personal information of that data subject and to request access to his, her or its personal information;
    b) to request, where necessary, the correction, destruction or deletion of his, her or its personal information;
    c) not to be subject, under certain circumstances, to a decision which is based solely on the basis of the automated processing of his, her or its personal information intended to provide a profile of such person; -''Automated means'', means any equipment capable of operating automatically in response to instructions given for the purpose of processing information.
    d) to submit a complaint to the Regulator regarding the alleged interference with the protection of the personal information of any data subject.

81. Section 9 provides that Personal information must be processed—lawfully; and in a reasonable manner that does not infringe the privacy of the data subject.

[1] Protection of Personal Information Act (POPI Act) - POPIA, Retrieved on 28-08-2023

82. The Act recognizes retinal scanning as a part of personal biometric information and provides specific rights of the data subjects.

Cryptocurrency in South Africa

83. Since the release of the Bitcoin white paper in 2012, the crypto asset ecosystem in South Africa has grown to include more than 10 000 unique crypto assets as at November 2021. The Intergovernmental Fintech Working Group (IFWG) of South Africa reiterates the position globally by Policymakers, regulators and central banks, that crypto assets are not 'money' in the legal tender sense of the word, although they perform some of the functions of money.

84. Their challenge was how to achieve regulatory and legal certainty in the most appropriate and responsible manner possible to which they issued a position paper in 2020 that sets out 25 recommendations for a revised South African policy, legal and regulatory position on crypto assets and related activities, and essentially provides a roadmap to putting in place a framework for regulating crypto asset service providers in South Africa.

85. The Intergovernmental Fintech Working Group (IFWG) agreed and proposed six principles to guide the approach on regulating CASPs in South Africa. They include: Principle 1- crypto asset service providers (CASPs) must be regulated, and regulated appropriately; Principle 2- An activities-based perspective must be maintained, and the principle of 'same activity, same risk, same regulations must continue to apply and inform the regulatory approach; Principle 3 - Proportionate regulations that are commensurate with the risks posed must apply (i.e. a risked-based approach to crypto asset regulation must apply); Principle 4 - A truly collaborative and joint approach to crypto asset regulation must be maintained; Principle 5 - Continue to proactively monitor the dynamic development of the crypto assets market, including maintaining knowledge on emerging international best practices (through standard-setting bodies, etc); and Principle 6: Digital literacy and digital financial literacy levels must be increased amongst consumers and potential consumers of crypto assets. These principles guiding regulation of CASPs aims to promote responsible innovation and regulate the conduct of these providers.

2.4.4 United Arab Emirates

Data Protection

86. Data Privacy in the UAE is governed by the Federal Decree-Law No. 45 of 2021 on the Protection of Personal Data.

87. The law defines data, personal data, and sensitive personal data and makes provision for the processing of personal data both within and outside the UAE. It prohibits the processing of

personal data without the data subject's consent and provides for the obligations of data controllers and processors. It obligates a data controller to take appropriate technical and organizational procedures and measures to implement the standards necessary to protect and secure personal data in order to preserve its confidentiality and privacy. It also requires data controllers to inform the Data Office of any data breach. It further allows the data subject the right for correction of their data and provides a complaints mechanism where a data subject is aggrieved by the manner of processing their data. It also sets out the requirements for the transfer of data outside the UAE.

Cryptocurrency

88. The Emirate of Dubai enacted Law No. 4 of 2022 on the Regulation of Virtual Assets ("VAL"). The law also established the Dubai Virtual Assets Regulatory Authority ("VARA"). It covers all virtual assets, including crypto assets and NFTs. The Objectives of the Authority include to promote Dubai as a regional and international hub for Virtual Assets and related services; to boost its competitive edge at the local and international levels; and to develop the digital economy in Dubai. The Authority is also mandated to increase awareness on investment in the Virtual Asset services and products sector and encourage innovation in the sector. Further, it is the Authority's objective to contribute to attracting investments and encourage companies operating in the field of Virtual Assets to base their business in the Dubai, to develop the regulations required for the protection of investors and dealers in Virtual Assets, and to endeavour to curb illegal practices in coordination with the concerned entities; and to develop the regulations, rules, and standards required for regulating, supervising, and overseeing Virtual Asset Platforms, Virtual Asset Service Providers, and all other matters related to Virtual Assets.

89. The law sets out activities that require a permit from the Authority and prohibits involvement in these activities without a permit. These activities include the provision of Virtual Asset Platform operation and management services, provision of services for the exchange between Virtual Assets and national or foreign currencies, provision of services for the exchange between one or more forms of Virtual Assets, provision of Virtual Asset transfer services;, provision of Virtual Asset safekeeping, management, or control services, provision of services related to Virtual Asset Wallets; and provision of services related to offering, and trading in, Virtual Tokens.

90. The law also provides for a grievance procedure and encourages cooperation of all stakeholders and other government agencies in the execution of the Authority's mandate.

CHAPTER THREE

3.0 EVIDENCE BY WITNESSES

3.1 ATTENDANCE BY WITNESSES

91. The Ad Hoc Committee, pursuant to Article 125 of the Constitution received evidence and information from witnesses on diverse dates from 29th August, 2023 to 18th September, 2023. This involved the invitation of various witnesses to adduce evidence to the Committee on itemised issues, following a call for submissions from members of the public carried in local dailies dated **24th August, 2023** (***Annex 7***). The Committee received sixteen (16) oral submissions and seventeen (17) written Memoranda from the invited witnesses and members of the public.
92. This Chapter of the Report elaborates both oral and written submissions by the witnesses. The Memoranda submitted to the Committee are also annexed at ***(Annex 9)*** of Volume II of this Report. The table below highlights the list of witnesses engaged and the dates of attendance.

Table 1: List of Witnesses and Date of Attendance

No.	Name of Witnesses	Date of Meeting
1.	National Computer & Cybercrimes Coordination Committee (NC4)	29th August, 2023
2.	Attorney General (AG)	30th August, 2023
3.	Kenyatta International Convention Centre (KICC)	31st August, 2023
4.	Communications Authority of Kenya (CA)	
5.	Ministry of Health (MoH)	
6.	Directorate of Criminal Investigations (DCI)	4th September, 2023
7.	Central Bank of Kenya (CBK)	5th September, 2023
8.	Witnesses who Participated in the World Coin Activities: a) Bruce Bogita b) Miruba Marube c) Benard Ochieng	

No.	Name of Witnesses	Date of Meeting
9.	Tools for Humanity Corp (TFH Corp) Tools for Humanity GmbH, Germany (TFH GmbH)	6th September, 2023
10.	Office of the Data Protection Commissioner (ODPC)	7th September, 2023
11.	Ministry of Information, Communication and the Digital Economy	11th September, 2023
12.	Sense Marketing Limited	12th September, 2023
13.	Capital Markets Authority (CMA)	13th September, 2023
14.	Financial Reporting Centre (FRC)	
15.	Ministry of Interior and National Administration	14th September, 2023
16.	National Intelligence Service (NIS)	18th September, 2023

Table 2: Written Submissions

No.	Name of Witnesses	Date Received
1.	ISACA Kenya Chapter	7th September, 2023

3.2 SUBMISSIONS BY WITNESSES

93. The *Ad hoc* Committee in its inquiry into the activities and operations of Worldcoin in Kenya sought information from witnesses in line with its mandate in accordance with the Speaker's Communication No. 055 of 2023 dated Tuesday, 15th August, 2023 ***(Annex 3)*** and terms of reference as per the National Assembly's Invitation for Public Participation and Submission of Memoranda dated 24th August, 2023 ***(Annex 7)***. The Committee received oral and written evidence falling across the following emerging thematic areas —

Table 3: Terms of Reference and Thematic Areas

No.	Terms of Reference (ToR)	Thematic Areas
ToR 1	To inquire into the operations and ultimate objectives of the activities of *Worldcoin* in Kenya.	a) Worldcoin generally; b) Registration/subscription to Worldcoin platform; c) The Orb apparatus; d) Whether TFH Corp and TFH GmbH operated in Kenya as data controller before registration as such; e) The ultimate aim and objectives of the operations and activities of Worldcoin in Kenya; and f) Whether the registration of Kenyans by Worldcoin is still going on despite the pendency of a court order and other administrative directions halting the same.
ToR 2	To inquire into the legal and regulatory compliance of operations of *Worldcoin*, and its agents in Kenya.	a) Whether Tools for Humanity Corporation and Tools for Humanity GmbH were Required to Register under Part XXXVII of the Companies Act, 2015 before Carrying on their Activities in Kenya;

No.	Terms of Reference (ToR)	Thematic Areas
		b) Whether TFH Corp and TFH GmbH were duly registered as data controller/processor(s) in Kenya; c) The legality of the relationship between TFH Corp and TFH GmbH with their local partners, agents, consultants and marketers; and d) Whether the orbs were legally imported and used by Worldcoin in Kenya.
ToR 3	To inquire whether due diligence was undertaken by the relevant government agencies before *Worldcoin* started its operations in Kenya.	a) Whether the ODPC conducted due diligence on Worldcoin or its agents before registration as a data controller; and b) Whether KICC conducted due diligence on the nature of activities to be undertaken by Worldcoin within its premises.
ToR 4	To inquire into the nature, use and safety of data collected by *Worldcoin* in Kenya.	a) The Nature of Data Collected by Worldcoin and its Agents; b) The storage, use and safety of the data collected by Worldcoin and its agents; c) Whether Worldcoin provided full disclosure and informed disclosure before collecting personal data from Kenyans; and d) Worldcoin, cryptocurrencies

No.	Terms of Reference (ToR)	Thematic Areas
		and other similar players in Kenya.
ToR 5	To inquire into the organizational structure and the activities of *Worldcoin.*	a) The origin of the Worldcoin project; and b) Other jurisdictions where the Worldcoin project has rolled out its operations.
ToR 6	To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries.	a) The Amount of Money invested by Tools for Humanity Corp and Tools for Humanity GmbH in Kenya; b) The Worldcoin Token (WLD); c) Cashing-out the WLD by Worldcoin subscribers in Kenya; d) Whether the WLD and related considerations were used to induce Kenyans to subscribe to the activities of Worldcoin; and e) Whether the relevant government agencies monitored the financial flow related to the activities of Worldcoin in Kenya.
ToR 7	To inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country.	The possible health hazards from an exposure to biometric scan
ToR 8	To inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya.	Legal and regulatory gaps identified by: a) Communication Authority of Kenya;

No.	Terms of Reference (ToR)	Thematic Areas
		b) Directorate of Criminal Investigations; c) Ministry of Health; d) Attorney General; e) Data Commissioner; f) Ministry of ICT and Digital Economy; g) Central Bank of Kenya; h) Financial Reporting Centre; and i) TFH Corp and TFH GmbH.
ToR 9	Other emerging issues from the inquiry	a) Overlapping regulatory mandate among various authorities governing the cyber space in Kenya; b) Security concerns on blockchain technology and cryptocurrencies in Kenya; c) Legality of cryptocurrency and blockchain technologies in Kenya; d) Whether cryptocurrencies are potential avenues for money-laundering; e) The role of DCI in detection and monitoring of cybersecurity and cybercrimes in Kenya; f) Capacity of the Kenyan authorities to ensure cybersecurity;

No.	Terms of Reference (ToR)	Thematic Areas
		g) Whether the ODPC has collaborated with other state agencies to effectively discharge its mandates under the Data Protection Act, 2019; h) Measures to indemnify Kenyans from unlawful use of data by Worldcoin or its agents; i) The potential impact of cryptocurrencies on the banking sector in Kenya, and the possible remedial measures; and j) The capacity of the Central Bank of Kenya to regulate cryptocurrencies and other emerging technologies in the financial sector.
ToR 10	To recommend necessary legislative interventions.	Legislative proposal(s)

3.3 SUBMISSIONS AS PER THE TERMS OF REFERENCE

94. This section is a collation of submissions by witnesses on their presentation per each term of reference that they were required to submit on, based on the deduced thematic areas as summarised in ***Table 2***: ***Terms of Reference and Thematic Areas.***

3.3.1 Inquire into the Operations and Ultimate Objectives of the Activities of *Worldcoin* in Kenya

95. With respect to its first mandate, to inquire into the operations and ultimate objectives of the activities of *Worldcoin* in Kenya, submissions received by the Ad Hoc Committee fell within the following thematic areas—

a) Worldcoin generally;
b) Registration/subscription to Worldcoin platform;

c) The Orb apparatus;
d) Whether TFH Corp and TFH GmbH operated in Kenya as a data controller before registration as such;
e) The ultimate aim and objectives of the operations and activities of Worldcoin in Kenya; and
f) Whether the registration of Kenyans by Worldcoin is still going on despite the pendency of a court order and other administrative directions halting the same.

On Worldcoin generally

96. In a joint submission, Tools for Humanity Corporation (TFH Corp) and Tools for Humanity GmbH, Germany (TFH GmbH) represented by Mr. Alex Blania, Mr. Thomas Scott and Mr. Sam Sadle (hereafter referred to as "the Worldcoin") indicated that *Worldcoin* consists of a privacy-preserving digital identity network (World ID) built on proof of personhood and a virtual asset token (WLD). They submitted that World ID and WLD are currently available in the first front-end client compatible with the *Worldcoin* protocol (World App).

97. In their submissions TFH Corp and TFH GmbH explained that *Worldcoin* is an open-source protocol, supported by a global community of developers, individuals, economists and technologists committed to expanding participation in, and access to, the global economy. Their mission is to create a globally-inclusive identity and financial network.

98. The Attorney General (AG) on the other hand submitted that according to the information provided on their website, *Worldcoin* consists of a privacy-preserving digital identity network (World ID) built on proof of personhood and, where laws allow, a digital currency (WLD). AG submitted that according to the information available on the Worldcoin website, the organization through its affiliate developer TFH Corp, has created an identification system where a biometric device known as an Orb is able to scan an individual's eyeball specifically, the iris, in order to seemingly create a unique identification (World ID) for that individual.

99. The AG submitted that Worldcoin is cofounded by US tech entrepreneur Sam Altman (the CEO of OpenAI the company that created ChatGPT- a form of generative AI that offers automated chat services for customer service related queries on websites), and offers free crypto tokens to people who agree to have their eyeballs scanned.

100. The NIS submitted that Worldcoin is a blend of cryptocurrency, blockchain and personal identification, built on Ethereum Blockchain network.

On the registration/subscription to Worldcoin platform

101. The National Computer & Cybercrimes Coordination Committee (NC4) submitted that Worldcoin was registered as a data controller and processor in Kenya by the Office of the

Data Protection Commissioner (ODPC) and was issued with the registration certificate Serial No. 01945 dated 18th April 2023 for a period of two years. According to NC4, Worldcoin project deployed its physical imaging devices in over thirty (30) stations across Nairobi, and that the scanning process utilized biometrics and resulted in the creation of a "World ID" – a digital passport that served as proof of a unique identity to prevent multiple fraudulent cryptocurrency claims.

102. NC4 submitted that Worldcoin was advertising in several public malls in Nairobi while videos and photos of Kenyans queuing at Worldcoin outlets have been shared on social media platforms (Facebook, Twitter and Instagram), and that one week after the launch, Worldcoin announced that over 350,000 Kenyans had been on boarded.

103. NC4 further submitted that to register/subscribe to the Worldcoin platform, Tools For Humanity required user to register through the Mobile App downloadable from their website (www.Worldcoin.org) using their smartphones and undergo eye retina/iris scans via biometric devices called "Orb". Similarly, the AG submitted that the Worldcoin website elucidates that for an individual to obtain WLD, the process begins by registering via a mobile application known as World App for the digital tokens and thereafter proceeding to verify one's identity by having one's iris scanned and then later claiming the digital coins.

104. According to Worldcoin, if the user wants to use the World ID to prove their humanity and uniqueness, the person will need to visit an Orb to complete the verification process. Worldcoin submitted that once that is complete, the unverified World ID in their World App becomes an Orb-verified World ID. They further submitted that no fees are charged to anyone seeking to sign up for the Orb-verified World ID.

105. The Committee also heard from three (3) witnesses who testified on how Worldcoin and/or its agents recruited them into their platform. Mr. Bruce Bogita, the first witness, informed the Committee that he met with the Worldcoin staff while exiting Quickmart Supermarket, Kilimani where he had gone to shop. He submitted that the said staff called him aside and informed him that they were conducting an iris scan on behalf of Worldcoin after which he would receive a grant worth USD 70.

106. Mr. Miruba Marube, the second witness, informed the Committee that his first contact with Worldcoin was in 2021 at Kenyatta University, where Worldcoin was operating from. He informed the Committee that an agent of Worldcoin approached him and told him that Worldcoin was a new cryptocurrency that uses iris scanning to distinguish Artificial Intelligence (AI) from human beings since AI had created a big impact in the world. He submitted that the agents told him that Worldcoin were looking into separating AI from human beings through an iris scan to enable them determine the transactions/traffic in the internet and take action accordingly.

107. Mr. Benard Ochieng on the other hand, testified that his first encounter with Worldcoin was in March 2023 while doing recruitment at Technical University of Kenya. Mr. Ochieng submitted that he was asked to register in the Worldcoin App and scan his iris so they could be able to differentiate him from AI and was also promised around USD 70 after the iris scan.

108. On whether registration to the platform was consensual, the Worldcoin submitted that the project complied with the requirements of the Data Protection (General) Regulations, and the Guidance Notes on Consent issued by the ODPC, which require consent to be specific, informed, clear, unequivocal and signified through an affirmative action.

109. The Worldcoin submitted that users were asked to agree to TFH's User Terms and Conditions and privacy notice before they could access World App. The Worldcoin went on to submit that users were/are not, however, required to agree to the Worldcoin Foundation's Biometric Data Consent Form or to provide any sensitive personal data in order to access or use World App or to have a World ID that is not Orb-verified – no conditionality applies. The Worldcoin submitted that users had a choice to freely provide consent, thus signifying consent to a valid contract.

110. The Directorate of Criminal Investigations (DCI) on the other hand submitted that upon learning about the activities of Worldcoin at KICC, they dispatched investigators who visited KICC where the activities of Worldcoin involving inter alia, the collection of personal data was ongoing. They found over 2,000 people, mostly youth, queuing to be signed up.

111. The DCI submitted that Worldcoin issued 25 WLD upon signing up and verification to incentivize people to subscribe to their platform. It further submitted that the token was converted to USDT on a cryptocurrency exchange then resold for Kenyan Shillings. NC4 explained that each WLD is worth USD 2.1 or KES 299.

112. The Ministry of ICT and the Digital Economy summarized the activities and operation of Worldcoin and its agents in Kenya as follows:

Table 4: Summary of Worldcoin Activities in Kenya Presented by the Ministry of Information, communication and the Digital Economy

	DATE	ACTIVITY
1.	31st May 2021	Worldcoin started collecting data in Kenya according to information obtained from Coulson Harney LLP, also known as Bownmans- Advocates representing Worldcoin in Kenya
2.	April 2022	ODPC was approached by Buzzfeed News, USA enquiring the activities of Worldcoin in Kenya. This was when the Worldcoin

	DATE	ACTIVITY
		became known to ODPC
3.	On 19th April 2022	ODPC began assessment of the activities of *Worldcoin*, giving them 14 days to provide data and details about their operations
4.	6th May 2022	Worldcoin submitted response explaining activities in Kenya, relating to collection of personal data
5.	9th May 2022	ODPC asks *Worldcoin* to provide a Data Protection Impact Assessment (DPIA) report.
6.	17th June 2022	*Worldcoin* submits DPIA and DPIA for TFH USA and TFH Germany
7.	23rd June 2022	ODPC NOT satisfied with the DPIA submitted, directs Worldcoin to STOP COLLECTING SENSITIVE DATA from Kenyans for 60 days until ODPC is satisfied with DPIA and legal Basis. ODPC asks Worldcoin to demonstrate Compliance
8.	14th July 2022	Data Protection Regulations are enacted and become effective
9.	15th July 2022	In response to ODPC's letter of 23rd June 2022, Worldcoin responds to ODPC, seeking to explain compliance and gaps in the DPIA report submitted.
10.	22nd August 2022	TFH Corp and TFH GmbH submit applications to ODPC for registration as data controllers in Kenya
11.	15th September 2022	Registration Certificate issued to TFH GmbH
12.	17th November 2022	TFH Corp provided data collection schedule
13.	18th April 2023	TFH Corp issued with Certificate of Registration Valid for 24 Months
14.	30th May	After conducting spot checks, ODPC writes to *Worldcoin* to their

	DATE	ACTIVITY
	2023	dissatisfaction on data processing, legal basis for data collection, legitimate interests, and how Worldcoin was seeking to obtain consent ODPC directed World coin to cease data collection and processing sensitive personal data, provide proof that Worldcoin was obtaining valid, express, informed and specific consent from Kenyans and provide details of processing contracts with data processors and agents including sample signed contracts. All to be supplied within 14 days
15.	16th June 2023	Worldcoin writes explaining how they are compliant, based on the letter of 30th May 2023
16.	28th July 2023	ODPC issues an advisory to the public advising them to be vigilant as they engage with *Worldcoin* on compliance with Data Protection Act 2019
17.	2nd August 2023	Join Press Statement ODPC and CA expressing continuing concern with Worldcoin since its launch and operations in Kenya. The statement indicated that various counties such as Germany, France, the UK and India had expressed concern over WC OPERATIONS ODPC directed Worldcoin to cease the collection of all personal data in Kenya
18.	2nd September 2023	ODPC cancelled the registration of Worldcoin as a data controller
19.	5th September 2023	ODPC wrote to the Ministry submitting an investigation report on *Worldcoin* activities in Kenya and requesting the Ministry to write to the Head of Public Service requesting assistance in stopping all activities of Worldcoin
20.	8th September 2023	At the request of ODPC, the Ministry forwarded the investigation report and requested the Head of Public Service for the Assistance of his office in stopping all the activities of Worldcoin

On the Orb apparatus

113. NC4 submitted that the Worldcoin Foundation, registered in Cayman, holds the patents to the Orb technology and all user data and issued all Worldcoin tokens through its subsidiary World Assets Limited, registered in the British Virgin Islands.

114. According to NC4, the Worldcoin used the Orb to scan their subscribers' iris to verify their authenticity as true and unique human beings. The company further stated that the iris image was converted into a digital code (hash value) which was then transmitted to their third-party servers hosted by Amazon Web Services (AWS) in the USA.

115. The DCI on the other hand informed the Committee that on 5th August, 2023, their investigators visited the premises of Fogo Generators at KC Aurora Complex along Mombasa Road where they recovered 48 Orb apparatus, assorted Worldcoin merchandise, electronic components and pertinent documents.

116. The DCI further noted that the Orbs and other electronic gadgets recovered in the course of investigations were undergoing forensic analysis that would enable the investigators ascertain the exact number of people in Kenya who were signed up and their sensitive personal data collected. Mr. Amin further noted that they had recorded twenty-seven (27) statements from various witnesses and persons of interest.

117. On the number of Orbs, Worldcoin had in the country, and if they were of the same technical specification, the Worldcoin submitted that they had forty-eight (48) of orb machines in Kenya and of the same technical specifications.

On whether the TFH Corp and TFH GmbH operated in Kenya as a data controller before registration as such

118. The NC4 submitted that the Worldcoin announced the official launch of its financial and digital identity platform in Kenya on 24th July, 2023. On their end, the DCI informed the Committee that their attention was drawn to the activities of Worldcoin in Kenya on 31st July, 2023, through DCI's Fichua platform and other social and mainstream media – involving the alleged illegal collection of biometric data, specifically the scanning of irises of members of the public in exchange for KES 7,000 worth of WLD by an entity going by the name "Worldcoin" in various parts of the country.

119. Sense Marketing represented by Mr. Kevin Olende, informed the Committee that at the time they began engagements with Worldcoin in October 2022, they had already been in the market for over a year and a half and were conducting activities in malls and campuses, and because of their public operations and the fact that their company was to be added as one of

the many already existing operators, they did not note or sense any cause for alarm and to the best of their knowledge, Worldcoin was legally conducting operations in the country.

On the ultimate aim and objectives of the operations and activities of Worldcoin in Kenya

120. The Committee expressed concern about the real intention of Worldcoin and what they stand to gain by collecting personal data. In response, the Communication Authority of Kenya noted that the the intent of Worldcoin was to collect the iris data and create a World ID for the proof of personhood. The Authority explained that the iris is a unique aspect of human being that can be used to distinguish human beings from other artificial beings in the cyberspace.

121. Further, NC4 submitted that Worldcoin intends to use the data to develop a machine learning algorithm that will be able to establish the "Proof of Personhood" protocol. Therefore, TFH (as the developers of the protocol) had to develop an algorithm that could differentiate between real human and fake (i.e., non-human) irises, as well as differentiate one real human's irises from those of people who have already signed up to the protocol.

122. CA explained that the World ID would be a good platform for creating cryptocurrency that enables everyone to gain income and improve on AI systems as well. Similarly, NC4 submitted that TFH had indicated that they were in the process of creating the world's largest and most trusted network of cryptocurrency. NC4 also noted that TFH would use the network for promoting the Universal Basic Income (UBI) to support livelihoods of several persons globally.

123. CA further stated that AI relies on the quantity of data gathered for machines, and that the more the data gathered, the better the intelligence gathered for the machines. As such, the Authority submitted that Worldcoin aims to be dominant over the other players in the technological space through the large amount of data collected.

124. Additionally, NC4 noted that in order to make the machine learning algorithm work perfectly and without the risk of discrimination due to an algorithm bias, TFH had concluded that it was necessary to collect and process a diverse and broad amount of sensitive personal data for its training.

125. When asked whether Worldcoin is seeking to decentralize monetary system, Sense Marketing Limited submitted to the Committee that having known the existence of cryptocurrency trade, he understood Worldcoin as one of them joining the market and did not perceive them as trying to decentralize monetary systems.

126. Worldcoin believes that a single, borderless currency can foster economic growth, reduce transaction costs, and promote equality among all participants in the global economy. To

achieve this, Worldcoin has developed a unique protocol that combines a novel World ID system with a Worldcoin token to facilitate secure, transparent, and efficient transactions.

127. When asked about the gain Worldcoin stands to make in collection of personal data, Worldcoin submitted that Worldcoin is not a business entity, and that their main objective is to create a world ID. The Worldcoin went on to state that the World ID would be a good platform for creating cryptocurrency that enables everyone to gain income and improve on AI systems as well. He submitted that the more the data the better the intelligence gathered for the machines. The Worldcoin further submitted that by collecting more data, Worldcoin gains to be dominant over the other players in the technological space.

On whether the registration of Kenyans by Worldcoin was still going on despite the pendency of a court order and other administrative directions halting the same

128. The Data Commissioner informed the Committee that the ODPC, pursuant to its powers under section 9(1), 22 and 59 of the Data Protection Act, 2019, as read together with regulation 16 of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 commenced multiagency investigation to investigate the activities of Worldcoin in Kenya. It is pursuant to the investigations that the ODPC revoked and/or cancelled the registration certificate No. 139-138A-E5D9 and registration certificate No. 325- 9256-645E earlier issued to TFH Corp and TFH GmbH on 5th September, 2023.

129. On whether measures taken against the Worldcoin were reactive rather than proactive, particularly in terms of certificate cancellation, the Data Commissioner informed the Committee that on the basis of fair administrative justice, one cannot cancel a certificate without giving the other party a hearing. She submitted that the ODPC notified *Worldcoin* through a letter Ref: ODPC/11/11/8 dated 2nd August, 2023 that the office had initiated a formal investigation process in accordance with its powers under Section 9 of the Data Protection Act, 2019.

130. The Data Commissioner submitted that the office initiated investigations after it became clear to the ODPC that *Worldcoin* continued to engage in processing activities involving sensitive personal data in Kenya despite the cessation letter written to them 30th May, 2023. The Data Commissioner noted that multi-agency committee reported back to the ODPC on 4th September, 2023, hence the certificate cancellation on 5th September, 2023 based on the report findings which included failure to seize operations, lack of clarity (inconsistency) of where the data was stored and movement of data to Worldcoin foundation which was not a registered data controller or processor in Kenya.

131. On whether the registration of Kenyans by *Worldcoin* was still going on in the pendency of a court order and other administrative directions halting the same, the Communications Authority of Kenya submitted that no registration was going on in Kenya. In the contrary, the

NIS confirmed to the Committee that online activities were still ongoing on the Worldcoin App, noting that it is a worldwide technology that can be operated remotely and will continue.

132. On reasons why the DCI could not stop the ongoing operations at the *Worldcoin* App or the web and whether the physical activities were still ongoing in Kenya, the DCI informed the Committee that they did not have any legal mandate to handle or stop that because individuals themselves were going to those websites and could not police the numerous applications that Kenyans download. They further noted that they were not aware or have information on ongoing registration after stoppage.

133. On whether there were any recommendations made to the CA to bring down the Worldcoin App in Kenya, the DCI informed the Committee that the App is held under the Amazon Web Service which is a cloud-based platform and not within Kenyan's jurisdiction and hence has no power to block it.

134. The DCI noted that the Directorate will contact AG and CA to deliberate further on steps that can be taken in order to block *Worldcoin* from operating in Kenya. According to the DCI, the investigations have also established that despite directions from the ODPC vide letter Ref.Al/6217798 dated 30th May 2023, served to Ariana Issais of Bowmans Law Firm, acting for and on behalf of Tools for Humanity Corporation, directing for cease of its activities of collecting sensitive personal data, the entity continued with its operations in total disregard to the directives.

135. On the reasons as to why they continued with operations despite the cease order issued by ODPC, Sense Marketing Limited noted that they were not privy to the cease order issued and did not sense any illegality since they had been operating on behalf of Worldcoin publicly since October 2022. Sense Marketing admitted of not having a vast knowledge on details of privacy and Data Protection Act 2019.

3.3.2 Inquire into the Legal and Regulatory Compliance of Operations of *Worldcoin* and its Agents in Kenya

136. With respect to its second mandate, to inquire into the legal and regulatory compliance of the operations of *Worldcoin* and its agents in Kenya, submissions received by the Ad Hoc Committee fell within the following thematic areas—

a) Whether Tools for Humanity Corporation and Tools for Humanity GmbH were Required to Register under Part XXXVII of the Companies Act, 2015 before Carrying on their Activities in Kenya;
b) Whether TFH Corp and TFH GmbH were duly registered as data controller/processor(s) in Kenya;
c) The legality of the relationship between TFH Corp and TFH GmbH with their local partners, agents, consultants and marketers; and

d) Whether the orbs were legally imported and used by Worldcoin in Kenya.

On whether TFH Corp and TFH GmbH were Required to Register under Part XXXVII of the Companies Act, 2015 before Carrying on their Activities in Kenya

137. On legal compliance, the AG submitted to the Committee that according to Section 974 of the Companies Act 2015, enjoins foreign companies not to carry on business in Kenya unless they are registered under Part XXXVII of the Companies Act.

138. Further, the AG submitted that for a foreign company to be issued with a compliance certificate, the company must make application in the prescribed form, and provide a certified copy of the certificate of registration from the country of origin, a certified copy of its constitution, a list containing its directors and shareholders and their personal details.

139. The AG concluded that in the absence of a certificate of compliance issued by the Registrar of Companies, a foreign entity cannot validly conduct business in Kenya.

140. The AG submitted that in the case of *Root Capital Incorporated v Tekangu Farmers' Co-operative Society Ltd & Another* [2016] eKLR, the court elucidated the provisions of Part XXXVIII of the Companies Act as follows:

> The registration of foreign companies is now captured under Part XXXVII of the Companies Act, 2015; The procedure for registration is prescribed under section 975 (1) of the Act; amongst the documents an applicant for registration must produce is a certified copy of a current certificate of the foreign companies' incorporation or registration in its place of origin, or a document of similar effect. (See section 975. (3)(a). Once the company has been registered the registrar issues to the company with a certificate of compliance (section 975. (4)(b)). Further, under section 975(7), the certificate of compliance is conclusive evidence that the requirements of the Act have been complied with and that the company is duly registered as a foreign company under the Act. It is clear from both the repealed Act and the new Act that for a company to carry out the functions of an incorporated company it must be registered either under the repealed Act or under the new Companies Act, 2015; the need for registration applies to foreign companies as much as it applies to local companies. Irrespective of whether a company was registered under the repealed Act or the Companies Act, 2015 the only conclusive proof that either of the Acts has been complied with and a particular company has been duly registered and thus empowered to perform the functions of a duly registered company is a certificate of registration/compliance.

141. The AG submitted that at the point of registration by the ODPC as a data controller and processor under the Data Protection Act, TFH Corp and TFH GmbH ought to have complied with the laws of Kenya on registration of foreign companies in order to conduct business in

Kenya. The AG submitted that notwithstanding the requirements of Part XXXVIII of the Companies Act, the Business Registration Service (BRS) report indicate that Worldcoin, TFH Corp and TFH GmbH do not appear in the BRS database of registered businesses or companies hence, lack the legal capacity to do business in Kenya.

142. The DCI submitted that investigations have established that TFH Corp is a company registered in the United States with TFH GmbH as its wholly owned subsidiary company registered in Germany both trading as *Worldcoin*. The DCI further submitted that both companies are co-founded by Sam Altman, Chief Executive Officer of Open Artificial Intelligence and Alex Blania.

143. The DCI however, submitted that the two foreign companies are not registered in Kenya as required under the Companies Act, 2015. The DCI further revealed that Tools for Humanity Corporation and Tools for Humanity GmbH have actively facilitated, promoted, marketed and participated in registration and/or sign up of subjects in Kenya and about 34 other countries across the world. The process involves collection of the iris and facial images through scanning using an Orb apparatus.

144. The AG also submitted that TFH Corp and TFH GmbH used personal data to advance commercial interests within the meaning of regulation 14(1) of the Data Protection (General) Regulations 2021. In the circumstances, the AG submitted that the activities of TFH Corp and TFH GmbH were commercial in nature since the cataloguing of iris scans was to further their commercial enterprises and actually induced Kenyans to register on their mobile application World App in exchange for digital tokens for the use of their biometric data.

145. The AG noted TFH Corp and TFH GmbH were required to register and obtain certificate of compliance, prior to their application to the ODPC as data controllers or processors under Part XXXVII of the Companies Act, by the dint of their activities. The AG observed that the Data Protection Act requires an applying company to provide 'establishment documents' which under Kenyan law is a certificate of compliance from the Registrar of Companies.

146. The Cabinet Secretary for ICT and the Digital Economy submitted that the law appeared not to specifically require that foreign applicants must first be registered as a company in Kenya before being registered as a data controller or processor in Kenya. According to the CS, the Data Protection Act is applicable to both locals and non-local persons, as long as they are collecting personal data of persons located in Kenya.

147. The Cabinet Secretary for ICT and the Digital Economy informed the Committee that it is the obligation of a data controller or data processor to fulfil other legal requirements of whatever nature, beyond satisfying the requirements of the Data Protection Act.

148. The Worldcoin submitted that TFH Corp and TFH GmbH did not violate any provisions of the Kenyan data privacy legislation by submitting its application as a foreign entity without local presence in Kenya. They submitted that the registration application portal only requires a foreign company to submit its establishment documents (proof of incorporation) during the application process. The Worldcoin noted that the ODPC thoroughly reviewed and approved both the applications for registration of TFH Corp and TFH GmbH as data controllers in Kenya.

149. The NIS urged the government not to put a lot of bottlenecks for entities trying to put shop in Kenya, and to make sure that Kenya is attractive instead of reacting in a manner that will discourage them from coming. The NIS noted that many of these organizations are looking elsewhere to establish their shops because of the way the world is changing today and the country should look at how to leverage to bring these investors so as to create employment and wealth out of some of these new emerging technologies that are coming up while at the same time safeguard ourselves from any threats that are going to emerge.

On whether TFH Corp and TFH GmbH were duly registered as data controller/processor(s) in Kenya

150. CA submitted that the Data Protection Act, 2019 is the framework that governs the processing of personal data and protecting the privacy of individuals in Kenya. The Authority submitted that the Act mandates the Office of the Data Protection Commissioner to licence entities that handle personal data as data processors and data controllers.

151. CA further observed that to ensure the protection of data in the communication sector, section 23(e) of Kenya Information and Communications Act, 1998 (KICA) stipulates that for provision of telecommunication services there is need to ensure that processing of personal data of subscribers is in accordance with the principles set out under the Data Protection Act, 2019.

152. It further submitted that sections 27 (A) and 27 (D) of KICA focus on SIM-card registration where telecommunications operators are required to obtain personal data of their customers prior to provision of services, and to ensure the security and confidentiality of such data.

153. The DCI on the other hand submitted the investigators dispatched from their officer to KICC to inquire into the activities of Worldcoin therein, met the organizers who provided them with a certificate of registration as Data Controller in the name of TFH Corp from the office of the Data Protection Commissioner issued on 18th April, 2023 and valid for a period of two years. The DCI submitted that the certificate notwithstanding, the investigators summoned the local organizers who have since recorded their statements in regard to this matter and foreign individuals concerned have also been summoned through INTERPOL.

154. The DCI further noted that their investigations have established that there are data controller certificates issued to two foreign entities namely TFH Corp and TFH GmbH on 15th September, 2022 and 18th April, 2023 respectively, from the ODPC and the circumstances surrounding the issuance of the certificates by the Data Commissioner to the two entities and whether proper procedures were complied with is a subject of the ongoing investigations.

155. The Worldcoin on the other hand, submitted that on 17 June 2022, TFH submitted its Data Protection Impact Assessment to the ODPC, explicitly referencing provisions of the Data Protection Act. The Worldcoin submitted that the requirement for entities to register with the ODPC was operationalized in July 2022 pursuant to the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021, and the registration portal became active in late August 2022.

156. The Worldcoin submitted that TFH Corp and TFH GmbH readily and proactively complied with the registration requirements under the Data Protection Act. The Worldcoin submitted that the application form required TFH to provide descriptions of the personal and sensitive data being processed as well as of the risk and safeguard measures around that processing. The Worldcoin submitted that through the form, each entity also made it very clear that they were not established local entities in Kenya.

157. On the criteria used by the ODPC to register Worldcoin and its agents as data controller in Kenya, the Data Commissioner noted that registration of data controllers and data processors is governed by the Data Protection Act, 2019 and the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021. The Data Commissioner submitted that pursuant to regulation 5 of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 Worldcoin submitted to ODPC, the requisite documents for registration as a data controller and were subsequently issued with registration certificates.

158. The registration of TFH Corp and TFH GmbH as data controller was confirmed by AG who submitted that TFH Corp and TFH GmbH presented applications to ODPC for registration as data controllers on 22nd August 2022 which were approved and Certificates of registration issued. The Worldcoin on the other hand, submitted that on 22 August, 2022, TFH GmbH submitted its application for registration as a Data Controller to the ODPC. He submitted that TFH Corp followed on 29 August, 2022. The Worldcoin further noted that TFH GmbH was awarded its Certificate of Registration on 15 September, 2022 while TFH Corporation was awarded its Certificate of Registration on 18 April, 2023.

159. Most notably, the Data Commissioner opined that a registration certificate under the Data protection Act, 2019 and the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 as a data controller or processor simply signifies that an entity

is known to ODPC and that it processes personal data of persons located in Kenya and does not amount to certification or approval of the processing activities of an entity or serve as an endorsement from the Office of an entity's compliance with other provisions of the Act or any other laws.

160. The AG on the other hand, submitted that for a foreign company to collect and process data in Kenya, the company ought to have furnished its establishment documents to the Data Commissioner. In case at hand, AG submitted that TFH Corp and TFH GmbH were indeed conducting business in Kenya and were required to do so in compliance with the law on registration.

161. The AG submitted that according to information received from the ODPC, two applications for registration as data controllers were made by TFH Corp trading as Worldcoin and TFH GmbH under Section 4 (b) of the Data Protection Act of 2019 as read together with Section 18 and 19 of the same Act which stipulates the requirements for registration as a data controller and/or processor in Kenya.

162. The AG submitted that according to regulation 5(2) (a) of the Data Protection (Registration of Data Controllers and Data Processors) 2021, an application for registration shall be accompanied, inter alia, by a copy of the establishment documents of the entity. Establishment documents under paragraph 2 of the above regulations include—

a) statute, charter or statutory instrument in which a body is established;
b) registration certificate;
c) trust deeds in which a trust has been established; and
d) other instruments by which a body is established including its governing and administrative structure.

163. The AG went on to submit that the foregoing regulation provides that in order for a foreign company to conduct business in Kenya in effect, collection of biometric data and issuing of digital tokens they need to furnish a copy of the constitutive documents to the Data Commissioner.

On the legality of the relationship between TFH Corp and TFH GmbH with their local partners, agents, consultants and marketers

164. On the local representatives, the AG stated that section 979(1) of the Companies Act requires a foreign company to at least have one local representative. On the other hand, section 981 of the Act provides that the local representative shall be held personally liable for any acts of the company in contravention of the Act. However, the AG submitted to the Committee that he was unable to create a nexus between Worldcoin and Sense Marketing as

according to the information availed by the BRS, there are no registration details in relation to Worldcoin.

165. The DCI submitted that their investigators have established that Tools for Humanity Corporation and Tools for Humanity GmbH contracted several individuals and companies to act as Orb operators, agents, consultants and marketers to facilitate and promote *Worldcoin* activities in Kenya. The DCI noted that the TFH's local partners, agents, consultants and marketers include companies and individuals included; Exp Momentum Ltd, Sense Marketing, Bowmans Law firm - Coulson Harney LLP, Fogo Generators, Sava Projects limited, Ariana Issais of Bowmans Law Firm, Rael Mwende, Wangeci Mwangi and Charles Wanjagi.

166. Mr. Alex Blemia for TFH on the other hand submitted that TFH has formal relationships with Strathmore University, the Blockchain Association of Kenya, American Chamber of Commerce - Kenya, the Africa Blockchain Centre, Safari DAO and others. He went on to submit that TFH also partners with service providers in Kenya for operational, marketing, legal, and other advisory services.

167. The same was confirmed by NC4 that submitted that TFH was allegedly operating in Kenya through its representatives who had been named as Wangechi Mwangi and Rael Mwende both Kenyan citizens. NC4 further informed the Committee that Platinum De Plus Limited and EXP Kenya, a marketing agency were some of the local firms that have entered into an agreement with TFH through their local representatives for the purposes of coordination of the activities of Worldcoin.

168. Similarly, the documents submitted by TFH Corp and TFH GmbH to the ODPC for registration indicated that the Worldcoin dealt with cooperate partners (Tellem, Bowmans, Station, OBY), Community Partners (Nairobi County, Strathmore University, New Hope Mukuru, Kenya Data Governance and Privacy Society) and Industry partners (Blockchain Association of Kenya, AmCham Kenya, Kenya ICT Action Network).

169. On the responsibility and payment of the Worldcoin representatives, Sense Marketing informed the Committee that they were to help consumers sign up and their payment was on the basis of the total number of people signed up. Sense Marketing submitted that it was in contact with Wangeci Mwangi, who was the Worldcoin representative in Kenya.

170. NC4 submitted that TFH recruited about eleven (11) Orb Operators who were assigned the responsibilities of hiring casual agents who were trained to sensitize potential customers on general cryptocurrency and Worldcoin, and to assist the users to download the World App, then to have their iris image captured through the Orb. Sense Marketing, another local company has been identified as one of the Orb Operators registered by TFH since November 2022.

171. The DCI further submitted that the TFH's local partners, agents, consultants and marketers were reporting to Piotr Piwowarzyk, a Polish national said to be the Africa regional representative for Tools for Humanity. When asked whether he was a subscriber to the Worldcoin ID, Mr. Olende, the MD Sense Marketing Limited informed the Committee that he had been registered in the Worldcoin App as well as gone through an iris scan. He went on to state that one of the requirements of being a Worldcoin agent was to go through the process to understand it.

172. To further probe into the matter, the Committee invited Sense Marketing Limited. In their submission to the Committee, Mr Olende, the Managing Director of Sense Marketing Limited informed the Committee that Sense Marketing Limited is a Kenyan company incorporated under the Companies Act (Cap. 486) (now repealed) with registration number 11579I registered on 6th September, 2023 and officially started operation in July 2022. He noted that Sense Marketing is an Experiential marketing agency focusing on below the line marketing, digital marketing, research, creative services, among others.

173. The AG on the other hand, informed the Committee that Sense Marketing is a Private Limited Liability Company incorporated in 2013 under Certificate No. CPR/2013/115791 with 100% of its shareholding registered under one Kevin Odumbe Olende. The AG submitted that the registered office of Sense Marketing Limited is LR. No. 209/37 Lang'ata-Kitengela Road, P.O. Box 15371-00100, Nairobi. Further, the AG submitted that Sense Marketing PLC had a wide object clause which permitted it to transact on a broad range of businesses.

174. The MD informed the Committee that in October 2022, Sense Marketing was made aware of a company called Worldcoin that was operating in the country as a cryptocurrency and was looking for operators to help sign up willing consumers into their platform. He explained to the Committee that he visited few sites where they had operations to see what exactly the company was doing and how they were registering users onto the Worldcoin platform i.e., Lavington mall and Kenyatta university. The MD of Sense Marketing Limited then contacted the Worldcoin representative in the country who was willing to add Sense Marketing Limited as one of their many local operators and was granted a meeting to discuss how the project works and what role they would play. He noted that he was requested to share statutory documents such as company profile, certificate of incorporation and ID copy after which he was sent an Orb Operator Agreement and Due Diligence Questionnaire to sign on 15th November, 2022 and received them back on 18th November, 2022.

175. The MD submitted that it is through the Agreement that Sense Marketing Limited was contracted as an operator and their task was to recruit a team of agents to be deployed to various malls and events to recruit people onto the Worldcoin platform. He explained that after recruiting the agents, Worldcoin organized and conducted training sessions where they

were taken through the process of registering willing participants and how to operate the Orb. He noted that Worldcoin conducted a series of trainings and sensitizations where they gave strict instructions on how registrations and verifications were to be done, including a caution not to conduct registration and verification of minors.

176. The MD went on to note that once the training was complete, Worldcoin would allocate a venue mainly in malls, where the agents would be stationed. The leases and agreements of the venues were between Worldcoin and the establishments. At each mall/venue, Worldcoin provided a full set up that consisted of a branded display, table with cabinets and the Orbs which were stored in the display cabinets. He also explained that agents were contracted on temporary basis and their payment was commission-based tied to the number of people they signed up on daily basis.

177. The MD submitted that the agents were tasked with speaking to people about Worldcoin and those interested were assisted/requested to download the Worldcoin App from the Apple Store or Google Play Store in order to register for the service after accepting all the terms and conditions. Once downloaded, they were to use the Orb to verify proof of humanity. The MD noted that Worldcoin provided the Orbs and was in control of the program running the Orbs which as per the information provided were to be used to verify a person is a human. They were informed that the orb did not store any data and all scans would be deleted once the verification was done.

178. The DCI on the other hand explained that, as to the scope of engagement between TFH Corp and TFH GmbH and their local partners, agents, consultants and marketers constituted any criminal act, is subject of the ongoing investigations. The DCI further noted that a travel restriction has been placed against all persons involved pending outcome of the investigations.

179. When asked about the specific role of each of the Worldcoin partners, agents, consultants or marketers, and why some suspects who may appear to have flaunted some of the regulations within the law have not been charged, the DCI informed the Committee that Exp Momentum Ltd contract was specifically to identify the venue of operations, Sense Marketing was a liaison contact persons or gave advice when interacting with various entities in terms of their operations, Bowmans Law Firm gave advice on legal matters and was a representative of Tools For Humanity Gmbh and Tools For Humanity Corporation, Fogo Generators were contracted through Sava Project Limited in terms of logistics since they had a warehouse along Mombasa Road and therefore provided storage for the equipment and other commodities, Ariana Issais, Rael Mwende, Wangeci Mwangi and Charles Wanjagi were consultants of individuals marketing the activities of Worldcoin through the two companies within the various recruitment areas and Charles Wanjagi was also an orb operator and was the one handling most transactions.

180. The DCI further noted that all the named persons had been summoned and recorded statement and are still persons of considerations. He stated that investigation process must follow several laws and the investigators must gather information based on facts and not rumors to give a strong backing before determining infringement of any of these laws and charging of individuals.

181. But according to AG, section 979 (1) of the Companies Act requires a foreign company to have at least one local representative. The AG went on to submit that according to section 981 of the Companies Act, a local representative of a registered foreign company is answerable for the doing of all acts, matters or all things that the company is required by or under the Act and is personally liable to a penalty imposed on the company for contravention of, or failure to comply with the provisions of the Act.

182. When asked on how TFH paid its Kenyan partners and orb operators, and whether the partners and orb operators were registered by the Data Commissioner, the Worldcoin submitted that the partners and orb operators were paid in fiat currency or stable coin and not in Worldcoin. The Worldcoin submitted that the Partners were not registered at the Data Protection Commission, as they do not touch personal data but just operate the device collecting the image data with consent of the person which is sent to the Worldcoin servers.

On whether the orbs were legally imported and used by Worldcoin in Kenya

183. The Committee sought to know whether the Communications Authority of Kenya was involved in the approval of the equipment used to mine personal data from Kenyans. The Authority observed that they had no records and applications made to bring the said equipment into the country. The Authority submitted that it only learnt about the activities of Worldcoin in Kenya through media.

184. The DCI on the other hand, explained that the Orb as a machine was/is manufactured in Germany and from Germany the company exporting to Kenya was/is Tools for Humanity GmbH. The DCI noted that noted that the clearing agent was called Bridgeways Limited and the goods were transmitted via DHL to Jomo Kenyatta International Airport and declared as biometrics scanners. They were stored at a store along Mombasa Road where the DCI officers picked them. He further noted that they had made inquiries and had engagements still going with KRA to unveil more on them.

185. When asked whether the orb is a telecommunication device, the DCI informed the Committee that the device has a sim card for transmitting information, a hard drive, and a wireless capability thereby confirming that the device is a telecommunication device. CA on the other hand, noted that they had one orb machine in their forensic laboratory brought by DCI officers for further investigation, and that they had no knowledge of the whereabouts of the other orb machines.

186. On the number of Orbs they got as a company and whether they conducted due diligence on the orbs, Sense Marketing submitted that the orbs were allocated according to the number of venues available. Sense Marketing went on to note that they would be allocated at most two orbs at a time per venue/mall. Sense Marketing further noted that they relied on the training conducted that indicated the orbs to be biometric scanners used to verify humanity and would delete the information collected afterwards. Sense Marketing admitted of not knowing whether the orbs were telecommunication devices/captured data and that they did not go through type approval.

187. Further the ODPC submitted that in places where *Worldcoin* sought to sign up users, Worldcoin alleged that it partnered with like-minded local entrepreneurs called "Orb Operators." According to *Worldcoin*, these Orb Operators are independent contractors who would have gone through a written application and interview process, and also have been screened and verified to be incompliance with applicable know-your-customer (KYC) requirements.

188. When asked whether CA should take responsibility for not conducting type approval on the orbs at the port of entry into the country, the DCI noted that they made a request to confirm from CA in regard to what type of approval the Orb was. According to the report from the CA shared with the DCI, the devices were not declared Orbs, but as biometric scanners, and technically, perhaps from a telecommunication point of view, it was not a telecommunication equipment. Nonetheless, CA report had a disclaimer that they perhaps require some more information from the manufacturer. The DCI noted that they had a written report from CA on their findings and would present it to the Committee.

189. Further the Worldcoin submitted that in early 2022, TFH reviewed the list of equipment published by the Communications Authority of Kenya (CAK) as examples requiring type approval. The Worldcoin went on to submit that given the categories listed thereunder, and the nature and function of the Orb device, it was concluded that the Orb was not likely to fall within the list. The Worldcoin further submitted that the Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010 ("Type Approval Regulations") do not appear to be crafted with the intent that equipment such as the Orb be considered communication or terminal equipment that would require type approval/acceptance.

190. The DCI further informed the Committee that a portioning blame on any government entity or agency will be subject to the outcome of their ongoing investigations. As a recommendation, the DCI submitted that the Communication Authority (CA) should have technical personnel at the entry and exit points in the country to provide technical expertise and ensure that all telecommunications devices that come into the country are declared and meet all the requirements as stipulated in law.

191. Furthermore, under the Guidelines on the Use of Internet of Things (IoT) Devices, where the IoT and Machine to Machine devices require the use of Mobile Station International Subscriber Directory Number (MSISDN), the KICA (Numbering) Regulations would apply to the devices. The Orb devices do not require the use of MSISDN and therefore do not need to be assigned numbering in accordance with the KICA (Numbering) Regulations, 2010. In this regard, the Guidelines would not apply to the Orb devices.

192. In sum, the Worldcoin submitted that the company did not engage in any wrongdoing and that a mutually beneficial settlement or decision can be reached for all stakeholders involved. The Worldcoin submitted that TFH prays that the suspension barring its operations in Kenya, be lifted, with the necessary legal and regulatory oversight.

3.3.3 Inquire Whether Due Diligence was Undertaken by the Relevant Government Agencies Before *Worldcoin* Started its Operations in Kenya

193. With respect to its third mandate, to inquire whether due diligence was undertaken by the relevant government agencies before *Worldcoin* started its operations in Kenya, submissions received by the Ad Hoc Committee fell within the following thematic areas—

a) Whether the ODPC conducted due diligence on Worldcoin or its agents before registration as a data controller; and
b) Whether KICC conducted due diligence on the nature of activities to be undertaken by Worldcoin within its premises.

On whether the ODPC conducted due diligence on Worldcoin or its agents before registration as a data controller

194. The Data Commissioner informed the Committee that TFH Corp and TFH GmbH electronically submitted their respective applications for registration as data controllers on 22nd August, 2022, upon coming into force of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021.

195. She went on to submit that both TFH Corp and TFH GmbH submitted duly filled in Form DPR1 under the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 having the particulars of the data controller, the purpose for which personal data is processed and a description of categories of personal data being collected.

196. The Data Commissioner further submitted that TFH Corp and TFH GmbH submitted establishment documents duly certified/notarized by a lawyer and upon prompting by the reviewer through the online systems, the two organizations were requested to submit proof of their annual turnover.

197. The Data Controller submitted that on 2nd September, 2022, Coulson and Harney LLP Advocates (trading as Bowmans) informed the ODPC via email that TFH GmbH, was Venture Capital-backed and was at the pre- revenue stage therefore, no revenue was being generated and consequently a system generated Certificate of Registration Serial No. 00379 dated 15th September, 2022 was issued valid for a period of 24 months.

198. The Data Commissioner went on to state that, upon submission of an income statement for the year ended 31st December, 2021 for TFH Corp, certified on 7th March, 2023 by Thomas Scott, a system generated Certificate of Registration Serial No. 01945 dated 18th April, 2023 was issued to TFH Corp - valid for a period of 24 months. The certificate for registration as a data controller were issued after TFH Corp submitted all the statutory requirements for registration under the Data Protection Act and attendant regulations.

199. The Data Commissioner further noted that section 4 of the Data Protection Act, 2019 applies not only to data controllers and data processors established or ordinarily resident in Kenya but also to those not resident in Kenya but processing personal data of data subjects located in Kenya. Therefore, the Act's provisions explicitly state that data controllers and data processors do not have to be resident or established in Kenya for them to make an application for registration under the Act and the Regulations.

200. The Data Commissioner informed the Committee that an application for a certificate of registration as a data controller and/or data processor only signifies that the entity has complied with sections 18 and 19 of the Data Protection Act, 2019 and does not endorse an entity's compliance with the Data Protection Act in its entirety or its subsidiary regulations, nor is it a valid license for an organization to operate in Kenya or authorize the operations of an entity. The Commissioner further submitted that the Certificate simply signifies that an entity is known to the ODPC and that it processes personal data of persons located in Kenya. She further submitted that the Certificate does not amount to certification or approval of the processing activities of an entity or serve as an endorsement compliance with other provisions of the Act or any other laws.

201. The Data Protection Commissioner noted that Section 8(e) of the Data Protection Act mandates ODPC to Conduct an assessment on its own initiative of a public or private body, or at the request of a private or public body for the purpose of ascertaining whether information is processed according to the provisions of the Act or any other relevant law. She submitted that the ODPC in exercise of this power, conducted a spot check in various malls and at the ID4 Africa Conference held at the College of Insurance in May 2023 and established that the processing activities as relates to; provision of iris and facial data for the performance of a contract, legitimate interest, legal basis and consent did not meet the requirements of the Data Protection Act.

202. The Commissioner submitted that in view of the foregoing, the ODPC on 30th May, 2023 issued a cease notice restricting further collection and processing of sensitive personal data by Worldcoin. Further on 2nd August, 2023 communication was sent to Worldcoin where the ODPC reaffirmed that the cessation of processing was not lifted and a further directive was made to stop processing of all personal data immediately.

203. On its part, when asked about the due diligence undertaken on the TFH Corp, TFH GmbH or their agents before registration as data controllers or processors, the CS for ICT and Digital Economy submitted that there was no indication that any due diligence was undertaken on Worldcoin or any of its agents prior to the decision to register it as Data Controller in Kenya.

On whether KICC conducted due diligence on the nature of activities to be undertaken by Worldcoin within its premises

204. On the activities and operation of Worldcoin at KICC, the Ag. CEO Ms. Patricia Ondeng informed the Committee that on 28th July, 2023, the facility received a client named Ms. Evarline Adongo of Exp Momentum, who visited their marketing office and expressed interest in using KICC's grounds for a product activation that was intended to run for four days with effect from 29th July, 2023 to 1st August, 2023 and that Exp Momentum would utilize their own branded tents while engaging the public.

205. The correspondences submitted to the Committee involved Ms. Adongo of Exp Momentum and KICC Corporation after she visited the Centre and further discussions regarding event details, rates, payment and booking extensions were conducted through email and a physical meeting at the facility.

206. The Ag. CEO informed the Committee that the approval criteria to hold a meeting or gathering at KICC generally involves discussions about event dates, availability of space, rates and payments. She further submitted that the center requires 100% payment from private clients while Government Clients provide LSO/LPOs as a confirmation and that upon receiving payment a client is confirmed.

207. Ms. Patricia further informed the Committee that the client (Exp Momentum) was invoiced KShs. 448,920 (Four hundred and forty-eight thousand nine hundred and twenty Kenya shillings only) for using KICC grounds for the product activation and they made a payment of KShs. 441,180 (Four hundred and forty-one thousand one hundred and eighty Kenya shillings only) which included a 2% withholding tax. She thus submitted that the activities of Worldcoin within it premises were duly approved.

208. When queried on how it took the facility less than 24 hours to approve booking for the Worldcoin while it took the same facility two weeks to approve meeting of the Parliamentary

Co-operative Society (PACOSO), Mr. Geoffrey Thande, Director of Business Development Services at KICC stated that it took less than 24 hours to approve the Worldcoin event because it was an outdoor activity and that KICC grounds were available for use at the time of the request. He further informed the Committee that the approval time for different activities varies depending on the type and complexity of the event

209. Ms. Patricia, the Ag. Director KICC, also informed the Committee that the event was booked to run for four days from 29th July, 2023 to 1st August, 2023, and that request to prolong the event by an additional thirteen days was declined by the facility due to concerns that arose upon realization that the event had attracted large crowds that led to long queues affecting the flow of traffic along the City Hall Way.

210. On crowd management and emergency service plan on the Worldcoin or any of its agent's activities, the ag. CEO informed the Committee that the center has always put in place crowd management and emergency services for all its big events whereby an outsourced security in addition to their own security personnel and a standby ambulance are availed in addition to having a police station within the facility. She noted that the facility also deploys additional security personnel depending on client's needs.

211. On approval or concurrence sought from any other Government authorities and security agencies regarding the activities of Worldcoin at KICC, the ag. CEO stated that a meeting took place between KICC and the Director of Criminal Investigation (DCI) officers in relations to the booked event by Exp Momentum since it had attracted large crowds at the facility and they gave all the relevant information requested by the DCI team.

212. In conclusion, she noted that Exp Momentum was a valued client at the center with whom they have collaborated with on numerous events bookings in the past like the FIFA Would Cup trophy tour on 27th May, 2022 and the Qatar winners flag off on 17th November, 2022 which earned the facility a revenue of over two million Kenya shillings.

3.3.4 Inquire into the Nature, Use and Safety of Data Collected by *Worldcoin* in Kenya

213. With respect to its fourth mandate, to inquire into the nature, use and safety of data collected by *Worldcoin* in Kenya, submissions received by the *Ad hoc* Committee fell within the following thematic areas—

a) The nature of data collected by Worldcoin and its agents;
b) The storage, use and safety of the data collected by Worldcoin and its agents;
c) Whether Worldcoin provided full disclosure and informed disclosure before collecting personal data from Kenyans; and
d) Worldcoin, cryptocurrencies and other similar players in Kenya.

On the Nature of Data Collected by Worldcoin and its Agents

214. According to the CA, Worldcoin is an identification project that uses a combination of Artificial Intelligence (AI), cryptocurrencies and blockchain technologies. According to the Authority, Worldcoin is based on emerging technology whose future bears uncertainty both in terms society and regulation. It reckoned that Worldcoin collects sensitive personal data, whose storage and access remains unclear.

215. The Ministry of Health on the other hand submitted that the Worldcoin collected biometric identifiers, which are unique and measurable characteristics of individuals, which are valuable tools in healthcare for patient identification, access control, and data security. The Ministry categorized biometric identifiers into: -

a) Physiological Biometrics:

216. The Ministry defined physiological biometrics as stable physical characteristics of a person, that are not influenced by stress like face or fingerprint, palm, or iris. It noted in general, that the body ages, but the palm vein lines will not change pattern.

217. The Ministry further sub-classified physiological biometrics into morphological biometrics and biological biometrics. It defined morphological biometrics as attributes that relate to a person's physical size and shape and encompass various methods, such as:

i) fingerprint recognition, widely used for secure access to electronic health records and hospital identification;

ii) facial recognition, which identifies individuals by analyzing facial features using cameras and software algorithms;

iii) iris recognition, which utilizes the unique patterns in the iris of the eye for identification, and its known for its high accuracy though costly to implement;

iv) retinal scans, which scans the distinctive pattern of blood vessels in the retina, and is used in highly secure environments due to its accuracy;

v) palm vein recognition, which scans the unique vein patterns in the palm of the hand.

b) Biological Biometrics

218. The Ministry submitted that the most common example of biological biometrics are the DNA biometrics. It observed that DNA biometrics are the most accurate biometric identifiers but limited by high costs, ethical concerns, and longer processing times.

c) Behavioral Biometrics

219. The Ministry noted that behavioural biometrics involve measuring unique identifying and measurable patterns in human activities, including:

i) voice recognition, which identifies individuals based on the unique characteristics of their speech;

ii) keystroke dynamics, which is less common in healthcare but useful for secure access control, identifying individuals by their unique typing rhythm;

iii) signature recognition, although less secure compared to other biometrics, it can be employed for identity verification in digital documents or systems.

d) Multimodal Biometrics

220. The Ministry observed that multimodal biometrics involves combining two or more biometric identifiers to enhance security. For instance, healthcare settings may use a combination of fingerprint recognition and facial recognition for more robust access control to sensitive medical records.

221. In addition to physiological, biological, behavioural and multimodal biometrics, the Ministry of Health submitted that there are other advanced biometric identifiers that are being explored, including:

e) Gait Analysis, which identifies individuals based on their unique walking patterns, although not common, some research is being conducted in this area.

f) Heartbeat Recognition, which the Ministry defined as unique heartbeat patterns can serve as an identifier, but this technology is still largely experimental.

g) Odour Recognition, which has the theoretical potential of using the unique body odour for identification.

h) Ear Shape, which has the potential to use the distinctive features in the shape of the ear for identification.

222. The Ministry of Health went on to warn that each of the foregoing biometric identifiers has its own advantages and disadvantages in terms of accuracy, cost, ease of use, and acceptability. It further noted that healthcare organizations need to carefully consider those factors, along with ethical and privacy concerns, when implementing biometric identification systems to ensure the best fit for their specific needs and priorities.

223. When asked if they have been able to extract data from the confiscated orbs, the DCI informed the Committee that the orbs were submitted for forensic analysis but they were

unable to extract any data from the gadgets since the drive in the orb is encrypted and could not crack the code. The DCI noted that they have written to the investigators to request the manufacturers to give encryption keys to see if they could recover any data from the hard drives.

224. NC4 further submitted that in addition to the scans, Worldcoin also collected other personal data including, emails, phone numbers, national IDs, photographs and videos of individuals.

225. Both the CS for ICT and Digital Economy and the Data Commissioner submitted that from the documents submitted to the ODPC and the investigation report from the multiagency team, Worldcoin stated its intention to collect both physically and in-app the following data from data subjects: irises, facial images, name, email address, phone number, date of birth, country of residence, IP address and device information.

On the storage, use and safety of the data collected by Worldcoin and its agents

226. On storage, the Data Commissioner submitted that according to the Data Protection Impact Assessment submitted to the ODPC, Worldcoin stated that all personal data is stored in Amazon Web Services (AWS) cloud services which is a cloud service with server locations in secure regions and dispersed to ensure data resilience, with best-in-class systems in place to protect customers' data.

227. The Data Commissioner submitted that in the documents submitted to ODPC, Worldcoin stated its intention to collect both physically and in-app, the following data from data subjects: irises, facial images, name, email address, phone number, date of birth, country of residence, IP address and device information for the purpose of signing up to the products and services, that is:

a) The World ID, which is a technology to prove a person is real and unique while protecting privacy. It is a proof of personhood protocol that allows users to prove they are human without revealing their identity World App and World Token.

b) Worldcoin token (WLD), which is a utility token distributed globally and freely to people.

c) World App, which is a mobile application platform that enables payment, purchases and transfers using world coin, digital assets and traditional currencies and allows access to World ID. Allows individuals to validate their uniqueness as well as offering a self-custodial wallet. It is the avenue to send and receive supported crypto tokens.

228. The Data Commissioner noted that the purpose of the information collected as indicated in registration application form was intended for proving humanness, proving uniqueness, issuing World ID, verifying World ID and user account, distributing grant of pre-claimed

Worldcoin token (WLD), machine learning, know 'your customer, on-boarding users, fraud-detection and carrying out the operations and enabling use of the Application.'

229. On the use of the data collected by Worldcoin, from the Privacy Notice provided by TFH Corp, the Data Commissioner submitted that the data collected was to be used for the purposes of providing services to customers, conducting research to develop and improve product, training the algorithm to better recognize unique users, analyzing use of services to provide better support, using wallet address to send Worldcoin tokens (WLD) or other cryptocurrencies Worldcoin support, complying with applicable laws (such as using your IP address to block individuals whose country does not allow them to access the Services), handling requests, complaints and inquiries, resolving disputes, troubleshooting issues, and enforcing agreements with their customers, including this Privacy Statement and the Worldcoin User Agreement, and contacting you regarding updates to the Services.

230. According to NC4, with the capabilities of cryptocurrency with user verification based on iris, Worldcoin and its proxies may have access to and control of huge sensitive personal data. It noted that the capabilities are being further investigated for possible impacts on the socio-economic status of Kenyans as well as the national security.

231. NC4 further submitted that one of the key features of Worldcoin's entry into Kenya is the launch of a peer-to-peer (P2P) exchange that allows individuals to quickly and easily access digital currencies and US dollars directly with one another, without the need for a centralized third party to facilitate the transactions. That it was estimated that 4 million Kenyans were active crypto currency users in the country.

232. On the use and safety of the data collected from Kenyans, Sense Marketing Ltd informed the Committee that the company was not collecting any personal data or information from Kenyans and to the best of their knowledge, the orb was a device used to verify proof of humanity.

233. On the safety of the data collected by Worldcoin in Kenya, the Ministry of Health submitted that data breaches involving biometric data can lead to severe implications like identity theft, causing stress and other mental health issues.

234. Further, the Data Commissioner submitted to the Committee that the Data Protection Impact Assessment provided by Worldcoin enumerated following possible risks: unauthorized access to sensitive biometric data and potential misuse of data by third-party consultants. The Data Commissioner submitted that Worldcoin indicated that they had implemented the following safeguards to counter the risks:

a) utilization of AWS cloud services with robust technical and organizational measures;
b) encryption and partitioning of data both in transit and at rest;

c) strict access controls that limit data access to essential personnel;
d) employing data minimization and anonymization techniques;
e) logical Access control; traceability (logging);
f) archiving and minimizing the amount of data;
g) operating security and protection of servers;
h) cybersecurity and cloud services; managing hardware,
i) backups and maintenance;
j) network security as technical and organizational measures to mitigate risks and ensure compliance with data protection principles; and
k) implementation of internal security measures including a written Internal Information Security Policy, Incident Response Plan Code of Conduct, Internal Biometric Data Processing Policy, Internal Information Security Policy, Business Continuity Plan, Operator Code of Conduct, Incident Response Plan, and Business Continuity Plan;

235. On the use of the data collected by TFH Corp and TFH GmbH in Kenya, the CS for ICT and Digital Economy noted that the data collected by Worldcoin was used for; provision of services to the Worldcoin customers; conducting research to develop and improve Worldcoin products; training Worldcoin algorithm to better recognize unique users; analyzing customer wallet address to send then WLD tokens and other cryptocurrencies that the Worldcoin supports; complying with applicable laws; handling requests, complaints and inquiries; and resolving disputes, troubleshooting issues and enforcing agreements.

236. On the storage of data collected from Kenyans, the Cabinet Secretary for Information, Communication and the Digital Economy submitted that according to the information provided by Worldcoin in its Data Protection Impact Assessment (DPIA) with the exception of data stored locally on the Orb itself, all data was stored using Amazon Web Services (AWS) cloud services. The Cabinet Secretary noted that in the DPIA, Worldcoin indicated that iris and facial images as well as inferred data are processed until the machine learning-training of algorithms is completed. The Cabinet Secretary submitted that Worldcoin estimated that the machine-leaning training of algorithms should have been accomplished by the end of 2022. The Cabinet Secretary submitted that immediately afterwards, all biometric data would be erased. Accordingly, once Worldcoin progresses to Phase 2, the intention was that all data would have been deleted unless the user had consented to this data being retained for Orb improvement purposes.

237. Moreover, in the assessment of the Cabinet Secretary, the connection between cryptocurrency and biometrics, including iris scan and facial recognition is the need for identification and authentication of actors in cryptocurrency trading platforms for digital transactions, the same way banks have to authenticate whoever presents themselves for a transaction before the transaction can take place.

238. On the safety measures, the Cabinet Secretary submitted that section 31 (1) of the Data Protection Act, 2019 stipulates that where a processing operation is likely to result in high risk to the rights and freedoms of a data subject, by virtue of its nature, scope, context and purposes, a data controller or a data processor shall, prior to the processing, carry out a Data Protection Impact Assessment (DPIA).

239. The Cabinet Secretary submitted that the DPIA outlines all security related risks and the corresponding mitigation measures. Ordinarily when dealing with sensitive personal data, unauthorized access to the data, misuse of the data, identity theft and impersonation and fraud are some of the risk factors anticipated.

240. The Cabinet Secretary gave a chronology of events as follows.

Table 5: Chronology of Communication between ODPC and Worldcoin representatives Coulson and Harney LLP (Bowmans) as presented by the Ministry of Information, Communication and the Digital Economy

1.	On 23rd June 2022	The ODPC directed *Worldcoin* to stop processing sensitive personal data of Kenyans
2.	On 30th May 2023	The ODPC directed Worldcoin to cease processing personal data until it demonstrates compliance with Data Protection Act 2019
3.	On 28th July 2023	ODPC issued an advisory to the Public asking Kenyans to exercise caution in providing personal data to Worldcoin
4.	2nd August 2023	ODPC and the Communications Authority issued a joint press statement advising Kenyans to be cautious while dealing with Worldcoin and further directing Worldcoin to cease collecting data
5.	10th August 2023	ODPC obtained conservatory orders from the High Court of Kenya directing *Worldcoin,* its employees and agents to stop collecting data
6.	2nd August 2023	The ODPC cancelled the Registration Certificates of Worldcoin, bringing to an end all its operations in Kenya, the Ministry wrote to the Head of Service seeking assistance of his office in enforcement

Table 6: Chronology of Communication between ODPC and Worldcoin representatives Coulson and Harney LLP (Bowmans) as presented by the Office of the Data Protection Commissioner (ODPC)

NO.	DATE	ACTIVITY
1.	April 2022	Attention of ODPC was drawn that Worldcoin has been collecting sensitive personal data from persons resident in Kenya and transferring the same out of Kenya.
2.	19th April 2022	ODPC wrote to the Chief Executive Officer of WorldCoin requesting for information into the collection of sensitive personal data, particularly the legal basis for collection, transfer of the personal data, proof of consent for the transfer amongst other information. The entity was to provide the information within 14 days.
3.	21st April 2022	ODPC received a response from the firm of Coulson Harney LLP (Bowmans) Indicating that they represented Tools For Humanity-Corporation trading as Worldcoin, requesting for the extension of the 14 days period referred to above.
4.	25th April, 2022	The ODPC granted the request for extension of the 14-day period and indicated the date of submission as 6th May, 2022.
5.	6th May 2022	Worldcoin provided a response to the ODPC request for information giving a background of their operations, Technical Approach, Operational Approach, Project Status and Plan amongst other information.
6.	25th May 2022	Global representatives of Worldcoin accompanied by their legal representatives attended a meeting at the ODPC wherein they were requested to submit a Data Protection Impact Assessment (DPIA).
7.	17th June 2022	Coulson Harney LLP submitted a DPIA for both Tools for For Humanity Corporation-USA and Tools for Humanity GmbH Germany.
8.	23rd June 2022	ODPC communicated to Couslon Harney LLP (Bowmans) seeking preliminary clarification on the DPIA's submitted specifically on the lawful basis for processing personal data, and

NO.	DATE	ACTIVITY
		instructed that the processing of personal data of persons located in Kenya be restricted for a period of 60 days or until the Office was satisfied with its DP1A and a clarification on the legal basis was provided.
9.	15th July 2022	ODPC received a letter from Coulson Harney LLP (Bowmans) noting Tools For Humanity Corporation USA indicated that it wholly owns Tools for Humanity GmbH Germany as its subsidiary and responded to the issues raised in ODPC Correspondence.
10.	22nd August 2022	ODPC received through its online system an application from TFH GmbH Germany and TFH-USA to be registered as Data Controllers pursuant to Sections 18 and 19 of the Act and the Regulations.
11.	24th August 2022	DCPC generated invoice to Tools For Humanity GmbH - Germany and Tools For Humanity-USA.
12.	2nd September, 2022	ODPC received an email from Coulson and Harney LLP communicating that Tools for Humanity GmbH, was a venture capital-backed and was at the pre-revenue stage therefore no revenue was being generated.
13.	5th September, 2022	ODPC wrote to Couslon Harney LLP advising Worldcoin to; a) Prepare and maintain a clear data processing schedule and record of processing activities that details and provides a clear trail of the lawful purposes relied upon for each processing activity during the lifecycle of the personal data; and b) Provide details on how it intends to comply with the provisions of the Act and address the maters raised in the letter, which primarily centered on the proper identification of the lawful bases relied upon.
14.	15th September 2022	A system generated Certificate of Registration Serial was issued to Tools For Humanity GmbH-Germany valid for a period of 24

NO.	DATE	ACTIVITY
		months.
15.	10th November 2022	Worldcoin responded and attached data processing schedule for Kenya and reattached the DPLA.
16.	18th April 2023	TFH Corp issued with Certificate of Registration Valid for 24 Months.
17.	30th May, 2023	ODPC noted that the processing undertaken by Worldcoin requiring the provision of iris data and facial data did not meet the requirements of the Act and issued a directive to Worldcoin to cease the processing of sensitive personal data and safeguard the data that had already been processed.
18.	13th June, 2023	ODPC held a virtual meeting with Worldcoin representatives, where ODPC enumerated its concerns on the lawful basis of collecting the sensitive personal data.
19.	16th June, 2023	Worldcoin responded to the ODPC letter of 30th May, 2023 providing clarity on the issues raised.
20.	28th July, 2023	ODPC issued a cautionary statement to the public.
21.	1st August, 2023	Worldcoin reported that their agents had been arrested for offences under the Act and the Computer Misuse and Cybercrimes Act.
22.	10th August, 2023	ODPC obtained Conservatory Orders in Nairobi Office of the Data Protection Commissioner vs. Tools For Humanity Corporation (WORLD COIN) and Tools For Humanity GMBH (WORLD COIN) AND 1 OTHER for all personal data including sensitive personal data collected from Kenyans and Kenyan residents.

241. The Worldcoin on the other hand submitted that neither TFH nor the Worldcoin Foundation has ever sold users' personal or biometric data. He noted that all the personal and biometric data collected in Kenya is securely stored on servers either in the United States, the European Union (Italy, Germany, or Poland), or South Africa. He went on to note that

person's free and informed consent is always secured before the processing of their personal data.

On whether Worldcoin provided full disclosure and informed disclosure before collecting personal data from Kenyans

242. The Communications Authority of Kenya submitted that the Kenya Information and Communications (Consumer Protection) Regulations, 2010 obligate any service provider of such technology, as the *Worldcoin*, to provide full disclosure to consumers on any such services being offered. In line with the Regulations, the Authority noted that *Worldcoin* did provide full disclosure to those who showed up to register.

243. On the nature of data collected from the members of the public, Sense Marketing Ltd alluded to the Committee that the agents under the company were not collecting or recording any data from the participant. Sense Marketing submitted that the mandate of the agents was limited to talking to people about *Worldcoin* and the cryptocurrency. Sense Marketing noted that they only took willing participants through the process of downloading the App, accepting terms and conditions and latter conduct an iris scan to prove humanity. There was no additional information required to distinguish the irises. Sense Marketing Ltd went on to submit that it did not consider themselves as Data Controller or processor but as orb operators.

244. On whether it was also collecting data from minors, Sense Marketing submitted that the training they undertook was specific that no minors were to be registered but admitted that there could be possibilities that minors were registered since they did not have a proper mechanism of identifying one. Sense Marketing submitted that it relied on judgment through appearance.

245. On the masses witnessed at KICC, Sense Marketing Ltd submitted that all the Orb operators were required to be at the venue during the KICC product activation. He informed the Committee that the Orb operators were eleven (11) in total but did not know any information about them or the number of Orbs each had. As Sense Marketing, they operated two orbs. Sense Marketing noted that in his view, the mass of people experienced at KICC would have been as a result of the inducement in terms of tokens and would not have been the same if there were no tokens being offered.

246. The Worldcoin on the other hand submitted that throughout our Orb-verification operations in Kenya, TFH has made privacy policy available both on the World App and on the Worldcoin website. The Worldcoin further submitted that TFH had complied with the obligation to register with the ODPC as applicable and has a data protection officer in place currently.

247. In similar regard, Sense Marketing Ltd submitted that during the engagement with participants in the various venues, the participants were informed of what *Worldcoin* was about and willing participants were directed on how they could download the Worldcoin App and register for the service after accepting the terms and conditions then proceed for iris scan to verify proof of humanity.

On consent, ISACA Kenya Chapter noted concerns regarding the WLD token issued by the Worldcoin. ISACA noted that the issuance of WLD token was an indication of lack of freely given and informed consent. ISACA went on to submit that the Data Protection Act, 2019 requires data controllers and data processors to obtain clear and informed consent from individuals before collecting and processing their personal data.

On Worldcoin, cryptocurrencies and other similar players in Kenya

248. The Communications Authority of Kenya submitted that cryptocurrencies are digital currencies that have an ascribed value that may fluctuate depending on the supply and demand. Cryptocurrency being a new and emerging technology, majority of consumers have no sufficient knowledge on its use.

249. The Committee further sought to know whether there are other players such as *Worldcoin* that were operating in Kenya. In response, Communications Authority of Kenya stated that there were other players in data mining such as Google, Meta and Twitter but were not as advanced as Worldcoin. It also submitted that in cryptocurrency, Bitcoin is an active player as well in cryptocurrency space that is owned by no individual.

3.3.5 Inquire into the Organizational Structure and the Activities of *Worldcoin*

250. With respect to its fifth mandate, to inquire into the organizational structure and the activities of *Worldcoin* in Kenya, submissions received by the Ad Hoc Committee fell within the following thematic areas—

a) The origin of the Worldcoin project; and
b) Other jurisdictions where the Worldcoin project has rolled out its operations.

On the origin of the Worldcoin project

251. TFH Corp and TFH GmbH submitted in their joint submission that Tools for Humanity (TFH), the original contributing team for the Worldcoin project headquartered in San Fransisco, was founded in 2019 by Alex Blania, Sam Altman, and Max Novendstern with the mission of creating a global identity and financial network owned by everyone.

252. NC4 submitted that the *Worldcoin* project was initiated by Tools for Humanity GmbH a global software and hardware development company based in Berlin, Germany and Tools for Humanity Inc. based in the USA.

253. According to the Worldcoin, TFH Corp conducted the initial research, technical development of hardware and software, and field testing of the Worldcoin protocol. In addition to having developed and helped launch the project, TFH continues to provide its client of the Worldcoin protocol, World App. It has, since July 2023, also been contracted by the Worldcoin Foundation to support Orb-verification efforts globally.

254. Further, the Worldcoin submitted that the Worldcoin Foundation is the sole member and sole director of World Assets Limited, a business company incorporated in the British Virgin Islands. He submitted that World Assets Limited is the entity responsible for issuing the 75% of all the WLDs that have been allocated to the Worldcoin community.

255. The Worldcoin submitted that in each country they operate they partner with independent local third parties, called Operator Partners. Operator Partner relationships can take different forms, such as temporary event staffing, fixed locations at existing storefronts, or "Orb Operators" whose teams go out into their community—typically near high-traffic areas like shopping centres and university campuses—to help people securely sign up for World ID.

256. The Worldcoin went on to submit that all the Operator Partners underwent extensive training, including Data Compliance training. He observed that the training is designed to be easily understood by everyone. The Worldcoin went on to note that in addition to initial training, there is training to ensure that Orb Operators are utilizing the most up-to-date information in the field.

On other jurisdictions where the Worldcoin project has rolled out its operations

257. NC4 submitted that the project operated in (34) other countries including Uganda, Sudan, Germany, Argentina, Brazil, Chile, France, Hong Kong, India, Japan, Korea, Mexico, Portugal, Singapore, Spain and United Kingdom. It was however, noted that Worldcoin did not operate in the US and China due to the strict regulatory environment.

258. The Worldcoin submitted that Worldcoin seeks to create a global community of users, operators and developers and has invested in similar types of engagement and partnerships in other countries, including Germany, Portugal, Spain, Chile, and Argentina.

259. The Worldcoin further submitted that the World App and the associated self-custodial wallets are currently available in 168 countries around the world. World ID verifications are currently routinely available in 17 countries across five continents, including: Africa (Kenya - suspended; Uganda), Asia (Hong Kong; India; Japan; Singapore; South Korea), Europe (France, Germany, Portugal, Spain, and the United Kingdom), North America (Mexico; United States), and South America (Argentina; Brazil; Chile).

260. They further submitted that verifications may also be available, from time to time, in other countries at events like conferences. In that regard, the Worldcoin submitted that WLD is available on many virtual asset exchanges around the world, with the notable exception of the United States. He noted that WLD is not intended to be available in the United States due to the lack of clarity in that country's definition and treatment of digital asset tokens.

3.3.6 Inquire into the Source of Money or Consideration if any Paid to the Members of the Public Who Presented Themselves for Registration and the Potential Beneficiaries

261. With respect to its sixth mandate, to inquire into the source of money or consideration if any, paid to the members of the public who presented themselves for registration and the potential beneficiaries, submissions received by the Ad Hoc Committee fell within the following thematic areas—

a) The Amount of Money invested by Tools for Humanity Corp and Tools for Humanity GmbH in Kenya;
b) The Worldcoin Token (WLD);
c) Cashing-out the WLD by Worldcoin subscribers in Kenya;
d) Whether the WLD and related considerations were used to induce Kenyans to subscribe to the activities of Worldcoin; and
e) Whether the relevant government agencies monitored the financial flow related to the activities of Worldcoin in Kenya.

On the Amount of Money invested by Tools for Humanity Corp and Tools for Humanity GmbH in Kenya

262. According to TFH Corp and TFH GmbH in their joint submission, the two companies have invested over KES 700 million in Kenya with budget plans projected to increase.

263. The Committee inquired about the source of money paid to Kenyans, if Worldcoin was registered as a bank and whether money laundering laws were adhered to as well as who bears the liability in case of any complaints as the company is not registered locally. In response, the Worldcoin stated that TFH had raised over USD 200 million worldwide for the purpose of building orbs and developing blockchain technology. Worlcoin submitted that the Money is also used to develop intellectual property as the company is also valued at the tune of about USD 2.4 billion.

264. The Worldcoin submitted that there is no direct source of revenue and that TFH Corp is fully funded by venture capital to develop technology and there were no money laundering activities that are conducted by Worldcoin. The Worldcoin went on to state that liability is dependent on the specific allegation against, citing Meta and Uber that are active in Kenya without any local representative. It would depend on the allegations against them to determine liability.

On the Worldcoin Token (WLD)

265. The Worldcoin submitted that on 24 July 2023, WLD moved from "beta" to "live," meaning the digital asset became liquid, available on exchanges, and transactable on the blockchain. The Worldcoin submitted that a full educational whitepaper with WLD tokenomics issued and published on the Worldcoin website at whitepaper.worldcoin.org.

266. The Worldcoin submitted that for subscribers to receive an Orb-verified World ID and claim their share of WLD, consumers must download the World App, a freely downloadable application available in the Apple and Android app stores. He went on to submit that the World App provides a consumer with two self-custodial digital wallets, one to hold various virtual assets, and another containing an unverified World ID.

267. The Worldcoin further submitted that upon token launch, 10 billion WLD tokens were "minted" (launched on the blockchain). The Worldcoin went on to submit that currently, roughly 1.28% percent of the tokens are in circulation. Additional tokens are added to the circulating supply over time, primarily as Orb-verified individuals claim their free WLD token grants. The Worldcoin sent on to submit that in addition to claiming WLD grants offered to Orb-verified World ID holders, anyone can purchase WLD on several online exchanges.

268. The Worldcoin went on to submit that currently, all holders of Orb-verified World IDs can claim three (3) WLD tokens every two weeks for free. (In late July 2023, people were able to claim 25 WLD tokens in a "Genesis grant" celebrating Worldcoin's launch.) He submitted that the WLDs are issued by World Assets Limited. They went on to note that the free WLDs appear in the World App, and that the recipient of the free WLD may then, through third-party exchanges, opt to exchange the WLD for any other virtual or fiat asset at their discretion.

269. On the process of converting the WLD into currency, Sense Marketing Limited submitted that the tokens would be put in a crypto wallet then one would go to the blockchain market to look for willing buyers who would purchase the tokens according to the agreed exchange rate and the seller would receive the money through Mpesa. He noted that the tokens would vary between 1 to 25 WLD weekly.

On cashing-out the WLD by Worldcoin subscribers in Kenya

270. The Worldcoin submitted that there was no direct monetary compensation or consideration paid to Kenyans in exchange for completing the Orb verification process. The Worldcoin submitted that the World Assets Limited was not giving people approximately KES 7,000 when they signed up, as reported in some media, rather, it was giving them an amount of WLD tokens.

271. On how and whether KES 7,000 promised to Kenyans was paid, the DCI informed the Committee that after learning about the alleged illegal collection of biometric data specifically the scanning of irises and that people were just queuing and getting money just for the photos to be taken, they came in as DCI and mopped up the organizers. The DCI noted that in their effort to get in touch with the people who received the money was not easy since the participants were not willing to give information but they managed to get three who informed them that they were being asked to download the *Worldcoin* App, and that in the App there was a platform similar to PayPal called "***Wise***" which is capable of converting USD and GBP into KES. The WLD were being converted to USD and then to KES on the platform then sent to individuals on Mpesa at a peer-to-peer level of engagement.

272. The Worldcoin on the other hand, submitted that in Kenya, in response to local demand, a software function in the World App that offers independent Operator Partners the ability to exchange Kenyan Shillings for USDC (a digital "stablecoin" whose value is pegged to the U.S. dollar, offered by the company Circle) in a so-called "peer-to-peer" (P2P) marketplace was created.

273. According to the Worldcoin, the P2P platform provides an easy way for Kenyans to find independent agents who can swap virtual assets for fiat currency by matching agents with their clients (similar to what mobile money agents do, but entirely digitally). The Worldcoin went on to note that the P2P platform is fully available to verified users and in a limited form to non-verified users. The Worldcoin submitted that the P2P transactions are independently undertaken by users and are not controlled or directed by TFH or the Worldcoin Foundation.

On whether the WLD and related considerations were used to induce Kenyans to subscribe to the activities of Worldcoin

274. On whether the members of the public were unduly influenced to subscribe to the *Worldcoin* platform, the Worldcoin submitted that there was no undue inducement or any other form of constraint or coercion to participate in *Worldcoin*. The Worldcoin submitted that the eople in Kenya and around the world freely chose to participate in the *Worlcoin* activities, and did so in large numbers.

On whether the relevant government agencies monitored the financial flow related to the activities of Worldcoin in Kenya

275. When asked whether the CBK can trace and track the financial flow related to the activities of Worldcoin in Kenya, CBK submitted that it could not monitor specific transactions, especially within mobile payment platforms like M-Pesa, given the large volume of transactions involved. CBK went on to emphasize that the fast-evolving nature of cryptocurrencies is being addressed by a task force, which aims to provide more information

on virtual assets and service providers by the end of the month, potentially leading to policy and regulatory frameworks.

276. Further, when asked if it could trace the conversion of WLD into KES via M-Pesa, CBK indicated the challenges of monitoring such transactions due to the massive volume of transactions in M-Pesa and suggested that it may not be possible to detect smaller amounts like the reported KES 2.5 billion. CBK emphasized the complexities of monitoring cryptocurrency-related transactions, particularly within the context of a mobile payment platform like M-Pesa, and emphasized the ongoing efforts to address regulatory and policy concerns related to cryptocurrencies in Kenya.

3.3.7 Inquire Whether Kenyans Were Exposed to any Health Hazards as a Results of the Activities of *Worldcoin* in the Country

277. With respect to its seventh mandate, to inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country, submissions received by the Ad Hoc Committee fell within the following one thematic area—

a) The possible health hazards from an exposure to biometric scan.

On the possible health hazards from an exposure to biometric scan

278. The Ministry of Health submitted that whereas biometric identifiers offer various benefits, including increased security and ease of access, exposure to biometric scans generally carries low health risks, but there are some important considerations:

a) Physiological Biometrics:

279. For fingerprint recognition, the Ministry submitted that there is risk of cross-contamination from shared scanners, potentially spreading germs including bacteria and viruses, hence increasing the risk of infection.

280. The Ministry further submitted that the use of infrared light may cause eye irritation with prolonged exposure in facial recognition. Similar to facial recognition, the Ministry submitted that the infrared light used in palm vein recognition could lead to skin irritation with excessive exposure. Relatedly, the Ministry submitted that while iris and retinal scans are generally safe, prolonged or repeated exposure to the light sources used may cause discomfort or harm.

281. Additionally, the Ministry submitted that DNA biometrics, involves chemical exposure during DNA extraction and analysis, which can be harmful if mishandled, though patients are typically not directly exposed.

b) Behavioral Biometrics:

282. In this category, the Ministry submitted generally that voice recognition is of low-risk, but noise emitted during verification could lead to auditory strain or discomfort. It also noted that keystroke dynamics and signature recognition are of little to no direct health risk, but improper use of keyboard or writing tool may contribute to musculoskeletal issues over time.

c) Multimodal and Advanced Methods:

283. The Ministry submitted that gait analysis, heartbeat recognition, odour recognition, and ear shape are typically non-intrusive with little to no direct health risks to individuals.

284. In general, the Ministry submitted that concerns over data privacy, accessibility and misuse may cause psychological stress or anxiety. It also noted that individuals may experience discomfort or minor injuries during biometric data capture, particularly with modalities using infrared rays (e.g., eye strain during an iris scan). The Ministry also noted that some devices may use materials that can trigger allergic reactions in sensitive individuals (e.g., latex in fingerprinting devices).

285. Worldcoin on the other hand, submitted that the Orb device was certified to be compliant with Kenyan requirements under the Pre-Export Verification of Conformity Standard (PVOC) from the Kenyan Bureau of Standards. The Worldcoin further submitted that he Orb had been certified by TÜV Rhineland (Germany's most reputable certification service provider) as compliant with IEC 62471 "Photobiological Safety of Lamps and Lamp Systems", the globally accepted standard for lamps, lamp systems, and other non-lamp sources of optical radiation that emit light in the spectral region of 200 to 3000 nm. Worldcoin thus concluded that here are no health or safety hazards associated with scanning one's iris at an Orb device.

286. When the Committee inquired on the health effects of scanning the iris on the orb machine, Worldcoin stated that there was no complaint that was reported to them concerning the health effects by the people scanned by the orb. Worldcoin further intimated to the Committee that he had equally had his iris scanned severally during the development of the orb and had not felt any health complications.

3.3.8 Inquire into the Legal and Regulatory Gaps that Permitted Operations of *Worldcoin* in Kenya

287. With respect to its eighth mandate, to inquire into the legal and regulatory gaps that permitted the operation of *Worldcoin* in Kenya, submissions received by the Ad Hoc Committee fell within the following thematic areas—

a) Communication Authority of Kenya;
b) Directorate of Criminal Investigations;
c) Ministry of Health;

d) Attorney General;
e) Data Commissioner;
f) Ministry of ICT and Digital Economy;
g) Central Bank of Kenya;
h) Financial Reporting Centre; and
i) TFH Corp and TFH GmbH.

Communication Authority of Kenya

288. The Communications Authority of Kenya submitted that the scope of the current laws regarding ICT consumer protection does not adequately cover issues regarding digital currencies and assets. It opined that there is need to develop an appropriate overarching legal framework for the regulation of new and emerging technologies, including digital platform services, social media services and over-the-top services.

289. The Communications Authority of Kenya noted that as the government pursues 100% digitalization of its public services, there is a heightened risk of being a target of the ever-evolving cyber threats.

290. The Authority of Kenya submitted that there is a constraint when it comes to balancing strict regulation, facilitation of innovation and creation of an enabling environment that will contribute to the envisaged digital economy. The Authority noted the global challenge of managing the rapidly evolving new and emerging technologies, such as Artificial Intelligence (AI), Blockchain, Virtual, Augmented and Extended realities, means that there is need for a more progressive and responsive regulatory framework.

291. CA further noted that there is no framework to regulate Digital Service platforms especially Over-the Top Services (OTTs). However, the Authority noted that it is developing a Regulatory Sandbox to nurture innovation as well as inform regulatory decisions and facilitate socioeconomic development. It further submitted that the Authority in consultation with the Ministry of Information, Communications and the Digital Economy is undertaking regulatory reforms with a view to expand the scope of regulatory mandate to address the emerging identified challenges. The Authority further noted that it is currently working with other agencies under the NC4 to develop regulations that will operationalize the Computer Misuse and Cybercrimes Act (CMCA), 2018.

Directorate of Criminal Investigations

292. The DCI on the other hand noted the need to strengthen and encourage use of Sandbox by other financial regulatory agencies such the one currently under Capital Markets Authority to test and inform regulations and guidelines for online investment applications in Kenya. In addition, the DCI noted the need to review the Computer Misuse and Cybercrimes Act 2018

to fully deal with the current realities in the cyberspace such as Artificial Intelligence (AI) as well as need to incorporate Communications Authority technical personnel to be stationed at all border entry points to provide technical expertise on all technological equipment's imported into the country.

293. The DCI informed the Committee that the Data Protection Act and the regulations thereunder do not sufficiently address key issues like the documents to be presented to the Data Commissioner to ascertain eligibility for issuance of a certificate as a Data controller and/or processor as a juristic person. The DCI submitted that the framework lacks regulatory framework for provision of documents to be presented to the Data Commissioner to ascertain eligibility for issuance of relevant certificate(s) to foreign entities.

294. The DCI further noted that the framework is not sufficient to enable the Commissioner to ensure that data subjects are properly taken through purpose for data collection, handling, transfer, entities, involved, possible risks and safeguards before accepting to give out their data. DCI further submitted that the framework has inadequate consumer protection of the data subjects and lacks procedures for thorough vetting of local and foreign data controllers and/or processors.

Ministry of Health

295. The Ministry of Health submitted that the collection of biodata from citizens has implications for privacy, security, and human rights. The Ministry underscored the need for robust, and forward-looking legislative interventions to govern the collection of biodata from Kenyans.

296. The Ministry submitted that it is currently driving digital transformation within the health sector to accelerate the achievement of universal health coverage. To ensure data security and uphold good data governance principles throughout the data lifecycle, the Ministry is developing various legislations and policies, including:

a) **Digital Health Bill**, covering the classification of health data that includes medical equipment data, builds on the Data Protection Act to establish a framework for responsible handling, protection, and privacy of sensitive personal health data. It also creates a legal framework for a comprehensive integrated health information system and a Digital Health Agency to manage it. Additionally, it enables health data portability and the establishment of a client registry for unique identification.
b) **Health Data Governance Framework**, to set standards for governing health data throughout its lifecycle, including data collection.
c) **Telemedicine Guidelines**, to provide guidance on managing the telemedicine ecosystem in the country, including obtaining consent from clients/patients through telemedicine platforms.

d) **National Unique Patient Identifier Framework**, to facilitate unique identification of clients across the healthcare system, although it is not based on biometric identifiers.

Attorney General

297. The AG submitted that there is a lack of a comprehensive Legal Framework to regulate emerging markets in cryptocurrency. The AG went on to state that the lack of legal framework to regulate emerging markets in cryptocurrencies has exposed the country to inherent risks, speculative trading, high price volatility, possibility of criminal activities, tax evasions, financing terrorism and money laundering, data theft and financial fraud.

298. As such, AG recommended the formation of a comprehensive oversight framework on crypto assets activities and players in Kenya. The A***G further recommended the development of regulations to establish a registration system for image rights and encompassing a dynamic definition of image personality rights which may include rights in characteristics, mannerisms or traits unique to that personality.***

299. AG also submitted that there is no consensus on the way to account for tax with respect to *Worldcoin* and in particular how to recognize any attendant income or losses, the appreciation of fair value and how to account for it in financial statements.

300. The AG further submitted to the Committee that *Worldcoin* situation has raised privacy concerns regarding the processing, storage and sharing of personal data where entities violate the data protection rules by sharing sensitive data or use open-source software that are easily compromised.

301. The AG went on to inform the Committee that the promoters of *Worldcoin* mislead consumers by using deceptive marketing strategies to induce people to exchange their personal data with tokens thus contravening their consumer rights.

Data Commissioner

302. The Data Commissioner informed the Committee that the Office faces challenges such as gaps in the legal framework on personal data protection, inadequate human capacity and voluntary provision of personal information in regulating the processing of personal information. She noted that for these to be addressed, the Office recommends for a review of the Data Protection Act, 2019 and Regulations as well as enhancement of the staff capacity and regional presence.

303. On whether the ODPC lacked enforcement capacity, the Data Commissioner submitted to the Committee that they have proposed in terms of legislative reform to be given data police for enforcement since their enforcement unit only deals with investigation and not arrests which as an office they conducted. The data Commissioner noted that the remedies available

at their disposal is enforcement notice, penalty notice and compensation to the data subject which they have demonstrated. The office has given *Worldcoin* an enforcement notice as well as timeline, failure to adhere to the enforcement notice will then lead to the penalty.

304. On whether the ODPC is a member of NC4, the Data Commissioner further submitted that the ODPC is neither a member nor co-opted member of NC4. The Commissioner went on to state that there is already a proposal to have them sit at the NC4.

Ministry of ICT and Digital Economy

305. The Ministry recommended that:

a) There is need for policy and regulatory review to address emerging technologies such as AI and blockchain technologies. While at it, there is need to strike a balance to ensure responsible development and application of technology, while being careful not to stifle its development.
b) There is need to strengthen provisions on due diligence before, during and after registration of data processors and controllers. Periodic assessment, and periodic reporting mechanisms should be put in place for data controllers and data processors. This will determine their eligibility for renewal of registration certificate.
c) There is need for policy and institutional reforms to ensure surveillance and response where necessary is satisfactory since the Worldcoin started collecting data in 2021 only for the Data Protection Commissioner to know a year later.
d) The Data Protection Act needs to provide for a Board, or similar authority to which the Data Commissioner reports or accounts in its daily operations.
e) There is need for amendments along the models of Communications Authority of Kenya (CA) created under the Kenya Information and Communication Act, 1998 or the Media Council of Kenya. There is need for accountability through a Board and Council.

Central Bank of Kenya

306. The CBK submitted that converting crypto assets to legal tender requires the development of comprehensive regulatory frameworks, robust risk management practices, effective AML and KYC measures, and the establishment of secure systems to minimize potential risks to financial stability and address the challenges mentioned above.

307. Further, according to CBK, regulation of crypto assets requires widespread public discussion. CBK therefore, submitted that it is imperative to consult the wider public before making any decisions on the next steps of coming up with policies.

308. CBK further submitted that the Financial Reporting Centre (FRC) has constituted a working group which is currently undertaking a risk assessment on VAs and VASPs. Government agencies and private players such as commercial banks are involved in this exercise. CBK proposes that we await the risk assessment report on the issue.

Financial Reporting Centre

309. According to the Financial reporting Centre (FRC), regulation of emerging technologies will always be faced with challenges as regulators try to catch up with the developments in the blockchain sector. FRC submitted that blockchain evolves on a daily basis thus making it difficult for regulators to keep up.

310. In that regard, FRC highlighted the following challenges and concerns in regulating the blockchain sector:

Money laundering and terrorism financing

311. FRC submitted that due to the anonymous nature of transactions on VASPs, the number of users attracted to these platforms to launder money or carry out financially suspicious activities is alarming. FRC went on to note that VAs and VASPs are decentralized meaning most of the activities are unregulated and are not monitored.

312. As such, FRC noted that most users are attracted to the Vas and VASPs because the platforms are unregulated. However, FRC submitted that the lack of regulation and or mechanisms to implement the regulations in place, pose a challenge towards to the efforts to combat money laundering and Terrorism Financing.

Consumer protection

313. FRC further submitted that the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism of the Council of Europe (MONEYVAL) published a report in June 2023 that highlighted fraud and child sexual exploitation as predicate offences identified by VASPs.

314. FRC went on to note that the report identified a vacuum in the regulations when it came to content moderation and consumer education by VASPs. Most of the regulations around VAs and VASPs focus more on licensing, registration and taxation. VASP platforms are capable of sharing entertainment content some of them may be harmful to the users.

315. The FRC observed that certain platforms have been utilized for fraudulent purposes. It further noted that creators of virtual assets take advantage of their high volatility to introduce virtual assets that may not generate any future profits for users or asset holders. It is essential to establish rigorous regulations and laws to safeguard against such occurrences in the future.

Taxation concerns

316. FRC observed that the most difficult aspect of taxing virtual assets is that they are pseudonymous. FRC noted that the public addresses used are incredibly difficult to link with an individual or firm, making tax evasion easier.

317. FRC further submitted that there is need for classification of VAs for purposes of taxation. FRC noted for instance, that if the asset is sold as a commodity, value added tax (VAT) may be charged on it and thus the end user bears the cost. Most virtual assets gain value when they have been employed in a specific context rather than a free market value. What this means is that the normal rules of the market (that is demand and supply) may not necessarily affect the value of a virtual asset. This makes it difficult to come up with rules on fair trading.

TFH Corp and TFH GmbH

318. According to Worldcoin, there are currently no specific financial regulations that are applicable to virtual asset swaps in Kenya. Worldcoin noted that as a result, there are no licence, mandatory incorporation/registration and/or permits requirements that would apply to the provision of the WLD, the World App, or World ID on a cross-border basis to customers located in Kenya.

319. Worldcoin submitted that five institutions including the CBK, CMA, Insurance Regulatory Authority (IRA), Retirement Benefits Authority (RBA) and the Sacco Societies Regulatory Authority (SASSRA) formed a working group in December 2022 to investigate future regulations concerning the use of virtual assets in Kenya.

320. TFH Chief Legal Officer attended a meeting with the CMA in May 2022, introducing the project to CMA staff, and ultimately it was concluded that the Worldcoin project would not be an appropriate candidate to qualify under the requirements of the CMA's Regulatory Sandbox.

321. Indeed, in a "Cautionary Statement on Worldcoin" issued by the CMA on 2nd August 2023, the CMA stated, in pertinent part, as follows: 'The CMA has assessed the available public information concerning Worldcoin and hereby notifies the public that Worldcoin is not regulated in Kenya. Further, that Worldcoin-related products including crypto-tokens or their derivatives are not investment products within the scope of the Capital Markets Act and hence not under the regulatory purview of the CMA'.

322. In addition to the aforementioned cross-agency technical working group, the proposed Capital Markets (Amendment) Bill, 2023 proposed to widen the 'securities' definition to capture cryptocurrencies and possibly crypto assets; however, the Capital Markets (Amendment) Bill, 2023 is yet to be introduced to the Kenyan Parliament for First Reading

and the progression of the Capital Markets (Amendment) Bill, 2023 through the legislative process for now remains unclear.

323. The CBK National Payments Strategy 2022 – 2025 makes mention of crypto assets and currencies, and the various developments recorded in the crypto industry; however, the said strategy also highlights the various associated risks, such as high volatility. The strategy also indicates that the CBK will continue to provide a supportive regulatory framework, with a focus on issues such as stability and security of the financial and payment systems, and, in particular, cyber-resilience.

324. In the discussion Paper on Central Bank Digital Currency (CBDC), published in May 2023 the CBK highlighted the interest by central banks worldwide on the importance of developing a Central Bank Digital Currency. Ultimately, the CBK noted that a rollout of a Kenyan CBDC should not be "a race to the first". The CBK also noted that it is not keen to implement a Kenyan CBDC in the short- to medium-term, but rather its focus should be to strengthen Kenya's existing payment infrastructure.

3.3.9 Other Emerging Issues

325. With respect to its ninth mandate, to inquire into other emerging issues, submissions received by the Ad Hoc Committee fell within the following thematic areas—

a) Overlapping regulatory mandate among various authorities governing the cyber space in Kenya;
b) Security concerns on blockchain technology and cryptocurrencies in Kenya;
c) Legality of cryptocurrency and blockchain technologies in Kenya;
d) Whether cryptocurrencies are potential avenues for money-laundering;
e) The role of DCI in detection and monitoring of cybersecurity and cybercrimes in Kenya;
f) Capacity of the Kenyan authorities to ensure cybersecurity;
g) Whether the ODPC has collaborated with other state agencies to effectively discharge its mandates under the Data Protection Act, 2019;
h) Measures to indemnify Kenyans from unlawful use of data by Worldcoin or its agents;
i) The potential impact of cryptocurrencies on the banking sector in Kenya, and the possible remedial measures; and
j) The capacity of the Central Bank of Kenya to regulate cryptocurrencies and other emerging technologies in the financial sector.

On the overlapping regulatory mandate among various authorities governing the cyber space in Kenya

326. The Communications Authority of Kenya highlighted overlapping regulatory mandates among the various Authorities governing the digital space among the legal and regulatory

bottlenecks that occasion the unchecked activities of *Worldcoin* in Kenya. It noted that the overlapping regulatory mandates calls for more collaborative regulatory approaches to the governance and regulation of the digital space in Kenya.

327. CA submitted that it has made efforts to enter into partnerships with various agencies to enhance its regulatory effectiveness. For instance, the Authority submitted that it has a Memorandum of Understanding (MOU) with the Central Bank of Kenya (CBK) whose purpose is to enhance co-regulation of digital financial services.

328. CA further submitted that ICT is an enabler of development across all sectors. The CA noted that towards the realization of the envisaged digital transformation, collaboration and a multi-agency approach will enhance adoption of technology. However, to keep in pace with technological dynamism, we must prioritize adoption of robust and up-to date policy, legal and regulatory frameworks without stealing innovation.

329. The DCI on the other hand, informed the Committee that there is an urgent need to review the Data Protection Act to appreciate the overlapping roles of other regulatory Government agencies and investigative agencies in investigation and enforcement of Data Protection Act including but limited to, the Communications Authority, the Registrar of companies, Central Bank of Kenya, Capital Markets Authority, Consumer Protection Agency, KRA and National Police Service among others with stricter punishment for data mishandling and/or contravention of the Act. The review should also include the specific eligibility criteria for approval of an application as Data Controller and/or Processor as well as provision for back-ground check especially for entities intending to collect sensitive personal data.

330. On whether the DCI and the ODPC were members of the NC4, the DCI responded that the Directorate is an alternate member of the NC4 and they meet monthly to look at issues that affect cybercrime in the country. The DCI noted that they were currently developing the regulations that will operationalize the Computer Misuse and Cybercrimes Act, 2018 and the regulations were at the public participation stage. The DCI however, noted that the ODPC is not a member or an alternate member of NC4.

331. On why the DCI was bringing on board the Nuclear Power and Energy Agency into their investigations, the DCI informed the Committee that the investigators wanted to get a professional opinion in order to address issues specific to absorption rate, and whether the radiation was within the acceptable standards to enable them capture the same in their report and findings.

On the legality and security concerns on blockchain technology and cryptocurrencies in Kenya

332. The CBK defined blockchain as a distributed database or ledger shared among computers on a common network. CBK went on to state that each computer/node participates in the validation of transactions and the maintenance of the blockchain ledger. CBK noted that nodes are responsible for storing a copy of the blockchain ledger, verifying the authenticity of transactions, and adding new blocks to the chain. The blockchain maintains a secure and decentralized record of transactions, ensuring that data remains immutable (cannot be altered) upon entry.

333. The DCI on the other hand defined blockchain as an open, distributed ledger that records transactions safely and permanently. According to the DCI, blockchain slashes the cost of transactions and eliminate intermediaries like lawyers and bankers, and thus lowering the cost of doing business. The DCI noted that with the increase in more internet technologies, the adoption of blockchain will require broad coordination and will take time to be adopted. The DCI further noted that blockchain is the medium through which crypto-currency is transacted.

334. The CS for ICT and Digital Economy on the other hand, described blockchain technology as an advanced database mechanism that allows transparent information sharing within a business network. The CS submitted that blockchain database stores data in blocks that are linked together in a chain. The CS ICT and Digital Economy observed that in blockchain, the data is chronologically consistent because you cannot delete or modify the chain without consensus from the network and as a result, one can use blockchain technology to create an unalterable or immutable ledger for tracking orders, payments, accounts, and other transactions Further, the CS opined that the system has built-in mechanisms that prevent unauthorized transaction entries and create consistency in the shared view of transactions.

335. CBK submitted that the elements of transparency, security and finality provide many applications for blockchain technology, with the best-known application in cryptocurrency/asset. CBK also defined cryptocurrencies as privately issued digital assets that depend primarily on cryptography and blockchain/distributed ledger technology (DLT). CBK noted that the most widely used cryptocurrency, Bitcoin, was established in 2009 following the publication of a seminal paper on peer-to-peer transactions by "Satoshi Nakamoto" in 2008. According to CBK, Bitcoin remains the biggest and most known crypto asset and was created as an answer to the deficit in trust in the financial industry following the 2008 Global Financial Crisis.

336. Similarly, the AG submitted that cryptocurrency is a currency founded on blockchain technology and based on a study by the World Trade Organization (WTO), cryptocurrency could be described as a decentralized, distributed record or "ledger" of transactions in which

the transactions are stored in a permanent and near inalterable way using cryptographic techniques.

337. The DCI on the other hand, informed the Committee that unlike the fiat currency, cryptocurrency is a digital, encrypted and decentralized medium of exchange and that there is no central authority that manages and determines the value of the digital currency. Instead, the determination of the value of the virtual currency is through speculative tendencies of the users of the cryptocurrency.

338. CBK further itemized the IMF categorization of cryptocurrencies as follows:

a) **Unbacked crypto assets;** are transferable and primarily designed to be used as a medium of exchange. They are often decentralized. However, there are examples of unbacked crypto assets that are centrally issued and controlled. Most unbacked crypto assets are currently used for speculation and not for payment purposes. Prominent examples include Bitcoin and Ether.
b) **Utility tokens;** provide the token holder with access to an existing or prospective product or service. These are usually limited to a single network (that is, the issuer) or a closed network linked to the issuer. For example, a tokenized store card or certain gaming tokens might be considered types of utility tokens.
c) **Security tokens;** are tokens that provide the holder with rights like that of a traditional security, for example, the right to a share in the profits of the issuer.
d) **Stablecoins;** aims to have a stable price value. This objective is normally pursued by the crypto asset being linked to a single asset or a basket of assets, for example, fiat funds, commodities such as gold, or other crypto assets. Stablecoins can also seek stabilization using a mechanism other than being linked to an asset, for example, through an algorithm. These "algorithmic" stablecoins are mainly used in decentralized finance (DeFi). Prominent examples include Tether, Binance USD, and USD Coin.

339. On the relationship between blockchain and cryptocurrency, the NIS submitted that blockchain and cryptocurrency technologies are closely linked, with cryptocurrency being a prominent application of Blockchain technology. The NIS submitted that Blockchain is a decentralized and tamper-resistant digital ledger, while cryptocurrencies use cryptography for security.

340. The DCI submitted that blockchain is the technology behind *Bitcoin*, the first virtual digital currency that has gained international application in financial settlements. In addition, the DCI noted that uncertainty regarding taxation, security risks, transaction irreversibility, scalability issues, lack of merchant adoption and trust of digital currencies being purely speculative are some of the elements of cryptocurrency that poses great security and economic concerns.

341. On the use of cryptocurrency in Kenya, the NIS submitted that cryptocurrency adoption is notable, with the country ranking first globally for peer-to-peer trading volume. The NIS submitted that various cryptocurrency exchanges operate in Kenya, with Bitcoin being the most used cryptocurrency, and others like Ethereum and Ripple gaining popularity.

342. However, the CBK cautioned that cryptocurrencies are neither issued by any central bank nor a public authority and are therefore not considered legal tender. It noted that only banknotes and coins issued by the CBK are considered as currency, while noting that, since crypto assets are not backed by a public authority, they are considered high-risk and speculative.

343. Similarly, the DCI informed the Committee that cryptocurrency is not a legal tender and is unregulated by the CBK, however, it is not criminalized by the Kenyan Laws. The DCI noted that the lack of regulation coupled with the absence of express provision of the law criminalizing cryptocurrencies in Kenya have allowed for the transfer and trade in cryptocurrency without any regulatory checks therefore thriving and encouraging anonymity in financial transactions across borders on various online platforms as well as creating easy access to finances by criminal groups including terrorists and also a fertile avenue for money laundering and tax evasion.

344. According to the CBK, the growth of the crypto industry is driven by the speed of transactions, low transactions, and costs, decentralization of finance, and anonymity. Additionally, CBK opined that crypto assets have attracted users because it offers more control as opposed to fiat currency. Further, CBK submitted that the promise of high returns due to the high volatility and erratic growth in the value of crypto assets has attracted a swathe of crypto investors, spanning both individuals and institutions. Moreover, CBK noted that the lack of taxation mechanisms has made crypto attractive to users.

345. The DCI submitted that the laws of Kenyan are silent on cryptocurrency which is a popular financial tool for organized crime thus encouraging transfer of unregulated digital currency outside the existing legal framework which has occasioned the rise in crypto-jacking as an emerging crime trend with no laws to address it. The DCI further submitted that the delicate and volatile nature of transactional data makes traceability of such financial transactions difficult and thus derogates the efforts made by the investigative agencies.

346. CBK submitted that compared to physically issued banknotes and coins, and electronic mobile money which is backed one-for-one with the fiat currency, holders of crypto assets do not benefit from the same level of consumer protection accorded by legal tender issued by CBK. CBK opined that crypto assets experience extreme volatility and the risk of collapse, with no recourse for affected investors.

347. Further, the CBK submitted that due to the extreme volatility of the crypto market and the recent collapse of stablecoins and crypto exchanges, there has been a slowdown in the uptake of crypto assets. To illustrate, CBK noted the global crypto industry faced a reduction in the value of crypto assets and market capitalization by more than half in 2022. For instance, CBK submitted that Bitcoin was trading at below USD 16,000 on 20th November, 2022, down from USD58,000 exactly a year earlier. CBK opined that the volatility has led to investor caution and reduced interest in crypto assets. More importantly, CBK noted that the volatility has highlighted key liquidity issues faced by crypto asset firms and other fintechs, exacerbated by poor governance frameworks.

348. Further, the AG observed that despite the warning by the CBK on the use of cryptocurrencies due to their volatility, no law put in place to regulate the use of cryptocurrency. The AG further stated that from the FRC report made on 16th August 2023, there has been a rapid growth of the digital asset ecosystem and its potential to drive financial innovation and efficiency, but if not urgently regulated, money laundering and other crimes are expected to rise.

349. On the criminal acts associated with cryptocurrencies, the Financial Reporting Centre (FRC) on the other hand submitted that cryptocurrencies can be used for money laundering and terrorism financing just like the fiat currencies can be used for illicit activities. FRC enumerated the crime risks associated with virtual assets:

a) **Pseudonymity -** Proceeds of crime can be paid in crypto due to their nature that allow users to create wallets and conduct transactions without revealing their true identities.
b) **Global accessibility** - allowing them to be accessed from anywhere in the world making it possible for money launderers to move funds across borders.
c) **Availability of mixers and tumblers -** who make it difficult to trace the source of funds.
d) **Ease of interface** - with electronic payment solutions i.e. PayPal, Mpesa, electronic cards, makes it easy to move proceeds of crime across electronic wallets and borders.

350. NIS on the other hand, submitted that the current state of cybersecurity in Kenya is characterized by dynamic and unpredictable challenges due to the increased adoption of cyber technologies. The NIS noted that the Kenya's cybersecurity readiness is considered reactive, with limited structures for protection and response. It cited the key vulnerabilities to include overdependence on foreign tech, weaknesses in critical infrastructure systems, inadequate cybersecurity investment, inadequate regulatory frameworks, and insufficient cybersecurity awareness. NIS further submitted that Kenya also faces challenges such as limited threat visibility, rising cybercrimes, lack of information sharing, and the use of digital platforms by criminal groups.

351. The NIS highlighted cyber sabotage (disruption of critical infrastructure), cyber espionage (theft of data), cyber terrorism (using technology for violent acts), and cyber

subversion (propaganda and misinformation) among the predominant manifestations of cybercrimes in Kenya. Further, the NIS noted that the numerous incidents in 2023 illustrate these threats, including ransomware attacks on government and private entities, data breaches, and phishing attacks.

352. The NIS submitted that one of the most prevalent cyber threats is phishing attacks, where backers impersonate reputable entities or trading platforms to trick users into revealing sensitive information. The NIS further submitted that malware poses another substantial risk, with crypto-mining malware exploiting the computational power of infected machines and wallet-stealing malware compromising digital assets. The NIS submitted that fraudulent trading platforms have emerged, resulting in substantial financial losses for unsuspecting users.

353. On the concerns about the security of cryptocurrency accounts, the NIS submitted that users access their digital assets through private keys, and if the keys are not securely stored, they can be vulnerable to theft. Moreover, the NIS submitted that the lack of regulatory oversight in the cryptocurrency space leaves investors without adequate protection and legal recourse in the event of fraudulent activities.

354. On third-party application of cryptocurrency, the NIS submitted that the same is useful for monitoring cryptocurrency prices and managing portfolios, but can pose risks, especially when they require sharing sensitive information with developers. The NIS also noted that money laundering and terrorism financing have made cryptocurrency vulnerable, as the anonymity of cryptocurrencies has been exploited for illicit financial activities.

355. On the identity theft through SIM card fraud, where stolen identities are used to fraudulently register SIM cards and engage in cryptocurrency transactions. To mitigate these risks, individual crypto traders should carefully read and understand the terms and conditions of trading platforms, double-check the legitimacy of websites, enable two-factor authentication (2FA) or multifactor authentication (MFA), exercise caution when using third-party applications, and avoid using trading platforms as long-term storage for digital assets.

356. The NIS also enumerated the economic implications of cryptocurrencies, including financial inclusion, remittances, investment opportunities, potential impacts on monetary policy, and taxation challenges. It also noted the regulatory implications of cryptocurrencies to encompass consumer protection, anti-money laundering (AML) and know-your customer (KYC) procedures, market integrity, investor safety, financial enter stability, international competition, and legal recognition.

357. The NIS noted that blockchain has several advantages in Kenya, including combating corruption, reducing national debt through digital asset frameworks, improving democracy

and elections, promoting financial inclusion, enhancing agriculture and food security, streamlining land titling, and facilitating affordable housing.

358. The NIS however, noted that cryptocurrencies also pose security concerns due to their potential for anonymity, borderless transactions, difficulty in tracing decentralization, lack of third-party intermediaries, and limited regulation. In acknowledging the opportunities and risks presented by cryptocurrencies, the NIS submitted that it has established an internal Working Group dedicated to investigating cryptocurrency-related activities and emerging trends. The Working Group engaged in consultations with various regulatory bodies and institutions, including the Central Bank of Kenya, Capital Markets Authority, Kenya Revenue Authority.

359. The NIS submitted that while cryptocurrencies offer economic benefits and innovative applications, they also raise complex regulatory and security challenges that require careful consideration and balanced approaches to ensure responsible and safe use in Kenya. NIS also submitted that blockchain intelligence tools can help government regulators detect and mitigate illicit financial activities, and public awareness campaigns are needed to educate the populace about cryptocurrency risks and mitigation strategies. The NIS went on to noted that to mitigate the threats, it has taken measures such as cybersecurity sensitization programs, system security audits, cyber operations, and issuing advisories to relevant government agencies

360. Further, the NIS underscored the need to develop a comprehensive national cybersecurity risk management framework, acceding to international conventions, developing regulations for emerging technologies, strengthening legal frameworks, enhancing governance and coordination, investing in cybersecurity capacities, improving threat monitoring and enhancing international cyber cooperation.

361. The NIS noted the need to integrate cyberspace as the fifth dimension of warfare in the National Security Strategy (NSS) due to its cross-cutting and cross-border dimensions and influence on the socio-economic status of the nation.

362. The NIS urged policymakers to formulate and enforce regulations governing virtual assets and providers to combat fraud, money laundering, and terrorism financing. It further submitted that international cooperation among regulatory authorities is essential for effective monitoring of cryptocurrency service providers and maintaining regulatory efficacy.

363. On its part, the NIS submitted that it has employed an elaborate and robust protocols and strategies to monitor cryptocurrency activities for financial crimes and terrorism. The NIS submitted that the Worldcoin and other cryptocurrency platforms have been under close monitoring by the Service for signs of money laundering and terrorism financing. It further

submitted that the strategies employed have been effective, although they may need to be complemented by enhanced law and policy.

364. On money laundering and terror financing, the NIS informed the Committee that it began monitoring Worldcoin when it started hiring its sales team and they monitored them alongside other cryptocurrencies but Worldcoin did not meet their threshold on national security reconciliation revolving around potential links to financial crimes, money laundering and terror activities and looked at it as a normal emerging cryptocurrency. The NIS submitted that analysis had not established any indications of money laundering or terror financing by Worldcoin.

365. On how to secure crypto from being used as a tool for money laundering and funding of terrorism, the NIS submitted that Kenya needs clear legislation outlining what is money laundering and what is not as well as giving us the capabilities to be able to fuel the space and also regulate it. The NIS noted that regulating cryptocurrency can only be done through legislation as well as adequate allocation of resources in terms of funding to allow government entities charged with the responsibility to be able to undertake their mandate since the tools that are required and must be invested upon are not very cheap.

366. The NIS noted that it has recognised the growing influence of cryptocurrencies, and has included cryptocurrency-related activities in their intelligence and counterintelligence efforts. The NIS noted that an initial focus was on a local cryptocurrency project called NURUCOIN, which was involved in fraudulent activities amounting to KES 27 billion, and that the matter was referred to the Directorate of Criminal Investigations (DCI) for further action.

On whether cryptocurrencies are potential avenues for money-laundering

367. The Financial Reporting Centre (FRC) submitted that the rapid evolution of financial technologies and the increasing prominence of virtual assets have brought forth new challenges and opportunities for the financial sector. FRC noted that as virtual asset adoption grows, it becomes imperative to establish a regulatory framework that promotes transparency, security, and compliance.

368. FRC described virtual assets as a form of digital or virtual currency that utilizes cryptography for security. It went on to note that the assets exist purely in digital form and are typically decentralized, meaning they are not controlled by any central authority like a government or financial institution.

369. Statistically, FRC submitted that the number of virtual asset owners have increased, particularly in the last two years. AFRC noted that a wealth report carried out by *Knight Frank* in 2022 stated that 6% of Kenya's dollar millionaires own Non-Fungible Tokens (NFTs). Additionally, a report by *United Nations Conference on Trade and Development*

(UNCTAD) states that 8.5 percent of the Kenyan population or 4.25 million people own cryptocurrencies.

370. Based on open-source research, Kenya had a growing ecosystem of virtual assets with a growing interest in cryptocurrencies being used for various purposes like investment, cross border payments and online transactions. The Chainalysis report 2022 Geography of Cryptocurrency Report places Kenya in position 19 on crypto adoption and position 5 with peer-to-peer exchange.

371. However, upon evaluation of the Kenyan regulatory landscape, there is an apparent gap in definitive regulatory and Institutional framework that covers the Virtual Asset and Virtual Asset Service Providers sector. Most of the activities carried out by the service providers tend to be regulated by the already present financial institutions. These institutions have neither classified nor issued guidelines on the various Virtual Assets and Virtual Asset service providers in the country.

372. FRC submitted that the Kenya's Anti-Money Laundering and Terrorism Financing Mutual Evaluation Report 2022 rated the country non-compliant with FATF Recommendation 15 on the general and comprehensive requirements of regulation and risk assessment of VAs and VASPs. The main reason for the rating was a lack of legal and enforceable regulation and policies to regulate the VA sector. The Mutual Evaluation recommended that Kenya should take a policy decision as to whether to prohibit or allow VASPs in Kenya. Where a position is taken to allow VASPs, licensing/ registration requirements should be implemented, and a risk assessment relative to ML/TF risks with regards to their operations should be conducted. Additionally, a framework for supervision of VASPs for AML/CFT should be set up.

373. Further, on September 1st, the Finance Act 2023 introduced a 3% tax to apply to all digital assets transactions, crypto currencies included came into force. The introduction of tax on blockchain transactions is step in the right direction toward recognizing virtual assets and blockchain transactions in law. However, taxation of the sector may face some challenges as there are no laid down laws, regulations, procedures or defined institutions currently that regulate or supervise virtual assets and virtual asset service providers.

374. While noting that cryptocurrencies are unregulated and not criminalized in Kenya, CBK submitted to the Committee that it is currently monitoring global trends in cryptocurrency regulation and anti-money laundering measures. However, CBK submitted that it is actively working towards establishing a clear policy position on cryptocurrencies and virtual assets

On the role of DCI in detection and monitoring of cybersecurity and cybercrimes in Kenya

375. The DCI informed the Committee that section 35(b), (d) and (i) of the National Police Service Act No.11A of 2011 mandates the Directorate of Criminal Investigations with the responsibility of detecting and investigating cybercrimes. The Act also charges the DCI with the responsibility of coordinating the country's INTERPOL Affairs. In addition, Section 47 of the Computer Misuse and Cybercrimes Act, 2018 sets out the powers and investigation procedures of offences under the Act and grants the powers to the National Police Service among other relevant Government agencies.

376. The DCI, further noted that the DCI has a dedicated Cyber Forensic Laboratory that facilitates investigators in collection, forensic analysis, preservation and presentation of digital and electronic evidence in courts. The DCI went on to note that the Digital Forensic Lab has a section that conducts internet patrols whose main task is to identify any scam targeting Kenyans and/or any information about Kenyans published in the dark-web/dark-net and they prepare reports which are shared with cybercrime investigators for action. The DCI further noted that the Crime Research & Intelligence Bureau and the Investigations Bureau within the DCI play a critical role in detection, investigation, preservation and documentation of evidence as well as identification and apprehension of suspects.

377. DCI informed the Committee that his directorate is an alternate member of National Computer and Cybercrimes Co-ordination Committee (NC4) and also has officers seconded at KE-CIRT/Coordination Centre and other institutions. DCI noted that it also works hand in hand with other government regulatory agencies, telecommunication service providers and other foreign law enforcement agencies. They also collaborate on cybercrime issues at the sub-regional by participating in East Africa Police Chiefs Co-operation Organization (EAPCCO) annual meeting through various committees and sub-committees, cybercrime sub-committee being one of the key committees.

378. In addition, they are also in the regional and international level by participating in the INTERPOL cyber surge project which is an initiative by INTERPOL for the African region that involves law enforcement officers from member countries. The African Union Police Initiative (AFRIPOL) and INTERPOL's African Joint Operations against Cybercrime (AFJOC) in collaboration with INTERPOL's Cyber Fusion Centre (CFC) and INTERPOL's private partners performed an extensive analysis on malicious and vulnerable infrastructure within member country jurisdiction and generated a Cyber Activity Report (CAR). Mr. Amin submitted that the CAR was disseminated to Kenya as one of the member countries via Kenya's INTERPOL National Central Bureau (NCB). The operation is currently ongoing with expectations to advice all vulnerable Internet Service Providers (ISP) and inform all Critical Information Infrastructure (CII) on their targeted assets.

379. The DCI informed the Committee that it is a member of the African Heads of Cybercrime Units initiative where all heads of units meet annually under the auspices of INTERPOL with the aim linking the unit heads to enable collaboration and co-operation. The initiative has helped in sharing of intelligence, vulnerabilities, challenges and best practices. The DCI further noted that the DCI is also a member of INTERPOL Global Complex for Innovation (IGCI) that brings together experts from a wide range of backgrounds through INTERPOL Innovation Centre which develops contemporary and creative solutions to challenges in policing. IGCI facilitates thought leadership and connects law enforcement, academia and private sector partners to exchange knowledge and explore new technologies and emerging cyber threats.

380. The DCI further informed the Committee that their investigators have engaged various Government regulatory agencies such as Central Bank of Kenya, Communications Authority, Office of the Data Protection Commission, Registrar of Companies, Capital Markets Authority, Kenya Bureau of Standards, Nuclear Power and Energy Agency, Consumer Protection Agency and INTERPOL to give an input in the investigations and investigations were at an advanced stage and shall share their recommendations with the ODPP upon conclusion.

381. In conclusion, the DCI echoed to the Committee that the Investigations into the Worldcoin operations and activities were at an advanced stage and that the investigators were exploring all legislations that could have been violated including but not limited to; Penal Code, Computer Misuse and Cybercrimes Act 2018, Data Protection Act 2019, Kenya Information & Communication Act, Proceeds of Crime and Anti-Money Laundering Act, 2009, Prevention of Terrorism Act 2009 and The Companies Act 2015.

382. The DCI also noted the urgent need for additional budgetary allocation to enable the DCI improve the capacity of the cybercrime unit through regular trainings and provision of equipment justifying that the ICT world is dynamic and ever-changing thus the need to deal with threats while appreciating innovation. The DCI further noted that owing to the emerging new technologies like Artificial Intelligence, malwares, ransomwares and botnets, the DCI recommend that more funding be channeled to the Directorate to enable development and enhancement of modern simulation laboratories, malware laboratories and penetration testing tools among others. In addition, the Directorate requires to purchase International Mobile Subscriber Identifier (IMSI) catchers which will enable it to fully handle its mandate of detection, prevention and investigations of crime.

On the capacity of the Kenyan authorities to ensure cybersecurity

383. On the qualifications of the officers currently managing Kenya's cybersecurity, the DCI informed the Committee that they have a DCI cyber -comprehensive unit comprising of graduate officers in ICT are well trained both locally and internationally as well as exposed

to best international practices currently managing cyber lab and that they shall continue to recruit best brains in the market so that they are up to speed with happenings in the contemporary world.

384. The DCI added that despite the constant attacks from both local and foreign entities, they are well placed and well-grounded in addition to having a well-trained team to help in performing their duties to the best of their capacities. The DCI noted that that it has an Incident Response Team Unit that responds to all incidences that happen within the country and also collaborate with other government agencies like the Central Bank of Kenya, Communication Authority of Kenya and Information and Communication Technology Authority. The DCI further noted that it has seconded four officers at the Kenya Computer Incident Response Team coordination Centre (KE-CIRT/CC) who participate in all operations.

385. On collaboration with other jurisdictions, the NIS informed the Committee that when it comes to critical installations and assets, the NIS is very careful about collaboration and cannot open up their critical infrastructure to each and every person. The NIS noted that even though they have close allies, they still have Kenyans interests at heart that they have to safeguard. The NIS further submitted that they do collaborate with other countries, but with limitations. The NIS noted that they have a very robust research and innovation department as well as the requisite human resource and they are trying to create their own solutions, software and hardware so as to become less dependent on foreign equipment and software. The NIS further noted that most of their software are in-house and only collaborate with other countries in case of something that they cannot get and when they get it, they try to do reverse engineering and ensure that they are able to do and create their own so that they are completely safeguarded against cyber espionage and sabotage.

On whether the ODPC has collaborated with other state agencies to effectively discharge its mandates under the Data Protection Act, 2019

386. The Data Commissioner submitted to the Committee that the ODPC in collaboration with other agencies from CA, CBK, Ministry of ICT and Digital Economy, NC4 and a Data Protection professional commenced investigations to ascertain the activities of *Worldcoin* in Kenya. From the investigations, the ODPC established that:

a) TFH Corp and TFH GmbH were registered as data controllers by the ODPC;

b) TFH, Worldcoin Foundation and World Assets Limited are not required to register as foreign companies before authorization to operate as data controllers/processors in Kenya, and thus were not registered as foreign companies under the Companies Act, 2015;

c) TFH & *Worldcoin* were, through their products – World App, World ID and Worldcoin Protocol collecting personal and sensitive personal data. The location of the data remains unclear but includes – Italy, South Africa, Germany, Poland and United States.

d) From a preliminary review of the documentation, the security of the data cannot be impeached. However, there is need for the Government to conduct an independent security audit.

e) TFH indicated that the precise number of verified Kenyan users is 508,569.

f) The purposes of collection of the personal data varied and included provision of World ID, provision of Worldcoin, development, training and testing machine learning models.

g) From the evidence available, the consent obtained from Kenyans was insufficient and did not comply with Section 32 of the Data Protection Act, 2019.

387. The Data Commissioner further submitted that the multiagency team made the following recommendation:

a) The current suspension on operations of TFH in Kenya to continue for a period of 12 months until the data controller satisfies to have met specified conditions including – a security audit, provide the Government access to the data, registration with BRS, establishment of a local representative, simplify their consent, carry out a DPIA and provide clarity on data storage.

b) Cancellation of the Data Controller Certificates for TFH Corp and TFH GmbH for - failure to comply with the ODPC directive of 30th May, 2023 to cease and desist processing of sensitive personal data, failure to conduct a DPIA on the new processing operations and inconsistencies on where the Kenyan data is stored.

c) Worldcoin applies to a registered Kenyan Regulatory Sandbox Program (preferably Capital Markets Authority sandbox) which allows for the project's products, solutions and services to be tested before roll out to the Kenyan market.

d) World App to be pulled down from all App Stores within the Kenyan Region until recommendations number 1 to 3 are fully and satisfactorily met.

e) Legal reforms on:

(i) data localization requirement for large scale collection of sensitive personal data;

(ii) ODPC be allowed discretion in issuance of administrative fines;

(iii)companies conducting commercial activities of significant impact to national security and economy to have a physical office in Kenya.

f) AG, CMA & CBK spearhead regulation of digital assets and cryptocurrency (define the same as 'securities' under CMA Act.

g) KRA to monitor the identified companies for payment of income tax on income derived from cryptocurrency in accordance with the Finance Act, 2023.

On the measures to indemnify Kenyans from unlawful use of data by Worldcoin or its agents

388. The Data Commissioner submitted to the Committee that the Data Protection Act is a self-healing statute which provides for safeguards to Kenyans against unlawful use of their data by a data controller or data processor. She further submitted that in order to protect data subjects, the Act has empowered the ODPC to:

a) cancel a data controller's certificate as provided in section 22 of the Data Protection Act;
b) issue enforcement notices as provided in section 58 of the Data Protection Act, issue penalty notices as provided in Section 62 of the Act;
c) issue administrative fines as provided in section 63 of the Data Protection Act; and
d) direct the compensation to the data subject as provided for in section 65 of the Data Protection Act.

389. The Data Commissioner went on to state that the foregoing provisions are sufficient indemnification provisions to ensure that data subjects can be indemnified in cases where unlawful use has occurred. In the interim, the Data Commissioner submitted that it had taken a raft of measures including the revocation/cancellation of the registration certificate No. 139-138A-E5D9 and registration certificate No. 325- 9256-645E earlier issued to TFH Corp and TFH GmbH respectively on 5th September 2023.The Commissioner further noted that pursuant to section 58 of the Act, the ODPC had issued Enforcement Notice to *Worldcoin.*

390. The Data Commissioner further stated that if investigation conducted establishes that there has been violation of data subject, the data subject has the right to have personal data erased and forgotten as provided under section 40 of the Data Protection Act. The Data Commissioner further observed that in the recommendations of the multi-agency, an audit should be conducted in the case of *Worldcoin* to confirm that information has actually been deleted if they are found guilty of violating data subject rights. The Commissioner further submitted that the Act provides for compensation of data subject in case the individual files for breach.

391. The assertions by the Data Commissioner were affirmed by the Worldcoin which submitted that a user can revoke her consent and have her image data and World App

account data deleted at any time directly in World App, through the online request portal at worldcoin.org/requestportal or via email.

392. The AG also submitted that at this point of time, it is unclear to the Office of the Attorney General, the intention behind the cataloguing of Iris scans, whether the biometric data collected will be utilized for the intended purpose, if Kenyans who participated were afforded an opportunity to opt out of the storage of their biometric data and indeed if informed consent was garnered from the citizens who participated in the endeavor.

393. The Committee sought to know if there are other independent audits done on the algorithms of *Worldcoin*, the Worldcoin submitted that there have been independent audits run by other firms to cross examine Worldcoin and the information was provided to the ODPC. The Worldcoin submitted that the information was stated in their website to ensure transparency.

On the potential impact of cryptocurrencies on the banking sector in Kenya, and the possible remedial measures

394. FRC submitted that CBK issued a public cautionary statement and circular to financial institutions on trading in cryptocurrency thus limiting access to banking services for cryptocurrency-related businesses leading to an increase of peer-to-peer trading.

395. FRC noted that Kenya has included crypto currencies, NFTs and transactions carried out on the blockchain in the definition of digital assets. According to FRC, that implies that transactions carried out on the blockchain are now required to pay 3% tax of the total transaction. FRC noted however, that the Kenya Revenue Authority (KRA) is yet to communicate on guidelines or the procedure for tax remittance.

396. FRC reported that in January 2023, the Financial Sector Regulators Forum, a joint body of all financial sector regulators in Kenya resolved to work together to work on recommendations for the establishment of an oversight framework to regulate blockchain activities in Kenya. FRC submitted that the Forum came up with the Capital Markets (Amendment) Bill 2023 to amend Section 2 of the Capital Markets Authority Act to include definitions on blockchain, crypto currencies and crypto miners.

397. FRC submitted that the Capital Markets (Amendment) Bill, 2023 proposed an amendment to the definition of securities under the Act by including digital currencies. FRC submitted that the Bill defines digital currencies as digital representations of value that lack the legal status of currency or money and are not issued or guaranteed by a central bank or public authority. According to FRC, the Bill also proposes to have a baseline of 10,000 customers and an operation period of two years for VA to be allowed to enter the Kenyan market by CMA.

398. Moreover, FRC submitted that the proposal provides that for a person to be granted a license to trade in digital currency they must first register with CMA, keep a record of all transactions and pay tax on any gains made on transactions carried out on the trading platform.

399. FRC further submitted that in June 2023, it set up a multi-agency working group to conduct a risk assessment with the aim of identifying, understanding, and assessing the overall ML/TF risks related to VA and VASPs in the country. In that regard, FRC noted that the assessment is at data collection stage with FRC having circulated the relevant questionnaires to the public, reporting entities, law enforcement agencies and other appropriate entities.

400. In April 2023, the National Treasury and Economic planning established a Committee to develop an oversight framework for crypto assets activities and players in Kenya with a view to addressing policy and regulatory gaps identified in Kenya's Mutual Evaluation Report.

401. When asked about the potential impact of cryptocurrencies on the banking sector in Kenya, and the remedial measures measures being considered to address the challenges CBK recognized that cryptocurrencies and blockchain technology have the potential to disrupt traditional banking services. CBK noted that the disruption of traditional banking services by cryptocurrencies and the blockchain technology is a global trend, and CBK is closely monitoring developments in the space to understand their implications for the financial sector in Kenya.

402. CBK submitted that whereas there are potential benefits to adopting blockchain technology and digital assets, such as increased efficiency and reduced costs, there are also risks and challenges that need to be addressed. CBK went on to enumerate the following areas for consideration:

a) Cryptocurrencies and blockchain technology can drive competition and innovation in the financial sector, thus, banks need to adapt and explore ways to incorporate blockchain technology into their operations to remain competitive.

b) To mitigate risks and ensure stability, it is essential to establish clear and comprehensive regulations for the use of cryptocurrencies and digital assets. This will provide a level playing field for both traditional banks and emerging fintech companies.

c) Collaboration between traditional banks and fintech companies is beneficial. Banks should explore partnerships and collaborations with fintech firms to leverage the technology while maintaining regulatory compliance.

d) Banks should assess the potential risks associated with cryptocurrencies and develop risk management strategies. This includes addressing issues related to money laundering, fraud, and customer protection.

e) Central bank digital currency (CBDC). Some central banks around the world are exploring the development of CBDCs, which are digital versions of a country's fiat currency. The Central Bank of Kenya is also studying the possibility of issuing a digital currency, which could coexist with physical cash and provide a secure and efficient payment system.

403. Further, CBK submitted that whereas cryptocurrencies and blockchain technology pose challenges to traditional banking, they also offer opportunities for innovation and efficiency. CBK noted that it is committed to fostering a competitive and secure financial sector that can adapt to the changes while maintaining stability and protecting consumers. CBK submitted that it will continue to assess and respond to developments in the rapidly evolving landscape

On the capacity of the Central Bank of Kenya to regulate cryptocurrencies and other emerging technologies in the financial sector

404. When asked about the capacity of CBK to manage emerging technologies like blockchain and artificial intelligence within its current mandate and what the committee could do to safeguard Kenya's financial system, the Governor CBK submitted that they have been proactive in staying updated with new technologies, including Central Bank Digital Currency (CBDC) research and payment system innovations. CBK assured the Committee of its commitment to financial stability and staying updated with technology.

405. When asked to explain the approach of CBK to regulating cryptocurrencies and the considerations taken in developing the approach, CBK submitted as follows:

a) CBK has actively explored the concept of central bank digital currencies (CBDCs). They conducted research, engaged in public participation, and received comments from various sources globally, considering both the advantages and disadvantages.

b) CBK believes that Kenya is currently in a reasonably good position regarding financial inclusion and digital payments. M-Pesa, for example, has significantly improved financial inclusion over the past decade.

c) CBK does not consider the introduction of a central bank digital currency to be a top priority at this stage. Instead, the focus is on identifying challenges in the existing payment system and improving it to further enhance financial inclusion.

d) CBK is closely monitoring developments in the cryptocurrency and digital payment space, acknowledging the adoption of Bitcoin as a legal currency in some countries such as Namibia and the Central African Republic.

e) CBK is not ignoring these developments but is exercising caution to maximize opportunities while minimizing risks associated with rapidly evolving technologies. They recognize the potential risks related to issues like money laundering and terrorism financing.

CHAPTER FOUR

4.0 COMMITTEE FINDINGS AND OBSERVATIONS

4.1 Committee Findings

406. Arising from the first term of reference, on the operations and the ultimate objectives of the activities of Worldcoin in Kenya, the Committee made the following findings.

THAT:

1) Worldcoin is a cryptocurrency platform that aims to provide universal access to the global digital economy by authenticating individuals using iris scans. It is an ecosystem comprising three components; privacy-preserving digital identity network (World ID) built on proof of personhood, Worldcoin Token (WLD) and Application wallet (World App). To participate, a user is required to register through mobile app downloadable from the website www.worldcoin.org using a smart device and undergo iris scan via biometric device called Orb.

2) The Worldcoin is a global project initiated by Tools for Humanity GmbH, a global software and hardware development company based in Berlin, Germany and Tools for Humanity Inc. based in the USA. The project operates in thirty-four (34) other countries. It does not however, operate in the US and China due to lack of clear regulatory framework.

3) TFH Corp and TFH GmbH are the two companies registered as data controllers in Kenya on 15th September, 2022 and 18th April, 2023 respectively, but data was moved to Worldcoin Foundation which was not a registered data controller or processor in Kenya.

4) To verify the authenticity of the user as a true and unique human being, the user's iris is scanned using the Orb, a device provided by TFH. The iris image is converted into a digital code which is then transmitted to the TFH third party servers hosted by Amazon Web Services in South Africa.

5) The Orb is a telecommunication device with a capability to transmit real time iris images converted into digital code to their third-party servers hosted outside the country and not a biometric scanner as claimed to have been declared at the point of entry in Kenya. Despite being a telecommunication device, the orbs did not undergo type approval by the CA as required by the ***Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010***.

6) In Kenya, Worldcoin deployed orbs in over thirty (30) locations in Nairobi including malls and learning institutions and started collecting data in public places in May 2021,

before registering as data controllers contrary to section 19(7) of the Data Protection Act, 2019. This fact only became known to ODPC in April 2022, and to the MoICDE and other Government agencies towards the end of July 2023. This is after the registration went live at KICC on 24th July 2023 and when the matter became of grave public concern after long queues of people seeking to register were experienced.

7) Worldcoin enticed Kenyans to subscribe to the platform by issuing 25 Worldcoin Tokens on verification. The tokens were to be converted to USDt, a virtual US dollar on a cryptocurrency exchange then converted to Kenyan currency. Each Worldcoin token was worth USD 2.1 or KES 299 which translated to a total of USD 54 or approximately KES 7,700 at the time.

8) In order to sign up for World ID and receive free share of Worldcoin token, a person verifies their unique personhood using an Orb. The orb contains a variety of camera sensors and machine learning models that analyze facial and iris features. Once that determination is made, the orb takes a set of pictures of the person's irises and uses several machine learning models and other computer vision techniques to create an iris code, which is a numerical representation of the most important features of an individual iris pattern.

9) Worldcoin continued to engage in data collection involving sensitive personal data in Kenya in total disregard of cessation directive issued by the ODPC on 30th May, 2023. The registration of Kenyans by Worldcoin online App is still going on despite the pendency of a court order and other administrative directions halting the same in entirety.

10) Worldcoin did not disclose the cease order issued by the ODPC to their orb operators as disclosed by Sense Marketing hence, they continued with their operations without sensing any illegality.

11) The promoters of *Worldcoin* misled consumers by using deceptive marketing strategies to induce people to exchange their personal data with tokens thus contravening their consumer rights in contravention of section 12 of the Consumer Protection Act, 2012.

12) There is a possibility that minors were registered and scanned by the Worldcoin, since they did not have proper mechanisms for verifying the age of the data subjects.

13) It is hard/impossible to establish the exact number of orbs in the country. The various witnesses stated with uncertainty that there were forty-eight (48) orbs in the country.

407. Arising from the second term of reference, on the legal and regulatory compliance of operations of Worldcoin and its agents in Kenya, the Committee made the following findings.

THAT:

1) The Committee found Tools for Humanity Corp and Tools for Humanity GmbH, Germany (Worldcoin) being culpable of violating Kenyan laws, including sections 19 and 48 of the Data Protection Act, 2019, section 12 of the Consumer Protection Act, 2012, the Computer Misuse and Cybercrimes Act, 2018 and Regulation 24 of the Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010. Their activities constituted acts of espionage and a threat to statehood.

2) Worldcoin, Tools for Humanity Corp (USA) and Tools for Humanity GmbH (Germany) do not appear in the Business Registration Services database of registered businesses or companies in Kenya and hence lack the legal mandate to transact any business in Kenya according to Part XXXVII of the Companies Act, 2015.

3) Despite collecting data on behalf of Worldcoin, Sense Marketing Ltd and other local partners were not registered as data processors and/or controllers as required by section 18 of the Data Protection Act.

4) Having noted the Orb is a telecommunication device with a capability to transmit real time iris images converted into digital code to their third-party servers hosted outside the country, the orbs did not undergo type approval by the CA contrary to the ***Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010***.

408. Arising from the third term of reference, on whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya, the Committee made the following findings.

THAT:

1) The Cabinet Secretary for Information, Communication and the Digital Economy misled the country on the status of Worldcoin in Kenya. The Committee took note of the television interview with NTV on 2nd August, where the Cabinet Secretary stated that:

> "As far as the Data Act 2019 is concerned, they (Worldcoin) are acting within the law. The ODPC got wind of this, wrote to the entity and they have had several meetings. We are going to approach this issue from a multifaceted approach, [...]"

2) The Committee noted that the foregoing statement was inconsistent with the submission dated 11th September, 2023 by the Cabinet Secretary for Information, Communication and the Digital Economy to the Committee. In the said submission, the Cabinet Secretary noted that while the Worldcoin started collecting data in public places in 31st May, 2021

and applied for registration as data controllers in Kenya on 22nd August, 2022, one year after commencing their activities in Kenya, contrary to section 18 of the Data Protection Act, 2019.

3) When tasked to respond to the contradictory statements, the Cabinet Secretary denied the said statements at the Plenary and during the proceedings of the Ad hoc Committee, claiming no knowledge of the statements alluded to, whereas it is in the public domain that the Cabinet Secretary made the said statements in an interview with a national television.

4) The Committee noted that all concerned government entities only became aware of the Worldcoin activities way after they had commenced their operations in Kenya, following public uproar.

5) Worldcoin declared the orbs as biometric scanners only but not as telecommunication devices as well. The Committee therefore, was unable to establish whether the Commissioner of Customs has mechanisms in place to physically inspect electronic gadgets imported into the country, and whether there are mechanisms to collaborate with other related government agencies like the Communications Authority of Kenya.

6) KICC did not conduct due diligence on the nature of activity planned to be held at their facility including which product was being activated, but went ahead and offered authorization based on the fact that they had collaborated with the client (Exp Momentum) on numerous occasions in terms of bringing business to the facility.

7) The ODPC received a Data Protection Impact Assessment (DPIA) from TFH Corp and TFH GmbH, prior to registering the two companies as data controllers, pursuant to the Data Protection Act, 2019 and the ***Data (Protection Registration of Data Controllers and Data Processors) Regulation, 2021***.

409. Arising from the fourth term of reference, on the nature, use and safety of data collected by Worldcoin in Kenya, the Committee made the following findings.

THAT:

1) Despite the claim by Worldcoin that data collected was safely stored in Amazon Web Services based in South Africa, it was not clear whether the data stored could be retracted and deleted should need arise.

2) The transfer of personal data outside Kenya did not comply with the provisions of section 48 of the Data Protection Act.

3) It is unclear whether there are any security measures taken by *Worldcoin* to ensure the safety of data collected and whether there would be a possibility for forensic analysis on the same.

410. Arising from the fifth term of reference, on the organizational structure and the activities of Worldcoin, the Committee made the following findings.

THAT:

1) The Worldcoin project was co-founded in 2019 by Mr. Alex Blania and Mr. Sam Altman, a US tech entrepreneur and the CEO of OpenAI, the company that created ChatGPT. Piotr Piwowarczyk is the Regional Representative; Wangechi Mwangi, the East African Manager; and Rael Mwende, the Marketing Specialist. Worldcoin partnered with other local representatives including Sense Marketing, Exp Momentum, Platinum D Plus and Hezron Gikonga.

2) Tools for Humanity Corp was founded in 2019 in Delaware, United States and headquartered in San Francisco, California, United States. Tools for Humanity GmbH, a limited liability company headquartered in Erlangen, Germany, is a subsidiary wholly-owned by Tools for Humanity Corporation.

3) The Worldcoin Foundation was founded in October 2022 to support and grow the community of Worldcoin protocol users and developers until the community becomes self-sufficient. The Foundation is an exempted limited guarantee foundation company incorporated in the Cayman Islands, and is independent of TFH.

4) The Worldcoin Foundation is not registered in Kenya as data processor or controller but is handling Kenyan data.

5) Worldcoin Foundation submitted that their aim is to realise more inclusive, fair, and just institutions of governance and of the global digital economy. The Committee found that whereas Worldcoin claim that their main intentions are proof of personhood and establishment of World ID, their real intention is inclined on decentralization of the global monetary system.

6) The Worldcoin Foundation is the sole member and sole director of World Assets Ltd., a business company incorporated in the British Virgin Islands. World Assets Ltd. is the entity responsible for issuing the 75% of all Worldcoin tokens (WLD) that have been allocated to the Worldcoin community.

411. Arising from the sixth term of reference, on the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries, the Committee made the following findings.

THAT:

1) The Committee was not able to establish the source of money or inducement given to those who complete the Orb verification process.

2) There was no fiat currency compensation paid to Kenyans for completing the Orb verification process, rather, Worldcoin was issuing 25 WLD tokens. People could then choose to trade those WLD tokens in the open market through peer-to-peer exchange.

412. Arising from the seventh term of reference, on whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the Country, the Committee made the following findings.

THAT:

1) The committee received submissions from witnesses that they developed health complications including stress and stigma which the Committee recommended that they should seek further medical check-up from competent medical practitioners to ascertain the health complications.

2) The Ministry of Health is yet to receive any reports of health hazards caused by the activities of Worldcoin in Kenya.

413. Arising from the eighth term of reference, on the legal and regulatory gaps that permitted operations of Worldcoin in Kenya, the Committee made the following findings.

THAT:

1) There is need for a stand-alone legislation to regulate new and emerging technologies, including virtual assets, digital platform services, social media services and over-the-top services.

2) The Data Protection Act, 2019 and the regulations thereunder do not sufficiently address key issues like the establishment documents to be presented to the Data Commissioner to ascertain eligibility for issuance of a certificate as a Data controller and/or processor as a juristic person.

3) The provisions of the Data Protection Act on registration of data controllers and data processors does not expressly require foreign entities to provide proof of registration as foreign companies under Part XXXVII of the Companies Act as a prerequisite for registration.

4) The Data Protection Act, 2019 lacks proper mechanisms for the enforcement of the rights of the data subjects and procedures for thorough vetting of local and foreign data controllers and/or processors.

5) There is a lack of a comprehensive legal framework to regulate emerging markets in virtual assets. This has exposed the country to inherent risks including speculative trading, high price volatility, possibility of criminal activities, tax evasions, financing terrorism, money laundering, data theft and financial fraud.

6) There is disharmony between the Data Protection Act and Part XXXVII of the Companies Act which seem not to expressly require foreign companies to provide proof of registration as foreign companies under Part XXXVII of the Companies Act as part of establishment documents.

414. Arising from the ninth term of reference, on the emerging issues, the Committee made the following findings.

THAT:

1) Kenya ranks first on the adoption and use of cryptocurrency globally for peer-to-peer trading volume. Bitcoin, Ethereum and Ripple are the most used cryptocurrencies in Kenya.

2) Despite the introduction of a digital asset tax through the Finance Act, 2023, payable on the transfer of digital assets, there is no mechanism for monitoring transfers of digital assets to ensure compliance.

3) Information Communication and Technology is an enabler of development across all sectors. For the realization of digital transformation in Kenya, collaboration and a multi-agency approach will enhance adoption of technology.

4) Blockchain is a distributed database or ledger shared among computers on a common network. Each computer/node participates in the validation of transactions and the maintenance of the blockchain ledger. The nodes are responsible for storing a copy of the blockchain ledger, verifying the authenticity of transactions, and adding new blocks to the chain. The blockchain maintains a secure and decentralized record of transactions, ensuring that data remains immutable (cannot be altered) upon entry.

5) Cryptocurrencies on the other hand, are privately issued digital assets that depend primarily on cryptography and blockchain/distributed ledger technology (DLT). Cryptocurrency could be described as a decentralized, distributed record or "ledger" of transactions in which the transactions are stored in a permanent and near inalterable way using cryptographic techniques.

6) Blockchain slashes the cost of transactions and eliminate intermediaries like lawyers and bankers, and thus lowering the cost of doing business. With the increase in more internet technologies, the adoption of blockchain will require broad coordination and will take time to be adopted. Blockchain is the medium through which crypto-currency is transacted.

7) In blockchain, the data is chronologically consistent because it cannot be deleted or modified without consensus from the network and as a result, one can use blockchain technology to create an unalterable or immutable ledger for tracking orders, payments, accounts, and other transactions.

8) Unlike the fiat currency, cryptocurrency is a digital, encrypted and decentralized medium of exchange and that there is no central authority that manages and determines the value of the digital currency. Instead, the determination of the value of the virtual currency is through speculative tendencies of the users of the cryptocurrency.

9) Cryptocurrencies pose security concerns due to their potential for anonymity, borderless transactions, difficulty in tracing decentralization, lack of third-party intermediaries, and limited regulation in Kenya.

4.2 General Observations

415. Arising from the overall inquiry, the Committee made the following general observations.

THAT:

1) Worldcoin submitted that they are a project founded with the mission of creating digital identification platform (World ID) that aims to provide each person on earth with a convenient way to verify that they are real human and alive and not a bot (internet robot) and use the attendant data to train AI algorithms for future technological advancements. Further, Worldcoin's objective was to decentralize the global monetary system.

2) Worldcoin operated in Kenya despite lack of regulation in cryptocurrency but did not operate in the USA which they claimed lacked regulatory clarity on cryptocurrency leaving an impression that they exploited the weak legal framework in Kenya while respected that of USA despite the fact that both countries did not have regulations on cryptocurrency.

3) The rapidly evolving technological advancement present a global challenge in managing risks associated with Artificial Intelligence (AI), blockchain and virtual assets, demands the need for a more progressive and responsive regulatory framework in Kenya.

4) The requirement for virtual asset holders and virtual service providers to adhere to regulations across multiple jurisdictions makes it difficult to carry out cross border transactions. Additionally, registration of business in different markets is tedious as different countries have different guidelines on licensing and registration.

5) The Computer Misuse and Cybercrimes Act, 2018 does not clearly set out scope and elements of the offences under the Act.

6) The Data Commissioner is neither a member nor co-opted member of National Computer and Cybercrimes Coordination Committee (NC4).

7) The unregulated adoption and use of cryptocurrency as an attempt to fully decentralize the global monetary systems, poses threat to statehood.

8) There are two cases pending in Court relating to the operations of world coin being *Milimani High Court Judicial Review HCJR/E119/2023 (R vs. Tools for Humanity Corporation and Tools for Humanity GmbH and 7 Others ex parte Katiba Institute and Law Society of Kenya and 3 Others) and in Milimani High Court Criminal Miscellaneous Application No. E315 of 2023 (Office of the Data Protection Commissioner vs. Tools for Humanity Corporation and 2 Others.*

9) The Ministry of Interior and National Administration through the Directorate of Criminal Investigations, the Communication Authority of Kenya, Ministry of Information, Communication and the Digital Economy, the Office of the Data Protection Commissioner, and the National Computer and Cybercrimes Coordination Committee are currently conducting investigations on the activities of the Worldcoin in Kenya.

10) The Committee was unable to reach Exp Momentum, a South African company through their last known address for invitation as a witness to the proceedings.

11) There is a general lack of awareness among Kenyans on the provisions of the Data Protection Act, 2019 pertaining to the rights of data subjects.

12) The Committee was unable to establish whether the data subjects were actually given the monetary consideration promised.

CHAPTER FIVE

5.0 RECOMMENDATIONS OF THE COMMITTEE

416. **Based on the Committee's findings and general observations, the Committee makes the following recommendations: -**

THAT:

1) **The Cabinet Secretary for Ministry of Information Communication and the Digital Economy through the ICT Authority in consultation with relevant stakeholders to develop a comprehensive oversight framework and policies on virtual assets and virtual assets service providers in Kenya, within six (6) months of the adoption of this report and submit the same to the National Assembly to take appropriate legislative measures.**

2) **Within six (6) months of the adoption of this Report, the Cabinet Secretary for the National Treasury in consultation with the relevant stakeholders to develop regulations and enforcement infrastructure to ensure that virtual assets and virtual assets providers and their activities are adequately regulated and monitored.**

3) **The Director of Criminal Investigations and the Director of Public Prosecutions within three (3) months from the date of adoption of this report, to conduct investigations into the operations of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin) in Kenya and take the requisite legal action.**

4) **The Director of Criminal Investigations and the Director of Public Prosecutions within three (3) months of adoption of this Report to investigate into the activities of the local partners of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin) in Kenya to establish culpability of persons including Sense Marketing Limited, involved in aiding and abetting their criminal activities and take necessary legal action.**

5) **Within seven (7) days of the adoption of this report, the Communications Authority to disable the virtual platforms of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin), including blacklisting the IP addresses of related websites and to suspends their physical presence in Kenya until there is a legal framework for regulation of virtual assets and virtual asset service providers.**

6) **Parliament reviews the current legal framework, to; amongst other provisions -**

a) **Harmonize the Data Protection Act with Part XXXVII of the Companies Act to expressly require foreign companies to provide proof of registration as foreign companies under Part XXXVII of the Companies Act and to require foreign entities to provide proof of registration with local regulatory bodies before registration as data processors and/or controllers.**
b) **Provide for the requirement for full disclosure on how data controllers and processors will utilize and store personal and sensitive data collected in Kenya.**
c) **Provide discretion to the Office of the Data Protection Commissioner in imposition of administrative fines, by amending section 63 of the Data Protection Act, to align to global standards so as to ensure that entities take matters of data protection seriously.**
d) **Amend the Data Protection Act, 2019 to provide for a board where the Office of the Data Protection Commissioner reports or account to on its daily operations.**
e) **Provide clear tax remittance procedures on taxes imposed on transactions involving virtual assets under section 12F of the Income Tax Act.**
f) **Include Virtual Asset Service Providers as Reporting Institutions under the Proceeds of Crime and Anti-Money Laundering Act, 2009.**
g) **Review the Computer Misuse and Cybercrimes Act 2018 to fully deal with the current realities in the cyberspace including stationing multi-agency technical personnel at all border entry points to provide technical expertise on all technological equipment imported into the country.**
h) **Expand the scope of offences and develop the elements of offences under Part III of the Computer Misuse and Cybercrimes Act, 2018, and develop regulations under section 70 of the Act.**
i) **Review the Computer Misuse and Cybercrimes Act 2018 to co-opt the Data Commissioner or a representative of the Office of the Data Protection Commissioner as a member of the National Computer and Cybercrimes Coordination Committee.**
j) **Provide legislative intervention(s) to govern the collection of biodata from Kenyans which has implications on privacy, security, health concerns and human rights.**

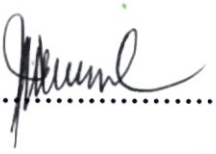
7) **Within three (3) months of the adoption of this Report, the Data Protection Commissioner to report to the National Assembly on the measures it has taken to bring the provisions of the Data Protection Act, 2019 to the knowledge of the general public as required by section 8(g) of the Data Protection Act, 2019.**

8) **Within six (6) months of the adoption of this Report, the Communication Authority of Kenya to develop a regulatory sandbox in collaboration with relevant authorities to regulate new data-based projects that rely on new and emerging technologies.**

9) **Within one (1) month of the adoption of this Report, the Cabinet Secretary for the Ministry of Interior and National Administration through the Director of Criminal Investigations, provides a report to the National Assembly on the status of their ongoing investigations into the activities of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin) in Kenya and their findings, and thereafter report after every two (2) weeks until conclusion and necessary remedial actions are taken.**

10) **Within six (6) months of the adoption of this Report, the Data Protection Commissioner carries out an audit of all registered data processors and controllers as required by section 23 of the Data Protection Act, 2019 and submit a Report to the National Assembly.**

11) **The Managing Director for Kenyatta International Convention Centre (KICC) puts in proper measures to strengthen vetting procedures on clients of KICC before allowing them to use its premises.**

SIGNED .....  ..... **DATE**.....27.09.2023.....

HON. GABRIEL TONGOYO, MP

CHAIRPERSON, AD HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

ANNEXURES

Annex 1

Adoption List

THE NATIONAL ASSEMBLY
13TH PARLIAMENT – SECOND SESSION (2023)
DIRECTORATE OF DEPARTMENTAL COMMITTEES
AD HOC COMMITTEE ON INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF THE WORLDCOIN IN KENYA

ADOPTION SCHEDULE

No.	MEMBER	SIGNATURE
1.	Hon. Gabriel Tongoyo, MP - Chairperson	
2.	Hon. Kareke Mbiuki, CBS, MP	
3.	Hon. John Kiarie Waweru, MP	
4.	Hon. Peter Kaluma, MP	
5.	Hon. Shakeel Ahmed Shabbir, CBS, MP	
6.	Hon. Sarah Korere, MP	
7.	Hon. Capt. Ruweida Obo, MP	
8.	Hon. Mburu Kahangara, MP	
9.	Hon. Caroline Ng'elechei, MP	
10.	Hon. Edwin Gichuki, MP	
11.	Hon. Fredrick Ikana, MP	
12.	Hon. Geoffrey Ruku, MP	
13.	Hon. Geoffrey M. Wandeto, MP	
14.	Hon. Gideon Kimaiyo Kipkoech, MP	
15.	Hon. Irene Nyakerario Mayaka, MP	
16.	Hon. Innocent Maino Mugabe, MP	
17.	Hon. Gitonga Mukunji, MP	
18.	Hon. Umulkher Harun Mohamed, MP	

Annex 2

Minutes of the Committee proceedings

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 24TH SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MADUNGUNI ROOM, PRIDE-IN PARADISE, MOMBASA ON TUESDAY 26TH September 2023 AT 6.55 P.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Mburu Kahangara, MP
5. Hon. Edwin Gachuki, MP
6. Hon. Geoffrey Ruku, MP
7. Hon. Geoffrey M. Wandeto, MP
8. Hon. Innocent Maino Mugabe, MP
9. Hon. Irene Nyakerario Mayaka, MP
10. Hon. Caroline Ngelechii, MP
11. Hon. Fredrick Ikana, MP
12. Hon. Gitonga Mukunji, MP

ABSENT

1. Hon. Capt. Ruweida Obo, MP
2. Hon. Gedion Kimaiyo Kipkoech, MP
3. Hon. Shakeel Shabbir Ahmed, CBS, MP
4. Hon. Peter Kaluma,MP
5. Hon. Sarah Korere, MP
6. Hon. Umulkher Harun Mohamed, MP

IN ATTENDANCE: SECRETARIAT

1. Mr. Samuel Njoroge - Clerk of the National Assembly
2. Mr. Douglas Katho - Clerk Assistant I

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Consideration of Adoption of the draft report of the *ad-hoc* committee on the inquiry into the activities of Worldcoin in Kenya
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/067 PRELIMINARIES

The Chairperson called the meeting to order at 6.55pm. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/068 CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING AND CONSIDERATION OF MATTERS ARISING THEREFOR

The minutes of the 23rd Sitting of the *ad-hoc* Committee was read and and confirmed as true records of proceedings on a proposal by Hon. John Kiarie Waweru, MP and Seconded by Hon. Mburu Kahangara, MP.

The *ad-hoc* Committee resolved unanimously to expunge the recommendation number six of the Report on the inquiry into the activities of the World-coin, having gone through the Report and relying on the witness submissions tabled before the Committee and not the media reports. This was on a proposal by the Hon. John Kiarie, MP and seconded by the Hon. Innocent Mugabe, MP

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/069 CONSIDERATION AND ADOPTION OF THE DRAFT REPORT OF THE AD HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

Based on the Committee's findings and general observations, the Committee therefore makes the following recommendations: -

THAT:

1) **The Cabinet Secretary for Ministry of Information Communication and the Digital Economy through the ICT Authority in consultation with relevant stakeholders to develop a comprehensive oversight framework and policies on virtual assets and virtual assets service providers in Kenya, within six (6) months of the adoption of this report and submit the same to the National Assembly to take appropriate legislative measures.**

2) **Within six (6) months of the adoption of this Report, the Cabinet Secretary for the National Treasury in consultation with the relevant stakeholders to develop regulations and enforcement infrastructure to ensure that virtual assets and virtual assets providers and their activities are adequately regulated and monitored.**

3) **The Director of Criminal Investigations and the Director of Public Prosecutions within three (3) months from the date of adoption of this report, to conduct investigations into the operations of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin) in Kenya and take the requisite legal action.**

4) **The Director of Criminal Investigations and the Director of Public Prosecutions within three (3) months of adoption of this Report to investigate into the activities of the local partners of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin) in Kenya to establish culpability of persons including Sense Marketing Limited, involved in aiding and abetting their criminal activities and take necessary legal action.**

5) **Within seven (7) days of the adoption of this report, the Communications Authority to disable the virtual platforms of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin), including blacklisting the IP addresses of related websites and to suspends their physical presence in Kenya until there is a legal framework for regulation of virtual assets and virtual asset service providers.**

6) **Parliament reviews the current legal framework, to; amongst other provisions -**

   a) **Harmonize the Data Protection Act with Part XXXVII of the Companies Act to expressly require foreign companies to provide proof of registration as foreign companies under Part XXXVII of the Companies Act and to require foreign entities to provide proof of registration with local regulatory bodies before registration as data processors and/or controllers.**
   b) **Provide for the requirement for full disclosure on how data controllers and processors will utilize and store personal and sensitive data collected in Kenya.**
   c) **Provide discretion to the Office of the Data Protection Commissioner in imposition of administrative fines, by amending section 63 of the Data Protection Act, to align to global standards so as to ensure that entities take matters of data protection seriously.**
   d) **Amend the Data Protection Act, 2019 to provide for a board where the Office of the Data Protection Commissioner reports or account to on its daily operations.**
   e) **Provide clear tax remittance procedures on taxes imposed on transactions involving virtual assets under section 12F of the Income Tax Act.**
   f) **Include Virtual Asset Service Providers as Reporting Institutions under the Proceeds of Crime and Anti-Money Laundering Act, 2009.**
   g) **Review the Computer Misuse and Cybercrimes Act 2018 to fully deal with the current realities in the cyberspace including stationing multi-agency technical personnel at all border entry points to provide technical expertise on all technological equipment imported into the country.**
   h) **Expand the scope of offences and develop the elements of offences under Part III of the Computer Misuse and Cybercrimes Act, 2018, and develop regulations under section 70 of the Act.**
   i) **Review the Computer Misuse and Cybercrimes Act 2018 to co-opt the Data Commissioner or a representative of the Office of the Data Protection Commissioner as a member of the National Computer and Cybercrimes Coordination Committee.**
   j) **Provide legislative intervention(s) to govern the collection of biodata from Kenyans which has implications on privacy, security, health concerns and human rights.**

7) **Within three (3) months of the adoption of this Report, the Data Protection Commissioner to report to the National Assembly on the measures it has taken to bring the provisions of the Data Protection Act, 2019 to the knowledge of the general public as required by section 8(g) of the Data Protection Act, 2019.**

8) **Within six (6) months of the adoption of this Report, the Communication Authority of Kenya to develop a regulatory sandbox in collaboration with relevant authorities to regulate new data-based projects that rely on new and emerging technologies.**

9) **Within one (1) month of the adoption of this Report, the Cabinet Secretary for the Ministry of Interior and National Administration through the Director of Criminal Investigations, provides a report to the National Assembly on the status of their ongoing investigations into the activities of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin) in Kenya and their findings, and thereafter report after every two (2) weeks until conclusion and necessary remedial actions are taken.**

10) **Within six (6) months of the adoption of this Report, the Data Protection Commissioner carries out an audit of all registered data processors and controllers as required by section 23 of the Data Protection Act, 2019 and submit a Report to the National Assembly.**

11) **The Managing Director for Kenyatta International Convention Centre (KICC) puts in proper measures to strengthen vetting procedures on clients of KICC before allowing them to use its premises.**

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/070: ADOPTION OF THE REPORT ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

The *ad-hoc* Committee unanimously adopted the recommendations Nos. 1, 2,3,4,5, 6, 7,8,9,10 and 11 in its Report on the inquiry into the activities of worldcoin in Kenya after being proposed by the Hon. John Kiarie, MP and seconded by the Hon. Innocent Mugabe, MP.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/071: ADJOURNMENT AND DATE OF NEXT MEETING

The Meeting was adjourned at 10 Minutes past 7.00pm. The next meeting will be held on notice. .

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 23RD SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MADUNGUNI ROOM, PRIDE-IN PARADISE, MOMBASA ON MONDAY 25TH September 2023 AT 2.30 P.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Edwin Gachuki, MP
5. Hon. Geoffrey Ruku, MP
6. Hon. Gedion Kimaiyo Kipkoech, MP
7. Hon. Mburu Kahangara, MP
8. Hon. Fredrick Ikana, MP
9. Hon. Innocent Maino Mugabe, MP
10. Hon. Geoffrey M. Wandeto, MP
11. Hon. Capt. Ruweida Obo, MP
12. Hon. Gitonga Mukunji, MP
13. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Peter Kaluma,MP
3. Hon. Sarah Korere, MP
4. Hon. Caroline Ngelechii, MP
5. Hon. Umulkher Harun Mohamed, MP

IN ATTENDANCE: SECRETARIAT

1.	Ms. Hellen Kina	-	Clerk Assistant I
2.	Mr. Douglas Katho	-	Clerk Assistant I
3.	Dr. Donald Manyala	-	Ag. Principal Research Officer
4.	Ms. Judy Kanyoko	-	Legal Counsel
5.	Mr. Boaz Chibiego	-	Research Officer III
6.	Ms. Daniel Ominde	-	Research Officer III
7.	Ms. Veron Oluoch	-	Research Officer III
8.	Mr. Samuel Nyambeti	-	Serjeant –At- Arms
9.	Ms. Moses Luvisa	-	Accountant

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Consideration of adoption of the draft report of the *ad-hoc* committee on the inquiry into the activities of Worldcoin in Kenya
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/062 PRELIMINARIES

The Chairperson called the meeting to order at 11.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/063 CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS AND CONSIDERATION OF MATTERS ARISING THEREFOR

The minutes of the 1st Sitting of the *ad-hoc* Committee was read and and confirmed as true records of proceedings on a proposal by Hon. John Kiarie Waweru, MP and Seconded by Hon. Mburu Kahangara, MP.

The minutes of the 2nd Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Innocent Maino Mugabe, MP and Seconded by Hon. Gitonga Mukunji, MP

The minutes of the 3rd Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Edwin Gichuki, MP and Seconded by Hon. Fred Ikana, MP

The minutes of the 4th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Geoffrey Ruku, MP and Seconded by Hon. Geoffrey Wandeto, MP

The minutes of the 5th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Gedion Kipkoech, MP and Seconded by Hon. Gitonga Mukunji, MP

The minutes of the 6th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Innocent Maino Mugabe, MP and Seconded by Hon. Irene Nyakerario, MP

The minutes of the 7th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Umulkher Harun Mohamed, MP and Seconded by Hon. Kareke Mbiuki, MP

The minutes of the 8th Sitting sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Irene Nyajerario Mayaka, MP and Seconded by Hon. Gideon Kimaiyo Kipkoech, MP

The minutes of the 9th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Geoffrey Ruku, MP and Seconded by Hon. Fredrick Ikana, MP

The minutes of the 10th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Edwin Gichuki, MP and Seconded by Hon. Mburu Kahangara, MP

The minutes of the 11th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Capt. Ruweida Obbo, MP and Seconded by Hon. John Kiarie, MP

The minutes of the 12th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Capt. Ruweida Mohamed, MP and Seconded by Hon. Fredrick Ikana, MP

The minutes of the 13th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Geoffrey Ruku, MP and Seconded by Hon. Gideon Kimaiyo, MP

The minutes of the 14th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Innocent Maino Mugabe, MP and Seconded by Hon. Gitonga Mukunji, MP

The minutes of the 15th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Irene Nyakerario, MP and Seconded by Hon. Gideon Kipkoech, MP

The minutes of the 16th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Fredrick Ikana, MP and Seconded by Hon. Mburu Kahangara, MP

The minutes of the 17th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Cpt. Ruweida Mohamed, MP and Seconded by Hon. Kareke Mbiuki, MP

The minutes of the 18th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. John Kiarie, MP and Seconded by Hon. Capt. Ruweida Obbo, MP

The minutes of the 19th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Mburu Kahangara, MP and Seconded by Hon. Fredrick Ikana, MP

The minutes of the 20th Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Geoffrey Wandeto, MP and Seconded by Hon. Irene Nyakerario, MP

The minutes of the 21st Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Capt. Ruweida Mohamed, MP and Seconded by Hon. Fredrick ikana, MP

The minutes of the 22nd Sitting of the *ad-hoc* Committee was read and confirmed as true records of proceedings on a proposal by Hon. Irene Nyakerario, MP and Seconded by Hon. Gitonga Mukunji, MP

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/064 CONSIDERATION OF THE DRAFT REPORT OF THE AD HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

Based on the Committee's findings and general observations, the Committee makes the following recommendations: -

THAT:

1) **The Cabinet Secretary for Ministry of Information Communication and the Digital Economy through the ICT Authority in consultation with relevant stakeholders to develop a comprehensive oversight framework and policies on virtual assets and virtual assets service providers in Kenya, within six (6) months of the adoption of this report and submit the same to the National Assembly to take appropriate legislative measures.**

2) **Within six (6) months of the adoption of this Report, the Cabinet Secretary for the National Treasury in consultation with the relevant stakeholders to develop regulations and enforcement infrastructure to ensure that virtual assets and virtual assets providers and their activities are adequately regulated and monitored.**

3) **The Director of Criminal Investigations and the Director of Public Prosecutions within three (3) months from the date of adoption of this report, to conduct investigations into the operations of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin) in Kenya and take the requisite legal action.**

4) **The Director of Criminal Investigations and the Director of Public Prosecutions within three (3) months of adoption of this Report to investigate activities of the local partners of M/s Tools for Humanity Corp and M/s Tools for Humanity GmbH, Germany (Worldcoin) in Kenya to establish culpability of persons including Sense Marketing Limited, involved in aiding and abetting their criminal activities and take necessary legal action.**

5) **Within seven (7) days of the adoption of this report, the Communications Authority to immediately deactivate the virtual platforms of Tools for Humanity Corp and Tools for Humanity GmbH, Germany (Worldcoin), including blacklisting the IP addresses of related websites and to suspends their physical presence in Kenya until there is a legal framework for regulation of virtual assets and virtual asset service providers.**

6) **The Committee finds the Cabinet Secretary, Ministry for Information Communication and the Digital Economy culpable for misleading the country on the status of M/s Tools for Humanity Corp and Ms Tools for Humanity GmbH, Germany (Worldcoin) in Kenya and therefore recommends removal proceedings to be commenced against the Cabinet Secretary pursuant to Article 152(6) of the Constitution as read together with Standing Order No. 66 of the National Assembly Standing Orders.**

7) **Parliament reviews the current legal framework, to; amongst other provisions -**

    a) **Harmonize the Data Protection Act with Part XXXVII of the Companies Act to expressly require foreign companies to provide proof of registration as foreign companies under Part XXXVII of the Companies Act and to require foreign entities to provide proof of registration with local regulatory bodies before registration as data processors and/or controllers.**
    b) **Provide for the requirement for full disclosure on how data controllers and processors will utilize and store personal and sensitive data collected in Kenya.**
    c) **Provide discretion to the Office of the Data Protection Commissioner in imposition of administrative fines, by amending**

section 63 of the Data Protection Act, to align to global standards so as to ensure that entities take matters of data protection seriously.

d) Amend the Data Protection Act, 2019 to provide for a board where the Office of the Data Protection Commissioner reports or account to on its daily operations.

e) Provide clear tax remittance procedures on taxes imposed on transactions involving virtual assets under section 12F of the Income Tax Act.

f) Include Virtual Asset Service Providers as Reporting Institutions under the Proceeds of Crime and Anti-Money Laundering Act, 2009.

g) Review the Computer Misuse and Cybercrimes Act 2018 to fully deal with the current realities in the cyberspace including stationing multi-agency technical personnel at all border entry points to provide technical expertise on all technological equipment imported into the country.

h) Expand the scope of offences and develop the elements of offences under Part III of the Computer Misuse and Cybercrimes Act, 2018, and develop regulations under section 70 of the Act.

i) Review the Computer Misuse and Cybercrimes Act 2018 to co-opt the Data Commissioner or a representative of the Office of the Data Protection Commissioner as a member of the National Computer and Cybercrimes Coordination Committee.

j) Provide legislative intervention(s) to govern the collection of biodata from Kenyans which has implications on privacy, security, health concerns and human rights.

8) Within three (3) months of the adoption of this Report, the Data Protection Commissioner to report to the National Assembly on the measures it has taken to bring the provisions of the Data Protection Act, 2019 to the knowledge of the general public as required by section 8(g) of the Data Protection Act, 2019.

9) Within six (6) months of the adoption of this Report, the Communication Authority of Kenya to develop a regulatory sandbox in collaboration with relevant authorities to regulate new data-based projects that rely on new and emerging technologies.

10) Within one (1) month of the adoption of this Report, the Cabinet Secretary for the Ministry of Interior and National Administration through the Directorate of Criminal Investigations, provides a report to the National Assembly on the status of their ongoing investigations into the activities of Tools for Humanity Corp and Tools for Humanity GmbH, Germany (Worldcoin) in Kenya and their findings, and thereafter report after every two (2) weeks until conclusion and necessary remedial actions are taken.

11) **Within six (6) months of the adoption of this Report, the Office of the Data Protection Commissioner carries out an audit of all registered data processors and controllers as required by section 23 of the Data Protection Act, 2019 and submit a Report to the National Assembly.**

12) **The Managing Director for Kenyatta International Convention Centre (KICC) puts in proper measures to strengthen vetting procedures on clients of KICC before allowing them to use its premises.**

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/065: ADOPTION OF THE REPORT ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

The *ad-hoc* Committee unanimously adopted the recommendations Nos. 1, 2,3,4,5,7,8,9,10,11 and 12 in its Report on the inquiry into the activities of worldcoin in Kenya after being proposed by the Hon. Kareke Mbiuki, MP Hon. Gedion Kimaiyo, MP.

The *ad-hoc* Committee undertook a vote on the adoption of the recommendations No. 6 in its Report on the inquiry into the activities of worldcoin in Kenya as follows:-

1.	Hon. Gabriel Tongoyo, MP	-	NO
2.	Hon. Kareke Mbiuki CBS, MP	-	NO
3.	Hon. John Kiarie Waweru, MP	-	NO
4.	Hon. Edwin Gachuki, MP	-	YES
5.	Hon. Geoffrey Ruku, MP	-	YES
6.	Hon. Gedion Kimaiyo Kipkoech, MP	-	YES
7.	Hon. Mburu Kahangara, MP	-	YES
8.	Hon. Fredrick Ikana, MP	-	ABSTAINED
9.	Hon. Innocent Maino Mugabe, MP	-	YES
10.	Hon. Geoffrey M. Wandeto, MP	-	YES
11.	Hon. Capt. Ruweida Obo, MP	-	ASTAINED
12.	Hon. Gitonga Mukunji, MP	-	YES
13.	Hon. Irene Nyakerario Mayaka, MP	-	YES

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/066: ADJOURNMENT AND DATE OF NEXT MEETING

The Meeting was adjourned at 10 Minutes past 1.00pm. The next meeting will be held on notice.

SIGNED: ..... DATE: .....

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 22ND SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MADUNGUNI ROOM, PRIDE-IN PARADISE, MOMBASA ON MONDAY 25TH September 2023 AT 10.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Edwin Gachuki, MP
5. Hon. Geoffrey Ruku, MP
6. Hon. Gedion Kimaiyo Kipkoech, MP
7. Hon. Mburu Kahangara, MP
8. Hon. Fredrick Ikana, MP
9. Hon. Innocent Maino Mugabe, MP
10. Hon. Geoffrey M. Wandeto, MP
11. Hon. Capt. Ruweida Obo, MP
12. Hon. Gitonga Mukunji, MP
13. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Peter Kaluma,MP
3. Hon. Sarah Korere, MP
4. Hon. Caroline Ngelechii, MP
5. Hon. Umulkher Harun Mohamed, MP

IN ATTENDANCE: SECRETARIAT

1.	Ms. Hellen Kina	-	Clerk Assistant I
2.	Mr. Douglas Katho	-	Clerk Assistant I
3.	Dr. Donald Manyala	-	Ag. Principal Research Officer
4.	Ms. Judy Kanyoko	-	Legal Counsel
5.	Mr. Boaz Chibiego	-	Research Officer III
6.	Ms. Daniel Ominde	-	Research Officer III
7.	Ms. Veron Oluoch	-	Research Officer III
8.	Mr. Samuel Nyambeti	-	Serjeant –At- Arms
9.	Ms. Moses Luvisa	-	Accountant

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Consideration of the draft report of the ad hoc committee on the inquiry into the activities of Worldcoin in Kenya
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/059 PRELIMINARIES

The Chairperson called the meeting to order at 11.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/060 CONSIDERATION OF THE DRAFT REPORT OF THE AD HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

The committee considered the draft Report on the inquiry into the activities of the Worldcoin in Kenya. The Committee made the following findings as per the terms of reference number five to nine:

1. Arising from the fifth term of reference, on the organizational structure and the activities of Worldcoin, the Committee made the following findings.

THAT:

1) The Worldcoin project was co-founded in 2019 by Mr. Alex Blania and Mr. Sam Altman, a US tech entrepreneur and the CEO of OpenAI, the company that created ChatGPT. Piotr Piwowarczyk is the Regional Representative; Wangechi Mwangi, the East African Manager; and Rael Mwende, the Marketing Specialist. Worldcoin partnered with other local representatives including Sense Marketing, Exp Momentum, Platinum D Plus and Hezron Gikonga.

2) Tools for Humanity Corp was founded in 2019 in Delaware, United States and headquartered in San Francisco, California, United States. Tools for Humanity GmbH, a limited liability company headquartered in Erlangen, Germany, is a subsidiary wholly-owned by Tools for Humanity Corporation.

3) The Worldcoin Foundation was founded in October 2022 to support and grow the community of Worldcoin protocol users and developers until the community becomes self-sufficient. The Foundation is an exempted limited guarantee foundation company incorporated in the Cayman Islands, and is independent of TFH.

4) The aim of the Worldcoin Foundation is to realise more inclusive, fair, and just institutions of governance and of the global digital economy. The intention of Worldcoin is to decentralize the global monetary system.

5) The Worldcoin Foundation is the sole member and sole director of World Assets Ltd., a business company incorporated in the British Virgin Islands. World Assets Ltd. is the entity responsible for issuing the 75% of all Worldcoin tokens (WLD) that have been allocated to the Worldcoin community.

2. Arising from the sixth term of reference, on the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries, the Committee made the following findings.

THAT:

1) The Committee was not able to establish the source of money or inducement given to those who complete the Orb verification process.

2) There was no fiat currency compensation paid to Kenyans for completing the Orb verification process, rather, Worldcoin was issuing 25 WLD tokens. People could then choose to trade those WLD tokens in the open market through peer-to-peer exchange.

3. Arising from the seventh term of reference, on whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the Country, the Committee made the following findings.

THAT:

1) Data breach involving biometric data can lead to severe implications like identity theft causing stigma, stress and other mental health conditions.

2) The committee received submissions from witnesses that they developed health complications including stigma.

3) The Ministry of Health is yet to receive any reports of health hazards caused by the activities of Worldcoin in Kenya.

4. Arising from the eighth term of reference, on the legal and regulatory gaps that permitted operations of Worldcoin in Kenya, the Committee made the following findings.

THAT:

1) Kenya lacks an appropriate overarching legal framework for the regulation of new and emerging technologies, including digital platform services, social media services and over-the-top services.

2) The Data Protection Act, 2019 and the regulations thereunder do not sufficiently address key issues like the documents to be presented to the Data Commissioner to ascertain eligibility for issuance of a certificate as a Data controller and/or processor as a juristic person.

3) The Data Protection Act, 2019 lacks proper mechanisms for the enforcement of the rights of the data subjects and procedures for thorough vetting of local and foreign data controllers and/or processors.

4) There is a lack of a comprehensive legal framework to regulate emerging markets in virtual assets. This has exposed the country to inherent risks,

speculative trading, high price volatility, possibility of criminal activities, tax evasions, financing terrorism and money laundering, data theft and financial fraud.

5. Arising from the ninth term of reference, on the emerging issues, the Committee made the following findings.

THAT:

1) Kenya ranks first on the adoption and use of cryptocurrency globally for peer-to-peer trading volume. Bitcoin, Ethereum and Ripple are the most used cryptocurrencies in Kenya.

2) Despite the introduction of a digital asset tax by Finance Act, 2023, payable on the transfer of digital assets, there is no mechanism for monitoring transfers of digital assets to ensure compliance.

3) Information Communication and Technology is an enabler of development across all sectors. For the realization of digital transformation in Kenya, collaboration and a multi-agency approach will enhance adoption of technology.

4) Blockchain is a distributed database or ledger shared among computers on a common network. Each computer/node participates in the validation of transactions and the maintenance of the blockchain ledger. The nodes are responsible for storing a copy of the blockchain ledger, verifying the authenticity of transactions, and adding new blocks to the chain. The blockchain maintains a secure and decentralized record of transactions, ensuring that data remains immutable (cannot be altered) upon entry.

5) Cryptocurrencies on the other hand, are privately issued digital assets that depend primarily on cryptography and blockchain/distributed ledger technology (DLT). Cryptocurrency could be described as a decentralized, distributed record or "ledger" of transactions in which the transactions are stored in a permanent and near inalterable way using cryptographic techniques.

6) Blockchain slashes the cost of transactions and eliminate intermediaries like lawyers and bankers, and thus lowering the cost of doing business. With the increase in more internet technologies, the adoption of blockchain will require broad coordination and will take time to be adopted. Blockchain is the medium through which crypto-currency is transacted.

7) In blockchain, the data is chronologically consistent because it cannot be deleted or modified without consensus from the network and as a result, one can use blockchain technology to create an unalterable or immutable ledger for tracking orders, payments, accounts, and other transactions.

8) Unlike the fiat currency, cryptocurrency is a digital, encrypted and decentralized medium of exchange and that there is no central authority that

manages and determines the value of the digital currency. Instead, the determination of the value of the virtual currency is through speculative tendencies of the users of the cryptocurrency.

9) Cryptocurrencies pose security concerns due to their potential for anonymity, borderless transactions, difficulty in tracing decentralization, lack of third-party intermediaries, and limited regulation.

Arising from the overall inquiry, the Committee made the following general observations.

THAT:

1) Worldcoin submitted that they are a project founded with the mission of creating digital identification platform (World ID) that aims to provide each person on earth with a convenient way to verify that they are real human and alive and not a bot (internet robot) and use the attendant data to train AI algorithms for future technological advancements. Further, Worldcoin's objective was to decentralize the global monetary system.

2) Worldcoin operated in Kenya despite lack of regulation in cryptocurrency but did not operate in the USA which they claimed lacked regulatory clarity on cryptocurrency leaving an impression that they exploited the weak legal framework in Kenya while respected that of USA despite the fact that both countries did not have regulations on cryptocurrency.

3) The rapidly evolving technological advancement present a global challenge in managing risks associated with Artificial Intelligence (AI), blockchain and virtual assets, demands the need for a more progressive and responsive regulatory framework in Kenya.

4) The requirement for virtual asset holders and virtual service providers to adhere to regulations across multiple jurisdictions makes it difficult to carry out cross border transactions. Additionally, registration of business in different markets is tedious as different countries have different guidelines on licensing and registration.

5) The Computer Misuse and Cybercrimes Act, 2018 does not clearly set out scope and elements of the offences under the Act.

6) The Data Commissioner is neither a member nor co-opted member of National Computer and Cybercrimes Coordination Committee (NC4).

7) The unregulated adoption and use of cryptocurrency as an attempt to fully decentralize the global monetary systems, poses threat to statehood.

8) There are two cases pending in Court relating to the operations of world coin being *Milimani High Court Judicial Review HCJR/E119/2023 (R vs. Tools for Humanity Corporation and Tools for Humanity GmbH and 7 Others ex parte Katiba Institute and Law Society of Kenya and 3 Others) and in Milimani*

High Court Criminal Miscellaneous Application No. E315 of 2023 (Office of the Data Protection Commissioner vs. Tools for Humanity Corporation and 2 Others.

9) The Ministry of Interior and National Administration through the Directorate of Criminal Investigations, the Communication Authority of Kenya, Ministry of Information, Communication and the Digital Economy, the Office of the Data Protection Commissioner, and the National Computer and Cybercrimes Coordination Committee are currently conducting investigations on the activities of the Worldcoin in Kenya.

10) The Committee was unable to reach Exp Momentum, a South African company through their last known address for invitation as a witness to the proceedings.

11) There is a general lack of awareness among Kenyans on the provisions of the Data Protection Act, 2019 pertaining to the rights of data subjects.

12) The Committee was unable to establish whether the data subjects were actually given the monetary consideration promised.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/061: ADJOURNMENT AND DATE OF NEXT MEETING

The Meeting was adjourned at 10 Minutes past 5.00pm. The next meeting will be held on notice.

SIGNED: ..... **DATE:** ...27.09.2023...

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 21st SITTING OF THE AD HOC - COMMITTEE ON WORLDCOIN INQUIRY HELD AT MADUNGUNI ROOM, PRIDE-IN PARADISE, MOMBASA ON SUNDAY 24TH September 2023 AT 2.30 P.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Edwin Gachuki, MP
5. Hon. Geoffrey Ruku, MP
6. Hon. Gedion Kimaiyo Kipkoech, MP
7. Hon. Mburu Kahangara, MP
8. Hon. Fredrick Ikana, MP
9. Hon. Innocent Maino Mugabe, MP
10. Hon. Geoffrey M. Wandeto, MP
11. Hon. Capt. Ruweida Obo, MP
12. Hon. Gitonga Mukunji, MP
13. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Peter Kaluma,MP
3. Hon. Sarah Korere, MP
4. Hon. Caroline Ngelechii, MP
5. Hon. Umulkher Harun Mohamed, MP

IN ATTENDANCE: SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Douglas Katho	Clerk Assistant I
3.	Dr. Donald Manyala	Ag. Principal Research Officer
4.	Ms. Judy Kanyoko	Legal Counsel
5.	Mr. Boaz Chibiego	Research Officer III
6.	Ms. Daniel Ominde	Research Officer III
7.	Ms. Veron Oluoch	Research Officer III
8.	Mr. Samuel Nyambeti	Serjeant –At- Arms
9.	Ms. Moses Luvisa	Accountant

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Consideration of the draft report of the *ad hoc* committee on the inquiry into the activities of Worldcoin in Kenya
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/056 PRELIMINARIES

The Chairperson called the meeting to order at 11.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/057 CONSIDERATION OF THE DRAFT REPORT OF THE AD HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

The committee thereafter considered the draft Report on the inquiry into the activities of the Worldcoin in Kenya. The Committee made the following findings as per the terms of reference:-

1. Arising from the first term of reference, on the operations and the ultimate objectives of the activities of Worldcoin in Kenya, the Committee made the following findings.

THAT:

1) Worldcoin is a cryptocurrency platform that aims to provide universal access to the global digital economy by authenticating individuals using iris scans. It is an ecosystem comprising three components; privacy-preserving digital identity network (World ID) built on proof of personhood, Worldcoin Token (WLD) and Application wallet (World App). To participate, a user is required to register through mobile app downloadable from the website www.worldcoin.org using a smart device and undergo iris scan via biometric device called Orb.

2) The Worldcoin is a global project initiated by Tools for Humanity GmbH, a global software and hardware development company based in Berlin, Germany and Tools for Humanity Inc. based in the USA. The project operates in thirty-four (34) other countries. It does not however, operate in the US and China due to lack of clear regulatory framework.

3) TFH Corp and TFH GmbH are the two companies registered as data controllers in Kenya on 15th September, 2022 and 18th April, 2023 respectively, but data was moved to Worldcoin Foundation which was not a registered data controller or processor in Kenya.

4) To verify the authenticity of the user as a true and unique human being, the user's iris is scanned using the Orb, a device provided by TFH. The iris image is converted into a digital code which is then transmitted to the TFH third party servers hosted by Amazon Web Services in South Africa.

5) The Orb is a telecommunication device with a capability to transmit real time iris images converted into digital code to their third-party servers hosted outside the country and not a biometric scanner as claimed to have been declared at the point of entry in Kenya. Despite being a telecommunication device, the orbs did not undergo type approval by the CA as required by the

Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010.

6) In Kenya, Worldcoin deployed orbs in over thirty (30) locations in Nairobi including malls and learning institutions and started collecting data in public places in May 2021, before registering as data controllers contrary to section 19(7) of the Data Protection Act, 2019. This fact only became known to ODPC in April 2022, and to the MoICDE and other Government agencies towards the end of July 2023. This is after the registration went live at KICC on 24th July 2023 and when the matter became of grave public concern after long queues of people seeking to register were experienced.

7) Worldcoin enticed Kenyans to subscribe to the platform by issuing 25 Worldcoin Tokens on verification. The tokens were to be converted to USDt, a virtual US dollar on a cryptocurrency exchange then converted to Kenyan currency. Each Worldcoin token was worth USD 2.1 or KES 299 which translated to a total of USD 54 or approximately KES 7,700 at the time.

8) In order to sign up for World ID and receive free share of Worldcoin token, a person verifies their unique personhood using an Orb. The orb contains a variety of camera sensors and machine learning models that analyze facial and iris features. Once that determination is made, the orb takes a set of pictures of the person's irises and uses several machine learning models and other computer vision techniques to create an iris code, which is a numerical representation of the most important features of an individual iris pattern.

9) Worldcoin continued to engage in data collection involving sensitive personal data in Kenya in total disregard of cessation directive issued by the ODPC on 30th May, 2023. The registration of Kenyans by Worldcoin online App is still going on despite the pendency of a court order and other administrative directions halting the same in entirety.

10) Worldcoin did not disclose the cease order issued by the ODPC to their orb operators as disclosed by Sense Marketing hence, they continued with their operations without sensing any illegality.

11) The promoters of *Worldcoin* misled consumers by using deceptive marketing strategies to induce people to exchange their personal data with tokens thus contravening their consumer rights in contravention of section 12 of the Consumer Protection Act, 2012.

12) There is a possibility that minors were registered and scanned by the Worldcoin, since they did not have proper mechanisms for verifying the age of the data subjects.

13) It is hard/impossible to establish the exact number of orbs in the country. The various witnesses stated with uncertainty that there were forty-eight (48) orbs in the country.

2. Arising from the second term of reference, on the legal and regulatory compliance of operations of Worldcoin and its agents in Kenya, the Committee made the following findings.

THAT:

1) The provisions of the Data Protection Act on registration of data controllers and data processors does not expressly require foreign entities to provide proof of registration as foreign companies under Part XXXVII of the Companies Act as a prerequisite for registration.

2) Worldcoin, Tools for Humanity Corp (USA) and Tools for Humanity GmbH (Germany) do not appear in the Business Registration Services database of registered businesses or companies in Kenya and hence lack the legal mandate to transact any business in Kenya according to Part XXXVII of the Companies Act, 2015.

3) Despite collecting data on behalf of Worldcoin, Sense Marketing Ltd and other local partners were not registered as data processors and/or controllers as required by section 18 of the Data Protection Act.

4) Having noted the Orb is a telecommunication device with a capability to transmit real time iris images converted into digital code to their third-party servers hosted outside the country, the orbs did not undergo type approval by the CA contrary to the ***Kenya Information and Communications (Importation, Type Approval and Distribution of Communications Equipment) Regulations, 2010***.

3. Arising from the third term of reference, on whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya, the Committee made the following findings.

THAT:

1) The Cabinet Secretary for Information, Communication and the Digital Economy misled the country on the status of Worldcoin in Kenya. The Committee took note of the television interview with NTV on 2nd August, where the Cabinet Secretary stated that:

> "As far as the Data Act 2019 is concerned, they (Worldcoin) are acting within the law. The ODPC got wind of this, wrote to the entity and they have had several meetings. We are going to approach this issue from a multifaceted approach, […]"

2) The Committee noted that the foregoing statement was inconsistent with the submission dated 11th September, 2023 by the Cabinet Secretary for Information, Communication and the Digital Economy to the Committee. In the said submission, the Cabinet Secretary noted that while the Worldcoin started collecting data in public places in 31st May, 2021 and applied for registration as data controllers in Kenya on 22nd August, 2022, one year after

commencing their activities in Kenya, contrary to section 18 of the Data Protection Act, 2019.

3) When tasked to respond to the contradictory statements, the Cabinet Secretary denied the said statements at the Plenary and during the proceedings of the Ad hoc Committee, claiming no knowledge of the statements alluded to, whereas it is in the public domain that the Cabinet Secretary made the said statements in an interview with a national television.

4) The Committee noted that all concerned government entities only became aware of the Worldcoin activities way after they had commenced their operations in Kenya, following public uproar.

5) Worldcoin declared the orbs as biometric scanners only but not as telecommunication devices as well. The Committee therefore, was unable to establish whether the Commissioner of Customs has mechanisms in place to physically inspect electronic gadgets imported into the country, and whether there are mechanisms to collaborate with other related government agencies like the Communications Authority of Kenya.

6) KICC did not conduct due diligence on the nature of activity planned to be held at their facility including which product was being activated, but went ahead and offered authorization based on the fact that they had collaborated with the client (Exp Momentum) on numerous occasions in terms of bringing business to the facility.

7) The ODPC received a Data Protection Impact Assessment (DPIA) from TFH Corp and TFH GmbH, prior to registering the two companies as data controllers, pursuant to the Data Protection Act, 2019 and the ***Data (Protection Registration of Data Controllers and Data Processors) Regulation, 2021***.

4. Arising from the fourth term of reference, on the nature, use and safety of data collected by Worldcoin in Kenya, the Committee made the following findings.

THAT:

1) Despite the claim by Worldcoin that data collected was safely stored in Amazon Web Services based in South Africa, it was not clear whether the data stored could be retracted and deleted should need arise.

2) The transfer of personal data outside Kenya did not comply with the provisions of section 48 of the Data Protection Act.

3) It is unclear whether there are any security measures taken by *Worldcoin* to ensure the safety of data collected and whether there would be a possibility for forensic analysis on the same.

5. Arising from the fifth term of reference, on the organizational structure and the activities of Worldcoin, the Committee made the following findings.

THAT:

1) The Worldcoin project was co-founded in 2019 by Mr. Alex Blania and Mr. Sam Altman, a US tech entrepreneur and the CEO of OpenAI, the company that created ChatGPT. Piotr Piwowarczyk is the Regional Representative; Wangechi Mwangi, the East African Manager; and Rael Mwende, the Marketing Specialist. Worldcoin partnered with other local representatives including Sense Marketing, Exp Momentum, Platinum D Plus and Hezron Gikonga.

2) Tools for Humanity Corp was founded in 2019 in Delaware, United States and headquartered in San Francisco, California, United States. Tools for Humanity GmbH, a limited liability company headquartered in Erlangen, Germany, is a subsidiary wholly-owned by Tools for Humanity Corporation.

3) The Worldcoin Foundation was founded in October 2022 to support and grow the community of Worldcoin protocol users and developers until the community becomes self-sufficient. The Foundation is an exempted limited guarantee foundation company incorporated in the Cayman Islands, and is independent of TFH.

4) The Worldcoin Foundation is not registered in Kenya as data processor or controller but is handling Kenyan data.

5) Worldcoin Foundation submitted that their aim is to realise more inclusive, fair, and just institutions of governance and of the global digital economy. The Committee found that whereas Worldcoin claim that their main intentions are proof of personhood and establishment of World ID, their real intention is inclined on decentralization of the global monetary system.

6) The Worldcoin Foundation is the sole member and sole director of World Assets Ltd., a business company incorporated in the British Virgin Islands. World Assets Ltd. is the entity responsible for issuing the 75% of all Worldcoin tokens (WLD) that have been allocated to the Worldcoin community.

6. Arising from the sixth term of reference, on the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries, the Committee made the following findings.

THAT:

1) The Committee was not able to establish the source of money or inducement given to those who complete the Orb verification process.

2) There was no fiat currency compensation paid to Kenyans for completing the Orb verification process, rather, Worldcoin was issuing 25 WLD tokens. People could then choose to trade those WLD tokens in the open market through peer-to-peer exchange.

7. Arising from the seventh term of reference, on whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the Country, the Committee made the following findings.

THAT:

1) The committee received submissions from witnesses that they developed health complications including stress and stigma which the Committee recommended that they should seek further medical check-up from competent medical practitioners to ascertain the health complications.

2) The Ministry of Health is yet to receive any reports of health hazards caused by the activities of Worldcoin in Kenya.

8. Arising from the eighth term of reference, on the legal and regulatory gaps that permitted operations of Worldcoin in Kenya, the Committee made the following findings.

THAT:

1) There is need for a stand-alone legislation to regulate new and emerging technologies, including virtual assets, digital platform services, social media services and over-the-top services.

2) The Data Protection Act, 2019 and the regulations thereunder do not sufficiently address key issues like the establishment documents to be presented to the Data Commissioner to ascertain eligibility for issuance of a certificate as a Data controller and/or processor as a juristic person.

3) The Data Protection Act, 2019 lacks proper mechanisms for the enforcement of the rights of the data subjects and procedures for thorough vetting of local and foreign data controllers and/or processors.

4) There is a lack of a comprehensive legal framework to regulate emerging markets in virtual assets. This has exposed the country to inherent risks including speculative trading, high price volatility, possibility of criminal activities, tax evasions, financing terrorism, money laundering, data theft and financial fraud.

5) There is disharmony between the Data Protection Act and Part XXXVII of the Companies Act which seem not to expressly require foreign companies to provide proof of registration as foreign companies under Part XXXVII of the Companies Act as part of establishment documents.

9. Arising from the ninth term of reference, on the emerging issues, the Committee made the following findings.

THAT:

1) Kenya ranks first on the adoption and use of cryptocurrency globally for peer-to-peer trading volume. Bitcoin, Ethereum and Ripple are the most used cryptocurrencies in Kenya.

2) Despite the introduction of a digital asset tax through the Finance Act, 2023, payable on the transfer of digital assets, there is no mechanism for monitoring transfers of digital assets to ensure compliance.

3) Information Communication and Technology is an enabler of development across all sectors. For the realization of digital transformation in Kenya, collaboration and a multi-agency approach will enhance adoption of technology.

4) Blockchain is a distributed database or ledger shared among computers on a common network. Each computer/node participates in the validation of transactions and the maintenance of the blockchain ledger. The nodes are responsible for storing a copy of the blockchain ledger, verifying the authenticity of transactions, and adding new blocks to the chain. The blockchain maintains a secure and decentralized record of transactions, ensuring that data remains immutable (cannot be altered) upon entry.

5) Cryptocurrencies on the other hand, are privately issued digital assets that depend primarily on cryptography and blockchain/distributed ledger technology (DLT). Cryptocurrency could be described as a decentralized, distributed record or "ledger" of transactions in which the transactions are stored in a permanent and near inalterable way using cryptographic techniques.

6) Blockchain slashes the cost of transactions and eliminate intermediaries like lawyers and bankers, and thus lowering the cost of doing business. With the increase in more internet technologies, the adoption of blockchain will require broad coordination and will take time to be adopted. Blockchain is the medium through which crypto-currency is transacted.

7) In blockchain, the data is chronologically consistent because it cannot be deleted or modified without consensus from the network and as a result, one can use blockchain technology to create an unalterable or immutable ledger for tracking orders, payments, accounts, and other transactions.

8) Unlike the fiat currency, cryptocurrency is a digital, encrypted and decentralized medium of exchange and that there is no central authority that manages and determines the value of the digital currency. Instead, the determination of the value of the virtual currency is through speculative tendencies of the users of the cryptocurrency.

9) Cryptocurrencies pose security concerns due to their potential for anonymity, borderless transactions, difficulty in tracing decentralization, lack of third-party intermediaries, and limited regulation in Kenya.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/058: ADJOURNMENT AND DATE OF NEXT MEETING

The Meeting was adjourned at 10 Minutes past 5.00pm. The next meeting will be held on notice.

SIGNED: ..... **DATE:** .....

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 20th SITTING OF THE AD HOC-COMMITTEE ON WORLDCOIN INQUIRY HELD AT MADUNGUNI ROOM, PRIDE-IN PARADISE, MOMBASA ON SUNDAY 24TH September 2023 AT 10.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Edwin Gachuki, MP
5. Hon. Geoffrey Ruku, MP
6. Hon. Gedion Kimaiyo Kipkoech, MP
7. Hon. Mburu Kahangara, MP
8. Hon. Fredrick Ikana, MP
9. Hon. Innocent Maino Mugabe, MP
10. Hon. Geoffrey M. Wandeto, MP
11. Hon. Capt. Ruweida Obo, MP
12. Hon. Gitonga Mukunji, MP
13. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Peter Kaluma,MP
3. Hon. Sarah Korere, MP
4. Hon. Caroline Ngelechii, MP
5. Hon. Umulkher Harun Mohamed, MP

IN ATTENDANCE: SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Douglas Katho	Clerk Assistant I
3.	Dr. Donald Manyala	Ag. Principal Research Officer
4.	Ms. Judy Kanyoko	Legal Counsel
5.	Mr. Boaz Chibiego	Research Officer III
6.	Ms. Daniel Ominde	Research Officer III
7.	Ms. Veron Oluoch	Research Officer III
8.	Mr. Samuel Nyambeti	Serjeant –At- Arms
9.	Ms. Moses Luvisa	Accountant

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**

Consideration of the draft report of the ad hoc committee on the inquiry into the activities of Worldcoin in Kenya

4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/053 PRELIMINARIES

The Chairperson called the meeting to order at 11.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/054 CONSIDERATION OF THE DRAFT REPORT OF THE AD HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES OF WORLDCOIN IN KENYA

During the consideration of the Report, the committee was presented by comparative analysis of other jurisdictions as follows:-

Cryptocurrency in South Africa

Since the release of the Bitcoin white paper in 2012, the crypto asset ecosystem in South Africa has grown to include more than 10 000 unique crypto assets as at November 2021. The Intergovernmental Fintech Working Group (IFWG) of South Africa reiterates the position globally by Policymakers, regulators and central banks, that crypto assets are not 'money' in the legal tender sense of the word, although they perform some of the functions of money.

Their challenge was how to achieve regulatory and legal certainty in the most appropriate and responsible manner possible to which they issued a position paper in 2020 that sets out 25 recommendations for a revised South African policy, legal and regulatory position on crypto assets and related activities, and essentially provides a roadmap to putting in place a framework for regulating crypto asset service providers in South Africa.

The Intergovernmental Fintech Working Group (IFWG) agreed and proposed six principles to guide the approach on regulating CASPs in South Africa. They include: Principle 1- crypto asset service providers (CASPs) must be regulated, and regulated appropriately; Principle 2- An activities-based perspective must be maintained, and the principle of 'same activity, same risk, same regulations must continue to apply and inform the regulatory approach; Principle 3 - Proportionate regulations that are commensurate with the risks posed must apply (i.e. a risked-based approach to crypto asset regulation must apply); Principle 4 - A truly collaborative and joint approach to crypto asset regulation must be maintained; Principle 5 - Continue to proactively monitor the dynamic development of the crypto assets market, including maintaining knowledge on emerging international best practices (through standard-setting bodies, etc); and Principle 6: Digital literacy and digital financial literacy levels must be increased amongst consumers and potential consumers of crypto assets. These principles guiding regulation of CASPs aims to promote responsible innovation and regulate the conduct of these providers.

Cryptocurrency regulations in the United States

The regulatory landscape for cryptocurrencies in the United States is currently in a state of evolution, marked by a mix of agency viewpoints, overlapping jurisdictions, and ongoing efforts to coordinate regulatory measures. While the Securities and Exchange Commission (SEC) is often perceived as the most influential regulatory body, other agencies like the Treasury's Financial Crimes Enforcement Network (FinCEN), the Federal Reserve Board, and the Commodity Futures Trading Commission (CFTC) have each offered their distinct interpretations

and guidance on cryptocurrency-related matters. To foster cohesion and clarity within this complex regulatory environment, the White House issued an Executive Order, mandating greater collaboration and coordination among these agencies.

Diverging views on cryptocurrencies abound among these regulatory bodies. The SEC frequently classifies many cryptocurrencies as securities, emphasizing investor protection and disclosure requirements. In contrast, the CFTC designates Bitcoin as a commodity, stressing the importance of market integrity and oversight. Meanwhile, the Treasury Department categorizes cryptocurrencies as a form of currency, focusing on matters related to money laundering and financial crime prevention. Addressing these discrepancies in definitions, regulatory scope, and jurisdictional boundaries is paramount, and two key entities, the President's Working Group and the Financial Stability Oversight Council, are expected to play crucial roles in shaping a cohesive and comprehensive regulatory framework for the future.

From a tax perspective, the Internal Revenue Service (IRS) has defined cryptocurrencies as a digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value. In line with this definition, the IRS has issued tax guidance that requires cryptocurrency investors to report their annual cryptocurrency activities on their tax returns. This underscores the U.S. government's commitment to ensuring compliance and revenue collection in the rapidly growing cryptocurrency sector.

Notably, the United States holds a prominent position in the global cryptocurrency ecosystem. It boasts the largest number of crypto investors, houses numerous cryptocurrency exchanges and trading platforms, hosts a substantial presence of cryptocurrency mining operations, and is home to a flourishing ecosystem of cryptocurrency investment funds. This significant involvement underscores the country's role as a key player in shaping the future of cryptocurrencies, both in terms of regulation and market development.

Virtual Assets Brazil

According to CoinMarketCap, approximately 10 million Brazilians participate in the crypto market. This has led to Brazilian Legislators proposing a series of regulations on cryptos in the past several years as well as creating a regulatory sandbox. They came up with regulatory framework for the virtual currency market in order to reduce the risks of virtual currencies against the financial stability of the economy, reduce the possibility of them financing illegal activities and to protecting the consumer against possible abuses.

The virtual asset service provider carries out the exchange between virtual assets and national or foreign currency, exchange between one or more virtual assets, transfer of virtual assets, custody or administration of virtual assets or instruments that enable control over virtual assets and participation in financial services and provision of services related to the offering by an issuer or sale of virtual assets.

In order to provide virtual asset services, virtual service providers must comply with certain guidelines such as free initiative and free competition, good governance practices and risk-based approach, information security and protection of personal data, protection and defense of consumers and users, protection of popular savings, soundness and efficiency of operations and prevention of money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction, in alignment with international standards.

The government has also declared that bitcoin is an asset and therefore is subject to capital gains taxes and that the existing Anti-Money Laundering (AML) laws extend to virtual currencies in

certain contexts. The Special Department of Federal Revenue of Brazil has published a document on cryptocurrency taxes in the country that establishes and regulates the obligation to provide information relating to operations carried out with cryptoactives to the Special Secretariat of the Federal Revenue of Brazil (RFB).

Further, Companies must follow standards for communicating financial operations, identifying customers and maintaining records. Institutions authorized to operate by the Central Bank of Brazil may exclusively provide the service of virtual assets, or combine it with other activities, in accordance with the regulations to be issued by a body or entity of the Federal Public Administration indicated in an act of the Executive Branch.

The Brazilian government has classified the crime of fraud in the provision of virtual asset services as organizing, managing, offering portfolios or intermediating operations involving virtual assets, with the aim of obtaining an illicit advantage, to the detriment of others, inducing or keeping someone in error, through artifice, ruse, or any other fraudulent means. The penalty is imprisonment for four to eight years and a fine. If the virtual asset service provider operates without authorization, it will be committing a financial crime, with imprisonment for one to four years and a fine.

To promote innovation in payment services, demanded by the accelerated digital transformation underway in the global economy, the discussion about the issuance of digital currencies by central banks (Central Bank Digital Currencies - CBDCs) has gained prominence over the last few years in Brazil.The Banco Central do Brasil (BCB) has been promoting discussions, internally and with its international peers, aiming at the possible development of a CBDC that may keep up with the dynamic technological evolution of the Brazilian economy, enhance the efficiency of the retail payment system, foster new business models and other innovations based on technological advances and favor Brazil's participation in regional and global economic scenarios, increasing efficiency in cross-border transactions with consideration that any developments stemming from this environment of innovation will be consistent with the BCB's mission of ensuring the stability of the currency purchasing power, fostering a sound, efficient and competitive financial system and promoting the economic well-being of society.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/055: ADJOURNMENT AND DATE OF NEXT MEETING

The Meeting was adjourned at 10 Minutes past 5.00pm. The next meeting will be held on notice.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 19th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON MONDAY 18th September 2023 AT 10.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Peter Kaluma,MP
5. Hon. Sarah Korere, MP
6. Hon. Gedion Kimaiyo Kipkoech, MP
7. Hon. Fredrick Ikana, MP
8. Hon. Caroline Ngelechii, MP
9. Hon. Capt. Ruweida Obo, MP
1. Hon. Edwin Gachuki, MP
2. Hon. Geoffrey Ruku, MP
3. Hon. Umulkher Harun Mohamed, MP
10. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Mburu Kahangara, MP
3. Hon. Geoffrey M. Wandeto, MP
4. Hon. Innocent Maino Mugabe, MP
5. Hon. Gitonga Mukunji, MP

IN ATTENDANCE: SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Mr. Douglas Katho	Clerk Assistant I
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Ms. Brenda Michira	Research Officer III
7.	Ms. Delvin Ominde	Research Officer III
8.	Ms. Veron Oluoch	Research Officer III
9.	Ms. Mwanaisha Juma	Sergent At Arms
10.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE: THE NATIONAL INTELLIGENCE SERVICE

1.	Noordin Haji	-	Director General
2.	Agnes Shikuku	-	Deputy Director General
3.	Peter Onyango	-	Assistant Deputy – Cyber

4. Angela Nagisha - Cyber Specialist
5. Eric Mwangi - Cyber Specialist
6. Ahmend Bakirali
7. Yawo Kipkoech - Deputy Assistant
8. Gedion Kipkorir - PA to DG
9. Evelyne Owino - Organises Crime
10. Susan Osembo - Financial Forensics
11. Damaris Lukwo - Legal
12. Ziporah Onyonka

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Meeting with the Director General, The National Intelligence Service
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/050 PRELIMINARIES

The Chairperson called the meeting to order at 11.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/051 WRITTEN AND ORAL SUBMISSIONS BY THE NATIONAL INTELLIGENCE SERVICE

On 18th September, 2023, the Committee proceeded to hear the National Intelligence Service response to queries raised by the Ad-Hoc Committee letter Ref.AD-HOC/WC/2023/024 dated 6th September, 2023 to inquiry into the activities and operations of worldcoin. In his submission, he responded as follows;

On State of Cyber Security in Kenya

The current state of cybersecurity in Kenya is characterized by dynamic and unpredictable challenges due to the increased adoption of cyber technologies. Kenya's cybersecurity readiness is considered reactive, with Limited structures for protection and response. Key vulnerabilities include overdependence on foreign tech, weaknesses in critical infrastructure Systems inadequate cybersecurity Investment, Inadequate regulatory frameworks, and insufficient cybersecurity awareness. The country also faces challenges such as limited threat visibility, rising cybercrimes, lack of information sharing, and the use of digital platforms by criminal groups.

Cyber threats in Kenya include cyber sabotage (disruption of critical infrastructure), cyber espionage (theft of data), cyber terrorism (using technology for violent acts), and cyber subversion (propaganda and misinformation). Numerous incidents in 2023 illustrate these threats, including ransomware attacks on government and private entities, data breaches, and phishing attacks.

To mitigate these threats, the Service has taken measures such as cybersecurity sensitization programs, system security audits, cyber operations, and issuing advisories to relevant government agencies

In view of the foregoing, there is need to develop a comprehensive national cybersecurity risk management framework, acceding to international conventions, developing regulations for emerging technologies, strengthening legal frameworks, enhancing governance and

coordination, investing in cybersecurity capacities, improving threat monitoring and enhancing international cyber cooperation.

In addition, there is need to integrate cyberspace as the fifth dimension of warfare in the National Security Strategy (NSS) due to its cross-cutting and cross-border dimensions and influence on the socio-economic status of the nation

These measures aim to bolster Kenya's cybersecurity posture and protect critical digital infrastructure in the face of evolving cyber threats.

On Blockchain Technology and Cryptocurrencies

Blockchain and cryptocurrency technologies are closely linked, with cryptocurrency being a prominent application of Blockchain technology. Blockchain is a decentralized and tamper-resistant digital ledger, while cryptocurrencies use cryptography for security.

Cryptocurrency adoption in Kenya is notable, with the country ranking first globally for peer-to-peer trading volume. Bitcoin is the most widely used cryptocurrency, but others like Ethereum and Ripple have gained popularity. Various cryptocurrency exchanges operate in Kenya.

Blockchain has several advantages in Kenya, including combating corruption, reducing national debt through digital asset frameworks, improving democracy and elections, promoting financial inclusion, enhancing agriculture and food security, streamlining land titling, and facilitating affordable housing.

However, cryptocurrencies also pose security concerns due to their potential for anonymity, borderless transactions, difficulty in tracing decentralization, lack of third-party intermediaries, and limited regulation. Criminals can exploit these features for illicit activities.

The economic implications of cryptocurrencies include financial inclusion, remittances, investment opportunities, potential Impacts on monetary policy, and taxation challenges. Regulatory implications encompass consumer protection, anti-money laundering (AML) and know-your customer (KYC) procedures, market integrity, investor safety, financial enter stability, international competition, and legal recognition.

While cryptocurrencies offer economic benefits and innovative applications, they also raise complex regulatory and security challenges that require careful consideration and balanced approaches to ensure responsible and safe use in Kenya.

On Security-related aspects of Blockchain and Cryptocurrency Trading Cryptocurrency trading,

Crypto trading involving the speculation on digital currency price movements, presents both opportunities and significant security concerns. Users can trade through Contracts for Difference (CFD) or actual coins on exchanges. However, the following security issues need attention.

One of the most prevalent threats is phishing attacks, where backers impersonate reputable entities or trading platforms to trick users into revealing sensitive information. Malware poses another substantial risk, with crypto-mining malware exploiting the computational power of infected machines and wallet-stealing malware compromising digital assets. Additionally, fraudulent trading platforms have emerged, resulting in substantial financial losses for unsuspecting users.

The security of cryptocurrency accounts is a crucial concern. Users access their digital assets through private keys, and if these keys are not securely stored, they can be vulnerable to theft.

Moreover, the lack of regulatory oversight in the cryptocurrency space leaves investors without adequate protection and legal recourse in the event of fraudulent activities.

Third-party applications, although useful for monitoring cryptocurrency prices and managing portfolios, can pose risks, especially when they require sharing sensitive information with developers. Money laundering and terrorism financing have also become made cryptocurrency vulnerable, as the anonymity of cryptocurrencies can be exploited for illicit financial activities.

Another emerging threat is identity theft through SIM card fraud, where stolen identities are used to fraudulently register SIM cards and engage in cryptocurrency transactions. To mitigate these risks, individual crypto traders should carefully read and understand the terms and conditions of trading platforms, double-check the legitimacy of websites, enable two-factor authentication (2FA) or multifactor authentication (MFA), exercise caution when using third-party applications, and avoid using trading platforms as long-term storage for digital assets.

On a broader scale, policymakers are urged to formulate and enforce regulations governing virtual assets and providers to combat fraud, money laundering, and terrorism financing. International cooperation among regulatory authorities is essential for effective monitoring of cryptocurrency service providers and maintaining regulatory efficacy. Block chain intelligence tools can help government regulators detect and mitigate illicit financial activities, and public awareness campaigns are needed to educate the populace about cryptocurrency risks and mitigation strategies.

On Monitoring Worldcoin activities for Financial Crimes and Terrorism

The Service has employed elaborate and robust protocols and strategies to monitor cryptocurrency activities for financial crimes and terrorism. Worldcoin and other cryptocurrency platforms have been under close monitoring by the Service for signs of money laundering and terrorism financing. The strategies employed have been effective, although they may need to be complemented by enhanced law and policy.Analysis has not established any indications of money laundering or terror financing by Worldcoin.

On Intelligence and Counter Intelligence concerning worldcoin

The Service has recognized the growing influence of cryptocurrencies, leading them to include cryptocurrency-related activities in their intelligence and counterintelligence efforts. An initial focus was on a local cryptocurrency project called NURUCOIN, which was involved in fraudulent activities mounting to KES 27 billion. Subsequently, the case was referred to the Directorate of Criminal Investigations (DCI) for further action.

Acknowledging both the opportunities and risks presented by cryptocurrencies, the Service has continued to closely monitor cryptocurrency developments in Kenya. To facilitate this, the Service established an internal Working Group dedicated to investigating cryptocurrency-related activities and emerging trends.

The Working Group engaged in consultations with various regulatory bodies and institutions. Key stakeholders included the Central Bank of Kenya, Capital Markets Authority, Kenya Revenue Authority. The National Treasury, The Financial Reporting Centre, and The Kenya Bankers Association. The engagement was aimed at disseminating intelligence on the risk posed by cryptocurrency in Kenya with a view to initiating the process of developing policy and regulatory framework.

SUPPLEMENTARY QUESTIONS

On whether NIS knew about operations of worldcoin from 2021

The NIS informed the Committee that the service began monitoring worldcoin when it started hiring its sales team and they monitored them alongside other cryptocurrencies but worldcoin did not meet their threshold on national security reconciliation revolving around potential links

to financial crimes, money laundering and terror activities and looked at it as a normal emerging cryptocurrency. It was noted that when monitoring a person or organization, NIS looks at certain issues to see whether the person or organization should still be under watch, or some actions should be taken against whatever activities they are involved in and the red flag will be when that person or organization is involved in sabotage or subversion, terrorism, money laundering or organized crime. NIS further noted that there is need to recognize that technology is moving very fast and should agree as a government what areas they are going to be able to oversight and control, otherwise their activities will be futile and they will not be able to achieve what is needed.

On whether worldcoin online recruitment is still ongoing in Kenya

The NIS confirmed to the Committee that online activities were still ongoing on the worldcoin App since it's a worldwide technology that can be operated remotely and will continue. He noted that the Country should encourage some of these entities to put shop in Kenya, to make sure that Kenya is attractive instead of reacting in a manner that will discourage them from coming. A lot of these organizations are looking elsewhere to shop because of the way the world is changing today and the country should look at how to leverage to bring these investors so as to create employment and wealth out of some of these new emerging technologies that are coming up while at the same time safeguard ourselves from any threats that are going to emerge.

On collaboration with other jurisdictions

The NIS informed the Committee that when it comes to critical installations and assets, NIS is very careful about collaboration and cannot open up their critical infrastructure to each and every person. He noted that even though they have close allies, they still have Kenyans interests at heart that they have to safeguard. He further noted that they do collaborate with other countries, but with limitations. He noted that NIS have a very robust research and innovation department as well as the requisite human resource and they are trying to create their own solutions, softwares and hardwares so as to become less dependent on foreign equipment and software. He further noted that most of NIS softwares are in -house and only collaborate with other countries in case of something that they cannot get and when they get it, they try to do reverse engineering and ensure that they are able to do and create their own so that they are completely safeguarded against cyber espionage and sabotage. They insist more on transfer of technology and research and innovation exchanges with other jurisdictions.

On countries with satisfactory stories on cryptocurrency legislation framework that enable the crypto space.

The NIS informed the Committee that there are quite a number of countries which already have the regulations done for cryptocurrencies like the UAE, the Central Africa Republic, UK, Norway amongst others. But then there is El Salvador which was the first one to regulate cryptocurrency and have seen a lot of economic growth from the time they did the regulations since many investors have flocked the country enabling then to have the best power supply, the best roads and infrastructure as well as creating employment to its youth who are tech-savvy.

On how to secure crypto from being used as a tool for money laundering and funding of terrorism

The NIS informed the committee that with clear legislation, Kenya will be able to outline what is money laundering and what is not as well as giving us the capabilities to be able to fuel the space and also regulate it. He noted that this can only be done through legislation as well as adequate allocation of resources in terms of funding to allow government entities charged with the responsibility to be able to undertake their mandate since the tools that are required and must be invested upon are not very cheap.

On the kind of legislation amendments to be undertaken.

The NIS informed the Committee that it will be very difficult to have one piece of legislation to recognize the new phenomenon and the issue of cyberspace. He noted that section 18 of the Data Protection Act states that one does not have to be a company to be a data controller or processor making it very difficult legally to pin down worldcoin using the Companies Act. He further noted that the Act itself does not recognize cryptocurrency or crypto assets. Therefore, when it comes to making the amendments, the Country will have to review/amend all legislation dealing with cryptocurrencies to put in line issues of cryptocurrency and crypto assets and all others that will emerge in the future starting from Central Bank of Kenya, Communication Authority, Information and Communication Technologies, Capital Markets Authority, Financial Reporting Centre among others.

On main goal and of woldcoin founders according to NIS

The NIS informed the Committee that the main goal of the founders of worldcoin is about having a unique identifier that can be used worldwide, hence the name World ID. If this World ID gets accepted, one will not be able to log into various applications using email addresses, mobile numbers or passwords as it is happening currently. Instead, the World ID will enable different applications to be able to uniquely identify a human being and differentiate them from the AI bot through the iris scan. Further, this technology will make their cryptocurrency value grow as a result of not being misused by bots as other cryptocurrencies that leads to degrading of their value. The tokens given by worldcoin currently is to create structure and have enough numbers so that the value of the coin can go up.

On whether as a sovereign country we should allow the data of Kenyans to be domiciled in a different country under a private company so as to be used as a world ID

The NIS informed the Committee that already as at now, Google has all our information domiciled in their servers abroad and that we also have other companies like Amazon which we use to ship goods from different countries as well as Facebook and they all have our data and their severs are not accessible by Kenyans. It was further noted that worldcoin has not come in to give a different perspective and the important bit will be how now we as a country will work with these technologies and manage this space by bringing the tech companies on board to ensure these information or particular data are not abused, misused or sold out.

On the threat to statehood with emerging technologies

The NIS noted that the threat to statehood exist and is something that NIS also recognizes. However, one of the best ways to safeguard against this is to work in concert with other states that feel threatened through conventions and bilateral engagement that will at least help us in ensuring that we are able to safeguard ourselves against these emerging technologies and also multinationals that are increasingly becoming influential globally.

On whether worldcoin operations should be allowed to continue in Kenya

The NIS informed the Committee that there is need to go back and reassess risks that might be there and also see if we can quickly come up with appropriate regulations. As we work on legislation, regulations can be a stock of measure to ensure that we are moving forward. He noted that NIS felt confident that the activities undertaken by worldcoin are okay and in line with our interests. He further noted that we must also be cognisant of the fact that we, as a country, are trying to encourage such investments and must therefore strike a balance in that.

OBSERVATIONS

Embracing the Cryptocurrency and Blockchain Revolution: The world of cryptocurrency and Blockchain technology is rapidly evolving and Kenya may need to leverage the opportunities in a secure cyber environment. It is imperative to establish a robust legal and policy framework

that safeguards the interests of all stakeholders. The financial sector is undergoing transformation in this new era and cryptocurrency will remain inevitable in the new cyber space domain. The government should therefore develop regulations that allow the general public to benefit from cryptocurrencies while outlawing its use for illicit objectives such as TF. ML and cybercrime.

Worldcoin Evaluation: To harness the potential benefits of World Coin as a cryptocurrency, it may be prudent to convene a team of experts from relevant agencies. Their collective assessment can illuminate how Kenya can strategically leverage this emerging technology

Embracing cyberspace as the fifth domain of warfare: As we step into the era of the fifth domain, marked by cyberspace and emerging technologies, it is crucial to embrace the opportunities it offers while proactively addressing potential threats. Preparedness in this realm is key to our nation's future resilience and success.

RECOMMENDATIONS

Data Controllers and Processors should be vetted by the service before they are allowed to even start applying for other certificates and there should be conditions placed on foreign entities when then come to Kenya.

In order to mitigate the adverse impacts of cryptocurrencies within the country it may be prudent to

Cybersecurity

a) National Cybersecurity Risk Assessment Framework Develop a comprehensive National Cybersecurity Risk Assessment Framework to identify and address potential cyber threats and vulnerabilities.
b) Review and Strengthen the Legal Framework Conduct a thorough review of existing cybersecurity laws and regulations to ensure they are up-to-date and effective in addressing emerging threats
c) Investment in Cybersecurity- Allocate resources for substantial Investments in cybersecurity Infrastructure and capabilities to protect critical systems and data.
d) Data Sovereignty Protection - Implement measures to safeguard data sovereignty, ensuring that sensitive national data remains within the country's control and jurisdiction.
e) Cybersecurity Conventions Establish conventions and guidelines. for cybersecurity practices to enhance overall security posture.

Blockchain/Cryptocurrencies:

a) Formulate Virtual Assets Law and Artificial Intelligence Policy Develop comprehensive legislation for virtual assets and formulate a policy addressing the integration of artificial intelligence in these technologies
b) National Cryptocurrency Awareness - Promote awareness and education at the national level about cryptocurrencies to ensure Informed decision-making among citizens. Undertake a public campaign to enlighten the public on their Data rights
c) Review Data Protection Act (DPA) 2019 for Crypto Companies - Evaluate and enhance the Data Protection Act of 2019 to Include specific provisions for vetting cryptocurrency and related technology companies.
d) Multistakeholder Approach - Engage various stakeholders, including government bodies, industry experts, and academia, in a collaborative effort to address challenges related to Blockchain and cryptocurrencies
e) International Cooperation with Emerging Tech Companies (Crypto & AI) Foster international cooperation with emerging technology companies operating in the fields of cryptocurrencies and artificial intelligence to share knowledge and best practices for mutual benefit

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/052: ADJOURNMENT AND DATE OF NEXT MEETING

The Meeting was adjourned at 10 Minutes past 1.00pm. The next meeting will be held on notice.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 18th SITTING OF THE AD HOC-COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 14th September 2023 AT 11.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. Shakeel Shabbir Ahmed, CBS, MP
4. Hon. John Kiarie Waweru, MP
5. Hon. Peter Kaluma,MP
6. Hon. Sarah Korere, MP
7. Hon. Gedion Kimaiyo Kipkoech, MP
8. Hon. Mburu Kahangara, MP
9. Hon. Fredrick Ikana, MP
10. Hon. Caroline Ngelechii, MP
11. Hon. Innocent Maino Mugabe, MP
12. Hon. Geoffrey M. Wandeto, MP
13. Hon. Capt. Ruweida Obo, MP
14. Hon. Gitonga Mukunji, MP
15. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Edwin Gachuki, MP
2. Hon. Geoffrey Ruku, MP
3. Hon. Umulkher Harun Mohamed, MP

IN ATTENDANCE: SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Ms. Brenda Michira	Research Officer III
7.	Ms. Delvin Ominde	Research Officer III
8.	Ms. Veron Oluoch	Research Officer III
9.	Ms. Mwanaisha Juma	Sergent At Arms
10.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE: MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION

1.	Prof. Kithure Kindi	CS Interior
2.	Mr. Francis Gachuri	Secretary Communications

3.	Mr. Wilson Njege	PA Internal Security
4.	Ms. Bevelyn Opworo	Communications Officer
5.	Mr. Peter Karanja	Under Secretary Security
6.	Ms. Mary Njenga	Liason Officer
7.	Mr. Paul Mugambi	Communications Officer

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Meeting with the CS Interior and National Co-ordination
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/047 PRELIMINARIES

The Chairperson called the meeting to order at 11.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/048 WRITTEN AND ORAL SUBMISSIONS BY THE CABINET SECRETARY, MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION

On 14th September, 2023, the Committee proceeded to hear the Cabinet Secretary, Ministry of Interior and National Administration response to queries raised by the Ad-Hoc Committee letter Ref.AD-HOC/WC/2023/024 dated 6th September, 2023 to inquiry into the activities and operations of worldcoin. In his submission, he responded as follows;

Investigations Operations and activities of Worldcoin/it's agents in Kenya.

The Cabinet Secretary, Ministry of interior and National Administration informed the Committee that tools for Humanity Corporation" is a company registered in the United States of America while "Tools for Humanity Gmbh" Company is registered in Germany. The two foreign companies, both trading as WorldCoin, are not registered in Kenya as required under the Companies Act, 2015 and regulations but they commenced data collection and processing activities in the Country, in the guise of offering educational programmes on crypto currency.

The CS noted that on 31st July, 2023, the Government commenced investigations on the ongoing collection of biometric data, specifically the iris scanning of people, in exchange for Ksh. 7,000 worth of Worldcoin tokens. He further noted that so far, twenty-six (26) statements have been recorded from witnesses and persons of interest, forty-eight (48) orbs, electronic gadgets and world coin operations assorted merchandise have been recovered and that the orbs and electronic gadgets have been submitted to Communications Authority and the Cyber Forensic Laboratory and are currently undergoing forensic analysis.

The CS informed the Committee that the ongoing investigations will enable the investigators ascertain the exact number of people in Kenya who were signed up and their sensitive personal data collected as well as the capability of the apparatus, possible health implications and whether they were authorised for use in the Country.

He further noted that pertinent documents relevant to the investigations have been recovered and are currently being analysed and that various Government regulatory agencies, such as Central Bank of Kenya, Communications Authority, Office of the Data Protection Commission, Registrar of Companies, Capital Markets Authority, Kenya Bureau of Standards, Nuclear Power and Energy Agency, Consumer Protection Agency and Interpol have been engaged in regard to the ongoing investigations.

The CS infirmed the Committee that the investigating team is expediting on the investigations process in consideration of the public interest and national security concerns and once concluded, those found culpable shall be prosecuted as per the laws of Kenya.

Link between cryptocurrency, money laundering and financing of terrorism;

The CS informed the Committee that there is a correlation between cryptocurrency, money laundering and financing of terrorism. However, cryptocurrency is not a legal tender and is unregulated by the Central Bank of Kenya, hence it is not criminalized by the Kenyan Laws. He noted that this gap allows for the transfer and trade in Crypto Currency without any regulatory checks hence thriving and encouraging anonymity in financial transactions across borders on various online platforms.

He further noted that the delicate and volatile nature of transactional data makes traceability of such financial transactions difficult and thus derogates the efforts made by the investigative agencies and the Asset Recovery Agency in tracing and recovering proceeds of crime. In addition, cryptocurrency creates an easy access to finances by criminals, including terrorists, and a fertile avenue for money laundering and tax evasion.

Legal and regulatory gaps on cybersecurity and cybercrime prevention

The CS informed the Committee that the laws and regulations relating to cybersecurity and cybercrime *vis-à-vis* the Worldcoin debacle includes, but not limited to the Constitution of Kenya, 2010, the Computer Misuse and Cybercrimes Act, 2018. (CMCA), the Kenya Information and communications Act, 1998. (KICA), the Registration of Persons Act, CAP 107, the Kenya Citizenship and Immigration Act No. 12 of 2011, births and Deaths Registration Act CAP 149 and the Data Protection Act No. 18 of 2021. (DPA)

He noted that there exists a legal and regulatory gap on cybersecurity and cybercrime prevention in that the Data Protection Act No. 18 of 2021 and the regulations thereto do not sufficiently address the following key issues;

a) The requirements for registration as a data controller and/or data processor, the documents to be presented to ascertain eligibility for issuance of a certificate as a data controller and/or processor.
b) The requirements of foreign companies seeking to be data controllers, documents to be presented to ascertain eligibility for issuance of a certificate to a foreign company as a data controller and/or processor.
c) The Act does not pronounce itself on circumstances when data controllers and/or processors give incentives to induce subjects to provide data and punishment thereof.
d) The Act does not provide for specific proof to the Commission that the subjects were properly taken through the purpose of data collection, handling, transfer, entities involved, possible risks and safeguards before accepting to give out their data.
e) The aspect of consumer protection is lacking in the Act
f) Enforcement and investigation of contravention of the Act is solely left to the Commission.

He further noted that the Kenyan Laws are silent on crypto currency which is currently the most popular financial tool for organized crime thus encouraging transfer of unregulated digital currency outside the existing legal framework which has also seen a rise in crypto jerking as an emerging crime trend with no laws to address it.

Any necessary legislative intervention on cybersecurity and cybercrimes

The CS informed the Committee that a Taskforce has been established to develop regulations under the Computer Misuse and Cybercrimes Act, 2018 and the draft is ready for public participation. The proposed regulations will address glaring gaps in cybersecurity and cybercrime prevention and fully give effect to the Computer Misuse and Cybercrimes Act, 2018.

He further listed the following as necessary legislative interventions on cybersecurity and cybercrimes;

i. Urgent need to reconsider and redraft the criminal offences section in the Computer Misuse and Cybercrimes Act, 2018 to remove some duplicative provisions, to de-limit the scope of the offences and to better specify the objective and subjective elements of crime.
ii. Need to re-look the punitive regime of sentences in the Cybercrimes Act and replaced with a more context-sensitive and proportionate approach. Towards this end, it may be useful for lawmakers to have regard to the Sentencing Guidelines adopted by the Judiciary in 2015 as well as to case law from the Supreme Court of Kenya.
iii. Most of the sanctions in the Cybercrimes Act do not draw a distinction between serious and less serious types of harm. This makes it possible for an individual guilty of cyber-conduct causing a small degree of harm to receive punishment similar to that facing another whose action results in more serious damage and therefore the Act needs to be re-formed systematically.
iv. Proposed establishment of the National Cyber Security Agency under the Computer Misuse and Cybercrimes Act, 2018. Establishment of the Agency will give it more powers and authority to regulate the cyber space and act as a bridge between industry and Government, providing a unified source of advice, guidance and support on cyber security, including proper management of cyber security mandate.
v. Proposed amendments to the National Intelligence Act No. 28 of 2012 to address the digital economic sabotage.
vi. An amendment to the Access to Information Act No. 31 of 2016 and incorporate strict parameters on extraction of information by digital internet-based companies.
vii. An amendment to the Access to Information Act No. 31 of 2016 pursuant to Article 35 (Sub-Article 3) for the State to publish and publicize important information affecting the Nation.
viii. Urgent need to formulate a legal framework to address the issues of crypto currency in Kenya.

SUPPLIMENTARY QUESTIONS

On retrieval of Data collected by worldcoin from the cloud space

The CS informed the Committee that the ministry is getting two conflicting experts opinions on retrieval of data in the cloud since it is science. One side of the experts are claiming that data stored can be retrieved and deleted and the other of a contrary opinion claim that once data is in that space, it cannot be completely deleted and can be restarted to be retrieved. The CS noted that he preferred to side with the minority of the scientists so as to be on the cautious side and side with the possibility that when data enters cloud space, it cannot he retrieved completely so as to inform the kind of regulations put in place in terms of who should be allowed collect data in Kenya and in what circumstances they will store it.

On measures to be put in place while vetting companies

The CS informed the Committee that at the moment there is no requirement that foreign nationals who want to do business in Kenya or want to associate with business in Kenya must necessarily be vetted although it is done sometimes when the government has reasonable grounds to suspect the nature of business. He further noted that he recommends the practice of vetting of companies especially foreign to be a priority and a precondition for the relevant permission to operate in Kenya.

On why it took the ministry too long to act since worldcoin appeared to be operating illegally for a year before formally registering as data collectors and processors

The CS informed the Committee that as security managers, it is not in their space to look over private or business interactions of people but to provide the policy context in which business and private matters operate, and unless something has been raised, either through a complaint, or they have reasonable grounds to suspect those interactions are violating the law, then they come in at that point. In the wouldcoin case, he noted that what triggered the ministry into action was the long queues and the complaints at KICC.

On whether we are fighting technology as a country

The CS informed the Committee that they were not fighting technology but will not allow technology to destabilize the security of the people of Kenya at all cost.

On whether the ministry is able to trace financial inflows and outflows in our country.

The CS affirmed that his ministry is able to trace financial inflows and outflows in the country except the cryptocurrency space because their institutions of surveillance of financial flows are not able to regulate cryptocurrency trade and transactions at the moment. He noted that Parliament should come up with an Act of Parliament on cryptocurrency to give them the general space from where to operate.

On departure of worldcoin officials out of the county without indictment

The CS informed the Committee that the police through the DCI defected stop orders against worldcoin officials and they were prevented from leaving the country and taken to custody but their departure was based on a firm and formal official agreement by the American government that if we require them, they shall produce them. He further noted that no one is immune to the law and any person found guilty of flaunting the law at the tail end of the ongoing investigations will be held accountable locally and internationally.

OBSERVATIONS

Need to reconsider and redraft the criminal offences section in the Computer Misuse and Cybercrimes Act, 2018 to remove some duplicative provisions, to de-limit the scope of the offences and to better specify the objective and subjective elements of crime.

Need to re-look the punitive regime of sentences in the Cybercrimes Act and replaced with a more context-sensitive and proportionate approach.

Need to formulate a legal framework to address the issues of crypto currency in Kenya.

Need to make security vetting a priority and a pre-condition for foreign companies registering in Kenya as well as look into regulations that ensures this process takes a reasonable time to conclude.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/049: ADJOURNMENT AND DATE OF NEXT MEETING

The Meeting was adjourned at 10 Minutes past 1.00pm. The next meeting will be held on notice.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 17th SITTING OF THE ADHOC-COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 13th September 2023 AT 10.00 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Shakeel Shabbir Ahmed, CBS, MP
3. Hon. Peter Kaluma,MP
4. Hon. Sarah Korere, MP
5. Hon. Mburu Kahangara, MP
6. Hon. Caroline Ngelechii, MP
7. Hon. Geoffrey M. Wandeto, MP
8. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Kareke Mbiuki CBS, MP
2. Hon. John Kiarie Waweru, MP
3. Hon. Capt. Ruweida Obo, MP
4. Hon. Fredrick Ikana, MP
5. Hon. Edwin Gachuki, MP
6. Hon. Geoffrey Ruku, MP
7. Hon. Gitonga Mukunji, MP
8. Hon. Gedion Kimaiyo Kipkoech, MP
9. Hon. Innocent Maino Mugabe, MP
10. Hon. Umulkher Harun Mohamed, MP

SECRETARIAT

1.	Ms. Hellen Kina	-	Clerk Assistant I
2.	Mr. Phillip Lekarkar	-	Clerk Assistant I
3.	Ms. Everlyn Orina	-	Clerk Assistant III
4.	Mr. Boaz Chibiego	-	Research Officer III
5.	Mr. Martin Sigei	-	Research Officer III
6.	Delvin Ominde	-	Research Officer III
7.	Veron Oluoch	-	Research Officer III
8.	Ms. Brenda Michira	-	Research Officer III
9.	Ms. Winnie Kizia	-	Media Officer
10.	Ms. Mwanaisha Juma	-	Sergent At Arms

IN ATTENDANCE - FINANCIAL REPORTING CENTRE

1. Saitoti Maika - DG
2. Jane Manyange - Data Legal
3. Thomas kathuli - DFA
4. Kennedy Mwae - Manager ER
5. Vincent Robi - Senior Legal officer
6. Maruto Abednego - Manager ICT

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Meeting with the Director General Financial Reporting Center
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/044 PRELIMINARIES

The Chairperson called the meeting to order at 2.30 p.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/045 SUBMISSIONS BY THE FINANCIAL REPORTING CENTRE

The Director, Financial Reporting Centre appeared before the Committee on Wednesday, 13th September 2023 and submitted as follows;

1. The rapid evolution of financial technologies and the increasing prominence of Virtual Assets have brought forth new challenges and opportunities for the financial sector. As Virtual Asset adoption grows, it becomes imperative to establish a regulatory framework that promotes transparency, security, and compliance.

2. These assets exist purely in digital form and are typically decentralized, meaning they are not controlled by any central authority like a government or financial institution.

3. Based on open-source research, Kenya had a growing ecosystem of virtual assets with a growing interest in cryptocurrencies being used for various purposes like investment, cross border payments and online transactions. The Chainalysis report 2022 Geography of Cryptocurrency Report places Kenya in position 19 on crypto adoption and position 5 with peer-to-peer exchange.

4. Kenya's Anti-Money Laundering and Terrorism Financing Mutual Evaluation Report 2022 rated the country non-compliant with FATF Recommendation 15 on the general and comprehensive requirements of regulation and risk assessment of Virtual Assets (VAs) and Virtual Assets Service Providers (VASPs). The main reason for the rating was a lack of legal and enforceable regulation and policies to regulate the VA sector.

5. The Mutual Evaluation recommended that Kenya should take a policy decision as to whether to prohibit or allow VASPs in Kenya. Where a position is taken to allow VASPs, licensing/ registration requirements should be implemented, and a risk assessment relative to Money Laundering (ML)/Terrorism Financing (TF) risks with regards to their operations should be conducted.

6. The initial position of the Central Bank of Kenya which was released through a notice back in 2018 was that, crypto currency was not a legal tender in Kenya and that Citizens were to take precaution while engaging in financial activities on blockchain platforms. The warning was primarily based on the fact that blockchain is a decentralized system therefore when a user is disgruntled there I s no central place to direct their grievances.

7. The Ministry of Information Communication and Technology published a joint report dated July 2019 that involved blockchain stakeholders both in public and private sectors on The Emerging Technologies with A Focus on Blockchain and Artificial Intelligence. The document recommended the use of Blockchain in record keeping in Government offices. Further, the newly enacted Finance Act 2023 introduced a digital asset tax where crypto currency transactions will be taxed at a rate of 3%.

8. The European Union Parliament adopted the Market in Crypto Currency Assets in April 2023. This made the EU the first major Jurisdiction with a comprehensive regulatory framework covering crypto assets, crypto issuers and crypto asset providers. Overall, numerous countries are engaging in research, definition, consultation, negotiation, and legislation to include virtual assets within existing financial services frameworks

9. CBK had issued a public cautionary statement and circular to financial institutions on trading in Crypto currency thus limiting access to banking services for cryptocurrency-related businesses leading to an increase of peer-to-peer trading. This means transactions carried out on the blockchain are now required to pay 3% tax of the total transaction. However, the Kenya Revenue Authority is yet to communicate on guidelines.

10. In March 2023, the Capital Markets (Amendment) Bill 2023, was tabled in parliament. The proposal sought to amend Section 2 of the Capital Markets Authority Act that seeks an amendment to the definition of securities under the Act by including digital currencies. It also proposes to have a baseline of 10,000 customers and an operation period of two years for VA to be allowed to enter the Kenyan market by CMA

11. In June 2023, the Financial Reporting Centre set up a multi-agency working group to conduct a risk assessment with the aim of identifying, understanding, and assessing the overall ML/TF risks related to VA and VASPs in the country.

Committee Observations

From submissions, hearing and evidence adduced by the Financial Reporting Centre the Committee observed-

12. Financial Reporting Committee is reliant to reporting by financial institutions of unusual financial activities by individuals or companies.

13. The token given to the individual Kenyans for registering on Worldcoin would be difficult to detect as the amount sent to the individuals is way too low to raise alarm by financial institutions to the FRC.

14. Worldcoin foundation and Worldcoin assets Limited are registered in the Cayman Islands and British Virgin Islands respectively which are tax havens and have strict bank secrecy laws that makes it difficult to audit the activities of the Company

15. World Id would be efficient in identification of people transacting in cryptocurrency as currently transactions take place without revealing the identities and hence illicit activities can happen.

Committee Concerns

16. The Committee inquired on whether Wordcoin should have been registered as a Virtual Asset Service Provider and clarify Mpesa and Paypal should have as well

    - The Director General (DG) stated that there were no current laws in place to ensure the registry and operations of Cryptocurrency.

    - Mpesa was not registered as a Virtual Asset Service Provider but a money transfer provider.

17. The committee was concerned on the laws registering VASPs and who should graft them and if there were any cryptos operating in the Country;

    - The DG noted that all financial sector regulators came together and proposed the Capital Markets (Amendment) Bill 2023 that seeks to makes amendments and bring more regulations in the sector.

    - Financial Reporting Centre was not aware of any cryptocurrencies operating currently in the country.

18. The committee inquired on if Worldcoin was the ideal way in which money laundry activities could be carried out and what legislation could be in place to prevent the same;

    - The DG stated that Worldcoin could not have been conducting money laundry as they gave out money to the registered people and they stood not to benefit. They only benefitted from the data collection of Kenyans.

    - Enforcement of the current laws would have been the best way in regulating the collection of private data of Kenyans.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/046: ADJOURNMENT AND DATE OF NEXT MEETING

The next meeting will be held on 14 September 2023.

SIGNED: ..... **DATE:** 27.09.2023.....

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 16th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 13th September 2023 AT 10.00 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Shakeel Shabbir Ahmed, CBS, MP
3. Hon. Peter Kaluma,MP
4. Hon. Sarah Korere, MP
5. Hon. Mburu Kahangara, MP
6. Hon. Fredrick Ikana, MP
7. Hon. Caroline Ngelechii, MP
8. Hon. Irene Nyakerario Mayaka, MP
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10. Hon. Umulkher Harun Mohamed, MP

ABSENT

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5. Hon. Geoffrey Ruku, MP
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SECRETARIAT

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3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Delvin Ominde	Research Officer III
8.	Veron Oluoch	Research Officer III
9.	Ms. Brenda Michira	Research Officer III
10.	Ms. Winnie Kizia	Media Officer
11.	Ms. Mwanaisha Juma	Sergent At Arms

IN ATTENDANCE:- CAPITAL MARKETS AUTHORITY

1. Kefa Gitau Ngoiri - Senior Accoutant

2. Victor Oluoch Otieno - Manager Financial Analyst
3. Josephine W. Kangonga - Manager Legal framework
4. Antony Mwangi - Manager Communications
5. David Warutere - Ag. Director Market Penalties
6. Dorcas Gichaga - Senior Enforcement Officer
7. Wycliffe Shamah - CEO

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**

   Meeting with the CEO of Capital Market Authority
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/041 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/042 SUBMISSIONS BY THE CEO OF CAPITAL MARKET AUTHORITY

The CMA appeared before the Committee on 13th September, 2023 and discussed various aspects of the financial sector, including the banking sector, customer markets, insurance, and benefits. They highlight the importance of long-term funds for certain projects and mention two types of investors: those with ideas but no resources, and those with funds but no specific projects. Capital markets serve as a platform for these investors to meet and exchange funds. The CMA further mentions that for short-term funds, the money markets, including the banking sector, circles, and microfinance, are suitable. They also touch upon the role of the Capital Markets Authority (CMA) in regulating capital markets, with specific reference to Act 485, which focuses on ensuring fairness and facilitating market development. The CMA elaborated on the developments in capital markets, including regulations related to online forex trading and discussions about supporting agriculture and commodities markets. The CMA's highlighted its role in investor protection and interest representation. The CMA addresses the topic of cryptocurrencies, emphasizing that the CMA lacks specific mandates regarding cryptocurrencies and only sourced information from the internet and media. The CMA informed the members of an attempt to regulate cryptocurrencies through the Finance Act 2023, specifically regarding taxation and the definition of currencies and digital coins. The CMA clarified that cryptocurrency regulation falls outside the CMA's jurisdiction but suggests that regulations are emerging

On Cryptocurrencies use in Kenya and legality

The Authority notes the publicly reported use of cryptocurrencies by Kenyans. Currently, there is no legislative or regulatory framework governing cryptocurrencies in Kenya and therefore, no protections exist in the event that a cryptocurrency or crypto-related platform fails. However, the Finance Act 2023, introduces a digital asset tax payable by a person on income derived from the transfer or exchange of digital assets. Further, the finance act,2023definesadigitalasset "to include anything of value that is not tang1bie and cryptocurrencies, token code, the number held in digital form and generated through cryptographic means or otherwise, by whatever name called, providing a digital representation of value exchanged with or without consideration that can be transferred, stored or exchanged electronically; and a non-fungible token or any other token of similar nature, by whatever name called; and income derived from transfer or exchange of a digital asset" means the gross fair market value consideration received or receivable at the point of exchange or transfer of a digital asset.

On the Role of Capital Markets Authority in the regulation of cryptocurrencies and other related transactions in Kenya.

Owing to the lack of a regulatory framework governing cryptocurrencies in Kenya, the CMA has no regulatory role or oversight on cryptocurrencies or cryptocurrency-related transactions in Kenya. Furthermore, Section 2(i) of the Capital Markets Act, Cap. 485A which defines the instruments considered as securities, does not include cryptocurrencies. Cryptocurrencies are therefore not within the regulatory purview of the CMA.

The basis of the Capital Markets Authority's advisory, cautioning Kenyans against dealing with unregulated entities.

The Authority's attention was drawn to media reports on 2 August 2023 relating to the public interest in the Worldcoin-related registration of the members of the public where those being enrolled were promised free crypto-tokens. The Authority noted with concern that some members of the public perceived Worldcoin crypto-tokens as a potential investment and were consequently lured into enrolling themselves on the World ID product in exchange for the crypto-tokens that could later be exchanged for cash through over-the-counter transactions. As a result, the Authority proactively issued a cautionary statement advising the public that Worldcoin was not regulated and its products were not investment products within the scope of the Capital Markets Act and hence not under the regulatory purview of the Authority. Similarly, the Authority sought to safeguard the public by urging them to be wary of potential fraudulent schemes that may emerge in the over-the-counter market of crypto tokens.

Any other information relevant to the inquiry

In the spirit of promoting and facilitating innovation in the Capital Markets in Kenya, the Authority developed the Capital Markets Regulatory Sandbox in 2019. ARequlatory Sandbox is a controlled regulatory environment for conducting limited-scale, live tests on innovative products, solutions, and services that have the potential to deepen or broaden the capital market prior to mainstreaming the products in the appropriate capital markets regulatory framework while allowing the Authority to remain vigilant to the investor protection, financial stability, and integrity risks. The scope of the Authority's Regulatory Sandbox is confined to considering applications connected to innovative business models and emerging financial technologies (FinTech) that have the potential to deepen or broaden the capital markets in Kenya. Since its inception, the Authority's Regulatory Sandbox has received numerous enquiries pertaining to FinTech and business models proposing new products or models which are evaluated to establish how they're aligned with the objectives of deepening or broadening the Kenyan capital markets.

In May 2022, the Authority received an enquiry on crypto-asset regulation from the law firm Bowmans Coulson Harney LLP (hereinafter referred to as Bowmans). Bowmans requested the Authority to review and guide whether their client's innovation was within the scope of the Authority's Regulatory Sandbox. As a result, the Authority's Regulatory Sandbox Committee held a meeting with Bowmans on 27th May 2022. Bowmans appeared in this meeting with Mr. Thomas Scott from Worldcoin. The Bowman's team and their client made a presentation to the regulatory Sandbox Committee on their e-KYC and Worldcoin crypto-token innovation. The Authority's Regulatory Sandbox Committee guided Bowmans and their client to evaluate the sandbox eligibility criteria to determine whether their proposed innovation was fit for purpose in the regulatory sandbox and confirm that their proposed token was not a cryptocurrency but a crypto-asset. The International Organization of Securities Commissions (IOSCO) which is the global standard setter for securities regulators considers crypto-assets as assets that are issued or transferred through distributed ledger or blockchain technology. After this meeting, the Bowman's team and their client did not pursue further engagements with the Authority concerning their proposed innovation.

Supplementary questions

On the role of Capital Markets Authority in regulating cryptocurrencies and related transactions in Kenya?

The Capital Markets Authority (CMA) in Kenya does not have specific regulatory authority over cryptocurrencies and related transactions. Cryptocurrencies operate outside the traditional financial systems and fall outside the scope of the CMA's mandate, which primarily covers securities and capital markets. However, the CMA acknowledges the presence and growth of cryptocurrencies and the need to carefully assess their impact on the financial markets. Regulation of cryptocurrencies would require collaboration among various stakeholders, including policymakers, regulators, and experts to determine how to address potential disruptions and ensure investor protection.

On whether the CMA would consider embracing cryptocurrencies as a way to deepen Kenya's financial markets, and what recommendations or proposals do they have for enhancing legislation in this regard

The CMA acknowledges the potential impact of cryptocurrencies on financial markets and recognizes the need for careful consideration. Embracing cryptocurrencies in Kenya's financial markets would require a comprehensive approach that involves amending and enhancing existing legislation, as well as developing new regulations to address the unique challenges and opportunities presented by cryptocurrencies. The CMA suggests the following steps:

1. Collaborative Approach: Engage various stakeholders, including regulators, policymakers, and industry experts, to formulate a regulatory framework that suits Kenya's financial landscape while considering international best practices.
2. Assess Impact: Conduct a thorough assessment of the potential impact of cryptocurrencies on the financial markets, investor protection, financial stability, and anti-money laundering measures.
3. Framework Development: Develop a clear and comprehensive regulatory framework tailored to the specific needs of cryptocurrencies and related transactions. This may include defining the legal status of cryptocurrencies, regulating exchanges, implementing anti-fraud measures, and ensuring proper investor protection.
4. Continuous Monitoring: Establish mechanisms for continuous monitoring and adaptation of regulations as the cryptocurrency space evolves and new innovations emerge.
5. International Collaboration: Collaborate with international regulatory bodies and organizations to stay updated on global developments in cryptocurrency regulation and ensure compliance with international standards.

On how CMA acts when organizations, such as World Coin, go against their advice and engage with Kenyan citizens without regulatory approval

When organizations go against the advice of the CMA and engage with Kenyan citizens without obtaining the necessary regulatory approval, the CMA takes a proactive approach to protect investors and enforce compliance. The actions taken may include:

1. Issuing Advisory Statements: The CMA may issue advisory statements to the public to inform them that a particular product or entity has not been assessed and approved by the authority. This is aimed at alerting potential investors to exercise caution.
2. Enforcement Measures: If necessary, the CMA may take enforcement measures, such as ordering the organization to cease its activities in Kenya, initiating legal proceedings against them, and seeking remedies for affected investors.
3. Collaboration with Other Authorities: The CMA may collaborate with other relevant authorities, such as the central bank and law enforcement agencies, to investigate and take appropriate action against organizations that operate outside the regulatory framework.

On whether the CMA have regulations or provisions in place to deal with foreign companies that seek to participate in the regulatory sandbox within Kenya's capital markets.

The CMA has regulations and provisions in place to deal with companies, both domestic and foreign, that seek to participate in the regulatory sandbox within Kenya's capital markets. The regulatory sandbox is governed by the Capital Markets Act, specifically in sections 12 and 12A. These provisions allow the CMA to develop guidelines and requirements for admission to the sandbox, and they apply to both local and foreign entities.

Foreign companies seeking to participate in the regulatory sandbox would need to meet the eligibility criteria established by the CMA. These criteria typically focus on the innovative nature of the proposed product or service and its potential value to the capital markets. The sandbox provides a controlled environment for testing innovations, and the CMA closely monitors and assesses the participants to ensure compliance with regulatory requirements.

Foreign companies interested in participating in the regulatory sandbox should engage with the CMA and follow the established application and assessment process to gain approval for their innovations in Kenya's capital markets. Collaboration with other relevant authorities may also be required, depending on the nature of the innovation.

Observations

1. The Capital Market Authority (CMA) in Kenya plays a significant role in regulating various aspects of the financial sector, including capital markets, banking, insurance, and benefits. They focus on facilitating the allocation of long-term funds for projects and acting as a platform for two types of investors: those with ideas but no resources and those with funds but no specific projects.
2. Kenya does not have a legislative or regulatory framework governing cryptocurrencies. The CMA does not have regulatory authority over cryptocurrencies and related transactions, and they are considered outside the scope of their jurisdiction. However, the Finance Act 2023 introduces a digital asset tax for income derived from the transfer or exchange of digital assets.
3. **CMA** issued cautionary statements regarding Worldcoin, clarifying that it was not regulated and its products were not under the purview of the Capital Markets Act.
4. The CMA established a Regulatory Sandbox in 2019, providing a controlled environment for testing innovative financial products and services. It primarily focuses on innovative business models and emerging financial technologies (FinTech) that have the potential to deepen or broaden the capital markets in Kenya.
5. The CMA has regulations and provisions in place to deal with both domestic and foreign companies seeking to participate in the regulatory sandbox. These regulations are intended to encourage innovation while ensuring investor protection, financial stability, and integrity risks are considered.
6. The CMA acknowledges the presence and growth of cryptocurrencies and recognizes the need for a comprehensive regulatory framework to address potential disruptions, ensure investor protection, and comply with international standards. There is a need for collaboration among various stakeholders, including policymakers and industry experts, in developing such a framework

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/043: ADJOURMENT AND DATE OF THE NEXT SITTING

The next meeting will be held at 2pm,13th September 2023.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 15th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MAIN CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 12th September, 2023 AT 10.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Shakeel Shabbir Ahmed, CBS, MP
3. Hon. Peter Kaluma,MP
4. Hon. Sarah Korere, MP
5. Hon. Mburu Kahangara, MP
6. Hon. Fredrick Ikana, MP
7. Hon. Caroline Ngelechii, MP
8. Hon. Geoffrey M. Wandeto, MP
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1. Hon. Kareke Mbiuki CBS, MP
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SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE – SENSE MARKETING LIMITED

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
    i. **Meeting with the Sense Marketing Limited**

4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/038: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/039: WRITTEN AND ORAL SUBMISSION OF SENSE MARKETING LIMITED

On 12th September, 2023, the Committee proceeded to hear Sense Marketing Limited response to queries raised by the Ad-Hoc Committee letter Ref.AD-HOC/WC/2023/024 dated 6th September, 2023 to Sense Marketing Limited on inquiry into the activities and operations of worldcoin. In their submission, they responded as follows;

Profile of Sense Marketing Limited and registration status

Mr Olende, the Managing Director informed the Committee that Sense Marketing Limited is a Kenyan company Incorporated under the Companies Act (Cap. 486) with registration number 11579i registered on 6th September, 2023 and officially started operation in July 2022. He noted that Sense Marketing is an Experiential marketing agency focusing on below the line marketing, digital marketing, research, creative services, among others.

Terms of engagement between sense marketing limited and worldcoin

The MD informed the Committee that In October 2022, Sense Marketing was made aware of a company called Worldcoin that was operating in the country as a cryptocurrency and was looking for operators to help sign up willing consumers into their platform. He visited few sites where they had operations to see what exactly the company was doing and how they were registering users onto the worldcoin platform i.e., Lavington mall and Kenyatta university. He then contacted the worldcoin representative in the country who was willing to add Sense marketing as one of their many local operators and was granted a meeting to discuss how the project works and what role they would play. He noted that he was requested to share statutory documents such as company profile, certificate of incorporation and ID copy after which he was sent an Orb Operator Agreement and Due Diligence Questionnaire to sign on 15th November, 2022 and received them back on 18th November, 2022.

The agreement contracted Sense Marketing as an operator and their task was to recruit a team of agents who would be deployed to various malls and events to recruit people onto the worldcoin platform. The agents were temporary and their payment was commission based tied to the number of people they signed up on daily basis. The agents were tasked with speaking to people about who worldcoin were and those interested were assisted/requested to download the worldcoin app from the app store or google store in order to register for the service after accepting all the terms and conditions. Once downloaded, they were to use the Orb to verify proof of humanity. He further noted that Worldcoin provided the orbs and was in control of the program running the orbs which as per the information provided were to be used to verify a person is a human. They were informed that the orb did not store any data and all scans would be deleted once the verification was done.

He noted that once agents we recruited, worldcoin organized and conducted training sessions where they were taken through the process of registering willing participants and how to operate the orb. Worldcoin conducted a series of trainings and sensitizations where they gave strict instructions on how registrations and verifications were to be done. The agents were trained not to conduct registration and verification of minors.

Once the training was complete, worldcoin would allocate a venue mainly malls, where the agents would be stationed. The leases and agreements of the venues were between worldcoin and the establishments. At each mall/venue, Worldcoin provided a full set up that consisted of a branded display, table with cabinets and the orbs which were stored in the display cabinets.

Marketing and activation of worldcoin activities in Kenya by sense marketing ltd

Mr. Olende informed the Committee that Sense Marketing Ltd was an orb operator for Worldcoin and not the marketing agency.

Operations and activities of worldcoin in Kenya and legality of the operations

The MD informed the Committee that at the time they began engagements with Worldcoin in October 2022, they had already been in the market for over a year and a half and were conducting activities in malls and campuses, and because of their public operations and the fact that their company was to be added as one of the many already existing operators, they did not note or sense any cause for alarm and to the best of their knowledge, worldcoin was legally conducting operations in the country.

Capturing of personal data

The MD noted that during the engagement with participants in the various venues, they were informed of what worldcoin was about and willing participants were directed on how they could download the app and register for the service after accepting the terms and conditions then proceed for iris scan to verify proof of humanity.

Use and safety of personal data collected from Kenyans and mitigation against any adverse practices.

The MD informed the Committee that Sense Marketing was not collecting any personal data or information from Kenyans and to the best of their knowledge, the orb was a device used to verify proof of humanity.

SUPPLIMENTARY QUESTIONS

On whether he had a worldcoin ID

The MD informed the Committee that he had been registered in the App as well as gone through an Iris scan. He noted that one of the requirements of being a worldcoin agent was to go through the process to understand it.

On minors registration

Mr. Olende informed the Committee that the training they undertook was specific that no minors were to be registered but admitted that there could be possibilities that minors were registered since they did not have a proper mechanism of identifying one. They relied on judgment through appearance.

On information agents were to take from data subjects

Mr. Olendo informed the Committee that the agents under him were not collecting or recording any data from the participant and that if any of them did, then it was not as per the agreement. What they were required to do was to talk to people about who woildcoin were and the cryptocurrency and they would take willing participants through the process of downloading the App, accepting terms and conditions and latter conduct an iris scan to prove humanity. There was no additional information required to distinguish the irises. He noted that Sense Marketing ltd did not consider themselves as Data Controller or processor but as orb operators.

On the number of orbs they got as a company and if due diligence was conducted on them

The MD informed the Committee that the orbs were allocated according to the number of venues available. He noted that they would be allocated at most two orbs at a time per venue/mall. He further noted that they relied on the training conducted that indicated the orbs to be biometric scanners used to verify humanity and would delete the information collected afterwards. He Admitted of not know that the orbs were telecommunication devices/captured data and that they did not go through type approval.

On activities at KICC

The MD noted that all orb operators were required to be at the venue during the KICC product activation. He informed the Committee that the orb operators were 11 in total but did not know any information about them or the number of orbs each had. As Sense Marketing, they operated two orbs. He noted that in his view, the mass of people experienced at KICC would have been as a result of the inducement in terms of tokens and would not have been the same if there were no tokens being offered.

On why they continued with operations despite the ceasure issued by ODPC

Mr. Olende informed the Committee that they were not preview to the ceasure issued and did not sense any illegality since they had been operating on behalf of worldcoin publicly since their incorporation in October 2022. He admitted of not having a vast knowledge on details of privacy and Data Controller Act 2019.

On responsibility and payment and the worldcoin representative he was in contact with

The MD informed the Committee that they were to help consumers sign up and were paid on the basis of total number of people signed up. He noted that the worldcoin representative in Kenya he met and was in contact with was named Wangeci Mwangi.

On process of converting worldcoin tokens into currency

The MD informed the Committee that the tokens would be put in a crypto wallet then one would go to the blockchain market to look for willing buyers who would purchase the tokens according to the agreed exchange rate and the seller would receive the money through Mpesa. He noted that the tokens would vary between 1 to 25 WLD weekly.

On whether in his view woldcoin activities seek to decentralize monetary system as well as uniqueness of humanity and they were participating in that

The MD informed the Committee that having known the existence of cryptocurrency trade, he understood worldcoin as one of them joining the market and did not perceive them as trying to decentralize monetary systems.

OBSERVATIONS

Sense Marketing acted as Data Collectors and were not registered as Data Controllers with ODPC.

The Company did not conduct due diligence on legality of operations of worldcoin or the on the orbs and relied on training they received.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/040: ADJOURNMENT AND DATE OF NEXT SITTING

The next meeting will be held on notice.

SIGNED: ..... DATE: .....

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 14th SITTING OF THE ADHOC-COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON MONDAY 11th September 2023 AT 2.30 P.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Peter Kaluma,MP
5. Hon. Sarah Korere, MP
6. Hon. Gedion Kimaiyo Kipkoech, MP
7. Hon. Mburu Kahangara, MP
8. Hon. Fredrick Ikana, MP
9. Hon. Caroline Ngelechii, MP
10. Hon. Innocent Maino Mugabe, MP
11. Hon. Capt. Ruweida Obo, MP
12. Hon. Gitonga Mukunji, MP
13. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Edwin Gachuki, MP
3. Hon. Geoffrey Ruku, MP
4. Hon. Geoffrey M. Wandeto, MP
5. Hon. Umulkher Harun Mohamed, MP

SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Delvin Ominde	Research Officer III
7.	Veron Oluoch	Research Officer III
8.	Ms. Brenda Michira	Research Officer III
9.	Ms. Winnie Kizia	Media Officer
10.	Ms. Mwanaisha Juma	Sergent At Arms

IN ATTENDANCE: MINISTRY OF ICT AND DIGITAL ECONOMY

1. Mr. Eliud Owalo - Cabinet Secretary, MOICDE
2. Dr. Eric Kibet - Advisor to CS
3. Dr. Barrack Muluka - Advisor to CS
4. Aloise Obare - Advisor to CS
5. Jeremiah Muhonyi - Director
6. Mulei Muhia - Advisor
7. Annette Nyakora - SSC
8. Faith Adhiambo - Senior ICT Officer
9. Mercy Kariuki - PCO
10. Everlyne Githinji - PCO

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Meeting with the CS ICT and the Digital Economy
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/041 PRELIMINARIES

The Chairperson called the meeting to order at 2.30 p.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/042 SUBMISSION BY THE CABINET SECRETARY, MINISTRY FOR INFORMATION, COMMUNICATION AND THE DIGITAL ECONOMY

1. **On the role of the Ministry in regulation, processing and protection of personal data**

The CS noted that The Data Protection Act, 2019 is the law that governs the regulation, processing, and protection of personal data. That law sets out the distinct roles of the Ministry of Information, Communication and the Digital Economy and those of the Office of the Data Protection Commissioner (ODPC). Under the Act, the CS informed the Committee that the role of the Ministry was confined to policy and regulation, as well as acting as a link between the independent Office of the Data Protection Commissioner with the National Assembly.

He explained that Under section 37, 50 and 71 of the Act, the Ministry was responsible for making regulations and guidelines for the better implementation and enforcement of the Act. These included on registration of data controllers and processors, commercial use of personal data, local storage of data for strategic reasons, enforcement of compliance of the Act, and complaints handling among other pertinent issues. As provided for under the Statutory Instruments Act, 2013, these regulations are subject to approval by Parliament. Pursuant to these powers, the Ministry had developed the following regulations which are currently in force were, Data Protection (General) Regulations, 2021; The Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021;Data Protection (Complaint Handling and Enforcement) Regulations 2021; and Data Protection (Civil Registration) Regulations 2020.

The Minister alluded that Section 8 of the Data Protection Act listed the functions of the Data Commissioner, and that registration and enforcement of the Act was vested in the Data

Commissioner. He further explained that in section 8(3) of the Act, The Data Commissioner shall act independently in exercise of powers and carrying out the functions under the Act.
He noted that the Minister did not get involved in day-to-day operational issues relating to processing and protection of personal data. That the role of the Ministry under the Act is defined to policy and development of regulations.

2. On the activities and operations of WorldCoin or its agents in Kenya

The CS summarized as follows

	DATE	ACTIVITY
1.	31st May 2021	Worldcoin started collecting data in Kenya according to information obtained from Coulson Harney LLP, also known as Bownmans-Advocates representing Worldcoin in Kenya
2.	April 2022	ODPC was approached by Buzzfeed News, USA enquiring the activities of Worldcoin in Kenya. This was when the Worldcoin became known to ODPC
3.	On 19th April 2022	ODPC began assessement of the activities of Worldcoin, giving them 14 days to provide data and details about their operations
4.	6th May 2022	WC submitted response explaining activities in Kenya, relating to collection of personal data
5.	9th May 2022	ODPC asks WC to provide a Data Protection Impact Assessement (DPIA) report.
6.	17th June 2022	WC submits DPIA and DPIA for TFH USA and TFH Germany
7.	23rd June 2022	ODPC NOT satisfied with the DPIA submitted, directs Worldcoin to STOP COLLECTING SENSITIVE DATA for Kenyana for 60 days until ODPC is satisfied with DPIA and legal Basis. ODPC asks Worldcoin to demonstrate Compliance
8.	14th July 2022	Data Protection Regulations are enacted and become more effective
9.	15th July 2022	In response to ODPC's letter of 23rd June 2022, Worldcoin responds to ODPC, seeking to explain compliance and gaps in the DPIA report submitted.
10.	22nd August 2022	Tools for Humanity USA and Tools for Humanity Germany submit applications to ODPC for registration as data controllers in Kenya
11.	15th September 2022	Registration Certificate issued to Tools for Humanity (Germany)
12.	17th November 2022	TFH USA Provided Data Collection Schedule
13.	18th April 2023	TFH USA issued with Certificate of Registration Valid for 24 Months
14.	30th May 2023	After conducting spot checks, ODPC writes to Worldcoin to their dissatisfaction on data processing, legal basis for data collection, legitimate interests, and how Worldcoin was seeking to obtain consent ODPC directed World coin to cease data collection and processing sensitive personal data, provide proof that Worldcoin was obtaining valid, express, informed and specific consent from Kenyans and provide details of processing contracts with data processors and agents including sample signed contracts. All to be supplied within 14 days
15.	16th June	Worldcoin writes explaining how they are compliant, based on the letter

	2023	of 30th May 2023
16.	28th July 2023	ODPC issues an advisory to the public advising them to be vigilant as they engage with Worldcoin on compliance with Data Protection Act 2019
17.	2nd August 2023	Join Press Statement ODPC and CA expressing continuing concern with Worldcoin since its launch and operations in Kenya. The statement indicated that various counties such as Germany, France, the UK and India had expressed concern over WC OPERATIONS ODPC directed Worldcoin to cease the collection of all personal data in Kenya
18.	2nd September 2023	ODPC cancelled the registration of Worldcoin as a data controller
19.	5th September 2023	ODPC wrote to the Ministry submitting an investigation report on Worldcoiun activities in Kenya and requesting the Ministry to write to the Head of Public Service requesting assistance in stopping all activities of Worldcoin
20.	8th September 2023	At the request of ODPC, the Ministry forwarded the investigation report and requested the Head of Public Service for the Assistance of his office in stopping all the activities of Worldcoin

3. On the registration process and status of Worldcoin or its agents as a data controller in Kenya

The Minister noted that the process is governed by Data Protection Act 2019 and the Data Protection Regulations, 2021 which came into effect 14th July 2022. The act provides for particulars that include a description of the personal data to be processed by the data controller or data processor; description of the purpose for which the personal data is to be processed; the category of data subjects, which the personal data related

Contacts details of the data controller or data processor; a general description of the risks, safeguards, security measures and mechanisms to ensure the protection of personal data; any measures to indemnify the data subject from unlawful use of data b y the data processor or data controller and any other details as may be prescribed by the Data Commissioner. This applies to processing of personal data by data controller or data processor who is established or ordinarily resident in Kenya and processes personal data while in Kenya, or established or ordinarily resident in Kenya, but processing personal data of data subjects located in Kenya.

The Minister informed the Committee that the law appeared not to specifically require that foreign applicants must first be registered as a company in Kenya before being registered as a company in Kenya under this Act. The Act is applicable to both locals and non-local persons, for as long as they are collecting personal data of persons located in Kenya.

He further explained that it the obligation of a data controller or processor to fulfil other legal requirements of whatever nature, beyond satisfying the requirements of the Data Protection Act.

The Data Commissioner will undertake the verification process of the details provided in the application for registration following which the Data Commissioner has 14 days from the date of submission of the application to approve the same.

The Minister reiterated that after this process the Worldcoin, through Tools for Humanity Corporation and Tools For Humanity GMBH, were registered as data controllers by the office of the Data Protection Commissioner on 18th April 2023 and 15th September 2022, respectively.

The committee was informed that data processors and controllers and their agents were to follow the same process of registration. From the documents available for the Minister, he alluded that the agents used by Worldcoin were not registered as data processors or controllers. They were Sense Marketing, Interactive Marketing Communications, Platinum De Plus Ltd, Deluxe Automoblies, Clemo Creative Solutions Limited, Kanuni Enterprise, Nilsa Holdings Ltd, Key Marketing, Chip-Two Enterprises, Crypto Hub Limited, and Sleemark Consulting.

4. **On due diligence undertaken on WorldCoin or its agents before registration as a data controller**
   The Minister admitted that there was no indication that any due diligence was undertaken on Worldcoin or any of its agents prior to the decision to register it as Data Controller in Kenya.

5. **On the nature, use storage and safety of the data collected by Worldcoin or its agents The risks, safeguards, security measures and mechanisms to ensure the protection of personal data processed by Worldcoin or its agents;**
   The Minister informed the Committee that from the documents submitted to the office of the Data Protection Commissioner, Worldcoin collected both physical and in-app data from subjects, irises, facial images, names, gender, email address, skin color, phone number, crypto wallet address, date of birth, country of residence, IP address and device information.

   On Use of Data
   The Minister noted that the data collected by Worldcoin was used for; provision of services to worldcoin customers; conducting research to develop and improve Worldcoin products; training Worldcoin algorithm to better recognize unique users; analyzing customer wallet address to send then WLD tokens and other cryptocurrencies that the Worldcoin supports; complying with applicable laws; handling requests, complaints and inquiries; and resolving disputes, trouble shooting issues and enforcing agreements

   On Storage of Data
   The Minister informed the Committee that according to the information provided by Worldcoin in its Data Protection Impact Assessment (DPIA) with the exception of data stored locally on the Orb itself, all data was stored using Amazon Web Services (AWS) could services.
   In DPIA, Worldcoin indicated that Iris and facial images as well as inferred data are processed until the machine learning training of algorithms is completed. Worldcoin estimated that this should have been accomplished by the end of 2022. Immediately afterwards, all biometric data would be erased. Accordingly, once Worldcoin progresses to Phase 2, the intention was that all data would have been deleted unless the user had consented to this data being retained for Orb improvement purposes

   On Safety Measures
   The Minister noted that Section 31 (1) of the Data Protection Act, 2019 stipulates that where a processing operation is likely to result in high risk to the rights and freedoms of a data subject, by virtue of its nature, scope, context and purposes, a data controller or a data processor shall, prior to the processing, carry out a Data Protection Impact Assessment (DPIA).

The DPIA outlines all security related risks and the corresponding mitigation measures. Ordinarily when dealing with sensitive personal data, unauthorized access to the data, misuse of the data, identity theft and impersonation and fraud are some of the risk factors anticipated.

On Ensuring Safety of Data Collected by Worldcoin the following was done

1.	On 23rd June 2022	The ODPC directed Worlcoin to stop processing sensitive personal data of Kenyans
2.	On 30th May 2023	The ODPC directed Worldcoin to cease processing personal data until it demonstrats compliance with Data Protection Act 2019
3.	On 28th July 2023	ODPC issued an advisory to the Public asking Kenyans to exercise caution in providing personal data to Worldcoin
4.	2nd August 2023	ODPC and the Communications Authority issued a joint press statement advising Kenyans to be cautious while dealing with Worldcoin and further directing Worldcoin to cease collecting data
5.	10th August 2023	ODPC obtained a Preservatory Court Order directing Worldcoin its employees and agents to stop collecting data
6.	2nd August 2023	The ODPC cancelled the Registration Certificates of Worldcoin, bringing to an end all its operations in Kenya, the Ministry wrote to the Head of Service seeking assistance of his office in enforcement

6. **Blockchain, cryptocurrency technologies and any other technologies that are relevant to this inquiry;**

BlockChain Technology is an advanced database mechanism that allows transparent information sharing within a business network. A blockchain database stores data in blocks that are linked together in a chain. The data is chronologically consistent because you cannot delete or modify the chain without consensus from the network and as a result you can use blckchain technology to create an unalterable or immutable ledger for tracking orders, payments, accounts, and other transactions The system has built-in mechanisms that prevent unauthorized transaction entries and create consistency in the shared view of transactions

Cryptocurrency, is any form of currency that exists digitally or virtually and uses cryptography to secure transactions.

In the assessement of the Ministry on connection between cryptocurrency and biometrics, including iris scan and facial recognition is the need for identification and authentication of actors in cryptocurrency trading platforms for digital transactions, thew same way banks have to authenticate whoever presents themselves for a transaction before a bank transaction can take place.

The Minister noted that, with the Advent of Artificial Intelligence, it is now necessary in digital spaces to be able to distinguish between a human subject and a bot hence the need for biometrics

7. **Legal and regulatory gaps on collection of personal data from Kenyans;**

The Cabinet Secretary recommended that:

i. There is need for a policy and regulations review to address emerging technologies such as Artificial Intelligence and Blockchain technologies. While at it, there is need to strike a balance to ensure responsible development and application of technology, while being careful not to stifle its development.

ii. There is need to strengthen provisions on due diligence before, during and after registration of data processors and controllers. Periodic assessment, and periodic reporting mechanisms should be put in place for data controllers and data processors. This will determine their eligibility for renewal of registration certificate.

iii. There is need for policy and institutional reforms to ensure surveillance and response where necessary is satisfactory since the Worldcoin started collecting data in 2021 only for the Data Protection Commissioner to know a year later

iv. The Data Protection Act needs to provide for a Board, or similar authority to which the Data Commissioner reports or accounts in its daily operations

v. There is need for amendments along the models of Communications Authority of Kenya (CA) created under the Kenya Information and Communication Act, 1998 or the Media Council of Kenya. There is need for accountability through a Board and Council.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/043: ADJOURNEMENT AND DATE OF NEXT MEETING

The next meeting will be held on 12th September 2023.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023
DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 13th SITTING OF THE AD HOC-COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON MONDAY 11th September 2023 AT 9.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. Peter Kaluma,MP
4. Hon. Sarah Korere, MP
5. Hon. Gedion Kimaiyo Kipkoech, MP
6. Hon. Mburu Kahangara, MP
7. Hon. Fredrick Ikana, MP
8. Hon. Caroline Ngelechii, MP
9. Hon. Innocent Maino Mugabe, MP
10. Hon. Capt. Ruweida Obo, MP
11. Hon. Gitonga Mukunji, MP
12. Hon. Irene Nyakerario Mayaka, MP

ABSENT

13. Hon. Shakeel Shabbir Ahmed, CBS, MP
14. Hon. John Kiarie Waweru, MP
1. Hon. Edwin Gachuki, MP
15. Hon. Geoffrey M. Wandeto, MP
2. Hon. Geoffrey Ruku, MP
3. Hon. Umulkher Harun Mohamed, MP

IN ATTENDANCE: SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Ms. Brenda Michira	Research Officer III
7.	Ms. Delvin Ominde	Research Officer III
8.	Ms. Veron Oluoch	Research Officer III
9.	Ms. Mwanaisha Juma	Sergent At Arms
10.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE: THE NATIONAL INTELLIGENCE SERVICE

1.	Agnes Shikuku	Deputy Director General
2.	Peter Onyango	Assistant Deputy – Cyber

3. Angela Nagisha Cyber Specialist
4. Eric Mwangi Cyber Specialist
5. Ahmend Bakirali
6. Yawo Kipkoech Deputy Assistant
7. Gedion Kipkorir PA to DG
8. Evelyne Owino Organises Crime
9. Susan Osembo Financial Forensics
10. Damaris Lukwo Legal
11. Ziporah Onyonka

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Meeting with the Director General, The National Intelligence Service
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/038 PRELIMINARIES

The Chairperson called the meeting to order at 11.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/039 WRITTEN AND ORAL SUBMISSIONS BY THE NATIONAL INTELLIGENCE SERVICE

This agenda item was deferred until such time the Director General for the National Intelligence will be able to appear before the Committee to make submissions.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/040: ADJOURNMENT AND DATE OF NEXT MEETING

The Meeting was adjourned at 10 Minutes past 1.00pm. The next meeting will be held on notice.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 12th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON THURSDAY 7th September, 2023 AT 10.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Peter Kaluma,MP
5. Hon. Sarah Korere, MP
6. Hon. Gedion Kimaiyo Kipkoech, MP
7. Hon. Edwin Gachuki, MP
8. Hon. Mburu Kahangara, MP
9. Hon. Fredrick Ikana, MP
10. Hon. Caroline Ngelechii, MP
11. Hon. Innocent Maino Mugabe, MP
12. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Capt. Ruweida Obo, MP
3. Hon. Geoffrey Ruku, MP
4. Hon. Geoffrey M. Wandeto, MP
5. Hon. Gitonga Mukunji, MP
6. Hon. Umulkher Harun Mohamed, MP

IN ATTENDANCE: SECRETARIAT

1. Ms. Hellen Kina - Clerk Assistant I
2. Mr. Phillip Lekarkar - Clerk Assistant I
3. Ms. Everlyn Orina - Clerk Assistant III
4. Mr. Boaz Chibiego - Research Officer III
5. Mr. Martin Sigei - Research Officer III
6. Ms. Delvin Ominde - Research Officer III
7. Ms. Veron Oluoch - Research Officer III
8. Ms. Brenda Michira - Research Officer III
9. Ms. Winnie Kizia - Media Officer
10. Ms. Mwanaisha Juma - Sergent At Arms

IN ATTENDANCE: OFFICE OF THE DATA PROTECTION COMMISSION

1. Ms. Immaculate Kassait – Data Protection Commissioner
2. Mr. Wycliffe Nthui – SPFO
3. Mr. Andrew Kiome – SPSCMO
4. Abudo Dambala – SPA
5. Amos Kosgei - HEAD OF ICT
6. Augustus Muntwoki - ADC/RS
7. Ann Nganga - PA TO DC
8. Festuss Musyoki - DDC/CS
9. Oscar Otieno - DDC/ CIE
10. Eugene Baraza
11. Susan Waweru - SPLO
12. ROSE MOSERO - DEPUTY DATA COMMISSIONER

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   Meeting with the Data Protection Commissioner
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/035: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/036 SUBMISSION WRITTEN AND ORAL SUBMISSION BY THE OFFICE OF THE DATA PROTECTION COMMISSIONER

On 7th September, 2023, the Committee proceeded to hear the Office of the Data Protection Commissioner (ODCP) response to queries raised by the Ad-Hoc Committee letter Ref.AD-HOC/WC/2023/006 dated 23rd August, 2023 to the ODCP on inquiry into the activities and operations of worldcoin. In their submission, the ODCP responded as follows;

1. **Role of the Office of the Data Protection Commissioner in regulating the processing of personal data and protecting the privacy of individuals**

The Data Protection Commissioner informed the Committee that Article 31 (c) and (d) of the Constitution of Kenya, 2010 provides that every person has the right to privacy, which includes the right not to have their information relating to their family or private affairs unnecessary required or revealed and the privacy of their communications infringed respectively.

To give effect to the said Article, Kenya enacted the Data Protection Act, in November 2019, the object and purpose being to regulate the processing of personal data, ensure that the processing of personal data of a data subject is guided by the principles set out in Section 25 of the Act, protect the privacy of individuals, establish the legal and institutional mechanism to protect personal data and provide data subjects with rights and remedies to protect their personal data from processing that is not in accordance with the Act. The enactment of the Act paved way for the establishment of the Office of the Data Protection Commissioner (ODPC) as a body

corporate headed by a Data Commissioner whose mandate is to operationalize and implement the Data Protection Act, 2019 and was operationalized in November 2020.

The functions of the Office of the Data Protection Commissioner are stipulated in Section 8 of the Act are to:

(a)Oversee the implementation of and be responsible for the enforcement of the Act;

(b)Establish and maintain a register of data controllers and data processors;

(c)Exercise oversight on data processing operations, either of own motion or at the request of a data subject, and verify whether the processing of data is done in accordance the Act;

(d)Promote self-regulation among data controllers and data processors;

(e)Conduct an assessment, on its own initiative of a public or private body, or at the request of a private or public body for the purpose of ascertaining whether information is processed according to the provisions of the Act or any other relevant law;

(f)Receive and investigate any complaint by any person on infringements of the rights under the Act;

(g)Take such measures as may be necessary to bring the provisions of this Act to the knowledge of the general public;

(h)Carry out inspections of public and private entities with a view to evaluating the processing of personal data;

(i)Promote international cooperation in matters relating to data protection and ensure country's compliance on data protection obligations under international conventions and agreements;

(j)Undertake research on developments in data processing of personal data and ensure that there is no significant risk or adverse effect of any developments on the privacy of individuals; and

(k)Perform such other functions as may be prescribed by any other law or as necessary for the promotion of object of the Act.

Section 9 of the Act further provides the following as the powers of the ODPC:

(1) The Data Commissioner shall have power to —

(a) conduct investigations on own initiative, or on the basis of a complaint made by a data subject or a third party;

(b) obtain professional assistance, consultancy or advice from such persons or organizations whether within or outside public service as considered appropriate;

(c) facilitate conciliation, mediation and negotiation on disputes arising from this Act; (d) issue summons to a witness for the purposes of investigation;

(e) require any person that is subject to this Act to provide explanations, information and assistance in person and in writing;

(f) impose administrative fines for failures to comply with this Act;

(g) undertake any activity necessary for the fulfilment of any of the functions of the Office; and

(h) exercise any powers prescribed by any other legislation.

(2) The Data Commissioner may enter into association with other bodies or organizations within and outside Kenya as appropriate in furtherance of the object of this Act.

She noted that the role of the Office of the Data Protection Commissioner in regulating the processing of personal data and protecting the privacy of individuals can be summarized as being implementation of the Act.

2. **Due diligence undertaken on Worldcoin or its agents before registration as a data controller.**

The Data Commissioner informed the Committee that Tools For Humanity Corporation -USA and Tools for Humanity GmbH - Germany electronically submitted their respective applications for registration as data controllers on 22nd August 2022, upon coming into force of the Data Protection (Registration of Data controllers and Processors) Regulations, 2021. She noted that regulation 5 of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 state tha5. (1) An application for registration of a data controller or data processor shall;

(a) be in Form DPR1 set out in the First Schedule; and

(b) be accompanied by the registration fees specified in the Second Schedule.

(2) An application for registration under sub-regulation (1) shall be accompanied by

(a) a copy of the establishment documents;

(b) particulars of the data controllers or data processors including name and contact details;

(c) a description of the purpose for which personal data is processed; and

(d) a description of categories of personal data being processed.

She further noted that both organizations submitted duly filled in Form DPR1 that provided the particulars of the data controller, the purpose for which personal data is processed and a description of categories of personal data being collected. Tools for Humanity Gmbh – Germany and Tools For Humanity Corporation -US submitted establishment documents duly certified /notarized by a lawyer and upon prompting by the reviewer through the online systems, the two organizations were requested to submit proof of annual turnover. Coulson and Harney LLP (Bowmans) on 2nd September 2022 via email informed ODPC that Tools for Humanity Gmbh, was venture capital-backed and was at the pre- revenue stage therefore no revenue was being generated and consequently a system generated Certificate of Registration Serial No. 00379 dated 15th September, 2022 was issued valid for a period of 24 months.

Subsequently, upon submission of an income statement for the year ended December 31,2021 for Tools for Humanity Corporation-US certified on 7th March 2023 by Thomas Scott, a system generated Certificate of Registration Serial No. 01945 dated 18th April, 2023 was issued to Tools for Humanity Corporation- valid for a period of 24 months. The certificate for registration as a data controller were issued after Tools for Humanity submitted all the statutory requirements for registration under the Data Protection Act and attendant regulations.

She further noted that Section 4 Data Protection Act, 2019 applies not only to data controllers and data processors established or ordinarily resident in Kenya but also to those not resident in Kenya but processing personal data of data subjects located in Kenya. Therefore, the Act's provisions explicitly state that data controllers and data processors do not have to be resident or established in Kenya for them to make an application for registration under the Act and the Regulations.

She informed the Committee that an application for a certificate of registration as a data controller and/or data processor only signifies that the entity has complied with Sections 18 and 19 of the Act and does not endorse an entity's compliance with the Data Protection Act in its entirety or its subsidiary regulations, nor is it a valid license for an organization to operate in Kenya or authorize the operations of an entity. The Certificate simply signifies that an entity is known to the Office of the Data Protection Commissioner and that it processes personal data of persons located in Kenya. Further, it does not amount to certification or approval of the processing activities of an entity or serve as an endorsement from the Office of an entity's compliance with other provisions of the Act or any other laws.

The Data Protection Commissioner noted that Section 8 (e) of the Act mandate's the Office to Conduct an assessment, on its own initiative of a public or private body, or at the request of a private or public body for the purpose of ascertaining whether information is processed according to the provisions of the Act or any other relevant law. In exercise of this power, ODPC did a spot check in various malls and at the ID4 Africa Conference held at the College of Insurance in May 2023 and established that the processing activities as relates to; provision of Iris and facial Data for the performance of a contract, legitimate interest, legal basis and consent did not meet the requirements of the Data Protection Act.

In view of the above ODPC on 30th May 2023 issued a ceasure notice restricting further collection and processing of sensitive personal data by Worldcoin. Further on 2nd August 2023 communication was sent to WorldCoin where the ODPC reaffirmed that the cessation of processing was not lifted and a further directive was made to stop processing of all personal data immediately.

In addition, she noted that the ODPC in collaboration with other agencies from Communications Authority, Central Bank of Kenya, Ministry of ICT and Digital Economy, NC4 and a Data Protection professional commenced investigations to ascertain the activities of Worldcoin. As a result of those investigations, it was established that:

- Tools For Humanity Corporation & Tools For Humanity GmbH (TFH) were registered as Data Controllers by the ODPC. The Data Protection Act does not require a company to be registered in Kenya for it to be registered by the ODPC. TFH, Worldcoin Foundation and World Assets Limited are not registered as Foreign Companies under the Companies Act.
- TFH & Worldcoin were, through their products – World App, WorldID and Worldcoin Protocol collecting personal and sensitive personal data. The location of the data remains unclear but includes – Italy, South Africa, Germany, Poland and United States.
- From a preliminary review of the documentation, the security of the data cannot be impeached. However, there is need for the Government to conduct an independent security audit.
- TFH indicated that the precise number of verified Kenyan users is 508,569.
- The purposes of collection of the personal data varied and included provision of World ID, provision of Worldcoin, development, training and testing machine learning models.
- From the evidence available, the consent obtained from Kenyans was insufficient and did not comply with Section 32 of the Data Protection Act, 2019.

Consequently, the Multiagency team made the following recommendation;

1.The current suspension on operations of TFH in Kenya to continue for a period of 12 months until the data controller satisfies to have met specified conditions including – a security audit, provide the Government access to the data, registration with BRS, establishment of a local representative, simplify their consent, carry out a DPIA and provide clarity on data storage.

2.Cancellation of the Data Controller Certificates for TFH Corporation and TFH GmbH for - failure to comply with the ODPC directive of 30th May, 2023 to cease and desist processing of sensitive personal data, failure to conduct a DPIA on the new processing operations and inconsistencies on where the Kenyan data is stored.

3.Worldcoin applies to a registered Kenyan Regulatory Sandbox Program (preferably Capital Markets Authority sandbox) which allows for the project's products, solutions and services to be tested before roll out to the Kenyan market.

4.WorldApp to be pulled down from all App Stores within the Kenyan Region until recommendations number 1 to 3 are fully and satisfactorily met.

5.Legal reforms on: data localization requirement for large scale collection of sensitive personal data; ODPC be allowed discretion in issuance of administrative fines; companies conducting commercial activities of significant impact to national security and economy to have a physical office in Kenya.

6.AG, CMA & CBK spearhead regulation of digital assets and cryptocurrency (define the same as 'securities' under CMA Act.

7.KRA to monitor the identified companies for payment of income tax on income derived from cryptocurrency in accordance with the Finance Act, 2023.

3. Registration status and the criteria used to register Worldcoin or its agents as a data controller in Kenya.

Ms. Immaculate informed members that the Office of the Data Protection Commissioner, pursuant to its powers under Sections 9(1) and 59 of the Data Protection Act, 2019, commenced multi-agency investigations to ascertain the intended purpose of the processing activities and recommended the Registration Certificates for TFH Corporation and TFH GmbH to be cancelled in line with Section 22 of the Data Protection Act, 2019 as read with Regulation 16 of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 which provides for cancellation and variation of a certificate of registration for the following reasons;

i. Continuing to process Kenyans sensitive personal data despite a cease-and-desist directives from ODPC through a letter dated 30th May 2023.
ii. Having not carried out a Data Protection Impact Assessment (DPIA) for the second phase contrary to the requirements of Section 31 of the Data Protection Act, 2019.
iii. Inconsistencies on the exact location where Kenyans' data are stored.

She noted that pursuant to the powers provided under Section 22 (b) of the Data Protection Act, 2019 as read with Regulation 16 (1)(c) of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 the registration certificate No. 139-138A-E5D9 and registration certificate No. 325- 9256-645E earlier issued to Tools for Humanity Corporation and Tools for Humanity GmbH respectively were revoked and cancelled on 5th September 2023.

On the criteria used by the Office of Data Protection Commissioner to register Worldcoin and its agents as data controller in Kenya, she noted that registration of Data Controllers and Data Processors is governed by the Act and the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 which were published on 14th January, 2022 and came into effect on 14th July, 2022 that provides;

5. (1) An application for registration of a data controller or data processor shall

(a) be in Form DPR1 set out in the First Schedule; and

(b) be accompanied by the registration fees specified in the Second Schedule.

(2) An application for registration under sub-regulation (1) shall be accompanied by

(a) a copy of the establishment documents;

(b) particulars of the data controllers or data processors including name and contact details;

(c) a description of the purpose for which personal data is processed; and

(d) a description of categories of personal data being processed.

Pursuant to sub-regulation 5 (1) (2) Worldcoin submitted to ODPC, the requisite documents required for registration as a data controller and were subsequently issued with certificates as Data Controllers. She further noted that a Registration Certificate as a data controller or processor simply signifies that an entity is known to the Office of the Data Protection Commissioner and that it processes personal data of persons located in Kenya and does not amount to certification or approval of the processing activities of an entity or serve as an endorsement from the Office of an entity's compliance with other provisions of the Act or any other laws.

4. The activities and operations of Worldcoin or its agents in Kenya.

Ms. Immaculate informed the Committee that in the documents submitted to ODPC, Worldcoin stated its intention to collect both physically and in-app, the following data from data subjects: irises, facial images, name, email address, phone number, date of birth, country of residence, IP address and device information for the purpose of signing up to the products and services, that is;

- World ID- A technology to prove a person is real and unique while protecting privacy. It is a proof of personhood protocol that allows users to prove they are human without revealing their identity World App and World Token.
- Worldcoin token (WLD) - A utility token distributed globally and freely to people.
- World App - A mobile application platform that enables payment, purchases and transfers using world coin, digital assets and traditional currencies and allows access to WorldID. Allows individuals to validate their uniqueness as well as offering a self-custodial wallet. It is the avenue to send and receive supported crypto tokens.

The documents submitted indicated that the operations in Kenya included hiring of local leadership and building local partners, in Nairobi, they stated that they dealt with cooperate partners (Tellem, Bowmans, Station, OBY), Community Partners (Nairobi County, Strathmore University, New Hope Mukuru, Kenya Data Governance and Privacy Society) and Industry partners (Blockchain Association of Kenya, AmCham Kenya, Kenya ICT Action Network). Further in places where Worldcoin sought to sign up users, Worldcoin alleged that it partners with like-minded local entrepreneurs called "Orb Operators." According to Worldcoin, these Orb Operators are independent contractors who would have gone through a written application and interview process, and also have been screened and verified to be incompliance with applicable know-your-customer (KYC) requirements.

5. Description and purpose of the personal data processed by Worldcoin or its agents.

Ms. Immaculate informed the Committee that from the documents submitted to the Office of the Data Protection Commissioner and the investigation report from the Multiagency team, Worldcoin stated its intention to collect both physically and in-app the following data from data subjects: irises, facial images, name, email address, phone number, date of birth, country of residence, IP address and device information.

The purpose of the information collected as indicated in registration application form was intended for proving humanness, proving uniqueness, issuing World ID, verifying World ID and user account, distributing grant of pre-claimed Worldcoin token (WLD), machine learning, know "your customer, on-boarding users, fraud-detection and carrying out the operations and enabling use of the Application".

6. **The risks, safeguards, security measures and mechanisms to ensure the protection of personal data processed by Worldcoin or its agents.**

The Data Commissioner informed the Committee that the Data Protection Impact Assessment provided by World coin advised ODPC on the following possible risks: unauthorized access to sensitive biometric data and protentional misuse of data by third-party consultants. To counter the aforementioned risks, Worldcoin submitted that the following safeguards have been implemented namely; utilization of AWS cloud services with robust technical and organizational measures, encryption of data both in transit and at rest, strict access controls that limit data access to essential personnel, employing data minimization and anonymization techniques and implementation of internal security measures including a written Information Security Policy, Incident Response Plan, and Business Continuity Plan.

7. **The nature, use, storage and safety of the data collected by Worldcoin or its agents.**

The Data Commissioner informed the Committee that from the documents submitted to the Office of the Data Protection Commissioner, worldcoin collects, both physically and in-app, the following data from data subjects: irises, facial images, name, email address, phone number, date of birth, country of residence, IP address and device information.

On use of the data collected by Worldcoin, from the Privacy Notice provided by Tools for Humanity Corporation, the data collected was to be used for the purposes of providing Services to customers, conducting research to develop and improve product, training the algorithm to better recognize unique users, analyzing use of Services to provide better support, using wallet address to send Worldcoin tokens (WLD) or other cryptocurrencies Worldcoin support, complying with applicable laws (such as using your IP address to block individuals whose country does not allow them to access the Services), handling requests, complaints and inquiries, resolving disputes, troubleshooting issues, and enforcing agreements with their customers, including this Privacy Statement and the Worldcoin User Agreement; and contacting you regarding updates to the Services.

On storage according to the DPIA submitted to ODPC, Worldcoin stated that all personal data is stored in Amazon Web Services (AWS) cloud services which is a cloud service with server locations in secure regions and dispersed to ensure data resilience, with best-in-class systems in place to protect customers' data.

On safety measures, Tools for Humanity Corporation alleged development and implementation of policies such as Code of Conduct, Internal Biometric Data Processing Policy, Internal Information Security Policy, Business Continuity Plan, Operator Code of Conduct, Incident Response Plan; encryption and partitioning of data; logical Access control; traceability (logging); archiving and minimizing the amount of data; operating security and protection of servers; cybersecurity and cloud services; managing hardware, backups and maintenance and network security as technical and organizational measures to mitigate risks and ensure compliance with data protection principles.

8. **Measures to indemnify Kenyans from unlawful use of data by Worldcoin or its agents.**

Ms. Immaculate informed the Committee that the Data Protection Act is a self-healing statute which provides for safeguards to Kenyans against unlawful use of their data by a data controller or data processor. In order to protect data subjects, the Act has empowered the ODPC to cancel a data controller's certificate as provided in Section 22 of the Act, issue enforcement notices as provided in Section 58 of the Act, issue penalty notices as provided in Section 62 of the Act, issue administrative fines as provided in Section 63 of the Act and direct the compensation to the data subject as provided for in Section 65 of the Act. These provisions are sufficient indemnification provisions to ensure that data subjects can be indemnified in cases where unlawful use has occurred.

The Data Commissioner noted that according to the powers provided under Section 22 (b) of the Data Protection Act, 2019 as read with Regulation 16 (1)(c) of the Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021 the registration certificate No. 139-138A-E5D9 and registration certificate No. 325- 9256-645E earlier issued to Tools for Humanity Corporation and Tools for Humanity GmbH respectively were revoked and cancelled on 5th September 2023.She further noted that pursuant to section 58 of the Act, ODPC has issued an enforcement Notice to Worldcoin.

9. Legal and institutional mechanisms in place to protect personal data.

On legal mechanism, the Data Commissioner informed the Committee that Kenya enacted the Data Protection Act, 2019 to give effect to Article 31(c) and (d) of the Constitution. The enactment of the Data Protection Act, 2019 paved way for the establishment of the Office of the Data Protection Commissioner whose mandate is to operationalize and implement the purpose of the Data Protection Act, 2019. She noted that to date, Kenya has developed three sets of regulations aimed at operationalizing the Act

- Data Protection (General) Regulations, 2021. These set out the procedures for enforcement of the rights of the data subjects as well as elaborating on the duties and obligations of the data controllers and data processors.
- Data Protection (Complaints handling and Enforcement Procedures) Regulations, 2021. These outline compliance and enforcement provisions for Data Commissioner, Data Controllers and Data Processors
- Data Protection (Registration of Data Controllers and Data Processors) Regulations, 2021. These set out the procedure that will be adopted by the office of the data commissioner in registering data controllers and data processors as per the Data Protection Act, 2019.

She informed the Committee that the Office of the Data Protection Commissioner was established in November 2020 as Independent State Office pursuant to the Data Protection Act, 2019 and is domiciled under the State Department of ICT and the Digital Economy in the Ministry of Information Communications and the Digital Economy. In addition, the Office has developed four Guidance Notes to guide Data Controllers and Data Processors while processing personal data, they include, guidance notes on Registration of data controllers and data processors; processing personal data for electoral purposes, guidance on data Protection Impact Assessment and the guidance note on consent. Further the Office has developed the following policy documents to guide in the processing of personal data; strategic Plan 2021-2023, complaints Management Manual, data Protection Curriculum, alternative Dispute Resolution framework, standard Operating Procedures, training and Audit accreditation framework.

On institutional mechanisms, she noted that the Data Commissioner has the Authorized and Accounting Officer and Staff appointed by the Data Commissioner in consultation with the Public Service Commission. The approved organizational structure of the Office comprises of;

the Data Commissioner; three (3) Technical Directorates namely; Data Protection Compliance Directorate, Complaints, Investigations and Enforcement Directorate, and Policy, Research and Quality Assurance Directorate. Each of the three (3) Directorates are headed by a Deputy Data Commissioner, one (1) Corporate Services Directorate which is headed by a Deputy Data Commissioner-Corporate Services. Further, ODPC has four (4) Units reporting to the Data Protection Commissioner namely: Information Systems Unit, Supply Chain Management Unit, Internal Audit Unit and the Legal Unit

In addition, she noted that the approved structure establishes three (3) Unit Committees through which the Data Commissioner manages and administers technical and Corporate Affairs of the Office: These Committees are, Human Resource Management Advisory Committee; Data Protection Compliance and Enforcement Committee and Dispute Resolution Committee. She noted that Senior Management Committee; Budget Implementation Committee; Performance Management Committee; the Audit Committee and the Human Resource and Advisory Committee have also been established and operationalized. The approved organization structure envisages establishment of thirteen (13) regional/ field offices across the country to decentralize services. As at August, 2023, the Office had established and operationalized four (4) Regional Offices in Nairobi, Mombasa, Kisumu and Nakuru.

The Data Commissioner in consultation with Public Service Commission recruited and appointed all the ninety-one staff during the FY 2021/2022 and FY 2022/2023 and now the Office is fully operational. However, ODPC has submitted a revised Organization Structure and Staff Establishment to Public Service Commission which aims at achieving optimal capacity and enhance efficiency in service delivery. The Revised Organization Structure and staff establishment seeks to increase the number of staff level from 92 to 238.

10. Gaps and recommendations on necessary legislative actions.

The Data Commissioner informed the Committee that the Office faces challenges such as gaps in the legal framework on personal data protection, inadequate human capacity and voluntary provision of personal information in regulating the processing of personal information. She noted that for these to be addressed, the Office recommends for a review of the Data Protection Act, 2019 and Regulations as well as enhancement of the staff capacity and regional presence.

OBSERVATIONS

Section 4 of the Act provides for organizations not registered as business entities in Kenya can process personal data belonging to Kenyan citizens and be registered as a data Controller and Processor. This is an anomaly which needs to be addressed through legislative reforms.

Calls for legislative reform to develop suitable polices and regulations that create a conducive environment for innovation and investments in line with the Governments digital agenda. To cub the rapid technological advancements such as AI, block chain among others that have created a borderless boundary.

Ceasure notice issued on 30th May 2023 and 2nd August 2023 restricting further collection and processing of sensitive personal data by Worldcoin. Was not adhered to by Worldcoin and its agents.

Need for the Government to conduct an independent security audit on the security of the data collected by worldcoin to ascertain their claim that it cannot be impeached.

Data Protection Impact Assessment (DPIA) was not carried out contrary to the requirements of Section 31 of the Data Protection Act, 2019.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/037: ADJOURNMENT AND DATE OF NEXT SITTING

The next meeting will be held on notice.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 11th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 6th September 2023 AT 2.30 P.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Capt. Ruweida Obo, MP
5. Hon. Fredrick Ikana, MP
6. Hon. Edwin Gachuki, MP
7. Hon. Gedion Kimaiyo Kipkoech, MP
8. Hon. Mburu Kahangara, MP
9. Hon. Caroline Ngelechii, MP
10. Hon. Peter Kaluma, MP
11. Hon. Sarah Korere, MP
12. Hon. Innocent Maino Mugabe, MP
13. Hon. Gitonga Mukunji, MP
14. Hon. Umulkher Harun Mohamed, MP
15. Hon. Geoffrey Ruku, MP
16. Hon. Irene Nyakerario Mayaka, MP

APOLOGY

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Geoffrey M. Wandeto, MP

SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**

i. **Further Submissions from other witness – participants of the scanning by world coin.**

- Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/032: PRELIMINARIES

The Chairperson called the meeting to order at 2 30 p m After that, a word of prayer was said, and later on, self-introductions by the Members The chairperson welcomed members to the joint meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/033: WITNESSES SUBMISSIONS

This agenda item was deferred since the witnesses who are the participants of the scanning by worldcoin and the directors who were to provide further information did not appear before the Committee that afternoon

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/034: ADJOURNMENT AND DATE OF NEXT SITTING

The secretariat was tasked to do an advert, letters inviting the witnesses, and also to come up with the schedule for the meetings The next meeting will be held on notice

SIGNED: ..... **DATE:** 29.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, AD HOC COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 10th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 6th September, 2023 AT 10.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Peter Kaluma,MP
5. Hon. Sarah Korere, MP
6. Hon. Capt. Ruweida Obo, MP
7. Hon. Gedion Kimaiyo Kipkoech, MP
8. Hon. Geoffrey Ruku, MP
9. Hon. Edwin Gachuki, MP
1. Hon. Mburu Kahangara, MP
2. Hon. Fredrick Ikana, MP
3. Hon. Gitonga Mukunji, MP
4. Hon. Caroline Ngelechii, MP
5. Hon. Innocent Maino Mugabe, MP
10. Hon. Umulkher Harun Mohamed, MP

ABSENT

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Geoffrey M. Wandeto, MP
3. Hon. Irene Nyakerario Mayaka, MP

SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE: OPEN INSTITUTE (WORLD COIN)

1.	Blania Alexander	Tools for Humanity
2.	Sadle, Sam	Tools for Humanity

3.	Scolt Thomas	Chief Legal Officer, Tools for Humanity
4.	Amanta Cohen	Advocate Tool for Humanity (AhmedNassir Adv)
5.	Odongo Richard Martin	Colson Harry LLP
6.	Paras Shah	Tools for Humanity
7.	Cecil Kuyo	Tools for Humanity
8.	Kuony Yien	Tools for Humanity
9.	Hez Gikan'ga	Ahmednassir Advocates
10.	Josh Stanunzo	US Embassy

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda**
   Meeting with the Executive Director, Worldcoin
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/029 PRELIMINARIES WITNESSES SUBMISSIONS

The Chairperson called the meeting to order at 10.40 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/030 SUBMISSION BY THE EXECUTIVE DIRECTOR, WORLDCOIN

Worldcoin also knows and the Open Institute appeared before the Committee on 6th September 2023 and submitted as follows;

1. It consists of a privacy-preserving digital identity network (World ID) built on proof of personhood and a virtual asset token (WLD). World ID and WLD are currently available in the first front-end client compatible with the Worldcoin protocol (World App). Worldcoin itself is an open-source protocol, supported by a global community of developers, individuals, economists and technologists committed to expanding participation in, and access to, the global economy. Their mission is to create a globally-inclusive identity and financial network.

2. Tools for Humanity (TFH), the original contributing team for the Worldcoin project headquartered in San Fransisco, was founded in 2019 by Alex Blania, Sam Altman, and Max Novendstern with the mission of creating a global identity and financial network owned by everyone. It has invested over KES 700 million in Kenya with budget plans projected to increase.

3. Neither Tools for Humanity nor the Worldcoin Foundation has ever sold users' personal or biometric data. All the personal and biometric data collected in Kenya is securely stored on servers either in the United States, the European Union (Italy, Germany, or Poland), or South Africa. A person's free and informed consent is always secured before the processing of their personal data.

4. The Worldcoin Foundation is the sole member and sole director of World Assets Ltd., a business company incorporated in the British Virgin Islands. World Assets Ltd. is the entity responsible for issuing the 75% of all Worldcoin tokens (WLD) that have been allocated to the Worldcoin community.

5. In each country they operate they partner with independent local third parties, called Operator Partners. Operator Partner relationships can take different forms, such as temporary event staffing, fixed locations at existing storefronts, or "Orb Operators" whose teams go out into their community—typically near high-traffic areas like shopping centres and university campuses—to help people securely sign up for World ID.

6. It has formal relationships with Strathmore University, the Blockchain Association of Kenya, American Chamber of Commerce - Kenya, the Africa Blockchain Centre, Safari DAO and others. Tools for Humanity also partners with service providers in Kenya for operational, marketing, legal, and other advisory services.

7. All Operator Partners undergo extensive training, including Data Compliance training. The training is designed to be easily understood by everyone. In addition to initial training, there is ongoing training to ensure that Orb Operators are utilising the most up-to-date information in the field.

8. Throughout our Orb-verification operations in Kenya, TFH has made privacy policy available both on the World App and on the Worldcoin website. Furthermore, TFH had complied with the obligation to register with the Office of the Data Protection Commissioner (ODPC) as applicable and has a Data Protection Officer (DPO) in place currently.

9. On 17 June 2022, TFH submitted its Data Protection Impact Assessment to the ODPC, explicitly referencing provisions of the DPA. The requirement for entities to register with the ODPC was operationalized in July 2022 pursuant to the Data Protection Registration of Data Controllers and Data Processors Regulations, 2021.

10. The registration portal became active in late August 2022. TFH GmbH and TFH Corporation readily and proactively complied with the registration requirements under the DPA. The application form required TFH to provide descriptions of the personal and sensitive data being processed as well as of the risk and safeguard measures around that processing. Through the form, each entity also made it very clear that they were not established local entities in Kenya.

11. The Company did not violate any provisions of the Kenyan data privacy legislation by submitting its application as a foreign entity without local presence in Kenya. The registration application portal only requires a foreign company to submit its establishment documents (proof of incorporation) during the application process. The ODPC thoroughly reviewed and approved both applications.

12. On 22 August 2022, TFH GmbH submitted its application for registration as a Data Controller to the ODPC. TFH Corporation followed suit on 29 August 2022. TFH GmbH

was awarded its Certificate of Registration on 15 September 2022 while TFH Corporation was awarded its Certificate of Registration on 18 April 2023.

13. There are currently no specific financial regulations that are applicable to virtual asset swaps in Kenya. Consequently, there are no licence, mandatory incorporation/registration and/or permits requirements that would apply to the provision of the Worldcoin token (WLD), the World App, or World ID on a cross-border basis to customers located in Kenya.

14. It was noted that five institutions including the Central Bank of Kenya *(CBK),* Capital Markets Authority (CMA), Insurance Regulatory Authority (IRA), Retirement Benefits Authority (RBA) and the Sacco Societies Regulatory Authority (SASSRA) formed a working group in December 2022 to investigate future regulations concerning the use of virtual assets in Kenya.

15. There was no direct monetary compensation or consideration paid to Kenyans in exchange for completing the Orb verification process. World Assets Limited was not giving people approximately KES 7,000 when they signed up, as reported in some media. Rather, it was giving them an amount of WLD tokens.

16. There was no undue inducement or any other form of constraint or coercion to participate in Worldcoin. People in Kenya and around the world freely chose to participate, and did so in large numbers.

17. The Orb device was certified to be compliant with Kenyan requirements under the Pre-Export Verification of Conformity Standard (PVOC) from the Kenyan Bureau of Standards. The Orb had been certified by TÜV Rhineland (Germany's most reputable certification service provider) as compliant with IEC 62471 "Photobiological Safety of Lamps and Lamp Systems", the globally accepted standard for lamps, lamp systems, and other non-lamp sources of optical radiation that emit light in the spectral region of 200 to 3000 nm. There are no health or safety hazards associated with scanning one's iris at an Orb device.

18. The company did not engage in any wrongdoing and that a mutually beneficial settlement or decision can be reached for all stakeholders involved. TFH prays that the suspension barring its operations in Kenya, be lifted, with the necessary legal and regulatory oversight.

Committee Observations

From submissions, hearing and evidence adduced by the Worldcoin leadership the Committee observed-

19. Worldcoin is not registered as a data mining company in Kenya yet they were confident enough to collect private data from citizens and conduct its activities over a long period of time.

20. Worldcoin foundation and Worldcoin assets Limited are registered in the Cayman Islands and British Virgin Islands respectively which are tax havens and have strict bank secrecy laws that makes it difficult to audit the activities of the Company.

21. The Company did not have any Kenyan employee despite having operations in Kenya. Third parties in the country were contracted in conducting the activities of Worldcoin.

22. World coin was giving incentives to individuals giving their personal data. The number of Kenyans registering and being scanned by the orb machine would not have been high were it not for the token that was provided by Worldcoin despite being unaware of the purpose of collection of their data.

Committee Concerns

23. The Committee inquired on the number of orb machines Worldcoin had in the country, if they were of the same technical specification as well as the health effects of scanning the iris on the orb machine; the country operating them

    - The CEO stated that they had forty-eight (48) of orb machines in Kenya and of the same technical specifications.

    - They stated there was no complaint that was reported to them as far as health effects by the people scanned by the orb. They even had their irises scanned severally during the development of the orb and had not gotten any complications themselves

24. The committee was concerned on when their operations started, the real intention of World Coin and what they stood to gain in collection of personal data since they were not there to generate revenue;

    - The CEO noted that World coin operations started on the 31st of May 2021 and was not a business entity.Their main objective was a creation of a world ID.

    - He further stated the World Id would be a good platform for creating cryptocurrency that enables everyone to gain income and improve on AI systems as well. The more the data the better the intelligence gathered for the machines. World coin gains to be dominant over the other players in the technological space.

25. The committee inquired on how Worldcoin paid its Kenyan partner companies during their operations and whether they were registered at Data protection Commission;

    - They stated that the partners and orb operators were paid in fiat currency or stable coin and not in worldcoin.

    - The Partners were not registered at the Data Protection Commission. This is because they don't touch personal data but just operate the device collecting the image data with consent of the person which is sent to the worldcoin servers.

26. The committee sought to know if there are other independent audits done on the logarithms of worldcoin;

    - They stated that there have been independent audits run by other firms to cross examine Worldcoin and the information was provided to the ODPC.The information was stated in their website to ensure transparency.

27. The Committee inquired the source of money paid to Kenyans, if Worldcoin was registered as a bank and whether the money laundering laws were adhered to as well as who bears the liability in case of any complaints as the company is not registered locally.

- They stated that TFH had raised over 200 million dollars worldwide for the purpose of building orbs and developing blockchain technology. The Money is also used to develop intellectual property as the company is also valued at a tune of about 2.4 billion Dollars.

- They further noted that there is no direct source of revenue and the company is fully funded by venture capital to develop technology and there were no money laundering activities that are conducted by worldcoin.

- They stated that liability is dependent siting examples of Meta and Uber that are active in Kenya despite not being registered here. It would depend on the allegations against them to determine liability

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/031: ADJOURMENT AND DATE OF NEXT MEETING

The next meeting will be held on notice

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 9th SITTING OF THE ADHOC-COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 5th September 2023 AT 2.30 P.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Capt. Ruweida Obo, MP
6. Hon. Fredrick Ikana, MP
7. Hon. Edwin Gachuki, MP
8. Hon. Gedion Kimaiyo Kipkoech, MP
9. Hon. Mburu Kahangara, MP
10. Hon. Caroline Ngelechii, MP
11. Hon. Geoffrey Ruku, MP
12. Hon. Irene Nyakerario Mayaka, MP

APOLOGY

1. Hon. Peter Kaluma, MP
2. Hon. Sarah Korere, MP
3. Hon. Innocent Maino Mugabe, MP
4. Hon. Gitonga Mukunji, MP
5. Hon. Umulkher Harun Mohamed, MP
6. Hon. Geoffrey M. Wandeto, MP

SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE: PARTICIPANTS OF WORLDCOIN SCANNING

1. Brice Bogita Minyenga
2. Miruoba Marube Mogusu
3. Ochieng Benard Michael Ayoo

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   i. **Submissions from other witness – participants of the scanning by world coin.**
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/026 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/027 WITNESSES SUBMISSIONS

On 5th September, 2023, the Committee proceeded to hear the witnesses who participated in the world coin activities response to queries raised by the Ad-Hoc Committee letter Ref.AD-HOC/WC/2023/O19 activities and operations of worldcoin. In their submission, the witnesses responded as follows;

How worldcoin and its agents recruited persons for biometric data collection

Mr. Bruce Bogita, the first witness, informed the Committee that he met with the worldcoin staff while exiting Quick Matt supermarket Kilimani where he had gone to shop. He called him aside and informed him that they were conducting an iris scan on behalf of worldcoin after which he would receive a grant worth $70.

Mr. Miruba Marube, the second witness, informed the Committee that his first contact with worldcoin was in 2021 at Kenyatta University where he studied and that worldcoin was running a promotion at the university. They approached him and told him it was a new cryptocurrency that uses iris scanning to identify Artificial Intelligence (AI) from human beings since AI had created a big impact in the world and worldcoin were looking into separating AI from human beings through an iris scan to enable them determine the transactions/traffic in the internet and take action accordingly.

Mr. Benard Ochieng who testified third informed the Committee that his first encounter with world coin was in March 2023 while doing recruitment at Technical University of Kenya where he studied. He was asked to register in the worldcoin App and scan his iris so they could be able to differentiate AI from humans and was promised around $70 after the iris scan.

Activities that took at the data collection centre

All the three witnessed informed the Committee that they were asked to download worldcoin App and afterwards proceeded to do an iris scan. They noted that they were never informed on how they could access the money or how the App worked since the amount promised were in the App in form of tokens.

Personal details and biometric data collected by worldcoin or its agents

Mr. Bogita informed the committee that he was asked to provide his National Identification card before the iris scan while Mr. Marube and Mr. Ochieng noted that the worldcoin agents did not ask for personal details except the iris scan that they went through. All the three witnesses noted that there was no physical document or consent they were required to fill up or sign.

Whether valued consent was obtained and terms and conditions made known before signing up for data collection

All the three witnesses noted that on the worldcoin App there was a terms and conditions section that they all clicked to agree to but there was no physical consent form signed.

Possible risk and health hazards from exposure to biometric scanning

Mr. Bogita informed the Committee that he felt haziness after the iris scan but assumed it was caused by the heat being a sunny day or dehydration but never lasted long. Mr. Marube on the other hand informed the committee that he experienced irritation and watery eyes after the iris scan which persisted and forced him to seek medical attention and is currently prescribed with medical glasses for UV rays. Mr. Ochieng informed the Committee that he only experienced watery eyes after the scan which did not last long and has not experienced any other condition since then.

Financial incentives or consideration offered in exchange for biometric data capture

All the three witnesses informed the committee that they were promised Kshs. 7000 after completing the biometric scan. They did not receive any hard cash but worldcoin tokens in App which was equivalent to $70.

On what drove them to accept to be scanned and whether they received the cash

The witnesses informed the Committee that money promised was the driving factor to accepting to undergo the iris scan. They also noted that the world coin agents never informed them on how they would access the money on the App or how the app worked and in the case of Mr. Marube and Mr. Ochieng the orbs were being operated by fellow students who did not understand as well. Mr. Ochieng is the only one who has managed to cash the tokens/coins after he got into contact with one of the worldcoin staff who gave him an address of a crypto company where he transferred the worldcoin for conversion into Kenya shillings and sent to him through Mpesa

On whether they have experienced Stigma

The witnesses informed the committee that they experienced psychological languish and social stigma from fellow students, social media and the society.

Observations

Worldcoin started its operations in 2021 without registering as data controllers or processors.

The witnesses recorded isolation and stigmatization.

Inconsistency on how they met since they claimed they met during the inquiry while they did a joint submission to the Committee.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/028: ADJOURNMENT AND DATE OF NEXT SITTING

The secretariat was tasked to do an advert, letters inviting the witnesses, and also to come up with the schedule for the meetings. The next meeting will be held on notice.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 8th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 5th September 2023 AT 10.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Capt. Ruweida Obo, MP
6. Hon. Sarah Korere, MP
7. Hon. Fredrick Ikana, MP
8. Hon. Innocent Maino Mugabe, MP
9. Hon. Edwin Gachuki, MP
10. Hon. Gedion Kimaiyo Kipkoech, MP
11. Hon. Mburu Kahangara, MP
12. Hon. Gitonga Mukunji, MP
13. Hon. Caroline Ngelechii, MP
1. Hon. Geoffrey M. Wandeto, MP
14. Hon. Geoffrey Ruku, MP
15. Hon. Umulkher Harun Mohamed, MP

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6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE: CENTRAL BANK OF KENYA

1.	Dr. Kamau Thugge	-	Governor, CBK
2.	Kennedy Abuya	-	General Counsel
3.	Matu Mugo	-	Deputy Governor, BSD

4. Dickson G. Ndegwa - Protocol Manager

IN ATTENDANCE: PARTICIPANTS OF WORLDCOIN SCANNING

1. Brice Bogita Minyenga
2. Miruoba Marube Mogusu
3. Ochieng Benard Michael Ayoo

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   i. **Meeting with the Governor, Central Bank of Kenya and the National Treasury**
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/023 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/024 SUBMISSION BY THE GOVERNOR, CENTRAL BANK (CBK) OF KENYA AND THE NATIONAL TREASURY

On Blockchain and Cryptocurrency Technologies: The foundational principles of blockchain technology and the evolution of cryptocurrencies, potential benefits and challenges within the Kenyan context.

A blockchain is a distributed database or ledger shared among computers on a common network. Each computer/node participates in the validation of transactions and the maintenance of the blockchain ledger. Nodes are responsible for storing a copy of the blockchain ledger, verifying the authenticity of transactions, and adding new blocks to the chain. The blockchain maintains a secure and decentralized record of transactions, ensuring that data remains immutable (cannot be altered) upon entry.

The elements of transparency, security and finality provide many applications for blockchain technology, with the best-known application in cryptocurrency/asset. Cryptocurrencies are privately issued digital assets that depend primarily on cryptography and blockchain/distributed ledger technology (DLT). The most widely used cryptocurrency, Bitcoin, was established in 2009 following the publication of a seminal paper on peer-to-peer transactions by "Satoshi Nakamoto" in 2008. This innovation was created as an answer to the deficit in trust in the financial industry following the 2008 Global Financial Crisis. Bitcoin remains the biggest and most known crypto asset.

It is critical to note that cryptocurrencies are neither issued by any central bank nor a public authority and are therefore not considered legal tender. Legal tender refers to banknotes and coins used to settle any monetary obligations or transactions. Similarly, only banknotes and coins issued by the CBK are considered as currency. Since crypto assets are not backed by a public authority, they are considered high-risk and speculative.

The IMF categorizes crypto assets as follows:

a. **Unbacked crypto assets:** These crypto assets are transferable and primarily designed to be used as a medium of exchange. They are often decentralized. However, there are examples of unbacked crypto assets that are centrally issued and controlled. Most unbacked crypto assets are currently used for speculation and not for payment purposes. Prominent examples include Bitcoin and Ether.
b. **Utility tokens:** These tokens provide the token holder with access to an existing or prospective product or service. These are usually limited to a single network (that is, the issuer) or a closed network linked to the issuer. For example, a tokenized store card or certain gaming tokens might be considered types of utility tokens.
c. **Security tokens:** These are tokens that provide the holder with rights like that of a traditional security, for example, the right to a share in the profits of the issuer.
d. **Stablecoins:** This type of crypto asset aims to have a stable price value. This objective is normally pursued by the crypto asset being linked to a single asset or a basket of assets, for example, fiat funds, commodities such as gold, or other crypto assets. Stablecoins can also seek stabilization using a mechanism other than being linked to an asset, for example, through an algorithm. These "algorithmic" stablecoins are mainly used in decentralized finance (DeFi). Prominent examples include Tether, Binance USD, and USD Coin.

The crypto industry's growth has been driven by the speed of transactions. low transactions, and costs. decentralization of finance, and anonymity. Additionally, crypto assets have attracted users due to offering more control as opposed to fiat currency. Further, the promise of high returns due to the high volatility and erratic growth in the value of crypto assets has attracted a swathe of crypto investors, spanning both individuals and institutions. Moreover, the lack of taxation mechanisms has made crypto attractive to users.

However, there are challenges to address in Kenya's adoption of these technologies. Compared to physically issued banknotes and coins, and electronic mobile money which is backed one-for-one with the Kenya Shilling, holders of crypto assets do not benefit from the same level of consumer protection accorded by legal tender issued by CBK. In this regard, crypto assets experience extreme volatility and the risk of collapse, with no recourse for affected investors.

Globally, due to the extreme volatility of the crypto market and the recent collapse of stablecoins and crypto exchanges, there has been a slowdown in the uptake of crypto assets. In 2022, the global crypto industry faced a reduction in the value of crypto assets and market capitalization by more than half since 2021. Bitcoin, for instance, was trading at below USDI6,000 on November 20, 2022, down from USD58,000 exactly a year earlier. This volatility has led to investor caution and reduced interest in crypto assets. More importantly, it has highlighted key liquidity issues faced by crypto asset firms and other fintechs, exacerbated by poor governance frameworks.

On the Legality of Cryptocurrency and Blockchain Technologies: The analysis of the legal landscape surrounding cryptocurrencies and blockchain technologies, with emphasis on existing regulatory frameworks and currently, potential gaps.

Currently, Kenya does not have any regulatory framework for crypto assets as they are not legal tender. However, based on growing interest and reports in the media on the use of Bitcoins by Kenyans, CBK issued a public notice in December 2015, warning the public against using virtual currencies, such as Bitcoin. The public notice indicated, inter alia, that Bitcoin is not legal tender in Kenya and that no protection exists if the platform that exchanges or holds the virtual currency fails or goes out of business. A Banking Circular was also issued to all banks in 2015 by CBK cautioning them against dealing in virtual currencies or transacting with entities that are engaged in virtual currencies.

Due to the emergence of online marketing of virtual assets and online fraudulent investment options, CBK and other financial sector regulators issued notices in 2018 warning the public against the use of unlicensed financial products and services. Further, in 2019, CBK warned the public against trading with unlicensed online forex dealers. Due to the re-emergence of fraudulent financial schemes in the wake of the COVID-19 pandemic, CBK and other financial sector regulators reiterated their warning against the use of unlicensed financial products and services." CBK also issued circulars to banks and Payment Service Providers (PSPs) warning them against dealing with unlicensed entities.

On the Cryptocurrency Trading in Kenya: A comprehensive overview of cryptocurrency trading practices in Kenya, including trends, challenges, and potential benefits for both traders and the government.

While there are unverified reports that Kenyans are using crypto assets, the anonymous nature of cryptocurrency might indicate inaccuracies in reporting. Further, there has been no survey done to establish the extent of crypto asset usage in the country. While the collapse of FTX and other crypto exchanges sent ripples into the crypto world, Kenya has not experienced significant effects of these developments. However, it is critical to closely monitor the operations of crypto assets in Kenya, given their association with transactions from proceeds of crime, money laundering, and the financing of terrorism activities.

There has been no evidence of countries that have succeeded in accurately tracing blockchain transactions. Reports of crypto assets activities per country are usually based on estimates, and therefore the numbers are not conclusive. Such traces would involve a collaboration between the government and the VASPs, to facilitate the data for the transactions.

On whether the Government Benefits from Cryptocurrency Trading: **The potential avenues through which the Government of Kenya could derive benefits from cryptocurrency trading activities, including revenue generation and economic development**.

Broadly, crypto assets have been more of a disappointment than a revolution for many users, and global standard-setting bodies such as the International Monetary Fund (IMF) and the Financial Stability Board (FSB) urge tighter regulation. A key focus has been placed on the technology behind crypto assets, i.e., blockchain, rather than the crypto assets in and of themselves. Blockchain technology holds greater promise, towards upgrading the public payments infrastructure and ensuring interoperability, safety, and efficiency in digital finance.

The following are potential benefits of using blockchain-based technologies:

i. Enhanced transparency and accountability: By using a decentralized ledger, blockchain enables transparent recording of transactions including government contracts and supply chain agreements, thereby reducing the risk of fraud and corruption.
ii. Low transaction costs: With traditional banking systems, fees can be exorbitant, hindering the participation of low-income individuals. However, blockchain-based crypto assets allow for peer-to-peer transactions without intermediaries, resulting in lower fees and greater accessibility for all Kenyans, thereby promoting financial inclusion.
iii. Financial stability and economic growth: Kenya, like many African nations, faces challenges with unstable currencies and inflation. Crypto assets offer an alternative store of value and a hedge against inflation, minimizing the impact on the economy and providing stability to individuals.
iv. Verification of exported/imported goods through smart contracts: Harnessing blockchain technology will enable companies to record every transaction, justify their numbers, and provide transparency on tax payments, revenues, etc.

However. guidance from standard-setting bodies and lessons from other jurisdictions underscores a keen focus on financial stability. money laundering/terrorism financing (ML/TF) risks, retail investor protection and governance of crypto markets. A key trend is the foundation of wide public consultation before regulatory and policy action. This has been the anchor of CBK's philosophy on fintech; to ensure people are at the centre of innovation so that Kenya maximizes the benefits of innovation while minimizing risks. Accordingly, in regulation assessing the need for crypto assets in Kenya, the broad guiding principles of **people-centricity**, **country context** and **balance between opportunities and risks** should be taken into consideration.

On the Regulatory Framework of Cryptocurrency and Blockchain Technologies: The current regulatory approach towards cryptocurrencies and blockchain technologies in Kenva, while suggesting potential areas of enhancement to ensure responsible innovation and consumer protection.

Kenya's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Mutual Laundering Evaluation Group (ESAAMLG) Report (MER), 2022, by the Eastern and Southern Africa Anti-Money recommended that Kenya takes a policy decision regarding VASPs providing crypto assets and other virtual/digital assets services. Accordingly, Kenya is expected to conduct the MLITF risk assessment on VAs and VASPs by September 2023. FRC set up a TWG on ML/TF risk expected assessment on VAs and VASPs in June 2023. The TWG is to identify, assess, and measure the ML/TF risks of VAs and VASPs in Kenya. The TWG will thereafter propose policy actions to mitigate the identified risks. CBK is represented in the multi-agency TWG, which comprises both public and private sector stakeholders.

The TWG issued a survey to members of the public on August 15, 2023, to gauge their interactions with VAs and VASPs, and mitigation measures against ML/TF risks of the VA ecosystem. The TWG has also distributed survey questionnaires on VAs and VASPs to:

i. Traditional obligated entities include banks, payment service providers, money remittance providers, forex bureaus, microfinance banks, and digital credit providers.
ii. Regulators, including CBK and other financial sector regulators, and Business Registration Services (BRS).
iii. Virtual Asset Service Providers, such as Binance.
iv. Law enforcement agencies, including the Directorate of Criminal Investigations and the National Intelligence Services.
v. Other institutions such as member organizations (fintech, blockchain, accounting, law members associations) and academia.

The survey responses to be received by mid-September 2023, will inform the risk assessment exercise. Once the analysis of the responses is completed, the TWG will issue a report, including appropriate policy recommendations on VAs and VASPs in Kenya.

On the Conversion of Cryptocurrency Implications of to Legal Tender: The mechanisms and implications of converting cryptocurrencies into legal tender, with a focus on potential economic, financial and regulatory considerations.

As aforementioned, CBK issued notices to the public and the licensed sectors against dealing in virtual currencies or transacting with entities that are engaged in virtual currencies. Accordingly, the banking sector refused to facilitate the conversion of crypto assets into fiat currency. For a member of the public to convert from crypto assets to fiat, they therefore use

peer-to-peer mechanisms or international payment and remittance platforms that accept crypto assets. This occurs as follows:

a. **Peer-to-peer mechanism:** Holders of crypto assets may opt to sell them to buy on a crypto exchange marketplace. In this case, the seller and buyer agree on a price and agree on how the funds transfer will be done. Fund transfer usually occurs off the crypto exchange e.g., via mobile money in the country. Once a transaction is initiated, the crypto exchange holds the crypto in escrow until the seller confirms receipt of funds. Once the seller confirms they have received funds, the crypto is released to the buyer. In this case, the exchange is facilitated via person-to-person transfer, However, because this transfer of cash is done outside of the exchange, it is difficult for financial institutions to identify it as a transfer of funds for the purchase or sale of crypto.
b. **International Payment Platforms:** Uscrs may transfer crypto from an exchange to international wallets that accept crypto, they thereafter cash out from the wallet to USD, and eventually to local currency.
c. **Crypto ATMs**: Crypto holders may use a Bitcoin ATM to convert from Bitcoin to fiat currency and vice versa. It is reported that there is a Bitcoin ATM in Nairobi.

On the Risks Associated with Trading Cryptocurrency: Provide a comprehensive risk assessment of cryptocurrency trading, including market volatility, security concerns, and potential implications for financial stability.

Trading in unbacked crypto assets poses several potential risks and implications. The potential risks include the following:

a) **Lack of Regulation**: The lack of proper regulation of crypto assets raises concerns regarding investor protection, money laundering, market manipulation, and fraud.
b) **Volatility**: Crypto assets are well-known for their high volatility. Sudden price changes, if not adequately managed, can result in significant losses for investors and potentially impact the stability of the financial system.
c) **Money Laundering and Illicit Activities:** Crypto assets have been associated with facilitating money laundering and illicit activities due to their pseudo-anonymous nature and lack of transparent oversight.
d) **Financial Stability:** Due to their decentralized nature, crypto assets are not subject to the same level of oversight as traditional legal tender. Their integration into the financial system can pose potential risks to stability if adequate risk management measures are not in place. Unexpected crypto asset-related shocks could impact market sentiments and disrupt financial stability.
e) **Cybersecurity Risks:** Crypto assets and the underlying technologies are vulnerable to cyberattacks. The conversion of crypto assets into legal tender introduces potential cybersecurity risks for financial institutions and individuals involved in the. conversion process.
f) Central Bank Control: Legal tender is typically under the control of central banks, which regulate and influence the money supply to stabilize economies. Converting crypto assets into legal tender might challenge the central banks' control over monetary policy and exchange rate stability. This can lead to conflicts and result in the need for developing appropriate frameworks and governance structures around crypto asset conversion.
g) **Taxation and Reporting:** Governments may face challenges in defining and implementing proper tax policies and reporting mechanisms for crypto asset conversion. Ensuring accurate reporting and preventing tax evasion becomes a significant challenge due to the decentralized nature of crypto assets and potential anonymity features.

Overall, converting crypto assets to legal tender requires the development of comprehensive regulatory frameworks, robust risk management practices, effective AML and KYC measures, and the establishment of secure systems to minimize potential risks to financial stability and address the challenges mentioned above.

The Financial Reporting Centre (FRC) has constituted a working group which is currently undertaking a risk assessment on VAs and VASPs. Government agencies and private players such as commercial banks are involved in this exercise. CBK proposes that we await the risk assessment report on the issue.

Conclusion

In considering the next steps for crypto assets in Kenya, CBK recommends the following next steps for policy on crypto assets in Kenya:

i. **ML/TF Risk Assessment on VAS and VASPs:** Kenya is expected to conduct the MLTF risk assessment on VÁs and VASPs by September 2023. FRC set up a TWG on ML/TP risk assessment on VAs and VASPs in June 2023. The TWG is expected to identify, assess, and measure the ML/TF risks of VAs and VASPs in Kenya. The TWG will thereafter propose policy actions to mitigate the identified risks. CBK is represented in the multi-agency TWG, which comprises both public and private sector stakeholders.

ii. **Consultative Paper/Policy Paper:** Regulation of crypto assets requires widespread public discussion. It is imperative to consult the wider public before making any decisions on the next steps of coming up with policies. A consultative paper should be issued to capture the following principles regarding crypto assets in Kenya:

- **People-centricity (define the problem statement):** The problem being solved should be articulated. What is the gap in our capital markets being addressed, particularly in relation to investment alternatives? Who will be the beneficiaries? Is it a narrow range of investors in crypto exchanges and high net-worth individuals? The benefit to the broader Kenyan populace must be clear.
- **Country context (assess the timing and priorities):** The FinAccess Survey Report 2021 highlighted that Kenya's financial inclusion improved to 83.7 per cent in 2021. Conversely, gaps were noted in financial services' usage, quality, and impact. In this regard, Kenya should prioritize improving the financial health of its citizenry in the short to medium term.
- **Balance between opportunities and risks:** A detailed analysis of opportunities and risks in the crypto space needs to be done. We flag some key risk considerations:
    a) What is the potential contagion effect-How do crypto assets interface with the rest of the financial sector and what are the potential contagion effects and how can they be mitigated to ensure continued financial stability?
    b) How will AML/CFT risks be addressed?

iii. **Regulatory Framework:** The outcomes of the ML/TF risk assessment on VAs/VASPs and consultative paper will enable Kenya to make informed policy decisions on crypto assets. This may include the development of a legal and regulatory framework for crypto assets in Kenya.

Response from National Treasury

On Financial Operations and Activities of Worldcoin/its Agents in Kenya

CBK does not regulate crypto assets as they are not considered legal tender as per its stance as per CBK's public notice of December 2015. CBK also issued a Banking Circular to all banks in

2015, cautioning them against dealing in virtual currencies or transacting with entities that are engaged in virtual currencies. In view of this, CBK has not had any contact with worldcoin. It is not licensed or regulated by CBK.

Founded in 2019, Worldcoin is a project of Tools for Humanity, a non-profit organization based in Berlin, Germany, that is developing a digital identity system. The Worldcoin protocol (tools) consists of the following:

a. **World ID** is a digital identity that is assigned primarily by scanning people's eye irises through the Worldcoin Orb. The Orb is a biometric device enabled to collect this information. Worldcoin initially stated that after registration, the iris data is not stored. However, the identity data is catalogued and stored in a central database. Worldcoin has indicated that it will allow third parties, including governments and private entities, to use the identity database.
b. **Worldeoin biometric Token (WLD),** is a digital currency distributed to people based on their biometric iris scan.
c. **World App,** developed and operated by Tools for Humanity to enable payment, purchases and transfers globally using digital assets and fiat-backed stablecoins.

Worldcoin was launched on July 24, 2023, requiring users to give their iris scans in exchange for a digital ID and, in some countries, free cryptocurrency as part of plans to create an 'identity and financial network'. Within Africa, Worldcoin worked with local partners to recruit users using the Orb in Kenya and Uganda. Following the launch on July 24, 2023, there was an increase in the number of Kenyans lining up to register for Worldcoin. Upon registration, Worldcoin offers a reward of WLD25(USD2. 1/Ksh.7,470). Thereafter, Worldcoin offers WLD1 (USD2.1/Ksh.300) weekly subject to availability of WLD tokens for the grant. Users cash out the WLD tokens as follows:

- Users may transfer WLD to their Binance wallets and thereafter cash out via PayPal or other digital payment platforms into USD, and eventually to other payment channels.
- Users may also sell their WLD tokens to other holders of WLD wallets and obtain cash in exchange for WLD. This was common at the places of registration for WLD tokens. In this case. Peer-to-peer payment may happen using cash or digital payments such as mobile money

Worldcoin has been criticized globally for its data collection initiative, raising data privacy concerns over whether users were giving informed consent, and whether a single company should be responsible for handling the data. Jurisdictions are concerned about national security risks that may arise from a private entity registering the identity of citizens globally.

On the Legality of Cryptocurrency and Blockchain Technologies

a) Blockchain and Cryptocurrency Technologies

A blockchain is a distributed database or ledger shared among computers on a common network. Each computer/node participates in the validation of transactions and the maintenance of the blockchain ledger. Nodes are responsible for storing a copy of the blockchain ledger, verifying for the authenticity of transactions, and adding new blocks to the chain. The blockchain maintains a secure and decentralized record of transactions, ensuring that data remains immutable (cannot be altered) upon entry.

The elements of transparency, security and finality provide many applications for blockchain technology, with the best-known application in cryptocurrency/assets. Cryptocurrencies are privately issued digital assets that depend primarily on cryptography and blockchain/ distributed ledger technology (DLT). The most widely used cryptocurrency, Bitcoin, was established in 2009 following the publication of a seminal paper on peer-to-peer transactions by

"Satoshi Nakamoto" in 2008. This innovation was created as an answer to the deficit in trust in the financial industry following the 2008 Global Financial Crisis. Bitcoin remains the biggest and most known crypto asset.

It is critical to note that cryptocurrencies are neither issued by any central bank nor a public authority and are therefore not considered legal tender. Legal tender refers to banknotes and coins used to settle any monetary obligations or transactions. Similarly, only banknotes and coins issued by the CBK are considered as currency. Since crypto assets are not backed by a public authority, they are considered high-risk and speculative.

The crypto industry's growth has been driven by the speed of transactions, low transaction costs, decentralization of finance, and anonymity. Additionally, crypto assets have attracted users due to offering more control as opposed to fiat currency. Further, the promise of high returns due to high volatility and erratic growth in the value of crypto assets has attracted a swathe of crypto investors, spanning both individuals and institutions. Moreover, the lack of taxation mechanisms has made crypto attractive to users.

However, there are challenges to address in Kenya's adoption of these technologies. Compared to physically issued banknotes and coins, and electronic mobile money which is backed one-for-one with the Kenya Shilling, holders of crypto assets do not benefit from the same level of consumer protection accorded by legal tender issued by CBK. In this regard, Crypto assets experience extreme volatility and the risk of collapse, with no resources for affected investors.

Globally, due to the extreme volatility of the crypto market and the recent collapse of stablecoins and crypto exchanges, there has been a slowdown in the uptake of crypto assets.

In 2022, the global crypto industry faced a reduction in the value of crypto assets and market capitalization by more than half since 2021. Bitcoin, for instance, was trading at below USD16,000 on November 20, 2022, down from USD58,000 exactly a year earlier. This volatility has led to investor caution and reduced interest in crypto assets. More importantly, it has highlighted key liquidity issues faced by crypto asset firms and other fintechs, exacerbated by poor governance frameworks.

b) Legality of Cryptocurrency and Blockchain Technologies

Currently, Kenya does not have any regulatory framework for crypto assets as they are not legal tender. However, based on growing interest and reports in the media on the use of Bitcoins by Kenyans, CBK issued a public notice in December 2015, warning the public against using virtual currencies, such as Bitcoin. The public notice indicated, inter alia, that Bitcoin is not a legal tender in Kenya and that no protection exists if the platform that exchanges or holds the virtual currency fails or goes out of business. A Banking Circular was also issued to all banks in 2015 by CBK cautioning them against dealing in virtual currencies or transacting with entities that are engaged in virtual currencies.

Due to the emergence of online marketing of virtual assets and online fraudulent investment options, CBK and other financial sector regulators issued notices in 2018 warning the public against the use of unlicensed financial products and services. Further, in 2019, CBK warned the public against trading with unlicensed online forex dealers. Due to the re-emergence of fraudulent financial schemes in the wake of the COVID-19 pandemic, CBK and other financial sector regulators reiterated their warning against the use of unlicensed financial products and services. 15 CBK also issued circulars to banks and Payment Service Providers (PSPs) warning them against dealing with unlicensed entities.

On the Link between Cryptocurrency, Money Laundering and Financing of Terrorism

Cryptocurrencies present risks to national security and financial systems due to their following unique characteristics that make them attractive to criminals.

a. Cryptocurrencies are decentralised, meaning they are not controlled by a government or central bank. Like cash, it is possible to conduct transactions while preserving a high degree of anonymity.
b. Cryptocurrencies are virtual, meaning they are generally not subject to any geographical restrictions.
c. Cryptocurrency transactions do not take place face-to-face or in person.

Due to their pseudo-anonymous nature and lack of transparent oversight, crypto assets have therefore become associated with facilitating money laundering and illicit activities. They are therefore linked with heightened Money Laundering / Terrorism Financing (ML/TF) risks. As a result. criminals, terrorists, and those seeking to evade sanctions have found ways to use cryptocurrencies to facilitate illegal activities.

In terms of predicate offences, the most common criminal activities associated with VAs and VASPs include money laundering, the sale of controlled and narcotic substances and other illegal items (including firearms), fraud, tax evasion, sanctions evasion, computer crimes (e.g. cyberattacks resulting in thefts), child exploitation, human trafficking, and terrorism financing. Among them, narcotics-related and fraud offences (e.g., investment scans and

Swindling, blackmail, and extortion) have been identified as the most prevalent. Below is a summary of the key ML/TF activities facilitated by the nature of crypto assets:

1. **Cybercrime**: Hackers that hold data captive are asking for ransom in cryptocurrencies, as was seen in the Wannacry case where ransomware targeted computers running the Microsoft Windows operating system by encrypting (locking) data and demanding ransom payments in Bitcoin cryptocurrency.
2. **Terrorist financing**: Terrorist organizations are also using cryptocurrencies to raise funds. For example, the Islamic State of Iraq and the Levant (ISIL), a transnational militant terrorist group, called for cryptocurrency donations globally. There have been cases where terrorist networks paid individuals to facilitate terrorist acts.
3. **Organized criminal syndicates**: There have been numerous cases of criminal syndicates facilitating weapons dealing, drug dealing and human traffickers receiving payment in cryptocurrencies.

On the Legal and Regulatory Gaps in Cryptocurrency and Blockchain Technologies

Kenya's Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) Mutual Evaluation Report (MER), 2022, by the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) recommended that Kenya takes a policy decision regarding VASPs providing crypto assets and other virtual/digital assets services. Accordingly, Kenya is expected to conduct the ML/TF risk assessment on VAs and VASPs by September 2023. FRC set up a TWG on ML/TF risk assessment on VAs and VASPs in June 2023. The TWG is expected to identify, assess, and measure the ML/TF risks of VAs and VASPs in Kenya. The TWG will thereafter propose policy actions to mitigate the identified risks. CBK is represented in the multi-agency TWG, which comprises both public and private sector stakeholders.

The TWG issued a survey to members of the public on August 15, 2023, to gauge their interactions with Vas and VASP and mitigation measures against ML/TF risks of the VA ecosystem. The TWG has also distributed survey questionnaires on VAs and VASPs to:

i. Traditional obligated entities including banks, payment service providers, money remittance providers, forex bureaus, microfinance banks, and digital credit providers.
ii. Regulators, including CBK and other financial sector regulators, and Business Registration Services (BRS).
iii. Virtual Asset Service Providers, such as Binance.
iv. Law enforcement agencies, including the Directorate of Criminal Investigations and the National Intelligence Services.
v. Other institutions such as member organizations (fintech, blockchain, accounting, law member associations) and academia.

The survey responses to be received by mid-September 2023, will inform the risk assessment Exercise. Once the analysis of the responses is completed, the TWG will issue a report, including appropriate policy recommendations on VAs and VASPs in Kenya.

On any necessary Legislative Intervention on Cybersecurity and Cybercrime

Crypto assets and the underlying technologies are vulnerable to cyberattacks. The conversion of crypto assets into legal tender introduces potential cybersecurity risks for financial institutions and individuals involved in the conversion process. Further, crypto assets have been used for ransom payments for cyber-attacks. A key example is the Bitcoin pay-out of USD4.4 million in the Colonial Pipeline ransomware attack in the US, of which USD2.3 million was recovered. The Computer Misuse and Cybercrimes Act, 2018, and Kenya Data Protection Act, 2019, address cyber security and data privacy risks.

While cryptocurrencies and blockchain technology pose challenges to traditional banking, they also offer opportunities for innovation and efficiency. The Central Bank is committed to fostering a competitive and secure financial sector that can adapt to the changes while maintaining stability and protecting consumers. The CBK will continue to assess and respond to developments in the rapidly evolving landscape.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/025: ADJOURNMENT AND DATE OF NEXT SITTING

The secretariat was tasked to do an advert, letters inviting the witnesses, and also to come up with the schedule for the meetings. The next meeting will be held on notice.

SIGNED: ..... **DATE:** 27.09.23

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 7th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 4th September 2023 AT 9.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Peter Kaluma,MP
6. Hon. Capt. Ruweida Obo, MP
7. Hon. Gedion Kimaiyo Kipkoech, MP
8. Hon. Mburu Kahangara, MP
9. Hon. Gitonga Mukunji, MP
10. Hon. Caroline Ngelechii, MP
11. Hon. Geoffrey Ruku, MP
12. Hon. Irene Nyakerario Mayaka, MP
13. Hon. Umulkher Harun Mohamed, MP

ABSENT

1. Hon. Sarah Korere, MP
2. Hon. Fredrick Ikana, MP
3. Hon. Innocent Maino Mugabe, MP
4. Hon. Edwin Gachuki, MP
5. Hon. Geoffrey M. Wandeto, MP

SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE – DIRECTORATE OF CRIMINAL INVESTIGATIONS

1. Mr. Mohamed Amin - DCI

2. Mr. Paul Wachira - Deputy Director Investigations
3. Michael K. Sang - Incharge, Serious Crime Unit
4. Simon Kipruto - Head of Cybercrime
5. Winnie Ingaiza - Investigator
6. Charles Mwits - Investigator
7. Mercy Nyingi - Investigator
8. Joseph Karanja - Investigator

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   i. **Meeting with the Director of Criminal Investigation**
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/020 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson took the committee through the day's agenda

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/021: SUBMISSION BY THE DIRECTORATE OF CRIMINAL INVESTIGATIONS (DCI) WRITTEN AND ORAL SUBMISSIONS

On 4th September, 2023, the Committee proceeded to hear the Directorate of Criminal Investigations response to queries raised by the Ad-Hoc Committee letter Ref.AD-HOC/WC/2023/010 dated 24th August, 2023 to the DCI on inquiry into the activities and operations of worldcoin. In their submission, the DCI responded as follows;

On Kenya's Cyber Security And Cybercrime Landscape

Mr. Mohamed Amin, Director of Criminal Investigations in formed the Committee that Kenya is one of the major consumers of electronic and digital equipment and Technology solutions in Africa and has considerably enjoyed the benefits of technology with an ever-growing number of home-grown innovative solutions and an expansive affordable access to the internet. He noted that as a result to this, the country continues to experience cyber threats which include among other things; distributed Denial of Service (DDoS) attack, malware attacks, ransomware, identity theft and impersonation, cyber harassment, computer fraud and forgery, child pornography, cyber terrorism and false publication.

Mr. Amin informed the Committee that between 1st January 2022 and 1st September, 2023, a total of 2,553 cases involving offences within the cyberspace were reported and investigated by the Directorate of Criminal Investigations and that according to statistics from Kenya Computer Incident Response Team Co-ordination Centre (KE-CIRT/CC) the country's critical information infrastructure received over 887,793,552 cyber threat attempts within the same period, targeting critical infrastructure service providers.

The DCI informed the Committee that the trend in cyber threat events detected is attributed to the continued activity by organized cybercrime groups through adoption of more sophisticated tools by ransomware gangs, continued targeted attacks at critical systems and services, adoption of sophisticated phishing and malware kits by threat actors, continued targeted attacks at cloud-based supported services, unsecured infrastructure, continued network misconfiguration attacks and continued adoption of botnets.

Mr. Amin further noted that to deal with these emerging challenges, National Security Council (NSC) chaired by the President, National Security Council Committee (NSCC) chaired by the Head of Public Service & Chief of Staff, National Cyber Security Steering Committee (NCSC) chaired by the PS/MolCT, National Computer and Cyber Crimes Co-ordination Committee (NC4) and KE-CIRT/CC (Co-ordinated by CA) are charged with the responsibility of advising, developing policies and strategies on cybersecurity and combating cybercrime.

On Role Of The Directorate Of Criminal Investigations In Detection And Monitoring Of Cyber Security And Cyber Crimes

The DCI informed the Committee that the National Police Service Act No.11A of 2011 Section 35(b), (d) & (i) specifically mandates the Directorate of Criminal Investigations with the responsibility of detecting and investigating cybercrimes. The Act also charges the DCI with the responsibility of Co-ordinating the country's INTERPOL Affairs. In addition, Section 47 of the computer misuse and Cybercrimes Act of 2018 sets out the powers and investigation procedures of offences under the Act and grants the powers to the National Police Service among other relevant Government agencies.

He noted that the DCI had a dedicated cyber forensic laboratory that facilitates investigators in collection, forensic analysis, preservation and presentation of digital and electronic evidence in courts. Further, the Digital Forensic Lab has a section that conducts internet patrols whose main task is to identify any scam targeting Kenyans and/or any information about Kenyans published in the darkweb/darknet and they prepare reports which are shared with cybercrime investigators for action. He further noted that the Crime Research & Intelligence Bureau and the Investigations Bureau within the DCI play a critical role in detection, investigation, preservation and documentation of evidence as well as identification and apprehension of suspects.

The DCI informed the Committee that his directorate is an alternate member of National Computer and Cybercrimes Co-ordination Committee (NC4) and also has officers seconded at KE-CIRT/Coordination Centre and other institutions. He noted that the DCI also works hand in hand with other government regulatory agencies, telecommunication service providers and other foreign law enforcement agencies. They also collaborate on cybercrime issues at the sub-regional by participating in East Africa Police Chiefs Co-operation Organization (EAPCCO) annual meeting through various committees and sub-committees, cybercrime sub-committee being one of the key committees.

In addition, they are also in the regional and international level by participating in the INTERPOL cyber surge project which is an initiative by INTERPOL for the African region that involves law enforcement officers from member countries. The African Union Police Initiative (AFRIPOL) and INTERPOL's African Joint Operations against Cybercrime (AFJOC) in collaboration with INTERPOL's Cyber Fusion Centre (CFC) and INTERPOL's private partners performed an extensive analysis on malicious and vulnerable infrastructure within member country jurisdiction and generated a Cyber Activity Report (CAR). He noted that the CAR was disseminated to Kenya as one of the member countries via Kenya's INTERPOL National Central Bureau (NCB). The operation is currently ongoing with expectations to advice all vulnerable Internet Service Providers (ISP) and inform all Critical Information Infrastructure (CII) on their targeted assets.

Mr. Amin informed the Committee that the DCI is a member of the African Heads of Cybercrime Units initiative where all heads of units meet annually under the auspices of INTERPOL with the aim linking the unit heads to enable collaboration and co-operation. The initiative has helped in sharing of intelligence, vulnerabilities, challenges and best practices. He further noted that the DCI is also a member of INTERPOL Global Complex for Innovation (IGCI) that brings together experts from a wide range of backgrounds through INTERPOL Innovation Centre which develops contemporary and creative solutions to challenges in

policing. IGCI facilitates thought leadership and connects law enforcement, academia and private sector partners to exchange knowledge and explore new technologies and emerging cyber threats.

On Investigations Undertaken By The Directorate Of Criminal Investigations Regarding The Activities And Operations Of Worldcoin/Its Agents In Kenya

The DCI informed the Committee that on the 31st day of July, 2023, their attention was drawn through DCI's Fichua platform and other social and mainstream media concerning the alleged illegal collection of biometric data, specifically the scanning of Irises of members of the public in exchange for Ksh.7,000/= worth of Worldcoin tokens by an entity going by the name"Worldcoin" in various parts of the country and immediately dispatched investigators from who visited Kenyatta International Convention Centre (KICC) where the activities of worldcoin sensitive personal data collection exercise was ongoing. They found over 2,000 people mostly youth queuing waiting to be signed up. The investigators met the organizers who provided them with a certificate of registration as Data Controller in the name of Tools for Humanity Corporation from the office of the Data Protection Commissioner issued on 18th April, 2023 and valid for a period of two years. This notwithstanding, the investigators summoned the local organizers who have since recorded their statements in regard to this matter and foreign individuals concerned have also been summoned through INTERPOL.

He noted that the investigations have since established that there are data controller certificates issued to two foreign entities namely **Tools For Humanity Gmbh** and **Tools For Humanity Corporation** on 15th September, 2022 and 18th April, 2023 respectively, from the Office of the Data Protection Commissioner and the circumstances surrounding the issuance of the certificates by the Data Commissioner to the two entities and whether proper procedures were complied with is a subject of the ongoing investigations. The investigations have also established that despite directions from the Office of the Data Protection Commissioner vide letter Ref.Al/6217798 dated 30th May 2023, served to Ariana Issais of Bowmans Law Firm, acting for and on behalf of Tools for Humanity Corporation, directing for cease of its activities of collecting sensitive personal data, the entity continued with its operations in total disregard to the directives.

Further investigations have established that Tools for Humanity Corporation is a company registered in the United States of America with Tools for Humanity Gmbh as its wholly owned subsidiary company registered in Germany both trading as WorldCoin. Both companies are co-founded by Sam Altman, Chief Executive Officer of Open Artificial Intelligence and Alex Blania. However, the two foreign companies are not registered in Kenya as required under the Companies Act, 2015. It was revealed further that Tools for Humanity Corporation and Tools for Humanity GmbH have actively facilitated, promoted, marketed and participated in registration and/or sign up of subjects in Kenya and about 34 other countries across the world. The process involves collection of the iris and facial images through scanning using an Orb apparatus.

Investigators have also established that in facilitating and promoting worldcoin activities, Tools for Humanity Corporation and Tools for Humanity GmbH contracted several individuals and companies to act as Orb operators, agents, consultants and marketers. These include companies and individuals included; ***Exp Momentum Ltd, Sense Marketing, Bowmans Law firm - Coulson Harney LLP, Fogo Generators, Sava Projects limited, Ariana Issais of Bowmans Law Firm, Rael Mwende, Wangeci Mwangi and Charles Wanjagi.*** They were reporting to Piotr Piwowarzyk, a Polish national said to be the Africa regional representative for Tools for Humanity. The scope of their involvement and whether any criminal act may have been committed as a result of the contractual engagements was a subject of the ongoing investigations. The DCI noted that a travel restriction has been placed against all persons involved pending outcome of the investigations

The DCI informed the Committee that on 5th August, 2023, investigators visited the premises of Fogo Generators at KC Aurora Complex along Mombasa Road where they recovered 48 Orb apparatus, assorted worldcoin merchandise, electronic components and pertinent documents. He noted that the Orbs and other electronic gadgets recovered in the course of investigations were currently undergoing forensic analysis that would enable the investigators ascertain the exact number of people in Kenya who were signed up and their sensitive personal data collected. He further noted that already twenty-seven (27) statements have so far been recorded from witnesses and persons of interest.

Further, the investigators have engaged various Government regulatory agencies such as Central Bank of Kenya, Communications Authority, Office of the Data Protection Commission, Registrar of Companies, Capital Markets Authority, Kenya Bureau of Standards, Nuclear Power and Energy Agency, Consumer Protection Agency and INTERPOL to give an input in the investigations and investigations were at an advanced stage and shall share their recommendations with the ODPP upon conclusion.

On Cybersecurity And Cybercrime Concerns On Blockchain And Crypto-Currency Activities

The DCI informed the Committee that blockchain is an open, distributed ledger that records transactions safely and permanently. Blockchain slashes the cost of transactions and eliminate intermediaries like lawyers and bankers, and thus lowering the cost of doing business. However, with the increase of more internet technologies, blockchain's adoption will require broad coordination and will take time to be adopted. He further noted that blockchain was the medium through which crypto-currency was transacted.

The DCI informed the Committee That Crypto-currency is a digital, encrypted and decentralized medium of exchange and that there is no central authority that manages and determines the value of this digital currency unlike the Kenyan shilling, British Pound, U.S. Dollar or the Euro. Instead, the determination of the value of the virtual currency is through speculative tendencies of the crypto-currency's users. He noted that this was the technology behind Bitcoin, the first virtual digital currency that has gained international application in financial settlements. In addition, the DCI noted that uncertainty regarding taxation, security risks, transaction irreversibility, scalability issues, lack of merchant adoption and trust of digital currencies being purely speculative are some of the elements of crypto-currency that poses great security and economic concerns.

On Link Between Crypto-Currency, Money Laundering And Financing Of Terrorism

The DCI informed the Committee that crypto-currency is not a legal tender and is unregulated by the Central Bank of Kenya, however, it is not criminalized by the Kenyan Laws. He noted that this gap allows for the transfer and trade in crypto-currency without any regulatory checks therefore thriving and encouraging anonymity in financial transactions across borders on various online platforms as well as creating easy access to finances by criminal groups including terrorists and also a fertile avenue for money laundering and tax evasion. This delicate and volatile nature of transactional data makes traceability of such financial transactions difficult and thus derogates the efforts made by the investigative agencies.

On Legal And Regulatory Gaps On Cybersecurity And Cybercrime Prevention

The DCI informed the Committee that the Data Protection Act and its regulations thereto do not sufficiently address key issues like the documents to be presented to the Data Commissioner to ascertain eligibility for issuance of a certificate as a Data controller and/or processor as a juristic person, it lacks regulatory framework for provision of documents to be presented to the Data Commissioner to ascertain eligibility of issuance of a certificate to a foreign company (legal entity) , it lacks the Commission's ability to ensure that the subjects are properly taken through purpose of data collection, handling, transfer, entities, involved, possible risks and

safeguards before accepting to give out their data, It has inadequate consumer protection of the data subjects and lacks procedures for thorough vetting of local and foreign data controllers and/or processors.

He also noted that the Kenyan Laws are silent on crypto-currency which is currently a popular financial tool for organized crime thus encouraging transfer of unregulated digital currency outside the existing legal framework which has led to rise in cryptojacking as an emerging crime trend with no laws to address it.

On Any Necessary Legislative Intervention On Cybersecurity And Cybercrimes

The DCI informed the Committee that there is an urgent need to review the Data Protection Act to appreciate the overlapping roles of other regulatory Government agencies and investigative agencies in investigation and enforcement of Data Protection Act including but limited to, the Communications Authority, the Registrar of companies, Central Bank of Kenya, Capital Markets Authority, Consumer Protection Agency, KRA and National Police Service among others with stricter punishment for data mishandling and/or contravention of the Act. The review should also include the specific eligibility criteria for approval of an application as Data Controller and/or Processor as well as provision for back-ground check especially for entities intending to collect sensitive personal data.

He further noted that there is need to strengthen and encourage use of Sandbox by other financial regulatory agencies such the one currently under Capital Markets Authority to test and inform regulations and guidelines for online investment applications in Kenya. In addition, Computer Misuse and Cybercrimes Act 2018 needs to be reviewed to fully deal with the current realities in the cyber space such as Artificial Intelligence (AI) as well as need to incorporate Communications Authority technical personnel to be stationed at all border entry points to provide technical expertise on all technological equipment's imported into the country.

In conclusion, the DCI echoed to the Committee that the Investigations into the Worldcoin operations and activities were at an advanced stage and that the investigators were exploring all legislations that could have been violated including but not limited to; Penal Code, Computer Misuse and Cybercrimes Act 2018, Data Protection Act 2019, Kenya Information & Communication Act, Proceeds of Crime and Anti-Money Laundering Act, 2009, Prevention of Terrorism Act 2009 and The Companies Act 2015.

He also noted the urgent need for additional budgetary allocation to enable the DCI improve the capacity of the cybercrime unit through regular trainings and provision of equipment justifying that the ICT world is dynamic and ever-changing thus the need to deal with threats while appreciating innovation. He further noted that owing to the emerging new technologies like Artificial Intelligence, malwares, ransomwares and botnets, the DCI recommend that more funding be channeled to the Directorate to enable development and enhancement of modern simulation laboratories, malware laboratories and penetration testing tools among others. In addition, the Directorate requires to purchase International Mobile Subscriber Identifier (IMSI) catchers which will enable it to fully handle its mandate of detection, prevention and investigations of crime.

SUPLIMENTARY QUESTIONS

On qualifications of officers currently managing Kenyans cyber -laboratory.

The DCI informed the Committee that they have a DCI cyber -comprehensive unit comprising of graduate officers in ICT are well trained both locally and internationally as well as exposed to best international practices currently managing cyber lab and that they shall continue to recruit best brains in the market so that they are up to speed with happenings in the contemporary world.

OC, Samsung Kipruto to comment on the issue of the high cases of cyber -attacks. Of course. Mr. Kipruto will as well comment on that and also our representation at the NC Forum.

On high cases of attacks and operations issues.

The DCI informed the Committee that despite the constant attacks from both local and foreign entities, they are well placed and well-grounded in addition to having a well-trained team to help in performing their duties to the best of their capacities. He noted that that the DCI have an Incident Response Team Unit that responds to all incidences that happen within the country and also collaborate with other government agencies like the Central Bank of Kenya, Communication Authority of Kenya and Information and Communication Technology Authority. He further noted that the DCI have seconded four officers at the Kenya Computer Incident Response Team coordination Centre (KE-CIRT/CC) who participate in all operations.

On the issues whether the orb is a telecommunication device

The DCI informed the Committee that the device has a sim card for transmitting information, a hard drive, and a wireless capability thereby confirming that the device is a telecommunication device.

On How the orbs landed in the country, if declared, how they were declared, if tax was paid CA's view about the orb and whether CA should take responsibility for not conducting type approval

The DCI informed the Committee that according to their investigations, there was Tools for Humanity (TFH) USA, and Tools for Humanity Germany. The orb as a machine was/is manufactured in Germany and from Germany the company exporting to Kenya was/is Tools for Humanity, Germany. He noted that the clearing agent was called Bridgeways Limited and the goods were transmitted via DHL to Jomo Kenyatta International Airport and declared as biometrics scanners. They were stored at a store along Mombasa Road where the DCI officers picked them (ORBs) from. He further noted that they had made inquiries and had engagements still going with KRA to unveil more on them.

In regards to CA, the DCI noted that they made a request to confirm from Communication Authority in regard to what type of approval the Orb was. According to CA's report that they shared with them, it was not declared as an ORB, but as a biometric scanner and technically, perhaps from a telecommunication point of view, it was not a telecommunication equipment. Nonetheless, CA report had a disclaimer that they perhaps require some more information from the manufacturer. The DCI noted that they had a written report from CA on their findings and would present it to the Committee. He informed the Committee that portion blame on any government entity or agency will be subject to the outcome of their ongoing investigations.

The DCI further noted that as part of their recommendations, they have proposed that Communication Authority (CA) should have technical personnel at the entry and exit points in the country to provide technical expertise and ensure that all telecommunications devices that come into the country are declared and meet all the requirements as stipulated in law.

On whether the DCI and Office of the Data Protection Commissioner were member of NC4

DCI informed the Committee that the Directorate is an alternate member of the NC4 and they meet monthly to look at issues that affect cybercrime in the country. He noted that they were currently developing the regulations that will operationalize the CMC Act and the regulations were at the public participation stage. De noted that ODPC is not a member or an alternate member of NC4 .

On why the DCI could not stop ongoing operations at the worldcoin app or the web and whether the physical activities were still ongoing

The DCI informed the Committee that they did not have any legal mandate to handle or stop that because individuals themselves were going to those websites and could not police the numerous applications that Kenyans download. They further noted that they were not aware or have information on ongoing registration after stoppage.

On how and whether the Kshs. 7000 being promised to Kenyans was paid

The DCI informed the Committee that after their attention had been drown through social media and other mainstream media concerning the alleged illegal collection of biometric data specifically the scanning of irises and that people were just queuing and getting money just for the photos to be taken, they came in as DCI and mopped up the organizers. He noted that in their effort to get in touch with the people who are receiving the money was not easy since the participants were not willing to give information but they managed to get three who informed them that they were being asked to download a world coin App, In the App there was a platform similar to PayPal called the WISE which is capable of converting USDs and Pounds into Kenya shillings. The tokens (WLD) were being converted to USD and then to Kenya shillings on the platform then sent to individuals on Mpesa at a peer-to-peer level of engagement.

On why the DCI was bringing on board nuclear power and agency into their investigations

The DCI informed the Committee that the investigators wanted to get a professional opinion in order to address issues specific to absorption rate whether the radiation was within the acceptable standards to enable them capture the same in their report on findings.

On the specific role of each of the worldcoin associates and why some suspects who may appear to have flaunted some of the regulations within the law have not been charged

The DCI informed the Committee that Exp Momentum ltd contract was specifically to identify the venue of operations, Sense Marketing was a liaison contact persons or gave advice when interacting with various entities in terms of their operations, Bowmans Law firm gave advice on legal matters and was a representative of Tools For Humanity Gmbh and Tools For Humanity Corporation, Fogo Generators were contracted through Sava Project Limited in terms of logistics since they had a warehouse along Mombasa Road and therefore provided storage for the equipment and other commodities, Ariana Issais, Rael Mwende, Wangeci Mwangi and Charles Wanjagi were consultants of individuals marketing the activities of worldcoin through the two companies within the various recruitment areas and Charles Wanjagi was also an orb operator and was the one handling most transactions.

The DCI further noted that all the named persons had been summoned and recorded statement and are still persons of considerations. He stated that investigation process must follow several laws and the investigators must gather information based on facts and not rumors to give a strong backing before determining infringement of any of these laws and charging of individuals.

On extracting data from the orb

The DCI informed the Committee that the orbs were submitted for forensic analysis but they were unable to extract any data from the gadgets since the drive in the orb is encrypted and could not crack the code. He noted that they have written to the investigators to request the manufacturers to give encryption keys to see if they could recover any data from the hard drives.

On if any recommendation has been mage to CA to bring down the worldcoin App

The DCI informed the Committee that the App is held under amazon web service which is a cloud-based platform and not within Kenyan's jurisdiction and hence have no power to block it.

He noted that the Directorate will contact AG and CA to deliberate further on steps that can be taken in order to block it.

OBSERVATIONS

Inaccuracy on the declaration of the orbs. The orbs had GPS adaptor, Sim card slot and Wi-Fi connection making it a communication equipment but was declared as a biometric scanner.

Need to incorporate the ODPC into NC4 Committee.

World coin was not registered as a data controller and yet collected data.

Need to block the world coin app to cease its operations in Kenya in totality.

Need to establish motive of mass registration and end game of founders

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/022: ANY OTHER BUSINESS, ADJOURMENT AND DATE OF NEXT MEETING

The secretariat was tasked to do an advert, letters inviting the witnesses, and also to come up with the schedule for the meetings. The next meeting will be held on notice.

SIGNED: ..... **DATE:** 27.09.23

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 6th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 31st AUGUST, 2023 AT 2.30 .M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Peter Kaluma,MP
6. Hon. Sarah Korere, MP
7. Hon. Capt. Ruweida Obo, MP
8. Hon. Geoffrey Ruku, MP
9. Hon. Edwin Gachuki, MP
10. Hon. Geoffrey M. Wandeto, MP
11. Hon. Irene Nyakerario Mayaka, MP
12. Hon. Mburu Kahangara, MP
13. Hon. Fredrick Ikana, MP
14. Hon. Gitonga Mukunji, MP
15. Hon. Caroline Ngelechii, MP
16. Hon. Innocent Maino Mugabe, MP
17. Hon. Gedion Kimaiyo Kipkoech, MP
18. Hon. Umulkher Harun Mohamed, MP

SECRETARIAT

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2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE: - MINISTRY OF HEALTH

1.	Ms. Susan N. Wafula	-	Cabinet Secretary for Health
2.	Joab Nyagama	-	
3.	Jared Onsomo	-	ICTO
4.	Fauzia Shauru	-	PLO
5.	Anitah Kiptum	-	PLO

6. Lucy Kisia - Communications Officer
7. Joseph Masta - Communications
8. Ali Afula -

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   i. **Meeting with the Cabinet Secretary Ministry of Health**
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/17 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/018 SUBMISSION BY THE CABINET SECRETARY MINISTRY OF HEALTH

On 31st August, 2023, the Committee proceeded to hear from the CS for Health response to queries raised by the Ad-Hoc Committee on inquiry into the activities and operations of worldcoin. In her submission, The CS informed the Committee as follows;

On the Unique Biometric Identifiers of an individual;

Biometric identifiers, are unique and measurable characteristics of individuals, which are valuable tools in healthcare for patient identification, access control, and data security. These identifiers can be categorized into two main types:

a) **Physiological Biometrics:** These are stable physical characteristics of a person, that are not influenced by stress like face or fingerprint, palm, or iris. In general, the body ages, but the palm vein lines will not change pattern and are classified into Morphological and Biological Biometrics.They include:
   i. **Morphological Biometrics:** These attributes relate to a person's physical size and shape and encompass various methods, such as:
      - Fingerprint Recognition: Widely used for secure access to electronic health records and hospital identification.
      - Facial Recognition: Identifies individuals by analyzing facial features using cameras and software algorithms.
      - Iris Recognition: Utilizes the unique patterns in the iris of the eye for identification, known for its high accuracy though costly to implement.
      - Retinal Scans: Scans the distinctive pattern of blood vessels in the retina, used in highly secure environments due to its accuracy.
      - Palm Vein Recognition: Scans the unique vein patterns in the palm of the hand.
   ii. **Biological Biometrics:** The most common example is DNA Biometrics, which is the most accurate biometric identifier but limited by high costs, ethical concerns, and longer processing times.
b) **The Behavioral Biometrics** involve measuring uniquely identifying and measurable patterns in human activities, including:
   i. Voice Recognition: Identifying individuals based on the unique characteristics of

their speech.

ii. Keystroke Dynamics: Less common in healthcare but useful for secure access control, identifying individuals by their unique typing rhythm.

iii. Signature Recognition: Although less secure compared to other biometrics, it can be employed for identity verification in digital documents or systems.

c) **Multimodal biometrics** involves combining two or more biometric identifiers to enhance security. For instance, healthcare settings may use a combination of fingerprint recognition and facial recognition for more robust access control to sensitive medical records.

d) Additionally, there are **other advanced biometric methods** that are being explored:

i. **Gait Analysis**: This method identifies individuals based on their unique walking patterns, although not common, some research is being conducted in this area.

ii. **Heartbeat Recognition**: Unique heartbeat patterns can serve as an identifier, but this technology is still largely experimental.

iii. **Odor Recognition**: While primarily a research subject, the unique body odor has theoretical potential for identification.

iv. **Ear Shape**: The distinctive features in the shape of the ear can also be used for identification, although this is mostly experimental.

Each of these biometric methods has its own advantages and disadvantages in terms of accuracy, cost, ease of use, and acceptability. Healthcare organizations need to carefully consider these factors, along with ethical and privacy concerns, when implementing biometric identification systems to ensure the best fit for their specific needs and priorities.

On the Possible Hazards from an Exposure to Biometric scan

While biometric identifiers offer various benefits, including increased security and ease of access, exposure to biometric scans generally carries low health risks, but there are some important considerations:

a) **Physiological Biometrics**:

- **Fingerprint Recognition**: Risk of cross-contamination from shared scanners, potentially spreading germs including bacteria and viruses, hence increasing the risk of infection.
- **Facial Recognition**: Use of infrared light may cause eye irritation with prolonged exposure.
- **Iris and Retinal Scans**: While generally safe, prolonged or repeated exposure to the light sources used may cause discomfort or harm.
- **Palm Vein Recognition**: Similar to facial recognition, infrared light use is generally safe but could lead to skin irritation with excessive exposure.
- **DNA Biometrics**: Involves chemical exposure during DNA extraction and analysis, which can be harmful if mishandled, though patients are typically not directly exposed.

b) **Behavioral Biometrics**:

- **Voice Recognition**: Generally low-risk, but noise emitted during verification could lead to auditory strain or discomfort.
- **Keystroke Dynamics and Signature Recognition**: Little to no direct health risk, but improper keyboard or writing tool use can contribute to musculoskeletal issues over time.

c) **Multimodal and Advanced Methods**:

- **Gait Analysis, Heartbeat Recognition, Odor Recognition, Ear Shape**:

Typically non-intrusive with little to no direct health risks to individuals.

d) **General Considerations**:
   - **Psychological Stress**: Concerns over privacy and data misuse can cause stress or anxiety.
   - **Discomfort or Injury during Data Capture**: Individuals may experience discomfort or minor injuries during biometric data capture, particularly with modalities using infrared rays (e.g., eye strain during an iris scan).
   - **Accessibility Concerns**: Biometric systems may be challenging for individuals with disabilities, potentially causing stress or discomfort.
   - **Data Breach Health Implications**: While not physical, data breaches involving biometric data can lead to severe implications like identity theft, causing stress and other mental health issues.
   - **Allergic Reactions**: Some devices may use materials that can trigger allergic reactions in sensitive individuals (e.g., latex in fingerprinting devices).

Overall, the health risks associated with biometric systems are generally low. However, it is crucial to handle these systems carefully and consult with health and safety experts when implementing them to mitigate potential risks effectively.

On the legal and regulatory gaps on collection of bio data from Kenyans

In Kenya, while there has been progress in establishing laws and regulations governing data protection, including biodata, there are still several gaps and challenges. The Data Protection Act of 2019 serves as the foundation for data protection by setting out the principles for data protection, rights of data subjects and obligations of data controllers and processors. Further it considers biometric data as sensitive personal data, subject to guidelines for its collection, storage, use, archival, and destruction.

However, specific issues related to the collection and use of biometric data may not be adequately addressed, potentially leading to problematic situations. These potential legal and regulatory gaps include:

1. **Enforcement Mechanisms**: There may be a lack of robust enforcement mechanisms to ensure compliance with laws dealing with sensitive biodata, which is particularly crucial for stringent data protection.
2. **Public Awareness and Consent**: Individuals may not be fully aware of how their biometric data is used and the associated risks if mishandled. Ensuring informed consent is essential.
3. **Biometric Data Portability**: The legislation might not sufficiently address the ability of individuals to move their biometric data between service providers or data controllers.
4. **Interoperability**: If various organizations, including healthcare providers, collect biometric data, there may be no regulations that clearly define how these different datasets should interact, if at all.
5. **Data Retention and Destruction**: Laws may not specify the duration for which biometric data can be stored and the secure procedures for its destruction after its useful life.
6. **Cross-Border Data Transfer**: With the global nature of data, regulations may not adequately address the complexities of transferring biometric data across international borders.
7. **Ethical Considerations**: The legal framework may lack guidelines aligning data collection and usage with ethical standards, particularly regarding vulnerable populations.
8. **Sector-Specific Regulations**: There might be a lack of specific regulations applicable to

the healthcare sector, potentially leading to inconsistencies in how biometric data is handled across various sectors.

Given the evolving nature of this situation, interested parties are advised to consult local legal experts to stay updated on changes in regulations and laws related to data protection and biometric data in Kenya.

The necessary legislative interventions on collection of biodata from Kenyans.

The collection of biodata from citizens has implications for privacy, security, and human rights. Therefore, it is essential for legislation to be robust, specific, and forward-looking.

Currently, the following legislations govern the collection of biodata from Kenyans:

i. **Constitution of Kenya, 2010 Article 31(c)**: This article enshrines the right to privacy, including the right not to have information related to one's family or private affairs unnecessarily required or revealed.
ii. **Health Act, 2017 - Clause 11**: This clause addresses the confidentiality of collected biodata, emphasizing that information concerning a user's health status, treatment, or stay in a health facility is confidential unless disclosed under a court order or informed consent for health research and policy planning purposes.
iii. **Data Protection Act, 2019**: This act regulates the processing of personal data. It establishes that data subjects own their data and have rights, including being informed about the use of their personal data before collection (clause 26). It places the burden of proof for obtaining consent on data controllers and processors (clause 32) and outlines how personal data should be stored and safeguarded, particularly when transferred out of Kenya (clauses 49 (1)).

The Ministry of Health is actively driving digital transformation within the health sector to accelerate the achievement of universal health coverage. To ensure data security and uphold good data governance principles throughout the data lifecycle, the Ministry is developing various legislations and policies, including:

1. **Digital Health Bill**: This bill covers the classification of health data that includes medical equipment data, builds on the Data Protection Act to establish a framework for responsible handling, protection, and privacy of sensitive personal health data. It also creates a legal framework for a comprehensive integrated health information system and a Digital Health Agency to manage it. Additionally, it enables health data portability and the establishment of a client registry for unique identification.
2. **Health Data Governance Framework**: This framework sets standards for governing health data throughout its lifecycle, including data collection.
3. **Telemedicine Guidelines**: These guidelines provide guidance on managing the telemedicine ecosystem in the country, including obtaining consent from clients/patients through telemedicine platforms.
4. **National Unique Patient Identifier Framework**: This framework facilitates unique identification of clients across the healthcare system, although it is not based on biometric identifiers.

These legislative and policy developments aim to ensure the responsible handling and protection of health data, promote data security, and support the digitization of the healthcare sector in Kenya.

On the strength of infrared light and whether it was too strong or not

The minister requested more time to assess the strength of the infrared lights used in the orb scanner. This assessment is critical for understanding any potential risks associated with excessive light exposure to the eyes

The orb gadget did not undergo evaluation by the Pharmacy and Poisons Board, as it was not initially declared as a medical or health device upon import.

On what was declared when the device was imported.

It was not clear what was declared when the device was imported since it was not categorized as a medical equipment.

On the excessive uncontrolled light into the eye and the possibility of some stress to the eye

Prolonged exposure to light of any kind can potentially harm the eyes. However, without access to the device, the ministry could not provide specific information regarding the orb scanner's impact on the eyes.

On whether the ministry has been able to do a comparative study, especially outside the country

The ministry has not had the opportunity to conduct a comparative study, especially on a global scale, due to the recent nature of the issue. Nevertheless, it is an area the ministry is interested in exploring.

On what's the epidemiological risks and whether the ministry is able to deal with them now and in the future

The Digital Health Bill is designed to address the challenges posed by evolving technology. It anticipates issues like epidemiological risks and provides a framework for managing health data effectively.

On **Epidemiological Risks and Preparedness:**

The Digital Health Bill is designed to address the challenges posed by evolving technology. It anticipates issues like epidemiological risks and provides a framework for managing health data effectively.

About the unique medical identifier being used.

The ministry uses a unique identifier for patients, which is not based on biometrics. It ensures that patient records can move without linking them to personal identification, and only authorized healthcare providers can access the records.

On whether the CS has interacted with an orb scanner or any of his staff

Neither the CS nor the ministry's technical staff have interacted with the orb device, and their responses are based on the understanding of their technical teams.

On whether the submissions are specific to the Worldcoin investigation or general

The submissions were specific to the Worldcoin, the submissions were specific to the questions sent. The submissions were made without interaction with the orb devices and hence the response was as a result of the understanding from the technical teams.

On whether Health facilities are registered by the Office of the Data Protection

Facilities that collect data are in the process of getting registered with the Office of the Data Protection.

On the stage at which the ministry of health would would intervene.

The ministry is willing to be co-opted into the committee to provide health expertise as needed.

On Investment in Digital Health and the Doctors Providing the Service online

The ministry highlights the benefits of digital health and telemedicine, where people can access medical services they otherwise wouldn't have access to. Legislation, like the Digital Health Bill, is being developed to regulate such services properly. For example, in Tharaka Nithi, specialists located at sub-county hospitals successfully aided a patient who was at a healthcare facility of a lower tier through telemedicine. Additionally, in Bomet, medical experts from the United States were able to provide assistance to local healthcare teams. This presents an opportunity that the Ministry aims to capitalize on. While such initiatives have been in practice, there hasn't been adequate legislation in place to regulate them. That's why we have taken swift action to ensure the Digital Health Bill is in progress, enabling us to establish proper regulations for the provision of such services.

On whether the ministry is aware of patients or people who have sought services after using the orb scan.

The ministry is not aware of any patients who have sought services after using the orb scanner, except for what was reported to the committee by a member. According to the ministry when one feels like they are not okay, they seek health services in facilities in their neighbouring health facilities.

On the action Taken by the Ministry:

The ministry acknowledges the need to go beyond reporting to the cabinet and take further action. This situation serves as an opportunity for learning and improvement.

On referral for Thorough Examination:

Patients are encouraged to seek services at the nearest healthcare facility. If the facility cannot provide the necessary care, there is a referral system in place to direct patients to appropriate providers.

On the status of the Universal Health Coverage, the following were submitted;

The Ministry has been actively working on implementing universal health coverage, which is built upon four main pillars of health:

1. **Health Commodity Security**: This pillar aims to ensure the availability of essential healthcare items in facilities. The Ministry is focusing on leveraging local manufacturing to reduce costs and streamline the production and distribution of these items, preventing shortages at healthcare facilities.
2. **Human Resource for Health**: The Ministry has trained 100,000 community health promoters who play a crucial role in providing healthcare services. These promoters have been equipped with kits and digital gadgets to collect household data. The data collected is directly connected to the Ministry's headquarters, providing real-time information that can be used for health service planning and other national services.
3. **Digitization**: The Ministry is working on digitizing all health facilities to enable the seamless transfer of patient data between facilities. This initiative aims to eliminate the need for patients to carry physical records when moving from one facility to another, ensuring the continuity of care and preventing redundant diagnostic tests.
4. **Restructuring Health Financing**: The Ministry is introducing a social health insurance bill that establishes three funds: the primary health care fund, the social health fund, and the emergency and chronic and critical illness fund. This restructuring aims to improve

the financing of healthcare services in the country and make them more accessible to all citizens.

Observations:

1. The Cabinet Secretary became aware of the Worldcoin activities through social media and subsequently brought it to the attention of the cabinet. She perceived it as a problem and deemed it necessary for investigation.
2. There is uncertainty regarding how the device was declared during its importation process. Members suggested that it would be essential for the Minister to ascertain this information.
3. Following the Minister's report to the cabinet, the Interior Minister took the lead in addressing the Worldcoin issue. However, the Health Ministry did not pursue it as a matter of health concern

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/019: ADJOURNMENT AND DATE OF NEXT MEETING

The committee was informed of the correspondence from the Director of the Worldcoin seeking clarification of whether he could appear before them given that there was a court case at the high court before him. The committee tasked the legal counsel to respond to them inviting him to appear since the inquiry could not interfere with the case.
The next meeting will be held on 4th Sept 2023.

SIGNED: ..... **DATE:** 27.09.2023

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT AD HOC COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 5th SITTING OF THE AD HOC COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 31st AUGUST, 2023 AT 9.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Peter Kaluma,MP
6. Hon. Sarah Korere, MP
7. Hon. Capt. Ruweida Obo, MP
8. Hon. Geoffrey Ruku, MP
9. Hon. Edwin Gachuki, MP
10. Hon. Geoffrey M. Wandeto, MP
11. Hon. Mburu Kahangara, MP
12. Hon. Fredrick Ikana, MP
13. Hon. Gitonga Mukunji, MP
14. Hon. Caroline Ngelechii, MP
15. Hon. Innocent Maino Mugabe, MP
16. Hon. Gedion Kimaiyo Kipkoech, MP
17. Hon. Umulkher Harun Mohamed, MP
18. Hon. Irene Nyakerario Mayaka, MP

SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE: - KENYATTA INTERNATIONAL CONVENTION CENTRE

1.	Elijah Koros	-	Sales Manager
2.	Samson Keter	-	Principal Sales Officer
3.	Justus Kivindyo	-	Legal Officer
4.	Geofrey Thande	-	Director, Business Development Services

IN ATTENDANCE: - COMMUNICATIONS AUTHORITY OF KENYA

1. Ezra Chiloba - Director General
2. Dr. Emma Otieno - A.G. Deputy Director General
3. Banchale Gutum -
4. Liston Kirui - PTS

AGENDA

1. Prayers
2. Preliminaries
3. **Agenda;**
   i. **Meeting with the Director General Communication Authority of Kenya**
   ii. **Meeting with the Chief Executive Officer Kenyatta International Convention Center**
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/13: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members. The chairperson welcomed members to the joint meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/014: SUBMISSION OF EVIDENCES BY THE DIRECTOR GENERAL COMMUNICATION AUTHORITY OF KENYA

The Communication Authority of Kenya appeared before the Committee on 31-08-2023 and submitted as follows;

1. The Communications Authority of Kenya (CA) is the regulatory body established under the Kenya Information and Communications Act, 1998, responsible for facilitating the development of the information, communications and technology sector including telecommunications, broadcasting, multimedia, cybersecurity, electronic commerce, postal and courier services. The mandate covers the following specific areas:

   a. Licensing all systems and services in the communications industry, including telecommunications, broadcasting, postal and courier services.
   b. Managing competition within the sector to ensure a level playing ground for all players.
   c. Regulating retail and wholesale tariffs for communications services.
   d. Type approving and accepting communications equipment meant for use in the country.
   e. Managing the country's frequency spectrum and numbering resources.
   f. Protecting consumer rights within the communications environment.
   g. Facilitating the development and management of a national cyber security framework.
   h. Facilitating the development of e-commerce.
   i. Managing the universal access fund to facilitate access to communications services by all in Kenya.
   j. Monitoring the activities of licensees to enforce compliance with the licence terms and conditions as well as the law.

2. Overall, the Data Protection Act, 2019 is the framework that governs the processing of personal data and protecting the privacy of individuals in Kenya. Under the Act, the Office

of the Data Protection Commissioner has the mandate to licence entities that handle personal data as data processors and data controllers.

3. To ensure the protection of data in the communication sector, Section 23(e) of KICA stipulates that for provision of telecommunication services there is need to ensure that processing of personal data of subscribers is in accordance with the principles set out under the Data Protection Act, 2019.

4. Further, Section 27 (A) and Section 27 (D) of KICA focus on SIM-card registration where telecommunications operators are required to obtain personal data of their customers prior to provision of services, and to ensure the security and confidentiality of such data.

5. The technological development in the ICT Sector has witnessed increasing overlap and blurring of lines between the roles of different regulatory agencies owing to ICT's facilitative role in multiple sectors.

6. The Authority learnt about the activities of World Coin in Kenya through the media. Given some of the reported issues, the Authority got interested in understanding the operations of World coin, particularly with regards to mode of data collection, consumer protection and cybersecurity concerns. It was at this point that the Authority become aware that World coin was registered as a Data Processor by the Office of the Data Protection Commissioner.

7. In order to mitigate cyber threats and foster a safer Kenyan cyberspace, the Kenyan government through CA established the National Kenya Computer Incident Response Team - Coordination Centre (National KE-CIRT/CC) in 2016. This is a multi-agency collaboration framework for the national coordination of cyber security management (cyber threat monitoring, detection, prevention cyber threat and digital forensic analysis).

8. So far, we understand that World coin is an identification project that uses a combination of Artificial Intelligence (AI), cryptocurrencies and blockchain technologies. Basically, World coin is based on emerging technology whose future bears uncertainty both in terms society and regulation.

9. There are risks with every emerging technology. For example, when it comes to the introduction of a global digital currency, this could attract cybercriminals and state-sponsored actors seeking to exploit vulnerabilities in the country's infrastructure.

10. We reckon that World coin collects sensitive personal data, whose storage and access remains unclear.

11. So far, Kenya has not fully operationalized the digital currency framework. As a result, the use of World coin cryptocurrency as a payment method on a scale that is expected, there are risks of money laundering and consumer protection related issues.

12. The Constitution of Kenya 2010, specifically Article 46, stipulates that a Consumer has a right to: (a) goods and services of reasonable quality; (b) information necessary for them to gain full benefit from goods and services; (c) protection of their health, safety, and economic interests; and, (d) compensation for loss or injury arising from defects in goods or services.

13. The Consumer Protection Act 2012 (CPA, 2012) provides for the protection of the consumer with respect to prevention of unfair trade practices, consumer rights and remedies (section 75 and 76). This law sets out to promote and advance the social and economic welfare of consumers in Kenya.

14. According to the Kenya Information and Communications (Consumer Protection) Regulations (2010), the rights and obligations of consumers states that a consumer shall have the right to: (a) receive clear and complete information about rates, terms and conditions for available and proposed products and services; and (f) protection from unfair trade practices, including false and misleading advertising and anticompetitive behavior by licensees.

15. Cryptocurrencies are digital currencies that have an ascribed value that may fluctuate depending on the supply and demand. Cryptocurrency being a new and emerging technology, majority of consumers have no sufficient knowledge on its use. In this regard, Kenya Information and Communications (Consumer Protection) Regulations (2010), obligate any service provider of such technology to provide full disclosure to consumers on any such services being offered. We do not believe that World coin had provided full disclosure to those who showed up to register.

16. Consumer Protection: The scope of the current laws regarding ICT consumer protection does not adequately cover issues regarding digital currencies and assets. There is need to develop an appropriate overarching legal framework for the regulation of new and emerging technologies, including digital platform services, social media services and over-the-top services. The key intervention from the ICT regulation perspective would include cyber security and digital literacy of consumers.

17. The following are the existing legal and institutional mechanisms to protect personal data and use of ICTs:

    a. The Constitution of Kenya 2010, Article 31 provides for the right to privacy whereas Article 46, speaks to the rights of Consumer.

    b. The Consumer Protection Act 2012 (CPA, 2012) provides for the protection of the consumer with respect to prevention of unfair trade practices, consumer rights and remedies.

    c. The Kenya Information and Communications (Consumer Protection)
    d. Regulations (2010), provide for the rights and obligations of consumers.

18. There is a constraint when it comes to balancing strict regulation, facilitation of innovation and creation of an enabling environment that will contribute to the envisaged Digital Economy. The Authority has put in place a Regulatory Sandbox to nurture innovation as well as inform regulatory decisions and facilitate socioeconomic development.

19. There is no framework to regulate Digital Service platforms especially Over-the Top Services (OTTs). The Authority in consultation with the Ministry of Information, Communications and the Digital Economy is undertaking regulatory reforms with a view to expand the scope of regulatory mandate to address the emerging identified challenges.

20. The global challenge of managing the rapidly evolving new and emerging technologies, such as Artificial Intelligence (AI), Block Chain, Virtual, Augmented and Extended realities, means that there is need for a more progressive and responsive regulatory framework.

21. As the government pursues 100% digitalization of its public services, there is a heightened risk of being a target of the ever-evolving cyber threats. The Authority is currently working with other agencies under the NC4 to develop regulations that will operationalize the Computer Misuse and Cybercrimes Act (CMCA), 2018.

22. Concurrency of jurisdictions owing to the increase in overlaps of mandate with increased adoption of technology across sectors. This calls for more collaborative regulatory approaches. The Authority has made efforts to enter into partnerships with various agencies to enhance its regulatory effectiveness. Case in point, CA has a Memorandum of Understanding (MOU) with the CBK whose purpose is to enhance co-regulation of digital financial services.

23. In conclusion ICT is an enabler of development across all sectors. Towards the realization of the envisaged digital transformation, collaboration and a multi-agency approach will enhance adoption of technology. However, to keep in pace with technological dynamism, we must prioritize adoption of robust and up-to date policy, legal and regulatory frameworks without stealing innovation.

Committee Observations

From submissions, hearing and evidence adduced by the Communication Authority of Kenya, the Committee observed-

24. It is not clear on where the personal data collected of Kenyans is rested. It was stated that it was cloud based with no clear indication on whether it was stored locally or transferred outside Kenya's borders and whether the data collected could be gotten back

25. There is unclear information on the security measures taken by World coin in ensuring the safety of the data collected and there would be need for a forensic analysis on the same. There would be need for a joint meeting between the different stakeholders like The Ministry of Interior and National Administration, The Ministry of Information Communication and The Digital Economy as well as CAK to assess the same.

26. World coin was giving incentives to individuals giving their personal data. This could have brought along individuals who gave out their data motivated by the token being given even though they may have not known what exactly was the purpose, hence it was induced consent.

Committee Concerns

27. The Committee inquired on the awareness of the Communication authority of Kenya on how and when the World coin equipment was brought into the country;

    - The Director General stated that there were no records and applications made to the CAK to bring in the equipment into the country. He further stated that they have one orb machine in their forensic laboratory brought in by DCI officers for further investigation. They had no knowledge of the whereabouts of the other orb machines and no registration was going on in the Country. A comprehensive report would be shared with the Committee as soon as investigations were done.

    - Technical information about the infrared rays used by the orb machines in would also be provided to the Committee after conclusion of the investigation.

28. The committee was concerned on the real intention of World Coin and what they stood to gain in collection of personal data;

    - The Director noted that the intent of World coin was to collect the iris data and create a world ID for the proof of personhood. This is because the iris is a unique aspect of human being and this would help distinguish what is machine and what is human.

- He further stated the World Id would be a good platform for creating cryptocurrency that enables everyone to gain income and improve on AI systems as well. He stated that AI relies on the quantity of data gathered for machines. The more the data the better the intelligence gathered for the machines. World coin gains to be dominant over the other players in the technological space through the large amount of data collected

29. The committee was concerned on how many other players such as world coin were operational in the Country

- The Director General stated that there were other players in data mining such as Google, Meta and Twitter but were not as advanced as World coin. In cryptocurrency Bitcoin is an active player as well in cryptocurrency space that is owned by no individual.

30. The committee sought to know on what regulatory framework was in place and how it would balance between safeguarding data and not hurt innovative Kenyans;

- The Director General noted that the regulatory framework should be revisited to be more responsive including sanctions. He stated that most regulations were done under 2G and the world has now evolved to 5G where most communication is in the virtual world.

- NC4 regulations were delayed and only after they became operational in 2021 that gaps were seen. There is ongoing public consultation and the recommendations would be brought to the House on what needs to be done. There is however need to strike a balance between ensuring a market works and protecting the consumers of ICT services.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/015: SUBMISSION BY THE CHIEF EXECUTIVE OFFICER KENYATTA INTERNATIONAL CONVENTION CENTER

On 31st August, 2023, the Committee proceeded to hear Kenyatta International Conventional Centre response to queries raised by the Ad-Hoc Committee on inquiry into the activities and operations of worldcoin. In their submission, KICC informed the Committee as follows;

1. The Ag. CEO Ms. Patricia Ondeng informed the Committee that the nature and activities for worldcoin or its agents at the center was that on 28th July, 2023, the facility received a client Named Ms. Evarline Adongo of Exp Momentum, who visited the marketing office and expressed interest in using KICC's grounds for a product activation that was intended to run for four days with effect from 29th July, 2023 to 1st August, 2023 and that exp Momentum would utilize own branded tents with the aim of engaging the public. The correspondences involved Ms. Adongo of Exp Agency and KICC Corporation after she visited the Centre and further discussions regarding event details, rates, payment and booking extensions were conducted through email and a physical meeting at the facility.
2. The ag. CEO informed the Committee that the approval criteria to hold a meeting or gathering at KICC generally involves discussions about event dates, availability of space, rates and payments. She further noted that the center requires 100% payment from private clients while Government Clients provide LSO/LPOs as a confirmation and that upon receiving payment a client is confirmed. For the case in question, the client was Expo Momentum and the approval process was followed accordingly.
3. She informed the Committee that the event was booked to run for four days from 29th July 2023 to 1st August 2023. A request to prolong the event by an additional thirteen

days was declined by the facility due to concerns that arose once the management realized that the event had attracted large crowds that led to long queues affecting the flow of traffic along the city hall way.

4. On crowd management and emergency service plan on the worldcoin or any of its agent's activities, the ag. CEO informed the Committee that the center has always put in place crowd management and emergency services for all its big events whereby an outsourced security in addition to their own security personnel and a standby ambulance are availed in addition to having a police station within the facility. She noted that the facility also deploys additional security personnel depending on client's needs.
5. Ms. Patricia further informed the Committee that the client (Exp Momentum) were invoiced Kshs. 448,920 (Four hundred and forty-eight thousand nine hundred and twenty Kenya shillings only) for using KICC grounds for the product activation and they made a payment of Kshs. 441,180 (Four hundred and forty-one thousand one hundred and eighty Kenya shillings only) which included a 2% withholding tax.
6. On approval or concurrence sought from any other Government authorities and security agencies regarding the activities of wordcoin at KICC, the ag. CEO stated that a meeting took place between KICC and the Director of Criminal Investigation (DCI) officers in relations to the booked event by Exp Momentum since it had attracted large crowds at the facility and they gave all the relevant information requested by the DCI team.
7. In conclusion, she noted that Exp Momentum was a valued client at the center with whom they have collaborated with on numerous events bookings in the past like the FIFA Would Cup trophy tour on 27th May, 2022 and the Quatar winners flag off on 17th November, 2022 which earned the facility a revenue of over two million Kenya shillings.
8. On a question raised on why the facility approved the worldcoin event within a period of less than 24 hours while it took them two weeks to approve Parliamentary Co-operative Society (PACOSO) when it sought to hold one of its meetings at the facility and a lot of questions were asked ranging from date of the meeting, time, nature of the meeting among other technical questions, Mr. Geoffrey Thande, Director of business development services at KICC stated that this was as a result of the event being an outdoor activity which had not been booked at the time of the inquiry and was available for use. He further informed the Committee that approval time of different activities differs depending on the type and complexity of the event.
9. On the question raised on whether the Facility investigated further after the activity had been stopped, Mr. Thande stated that they did an independent investigation and brought in Ms. Adongo and questioned her on what exactly they were doing and what information they were trying to get from the public.

Observations

10. The Committee observed that KICC did not conduct due diligence on the nature of activity planned to be held at their facility including which product was being activated, but went ahead and offered authorization based on the fact that they had collaborated with the client (Exp Momentum) on numerous occasions in terms of bringing events to the facility.
11. The Committee also observed that the witnesses were not being truthful in their claim Exp Momentum did not disclose the nature of the event and was acting on behalf of worldcoin yet their annexed invoice described customer name as "EXP MOMENTUM" and event name as "WORLD COIN".

12 KICC did not take action to stop the illegal activity happening at their facility after they learned what worldcoin was doing despite having all the manpower they had indicated they had before the uproar and enforcers stepping in
13 The facility did not shed light on the feedback they got after conducting their own investigations as they had Stated

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/016: ADJOURNMENT AND DATE OF NEXT MEETING

The committee was informed of the correspondence from the Director of the Worldcoin seeking clarification of whether he could appear before them given that there was a court case at the high court before him The committee tasked the legal counsel to respond to them inviting him to appear since the inquiry could not interfere with the case
The next meeting will be held on 4th Sept 2023

SIGNED: ..... **DATE:** 27.09.23.....

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 4TH SITTING OF THE AD HOC- COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 30TH AUGUST, 2023 AT 9.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Peter Kaluma,MP
6. Hon. Sarah Korere, MP
7. Hon. Capt. Ruweida Obo, MP
8. Hon. Gedion Kimaiyo Kipkoech, MP
9. Hon. Geoffrey Ruku, MP
10. Hon. Dr. Edwin Gichuki, MP
11. Hon. Mburu Kahangara, MP
12. Hon. Fredrick Ikana, MP
13. Hon. Gitonga Mukunji, MP
14. Hon. Caroline Ngelechii, MP
15. Hon. Geoffrey M. Wandeto, MP
16. Hon. Innocent Maino Mugabe, MP
17. Hon. Irene Nyakerario Mayaka, MP
18. Hon. Umulkher Harun Mohamed, MP

SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Ms. Rhoda Muchiri	Hansard Officer
8.	Mr. Kelvin Lengasi	Audio Officer
9.	Ms. Winnie Kizia	Media Officer

IN ATTENDANCE:- OFFICE OF THE ATTORNEY GENERAL OF THE REPUBLIC OF KENYA

1. Hon. Justin Muturi - Attorney General of Kenya
2. Karen Ndegwa - Principal State Counsel

3. James Murache - State Counsel
4. Clare Namarome - Senior State Counsel

AGENDA

1. Prayers
2. Preliminaries
3. **Meeting the Attorney General on;**
    i. Examination of the legal status of Worldcoin in Kenya
    ii. Understanding who are the local representatives
    iii. Legal and Regulatory Framework of Cryptocurrency in Kenya
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/010 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. After that, a word of prayer was said, and later on, self-introductions by the Members and those in attendance. The Chairperson welcomed members to the meeting.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/011 SUBMISSION BY THE ATTORNEY GENERAL

The Ad-hoc Committee on the inquiry into the activities and operations of Worldcoin in Kenya held a meeting with the Attorney General vide a letter, Ref. NA: AD-HOC/WC/2023/004 dated 23rd of August 2023. The Attorney General appeared before the Committee on 30th August 2023 and submitted as follows:

1. The Committee was informed that the Office of the Attorney-General appeared to apprise Members of the legal status of Worldcoin and provide an analysis of the role and responsibilities of local representatives in relation to Wordcoin and the legal and regulatory framework for cryptocurrency in Kenya.

2. The Committee was also informed that the Attorney-General is mandated under Article 156(6) of the Constitution to promote, protect and uphold the rule of law and protect the public interest, therefore acknowledging that the operations of Worldcoin in Kenya are an issue of public interest.

Inquire into the legal and regulatory framework for the registration of foreign companies

3. The Attorney General submitted that WorlCoin is a foreign company. He stated that according to the Business Registration Service (BRS) report, both Worldcoin and Tools for Humanity do not appear in the BRS database of registered businesses or companies and hence lack the legal capacity to transact under Kenyan law.
4. In relation to legal compliance, it was submitted that according to **Section 974 of the Companies Act 2015**, a foreign company shall not carry on business in Kenya unless it is registered in accordance with the provisions of Part XXXVII of the Companies Act.
5. The AG informed the Committee that Sense Marketing, however, was a Private Limited Liability company incorporated in 2013 under Certificate No. CPR/2013/115791 with 100% of its shareholding registered under one Kevin Odumbe Olende. Its registered office is LR. No. 209/37 Lang'ata-Kitengela Road, P.O. Box 15371-00100, Nairobi.

6. In addition, Sense Marketing PLC had a wide object clause which permitted it to transact on a broad range of businesses.
7.

Compliance under the Data Protection Act

8. The AG submitted to the Committee that according to regulation 5(2) (a) of the **Data Protection (Registration of Data Controllers and Data Processors) 2021**, an application for registration shall be accompanied, inter alia, by a copy of the establishment documents of the entity. Establishment documents under paragraph 2 of the above regulations include—
    a) Statute, Charter or statutory instrument in which a body is established;
    b) registration certificate;
    c) trust deeds in which a trust has been established; and
    d) other instruments by which a body is established including its governing and administrative structure.
9. The Committee was informed that the Tools for Humanity Germany (TFH-G) and Tools for Humanity USA (TFH-USA) had presented applications to the Office of the Data Protection Commissioner for registration as data controllers on 22nd August 2022 which were approved and Certificates of registration issued.
10. It was stated that for a foreign company to collect and process data in Kenya, the company ought to have furnished its establishment documents to the Data Commissioner. In this case, TFH was indeed conducting business in Kenya and was required to do so in compliance with the law on registration.

Inquire into the legal and regulatory gaps that permitted the operations of Wordcoin in Kenya

11. It was submitted that there is a lack of a comprehensive Legal Framework to regulate emerging markets in cryptocurrency. This exposes the country inherent risks, speculative trading, high price volatility, possibility of criminal activities, tax evasions, counter financing of terrorism activities and money laundering, data theft and financial fraud.
12. It was stated that there is no consensus on the way to account for tax with respect to Worldcoin and in particular how to recognize any attendant income or losses, the appreciation of fair value and how to account for it in financial statements.
13. The Committee was informed that the WorlCoin situation had raised privacy concerns regarding the processing, storage and sharing of personal data where entities violate the data protection rules by sharing sensitive data or use open-source software that are easily compromised.
14. The Committee was also informed that the promoters of WorlCoin mislead consumers by using deceptive marketing strategies to induce people to exchange their personal data with tokens thus contravening their consumer rights.

Recommend necessary legislative interventions

15. It was submitted that the Office of the Attorney General recommends the formation of a comprehensive oversight framework on crypto assets activities and players in Kenya.
16. The AG submitted that regulations should be developed establishing a registration system for ***image rights*** and encompassing a dynamic definition of ***image personality rights*** which may include rights in characteristics, mannerisms or traits unique to that personality.

On the issue concerning local representatives

17. It was stated that section 979(1) of the Companies Act requires a foreign company to at least have one local representative. On the other hand, Section 981 of the Act provides that the local representative shall be held personally liable for any acts of the company in contravention of the Act.
18. The Committee was informed that the Office of the Attorney-General is not in a position to create a nexus between Worldcoin and Sense Marketing as according to the information availed by the BRS, there is a lack of registration details in relation to Worldcoin.

Compliance under DPA

On the legal and regulatory framework of cryptocurrency in Kenya

19. It was submitted that Crypto Currency is a currency founded on blockchain technology and based on a study by the World Trade Organization could be described as a decentralized, distributed record or "ledger" of transactions in which the transactions are stored in a permanent and near inalterable way using cryptographic techniques.
20. The Committee was informed that unlike traditional databases which are administered by a central entity, blockchains rely on a peer-to-peer network that no single party can control.
21. It was submitted that in December 2015 the Central Bank of Kenya had issued a public warning on the use of cryptocurrencies due to their perceived volatility and the lack of specific regulation followed by a public alert noting that crypto-assets do not fall within the purview of the Bank's regulated activities yet.
22. In addition, it was submitted that despite the warning by the CBK, to date there has been no law put in place prohibiting the use of digital currency. Moreover, Kenya is ranked first globally for peer-to-peer cryptocurrency trading volume and fifth worldwide for total cryptocurrency activity.
23. It was further stated that from the Financial Reporting Centre report made on 16th August 2023, there has been a rapid growth of the digital asset ecosystem and its potential to drive financial innovation and efficiency, but if not urgently regulated, money laundering and other crimes are expected to rise.

Supplementary questions AG.

On the specific requirements for foreign companies collecting and processing data in Kenya, including the need to furnish their establishment documents to the data commissioner.

24. The specific requirements for foreign companies collecting and processing data in Kenya are outlined in the "Registration of Data Controllers and Data Processors Regulations of 2021." To operate in Kenya, foreign companies are required to provide their establishment documents to the data commissioner. These establishment documents include:
    i. Statutes or the chapter or statutory instrument in which the entity is established.
    i. A registration certificate.
    ii. Trust deeds in cases where a trust has been established.

iii. Other instruments by which the entity is established, include governing and administrative structures.

25. This requirement ensures that foreign companies comply with the legal framework and establish their legitimacy before they can collect and process data in Kenya.

Additional details about the connection between World Coin and the group known as Tools for Humanity. What information has been obtained through inquiries, and how does this connection relate to their activities in Kenya?

26. The connection between World Coin and the group known as Tools for Humanity has been the subject of inquiries. While more detailed information may be provided by the principal state council, it is important to note that there is some information suggesting a connection between these entities that goes beyond official records.
27. Understanding this connection is crucial as it informs the ongoing inquiry into local representatives associated with World Coin, Tools for Humanity, and Sense Marketing. These local representatives play a significant role in the activities of these organizations in Kenya, and a comprehensive analysis of their responsibilities and identities is needed to shed light on their involvement and relationship with the mentioned entities.
28. Further information and clarification on the connection between World Coin and Tools for Humanity will be provided by the relevant legal team, as it may require a more in-depth investigation and analysis.

Whether the Office of the Data Protection Commissioner could request a certificate of compliance from the Business Registration Services (BRS) as part of their registration process for data controllers and processors.

29. The Office of the Data Protection Commissioner could potentially explore the possibility of requesting a certificate of compliance from the BRS as part of their registration process for data controllers and processors. This could be a step to ensure that foreign companies operating in Kenya are also compliant with Kenyan laws related to business registration. However, the specific procedure for such cooperation between these two offices would need to be worked out through inter-agency collaboration or legal amendments if necessary.

Whether other cryptocurrencies operating in Kenya have obtained certificates of compliance from BRS. The registration and compliance of foreign companies, especially those dealing with cryptocurrencies, in Kenya.

30. Other cryptocurrencies operating in Kenya and their compliance with BRS, would require further investigation and data collection to determine the compliance status of various cryptocurrency companies. The BRS would need to be involved in assessing whether these companies have obtained certificates of compliance as per the Companies Act.

With regards to the adequacy of the existing laws to prevent a recurrence of a Worldcoin situation.

31. The current legal framework in Kenya does provide a foundation for regulating various aspects of cryptocurrency and digital assets. However, it is essential to note that the technology and market for cryptocurrencies are continuously evolving, and there may be gaps or areas that need further refinement in the existing legal framework. Some key points to consider regarding the adequacy of existing laws are: Data Protection and

Privacy Laws, Consumer Protection Laws, **Company Registration and Business Laws: Financial Market Regulations,** Regulatory Authorities: International Cooperation and Public Awareness and Education.

32. While Kenya's current legal framework provides a foundation, the dynamic nature of cryptocurrencies calls for continuous monitoring and adjustment of regulations to address emerging challenges adequately. The government, regulatory authorities, and stakeholders should work collaboratively to strengthen the regulatory environment and protect consumers and investors from potential risks associated with cryptocurrencies.

Whether any efforts were made to check whether Worldcoin is registered under the Business Registration Act.

33. Our inquiry was specifically directed towards the registration of worldcoin as a foreign company operating in Kenya, which would fall under the purview of the Companies Act and the requirements for foreign companies to register in Kenya. Our inquiries with the Business Registration Service were made within that context, and they confirmed that Worldcoin is not registered as a foreign company in Kenya.

On the number of directors required for a foreign company to operate in Kenya

34. The requirements for foreign companies to have at least two directors who are residents of Kenya are specified in the Companies Act. We do acknowledge that these requirements exist, and if a foreign company is operating in Kenya and wishes to comply with Kenyan law, it should adhere to these requirements. However, in our specific inquiry with the Business Registration Service, they confirmed that Worldcoin, as well as Tools for Humanity and its affiliates, were not registered as foreign companies in Kenya. Therefore, these specific requirements for foreign companies may not apply to them in this context.

On protecting Kenyans from companies that may not be operating with honesty or companies that are involved in fraudulent activities.

35. Protecting consumers and investors is a priority, and regulatory authorities such as the Office of the Attorney General, the Capital Markets Authority, and the Central Bank of Kenya have a role to play in this regard. It's essential that companies, including those operating in the cryptocurrency space, adhere to the relevant laws and regulations to ensure transparency, security, and consumer protection. The government should continue to strengthen its regulatory framework and oversight mechanisms to address fraudulent activities effectively. There is collaboration with relevant authorities, towards safeguarding the interests of Kenyan citizens and ensuring that businesses operate with integrity and honesty in the country.

The collaboration and communication among regulatory authorities, such as the Office of the Attorney General, the Capital Markets Authority, the Central Bank of Kenya, and the Office of the Data Protection Commissioner.

36. The collaboration is crucial in ensuring compliance with Kenyan laws and regulations by foreign companies and entities engaged in data processing activities. Though there was no specific information on any ongoing actions or investigations related to Worldcoin, Tools for Humanity, or affiliated entities, the AG's office could provide some insights into how this collaboration typically works in practice. When concerns or

reports related to the activities of foreign companies or data processing activities arise, regulatory authorities can coordinate their efforts to assess the situation and take appropriate actions. This may involve conducting investigations, audits, or inspections to determine whether the entities in question are complying with the relevant laws and regulations. If violations are identified, regulatory authorities may take enforcement actions, such as issuing warnings, imposing fines, or recommending legal actions to the relevant authorities. Additionally, regulatory authorities may engage in information sharing to enhance their collective understanding of emerging trends, risks, and challenges in the field of foreign companies and data processing activities. They can also provide guidance to businesses and the public on compliance requirements and best practices.

37. Overall, the collaboration among regulatory authorities serves as a mechanism to ensure that foreign companies and data processing activities operating in Kenya are held accountable for their actions and adhere to Kenyan laws and regulations. It promotes transparency, consumer protection, and the integrity of the business environment.

On the legal framework surrounding the operation of cryptocurrency and digital assets in Kenya. It's clear that the existing laws provide some foundation for regulating these activities, but as the technology and market for cryptocurrencies evolve, there may be gaps or areas that need further refinement. In light of this, what specific steps is the government taking to review and update the legal framework to address emerging challenges and ensure effective regulation of cryptocurrency and digital assets in Kenya?

38. The government recognizes the need to continuously review and update the legal framework to address emerging challenges and ensure effective regulation of cryptocurrency and digital assets in Kenya. Though the AGs office does not have specific information on ongoing legislative initiatives, they could provide some insights into the general steps the government can take to address this issue.

39. The government has various avenues and tools at its disposal to review and update the legal framework to address the evolving landscape of cryptocurrency and digital assets. Continuous collaboration among regulatory authorities, stakeholders, and international partners is essential to ensure that the regulatory framework remains effective and responsive to emerging challenges.

According to the response from the AG's office, the Data Protection Act regulates the processing of personal data, including data related to cryptocurrency transactions. How does the Data Protection Act apply to cryptocurrency transactions and what specific provisions of the act are relevant in this context?

40. The Data Protection Act of 2019 applies to the processing of personal data, including data related to cryptocurrency transactions, in Kenya. Personal data refers to any information that can be used to identify an individual, either directly or indirectly.
41. In the context of cryptocurrency transactions, the Data Protection Act is relevant in several ways which include:- **Consent, Data Minimization, Data Security, Data Subject Rights, International Data Transfers and Data Breach Notification**:

42. Overall, the Data Protection Act of 2019 provides a framework for protecting the privacy and rights of individuals whose personal data is processed in the course of cryptocurrency transactions. Entities involved in cryptocurrency activities in Kenya

must adhere to the principles and provisions of the act to ensure compliance with data protection regulations.

On the measures and safeguards in place to address potential risks associated with cryptocurrency and digital assets, including financial fraud, money laundering, and consumer protection concerns of Kenyan citizens who engage in cryptocurrency and digital asset transactions.

43. Addressing the risks associated with cryptocurrency and digital assets is crucial to protect the interests of Kenyan citizens who engage in these transactions. Several measures and safeguards are in place to mitigate these risks include:- **Regulatory Oversight, Anti-Money Laundering (AML) and Know Your Customer (KYC) Requirements, Consumer Education, Collaboration with Law Enforcement**: **Risk Warnings**: **Compliance Audits and International Cooperation.**

44. The Committee was informed that it's important to note that while these measures are in place, cryptocurrency investments inherently carry risks, and users should exercise caution, conduct due diligence, and seek professional advice when engaging in cryptocurrency transactions. Additionally, the regulatory framework may evolve to adapt to changing risks and challenges in the cryptocurrency space.

On how income from cryptocurrency transactions is taxed in Kenya. Whether there are any specific tax regulations or guidelines that apply to cryptocurrency-related income, and how taxation is enforced in the context.

45. Income generated from cryptocurrency transactions is subject to existing tax laws in Kenya. The specific tax treatment of cryptocurrency-related income is determined based on the nature of the income and the applicable tax laws. Some key points to consider include:- **Income Tax**: **Capital Gains Tax**: **Value Added Tax (VAT)**: **Withholding Tax**: **Tax Compliance**:

46. It's important for individuals and businesses involved in cryptocurrency transactions to be aware of their tax obligations and seek guidance from tax professionals if needed. The Kenya Revenue Authority provides guidelines and information on the taxation of cryptocurrency-related income to help taxpayers comply with tax laws. Enforcement of cryptocurrency taxation typically involves audits and investigations by the KRA to ensure compliance with tax laws. Non-compliance with tax obligations may result in penalties, fines, or legal action.

47. The taxation of cryptocurrency-related income is subject to evolving regulations, and it's essential for taxpayers to stay informed about any changes or updates to the tax treatment of cryptocurrencies in Kenya.

48. The Committee was informed that the BRS Department under the Attorney-General's office is responsible for the registration of companies in Kenya. Moreover, the AG's office only deals with the mandate of the Registrar of Companies.

Committee Observations

The Committee made the following observations and findings:

49. WorldCoin was indeed a company conducting business in Kenya and ought to have registered its business with the BRS in compliance with section 974 of the Companies Act, 2015.
50. Sense Marketing Company was registered under the Companies Act, Cap 486 which required that a company should have at least two shareholders, yet the company as presently constituted has only one shareholder.
51. There is a lack of a comprehensive legal framework to regulate emerging markets in digital currencies and the existing laws are inadequate as it had not envisioned the protection of consumer rights and privacy rights in regard to image personality rights in the rapid advancement of technology.

MIN. NO. NA./CII/2023/012: ANY OTHER BUSINESS, ADJOURNMENT AND DATE OF THE NEXT MEETING

The committee was informed of the correspondence from the Director of the Worldcoin seeking clarification of whether he could appear before them given that there was a court case at the high court before him. The committee tasked the legal counsel to respond to them inviting him to appear since the inquiry could not interfere with the case.

The meeting was adjourned at 12.45 p.m. The next meeting will be held on Thursday 4th September 2023.

SIGNED: ..... **DATE:** 27.09.23

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 3RD SITTING OF THE AD HOC- COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 29TH AUGUST, 2023 AT 2.00 P.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Peter Kaluma,MP
6. Hon. Capt. Ruweida Obo, MP
7. Hon. Caroline Ngelechii, MP
8. Hon. Gedion Kimaiyo Kipkoech, MP
9. Hon. Dr. Edwin Gachuki, MP
10. Hon. Innocent Maino Mugabe, MP
11. Hon. Umulkher Harun Mohamed, MP
12. Hon. Sara Korere, MP
13. Hon. Mburu Kahangara, MP
14. Hon. Fredrick Ikana, MP
15. Hon. Geoffrey Ruku, MP
16. Hon. Hon. Geoffrey Wandeto Mwangi, MP
17. Hon. Irene Nyakerario Mayaka, MP
18. Hon. Gitonga Mukunji, MP

SECRETARIAT

1.	Ms. Hellen Kina	Clerk Assistant I
2.	Mr. Phillip Lekarkar	Clerk Assistant I
3.	Ms. Everlyn Orina	Clerk Assistant III
4.	Mr. Boaz Chibiego	Research Officer III
5.	Mr. Martin Sigei	Research Officer III
6.	Mr. Manuel Leparachao	Sergeant at Arms
7.	Mr. Kelvin Lengasi	Audio Officer
8.	Ms. Winnie Kizia	Media Officer

IN-ATTENDANCE: NATIONAL COMPUTER AND CYBERCRIMES COORDINATION COMMITTEE

1.	Col.(Dr.) James Kimuyu	-	Director
2.	Dr. David Njoga	-	Head Of Cyber Security, Policy And Standards
3.	David Kimemia	-	Head Of Critical Information Infrastructure
4.	Veronica Maina	-	Legal And Coordination

5. Cedric Bett - Computer And Cybercrimes Coordination Committee
6. Euselah Chumba - Computer And Cybercrimes Coordination Committee
7. Joseph Mogaka - Computer And Cybercrimes Coordination Committee
8. Patrick Mbau - Computer And Cybercrimes Coordination Committee

Agenda

1. Prayers
2. Preliminaries
3. Meeting the Director National Computer and Cybercrime Committee
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/007 PRELIMINARIES

The meeting was called to order at 2.30 p.m. After that, the Director of the NC3 informed the committee about their recommendations as follows;

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/008: SUBMISSION BY THE DIRECTOR NATIONAL COMPUTER AND CYBERCRIMES COORDINATION COMMITTEE

Recommendations

The following recommendations were made by the National Computer and Cybercrimes Coordination Committee:

1. The WorldCoin Data Collection Drive continues to be suspended in outlets across the country until the national security concerns are addressed. In the event that Tools for Humanity is in breach of the terms and conditions of their registration they should be investigated, prosecuted or issued with administrative fines and other legal sanctions.
2. Government of Kenya Agencies (NPS, KDF, NIS, CBK, CMA, ODPC) to investigate/ascertain the activities and motives of local and international entities behind the WorldCoin Project. The multi-agency team is conducting a comprehensive investigation on this matter emanating around new and emerging technologies with global regulatory deficiency. It has demanded for submission of some critical documentation including business operations documents, technical systems design and implementation reports, data security assessment reports amongst others. It will continue issuing summons to individuals and representatives of entities it deems suitable for their purpose.
3. Further there is need to sensitize Kenyans on the risks of cybersecurity-attacks, data breaches and the need for full disclosure before giving consent.
4. There should be guidelines for the collection and processing of sensitive personal data
5. The Ministry of Interior and National Administration should demand for the preservation of the data already collected to enable further technical assessments on the infrastructure used for the collection, transmission, storage and processing of the iris and other data collected by TFH.
6. There should be a deliberate and elaborate multi-agency, multi-stakeholders and multi-faceted consideration for the adoption of innovation and technologies. This can make considerations of the recommendations of the Distributed Ledger and Artificial Intelligence Taskforce Report of 2018, Discussion Paper on Central Bank Digital Currency of February 2022 Public Comments, Artificial Intelligence Practitioners' Guide: Kenya and other global practices/recommendations.
7. There should be due consideration of proper and effective future proofing regulations on the

development and adaptation of technologies and innovation, especially in the domains of Big Data, Artificial Intelligence, data privacy, cybersecurity, cross-border and transnational crimes.

8. Central bank might explore the use of blockchain technology for creating digital versions of their national currencies (Central Bank Digital Currencies or CBDCs), which could impact traditional monetary policy and banking systems.

9. Taxation and Regulation: Governments need to adapt regulations to account for the use of cryptocurrencies. This includes issues related to taxation, anti-money laundering (AML) regulations, and consumer protection.

QUESTIONS AND ANSWERS BY MEMBERS

On What National Computer and Cyber Crimes Coordination Committee Knew About Word Coin

The Committee explained that World Coin came to Kenya as researchers. Any interaction with such is a mandate of another organization. It further explained that the operations were small scale around universities and shopping malls. They were made to be part of the Multi Agency Team that was investigating the activities through the Data Commissioner.

On their roles

The Committee confirmed that they advised the Government on security related aspects, advise the National Security Council on Computer and cybercrimes, coordinate national security organs offered advice to relevant bodies on issues of cyber security, detect, prevent and respond to cyber security issues.

On the Hardware and Software Used Importation

The Committee noted that it may be difficult for them to identify who imported the Orbs, and to who received them and if any tax was paid for them. It was also noted that Kenya Revenue Authority was best placed to know the details of the importation

On the List of Kenyans Involved

The NC4 formed the Ad-hoc Committee that the two Kenyans they had mentioned, Wangeci Mwangi and Rael Mwende were the only ones available for now, and that there are seven or eight more whose information will be later submitted.

On Iris Data Collection

The company manifests in three forms, the World ID, World Coin and the Wallet. The Iris is the only data organ that cannot be replicated. The World Coin are redefining the world order in terms of identification, and incase of any input they are able to identify a person.

The difference in format, consent and use between other data collections like for Apple Phones, Safaricom is that you have the device and you are able to determine the use, but for the iris data collection the use is not disclosed and the device is sophisticated and not with the owner of the data.

On why World Coin Has Been Flagged in Some Countries

This is because of the various laws used in different jurisdictions. The laws in China and USA do not allow for WorldCoin operations. They came in Kenya as a research company.

On the Whereabouts of the Orb

The state agencies, DCI, NIS, have not confiscated any of the equipment and data Protection are investigating the matter.

On Motive of Data Mining

They are mining data for Artificial Intelligence, which uses large data sets for mimicking human beings from all the information stored in their systems.

On Payment Made to Kenyans

An enticement of crypto tokens is offered to Kenyans who had registered, it is however not clear whether this crypto token was changed to Kenyan currency. It is highly likely that the crypto currency will not be able to able to convert the currency into Kenyan currency

On Blocking The website on Ongoing Recruitment

This can be done, but the web is not domiciled in Kenya. By working with the relevant authorities and upon recommendation, this can be executed through International WorldCoin Operation and Court System.

On Mandate of Registration Data Processors and Data Controllers

The mandate of registration and enforcement of breaches of data privacy lies with the Office of Data Protection Commissioner. NC4 may or not be engaged in cases of Cyber Security.
In case of breaches the DCI will come in for investigations, and if required NC4 also assist.

On Data Storage

The iris scans that have been assigned a code are stored in Amazon Web Services in the USA.

On Who They Are

They are a Coordination Committee, according to the Act, they have a Chair, Principal Secretary Internal Security, and Principal Secretary ICT, Chief of Defence in the Armed Forces, the Inspector General National Police, the Director General National Intelligence Service, Director General Communications Authority, Office of Director of Public Prosecutions, Governor Central Bank, and the Director Chair Secretariat.

On What Is The Motive of WorldCoin

They are targeting developing countries where the minimum wage bill is below average, a small token will be useful in selling data. The token is a deceptive measure to allow for people to come and give data. Ones you are signed in on your phone the iris is canned and a World ID is issued. WorldCoin just like any other technological company is in the race for the AI economy which is data driven. Whoever has the largest data becomes the super power.
The main aim is to collect over 8 Billion. In USA and China to protect themselves from supply chain attacks it is mandatory to do a full disclosure of Algorithms and products. They do a deeper analysis and understanding of what the is the impact in the economy. The motive of WorldCoin is hidden it cannot be subjected to scrutiny
WorldCoin is spearheading Web 3.0 Technology, which in a new technology that levels on AI Machine and Block Chain Technology.
World Coin intends to offer a solution that will sell to the globe on how are you going to identify a human.

OBSERVATIONS

1) WorldCoin could be operation operating as unregistered business in Kenya.
2) WorldCoin targeted low-income earners and less informed populations, like the students in universities and slum dwellers
3) There are existing legal gaps exploited by WorldCoin. There is no clear mandate on how NC4 agencies operate, like who takes responsibility in cases of data breaching
4) WorldCoin did not make full disclosure of how it will operate in Kenya,

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/009: ADJOURNMENT AND DATE OF NEXT SITTING

There being no other business, the meeting was adjourned at 3.00 p.m. The next meeting will be held **on 30th August 2023**.

SIGNED: ..... **DATE:** 27.09.23

HON. GABRIEL TONGOYO, MP

CHAIRPERSON, JOINT ADHOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 2ND SITTING OF THE ADHOC - COMMITTEE ON WORLDCOIN INQUIRY HELD AT MINI CHAMBERS, COUNTY HALL, PARLIAMENT BUILDINGS ON TUESDAY 29TH AUGUST, 2023 AT 9.30 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP - **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Peter Kaluma,MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Capt. Ruweida Obo, MP
7. Hon. Mburu Kahangara, MP
8. Hon. Dr. Edwin Gichuki, MP
9. Hon. Geoffrey Ruku, MP
10. Hon. Gitonga Mukunji, MP
11. Hon. Umulkher Harun Mohamed, MP
12. Hon. Sara Korere, MP
13. Hon. Innocent Maino Mugabe, MP
14. Hon. Caroline Ng'elechei, MP
15. Hon. Gedion Kimaiyo Kipkoech, MP
16. Hon. Fredrick Ikana, MP
17. Hon. Irene Nyakerario Mayaka, MP

ABSENT

1. Hon. Hon. Geoffrey Wandeto Mwangi, MP

SECRETARIAT

1. Ms. Hellen Kina - Clerk Assistant I
2. Mr. Phillip Lekarkar - Clerk Assistant I
3. Ms. Everlyn Orina - Clerk Assistant III
4. Mr. Boaz Chibiego - Research Officer III
5. Mr. Martin Sigei - Research Officer III
6. Mr. Manuel Leparachao - Sergeant at Arms
7. Ms. Rhoda Muchori - Hansard Officer
8. Mr. Kelvin Lengasi - Audio Officer
9. Ms. Winnie Kizia - Media Officer

IN-ATTENDANCE: NATIONAL COMPUTER AND CYBERCRIMES COORDINATION COMMITTEE

1. Col.(Dr.) James Kimuyu - Director
2. Dr. David Njoga - Head of Cyber Security, Policy and Standards
3. David Kimemia - Head of Critical Information Infrastructure
4. Veronica Maina - Legal and Coordination
5. Cedric Bett - National Computer and Cybercrimes Coordination Committee
6. Euselah Chumba - National Computer and Cybercrimes Coordination Committee
7. Joseph Mogaka - National Computer and Cybercrimes Coordination Committee
8. Patrick Mbau - National Computer and Cybercrimes Coordination Committee

AGENDA

1. Prayers
2. Preliminaries
3. **Meeting the Director National Computer and Cybercrime Committee**
4. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/004: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. A word of prayer was said, followed by self-introductions by the Members. The chairperson welcomed members to the meeting and briefed the Committee on the issue that was to be deliberated on.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/005: SUBMISSION BY THE DIRECTOR NATIONAL COMPUTER AND CYBERCRIMES COORDINATION COMMITTEE (NC4)

The NC4 Committee appeared before the Ad-hoc Committee on the inquiry into the activities and Operations of WorldCoin in Kenya on 14th August at 9:30 am and submitted as follows:

On WorldCoin Operations in Kenya

1. That the Worldcoin project was initiated by Tools for Humanity GmbH a global software and hardware development company based in Berlin, Germany and Tools for Humanity Inc based in the USA. In Kenya, it was registered as a Data Controller and Data Processor by the Office of the Data Protection Commissioner (Ser No. 01945 dated 18th April 2023) for a period of two years. They further noted that Worldcoin Foundation held the patents to the Orb technology and all user data and issued all Worldcoin tokens through its subsidiary World Assets Limited. The firms were registered in Cayman and the British Virgin Islands respectively.
2. The NC4 explained Worldcoin as a cryptocurrency platform that aimed to provide universal access to the global economy by authenticating individuals using retina/iris scans. It was described as an ecosystem comprising of; World ID, WorldCoin Token and World Application Wallet. To participate, Tools For Humanity required a user to register through the Mobile App downloadable from their website (www.Worldcoin.org) using their smartphones and undergo eye retina/iris scans via biometric devices called "Orb".
3. It was explained that on 24 July 2023, WorldCoin announced the official launch of a financial and digital identity platform in Kenya. The project operated in other (34) other countries including Uganda, Sudan, Germany, Argentina, Brazil, Chile, France, Hong Kong,

India, Japan, Korea, Mexico, Portugal, Singapore, Spain and United Kingdom. However, it did not operate in the US and China due to the strict regulatory environment.

4. It was further explained that in Kenya, these physical imaging devices had been deployed in over thirty (30) stations across Nairobi. The scanning process utilized biometrics and resulted in the creation of a "World ID" – a digital passport that served as proof of a unique identity to prevent multiple fraudulent cryptocurrency claims. In addition to the scans, Worldcoin was also collecting other personal data including, emails, phone numbers, national IDs, photographs and videos of individuals.
5. To incentivize people, users received 25 Worldcoin tokens (WLD) upon signing up and verification. The token was converted to USDT (a virtual US dollar) on a cryptocurrency exchange then resold for Kenyan currency. Each WorldCoin token is worth $2.1 or KES 299 which has a total estimated worth of roughly $54 or KES 7,700 in fiat currencies.
6. It was further explained that, to verify the authenticity of the user as a true and unique human being, the user's iris was scanned using the Orb (a small device provided by TFH and the local Orb operators). The company further stated that the iris image was converted into a digital code (hash value) which was then transmitted to their third-party servers hosted by Amazon Web Services (AWS) in the USA.
7. The committee noted that it was further claimed that the original iris image is permanently deleted from the Orb. All these assertions require technical assessment for verification and validation.
8. Then NC4 alluded that the companies had indicated in their statement that they intended to use the data in the development of a machine learning algorithm that will be able to establish the "Proof of Personhood" protocol. Therefore, TFH (as the developers of the protocol) had to develop an algorithm that could differentiate between real human and fake (i.e., non-human) irises, as well as differentiate one real human's irises from those of people who have already signed up to the protocol.
9. It was further noted that in order to make the machine learning algorithm work perfectly and without the risk of discrimination due to an algorithm bias, TFH had concluded that it was necessary to collect and process a diverse and broad amount of sensitive personal data for its training.
10. Further, TFH had indicated that they were in the process of creating the world's largest and most trusted network of cryptocurrency. Additionally, TFH would use the network for promoting the Universal Basic Income (UBI) to support livelihoods of several persons globally.
11. With these capabilities of the network of cryptocurrency with user verification based on iris, the company may have access to and control of huge sensitive personal data. These capabilities are being further investigated for possible impacts on the socio-economic status of Kenyans as well as the national security.
12. TFH was allegedly operating in Kenya through its representatives who had been named as Wangechi Mwangi and Rael Mwende both Kenyan citizens.

13. The committee was further informed that Platinum De Plus Limited and EXP Kenya, a marketing agency were some of the local firms that have entered into an agreement with TFH through their local representatives for the purposes of coordination of the activities of Worldcoin.
14. The company had also recruited about eleven (11) Orb Operators who were assigned the responsibilities of hiring casual agents who were trained to sensitize potential customers on general cryptocurrency and WorldCoin, and to assist the users to download the World App, then to have their iris image captured through the Orb. Sense Marketing, another local company has been identified as one of the Orb Operators registered by TFH since November 2022.
15. It was noted that Worldcoin had been advertising in several public malls in Nairobi while videos and photos of Kenyans queuing at Worldcoin outlets have been shared on social media platforms (Facebook, Twitter and Instagram). One week after launch, WorldCoin announced that over 350,000 Kenyans had been onboarded.
16. The Committee was further informed that one of the key features of World Coin's entry into Kenya is the launch of a peer-to-peer (P2P) exchange that allows individuals to quickly and easily access digital currencies and US dollars directly with one another, without the need for a centralized third party to facilitate the transactions. That it was estimated that 4 million Kenyans were active crypto currency users in the country.

Relevance to Worldcoin's Activities and the Broader Implications for our Economy and Society

17. NC4 defined distributed ledger technology or blockchain as a distributed database that is shared among the nodes of a computer network, and that it provided a transparent and immutable list of transactions. A wide range of uses had been proposed where an open, decentralized database was required, ranging from supply chains to cryptocurrencies.
18. It was further explained that Blockchain was an ever-expanding collection of interconnected blocks, each containing records, and designed to ensure robust security. Once implemented, it operated as a decentralized and accessible ledger, capable of securely documenting transactions between two entities in an auditable and lasting manner.
19. It was further explained that, one of the fundamental attributes of blockchain is that data cannot be deleted, altered or tampered with. This characteristic ensures that information remains permanent within the blockchain structure. The other notable advantage of blockchain is its ability to counteract data manipulation effectively as validation of the transactions has to be confirmed by all the participating nodes within the network. By encapsulating records within the blockchain, transparency and immutability are established, ensuring that every transaction's history remains open and unchangeable over time.
20. The National Computer and Cyber Crime Committee informed the Ad-hoc committee that the implications of World Coin were much adverse to the economy and the National Security.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/006: ADJOURNMENT AND DATE OF NEXT SITTING

The meeting was adjourned at 1.30 pm. The next meeting will be held at 2.30 pm same day.

SIGNED: ..... DATE: 27.09.23

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, JOINT AD HOC-COMMITTEE ON WORLDCOIN INQUIRY

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 1ST SITTING OF THE AD HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA HELD IN THE COMMITTEE ROOM ON 5TH FLOOR OF CONTINENTAL HOUSE, PARLIAMENT BUILDINGS ON MONDAY 21ST AUGUST 2023 AT 11.00 A.M.

PRESENT

1. Hon. Gabriel Tongoyo, MP - **Chairperson**
2. Hon. Kareke Mbiuki CBS, MP
3. Hon. John Kiarie Waweru, MP
4. Hon. Sarah Korere, MP
5. Hon. Mburu Kahangara, MP
6. Hon. Fredrick Ikana, MP
7. Hon. Geoffrey Ruku, MP
8. Hon. Peter Kaluma,MP
9. Hon. Capt. Ruweida Obo, MP
10. Hon. Caroline Ng'elechei, MP
11. Hon. Gedion Kimaiyo Kipkoech, MP
12. Hon. Dr. Edwin Gachuki, MP
13. Hon. Gitonga Mukunji, MP
14. Hon. Irene Nyakerario Mayaka, MP
15. Hon. Umulkher Harun Mohamed, MP
16. Hon. Innocent Maino Mugabe, MP

ABSENT WITH APOLOGY

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Geoffrey Wandeto Mwangi, MP

COMMITTEE SECRETARIAT

1. Ms. Hellen Kina - Clerk Assistant I
2. Mr. Phillip Lekarkar - Clerk Assistant I
3. Ms. Everlyn Orina - Clerk Assistant III
4. Mr. Daniel Ominde - Research Officer I
5. Dr. Joseph Kuria, PHD - Research Officer III
6. Mr. Githinji Wanjohi - Research Officer III
7. Mr. Boaz Chibiego - Research Officer III
8. Mr. Martin Sigei - Research Officer III
9. Mr. Manuel Leparachao - Serjeant at Arms
10. Ms. Winnie Kizia - Media Relations Officer

AGENDA

1. Prayers
2. Preliminaries
3. Formulation of Terms of Reference of the Inquiry
4. Identifying of witnesses to appear before the Committee
5. Adjournment/ Date of the Next Meeting

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/001: PRELIMINARIES AND ADOPTION OF THE AGENDA

The Chairperson called the meeting to order at 10.25 am. A word of prayer was said followed by a round of introductions.

The Chairperson welcomed the Members to the meeting and informed the Members that the Committee was established vide Speaker's Communication No. 055 of 2023 to inquire into the activities and operations of Worldcoin in Kenya. The Committee is required to undertake an inquiry and report to the House by 28th September 2023.

The agenda of the meeting was adopted having been proposed by Hon. Ruweida Mohammed, MP and seconded by Hon. Peter Kaluma MP.

MIN.NO.NA./AD-HOC/WORLDCOIN/2023/002: FORMULATION OF TERMS OF REFERENCE OF THE INQUIRY

The Committee was informed that prior to the Communication by the Speaker, the Departmental Committee on Communication, Information, and Innovation had already initiated investigations into the activities of Worldcoin in Kenya and had gathered preliminary information on the matter, which was presented by a Research Officer as follows:

Briefing by Research Officer

That Worldcoin is a blockchain startup that scans of irises for prove of humanness. The company was co-founded three years ago by Alex Blania and Sam Altman.

The company reportedly gathered eye scans from hundreds of thousands of individuals in 20 different countries. To complete the procedure, users must visit sign-up pages online and have their humanness verified by having their iris scanned by a shiny, spherical orb.

It recently launched its iris-for-tokens in Kenya offering free cryptocurrency tokens to participants upon registration and scanning of the irises in various locations in Nairobi, including the Kenya International Conference Centre (KICC).

The company was giving away free tokens (25 WLD) in exchange for iris scans from Kenyans. The consideration for Kenyans was tokens worth $54 approximately Kshs. 7,000.

Potential Issues of Concern.

Anyone who handles data as a controller or processor must register with the Data Commissioner in accordance with the Data Protection Act of 2021. The law requires data controllers and processors to handle data lawfully, be careful to limit data collecting, restrict further data processing, and assure data quality.

Data privacy concerns as it is unclear how the collected biodata/Unique identities are going to be used or stored. It is also unclear whether this data is shared with other third parties.

Committee Observations

The Committee noted that there are concerns that the data collected may be used for purposes other than the declared intent by the blockchain company and may pose a risk to the protection and privacy of the participants if not monitored. In addition, there have been recent cases of cyber-attacks in the country, thereby posing greater risk in the management of data.

Terms of Reference of the Inquiry

Members deliberated on the content of Speaker's communication No. 055 of 2023 and the concerns raised on the operations of Worldcoin in Kenya and formulated the following Terms of References to guide the Inquiry:-

1. inquire into the operations and ultimate objectives of the activities of *Worldcoin* in Kenya;
2. inquire into the legal and regulatory compliance of operations of *Worldcoin*, and its agents in Kenya.
3. inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya.
4. inquire into the nature, use and safety of data collected by *Worldcoin* in Kenya;
5. inquire into the organizational structure and the activities of *Worldcoin;*
6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country.
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya.
9. recommend necessary legislative intervention.

Identification of witnesses to appear before the committee.

Members identified the following key stakeholders and witnesses to appear before the Committee to adduce evidence on the matter under inquiry.

1. Director of National Computer and Cybercrimes
2. Governor Central Bank of Kenya
3. Director General National Intelligence Service
4. Attorney-General/Solicitor General
5. Worldcoin and its agents in Kenya
6. Data Protection Commissioner
7. Director General Communication Authority of Kenya
8. Chief Executive Officer Kenyatta International Convention Centre
9. Cabinet Secretary Ministry of Health
10. Director of Criminal Investigations
11. Cabinet Secretary Ministry of Information, Communications and the Digital Economy
12. Cabinet Secretary Ministry of Interior and National Administration

The secretariat was tasked to prepare correspondences and invite relevant agencies and persons starting with those that will demystify the concept of cryptocurrency and block-chain technology.

MIN. NO. NA./AD-HOC/WORLDCOIN/2023/003: ADJOURNMENT

There being no further business, the meeting was adjourned at 12.30 p.m. The next meeting will be held on **Tuesday 29th August 2023** with the stakeholders and witnesses.

SIGNED: ..... **DATE:** 27.09.23

HON. GABRIEL TONGOYO, MP
CHAIRPERSON, ADHOC-COMMITTEE ON INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

Annex 3

Communication from the Chair No. 055 of 2023

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT - (SECOND SESSION)

COMMUNICATION FROM THE CHAIR

(No. 055 of 2023)

ESTABLISHMENT OF A JOINT COMMITTEE TO INQUIRE INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN IN KENYA*

Honourable Members,

1. You will recall that during the afternoon Sitting of Wednesday, 2nd August 2023, the Member for Manyatta Constituency, the Hon. Gitonga Mukunji, MP, sought a Statement from the Leader of the Majority Party, regarding, *inter alia*, the steps that the Government was taking to ensure control of access to, collection and storage of Kenyan citizens' data, by foreign entities.

2. **Honourable Members,** given the gravity of the matter, I directed the Leader of the Majority Party to provide a Statement on the matter before the House on **Thursday, 3rd August 2023 at 2.30 p.m.** Consequently, the Leader of the Majority Party presented a Statement signed by the Cabinet Secretaries for Interior and National Administration and Information, Communication and the Digital Economy. In the Statement, the Cabinet Secretaries averred that an entity known as ***Worldcoin*** was reported to be harvesting eyeball data from Kenyans in exchange for cryptocurrency tokens worth approximately Kshs .7,000/-. The aforementioned entity was not registered as a legal entity in Kenya but preliminary investigations revealed that the entity had hired a company in Kenya known as ***"Sense Marketing"*** to carry out the data capture on their behalf.

3. **Honourable Members**, having taken into consideration the comments expressed by Members of this House on the Statement that was read by the Leader of the Majority Party, I directed that the Cabinet Secretaries responsible for the two Ministries appear before the House on ***Wednesday, 9th August 2023***. The Cabinet Secretaries were to jointly apprise Members on the pertinent issues that arose from their Statement.

4. As you are aware, **Honourable Members**, on the afternoon of **Wednesday, 9th August 2023,** the Cabinet Secretary for Interior and National Administration and the Cabinet Secretary for Information, Communications and the Digital Economy appeared in the House and responded to concerns by Members. However, the Cabinet Secretaries could not satisfactorily respond to all the issues raised forthwith, as it became apparent that their explanations raised more Supplementary Questions than provided answers.

5. In this regard, **Honourable Members,** I directed the Cabinet Secretary for Interior and National Administration; and his counterpart for Information, Communication, and Digital Economy, to retreat and come before the plenary of this House at a later date, which is tomorrow, Wednesday, 16th August 2023, to provide more comprehensive responses on the activities and operations of *Worldcoin* in the country.

6. Consequently, **Honourable Members**, I wish to inform the House that I am now in receipt of a request from the Cabinet Secretary for Interior and National Administration on this subject matter, seeking my consideration of various approaches for inquiring into the activities and operations of *Worldcoin* in Kenya. In his request, the Cabinet Secretary is suggesting options that will avail an opportunity for the House to get clear, more coherent, accurate, and detailed responses on the matter.

7. **Honourable Members**, the Cabinet Secretary proposes the following three approaches–

   a) That, the relevant Cabinet Secretaries, whose mandates have a bearing on the matter, including the Attorney General, appear separately before the plenary of the House to respond to the matter;

   b) That, the relevant Cabinet Secretaries and Heads of Agencies, whose mandates have a bearing on the matter, appear before the relevant Departmental Committees or an *ad hoc* Committee; or

   c) That, the relevant Ministries, Departments and Agencies, whose mandates have a bearing on the matter, provide information on the subject matter to the Prime Cabinet Secretary, who would then appear before the plenary of the House.

8. **Honourable Members,** having carefully considered the three suggested options and to avoid any further equivocation on this matter, I am inclined to proceed with the second approach. In this regard, I direct as follows –

   (i) **That,** the matter **of the activities and operations of *Worldcoin***, hereby stands referred to a Joint Committee of this House, comprising fifteen (15) Members, five (5) Members each drawn from the following three Committees-

   (a) Departmental Committee on Administration and Internal Security;

   (b) Departmental Committee on Communication, Information and Innovation; and

   (c) Departmental Committee on Tourism and Wildlife.

(ii) **That,** the nomination of Members to the Joint Committee shall be in writing to the Speaker, done by the respective Chairpersons of the three Committees, taking into consideration the majority party and minority party membership of the House. In this case, the Majority Party is to be allocated three (3) slots while the Minority Party should be allocated two (2) slots, by each Committee.

(iii) **That,** I will appoint the Chairperson of the Joint Committee from amongst Members drawn from the Departmental Committee on Administration and Internal Security;

(iv) **That,** the mandate of the Joint Committee is to inquire into the activities and operations of *Worldcoin* in Kenya, and that the relevant Ministries, Departments and Agencies, whose mandates have a bearing on the matter; and

(v) **That,** the Joint Committee consider and inquires into the matter and submit its **report by Thursday, 28th September 2023**.

9. In view of the foregoing**, Honourable Members,** the two Cabinet Secretaries that were scheduled to appear tomorrow before this House, will instead appear before the Joint Committee to provide information on the matter.

10. Further, I wish to inform the House that I am also in receipt of two correspondences from the Cabinet Secretary for Health and Investments, Trade and Industry, respectively, requesting to be given an opportunity to respond to questions in plenary at a later date.

This is owing to the fact that they have prior engagements to attend to at this instance, related to the ongoing Devolution Conference. The request is acceded to. Therefore, I urge the Leader of the Majority Party to schedule the Cabinet Secretaries to appear before this House immediately the House resumes from the upcoming August Recess.

I Thank You!

THE RT.HON. (DR) MOSES M. WETANG'ULA, E.G.H, MP
SPEAKER OF THE NATIONAL ASSEMBLY
Tuesday, 15th August 2023

Annex 4

Communication from the Chair No. 058 of 2023

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT - (SECOND SESSION)
COMMUNICATION FROM THE CHAIR

(No. 058 of 2023)

NOMINATION OF MEMBERS TO THE JOINT COMMITTEE TO INQUIRE INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN *KENYA*

Honourable Members,

1. You will recall that on Tuesday Sitting, 15th August 2023, I conveyed my decision to allow for the establishment of a *Joint Ad hoc Committee* to, among other things, inquire into the matters raised in a Statement by the Member for Manyatta Constituency, the Hon. Gitonga Mukunji, MP, regarding the reported activities and operations of *WorldCoin*.

2. The Joint Ad hoc Committee was to comprise fifteen (15) Members drawn from the Departmental Committees on Administration & Internal Security; Communication, Information & Innovation; and Tourism & Wildlife. Each Committee was to nominate, in writing, five (5) Members from amongst its membership.

3. **Honourable Members,** I have since received, in writing, the nominees from the respective Departmental Committees who are as follows—

From the Departmental Committee on Administration & Internal Security –

(1) The Hon. Gabriel Tongoyo, MP
(2) The Hon. Mburu Kahangara, MP;
(3) The Hon. Caroline Ng'elechei, MP;

(4) The Hon. Peter Kaluma, MP; and,

(5) The Hon. Sara Korere, MP

From the Departmental Committee on Communication, Information & Innovation –

(1) The Hon. John Kiarie, MP;

(2) The Hon. Geoffrey Wandeto, MP;

(3) The Hon. Gideon Kimaiyo, MP;

(4) The Hon. Shakeel Shabbir, CBS, MP; and,

(5) The Hon. Irene Mayaka, MP.

From the Departmental Committee on Tourism & Wildlife

(1) The Hon. Kareke Mbiuki, CBS, MP;

(2) The Hon. Geoffrey Ruku, MP;

(3) The Hon. Dr. Edwin Gichuki, MP;

(4) The Hon. Capt. Ruweida Obo, MP; and,

(5) The Hon. Innocent Maino Mugabe, MP.

4. **Honourable Members**, In view of the nominations from the Committees and in consultation with the leadership of the House, I have co-opted the Member for Manyatta, the Hon. Gitonga Mukunji, MP, who submitted the Statement on the matter, Nominated Member, the Hon. Umulkher Harun Mohamed, MP, and the Member for Shinyalu, the Hon. Fredrick Ikana, MP.

5. For clarity and in keeping with practice, the co-opted Members will take part in the deliberations of the Committee and offer insights as appropriate, but they shall not have voting rights.

6. In conclusion, **Honourable Members**, May I hasten to remind the Committee of the expectation that the inquiry be conducted immediately and a report be submitted to the House by **Thursday, 28th September 2023**.

7. The Joint Committee is to inquire into the activities and operations of *Worldcoin* in Kenya, and shall engage concerned parties including, but not limited to the relevant Ministries, Departments and Agencies, whose mandates have a bearing on the matter.

I thank you!

THE RT. HON. (DR) MOSES M. WETANG'ULA, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY
Thursday, 17th August 2023

Annex 5

Request for Statement by Hon. Gitonga Mukunji, MP

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - (SECOND SESSION)

GENERAL STATEMENT ON THE BIOMETRIC DATA COLLECTION BY WORLDCOIN

Honourable Speaker, pursuant to Standing Order 43(1), I wish to make a Statement on the ongoing biometric data collection by WorldCoin.

Honourable Speaker, WorldCoin, a blockchain company, recently launched their iris-for-tokens in Kenya, offering free cryptocurrency tokens to participants upon registration and scanning of their irises in various locations in Nairobi, including the Kenya International Conference Centre (KICC).

Honourable Speaker, whereas the Office of Data Protection Commissioner issued a cautionary statement to Kenyans regarding the ongoing biometric data collection by this company, the registration process has peaked causing concern on the purpose of the data collection. There are fears that the data may be used for purposes other than the declared intent by the blockchain company. In addition, the USA banned WorldCoin from collecting data from its citizens despite the founder of WorldCoin, Sam Altman, being a US citizen.

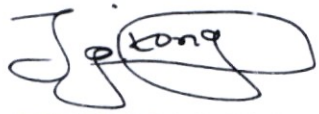
Honourable Speaker, the Office of Data Protection Commission is mandated by law to register all data controllers and processors collecting personal data for the provision of financial services. With the world embracing artificial intelligence, the biometric data collected poses a risk on the protection and privacy of the participants if not monitored. In addition, there have been recent cases of cyber-attacks in the country, thereby posing greater risk in the management of the data. This data collection exercise is a threat to national security.

Honourable Speaker, it is against this background that I seek a statement from the CS Interior and Coordination of National Government and the CS Ministry of Information, Communicants and the Digital Economy, through the Leader of the Majority Party on the following—

1. given that the Ministry of Interior and the Data Commissioner has cast doubt on the safety of the data collection by WorldCoin, could the Ministry provide the steps that the government is taking to ensure control of data access, collection and storage especially by foreign entities;
2. who authorised the biometric data collection by WorldCoin and were the correct procedures followed?

3. what are the safety guarantees that the government is making to ensure that the data will be exclusively used for the intended purpose and that citizens will suffer no loss?
4. has the Government established the ultimate objective of this exercise and for what purpose will the data collected be used?
5. were there prior public participation to inform the public of the risks involved in the exercise?
6. what is the source of the money being paid to participants and who stands to benefit from the exercise?

I thank you, **Honourable Speaker**.



THE HON. GITONGA MUKUNJI, MP
MEMBER FOR MANYATTA CONSTITUENCY

DATE: .....

Annex 6

Joint Ministerial response to the request for statement by Hon. Gitonga Mukunji, MP by the Ministry of Interior and National Administration and the Ministry of Information, Communication and the Digital Economy.

MINISTRY OF INFORMATION, COMMUNICATIONS AND THE DIGITAL ECEONOMY

REPUBLIC OF KENYA

MINISTRY OF THE INTERIOR AND NATIONAL ADMINISTRATION

AND

THE MINISTRY OF INFORMATION, COMMUNICATION AND THE DIGITAL ECONOMY

STATEMENT ON ACTIVITIES OF *'WORLDCOIN'* IN KENYA

Honourable Speaker,

The Hon. John Mukunji, MP, Manyatta sought for a statement from the Cabinet Secretaries, Interior and Ministry of ICT on the foreign data collection company, *Worldcoin*, collecting data from Kenyan citizens by way of scanning irises in exchange for some money. In particular:

i. Steps the government is taking to ensure control of data access collection and storage by foreign entities.

ii. Who licensed and authorised the biometric data collection by *Worldcoin* and was the correct procedure followed.

iii. Safety guarantees that the Government has put in place to ensure that the data will be exclusively used for the intended purpose and Kenyan citizens will not incur any loss.

iv. The ultimate objective of this exercise and the purpose of the data collection.

v. The source of the money being used to pay participants and who stands to benefit from this exercise.

vi. Precautionary steps taken by government on the already mined data.

We state as follows:

1. An entity calling itself ***Worldcoin*** was reported to be harvesting eyeball/ iris data from Kenyans for three (3) days until yesterday in exchange for cryptocurrency tokens worth approximately KES 7,000/- on condition that the beneficiaries allowed the scanning of their eyeballs/ iris.

2. The aforesaid entity is **NOT** registered as a legal entity in Kenya.

3. Preliminary investigations reveal that the entity has hired a company in Kenya called ***Sense Marketing*** to do the data capture for them in the country.

4. The local representatives of *Worldcoin* are:
    i) ***Mr. Emmanuel Otieno*** who is described to be in charge of operations and;
    ii) A ***Ms. Rael Mwende*** who is described as the Country Manager.

5. Both persons are being interrogated by the Directorate of Criminal Investigations (DCI) since yesterday (Wednesday August 2, 2023).

6. Among the foreign nationals associated with *Worldcoin*, are a ***Mr. Poitr Piwowarczyk*** who is on record to have entered Kenya on several occasions, the last one being in June 2023 (Arrival – 11th June, 2023; Departure 25th June, 2023).

7. Yesterday, the Government through the Ministry of Interior and National Administration suspended the activities of *Worldcoin* in Kenya.

8. Consequently, criminal investigations have commenced to establish the authenticity and legality of the aforesaid activities, the safety and protection of the data being harvested, and how the harvesters intend to use the data.

9. Further, it will be critical that assurances of public safety and the integrity of the financial transactions involving such a large number of citizens be satisfactorily provided upfront.

10. All the activities of *Worldcoin* and any other entity that may be similarly engaging the people of Kenya until relevant public agencies certify the absence of any risks to the general public whatsoever.

11. As a precautionary measure, the Immigration authorities have been directed to ensure that no persons whether Kenyan or foreign nationals associated with this entity leaves Kenya without the clearance of the Director of Criminal Investigations who is in charge of the ongoing investigations.

12. The investigations will also cover any persons of interest who may be outside the territory of Kenya in accordance with relevant international procedures and protocols on Mutual Legal Assistance (MLA) and the exercise of extra-territorial jurisdiction.

13. Earlier, the Office of the Data Protection Commissioner learnt that the company had setup booths across the country to scan the iris of interested Kenyans on 19th April 2022. This was in anticipation of the launch of their cryptocurrency which happened last week. The Office of the Data Protection Commissioner commenced its assessment of the organisation in May 2022. In the course of its assessments, the Office initially suspended the operations of *WorldCoin* in May 2022 for a period of 60 days to ascertain the lawful basis and safeguards adopted by *Worldcoin*.

14. Subsequently, the Office of the Data Protection Commissioner conducted a spot check in 24th May 2023. The Office, again, raised concerns with the processing activities of the entity and wrote to the entity in 30th May 2023 and directed

immediate cessation of processing of sensitive personal data, namely: iris and facial data, of data subjects. The Office further directed that *Worldcoin* safely restrict processing any data that had already been processed and advise the Office of the safeguards placed on the restricted data.

Mr. Speaker sir,

15. The Government registered *Worldcoin* as a data controller, pursuant to the Data Protection Act, 2019 and the Data Protection Registration of Data Controllers and Data Processors Regulation, 2021 (Registration Regulations) require, as one compliance obligation, that entities processing data should be registered with the Office. Such registration is done by applying through the ODPC registration portal.

16. An application for a certificate of registration only signifies that the entity has complied with section 18 and 19 of the Act and does not endorse an entity's compliance with the Data Protection Act or its subsidiary regulations, nor is it a valid license for an organisations to operate in Kenya or authorize the operations of an entity. The Certificate signifies that an entity is known to the Office of the Data Protection Commissioner that it processes personal data of persons located in Kenya. Further, it does not amount to certification of the processing activities of an entity or serve as an endorsement from this Office of an entity's compliance with other provisions of the Act or any other laws. A registration certificate was issued to *Worldcoin* on 18th April 2023 following receipt of the requisite documentation pursuant to the Data Protection Registration Regulations.

Mr. Speaker sir,

17. The Government has commenced investigations to ensure that *Worldcoin* complies with the data collection, storage and sharing principles. Immediate

mitigation steps being undertaken are constitution of a multi-agency team comprising of security, financial services and data protection agencies have commenced inquiries and investigations to establish the legality of the activities of *Worldcoin*, the safety and the protection of data collected with the aim to safeguard personal data and mitigate against any adverse practices.

18. The government is not aware of any prior public participation exercise by the crypto firm. This is the reason the Government issued cautionary statements by the Office of the Data Protection Commissioner on 28th July 2023 advising the public to be vigilant when engaging with *Worldcoin* and, particular, when providing sensitive personal data.

19. Further, the Communications Authority and the Office of the Data Protection Commissioner issued a joint statement on 2nd August 2023 raising concerns on the operations of *Worldcoin* as they relate to cybersecurity, data protection and consumer protection.

20. The Government is not aware of the source of funds. Part of the multi-agency team mandate will be to investigate the source of the money being issues to the participants and the beneficiaries of this activity.

Hon. Speaker,

21. The Government has expressly directed *Worldcoin* to cease the collection of personal data and to restrict the further processing of any data that has already been collected from persons located in Kenya. Further there is need to sensitize Kenyans on the risks of cybersecurity attacks, data breaches and the need for full disclosure before giving consent.

22. The suspension of the processing of sensitive personal data was not lifted by the ODPC. In particular, the Office raised concerns on whether the consent sought from individuals was voluntary or illusory. In this regard, the Office noted that persons are requested to give consent and a monetary incentive provided for the exchange of sensitive personal data.

23. This is a preliminary statement on a matter that is under active multiple investigations. Should the National Assembly require any further information or clarification(s) we remain available to attend a request for a further statement or even in person appearance as may be directed.

Thank you, **Honourable Speaker.**

KITHURE KINDIKI,
CABINET SECRETARY, MINISTRY OF THE INTERIOR AND NATIONAL ADMINISTRATION

ELIUD OWALO, FIHRM
CABINET SECRETARY, MINISTRY OF INFORMATION, COMMUNICATIONS AND THE DIGITAL ECONOMY

Annex 7

Public Notice calling for submissions from the members of public and notification on the dates and place for public hearings

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - 2ND SESSION 2023

JOINT AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WORLDCOIN KENYA

IN THE MATTER OF INQUIRY BY THE NATIONAL ASSEMBLY INTO THE ACTIVITIES AND OPERATIONS OF WORLDCOIN COMPANY IN KENYA

INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution provides that *Parliament shall facilitate public participation and involvement in the legislative and other business of parliament and its Committees;*

AND WHEREAS, Article 95 of the Constitution of Kenya mandates the National Assembly to represent the people, deliberate on issues of concern to the people and exercise oversight of state organs.

FURTHER WHEREAS, *Worldcoin,* a block chain company, recently launched its iris-for-tokens in Kenya, offering free cryptocurrency tokens to participants upon registration and scanning of the irises in various locations in Nairobi, including the Kenya International Conference Centre (KICC).

NOTING, that there are concerns that the data collected may be used for purposes other than the declared intent by the blockchain company and may pose a risk on the protection and privacy of the participants if not monitored. In addition, there have been recent cases of cyber-attacks in the country, thereby posing greater risk in management of data.

FURTHER NOTING, that the National Assembly established a Joint Ad-hoc Committee on Tuesday, 15th August 2023, vide the Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* under the following terms of reference-

1. To inquire into the operations and ultimate objectives of the activities of *Worldcoin* in Kenya;
2. To inquire into the legal and regulatory compliance of operations of *Worldcoin*, and its agents in Kenya;
3. To inquire whether due diligence was undertaken by the relevant government agencies before *Worldcoin* started its operations in Kenya;
4. To inquire into the nature, use and safety of data collected by *Worldcoin* in Kenya;
5. To inquire into the organizational structure and the activities of Worldcoin;
6. To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. To inquire whether Kenyans were exposed to any health hazards as a results of the activities of *Worldcoin* in the country;
8. To inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya; and
9. To recommend necessary legislative interventions.

NOW THEREFORE, in compliance with Article 118 (1) (b) of the constitution, the Committee hereby invites the public to submit memoranda on the specific terms of reference of the inquiry as outlined and on any other relevant issue they may wish to draw the attention of the Committee to.

The memoranda may be sent to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi;** hand-delivered to the **Office of the Clerk of the National Assembly, Main Parliament Buildings, Nairobi;** or emailed to **cna@parliament.go.ke** to be received **on or before Wednesday, 6th September, 2023 at 5.00pm.**

S. NJOROGE
CLERK OF THE NATIONAL ASSEMBLY

24th August, 2023

Annex 8

Letters from the Clerk of the National Assembly to various witnesses.

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA: AD-HOC/WC/2023/028

8th September, 2023

Prof. Edward Kisiang'ani
Principal Secretary
State Department for Broadcasting and Telecommunications
Teleposta House
NAIROBI

Eng. John Tanui, MBS
Principal Secretary
State Department for ICT and Digital Economy
Teleposta House
NAIROBI

Dear Prof. Kisiangani,

RE: RE-SCHEDULING OF THE MEETING WITH AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WOLRDCOIN IN KENYA

Reference is made to your letter **Ref: NA: AD-HOC/WC/2023/020** dated **1st September, 2023** on the above referenced matter.

Due to unavoidable circumstances, the Committee has re-scheduled the meeting with the Cabinet Secretary for the Ministry of Information, Communication and the Digital Economy to **Monday, 11th September 2023** at **2.30 pm.** The meeting will be held in the **Mini-Chamber, County Hall, Parliament Buildings.**

The agenda of the meeting is as communicated in our letter to you **Ref: NA: AD-HOC/WC/2023/011.**

The liaison officers on this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar,** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina, tel. no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours Sincerely,

PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Mr. Eliud Owalo**
Cabinet Secretary
Ministry of Information, Communication and the Digital Economy
Afya House
NAIROBI

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
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www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA: AD-HOC/WC/2023/028 **8th September, 2023**

Prof. Edward Kisiang'ani
Principal Secretary
State Department for Broadcasting and Telecommunications
Teleposta House
NAIROBI

Eng. John Tanui, MBS
Principal Secretary
State Department for ICT and Digital Economy
Teleposta House
NAIROBI

Dear Prof. Kisiangani,

RE: RE-SCHEDULING OF THE MEETING WITH AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WOLRDCOIN IN KENYA

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Yours Sincerely,

PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Mr. Eliud Owalo**
Cabinet Secretary
Ministry of Information, Communication and the Digital Economy
Afya House
NAIROBI

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/027

6th September, 2023

Mr. Saitoti Maika
Director General
Financial Reporting Centre
Old Mutual Tower, 13th Floor
Upper Hill Rd, Private Bag
NAIROBI.

Dear

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

The Ad-hoc Committee on Worldcoin was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of Worldcoin in Kenya.

The terms of reference of the Inquiry are as:

1. To inquire into the operations and ultimate objectives of the activities of Worldcoin in Kenya.
2. To inquire into the legal and regulatory compliance of operations of Worldcoin, and its agents in Kenya.
3. To inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya.
4. To inquire into the nature, use and safety of data collected by Worldcoin in Kenya
5. To inquire into the organizational structure and the activities of Worldcoin.
6. To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries.
7. To inquire whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the country.
8. To inquire into the legal and regulatory gaps that permitted operations of Worldcoin in Kenya.
9. To recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following:

1. Ecosystem of virtual assets/crypto assets in Kenya and their regulation;
2. Assessment and risks associated with trading in cryptocurrency and virtual assets;
3. Whether cryptocurrencies and virtual assets can be used for money laundering, illicit financial flows, terrorism financing and cyber-crime;
4. Any suspicious transactions on cryptocurrency reported by Financial Reporting Centre, and;
5. Any other information relevant to this inquiry.

The meeting will be held on **Wednesday 13th September 2023** at **2.30 p.m** in **Mini-Chamber, County Hall, Parliament Buildings.**

You are requested to prepare comprehensive responses and any other additional information, which in your opinion, the Committee may require in the course of its proceedings, and submit twenty (20) copies of submission on or before Wednesday 13th September, 2023. You may send a soft copy of the submission to cna@parliament.go.ke.

The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours

PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/027

7th September, 2023

Mr. Saitoti Maika
Director General
Financial Reporting Centre
Old Mutual Tower, 13th Floor
Upper Hill
NAIROBI.

Dear Mr. Saitoti,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

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8. To inquire into the legal and regulatory gaps that permitted operations of Worldcoin in Kenya.
9. To recommend necessary legislative intervention.

The Committee has resolved to invite you for a meeting to brief it on the following:

1. Ecosystem of virtual assets/crypto assets in Kenya and their regulation;
2. Assessment and risks associated with trading in cryptocurrency and virtual assets;
3. Whether cryptocurrencies and virtual assets can be used for money laundering, illicit financial flows, terrorism financing and cyber-crime;
4. Any suspicious transactions on cryptocurrency reported by Financial Reporting Centre, and;
5. Any other information relevant to this inquiry.

The purpose of this letter is to invite you to the meeting scheduled for **Wednesday 13th September 2023** at **2.30 p.m** in **Mini-Chamber, County Hall, Parliament Buildings.**

You are requested to prepare comprehensive responses and submit twenty (20) hard copies to the Office of the Clerk of the National Assembly on **1st Floor, Main Parliament Buildings on or before Tuesday, 13th September, 2023 at 5.00 p.m.** You may send a soft copy of the responses to cna@parliament.go.ke.

The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel. no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours Sincerely

PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/026

7th September, 2023

Mr. Wyckliffe M. Shamiah
Chief Executive Officer
Capital Markets Authority
Embankment Plaza, 3rd Floor,
Longonot Road, Off Kilimanjaro Road,
Upper Hill
NAIROBI.

Dear Mr. Shamiah,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

The Ad-hoc Committee on Worldcoin was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of Worldcoin in Kenya.

The terms of reference of the Inquiry are as follows:

1. To inquire into the operations and ultimate objectives of the activities of Worldcoin in Kenya.
2. To inquire into the legal and regulatory compliance of operations of Worldcoin, and its agents in Kenya.
3. To inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya.
4. To inquire into the nature, use and safety of data collected by Worldcoin in Kenya
5. To inquire into the organizational structure and the activities of Worldcoin.
6. To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries.
7. To inquire whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the country.
8. To inquire into the legal and regulatory gaps that permitted operations of Worldcoin in Kenya.

9. To recommend necessary legislative intervention.

The Committee has resolved to invite you for a meeting to brief it on the following:

1. Cryptocurrencies use in Kenya and legality;
2. Role of Capital Markets Authority in the regulation of cryptocurrencies and other related transactions in Kenya;
3. The basis of the Capital Markets Authority's advisory, cautioning Kenyans against dealing with unregulated entities as cryptocurrency; and
4. Any other information relevant to this inquiry.

The purpose of this letter is to invite you to the meeting scheduled for **Wednesday 13th September 2023** at **10.00 a.m** in **Mini-Chamber, County Hall, Parliament Buildings.**

You are requested to prepare comprehensive responses and submit twenty (20) hard copies to the Office of the Clerk of the National Assembly on **1st Floor, Main Parliament Buildings on or before Tuesday, 13th September, 2023 at 5.00 p.m.** You may send a soft copy of the responses to cna@parliament.go.ke.

The liaison officers on this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina**, tel. no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours Sincerely,

PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/025

6th September, 2023

Managing Director
Exp Momentum
KAM House, 4th Floor
Mwanzi Road, Opposite West Gate
NAIROBI

Dear MD,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

The Ad-hoc Committee on the Inquiry into Activities and Operations of Worldcoin in Kenya was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of Worldcoin in Kenya.

The terms of reference of the Inquiry are as follows:

1. To inquire into the operations and ultimate objectives of the activities of Worldcoin in Kenya.
2. To inquire into the legal and regulatory compliance of operations of Worldcoin, and its agents in Kenya.
3. To inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya.
4. To inquire into the nature, use and safety of data collected by Worldcoin in Kenya
5. To inquire into the organizational structure and the activities of Worldcoin.
6. To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries.
7. To inquire whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the country.
8. To inquire into the legal and regulatory gaps that permitted operations of Worldcoin in Kenya.
9. To recommend necessary legislative intervention.

Given the foregoing, the Committee has resolved to invite you to a meeting to in addition to the specific terms of reference of the inquiry, make submissions on the following -

1. Profile of Exp Momentum Ltd and it's registration status;
2. Terms of engagement between Exp Momentum Ltd and Worldcoin;
3. Role of Exp Momentum with regards to the operations and activities of Worldcoin in Kenya;
4. Information on procurement of venues by Exp Momentum for operations and activities of Worldcoin in Kenya, particularly Kenyatta International Convection Centre (KICC);
5. Details and scope of activities and operations of Worldcoin and Exp Momentum at KICC, and
6. Any other information relevant to this inquiry.

The purpose of this letter is to invite you to the meeting scheduled for **Tuesday, 12th September 2023** at **2.30 p.m.** in the **Mini-Chamber, County Hall, Parliament Buildings.**

You are requested to prepare comprehensive responses and submit twenty (20) hard copies to the Office of the Clerk of the National Assembly on **1st Floor, Main Parliament Buildings on or before Tuesday 12th September, 2023 at 5.00 p.m.** You may send a soft copy of the responses to cna@parliament.go.ke.

The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours Sincerely,

PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/024

6th September, 2023

Mr. Kelvin Olende
Managing Director
Sense Marketing Ltd
NAIROBI.

Dear mr. olende

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

The Ad-hoc Committee on the Inquiry into Activities and Operations of Worldcoin in Kenya was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of Worldcoin in Kenya.

The specific terms of reference of the Inquiry are as follows:

1. To inquire into the operations and ultimate objectives of the activities of Worldcoin in Kenya.
2. To inquire into the legal and regulatory compliance of operations of Worldcoin, and its agents in Kenya.
3. To inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya.
4. To inquire into the nature, use and safety of data collected by Worldcoin in Kenya
5. To inquire into the organizational structure and the activities of Worldcoin.
6. To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries.
7. To inquire whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the country.
8. To inquire into the legal and regulatory gaps that permitted operations of Worldcoin in Kenya.
9. To recommend necessary legislative intervention.

Given the foregoing, the Committee has resolved to invite you to a meeting to in addition to the specific terms of reference of the inquiry, make submissions on the following -

1. Profile of Sense Marketing Ltd and it's registration status;
2. Terms of engagement between Sense Marketing Ltd and Worldcoin;
3. Marketing and activation of Worldcoin activities in Kenya by Sense Marketing Ltd;
4. Operations and activities of Worldcoin in Kenya and legality of the operations;
5. Details of the devices used to capture personal data from Kenyans;
6. Use and safety of personal data collected from Kenyans and mitigation against any adverse practices, and;
7. Any other information relevant to this inquiry.

The purpose of this letter is to invite you to the meeting scheduled for **Tuesday, 12th September 2023** at **10.00 a.m.** in the **Mini-Chamber, County Hall, Parliament Buildings.**

You are requested to prepare comprehensive responses and submit twenty (20) hard copies to the Office of the Clerk of the National Assembly on **1st Floor, Main Parliament Buildings on or before Tuesday 12th September, 2023 at 5.00 p.m.** You may send a soft copy of the responses to cna@parliament.go.ke.

The liaison officers on this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours sincerely,

PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/019 **31st August,2023**

Mr. Mirioba Marube
miruobamogusu@gmail.com

Mr. Bernard Ochieng
bernardmichael61@gmail.com

Julie Ibwana
julieibwana@gmail.com

Dear Mr. Ochieng,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO ACTIVITIES AND OPERATIONS OF WORLDCOIN IN KENYA

The Ad-hoc Committee on Worldcoin was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of Worldcoin.

The terms of reference of the Inquiry are:

1. To inquire into the operations and ultimate objectives of the activities of Worldcoin in Kenya;
2. To inquire into the legal and regulatory compliance of operations of Worldcoin, and its agents in Kenya;
3. To inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya;
4. To inquire into the nature, use and safety of data collected by Worldcoin in Kenya;
5. To inquire into the organizational structure and the activities of Worldcoin;
6. To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. To inquire whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the country;
8. To inquire into the legal and regulatory gaps that permitted operations of Worldcoin in Kenya; and

9. To recommend necessary legislative interventions.

The Committee is in receipt of your request to appear before it to adduce evidence on the matter under inquiry and has subsequently resolved to invite you for a meeting to submit on following matters:-

1. How Worldcoin or its agents recruited persons for biometric data collection;
2. Activities that took place at the data collection centre;
3. Personal details and biometric data collected by Worldcoin or its agents from you;
4. Whether valid consent was obtained from you before signing-up for data collection;
5. Any terms and conditions made known to you by Worldcoin or its agents before signing-up for scanning;
6. Possible risks and health hazards from exposure to biometric scanning;
7. Financial incentives or consideration offered in exchange for biometric data capture; and
8. Any other information and recommendations related to the Inquiry.

The meeting will be held on **Tuesday 5th September** in the **Mini-Chamber, County Hall, Parliament Buildings** at **2.30 p.m.**

The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours Sincerely,

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/019 **31st August,2023**

Mr. Mirioba Marube
miruobamogusu@gmail.com

Mr. Bernard Ochieng
bernardmichael61@gmail.com

Julie Ibwana
julieibwana@gmail.com

Dear Mr. Marube,

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For: CLERK OF THE NATIONAL ASSEMBLY

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31st August,2023

Mr. Mirioba Marube
miruobamogusu@gmail.com

Mr. Bernard Ochieng
bernardmichael61@gmail.com

Julie Ibwana
julieibwana@gmail.com

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Yours Sincerely,

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For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
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When replying, please quote

Ref: NA: AD-HOC/WC/2023/018 **30th August, 2023**

Dr. Raymond Omollo, PhD
Principal Secretary
State Department for Internal Security and
National Administration
Ministry of Interior and National Administration
Harambee House, Harambee Avenue
NAIROBI

Dear Principal Secretary,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WOLRDCOIN IN KENYA

Reference is made to your letter **Ref: MOINA/SEC/1/27/1** dated **25th August, 2023** on the above referenced matter.

The Committee acceded to your request and rescheduled the meeting with the Cabinet Secretary for the Ministry of Interior and National administration to **Tuesday 12th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **11.00 a.m.**

The agenda of the meeting is as communicated vide our letter **Ref: NA: AD-HOC/WC/2023/0012.** You are requested to prepare comprehensive responses and any other additional information, which in your opinion, the Committee may require in the course of its proceedings, and submit twenty (20) copies of submission on or before Friday 8th September, 2023. You may send a soft copy of the submission to cna@parliament.go.ke.

The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours Sincerely,

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to :- **Prof. Kithure Kindiki, EGH**
Cabinet Secretary
Ministry of Interior and National Administration
Harambee House, Harambee Avenue
NAIROBI

.Ms. Kina
Please deal.
29/08/23

OFFICE OF THE PRESIDENT

Telegraphic Address: "Rais"
Telephone: Nairobi 2227411
When replying, please quote

MINISTRY OF INTERIOR
AND
NATIONAL ADMINSITRATION

P.O. Box 30510-00100
Nairobi

Our Ref: **MOINA/SEC/1/27/1**

25th August, 2023

Clerk of the National Assembly
Main Parliament Buildings
NAIROBI

MEETING WITH AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WORLD COIN IN KENYA

Reference is made to your letter ref: NA:AD-HOC/WC/2023/012 dated 24th August, 2023 on the above subject.

The Cabinet Secretary, Ministry of Interior and National Administration will be attending the Africa climate week and summit 2023 on that day and therefore will not be able to honour your invitation.

This is to therefore request you to postpone the meeting to Thursday, **14th September, 2023 at 12.30 pm.**

Any inconveniences caused is highly regretted.

NATIONAL ASSEMBLY
RECEIVED
28 AUG 2023
CLERK'S OFFICE
P O Box 41842, NAIROBI

Ms. Hellen Kina
Mr. Philip Lekakaa
Ms. Evelyne Omina
Pls TNA DM 29/08/23

WILSON G. NJEGA, EBS
FOR: PRINCIPAL SECRETARY
INTERNAL SECURITY &NATIONAL ADMINISTRATION

NATIONAL ASSEMBLY
RECEIVED
~~29 AUG 2023~~
DEPUTY CLERK S. KIOKO
P. O. Box 41842 - 00100, NAIROBI

NATIONAL ASSEMBLY
RECEIVED
28 AUG 2023
DEPUTY CLERK S. KIOKO
P. O. Box 41842 - 00100, NAIROBI

Ms. Kim
Please deal.
25/8/23
Governor

BANKI KUU YA KENYA
CENTRAL BANK OF KENYA

Haile Selassie Avenue
P.O. Box 60000 - 00200 Nairobi, Kenya
Telephone: +254 20 286 1003

August 25, 2023

The Clerk
National Assembly
Main Parliament Building
P.O. Box 41842-00100
NAIROBI

Attn: Jeremiah W. Ndombi, MBS

Dear Mr. Ndombi

MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

Thank you for your letter of August 23, 2023, Ref: NA: AD-HOC/WC/2023/002 inviting me to meet the Ad-hoc Committee on ***Worldcoin*** on August 29, 2023 and brief the Committee on various issues relating to Blockchain and Cryptocurrency.

I note that the topics listed in the letter, which I am expected to cover in my brief, are extensive. I am therefore requesting for more time for preparation, and proposing to appear before the Committee on September 5, 2023 at 10 a.m. Kindly consider and advise.

I am grateful for the indulgence and support that the Central Bank of Kenya always receives from your office.

Sincerely,

Dr. Kamau Thugge, CBS

NATIONAL ASSEMBLY
RECEIVED
25 AUG 2023
CLERK'S OFFICE
P O Box 41842, NAIROBI

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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Nairobi, Kenya
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When replying, please quote

Ref: NA: AD-HOC/WC/2023/017 **30th August, 2023**

Mr. Noordin Mohammed Haji, CBS
Director General
National Intelligence Service
NAIROBI

Dear Mr. Haji,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WOLRDCOIN IN KENYA

Reference is made to your letter **Ref: NIS-DG-1 VOL.14 (241)** dated **25th August, 2023** on the above referenced matter.

The Committee acceded to your request and rescheduled the meeting to **Monday 11th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **10.00 a.m.**

The agenda of the meeting is as communicated vide our letter **Ref: NA: AD-HOC/WC/2023/003.** You are requested to prepare comprehensive responses and any other additional information, which in your opinion, the Committee may require in the course of its proceedings, and submit twenty (20) copies of submission on or before Wednesday 6th September, 2023. You may send a soft copy of the submission to cna@parliament.go.ke.

The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours Sincerely,

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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Main Parliament Buildings

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When replying, please quote

Ref: NA: AD-HOC/WC/2023/018 **30th August, 2023**

Dr. Raymond Omollo, PhD
Principal Secretary
State Department for Internal Security and
National Administration
Ministry of Interior and National Administration
Harambee House, Harambee Avenue
NAIROBI

Dear

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WOLRDCOIN IN KENYA

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Yours

DANIEL MUTUNGA
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to :- **Prof. Kithure Kindiki, EGH**
Cabinet Secretary
Ministry of Interior and National Administration
Harambee House, Harambee Avenue
NAIROBI

30/08/23

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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When replying, please quote

Ref: NA: AD-HOC/WC/2023/017 **30th August, 2023**

Mr. Noordin Mohammed Haji, CBS
Director General
National Intelligence Service
NAIROBI

Dear Mr. Haji,

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For: CLERK OF THE NATIONAL ASSEMBLY

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NAIROBI

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Yours Sincerely,

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For: CLERK OF THE NATIONAL ASSEMBLY

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www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA: AD-HOC/WC/2023/015 **30th August, 2023**

Dr. Kamau Thugge, CBS
Governor
Central Bank of Kenya
NAIROBI

Dear Dr. Thugge,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF WOLRDCOIN IN KENYA

Reference is made to your letter dated **25th August, 2023** on the above referenced matter.

The Committee acceded to your request and rescheduled the meeting to **Tuesday 5th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings,** at **10.00 a.m.**

The agenda of the meeting is as communicated vide our letter **Ref: NA: AD-HOC/WC/2023/002.**

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The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no 0722296980 or email: everlyn.orina@parliament.go.ke

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For: CLERK OF THE NATIONAL ASSEMBLY

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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/013 **24th August, 2023**

Dr. Chris Kiptoo, CBS
Principal Secretary
National Treasury
Treasury Building
NAIROBI.

Dear

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

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6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country;
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite the Cabinet Secretary for the National Treasury for a meeting to brief it on the following:

1. Financial operations and activities of *Worldcoin*/its agents in Kenya;
2. Legality of cryptocurrency and blockchain technologies;
3. Link between cryptocurrency, money laundering and financing of terrorism;
4. Legal and regulatory gaps on cryptocurrency and blockchain technologies; and
5. Any necessary legislative intervention on cybersecurity and cybercrimes;

The meeting will be held on **Tuesday, 5th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **9.30 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Prof. Njuguna Ndung'u, CBS**
Cabinet Secretary
National Treasury and Economic Planning
Treasury Building
NAIROBI.

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

The terms of reference of the Inquiry are as:

1. inquire into the operations and ultimate objectives of the activities of *Worldcoin* in Kenya;
2. inquire into the legal and regulatory compliance of operations of *Worldcoin*, and its agents in Kenya;
3. inquire whether due diligence was undertaken by the relevant government agencies before *Worldcoin* started its operations in Kenya;
4. inquire into the nature, use and safety of data collected by *Worldcoin* in Kenya;
5. inquire into the organizational structure and the activities of *Worldcoin*;
6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country;
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite the Cabinet Secretary for the National Treasury for a meeting to brief it on the following:

1. Financial operations and activities of *Worldcoin*/its agents in Kenya;
2. Legality of cryptocurrency and blockchain technologies;
3. Link between cryptocurrency, money laundering and financing of terrorism;
4. Legal and regulatory gaps on cryptocurrency and blockchain technologies; and
5. Any necessary legislative intervention on cybersecurity and cybercrimes;

The meeting will be held on **Tuesday, 5th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **9.30 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours sincerely

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Prof. Njuguna Ndung'u, CBS**
Cabinet Secretary
National Treasury and Economic Planning
Treasury Building
NAIROBI.

THE NATIONAL ASSEMBLY
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Nairobi, Kenya
Main Parliament Buildings

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Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/012 **24th August, 2023**

Dr. Raymond Omollo, PhD
Principal Secretary
State Department for Internal Security and National Administration
Harambee House.
NAIROBI.

Dear Sir,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

The terms of reference of the Inquiry are to:

1. inquire into the operations and ultimate objectives of the activities of *Worldcoin* in Kenya;
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6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country;
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite the Cabinet Secretary for Interior and National Administration for a meeting to brief it on the following:

1. Operations and activities of *Worldcoin*/its agents in Kenya;

2. Investigations undertaken by the Ministry of Interior and National Administration; regarding the activities and operations of *Worldcoin*/its agents in Kenya;
3. Link between cryptocurrency, money laundering and financing of terrorism;
4. Legal and regulatory gaps on cybersecurity and cybercrime prevention; and
5. Any necessary legislative intervention on cybersecurity and cybercrimes.

The meeting will be held on **Monday, 4th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **2.30 p.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours sincerely,

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Prof. Kithure Kindiki, EGH**
Cabinet Secretary
Ministry of Interior and National Administration
Harambee House
NAIROBI

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1. Operations and activities of *Worldcoin*/its agents in Kenya;

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3. Link between cryptocurrency, money laundering and financing of terrorism;
4. Legal and regulatory gaps on cybersecurity and cybercrime prevention; and
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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/011 **24th August, 2023**

Prof. Edward Kisiang'ani
Principal Secretary
State Department for Broadcasting and Telecommunications
Teleposta House
NAIROBI

Eng. John Tanui, MBS
Principal Secretary
State Department for ICT and Digital Economy
Teleposta House
NAIROBI

Dear

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

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7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country.
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya.
9. recommend necessary legislative intervention

The Committee resolved to invite the Cabinet Secretary for Information, Communication and the Digital Economy for a meeting to brief it on the following:

1. Role of the Ministry of Information, Communication and the Digital Economy in regulation, processing, and protection of personal data;
2. Activities and operations of *Worldcoin*/its agents in Kenya;
3. Registration process and status of *Worldcoin*/its agents as a data controller;
4. Due diligence undertaken on *Worldcoin* or its agents before registration as a data controller;
5. The nature, use, storage and safety of the data collected by *Worldcoin* or its agents;
6. The risks, safeguards, security measures and mechanisms to ensure the protection of personal data processed by *Worldcoin* or its agents;
7. Blockchain, cryptocurrency technologies and any other technologies that are relevant to this inquiry;
8. Legal and regulatory gaps on collection of personal data from Kenyans; and
9. Any necessary legislative intervention on collection of personal data from Kenyans.

The meeting will be held on **Monday, 4th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **11.00 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Mr. Eliud Owalo**
Cabinet Secretary
Ministry of Information, Communication and the Digital Economy
Teleposta Towers
NAIROBI

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Prof. Edward Kisiang'ani
Principal Secretary
State Department for Broadcasting and Telecommunications
Teleposta House
NAIROBI

Eng. John Tanui, MBS
Principal Secretary
State Department for ICT and Digital Economy
Teleposta House
NAIROBI

Dear

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

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7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country.
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya.
9. recommend necessary legislative intervention

The Committee resolved to invite the Cabinet Secretary for Information, Communication and the Digital Economy for a meeting to brief it on the following:

1. Role of the Ministry of Information, Communication and the Digital Economy in regulation, processing, and protection of personal data;
2. Activities and operations of *Worldcoin*/its agents in Kenya;
3. Registration process and status of *Worldcoin*/its agents as a data controller;
4. Due diligence undertaken on *Worldcoin* or its agents before registration as a data controller;
5. The nature, use, storage and safety of the data collected by *Worldcoin* or its agents;
6. The risks, safeguards, security measures and mechanisms to ensure the protection of personal data processed by *Worldcoin* or its agents;
7. Blockchain, cryptocurrency technologies and any other technologies that are relevant to this inquiry;
8. Legal and regulatory gaps on collection of personal data from Kenyans; and
9. Any necessary legislative intervention on collection of personal data from Kenyans.

The meeting will be held on **Monday, 4th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **11.00 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Mr. Eliud Owalo**
Cabinet Secretary
Ministry of Information, Communication and the Digital Economy
Teleposta Towers
NAIROBI

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Principal Secretary
State Department for Broadcasting and Telecommunications
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NAIROBI

Eng. John Tanui, MBS
Principal Secretary
State Department for ICT and Digital Economy
Teleposta House
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Dear

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2. inquire into the legal and regulatory compliance of operations of *Worldcoin*, and its agents in Kenya
3. inquire whether due diligence was undertaken by the relevant government agencies before *Worldcoin* started its operations in Kenya.
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7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country.
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya.
9. recommend necessary legislative intervention

The Committee resolved to invite the Cabinet Secretary for Information, Communication and the Digital Economy for a meeting to brief it on the following:

1. Role of the Ministry of Information, Communication and the Digital Economy in regulation, processing, and protection of personal data;
2. Activities and operations of *Worldcoin*/its agents in Kenya;
3. Registration process and status of *Worldcoin*/its agents as a data controller;
4. Due diligence undertaken on *Worldcoin* or its agents before registration as a data controller;
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The meeting will be held on **Monday, 4th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **11.00 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Mr. Eliud Owalo**
Cabinet Secretary
Ministry of Information, Communication and the Digital Economy
Teleposta Towers
NAIROBI

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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/010 **24th August, 2023**

Mr. Mohamed I. Amin, EBS, OGW, 'ndc' (K)
Director
Directorate of Criminal Investigations
Mazingira Complex, Kiambu Road
NAIROBI

Dear Sir,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

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9. recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following:

1. Kenya's cyber security and cybercrime landscape;
2. Role of the Directorate of Criminal Investigations in detection and monitoring of cybersecurity and cybercrimes:
3. Investigations undertaken by the Directorate of Criminal Investigations regarding the activities and operations of *Worldcoin*/its agents in Kenya:
4. Cybersecurity and cybercrime concerns on blockchain and cryptocurrency activities;
5. Link between cryptocurrency, money laundering and financing of terrorism;
6. Legal and regulatory gaps on cybersecurity and cybercrime prevention; and
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The meeting will be held on **Monday, 4th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **9.30 a.m.**

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Yours Sincerely

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For: CLERK OF THE NATIONAL ASSEMBLY

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5. inquire into the organizational structure and the activities of *Worldcoin*;
6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country;
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following:

1. Kenya's cyber security and cybercrime landscape;
2. Role of the Directorate of Criminal Investigations in detection and monitoring of cybersecurity and cybercrimes;
3. Investigations undertaken by the Directorate of Criminal Investigations regarding the activities and operations of *Worldcoin*/its agents in Kenya;
4. Cybersecurity and cybercrime concerns on blockchain and cryptocurrency activities;
5. Link between cryptocurrency, money laundering and financing of terrorism;
6. Legal and regulatory gaps on cybersecurity and cybercrime prevention; and
7. Any necessary legislative intervention on cybersecurity and cybercrime.

The meeting will be held on **Monday, 4th September, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **9.30 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours Sincerely

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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Nairobi, Kenya
Main Parliament Buildings

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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/009

24th August, 2023

Mr. Harry Kimtai, CBS
Principal Secretary
State Department for Medical Services
Afya House
NAIROBI.

Dear Sir,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO ACTIVITIES AND OPERATIONS OF *WORLDCOIN*

The Ad-hoc Committee on Worldcoin was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of Worldcoin.

The terms of reference of the Inquiry are as:

1. To inquire into the operations and ultimate objectives of the activities of Worldcoin in Kenya
2. To inquire into the legal and regulatory compliance of operations of Worldcoin, and its agents in Kenya
3. To inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya.
4. To inquire into the nature, use and safety of data collected by Worldcoin in Kenya
5. To inquire into the organizational structure and the activities of Worldcoin
6. To inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries.
7. To inquire whether Kenyans were exposed to any health hazards as a result of the activities of Worldcoin in the country.

8. To inquire into the legal and regulatory gaps that permitted operations of Worldcoin in Kenya.

9. To recommend necessary legislative intervention

The Committee resolved to invite the Cabinet Secretary for Health for a meeting to brief it on the following:

1. Unique biometric identifiers of an individual.
2. Possible health hazards from exposure to biometric scans.
3. Legal and regulatory gaps on collection of biodata from Kenyans.
4. Any necessary legislative intervention on collection of biodata from Kenyans.

The meeting will be held on **Thursday 31st August 2023** at **02.30 p.m** in **Mini-Chamber, County Hall, Parliament Buildings.**

The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

cc:

Ms. Nakumicha S. Wafula
Cabinet Secretary
Ministry of Health
Afya House
NAIROBI.

THE NATIONAL ASSEMBLY
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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/008 **24th August, 2023**

Ms. Patricia Ondeng
Chief Executive Officer
Kenyatta International Convention Centre
NAIROBI.

Dear Madam,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN*

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things;'inquire into the activities and operations of *Worldcoin.*

The terms of reference of the Inquiry are to:

1. inquire into the operations and ultimate objectives of the activities of ***Worldcoin*** in Kenya;
2. inquire into the legal and regulatory compliance of operations of ***Worldcoin,*** and its agents in Kenya;
3. inquire whether due diligence was undertaken by the relevant government agencies before ***Worldcoin*** started its operations in Kenya;
4. inquire into the nature, use and safety of data collected by ***Worldcoin*** in Kenya;
5. inquire into the organizational structure and the activities of **Worldcoin;**
6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. inquire whether Kenyans were exposed to any health hazards as a results of the activities of ***Worldcoin*** in the country;
8. inquire into the legal and regulatory gaps that permitted operations of ***Worldcoin*** in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following: -

1. Nature and activities of *Worldcoin* or any of its agents at the Kenyatta International Convention Centre;

2. Correspondences between *Worldcoin* or any of its agents and the management of the Kenyatta International Convention Centre;
3. Approval criteria to hold a meeting or gathering at the Kenyatta International Convention Centre, and approval of *Worldcoin* or any of its agents' activities at the Kenyatta International Convention Centre;
4. Duration approved for *Worldcoin* or its agents to use Kenyatta International Convention Centre facilities;
5. Crowd management and emergency service plans for *Worldcoin* or any of its agents' activities at the Kenyatta International Convention Centre;
6. Consideration paid to Kenyatta International Convention Centre by *Worldcoin* or its agents for the activities and particulars of the invoices and receipts;
7. Approvals or concurrence sought from any other Government authorities and security agencies regarding the activities of *Worldcoin* at the Kenyatta International Convention Centre.

The meeting will be held on **Thursday 31st August 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **11.00 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours sincerely

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/005

24th August, 2023

Alex Blania
Chief Executive Officer
WorldCoin
SAN FRANCISCO, CA94104, USA

Ms. Ariana Issaias
Coulson Harney LLP (Bowmans)
Riverside Park, Chiromo Lane
NAIROBI

Dear Madam,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on Worldcoin was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of Worldcoin in Kenya.

The terms of reference of the Inquiry are to:

1. inquire into the operations and ultimate objectives of the activities of *Worldcoin* in Kenya;
2. inquire into the legal and regulatory compliance of operations of *Worldcoin,* and its agents in Kenya;
3. inquire whether due diligence was undertaken by the relevant government agencies before Worldcoin started its operations in Kenya;
4. inquire into the nature, use and safety of data collected by *Worldcoin* in Kenya;
5. inquire into the organizational structure and the activities of *Worldcoin;*
6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. inquire whether Kenyans were exposed to any health hazards as a result of the activities of *Worldcoin* in the country;
8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya.
9. recommend necessary legislative intervention

The Committee resolved to invite you for a meeting to brief it on the following: -

1. The profile and organizational structure of *Worldcoin*;
2. Activities, operations and objectives of *Worldcoin* in Kenya and other parts of the world;
3. Why Kenya was identified for *Worldcoin* activities;
4. The nature, use, storage and safety of data collected by *Worldcoin* in Kenya;
5. Compliance with the necessary legal and regulatory approvals needed to operate in Kenya;
6. Whether there was consent/agreement between Kenyans who registered and *Worldcoin*;
7. The total amount and source of *Worldcoin* tokens or consideration intended to be paid to Kenyans;
8. Potential exposure to health hazards from scanning of persons; and
9. *Who the Worldcoin's* agents/partners in Kenya are.

The meeting will be held on **Wednesday, 30th August, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **11.00 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours sincerely

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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/005 **24th August, 2023**

Alex Blania
Chief Executive Officer
WorldCoin
SAN FRANCISCO, CA94104, USA

Ms. Ariana Issaias
Coulson Harney LLP (Bowmans)
Riverside Park, Chiromo Lane
NAIROBI

Dear Madam,

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

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8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya.
9. recommend necessary legislative intervention

The Committee resolved to invite you for a meeting to brief it on the following: -

1. The profile and organizational structure of *Worldcoin*;
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8. Potential exposure to health hazards from scanning of persons; and
9. *Who the Worldcoin's* agents/partners in Kenya are.

The meeting will be held on **Wednesday, 30th August, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **11.00 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours sincerely

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/005 **24th August, 2023**

Alex Blania
Chief Executive Officer
WorldCoin
SAN FRANCISCO, CA94104, USA

Ms. Ariana Issaias
Coulson Harney LLP (Bowmans)
Riverside Park, Chiromo Lane
NAIROBI

Dear Sirs

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on Worldcoin was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of Worldcoin in Kenya.

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8. inquire into the legal and regulatory gaps that permitted operations of *Worldcoin* in Kenya.
9. recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following: -

1. The profile and organizational structure of *Worldcoin*;
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3. Why Kenya was identified for *Worldcoin* activities;
4. The nature, use, storage and safety of data collected by *Worldcoin* in Kenya;
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6. Whether there was consent/agreement between Kenyans who registered and *Worldcoin*;
7. The total amount and source of *Worldcoin* tokens or consideration intended to be paid to Kenyans;
8. Potential exposure to health hazards from scanning of persons; and
9. *Who the Worldcoin's* agents/partners in Kenya are.

The meeting will be held on **Wednesday, 30th August, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings** at **11.00 a.m.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours sincerely,

SERAH KIOKO, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/004 **23rd August, 2023**

Hon. Shadrack Mose, CBS
Solicitor General, Office of the Attorney General and
Department of Justice
Sheria House
NAIROBI

Dear Hon Mose

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

The terms of reference of the Inquiry are to:

1. inquire into the operations and ultimate objectives of the activities of ***Worldcoin*** in Kenya;
2. inquire into the legal and regulatory compliance of operations of ***Worldcoin,*** and its agents in Kenya;
3. inquire whether due diligence was undertaken by the relevant government agencies before ***Worldcoin*** started its operations in Kenya;
4. inquire into the nature, use and safety of data collected by ***Worldcoin*** in Kenya;
5. inquire into the organizational structure and the activities of ***Worldcoin;***
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7. inquire whether Kenyans were exposed to any health hazards as a results of the activities of ***Worldcoin*** in the country;
8. inquire into the legal and regulatory gaps that permitted operations of ***Worldcoin*** in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite the Attorney General for a meeting to brief it on the following: -

1. **Examination of Legal Status of Worldcoin:** Provide a comprehensive analysis of the legal status of *Worldcoin* within the framework of Kenyan law, as well as an exploration into the legal standing of its alleged affiliates, Tools for Humanity and Sense Marketing.
2. **Understanding Local Representatives:** Provide an elaborate analysis of the roles, responsibilities, and identities of local representatives associated with *Worldcoin*, Tools for Humanity, and Sense Marketing.
3. **Legal and regulatory framework of cryptocurrency in Kenya:** Submit an in-depth overview of the intricate legal and regulatory landscape governing cryptocurrency within Kenya, highlighting the prevailing regulations, their enforcement mechanisms, and any identified gaps that have relevance to *Worldcoin's* operations.

The meeting will be held on **Wednesday 30th August 2023** in the **Mini-Chamber, County Hall, Parliament Buildings, at 9.30 am.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. 0**720843000** or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:- **Hon. Justine B.N. Muturi, EGH**
Attorney General of the Republic of Kenya
Sheria House
NAIROBI

THE NATIONAL ASSEMBLY
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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/004 **23rd August, 2023**

Hon. Shadrack Mose, CBS
Solicitor General, Office of the Attorney General and
Department of Justice
Sheria House
NAIROBI

Dear Hon Mose

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

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7. inquire whether Kenyans were exposed to any health hazards as a results of the activities of ***Worldcoin*** in the country;
8. inquire into the legal and regulatory gaps that permitted operations of ***Worldcoin*** in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite the Attorney General for a meeting to brief it on the following: -

1. **Examination of Legal Status of Worldcoin:** Provide a comprehensive analysis of the legal status of *Worldcoin* within the framework of Kenyan law, as well as an exploration into the legal standing of its alleged affiliates, Tools for Humanity and Sense Marketing.
2. **Understanding Local Representatives:** Provide an elaborate analysis of the roles, responsibilities, and identities of local representatives associated with *Worldcoin*, Tools for Humanity, and Sense Marketing.
3. **Legal and regulatory framework of cryptocurrency in Kenya:** Submit an in-depth overview of the intricate legal and regulatory landscape governing cryptocurrency within Kenya, highlighting the prevailing regulations, their enforcement mechanisms, and any identified gaps that have relevance to *Worldcoin's* operations.

The meeting will be held on **Wednesday 30th August 2023** in the **Mini-Chamber, County Hall, Parliament Buildings, at 9.30 am.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. 0720843000 or email: philip.lekarkar@parliament.go.ke and **Ms. Everlyn Orina** tel.no **0722296980** or email: everlyn.orina@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to:- **Hon. Justine B.N. Muturi, EGH**
Attorney General of the Republic of Kenya
Sheria House
NAIROBI

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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/003

23rd August, 2023

Mr. Noordin Mohammed Haji, CBS
Director General
National Intelligence Service
NAIROBI

Dear Noordin

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

The terms of reference of the Inquiry are to:

1. inquire into the operations and ultimate objectives of the activities of ***Worldcoin*** in Kenya;
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3. inquire whether due diligence was undertaken by the relevant government agencies before ***Worldcoin*** started its operations in Kenya;
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5. inquire into the organizational structure and the activities of ***Worldcoin*;**
6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries;
7. inquire whether Kenyans were exposed to any health hazards as a results of the activities of ***Worldcoin*** in the country;
8. inquire into the legal and regulatory gaps that permitted operations of ***Worldcoin*** in Kenya; and
9. To recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following: -

1. **Kenya Cybersecurity Landscape**: Provide an overview of the current state of cybersecurity in Kenya, highlighting vulnerabilities, threats, and measures to safeguard critical digital infrastructure.
2. **Blockchain and Cryptocurrency Technologies:** Present an exploration of blockchain technology and its applications, alongside insights into security and safety considerations of cryptocurrency technologies and their implications within our nation's economic and regulatory frameworks.
3. **Security-Related Aspects of Blockchain and Cryptocurrency Trading:** Address comprehensively security concerns tied to blockchain and cryptocurrency trading, including measures to mitigate risks related to fraud, data breaches, and hacking.
4. **Intelligence and Counter-Intelligence Concerning *Worldcoin's* Operations:** Explain the effectiveness of intelligence gathering related to *Worldcoin's* activities, and whether such intelligence has been shared with pertinent government agencies for appropriate actions.
5. **Monitoring *Worldcoin* Activities for Financial Crimes and Terrorism:** Provide the protocols and strategies employed to monitor *Worldcoin's* activities for signs of money laundering and terrorism financing, and highlight any insights gained from such monitoring efforts.
6. Any other information that are relevant to this inquiry

The meeting will be held on **Tuesday 29th August, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings, at 2:30 pm.**

The liaison officers are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke and **Mr. Philip Lekarkar t**el. no. 0**720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no **0722296980** or email: everlyn.orina@parliament.go.ke

Yours

JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/002

23rd August, 2023

Dr. Kamau Thugge CBS
Governor
Central Bank of Kenya
NAIROBI

Dear Dr. Thugge

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

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6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries
7. inquire whether Kenyans were exposed to any health hazards as a results of the activities of ***Worldcoin*** in the country;
8. inquire into the legal and regulatory gaps that permitted operations of ***Worldcoin*** in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following: -

1. **Blockchain and Cryptocurrency Technologies:** Present the foundational principles of blockchain technology and the evolution of cryptocurrencies, highlighting their potential benefits and challenges within the Kenyan context.
2. **Legality of Cryptocurrency and Blockchain Technologies:** Provide an analysis of the legal landscape surrounding cryptocurrencies and blockchain technologies, with emphasis on existing regulatory frameworks and potential gaps.
3. **Cryptocurrency Trading in Kenya:** Offer a comprehensive overview of cryptocurrency trading practices in Kenya, including trends, challenges, and potential benefits for both traders and the government.
4. **Government Benefits from Cryptocurrency Trading:** Address the potential avenues through which the government of Kenya could derive benefits from cryptocurrency trading activities, including revenue generation and economic development.
5. **Regulatory Framework of Cryptocurrency and Blockchain Technologies:** Evaluate the current regulatory approach towards cryptocurrencies and blockchain technologies in Kenya, while suggesting potential areas of enhancement to ensure responsible innovation and consumer protection.
6. **Conversion of Cryptocurrency to Legal Tender:** Explore the mechanisms and implications of converting cryptocurrencies into legal tender, with a focus on potential economic, financial, and regulatory considerations.
7. **Risks Associated with Trading Cryptocurrency:** Provide a comprehensive risk assessment of cryptocurrency trading, including market volatility, security concerns, and potential implications for financial stability.
8. Any other information that are relevant to this inquiry to ensure a comprehensive and informative discussion.

The meeting will be held on **Tuesday 29th August, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings, at 11.00 am.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. 0**720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no 0722296980 or email: everlyn.orina@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

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Nairobi, Kenya
Main Parliament Buildings

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www.parliament.go.ke/the-national-assembly

When replying, please quote:

Ref: NA: AD-HOC/WC/2023/002 **23rd August, 2023**

Dr. Kamau Thugge CBS
Governor
Central Bank of Kenya
NAIROBI

Dear Dr. Thugge

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

The terms of reference of the Inquiry are to:

1. inquire into the operations and ultimate objectives of the activities of ***Worldcoin*** in Kenya;
2. inquire into the legal and regulatory compliance of operations of ***Worldcoin,*** and its agents in Kenya;
3. inquire whether due diligence was undertaken by the relevant government agencies before ***Worldcoin*** started its operations in Kenya;
4. inquire into the nature, use and safety of data collected by ***Worldcoin*** in Kenya;
5. inquire into the organizational structure and the activities of ***Worldcoin;***
6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries
7. inquire whether Kenyans were exposed to any health hazards as a results of the activities of ***Worldcoin*** in the country;
8. inquire into the legal and regulatory gaps that permitted operations of ***Worldcoin*** in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following: -

1. **Blockchain and Cryptocurrency Technologies:** Present the foundational principles of blockchain technology and the evolution of cryptocurrencies, highlighting their potential benefits and challenges within the Kenyan context.
2. **Legality of Cryptocurrency and Blockchain Technologies:** Provide an analysis of the legal landscape surrounding cryptocurrencies and blockchain technologies, with emphasis on existing regulatory frameworks and potential gaps.
3. **Cryptocurrency Trading in Kenya:** Offer a comprehensive overview of cryptocurrency trading practices in Kenya, including trends, challenges, and potential benefits for both traders and the government.
4. **Government Benefits from Cryptocurrency Trading:** Address the potential avenues through which the government of Kenya could derive benefits from cryptocurrency trading activities, including revenue generation and economic development.
5. **Regulatory Framework of Cryptocurrency and Blockchain Technologies:** Evaluate the current regulatory approach towards cryptocurrencies and blockchain technologies in Kenya, while suggesting potential areas of enhancement to ensure responsible innovation and consumer protection.
6. **Conversion of Cryptocurrency to Legal Tender:** Explore the mechanisms and implications of converting cryptocurrencies into legal tender, with a focus on potential economic, financial, and regulatory considerations.
7. **Risks Associated with Trading Cryptocurrency:** Provide a comprehensive risk assessment of cryptocurrency trading, including market volatility, security concerns, and potential implications for financial stability.
8. Any other information that are relevant to this inquiry to ensure a comprehensive and informative discussion.

The meeting will be held on **Tuesday 29th August, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings, at 11.00 am.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke, **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no 0722296980 or email: everlyn.orina@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

THE NATIONAL ASSEMBLY
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When replying, please quote:

Ref: NA: AD-HOC/WC/2023/001 **23rd August, 2023**

Col. Evans Ombati
Director
National Computer and Cybercrimes Co-ordination Committee
2nd Floor, Herufi House
Lt. Tumbo Lane
NAIROBI

Dear Col Ombati

RE: MEETING WITH THE AD-HOC COMMITTEE ON THE INQUIRY INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The Ad-hoc Committee on *Worldcoin* was established by the National Assembly on Tuesday, 15th August 2023, vide Speaker's Communication No. 055 of 2023, to among other things, inquire into the activities and operations of *Worldcoin* in Kenya.

The terms of reference of the Inquiry are to:

1. inquire into the operations and ultimate objectives of the activities of ***Worldcoin*** in Kenya;
2. inquire into the legal and regulatory compliance of operations of ***Worldcoin,*** and its agents in Kenya;
3. inquire whether due diligence was undertaken by the relevant government agencies before ***Worldcoin*** started its operations in Kenya;
4. inquire into the nature, use and safety of data collected by ***Worldcoin*** in Kenya;
5. inquire into the organizational structure and the activities of ***Worldcoin;***
6. inquire into the source of money or consideration if any paid to the members of the public who presented themselves for registration and the potential beneficiaries
7. inquire whether Kenyans were exposed to any health hazards as a results of the activities of ***Worldcoin*** in the country;
8. inquire into the legal and regulatory gaps that permitted operations of ***Worldcoin*** in Kenya; and
9. recommend necessary legislative intervention.

The Committee resolved to invite you for a meeting to brief it on the following: -

1. ***Worldcoin* Operations in Kenya**: Provide a detailed overview of *Worldcoin's* operations within the Kenyan context, shedding light on its objectives, strategies, and engagement with the local population.

2. **Cryptocurrency and Blockchain Technologies:** Expound on the fundamental concepts of cryptocurrency and blockchain technologies, illustrating their relevance to *Worldcoin's* activities and the broader implications for our economy and society.

3. **Security Considerations:** Present the critical security considerations associated with cryptocurrency and blockchain technologies, emphasizing on data privacy, cybersecurity, and the potential vulnerabilities that need to be addressed.

4. Any other additional information related to the terms of reference of the inquiry as well as insights into potential regulatory gaps and opportunities for legislative intervention.

The meeting will be held on **Tuesday 29th August, 2023** in the **Mini-Chamber, County Hall, Parliament Buildings, at 9.00 am.**

The liaison officers for this subject are **Ms. Hellen M. Kina,** who may be contacted on tel. no. **0727707754** or email: hellen.kina@parliament.go.ke; **Mr. Philip Lekarkar** tel. no. **0720843000** or email: philip.lekarkar@parliament.go.ke and Ms. Everlyn Orina tel.no 0722296980 or email: everlyn.orina@parliament.go.ke.

Yours

JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA
PARLIAMENT

Hon. Gabriel K. Tongoyo, MP.

Narok West Constituency
Chairman - Administration & Internal Affairs Committee

Parliament Buildings
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Email: narokwest@parliament.go.ke
:gtongoyo@yahoo.com

REF: NA/AIS/COMM/010 **16th August, 2023**

The Rt. Hon. Moses F. M. Wetang'ula, EGH, MP
Speaker of the National Assembly
NAIROBI

Hon. Speaker

RE: NOMINATION OF MEMBERS TO THE JOINT COMMITTEE TO INQUIRE INTO THE ACTIVITIES AND OPERATIONS OF *WORLDCOIN* IN KENYA

The above subject refers.

Following your Communication No. 55 of 2023 of Tuesday, 15th August, 2023 on the establishment of a Joint Committee to inquire into the activities and operations of *Worldcoin* in Kenya, the Departmental Committee on Administration and Internal Security has nominated the following Members to the Joint Committee taking into consideration the majority and minority party membership of the House:-

Members from Majority Party
1. Hon. Gabriel Tongoyo, MP
2. Hon. Mburu Kahangara, MP
3. Hon. Caroline Ng'elechei, MP

Members from Minority Party
1. Hon. Peter Kaluma, MP
2. Hon. Sarah Korere, MP

This is therefore to forward the names of the nominated Members to your office for constitution of the Committee.

Yours

HON GABRIEL TONGOYO, MP

CHAIRPERSON DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY