How **Telecom Companies** in **Africa Can Respond** Better to **Internet Disruptions**

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Background

The role of internet intermediaries, including mobile network operators, internet service providers, web hosting providers, social media platforms and search engines, is increasingly becoming critical as the internet permeates all aspects of society. The intermediaries facilitate transactions, access to online information and services, and provide platforms for interaction, expression and citizen participation.

Despite their facilitative role, intermediaries' operations are often controlled by autocratic governments whose interests usually clash with those of the intermediaries and of users of digital technologies.

In recent years, disruptions to the internet and social media applications have emerged as a common trend of digital repression especially in authoritarian countries in Africa.[1] In 2019, internet shutdowns in Africa grew by 47%, with at least 25 confirmed incidents in 10 countries, up from the 17 recorded in seven countries in 2018.[2] The countries affected in 2019 include Algeria, Benin, Cameroon, Chad, Côte d'ivoire, Democratic Republic of Congo (DRC), Gabon, Mali, Nigeria, Sierra Leone, Sudan, and Togo. In 2020, internet disruptions were reported in Ethiopia, Burundi, Chad, Guinea, Mali, Tanzania and Zimbabwe.[3]

In January 2021, Uganda joined the ranks of countries that have blocked access to the entire internet.[4] On January 11, 2021, acting on a government directive, telecom firms blocked access to social media and messaging apps.[5] The government then ordered a total internet shutdown on January 13, a day before the parliamentary and presidential elections.[6] Internet access was partially restored five days later but social media remained inaccessible for almost a month.[7] Despite the restoration of social media access since then, Facebook continues to be blocked to-date.

The shutdown in Uganda was a culmination of a series of politically motivated measures to control online speech over the past five years.[8] The measures include the application of repressive laws such as the Computer Misuse Act, 2011 and the Uganda Communications Act, 2013 to intimidate, arrest and detain critics,[9] warnings to the public over "abuse of social media",[10] introduction of the Over-The-Top (OTT) tax,[11] and the requirement for online publishers to "apply and obtain authorisation" before providing online services.[12] Uganda also disrupted the internet during the previous election in 2016, and again that year during the swearing-in of the re-elected president.

1   What we do (not) know about Internet shutdowns in Africa, http://democracyinafrica.org/internet_shutdowns_in_africa/
2   The #KeepItOn report on internet shutdowns in 2019, https://www.accessnow.org/cms/assets/uploads/2020/02/KeepItOn-2019-report-1.pdf
3   Africa internet: Where and how are governments blocking it? https://www.bbc.com/news/world-africa-47734843
4   Shutting Down the Internet to Shut Up Critics, https://www.hrw.org/news/2019/12/19/shutting-down-internet-shut-critics
5   Uganda elections 2021: Social media blocked ahead of poll, https://in.finance.yahoo.com/news/uganda-elections-2021-social-media-201451992.html
6   Uganda orders internet shutdown hours before election, https://www.theeastafrican.co.ke/tea/news/east-africa/uganda-orders-internet-shutdown-hours-before-election-3256656,
7   Halima Athumani, Ugandan Government Restores Social Media Sites, Except Facebook, https://www.voanews.com/africa/ugandan-government-restores-social-media-sites-except-facebook
8   State of Internet Freedom in Uganda 2019, https://cipesa.org/?wpfb_dl=353
9   Uganda Freedom of the Net 2020, https://freedomhouse.org/country/uganda/freedom-net/2020
10 State of Internet Freedom in Africa 2017, https://cipesa.org/?wpfb_dl=254
11 Uganda introduces social media tax despite criticism, https://www.aljazeera.com/economy/2018/7/1/uganda-introduces-social-media-tax-despite-criticism
12 In Uganda, the government wants Youtubers and bloggers to register and pay before broadcasting online, https://techcabal.com/2020/09/09/uganda-regulation-online-broadcasters/

As internet shutdowns and restrictions of access to social media applications become mainstream, the spotlight has to be shone on the role of intermediaries in facilitating or impeding them. Governments often order internet disruptions by directing intermediaries such as telecommunications and internet service providers to slow internet speeds, block commonly-used social media sites, or block all internet access. The responses to these orders have varied across different intermediaries on the continent, but generally point in one direction: quiet obedience.

Most of the affected intermediaries have appeared helpless in the face of government orders and have not taken steps to push back against these government excesses. They acquiesce to censorship orders by the government in compliance with their license conditions but also to safeguard their business interests. In some countries, intermediaries have played the government's game, either by remaining silent even in the face of pressing demands to restore the internet, or by denying having effected an internet shutdown on their networks. As demonstrated below, others have only confessed their role in implementing the shutdowns following public pressure.

Countries That Did Not Confirm A Shutdown

Gabon

Following the internet disruption[13] in Gabon in January 2019 during an attempted coup, neither the government nor the telecommunications operator disclosed the existence of an internet shutdown order. Similarly, earlier in October 2016, both the government, through the Ministry of the Interior, and Gabon Telecom, denied execution of an internet shutdown during the election period.[14]
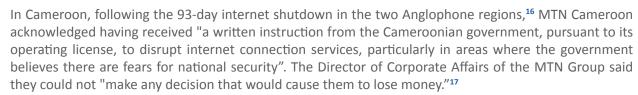
Chad

In Chad, it took strong pressure from civil society and a court intervention for Airtel Chad and Tigo Chad to admit having received orders from the government to shut down the internet and limit access to social media in certain regions of the country for a period of 16 months. The operators also stated that they were obliged to comply as their license conditions with the ARCEP (the regulatory authority for electronic communications and postal services) stipulated that in the interest of national security, they were required to cooperate with government authorities and if necessary restrict access to the networks.[15]

Countries That Confirmed A Shutdown

In some countries, operators have openly confirmed internet disruptions, and disclosed to the public that the orders were from a specific government entity. Ironically, in some instances, these disclosures have been made via the very same platforms which the internet service providers had been instructed to restrict.

Cameroon

In Cameroon, following the 93-day internet shutdown in the two Anglophone regions,[16] MTN Cameroon acknowledged having received "a written instruction from the Cameroonian government, pursuant to its operating license, to disrupt internet connection services, particularly in areas where the government believes there are fears for national security". The Director of Corporate Affairs of the MTN Group said they could not "make any decision that would cause them to lose money."[17]

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13 *Evidence of internet shutdown in Gabon amid apparent coup attempt, https://bit.ly/2MMJmpu*

14 *Internet Shutdown: The denial of the Government and Gabon Telecom, https://bit.ly/3am4hbp*

15 *Chad / Internet restrictions: Airtel and Tigo operators are due in court, https://bit.ly/3r9S5B5*

16 *Blacked Out. This documentary tells the story of Africa's longest internet shutdown, https://bit.ly/39zLcmG*

17 *Federal Republic of Cameroon, https://bit.ly/2YxEhnJ*

Zimbabwe

In Zimbabwe, following the internet shutdown in January 2019, Econet Wireless founder Strive Masiyiwa confirmed the shutdown of its network in a statement to customers on Twitter.[18] He cited a "written warrant" from the Minister of State in the Office of the President pursuant to section 6 of the Interception of Communications Act.[19] Masiyiwa's statement added that his company was "obliged to act when directed to do so in terms of the law," and that the issue was "a matter beyond our control". Further, he said failure to comply could result in three years imprisonment for members of the company's management based in Zimbabwe.

Uganda

In January 2021, Uganda's telecom operators MTN Uganda, Airtel Uganda and Africell Uganda complied with the directive from the Uganda Communications Commission (UCC) to immediately block access to the internet until further notice.[20] The three operators published notices on their social media handles informing their subscribers of the directive by the UCC. Further, MTN Uganda stated that it had implemented the directive in compliance with its "National Telecommunications Operator License and in accordance with MTN's group-wide Digital Human Rights due diligence framework".

In its notice to customers, Africell Uganda said the UCC had ordered it to suspend access to its internet gateways and associated access points with immediate effect, adding that it had "been left with no other alternative other than to comply with the aforementioned order".[21] It also indicated that it was consulting with authorities on the restoration of its internet and mobile money services. Notably, all three Ugandan operators stopped posting messages on social media while the blockage directive was in place, although all had the capacity to keep using the platforms, such as having their sister companies outside Uganda posting content on their behalf.

Countries That Resisted Shutdown Orders

Lesotho

In November 2016, the government attempted to block access to Facebook and Twitter, saying the platforms were being used to spread lies about the government.[22] In a curious case, telecom companies Econet and Vodacom joined forces with the telecom regulator, Lesotho Communications Authority (LCA), in pushing back against the government move. Initially, at the communication ministry's bidding, the regular sent letters to the two operators, asking whether they would be able to temporarily block access to Facebook and Twitter.[23] Later, the ministry sent a letter to the operators explaining why it intended to shut down social media. The operators leaked the letters to the public[24] and met the minister to make the case for maintaining uninterrupted access. Nonetheless, the minister asked the operators to block access to the platforms, a move they resisted saying such instructions had to come from the LCA.[25] The regulator opposed the move and the blockage was never effected.

18 Econet Founder Confirms Zimbabwe's Internet Ban, https://techweez.com/2019/01/16/econet-founder-confirms-zimbabwes-internet-ban/

19 Internet shutdowns in Africa: "It is like being cut off from the world", https://www.apc.org/en/news/internet-shutdowns-africa-it-being-cut-world

20 Airtel Uganda https://twitter.com/Airtel_Ug/status/1349370134457147392?s=20; MTN Uganda   https://twitter.com/mtnug/status/1349298148489924608?s=20; Africell Uganda https://twitter.com/africellUG/status/1349459092721512451?s=20

21 Africell Uganda https://twitter.com/africellUG/status/1349459092721512451/photo/1

22 Authorities in Lesotho attempt to block social media, https://monitor.civicus.org/updates/2016/11/21/lesotho/

23 Govt mulls social media crackdown, https://lestimes.com/govt-mulls-social-media-crackdown/

24 Arthur Gwagwa, When Governments Defriend \social Media, https://www.opennetafrica.org/?wpfb_dl=70

25 Shakeman Mugari, The vile 'Big Brother' law, https://menafn.com/1100953840/The-vile-Big-Brother-law

Benin

Benin experienced an internet shutdown between April 27 and 28, 2019, during parliamentary elections.[26] Although the government gave no official explanation, the Beninese press spoke of preventive measures "to avoid calls for violence on legislative election day."[27] Following outrage from users and civil society organisations, MTN Benin apologised for the network disruption but disclaimed responsibility, stating instead that the decision to disrupt the internet was beyond its control. On April 29, 2019, the operator announced the reimbursement of data packages lost due to the internet disruption. A message to some of its subscribers read: "MTN offers you 400MB corresponding to the sum of your packages activated at the weekend following the inconvenience suffered."[28]

Guinea

Following the October 2020 internet outage during Guinea's presidential election, Orange Guinea dissociated itself from the government's narrative by disclosing that the Guinean Agency for Post and Telecommunications Regulation (ARPT) had asked all telecommunications operators (Orange, MTN and Cellcom) to reduce internet speed.[29] A senior official from the company stated that since it had very large bandwidth capacity, slowing down the network would not have satisfied the government's wishes, pushing the regulator to cut the connection directly at the international gateway managed by GUILAB (La Guinéenne de la Large Bande).[30]

The ARPT attempted to deny the operator's statement and issued two contradictory statements, saying on the one hand that the outage was a result of a "failure at GUILAB", and on the other hand, that the state had established a "monitoring system of social networks" to "fight against online hatred" and "incitement to ethnic confrontation", which necessitated slowing internet speeds.[31]

Uganda

In December 2020, Google turned down a request by the Uganda Communications Commission (UCC) to suspend 17 YouTube channels and asked for more justifiable reasons to take any action.[32] Likewise, during the same month Facebook suspended fake and duplicate accounts on its platform, which it said were linked to the Ministry of Information and had been used to impersonate users and boost the popularity of pro-government posts.[33] The government retaliated in January 2021 by keeping Facebook blocked, even after it permitted access to other social networks.[34]

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26 Internet blocked in Benin on election day: https://bit.ly/3kwsGzq

27 Internet shutdown in Benin: MTN out of its reserve, announces reimbursements, https://bit.ly/3uHhMM4

28 Ibid.

29 Who really decided to cut the internet in Guinea? http://bit.ly/39CevoY

30 GUILAB is a limited company in charge of managing the capacity allocated to Guinea on the Africa Europe Coast Submarine Cable (ACE) since March 2013, the unique gateway for incoming and outgoing international communications to and originating from Guinea.

31 Who really decided to cut the internet in Guinea? Ibid.

32 Google rejects Uganda move to close YouTube channels https://www.aa.com.tr/en/africa/google-rejects-uganda-move-to-close-youtube-channels/2091678

33 Uganda elections 2021: Facebook shuts government-linked accounts
https://www.bbc.co.uk/news/world-africa-55623722?xtor=AL-72-%5Bpartner%5D-%5Byahoo.north.america%5D-%5Blink%5D-%5Bnews%5D-%5Bbizdev%5D-%5Bisapi%5D

34 Uganda restores social media, Facebook still blocked https://www.theeastafrican.co.ke/tea/news/east-africa/uganda-restores-social-media-3287024

Recommendations

While some of these steps are laudable, more needs to be done by local intermediaries to resist future shutdowns. Many of these intermediaries seem to lack the backbone to resist or challenge in court the legality of internet shutdown orders. The fact that they seem to put their business interests first, while paying limited attention to the human rights, social and *economic implications* of internet disruptions, remains problematic. Accordingly, the local intermediaries should do more to uphold consumer protection and to promote respect for human rights online. The following are recommendation that can be pursued.

- Require regulators (or Government officials and bodies who issue shutdown orders, such as ministers or security agencies) to provide a justification for the shutdown, including citing the specific laws and provisions under which they are issued and the situation that warranted invoking the disruption.
- Intermediaries should improve their transparency reporting, including documenting government directives for internet disruptions as well as user information requests, take down notices, and interception of communications support requests. Some of the largest telecom operators in Africa, such as MTN and Airtel, have been notorious for not issuing such reports.[35]
- Intermediaries should always insist on written instructions and orders from authorities, and promptly make these orders public. This is essential for transparency and accountability of government actions.
- Intermediaries should expand their partnerships and engagement with civil society and join key platforms that aim to collaboratively advance a free and open internet. This could double as an opportunity to build stronger voices to push against restrictive controls by governments through regulatory bodies or for challenging unlawful orders through litigation in courts of law.
- Give users sufficient notice that a disruption is coming. Presently, the practice especially by the large telecom companies (and less so the smaller internet service providers), is to inform subscribers of the disruption after it has occurred, or merely minutes before it occurs, or not at all.
- Intermediaries should engage regulators and push back against licensing conditions (and laws governing the telecoms sector) that are vague, or that could potentially lead to the violation of human rights.
- Intermediaries should speak out publicly about the harms which network disruptions cause to their subscribers and to the intermediaries themselves (such as lost earnings).
- Intermediaries, including local telecom companies and internet service providers, should develop and make public policies that specifically state their position on shutdowns and how they address any shutdown orders from governments.
- Intermediaries should strive to comply with the UN Business and Human Rights Principles (UNBHR), and examine how their blanket enforcement of government shutdown directives affect their compliance with the UNBHR.
- Individuals and the business community should challenge intermediaries actions before national, regional and international mechanisms for accountability and compensation of losses incurred as a result of their actions. This has potential to bar the intermediaries from implementing similar measures in the future.

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35 *While MTN at the end of 2020 issued its first transparency report, it is heavily short on meaningful data. Multinational operators that have operations in Africa, such as Orange, Millicom and Vodafone, have been leaders in issuing transparency reports, but even these are often heavily redacted, making it difficult to see how they are protecting the privacy of their users and promoting freedom of expression.*