Text and Data Mining and Copyright Protection in Kenya

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Text and Data Mining

- A brief background
  - How TDM works
  - The (complicated) relationship between TDM and copyright

Source: https://www.copyrightuser.org/understand/exceptions/text-data-mining/
TDM and Exceptions in Copyright Law

• Copyright exceptions as an access mechanism
• Orphan works and the legal/data gap
• Defining irregular legal copyright agreements
Legal and Policy Gaps

1. Narrow list of exceptions
   • Second Schedule of the Copyright Act
   • Kenyan framework provides for fair dealing principles
   • Exception is for scientific research and reproduction by Government in the public interest without revenue
   • What is scientific research?
   • What about other types of research?
   • Commercial use? Non-public interest?

2. Lack of cross border provisions
   • Copyrights are enforced and implemented territorially
   • In the digital world, information can be and is shared across borders
Legal and Policy Gaps

3. Platforms lack express TDM policies
   • Lack of knowledge and sufficient sensitization on the subject matter
   • TDM research is not as profound
Moving Forward

1. Expand the fair dealing exceptions to accommodate TDM research
   • Provide for instances such as commercial use, private use, and other forms of research
   • Consider adapting fair use principles. Fair use offers more flexibility as instead of a limited list, it provides for a list of factors that can apply to a range of uses

2. Continue to actively educate the public
   • Copyright protection, infringement, exceptions to infringement, enforcement avenues etc.
Thank you!

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