



MINISTRY OF ICT, INNOVATION AND YOUTH AFFAIRS
STATE DEPARTMENT FOR BROADCASTING AND TELECOMMUNICATIONS

NATIONAL FILM POLICY

‘A New Vision for Kenya: From Script to Screen’

Draft

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ABBREVIATIONS AND ACRONYMS

CA	Communications Authority of Kenya
DFS	Department of Film Services
KECOBO	Kenya Copyright Board
KFC	Kenya Film Commission
KFCB	Kenya Film Classifications Board
KFS	Kenya Film School
MoICTIYA	Ministry of ICT, Innovation and Youth Affairs
M&E	Monitoring and Evaluation
PWDs	Persons with Disabilities

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KEY POLICY DEFINITIONS

‘Communications and Multimedia Appeals Tribunal’ means the Tribunal established under section 102 of the Kenya Information and Communications Act, which shall consequently be empowered by statute to hear and determine all disputes arising from the relevant legislation for film;

‘Classification’ means the process of giving age ratings and content advice to films;

‘Digital Creative Economy’ means the entirety of creative sectors that operate wholly or partly using digitally-enabled communications, systems and networks leveraging internet, mobile and other technologies;

‘Digital Media City’ means a high technology complex for digital technologies housing facilities such as ubiquitous networked offices, apartments, productions, exhibitions, conference halls, television network headquarters and cultural centres;

“Distribution” in relation to a film means selling, supplying or letting for hire, offering or agreeing to sell, supply or let for hire or causing or permitting to be sold, supplied to or hired within Kenya;

“Exhibition” means the display of a film to the public or a section of the public, whether or not a charge is made for admission;

‘Film’ means any sequence of visual images recorded or generated in such a manner that by such recording or graphics, such images will be capable of being seen as moving pictures and includes any pictures intended for distribution and exhibition through any medium including using the internet;

‘Film agent’ means a duly authorised representative of a foreign film practitioner or a film enterprise registered by the responsible state agency for film;

‘Film association’ means a body corporate duly authorised to represent one or more categories of film practitioners by whatever name and accredited by the film federation;

‘Film distributor’ means any person who sells, supplies, or lets for hire, offering or agreeing to sell, supply or let for hire or cause or permits film to be sold, supplied or hired within Kenya;

‘Film enterprise’ means a body corporate carrying on the business of film by whatever name;

‘Film exhibitor’ means any person who displays a film in public or a section of the public, whether or not a charge is made for admission;

‘Film federation’ means the umbrella body for film associations established under the relevant legislation for film and regulated by the responsible state agency for film;

‘Film fund’ means the Fund for film to be established under the relevant regulations related to Public Finance Management;

‘Film liaison services’ means the services provided by the Kenya Film Commission and Film agents to aid foreign film practitioners in: facilitating permits; location scouting, talent acquisition, crew sourcing, equipment supply, accommodation and transport arrangements;

“Film marketer” means any person who develops marketing strategies and campaigns for films in order to reach out to new markets of consumers for particular films;

“Film practitioner” means any person who practices their trade in film including but not limited to producers, writers, directors, cinematographers, editors, actors, film exhibitors, film marketers and distributors;

“Possession” in relation to a film includes keeping or storing and also having custody of a film;

“Statutory instrument” means any rule, order, regulation, direction, form, guideline or other statutory instrument issued, made or established in the execution of a power conferred by or under an Act of Parliament under which that statutory instrument or subsidiary legislation is expressly authorized to be issued.

“Watershed period” means the time between 5:00 a.m. and 10:00 p.m. or such other time as may be prescribed by the Communication Authority of Kenya for the time being responsible for setting standards for the time and manner of programmes to be broadcast, within which films intended for adult audience is not to be aired;

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EXECUTIVE SUMMARY

Kenya's film industry stands as a central pillar in the portrayal of our Kenyan cultural and national identity. The National Film Policy has been developed as the nation's overarching framework to guide the film industry towards achieving its vision of making Kenya a globally competitive and vibrant hub for film production.

The Taskforce on Development of the National Film Policy and Bill, 2020 was appointed by the Cabinet Secretary for the Ministry of ICT, Innovation and Youth Affairs to develop a National Film Policy and Bill that portrays the vision for the development of the film industry. The National Film Policy seeks to establish legal, regulatory and institutional frameworks that will promote a vibrant film industry towards social, economic and national development.

The Policy has underscored the importance of a unified industry having a shared vision of growth. Going forward, the Policy seeks to clarify the role of industry players in the achievement of its goal by modifying the current status of the legislative, policy and institutional structure to provide a harmonious framework for the development and regulation of the film industry.

The Task Force comprised member representation from the Departments and State Agencies under the Ministry of ICT, Innovation and Youth Affairs namely: Office of the Cabinet Secretary, State Department for Broadcasting and Telecommunications, State Department of ICT and Innovation, State Department for Youth Affairs, Department of Film Services, Kenya Film Commission, Kenya Film Classification Board, Kenya Broadcasting Corporation, Communications Authority of Kenya, the National Communications Secretariat, Kenya Copyright Board, the Council of Governors and Kenya Law Reform Commission.

The drafting of the policy was informed by a situational analysis of the film industry, looking at the current legal instruments establishing key industry stakeholders and their functions. The main challenge identified was the disharmony in existing legislation and inadequacy in legal provision leaving numerous gaps that stunted the growth of the industry. Other challenges include the inadequate funding and financial incentives for industry players; lack of robust marketing and promotion initiatives for the industry, lack of infrastructure for archiving and record keeping; multiple licensing frameworks and inadequate skills and training for the film industry.

To remedy the challenges identified, the policy proposes strategies, interventions and measures to be adopted in empowering the film industry. Key areas for intervention include investing in the film industry's infrastructure; building the film industry's skills to enhance capacity; expanding market opportunities for the Kenyan Film Industry; enhancing access to funding and incentives in the film industry; and providing a conducive policy, legislative and regulatory environment.

The policy further proposes an implementation structure that expressly defines the roles of the developer and regulator of the film sector, and further proposes the structure to be adopted in the formulation of the Act. The Policy also formulates strategies for the establishment of film education and incubation centres to empower the youth to develop relevant skills to participate

competitively in the film sector. Finally, the policy provides for a monitoring and evaluation framework that will aid in actualizing the vision of the film industry.

The implementation and actualization of this policy shall provide an opportunity for improving the quality of life for Kenyan youth through their participation in economic processes as well as in community and civic affairs. It also advocates for creation of a supportive social, cultural, economic and political environment that will empower the youth to be partners in national development.

This Policy acknowledges the potential inherent in the film industry and the place of the youth in spurring the growth of Kenya's economy through their involvement in activities within the film industry. The proposals are designed to help ensure that film, as a key part of the creative industry, is one of the sectors which plays an optimal role in driving economic growth, creating jobs and stimulating inward investment and exports.

The Ministry of ICT, Innovation and Youth Affairs, the Kenya Film Commission and the Kenya Film Classification Board will play key roles in the implementation of the policy and the consequent legislation.

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1. CHAPTER 1: BACKGROUND & INTRODUCTION

1.1. Background

The past three decades have witnessed major changes in film industries worldwide in response to both economic globalisation and technological developments. The dominant position of Hollywood movies in the global film market has remained largely uncontested but Hollywood itself has become increasingly international in its operations whilst 'regional' screen industries such as those in East Asia, West Africa and in the Indian subcontinent have re-emerged and developed new forms of collaborations, projects and ideals that have been drawn from the many opportunities that these countries were able to exploit.

Such phenomena suggest the multiplicity and complexity of film production-to-consumption chains developing in many parts of the world in parallel to, and sometimes in alliance with, Hollywood. The film industry worldwide has also undergone major technological developments in terms of film production, distribution and exhibition. Digital screens have increased whilst the use of computer graphics and related digital technologies has transformed not only the process of filmmaking but also the content and modes of consumption of film. These changes have also posed new economic and cultural challenges for policymakers and led to a degree of rethinking of how film policy objectives are to be conceived, defined and implemented.

There is currently no policy framework for the film industry in Kenya and the resultant effect is that even though the industry has been adapting well to technology and embracing the changes taking place in the global film industry, there is lack of a singular, systematic, goal-oriented vision for the industry. This ultimately affects the overall gains realized from the sector.

The Film industry is globally recognised as the biggest drivers for tourism as well as culture and heritage conservation and the film industry in Kenya has the potential to go beyond this and aid in the realisation of the economic, social and political pillars of Kenya Vision 2030 through employment creation, promoting tourism and the production, distribution and broadcasting of films that promote national cohesion, values, culture and the aspirations of the Kenyan people. In addition, the film industry in Kenya has been increasingly identified as a key growth industry with great potential to stimulate economic growth through infrastructural development, tourist attraction, investment and employment creation.

Whilst it is acknowledged that different state and non-state actors have made great strides on moving the industry forward, it is accepted that Kenya is far from reaching its potential in terms of adapting to and taking complete advantage of opportunities within the film and television industry.

Kenya is uniquely positioned to be the gateway for the provision of film content to about 200 million Kiswahili speakers in the Eastern Africa region and as a regional hub and leader for film production, can contribute to a more informed society, help to shape attitudes, alter thinking and develop the minds of local and regional viewers.

Unlocking the potential of the Film industry through renewed policy interventions will provide the sector with capacity to create sustainable decent jobs and wealth creation especially among the economically excluded segments of the population including youth, women and persons with disabilities. The youth in particular accounts for 68% of the persons seeking employment in Kenya and tapping into their innovativeness and technology savviness through a vibrant film industry can yield demographic dividends for wealth creation.

1.1.1. History of the Kenya Film Industry

Colonial Kenya

The first cinema theatre, Theatre Royal, opened its doors in September 1902 for the screening of films to an exclusively white settler audience here in Nairobi. At the time, films screened came from Britain, were black and white silent films that would be accompanied by music from a phonograph and a running narration from a commentator inside the cinema hall.

Similarly, the first images of Kenya captured on film was in 1909, by Cherry Keaton, a British wildlife photographer who was hired to film the wildlife safari undertaken by US President Theodore Roosevelt. The film was shot for 5 months, on black and white film with a huge cumbersome camera. The film *Theo in Africa* was screened in London and New York in 1910 and 1911 respectively.

This was followed in 1920 by the film *Africa Speaks*, a film about an expedition from Mombasa to Lagos – marked by a lot of wildlife photography. This film was poorly executed with a lot of out of sequence editing making the story difficult to follow. This film marked the first travelogue film shot in most part in Kenya.

The 1930's marked a busy period for film in Kenya as a result of travelogue films that had been screened both in Europe and the America that depicted a wide variety of choice locations in one country. Film like *Mogambo*, *The Snows of Kilimanjaro* and *Trader Horn* which showcased the conflict of Europeans battling with the dangerous elements of nature and a new culture in Africa while at the same time enjoying the breath-taking scenery. Back in Europe, there was a huge appetite for these kind of stories- white conquest over heathen and savage African communities against a backdrop of virgin locations in Africa. During this time, no Africans were involved in the shooting of the films- their participation was patronizing, confined to the role of a porters, guards, extras, or fire-spitting witches! These films were not an expression of the Kenyan people. Kenya was merely a set, or backdrop for the white man's adventure films.

In the 1940's, the British colonial government set up a fully-fledged British Information Services in Kenya to manage the transmission of information from the Colonial Office. This resulted in the shooting of *War came to Kenya* in 1941 which documents the war effort of the British during the Second World War and counters enemy propaganda about Britain. One of the film's function was also to recruit and encourage British volunteers to support the war effort as soldiers in the Kenya Defence Forces.

In the 1950's, there was an upsurge of films by the Kenya Information Services (former British Information Services) to counter the very first efforts in the indigenous people's fight for independence from the colonial masters. Films like *Black Man's Land: White Man's Country*, *the Heart of the Empire* and most importantly *Mau Mau* (1954) are examples.

Other films such as the "HRH at Nairobi" which was produced in 1927 documenting Kenyan communities and their interaction with the colonialist; "African Nurse" produced in 1948, illustrating the life and training of an African nurse; and "Kenya - The Kenyatta Trial", produced in 1953 documenting the court proceedings of the Kapenguria six; "Kenya Mountain", which documented the detailed study of African town and village life showing the work of the Methodist Mission in three main areas, Nairobi, the highlands and the coastal region in Kenya produced by white settlers are currently stored in the British Film Institute and inaccessible to Kenyan audiences.

Post-Colonial Kenya

The gaining of independence saw a transition to the making of indigenous Kenyan films by Kenyan producers who gained skills through apprenticeship from the white settlers. At the onset of independence, films such as *Mlevi* (1967), *Bushtrackers* (1981), *Kolormask* (1986) and *The Married Bachelor* (1997) were produced and became some of the first films to showcase Kenya, its beauty, and the talent that lies within. The country also attracted international films shot in Kenya such as *Out of Africa* in 1985, Karen Blixen's love affair with Africa, and 'To walk with Lions' shot by a Canadian production company in 1999.

Another significant development during the independence period in 1964 was the conversion of the Kenya Broadcasting Services which was formed by the colonial government in the 1920s to "the Voice of Kenya", through which the government was able to enlighten and educate the people on policies and laws of Kenya. This was later on reverted back to Kenya Broadcasting Corporation in 1989. There was also the Kenya Film Corporation which was formed shortly thereafter in 1967 to localise film importation and distribution in the country which was initially run by foreign film distribution companies. A significant role was also played by the Department of Film Services (DFS) under the Ministry of Information to promote indigenous fiction film-making in the 1960's.

Despite the making of independent productions done by Kenyans, there was still a large preference for Hollywood films by Kenyans. This led to a very slow uptake of the Kenyan films which received little to no attention by the people and the state. Throughout the history of film in Kenya, there has been a dependence of the Kenyan population on foreign entertainment through film and television. The country is still developing to effectively exploit this powerful and effective medium in telling its own stories, both internally and to international audiences.

The Kenya Film Classification Board (KFCB) was established by the Films and Stage Plays Act of 1962 and came into force in 1963. Since its establishment, KFCB has since undertaken to regulate the creation, broadcasting, possession, distribution and exhibition of films by examining them, imposing age restrictions and giving consumer advice about films. Its mandate was further enhanced through section 34 of the Kenya Information and Communications Amendment Act of 2013 giving the Board the mandate to monitor television stations in order to ensure content

meant for adult audiences is not aired during the watershed period The object of the Film and Stage Play Act is to provide for controlling the making and exhibition of cinematograph films, for the licensing of stage plays, theatres and cinemas.

Kenya pre and post 2010.

The Government of Kenya made conscious efforts to promote Kenyan cinema by establishing the Kenya Film Commission (KFC) in 2005 through Legal Notice Order No.10 of 2005 (This mandate has since been enhanced under Legal Notice Order No. 147 of 2015) with the aim of developing and promoting the growth of the industry both locally and internationally. It supported the film industry by providing facilities for filming and screening such as cinema halls which were largely established in urban centres. The promotion of the film industry also shot up with films being advertised through film festivals such as the Lola Kenya Screen Audio-visual media festival, skill development programmes in 2005. The festival specifically focused on films by and for the youth, and the festival continued annually up to the year 2011. Other popular film festivals such as Kalasha film festival have aided in promoting the Kenyan film industry by promoting local productions and is one of the most popular film festivals in Kenya and East Africa.

The Kenya Information and Communication Act, (KICA) was adopted in 2008 and further amended in 2013 to provide regulations for the broadcasting sector. The Act established the Communications Commission of Kenya now known as the Communications Authority of Kenya, and the Act sought to empower the Authority by establishing it as the licensor of all broadcasters and broadcasting services in Kenya; defining and making provision for local content quotas for broadcasters; establishing the Broadcasting Content Advisory Council and establishment of a Fund to assist the development of the Kenyan film production industry. These roles were further explained under the programming code of free to air radio and television services. The object and purpose of the Communications Authority of Kenya is to licence and regulate postal, information and communication services in accordance with the provisions of this Kenya Information and Communications Act.

Kenya's domestic film industry is now positioned to develop into a powerful contributor to all sectors of national development. This policy creates a framework that will enable the creation of a truly enabling environment to see the film industry actualise its potential.

Through the Ministry of ICT, Innovation and Youth Affairs, the government has indicated the will to transform the film industry in Kenya into a world-class industry supporting the growth of the country and ultimate achievement of the governments development agenda. The Ministry provides the necessary resources and policy direction to support institutions working in the film industry.

There are currently two state agencies, specifically tasked with regulatory, development and promotion responsibilities. These are the Kenya Film Classification Board (KFCB) and the Kenya Film Commission (KFC) which are respectively mandated to classify films for exhibition or distribution and develop the film industry.

The Department of Film Services is responsible for the production and dissemination of films and other audio-visual material for the government that interprets its policies and programmes. The Kenya Film School is a talent based educational institution established under the Ministry

to undertake capacity building and training in the film industry. All together, these institutions together with other industry stakeholders have the responsibility to provide the necessary policy and regulatory direction to enable growth, development and regulation of the film industry.

The policy seeks to give direction on the way forward for the film industry in Kenya.

1.1.2. Socio-Economic Contributions of the Film Industry

The film industry plays a significant role in the development of the Kenyan economy as it creates opportunity for both direct and indirect revenue generation. Factors that contribute to the successes of the industry include the existence of broadcasting content quotas, the embracing of technological platforms, a creative and talented workforce, quality film productions among other factors. The film industry contributes to the increase in economic growth by providing opportunities for employment for the youth in production and distribution processes. According to a study conducted by the KFC on the economic contribution of the film industry, it was reported that about 123,290 jobs existed directly in the film industry in 2018 which increased by about 5.3% in 2019 to 129,824. The total number of jobs in Kenya as at December 2019 stood at 2,928,300 and therefore the film industry accounted for about 4.5% of the total direct jobs in the economy.¹

The Communications Authority of Kenya (CA) has also enhanced compliance with the 40% percent local content quota requirement for broadcasters. During the period of 2018-2019, CA reported that 83% of broadcasting stations complied with the quota requirement, marking a drastic increase by 82.4% in the compliance of stations.

The Kenya Film Commission in its mandate as a facilitator of growth and establishment of incubation centres for the film industry has undertaken activities to promote filming. KFC has promoted continued collaboration with various strategic development partners in boosting Gaming and Animation in Kenya. KFC has also maintained strong relations with county governments and has continued to sensitize them on the importance of the film industry in the growth of the Kenyan economy towards attaining Kenya's vision 2030. The Commission has purposefully promoted engagements with Regional Blocs to enhance their capacity and help them venture into film-based areas of investment.

Further, the import of video sharing websites and video on-demand (VoD) services has led to an increase in options to access content by Kenyans. This has led to an increased availability and consumption of local content while generating revenue through charges put in place to access these platforms.

According to a PriceWaterhouse Coopers report: "*Entertainment and media outlook: 2018 – 2022; An African perspective*" Kenya has recorded steady growth in the industry showing consistent increase in revenue between 2013 to 2017. Kenya has also recorded the highest rate of penetration of smartphone usage in Africa. This has created an ideal market for the film industry in Kenya due to the extent of accessibility of content through mobile platforms.

¹ Kenya Film Commission, Economic Contribution of the Kenyan Film Industry, (GPP Consulting) June 2020.

Further, the report indicated a steady growth in the film industry with the cinema sector recording a revenue of US\$ 5.6 million as at 2017. The report anticipates further increase in revenue to US\$ 7.9 million in 2022 and has reported a steady growth in both box office and cinema advertising revenue.

The film industry contributes to the expression and recording of the Kenyan culture and national heritage by enabling the dissemination and promoting accessibility of our national heritage by local and international audiences. Film and video productions play a central role in influencing the perceptions of our country. Of equal importance is the potential for a vibrant and dynamic arts and culture sector to contribute significantly to the economy of the country. Therefore, the film industry stands at the pinnacle of efforts to promote the Kenyan culture as a conduit for the transfer of morals and values, whilst acknowledging and embracing the past to contribute to the evolution of our social, cultural and democratic practices.

1.1.3. Vision 2030 and the Film Industry

Vision 2030 is Kenya's development blueprint. The film industry has the potential to directly affect and contribute to the attainment of Vision 2030 through the cross-cutting nature of economic, social and political benefits that a well-structured industry can help realise. Below is a synopsis of these benefits relating to each of the pillars.

Economic Pillar: The film industry will assist in promoting both local and international tourism. Community based tourism will be promoted through the production, promotion and protection of audio-visual works touching on the rich cultural heritage of our communities. At an international level, the promotion of film to an international platform through co-productions and increased exposure through international film festivals will contribute to the growth of the tourism industry, while also earning the country much needed foreign exchange.

Social Pillar: The use of films for educational purposes will improve the quality of education and provide more meaningful understanding of Kenya's history and culture to learners. This industry will also largely contribute to the elevation of minority groups in society through gender, youth and disability mainstreaming among others. In addition to creating awareness on issues such as discrimination, crime, substance and drug abuse, teenage pregnancies, underrepresentation, marginalization and other emerging issues such as radicalization and mental health, the film industry if promoted and properly regulated, will create employment and sustainable livelihoods for many, including unemployed youth. The film industry will also promote Kenya's cultural heritage by creating and promoting local content that depicts the values and principles espoused through our social identities. Through film, Kenya's cultural identity and characteristics shall be emphasized. This creates a sense of pride and belonging and further translates to a greater sense of patriotism. Through film, Kenyans can classify themselves as a people having common values, with their cultural heritage being the unifying factor.

Political Pillar: The film industry will also contribute in generating political awareness and educating the citizenry on their political rights.

1.2. Introduction

Having a vibrant film industry is fundamental and plays a key role in social, economic and national development. It offers the opportunity to enhance our cultural values, heritage, and national identity and stands as an important vehicle for ensuring inclusivity for all people in Kenya, presents employment opportunities for the youth, and the maximization of the rich talents that the people of Kenya have to offer within the film industry.

The National Film Policy is geared towards ensuring a well-coordinated industry having all players reading from the same script on the strategies to be adopted in promoting growth. The Ministry of ICT, Innovation and Youth affairs, The Kenya Film Commission, Kenya Film Classification Board, together with other sector players undertook to review the current structural, institutional and regulatory framework existing within the industry to harmonize it and incorporate emerging issues that have implications on the activities being undertaken within the industry.

Since 2002, sector players have been involved in discussions on the development of a policy that facilitates the promotion of the Kenyan cultural heritage and development of the film industry towards the realisation of a vibrant film industry having a unified voice and being forward looking. So far, stakeholders have made personal efforts at institutional levels to promote a more efficient system that protects interests of industry players, and promotes the work done by film producers. The policy seeks to respond to issues regarding economic growth and job creation, preservation and promotion of Kenyan national heritage and culture, promotion of tourism, and enhancement of national cohesion and integration.

1.2.1. Policy Review Process

The formulation of this policy was guided by an extensive review of literature relating to the film industry in eleven countries² and critical review of the past draft policies. This exercise enriched insights on the sector's policy aspirations and guided the generation of the Issues Paper, that sought to outlay the foundational matters that required to be provided for in this policy. The reviews were guided by the principles and provisions articulated in the Kenya Vision 2030, the Constitution of Kenya and other regional and global development agenda.

Further, key input was provided through a consultative and participatory approach involving a Taskforce established by the Ministry of ICT, Innovation and Youth Affairs with representations from various State Agencies including; the Kenya Film Commission, the Kenya Film Classification Board, the Communications Authority of Kenya, the Kenya Broadcasting Corporation, the National Communications Secretariat Kenya Copyright Board and the Kenya Law Reform Commission. The county governments were invited to join the Taskforce through the office of the Council of Governors (CoG). The Kenya Law Reform Commission (KLRC) played a lead role in the research and drafting of the policy.

Due to COVID-19 restrictions, stakeholder consultations and public participation were conducted online through interactive video conferencing platforms, websites, social media and

² Nigeria, South Africa, Argentina, Canada, India, Malaysia, Singapore, UK, USA, Germany, France.

e-mail, views were elicited on existing challenges and opportunities facing the sector, with stakeholders covering all the 47 counties.

1.2.2. Rationale of the Policy

The potential of the film industry in Kenya is immense and provides opportunity for the government to channel resources, skills and expertise towards the promotion, protection and improvement of the film industry in Kenya. In recognition of the wealth of resource and potential existent in the film industry, the Ministry of ICT, Innovation and Youth Affairs sought to develop a sectoral Film Policy in a bid to provide direction on the future of the film industry. In the deliberations building up to the formation of the film policy, the key stakeholders noted with concern that the film industry was not recording growth due to barriers identified to include poor co-ordination, facilitation and promotion of the film industry and a lack of harmonious laws and policies to guide the activities of the industry to ensure optimum growth.

Efforts to streamline the industry's institutional and regulatory framework through the formulation of a sector specific policy and legislation were initiated in 2008. However, due to various industry concerns, the drafts were never formally adopted and to date there exists a policy, legislative and regulatory lacuna in respect thereof. This policy is therefore the result of the government's commitment towards having a streamlined fit-for-purpose industry and the wider industry clamour for support and guidance informed by the desire to grow the Kenyan film industry by first setting straight the foundational elements.

All these interventions have led to great strides in the regulation and development of the film industry and increased opportunities for sector players. However, despite these interventions, the Government is still faced with challenges of addressing aspects of duplication, regulation and in-competition hence the need for a clear and comprehensive policy framework to guide the sector towards the achievement of unified growth. This policy re-affirms the commitment of sector players in filling the gaps in legal and policy concerns in order to deliver a promising framework that will aid in achieving the industry vision, mission and objectives.

1.2.3. Policy Goals and Objectives

Goal

The overarching goal of the policy is to develop a vibrant and all-inclusive film industry in Kenya. Further, in line with the Vision 2030, the policy seeks to work towards ensuring the optimum capitalisation of the economic, social and cultural rewards associated with film both locally and internationally.

Objectives

The general objective of the national Film Policy is to provide the foundational pillar for the film industry by ensuring congruence in the legislative and regulatory framework governing the film industry towards the promotion of an enabling environment conducive for strategic growth locally and globally. Specifically, the eight key policy areas have been identified as follows:

1. **Economic Growth:** Catalyse domestic and foreign investments in the film industry to spur opportunities for youth, women, minorities, marginalised groups, the elderly, rural communities and persons with disabilities.
2. **Legislative, Institutional and Regulatory Clarity:** Streamline the film industry by adopting clearly defined roles of institutions in the sector on policy, development and regulation within the film industry.
3. **Funding:** Provide for the establishment of the film fund and mobilisation of resources for the film sector.
4. **Infrastructure and Capacity Building:** Provide for infrastructural support in the form of actual investments in infrastructure, enhancing the training, education and upskilling opportunities and curriculum.
5. **Heritage and environment:** Recognise the role of the film industry in promoting the Kenyan culture whilst also advocating for the protection of the environment in which the filming activities take place.
6. **Devolution:** Provide a framework for streamlining sector interaction with the county governments in view of the devolved functions and the cross-cutting issues such as licensing that arise during production, distribution and exhibition.
7. **New technology:** Provide a supportive framework for the local film industry to be able to leverage on new and emerging technologies for the benefit of the sector.
8. **Industry players:** Provide for the organisation of industry players into an umbrella body that will be able to speak for the sector and develop guidelines and principles applicable to their members and other sector players.

1.2.4. Vision

The policy envisions Kenya as a globally competitive and vibrant hub for film production.

1.2.5. Mission

To develop, nurture, and facilitate a film industry that promotes Kenya's cultural and artistic expression for the overall social, economic and political development of the country.

1.2.6. Guiding Principles and Values

The National Film Policy recognises and upholds the national values and principles provided for under Article 10 of the Constitution of Kenya, 2010. Therefore, the policy seeks to provide key strategies towards a vibrant film industry by actualising the values and principles of inclusiveness, integrity, unity, transparency, accountability and sustainable development,

enshrined in the Constitution. In line with this, the national film policy is informed by the following principles:

Equity and non-discrimination

The policy acknowledges the rights of all persons in the film industry and the accommodating responsibility of protecting all persons from any form of discrimination. Further, the policy seeks to promote the equitable development of all the relevant sectors in the film industry so as to attain wholesome growth, devoid of neglect to any relevant player, or set of players.

Intra and inter-sectoral coordination

A successful approach in achieving a vibrant film industry requires cooperative involvement of both public and private sector players at the county, national, regional and international levels to be attained through the institutionalisation of strategic partnerships.

Industry-centred approach

The policy shall focus specifically on strategies that will promote private sector investment and directly respond to the unique challenges that face the film industry, while being dynamic to respond to all needs as they arise.

Allocation of resources

The policy advocates for the allocation of infrastructural, financial and technical resources to interventions that promote the improvement of the industry.

Accountability, transparency and good governance

Policy frameworks shall uphold the constitutional values of accountability, transparency and good governance in the implementation processes.

Harnessing technology

The policy recognizes the implications of technology in promoting efficiency, and improved quality of production, distribution and exhibition of films in the industry. The policy therefore appreciates the role of technology in the achievement of a robust film industry.

Access and Inclusion

The policy will seek to ensure inclusivity of all Kenyan citizens regardless of their socio-economic backgrounds. The policy shall encourage the full inclusion and equal access to youth, women, minorities, the marginalized, the elderly, rural communities and persons with disability (PWDs) by generating platforms and initiatives that promote equal access to opportunities and resources.

Partnership

The policy implementation process shall involve all stakeholders at all levels of implementation.

1.2.7. Scope of the Policy

The provisions of this policy apply to all the activities and programmes within the film industry. It applies to both the national and county governments, the public and private sector, and all state organs and offices. The policy shall also guide the development of relevant legislation touching on activities within the Film Industry in Kenya.

DRAFT FOR VALIDATION

2. CHAPTER 2: SITUATIONAL ANALYSIS OF THE FILM INDUSTRY

An overview of the film industry in Kenya

The film industry in Kenya is characterised mainly by activities revolving around the production, promotion and distribution of film content locally, regionally and internationally. These activities in most instances, are the efforts of private players and practitioners who are keen to derive social and economic benefits from the sector. State actors also continue to support the growth and activities of these private sector players through a number of strategies and support programmes.

The interventions by the state actors and the continued investment by private sector players in the sector has however been undertaken without an overarching national policy support framework for the sector generally. This is despite the acknowledgement of the potential benefits of the sector to the social, political and economic growth of the country. The sector is also characterised by a number of legislative and regulatory issues that has resulted in the sector being subjected to disconnected laws. The totality of these gaps and omissions in law has led to a general lack of a clear vision for the sector.

The industry is continually experiencing growth with the importation of cutting-edge technology to promote production of better-quality films, exhibition of films and support online storage of films. Similarly, the distribution of films has been improved through the use of over the top services that have enhanced efficiency in the accessibility of films and other audio-visual content. Efforts have also been made to provide quality training for industry entrants to keep them abreast of technology developments and hone relevant skills needed for the ultimate growth of the sector and the industry at large.

It is therefore the case that urgent interventions need to be adopted in order to aid the achievement of the highest potential of the film industry by meeting the needs of all industry players involved in the production, promotion, exhibition and distribution of film in Kenya and globally.

2.1. Policy, Legislative, Regulatory and Institutional Environment

The Kenyan film industry is characterized by an array of legislative and regulatory frameworks that have been passed and operationalized over the past two decades. The legal foundation for the institutions and the mandates of the players in the sector are found in the different pieces of legislation and regulations. These are discussed below.

2.1.1. The Constitution of Kenya, 2010

Article 11 of the Constitution of Kenya recognises culture as the foundation of the nation and as the cumulative civilization of the Kenyan People and nation. It places upon the state the responsibility of promoting all forms of national and cultural expression, including through the use of mass media. The State shall promote all forms of national and cultural expression through literature, the arts, traditional celebrations, science, communication, information, mass media, publications, libraries and other cultural heritage.

Article 186 provides for the functions and powers of County Governments as set out in the Fourth Schedule. Article 185 (2) gives the county assemblies legislative authority to make laws for the effective performance of their functions.

Under the Fourth Schedule, Part 2, paragraph 4 (d) and (e) provides that County Governments have the functions and power to oversee cultural activities, public entertainment and public amenities, including cinemas, video shows and hiring.

2.1.2. The Film and Stage Plays Act (CAP 222)

The Film and Stage Plays Act Cap 222 currently stands as the only independent statute specifically providing for the regulation of the creation, exhibition and licensing 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 undertakes the function of licensing and classification to regulate the film industry.

The major challenge presented by the statute is the lack of recognition of all other sector players and their role in the regulation and development of the film industry. The Act has also not addressed the training of industry players. Further, the Act has failed to be futuristic in its wording to ensure that it keeps up with an ever-evolving film industry with the import of new technologies.

2.1.2.1. The Kenya Film Classification Board

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

- i. Regulating the creation, broadcasting, possession, distribution and exhibition of films by:
- ii. Examining and classifying all films, film trailers and film posters using the National Film Classification Guidelines to protect children from consuming adult content.
- iii. Imposing age restrictions on viewership.
- iv. Giving consumer advice.
- v. Licensing and issuing certificates to film exhibitors and distributors of films.
- vi. Licensing the making of films.
- vii. Developing classification guidelines, standards and regulations for the film industry.

2.1.3. Kenya Film Commission Legal Notice No. 147 of 2015

This Legal Order Number 147 of 2015 established the Kenya Film Commission (KFC) as the Government agency tasked with developing, promoting, marketing and archiving in the film industry in Kenya. KFC aims to develop a vibrant local film and TV industry and market Kenya

locally and internationally as the preferred filming destination for sustainable wealth and Job creation.

2.1.3.1. Kenya Film Commission

The Commission undertakes various film industry programs to develop the film industry which include: Capacity Building through workshops and master classes to educate local film makers on various aspects of film production, promoting the local film industry by providing facilities for filming and screening, Facilitating the creation of incentives through aiding the film industry in the approval of tax exemptions for the importation of machinery , providing liaison services to ease access of government services including acquiring permits for foreign film makers, advising the film industry on licensing requirements among others programs.

According to Legal notice no 147 of 2015, the mandate of the Commission is to:

- i. develop, promote and market the 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 centres for the 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. promote and market Kenya, locally and internationally, as a filming destination;
- x. develop fiscal and other incentives to promote investment in the film industry; and
- xi. partner, develop and create linkages with county, national and international organizations, both public and private, to improve and facilitate investment in the film industry.

2.1.4. The Kenya Information and Communications Act, 1998 (KICA)

The Act establishes the Communications Authority of Kenya, among others, which licenses broadcasters and regulates broadcasting services in Kenya. In relation to the film industry, the Act promotes the airing of local film productions in accordance with the regulations of the programming code on free to air radio and television services by providing content quotas to be met by broadcasters. The Act provides for the regulation of content aired on television and radio; and empowers the Authority to grant licenses for the operation of telecommunication systems.

2.1.5. The Kenya Broadcasting Corporation Act (CAP 221)

The Act establishes the Kenya Broadcasting Corporation (KBC) to assume the Government functions of producing and broadcasting programmes or parts of programmes by sound or television. The Act also provides for the management, powers, functions and duties of the Corporation.

2.1.5.1. The Kenya Broadcasting Corporation

The mandate of the Kenya Broadcasting Corporation (KBC) includes:

- i. providing independent and impartial broadcasting services of information, education and entertainment, in English and Kiswahili and in such other languages as the Corporation may decide;
- ii. providing and receive from other persons material to be broadcast and promote local content on a designated channel;
- iii. appointment and entering into contracts with contractors and artists as is necessary for the purposes of the Act;
- iv. providing facilities for commercial advertising and for the production of commercial programmes;
- v. producing, manufacturing, purchasing or otherwise acquiring, and selling or otherwise disposing of, films, gramophones and other mechanical records, tapes, 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;
- vi. providing and receiving from other persons material to be broadcast; and organizing, providing and subsidizing public entertainment for broadcast.

2.1.6. Department of Film Services (DFS)

The Department of Film Services was established via an Executive Order when it was hived from the then Voice of Kenya (VOK) in 1982.

Currently, the mandate of the Department of Film Services is derived from Executive Order No. 1 of 2020 which assigns several functions to the state Department of Broadcasting and Telecommunications including Film Development policy and development of the film industry.

2.1.7. Kenya Film School (KFS)

The Kenya Film School is under the Ministry of ICT, Innovation and Youth Affairs as a talent-based institution offering training and capacity building in a wide variety of areas specific to the film industry and production. The School was operationalised as a result of the report of a multi-sectoral taskforce and national survey of the status of film education and training by the Ministry of Sports, Culture and the Arts in 2015.

2.1.8. The Copyright Act of 2001

The Act establishes The Kenya Copyright Board (KECOBO) which administers and enforces copyright and related rights in Kenya. The Act provides for the protection of copyright in literary, musical and artistic works, dramatic works, audio-visual works, sound recordings and broadcasts through the Kenya Copyright Board. The Act provides a holder of a copyright the exclusive right to control the production, translation, and distribution of their work.

Representatives from associations representing players in the film industry step in to protect the rights of their members in regard to ownership of rights related to their works.

2.1.9. The County Governments Act of 2012

The County Government Act provides for the delivery of public services through county government structures within the designated area of each county's jurisdiction while observing the principles of equity, efficiency, accessibility, non-discrimination, transparency, accountability, sharing of data and information, and subsidiarity.

It also provides for shared services through agreements between county governments and the national government, between county governments and national agencies; and for the establishment of county shared services platforms aligned to national policies, standards and norms.

2.1.10. The Wildlife Conservation and Management Act, No. 47 of 2013

Section 10 of the Wildlife Conservation and Management Act requires a license for commercial film making in a National Park. It states that no person shall make any cinematograph film in a National Park for sale or other commercial use unless the filming license issued has been produced to the Director and that written authorization has been given for the making of the film.

2.1.11. Public Archives and Documentation Service Act

The Act gives the Director of the Kenya National Archives and Documentation Service power to make arrangements for the separate housing of films and other records which require to be kept under special conditions.

2.1.12. The National Museums and Heritage Act. No. 6 of 2006

The Act establishes the National Museums of Kenya whose functions include:

- a) To serve as national repositories for things of scientific, cultural, technological and human interest;
- b) Serve as places where research and dissemination of knowledge in all fields of scientific, cultural, technological and human interest may be undertaken;
- c) Identify, protect, conserve and transmit the cultural and natural heritage of Kenya; and
- d) Promote cultural resources in the context of social and economic development.

The Act provides for the powers of the national museum to charge fees for publications which includes the publication of videos shot within the museums. These fees apply to the making of films, documentaries and advertisements.

The statutes and institutions discussed above all play a key role in the film industry. However, the efficient delivery of their functions is limited by the lack of a standard unified system that enhances collaboration in order to make processes efficient and to maximize available resources towards the development of a vibrant film industry. The policy therefore proposes the generation of a clear structural framework for the collaboration of all industry players. the

policy seeks to clearly outline the developmental, regulatory, and policy formulation and oversight role in order to ensure an aligned system.

2.2. Challenges facing the film industry in Kenya

The film industry in Kenya faces a number of challenges that altogether limit the growth and development of players in the industry and the industry as well. Infrastructure, policy, legal, regulatory and financial constraints continue to present the major challenges and intervention to these, are hence prioritized in this policy. Other challenges affecting the industry which double up as opportunities include disorganization of industry players, the emergence of new technologies and the lack of a skilled workforce.

Below is an elaboration of the challenges.

2.2.1. Policy, Legal and Regulatory Challenges

The film industry in Kenya faces an inadequacy in comprehensive policy, legislative and regulatory frameworks to govern all aspects of the film industry from the production and distribution of films to the protection of film products and industry players from various forms of harm. This has had a negative effect on the industry due to lack of clarity on the common goal and direction being taken in initiatives carried out by various stakeholders towards the achievement of a vibrant industry.

The policy, legislative and regulative environment has also occasioned an inadequacy in the extent of interventions that both state and non-state actors can put in place in order to grow and develop the sector. Of general note is for instance, the variance in understanding of the mandates of not only institutions within the sector, but also the mandate of each institution with respect to specific industry sensitive components. Another instance can be witnessed through the numerous associations of players within the industry. There is need to advocate for and adopt a singular recognition framework for the industry players so that in advocating for growth and adoption of basic labour standards and practices in the sector, the players are able to collectively and unanimously agree on salient issues of concern.

2.2.2. Inadequate Funding and Financial Incentives for Industry Players

The film industry in Kenya is faced with a consistent lack of funding and incentivization to encourage film production in the country. This is evident when comparison is made with other countries that have a thriving film industry such as Argentina, Canada, France, Germany, India, Malaysia, UK, Singapore, USA, South Africa and Nigeria where use of a blend of financial incentives and logistical support is employed to attract international investment in the industry. The lack of a framework on the funding and incentivization of the industry has left a gap in directing the participation of private sector players or international investors on the opportunities available for investment in the industry.

In addition, the Kenya Film Commission is mandated under the Kenya Film Commission Order, No. 147 of 2015 to set up a film promotion fund and develop fiscal and other incentives to promote investment in the film industry. The operationalization of the fund is yet to be done, due to a lack of clear legislative and regulatory direction on its establishment.

A lack of coordination in legislative framework has further exacerbated the situation by failing to clarify how industry players can access tax incentives for their production companies.

2.2.3. Lack of a formal framework for co-production treaties

Benefits attached to use of co-production agreements include the sharing of technical skills and resources; opportunities to benefit from both local and international incentives awarded for co-productions; an ability to tap into a wider market by reaching an international audience; the ability to pool financial resources; and the ability to spread financial risks associated with the creation of films.

The policy seeks to provide direction on the how the industry can benefit from these collaborative agreements.

2.2.4. Lack of Robust Marketing and Promotion Initiatives for the Industry

The marketing and promotion of films in Kenya is a function undertaken by both state and non-state agencies. At the national level, the Kenya Film Commission plays a proactive role in the promotion of local films, while international players have through recognizing and allowing the participation of local players in their markets, propelled the appreciation of Kenyan films. Efforts by the Communications Authority of Kenya in regulating the minimum percentage of local content to be aired by broadcasters to be not less than 40% of their programming annually has also in many ways promoted the appreciation of local content.

The national broadcaster KBC should be able to offer to the citizenry and the world, an unrivalled view and perspective on local issues. The policy therefore outlines the role the national broadcaster plays in the overall growth of the sector and sets forth its over-arching vision and direction as intrinsically tied to the growth of the local film industry.

However, there still persists a low interest, knowledge, appreciation and uptake of local films by citizens, state and non-state actors. Furthermore, there are no set guidelines on the marketing and promotion of the industry thereby limiting the extent or manner in which branding of local productions for marketing purposes should be done.

The policy in considering all these matters relating, inter alia, to the marketing, promotion and therefore branding of the film industry, puts in place measures to comprehensively grow the industry through innovative and all-inclusive initiatives.

2.2.5. Archiving and record keeping

The Public Archives and Documentation Service Act (CAP 19) provides for the archiving of relevant material relating to the functions of the government, the nation and of films. The Act gives the Director of the Kenya National Archives and Documentation Service power to make arrangements for the separate housing of films and other records which require to be kept under special conditions. This is as far as any legislation goes with regard to the preservation of film.

The Kenya Film Commission is mandated to facilitate the archiving of film materials in Kenya. There is however a need to provide a linkage between this role and that of the Director of the Kenya Archives and Documentation Service in order to determine how best to deliver on it.

2.2.6. Skills and Training for the Film Industry

The film industry in Kenya is characterized by low managerial, financial, technical, technological and industry relevant skills. Despite the presence of numerous learning institutions and centres for vocational training, and the establishment of the Kenya film School which has made tremendous efforts in training the youth on film production, there is a weak link between the curricula and the practical skill set required in the industry. The result of this has been consistent importation of skills and personnel to undertake roles that Kenyans should be undertaking besides a consistent unavailability of required skills in the local market to inspire bigger and more advanced production projects. This has also meant that local productions and distributions do not get the benefit of industry knowledgeable and capable skills force.

For courses relating to films and which are supposed to offer practical skills to meet the current dynamics, a lack of practical orientation intended to equip learners with relevant skills is also witnessed. Moreover, the available curricula in learning institutions and other capacity building programs have not been fully designed to accommodate PWDs and school drop-out youth in the Informal Settlements.

Further, there is lack of a framework to effectively recognize and certify industry-relevant skills gained by crews through practical experiences. Limited skills contribute to a weak human and institutional capacity of the industry to undertake innovation required to boost productivity.

Therefore, the policy provides interventions that would be relevant to improving the general and specific skillset of the industry in order to be globally competitive.

2.2.7. Lack of adequate infrastructure

The Kenyan film industry has so far benefitted from government interventions through initiatives such as subsidies, tax exemptions and the creation of a fund in Legal notice no 147 of 2015. However these interventions are inadequate in providing for the required infrastructure for the film industry to thrive in the country. In addition, even though these incentives exist for both local and international investors to set up such infrastructure, other factors such as lack of skilled workforce and multiple regulatory frameworks have placed limits on Kenya as a favourable filming location.

For the industry to grow and become globally competitive, it is essential that infrastructure relating to pre-production, production and post-production is developed and made available for use. These sets of infrastructure not only relate to the physical infrastructure, but also relate to infrastructure that would allow for cross-county collaborations and importation and use of new technologies into the country. This policy therefore proposes key interventions that need to be made with respect to infrastructure and also considers the possibility of such infrastructure being developed and managed through a collaborative framework with the private sector players in the industry.

In addition, there is a need for there to be available to the interested local and international public, location inventories that would be a quick guide to those seeking locations for any productions in the country. As it is common knowledge that environmental concerns must be tied to every location available for a production, the policy would also consider how the use of filming locations impact the environment and the heritage of the communities as well.

2.2.8. Multiple Licensing Frameworks.

The current regulatory framework for the Kenya film industry is characterized by multiple licensing regimes which impede the growth of the local film industry and negate the efforts made by the country in promoting the ease of doing business. Notably, the national and county governments have different frameworks regarding the licensing of filming activities in the country. Additionally, there are many and different categories of fees and licenses that are discordant across both levels of government governing filmmaking in the country. This is largely owing to the misinterpretation of the functions of both levels of government in accordance with the Fourth Schedule which, regrettably, are a hinderance to development of the Kenya Film industry.

It is therefore imperative to harmonize the regulatory frameworks with a view to creating a conducive filming environment that will spur growth of Kenya's creative economy for purposes of wealth and job creation through a rationalised licensing framework based on the principles of affordability and inclusivity. Further, there exists inadequacies in the Films and Stage Plays Act, Cap 222 in addressing challenges presented by emerging technologies that may render the Act and essentially KFCB ineffective in regulating film content over the internet and other digital platforms. This is occasioned by enactment of the Act decades ago (1963).

2.3. Strengths, Weaknesses, Opportunities and Threats for the Film Industry

The policy recognizes that the current status of the industry presents certain strengths, weaknesses, opportunities and threats. It is important to consider these factors to assist industry players in capitalizing the potential that exists within the industry. The table below presents an analysis of the identified strengths, weaknesses, opportunities and threats that exist in the industry.

STRENGTHS	WEAKNESSES
<ul style="list-style-type: none">i. Creative and talented film industry players.ii. Technology savvy population.iii. High penetration of mobile network and internet use.iv. Proactive national broadcasting regulator.v. High quality film productions.vi. Tax deductions for importation of film equipment.vii. Local broadcast quotas.viii. Adaptability to technological advancements.ix. A growing screen culturex. Unutilized talent among the youth in the informal settlements.	<ul style="list-style-type: none">i. Low local and foreign investment.ii. Inadequate of state of the art film production facilities.iii. . Inadequate globally competitive film trainingiv. Inadequate exposure to technology.v. Low business and industry integration.vi. Inadequate local presence of state film agenciesvii. Low levels of acquiring local content from independent content producers by broadcasting stations.viii. Limited intellectual property awareness.

	<ul style="list-style-type: none"> ix. Bureaucratic procedures that lengthen filming processes whilst increasing the cost. x. Fragment legislation. xi. Disjointed representative associations and guilds. xii. Weak monitoring and evaluation framework. xiii. Multiple licensing regimes xiv. Low levels of local content acquisition by film distribution and exhibition platforms.
OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> i. Development of a structured skill building framework. ii. Creation of exchange programs to share talent and learn. iii. Embrace technological innovations that will improve the industry. iv. Creation of a registry of film locations and studios. v. Creation of a database for archiving film material. vi. Promotion of video on demand streaming. vii. Support of representative associations, guilds and unions in the film industry. viii. Increase investment in the film industry. ix. Develop foreign relations through co-production framework. x. Operationalization of funds and other incentives xi. Rationalisation of licensing fees and conditions for filming in Kenya xii. Promotion of acquisition of local content by film distribution and exhibition platforms. 	<ul style="list-style-type: none"> i. Weak regulatory framework ii. Piracy. iii. Non adherence to establish transitional mechanisms for persons to transition from education to work. iv. Inadequate supporting infrastructure at the county level. v. Misinterpretation of roles relating to the Film Industry in the Fourth Schedule of the Constitution

3. CHAPTER 3: FILM INDUSTRY POLICY STATEMENTS AND STRATEGIES

This section discusses the policy objectives, strategies, interventions and measures aimed at empowering and harnessing the potential of the film industry while contributing to sustainable social and economic development of the country. The key priority areas for policy intervention are:

3.1. Investing in the Film Industry's Infrastructure

Infrastructure is required to place Kenya on the global map as a filming destination. There is need to invest in the necessary infrastructure that would allow for pre-production, production and post-production to be done in the country. The investment in physical infrastructure required to make local production a reality has in countries such as Canada and South Africa led to successes in the capacity of the local market to attract foreign productions and crews.

Kenya enjoys an unrivalled value in the mix of choices of film locations that include beaches, wildlife parks and nature reserves, mountains and valleys and the very vibrant urban lifestyles and scenery. The failure to invest in the necessary infrastructure has resulted in certain films depicting Kenyan settings being shot in other countries. While this is an indictment on the failure mentioned, it also is a pointer to the potential that the country stands to gain if the necessary investments and considerations towards growth of the sector are made in order to reap from the potential that currently exists.

The film industry is experiencing high consumer demand for both local and international audio-visual content, with the availability of mobile applications and access to internet connection making the access to content fast and affordable. The policy proposes that the government should employ further strategies to ensure that the necessary infrastructure to ensure mobile network and internet connectivity in all parts of the country are put in place.

Further, there is currently an increase in international collaborations globally with a lot of film producers shooting parts of their films outside their country of origin. This presents a great opportunity for Kenya to market itself as a filming destination for interested production companies.

In order to respond to the need for infrastructure to support the growth and development of the film industry, the following interventions will be employed:

- (a) The development of a film studio complexes.
- (b) The development of a database of public and private locations suitable for filming activities.
- (c) The establishment of incubation centres and local film hubs for the film industry in Kenya.
- (d) Provision of insurance and other fiscal or service-oriented incentive schemes that best align to the needs and realities of the film industry.
- (e) Enhancing the role of the national broadcaster and other broadcasters in supporting the growth and development of the local film industry.
- (f) Developing a digital archiving system for the film industry.
- (g) Developing of digital media cities

The development of actual physical infrastructure to support the growth of the sector is split into two parts: investment in a studio complex and locations.

3.1.1. Studio complex

Components

A studio complex has a number of components that include—

- (a) the film studio(s) that should have high standard filming equipment and designed to be able to attract both local and international usage;
- (b) the studio complex should also have state of the art sound equipment and stages so that the entire production process can be undertaken within the establishment;
- (c) post-production facilities that would allow for the entire production process to be completed within the country to complement the branding and marketing aspect required for the industry to position itself locally, regionally and internationally as a preferred filming destination;
- (d) having backlots that offer additional filming scenes e.g. a London street that are not available in the country would aid in attracting a bigger number of local and international productions;
- (e) production support buildings to host the ancillary service areas for the productions would be of additional benefit as the production crews could be saved the costs of hiring spaces and trucks outside of the studio complex; and
- (f) the incorporation of “shell structures” to allow for the versatility in usage of the space within the complex depending on the various production needs that arise.

Incentives

In order to realise the benefits associated with the development and operationalisation of a studio complex, it is necessary to consider further the incentives offered to investors under the Investment Promotion Act, CAP 485B and the Income Tax Act, CAP 470.

Ownership and management

It is necessary to determine as the country considers the investment in the film infrastructure, the form of ownership and management of the film studio. This can take the form of a public private partnership as provided for under the Public Private Partnership Act, 2013 as it offers an opportunity for the pooling in of resources from the private sector to complement the efforts of the government.

Accessibility

The choice of the appropriate location of the film studio in relation to its accessibility to all interested users should be considered. Also, depending on the kind of ownership structure adopted and the various locations available, it could be possible to consider having more than one studio complex.

3.1.2. Locations

It is suggested that a location database should be developed as a tool to help prospective film makers identify any interesting locations prior to actually coming to Kenya, in the case of

international and local productions. Furthermore, the general public should be encouraged to put forward any private locations they own or consider appropriate for use as film locations.

The Kenya Film Commission will maintain and regularly update the database of locations and make it available to all interested persons.

Policy Statement: *The Government shall invest in physical infrastructure through direct or indirect investment necessary for the growth and development of the film industry in Kenya.*

3.2. Building the Film Industry's skills to enhance capacity

Capacity relates to utilization of knowledge and skills that make industry practitioners more efficient, adaptive and responsive to changing market requirements and conditions. At the moment, even though there are notable professionals in the film industry, it is not possible to determine the nature and variety of the kind of skillset that is available in the country with regards to the film industry. It is therefore not possible to tie in and enhance the managerial skills, financial skills, technical skills, technology and innovation, and industry relevant skills (link between the sector and learning institutions) that the industry desperately requires to propel it further.

It is also notable that film education is not only a useful on-the-job skill, but has the potential to give the youth an opportunity to advance skills that future employers would find desirable and so it is necessary to integrate the national film curriculum into the formal education system at the earliest possible level

The Kenya Film Commission, shall:

- (a) In collaboration with other key state and non-state actors—
 - (i) conduct a comprehensive skills gap analysis in the country;
 - (ii) develop and roll out a comprehensive national film curriculum that is to be adopted across learning institutions;
 - (iii) provide holistic demand-driven and well-structured capacity building programmes in all areas of the film industry's operations; and
 - (iv) Develop and continuously update a comprehensive skills and practitioners database;
- (b) Promote skills and technology transfer as a pre-requisite to licensing of international production, exhibition and distribution activities in the country.
- (c) Create a globally recognisable skills certification framework for the industry.
- (d) Mainstream the needs of the youth in the capacity building programs.
- (e) Integrate the national film curriculum into the formal education level.
- (f) Enhance the capacity of the film industry support institutions.

Policy Statement: *The Government shall build the human resource in the industry by investing in initiatives that drive the education-to-professional life vision in the industry.*

3.3. Expanding market opportunities for the Kenyan Film Industry

The market for Kenyan films and productions branded as Kenyan still remains highly unexploited. The entire film industry needs to be intentionally promoted so that it not only reaps from the ready local market, but it also catches up with its peers that enjoy global recognition and which therefore by extension, benefit from the global market socially and economically. The following are the interventions for expanding the market opportunities for the Kenyan film industry:

- (a) Support and promote the adoption of a common brand for Kenyan films, in addition to clearly defining what falls in the category of Kenyan films.
- (b) Establish and enhance film fairs, exhibitions and awards as a tool for promoting awareness and recognition of Kenyan films and the Kenyan film industry.
- (c) Promote the showcasing of Kenyan branded films at international film festivals and fairs.
- (d) Promote the awareness, acquisition and protection of Intellectual Property by film industry practitioners in Kenya.
- (e) Establish creative marketing and promotion approaches for the film industry locally and internationally.
- (f) Support the film industry practitioners before, during and after the production process.
- (g) Explore the co-production space to enhance the capacity of the Kenyan film crew so as to enhance the creation of a diversity of products developed within the Kenyan film environment.
- (h) Develop initiatives for promoting acquisition of local content by film distribution and exhibition platforms.

Policy Statement 1: The Government shall expand the market for Kenya as a source, destination and production location for the global film industry.

Policy Statement 2: The Government shall develop a framework for co-production treaties.

3.4. Enhancing access to funding and incentives in the Film Industry

The government has through initiatives such as subsidies, tax exemptions and the creation of a fund in the legal notice establishing KFC been intentional in supporting the growth of the film industry by offering financial incentives. These have however not been effective in enhancing its growth due to poor or no implementation – as the case is with the film fund. Co-production treaties also have the potential of opening up the local industry to resources available to be spent in the sector, but from international sources.

The branding of films as Kenyan, together with the development of an acceptable criteria for such determination that includes considerations of cultural and heritage promotion and environmental protection during the production process should open up the funding

opportunities to the film industry. In addition, investment in infrastructure and human resources in a bid to aid the sustainable growth of the industry will also be promoted.

In order to address the need for funding, the following interventions shall be undertaken;

- (a) Develop comprehensive criteria for determination of Kenyan films based on the ideals of sustainability, skills transfer and the promotion and protection of our culture, environment and heritage.
- (b) Amend and align legislation relating to incentives, rebates and exemptions for the film industry to enhance a global competitive edge and their consequent adoption.
- (c) Aid local and foreign industry players in acquisition of incentives, rebates and exemptions.
- (d) Strengthen co-ordination and implementation of support programmes through establishing a one-stop shop for film industry services.

Policy Statement 1: *The Government shall put in place financial and non-financial incentives to promote the growth of the local and international film industry in Kenya.*

Policy Statement 2: *The Government shall establish the National Film Fund to support the growth and development of the film industry.*

3.5. Providing a conducive policy, legislative and regulatory environment

The policy, legal and regulatory environment has significant implications for conduct of film activities in the country as it provides the mechanisms through which state and non-state actors can be recognised and incentivized to participate in growth and development of the film industry. By providing a conducive policy, legislative and regulatory environment for the film industry in Kenya, a more supportive and responsive environment shall be created to spur growth and development of local industry. The following interventions will be used to realise a conducive policy, legislative and regulatory environment for the film industry:

- (a) Adoption of the National Film Policy.
- (b) Clarify the roles of the principal state agencies in the film industry to address overlaps, duplication of efforts and incongruence of laws related to film.
- (c) Undertake a comprehensive audit of legislation relating to the sector to inform the amalgamation, repeal or re-enactment of a comprehensive legislative, institutional and regulatory framework.
- (d) Develop relevant legislative proposals and regulations anchored on the National Film Policy, for the different sectors within the Digital Creative Economy.
- (e) Develop a framework for co-ordination of film production licenses within the devolved system of governance.
- (f) Strengthen co-ordination and implementation of film policy interventions.
- (g) Establish an integrated and structured civic education and awareness creation approach on laws and regulations relevant to the industry.

Policy Statement: *The Government shall put in place policy, legislative, institutional and regulatory measures to organise, support and guide the industry towards growth and development towards alignment with the global film industry.*

3.6. Cross-Cutting and Emerging Issues

Emerging issues such as technology, globalization, eco-tourism and the COVID-19 pandemic are just a few of the issues that currently affect the film industry directly or indirectly. The aim of interventions relating to these emerging and cross-cutting issues is to place the industry at a position where it can fully take advantage of these new realities, but also be strong enough to overcome challenges that these issues may present. The following interventions geared towards addressing cross-cutting and emerging issues related to development of the film industry shall be undertaken:

- (a) Developing a robust film classification system that recognises emerging technologies and the manner in which it has affected exhibition and distribution of films.
- (b) Develop an economic recovery plan for the film industry in cases of national emergencies and disasters.
- (c) Promote environmentally friendly practices in film activities.
- (d) Promote and protect the national culture and heritage.
- (e) Promote inclusivity of the youth and other special interest groups.
- (f) Empower the local film industry to exploit existing and emerging opportunities in the digital space in accordance with the National ICT Policy Guidelines and the Digital Economy Strategy for Kenya.
- (g) Develop a framework for knowledge management within the film industry. This includes providing for the generation, management and dissemination of film industry research, information and market data, including providing archiving services.

Policy Statement: *The Government shall put in place varying interventions to ensure that the growth and development of the film industry supports social growth and technological access and inclusivity in the sector.*

4. CHAPTER 4: POLICY COORDINATION AND IMPLEMENTATION

4.1. Policy Coordination and Implementation

The Kenyan film industry is characterised by a number of state and non-state actors who altogether have played a role in the growth and development of the industry. In order to ensure effective implementation of the national film policy, it is necessary then to consider moving forward, the policy co-ordination role that should be central as different from the policy implementation role that requires all the different players to symmetrically play their roles to deliver on the objectives of the policy. The Kenya Film Commission under Legal Notice No. 10 of 2005 is the lead state agency on all matters pertaining to development, co-ordination, regulation and promotion of the film industry in Kenya. Further, under Legal Notice No. 147 of 2015, the Commission is mandated to provide liaison services for government departments on matters relating to the promotion, marketing and development of the film industry. The Kenya Film Classification Board, established under the Films and Stage Plays Act is mandated to regulate the creation, broadcasting, possession, distribution and exhibition of films by examining every film and every poster for purposes of classification, imposing age restrictions on viewership and giving consumer advice. The Communications Authority of Kenya and the Kenya Broadcasting Corporation are some of the other agencies with a direct responsibility towards implementation of this Policy.

In order to ensure effective co-ordination of this policy, the following interventions will be undertaken:

- (a) Adoption of a collaborative approach for policy planning and budgeting implementation through sector and thematic working groups.
- (b) Development of a framework for the co-ordination of film policies and programmes aimed at development, promotion and marketing of the industry in the most sustainable and effective manner.
- (c) Establishment of an effective institutional framework for identifying and co-ordinating film industry practitioners.
- (d) Undertaking of research and surveys within regular intervals to inform policy decisions.
- (e) Adoption of effective monitoring and evaluation policies and strategies as provided for in this policy

In order to ensure effective implementation of the policy, the following interventions will be undertaken:

- (a) Alignment of funding available for the sector with the policy.
- (b) Review of all relevant legislation with a view to fully adapting them with the policy whilst also accommodating development within the industry, including providing functional clarity and where overlaps exist, creating sub-functional clarity.
- (c) Creation of a database of film industry practitioners and support organisations in order to promote the alignment of their actions with this policy.
- (d) Promotion and facilitation of collaborations among stakeholders with common interests/goals arising in the course of implementation of this policy. This includes the establishment of new venues for collaboration with other sector players as functions evolve and new needs arise.
- (e) Monitoring and evaluation in accordance with this policy.

4.2. The Role of Stakeholders

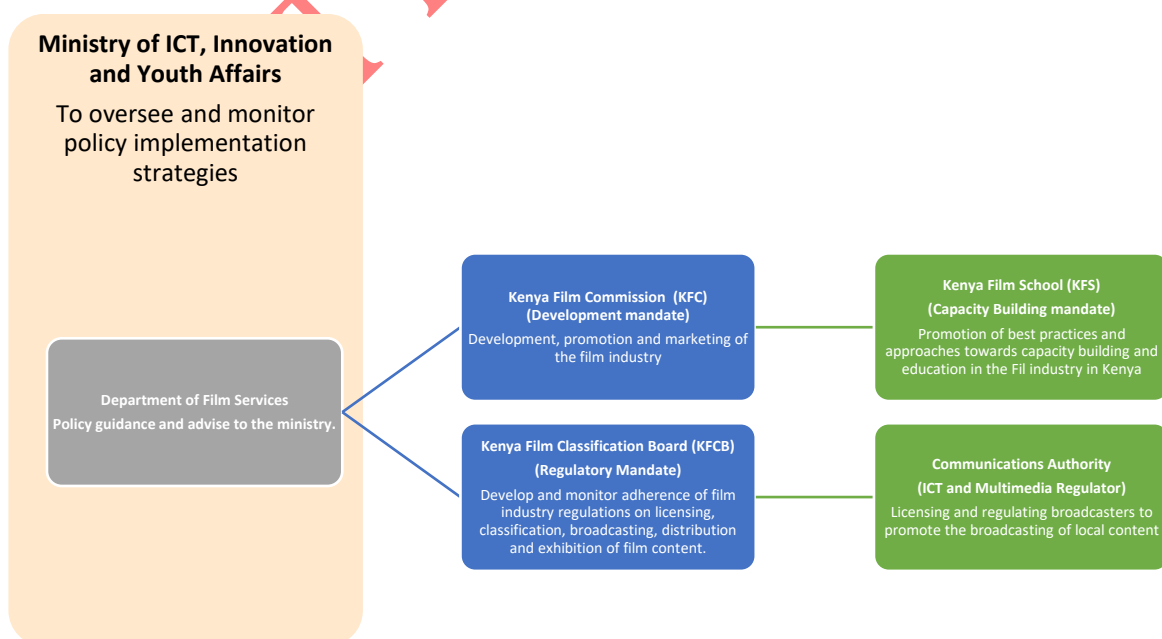
The key role of the government is to provide policy direction, co-ordination and facilitate implementation of interventions and monitor the process of implementation of the Film Policy.

The analysis of the film industry in chapter two revealed that a major barrier hindering ultimate regulation of the film industry is the lack of clarity in policy, legislative and regulatory role of institutions within the sector. As the industry currently stands, there exists multiple industry players undertaking different mandates in the sector, some of which are overlapping as a result of statutory or regulatory incongruence of laws. This is therefore a need to clearly bring out the delineation of functions and mandates. It is imperative that the legal framework governing the sector be harmonised to facilitate systems that will work best to achieve the vision of the industry.

This policy seeks to ensure that the film industry has a supportive policy, legislative and regulatory framework that promotes collaboration amongst the various stakeholders and provides for the promotion of the industry to a better, more efficient system that will benefit all stakeholders.

In order to achieve this, the policy hereby recommends the enactment of a new law to be referred to as the Film Act that will respectively establish the Kenya Film Commission and the Kenya Film Classification Board and in consequence provide the comprehensive legislative foundation for the development and regulation aspects within the film industry. This proposal will require the repeal of the Films and Stage Plays Act and a revocation of the Legal Notice No. 147 of 2015. The policy further provides for the role of other significant institutions who play various supervisory, collaborative and facilitative roles in the implementation of this policy. The policy proposes the following institutional structure be adopted in the policy implementation process.

Proposed Implementation Structure.



4.2.1 Industry Development Mandate

Kenya Film Commission

The Kenya Film Commission shall spearhead the implementation of all interventions relating to promoting and supporting the development and growth of the film industry in Kenya.

The key areas of focus for the Commission shall be—

(a) Research and Development of the Kenyan Film Industry

The Commission shall take the leading role in generating, managing and disseminating film industry research, information and market data. It shall work together with key stakeholders to monitor, document and report on industry trends, provide data on the progress and achievements gained and build relations with foreign industry players for collaborative relationships with international state and non-state agents.

The Commission shall in undertaking its roles under this policy, ensure that measures relating to the organisation of associations and guilds, co-ordination of players within the sector in Kenya and beyond to promote partnerships, capacity building and tourism, and the implementation of programmes and interventions is in accordance with the policy and aids in the development and rapid growth of the industry.

(b) Marketing the film industry locally and internationally

In this role, the Commission is tasked with generating relevant programmes for: location marketing, product marketing support, marketing of screening productions, funding of film festivals among other activities that shall enhance the growth of the sector.

The Commission shall spearhead the development of channels of distribution and exhibition, the development of film markets and festivals, public relations and special events such as exhibitions in festivals. The Commission towards this end, shall work on strategies to make available Information about the film industry in Kenya to local and foreign markets.

The Commission shall administer funding through grants, and other incentives (to be established) to film makers and distributors to effectively promote their products at film markets and festivals. The Commission may also formulate project lending schemes to provide loans to production companies which may include the production costs for copies of a film as well as expenses for marketing and advertising a movie. Costs in connection with the international distribution and advertising of films may also be funded. Co-production treaties shall also be used as an asset to promote collaboration at the regional and international level.

The Commission shall formulate innovative marketing and distribution strategies that are in line with the vision of the film industry, particularly in regard to digital and other new technologies. It shall also work hand in hand with other stakeholders such as KECOBO and representative associations to protect industry players from piracy and copyright theft.

The film industry also plays a vital role in promoting the Kenyan way of life and tourism. The Commission shall create means of using our cultural heritage, and historical sites in the advertisement and marketing of films in order to promote Kenya as a tourism destination.

(c) The National Film Fund

As the industry stands today, there are scarce resources available to finance activities taking place within the filming and distribution process, and the procurement of necessary filming equipment of great quality. Minimal funding resources exist and are established and administered through other channels that are often not especially qualified for persons in the film industry. This sporadic allocation of financing and funding has resulted in a highly disadvantageous competitive environment where film producers are unable to tap into these funds due to biases, bureaucratic processes and a lack of awareness by industry players on the accessibility to these funds.

The existence of multiple small funds without a dedicated inventory and oversight mechanisms, has led to a disconnect in terms of achieving their purpose of funding film professionals. The dearth of resources has resulted in stunted growth of the Kenyan film industry with the currently existing system not playing a part in encouraging public and private investment into the industry.

To this end, it is imperative that the Commission should establish and control a unified fund to be referred to as the National Film Fund. This Fund shall be available for the general developmental activities to be undertaken by the Commission to improve the film industry, and shall also be administered to deserving and qualified film industry players to enhance their production, marketing and distribution activities. The sources of the Fund shall include money appropriated by Parliament, gifts, grants, loans or donations, made with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance as per the provisions of the Public Finance Management Act, to the Fund, and any other money accruing to the fund from any other source. The fund shall provide support to the following activities:

- (i) Education and Training Funding
- (ii) Development Funding
- (iii) Production Funding.
- (iv) Marketing and Distribution Funding.
- (v) Film Festival Funding.
- (vi) Co-production Funding.
- (vii) Filming Equipment Funding.
- (viii) Funding of films of historical and cultural merit.

The Commission shall also formulate the necessary criteria to be met by industry players in order to qualify for the various sources of funding and shall ensure the generation of relevant regulations to provide necessary standards governing the funding processes, and enhance reporting, oversight and accountability in the processes of granting funds.

The Commission may also consider the allocation of repayable loans to industry players. This will count as a form of investment to filming productions and will promote collaborative engagements between the Commission and sector players. The Commission shall also work in collaboration with Parliament, the National Treasury, the Kenya Revenue Authority and the

other stakeholders to establish tax incentives and tax credits for the importation of filming equipment.

(d) Archiving

The Commission be responsible for film archiving in conjunction with other relevant state agencies.

The Commission shall therefore develop and implement a National Film Archiving Strategy and provide infrastructure and institutional facilities to act as a repository and archive of Kenya's film records. It shall also develop and enforce guidelines on archiving of, and access to, film content and materials in partnership with other state agencies.

The strategy shall provide for the identification, conservation, protection and promotion of audio-visual content made in Kenya in order to maintain a comprehensive database of film and video archival material.

(e) Film education and Incubation Centres

The opportunity in this area is the embrace of film within the new Kenyan curriculum. It is imperative that the industry seizes this opportunity to set a solid foundation in school for growing the local film industry by raising the bar for film literacy and training. At the same time, consideration must also be given to informal and on-the-job training opportunities, including creating incentives for more structured apprenticeship and mentoring initiatives. Currently, few international productions have dedicated under-study or internship opportunities to help mentor upcoming local film-professionals.

While there has been an increase in formal training opportunities, the lack of standardised qualifications and curricula for evaluating and monitoring training in specialised film schools is evident. This has limited the extent of skills that can be acquired in training institutions to cater for all the professional needs and technical know-how in the film industry. There is a lack of accessible resources (human and technical) for upgrading skills locally despite this being necessary in an environment characterised by rapidly changing technology. The policy recommends that the Kenya Film School be expressly mandated to—

- (i) Offer training in cinematic and performing arts for the film industry;
- (ii) Avail opportunities for film talented individuals to realize their potential in cinematic and performing arts;
- (iii) Produce and disseminate products in cinematic and performing arts for education, training, infotainment and commercial purposes;
- (iv) Provide and advance education and training to appropriately qualified candidates, leading to the award of certificates and diplomas and such other qualifications as the Kenya Film School in consultation with the Commission may, from time to time prescribe;
- (v) Conduct examinations for such academic awards as the Commission may, from time to time prescribe;

- (vi) Develop an institution of excellence in teaching, training, entrepreneurship, innovation, research and consultancy services;
- (vii) Participate in resource generative services or commercial ventures and other activities for the benefit of the School, the community and other stakeholders;
- (viii) Develop and provide educational, cultural, professional, technical and vocational services to the community and in particular foster corporate social responsibility in the development of cinematic and performing arts;
- (ix) Foster the welfare of all staff and students;
- (x) Perform such other acts or things as the School may consider necessary, conducive or incidental to objects for which the School is established.

Further, the Commission shall consult with and advise the Ministry of Education in the development of policies and programmes that will lead to maximum growth of the filming training institutions, to provide funding for the purchase of necessary equipment and the acquisition of trained personnel to work within the sector.

(f) Development of guidelines and regulations

The Kenya Film Commission may develop regulations and guidelines that will enable operationalisation of their mandate.

(g) Accreditation and certification of film practitioners and registered entities.

The Kenya Film Commission shall develop guidelines for accreditation and certification for individual and registered entities in the film industry.

4.2.2 Industry Regulation.

4.2.2 Industry Regulation.

Currently, the mandate of regulating the film industry is undertaken by the Kenya Film Classification Board (KFCB), which is established under the Film and Stage plays Act (Cap 222). Other statutes that confer powers to KFCB include Section 46I (2) of the Kenya Information and Communications Act, 2012, Regulation 34 of the Kenya Information and Communications (Broadcasting) Regulations, 2009, and the Programming Code for Broadcasting Services in Kenya.

This policy recognises the need to consolidate and harmonise the various enabling provisions scattered across various statutes and to harmonise the institutional framework on regulation of film and broadcast so as to avoid the unseemly sceptre of multiple oversight institutions with overlapping and sometimes conflicting, mandates. The functions of the Board shall therefore be to regulate the creation, broadcasting, possession, distribution and exhibition of films by:

1. Issuing licences to filmmakers, film agents, distributors and exhibitors.

- a. No film shall be made within Kenya for purposes of public exhibition, broadcasting, distribution, hire and sale except and in accordance with the terms and conditions of a filming licence issued by the KFCB.
 - b. Films shall be made only in accordance with the furnished particulars and any material alterations which is likely to change the classification ratings shall be notified to KFCB for consideration and necessary action.
2. Classification of films: All films, commercials, related promotional materials, broadcast content shall be classified by KFCB. Where a film has been classified in accordance with this section the classification shall be displayed conspicuously.
3. KFCB shall alert online content service providers about unclassified films being exhibited on their platforms.
4. KFCB shall advise the Communications Authority of Kenya to issue compliance notices to Internet Service Providers for unclassified films being exhibited on the platforms of online content service provider.
5. KFCB shall advise on and promote the consumption of classified films online in order to protect the online safety of children.
6. Giving consumer advice: KFCB shall give consumer advice, having due regard to the protection of women, children and other vulnerable members of society against sexual exploitation or degradation and safeguarding their privacy and dignity.
7. Prescribe film licensing regulations and guidelines.
8. Prescribe guidelines for the classification of films, related promotional materials, trailers and commercials.

4.2.3 Policy Development and Advisory Mandate.

The Government, through the Ministry of ICT, Innovation and Youth Affairs, which currently oversees the film industry is tasked with the development of policies for the film industry in Kenya. The Ministry shall oversee the overall implementation of the policy by ensuring availability of resources for the implementation strategies to be adopted, overseeing and coordinating the activities of all stakeholders in relation to the film industry, including conducting monitoring, evaluation and impact assessments to analyse the progress made in the implementation of regulations put in place to promote the film industry. The Ministry shall also ensure establishment of an effective institutional framework for the establishment of necessary programmes to specifically promote the talented youth in the industry.

4.2.4 Appellate Mandate.

This policy designates the Communications and Multimedia Appeals Tribunal to hear and determine disputes arising from the relevant legislation relating to film. This shall involve consequential amendments to the relevant sections of Kenya Information and Communications Act which establishes the Tribunal.

4.3.1 The Communications Authority of Kenya

The Communications Authority of Kenya has a key supporting role to play in the film industry. The responsibilities of the Authority include licensing and regulation of frequency spectrum, numbering and domain names resources, telecommunications, broadcasting including content monitoring, electronic transactions, management of cybersecurity, management of competition and protecting consumers in ICT sector, type approval and standards of ICT equipment and management and administration of Universal Service Fund (USF).

4.3.2 Kenya Film Federation

This policy establishes an umbrella body namely the Kenya Film Federation to represent the various professional associations, guilds and unions representing the film practitioners and other industry players. The Film Federation shall be the primary point of contact recognized by the Government and act as a key partner in promoting and protecting the rights of film practitioners and other industry players. The Commission shall license the Film Federation and regulate its activities in accordance with the Kenya Film Act. The Film Federation shall play the role of—

- (i) formulating workshops and sensitization seminar in cooperation with various stakeholders in the film industry;
- (ii) provide quality and sustainable service with pluralism of choice to consumers;
- (iii) regularly update the Kenya Film Commission on developments and trends within the film industry;
- (iv) spearhead the professionalization of film associations to establish constitution, offices, and membership across the country;
- (v) ensure compliance with employment and labour laws in dealing with the creative labour; and
- (vi) provide priority access to industry information that will benefit film associations and film practitioners
- (vii) Provide for the formation of alternative financial institutions such as SACCOs and other savings and investment opportunities to serve as financial cushions for film practitioners.

4.3.3 Private Sector investors

Broadcast Stations

Broadcast stations will be required to promote local productions by commissioning productions of more local Programmes and allocating more airtime to local productions in accordance to the existing policy directives of the Government.

The policy recommends that broadcasting stations progressively increase the set local quota as prescribed in the programming code and increase airing of local content during the prime time. Further a quota should be established to monitor the number of productions done by broadcasting houses vis a vis independent producer. Furthermore, the broadcasting stations shall practise and foster fair business practices in content acquisition, prompt payment and transparency in promotion of local content.

Production Studios

The Kenya Film Commission shall engage and partner with production studios in identifying incentives for film development, in order to reduce the upfront cost of investment and to increase the uptake of new technology to promote the quality and competitiveness of local productions. The Kenya Film Commission through the Film Fund shall facilitate the establishment of international quality production studios for film making in Kenya.

Marketers and Distributors

The government through relevant agencies shall engage international and local film marketers and distributors to promote the use of Kenyan films for the purposes of cultural diplomacy , tourism promotion and amplification of the Kenyan brand in all aspects of international trade;

These partnerships will promote the visibility of award-winning films from domestic festivals and other platforms such as local film awards.

Film Agents

Film Agents are crucial in providing logistical support for foreign film and television producers who wish to conduct filming in Kenya. This policy will seek to recognise the role of local film agents in facilitating foreign film production locally. All film agents shall be required to be registered and they shall provide international standard services as well as promote Kenya as a preferred film destination.

The Kenya Film Classification Board (KFCB) will be given the mandate to register film agents and regulate their activities in accordance with the filming requirements. The Kenya Film Commission will provide liaison services to the Film Agents.

DRAFT FOR VALIDATION

5. CHAPTER 5: MONITORING AND EVALUATION

The National Film Policy will be guided by the the National Monitoring and Evaluation Policy and other relevant policies.

The National Monitoring and Evaluation Policy provides for the roles and responsibilities of all state and non-state institutions in the implementation of public projects and programmes by enhancing accountability, efficiency, effectiveness, transparency and utility.

In order for the Ministry to be able to effectively monitor and evaluate the status of implementation of the policy, the following interventions will be put in place:

- (a) Build human and institutional capacity within the relevant institutions to effectively undertake monitoring and evaluation.
- (b) Establish sector-wide monitoring and evaluation framework and plans to ensure policy interventions are achieved.
- (c) Undertake monitoring through continuous data and information collection during policy implementation period.

The data and information will inform the quarterly and annual reports which will be amalgamated at the Ministerial level and presented to the Principal Secretary of the State Department for Planning to inform policy decisions.

Data and information will be presented in annual reports which are made accessible to the stakeholders. Reports relating to sectoral and sub-sectoral issues including those relating to lessons learnt will also aid in the monitoring and evaluation aspects of this policy.

The assessment of the policy will be undertaken annually to gauge the implementation progress with an impact evaluation of the policy will be undertaken after every three years to analyse the extent to which the objectives have been achieved.

ANNEX: IMPLEMENTATION MATRIX

Policy Issue	Interventions	Activities	Indicators	Actors
Investing in the Film Industry's Infrastructure	Construction of high quality physical and digital infrastructure for film nationally.	Building of production and post production facilities nationally.	Number of film studio complexes established.	MOICTIYA, KFC
	Government to create conducive manufacturing environment for filming equipment locally.	Develop supporting policy that will spur growth of the filming equipment manufacturing industry.	Number of film equipment manufacturing businesses established/registered. Number of jobs created in the film equipment manufacturing business.	MOICTIYA, KFC
	Government to develop a digitally accessible film location inventory	Location mapping	Number of locations mapped.	MOICTIYA, KFC,
		Marketing of locations through location fairs and marketing campaigns.	Number of Marketing campaigns. Number of locations marketed.	MOICTIYA, KFC,
	Establishment of incubation centres for the film industry in Kenya.	Acquisition of physical and human resources for the incubation centres.	Number of incubation centres established. Number of personnel engaged in the incubation centres.	MOICTIYA, KFC, CA
		Establishing partnerships with other government and non-state actors for establishing incubation centres	Number of partnerships established.	MOICTIYA, KFC, CA
	Enhance the role of the public broadcaster in supporting the growth and development of the local film industry.	Development and implementation of a strategy paper.	Strategy paper developed and implemented. Number of strategies implemented.	MOICTIYA, KFC, KFCB, KBC,

	Develop a digital archiving framework for the film industry.	Development and implementation of a national digital archiving plan.	Plan developed and implemented.	MOICTIYA, KFC, KFCB, KBC, ,
Building the Film Industry's skills to enhance capacity	Develop an effective career growth and progression structure for the industry	Map the required skills within the film industry.	Number of skills mapped. Number of skills available.	MOICTIYA ; KFC; KFS
		Undertake a comprehensive skills gap analysis for the industry.	Skills gap analysis report. Number of gaps identified. Number of training areas identified from the report. Number of training programmes created	MOICTIYA; KFC, KFS
	Develop curriculum for the film industry	Formulation and development of a film curriculum	Number of curricula developed for the film industry.	MOICTIYA; KFC; KFS
		Skills certification structure development	Number of skills identified for certification. A national film skills certification structure adopted.	MOICTIYA KFC; KFS
	Establishment of the National Film Academy (NFA)	Transition of the Kenya Film School to the Kenya Film Academy established through the Act.	Establishment of the Kenya Film Academy in law.	MOICTIYA ; KFC, KFS
	Promote skills for the film industry and technology transfer as a pre-requisite to licensing of international production, exhibition and distribution activities in the country.	Development of guidelines on skills and technology transfer.	Number of guidelines on skills and technology transfer developed.	MOICTIYA; KFC; KFS,
		Development of a reward points system to be awarded to production companies	Number of Incentive packages based in skills and technology transfer	MOICTIYA; KFC.

		and considered in providing incentives.	developed and rolled out.	
Expanding Market opportunities for the Kenyan Film Industry	Support and promote the adoption of a common brand for the Kenyan films in addition to clearly defining what falls in the category of Kenyan Films	Clearly define the features of a Kenyan Film under legislation so as to bring out the Kenyan Culture, Language, Values, Principles and the threshold of Kenyan Citizens to be included in the above the line crew.	Number of Kenya Film features identified Specified striking features on the Brand Logo / Seal for Kenyan Films that are not easy to counterfeit	MOICTIYA;KFC;KFS,
		Development of a seal identifying the Kenyan Films. Film makers should be incentivized so as to have their films marked with the Kenyan Seal.	Number of Technical Standards and incentive programme developed. Proportion of incentives allocated for the marking of films with the Kenyan Seal.	MOICTIYA; KFC; KFS,
		Develop a quality standard criteria for Kenyan films.	Number of developed quality film standards.	MOICTIYA; KFC; KFS,
	Establish and enhance film fairs, exhibitions and awards as a tool for promoting awareness and recognition of the Kenyan Film and the Kenyan film industry	Conduct National film awards and competitions to motivate the film makers so as for them to be recognized by the Kenyan Critical mass	The number of National Film Fairs , Number of Film awards and Number of Exhibitions held per year	KFC
		Devolve the film fairs, festivals and exhibitions to the Counties and to hold regional fairs	Number of film fairs and festivals held.	KFC;
		Conduct competitive film fairs and exhibition to encourage competition and to facilitate growth in the film industry	Number of competitive film fairs and exhibitions held.	.

		To establish online platforms for filmmakers to have their content viewed	<p>Number of online platforms established.</p> <p>Number of local content loaded onto the platform.</p> <p>Percentage of viewership of local content on online platforms.</p>	MOICTIYA; KFC;
		Develop an awarding criteria to incentivize film fairs and exhibition organizers	<p>award criteria system developed and used</p> <p>Number of film fair organizers awarded using the criteria.</p> <p>Number of exhibition organizers awarded using the criteria.</p>	MOICTIYA; KFC;
		establishing film clubs in educational institutions to drive attitude change among the youth.	<p>Number of film clubs established.</p> <p>Number of youth engaged in film clubs</p>	MOICTIYA; KFC;
		Establishment a framework for audience development enhance local screenings.	<p>Established framework for audience development.</p> <p>Number of local films screened.</p> <p>Number of tickets sold for local films.</p> <p>Number of viewers of local films.</p>	MOICTIYA; KFC;
		Develop an efficient and effective communication strategy to enhance the marketing of local films screened at film fairs and exhibitions..	<p>Number of marketing strategies developed</p> <p>Number of film fairs and exhibition marketed.</p>	MOICTIYA; KFC;
	Promote Showcasing of Kenyan Branded films at international film festivals	Show-cased local films at international film festivals and markets.	<p>Number of International film festivals identified for collaboration.</p> <p>Number of collaborations with international award</p>	MOICTIYA; KFC

			<p>event organizers film festivals.</p> <p>Number of film productions sponsored to attend international film festivals.</p> <p>Number of films showcased at the international film festivals.</p> <p>.</p>	
		Facilitate the submission of Kenyan film entries to international film festivals and markets	<p>Number of submissions to international film festivals.</p> <p>Number of local films awarded at international film festivals and markets</p>	KFC
		Develop a Criteria for branding of Kenyan films to enhance participation in international festivals	<p>Developed criteria for branding of Kenyan films.</p> <p>Number of branded Kenyan films.</p>	MOICTIYA; KFC
		Development of a register of all Kenyan branded films for ease of reference and showcasing	Number of local films branded.	KFC
		develop and promote varied distribution platforms for the Kenyan distributors.	Number of distributions platforms developed.	KFC
		Develop a segmentation Framework for Kenyan Branded films to enhance consumption.	<p>Segmentation Framework Developed</p> <p>Number of Identified Market Segments</p> <p>Number of Films consumed within the Market Segments</p>	KFC

	Promote awareness, acquisitions and protection of IP by film industry practitioners	Develop a framework for Collaboration between agencies	Number of Partnerships forged between State Agencies Number of Activities held by the State Agencies .	MOICTIYA; KFC, KECOBO.
		Development of a handbook on protection of intellectual property	Number of handbooks on Intellectual Property Awareness. Number of books issued to create awareness. Proportion of increase in registration of IP rights	MOICTIYA; KFC, KECOBO
		Awareness forums on intellectual property and copyright focused on Contracts between various players in the film industry.	Number of forums held on intellectual property rights Number of participants in the Stakeholder Forums Number of reports made on awareness forums	MOICTIYA; KFC, KECOBO
		Creating of a Data base of IP related film content registered at the protection of IP institutions i.e Kecobo and KIPI	Established Data Base of IP Protection	MOICTIYA; KFC, KFCB.
	Establish creative Marketing and promotion approaches for the film industry locally and internationally	Develop Marketing and Promotion Strategies Develop marketing tools and campaigns to showcase Kenyan films and locations	Number of marketing and promotion strategies developed Number of marketing tools developed to showcase Kenya Locations Number of marketing campaigns held	MOICTIYA; KFC
	Explore the co-production Space to enhance the capacity of Kenyan film crew	Develop a co-production framework in the country for co-production engagements e.g Special Visa's to film crew, Waived Taxes	Established Co-production framework Number of Countries Mapped for Co-production Agreements	KFC

		Map out the Countries to partner with for Co-production	Number of co-production agreements signed	
	Support the Film Industry practitioners before, during and after the production process	Develop a Framework for Film Industry Support Develop a Fund for Film Industry Support Map Out Film Industry Needs	Developed Framework for Film Industry Support Established Film Industry Fund Mapped film industry needs	KFC
	Develop initiatives for promoting acquisition of local film content by film distribution and exhibition platforms.	Development and implementation of a strategy paper. (available platforms, mapped available content, challenges for acquiring local film content, strategies for promoting acquisition of content)	Strategy paper developed and implemented. Number of strategies implemented. Quantity of local film content acquired	MOICTIYA, KFC, KFCB, KBC,
Enhancing access to funding and incentives in the Film Industry	Establish the Kenya Film Fund to support the growth and development of the industry	To provide for sector specific funds to encourage growth in the entire film sector To develop policies on Funding within the Film Sector To develop regulations for the Film Industry Fund	Number of films funded Developed Funding Policy Film Fund Regulations developed	KFC
		Co-productions to be done within the film industry	Number of Co-production Agreements signed	KFC
		Develop rules and guidelines and criteria to guide funding in the film industry	number of rules and guidelines developed.	KFC
		To identify the sources of finances to go to the film sector i.e funds from government (appropriation by parliament), Co-productions/funding, gifts, donations, Film Guild and Association contributions etc.	Number of identified sources of finance. Amount of Funding received within the Film Industry Sector.	KFC

	Comprehensive criteria for determination of Kenyan films based on the ideals of sustainability, skills transfer and the promotion and protection of our culture, environment and heritage to qualify for funding	Establishing criteria for film funding To incentivize film production companies who come to shoot their films i.e Through encouraging CSR programs after filming activities	Number of incentives developed to attract filming in Kenya by local and international film makers. Number of films that have benefitted from the incentives.	KFC
		Promoting skills transfer through apprenticeship and mentorship.	Number of apprenticeship and mentorship programmes developed. Number of youth participating in the apprenticeship and mentorship programmed.	MOICTIYA; KFC
		Promotion of our Culture – Films qualifying for a fund should reflect positive films promoting the Kenyan culture and heritage to be incentivised through the fund.	Publication of research findings on Culture. Number of Consents obtained in shooting films with cultural aspects.	MOICTIYA; KFC
		Protection of the Environment during film activities. (i.e Films containing burning / cutting of trees or use of hazardous material to the environment)	Post-production environmental impact and restoration reports. Number of reports received Number of compliant productions.	KFC
	Amend and align legislation relating to incentives, rebates and exemptions for the film industry to enhance a global competitive edge	Amendments of existing legislation so as to incentivize and attract investment in film through granting tax holidays and exemptions to film infrastructure set up.	Number of Legislative Amendments	MOICTIYA; KFC
		Lobby companies that have technical filming equipment to provide credit facilities through leasing and hiring.	Leasing and hiring agreements in place	KFC

		Creation of a synchronized one stop shop to ease access of services related to the film industry.	Developed one stop shop. Number of services successfully provided through the one stop shop.	
		Development and adoption of sector specific incentive guidelines	Number of guidelines formulated.	KFC
		Development of insurance cover incentives to equipment and comprehensive Insurance Cover products for the film industry i.e –Group insurance covers for Film Associations and other film industry insurance packages.	Developed Insurance framework. Number of insurance packages created for the film industry. Number of film practitioners benefitting	KFC.
	Aid local and foreign industry players in acquisition of incentives, rebates and exemptions	Aligning the existing framework on incentives, rebates and exemptions to meet the film industry needs	Aligned framework on incentives and rebates. Number of practitioners benefitting from the incentives.	KFC.
	Strengthen Co-ordination and implementation of support programs	Develop a Partnerships and co-ordination framework between key agencies	Established partnership framework. Number of Partnerships forged. Proportion of benefits from partnerships.	MOICTIYA; KFC
Providing a conducive policy, legislative and regulatory environment	Adoption of the Kenya Film Policy.	Identifying film industry issues, challenges and interventions. Drafting of the Kenya Film Policy Stakeholder consultation/ validation. Approval process	Number of industry mapping reports. Number of Acts, Regulations and guidelines generated to operationalise the policy. Draft of the Policy Stakeholder engagement reports Revised draft Policy	Taskforce on the Development of the Policy: Ministry of ICT – National Communications Secretariat Film Stakeholders

			Adopted Policy	
	Clarify the roles of each player in the sector to terminate overlaps, duplication of efforts and incongruence of laws related to the sector.	<p>Creating a matrix of existing entities and their corresponding mandates.</p> <p>Conducting stakeholder consultations to identify the gaps.</p> <p>Drafting legislative, institutional and regulatory framework that will adequately assign roles to the respective entity having due regard to the sector needs and mandate of the entity</p>	<p>Number of existing entities identified.</p> <p>Number of stakeholder consultations conducted.</p> <p>Number of consultative reports generated</p> <p>Number of Legislation and regulatory instruments passed and adopted, respectively</p>	MOICTIYA; KFC; CA, KFCB, DFS, KFS, KBC, KECOBO, KLRC.
	Develop a comprehensive policy and legislative framework relating to the sector.	<p>Conducting a comprehensive legislative audit.</p> <p>Developing legislative, institutional framework based on the audit.</p> <p>Enactment of relevant legislation</p>	<p>Number of Laws passed</p> <p>Number of regulations developed</p> <p>Taskforce Report</p>	Members of the Taskforce on the Development of the Policy: KBC, CA, KFCB, KFC, Kenya Film School, KBC National Communication Secretariat, Ministry of ICT, Innovation and Youth Affairs, KECOBO
	Develop relevant Regulations to operationalize the legislation developed under the Kenya Film Policy.	<p>Development of Regulations</p> <p>Publishing regulations</p> <p>Conducting public awareness</p>	<p>Number of Regulations published.</p> <p>Number of stakeholder engagement reports.</p> <p>Number of regulations published and enacted for implementation.</p>	KFCB, KFC, CA, MOICTIYA
	<p>Develop a framework for ease of doing business</p> <p>Develop a one stop shop for film sector authorizations.</p>	<p>Develop a harmonized framework for issuing Licences at the National and County Levels</p> <p>Development of the infrastructure</p> <p>Development of an inter- agency portal for information sharing</p>	<p>Harmonized Framework for licensing at National and County Government</p> <p>Developed "One stop shop" portal system.</p> <p>Proportion of usage of the portal system.</p>	MOICTIYA, KFC, KFCB, CA, KFS
	Facilitate consumer and stakeholder awareness on the various requirements	Developing the engagement strategy (program, mode of delivery, stakeholder mapping, objectives...)	<p>Developed Engagement Strategy.</p> <p>Number of consumer awareness reports.</p>	MOICTIYA KFC, KFCB, CA, KFS,

	within the film industry.	<p>for consumer and stakeholder awareness.</p> <p>Organizing and conducting consumer and stakeholder awareness forums.</p> <p>Implementing recommendations derived from the forums for continuous improvement.</p> <p>Monitoring and evaluating to determine the effectiveness of the forums.</p>	Number of Monitoring and Evaluation reports.	
	Strengthen the capacity of associations, guilds and practitioners in the industry.	<p>Identifying existing associations and guilds.</p> <p>Developing criteria for the associations and the guilds to enable them work seamlessly within the industry to take advantage of incentives</p>	<p>Number of existing associations and guilds</p> <p>Number of associations and guilds registered with the National Federation.</p> <p>Number of guidelines and regulations created by the Film Federation.</p>	MOICTIYA, KFC,
	Establish a Certification and Accreditation Framework for persons, associations, organizations participating in film production	Number of Certification and Accreditation Frameworks established		MOICTIYA, KFC,
Cross-cutting and emerging issues.	Developing a robust film classification system that recognizes emerging technologies and the manner in which it has affected exhibition and distribution of films.	Develop clear classification criteria for filming	Number of films classified under the established criteria.	MOICTIYA, KFCB

		Consumer awareness and advise on the classification code	<p>Number of Sensitization activities undertaken</p> <p>Number of film practitioners and film makers sensitized.</p> <p>Percentage increase in the compliance with the classification guidelines.</p>	MOICTIYA, KFCB
		Clear cut enforcement mechanism on the classification	<p>Number of enforcement measures adopted</p> <p>Number of practitioners and film makers penalized.</p>	MOICTIYA, KFCB
	Promotion of environmentally friendly practices in film activities	Formulate work ethics and code of practice guidelines	Number of practise guidelines generated.	MOICTIYA ,KFC.
	Promote and protect the national culture and heritage	Develop guidelines on promotion and protection of national culture and heritage	Number of guidelines developed.	KFC
		Enhance development of local content that promotes and protect national culture and heritage.	Number of local productions that promote and protect national culture and heritage	MOICTIYA, KFC
	Promote inclusivity of the youth and other special interest groups	<p>Develop guidelines for inclusivity of youth and other special interest groups in film activities</p> <p>Develop and Talent scouting awards scheme</p>	<p>Number of guidelines developed</p> <p>Percentage increase in involvement of youth and other special interest groups in film activities</p> <p>Number of youth awarded through the talent scouting awards scheme.</p>	MOICTIYA, KFC
		Undertake capacity building programmes to empower the industry	Number of Capacity building programmes developed.	MOICTIYA, KFC

			Number of people engaged in capacity building programmes.	
	Support the continuous adoption of emerging technologies in the film industry	Execute programs and initiatives geared towards adoption of emerging technology including rewards	<p>Number of emerging technologies related to the film sector identified</p> <p>Number of strategies developed on the uptake of emerging technologies</p> <p>Percentage uptake of the use of emerging technologies by film practitioners and film makers.</p>	KFC, KBC, KFS, MOICTIYA, KFCB
	Develop a framework for knowledge management within the film industry. This includes providing for generation, management and dissemination of film industry research, information and market data, including providing archiving services.	Create an archiving and repository system	Archiving system developed	MOICTIYA, KFC
		Creating an archiving procedure	Number of guidelines developed.	MOICTIYA, KFC
		Creating procedure for access to archiving system	<p>System access procedure developed.</p> <p>Percentage usage of the archiving system.</p>	MOICTIYA, KFC
		Develop market data collection tool	<p>Data collection tool developed.</p> <p>Number of opportunities identified through the data collection tool</p>	MOICTIYA, KFC