



**REPUBLIC OF KENYA**

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**MINISTRY OF SPORTS, CULTURE  
AND THE ARTS**

**NATIONAL FILM POLICY**

**2015**

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## FOREWORD

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Film has become a powerful vehicle for culture, education, leisure and for governments wishing to drive a development agenda. The Film and Television industry is critical on three levels; the social, political and economic. The industry also plays an important role in communicating ideas, information and ideology.

On a political level, this industry provides a forum for debate and discussion as well as information which is essential for citizen's participation in community life. Culturally, film production is an important contributor to the nation's cultural life and continues to shape and develop Kenya's national identity.

Economically, this is an industry which turns over billions of dollars worldwide and generates millions of jobs throughout the world. The film and television industry generates jobs directly in companies that deal with production and post-production, casting and crewing agencies, equipment-hiring, set design and manufacturing, prop suppliers as well as through marketing and distribution. Jobs are also created indirectly in supporting industries such as the hospitality, banking, insurance, transport and others.

Socially, Kenya's iconic film and television industry showcases the talents and creativity of our actors, writers, producers, directors, post-production professionals and other crew members. Films are about people, location, cultural diversity, community and telling our own stories. Films are a platform to build and nurture the cultural diversity of our people. Kenya's cultural heritage can be communicated powerfully through film. Yet the cultural role of film has sometimes been under-valued by comparison with other more traditional art forms.

The Government of Kenya therefore, sees this industry not only as a tool for information and entertainment but also as a powerful communication instrument for national integration, social and economic development and for the exploitation, preservation and further enrichment of cultural heritage and expression.

The development of the policy aims to provide the platform by which Kenyans will develop a sense of identity and understanding and communicate to each other and to the rest of the world. The policy also aims at making film an integral part of the entertainment industry in Kenya as well as an important investment and commercial pillar. The Policy seeks to ensure that Kenya strategically exploits its resources and places itself optimally in an increasingly globalized market for content development. In general, this policy seeks to facilitate the promotion of the Kenyan cultural heritage and the sustained development of the Kenyan film industry

This policy is positive and forward looking rather than protectionist. The emphasis is upon a carefully coordinated series of simulative initiatives to build the strength of Kenyan film and video resources in both the public and private sectors. To ensure that among the wide variety of films available in Kenya, a strong Kenyan option will be present.

This policy represents the views drawn from stakeholders, and the Ministry through the Department of Film Services, the state agencies involved in the film industry, the Kenya Film Commission and the Kenya Film Classification Board. The Policy shall be presented to the Cabinet for consideration and approval following which the Ministry will develop a white paper to propose the consideration of this to Parliament.

**HON. Dr. HASSAN WARIO**  
*Cabinet Secretary for Sports, Culture and the Arts*

## EXECUTIVE SUMMARY

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The Ministry of Sports, Culture and the Arts (MOSCA) through the Department of Film Services, the Kenya Film Commission and the Kenya Film Classification Board together with the stakeholders, have worked together to consolidate the gains that have been made in the sector and make proposals for the development of a sustainable film industry through this Policy. The Policy combines the cultural and commercial nature of the sector by improving its competitive capability, while at the same time taking account of its cultural dimension. Through the Policy, the Ministry aims to develop growth strategies for the film industry.

The Review is undertaken in the context of an extremely challenging economic climate, in Kenya and globally. Changes in both the global and domestic broadcasting industry indicate that this is a huge growth area in the film and television industry. These changes are related to the introduction of satellite and digital technology leading to an increase in the number of channels all over the world. This has created untapped opportunities for Kenyan producers and production houses as well as the whole sector. The number of channels in Kenya is poised to increase rapidly over the next decade given the digital migration, thus leading to increased demand for local content. For these reasons local productions should be prioritized for development by government.

As an emerging worldwide tech sector right now, Kenya is poised to attract large film productions in addition to multinational companies including Google, Nokia and Microsoft which have all set up shop in Kenya and turned it into Africa's emerging business and IT hub. This rapid growth attests to the development of the entertainment sector and this will encourage more investment, wealth creation and employment opportunities for the nation's youthful population. The government is thus keen to create an enabling environment for the sector. An expanded regional market resulting from trade liberalization over the last two decades in Eastern Africa has been pronounced, and has resulted in significant increases in exports and imports both through inter-regional trade and intra-regional trade. Films produced in Kenya will enjoy an expanded market and thus development should be encouraged. Further, there is steady growth in almost all sectors of the country and the political goodwill that exists for the film and television industry is great.

This Policy recognizes that the potential for growth in the industry is influenced by factors such as Kenya's predominantly young population and the creative potential of that population. The proposals are designed to help ensure that film, as a key part of the creative industries, is one of the sectors which plays an optimum role in driving economic growth, creating jobs and stimulating inward investment and exports.

The Government therefore recognizes the film industry as a key growth area and acknowledges the need to develop a Policy and strategies for development and interventions to promote growth of the film industry. In this regard, the Policy is intended to enhance the innovativeness, efficiency, quality and competitiveness of the sector.

The policy undertakes a review of the history of the film sector in Kenya and current status of the film industry. The policy then looks at the justification for the sector which includes the potential for contribution to the economy of the country, the importance of the sector in fostering national cohesion and integration, culture and heritage as well as branding Kenya's national identity as a country and finally, promoting tourism.

The Policy recommends the development of this sector through legislation and regulation reforms, institutional development, capacity building and promotion of local content, structured partnerships and facilitating county governments to grow their respective film industries. The Policy recommends

the enactment of legislation such as the Kenya Film Bill which will streamline and address the challenges in the industry.

The Policy addresses the need to better market and position Kenya by giving it a competitive edge as a preferred filming destination globally. It also recommends an enhancement of the functions and responsibilities of the respective State Agencies in the film industry so that they are strategically placed to meet the needs of the industry.

In closing the policy outlines an implementation framework which includes a development of a matrix, development of relevant bills, policy alignment and monitoring and evaluation.

## **ABBREVIATIONS AND ACRONYMS**

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<b>ACA</b>	Anti-Counterfeit Agency
<b>AG</b>	Attorney General
<b>BCAC</b>	Broadcast Content Advisory Council
<b>CA</b>	Communications Commission of Kenya
<b>CD</b>	Compact Disk
<b>COFEK</b>	Consumers Federation of Kenya
<b>DFS</b>	Department of Film Services
<b>DVD</b>	Digital Video Disk
<b>EPC</b>	Export Promotion Council
<b>FEPASI</b>	Pan African Federation of Film-makers
<b>GDP</b>	Gross Domestic Product
<b>GNP</b>	Gross National Product
<b>ICTA</b>	Information and Communications Technology Authority
<b>ISIC</b>	International System of Industry Classification
<b>KBC</b>	Kenya Broadcasting Corporation
<b>KECOBO</b>	Kenya Copyright Board
<b>KFC</b>	Kenya Film Commission
<b>KFCB</b>	Kenya Film Classification Board
<b>KFS</b>	Kenya Forest Service
<b>KFTPA</b>	Kenya Film and Television Professionals Association
<b>KIA</b>	Kenya Investment Authority
<b>KIMC</b>	Kenya Institute of Mass Communication
<b>KIPI</b>	Kenya Intellectual Property Institute
<b>KLS</b>	Kenya Library Service
<b>KNBS</b>	Kenya National Bureau of Statistics
<b>KNFA</b>	Kenya National Film Association
<b>KPS</b>	Kenya Police Service
<b>KRA</b>	Kenya Revenue Authority
<b>KTB</b>	Kenya Tourism Board
<b>KWS</b>	Kenya Wildlife Service
<b>MOA</b>	Media Owners Association
<b>MOICT</b>	Ministry for Information, Communications and Technology
<b>MOSCA</b>	Ministry of Sports, Culture and the Arts
<b>NEMA</b>	National Environmental Management Authority
<b>NMK</b>	National Museums of Kenya
<b>SMEs</b>	Small and Micro Enterprises

## DEFINITIONS OF COMMONLY USED TERMS

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<b>“Analogue”</b>	In the context of this policy, the term “analogue” refers to heritage information that are not in digital form. Examples include paper records, tape recordings (non-digital), video recordings (non-digital) and microfiche.
<b>“Authentication”</b>	Authentication is a process in which a user is required to prove that they are who they are before being granted access to information resources and services. This is the basis for most modern security implementations.
<b>“Benchmarking”</b>	This is an approach in research in which similar institutions or organizations are compared against one another in terms of their inputs, process and outputs.
<b>“Cabinet Secretary”</b>	Means the Cabinet Secretary for the time being responsible for matters relating to film.
<b>“Cinema”</b>	Means a Movie Theatre, Theatre, Multiplex or also the production of movies as an art or industry.
<b>“Conservation”</b>	Refers to all measures and actions aimed at safeguarding audio-visual content/ heritage while ensuring its accessibility to present and future generation. Conservation embraces preventive conservation, remedial conservation and restoration. All measures and actions should be in respect of the significance and the physical properties of the audio-visual content.
<b>“Copyright”</b>	A legal term describing rights given to creators for their literacy and artistic works.
<b>“Digital content”</b>	Means any type of content that exists in the form of digital data
<b>“Digitization”</b>	The conversion of analogue information into digital form.
<b>“Exhibition”</b>	Means the projection of a film or other optical effect by means of a cinematograph of similar apparatus.
<b>“Film”</b>	Means any sequence of visual or digital images recorded on material of any description, and includes audio-visual productions such as cinematographic films, video, television, digital and interactive media, so as to be capable, by the use of that material.
<b>“Film Production”</b>	Means to produce for sale or commercial exploitation, any film and includes the organization and preparation for such production, directing and operating of cameras, and “produce a film” shall have a corresponding meaning.
<b>“Film Producer”</b>	Means a person responsible for the film production.
<b>“Film Servicing Industry”</b>	Means all natural and legal persons whose principal purpose of business is to provide facilities and, or equipment to the audiovisual industry or such other purpose as may be prescribed by the Cabinet Secretary.
<b>“Lead Agency”</b>	Means Government ministry, State Corporation or County Government, in which the law has vested functions of control of management of any of the Film-related activities and services.
<b>“License”</b>	This includes provisional license granted under the provisions of this Act.
<b>“Making a Film”</b>	Means the act photographing or otherwise taking part in or arranging any scenes or episodes for the purpose of the production of a film.
<b>“Public exhibition” and “Public performance”</b>	Means respectively an exhibition and a performance to which the public are admitted, whether on payment or gratuitously.
<b>“Sector”</b>	Shall include the industry
<b>“Watershed period”</b>	This is the time between 5.00am and 10 pm during which content intended for an adult audience is not to be aired.
<b>“VOIP”</b>	Method for taking analog audio signals, like the kind you hear when you talk on the phone, and turning them into digital data that can be transmitted over the Internet.



# 1. BACKGROUND AND HISTORY

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The film industry is an important vehicle for social, cultural, political and economic development. Thus a well nurtured film industry can be a major source of wealth creation, employment and an effective tool and platform for the cultural preservation and expression of a people. The industry can promote a country's potential as an investment and tourist destination and as an advocacy tool and shaper of opinion. Film can be used to effectively demystify cultural and ethnic differences by using it to promote integration and unity of a people.

The sector encompasses the following activities: local and foreign film productions, film and video production support services, examining and classification of film content, film funding and investment services, training and nurturing local talent, research, marketing, distribution and exhibition services.

The liberalization of the airwaves and the increased number of broadcasting stations has not fully benefited local film makers since the issuance of broadcast licenses was done without conditions that stipulate express provision for local content in the programming.

It is imperative that primary efforts be directed towards developing an indigenous Kenyan film industry in order to add value to the cultural and artistic heritage of Kenyans through productions made by Kenyans. There is also the need to provide Kenyan artists with an avenue to fully exploit their potential and create wealth and employment. Since film derives its content from the indigenous literature, theatre, arts and music of a people, it provides an important medium of expression and celebration of a people's culture and heritage.

There is need to encourage foreign film production companies to make films in Kenya and ensure that there are laid down regulations for licensing, examining and classifying film content. This is an important way of promoting national values and generating foreign exchange for the country.

The Government therefore recognizes the need to develop a policy and strategies for this industry's development and interventions to promote its growth. In this regard, the government through engagement with the stakeholders will formulate action plans, address constraints and offer specific support services that will enhance the innovativeness, efficiency, quality and competitiveness of the film industry. The government will also endeavor to provide an enabling environment for investment through incentives and other Programmes.

This National Film Policy aims to provide the platform by which Kenyans will develop a sense of identity and understanding and communicate to each other and to the rest of the world. The policy also aims at making film an integral part of the entertainment industry in Kenya as well as an important investment and commercial pillar. The Policy seeks to ensure that Kenya strategically exploits its resources and places itself optimally in an increasingly globalized market for content development. In general, this policy seeks to facilitate the promotion of the Kenyan cultural heritage and the sustained development of the Kenyan film industry.

## 1.1 HISTORY OF THE FILM INDUSTRY

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Cinema came early to Kenya. The first screening of films took place in 1902 and by 1916 Kenya had its first cinema house, *Theatre Royal*, in Nairobi. This was joined soon after by *Empire Theatre* and *Capital Theatre* also situated in Nairobi.

In the early 1930's film producers from Europe and Hollywood were drawn to Kenya's favorable climate and excellent locations to shoot films like *'Snows of Kilimanjaro'*, *'Mogambo'*, and *'King Solomon's Mines'*.

Documentary film production in Kenya started in the 1940's with the filming of *'War came to Kenya'* (1942) by the colonial authorities. This and other films, especially late in the 1950's, such as *'Mau Mau'* (1954) were disseminated for propaganda purposes by the colonial authorities.

In the first decade after independence, five feature films were produced by indigenous Kenyan film makers. These include *'Mlevi'* (1967) and *'Mrembo'* (1968) in Kiswahili, *'Bushtrackers'* (1981) and *'Kolormask'* (1986), the first full length feature film produced by the Kenya Film Corporation. Kenya became a choice location for international filmmakers and a consumer of foreign films. Films filmed in Kenya were blockbusters such as *'Out of Africa'* (1980), *'Rise and Fall of Iddi Amin'* (1981), *'I Dreamed of Africa'* (2000), *'Nowhere in Africa'* (2001) and *'The Constant Gardener'* (2005) not to mention the numerous wildlife films that have been shot in our stunning landscape and game parks.

In the mid 1980's, Kenya had 51 cinema theatres, the majority of them concentrated in the major urban centers. Film attendance figures reached a peak of 7.5 million in 1978 and reportedly fell to 4.5 million in 1984 on account of the 'video invasion.' The cinema appeared to be fighting back effectively with attendance figures rising back to 6 million in 1985 and was expected to maintain the upward trend.

Throughout the history of film in Kenya there has been a dependence of the Kenyan population on foreign entertainment through film and television, yet the country, with such a diverse and rich cultural heritage is unable to effectively express itself to its people and to the rest of the world by telling its own story through this powerful and effective medium: film. The National government aims to promote local content and the expression of Kenya's diverse and rich cultural heritage.

The Ministry of Sports, Culture and the Arts, which oversee film sector, is currently tasked with the development of the film industry, film development policy and the promotion of local content. This is done through the Department of Film Services. The Ministry of Sports Culture and the Arts provides the necessary resources and policy direction that supports the institutions. The Sector has two state agencies that engage with the industry in a development and regulatory capacity. These are the Kenya Film Classification Board and the Kenya Film Commission.

Formerly the Kenya Film Censorship Board, the Kenya Film Classification Board was established in 1930 by an Act of Parliament enacted in 1963 being the Films and Stage Plays Act (Cap 222). The Board is established under Part III of Act and is empowered to classify films for public exhibition and to ensure that they conform to national aspirations. The Act also establishes the Licensing Officer, appointed by the Minister for the purpose of issuing filming licenses to film producers as well as registration of film agents. The Licensing officer is currently housed in the Ministry at the Department of Film Services. The Kenya Film Commission was established under Legal Notice No.10 of 2005 with the mandate of developing, promoting and marketing the film industry. This mandate has since been enhanced under Legal Order No. 147 of 2015.

## **1.2 THE DEVELOPMENT OF THE NATIONAL FILM POLICY**

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The process towards developing a National Film Policy began in earnest in an initial meeting held on 17<sup>th</sup> May 2002 chaired by the Ministry of Tourism and Information and attended by stakeholders from the industry to brainstorm on the challenges and opportunities facing Kenya's film industry. It was noted that the industry was not performing at optimum owing to poor co-ordination, facilitation, promotion and development of the film industry and filming activities in the country. A further appraisal of the situation revealed the lack of a clear policy framework as a major impediment to the growth of the industry.

A resolution of this meeting was the immediate formation of a multi-sectoral taskforce, drawing representation from both the public and private sectors. The terms of reference for this taskforce included *inter-alia*, reviewing the existing policy guidelines and suggesting short and long term policy interventions. The taskforce met from June to August 2002 after which the recommendations emanating from the report were forwarded to the then Minister for Tourism and Information, Hon. Raphael Tuju, EGH MP.

The findings of the taskforce were made public in a meeting convened by the Ministry of Tourism and Information on 12<sup>th</sup> February 2003 at the French Cultural Center. The meeting was graced by the Minister who in his remarks noted that the Government was committed to creating an enabling environment in which the potentialities of the film industry could be fully exploited for the benefit of the country. It was during this meeting that stakeholders called for the speedy establishment of the Kenya Film Commission, along the lines of an independent corporate body that would facilitate the development of the film industry in collaboration with all stakeholders.

An outcome of this meeting was the appointment of a multi-sectoral taskforce which submitted a report and Cabinet Memo seeking approval for the establishment of the Kenya Film Commission. In May 2005, the President assented to the Kenya Film Commission Order No.10 of 2005, which gave way to the establishment of the Kenya Film Commission.

Amongst its stated functions, the Kenya Film Commission was "*...to provide guidance for the development of a vibrant film industry*". Pursuant to this, the Kenya Film Commission under the auspices of the Ministry of Information and Communications hosted an inaugural Film Policy Stakeholders meeting on the 22<sup>nd</sup> of August 2008 in Nairobi with a view to initiating a consultative process that would lead to the development of a National Film Policy.

An initial draft Film Policy was completed in May 2008, and was subjected to review by stakeholders in December 2008, under the stewardship of the National Communications Secretariat, and drawing membership from the Ministry headquarters, KFCB, DFS, KFC, State Law Office, MOA, and the film associations; *Kenya National Film Association (KNFA)*, *Kenya Film and Television Professional Associations (KFTPA)* and *Third Force Association (currently Riverwood Ensemble)* among others.

In September 2009, a stakeholders meeting was convened under the auspices of the Kenya Film Commission to receive and give feedback on the gaps that had been identified by stakeholders following widespread circulation of the second draft document. A National Film Policy Retreat was convened by the Kenya Film Commission in August 2012.

In 2010, the New Constitution was promulgated giving rise to a new devolved system of government being national and county governments. This, together with the digital migration process meant that the landscape in the film sector was changing and there was need for the policy to address these emerging changes. Further, the Kenya Film Classification Board and the Kenya Film Commission were identified to undergo reorganization under the parastatals reform process. The Presidential Taskforce on Parastatal Reforms, in its report issued in October 2013, directed that the Kenya Film Commission be tasked with development and promotion of the Industry, while the regulatory function be housed centrally within the Kenya Film Classification Board. All these emerging issues occasioned a delay in the finalization of the Policy.

### **1.3 CURRENT STATUS OF THE INDUSTRY**

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The film and television industry broadly comprises two intimately linked components: the production industry which produces content for both film and television viewing and on the other hand, there is the distribution side which comprises businesses that sell and supply produced film content to cinema theatres, television broadcasters, rental, retail and/or online outlets. Further, there is production that is primarily intended for cinema exhibition that ends up on television broadcasts and film outlets.

In the last 3 decades, the film industry in Kenya has witnessed rapid growth and its potential has been recognized. Meaningful growth has been recorded with the support of Ministry of Sports, Culture and the Arts through the Department of Film Services (DFS), Kenya Film Classification Board (KFCB) and the Kenya Film Commission (KFC).

In the 1970s and 1980s, the Kenyan cinema market was dominated by the existence of cinema theatres where families would go out to watch the latest releases in the movie market. During this period, there were few or no local productions shown in these theatres and their availability was skewed towards major urban towns with no presence in the rural areas. This period also saw a steady increase of local artistes whose work was broadcast in the then government sponsored Voice of Kenya (VOK) radio station, now known as the Kenya Broadcasting Corporation (KBC). Unfortunately, the works of the Kenyan artistes had a very limited reach given the very low numbers of households with television sets, and as a result, the levels of income accruing to them was quite low.

However, with the advent of liberalization of the broadcast sector, many Kenyan homesteads acquired television sets, which led to a decrease in traditional cinema screening and a fall in attendance by the general public to cinema theatres. This, nevertheless, gave rise to Kenyan artistes whose works could now be screened on the national television channels. But the full revolution in the Kenyan film industry took place in the late 1990s and early 2000 with the coming of video cameras, recordable tapes and the emergence of individual producers willing to produce works of local artistes who by this time were getting more fame and exposure due to the expansion of the television market and internet

Local productions of programs have recently begun to enjoy a strong following both locally and internationally. This is evident in the airplay time allocated to local productions by broadcast stations, pay TV channels which in effect has exposed local content to the international market as well as spurred production at the local level. Free-to-Air and Pay TV Broadcasters have started commissioning content with the aim of building capacity of local film producers, developing and

promoting local content and viewership in Kenya. Local films that have been done in the recent past have included *Lost* by Robert Bresson, *'The Race'* by Mburu Kimani, *'The Stigma'* by Sheila Mulinya, *'Malooned'* by Bob Nyanja, *'Ras Star'* by Wanuri Kahiu and Anna Marano. Other local content productions that have received good ratings among the local audience include *'Nairobi Half Life'* and *'Something Necessary'*, *"House of Lingula"*, *"Fundi-Mentals"*, *"Niko na Genge"* among others.

Rather than featured films with fictional content, Kenya has mostly produced documentary films often featuring social conditions in the main cities. Since the year 2000, feature films on DVD technology production have increased in the country. They include *'Money & the Cross'* by Njeri Karago, *'Driving to Glory'* by Christine Bala, *'Naliaka' is Going* by Albert Wandago, *'The Price of a Daughter'* and *'Behind Closed Doors'* by Jane Murago-Munene among many others.

Other low-budget independent filmmakers using digital technology to shoot their films and sell them locally on DVD and VCD format have led to the growth of the Riverwood Industry. Though it originally takes its name from River-road, the busy street where music tapes and electronics are sold, Riverwood is fast capturing the attention of the mainstream TV stations and pan-African broadcasters. Mburu Kimani's *'The Race'* earned an award at the inaugural Kalasha Film and TV Awards for Best Riverwood Film. The latest films from this sector include *"Moskode"*, *"Sibini"*, *"The Cleansing"*, *"Ririkana"* and *"Early Marriage"*.

The migration to digital platforms and technological revolutions provides an opportunity for the industry to grow exponentially by providing a market for local content internationally and locally. So far, the industry has benefitted greatly from the digital migration process. Since then 70 broadcasters have been licensed, 50 of whom are on air and this alone has created more than 2,500 jobs. This, coupled with the amendments to the Kenya Information and Technology (Amendment) Act of 2013 which fixed the requirement of local content for broadcaster at 40% and 60% by 2018, has created great potential for the film industry. The internet, through websites like Youtube, web TV, VOIP and others have also widened the market and even the channels for distribution.

#### Support Currently Offered to the Industry:

Currently the support the Industry receives through KFC, KFCB and DFS and other government agencies in key areas is as follows;

NO	AREA OF SUPPORT	EXISTING AND PLANNED SUPPORT	SUPPORT INSTITUTIONS
1	<b>Marketing – destination marketing and product marketing</b>	<ul style="list-style-type: none"> <li>• Destination marketing, including pavilions</li> <li>• hosting events at festivals and facilitation markets and support for attending festivals and markets</li> <li>• Product marketing support, including support for screening productions to local and international audiences (e.g. sponsorship of venues), exposure of emerging filmmakers</li> <li>• Funding of Kalasha Film Festival</li> <li>• Production of National classified films catalogue</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA</li> <li>• KFC</li> <li>• Film Agents</li> <li>• Independent Film producers</li> <li>• KFCB</li> <li>• KTB</li> </ul>
2	<b>Investment promotion</b>	<ul style="list-style-type: none"> <li>• Investor information, investment promotion and marketing</li> <li>• Financing of investments</li> <li>• Development of infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• KFC</li> <li>• Chamber of Commerce</li> <li>• Keninvest</li> <li>• Konza Tech City</li> <li>• EPC</li> <li>• KTB</li> </ul>

3	<b>Skills and enterprise development</b>	<ul style="list-style-type: none"> <li>• Skills development</li> <li>• Research and information</li> <li>• Funding and coordination of skills development and placement programme</li> <li>• Film mentorship</li> <li>• Film Resource centre</li> <li>• Film Seminars and courses</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA</li> <li>• KFC</li> <li>• Private/State Universities/tertiary institutions</li> <li>• KIMTC</li> <li>• KFCB</li> </ul>
4	<b>Audience development</b>	<ul style="list-style-type: none"> <li>• Various programmes aimed at improving film awareness and appreciation including incorporation of sign language</li> <li>• Festivals, Film screenings, etc.</li> <li>• Empowerment of film content consumers</li> </ul>	<ul style="list-style-type: none"> <li>• DFS</li> <li>• KFCB</li> <li>• KFC</li> <li>• Independent Film Producers</li> <li>• Film Exhibitors</li> </ul>
5	<b>Local content development</b>	<ul style="list-style-type: none"> <li>• Establish Local content quotas</li> <li>• Local and vernacular broadcasting channels</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA</li> <li>• KFC</li> <li>• MOICT</li> <li>• CA</li> <li>• Television Broadcast Houses</li> <li>• Independent film Producers</li> </ul>
6	<b>Research &amp; Information</b>	<ul style="list-style-type: none"> <li>• Skills transfer to local producers</li> <li>• Commissioning of film sector research</li> <li>• Surveys of Box office and audience trends</li> <li>• Mapping of SMEs in the film sector</li> </ul>	<ul style="list-style-type: none"> <li>• DFS</li> <li>• KFC</li> <li>• KFCB</li> <li>• KNBS</li> <li>• Learning Institutions</li> </ul>
7	<b>Industry organization, communication and networking</b>	<ul style="list-style-type: none"> <li>• Film Industry events</li> <li>• Industry Associations</li> <li>• Coordinating and disseminating information to the stakeholders of all related state agencies</li> <li>• Developing standards and code of conduct</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA</li> <li>• KFC</li> <li>• Associations in the Film Sector</li> <li>• KFCB</li> <li>• FEPASI</li> </ul>
8	<b>Finance</b>	<ul style="list-style-type: none"> <li>• Film &amp; television Production incentives</li> <li>• Access to funding</li> <li>• PPP's</li> <li>• Rebates</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA</li> <li>• National Treasury</li> <li>• KFC</li> <li>• FEPASI</li> <li>• Development Agencies</li> <li>• YEDF</li> <li>• Banks</li> </ul>
9	<b>Infrastructure, technology and equipment</b>	<ul style="list-style-type: none"> <li>• Improvement of ICT infrastructure (stability, affordability, accessibility, capacity)</li> <li>• Increased uptake of ICT in government</li> <li>• Support for digital migration process</li> <li>• Support for viewing facilities</li> <li>• Provision of internet for emerging filmmakers</li> <li>• Provision of managed office space / incubation facilities,</li> <li>• Support for community-based television station by providing studio facilities</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA</li> <li>• KFC</li> <li>• Mobile Service Providers</li> <li>• Content Service Providers</li> <li>• ICT Authority</li> <li>• CA</li> </ul>
10	<b>Standards and quality assurance</b>	<ul style="list-style-type: none"> <li>• Monitoring of the broadcasting environment and enforcing compliance with rules, regulations and policies</li> <li>• Protect consumers from unfair business practices, poor quality services and harmful or inferior products</li> <li>• Development of specific industry standards or fee structures</li> <li>• Development of processes for addressing breaches in conduct</li> <li>• Standards development for training providers</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA</li> <li>• KFCB</li> <li>• KEBS</li> <li>• CA</li> <li>• Ministry for Education</li> <li>• Commission for Higher Education</li> <li>• KATTI</li> <li>• KFC</li> <li>• State/Private training</li> </ul>

			Institutions
11	<b>Legislation and regulation</b>	<ul style="list-style-type: none"> <li>• Legislation and regulation of telecoms and broadcasting, including local content quotas</li> <li>• on electronic content and communications</li> <li>• Registration of Intellectual Property Rights</li> <li>• Anti-piracy campaigns</li> <li>• Consumer protection</li> <li>• Investigation into restrictive business practices,</li> </ul>	<ul style="list-style-type: none"> <li>• AG</li> <li>• MOSCA</li> <li>• MOICT</li> <li>• KFC</li> <li>• CA</li> <li>• KFCB</li> <li>• KECOBO</li> </ul>
12	<b>Access to Filming Locations</b>	<ul style="list-style-type: none"> <li>• Development of by-laws for commercial film and photography</li> <li>• Management of locations access for film productions and events and provision of support staff (traffic, etc.)</li> <li>• support for foreign production crews</li> <li>• Information on locations access</li> <li>• Issuing shooting Permits</li> <li>• Trouble-shooting for locations access</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA</li> <li>• KFC</li> <li>• KWS/KFS</li> <li>• Immigration Department</li> <li>• County Governments</li> <li>• Filmmakers</li> <li>• Film agents</li> <li>• NEMA</li> </ul>
13	<b>Access to exhibitors/ distributors/ distribution platforms</b>	<ul style="list-style-type: none"> <li>• Development and maintenance of a register of all films and video outlets in Kenya</li> <li>• Promotion of distribution platforms</li> </ul>	<ul style="list-style-type: none"> <li>• KFCB</li> <li>• KFC</li> <li>• MOSCA</li> <li>• KBC</li> <li>• Exhibitors</li> <li>• Distributors</li> <li>• Broadcasters</li> <li>• Industry stakeholders</li> <li>• KECOBO</li> </ul>
14	<b>Archives, culture and heritage</b>	<ul style="list-style-type: none"> <li>• Identification, conservation, protection and promotion of audio-visual content.</li> <li>• Promoting cultural and national values through film</li> <li>• Maintain a comprehensive database of film, video and sound archival material</li> <li>• Developing a national film, video and sound database</li> </ul>	<ul style="list-style-type: none"> <li>• MOSCA (DFS)</li> <li>• KFC</li> <li>• KNLS</li> <li>• KBC</li> <li>• National Archives</li> <li>• NMK</li> </ul>

## 2. CHALLENGES IN THE INDUSTRY

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The film industry in Kenya has not been fully exploited due to lack of a policy framework despite the industry's potential. The performance of the industry has been unsatisfactory. Following meetings with stakeholders and research, the key impediments have been identified as follows:

- i) Non prioritization of the film industry as a valuable contributor to the Kenyan economy.
- ii) Budgetary constraints for the various government agencies and parastatals in the film industry.
- iii) Weak legal and regulatory framework.
- iv) Lack of comprehensive statistical on the film industry
- v) Insufficient guidelines, ethics and codes of conduct.
- vi) Fragmented industry with many associations and inadequate collaboration.
- vii) Inadequate channels for legal redress for aggrieved parties in the industry.
- viii) Inadequate film production infrastructure.
- ix) Lack of adequate funding opportunities and absence of sector specific tax and other incentives that would encourage the development of film industry in Kenya.
- x) Insufficient quality control in film training institutions as well standardized accreditation, syllabus and examination.
- xi) High levels of piracy in the industry that denies producers and distributors their returns on investment in film productions.
- xii) Lack of structured marketing and distribution channels in the Kenyan film industry.
- xiii) Inadequate local content in terms of quality and quantity.
- xiv) Lack of common Kenyan identity in local film.
- xv) Lack of a well-established cinema-going culture among the population.
- xvi) Lack of harmonized film fees and charges by National State Agencies and county governments.
- xvii) Rapid revolutions in technology.



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## **3 JUSTIFICATION FOR THE POLICY**

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### **3.1 JUSTIFICATION FOR THE NATIONAL FILM POLICY**

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The film industry has great potential to contribute to the economic pillar of vision 2030 in terms of job and wealth creation in the production and distribution of films and also generation of foreign exchange and tax revenues. It also contributes to the social and political pillar of the vision 2030 through films which promote national cohesion, values and aspiration of the Kenyan people.

The National Film Policy has been developed with the following justifications:

- i) Increased Economic growth
- ii) Building the national Brand
- iii) Promotion of National Culture and Heritage
- iv) Promotion of Tourism
- v) Promotion of National Cohesions and Integration

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#### **3.1.1 Increased Economic Growth**

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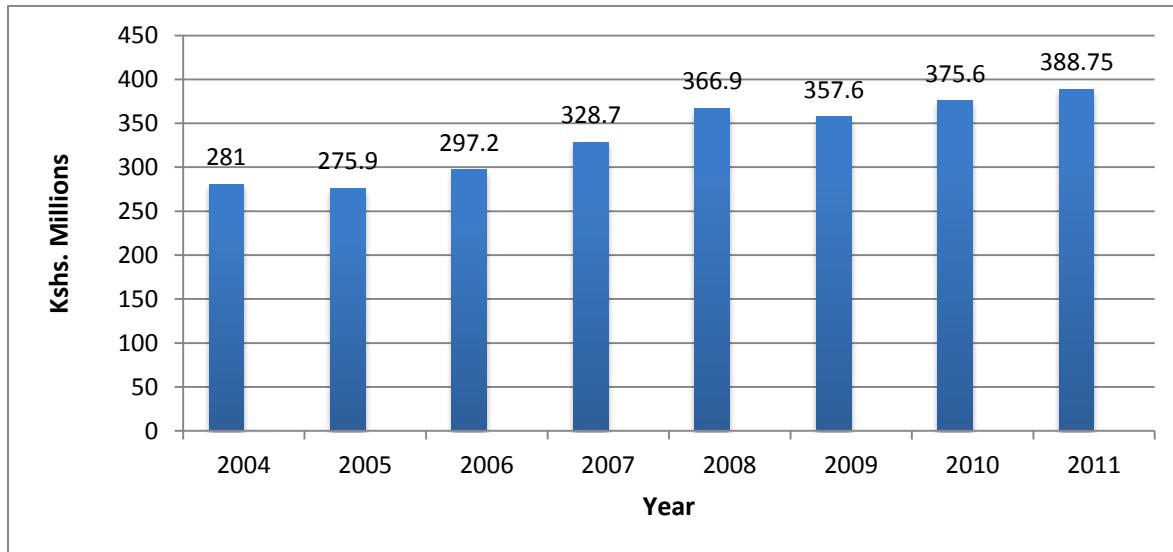
The creative industries are contributing significantly to economic growth worldwide. In June 2004 the United Nations Conference on Trade and Development (UNCTAD) said, “Globally, the creative industries are estimated to account for more than 7% of the world’s Gross Domestic Product and are forecasted to grow at a rate of 14% yearly. In the United Kingdom, for example, creative industries already generate revenues of over £110 billion and employ over 1.3 million people. The Nigerian Film Industry is ranked third globally in revenue, with receipts over the years reported to range between US\$300m to US\$800m in the recent past. Nollywood films rights are predominantly exploited through Home Video–CDs/DVDs releases and Cable/Satellite broadcast rights. The sector encompasses the following activities: local film productions; foreign film and video productions; support services; funding and investment, training, development of local talent, distribution and commercials.

According to statistics from Kenya Revenue Authority, the Kenyan Film Industry was estimated to have injected KShs.1.9billion to the economy in the financial year 2011 through local and international earnings. According to a research done in 2011, the total GDP value from the industry amounted to KShs.74 billion, which represented 2.45% of the total GDP. The industry’s direct contribution to Kenyan economy was KShs.1.9 billion (0.066%), the indirect contribution was KShs.67.2 Billion (2.22%), and the induced contributions from partial industries are estimated at totaling KShs.17.8 Billion (0.592%). More recently, a UNESCO report stated that the creative industries, of which the film sector is a part, accounts for 5% contribution to GDP as well as roughly 4% of national employment. A Creative Economy Task Force Report issued by the Ministry of Information and Communication (under the then Permanent Secretary Bitange Ndemo), in September 2012 projected that Kenya’s creative industries could catalyze the country’s overall economic growth by doubling its contribution to the GDP to 10% by 2017. According to records from the Departments of Film Services, so far 150 film agents have been registered in Kenya and films, with a value of over KShs.2 Billion, have been shot in the Country over the last five years.

i) **Direct Earnings**

The estimated direct earnings by the film industry (motion pictures and related industries) recorded a moderate growth. Direct earnings by the industry have increased gradually from Kshs.281million in 2004 to Kshs.388.75 million in 2011 as indicated in Figure 1. Considering that in 2011 the annual inflation rate was 14%, the growth in economic contribution of the industry is fairly moderate.

**Total Earnings From Entertainment Services (Film Industry)**



Source: KNBS Statistical Abstract

i) **Foreign Exchange Earnings:**

The Film Industry is important in contributing to the foreign exchange earnings. The potential sources of foreign exchange earnings from the sector include the sales from films, music, filming fees, park entry fees and special passes. An example of the authoritative data regarding the sector contribution to film foreign exchange earnings is that 5688 special passes were issued over the last few years by the Immigration Department for visitors who arrived in the country to film wildlife as well as motion pictures. With consistent growth of the sector, there is potential for increase in foreign exchange earnings. There should be greater effort to quantify the exact foreign exchange earnings in the film industry in Kenya. As an initial step the film industry should be recognized and categorized as a stand-alone sector in government statistics and more data is needed from the Industry.

ii) **Indirect Revenues generated:**

In estimating the indirect contribution of the film/TV industry to the Kenyan economy, several relevant and subsidiary sectors were considered to determine how the industry contributes to the economy in indirect terms. The following sectors have made notable contributions to the economy:

**Overall indirect financial contribution of the film & television industry (KShs. millions)**

<b>INDIRECT EARNINGS BY INDUSTRY</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Retail Trade - Food, Drink & Tobacco	2,529.70	2,939.00	3,033.10	3,854.60
Retail Trade - Photographic and pharmaceutical goods	2,435.00	2,598.00	2,673.40	2,856.70
Air transport carriers including aircraft rental	6,351.20	6,739.50	7,737.30	8,836.40
Freight by Road	6,459.10	6,941.10	7,685.60	8,376.10
Financial Services	1,550.00	1,673.90	1,752.60	1,905.70
Legal Services	1,538.50	1,831.60	1,909.50	1,989.40
Accounting, auditing and book keeping services	3,210.80	3,374.30	3,488.50	3,715.30
Advertising services	377.90	415.10	434.90	463.60
Photographic studios, including commercial photography	389.30	432.50	460.70	502.80
Machinery and equipment rental and leasing	15,075.10	16,836.80	17,562.26	21,146.40
Electricity and power	8,628.80	9,316.90	9,591.75	9,856.90
Motion picture and other entertainment services	375.20	366.40	343.10	340.60
Travel Agencies	2,419.90	2,784.70	3,082.30	3,414.10
<b>Total</b>	<b>51,340.50</b>	<b>56,213.80</b>	<b>59,755.91</b>	<b>67,258.6</b>

Source: Kenya National Bureau of Statistics 2012

Further incidental total impacts of earnings by the industry are as follows:

**Overall Indirect Financial Contributions – Incidental Impact (Kshs Million)**

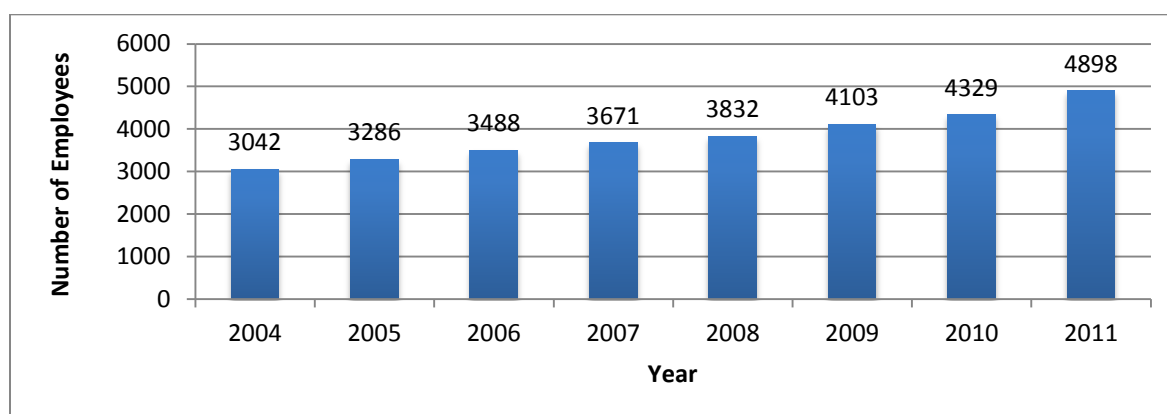
<b>INCIDENTAL IMPACTS TOTAL EARNINGS BY INDUSTRY</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>
Retail Trade - Hotels, rooming houses, camps and other lodging places	15,823.1	15,548.7	16,054.1	16,541.3
Libraries, Museums, botanical and zoological gardens and other cultural services	1,089.50	1,169.3	1,252.2	1,356.9
<b>Total</b>	<b>16,912.60</b>	<b>16,718.00</b>	<b>17,306.3</b>	<b>17,898.2</b>

Source: Kenya National Bureau of Statistics 2012

iii) **Wage Employment in the Industry**

In terms of industry growth, the number of temporary employment opportunities in the sector improved from 3286 in 2005 to 4898 in 2011. This is indicative of the potential the film industry has in providing employment opportunities and generating revenues to the local economy.

**Wage Employment in the Industry**



Source: Kenya National Bureau of Statistics

iv) **Wage earnings by the Industry**

The steady growth in the sector is also reflected in the wage earnings in the sector as reflected in the table below:

**Wage Earnings**

Year	Kshs. Millions				
	2007	2008	2009	2010	2011
Motion pictures & other entertainment	340.5	375.2	366.4	343.1	340.6
otographic & others	2251.3	2435.0	2598.0	2,435.0	2,598.0
Totals	2,098.4	2,292.9	2,580.0	2,791.9	2,955.6

Source: Kenya National Bureau of Statistics

v) **Number of Establishments**

The number of establishments engaged in the film and photographic industry has also shown a steady increase from a total of 411 in 2010 to 496 in 2011 as shown in the table below. It is also important to note that 73% of the establishments in the industry were employing between 1-9 people. Currently there are over 80 registered Film agents in the Country.

### Number of Establishments by size - 2011

Industry	0-5	5-9	10-19	20-49	>49	Total
Motion pictures & other entertainment	26	11	15	8	23	83
Photographic & others	241	86	50	31	5	413
Totals	267	97	65	39	28	496

Source: Kenya National Bureau of Statistics 2012

#### vi) Value Addition

The value of the economic contribution of the film industry in Kenya in terms of value-addition, employment, and employee incomes is significant.

The total value-added contribution of film industry in the year 2010 was as follows:

#### **Value Added Contributions 2011**

ITEM	Value Kshs Million	%
Total GDP at basic prices	3,024,782	
Direct Contribution	1,992.75	0.0659
Indirect Contribution	67,258.60	2.223
Induced contributions	17,898.2	0.591
Totals	87,149.55	2.88

### 3.1.2 Building the National Brand

Brands have become an increasingly important currency in the global marketplace. Kenya's brand is starting to shine and given a focal point, the growing pace can be hastened. The creative industries are at the centre of a modern service-based economy and the core driver for the creative industries is the film and television industry. Film is a breeding ground, providing a frame of reference, a point of inspiration for those who contribute in the areas of ideas, innovation and creative solutions, which influence, engage and contribute to the areas of visual and digital design, communications and information systems and technology; marketing and promotion. All these contribute to a modern, effective, efficient, developed and globally competitive service-based economy.

A key advantage of brands in any marketing environment is that they are sustainable. Appeals to a wide and diverse market through films act as springboards for campaigns product placements influence a viewer's attitude towards a brand so too will film have an impact on destination image if location plays in film. The New Zealand tourism board looked at the "Lord of the Rings" film as the equivalent of a promotional piece and worked out what the exposure would have cost to access commercially estimated exposure at US\$ 41 Million.

Kenya needs to utilize film and television to build its brand as a way in which its culture and heritage can be known and recognized worldwide. Through film, Kenya can showcase the attributes of Kenya that contribute positively to the image and reputation of the Nation.

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### 3.1.3 Promoting Culture & Heritage

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Kenya's diverse and dynamic arts and culture heritage is one of its richest and most important resources, with the capacity to generate significant economic and social benefits for the nation. Equally important, but less well understood, is the potential for a vibrant and dynamic arts and culture sector to contribute significantly to the economy of the country. The Film industry assists in highlighting and preserving the nation's culture, act as a conduit for the transfer of morals and values and contribute to the evolution of our social and democratic processes.

The products of this industry are a major influence on what citizens know, believe, think and feel. In its effort to increase the contributions of the sector to the Gross National Product and to employment, the Government has identified the film industry as one that has the potential to make meaningful contributions to this initiative. The identification has been made so the challenge therefore is to devise the strategies necessary to make this development a reality.

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### 3.1.4 Promotion of Tourism

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Films convert audiences into tourists. Destination images greatly influences choices, provide knowledge of key aspects of country, promoting the country through film thus promoting investment, tourism, exports, management and social engineering. Hollywood and Bollywood have both proved that film industries can have a great impact on tourism and that the industry can promote a country's potential as an investment and tourist destination. Some figures showing the impact of the film industry on tourism in various locations around the world is indicated below:

NO	MOVIE	LOCATION	EFFECT ON TOURISM
1	Brave heart	Wallace, Scotland	<b>300%</b> Increase visitors after release
2	Dances with Wolves	Kansas, USA	<b>25%</b> increase of <b>7%</b> compared to the previous year
3	The Lord of the rings	New Zealand	<b>10%</b> increase per year 1998 - 2003
4	Mission Impossible 2	Sydney	<b>200%</b> increase in 2000
5	Little Woman	Orchard	<b>65%</b> increase after release
6	Saving private Ryan	France	<b>40%</b> increase in American tourists
7	Pride and Prejudice	Cheshire, UK	<b>150%</b> increase in visitors
8	Miami Vice	Miami	<b>150%</b> increase in German tourists
9	Captain Corelli's	Greece	<b>50%</b> increase over 3 years
10	Troy	Turkey	<b>73%</b> increase in tourism

In Kenya the shooting of the films '*Out of Africa*', '*White Maasai*', '*I Dreamed of Africa*', '*The Survivor 3 Series*' and '*The Dabaso Story*' provided a good opportunity for direct advertisement of Kenya as a tourist destination.

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### **3.1.5 National Cohesion & Integration**

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Every nation has a set of values and norms that govern the behavior of its people. Similarly, every society has a system of social control or mechanism of ensuring that its people behave in consonance with its normative values in order to ensure social cohesion and integration. This is a way of keeping them together as one indivisible entity, with a common heritage, identity and destiny. The issue of national unity has become topical as Kenya celebrates its 50 years of existence.

Kenya is a multi-ethnic nation with diverse cultures and traditions. In spite of the challenges of cultural diversity, there have been many films produced in promoting values which have continued to promote unity, national cohesion and integration.

Kenya's cultural heritage is inherent in the cultural sites and monuments, drama, education, sports festivals, trade, language, music, film industries, food and modes of dressing. These values have been used over the years to unite Kenyan citizens culturally over the past 50 years.

Film will play a critical role in promoting role cohesion and integration among all of Kenya's diverse ethnic groups.

## 4. POLICY GOALS, GUIDING PRINCIPLES AND OBJECTIVES

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### 4.1 Overall Policy Mission, Vision and Guiding Principles

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The Policy is developed with the following vision and mission in mind:

**VISION:** A vibrant film industry of international repute and a preferred filming destination.”

**MISSION:** To develop, nurture, and facilitate a Kenyan film industry that affirms and promotes Kenya's cultural and artistic expression for the overall socio-economic development of the country.

#### GUIDING PRINCIPLE

This Policy is guided by the National values contained under Article 10 of the Constitution. In implementing the policy the industry and all stakeholders will have due regard to the following guiding principles:

- Integrity
- Inclusiveness
- National Unity
- Good governance
- Transparency and accountability
- Sustainable development

The overall policy goal is to develop, nurture and facilitate a vibrant film industry of international reputation. Ultimately achieving this goal will raise the profile of the Kenyan Film sector, as an industry of strategic national importance with global authentic influence for which the ultimate beneficiary is Kenya. It is without doubt that public policy on film industry has a role to play in strengthening the industry in order to generate substantial economic rewards and important cultural benefits.

#### POLICY DIRECTION:

The policy direction is the development of a film industry that responds to the following key pillars;

- (i) **Economic Growth and Job Creation:** The policy will contribute to the economic growth and job creation through promoting direct investment and effective regulation. The relevant institutions will develop and maintain reliable data on the impact the film industry has on the economic growth including in direct and indirect contributions.
- (ii) **National Branding:** The policy will seek to promote Kenya's culture and heritage as a national brand. Film is a key component and tool in promoting national identity and brand.
- (iii) **Heritage and Culture:** The policy will seek to create a platform for celebrating Kenya's heritage and culture.
- (iv) **Promoting Tourism:** The policy seeks to promote the contribution that the film industry can have on the tourism sector.
- (v) **National Integration and Cohesion:** The policy seeks to create a platform for celebrating our diversity and promote integration and national cohesion.

The overall objectives of this policy are therefore as follows:

1. To ensure that Kenyan develops a viable film industry that will be a preferred filming destination.



2. To evolve a dynamic, economically self-sustaining and culturally conscious film industry that will promote national pride, heritage and unity.

## 4.2 Specific Policy Objectives

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The policy has the following specific policy objectives:-

- (i) To establish a film industry that is appreciated for its potential to contribute greatly to the Kenyan economy.
- (ii) To advocate for an adequately funded state agencies.
- (iii) To develop an effective legal and regulatory framework that harmonizes the functions of the state agencies in the film sector.
- (iv) To standardize guidelines and codes of conduct for the film industry.
- (v) To synergize the functions of the State Agencies in managing the film industry.
- (vi) To professionalize the management of local associations and professional guilds to strengthen the capacity to engage in the industry.
- (vii) To develop a framework for mediating and negotiating disputes between aggrieved parties working with both local and international filmmakers.
- (viii) To develop and facilitate world class film production infrastructure in Kenya.
- (ix) To increase the levels of funding and financing for the film industry through incentives, Programmes and activities.
- (x) To standardize the vetting and accreditation mechanisms to ensure full compliance.
- (xi) To develop a National Film Training Strategy.
- (xii) To develop a harmonized strategy for dealing with piracy by collaborating with key stakeholders.
- (xiii) To improve innovativeness, quality and performance of the overall film industry.
- (xiv) To promote Kenyan cultural and National identity in film.
- (xv) To develop and nurture a screen culture in Kenya.
- (xvi) To harmonize film fees and charges for filming locations across the country.
- (xvii) To generate up-to-date and comprehensive data on the film industry.

- (xviii) To undertake research and development into appropriate technologies that will ensure the industry stays at the forefront of technological change.
- (xix) To develop a National Film Archiving Strategy.
- (xx) To market and establish distribution channels of Kenyan Film productions locally and internationally.

### 4.3 Strategies

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The Government will realize the above objectives through the following strategies: -

- (i) Quantify the current and potential contribution of the film industry to the economy and disseminating this information to the critical policy and decision makers in government.
- (ii) Increase support for the sector in which the film industry operates.
- (iii) Enhance the funding for the Industry through the relevant state agencies in the film industry.
- (iv) Oversee the development of a harmonious regulatory environment for the film industry in Kenya.
- (v) Review existing legal and regulatory framework.
- (vi) Collaborate with the relevant agencies to set up an enforcement unit in the Industry.
- (vii) Conduct an industry wide audit of existing guidelines, ethics and codes of conduct with a view of harmonizing the same.
- (viii) Develop standard guidelines and codes of conduct for the film industry.
- (ix) Establish a working framework between the State Agencies in Film Industry.
- (x) Establish avenues for mediation of disputes in the film industry.
- (xi) Sensitize stakeholder's matters and opportunities touching on the Industry.
- (xii) Promote guilds and associations to strengthen the bargaining power of industry players.
- (xiii) Engage in public private partnerships in the area of film in Kenya.
- (xiv) Engage in the development and establishment of film studios, post production studios and film processing laboratories, acquisition of filming equipment, distribution and exhibition of films.
- (xv) Establish a National film fund for the Industry.

- (xvi) Establish a database for the film industry.
- (xvii) Engage with other State Agencies in the development of a syllabus for the training institutions in the Industry.
- (xviii) Promote an indigenous Kenyan creative and production talent by establishing a Kenyan Film School as a center of excellence.
- (xix) Partner with other State Agencies in developing and enforcing guidelines and regulations on copyright laws to protect local and international film producers.
- (xx) Sign local and international partnerships, co-production agreements and Treaties.
- (xxi) Support the production of film content which is geared towards the promotion of the Kenyan brand and identity.
- (xxii) Promote the harmonization of rates, permits and fees between the national and county governments so as to promote Kenya as a preferred filming location.
- (xxiii) Collaborate with key stakeholder in collating film statistical data and carrying out research on the film industry.
- (xxiv) Review policies, regulations and guidelines to ensure that they are in line with technological changes in the film industry and the constitution.
- (xxv) Promote the establishment of distribution channels for the film productions
- (xxvi) Hold film events, festivals and other activities that celebrate and promote the local film industry.
- (xxvii) Develop and enforce guidelines on archiving of film content in partnership with other state agencies.

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#### 4.4 Strategy With Regard To Partnerships and International Liaisons

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There is an increasing trend for filmmakers over the last decade to cross borders to shoot their films in locations and languages outside of their countries of origin and at the same time use technicians, actors, actresses and other resources and facilities available in these countries and locations. International co-productions are an increasingly attractive option for many producers because of the following benefits:

- i) Sharing of creative and technical resources.
- ii) Access to local and foreign incentives and subsidies
- iii) Access to the market of the other co-producer or co-producers
- iv) The ability to pool financial resources
- v) The ability to share the associated financial risk
- vi) The ability to deliver projects of larger scale

Governments facilitate this co-production through bilateral and multilateral agreements or audiovisual coproduction treaties. Audiovisual coproduction treaties and/or MOUs are negotiated between two countries to outline their respective obligations with regard to an audiovisual coproduction. The general principle for all co-productions is to achieve a balance in creative, financing and expenditure contributions from each country.

This policy recommends that the Government, through its State Agencies, enters into more co-production and collaboration Agreements with other film producing countries through co-production treaties that will cover all aspects such as promotion and facilitation of cultural exchange, promotion of Kenya's internationally acclaimed scenery and wildlife as well as cultural and heritage sites. The Co-production Agreements and Treaties that will be pursued together with financial incentives including rebates and provide guidelines on hiring of local crew and actors. The Kenya Film Commission shall administer these treaties and MOUs on behalf of the Government of Kenya.

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## **5. EXISTING LEGISLATIVE FRAMEWORK AND POLICY RECOMMENDATIONS**

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Currently, film industry issues are considered under various laws and legislations. The Constitution of Kenya, 2010 is the supreme law of Kenya, while important Acts of Parliament include *the Film and Stage Plays Act, Chapter 222*, *the Kenya Broadcasting Corporation Act of 1988*, and *the Kenya Information and Communications Act of 2008 (Amended vide KICA 2013)* and *the Kenya Film Commission Order of 2005* ( a legal notice made by the President of Kenya under the State Corporations Act (Cap 446 of the Laws of Kenya) to establish the Kenya Film Commission). Another guiding legislation is the Kenya Information and Communications (Amendment) Act of 2013.

Over the years the government and stakeholders have considered the need to review the legal and regulatory framework. The Constitution of Kenya 2010 and the National Vision 2030 have created the impetus for reform of the framework governing the industry. The need to reform the legislative framework is aimed at establishing a responsive environment that will enhance innovativeness, efficiency and quality in the industry. Below is a review of the current framework and suggested recommendations.

In 2013, a Presidential Taskforce on Parastatal Reforms was created to review various sectors. The recommendation from the Taskforce was that the film industry should have the promotional and development arm, being the Kenya Film Commission and the regulatory arm, which will be the Kenya Film Classification Board. Following this Policy, the Kenya Film Bill will be developed so as to provide the legislative framework for the Industry.

### **5.1 The Constitution of Kenya**

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The Constitution of Kenya contains many express provisions that are key and relevant to the film industry, its practitioners and all stakeholders. Some of those key and relevant provisions include, but are not limited to the following:-

- (i) Article 6 states that a national state organ shall ensure reasonable access to its services in all parts of the Republic.
- (ii) Article 10 outlines the national values that Kenya as a nation should and/or uphold
- (iii) Article 11 acknowledges and identifies Culture as the foundation of the nation, and places obligations on the State to promote all forms of national and cultural expression through the arts, communication, mass media etc
- (iv) Articles 32 to 35 highlights Kenyan's freedom of expression.
- (v) Article 40 affirms intellectual property rights as fundamental human rights in Kenya, attracting the protection of the Bill of Rights and places the responsibility of promoting, protecting and supporting intellectual property on the State

These provisions of the Constitution will inform and review all existing legislation and regulations governing the film industry

### **5.2 The Films and Stage Play Act (CAP 222)**

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The Film and Stage Plays Act Cap 222 provides for regulation of the creation, broadcasting, possession, distribution and exhibition of films in Kenya. The Act established the Kenya Film

Classification Board (KFCB) and the Licensing Officer. The Film licensing office provides licensing and liaison services while KFCB undertake the following functions;

- 1 To regulate the creation, broadcasting, possession, distribution and exhibition of films by:
  - a. Examining every film and every poster submitted under the Act for purposes of classification;
  - b. Imposing age restrictions on viewership;
  - c. Giving consumer advice, having regard to the protection of women and children against sexual exploitation or degradation in cinematograph films and on the internet.
- 2 License and issue certificates to distributors and exhibitors of films.

The major challenges in the implementation and enforcement of this Act have been the low penalties imposed which do not serve to deter, the numerous amendments to the act over the years that have made interpretation of the Act difficult, the outdated definitions and the fact that the Act is outdated in terms of current technological advances.

The policy recommends the repeal of the Film and Stage Plays Act, Cap 222 and the replacement of the same with more comprehensive up-to-date responsive legislation to meet the needs of the industry. The policy recommends the enactment of the Film Bill which will:

- 1) Establish the Kenya Film Commission (KFC), its function and mandate of development, management, marketing of the Kenyan Film Industry.
- 2) Provide the establishment of a Classification Board, its function and mandate of examine, classify and regulate audio-visual content.
- 3) Provide for the regulation and sustainable film and film related activities and services.

### **5.3 The Kenya Broadcasting Corporation Act (CAP 221)**

The Kenya Broadcasting Corporation (KBC), established under the Kenya Broadcasting Corporation Act 1989, has one of its mandates as the provision of facilities for commercial advertising and for the production of commercial Programmes at such fee or levy as the corporation may determine. This coupled with its other functions positions KBC as a corporation that is mandated to enhance the audio-visual industry in Kenya, including film production.

In as far as it establishes the Kenya Broadcasting Corporation to assume the Government functions of producing and broadcasting Programmes or parts of Programmes by sound or television, the Corporation is of vital interest to film professionals who can undertake such work on behalf of the government. Specific responsibilities of the Corporation relevant to film professionals include:

- (i) Under section 8 (1) (e), to appoint and enter into agreements with such contract-ors and artistes as may be necessary for the purposes of this Act.
- (ii) Under section 8 (1) (h), to provide facilities for commercial advertising and for the production of commercial Programmes at such fee or levy as the Corporation may determine.
- (iii) Under section 8 (2) (a), to produce, manufacture, purchase or otherwise acquire, and sell or otherwise dispose of, films, gramophone and other mechanical records, tapes,

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wires, perforated rolls or other contrivances by means of which any words, visual images or ideas may be mechanically or electronically produced, reproduced, represented or conveyed and materials and apparatus for use in connection with the broadcasting services.

- (iv) Under section 8 (2) (b), to provide to and receive from other persons material to be broadcast.
- (v) Under section 8 (2) (c), to organize, provide and subsidize public entertainment for broadcast or for any connected purpose.

#### **5.4 Kenya Information and Communication Act, 2008 (KICA) AND AMENDED IN 2013**

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The Kenya information and Communications Act of 2008 and as amended by the Kenya Information and Communications (Amendments) Act of 2013 contains new regulations for the broadcasting sector. The Act, *inter alia*:

- (i) Empowers the Kenya Film Classification Board to regulate the content broadcasted by broadcast stations, regulation 34 of this Act prohibits media houses from airing adult content during the watershed period.
- (ii) Establishes the Communications Commission of Kenya as the licensor of all broadcasters and broadcasting services in Kenya.
- (iii) Defines and makes provision for local content quotas for broadcasters.
- (iv) Establishes the Broadcasting Content Advisory Council.
- (v) Establishes a Fund to assist the development of the Kenyan production industry

The proposed Film Bill, will ensure that it is aligned to the relevant sections of the KICA 2008, and as amended in 2013 as well as the Kenya Broadcasting Regulations of 2008.

#### **5.5 The Copyright Act of 2001**

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The Act established The Kenya Copyright Board (KECOBO) with the main responsibility of administration and enforcement of copyright in Kenya. Copyright protection is a critical need for film industry stakeholders. The Board's membership comprises film stakeholders.

#### **5.6 Kenya Film Commission Legal Notice No. 147 of 2015**

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The Kenya Film Commission is established under the new Legal Notice No.147 of 2015. This Legal Notice repealed the earlier Legal Notice of 2005. The new mandate under the Legal Notice is as follows;

- 1) Develop, promote and market film industry locally and internationally;
- 2) Identify and facilitate growth of the film industry;
- 3) Generate, manage and disseminate film industry research, information and market data, and act as a repository and archive of Kenya 's film records;
- 4) Promote and facilitate the development of local content;
- 5) Establish incubation centers for film industry in Kenya;

- 6) Coordinate and certify persons, associations and organizations participating in the production of film, photography, video, stills, animation, new media and related media;
- 7) Establish and administer a film promotion fund;
- 8) Provide liaison services for government departments on matters relating to the promotion, marketing and development of the film industry;
- 9) Develop fiscal and other incentives to promote investment in the film industry; and
- 10) Partner, develop and create linkages with county, national and international organizations, both public and private, to improve and facilitate investment in the film industry.

The proposed new film act will be expected to repeal order no. 10 of 2005.



## 6. INSTITUTIONAL FRAMEWORK

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### 6.1 Key Institutions in the Film Industry

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The following are the key institutions that will be involved in the implementation of the Film Policy:

- (i) The Government through the Ministry for Sports, Culture and the Arts through the Department of Film Services
- (ii) The Kenya Film Commission
- (iii) The Kenya Film Classification Board

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#### 6.1.1 The Ministry

The Government through the relevant Ministry will provide leadership and direction in the implementation of the appropriate policy objectives. The Government's role in the sector will include, *inter alia*:

- (i) Development, implementation and coordination on matters of policy.
- (ii) Supporting development and review of laws affecting the film industry
- (iii) Facilitating the implementation of the Constitution and other legislation affecting the film industry
- (iv) Promoting, protecting and supporting the intellectual property rights in in the Industry.
- (v) Providing a framework for dispute settlement and resolution in all matters relating to the production, distribution and exhibition of film productions.
- (vi) Providing an enabling environment for investment through policy formulation.
- (vii) Supporting the film industry through events, festivals and other activities that celebrate and promote the Industry.
- (viii) Increasing its budgetary provisions year on year for the cultural sector generally in keeping with the availability of funds to optimize the growth of the cultural industries' economy.
- (ix) Negotiating and entering into international collaborative partnerships and co-production agreements to assist in the development of the Industry.

#### The Department of Film Services

The Department of Film Services is domiciled within the Ministry of Sports, Culture and the Arts and spearheads matters of policy relating to development of the film industry and promotion of local content. Formerly the Documentary Film Unit, the Department undertakes film productions that interpret Government Policies and Programmes through audio visual means and are a repository of all Government film/video materials with the aim of contributing to an informed citizenry. The Department also houses the Licensing Officer, an office created under the Film and Stage Plays Act, Cap 222 and which is mandated with licensing films and registering film agents. Under the new Bill, these regulatory functions shall be moved to the Board.

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#### 6.1.2 The Kenya Film Commission

The Commission will be responsible for marketing and development of the film industry in Kenya and maintain liaison between the film industry and the government. The Mandate of the Commission under the new Legal Notice shall be as follows;

- i) Develop, promote and market film industry locally and internationally;
- ii) Identify and facilitate growth of the film industry;
- iii) Generate, manage and disseminate film industry research, information and market data, and act as a repository and archive of Kenya 's film records;
- iv) Promote and facilitate the development of local content;
- v) Establish incubation centers for film industry in Kenya;
- vi) Coordinate and certify persons, associations and organizations participating in the production of film, photography, video, stills, animation, new media and related media;
- vii) Establish and administer a film promotion fund;
- viii) Provide liaison services for government departments on matters relating to the promotion, marketing and development of the film industry;
- ix) Develop fiscal and other incentives to promote investment in the film industry; and
- x) Partner, develop and create linkages with county, national and international organizations, both public and private, to improve and facilitate investment in the film industry.

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### **6.1.3 The Kenya Film Classification Board**

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The Kenya Film Classification Board is established under the Film and Stage Plays Act, Cap 222, with a mandate of;

- i) Regulating the creation, broadcasting, possession, distribution and exhibition of films by:
  - a) Examining films, film trailers and film posters.
  - b) Imposing age restrictions on viewership.
  - c) Giving consumer advice. and
- ii) Licensing and issuing certificates to film exhibitors and distributors of films.
- iii) Develop and maintain a database for films and their classifications as well as all distributors and exhibitors.
- iv) Prescribing procedures for application for licensing as a distributor or exhibitor of films.
- v) Prescribing guidelines and regulations to be applied in the classification of films.
- vi) Review regulations governing audio visual materials being cleared at the point of entry.
- vii) Classifying and regulating locally broadcasted, syndicated and satellite content broadcasted by local and foreign media houses.
- viii) Ensure all imported audio-visual content are examined and classified at port of entry.

The new mandate of the Board as proposed to and adopted by the Presidential Taskforce on Parastatal Reforms shall be;

1. Issuing film regulatory licenses to ensure content consumed adheres to cultural, national and moral values;
2. Examining and classifying all films using the National Film Classification Guidelines to protect children from consuming adult content;
3. Monitoring broadcast content consumption and advising the counties on media violations and impact on lives and businesses;
4. Developing media broadcast compliance criteria to recognize and award county based broadcast stations promoting cultural, national and moral values;
5. Maintaining and updating the National Classified Films Catalogue for use by counties;

6. Maintaining a database of film distributors and exhibitors countrywide to monitor and curb circulation of pornographic films across counties;
7. Following up on cases submitted from the counties to ensure licenses are revoked and counties informed of the prevalence of the violations and violators for increased awareness and vigilance;
8. Developing and harmonizing county policies to inform development of national policies on film consumption and pornography; and
9. Benchmarking on best practices from various countries to inform counties and help in review of policies and adoption of best practices.
10. Formulation of film policy, classification guidelines, standards and regulations for the film industry

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## **6.2 COLLABORATIVE INSTITUTIONS**

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The Policy recommends engagement with the following institutions in a collaborative capacity:

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### **6.2.1 The Communications Authority of Kenya (CA)**

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The mandate of the Communications Authority of Kenya with respect to broadcast services includes the following.

- (i) Licensing all systems and services in the communications industry, including; telecommunications, postal, courier and broadcasting.
- (ii) Managing the country's frequency spectrum and numbering resources.
- (iii) Facilitating the development of e-commerce.
- (iv) Type approving and accepting communications equipment meant for use in the country.
- (v) Protecting consumer rights within the communications environment.
- (vi) Managing competition within the sector to ensure a level playing ground for all players.
- (vii) Regulating retail and wholesale tariffs for communications services.
- (viii) Managing the universal access fund to facilitate access to communications services by all in Kenya.
- (ix) Monitoring the activities of licensees to enforce compliance with the license terms and conditions as well as the law.

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### **6.2.2 The Broadcasting Content Advisory Council (BCAC)**

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The Broadcasting Content Advisory Council (BCAC) is established under Section 46S of the Kenya Information & Communications Act, 1998 (CAP 411A). THE Council is responsible for making decisions on administration and development of broadcasting content aspects, compliance with broadcasting codes and ethics by broadcasters and mechanisms on broadcasting complaints handling.

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### **6.2.3 The ICT Authority**

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The Information and Communication Technology Authority (ICT Authority) is a State Corporation under the Ministry of Information Communication and Technology. The corporation was established in August 2013. The Authority is tasked with rationalizing and streamlining the management of all Government of Kenya ICT functions. Its broad mandate entails enforcing ICT standards in

Government and enhancing the supervision of its electronic communication. The Authority also promotes ICT literacy, capacity, innovation and enterprise in line with the Kenya National ICT Master plan 2017.

One of the key undertakings of the authority is to promote the creation of local digital content geared towards the ICT infrastructure. Film professionals have a lot to gain by interacting closely with this agency. It is potentially useful in facilitating or arranging digital and online distribution channels for local film content.

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#### **6.2.4 Universal Service Fund**

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The Kenya Communications (Amendment) Act, 2009, provides for the establishment of a Universal Service Fund (USF), administered and managed by the Communications Authority of Kenya. The purpose of the Fund is to support widespread access to ICT services, promote capacity building and innovation in ICT services in the country. The sources of the Fund include levies on licensees, appropriations from Government as well as grants and donations. The Fund, currently being put in place, is expected to finance national projects that have significant impact on the availability and accessibility of ICTs in rural, remote and poor urban areas. The Kenya Film Commission shall partner with the Fund to access funding for the Industry.

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#### **6.2.5 Kenya Copyright Board (KECOBO) & the Office of the Director of Public Prosecutions (ODPP)**

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KECOBO and ODPP will continue to play their part in copyright protection and enforcement as provided for under the Copyright Act, 2001. The weaknesses with regard to enforcement of copyright for filmmakers and rights holders will be addressed and solutions identified. This is important in light of the new Constitution and its clear call for the protection of, promotion of and support for intellectual property rights.

This policy recommends increased capacity for the institutions to effectively undertake their respective roles. The Film sector players will be encouraged to interact more with the Board the ODPP, and other stakeholders to ensure effective enforcement of infringement of copyrights. The policy recommends a framework for monitoring and reporting of actions taken.

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#### **6.2.6 The Kenya Wildlife Service (KWS) & the Kenya Forest Service (KFS)**

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The Kenya Wildlife Service (KWS) and the Kenya Forest Service (KFS) play a key role in the conservation and management of Kenya's wildlife and forests. Filming in national parks, reserves and forests requires permits from the Kenya Wildlife Service or the Kenya Forest Service. These two institutions therefore play a crucial role in facilitating filmmaking. For effective synergy between the Ministry, KFC, KFS, and KWS the stakeholders, the Ministry and KFC shall commence negotiations with KWS and KFS in relation to their mandate to develop and enforce guidelines with respect to filming within the game parks, national parks, reserve and forests.

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#### **6.2.2 The Kenya Police**

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The Kenya Police is a national body in charge of law enforcement in Kenya. The Kenya Police services are key in providing security and order in the country hence are an integral part of the filming process. This policy also recommends establishing capacity development of the relevant

institutions in the provision of security, monitoring compliance and enforcement of laws related to the film industry. The Ministry, KFC and KFCB will collaborate with the Police to develop guidelines on security matters.

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### **6.2.3 Training Institutions in the Film Sector**

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There has been considerable growth in training institutions which offer courses in film production and animation studies. Several public and private institutions are now offering diploma, undergraduate and postgraduate courses. The Ministry and KFC shall initiate talks with the Ministry of Education, in collaboration with all relevant stakeholders towards the establishment of a regulatory framework for the standardization of curricula, accreditation and evaluation of training in film production and animation studies.

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### **6.2.4 Ministry of Immigration**

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This policy recommends the development of guidelines on permits for foreigners intending to film in Kenya. The Ministry, KFCB and KFC shall advise and work in collaboration with the Ministry so as to negotiate on the aspect of special passes for filmmakers intending to shoot films in Kenya, namely a film specific visa.

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### **6.2.5 Ministry of Foreign Affairs and International Trade**

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This policy recommends engagement with the Ministry of Foreign Affairs for the negotiation of bilateral agreements, the promotion of the Kenyan filming industry and marketing Kenya as a preferred filming location.

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### **6.2.6 Kenya Investment Authority (KenInvest)**

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Kenya Investment Authority (KenInvest) is a statutory body established in 2004 through an Act of Parliament (Investment Promotion Act No. 6 of 2004) with the main objective of promoting investments in Kenya. This policy recommends engagement with KenInvest in the promotion of investment in the film industry by both local and foreign investors.

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### **6.2.7 National Treasury & Kenya Revenue Authority (KRA)**

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The policy recommends that the Ministry and KFC engage and lobby the National Treasury to create incentives in the form of taxes rebates and other incentives for the film industry. Further, the policy recommends that KFCB liaise with KRA and the National Treasury to ensure that all audio visual materials are classified at port of entry. Further, the policy recommends negotiation on the matter of writing off import duties for filming equipment.

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### **6.2.8 National Museums of Kenya**

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The policy recommends collaboration with the National Museums to showcase local content, promote national values, culture and heritage in conjunction with film producers, the Ministry and other

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industry stakeholders. The Ministry also collaborates on the aspects of filming at historical and heritage sites.

## **6.3 STRATEGIC FILM PARTNERS AND STAKEHOLDERS**

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The Policy recommends engagement with the following institutions in a collaborative capacity:

### **6.3.1 Film Industry Associations & Guilds**

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The film industry associations have a responsibility to develop the industry with efficiency, credibility, commercial integrity and good corporate governance. The Government will encourage the formation of professional bodies registered under the relevant Laws of Kenya to foster professional ethics, standards and skills development. This will be in all arenas necessary for a vibrant film industry, including cast and crew.

The following associations have been central to the growth of the industry and are currently recognized as pillars of the industry: the Kenya National Filmmakers Association (KNFA), the Kenya Film and Television Producers Association (KFTPA), Actors Coalition, Actors Guild, Writers Guild, Producers Guild, Riverwood Ensemble (formerly the Third Force Association of Film Makers) and others.

### **6.3.2 Broadcast Stations**

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Broadcast stations will be required to promote local productions by commissioning production of more local Programmes and allocating more air time to local productions. The policy recommends that there be liaison between the agencies in matters of local content. The policy recommends that KBC with its widened mandate as provided through the Kenya Information and Communications Act, 2008 and amended in 2013, is expressly required to provide Kenyan programming that shall also take into account issues which impact on the sustainability of the Kenyan production sector and its capacity to deliver a diversity of high quality products to Kenyan audiences. The Kenyan content requirement for pay television will be reviewed to explicitly require that any pay TV service providers observe the cultural objective of having a guaranteed minimum amount of Kenyan programming. The new regulations provide that broadcasters must currently have a minimum of 40% local content which shall increase to a minimum of 60% by 2018. The stakeholders will ensure that the local content quotas applicable to them are enforced too.

### **6.3.3 Production Studios**

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The State Agencies will engage and partner with production studios in making productions that promote local content.

### **6.3.4 Marketers & Distributors**

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The State Agencies will engage with marketers and distributors together with other state agencies to find solutions to the challenge of piracy as well as having more structured distribution channels in the Industry.

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### **6.3.5 Film Agents**

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All film agents operating in the country are expected to be registered with KFCB under the new legislation and should comply with the regulations that have been laid down especially the requirement to deposit the completed audio visual work on completion.

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### **6.3.6 Cast & Crew**

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Artists and Crew in Kenya are hampered by a lack of awareness and information on the Industry. There is a lack of code of ethics or guidelines to give direction to the industry players. Until recently, the filming profession was not seen as a viable career option due to low pay, as players did not value their talents as assets. The government will work with actors and crew and encourage them to form, join and be proactive in relevant professional bodies.

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### **6.3.7 Development Partners**

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The Government will promote public private partnerships that will enable financial, material and technical assistance.

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### **6.3.8 Consumers**

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There is need to develop a positive screen culture which will serve to promote the film industry in Kenya. The state agencies will engage in consumer protection with regard to film, attitude adjustment to promote pride in local content and awareness of the harmful effects of piracy on the economy.

## **7. FILM INDUSTRY IN THE COUNTIES**

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### **7.1 NATIONAL GOVERNMENT FUNCTIONS**

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The new constitution of Kenya promulgated in August of 2010, created a new devolved structure of government. Under this new structure various services and government functions were devolved to the County governments. These changes have necessitated a review of the functions of the Kenya Film Commission, Kenya Film Classification Board and the Ministry so as to ensure compliance and clarification of roles and responsibilities. The specific roles and responsibilities are as follows.

#### **7.1.1 The Ministry**

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The roles and responsibilities of the Ministry through the Department of Film Services shall be as follows:

- i) Co-ordination and administration of public policy in respect to the development of the film industry in Kenya.
- ii) Formulate in collaboration with KFC, policy geared towards creating an enabling environment necessary for attracting investment in the sector.
- iii) Contribute to an informed citizenry through production and dissemination of films that address socio-economic and development issues nationwide.
- iv) Facilitate the use of film as a medium for cultural exchange and export.
- v) Capacity building and provision of technical support in film production with County Governments and marginalized groups.

#### **7.1.2 Kenya Film Classification Board**

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The roles and responsibilities of the Kenya Film Classification Board shall be as follows:

- i. Issuing film regulatory licenses to ensure content consumed adheres to cultural, national and moral values;
- ii. Examining and classifying all films using the National Film Classification Guidelines to protect children from consuming adult content;
- iii. Monitoring broadcast content consumption and advising the counties on media violations and impact on lives and businesses;
- iv. Developing media broadcast compliance criteria to recognize and award county based broadcast stations promoting cultural, national and moral values;
- v. Maintaining and updating the National Classified Films Catalogue for use by counties;
- vi. Maintaining a database of film distributors and exhibitors countrywide to monitor and curb circulation of pornographic films across counties;
- vii. Following up on cases submitted from the counties to ensure licenses are revoked and counties informed of the prevalence of the violations and violators for increased awareness and vigilance;
- viii. Developing and harmonizing county policies to inform development of national policies on film consumption and pornography; and
- ix. Benchmarking on best practices from various countries to inform counties and help in review of policies and adoption of best practices.
- x. Formulation of film policy, classification guidelines, standards and regulations for the film industry



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### **7.1.3 The Kenya Film Commission**

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The roles and responsibilities of the Kenya Film Commission shall be as follows:

- i) Develop, promote and market film industry locally and internationally;
- ii) Identify and facilitate growth of the film industry;
- iii) Generate, manage and disseminate film industry research, information and market data, and act as a repository and archive of Kenya 's film records;
- iv) Promote and facilitate the development of local content;
- v) Establish incubation centers for film industry in Kenya;
- vi) Coordinate and certify persons, associations and organizations participating in the production of film, photography, video, stills, animation, new media and related media;
- vii) Establish and administer a film promotion fund;
- viii) Provide liaison services for government departments on matters relating to the promotion, marketing and development of the film industry;
- ix) Develop fiscal and other incentives to promote investment in the film industry; and
- x) Partner, develop and create linkages with county, national and international organizations, both public and private, to improve and facilitate investment in the film industry.

The Commission shall also initiate talks with various Counties towards actualization of the concurrent functions which include;

- i) Promoting and facilitating the development of local content in the Counties;
- ii) Partnering with the Counties to explore ways of improving and facilitating investment in the film industry.
- iii) Holding events to celebrate and promote local productions.
- iv) Providing capacity building and technical assistance.

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## **7.2 COUNTY GOVERNMENT FUNCTIONS**

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Under Schedule 4 of the constitution the functions devolved to the county governments include: cinema theatres, video shows and hiring as well as the control of pornography. This policy recommends clarifying and unbundling of these functions in consultation with the county governments, the Ministry and the relevant institutions will also undertake capacity building for county governments to enable them discharge their roles.

The following is a breakdown of the crucial role to be played by the County Governments in ensuring that film distributors and exhibitors are adequately and appropriately regulated:

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### **7.2.1 Cinema Theatre, Video Shows and Hiring**

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The county governments will be responsible for the following:

- i) Issuing trade and business licenses to all film distributors and exhibitors in the county;
- ii) Developing and maintaining cinema theatres. This will allow counties to determine the most suitable areas to set up cinemas and video shows for increased business and stakeholder support;
- iii) Inspecting video and cinema shows for structural and physical requirements including ventilation, fire extinguishers, lighting and electric wiring among others. This will enable

the county Governments to check the premises and endorse these for increased customer safety and satisfaction.

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### **7.2.2 Control of Drugs and Pornography**

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With regards to control of drugs and pornography, the county governments will be responsible for the following:

- i. Inspecting video premises regularly to ensure operators comply with various work environment and statutory requirements.
- ii. Sensitizing and creating awareness on effects of use of drugs and pornography
- iii. Maintaining a database of violators who produce and promote use of pornographic content and drugs
- iv. Inspecting video and cinema shows for structural and physical requirements including ventilation, fire extinguishers, lighting and electric wiring among others. This will enable the county Governments to check the premises and endorse these for increased customer safety and satisfaction.
- v. Developing and implementing programmes geared towards sensitizing the public on the effects of consumption of drugs and pornography.
- vi. Arresting and prosecuting, at the county level exhibitors and distributors of pornographic content and drugs.

## 8. POLICY IMPLEMENTATION

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The implementation of the policy shall follow the following steps:

### 8.1 Development of an implementation matrix for the policy

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The Ministry will lead in the development of an implementation matrix of the policy. This will include outlining targeted results, specific activities, time frames and resources under each objective.

### 8.2 Enactment of the Draft Bills Outlined in this Policy

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This policy proposes the enactment of specific legislation. This will be driven by the respective institutions to ensure the development of the draft proposed bills in consultation with stakeholders.

### 8.3 Policy Alignment

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This policy seeks to foster the development of the film industry as a critical economic activity in the country. The objectives are expected to contribute to the achievement of Kenya Vision 2030. Its implementation will require multi-agency coordination lead by the Ministry, KFC and KFCB and each institution will undertake to align their respective strategies in order to fully implement the policy.

### 8.4 Resource Mobilization

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The implementation of the policy will require increased resources and investment in the industry. The Ministry and the agencies involved will develop a common investment plan and engage with the National Treasury and in so doing map out the priority areas of investment. The investment plan will also form a basis for engagement with international development partners and the private sector.

### 8.5 Monitoring & Evaluation

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The National film Policy represents a comprehensive strategic framework for the development of Kenya's film industry. It contains many interdependent and interlocking elements. In order to avoid concentration on a particular core or support strategy, Government shall establish an implementation and monitoring committee to undertake a regular review of progress made in implementing the Policy as a whole. Progress shall be reported and remedial actions suggested at a National Film Consultation Forum to be held annually with effect from 2014 as a summit for film stakeholders. The Ministry of Sports, Culture and the Arts (or its successor who will oversee Kenya's film sector) shall organize the annual National Film Consultation Forum.