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13TH PARLIAMENT- FOURTH SESSION

REPORT OF THE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM

ON

CREATIVE ECONOMY SUPPORT BILL, 2024(SENATE BILLS NO.30 OF 2024)

22/07/25

APPROVED
RT. HON. SEN
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CLERK'S CHAMBERS

THE SENATE

PARLIAMENT BUILDINGS

NAIROBI

PAPERS
DATE 28/07/2025
TABLED BY HON. ISSA BOY
COMMITTEE TRADE
CLERK AT THE SENATE BELINDA

JUNE 2025

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ABBREVIATIONS

COG	- Council of Governors
PWD	- Persons with Disabilities
MSME	-Micro, Small and Medium Enterprises
KFC	-Kenya Film Commission
IP	-Intellectual Property
KECOBO	-Kenya Copyright Board
CIDPs	-County Integrated Development Plans
PFM	-Public Finance Management

PRELIMINARIES

Establishment and Mandate of the Committee

Article 124 (1) of the Constitution of Kenya provides for the establishment of Committees, where each house of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

The Senate Standing Committee on Trade, Industrialization and Tourism is established pursuant to Standing Order 228(3) of the Senate Standing Orders. The Committee is mandated to consider all matters related to trade, industrialization, tourism, cooperatives, investment and divestiture policies.

In undertaking its mandate, the Committee oversees the Ministry of Investment, Trade and Industry, the Ministry of Co-operatives and Micro, Small and Medium Enterprises (MSME) Development and the Ministry of Tourism, Wildlife, Culture & Heritage. Specifically, the Committee oversights the following state departments —

a) State Department for Investment Promotion;
b) State Department for Trade;
c) State Department for Industry;
d) State Department for Cooperatives;
e) State Department for Micro, Small and Medium Enterprise (MSME) Development; and
f) The State Department for Tourism.

Committee Membership

(1) Sen. Boy Issa Juma, MP	**- Chairperson**
(2) Sen. Esther Anyieni Okenyuri, MP	**- Vice Chairperson**
(3) Sen. Jackson Kiplagat Mandago, EGH, MP	- Member
(4) Sen. Godfrey Osotsi, CBS, MP	- Member
(5) Sen. John Methu, MP	- Member
(6) Sen. Karungo Thangwa, CBS, MP	- Member
(7) Sen. George Mbugua, MP	- Member
(8) Sen. Hamida Kibwana, MP	- Member
(9) Sen. Andrew Omtatah Okoiti, MP	- Member

CHAIRPERSON'S FOREWORD

Hon. Speaker,

The Creative Economy Support Bill, 2024 (Senate Bill No. 30 of 2024) was introduced in the Senate and read for the First Time on 6th August, 2024. Following its introduction, the Bill was referred to the Committee on Trade, Industrialization and Tourism for detailed scrutiny and stakeholder engagement.

Hon. Speaker,

Public Participation Process

In compliance with Article 118 of the Constitution and Senate Standing Order 145(5), the Committee initiated a public consultation process to ensure inclusivity and transparency. Key steps included:

a) Publication of a public notice in major newspapers on 16th August, 2024, inviting written memoranda from stakeholders. Submission deadline set for 30th August, 2024 at 5:00 p.m. to allow for structured analysis of inputs.

b) A public hearing was convened on 2nd September, 2024 at 9:00 a.m. in Committee Room 18-19, Bunge Tower, Nairobi, to gather oral and written testimony.

Hon. Speaker,

Committee Deliberations

The Committee conducted **7 sittings** to:

a) Review stakeholder submissions and incorporate actionable recommendations.

b) Undertook a comparative analysis of international frameworks, drawing on best practices from jurisdictions such as Australia and Nigeria. Notable lessons integrated into the report on this Bill include:

   i. Establishment of centralized funding mechanisms for creative sector support.

   ii. Enhanced intellectual property (IP) protection frameworks.

   iii. Capacity-building initiatives tailored to creative professionals and enterprises.

Hon. Speaker,

The Bill outlines the legislative framework to strengthen the creative industry through mechanisms such as establishing a Creatives Fund, enhancing economic contributions, and forming a Creative Industry Council. The Bill's objectives include addressing systemic challenges like inadequate funding, weak intellectual property (IP) protections, and fragmented support.

Hon. Speaker,

The Committee's analysis of the Bill yielded the following critical observations:

1. **Sector Potential**: Kenya's creative industry holds immense untapped potential for economic growth and employment, particularly through digital platforms and social media.
2. **Persistent Challenges**: Key barriers include inadequate funding, weak intellectual property (IP) protection, and insufficient institutional support for creatives.
3. **Bill Objectives**: The Bill seeks to establish a *Creatives Fund* and mechanisms to enhance the sector's economic contribution.

Hon. Speaker,

The Committee proposes the following amendments to the Bill:

1) **Clause 2 (Interpretation)**
   - Retain *"intellectual property rights"*.
   - Replace *"Guild"* with *"Council"* throughout the Bill for clarity and institutional coherence.
2) **Clause 3 (Obligations of Government)**
   - Mandate regular consultations between County Governments and Local Creatives.
   - Integrate creative industry development into County Integrated Development Plans **(CIDPs)** to ensure resource allocation.
   - Include data collection as function of both levels of Government.
3) **Clause 4 (Online Platform)**
   - Retain the platform as a tool for sharing Government initiatives, but amend to:
     - ✓ Strengthen data protection safeguards.
     - ✓ Prevent misuse for surveillance.
4) **Clause 6 (Creative Industry Council)**
   - Formalize the *Creative Industry Council* as **a body corporate** to enhance governance and accountability.
5) **Clause 7 (Functions of the Council)**
   - Develop tailored industrial policies for each creative sub-sector.
   - Establish transparent mechanisms for royalty distribution.
6) **Clause 8 (Board of the Council)**
   - Ensure Board representation from diverse creative sub-sectors, including smaller/emerging industries such as retailers, resellers and distributors of film equipment.

- Include permanent secretaries from the ministries in charge of the creative economy and Information, Communication and Technology.
- Merge the subsectors on film and photography equipment and the subsectors on literary and visual arts in order to align with the recommendations made in The Code of Governance for State Corporations (Mwongozo Guidelines)
- Introduce a dedicated clause to address disability inclusion in the creative sector.

7) **Clause 21 (Objects of the Fund)**
   - Remove the age limit (35 years) to eliminate discrimination.
8) **Clause 22 (Credit Guarantee Scheme)**
   - Require collaboration with County Governments to ensure equitable regional access to financial support.

   Fund Management & Accountability
   - Direct the Cabinet Secretary to issue operational guidelines for the Fund.
   - Enforce strict oversight mechanisms and mandate annual financial reports to the Auditor General under the Public Finance Management (PFM) Act.
9) **Clause 26 (Scope of Incentives)**
   - Decentralize registration processes to improve access for creatives in remote and underserved areas.
10) **Clause 27 (Regulations)**
   - Include subsidiary regulations on;
     a. on industrial standards in the sub-sectors represented in the board of the guild;
     b. on industrial standards for royalty computation, collection and distribution in the sub-sectors; and
     c. on intellectual property protection of creative work from institutions and communities
11) **Withdrawal of the Bill**
   - Reject calls for withdrawal, as the Bill provides a critical regulatory framework for the sector.

Hon. Speaker,

I wish to extend my deepest appreciation to the institutions and individuals who dedicated their time and expertise to prepare and submit memoranda to the Committee. Their insights were invaluable to our deliberations. I also express my sincere gratitude to the Members, and Committee colleagues for their rigorous engagement, constructive debate, and unwavering commitment to refining this, Bill.

The Committee further acknowledges Sen. Eddy Oketch, MP, the sponsor of the Bill, for his active participation in the Committee's deliberations and his dedication to advancing this legislative agenda. Lastly, we are profoundly indebted to the Office of the Speaker and the Clerk of the Senate for their steadfast logistical and procedural support throughout this process.

Presentation of the Report

Hon. Speaker, in compliance with Senate Standing Order 148(1), I hereby present to this House the Report of the Standing Committee on Trade, Industrialization and Tourism on the *Creative Economy Support Bill (Senate Bills No. 30 of 2024)*.

I thank you.

Signed..... Date 10/7/2025

SEN. BOY ISSA JUMA CHAIRPERSON, SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM ADOPTION OF THE REPORT

CHAPTER 1: INTRODUCTION

Background and context

1. The Creative Economy Support Bill 2024 (Senate Bills No. 30 of 2024) was read the First Time in the Senate on 6th August, 2024, and subsequently committed to the Committee on Trade, Industrialization and Tourism. The Bill is for an ACT of Parliament to establish mechanisms for the support of persons in the creative industry; to enhance the contribution of the creative industry to the economy; to establish the Creatives fund; and for connected purposes.
2. The legislative mandate regarding the objectives of the Bill is drawn from the Fourth Schedule (Part 2) of the Constitution, which outlines the functions of county governments, particularly in areas related to culture and public entertainment. This connection underscores the Bill's relevance to both national and county levels of government
3. Article 33 of the Constitution sets out that every person has the right to freedom of expression, which includes the freedom of artistic creativity. It is against this backdrop that Kenya's creative industry has developed over the last decade. This has especially been facilitated by the growth of diverse social media platforms through which Kenyans, especially the youth, have found an outlet for expressing their creativity.

Creative Economy situation in Kenya

4. The traditional creative sector of television, film, performance theatre and music in Kenya additionally still has a lot of potential for creative growth and employment. Various African countries, such as Nigeria, have greatly synergised with their respective creative sectors and built cultural identities around music, tv and film production. These countries have enabled citizens to create sustainable careers in their creative economies, an objective we seek to achieve through this Bill.
5. It is therefore imperative to have a supportive regulatory framework for growing our creative industry and establishing the Kenyan creative economy as a formidable sector for both cultural and economic growth

Salient provisions of the bill

The Bill therefore proposes the following —

6. The Bill proposes the establishment of a **Creative Industry Guild** to oversee and support Kenya's creative sector. The Guild's functions include advising the Cabinet Secretary on

policy formulation, conducting labour market surveys, developing strategies to enhance industry growth and competitiveness, protecting intellectual property rights through collaboration with enforcement agencies, and ensuring transparent royalty distribution. It will also classify creative sub-sectors (e.g., film, music, fashion, software, literary arts), promote entrepreneurial skills among members, advocate for women, youth, and persons with disabilities, enforce codes of conduct, create platforms for talent showcasing, and resolve disputes amicably.

7. The Guild is governed by an **Advisory Board** composed of representatives from key creative industries (film, music, fashion, gaming, literary/visual arts, dance), a legal expert nominated by the Law Society of Kenya, and a government-appointed Secretary. Board members must meet integrity standards: no criminal convictions (sentences exceeding six months), bankruptcy, or violations of constitutional ethics (Chapter Six). Appointments are gender-balanced (no more than two-thirds of one gender) and made via Gazette notice by the Cabinet Secretary. Members serve a four-year renewable term, with vacancies triggered by resignation, prolonged absence, bankruptcy, criminal conviction, incapacity, or death. The Board elects a chairperson and vice-chairperson for a two-year term, excluding government appointees and those who held these roles in the preceding two years.
8. **A Secretariat**, headed by a public officer with relevant expertise, provides administrative and technical support to the Board. Its duties include implementing Board policies, fostering partnerships with stakeholders, conducting industry research, maintaining a national creative sector database, establishing incubation programs, and evaluating the Guild's initiatives.
9. **Membership in the Guild is voluntary**, but access to benefits (e.g., incentives, grants) requires registration. Applicants submit forms to the Board, which reviews requests within 14 days, approving, conditionally approving, or rejecting them. Rejected applicants may appeal to the Cabinet Secretary. Approved members are listed in a roll, and the Guild ensures nationwide accessibility to its services for effective operations.
10. This framework aims to centralize support for creatives, streamline sector-specific development, and ensure equitable representation and accountability across Kenya's creative industries.
11. The Bill outlines several **incentives to support Kenya's creative sector**. The Creative Industry Guild, in collaboration with county trade committees, will implement measures to subsidize formalization of creatives, protect intellectual property (IP) domestically and internationally, provide fiscal/non-fiscal support to incubation program participants, fund

research and development, and enable growth for registered creatives. A Creatives Fund is established, financed by parliamentary appropriations, grants, donations, or gifts. The Board issues grants from this Fund based on criteria set by the Cabinet Secretary, who must publish eligibility rules within 90 days of the Act's commencement. Eligibility initially requires applicants to be under 35 years old and not have received prior national/county government support.

12. **A credit guarantee scheme** may be created to offer accessible financial support, investor guarantees, financial literacy training, and risk management resources. If established, the Cabinet Secretary will define its strategy, eligibility criteria, monitoring guidelines, and transparency mechanisms. The Guild will also develop a training and capacity-building program, including a national/county platform listing incubators, mentors, training opportunities, IP rights guidance, fiscal/non-fiscal support services, and business development resources.
13. Additionally, the Guild assists creatives with IP registration, legal actions against infringement, and international IP filings. The Cabinet Secretary, in consultation with the Finance Ministry, will introduce fiscal incentives like tax breaks to spur sector growth. All incentives and benefits under this section are exclusively available to Guild members listed in the official register.

Part IV — Miscellaneous Provisions

Delegation of Legislative Powers and Rights Limitations

14. The Bill does not impose restrictions on fundamental rights and freedoms. Pursuant to Clause 19, legislative authority is delegated to the Cabinet Secretary for Trade and Industry to develop regulations necessary for operationalizing the Act's provisions.
15. The Cabinet Secretary is authorized to formulate regulations to ensure the effective implementation of this Act. These regulations may address, among other matters: exemptions from registration fees for creatives; workplace and Labor standards for employees, independent contractors, and service providers; guidelines for commercial transactions, including product development, production, corporate partnerships, advertising, marketing, and sales; employee benefits and compensation frameworks; intellectual property rights protection; governance of relationships between founders and employees; exemptions for creatives from anti-competition laws; intergovernmental support mechanisms for creatives; accountability and reporting requirements for grants

issued under this Act; procedures for de-registration from the Guild; admission processes for creative industry participants into incubation programs; impact assessments of creative initiatives; and incentives to promote investment in innovative creative enterprises.

16. The creative industry intersects with county government functions under Part 2 of the Fourth Schedule to the Constitution, particularly in areas of culture, public entertainment, and local economic development. As such, the Bill directly concerns county governments and falls within the scope of Article 110(1)(a) of the Constitution.

Classification as a Money Bill

17. This Bill is not classified as a money bill under Article 114 of the Constitution, as it does not primarily address taxation, appropriation of funds, or other financial matters defined therein.

CHAPTER 2: COMPARATIVE ANALYSIS

Case Study 1: Australia's Creative Industry Framework

Overview of the Australia Council

18. The Australia Council, established as a Commonwealth statutory authority in 1975 under the Australia Council Act 1975, serves as the Australian Government's primary arts funding and advisory body. Its mandate includes supporting artistic excellence, advocating for artists' rights (including intellectual property protections), and addressing sector-wide challenges affecting artists' income and career sustainability. Key functions, as updated in the Australia Council Act 2013, include:

    a) Promoting artistic excellence and diversity in Australian arts practice.
    b) Supporting Aboriginal and Torres Strait Islander arts and ensuring the sector reflects Australia's cultural diversity.
    c) Championing freedom of expression and community participation in the arts.
    d) Developing markets and audiences for the arts through research, advocacy, and strategic funding and
    e) Advising the Commonwealth Government on arts policy and evaluating the impact of funded initiatives.

Transition to Creative Australia

19. The *Creative Australia Bill 2024* proposes significant reforms, including:
    a) Rebranding and Restructuring: Replacing the Australia Council with Creative Australia, a revitalized entity with expanded governance.
    b) Governance Expansion: Increasing the governing board's membership from 12 to 14 members to enhance representation.
    c) Specialized Councils: Establishing two new bodies within Creative Australia:
        i. Music Australia Council: Focused on supporting Australia's music industry.
        ii. Creative Workforces Council: Addressing Labor and skills development in the creative sector.

Economic Impact

20. Australia's cultural and creative industries contributed USD 115.8 billion (6% of GDP) in 2018–19, reflecting a 27.4% growth over the preceding decade. This growth underscores

the sector's role as a critical economic driver, validating the need for adaptive frameworks like Creative Australia to sustain momentum.

Case Study 2: Nigeria's Creative Industry Framework Overview of the Sector

21. Nigeria's creative industry is a dynamic and culturally rich sector, contributing **1.42% to GDP** through key sub-sectors such as Nollywood (film), music, fashion, visual arts, broadcasting, and advertising. The sector's growth is anchored in its ability to leverage **intellectual property (IP)** as the core asset across all creative activities.

Intellectual Property Protection Framework

22. Nigeria's Legal Foundations are governed by national laws, including the **Copyright Act (2022)**, which provides comprehensive protection for literary, musical, artistic works, films, sound recordings, and broadcasts. The **Nigerian Copyright Commission (NCC)** enforces IP rights, addressing infringement and ensuring compliance. **Key Features of the Copyright Act 2022**: Defines rights, transfers, and remedies for infringement, and Empowers the NCC to regulate the sector and resolve disputes. **Strengths** include, Modernized legislation aligns with global IP standards, and Clear institutional mandate for the NCC to combat piracy and protect creators. The Act also sets out the powers and functions of the Nigerian Copyright Commission, which is the main industry regulator.[1]

Creative Industries Development Bill 2023

23. This is a new legal framework that is designed to bridge the gap between the Nigerian Creative industries and the Federal Government of Nigeria. The Creative Industrial Development Bill aims to accelerate the sustainable growth of Nigeria's creative industries through effective legal, regulatory and institutional frameworks. Some of the key provisions of the CIDB are the creation of a commission and an impact fund that will act as both a one-stop shop and a backbone for artists and creative professionals. These provisions will help support the development of new projects and provide artists with the resources they need to bring their visions to life. Additionally, the bill will provide tax

[1] Barlow JP, 'The Economy of Ideas: A Framework for Rethinking Patents and Copyrights in the Digital Age' (1994) 3 Wired 83

incentives for companies that invest in the creative sector, which will help to attract more investment and support the growth of the industry.

CHAPTER 3: OVERVIEW OF PUBLIC PARTICIPATION AND THEMATIC SYNTHESIS OF THE BILL

3.1. Public Participation Process

24. In compliance with **Article 118 of the Constitution** and **Senate Standing Order 145(5)**, the Committee conducted public participation on the Bill. A public notice was published in major newspapers and on the parliamentary website on **16th August, 2024**, inviting written memoranda from stakeholders. Submissions were accepted until **30th August, 2024 at 5:00 p.m.**

25. Public participation revealed stakeholder concerns about potential Government overreach, opaque fund management, insufficient sector-specific policies (e.g., tailored support for music, film, and fashion), and inadequate inclusivity measures, particularly for persons with disabilities. Criticisms also highlighted the discriminatory age limit (35 years) for accessing the fund, and it overlaps with existing agencies like the Kenya Film Commission (KFC) and Kenya Copyright Board (KECOBO).

List of Submitting Stakeholders

26. A total of **88 institutions and individuals** submitted memoranda, reflecting broad engagement across sectors. Key contributors included:

a) **Legal and Advocacy Experts**:

i. Ms. Stacy Ngata (International Lawyers Assisting Workers Network)
ii. Ms. Amata Cynthia (Entertainment Law Advocate)
iii. Art Law Kenya (Liz Lenjo, Chairperson of the Copyright Tribunal, with contributions from Wandiri Karimi, Felicia Solomon, and others)
iv. Centre for Intellectual Property and Information Technology Law (CIPIT) at Strathmore University

b) **Industry Guilds and Associations**:

i. Kenya Actors Guild (Alamin Virani)
ii. Film Distributors Guild (George Kimani)
iii. Producers Guild (Martin Munyua)
iv. Bunge La Mayut

c) **Creative Sector Representatives**:

i. Mr. Daniel Kibet (Representing Creatives Living with Disabilities)
ii. African Women's Orchestra
iii. DJ Euphoric (Young Kenyan Creative Minds Living with Disabilities)
iv. Mr. Cedric Nzomo (Co-Founder, The Verge Advertising Agency)

d) **Academia and Research Institutions**:
i. Dr. Ezekiel Onyango
ii. Africa Centre for Technological Studies (Clarice Mideva)

e) **Civil Society and Advocacy Groups**:
i. Power Initiative (Angeline Gitanga)
ii. Chamber of Youth Economists

f) **Private Sector and Innovators**:
i. Mr. John Wambugu (Approved Distributor of Canon Photography and Film Equipment)
ii. Mr. James Ahere (Director, Video Games Studio)
iii. Mr. Arthur Oloo (Music Executive)

A full list of contributors is provided in Annex 4

3.2.Consideration of Submissions from Stakeholders

27. The following are some of the key issues arising from the stakeholder submissions —

Clause 2 – Interpretation.

28. Mr. Zaddock Omondi (KEMPA) proposed that the definition of creative industry should include intellectual property rights in the last line of the paragraph. Intellectual property rights are central to the protection of ownership and income from creative work. It is therefore important to include this in the definition of the term "creative industry.

The committee rejected the proposal that the definition of creative industry should include intellectual property rights in the last line of the paragraph, as it has also been captured in the Bill through the phrase "skill and talent, and whose exploitation may result in the creation of wealth and livelihood through the generation and exploitation of intellectual property"

29. Ms. Immaculate Juma proposed the Deletion of the phrase National Government. This is a bill that concerns counties, and the Senate does not have the power to formulate national legislation to be implemented by the national government.

    Committee rejected the deletion of National Government as the inclusion of the National Government is important especially in the operationalization of the fiscal (tax) incentives in the Bill. Accordingly, it is resolved to itemize and separate the roles of the National Government and the County Government.

30. Dr. Ezekiel Onyango proposed to delete the definition of the term "Guild" and replace it with the term "Council". The Bill's definition of guild looks more like a council. A guild does not traditionally do what is in the Bill. Guilds are sector-specific, and there will be a challenge in governance

    The committee accepted the word "guild" to be substituted with the word council throughout the bill.

Clause Section 3- Obligations of the government

31. Mr. James Ahere noted that the Bill assigns significant responsibilities to both national and county governments in supporting the creative industry, particularly through collaboration with the Guild and decentralization of services. However, it currently lacks mechanisms for direct engagement between county executives and local creatives. Furthermore, it does not mandate the integration of creative industry development into County Integrated Development Plans (CIDPs) or the creation of county-specific strategies. To bridge these gaps, the Bill should include provisions that

    i. Mandate regular ground-level consultations between county executives and local creative communities.

    ii. Require the inclusion of creative industry development within CIDPs to ensure proper planning and resource allocation.

    iii. Introduce monitoring and evaluation frameworks to assess the effectiveness of county-level initiatives in supporting the creative sector.

    The Committee accepted this proposal to amend Clause 3 to include the inclusion of creative industry development within CIDPs to ensure proper planning and resource allocation

Clause 4 – Online platform

32. Mr. Immaculate Juma proposed the deletion of section 4. This is because the functions in the clause are already being done on Instagram and Facebook

    Committee rejected deletion of the online Platform is necessary for purposes of sharing information on opportunities for creatives. These include government initiatives and incentives, information of which may not be already on Instagram and Facebook. The Committee however resolved to amend clause 4 to delete the provision mandating creatives publishing their work and events on the platform and instead maintain it as a portal for the government to publish opportunities and incentives for creatives.

33. Mr. Carlos Raoul, Ms. Celine Kisenga, Ms. Charlene Mburu and Mr. Keith Ogachi (should I put salutation after each or?) stated that the requirement for an online platform where creatives can publish events and current affairs, while seemingly beneficial, could be misused for surveillance and intimidation. This clause could lead to self-censorship among creatives. Article 31 of the Constitution guarantees the right to privacy, including the right not to have one's private affairs unnecessarily required or revealed. The bill must ensure that this online platform is used solely for its intended purpose and not as a tool for surveillance

    The Committee agreed to amend clause 4 to provide for compliance with the provisions of the Data Protection Act 2019 in the handling and processing of any sensitive personal data of creatives on the online platform.

Clause 5- Curriculum

34. Ms.Teresa Karanja, a concerned citizen concerns that the bill is likely to wreak havoc on the curriculum of various institutions as witnessed in the case of the introduction of the Competency-Based Curriculum (CBC). This is based on section 5 which states that the CS for education shall ensure that the curriculum developed includes subjects relating to the creative industry.

    The Committee rejected this proposal, The Bill aims to complement the Competency-Based Curriculum (CBC).

Clause 6 – Creative Industry Guild

35. Dr. Ezekiel Onyango proposed deletion of the entire section and replace it with a Council instead of a guild. A council is more effective than a Guild. A good example would be the Kenya Sports Council which has improved sports, the Media council which has improved some of the issues in the media and the creatives council in the UK.

The Committee agreed to amend Clause 6 to reflect the "Creative Industry Council" and amend the rest of the Bill to reflect this.

36. The Chamber of Youth Economists proposed that the Guild work closely with relevant ministries and agencies to not only ensure transparent distribution of royalties, but also to advocate for better royalty percentages for Kenyan creatives

    The Committee noted stakeholder's proposal and recommended Clause 7 to be amended to provide that the council shall establish industrial policies for the transparent monitoring, collection and distribution of royalties.

37. Mr. Martin Munyua from the Producers Guild of Kenya recommended renaming the "Creative Industry Guild" to the "Creative Industry Federation." The term "guild" may limit creatives to specific crafts or artistic ventures, while "federation" suggests an umbrella body that can encompass multiple guilds. The Creative Industry Federation should work harmoniously with existing guilds and associations within the industry. These guilds or associations should have the ability to bring forward issues that need addressing, which the federation would then address accordingly. "Rogue" players in the industry should be reported to the Creative Industry Federation through the existing guilds or associations. The federation should have the authority to hold these players accountable and take necessary actions.

    The Committee rejected this proposal of replacing the word "Guild" with "federation", they agreed to replace it with the word "Council" instead.

38. Ms. Angela Wamai concern in the bill is the formation of a creative Industry guild. Guilds should not be formed by bills or acts of parliament. Guilds and, more so, creative guilds worldwide are formed by industry players to champion the rights of the individuals in various industries. Kenya already has several guilds representing various actors in the creative industry. Moreover, it is wrong to group all creatives under one guild without consideration for the nuances and differences in the work they do and in their diverse needs.

    The Committee accepted the proposal and replaced the word "Guild" with "Council".

39. Mr. Jones Kyallo-Lawyer stated that '*In my opinion, another of the many boards to justify government wastefulness. unincorporated board that is purely advisory, meaning they can take the advice or not; just like the person occupying the house on the hill.*'

    The Committee resolved to amend the Bill to have the board as an incorporated entity and further agreed to amend the bill to include the following transformative industrial standards and policies on:

    - Royalty computation

- Royalty collection
- Royalty distribution
- Minimum Contractual Terms.

The policies above will offer solutions that other boards have failed to offer and further address the persistent monetary exploitative environment that has characterised the creative sector.

Clause 7- Functions of the Guild

40. County Assemblies Forum observed that the mandate given to the Creative Industry Guild to protect intellectual property rights is a critical step towards ensuring that creatives can benefit from their work. This will encourage innovation and creativity by providing a secure environment for creatives to produce and share their work.

    The Committee accepted this observation as the Structure of the council and its functions under clause 7 has adequately provided for enforcement mechanisms. Mr. Ondicho Jerimiah Proposed to amend Section 7 (j) to read

    7(j)Represent the interests of men, women, youth and persons with disabilities working in the creative industry

    The Committee accepted the proposal to amend the bill by including a standalone clause on persons with disabilities and ensuring that they access the incentives set out, under the Bill.

Clause 8 – Board of the Guild

41. Mr. Zaddock Omondi (KEMPA) noted that the clause sets out that the guild will be composed of various associations (multi-sectoral). There is a need to have this associations expanded or defined in the Bill. This definition of associations will bring about clarity and further acknowledge the diverse sectors in the creative economy.

    The Committee rejected this proposal, as the definition already included the broad and diverse sectors in the creative economy, as further recognised internationally by the United Nations

42. Mr. Immaculate Juma recommended that the 'Unincorporated status of the Guild' be reconsidered to an 'Incorporated status'. An incorporated entity will be a more efficient structure for the implementation of the Bill

    The committee accepted an amendment to the clause to set out that the council shall be a body corporate.

43. Mr. Immaculate Juma proposed Rejection of applications under section 8 should follow procedure under Article 48, this will ensure the upholding of fair administrative action.

    The Committee accepted the amendment to Clause 8 to set out the procedure under Article 48.

44. Mr. Immaculate Juma proposed deletion the provision of the Cabinet Secretary appointing individuals to the board of the guild as it may not achieve the purpose intended as the CS does not have the expertise to appoint such persons.

    The Committee rejected this proposal, the Cabinet Secretary is appointing candidates that have been nominated by the respective subsectors therefore mitigating any arbitrary appointments by the Cabinet Secretary

45. Mr. John Wambugu- Approved distributor of Cannon photography and film equipment proposed provision of a separate representative for resellers, distributors, vendors and manufacturers of filming equipment in the guild. The re-selling, distribution, vending and manufacturing of filming equipment is a large sector in the filming and photography industry. It is therefore important to have a separate representative who will advocate for the unique needs of this sub-sector.

    The Committee accepted the provision of a representative for resellers, distributors, vendors and manufacturers of filming equipment in the guild.

46. Ms. Amata Cynthia –The creative economy is divided into seven major industries- music, audio visual, new media (content on social media on Instagram etc, publishing industry, events industry (night life, liver performances), advertising industry (traditional advertising, digital advertising and influencer marketing, design industry (pottery, art and craft). Advocate practising Entertainment Law and Proposed Amendment of the composition of the advisory board as below

    - Permanent Secretary for Trade and Industrialisation.
    - Permanent Secretary for Youth Affairs and the Creative Economy
    - Permanent Secretary for ICT,
    - A member each from the Audio, Audio-visual industry, new media, publishing, events industry, advertising, design, and advocacy

    The Committee partially accepted to include PS for the creative economy, PS for matters Information, Communication and Technology and include a representative in the advertising sector.

47. Mr. William Kili and Ms.Angeline Gitanga from Power Initiative proposed a Clarification of the term unincorporated advisory board and the grounds for rejection of admission into the guild. "What are the benefits of having an unincorporated board vis-à-vis an incorporated board". It is also important to set out the grounds for rejection of an application for membership in the guild.

    The Committee proposed that the extensive application procedure and Grounds for rejection be set out in subsidiary legislation

48. Ms. Ondicho Jeremiah proposed an Amendment to Section 8, Subsection (1): Add the following parts:

    k) One person, not above the age of 35, from the creative industry, nominated by the Cabinet Secretary to represent the youth

    The Committee rejected the proposal as the constitution of the board is principally to represent the creative subsectors and further to have adequate government representation for synergy between the sectors. Adding another representative will bloat the composition of the board beyond the recommended number in the "Mwongozo" code of governance.

Clause 10 – Tenure

49. Ms. Stacy Ngata – Advocate International Lawyers Assisting Workers Network proposed the inclusion of an eligibility criterion for membership in the Guild. The clause provides that membership will be voluntary. It is, however, not clear what the eligibility criteria are to join the guild and the parameters of assessment for such membership

    The Committee resolved that Industrial Standards on the eligibility criteria for different sectors in the creative economy shall be set out in subsidiary legislation.

Clause 11 – Vacation of office

50. Mr. William Kili and Ms. Angeline Gitanga from Power Initiative requested need for clarification on which type of physical and mental infirmities make one unable to serve in the board. There is lack of clarity on the extent of physical and mental infirmity that will render on incapable of serving in the board.

    The Committee rejected this proposal as the clause sets out that the physical and mental infirmity should be to the extent that it makes one "unable to carry out their duties."

Clause 14 – Functions of the Secretariat

51. Ms. Angela Wamai, filmmaker and Bunge La Mayut, stated that the bill creates an administrative unit to serve as a secretariat of the Board. This administrative unit will be domiciled in the Ministry of Trade and will perform functions as per Section 14 of the bill. She feels that this is unnecessary because we already have two ministries dealing with matters of the creative economy and creatives. This is a replication of duties as the duties listed in section 14 are in the mandate of various government bodies and the mandate of the Ministry for Sports, Youth Affairs and Creative Economy, as well as the Ministry for Gender, Culture, Arts and Heritage.

    The Committee noted that the Secretariat is necessary for the administrative running of the board. Additionally, the arrangement ministry is an executive decision of the presidency through which the committee has no mandate.

    Mr. Ondicho Jerimiah proposed an amendment of section 14 (h) to read;

    14(j)Maintain a manual and digital database, accessible to the public, containing information on creative artists in Kenya, stakeholders, and participants across various sectors of the creative industry, as well as the programs in place to facilitate the industry's growth.

    The Committee accepted this proposal to amend Section 14 (h) to include a manual database

Clause 15 – Membership

52. Ms. Angela Wamai- filmmaker noted that though membership to the guild is voluntary the bill goes on to give incentives only to people in the guild (Section 26). This is unconstitutional and curtails on creatives' freedom of association.

    The Committee rejected this proposal noting that it is necessary for one to be a member of the guild in order to benefit from the incentives by the guild.

Clause 19 – Support to creatives

53. Mr. Zaddock Omondi (KEMPA) suggested clarification or widening the meaning of the terms "subsidize" or "formalization" used in the clause. The phrase "subsidize the formalization of creatives" is ambiguous. Widen or clarify the term "formalization" and the nature of subsidies for purposes of clarity and understanding.

    The committee accepted to amend the clause to read "including but not limited to *subsidizing the formalization of subsidies"* This will address the ambiguity.

54. Mr. Zaddock Omondi (KEMPA) - clarification on the provision "to facilitate protection of intellectual property and innovation" is ambiguous. Innovation is understood to be products

that can be patented. What does it mean to facilitate Intellectual Property? Will the Guild pay the registration fee for trademarks and patents, and will this be paid to the Kenya Institute of Intellectual Property (KIPI) and Kenya Copyright Board (KECOBO)?

Committee accepted to amend the clause to read "*including but not limited to facilitating protection of intellectual property and innovation*" This will address the ambiguity.

55. County Assemblies Forum proposed Amend the Clause to state: - "*The Guild shall, in collaboration with the respective county executive committee members responsible for matters relating to trade, put in place measures to support the establishment and development of the creative industry and shall, for this purpose — ....(d) provide support in the form of research and development activities that are aligned with county-specific needs and opportunities, ensuring that creatives across all counties can access tailored support that reflects local cultural and economic contexts; and..... .....*"

    1. This amendment ensures that research and development activities supported under the Bill are relevant to the unique cultural and economic conditions of each county, thereby enhancing the impact of the Bill at the local level.

    The Committee accepted this proposed amendment.

Clause 20 – Creatives Fund

56. Mr. William Kili and Ms. Angeline Gitanga from Power Initiative proposed replacing the word "may" with "shall". This will make it mandatory for parliament to provide funds for the sector

    The committee rejected the proposal of the use of the word "shall' is intentional to avert the construing of the bill as a money bill under Article 114.Should the Bill fall under the definition of a money bill; the senate will be prevented from legislating on the Bill.

57. County Assemblies Forum noted that the establishment of the Creatives Fund (Clause 20) is a commendable initiative. By providing a dedicated financial resource, the Bill ensures that creatives have access to necessary funds for their projects, which is crucial for sustaining and growing the creative industry

Clause 21 – Objects of the Fund

58. Mr. Kennedy Onyango proposed the deletion of the age limit of thirty-five (35) years. The age limit is restrictive as people above the age of thirty-five will be excluded. Creativity endures and matures over time. Global practices indicate that funding should be based on

impact instead of age. It will be more inclusive to have a funding criterion that considers innovation as opposed to age.

The committee accepted that the age limit of thirty-five (35) years to be removed as it is discriminatory and might lock a lot of Kenyans

Clause 22 – Credit guarantee scheme

59. Dr. Ezekiel Onyango recommended reviewing and clarifying the criteria for the issuance of funding through grants. There will be a potential uneven distribution of resources across subsectors, and urges should the clause not be reviewed.

    The Committee noted that clause 22(3) enables the Cabinet Secretary to publish guidelines on accessible financial support

60. Mr. Carlos Raoul noted that the establishment of the Creatives Fund and a credit guarantee scheme is commendable. However, the bill lacks robust mechanisms for ensuring transparency and accountability in the management of these funds. We can already see the many cases to do with government funds being misallocated. Article 10 of the Constitution emphasises national values and principles of governance, including transparency and accountability. The bill must be revised to include stringent oversight mechanisms to align with these constitutional principles.

    The Committee noted that the fund and the scheme will be subjected to the audit and reporting requirements under the Public Finance Management Act.

61. Mr. Benjamin Sulle pointed lack of Transparency and Accountability. The establishment of the Creatives Fund and a credit guarantee scheme is commendable. He noted the bill lacks robust mechanisms for ensuring transparency and accountability in the management of these funds. Without independent oversight, there is a high risk of corruption and misallocation of resources. Article 10 of the Constitution emphasises national values and principles of governance, including transparency and accountability. The bill must be revised to include stringent oversight mechanisms to align with these constitutional principles

    The Committee noted that the fund and the scheme will be subjected to the audit and reporting requirements under the Public Finance Management Act.

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62. Mr. Jones Kyalo -Lawyer noted that the bill proposes a credit guarantee scheme, "C'mon, that is what the Movable Property Security Rights Act No 13 of 2017 has been trying to operationalize

The Committee noted that the Credit Guarantee Scheme under this bill is solely set up for purposes of aiding the financing of creative projects and to offer fiscal support to creatives. Such a fund is currently not in existence.

63. County Assemblies Forum proposed Amend the Clause by adding a subclause 22(2) (e) to state: - *"(22(2)(f) The credit guarantee scheme shall include provisions for collaboration with county governments to ensure that creatives in all counties have equitable access to financial support and that the scheme addresses regional disparities in access to credit"*
Committee accepted the proposal to amend the Clause by adding a subclause 22(2) (e) to state: - *"(22(2)(f) The credit guarantee scheme shall include provisions for collaboration with county governments to ensure that creatives in all counties have equitable access to financial support and that the scheme addresses regional disparities in access to credit"*
The committee accepted this proposal.

64. Art Law Kenya (Liz Lenjo Advocate, Chairperson of the Copyright Tribunal, Wandiri Karimi Advocate, Felicia Solomon Advocate, Immaculate Juma Advocate, Suzanne Gachukia - Music Pioneer, Roy Gitahi - Creative Industry Expert, Cedric Nzomo – Co-Founder, Advertising Agency – The Verge, Moses Mbasu - Music Entrepreneur and Arthur Oloo - Music Executive) Proposed the following
    - Add Auditing mechanisms - The Sports Arts and Social Development Fund has yet/never been accounted for/audited.
    - Create oversight and regulation for the scheme from the beginning. These may include:
        i. Development Finance Institutions (DFIs): These institutions, which focus on financing projects with developmental impact, can manage the scheme, leveraging their expertise in risk assessment and management.
        ii. Specialized Credit Guarantee Organizations: Entities specifically set up to manage credit guarantees, such as national or regional guarantee funds, could oversee the scheme. They have experience in administering similar programs.
        iii. Public-Private Partnerships (PPPs)
        iv. Independent Board or Committee: An independent board or committee with representatives from the creative sector, financial institutions, and government to ensure that the scheme operates transparently and effectively.

The Committee noted that the Fund will be subjected to the audit and reporting requirements under the Public Finance Management Act for purposes of transparency and accountability.

Clause 24 – Application for grant or revocation of patents

65. Mr. Zaddock Omondi (KEMPA) proposed the definition of the term "facilitate". Does this mean that the guild will pay legal fees where there is a dispute? Facilitate is a dangerous term. Define it, what does it mean to facilitate. Our economy is marred by a lot of systemic problems. What formula has the drafter used. The World Intellectual Property Organisation has given tools for measuring or violating copyright. Instead of talking about facilitation, the Bill should address significant challenges such as the current tax regimes. For example, when someone wants to import equipment, the CS for finance and treasury will negotiate for tax reliefs. These incentives have been implemented in jurisdictions like America. We should also look at WIPO standards and thereafter assess the incentives in the Bill and the capacity of the Guild to provide this.

    The committee partially accepted the amendment to the clause by inserting the words "including but not limited to" in order to mitigate the ambiguity.

    The Committee further noted that being too prescriptive on the financial incentives may result in the Bill being construed to being a money bill.

66. Mr. Carlos Raoul, Mr. Solomon Kinuthia and Ms. Patience Nipher noted that the protection of intellectual property rights is crucial for the creative industry. However, the bill's enforcement mechanisms depend heavily on cooperation between various stakeholders, which may not always be forthcoming. Article 40 of the Constitution protects the right to property, including intellectual property. The bill should provide clear, enforceable mechanisms to protect these rights effectively.

    The Committee accepted this proposal, and the Council (previously guild) shall publish regulations to address this.

Clause 25 – Fiscal incentives

67. Dr. Ezekiel Onyango proposed that a provision to include that the CS shall formulate guidelines on the operationalization on the fund. This will ensure certainty, openness, structure and accountability in the management of the funds.
68. The Committee noted that clause 22(3) enables the Cabinet Secretary to publish guidelines on the operationalisation. Mr. John Wambugu -Approved distributor of Cannon proposed

provision of tax incentives for film and photography equipment. Applicable tax rates make photography equipment expensive, and this affects the purchase, resale and distribution of the said equipment. A cap on interest rates will open up the industry. Various institutional tax incentives to institutions, such as banks, will enable financing for the acquisition of film and photography equipment

The Committee accepted this proposal to include resellers, distributors, vendors and manufacturers of film equipment under clause 8, the tax incentives in clause 25 will apply to them.

69. The Chamber of Youth Economists recommends that the proposed tax incentives take into account peculiarities of the creative economy, such as the differentiated monetization terms for Kenyan creatives with primarily local audiences versus those with a more globally diverse audience. This will help ensure equitable taxation terms that optimize revenue from the creative industry while avoiding the financial suffocation of start-ups, which, in the long run, will limit expansion and inhibit the realization of the full economic potential of the creative industry.

    The Committee acknowledged the proposal and recommended that the Council develop and publish tailored industrial policies for different creative sub-sectors to address their unique needs and also establish mechanisms for the transparent distribution of royalties.

70. County Assemblies Forum proposed Amend the Clause by adding a subclause 26(2) to state: -: - ""*26(2) The Guild shall, in collaboration with county ¬ Decentralizing the registration process and access to incentives will ensure that creatives in remote and underserved areas 8 available to members of the Guild whose names have been entered into the roll under section 11." governments, ensure that the process of registering with the Guild and accessing incentives is decentralized to county levels, thereby promoting wider participation and inclusion of creatives from all regions.*"

    This is because decentralizing the registration process and access to incentives will ensure that creatives in remote and underserved areas are not disadvantaged, thereby fostering inclusivity and promoting the growth of the creative sector across all counties

    The Committee accepted this proposal to amend the Clause by adding a subclause 26(2) to state: -: - ""*26(2) The Guild shall, in collaboration with county ¬ Decentralizing the registration process and access to incentives will ensure that creatives in remote and underserved areas 8 available to members of the Guild whose names have been entered into the roll under section 11." governments, ensure that the process of registering with*

the Guild and accessing incentives is decentralized to county levels, thereby promoting wider participation and inclusion of creatives from all regions."

Clause 27 and 20 – Regulations and Creatives Fund.

71. Dr. Ezekiel Onyango proposed a provision for incentives that will encourage foreign direct investments in the creative economy. Incentives for foreign direct investments will boost funding and technology development and utilization in the creative economy

    The committee accepted this proposal to provide for incentives that will encourage foreign direct investments in the creative economy.

72. Mr. Carlos Raoul noted that the bill grants extensive regulatory powers to the Cabinet Secretary responsible for trade, allowing for the creation of regulations that could severely limit creative freedom. This broad discretion risks censorship and suppression of dissenting voices within the creative industry. Article 33 of the Constitution of Kenya 2010 guarantees the right to freedom of expression, including artistic creativity. The bill, as it stands, threatens this fundamental right

    The committee rejected this proposal noting that it is necessary for the Cabinet Secretary to publish guidelines for operationalising salient and critical provisions in the Bill; **Marcus Olang**). Proposed the following;

i. **Government Overreach and Censorship (Clause 27):** The bill grants extensive regulatory powers to the Cabinet Secretary responsible for trade, allowing for the creation of regulations that could severely limit creative freedom. This broad discretion risks censorship and suppression of dissenting voices within the creative industry. Article 33 of the Constitution of Kenya 2010 guarantees the right to freedom of expression, including artistic creativity. The bill, as it stands, threatens this fundamental right.

    Committee rejected this proposal; the purpose of the Bill is to bring about a measure of self-regulation in the creative sector.

    The committee noted this concern and observed that the purpose of the Bill is to set up a basis for self-regulation. The Bill sets up creative sub-sectors that will subsequently create and publish industrial standards and regulations applicable to these specific subsectors.

ii. **Lack of Transparency and Accountability (Clauses 20, 22):** The establishment of the Creatives Fund and a credit guarantee scheme is commendable. However, the bill lacks robust mechanisms for ensuring transparency and accountability in the management of these funds. Without independent oversight, there is a high risk of corruption and

misallocation of resources. Article 10 of the Constitution emphasises national values and principles of governance, including transparency and accountability. The bill must be revised to include stringent oversight mechanisms to align with these constitutional principles.

The Committee accepted this proposal, the Council shall publish guidelines to operationalize the fund and the criteria for approving beneficiaries.

The Committee noted this observation and further noted that the Public Finance Management Act section 84 mandates administrators of national public funds to prepare annual financial statements that shall be audited by the office of the Auditor General and a report made available to the public for purposes of transparency and accountability.

Accordingly, the creatives fund and the credit guarantee scheme under the Bill will be subjected to the provisions of section 8 of the Public Finance Management Act therefore ensuring transparency and accountability in the administration of the fund.

iii. **Potential for Misuse of Security Agencies (Clause 4):** The requirement for an online platform where creatives can publish events and current affairs, while seemingly beneficial, could be misused for surveillance and intimidation. This clause could lead to self-censorship among creatives. Article 31 of the Constitution guarantees the right to privacy, including the right not to have one's private affairs unnecessarily required or revealed. The bill must ensure that this online platform is used solely for its intended purpose and not as a tool for surveillance.

The committee accepted this proposal **and** amended Clause 4 by deleting the provision on creatives publishing information on the website and instead maintain it as a platform in which the ministry will publish opportunities and incentives for creatives. The Committee further resolved to include an additional clause on Data Protection of the handling and processing of sensitive personal data on the online platform pursuant to the provisions of the Data Protection Act 2019..

iv. **Inclusivity and Representation (Clauses 6, 8):** While the bill aims to ensure representation from various creative sectors, it may not fully address the diversity within these sectors. Smaller or emerging sub-sectors might find it challenging to have their voices heard and needs met. Article 27 of the Constitution guarantees equality and freedom from discrimination. The bill should be revised to ensure fair representation and inclusivity of all creative sub-sectors.

v. The Committee noted that the listed sub-sectors reflect the internationally principally recognised creative sub-sectors by the united nations. While the list may not include all smaller emerging sectors, the role of the guild (council) is to ensure holistic representation of all creatives including those in smaller and emerging subsectors. Enforcement **and Compliance (Clauses 7, 24):**

The protection of intellectual property rights is crucial for the creative industry. However, the bill's enforcement mechanisms depend heavily on cooperation between various stakeholders, which may not always be forthcoming. Article 40 of the Constitution protects the right to property, including intellectual property. The bill should provide clear, enforceable mechanisms to protect these rights effectively.

The committee noted this observation and resolved to mandate the Cabinet Secretary to publish regulations on intellectual property enforcement and protection in the creative sub-clusters.

Conclusion: While the Creative Economy Support Bill, 2024, may be well-intentioned, its current form presents significant risks to the creative industry.

True support lies in enhancing the freedoms that allow creativity to thrive, and not legislating such freedoms away into a cesspool of corruption and favouritism. And, at this point, the focus must be on purging the already-innumerable agencies that exist of corruption and ineptitude, to enable them properly perform their functions.

The committee noted the above observation and agreed to proceed with the bill with the amendments proposed from the various stakeholders.

General Observations

73. Mr. Alamin Virani (Kenya Actors Guild) observed the following

i. There was a cinema and studio mashinani where the government undertook private sector work by setting up studios in counties that eventually started competing with private studios. There is, therefore, a lot of conflict with the private sector when the government gets involved in the creative economy.

ii. Government overreach and censorship, lack of transparent accountability, and criteria and qualifications for representation in previous boards have been an issue. There has been no accountability and transparency on the establishment of boards and task forces formulated by previous Cabinet Secretaries.

iii. The potential of misuse of security agencies, some information used by the government may undermine creatives

iv. Inclusivity and representation of persons with disabilities should be included in the Bill.

v. Enforcement and compliance are a very difficult conversation around matters of intellectual property. This has been deliberated for over six years with previous cabinet secretaries, and no headway has been made.

vi. Intellectual Property is important to creative business. We are struggling with royalties. The fear we have when a government agency has been unable to regulate such an important aspect of creative work (KECOBO). Please take into account, we are weary because of the track record in the past.

The Committee noted these observations and resolved that , the Council shall in consultation with various agencies and stakeholders in the creative economy establish industrial policies and standards on the collection and distribution of royalties.

74. County Assemblies Forum observed the Bill has a provision to include creative industry subjects in the national curriculum is a forward-thinking approach. This will equip future generations with the skills and knowledge necessary to thrive in the creative economy, thereby ensuring the industry's long-term sustainability.

75. Mr. Daniel Kibet (Representing Creatives living with Disabilities). Proposed the following;

i. The Bill should include provisions on the representation of persons with disabilities, including the provision of both fiscal and non-fiscal incentives.

ii. On the composition of the board, there is need to have a representative, from the national council of persons with disabilities. The Bill has not provided for the protection of rights and representation of persons with disabilities in the creative economy sector.

iii. Include provision on awareness of inclusion of PWDS and include this in the proposed curriculum set out in the Bill.

The Committee agreed to amend the Bill to include a standalone clause on persons with disabilities and various benefits for them under the Bill.

76. Dj Euphoric, representing Young Kenyan Creative Minds Living with Disabilities, commented that 'while the Creative Economy Support Bill, 2024 presents an opportunity to enhance the creative sector in Kenya, it must be more inclusive of persons with disabilities. The recommendations provided in this memorandum aim to ensure that the Bill addresses the specific needs of disabled creatives, thereby promoting a truly inclusive and equitable creative economy. We urge the Senate to consider these recommendations and

amend the Bill accordingly to reflect the diverse talents and contributions of all Kenyans, including those with disabilities.

Committee accepted this proposal to amend the Bill to provide a standalone clause on the protection of the needs of creatives with disabilities.

77. Mr. Cybil Mukandutiye- Actor, advocate, observed the following

i. The bill is vague. It doesn't cover the reality of the sector. There is nothing in the Bill to help actors. The Bill is instead creating another body to do what the already established Actors Guild has been doing, and it has not helped.

ii. The bill is not giving actors anything different from what they have been receiving from the Actors Guild.

iii. The challenges in the different sectoral industries are different, and this will affect resource allocation. Money and Royalties are critical. The Bill is now forward-looking and does not cover anything that will help actors in ten years.

iv. The creative economy is unstable, an actor may have a job for six months and be unemployed for 8 months. When unemployed, people are still being entertained by the actor's work.

v. Distribution- Foreigners come to help film a show and thereafter undertake a premier. When will the government produce a project and premier it. Kenya is only focusing on sports to the detriment of other sectors.

vi. Distribution, collaboration and reducing taxes for international organizations are important. It is currently very hard for Netflix to penetrate the Kenyan film as the taxes are unbearable,

vii. The Board should have people actively working in the sectoral industries; the issues are two: royalties, distribution, and taxes, and until this is done, we will never find these solutions. Make intellectual property effective and make contracts effective.

viii. Current CMOs should undertake better analysis of produced music and film and ensure that there is fair and accurate distribution of royalties.

The Committee agreed to amend the Bill to include industrial standards and policies on

- Royalty computation
- Royalty collection
- Royalty distribution
- Minimum Contractual Terms

78. Mr. Jeremey Waweru proposed;

i. We should support the economy by providing equipment, we need to have technology that is working.

ii. Celebrate and highlight content through funding local and international festivals in which Kenyan creative work can be showcased.

iii. Expose creatives to international standards of content creation in various subsectors

The committee accepted Clause 8 amended to include a representative on production, photography and film equipment.

79. Mr. James Ahere – Advocate and director (Weza Interactive Entertainment) proposed the following;

- Include Creative clusters in the creative economy by establishing an umbrella body that will address sector-specific challenges. Further in the subsidiary legislation has regulations representing each cluster. There are various subsectors in the creative industry, each with unique needs that need to be considered and regulated.

The committee rejected this proposal noting that the Guild is an umbrella body with sufficient representation of the existing subsectors in the creative industry. Additionally, the Committee resolved to amend the Bill to provide that the Guild will publish industrial standards for each sub-sector Several potential risks that have happened with existing guilds, increased overlaps, take a step back and do research on this guild to avoid overlap and confusion of roles.

- Coordination challenges across fields may result in diluted focus by the guild on smaller sectors. Resource allocation may be disparate with larger or more established sectors may dominate funding. Software development and gaming sectors may be swallowed up.

Committee highlighted that the purpose of the Bill and the guild is to provide a unified and overarching framework for the creative industry while focusing on smaller subsectors such as gaming and software development that do not have adequate representation.

- County involvement; - this bill has a lot of responsibilities for the county govt but has limited opportunities for direct engagements between the county and creatives. Also how does the bill be included in county strategic integrated plans. Require the inclusion of the creative economy in integrated development plans in counties.

- The committee resolved to amend Clause 3 to include the inclusion of creative industry development within CIDPs to ensure proper planning and resource allocation.

The Committee further agreed and resolved that having Subsidiary legislation in each creative cluster will mitigate coordination challenges.

- Corruption and fund managements – establishment of a large fund creates concerns for potential of stealing.it is important to have financial controls and transparency mechanisms, audits etc.

The Committee noted that the fund will be subjected to the accountability, audit and reporting requirements in the Public Finance Management Act. Ms.Charlene Mburu, Mr. Mutuku Ndeti and Mr.Marcus Douglas noted that while the bill aims to ensure representation from various creative sectors, it may not fully address the diversity within these sectors. Smaller or emerging sub-sectors might find it challenging to have their voices heard and needs met. Article 27 of the Constitution guarantees equality and freedom from discrimination. The bill should be revised to ensure fair representation and inclusivity of all creative sub-sectors.

The Committee rejected this proposal, as the Guild has adequate representation from the different sub-sectors

80. Mr. Immaculate Juma observed the following

    i. The Bill may potentially result in overregulation of the creative economy especially with other Bills being drafted such as the Creatives Industries Bill, 2024 by the executive.

    ii. There is an overlap of functions in the roles of the National and County Governments.

    iii. A guild may not be necessary as we ha e a lot of associations, creative writer guild etc. If we can strengthen existing bodies, this would be more expedient as opposed to a bill.

    Committee rejected the proposal as the inclusion of the National Government is important especially in the operationalization of the fiscal (tax) incentives in the Bill. Accordingly, it is resolved to itemize and separate the roles of the National Government and the County Government.

81. Mr. George Kimani (Film distributor representing the Film Distributors Guild) proposed the following;

i. The creative industry is regulated under multiple ministries, and the inherent interest of creatives is lost between the multiple mandates. Consider regulation under one ministry

ii. There is over-legislation in the creative sector to the point it looks that the Bill is against and in competition with other Bills such as, the East African Creatives Bill and the Culture Bill 2024.

iii. A lot of the issues raised in the bill are being handled by other departments and agencies. Will these bodies be disbanded?

iv. The functions of this bill are divided among different ministries, ICT, Trade, youth affairs, tourism wildlife and heritage. There are confusions. Which ministry is going to handle this?

v. The fund, we have sports fund, culture fund and the universal fund that we have never been able to access, what makes the fund under the Bill different and why have it when we can't access the money in these other funds.

vi. How often shall we access the funds and what are the deliverables, and what should it do? Will we have achieved this? Capacity building is not a deliverable, it has been overdone. We should be doing films and movies, actual creative work.

vii. This Guild is another layer of red tape that we do not need at all. If the laws are done right, self-regulation shows that we can manage ourselves. We do not need another layer of gatekeepers.

82. Mr. Ken Mwiti's concerns were as follows

i. Inadequate Research and Understanding: The bill appears to have been drafted without a comprehensive understanding of the actual problems and specific needs of the diverse sectors within the creative industry. Before proceeding with this bill, I strongly urge the Senate to undertake extensive research to accurately identify and address these needs.

ii. Overshadowing of Sector-Specific Issues: Placing all creative sectors under a single bill could lead to the overshadowing of sector-specific issues. For instance, the challenges faced by musicians differ significantly from those encountered by filmmakers or fashion designers. The existing National Music Policy (2015) already provides a solid foundation for addressing the unique needs of the music industry. I believe that similar sector-specific policies should be developed for other creative sectors before a unifying bill is considered.

iii. Need for Policy Amendments Before Legislation: I recommend that the Senate focus on amending and updating the existing policies, such as the National Music Policy, and developing new policies for other creative sectors. These policies should be well-researched and crafted with input from industry stakeholders to ensure they are practical and effective. Only after this foundational work is done should a bill be considered.

iv. Risk of Overgeneralization: By trying to cover all creative sectors under one bill, there is a significant risk of overgeneralization, which could lead to ineffective solutions that do not adequately address the specific challenges within each industry. Each creative sector has its unique dynamics, and any legislative efforts must recognize and respect these differences.

The Committee accepted the issues raised by stakeholders and proposed to amend Clause 7 to indicate that the Council shall publish different industrial policies and standards for different sub-sectors in the creative economy. This will address the different issues arising in the different sub-sectors

83. Ms. Angela Wamai, filmmaker, proposed that the Senate reject or withdraw this bill as it is detrimental and unnecessary to the creative industry. The bill will duplicate services and offices, and in effect weaken already existing offices. The government of Kenya should play an oversight role, strengthening existing guilds and ensuring prosecution on those infringing on copyright laws and not establish a guild. The government should fund government bodies already administering grants and funds to creatives

The Committee rejected the proposal to withdraw the Bill as it provides a novel board that is seeking to unite the entire creative sector as opposed to the fragmented and informal representation that currently exists.

84. African Women's Orchestra recommended that the bill be withdrawn based on below facts

i. There are already existing structures and institutions in various ministries that cover the subject matter of this legislation and instead of creating other institutions they should empower the institutions through current bills and upcoming bills and amendments on this strengthening including institutions such as but not limited to Department of Culture, Department of Arts, The Kenya Cultural Centre, National Museums of Kenya, Department of Film Services, Kenya Film Commission, Kenya Film Classification Board, Kenya National Archives, Ministry of Education, Ministry of Foreign Affairs, Ministry of Tourism and Wildlife, Ministry of Information, Communication and Technology. This bill proposes to

have its affairs managed by the Ministry of Trade which does not include any of the departments heavily involved in the Creative Economy and therefore creates a bureaucratic barrier to its efficacy and a danger that the Cabinet Secretary will neither have a team on hand with relevant knowledge but also the risk that the Creative Economy will be deprioritised in a docket that has many more prominent sectors.

ii. There already exist funds including the Youth Fund, and Sports Fund that have not been properly managed and made available to the Creative Economy and creating a new fund will not ensure that the funds reach the ones who are most critical in building the industry furthermore the national government has a mandate in the institutions mentioned above and in my opinion, the Creative Economy funding bill other than creating a guild should be guiding the counties where culture has been devolved to, to create allocations within their budgets for the already identified needs of the creative economy through professionally conducted studies by for example allocating a minimum percentage of county fund allocation to the creative industries to achieve the constitutional commitments at a devolved level.

iii. The proposed fund exclusion of non-youth actors in the creative economy in addition to being discriminatory, is counterintuitive by not supporting intergenerational development to ensure that there is early, mid and advanced career support

The Committee noted these observations but rejected the proposal to withdraw the Bill as it has necessary provisions on providing a platform for recognition for various creative subsector and a basis for self-regulation through the establishment of industrial standards for each subsector.

85. The African Centre for Technological Studies recommended

i. Maintaining an online platform for industry events and news and a platform through which persons in the creative industry may showcase their talents, products or technologies is already effectively handled by the private sector e.g. by Wowzi, Moohk etc. The government should focus on fostering a supportive environment and providing incentives to encourage such platforms, rather than duplicating existing efforts.

ii. Reviewing the existing laws (Societies Act, Intellectual Property Laws, Tax Laws and related laws) that already allow creative industries to exist and protect their creative works, but need to be sharpened to allow them to grow. This approach

will empower creative industries to thrive by addressing specific challenges and gaps in the current legal framework, rather than introducing new laws in an already over-legislated

The Committee rejected the proposal to withdraw the Bill

86. A Concerned Creative recommended a need for Separate Legislative Measures. Consider drafting separate legislative measures for different creative sectors rather than a single, overarching bill. This will ensure that the unique challenges of each sector are adequately addressed without overshadowing

The Committee noted the policy issues raised by the stakeholders.

Amend Clause 7 to indicate that the Council shall publish different industrial policies and standards for different sub-sectors in the creative economy. This will address the different issues arising in the different sub-sectors.

87. Ms. Teresa Karanja appreciated the bill in creating a creative industry guild whose membership is voluntary. Thus, giving creatives the option to join or not to join

The Committee accepted this proposal

88. Art Law Kenya(Liz Lenjo Advocate, Chairperson of the Copyright Tribunal, Wandiri Karimi Advocate, Felicia Solomon Advocate, Immaculate Juma Advocate, Suzanne Gachukia - Music Pioneer, Roy Gitahi - Creative Industry Expert, Cedric Nzomo – Co-Founder, Advertising Agency – The Verge, Moses Mbasu - Music Entreprenuer and Arthur Oloo - Music Executive proposed deletion of section 4,5, 7 (a), (b) (c) (h), (e), (f), (n),(m),13,16,19(a) (b), 20 (21 (3)(a),24 and revise Section 8.

Art Kenya Law also made the following observations

i. The revisiting of the Bills already on course within the Creative Economy (Culture Bill 2024 and Creative Industries Bill 2023) and either amend these appropriately or specialize this Bill better.
ii. The Bill needs more public and sector leader participation
iii. Seeing as this is a creative economy support bill there needs to be more emphasis on structured support and not just a fund. The financial, tax and legal need more support and guidelines.
iv. The bill seems to be pushing for additional bureaucratic processes, further stifling creativity.
v. The Bill needs to ensure monitoring and evaluation metrics to ensure its efficacy.

The Committee noted the observations and highlighted that the Council (previously guild) shall publish regulations to address this.

89. Ms. Cynthia Adongo proposed that while the bill aims to ensure representation from various creative sectors, it may not fully address the diversity within these sectors. Smaller or emerging sub-sectors might find it challenging to have their voices heard and needs met. Article 27 of the Constitution guarantees equality and freedom from discrimination. The bill should be revised to ensure fair representation and inclusivity of all creative sub-sectors.

    The Committee accepted this proposal, amended section 6 to set out that the Council shall publish Industrial policies for different creative sectors and constantly review them, and they shall be legally binding

90. Centre for Intellectual Property and Information Technology Law (CIPIT) at Strathmore University observed that the proposal to enact a law aimed at supporting the creative industry and enhancing its economic contribution is commendable. However, the current version of the Bill contains several issues that could hinder its effectiveness if passed as is. The Bill suggests establishing a voluntary Guild to support Kenya's creative industry, but the benefits are restricted solely to Guild members. As a result, creatives who choose not to join the Guild would be excluded from government support, including fiscal incentives, intellectual property registration and enforcement, and capacity-building initiatives. This approach is both limiting and exclusive. To rectify these concerns, the Bill should be revised to include criteria for membership that extend support to all qualifying creatives, irrespective of Guild affiliation, and to broaden the eligibility criteria for incentives. This would foster a more inclusive strategy that benefits the entire creative industry and enhances its economic impact. Additional key recommendations for improvement include:

    i. Establishing clearer mechanisms for financial accountability and specifying funding sources to enhance transparency and resource management.
    ii. Promoting collaboration in the development of creative subjects in the curricula.
    iii. Removing age restrictions for funding eligibility.
    iv. Providing detailed guidelines regarding the roles and responsibilities in administering support programs.
    v. Clarifying the scope of support offered by the Guild and implementing measures to avoid conflicts of interest, which are essential for creating a fair and supportive environment for all creatives
    vi. While the Creative Economy Support Bill, 2024, presents an opportunity to enhance the creative sector in Kenya, it must be more inclusive of persons with disabilities.

91. Mr. Arthur Oloo proposed the establishment of the Kenyan Recording and Creative Arts Academy (KRCAA) through the strategic utilization of the Blank Tape Levy. This model, inspired by the success of the America's Recording Academy, aims to create a holistic ecosystem that supports artists at every stage of their careers, from education and training to recognition and welfare. The KRCAA would offer a range of initiatives, including:

    i. World-class education and training programs
    ii. The Kenyan Music Awards (KEMAs)
    iii. A Hall of Fame for industry legends
    iv. Welfare programs for artists in need

    He went further and stated that "By redirecting a portion of the Blank Tape Levy to fund these initiatives, we can create a sustainable financial model for the academy. I believe this approach will not only benefit artists but also contribute significantly to the growth and development of the Kenyan creative economy."

    The Committee recommended the Proposal to be implemented in a separate Bill.

92. Mr. Opiyo Okach submitted the following concerns:

    (a) How does the proposed creative industry framework relate to the existing arts and culture industry framework?

    (b) Does it complement, overlap, extend or duplicate the arts and culture industry framework? How is the Creative Industry Bill different from the existing Arts and Culture Bill?

    The Committee clarified that the the Bill seeks to creating an overarching framework to provide for industry standards and incentives for various sub-sectors in the creative industry.

    The Culture and Arts Bill seeks to promote and protect cultural heritage, while this bill is all-encompassing of different creative sectors.

93. Galaxis Kenya proposed **Enforcement and Compliance (Clauses 7, 24):**

    The protection of intellectual property rights is crucial for the creative industry. However, the bill's enforcement mechanisms depend heavily on cooperation between various stakeholders, which may not always be forthcoming. Article 40 of the Constitution protects the right to property, including intellectual property. The bill should provide clear, enforceable mechanisms to protect these rights effectively.

    While the Creative Economy Support Bill, 2024, may be well-intentioned, its current form presents significant risks to the creative industry.

True support lies in enhancing the freedoms that allow creativity to thrive, and not legislating such freedoms away into a cesspool of corruption and favouritism. And, at this point, the focus must be on purging the already-innumerable agencies that exist of corruption and ineptitude, to enable them properly perform their functions.

Support for the creative economy MUST be done in a manner true to incorporating safeguards for transparency, accountability, holistic inclusivity, and artistic freedom. By aligning the bill with the rights and principles enshrined in the Constitution of Kenya 2010, we can ensure that it genuinely supports and enhances our creative economy.

The committee noted the observations and confirmed that the Structure of the council and its functions under clause 7 have adequately provided for enforcement mechanisms.

94. **Chamber Youth Economists made** the following observation;

Obligations of Government

Enabling Environment: By mandating the national and county governments to create an enabling environment through direct and indirect support for creative artists and organizations, the bill will ensure the existing legislation serves not just to regulate, but proactively promote the growth of the creative industry in Kenya. Therefore, the Chamber of Youth Economists recommends that the government ensure the legislation and policies relating to the creative economy do not present binding constraints to the growth of the sector.

Policy Formulation: By formulating policies informed by the current landscape of the creative industry, including policies taking into account the extensive integration of technology in the sector, governments can accelerate the development of a sustainable and diverse creative industry. Therefore, the Chamber of Youth Economists recommends that, henceforth, all policies formulated to promote the creative industry not only consider the needs of organized creative entities with clear structures but also the thousands of creatives who are active participants in the sector but are not domiciled within formal entities.

Public-Private Dialogue: By establishing a dialogue forum between the creative industry and relevant government departments, the government will have a useful channel through which it can obtain and understand the creative economy in Kenya, including the more nuanced realities of the sector that may not be obtainable through pre-existing processes and structures. Therefore, the Chamber of Youth Economists recommends that the government have a clear calendar of these dialogues, that the forums focus on obtaining priority interventions with the maximum socioeconomic

benefits to implement, and that these forums be as inclusive as possible to accommodate all key sector actors to ensure circumspect solutions.

Market Access: The high rate of integration of technology in the creative economy is crucial to enabling Kenyan creatives to access global markets. This will significantly expand the revenue potential of the sector.

Therefore, in supporting the industry through systemic interventions, the Chamber of Youth Economists recommends that the government, through relevant ministries, agencies, and other entities like the Creative Industry Guild, engage and form more partnerships with global digital and creative platforms to open up channels for engagement of Kenyan creatives

Transparent distribution of royalties: Establishment of the Creative Industry Guild to oversee the development and support of the creative industry is potentially useful in the formulation of circumspect policies and obtaining accurate market intelligence to base decision-making. Therefore, in pursuing partnerships with global platforms to increase the revenue potential of the outputs in Kenya's creative economy, the Chamber of Youth Economists recommends that the Guild work closely with relevant ministries and agencies to not only ensure transparent distribution of royalties but also to advocate for better royalty percentages for Kenyan creatives

Board Composition: The Guild will be governed by an Advisory Board consisting of representatives from various creative sectors and government officials. The Chamber of Youth Economists recommends that this Advisory Board include a representative(s) of tertiary-level students studying related creative courses to enable the design of recommendations that are best-placed to enable Kenyan students to transition into productive creative pursuits in Kenya's creative economy

Incentives for Creatives • Fiscal Incentives: Provision of tax incentives and other fiscal measures to support the development of creatives will be useful in minimizing the impact of financial barriers to growth of the Kenyan creative economy.

Establishment of a fund to provide grants to persons in the creative industry, with specific eligibility criteria, will also help to reduce the financial burden on Kenyan creatives.

The Chamber of Youth Economists recommends that the proposed tax incentives take into account peculiarities of the creative economy, such as the differentiated monetization terms for Kenyan creatives with primarily local audiences versus those with a more globally diverse audience. This will help ensure equitable taxation terms

that optimise revenue from the creative industry while avoiding the financial suffocation of start-ups, which, in the long run, will limit expansion and inhibit the realization of the full economic potential of the creative industry.

The committee noted the stakeholders' observations on the enabling environment, policy formulation and public-private dialogue.

95. **Clause 7 to be amended** to provide that the council shall establish industrial policies for the transparent distribution of royalties.

Tertiary level students in the creative sector will be represented by the various sub-sector members of the board in clause 8.

Amend Clause 7 to set out that the council shall develop industry policies on the transparent distribution of royalties.

Amend clause 21 to set out that the council in consultation with the cabinet secretary will publish regulations on the eligibility and access to the fund.

96. Mr. Kimani Munene made the following observations

Obligation of the National Government – it's a general comment with no commitment on deliverables

A general sweeping statement:

1. No remedy for coordination between the County and GOK
2. A random statement – colleges already offering programs, what shall be different?
3. A sweeping statement – What about the existing spaces and facilities what's their utilization rate? before we create more.
4. Should cite the trade barriers, if any exist?
5. Access to Funds for youth, women and people with disability is good; the question is, how?
6. We have had too many forums between the private sector, little progress made on access to funds, investments, etc
7. Why do we need a new bill to act on the Kenya Film Commission mandate?
8. Why do we need a new bill to act on the KFC mandate?
9. Online database – already exists of works, artists and companies under Kecobo, KFC and KFCB
10. Already done under CBC and the 62-Year-old Drama and Music Festivals is the best practical masterclass for our creative sector – the remedy should be how to commercialise the winners to create jobs

11. Industry is already well organized into guilds and associations, and there is a head of the associations of the guild engagement forum. This is a misguided idea which will create another layer of red tape and bureaucracy to further stifle growth
12. Guild and Association heads have already been engaging for the last 10 years
13. These (a) to (l) functions have already been undertaken by KFCB, KFC, Kecobo, this replication of roles will kill the creative sector. Unless the intention is to disband KFCB, KFC and Kecobo for this group to handle their roles
14. CS should support and prop up already existing platforms if the intention is to grow the industry
15. Guilds and Associations already have written down the roles and responsibilities of their members and conflict resolution mechanisms
16. Unincorporated advisory board is an amorphous group with no legal standing and shall be rejected by the creative industry
17. (a) to (j) The association heads are always available and mandated by their members to represent their interests at all levels of government and the private sector.
18. The mandate of the industry heads is determined by the members, when their mandate to the association or guilds ends but the CS mandate is ongoing then trouble starts and the group mandate is questioned.
19. This is a trigger for trouble 8. (b) – Industry trust shall be eroded because of government interference
20. From (11) to (18) demonstrate the wanton wastage of time and resources, we are so accustomed and have normalized confusion by replicating the roles, functions and KPIs of already existing offices instead of enforcing the already existing mandates.
21. (19): The Private sector is already incubating, and the gov/ county Hubs across the country are actively doing this
22. (20): Creatives Fund – What's the source of funds? How much shall it open with? What are the criteria for disbursement? How often …. random or structured calls to the industry?
23. (21) The only regulation deemed appropriate was to cut off those above 35yrs? Is this a replica of the youth fund? Creatives have no age limit, there is no legal or moral reason to have a cut-off age, it's discriminatory
24. Cabinet Secretary shall, without public participation, arbitrarily decide on all regulations for disbursement

25. (22) May create a credit guarantee scheme.... Why may it not happen? This is a basic requirement for international investors like the Afridi Bank
26. (23) Utilize already existing platforms, institutions like TVETs and colleges, to train other functions already being handled by other bodies
27. (24) This is Kecobo officer's role. Why replicate?

The committee noted the proposal, amended clause 3 by separating the different roles of the national and county government.

The committee further noted that Formal training in the arts is very expensive. e.g. piano training. it is necessary to have intervention by the government through:

a. Subsidised formal training
b. Capacity building
c. Curriculum development in institutions
d. Ensure we have proper products that can be profitable and identify markets.

Trade barriers is an ongoing concern and the council will deal with them at both levels of government.

Amend Clause 3 to provide for data collection at both levels of government. including institutions, museums, centres etc

Include a clause stating that the CS, in consultation with the council, shall establish regulations for identifying, patenting and commercializing pieces of art from commercially viable schools and institutions

Amend the bill to mandate the CS and the council to establish regulations that protect IP for creative products that come from institutions, community centres. Promoting products from these institutions and commercialization.

Adopt the wording used in the start-up and culture bill on cultural expressions and traditional knowledge.

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Amend Clause 7 to include research and development as a role of the council. (indigenous knowledge is intertwined) (traditional and indigenous knowledge requires a separate different regulatory framework.

Include Budget allocation to research and development. How do you cross-pollinate cross-breed ideas and put out new products? E.g. producing traditional instruments with modern materials and how royalties go back to indigenous communities.

97. Bunge La Mayout proposed that the bill create an administrative unit to serve as a secretariat of the Board. This administrative unit will be domiciled in the Ministry of Trade and will perform functions as per Section 3 of the bill. This is unnecessary because we already have two ministries dealing with matters of the creative economy and creatives. This is a replication of duties as the duties listed in section 3 are in the mandate of various government bodies and the mandate of the Ministry for Sports, Youth Affairs and Creative Economy, as well as the Ministry for Gender, Culture, Arts and Heritage.

proposed amendment of section 14 (h) to read;

(j)Maintain a manual and digital database, accessible to the public, containing information on creative artists in Kenya, stakeholders, and participants across various sectors of the creative industry, as well as the programs in place to facilitate the industry's growth.

Committee accepted this proposal. The creatives council is seeking to provide a central association and regulatory framework for all creative sectors.

Amend Section 14 (h) to include a manual database

98. Mr.Clarice Mideva (Africa Centers for Technology Studies) made the following observation;

The current fragmentation of the creative sector across multiple ministries (under the Ministry of Youth Affairs, Creative Economy and Sports, the Ministry of Culture, Arts and Heritage and the Ministry of Investment, Trade and Industry) creates confusion and hinders effective coordination.

i. To ensure a cohesive and streamlined approach, we recommend consolidating the creative sector under a single ministry responsible for its overall vision and direction.

ii. The creation of a new fund while existing ones like the Sports Arts and Social Development Fund, Atlanta Hela and related funds are still underutilized is unnecessary. We recommend focusing on strengthening these existing funds, improving their accessibility, and ensuring they benefit all creatives across the sector.

iii. The current age limit of thirty-five years for grant recipients is discriminatory and excludes experienced creatives who can significantly contribute to the industry's growth. We recommend removing the age limit entirely, as creativity knows no bounds.

iv. Maintaining an online platform for industry events and news, and a platform through which persons in the creative industry may showcase their talents,

products or technologies is already effectively handled by the private sector, e.g. by Wows, Moohk, etc. The government should focus on fostering a supportive environment and providing incentives to encourage such platforms, rather than duplicating existing efforts.

v. We recommend reviewing the existing laws (Societies Act, Intellectual Property Laws, Tax Laws and related laws) that already allow creative industries to exist and protect their creative works, but need to be sharpened to allow them to grow. This approach will empower creative industries to thrive by addressing specific challenges and gaps in the current legal framework, rather than introducing new laws in an already over-legislated industry. This approach also aligns with the principle of regulatory efficiency, ensuring that the legal framework remains streamlined and effective. The African Centre for Technology Studies (ACTS)

The committee noted the observation and clarified that the fund and the administration of the Bill have been put under the Ministry of Trade to benefit from incentives and support the profitability of creative ventures.

All the other existing funds are not run by creatives. The creative fund will be run by the council for the industrial needs across different subsectors.

The Bill seeks to include overlooked benefits in the creative sector such as pension benefits, medical insurance, negotiate with RBA, SHIF, and Collective Bargaining agreements

CHAPTER 4: COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

4.1. Committee Observations

99. From the submissions made by stakeholders and their deliberations on the Bill, the Committee observed that —

1) **Sector Potential**: Kenya's creative industry holds immense untapped potential for economic growth and employment, particularly through digital platforms and social media.
2) **Persistent Challenges**: Key barriers include inadequate funding, weak intellectual property (IP) protection, and insufficient institutional support for creatives.
3) **Bill Objectives**: The Bill seeks to establish a *Creatives Fund* and mechanisms to enhance the sector's economic contribution.
4) **Stakeholder Concerns**:
    a) Risks of **government overreach** and lack of transparency in fund management.
    b) Absence of **sector-specific policies** for music, film, fashion, and other sub-sectors.
    c) Inadequate inclusivity measures, particularly for **persons with disabilities**.
    d) Discriminatory **age limit (35 years)** for accessing the Creatives Fund.
5) **Institutional Overlap**: Need to clarify roles to avoid duplication with bodies like the *Kenya Film Commission (KFC)* and *Kenya Copyright Board (KECOBO)*.

4.2. Committee Recommendations

100. Having considered the Creative Economy Support Bill, 2024(Senate Bills No.34 of 2024) and the submissions received thereon, the Standing Committee on Trade, Tourism and Industrialization recommends that the Senate pass the Bill with the following amendments —THAT:

1) <u>Clause 2 (Interpretation)</u>

i. Retain *"intellectual property rights"*.

ii. Replace *"Guild"* with *"Council"* throughout the Bill for clarity and institutional coherence.

2) Clause 3 (Obligations of Government)

i. Mandate **regular consultations** between County Governments and Local Creatives.

ii. Integrate creative industry development into **County Integrated Development Plans (CIDPs)** to ensure resource allocation.

iii. Include data collection as function of both levels of government.

3) Clause 4 (Online Platform)

i. Retain the platform as a tool for sharing government initiatives, but amend to:

a) Strengthen **data protection safeguards**.

b) Prevent misuse for surveillance.

4) Clause 6 (Creative Industry Council)

i. Formalize the *Creative Industry Council* as a **body corporate** to enhance governance and accountability.

5) Clause 7 (Functions of the Council)

i. Develop **tailored industrial policies** for each creative sub-sector.

ii. Establish transparent mechanisms for **royalty distribution**.

6) Clause 8 (Board of the Council)

i. Ensure Board representation from **diverse creative sub-sectors**, including smaller/emerging industries such as retailers, resellers and distributors of film equipment.

ii. Include permanent secretaries from the ministries in charge of the creative economy and Information, Communication and Technology.

iii. Merge the subsectors on film and photography equipment and the subsectors on literary and visual arts in order to align with the recommendations made in The Code of Governance for State Corporations (*Mwongozo Guidelines*)

iv. Introduce a dedicated clause to address **disability inclusion** in the creative sector.

7) Clause 21 (Objects of the Fund)

i. Remove the **age limit (35 years)** to eliminate discrimination.

8) Clause 22 (Credit Guarantee Scheme)

i. Require collaboration with county governments to ensure **equitable regional access** to financial support.

9) Fund Management & Accountability

i. Direct the Cabinet Secretary to issue **operational guidelines** for the Fund.

ii. Enforce strict **oversight mechanisms** and mandate annual financial reports to the Auditor General under the *Public Finance Management (PFM) Act*.

10) Clause 26 (Scope of Incentives)

i. Decentralize registration processes to improve access for creatives in **remote and underserved areas**.

11) Clause 27 (Regulations)

i. Include subsidiary regulations on;

a) on industrial standards in the sub-sectors represented in the board of the guild;

b) on industrial standards for royalty computation, collection and distribution in the sub-sectors; and

c) on intellectual property protection of creative work from institutions and communities

12) Withdrawal of the Bill

i. Reject calls for withdrawal, as the Bill provides a **critical regulatory framework** for the sector.

LIST OF ANNEXURES

Annex 1	Minutes of the Standing Committee on Trade, Industrialization and Tourism
Annex 2	Committee Stage Amen
Annex 2	Creative Economy Support Bill, 2024 (Senate Bills No. 30 of 2024)
Annex 3	Advertisement published in the *Daily Nation* newspapers on 16th August, 2024
Annex 4	Matrix of the submissions received by the Committee on each clause of the Bill and on general matters relating to the Bill, which also contains the list of organisations and individuals who presented submissions to the Committee on the Bill
Annex 5	Copies of stakeholder submissions on the Bill

APPENDIX 1
MINUTES

MINUTES OF THE ONE HUNDRED AND SEVENTY – FOURTH SITTING OF THE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON THURSDAY, 10TH JULY, 2025 IN COMMITTEE ROOM 2, FIRST FLOOR, BUNGE TOWER AT 10:00 A.M.

PRESENT

1. Sen. Boy Issa Juma, MP – **Chairperson**
2. Sen. Esther Anyieni Okenyuri, MP – **Vice-Chairperson (Chairing)**
3. Sen. Jackson Kiplagat Mandago, EGH, MP – Member
4. Sen. Paul Karungo Thang'wa, CBS, MP – Member
5. Sen. George Mbugua, MP – Member
6. Sen. Andrew Omtatah Okoiti, MP – Member

APOLOGIES

1. Sen. Godfrey Osotsi, CBS, MP – Member
2. Sen. John Methu, MP – Member
3. Sen. Hamida Kibwana, MP – Member

SECRETARIAT

1. Mr. Crispus Njogu - Clerk Assistant I
2. Mr. Reinhardt Choge - Clerk Assistant
3. Ms. Sombe Toona - Legal Counsel
4. Mr. Elijah Ichwara - Audio Officer
5. Ms. Kanze Charo - Researcher
6. Mr. William Wambiru - Fiscal Analyst
7. Ms. Violet Nalianya - Media Relations
8. Ms. Hawa Abdi - Sergeant-at-Arms

MIN/SEN/SCTIT/975/2025 PRELIMINARY

The Chairperson called the meeting to order at 10.13 a.m. This was followed by a word of prayer.

MIN/SEN/SCTIT/976/2025 ADPOTION OF AGENDA

The agenda was adopted after being proposed by Sen. Issa Juma Boy, MP and seconded by Sen. Paul Karungo Thang'wa, CBS, MP, as listed below-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes;
4. Matters Arising
5. **Adoption of the Report on the Creative Economy Support Bill, 2024 (Senate Bills No. 30 of 2024) *Committee Paper 155***;
6. Any other Business; and
7. Adjournment/ Date of the Next Meeting.

MIN/SEN/SCTIT/977/2025 **CONFIRMATION OF MINUTES;**

The Agenda item was deferred to the next meeting.

MIN/SEN/SCTIT/978/2025 **MATTERS ARISING;**

There were no matters arising.

MIN/SEN/SCTIT/979/2025 **ADOPTION OF THE REPORT ON THE CREATIVE ECONOMY SUPPORT BILL SENATE BILLS NO 30 OF 2024;**

Members were taken through the report of the Creative Economy Support Bill senate bills no 30 of 2024.

Members resolved to adopt the report as proposed by Sen. Jackson Kiplagat Mandago, EGH, MP and seconded by Sen. George Mbugua, MP.

MIN/SEN/SCTIT/980/2025 **ANY OTHER BUSINESS**

There was no other business.

MIN/SEN/SCTIT/981/2024 **ADJOURNMENT AND THE DATE OF THE NEXT MEETING.**

The meeting adjourned at 10.54 a.m and the next meeting will be by notice.

SIGNATURE..... **DATE**15th July 2025.....

SEN. ISSA BOY JUMA, MP

(CHAIRPERSON, STANDING COMMITTEE ON TRADE, INDUSTRIALISATION AND TOURISM)

MINUTES OF THE ONE HUNDRED AND SIXTY – NINTH SITTING OF THE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON THURSDAY, 5TH JUNE, 2025 IN COMMITTEE ROOM 3, FIRST FLOOR, BUNGE TOWER AT 8:00 A.M.

PRESENT

1. Sen. Boy Issa Juma, MP – **Chairperson**
2. Sen. Esther Anyieni Okenyuri, MP – **Vice-Chairperson**
3. Sen. Jackson Kiplagat Mandago, EGH, MP – Member
4. Sen. Paul Karungo Thang'wa, CBS, MP – Member
5. Sen. George Mbugua, MP – Member
6. Sen. Andrew Omtatah Okoiti, MP – Member
7. Sen. John Methu, MP – Member

APOLOGIES

1. Sen. Godfrey Osotsi, CBS, MP – Member
2. Sen. Hamida Kibwana, MP – Member

SECRETARIAT

1. Mr. Reinhardt Choge - Clerk Assistant
2. Ms. Sombe Toona - Legal Counsel
3. Ms. Annette Kwamboka - Legal Counsel
4. Mr. Elijah Ichwara - Audio Officer
5. Ms. Kanze Charo - Researcher
6. Ms. Violet Nalianya - Media Relations
7. Ms. Hawa Abdi - Sergeant-at-Arms

MIN/SEN/SCTIT/944/2025 PRELIMINARY

The Chairperson called the meeting to order at 8.07 a.m. This was followed by a word of prayer.

MIN/SEN/SCTIT/945/2025 ADPOTION OF AGENDA

The agenda was adopted with amendments after being proposed by Sen. George Mbugua, MP and seconded by Sen. Esther Okenyuri, MP, as listed below-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of Previous Sittings;
4. Matters Arising;
5. **Consideration of the Report on the Start Up Bill (Senate Bills no. 14 of 2022)**;
6. **Consideration of the Committee Stage Amendments to the Creative Economy Support Bill (*Committee Paper 153*);**
7. Any other Business; and
8. Adjournment/ Date of the Next Meeting.

MIN/SEN/SCTIT/946/2025 **CONFIRMATION OF MINUTES OF PREVIOUS SITTINGS;**

The Agenda item was deferred.

MIN/SEN/SCTIT/947/2025 **MATTERS ARISING;**

There were no matters arising.

MIN/SEN/SCTIT/948/2025 **CONSIDERATION OF THE REPORT ON THE START UP BILL (SENATE BILLS NO. 14 OF 2022);**

The Committee was taken through the report noting that the proposed amendments by the National Assembly would remove Counties role in the Start Up sector and therefore rejected the Amendments. The Bill will therefore proceed to mediation after tabling the report.

Members resolved to adopt the report as proposed by Sen. George Mbugua, MP and seconded by Sen. Esther Okenyuri, MP.

MIN/SEN/SCTIT/949/2025 **CONSIDERATION OF THE COMMITTEE STAGE AMENDMENTS TO THE CREATIVE ECONOMY SUPPORT BILL (COMMITTEE PAPER 153);**

The Committee was taken through the amendments as proposed during the retreat and observed that;

i. The board members could be clustered to reduce them to the recommended number as guided by Mwongozo;
ii. That persons with disabilities need to be allocated a specific percentage of the funds for creative support, however this can be left to the Cabinet Secretary responsible during regulation drafting to set the specific percentage having taken into account various parameters and extensive public participation; and

iii. Rework Clause 21 to provide clarity on what exact financial support is given specifically on the creative funds, and further clarity on whether the said funds are grants or loans.

The Committee resolved to adopt the report as proposed by Sen. Esther Okenyuri, MP and seconded by Sen. George Mbugua, MP.

MIN/SEN/SCTIT/950/2025 ANY OTHER BUSINESS

1. The Committee was notified that an invite had been received from the Ministry of Investments, Trade and Industry inviting two Committee members to attend the World Expo 2025 in Osaka, Japan from 22nd June, 2025 to 26th June, 2025;
   Members observed that the cost of air tickets and Daily Subsistence Allowance(DSA) may deplete the supplementary allocation for foreign travel but accommodate only two members;
   Members resolved that any member interested in attending the World Expo 2025 in Osaka, Japan would source for aadditional funds from other Committees they are in with the Committee only catering for one cost (DSA or air ticket);
   Members interested in going to Japan are Sen. Esther Okenyuri, MP and Sen. George Mbugua, MP.
2. The Committee further resolved to undertake a visit to the Eat Africa Legislative Assembly in Arusha to interact with the counterpart Committees on Tourism and Trade from 28th June – 4th July, 2025;
   Members interested in going to Arusha are Sen. Issa Juma Boy, MP, Sen. Paul Karungo Thang'wa, CBS, MP, Sen. Jackson Mandago, EGH, MP and Sen. John Methu, MP.
3. The Committee resolved to reschedule the visit to the leased Public Sugar Mills during the recess period with proposed dates being 19th – 22nd June or 23rd – 26th June, 2025 with confirmations to be given during the next meeting. The Ministry of Agriculture should also be engaged to provide responses on the matters raised in the letters sent requesting information on the leases.

MIN/SEN/SCTIT/951/2024 ADJOURNMENT AND THE DATE OF THE NEXT MEETING.

The meeting adjourned at 10.02 a.m and the next meeting will be by notice.

SIGNATURE..... **DATE**10/6/2025.....

SEN. ISSA BOY JUMA, MP

(CHAIRPERSON, STANDING COMMITTEE ON TRADE, INDUSTRIALISATION AND TOURISM)

MINUTES OF THE ONE HUNDRED AND FOURTY FIFTH SITTING OF THE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON TUESDAY 11TH MARCH, 2025 IN COMMITTEE ROOM 9, SECOND FLOOR, PARLIAMENT BUILDINGS AT 10:00 A.M.

PRESENT

1. Sen. Boy Issa Juma, MP – **Chairperson**
2. Sen. Esther Anyieni Okenyuri, MP – **Vice-Chairperson**
3. Sen. George Mbugua, MP – Member
4. Sen. Andrew Omtatah Okoiti, MP – Member

APOLOGIES

1. Sen. Jackson Kiplagat Mandago, EGH, MP – Member
2. Sen. John Methu, MP – Member
3. Sen. Paul Karungo Thang'wa, CBS, MP – Member
4. Sen. Godfrey Osotsi, CBS, MP – Member
5. Sen. Hamida Kibwana, MP – Member

SECRETARIAT

1. Mr. Crispus Njogu - Clerk Assistant I
2. Mr. Reinhardt Choge - Clerk Assistant
3. Mr. William Wambiru - Fiscal Analyst
4. Ms. Sombe Toona - Legal Counsel
5. Ms. Annete Kwamboka -Legal Counsel
6. Ms. Violet Nalianya - Media Relations
7. Ms. Celistine Teigut -Public Communications
8. Ms. Charity Kaze -Reseacher
9. Ms. Hawa Abdi Sergeant at Arms
10. Mr. Elijah Ichwara -Audio

MIN/SEN/SCTIT/799/2025 PRELIMINARY

The Chairperson called the meeting to order at 10.22 a.m. This was followed by a word of prayer and introductions.

MIN/SEN/SCTIT/800/2025 ADPOTION OF AGENDA

The agenda was adopted after being proposed by Sen. George Mbugua, MP and seconded by Sen. Esther Okenyuri, MP, as listed below-

1. Prayer;
2. Adoption of the Agenda;
3. **Confirmation of Minutes;**
4. **Matters Arising;**
5. **Consideration of the Matrix on the Creative Economy Support Bill, 2024 (Senate Bills No.30 of 2024) (Committee Paper 139);**
6. Any other Business; and
7. Adjournment/ Date of the Next Meeting.

MIN/SEN/SCTIT/801/2025 CONFIRMATION OF MINUTES;

The Minutes of the 144th sitting held on Thursday, 6th March, 2025 at 10.00 a.m. were confirmed to be a true reflection of the proceedings having been proposed by Sen. Esther Okenyuri, MP and seconded by Sen. George Mbugua, MP.

MIN/SEN/SCTIT/802/2025 MATTERS ARISING;

There were no matters arising.

MIN/SEN/SCTIT/803/2025 CONSIDERATION OF THE MATRIX ON THE CREATIVE ECONOMY SUPPORT BILL, 2024 (SENATE BILLS NO.30 OF 2024) (COMMITTEE PAPER 139);

a) Briefing by the Committee Secretariat

1. Members were informed of the steps taken by the Secretariat regarding the Bill, with Public participation having been done and a large number of the respondents submissions were for rejecting the Bill with emptive responses from individuals in the Creative industry;
2. The idea of the Bill is to ensure that the creative sector becomes lucrative for Kenyan creatives;
3. The strengthening of the sector is through the formation of the Creative Guild Council to cater for capacity building, labour assesment and collection & distribution of royalties;
4. The establishment of the craetive fund which may include any monies appropriated from Parliament and grants to individuals in the creative sector and other financial incentives like credit guarantee schemes to carry out large projects like documentaries and films which will be prescribed in delegated legislation by the relevant ministry; and
5. The Committee was finally informed that the general feeling of the public was of discontent towards the Bill as it seemed to duplicate roles carried out by other bodies not grounded in legislation like the Kenya Film Classification Board, Kenya Copyright Board, Music Copyright Society of Kenya among others. This brings concerns of overlapping mandates which the proposed Creative Guild Council.

b) Committee Observations

1. Having five new members, they would need to be taken through the Bill again to properly understand the gist and objective of the Bill to make proper amendments that will benefit the creative industry.

c) Committee Resolutions

Members resolved to reconsider the Creative Economy Support Bill on Saturday 29th March, 2025 after the County Oversight and Networking Engagament and mini Induction scheduled from 24th -28th March 2024 in Mombasa & Kwale Counties.

MIN/SEN/SCTIT/804/2025 ANY OTHER BUSINESS.

1. Members resolved to whip the rest of the Committee to agree on an appropriate time for the Committee meetings. They however resolved to have the meeting on Tuesday 18th March 2025 at 8.00am; and
2. The Chairperson thanked the Committee and Secretariat for prayers and well wishes during the period he was indisposed.

MIN/SEN/SCTIT/805/2024 ADJOURNMENT AND THE DATE OF THE NEXT MEETING.

The meeting adjourned at 10.52 a.m and the next meeting will be held by notice.

SIGNATURE..... **DATE**.....13/3/25.....

SEN. ISSA BOY JUMA, MP

(CHAIRPERSON, STANDING COMMITTEE ON TRADE, INDUSTRIALISATION AND TOURISM)

MINUTES OF THE A HUNDRED AND EIGHTEENTH (118TH) HYBRID MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON THURSDAY 12TH SEPTEMBER, 2024 IN COMMITTEE ROOM 5, 1ST FLOOR BUNGE TOWER AT 9:00 A.M.

PRESENT

1. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP - Member
2. Sen. Crystal Kegehi Asige, MP - Member
3. Sen. Andrew Omtatah Okoiti, MP - Member
4. Sen. Betty Batuli Montet, MP - Member

ABSENT

1. Sen. Lenku Ole Kanar Seki, MP - Chairperson
2. Sen. Esther Anyieni Okenyuri, MP - Vice-Chairperson
3. Sen. Jackson Kiplagat Mandago, EGH, MP - Member
4. Sen. Paul Karungo Thangwa, MP - Member
5. Sen. Hezena M. Lemaletian, MP - Member

SECRETARIAT

1. Mr. Peter Mulesi - Clerk Assistant I
2. Mr. David Ngamate - Clerk Assistant III
3. Ms. Annete Kwamboka - Legal Counsel
4. Ms. Charity Kanze - Research Officer III
5. Ms. Violet Nalianya - Media Relations Office
6. Ms. Judith Aoko - Audio Officer
7. Mr. James Ngusya - Serjeant-At-Arms

MIN/SEN/SCTIT/649/2024 PRELIMINARIES

The Chairperson called the meeting to order at 9.28 am. This was followed by a word of prayer. Shee welcomed all those present both online and physical and proceeded to read the agenda.

MIN/SEN/SCTIT/650/2024 **ADPOTION OF AGENDA**

The agenda was adopted after being proposed by Sen. Betty Montet,MP and seconded by Sen. Andrew Omtatah Okoiti,MP, as listed below-

1. Preliminaries;
   a) *Prayer*
   b) *Introduction*
2. Adoption of the Agenda;
3. Confirmation of Minutes;
4. Matters arising;
5. **Consideration of submissions received on the Creative Economy Support Bill, 2024 (Senate Bills No.30 of 2024) (Committee Paper No.112);**
6. Any other Business; and
7. Adjournment/Date of the Next Meeting.

MIN/SEN/SCTIT/651/2024 **CONFIRMATION OF PREVIOUS MINUTES**

The Agenda was deferred.

MIN/SEN/SCTIT/652/2024 **CONSIDERATION OF SUBMISSIONS RECEIVED ON THE CREATIVE ECONOMY SUPPORT BILL, 2024 (SENATE BILLS NO.30 OF 2024) (COMMITTEE PAPER NO.112)**

The Committee was taken through the Committee Paper No.112 which stated the progress of the public participation on the Creative Economy Support Bill (Senate Bills No. 30 of 2024).

The Committee was informed that through the public advert on Friday, 16th August, 2024, members of the public had submitted their written memoranda. By Friday, 30th August, 2024 a total of 88 submissions had been received. In addition, the Committee held a Public Hearing on the Bill on Monday, 2nd September, 2024 at 9.00 a.m. where 16 members of the public representing various creatives made oral submissions.

The Committee observed that the call for memoranda had attracted significant interest from the public especially those in the creative sector. It was reported that the submissions from the Executive arm of government were negative to the objects and Memoranda of the Bill.

Committee Resolution

From the deliberations, the Committee resolved that the Secretariat schedules a retreat to consider the matrix on the public participation memoranda received on the Creative Economy Support Bill, 2024.

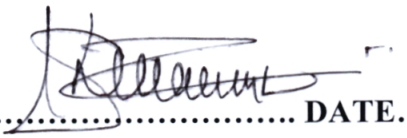
MIN/SEN/SCTIT/653/2024 ANY OTHER BUSINESS

a) The Secretariat to facilitate logistics for the Committee participation in the UN World Tourism Day Celebrations to be held in Kisumu County on 23rd to 27th September, 2024 following invitation by the Ministry of Tourism and Wildlife; and

b) The Secretariat to facilitate a meeting with the Kenya National Trading Corporation, Kenya Bureau of Standards and the importers and suppliers of cooking oil to the Statement requested by Sen. Mohamed Chute, MP on the production and importation of cooking oil on Thursday, 19th September, 2024

MIN/SEN/SCTIT/654/2024 ADJOURNMENT AND THE DATE OF THE NEXT MEETING

The meeting adjourned at 9.55 am and the next meeting to be held on Tuesday 17th September, 2024 at 8.00 a.m.

SIGNATURE.....  **DATE**.....29/10/24.....

(CHAIRPERSON)

MINUTES OF THE A HUNDRED AND SIXTEENTH (116TH) MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON MONDAY, 2ND SEPTEMBER 2024 IN COMMITTEE ROOMS 18 AND 19, 3RD FLOOR BUNGE TOWER AT 10:00 A.M

PRESENT

1. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP - Member **Virtual**
2. Sen. Jackson Kiplagat Mandago, EGH, MP - Member
3. Sen. Crystal Kegehi Asige, MP ✓ - Member **Ag. Chair**
4. Sen. Andrew Omtatah Okoiti, MP - Member

ABSENT

1. Sen. Lenku Ole Kanar Seki, MP - Chairperson
2. Sen. Esther Anyieni Okenyuri, MP - Vice-Chairperson
3. Sen. Paul Karungo Thangwa, MP - Member
4. Sen. Betty Batuli Montet, MP - Member
5. Sen. Hezena M. Lemaletian, MP - Member

IN ATTENDANCE

1. Sen. Eddy Gicheru, MP

SECRETARIAT

1. Mr. Peter Mulesi - Clerk Assistant I
2. Mr. David Ngamate - Clerk Assistant III
3. Ms. Annete Kwamboka - Legal Counsel
4. Ms. Charity Kanze - Research Officer III
5. Ms. Violet Nalianya - Media Relations Office
6. Mr. James Ngusya - Serjeant – At- Arms
7. Ms. Linda Juma - Attachee'

MIN/SEN/SCTIT/637/2024 **PRELIMINARIES**

The Chairperson called the meeting to order at 10.18 am. This was followed by a word of prayer. He welcomed all those present both online and physical and proceeded to read the agenda.

MIN/SEN/SCTIT/638/2024 **ADPOTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP and seconded by Sen. Andrew Omtatah Okoiti, MP , as listed below-

1. Preliminaries;
   Prayer
   Introduction
2. Adoption of the Agenda;
3. Confirmation of Minutes;
4. Matters arising;
5. **Public Hearing on the Creative Economy Support Bill, 2024 (Senate Bills No. 30 of 2024).(Committee Paper No. 110);**
6. Any other Business; and
7. Adjournment/Date of the Next Meeting.

MIN/SEN/SCTIT/639/2024 **CONFIRMATION OF PREVIOUS MINUTES**

The Agenda was deferred.

MIN/SEN/SCTIT/640/2024 **PUBLIC HEARING ON THE CREATIVE ECONOMY SUPPORT BILL, 2024 (SENATE BILLS NO. 30 OF 2024) (COMMITTEE PAPER NO. 110)**

The Committee was taken through Committee Paper No.110. The paper reported that the Creative Economy Support Bill (Senate Bills No.30 of 2024) was read a First Time in the Senate on Tuesday, 6th August, 2024 and thereafter stood committed to the Standing Committee on Trade, Industrialization and Tourism for consideration. The Committee was informed that the Bill seeks to establish a legal framework for the support of persons in the creative industry and further enhance entry and contribution to the industry, in addition to establishing a Creatives Fund for purposes of financing creative initiatives by various creatives in the industry and for supporting the implementation and execution of creative projects.

The Chairperson welcomed stakeholders present and invited them to give their oral submissions. The Committee was apprised that the creative economy is divided into seven major industries- music, audiovisual, new media (content on social media on Instagram etc, publishing industry, events industry (night life, liver performances), advertising industry (traditional advertising, digital advertising and influencer marketing, design industry (pottery, art and craft).

Stakeholders' submissions

i. That Clause 21 be deleted- that the age limit of thirty-five (35) years de deleted as the age limit is restrictive as people above the age of thirty-five will be excluded. The reason by that creativity endures and matures over time. Global practices indicates that funding should be based on impact instead of age, and that it will be more inclusive to have a funding criteria that considers innovation as opposed to age;

ii. That Clause 6 be deleted replacing a Council a guild as a council is more effective than a Guild. A good example would be the Kenya Sports Council which has improved sports, the Media council which has improved some of the issues in the media and the Creatives council in the United Kingdom;

iii. Clause 2 be amended – In that the definition of creative industry should include intellectual property rights in the last line of the paragraph. Intellectual property rights are central to the protection of ownership and income from creative work. It is therefore important to include this in the definition of the term "creative industry;

iv. Clause 8 be amended - The clause sets out that the guild will be composed of various associations (multi-sectoral). There is need to have these associations expanded or defined in the Bill. This definition of associations will bring about clarity and further acknowledge the diverse sectors in the creative economy;

Further, the Clause provides for a separate representative for resellers distributors, vendors and manufacturers of filming equipment in the guild. The re-selling, distribution, vending and manufacturing of filming equipment is a large sector in the filming and photography industry. It is therefore important to have a separate representative that will advocate for the unique needs of this sub-sector; Amend the composition of the advisory board as follows:

a) Permanent Secretary for Trade and Industrialization
b) Permanent Secretary for youth affairs and the Creative Economy
c) Permanent Secretary for ICT
d) A member each from the Audi, Audio-visual industry, new media, publishing, events industry, advertising, design, advocate

v. Clause 25 be amended –to Provide tax incentives for film and photography equipment. That Applicable tax rates make photography equipment expensive and this affects the purchase, re-selling and distributing of the said equipment. A cap on interest rates will open up the industry. Various institutional tax incentives to institutions such as banks will enable financing for the acquisition of filming photography; and

vi. That the creative industry is regulated under multiple ministries and the inherent interest of creatives is lost in between the multiple mandates. That the Bill considers regulation under one ministry. Further, there is over-legislation in the creative sector to the point it looks

that the Bill is against and in competition with other Bills such as, the East African Creatives Bill and the Culture Bill 2024. A lot of the issues raised in the bill are being handled by other departments and agencies. They question was whether these bodies be disbanded with the new Bill. Moreover, the functions of this bill are divided among different ministries, ICT, Trade, youth affairs, tourism wildlife and heritage. Thus creating confusions. The Bill ought to specify the ministry is to handle it. The fund, we have sports fund, culture fund and the universal fund that we have never been able to access, what makes the fund under the Bill different and why have it when we can't access the money in these other funds.

Committee Remarks and Observations by the Committee

Arising from the stakeholder presentations, the Chairperson thanked the stakeholders for their participation in the Public Hearing and assured them that all the views will be considered in the final Committee report on the Bill-

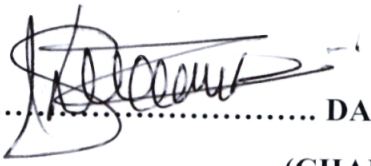
1) The Committee observed that the public participation exercise had attracted more than eighty (80) memoranda from the public besides the hearing;
2) It was resolved that the Committee will collate the submitted memoranda and may invite some of the stakeholders and participants to apprise and provide clarifications to the Committee on some of the proposed amendments.
3) Further, the committee undertook to inform the stakeholders of its findings before submitting its final report in the Senate.

MIN/SEN/SCTIT/641/2024 ANY OTHER BUSINESS.

The Secretariat to facilitate the meeting scheduled for Tuesday 3rd September 2024 with the Group Managing Director, East Africa Breweries PLC regarding the Petition on fraudulent dealings at Diageo PLC, East African Breweries Limited, Kenya Breweries (EABL) and UDV (Kenya) Limited. Members were urged to attend the meeting physically and that there would be no virtual attendance.

MIN/SEN/SCTIT/642/2024 ADJOURNMENT AND THE DATE OF THE NEXT MEETING.

The meeting adjourned at 1.25 pm and the next meeting was scheduled for Tuesday 3rd September, 2024 at 9.00 am.

SIGNATURE.....  **DATE**..24th/10/2024.....

(CHAIRPERSON)

MINUTES OF THE A HUNDRED AND FIFTEENTH (115TH) VIRTUAL MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON THURSDAY 29TH AUGUST, 2024 AT 9.00 A.M.

PRESENT

1. Sen. Lenku Ole Kanar Seki, MP - **Chairperson**
2. Sen. Esther Anyieni Okenyuri, MP - **Vice-Chairperson**
3. Sen. Jackson Kiplagat Mandago, EGH, MP - Member
4. Sen. Betty Batuli Montet, MP - Member
5. Sen. Crystal Kegehi Asige, MP - Member
6. Sen. Andrew Omtatah Okoiti, MP - Member

ABSENT

1. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP - Member
2. Sen. Paul Karungo Thangwa, MP - Member
3. Sen. Hezena M. Lemaletian, MP - Member

SECRETARIAT

1. Mr. Peter Mulesi - Clerk Assistant I
2. Mr. David Ngamate - Clerk Assistant III
3. Ms. Annete Kwamboka - Legal Counsel
4. Ms. Charity Kanze - Research Officer III
5. Ms. Violet Nalianya - Media Relations Office
6. Ms. Judith Aoko - Audio Officer
7. Mr. James Ngusya - Serjeant – At- Arms

MIN/SEN/SCTIT/631/2024 PRELIMINARIES

The Chairperson called the meeting to order at 9.14 am. This was followed by a word of prayer. He welcomed all those present both online and physical and proceeded to read the agenda.

MIN/SEN/SCTIT/632/2024 **ADOPTION OF AGENDA**

The agenda was adopted after being proposed by Sen. Betty Montet,MP and seconded by Sen. Crystal Asige,MP, as listed below-

1. Preliminaries;
    a) Prayer
    b) Introduction
2. Adoption of the Agenda;
3. Confirmation of Minutes;
4. Matters arising;
5. **Consideration of the Creative Economy Support Bill, 2024 (Senate Bills No. 30 of 2024) (Committee Paper No. 109);**
6. Any other Business; and
7. Adjournment/Date of the Next Meeting.

MIN/SEN/SCTIT/633/2024 **CONFIRMATION OF PREVIOUS MINUTES**

The Agenda was deferred.

MIN/SEN/SCTIT/634/2024 **CONSIDERATION THE CREATIVE ECONOMY SUPPORT BILL, 2024 (SENATE BILLS NO. 30 OF 2024).(COMMITTEE PAPER NO. 109)**

The Committee was taken through Committee Paper No.109. The Committee was informed that the Creative Economy Support Bill (Senate Bills No.30 of 2024) was read a First Time in the Senate on Tuesday, 6th August, 2024 and thereafter stood committed to the Standing Committee on Trade, Industrialization and Tourism for consideration.

The Committee was also informed that the Bill seeks to establish a legal framework for the support of persons in the creative industry and further enhance entry and contribution to the industry, in addition to establish a Creatives Fund for purposes of financing creative initiatives by various creatives in the industry and for supporting the implementation and execution of creative projects.

Committee Observations

Arising from the Committee Paper, the Committee noted the following:

a) That there was need to confirm that the Bill was not a money Bill so that it does not face hurdles in the National Assembly like previous Bills processed by the Committee as the Startup Bill (Senate Bills No.14 of 2022);
b) Whether the Bill was rightfully committed to the Committee as per its assigned mandate noting that it was more inclined to the mandate of the Standing Committee on Labour and Social Welfare. Additionally, it was observed that its objectives and memorandum would be appropriately placed under the Youth Affairs and the

Creative Economy docket; and

c) While the Bill proposed the establishment of the Creatives guild, there was currently an Editors guild hence creating confusion, conflict and presumably, duplication of roles;

Committee Resolution

From the deliberations, the Committee resolved as follows that;

a) The Committee shall proceed with processing of the Bill as was referred to it by the Speaker of the Senate; and

b) The Committee will proceed with the Public Hearing which was scheduled on Monday 2nd September, 2024 during which the sponsor would be invited. Members were requested to attend the said public hearing physically.

MIN/SEN/SCTIT/635/2024 ANY OTHER BUSINESS.

1. The Secretariat to facilitate the public hearing of the Creative Economy Support (Senate Bills No.30 of 2024) on Monday, 2nd September, 2024 and to invite Sen. Eddie Oketch, MP to attend the public hearing.
2. The Secretariat to facilitate the meeting scheduled for Tuesday 3rd September 2024 with the Group Managing Director, East Africa Breweries PLC regarding the Petition on fraudulent dealings at Diageo PLC, East African Breweries Limited, Kenya Breweries (EABL) and UDV (Kenya) Limited

MIN/SEN/SCTIT/636/2024 ADJOURNMENT AND THE DATE OF THE NEXT MEETING.

The meeting adjourned at 9.14 am and the next meeting was scheduled for Monday 2nd September, 2024 at 9.00 am.

SIGNATURE..... **DATE**..... 24th/10/2024

(CHAIRPERSON)

MINUTES OF THE A HUNDRED AND THIRTEENTH (113TH) VIRTUAL MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON THURSDAY 8TH AUGUST, 2024 AT 8.00 A.M.

PRESENT

1) Sen. Lenku Ole Kanar Seki, MP - **Chairperson**
2) Sen. Esther Anyieni Okenyuri, MP - **Vice-Chairperson**
3) Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP - Member
4) Sen. Betty Batuli Montet, MP - Member
5) Sen. Crystal Kegehi Asige, MP - Member
6) Sen. Andrew Omtatah Okoiti, MP - Member

ABSENT

1) Sen. Jackson Kiplagat Mandago, EGH, MP - Member
2) Sen. Paul Karungo Thangwa, MP - Member
3) Sen. Hezena M. Lemaletian, MP - Member

IN ATTENDANCE

Sen. Alexander Mwinyi Mundigi, MP

SECRETARIAT

i. Mr. Peter Mulesi - Clerk Assistant I
ii. Mr. David Ngamate - Clerk Assistant III
iii. Ms. Annete Kwamboka - Legal Counsel
iv. Ms. Charity Kanze - Research Officer III
v. Ms. Violet Nalianya - Media Relations Officer
vi. Mr. Joseph Otieno - Audio Officer
vii. Mr. James Ngusya - Serjeant – At- Arms
viii. Ms. Linda Ojiambo - Attache'

MIN/SEN/SCTIT/620/2024 PRELIMINARIES

The Chairperson called the meeting to order at 8.27 am. This was followed by a word of prayer. He welcomed all those present both online and physical and proceeded to read the agenda.

MIN/SEN/SCTIT/621/2024 ADPOTION OF AGENDA

The agenda was adopted after being proposed by Sen. Betty Montet,MP, and seconded by Sen. Crystal Asige, MP, as listed below-

1. Preliminaries;
   Prayer
   Introduction
2. Adoption of the Agenda;
3. Meeting with Sen. Alexander Munyi Mundigi, MP to consider the Statement regarding high Cess levies charged on transporters of Muguka in Embu County
4. (Committee Paper No. 106);
5. Any other Business; and
6. Adjournment/Date of the Next Meeting.

MIN/SEN/SCTIT/622/2024 MEETING WITH SEN. ALEXANDER MUNYI MUNDIGI, MP TO CONSIDER THE STATEMENT REGARDING HIGH CESS LEVIES CHARGED ON TRANSPORTERS OF MUGUKA IN EMBU COUNTY (COMMITTEE PAPER NO. 106);

The Committee was taken through Committee Paper No. 106. The paper on consideration of a Statement regarding high Cess levies charged on transporters of Muguka in Embu County through stakeholder engagements on Thursday, 23rd March, 2023. During the said meeting, the Committee also received submissions from a delegation from Mbeere Embu Miraa Farmers' Cooperative Union affected transporters in Embu County.

Tthe Committee observed that the Statement had been thoroughly considered. However, it was resolved that at an appropriate time, an inspection visit to Embu County be undertaken for the Committee to familiarize itself with the issues raised in the Statement. Further, as part of the intervention, it was recommended that the committee hosts a round table meeting with CECMs responsible for Trade in the counties of Mombasa, Nairobi, Garissa and Embu to resolve the matter of high cess levies charged on Muguka cargo transporters.

The Committee invited Sen. Mundigi, MP to further apprise it on the status of the issues that had been raised in the statement and the ongoing interventions.

Sen. Mundigi, MP, thanked the Committee for the invitaion and submitted thet the Committee to undertakes an inspection visit to Embu County on the following-

engage with the affected muguka farmers in Mbeere to understand their predicaments;

i. The pending statement on the safeguarding the properties of Kagaari South Coffee Farmers' Co-operative Society in Embu County in which the Committee can also meet with the farmers and Sacco officials;
ii. The status of the Embu County Aggregated Industrial Park and
iii. The matter of the Mwea Game and tourist research.

Sen. Mundigi, MP informed the Committee that previous reports emanating from the Committee's field inspection visits had pushed the relevant/respective ministries to take action, thus being a catalyst to service delivery. He requested the Committee to consider carrying out the inspection visit in the first Quarter of the Financial Year 2024-25

Committee Resolution

From the deliberations, the Committee resolved as follows:-

1. That noting that there were ongoing initiatives by both the County governments and the National governments on the resolution of the *miraa* and *muguka* challenges there was no urgent need for the Committee to duplicate the already ongoing efforts;
2. To make a follow-up on the status of the pending response to the Statement requested by Sen. Alexander Mundigi, MP regarding safeguarding the properties of Kagaari South Coffee Farmers' Co-operative Society in Embu County once the substantive Cabinet Secreatry, Ministry of Co-operatives and MSMSEs was in place;
3. The Committee to consider an inspection visit on Embu CAIPs Project once the budgetary allocations on domestic travel for the FY were approved by the Liaison Committee; and
4. The Committee to follow up on the coastal counties to understand the rationale behind the high cess imposed on the *muguka* in the recent past.

MIN/SEN/SCTIT/623/2024 ANY OTHER BUSINESS.

1. The Secretariat to consult the Senate management and report to the Committee on whether the Creative Economy Support Bill, 2024 (Senate Bills No.30 of 2024) was rightly referred to the Standing Committee on Trade, Industrialization and not the Standing Committee on Labour and Social Welfare, noting the objects and memoranda;
2. The Secretariat to facilitate the following meetings during the recess -
   i. Meeting with Suppliers and Distributors of Edible Oil to Kenya National Trading Corporation on Thursday, 22nd August, 2024; and
   ii. Meeting with Group Managing Director, East Africa Breweries Ltd on Tuesday, 20th August, 2024; and

MIN/SEN/SCTIT/624/2024 **ADJOURNMENT AND THE DATE OF THE NEXT MEETING**

The meeting adjourned at 9.40 am and the next meeting was scheduled for Tuesday 20th August , 2024 at 8.00 am.

SIGNATURE..... **DATE**.....17/10/24.....

(CHAIRPERSON)

APPENDIX 2
AMENDMENTS

22nd July, 2025

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE CREATIVE ECONOMY SUPPORT BILL, 2024 (SENATE BILLS NO. 30 OF 2024)

NOTICE is given that Sen. Boy Issa Juma, Chairperson to the Standing Committee on Trade, Tourism and Industrialisation intends to move the following amendments to the Creative Economy Support Bill, 2024 (Senate Bills No. 30 of 2024) at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended—

(a) in the introductory clause by deleting the words "and each county government" appearing immediately after the words "National Government";

(b) in the marginal note by inserting the word, "national" immediately after the words "Obligations of".

(c) by inserting the following new clause immediately after clause 3 —

Obligations of county governments.

3A. A county government shall—

(a) include the development of the creative industry in the County Integrated Development Plans for purposes of planning and resource allocation;

(b) undertake regular consultation with the creative community in the county on areas of mutual cooperation; and

(c) introduce monitoring and evaluation frameworks to assess the effectiveness of county level initiatives in supporting the creative sector.

CLAUSE 4

THAT clause 4 of the Bill be amended by—

(a) deleting the words " persons in the creative industry may publish" appearing immediately after the words "online platform" and substituting therefor the words "information on incentives, opportunities,";

(b) inserting the words "shall be published" immediately after the words "affairs in the creative industry"; and

(c) inserting the following new clause immediately after clause 4 –

Data Protection. Cap. 411C.

4A. The Cabinet Secretary shall ensure that the provisions of the Data Protection Act are observed in the processing and handling of sensitive personal data of creatives on the online platform.

CLAUSE 6

THAT clause 6 of the Bill be amended —

(a) by deleting the word "Guild" appearing immediately after the words "Creative Industry" and substituting therefor the word "Council"; and

(b) in the marginal note by deleting the word "Guild" appearing immediately after the words "Creative Industry" and substituting therefor the word "Council".

CLAUSE 7

THAT clause 7 of the Bill be amended –

(a) in the introductory clause by deleting the word "Guild" appearing immediately after the word "The" and substituting therefor the word "Council";

(b) in the marginal note by deleting the word "Guild" appearing immediately after the words "of the" and substituting therefor the word "Council";

(c) by inserting the following new paragraph immediately after paragraph (f) –

(fa) develop and publish industry standards on royalty computation, royalty collection and royalty distribution;

(d) in paragraph (l) by deleting the word "guild" appearing immediately after the words "members of the" and substituting therefor the word "Council".

CLAUSE 8

THAT clause 8 of the Bill be amended by deleting subclause 1 and substituting therefor the following subclause–

Board of the Council

8.(1) The Council shall be governed by an incorporated Advisory Board which shall consist of—

(a) the Principal Secretary for matters relating to trade and industrialisation or a representative designated in writing;

(b) the Principal Secretary for matters relating to the creative economy or a representative designated in writing by the Principal Secretary;

(c) the Principal Secretary for matters relating to information and technology or a representative designated in writing by the Principal Secretary;

(d) one person representing industry players in the film industry including resellers, distributors, vendors and manufacturers of filming and photography equipment

(e) one person representing industry players in the music and dance industry;

(f) one person representing industry players in the fashion industry;

(g) one person representing industry players in the literary and visual arts industry;

(h) an Advocate of the High Court of Kenya nominated by the Law Society of Kenya; and

(i) one person being a public officer nominated by the Cabinet Secretary who shall be Secretary to the Board.

CLAUSE 11

THAT clause 11 of the Bill be amended in paragraph (d) by deleting the word "Guild" appearing immediately after the words "meetings of the" and substituting therefor the word "Council".

CLAUSE 14

THAT clause 14 of the Bill be amended in paragraph (h) by deleting the words "a data base" appearing immediately after the words "maintain" and substituting therefor the words "a manual and digital database".

CLAUSE 15

THAT clause 15 of the Bill be amended by deleting the word "Guild" appearing immediately after the words "Membership to the" and substituting therefor the word "Council".

CLAUSE 16

THAT clause 16 of the Bill be amended –

(a) in subclause (1) by deleting the word "Guild" appearing immediately after the words "member of the" and substituting therefor the word "Council"; and

(b) in the marginal note by deleting the word "Guild" appearing immediately after the words "Application to the" and substituting therefor the word "Council".

CLAUSE 17

THAT clause 17 be amended in the marginal note by deleting the word "the Guild" appearing immediately after the words "Roll of " and substituting therefor the word "Roll of creatives".

CLAUSE 18

THAT clause 18 of the Bill be amended –

(a) by deleting the words "The Guild" appearing at the beginning of the clause and substituting therefor the words "The Council"; and

(b) in the marginal note by deleting the word "Guild" appearing immediately after the words "Decentralization of the" and substituting therefor the word "Council".

CLAUSE 19

THAT clause 19 of the Bill be amended—

(a) in the introductory clause by—

(i) deleting the words "The Guild shall," appearing at the beginning of the clause and substituting therefor the words "The Council shall"

(ii) deleting the words "and shall, for this purpose" appearing immediately after the words "the creative industry" and substituting therefor the words "which shall include";

(b) in paragraph (d), by inserting the following words, "that are aligned with county-specific needs and opportunities, ensuring that creatives across all counties can access support" after the words "and development activities";

(c) by inserting the following new clause immediately after clause 19—

Incentives for persons with disabilities.

19A. (a) The Council shall in collaboration with county governments ensure equitable access to incentives for creatives for persons with disabilities.

CLAUSE 21

THAT clause 21 be amended by deleting subclause (3) and substituting therefor the following new subclause—

(3) The Regulations developed under subsection (1) shall—

(a) ensure that a person is eligible for a grant from the fund if that person has not benefitted from any other financial support scheme by the National or county government;

(b) prescribe the nature of financial support in paragraph (a) that will preclude a person from benefitting from the fund; and

(c) provide for a criteria for disclosure and due diligence in establishing that a person has not benefitted from any other financial support by the National or county governments.

CLAUSE 22

THAT clause 22 be amended in subclause (3)—

(a) by inserting the following new paragraph immediately after paragraph (b).

(ba) collaborate with county governments to ensure that creatives in all counties have equitable access to financial support;

(b) by deleting the words "mechanism for" appearing at the beginning of paragraph (d) and substituting therefor the words "mechanisms for".

CLAUSE 23

THAT clause 23 of the Bill be amended –

(a) by deleting the words "The Guild" appearing at the beginning of the clause and substituting therefor the words "The Council"; and

(b) in paragraph by (h) deleting the word "Guild" appearing immediately after the words "information as the" and substituting therefor the word "Council".

CLAUSE 24

THAT clause 24 be amended by deleting the entire clause and substituting it therefor the following clause—

Application for grant or revocation of patents.

24. The Council shall provide technical support to creative artists which shall include –

(a) application for registration, grant, revocation and institution of legal action for infringement of intellectual property rights; and

(b) filing and registration of intellectual property pursuant to international instruments.

CLAUSE 26

THAT the Bill be amended by deleting clause 26 and substituting therefor the following clause—

Scope of incentives.

26. (1) The incentives and benefits under this Part shall only be made available to members of the Council whose names have been entered into the roll of creatives.

(2) The Council shall in collaboration with county governments ensure that creative artists in remote and underserved areas whose names have been entered into the roll of creatives access the incentives.

CLAUSE 27

THAT clause 27 be amended in subclause (2) by –

(a) deleting the word "Guild" appearing immediately after the words "from the" and substituting therefor the word "Council" in paragraph (j);

(b) deleting the word "and" appearing immediately after the words "measures of creatives" in paragraph (l); and

(c) inserting the following new paragraphs immediately after paragraph (l) —

(la) on industrial standards in the sub-sectors represented in section 8;

(lb) on industrial standards for royalty computation, collection and distribution;

(lc) on intellectual property protection of creative work from institutions and communities;

(ld) on the procedure and criteria for nomination of industry representatives to the board of the council.

CLAUSE 2

THAT clause 2 of the Bill be amended by—

(a) deleting the word "Guild" in the definition of the word "Board" and substituting therefor the word "Council"

(b) deleting the definition of the word "Guild" and substituting therefor the following new definition -

"Council" means the Creative Industry Council established under section 6;

Dated...22nd July....., 2025.

Boy Issa Juma,
Chairperson,
Committee on Trade, Industrialization and Tourism.

APPENDIX 3
BILL

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

SPECIAL ISSUE

Kenya Gazette Supplement No. 107 (Senate Bills No. 30)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2024

NAIROBI, 17th May, 2024

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NATIONAL COUNCIL FOR
LAW REPORTING
21 JUN 2024
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THE CREATIVE ECONOMY SUPPORT BILL 2024

ARRANGEMENT OF CLAUSES

Clauses

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1 — Short title.

2 — Interpretation.

3 — Obligations of government.

4 — Online platform.

5 — Curriculum.

PART II — CREATIVE INDUSTRY GUILD

6 — Creative Industry Guild.

7 — Functions of the Guild.

8 — Board of the Guild.

9 — Disqualification for appointment.

10 — Tenure.

11 — Vacation of office.

12 — Offices in the Board

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15 — Membership

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PART III — INCENTIVES FOR CREATIVES

18 — Decentralization of the guild.

19 — Support to creatives.

20 — Creatives Fund

21 — Objects of the Fund.

22 — Credit guarantee scheme

23 — Training and capacity building.

24 — Application for grant or revocation of patents.

25 — Fiscal incentives.

26 — Scope of incentives.

PART IV — MISCELLANEOUS PROVISIONS

27 — Regulations.

THE CREATIVE ECONOMY SUPPORT BILL, 2024

A Bill for

AN ACT of Parliament to establish mechanisms for the support of the persons in the creative industry; to enhance the contribution of creative industry to the economy; to establish the Creatives fund; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Creative Economy Support Act, 2024.

Interpretation.

2. In this Act—

"Cabinet Secretary" means the Cabinet Secretary responsible for matters related to trade;

"Board" means the Guild Advisory Board constituted under section 8;

"creative industry" means all activities or trade by persons that produce artistic, cultural or innovative goods and services including fashion, publishing, advertising, crafts, music, audio, visual and performing arts, video, film and imaging photography, gaming and animation, graphic design and web design that originate from creativity, skill and talent and whose exploitation may result in the creation of wealth and livelihood through the generation and exploitation of intellectual property, knowledge and technology;

"Fund" means the Creatives Fund established under section 19; and

"Guild" means the creative industry guild established under section 6;

Obligations of government.

3. The National Government and each county government shall—

(a) create an enabling environment through direct and indirect support for creative artists and organisations;

(b) formulate and implement policies and strategies for the development and promotion of a

sustainable and diverse creatives industry at the National and county level of government;

(c) promote the development of entrepreneurial skills for persons in the creative economy through programmes offered in institutions of higher learning;

(d) invest in the development of physical and virtual infrastructure to support the creative industry and design tools to enable the creative workforce effectively utilise, diversify and leverage on their services and products in order to be locally and globally competitive;

(e) review existing international and domestic trade policies, practices that hinder the growth of the creative industry and put in place structures that mitigate against their negative impact on the industry and interventions to address the impact;

(f) in collaboration with the private sector, facilitate access to funds for persons with disability, women and the youth in the creative industry;

(g) facilitate the establishment of a public-private dialogue forum between persons in the creative industry and relevant departments of government;

(h) implement strategies that promote the growth of the creative industry locally and internationally through partnerships, industry development assistance and mechanisms that facilitate innovation and linkages with creative artists locally and internationally; and

(i) facilitate market access for creative artists.

Online platform.

4. The Cabinet Secretary shall establish and maintain an online platform where persons in the creative industry may publish events and current affairs in the creative industry.

Curriculum.

5. The Cabinet Secretary responsible for matters related to education shall ensure that the curriculum developed under section 4(d) of the Kenya Institute of Curriculum Development Act includes subjects relating to the creative industry.

No. 4 of 2013.

PART II – CREATIVE INDUSTRY GUILD

Creative Industry Guild.

6. There is established the Creative Industry Guild.

Functions of the Guild.

7. The Guild shall—

(a) advise the Cabinet Secretary on the review and formulation of policies and legislation relating to the creative industry;

(b) conduct labour market surveys and mapping exercises of persons involved in the creative industry and put in place the most appropriate strategies that facilitate the development of the creative industry;

(c) formulate and implement strategies, programs and plans for the development of the creatives industry and that promote growth and competitiveness within the creative industry;

(d) collaborate with the relevant institutions to facilitate the protection of the intellectual property rights of creative artists through sensitisation and awareness programs and facilitate the registration of works produced by creative artists;

(e) collaborate with intellectual property rights enforcement agencies to ensure the enforcement of intellectual property rights of creative artists;

(f) collaborate with the relevant entities to ensure the transparent distribution of royalties collected on behalf of creative artists and creative arts operators;

(g) develop a framework for the classification of sub-sectors and actors in the creative industry and establish and implement sector specific mechanisms that promote innovation and growth in each sub-sector;

(h) collect and collate information on the sectors of the creative economy that require promotion and support and implement strategies that facilitate growth in these sectors;

(i) promote programmes on entrepreneurial skills development for its members;

(j) represent the interests of women, youth and persons with disabilities working in the creative industry;

(k) prescribe standards for the regulation of the creative industry;

(l) prescribe and enforce a code of conduct and disciplinary code amongst members of the guild;

(m) create platforms through which persons in the creative industry may showcase their talents, products or technologies; and

(n) promote the amicable resolution of conflicts arising between persons in the creative industry.

Board of the Guild.

8. (1) The Guild shall be governed by an unincorporated Advisory Board which shall consist of-

(a) the Principal Secretary for matters relating to trade and industrialization or a person designated in writing;

(b) one person nominated by the association representing the largest number of persons in the film industry;

(c) one person nominated by the association representing the largest number of persons in the music industry;

(d) one person nominated by the association representing the largest number of persons in the fashion industry;

(e) one person nominated by the association representing the largest number of persons in the software development and gaming industry;

(f) one person nominated by the association representing the largest number of persons in the literary arts industry;

(g) one person nominated by the association representing the largest number of persons in the visual arts industry;

(h) one person nominated by the most representative association in the dance industry;

(i) an Advocate of the High Court of Kenya nominated by the Law Society of Kenya; and

(j) one person being a public officer nominated by the Cabinet Secretary who shall be Secretary to the Board.

(2) The persons nominated under subsection (1) shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(3) The Cabinet Secretary shall, in appointing the persons under subsection (1) ensure that no more than two thirds of the members of the Board are of the same gender.

Disqualification for appointment.

9. A person is not qualified for nomination or appointment as a member of the Board under section 8 if that person—

(a) has violated Chapter Six of the Constitution;

(b) is adjudged bankrupt; or

(c) has been convicted of an offence and sentenced to imprisonment for a term of more than six months.

Tenure.

10. The persons nominated under section 6 shall be appointed for a term of four years renewable for one further term.

Vacation of office.

11. The office of a member of the Board appointed under section 8(2) shall become vacant if the member—

(a) is adjudged bankrupt;

(b) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;

(c) is convicted of an offence involving fraud or dishonesty;

(d) is absent, without reasonable cause, from three consecutive meetings of the Guild;

(e) resigns in writing addressed to the Cabinet Secretary;

(f) is removed from office by the Cabinet Secretary for —

(i) being unable to perform the functions of his or her office by reason of mental or physical infirmity; or

(ii) failing to declare his or her interest in any matter being considered or to be considered by the Board; or

(g) dies.

Offices in the Board.

12. (1) The members of the Board shall elect from amongst themselves a chairperson and vice-chairperson.

(2) A person elected as a chairperson or vice-chairperson under subsection (1) shall serve for a term of two years.

(3) A person appointed under section 8(a) and (i) shall not be eligible for election as chairperson of the Board under subsection (1)

(4) A person shall not be eligible for election as a chairperson or vice-chairperson if the person has served as a chairperson or vice-chairperson of the Board in the two years preceding the election.

Secretariat.

13. (1) The Cabinet Secretary shall designate an appropriate administrative unit within the respective Ministry to serve as the Secretariat of the Board.

(2) The Secretariat shall consist of —

(a) a public officer designated by the Cabinet Secretary from the Ministry to serve as the head of the secretariat; and

(b) such other public officers as the Cabinet Secretary shall, in consultation with the Board, deploy for the proper performance of the functions of the secretariat under this Act.

(2) The head of the Secretariat and persons deployed under subsection (2)(b) shall possess such knowledge and experience in matters relating to the creative industry as the Cabinet Secretary shall, in consultation with the Board, determine.

Functions of the Secretariat.

14. The functions of the Secretariat shall be to —

(a) provide technical and administrative services to the Board;

(b) implement the decisions, strategies, programmes and policies of the Board;

(c) make recommendations to the Board on the formulation and implementation of programmes for the achievement of the functions of the Board;

(d) on behalf of the Board, establish and maintain relationships with international, national and local institutions involved in the creative industry and other related activities;

(e) collaborate with State agencies, financial institutions and other stakeholders in the implementation of policies, strategies and programmes developed pursuant to this Act;

(f) train, disseminate information and provide linkages and networks with local and international institutions which engage in capacity building on intellectual property, innovation, market access and penetration and matters affecting the creative industry;

(g) conduct studies, research and investigations in order to enhance the development of the creative industry in Kenya;

(h) maintain a data base setting out information on creative artists in Kenya, stakeholders and players in various sectors of the creative industry and programmes in place to facilitate the growth of the creative industry;

(i) establish, in collaboration with the private sector, incubation programmes for persons in the creative industries;

(j) make arrangements for periodical evaluation of the policies and programmes in relation to the objects and functions of the Board; and

(k) perform such other functions as may be assigned to it by the Board.

Membership.

15. Membership to the Guild shall be on a voluntary basis.

Application to the Guild.

16. (1) A person who wishes to be a member of the Guild shall submit an application in the prescribed form to the Board.

(2) The Board shall consider an application under subsection (1) within fourteen days of receipt of the application.

(3) Upon consideration of an application under subsection (2), the Board may—

(a) approve the application and enter the name of the applicant in the roll;

(b) grant the application subject to such conditions being met as the Board shall consider necessary; and

(c) reject the application;

(4) A person who is aggrieved by a decision of the Board under subsection (3) shall appeal to the Cabinet Secretary.

Roll of the Guild.

17. (1) The Board shall cause to be entered the names of all persons whose application is granted under section 10(3) into the roll of creatives.

(2) A benefit or incentive under this Act shall only be made available to a person whose name appears in the roll.

Decentralization of the guild.

18. The Guild shall ensure reasonable access to its services in all parts of the country so far as it is appropriate for the effective and efficient discharge of its functions under section 7.

PART III — INCENTIVES FOR CREATIVES

Support to creatives.

19. The Guild shall, in collaboration with the respective county executive committee members responsible for matters relating to trade, put in place measures to support the establishment and development of the creative industry and shall, for this purpose —

(a) subsidise the formalisation of creatives;

(b) facilitate the protection of the intellectual property of innovations by creatives in Kenya and with international organisations;

(c) provide fiscal and non-fiscal support to creatives admitted into incubation programmes under this Act;

(d) provide support in the form of research and development activities; and

(e) provide such other support to enable the development and growth of creatives registered under this Act.

Creatives Fund

20. There is established the Creatives Fund which shall consist of—

(a) monies that may be appropriated to the Fund by Parliament; and

(b) grants, donations, bequests or other gifts made to the Fund.

Objects of the Fund.

21. (1) The Board shall issue out of the Fund monies in form of grants to persons in the creative industry in accordance with a criteria determined by the Cabinet Secretary by Regulations.

(2) The Cabinet Secretary shall, ninety days upon coming into force of this Act publish the Regulations setting out the—

(a) eligibility criteria for a grant from the Fund; and

(b) procedure for application for a grant from the Fund.

(3) The Regulations developed under subsection (1) shall ensure that a person is eligible for a grant from the Fund if that person—

(a) is not above the age of thirty-five years; and

(b) has not benefitted from any other financial support scheme by the National or county government.

Credit guarantee scheme.

22. (1) The Cabinet Secretary may, in consultation with the Board and where necessary for the development and growth of creatives under this Act, establish a credit guarantee scheme.

(2) The credit guarantee scheme under subsection (1) shall have as its objectives –

(a) the provision of accessible financial support to creatives;

(b) a framework for credit guarantee for creatives;

(c) guarantee for investors in creatives;

(d) availing of financial and credit information to creatives; and

(e) capacity building on financial and risk management to creatives.

(3) Where a credit guarantee scheme is established pursuant to subsection (1), the Cabinet Secretary shall prescribe –

(a) a strategy and operational goals that are aligned to the objectives under subsection (2);

(b) a criteria for eligibility and qualification for recipients of funding under the scheme;

(c) guidelines for the monitoring and evaluation of projects undertaken under the scheme and the efficiency of the operations of the scheme; and

(d) mechanism for transparency, accountability and reporting on the activities of the scheme.

Training and capacity building.

23. The Guild shall put in place a programme for the training and capacity building of creatives under this Act and shall, for this purpose establish a platform setting out information at the national and county level of government, on–

(a) existing incubators;

(b) available training programmes;

(c) mentors and resource persons;

(d) intellectual property rights;

(e) projects under existing incubation programmes;

(f) available fiscal and non-fiscal support services;

(g) business information necessary for the management and development of creative artists; and

(h) such other information as the Guild shall, in consultation with the county executive committee member consider necessary.

Application for grant or revocation of patents.

24. (1) The Guild shall facilitate creative artists in the —

(a) application for registration, grant, revocation and institution of legal action for infringement of intellectual property rights; and

(b) filing and registration of intellectual property pursuant to international instruments.

Fiscal incentives.

25. The Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for matters relating to finance, put in place measures for the granting of fiscal incentives including tax incentives as shall be considered necessary for the development of creatives in the country.

Scope of incentives.

26. The incentives and benefits under this Part shall only be made available to members of the Guild whose names have been entered into the roll under section 11.

PART IV — MISCELLANEOUS PROVISIONS

Regulations.

27. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations —

(a) on the conditions and process for the exemption of creatives from registration fees;

(b) on workplace and labour issues with employees, independent contractors, and service providers;

(c) on commercial transactions, including product development, production, corporate partnering, advertising, marketing, and sales;

(d) on employee benefits and compensation;

(e) on protection of intellectual property rights;

(f) on the relationship between founders and employees;

(g) on the exemption of creatives from anti-competition laws;

(h) on the intergovernmental support for creatives;

(i) for the reporting and accountability of a grant issued to a person under this Act;

(j) for the de-registration of a person from the Guild;

(k) for the process of admission of a person in the creative industry into an incubation programme;

(l) for the advertising and impact assessment of the measures of creatives; and

(m) for incentives to invest in innovative creatives.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The creative economy leverages on human creativity, innovation and ideas as a means of economic development. Citizens working in the creative industry contribute to the gross domestic product by creating employment opportunities, paying taxes as a result of the activities they are involved in. The creative sector also contributes to the country's participation in the global economy as the skills and products in this sector transcend borders. The needs of persons in the creative economy have traditionally taken a back seat in the priorities of the state as more emphasis is laid on mainstream sectors. However, in an increasingly hyper connected world, the creative industry is quickly outpacing other sectors of the economy. This Bill recognizes this watershed moment and proposes to make systemic interventions to ensure adequate support to persons in the creative industry including proposing the formation of a Guild to champion the rights and welfare of creatives.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not limit fundamental rights and freedoms. Clause 19 proposes to delegate legislative powers to the Cabinet Secretary responsible for Trade and Industry to make Regulations for the better carrying out of the provisions of the law.

Statement on how the Bill concerns county governments

The creative sector contributes to development both at the national and county government. Further the creative industry includes activities culture and public entertainment. These activities relate to county government functions under Part 2 of the Fourth Schedule to the Constitution. The Bill therefore affects the powers and functions of the county government and is therefore a Bill that concerns counties in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 2nd May, 2024.

EDDY GICHERU OKETCH,
Senator.

APPENDIX 4
ADVERTISMENT

16/5/2024

efforts that ... ago with the formation of a committee to guide the process

... City ... mpions: Eldoret becomes fifth city



... the charter conferring city status to ... day. With him is five-year-old Lincoln



... presents a certificate for the award of ... to two-time Boston Marathon ... being the founder and director of the ... at Eldoret Sports Club. JARED



President William Ruto addresses the public in Eldoret City, Uasin Gishu County, yesterday. JARED NYATAYA I NATION



President William Ruto (centre) and Deputy President Rigathi Gachagua (fourth right) with Uasin Gishu Governor Jonathan Bii (third right), Lands Cabinet Secretary Alice Wahome, Solicitor-General Shadrack Mose (right) and from left, governors Benjamin Cheboi (Baringo), Simon Kachapin (West Pokot), Wisley Rotich (Elgeyo-Marakwet), George Natembeya (Trans Nzoia) and Stephen Sang (Nandi) during the conferment of city status to Eldoret town yesterday. JARED NYATAYA I NATION

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... tuny while former mayor Joseph Lesiew, commercial farmer George Kili and marathoner Moses Tanui were awarded the Order of the Grand Warrior.

The road to elevation of Eldoret town to a city started with tabling of the proposal by the Eldoret municipality board on May 23, 2023.

On January 23 this year, the Senate unanimously endorsed a report by a House team recommending the elevation of Eldoret to a city.

The Senate Devolution and Intergovernmental Relations Committee had recommended that the House approves a request by the county government to elevate the fast-growing town.

Met the requirements

"The committee recommends that the Municipality of Eldoret be conferred city status, having met the requirements as set out under Section 5 and the First Schedule of the Urban Areas and Cities Act, 2011," the team said.

President Ruto on August 5 awarded the city charter to the agricultural town, setting the stage for its elevation.

City status means an urban area qualifies for more benefits, grants, national staff and attracts more people and investment.

Mr Gachagua expressed his commitment to support President Ruto to deliver on his leadership and development agenda for the country.

"We celebrate the elevation of Eldoret to city status. I urge the residents to make meaningful investments as we continue to support our President," said Mr Gachagua.

He asked Eldoret residents to support the national and county government in the revival of the economy and embrace peace for development.

bbii@ke.nationmedia.com; titusominde@ke.nationmedia.com

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

THE CREATIVE ECONOMY SUPPORT BILL (SENATE BILLS NO. 30 OF 2024)

The **Creative Economy Support Bill (Senate Bills No. 30 of 2024)** was read a First Time in the Senate on Tuesday, 6th August, 2024 and thereafter stood committed to the Standing Committee on Trade, Industrialization and Tourism for consideration. The Committee is required, understanding order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The Bill seeks to establish a legal framework for the support of persons in the creative industry and further enhance entry and contribution to the industry. The Bill further seeks to establish a Creatives Fund for purposes of financing creative initiatives by various creatives in the industry and for supporting the implementation and execution of creative projects.

In accordance with the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Standing Committee on Trade, Industrialization and Tourism now invites interested members of the public to submit any representations that they may have on the Bill by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to **clerk.senate@parliament.go.ke** and copied to **tradeindtourismcomm.senate@parliament.go.ke** to be received on or before **Friday, 30th August, 2024 at 5.00 p.m.**

In addition, the Committee will hold a public hearing on the Bill on **Monday, 2nd September, 2024 at 9.00 a.m.** in the Senate Chamber, Parliament Buildings, Nairobi. Members of the public are welcome to attend this hearing.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at **http://www.parliament.go.ke/the-senate/house-business/bills.**

J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

APPENDIX 5 MATRIX AS CONSIDERED BY COMMITTEE

THE SENATE

MATRIX

THE CREATIVE ECONOMY SUPPORT BILL, 2024

CLAUSE	STAKEHOLDER	PROPOSAL	REASONS	RESOLUTION
21	Kennedy Onyango	Deletion of the age limit of thirty-five (35) years.	The age limit is restrictive as people above the age of thirty-five will be excluded. Creativity endures and matures over time. Global practices indicates that funding should be based on impact instead of age. It will be more inclusive to have a funding criterion that considers innovation as opposed to age.	Acceptable Article 27(4)- Freedom from discrimination on the basis of age.
8	Zaddock Omondi (KEMPA)	The clause sets out that the guild will be composed of various associations (multi-sectoral). There is need to have this associations expanded or defined in the Bill	This definition of associations will bring about clarity and further acknowledge the diverse sectors in the creative economy.	Not accepted. The Definition has already included the different sectors in the creative economy.

				The definition further includes the creative industries as defined by the united nations (advertising, architecture, arts and crafts, design, fashion film, video photography, music, performing arts, publishing, research and development
2	Zaddock Omondi (KEMPA)	The definition of creative industry should include intellectual property rights in the last line of the paragraph.	Intellectual property rights are central to the protection of ownership and income from creative work. It is therefore important to include this in the definition of the term "creative industry.	Not accepted. The Definition has included intellectual property rights through the phrase "skill and talent and whose exploitation may result in the creation of wealth and livelihood through the generation and exploitation of intellectual

				property"
19 Support of creatives	Zaddock Omondi (KEMPA)	Clarify or widen the meaning of the terms "subsidize" or "formalization" used in the clause.	The phrase "subsidize the formalization of creatives" is ambiguous. Widen or clarify the term "formalization" and the nature of subsidies for purposes of clarity and understanding.	Partially Accepted. Being to prescriptive on the nature of subsidies (especially fiscal incentives) may lead the Bill to being construed as a money bill. Instead, amend the clause to read "including but not limited to subsidizing the formalization of subsidies" This will address the ambiguity and include other incentives without being too prescriptive.
19 Support of creatives	Zaddock Omondi (KEMPA)	The provision "to facilitate protection of intellectual property and innovation" is ambiguous. Clarify what this facilitation will entail.	Innovation is understood to be products that can be patented. What does it mean to facilitate Intellectual Property? Will the Guild pay the registration fee for trade marks and	Accepted. Amend the clause to read "including but not limited to

			patents and will this be paid to the Kenya Institute of Intellectual Property (KIPI) and Kenya Copyright Board (KECOBO)?	facilitating protection of intellectual property and innovation" This will address the ambiguity without being too prescriptive.
Section 24	Zaddock Omondi (KEMPA)	Define the term "facilitate". Does this mean that the guild will pay legal fees where there is a dispute?	Facilitate is a dangerous term. Define it, what does it mean to facilitate. Our economy is marred by a lot of systemic problems. What formula has the drafter used. The World Intellectual Property Organisation has given tools for measuring or violating copyright. Instead of talking about facilitation, the Bill should address significant challenges such as the current tax regimes. For example, when someone wants to import equipment, the CS for finance and treasury will negotiate for tax reliefs. These incentives have been implemented in jurisdictions like America. We should also look at WIPO standards and thereafter assess the incentives in the Bill and the	Partially accepted. Amend the clause by inserting the words "including but not limited to" in order to mitigate the ambiguity. The Committee further noted that being too prescriptive on the financial incentives may result in the Bill being construed to being a money bill.

			capacity of the Guild to provide this.	
10	Stacy Ngata – Advocate International Lawyers Assisting Workers Network.	Include an eligibility criteria for membership in the Guild.	The clause provides that membership will be on a voluntary basis. It is however not clear what the eligibility criteria is to join the guild and the parameters of assessment for such membership.	Accepted Industrial Standards on the eligibility criteria for different sectors in the creative economy shall be set out in subsidiary legislation. This will provide an opportunity for further consultation with diverse stakeholders on the eligibility criteria.
8	John Wambugu- Approved distributor of Cannon photography and film equipment	Provide for a separate representative for resellers distributors, vendors and manufacturers of filming equipment in the guild.	The re-selling, distribution, vending and manufacturing of filming equipment is a large sector in the filming and photography industry. It is therefore important to have a separate representative that will advocate for the unique needs of this sub-sector.	Accepted.
25	John Wambugu- Approved distributor of Cannon	Provide tax incentives for film and photography equipment.	Applicable tax rates make photography equipment expensive and this affects the purchase, re-selling and distributing of the said	The incentives in Clause 25 will apply to all creatives.

	photography and film equipment		equipment. A cap on interest rates will open up the industry. Various institutional tax incentives to institutions such as banks will enable financing for the acquisition of filming photography.	Since the committee has resolved to include resellers, distributors, vendors and manufacturers of film equipment under clause 8, the tax incentives in clause 25 will apply to them.
8	Amata Cynthia – Advocate practicing Entertainment Law and	Amend the composition of the advisory board as follows: a) Permanent Secretary for Trade and Industrialisation. b) Permanent Secretary for youth affairs and the Creative Economy c) Permanent Secretary for ICT, d) A member each from the Audi, Audio-visual industry, new media, publishing, events industry, advertising, design, advocate	The creative economy is divided into seven major industries- music, audiovisual, new media (content on social media on Instagram etc, publishing industry, events industry (night life, liver performances), advertising industry (traditional advertising, digital advertising and influencer marketing, design industry (pottery, art and craft.	Partially acceptable • Include PS for creative economy. • Include representative in the advertising sector. INCLUDE ICT
8	William Kili and Angeline Gitanga from Power	Clarify the term unincorporated advisory board and the grounds for rejection of admission in to the guild.	What are the benefits of having an unincorporated board vis a vis an incorporated board.	Amend so that it is a body corporate with legal

	Initiative		It is also important to set out the grounds for rejection of an application for membership to the guild.	personhood capable of owning disposing property and instituting and defending suits. Grounds for rejection to be set out in subsidiary legislation.
11	William Kili and Angeline Gitanga from Power Initiative	Clarify which type of physical and mental infirmities make one unable to serve in the board	There is lack of clarity on the extent of physical and mental infirmity that will render on incapable of serving in the board.	The clause sets out that the physical and mental infirmity should be to the extent that it makes one "unable to carry out their duties."
20	William Kili and Angeline Gitanga from Power Initiative	Replace the word "may" with "shall" .	This will make it mandatory for parliament to provide funds for the sector	The use of the word "may' is intentional to avert the construing of the bill as a money bill under Article 114. Should the Bill fall under the definition of a money bill, the

				senate will be prevented from legislating on the Bill.
General Observations	Alamin Virani – Kenya Actors Guild	1. There was cinema and studio mashinani where the government undertook private sector work by setting up studios in counties that eventually started competing with private studios. There is therefore a lot of conflict with the private sector when the government gets involved in the creative economy. 2. Government overreach and censorship, lack of transparent accountability, criteria and qualification for representation in previous boards has been an issue. There has been no accountability and transparency on the establishment of boards and taskforces formulated by previous Cabinet Secretaries. 3. The potential of misuse of security agencies, some information used by government may undermine	N/A	Amend the Bill for an entire clause to provide for persons with disabilities. Amend the Bill to ensure that the applicable data protection framework in the constitution and Data Protection Act is observed.(Amend Clause 4) The Council shall in consultation with various agencies and stakeholders in the creative economy establish industrial policies and standards on the collection and distribution of

		creatives 4. Inclusivity and representation of persons with disabilities should be included in the Bill. 5. Enforcement and compliance is a very difficult conversation around matters of intellectual property. This has been deliberated for over six years with previous cabinet secretaries and no headway has been made. 6. Intellectual Property is important to creative business. We are struggling with royalties. The fear we have when a government agency has been unable to regulate such an important aspect of creative work (KECOBO). Please take into account, we are weary because of the track record in the past.		royalties.
	Daniel Kibet- Representing Creatives living with Disabilities.	The Bill should include provisions on representation of persons with disabilities including the provision of both fiscal and non-fiscal incentives On the composition of the board, there is need to have a representative, from the national council of persons with disabilities.	The Bill has not provided for the protection of rights and representation of persons with disabilities in the creative economy sector.	Amend the Bill to include a standalone clause on persons with disabilities and various benefits for them under the Bill.

		Include provision on awareness of inclusion of PWDS and include this in the proposed curriculum set out in the Bill.		
General Observations	Cybil Mukandutiye- Actor, advocate	The bill is vague. It doesn't cover the reality of the sector. There is nothing in the Bill helping actors. The Bill is instead creating another body to do what the already established Actors Guild has been doing and it has not helped. The bill is not giving actors anything different from what they have been receiving from the Actors Guild. The challenges in the different sectoral industries are different and this will affect resource allocation. Money and Royalties are critical. The Bill is now forwarding looking and does not cover anything that will help actors in ten years. The creative economy is unstable, an actor may have a job for six months and be unemployed for 8 months. When unemployed, people are still being entertained by the actor's work. Distribution- Foreigners come to help film a show and thereafter undertake a premier When will the government	N/A	Amend the Bill to include industrial standards and policies on: a) Royalty computation b) Royalty collection c) Royalty distribution d) Minimum Contractual Terms

		produce a project and premier it. Kenya is only focusing on sports to the detriment of other sectors. Distribution, collaboration and reducing taxes for international organizations is important. It is currently very hard for Netflix to penetrate into the Kenyan film as the taxes are unbearable, The Board should have people actively working in the sectoral industries,the issues are two, royalties, distribution, taxes and until this is done, we will never solve these solutions. Make intellectual property effective and make contracts effective Current CMOs should undertake better analysis of produced music and film and ensure that there is fair and accurate distribution of royalties.		
General Observations	Jeremey Waweru	1. We should support the economy by providing equipment, we need to have technology that is working. 2. Celebrate and highlight content through funding local and international festivals in which Kenyan creative work can be	N/A	Clause 8 Amended to include a representative on production, photography and film equipment.

		showcased. 3. Expose creatives to international standards of content creation in various subsectors		
2	Immaculate Juma	Deletion of the phrase National Government.	This is a bill that concerns counties and furthermore the senate does not have the power to formulate national legislation to be implemented by the national government.	The inclusion of the National Government is important especially in the operationalization of the fiscal (tax) incentives in the Bill. Accordingly, it is resolved to itemize and separate the roles of the National Government and the County Government.
4	Immaculate Juma	Delete this Section	The functions in the clause are already being done on Instagram and Facebook	The online Platform is necessary for purposes of sharing information on opportunities for creatives. These include

				government initiatives and incentives, information of which may not be already on Instagram and Facebook.
8	Immaculate Juma	Unincorporated status of the Guild to be reconsidered to an incorporated status. Rejection of applications under section 8 should follow procedure under Article 48 Delete the provision of the Cabinet Secretary appointing individuals to the board of the guild.	An incorporated entity will be a more efficient structure for the implementation of the Bill. This will ensure the upholding of fair administrative action. It may not achieve the purpose intended as the CS does not have the expertise to appoint such persons.	Amend the clause to set out that the council shall be a body corporate. Amend Clause 8 to set out procedure under Article 48. The Cabinet Secretary is appointing candidates that have been nominated (this mitigates any arbitrary appointments)
General Observations	Immaculate Juma	The Bill may potentially result in overregulation of the creative economy especially with other Bills being drafted	N/A	Separate and itemize the distinct roles of the

		such as the Creatives Industries Bill, 2024 by the executive. There is an overlap of functions in the roles on National and County Government A guild may not be necessary as we ha e a lot of associations, creative writer guild etc. If we can strengthen existing bodies, this would be more expedient as opposed to a bill.		National and County Governments.
8	James Ahere – Advocate and director , video games studio.	Include Creative clusters in the creative economy by establish an umbrella body that will address sector specific challenges. Further in the subsidiary legislation have regulations representing each clusters. Several potential risks that have happened with existing guilds, increased overlaps, take a step back and do research of this guild to avoid overlap and confusion of roles. Coordination challenges across fields may result in diluted focus by the guild Resources Allocation – larger or more established sectors may dominate funding. Software development and gaming sectors may be swallowed up.	There are various subsectors in the creative industry, each with unique needs that need to be considered and regulated.	Declined. The Guild has adequate representation from the different sub-sector. Subsidiary legislation on the different subsectors The purpose of the Bill and the guild is to provide a unified and overarching framework for the creative industry

		County involvement;- this bill has a lot of responsibilities for the county govt but has limited opportunities for direct engagements between the county and creatives. Also how does the bill be included in county strategic integrated plans. Require the inclusion of the creative economy in integrated development plans in counties. Corruption and fund managements – establishment of a large fund creates concerns for potential of stealing.it is important to have financial controls and transparency mechanisms, audits etc.		(includin sectors like gaming and software development that do not have adequate representation) Subsidiary legislation in each creative cluster will mitigate coordination challenges. CEC trade to include the creative economy
General Observations	George Kimani- Film distributor representing the Film Distributors Guild	The creative industry is regulated under multiple ministries and the inherent interest of creatives is lost in between the multiple mandates. Consider regulation under one ministry There is over-legislation in the creative sector to the point it looks that the Bill is against and in competition with other Bills such as, the East African Creatives Bill and the Culture Bill 2024.	N/A	The arrangement of mandates in different ministries is an executive function of the president of which the Committee has no influence. Amendment of the Bill to ensure that all creatives

		A lot of the issues raised in the bill are being handled by other departments and agencies. Will these bodies be disbanded? The functions of this bill are divided among different ministries, ICT, Trade, youth affairs, tourism wildlife and heritage. There is confusions. Which ministry is going to handle this? The fund, we have sports fund, culture fund and the universal fund that we have never been able to access, what makes the fund under the Bill different and why have it when we can't access the money in these other funds. How often shall we access the funds and what are the deliverables and what it should do? Will we have achieved this? Capacity building is not a deliverable, it has been overdone. We should be doing films and movies, actual creative work. This Guild is another layer of red tape that we do not need at all. If the laws are done right, self-regulation shows that we can manage ourselves. We do not need another layer of gate keepers. We do not need this guild.		regardless of age can benefit from the incentives.

		Incentives are rarely implemented in Kenya, let incentives be open and inclusive for all creatives.		
2	Dr. Ezekiel Onyango	Delete the definition of the term "Guild" and replace it with the term "Council"	The Bill's definition of guild looks more like a council. A guild does not traditionally do what is in the Bill. Guilds are sector specific and there will be a challenged in governance	Accepted. The word "guild" to be substituted with the word council throught out the bill.
6	Dr. Ezekiel Onyango	Delete the entire section and replace it with a Council instead of a guild.	A council is more effective than a Guild. A good example would be the Kenya Sports Council which has improved sports, the Media council which has improved some of the issues in the media and the creatives council in the UK.	Amend Clause 6 to reflect the "Creative Industry Council" and amend the rest of the clause as is.
21 and 22.	Dr. Ezekiel Onyango	Review and clarify the criteria for the issuance of funding through grants.	There will be a potential uneven distribution of resources across subsectors and ages should the clause not be reviewed.	The Council (previously guild) shall publish regulations to address this.
25	Dr. Ezekiel Onyango	Provide that the CS shall formulate guidelines on the operationalization on the fund.	This will ensure certainty, openness, structure and accountability in the management of the funds.	The Council shall publish guidelines to operationalise the fund and the criteria for approving beneficiaries.
27 and 20	Dr. Ezekiel Onyango	Provide for incentives that will encourage foreign direct investments in	Incentives for foreign direct investments will boost funding and	Agreed.

		the creative economy.	technology development and utilization in the creative economy.m	
20-27	Olave Owaro (Marcus Olang)	**Government Overreach and Censorship (Clause 27):** The bill grants extensive regulatory powers to the Cabinet Secretary responsible for trade, allowing for the creation of regulations that could severely limit creative freedom. This broad discretion risks censorship and suppression of dissenting voices within the creative industry. Article 33 of the Constitution of Kenya 2010 guarantees the right to freedom of expression, including artistic creativity. The bill, as it stands, threatens this fundamental right. 2. **Lack of Transparency and Accountability (Clauses 20, 22):** The establishment of the Creatives Fund and a credit guarantee scheme is commendable. However, the bill lacks robust mechanisms for ensuring transparency and accountability in the management of these funds. Without independent oversight, there is a high risk of corruption and misallocation of resources. Article 10 of the Constitution emphasises national values and principles of governance, including		The purpose of the Bill is to bring about a measure of self-regulation in the creative sector. The music Guild might have its own core objectives in the music sector but the society has not been anchored by legal framework. Self regulation is the purpose of the Bill. Amend section 6 to set out that the Council shall publish Industrial policies for different creative sectors and constantly review them and they shall be legally binding. Amend the long title of the Bill to capture self-

		transparency and accountability. The bill must be revised to include stringent oversight mechanisms to align with these constitutional principles. 3. **Potential for Misuse of Security Agencies (Clause 4):** The requirement for an online platform where creatives can publish events and current affairs, while seemingly beneficial, could be misused for surveillance and intimidation. This clause could lead to self-censorship among creatives. Article 31 of the Constitution guarantees the right to privacy, including the right not to have one's private affairs unnecessarily required or revealed. The bill must ensure that this online platform is used solely for its intended purpose and not as a tool for surveillance. 4. **Inclusivity and Representation (Clauses 6, 8):** While the bill aims to ensure representation from various creative sectors, it may not fully address the diversity within these sectors. Smaller or emerging sub-sectors might find it challenging to have their voices heard and needs met. Article 27 of the		regulation, establishment of industrial policies and attraction of foreign direct investments. Make reference to section 149 of PFM in which the council shall prepare financial reports and submit them to the auditor general as well as to their membership guilds and to the CS trade and if there is any issues they can be sent to parliament and publishes on their official website. It is not mandatory to use the website. It is a resource that the government is developing for creatives

		Constitution guarantees equality and freedom from discrimination. The bill should be revised to ensure fair representation and inclusivity of all creative sub-sectors. 5. **Enforcement and Compliance (Clauses 7, 24):** The protection of intellectual property rights is crucial for the creative industry. However, the bill's enforcement mechanisms depend heavily on cooperation between various stakeholders, which may not always be forthcoming. Article 40 of the Constitution protects the right to property, including intellectual property. The bill should provide clear, enforceable mechanisms to protect these rights effectively. **Conclusion:** While the Creative Economy Support Bill, 2024, may be well-intentioned, its current form presents significant risks to the creative industry. True support lies in enhancing the freedoms that allow creativity to thrive, and not legislating such freedoms away		Amend Clause 4 to provide for Data Protection of information received on the online platform.

		into a cesspool of corruption and favouritism. And, at this point, the focus must be on purging the already-innumerable agencies that exist of corruption and ineptitude, to enable them properly perform their functions.		
	Opiyo Okach	How does the proposed creative industry framework relate to the existing arts and culture industry framework? Does it complement, overlap, extend or duplicate the arts and culture industry framework? How is the Creative Industry Bill different from the existing Arts and Culture Bill?	N/A	The Bill seeks to creating an overarching framework to provide for industry standards and incentives for various sub-sectors in the creative industry. The Culture an Arts Bill seeks to promote and protect cultural heritage while this bill is all encompassing of different creative sectors.
	Galaxis Kenya	**Enforcement and Compliance (Clauses 7, 24):** The protection of intellectual property rights is crucial for the creative industry. However, the bill's	N/A	The Structure of the council and its functions under clause 7 has adequately provided for

		enforcement mechanisms depend heavily on cooperation between various stakeholders, which may not always be forthcoming. Article 40 of the Constitution protects the right to property, including intellectual property. The bill should provide clear, enforceable mechanisms to protect these rights effectively. While the Creative Economy Support Bill, 2024, may be well-intentioned, its current form presents significant risks to the creative industry. True support lies in enhancing the freedoms that allow creativity to thrive, and not legislating such freedoms away into a cesspool of corruption and favouritism. And, at this point, the focus must be on purging the already-innumerable agencies that exist of corruption and ineptitude, to enable them properly perform their functions. Support for the creative economy MUST be done in a manner true to incorporating safeguards for transparency, accountability, holistic inclusivity, and artistic freedom. By aligning the bill with the rights and principles enshrined in the Constitution of Kenya 2010, we can ensure that it		enforcement mechanisms.

		genuinely supports and enhances our creative economy.		
	Chamber Youth Economists	**Obligations of Government** ● **Enabling Environment:** By mandating the national and county governments to create an enabling environment through direct and indirect support for creative artists and organizations, the bill will ensure the existing legislation serves not just to regulate, but proactively promote the growth of the creative industry in Kenya. Therefore, the Chamber of Youth Economists recommends that the government ensures the legislation and policies relating to the creative economy do not present binding constraints to the growth of the sector. • **Policy Formulation**: By formulating policies informed by the current landscape of the creative industry, including policies taking into account the extensive integration of technology in the sector, governments can accelerate the development of a sustainable and diverse creative industry. Therefore, the Chamber of Youth Economists recommends that	N/A	The Commmittee has noted the stakeholders observations on the enabling environment, policy formulation and public-private dialogue. Clause 7 to be amended to provide that the council shall establish industrial policies for the transparent distribution of royalties. Amend Clause 7 to set out that the council shall develop industry policies on transparent distribution of royalties.

		henceforth, all policies formulated to promote the creative industry, not only consider the needs of organized creative entities with clear structures but also the thousands of creatives who are active participants in the sector but are not domiciled within formal entities. **Public-Private Dialogue:** By establishing a dialogue forum between the creative industry and relevant government departments, the government will have a useful channel through which it can obtain and understand the creative economy in Kenya, including the more nuanced realities of the sector that may not be obtainable through preexisting processes and structures. Therefore, the Chamber of Youth Economists recommends that the government has a clear calendar of these dialogues, that the forums focus on obtaining priority interventions with the maximum socioeconomic benefits to implement, and that these forums be as inclusive as possible to accommodate all key sector actors to ensure circumspect solutions. **Market Access:** The high rate of integration of technology in the creative		Amend clause 21 to set out that the council in consultation with the cabinet secretary will publish regulations on the eligibility and access to the fund.

		economy is crucial to enabling Kenyan creatives to access global markets. This will significantly expand the revenue potential of the sector. Therefore, in supporting the industry through systemic interventions, the Chamber of Youth Economists recommends that the government, through relevant ministries, agencies, and other entities like the Creative Industry Guild, engage and form more partnerships with global digital and creative platforms to open up channels for engagement of Kenyan creatives **Transparent distribution of royalties**: Establishment of the Creative Industry Guild to oversee the development and support of the creative industry is potential useful in formulation of circumspect policies and obtaining accurate market intelligence to base decision-making. Therefore, in pursuing partnerships with global platforms to increase the revenue potential of the outputs in Kenya's creative economy, the Chamber of Youth Economists recommends that the Guild works closely with relevant ministries and agencies to not only ensure transparent distribution of royalties, but also to advocate for better		

		royalty percentages for Kenyan creatives **Board Composition**: The Guild will be governed by an Advisory Board consisting of representatives from various creative sectors and government officials. The Chamber of Youth Economists recommends that this Advisory Board include a representative(s) of tertiary-level students studying related creative courses to enable the design of recommendations that are best-placed to enable Kenyan students to transition into productive creative pursuits in Kenya's creative economy **Incentives for Creatives** • Fiscal Incentives: Provision of tax incentives and other fiscal measures to support the development of creatives will be useful in minimizing the impact of financial barriers to growth of the Kenyan creative economy. Establishment of a fund to provide grants to persons in the creative industry, with specific eligibility criteria will also help to reduce the financial burden on Kenyan creatives. The Chamber of Youth Economists		

		recommends that the proposed tax incentives take into account peculiarities of the creative economy such as the differentiated monetization terms for Kenyan creatives with primarily local audiences versus those ones with a more globally diverse audience. This will help ensure equitable taxation terms that optimize revenue from the creative industry while avoiding the financial suffocation of startups which, in the long run, will limit expansion and inhibit the realization of the full economic potential of the creative industry.		
	Kimani Munene	**Obligation of the National Government** – it's a general comment with no commitment on deliverables • A general sweeping statement • No remedy for coordination between County and GOK • A random statement – colleges already offering programs, what shall be different? • A sweeping statement – What about the existing spaces and facilities what's their utilization rate? before we create more. • Should cite the trade barriers if any exist?	N/A	Amend clause 3 by separating the different roles of the national and county government. Formal training in arts is very expensive. E.g piano training. it is necessary to have intervention by the government through:

		• Access of Funds for youth, women and people with disability is good; question is How? • We have had too many forums between private sector, little progress made on access of funds, investments etc • Why do we need a new bill to act on Kenya Film Commission mandate? • Why do we need a new bill to act on KFC mandate? • Online data base – already exists of works, artists and companies under Kecobo, KFC and KFCB • Already done under CBC and the 62 Year old Drama and Music Festivals is the best practical masterclass for our creative sector – remedy should be how to commercialize the winners to create jobs • Industry is already well organized into guilds and associations, there is a heads of		a) Subsidised formal training b) Capacity building c) curriculum development in institutions d) Ensure we have proper products that can be profitable and identifying markets. Trade barriers is an ongoing concern and the council will deal with at both levels of government. Amend Clause 3 to provide for data collection at both levels of government. including institutions, museums, centers

		associations of guilds engagement forum. This is a misguided idea which will create another layer of red tape and bureaucracy to further stifle growth • Guild and Association heads already been engaging for the last 10years • These (a) to (I) functions already been undertaken by KFCB, KFC, Kecobo, this replication of roles will kill the creative sector. Unless the intention is to disband KFCB, KFC and Kecobo for this group to handle their roles • CS should support and prop up already existing platforms if intention is to grow the industry • Guilds and Associations already have written down roles and responsibilities of their members and conflict resolution mechanisms • Unincorporated advisory board'		etc Include a clause stating that the CS in consultation with the council shall establish regulations for identifying, patenting and commercializing pieces of art from schools that are commercially viable. Amend the bill to mandate the CS and the council to establish regulations that protect IP for creative products that come from institutions, community centers. Promoting products from these institutions and commercialization.

		is an amorphous group with no legal standing and shall be rejected by the creative industry • (a) to (j) The association heads are always available and mandated by their members to represent their interests at all levels of government and private sector. • The mandate of the industry heads is determined by the members, when their mandate to the association or guilds ends but the CS mandate is ongoing then trouble starts and the group mandate is questioned. • This is a trigger for trouble 8.(b) – Industry trust shall be eroded because of government interference • From (11) to (18) demonstrate the wanton wastage of time and resources we are so accustomed and have normalized confusion by replicating the roles, functions and KPIs of already existing offices instead of enforcing the already existing mandates.		Adopt the wording used in the startup and culture bill on cultural expressions and traditional knowledge. Amend clause 8 to provide that one of the representatives of the board should be a representative with knowledge in traditional knowledge. Amend Clause 7 to include research and development as a role of the council. (indigenous knowledge is intertwined) Include Budget allocation to research and development. How do you cross pollinate…cross

		• (19) : Private sector is already incubating and the gov/ county Hubs across the country are actively doing this • (20) : Creatives Fund – What's the source of funds ? How much shall it open with ? What is the criteria of disbursement ? How often ….random or structured calls to the industry ? - (21) • the only regulation deemed appropriate was to cut of the above 35yrs ? Is this a replica of the youth fund ? Creatives have no age limit , there is no legal or moral reason to have a cut off age, its discriminatory • CS shall without public participation arbitrarily decide on all regulations for disbursement • (22) May create a credit guarantee scheme…. Why is it may not happen ? this is a basic requirement for international investors like the Afrexim Bank		breed ideas and put out new products. E.g producing traditional instruments with modern materials and how royalties go back to indigenous communities.

		• (23) Utilize already existing platforms, institutions like TVETs and colleges to train other functions already being handled by other bodies • (24) This is Kecobo officers role. Why replicate ? • (25) First incentive would be to create a market at home by fully implementing the Communication Act of 2003 which stated 60% Kenyan content on radio and TV. Other countries are at 80% going to 100% • (26) Incentives are for foreign investors, film companies the information should be openly available. South Africa has set the standard NVF website has full information • (27) Self-regulation and creating a friendly business environment		

	James Ahere-Weza Interactive Entertainment	**Reference: Section 6-8 (Creative Industry Guild and Functions)** The proposal for a unified Creative Industries Guild covering all art disciplines, as outlined in the Bill, may not adequately address the specific needs of different creative sectors. Each art discipline, such as writing, film, music, and visual arts, has unique challenges and opportunities that require tailored interventions. A more effective approach would involve establishing an umbrella body that oversees sector-specific guilds, each dedicated to managing the distinct requirements of its respective field. This structure would allow for a nuanced and effective approach to supporting creatives, ensuring that all sectors receive the specific assistance they need to thrive. **2. County Involvement and Role of County Laws** **Reference: Section 3 (Obligations of Government)** The Bill assigns significant responsibilities to both national and county governments in supporting the		The Council under clauses 7 and 8 is the umbrella body and its board has members representing different sub sectors in the creative economy. Amend Clause 3 to Mandate regular ground-level consultations between county executives and local creative communities. Amend Clause 3 to include the inclusion of creative industry development within CIDPs to ensure proper planning and resource allocation. Amend Clause 21 by deleting the Age limit of 35 years.

		creative industry, particularly through collaboration with the Guild and decentralization of services. However, it currently lacks mechanisms for direct engagement between county executives and local creatives. Furthermore, it does not mandate the integration of creative industry development into County Integrated Development Plans (CIDPs) or the creation of county-specific strategies. To bridge these gaps, the Bill should include provisions that: Mandate regular ground-level consultations between county executives and local creative communities. Require the inclusion of creative industry development within CIDPs to ensure proper planning and resource allocation. Introduce monitoring and evaluation frameworks to assess the effectiveness of county-level initiatives in supporting the creative sector. **3. Addressing Exclusionary Membership Criteria** **Reference: Section 21-22 (Creatives Fund and Credit Guarantee Scheme)**		Amend Clause 21 to include the annual audit and report provisions under Section 149 of the PFM Act.

		While the Bill introduces valuable frameworks for supporting creatives, the current age limit of 35 years for eligibility is overly restrictive. This limitation excludes many talented individuals who continue to contribute significantly to the creative economy beyond this age. Creativity is an enduring quality that often matures over time. Therefore, it is recommended that funding criteria focus on the merit of the creative work and its potential impact rather than the age of the creator. An inclusive approach would establish funding guidelines that prioritize innovation, sustainability, and the capacity to contribute meaningfully to the creative economy, regardless of age. **4. Potential Issues with an Umbrella Guild** **Reference: Section 6-8 (Creative Industry Guild and Functions)** The proposed creation of a blanket guild for all creative sectors poses several potential risks: Increased Overlap and Confusion: Given the diverse needs of different creative sectors, an umbrella guild		

		might struggle to address these effectively, leading to generalized solutions that do not satisfy any particular sector. Coordination Challenges: The complexity of coordinating activities across vastly different creative fields could result in diluted focus, making it difficult for the guild to prioritize and effectively manage sector-specific issues. Resource Allocation: Larger or more established sectors might dominate the guild, leading to unequal representation and resource distribution, potentially marginalizing smaller or emerging sectors. **5. Concerns Over Corruption and Fund Management** **Reference: Section 20 (Creatives Fund)** The establishment of a large, centralized fund to accommodate the needs of all creative sectors raises significant concerns about corruption and effective fund management. Given Kenya's history of public embezzlement and the presence of cartels within various sectors, a one-size-fits-all fund may be challenging to		

		monitor and manage. Each creative sector has unique needs, and managing these under a single fund could lead to inefficiencies and increased opportunities for corruption. To mitigate these risks, it is crucial to implement stronger financial controls, transparency measures, and sector-specific oversight mechanisms. This could include independent audits, real-time monitoring of fund allocation, and stringent penalties for mismanagement.		
Clause 19	**County Forum**	"The Guild shall, in collaboration with the respective county executive committee members responsible for matters relating to trade, put in place measures to support the establishment and development of the creative industry and shall, for this purpose — …… provide support in the form of research and development activities that are aligned with county-specific cultural and economic conditions	This amendment ensures that research and development activities supported under the Bill are relevant to the unique cultural and economic conditions of each county, thereby enhancing the impact of the Bill at the local level. 7 needs and opportunities, ensuring that creatives across all counties can access tailored support that reflects local cultural and economic contexts; and……..”	Agreed. Clause 19 to be amended accordingly.

Clause 22		Amend the Clause by adding a subclause 22(2) (e) to state: - "(22(2)(f) The credit guarantee scheme shall include provisions for collaboration with county governments to ensure that creatives in all counties have equitable access to financial support and that the scheme addresses regional disparities in access to credit" ¬ This amendment ensures that the credit guarantee scheme is inclusive and considers the diverse needs of creatives across different counties, thereby promoting equitable development of the creative industry nationwide.	Amend the Clause by adding a subclause 22(2) (e) to state: - "(22(2)(f) The credit guarantee scheme shall include provisions for collaboration with county governments to ensure that creatives in all counties have equitable access to financial support and that the scheme addresses regional disparities in access to credit" ¬ This amendment ensures that the credit guarantee scheme is inclusive and considers the diverse needs of creatives across different counties, thereby promoting equitable development of the creative industry nationwide.	Agreed.
26		Amend the Clause by adding a subclause 26(2) to state: -: - ""26(2) The Guild shall, in collaboration with county governments, ensure that the process of registering with the Guild and accessing incentives is decentralized to county levels, thereby promoting wider participation and inclusion of creatives from all regions."	Decentralizing the registration process and access to incentives will ensure that creatives in remote and under served area are not disadvantaged, thereby fostering inclusivity and promoting the growth of the creative sector across all counties.	Agreed.
	Ken Mwiti	**Inadequate Research and Understanding:**	N/A	The Committee has noted the policy

		The bill appears to have been drafted without a comprehensive understanding of the actual problems and specific needs of the diverse sectors within the creative industry. Before proceeding with this bill, I strongly urge the Senate to undertake extensive research to accurately identify and address these needs. **2. Overshadowing of Sector-Specific Issues:** Placing all creative sectors under a single bill could lead to the overshadowing of sector-specific issues. For instance, the challenges faced by musicians differ significantly from those encountered by filmmakers or fashion designers. The existing National Music Policy (2015) already provides a solid foundation for addressing the unique needs of the music industry. I believe that similar sector-specific policies should be developed for other creative sectors before a unifying bill is considered. **3. Need for Policy Amendments Before Legislation:** I recommend that the Senate focus on amending and updating the existing policies, such as the National Music		issues raised by the stakeholder. Amend Clause 7 to indicate that the Council shall publish different industrial policies and standards for different sub-sectors in the creative economy. This will address the different issues arising in the different sub-sectors.

		Policy, and developing new policies for other creative sectors. These policies should be well-researched and crafted with input from industry stakeholders to ensure they are practical and effective. Only after this foundational work is done should a bill be considered. 4. **Risk of Overgeneralization:** **By trying to cover all creative sectors under** one bill, there is a significant risk of overgeneralization, which could lead to ineffective solutions that do not adequately address the specific challenges within each industry. Each creative sector has its own unique dynamics, and it is crucial that any legislative efforts recognize and respect these differences. Recommendations: - **Extensive Consultation and Research**: Engage in further consultations with creatives across all sectors to better understand their unique challenges and needs. This should inform any legislative efforts moving forward. - **Sector-Specific Policies**: Amend and strengthen the National Music Policy		

		and develop new policies for other creative sectors to ensure that each industry's specific needs are addressed. - **Separate Legislative Measures**: Consider drafting separate legislative measures for different creative sectors rather than a single, overarching bill. This will ensure that the unique challenges of each sector are adequately addressed without overshadowing. In conclusion, I respectfully request that the Senate reject the Creative Economy Support Bill in its current form and return to the drawing board. A more nuanced and well-informed approach, grounded in robust sector-specific policies, will better serve the diverse and vibrant creative industries of Kenya.		
	CIPIT	The Bill suggests establishing a voluntary Guild to support Kenya's creative industry, but the benefits are restricted solely to Guild members. As a result, creatives who choose not to join the Guild would be excluded from government support, including fiscal incentives, intellectual property registration and enforcement, and		Membership to the guild will be mandatory in order to access the benefits from the Guild. Amend clause 21 to set out that the council in consultation with

		capacity-building initiatives. This approach is both limiting and exclusive. To rectify these concerns, the Bill should be revised to include criteria for membership that extends support to all qualifying creatives, irrespective of Guild affiliation, and to broaden the eligibility criteria for incentives. This would foster a more inclusive strategy that benefits the entire creative industry and enhances its economic impact. Additional key recommendations for improvement include: 1. Establishing clearer mechanisms for financial accountability and specifying funding sources to enhance transparency and resource management. 2. Promoting collaboration in the development of creative subjects in the curricula. 3. Removing age restrictions for funding eligibility.		the CS will publish the eligibility criteria for joining and benefitting from the fund in subsidiary legislation. Amend Clause 21 to include the audit and reporting requirements under the PFM Act. Amend Clause 21 to delete the age restriction.

		4. Providing detailed guidelines regarding the roles and responsibilities in administering support programs. 5. Clarifying the scope of support offered by the Guild and implementing measures to avoid conflicts of interest, which are essential for creating a fair and supportive environment for all creatives while the Creative Economy Support Bill, 2024 presents an opportunity to enhance the creative sector in Kenya, it must be more inclusive of persons with disabilities.		
	Bunge La Mayout	The bill creates an administrative unit to serve as a secretariat of the Board. This administrative unit will be domiciled in the ministry of trade and will perform functions as per Section 3 of the bill. this is unnecessary because we already have two ministries dealing with		The creatives council is seeking to provide a central association and regulatory framework for all creative sectors. Amend Section 14 (h) to include a

		matters of the creative economy and creatives. This is a replication of duties as the duties listed in section 3 are in the mandate of various government bodies and in the mandate of the Ministry for sports, Youth Affairs and Creative economy as well as the Ministry for Gender, culture arts and heritage. **proposed amend of section 14 (h) to read;** (j)Maintain a manual and digital database, accessible to the public, containing information on creative artists in Kenya, stakeholders, and participants across various sectors of the creative industry, as well as the programs in place to facilitate the industry's growth.		manual data base
	Jones Kyalo	proposed Amend the Clause by adding a subclause 22(2) (e) to state: - *"(22(2)(f) The credit guarantee scheme shall include provisions for collaboration with county governments to ensure that creatives in all counties have equitable access to financial*		Agreed.

		support and that the scheme addresses regional disparities in access to credit"		
	Wandiri Karimi (Africa Women's Orchestra)	1. There are already existing structures and institutions in various ministries that cover the subject matter of this legislation and instead of creating other institutions they should empower the institutions through current bills and upcoming bills and amendments on this strengthening including institutions such as but not limited to Department of Culture, Department of Arts, The Kenya Cultural Centre, National Museums of Kenya, Department of Film Services, Kenya Film Commission, Kenya Film Classification Board, Kenya National Archives, Ministry of Education, Ministry of Foreign Affairs, Ministry of Tourism and Wildlife, Ministry of Information, Communication and Technology. This bill proposes to have its affairs managed by the Ministry of Trade which does not include any of the departments heavily involved in the Creative Economy and therefore creates a bureaucratic barrier to its efficacy and a danger that the Cabinet Secretary will neither have a team on hand with relevant knowledge but also the risk that the the Creative Economy will be deprioritised in a docket that has many		Proposal to withdraw the Bill declined.

		more prominent sectors. 2. There already exist funds including the Youth Fund, and Sports Fund that have not been properly managed and made available to the Creative Economy and creating a new fund will not ensure that the funds reach the ones who are most critical in building the industry furthermore the national government has a mandate in the institutions mentioned above and in my opinion, the Creative Economy funding bill other than creating a guild should be guiding the counties where culture has been devolved to, to create allocations within their budgets for the already identified needs of the creative economy through professionally conducted studies by for example allocating a minimum percentage of county fund allocation to the creative industries to achieve the constitutional commitments at a devolved level. 3. The proposed fund exclusion of non-youth actors in the creative economy in addition to being discriminatory, is counterintuitive by not supporting intergenerational development to ensure that there is early, mid and advanced career support.		

		I hope that the bill is withdrawn and if another bill is tabled it is created through research with the relevant stakeholders including government bodies so that it harmoniously focuses on the needs of the entire Cultural and Creative Industries that make up the Creative Economy. The stakeholders must be appropriately represented so that the laws, present and future, leverage already existing structures and strengthen the institutions by ensuring the integrity of the officeholders and adherence to the Constitution is prioritised.		
	Clarice Mideva (Africa Centers for Technology Studies)	The current fragmentation of the creative sector across multiple ministries (under Ministry of Youth Affairs, Creative Economy and Sports, the Ministry of Culture, Arts and Heritage and the Ministry of Investment, Trade and Industry) creates confusion and hinders effective coordination. To ensure a cohesive and streamlined approach, we recommend consolidating the creative sector under a single ministry responsible for its overall vision and direction. 2. The creation of a new fund while existing ones like the Sports Arts and Social Development Fund, Talanta Hela and related funds are still underutilized is		The fund and the administration of the Bill has been put under the ministry of trade for purposes of benefiting from incentives and supporting profitability of creative ventures. All the other existing funds are not run by creatives. The creatives fund will be run by the

		unnecessary. We recommend focusing on strengthening these existing funds, improving their accessibility, and ensuring they benefit all creatives across the sector. 3. The current age limit of thirty-five years for grant recipients is discriminatory and excludes experienced creatives who can significantly contribute to the industry's growth. We recommend removing the age limit entirely, as creativity knows no bounds. 4. Maintaining an online platform for industry events and news and a platform through which persons in the creative industry may showcase their talents, products or technologies is already effectively handled by the private sector e.g. by Wowzi, Moohk etc. The government should focus on fostering a supportive environment and providing incentives to encourage such platforms, rather than duplicating existing efforts. 5. We recommend reviewing the existing laws (Societies Act, Intellectual Property Laws, Tax Laws and related laws) that already allow creative industries to exist and protect their creative works but need to be sharpened to allow them to grow. This approach will empower creative industries		council for the industrial needs across different subsectors. The Bill seeks to include overlloked benefits in the creative sector such as pension benefits, medica insurance, negotiate with RBA, SHIF, and Collective Bargaining agreements

		to thrive by addressing specific challenges and gaps in the current legal framework, rather than introducing new laws in an already over-legislated industry. This approach also aligns with the principle of regulatory efficiency, ensuring that the legal framework remains streamlined and effective. The African Centre for Technology Studies (ACTS)		
	Angela Wamai	Appreciation of the Creative Economy Support Bill and the recognition of the need for a creative fund. b) The concern of the bill being under the Cabinet secretary of the Ministry of Trade and Industry instead of being under the Cabinet secretary of the Ministry of Youth Affairs, Sports and Creative Economy, or the Cabinet secretary of the Ministry of Gender, Culture the Arts and Heritage which are ministries directly dealing with the creative economy and those working in it. c) The concern in the bill assigning excessive powers to the Ministry concerned with matters of trade. There is little oversight on the cabinet secretary and in my opinion it is also unrealistic to expect the cabinet secretary to oversee so many duties and this includes but is not limited to maintaining and establishing an online		Mandate on the Implementation of the Bill to be maintained under the Ministry of Trade. Amend the Guild to appear as a "Council" The online platform will be run by the Trade ministry for purposes of publishing government incentives and opportunities for creatives. The guild requires

		platform (Section 4) and listening to appeals made by applicants to the guild (Section 16 subsection 4). Our aim should be to strengthen institutions not individuals. d) The concern in the bill forming a creative Industry guild (Section 6). Guilds should not be formed by bills or acts of parliament. Guilds and more so creative guilds world over are formed by industry players to champion for the rights of the individuals in the various industry. Kenya already has several guilds representing various actors in the creative industry. Moreover it is wrong to group all creatives under one guild without consideration for the nuances and differences in the work they do and in their diverse needs. e) The concern in the bill creating a guild and secretariat that will replicate the work done by other organisations for example section 7 subsection B, it is already the mandate of the Kenya film Commission to Generate and manage film industry research. In Section 7 subsection there is also a replication in the duties performed by the Kenya Copyright Board f) The concern in the Bill to create a		a secretariate that will facilitate the administrative work of the guild in order to effectively address the various issues in different subsectors in the industry. It is therefore essential to maintain it.5 Amend clause 7 to include protection of the constitutional freedom of expression. Delete age limit in clause 21/

		guild and board that can be weaponised to curtail freedoms provided for in the constitution. Section 7 subsection k and l for example can be used to enhance censorship and the curtail the right to freedom of expression and right to artistic creativity (article 33 section 1 subsection b of the constitution of Kenya) g) The concern in the bill to create an unincorporated advisory board to govern the guild. The creation of this unincorporated board is very worrying as a board like this cannot be sued or held to account for decisions made while in office. This lack of accountability will enable corruption. h) The concern in the bill to create an administrative unit to serve as a secretariat of the Board. This administrative unit will be domiciled in the ministry of trade and will perform functions as per Section 14 of the bill. I feel that this is unnecessary because we already have two ministries dealing with matters of the creative		

		economy and creatives. This is a replication of duties as the duties listed in section 14 are in the mandate of various government bodies and in the mandate of the Ministry for sports, Youth Affairs and Creative economy as well as the Ministry for Gender, culture arts and heritage. i) The concern in the bill discriminate against persons not in the guild. Though membership to the guild is voluntary (Section 15) the bill goes on to give incentives only to people in the guild (Section 26). This is unconstitutional and curtails on creatives' freedom of association. j) The concern in the bill to discriminate against people above the age of 35. The bill establishes a creative fund which is only accessible to people below the age of 35 (Section 21 subsection 3 a.) There is no need to cap the age limit for the fund as this fund is not under the ministry of youth. This can therefore be deemed as unconstitutional as it uses age to discriminate.		
		1. Establish a national fund dedicated to		

	John Wambugu	supporting creative industries. Offer grants and financial support to emerging and established creatives and encourage private sector investment through tax incentives. 2. Implement nationwide training programs to enhance creative skills in high schools and TVETS •Partner with educational institutions to develop creative arts curricula. Offer mentorship programs to bridge the gap between academia and industry. 3. Strengthen laws to protect intellectual property and ensure fair compensation. Establish a clear and accessible system (sub-office or department) for registering creative works. 4. Provide legal support and advisory services for creatives to protect their IP rights. 5. Develop platforms to promote and distribute Kenyan creative content locally and internationally. Support the creation of online marketplaces for creative products. Facilitate participation in international creative i		Similar comments noted and addressed above.
	Dj Euphoric	Persons with disabilities often face societal		Amend the Bill to

		biases that underestimate their poten8al in the creative sector. This lack of awareness creates barriers to their full par8cipa8on in the industry, leading to their marginaliza8on and underrepresenta8on. The Bill should mandate the implementation of nationwide awareness campaigns to highlight the capabili8es and achievements of persons with disabili8es in the crea8ve industry. Collaborate with disability rights organizations, media houses, and educational institutions to ensure these campaigns are inclusive and far-reaching		provide a stand alone clause on the protection of the needs of creatives with disabilities.
	Arthur Oloo	I propose the establishment of the Kenyan Recording and Creative Arts Academy (KRCAA) through the strategic utilization of the Blank Tape Levy. This model, inspired by the success of the America's Recording Academy, aims to create a holistic ecosystem that supports artists at every stage of their careers, from education and training to recognition and welfare. The KRCAA would offer a range of initiatives, including: • World-class education and training programs • The Kenyan Music Awards (KEMAs) • A Hall of Fame for industry legends		Proposal to be implemented in a separate Bill.

		• Welfare programs for artists in need By redirecting a portion of the Blank Tape Levy to fund these initiatives, we can create a sustainable financial model for the academy. I believe this approach will not only benefit artists but also contribute significantly to the growth and development of the Kenyan creative economy.		

APPENDIX 6
STAKEHOLDER SUBMISSIONS ON THE BILL

African Centre for Technology Studies
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Knowledge for Better Livelihoods

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30th August, 2024

MEMORANDUM OF PUBLIC PARTICIPATION

PRESENTED TO THE CLERK OF THE SENATE ON THE CREATIVE ECONOMY SUPPORT BILL (SENATE BILLS NO.30 OF 2024)

A. INTRODUCTION

1. The African Centre for Technology Studies (ACTS) is a pioneering development research think tank on harnessing applications of science, technology, and innovation policies for sustainable development in Africa.

2. ACTS is an International Research Institution founded in 1988 to pursue policy-oriented research towards strengthening the capacity of African countries and institutions to harness science and technology for sustainable development. ACTS envisions a sustainable economic, social, and environmental future for Africa, through science, technology, and innovation. ACTS current thematic research and development activities focus on Agriculture, Food and Nutrition Security; Climate Resilient Economy; and Science Technology, Digital economy, and Gender Youth and Inclusive development under its 2022-202 strategic plan. ACTS also has an Intellectual Property Unit whose mission is to empower innovators and creators by protecting and promoting Intellectual Property rights thus fostering innovation and ensuring equitable access to knowledge. The organization is active in 15 African countries where it is implementing a broad range of applied, policy-focused research activities.

3. The creative economy leverages on human creativity, innovation and ideas as a means of economic development. Citizens working in the creative industry contribute to the gross domestic product by creating employment opportunities, paying taxes as a result of the activities they are involved in. The creative sector also contributes to the country's participation in the global economy as the skills and products in this sector transcend borders.

4. The Kenya Creative Economy Support Bill 2024 proposes to make systemic interventions to ensure adequate support to persons in the creative industry. This Bill recognizes the

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immense potential of the creative economy to contribute to national development and economic growth.

5. However, as stakeholders in the creative sector, we have carefully reviewed the Bill and offer the following comments and recommendations to enhance its effectiveness and ensure it truly serves the needs of the creative community.

B. PROPOSED RECOMMENDATIONS ON THE CREATIVE ECONOMY SUPPORT BILL

1. The current fragmentation of the creative sector across multiple ministries (under Ministry of Youth Affairs, Creative Economy and Sports, the Ministry of Culture, Arts and Heritage and the Ministry of Investment, Trade and Industry) creates confusion and hinders effective coordination. To ensure a cohesive and streamlined approach, we recommend consolidating the creative sector under a single ministry responsible for its overall vision and direction.

2. The creation of a new fund while existing ones like the Sports Arts and Social Development Fund, Talanta Hela and related funds are still underutilized is unnecessary. We recommend focusing on strengthening these existing funds, improving their accessibility, and ensuring they benefit all creatives across the sector.

3. The current age limit of thirty-five years for grant recipients is discriminatory and excludes experienced creatives who can significantly contribute to the industry's growth. We recommend removing the age limit entirely, as creativity knows no bounds.

4. Maintaining an online platform for industry events and news and a platform through which persons in the creative industry may showcase their talents, products or technologies is already effectively handled by the private sector e.g. by Wowzi, Moohk etc. The government should focus on fostering a supportive environment and providing incentives to encourage such platforms, rather than duplicating existing efforts.

5. We recommend reviewing the existing laws (Societies Act, Intellectual Property Laws, Tax Laws and related laws) that already allow creative industries to exist and protect their creative works but need to be sharpened to allow them to grow. This approach will empower creative industries to thrive by addressing specific challenges and gaps in the current legal framework, rather than introducing new laws in an already over-legislated

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industry. This approach also aligns with the principle of regulatory efficiency, ensuring that the legal framework remains streamlined and effective.

C. CONCLUSION

We urge the relevant authorities to carefully consider these recommendations and engage in further consultation with the creative community to ensure that provisions truly reflect the aspirations and needs of the sector.

MEMORANDUM ON CREATIVE ECONOMY SUPPORT BILL 2024

PART	SECTION	PROPOSED CHANGES	JUSTIFICATION
I	Section 2 Definition of **'Guild'**	"Guild means **the association or collective organization that shall represent, support, and advocates for the interests of artists within a creative specific discipline to function as a voice for artists in negotiations with stakeholders, provide access to resources, legal and financial assistance, and promotes professional development. The guild shall also foster a strong community among its members, set industry standards, and advocates for policies that benefit the specific discipline within the creative sector**."	The guild needs to be better defined. Secondly, it is impractical for a single guild to effectively advocate for and represent the entire creative economy. The challenges and needs of each sub-sector are too specialized to be addressed by one overarching organization. Instead, each sector—whether it's music, theatre, film, or another creative field—should have its own dedicated guild. This approach ensures that the unique interests and issues of each sector are properly represented and advocated for. If the goal is truly to advance the creative economy, sector-specific guilds are essential.
	Section 3	"County Governments shall"	Section 96 of the Constitution of Kenya reads: Section 96: (1) The Senate **represents the counties**, and serves to protect the interests of the counties and their governments. (2) The Senate participates in the **law-making function of Parliament by considering, debating and approving Bills concerning counties**, as provided in Articles 109 to 113.

			This Bill can therefore not purport to have any bearing over national government functions.
	Section 4	Delete	An unnecessary and redundant effort. Social media platforms like YouTube and others are already effectively fulfilling this role.
	Section 5	Delete	Creative Arts and Sports is already part of the CBC curriculum with 5 lessons every week dedicated to this. All learners must take the two core subjects (Community Service Learning, and Physical Education) irrespective of their desired pathways. The three main pathways are (i) Arts and Sports Science (ii) Social Sciences, and (iii) Science, Technology, Engineering, and Mathematics (STEM) Part of learning outcomes are for learners to 'appreciate the country's rich and diverse cultural heritage for harmonious existence' See more here in 'Junior School Curriculum Design Creative Arts and Sports – Grade 9' by KICD https://kicd.ac.ke/wp-content/uploads/2024/06/FG9-Creative-Arts-Sports-26-6-2024.pdf
2	Section 7	7 (a) delete	Does not need a guild as this is an exercise that can be aptly carried out by stakeholder engagement and public participation
		7 (b) (c) (h) delete	There are various associations within the creative sphere that if strengthened and aptly supported, would be better placed to conduct labour market surveys and mapping

			exercises of persons involved in the creative industry and put in place the most appropriate strategies that facilitate the development of the creative industry and formulate and implement strategies, programs and plans for the development of the creatives industry and that promote growth and competitiveness within the creative industry
		7 (d) (e) (f) (n) Delete	Already functions of the Kenya Copyright Board and the Kenya Industrial Property Institute
		7 (m) delete	An unnecessary and redundant effort. Social media platforms like YouTube and others are already effectively fulfilling this role
	Section 8	Revise	To dictate that ' one person nominated by the association representing the largest number of persons' would fail for the following reasons: 1. It is not exhaustive criteria 2. It shall be an opener for fraud and infighting within the industry as is being currently witnessed by some creative agencies 3. The visual arts industry is not just one discipline but has many disciplines underneath it – to appoint one person shall neglect entire sub-sectors 4. Lack of mention of performing arts.
	Section 8(3)	Delete and rethink	Appointing individuals to run the Guild by the CS for Trade, who may have little to no expertise in the creative arts, is misguided. These appointments should be made by the ministry that has the closest connection to and understanding of the creative economy's unique needs.
	Section 9 (A)	Add 'A person shall qualify for membership of the Guild's Board if they are proven to:	This will ensure that board members can make informed decisions that benefit the industry as a whole.

		1. Possess a strong combination of relevant industry experience, leadership skills, integrity, and subject matter expertise. 2. Have at least 10 years of experience in the creative arts, with a track record of both creative and managerial roles that demonstrate a deep understanding of the industry's nuances. 3. Have leadership experience. 4. Exhibit Integrity in accordance with Chapter Six of the Constitution on Leadership and Integrity. 5. Have proficiency in the subject matter, potentially including formal education or extensive study within the creative arts.	
	Section 13	Delete	The technical and administrative services of the Board should ideally be provided by a dedicated secretariat within the guild, composed of professionals with expertise in both the creative industries and administrative management. This secretariat should be supported by the ministry or governmental department that has the most interaction with the creative economy, such as the Ministry of Sports, Culture, and Heritage. Additionally, external consultants with specialized knowledge in areas like intellectual property law, finance, and public policy could be engaged as needed to ensure that the board's decisions are well-informed and effectively implemented.
	Section 16	Delete/Revise	Joining a guild should involve a clear and structured process to ensure that members are committed and qualified. Applicants should meet specific eligibility criteria, such as a minimum number of years of

			professional experience in their creative field. They may also be required to submit a portfolio or other evidence of their work to demonstrate their contributions to the industry. Additionally, potential members might need to provide references or endorsements from existing guild members or industry professionals to verify their credentials and commitment. Once the application is reviewed and approved by the guild's membership committee, the applicant can then be formally admitted as a member. Rejection of an application should be based on clearly spelt out criteria including: • Lack of Relevant Experience or Skills • Incomplete Application • Non-compliance with ethical Standards: • Insufficient References • Previous Disciplinary Issues
3	Section 19 (a)	Delete	Is a function of BRS
	Section 19 (b)	Delete	Is a function of KECOBO and KIPI
	Section 20 (a)	There is established the Creatives Fund which shall consist of — (a) monies, that **shall** be appropriated to the Fund by Parliament;	1. If the Bill is to create a Fund – do not make it an optional allocation. 2. Funding model should accommodate the inconsistency of the income from creative works.

	Section 21 (3)(a)	Delete	Is discriminatory. Creative expressionism has no age limitations.
	Section 22	Add	1. Add Auditing mechanisms - Sports Arts and Social Development Fund has yet/never been accounted for/audited; 2. Create oversight and regulation for the scheme from the beginning. These may include: • **Development Finance Institutions (DFIs)**: These institutions, which focus on financing projects with developmental impact, can manage the scheme, leveraging their expertise in risk assessment and management. • **Specialized Credit Guarantee Organizations**: Entities specifically set up to manage credit guarantees, such as national or regional guarantee funds, could oversee the scheme. They have experience in administering similar programs. • **Public-Private Partnerships (PPPs)** • **Independent Board or Committee**: An independent board or committee with representatives from the creative sector, financial institutions, and government to ensure that the scheme operates transparently and effectively.

			• **Regulatory Bodies**: Financial regulatory authorities to oversee compliance with financial regulations and ensure that the scheme operates with Benchmark with CIFI in Nigeria
	Section 24	Delete	IP is a private right. There should be no interference by the Guild

GENERAL COMMENTS

1. The revisiting of the Bills already on course within the Creative Economy (Culture Bill 2024 and Creative Industries Bill 2023)and either amend these appropriately or specialize this Bill better.
2. The Bill needs more public and sector leader participation
3. Seeing as this is a creative economy support bill there needs to be more emphasis on structured support and not just a fund. The financial, tax and legal need more support and guidelines.
4. The bill seems to be pushing for additional bureaucratic processes further stifling creativity.
5. The Bill needs to ensure monitoring and evaluation metrics to ensure its efficacy.

THESE COMMENTS ARE BY: KULTURE SHIFT PLC T/A ARTLAWKENYA – as consulted with over 50 creatives at a joint meeting held on 29th August 2024 at Baraza Media Lab Offices which had in attendance legal experts including:

1. Liz Lenjo Advocate, Chairperson of the Copyright Tribunal;
2. Wandiri Karimi Advocate;
3. Felicia Solomon Advocate;
4. Immaculate Juma Advocate;

The Consultation also had present:

1. Suzanne Gachukia - Music Pioneer
2. Roy Gitahi - Creative Industry Expert

3. Cedric Nzomo – Co-Founder, Advertising Agency – The Verge
4. Moses Mbasu - Music Entreprenuer
5. Arthur Oloo - Music Executive

MEMORANDUM ON THE INCLUSION OF PERSONS WITH DISABILITIES IN THE CREATIVE ECONOMY SUPPORT BILL, 2024

TO:
The Senate of the Republic of Kenya

FROM:
Young Kenyan Creative Minds Living with Disabilities

SUBJECT:
Comprehensive Inclusion of Persons with Disabilities in the Creative Economy Support Bill, 2024

INTRODUCTION

This memorandum is submitted on behalf of the Young Kenyan Creative Minds Living with Disabilities, to express our concerns and recommendations regarding the Creative Economy Support Bill, 2024. We recognize the Bill as a significant step toward fostering the growth of the creative economy in Kenya. However, it falls short in addressing the specific needs of persons with disabilities who contribute to this sector. Our goal is to ensure that the Bill not only promotes inclusivity but also provides the necessary support systems for persons with disabilities to thrive in the creative economy.

1. LACK OF AWARENESS ABOUT THE CAPABILITIES OF PERSONS WITH DISABILITIES

Current Situation:
Persons with disabilities often face societal biases that underestimate their potential in the creative sector. This lack of awareness creates barriers to their full participation in the industry, leading to their marginalization and underrepresentation.

Challenges:

- Prevalence of stereotypes and misconceptions about the capabilities of persons with disabilities.
- Limited public visibility of the work and contributions of disabled creatives.
- Inadequate representation of persons with disabilities in media and public discourse related to the creative economy.

Recommendations:

1. **Awareness Campaigns:**
    - The Bill should mandate the implementation of nationwide awareness campaigns to highlight the capabilities and achievements of persons with disabilities in the creative industry.

- Collaborate with disability rights organizations, media houses, and educational institutions to ensure these campaigns are inclusive and far-reaching.

2. **Public Education Programs:**
   - Introduce educational programs that challenge societal stereotypes and promote the inclusion of persons with disabilities in the creative economy.
   - Integrate disability awareness into the school curriculum, particularly in subjects related to art, culture, and innovation.

2. LACK OF ACCESSIBLE AND TAILORED TRAINING PROGRAMS

Current Situation:

There is a significant shortage of training programs that are both accessible to and tailored for persons with disabilities. This gap prevents many talented individuals from acquiring the skills needed to succeed in the creative industry.

Challenges:

- Insufficient training facilities that cater to the needs of persons with disabilities.
- Lack of specialized training programs that incorporate assistive technologies.
- Inadequate provision for sign language interpreters, braille materials, and other accessibility tools in existing programs.

Recommendations:

1. **Development of Accessible Training Centers:**
   - Establish training centers across the country that are fully accessible to persons with disabilities, equipped with necessary assistive technologies, and staffed with trainers who are skilled in working with disabled individuals.
2. **Creation of Tailored Training Programs:**
   - Design and implement specialized training programs that address the unique needs of persons with disabilities in various creative fields such as visual arts, performing arts, digital media, and crafts.
   - Ensure these programs are available in all counties to promote inclusivity and equal access.
3. **Partnership with Educational Institutions:**
   - Partner with universities, colleges, and vocational training institutions to offer inclusive creative courses that accommodate persons with disabilities.

- Provide scholarships and grants specifically for disabled individuals to encourage their participation in these programs.

3. LACK OF MENTORSHIP AND SUPPORT NETWORKS

Current Situation:

Mentorship is a critical component for success in the creative industry, yet persons with disabilities often lack access to mentors who understand their unique challenges and can guide them effectively.

Challenges:

- Limited availability of mentors who are experienced in working with persons with disabilities in the creative industry.
- Lack of structured mentorship programs that connect disabled creatives with industry professionals.
- Social isolation of persons with disabilities, leading to reduced networking opportunities.

Recommendations:

1. **Establishment of a National Mentorship Program:**
   - The Bill should include provisions for the creation of a national mentorship program specifically for persons with disabilities in the creative sector.
   - This program should connect disabled creatives with successful industry professionals, including those with disabilities, to provide guidance, advice, and support.
2. **Mentorship Training for Industry Professionals:**
   - Provide training for industry professionals on how to mentor persons with disabilities effectively, addressing both the technical and emotional aspects of mentorship.
3. **Creation of Support Networks:**
   - Develop local and national networks for disabled creatives to facilitate peer support, collaboration, and sharing of resources.
   - Encourage the formation of associations and groups where persons with disabilities can come together to advocate for their rights and interests within the creative economy.

4. LACK OF OPPORTUNITIES FOR PARTICIPATION AND GROWTH

Current Situation:

Opportunities in the creative sector are often inaccessible to persons with disabilities due to physical barriers, lack of targeted initiatives, and

discrimination. This results in limited participation and career advancement for disabled creatives.

Challenges:

- Physical inaccessibility of workspaces, studios, galleries, and event venues.
- Discrimination in hiring practices within the creative industry.
- Lack of targeted initiatives and programs that support the inclusion of persons with disabilities.

Recommendations:

1. **Accessibility Audits and Upgrades:**
    - Mandate regular accessibility audits of creative workspaces, public venues, and event spaces to ensure they meet the needs of persons with disabilities.
    - Provide funding and incentives for businesses and organizations in the creative sector to make necessary upgrades for accessibility.
2. **Incentivization of Inclusive Practices:**
    - Offer tax breaks and other incentives to companies and organizations that demonstrate a commitment to hiring and supporting persons with disabilities in the creative industry.
    - Establish a quota system for government-supported creative projects, ensuring a minimum percentage of participants are persons with disabilities.
3. **Creation of Opportunities for Disabled Creatives:**
    - Introduce grants, scholarships, and fellowships specifically aimed at persons with disabilities to encourage their participation and growth in the creative sector.
    - Support the development of inclusive creative hubs and incubators that cater to the needs of disabled creatives.

5. LACK OF ENCOURAGEMENT AND SUPPORTIVE ENVIRONMENTS

Current Situation:

Persons with disabilities often lack the encouragement and support needed to pursue careers in the creative sector. The absence of role models, recognition, and supportive environments can discourage them from realizing their full potential.

Challenges:

- Limited recognition of the contributions of persons with disabilities in the creative sector.

- Lack of role models and visible success stories to inspire disabled creatives.
- Unsupportive environments that fail to nurture the talents and skills of persons with disabilities.

Recommendations:

1. **National Recognition Programs:**
    - Establish a national recognition and awards program to celebrate the achievements of persons with disabilities in the creative industry. This would serve as a source of inspiration and motivation for others.
    - Include categories for disabled creatives in existing national and regional awards in the creative sector.
2. **Promotion of Role Models:**
    - Highlight success stories of persons with disabilities in the creative industry through media campaigns, documentaries, and public speaking engagements.
    - Encourage disabled creatives who have achieved success to mentor and support others who are starting their careers.
3. **Supportive Community Initiatives:**
    - Create community-based initiatives that provide a nurturing environment for persons with disabilities to develop their creative talents. These could include workshops, community centers, and online platforms dedicated to supporting disabled creatives.

6. LACK OF EQUAL SPACE AND VISIBILITY

Current Situation:

Persons with disabilities often struggle to access and utilize spaces where creative work is produced, displayed, or performed. This inequality limits their visibility, participation, and ability to showcase their talents.

Challenges:

- Inaccessibility of creative spaces such as studios, theaters, galleries, and public event venues.
- Limited opportunities for persons with disabilities to display or perform their work.
- Inadequate representation of disabled creatives in mainstream media and industry events.

MEMORANDUM ON THE INCLUSION OF PERSONS WITH DISABILITIES IN THE CREATIVE ECONOMY SUPPORT BILL, 2024

Recommendations:

1. **Mandating Accessible Creative Spaces:**
    - Ensure that all creative spaces, including studios, theaters, galleries, and public event venues, are fully accessible to persons with disabilities. This includes physical access as well as access to information and communication technologies.
    - Introduce penalties for non-compliance to ensure that accessibility standards are upheld.
2. **Creation of Inclusive Events:**
    - Support the development of inclusive creative events that provide equal opportunities for persons with disabilities to showcase their talents.
    - Encourage the participation of disabled creatives in mainstream events by offering accessible accommodations and resources.
3. **Increased Media Representation:**
    - Promote the inclusion of disabled creatives in media coverage, including television, radio, and online platforms.
    - Encourage media houses to feature stories, interviews, and profiles of persons with disabilities who are making significant contributions to the creative industry.

CONCLUSION

In conclusion, while the Creative Economy Support Bill, 2024 presents an opportunity to enhance the creative sector in Kenya, it must be more inclusive of persons with disabilities. The recommendations provided in this memorandum aim to ensure that the Bill addresses the specific needs of disabled creatives, thereby promoting a truly inclusive and equitable creative economy. We urge the Senate to consider these recommendations and amend the Bill accordingly to reflect the diverse talents and contributions of all Kenyans, including those with disabilities.

Dj Euphoric
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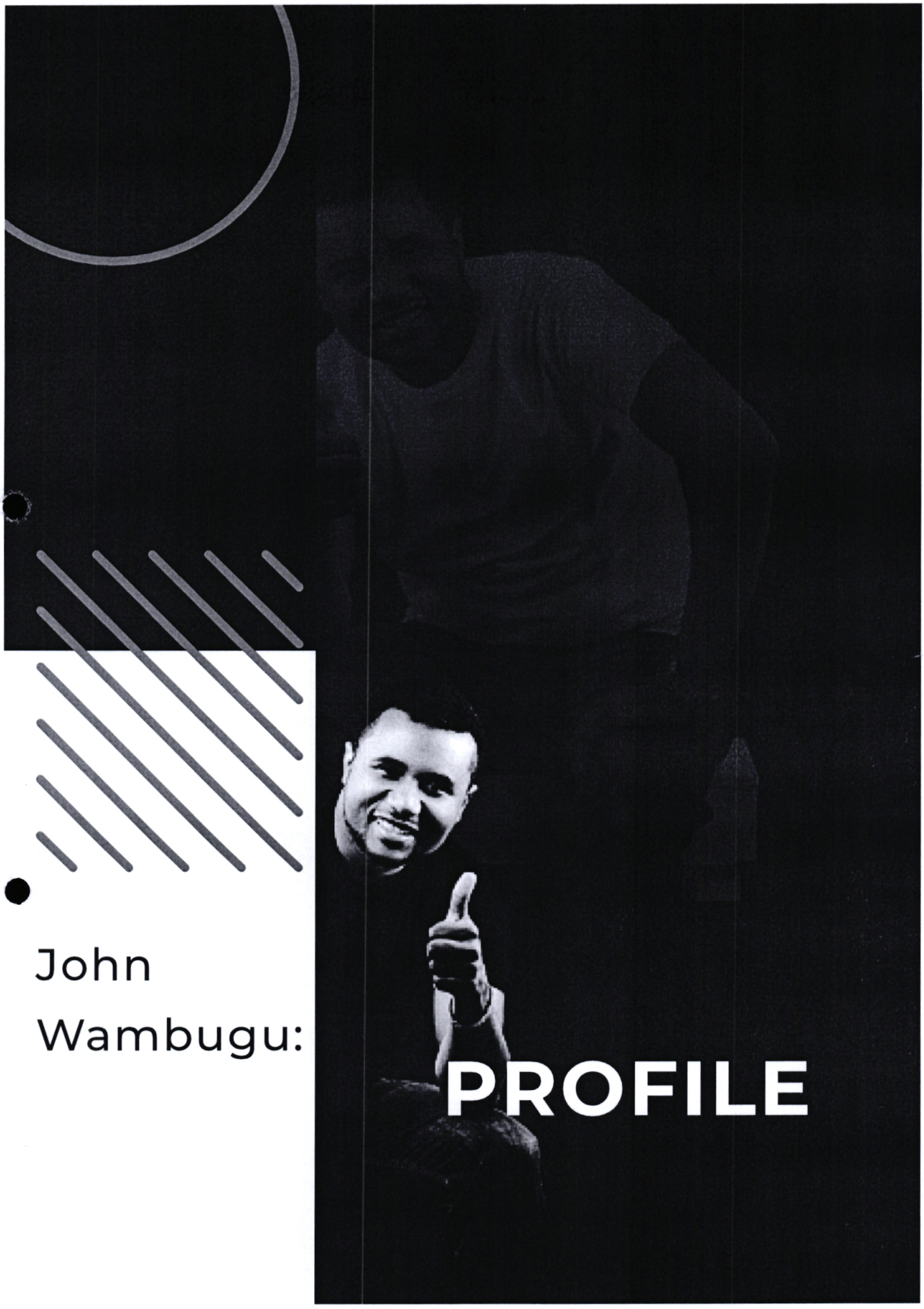


John Wambugu:

PROFILE

A VISIONARY IN THE CREATIVE ECONOMY AS A LINKAGE FOR LOCALIZING SUSTAINABLE DEVELOPMENT





John Wambugu is a highly sought-after expert in the creative economy offering linkage on how the creative economy and industries can amplify and localize sustainable development in Africa. He is also a route-to-market technology consultant, renowned for his significant contributions and innovative leadership in the creative goods and service industry in Kenya and Eastern Africa.

With over eight years of experience at the helm of global imaging company Canon, John has played a pivotal role in shaping the company's strategic development strategies in Eastern Africa. As the architect of the Canon Educational Programme, he successfully localized expanded its reach to over 15 countries, positively impacting the lives of more than 5,000 youth to benefit from creative empowerment programme through skilling and upskilling.



In his tenure at Canon, John also served as the Head of Business Development for the Pro Imaging division and spearheaded strategic partnerships across Eastern Africa. His visionary approach and deep understanding of market dynamics made him a key figure in driving Canon's growth and presence in the region and being awarded the Canon star innovative award for his innovative approach and contribution to the Company within the Africa market three years in a row. Another feather includes the successful launching of the first African Canon virtual film School- Canon Academy Video and content creator camera bundle to support the African creative economy through skills and talent growth.



Beyond his corporate achievements, John is the founder of MindMe International (2012), a duly registered and recognized non-profit organization dedicated to empowering communities through sustainable development. MindMe International focuses on using education as a catalyst for various programs, including "Wezesha Creatives," a nationwide creative empowerment initiative targeting universities and counties in Kenya which has been instrumental in nurturing creative talents and providing opportunities for young people to thrive in the creative industry. Another program under MindMe International is “Laibu Mtaani” aimed at setting up solar powered community libraries with tech hubs in marginalized urban and rural communities in Kenya.

John is a passionate advocate of the United Nations Sustainable Development Goals (SDGs), leveraging his platform to promote sustainability and social impact. He hosts the "Beyond Impact Show," a podcast that highlights and celebrates individuals, corporations, and organizations committed to advancing sustainability and the SDGs. Through this platform, John amplifies the voices and efforts of those making a difference in creating a more sustainable world.

https://www.youtube.com/@beyondimpactshowwithj.w/videos



His dedication and impact have been widely recognized. John was nominated for the 2021 World Economic Forum Young Global Leaders class, and he was awarded 1st runner-up in the SDGs Advancement Project in 2020 by Kenya's Ministry of Planning and SDGs Kenya. Additionally, he received the United Nations WHDO Community SDGs Service and Founders Award in 2019 for his exceptional work in supporting sustainable development through MindMe International. The "Laibu Mtaani" Community Libraries initiative under MindMe International also won the best pitch at the 2019 Kijiji Innovation Pitch Awards, securing a solar power grant.

John's contributions to the creative sector have been equally notable. He won the overall Climate Change Photography Award by the Kenya Photography Association and the French Embassy in 2015 and was awarded the overall Kenya Photography Documentary Portraiture Series Award in 2016. He was also nominated as the best Director of Photography for the Africa Magic film viewer's choice awards.

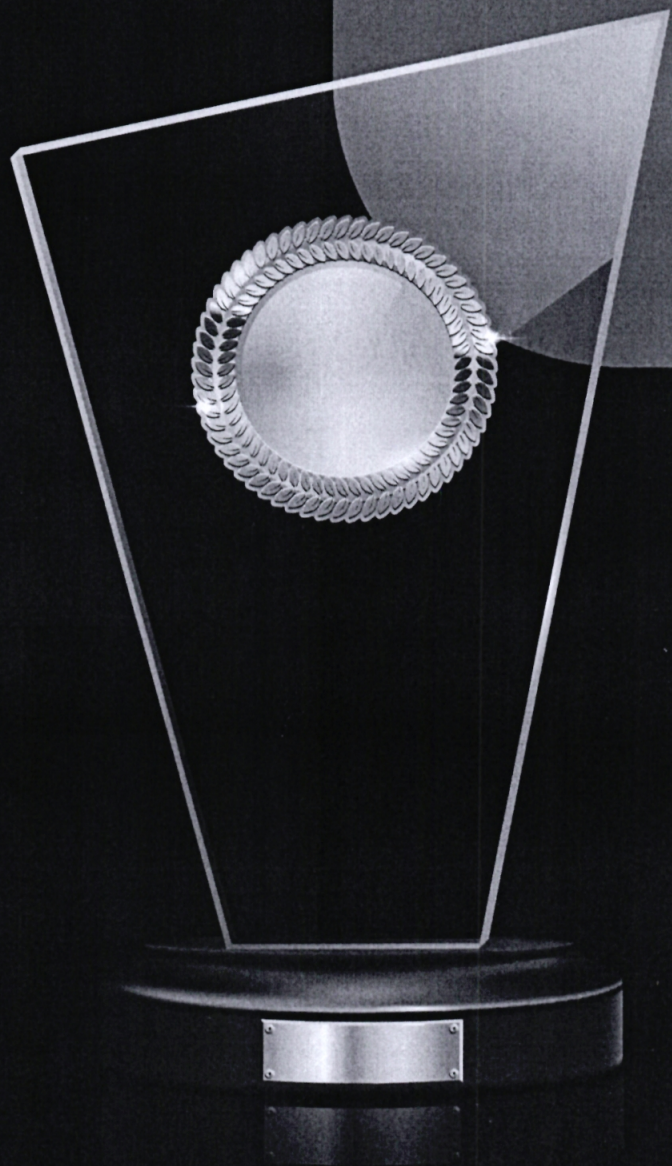
In 2019, he was appointed by the Kenyan Government to be part of a 3-year committee to develop a new film curriculum to be taught in all technical colleges in Kenya. (TIVET).











John holds a ***Master's degree in Development Communications*** from the United States International University a Senior Management Course from Kenya School of Government, an Undergraduate Degree of Bachelor in Commerce-Actuarial Science Major from Kenyatta University and a Higher Diploma in TV and Film Production from the Mohamed Amin Foundation (***Reuters Scolarship***).

He is deeply committed to advancing the creative economy industries and promoting social and economic development across Africa. His work continues to inspire and drive positive change, making him a prominent figure in the realms of creative economy, technology, and localized sustainable development.



Wandiri Karimi
Co Founder
African Women's Orchestra
P O Box 74419-00200
Nairobi
Kenya
30th August 2024,

Clerk of the Senate
P O Box 41842-00100
Nairobi
Kenya,

Dear Members of the Committee Trade Industrialisation and Tourism,

CREATIVE ECONOMY SUPPORT BILL (NO 30 OF 2024) MEMORANDUM

Introduction

UNESCO uses the broader term Cultural and Creative Industries (CCI) which is often also referred to as the Creative Economy. The following terms are used precisely and are not synonymous nor interchangeable.

1) cultural industries referring to industries which combine the creation,production and commercialization of creative contents which are intangible and cultural in nature. The contents are typically protected by copyright and they can take the form of a good or a service. Cultural industries generally include printing, publishing and multimedia, audiovisual, phonographic and cinematographic productions as well as crafts and design.
2) creative industries encompasses a broader range of activities which include the cultural industries plus all cultural or artistic production, whether live or produced as an individual unit. The creative industries are those in which the product or service contains a substantial element of artistic or creative endeavour and include activities such as architecture and advertising.[1]

With the globalisation of cultural exchanges and the international competition accruing from it, the promotion of strong national creative industries has become a strategic challenge for Kenya. Creative industries play a significant role in the socio-economic development of a country, with their activities contributing to the development through social inclusion, cohesion, investment, tourism, employment and income generation.

The creative industries in Kenya constitute the following; cultural sites and monuments; cultural expressions; publishing and printed media; design; visual arts; performing arts; audio-visuals; new media; and creative services. The creative economy is vital for the realisation of Kenya's development goals.[2]

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[1] Understanding Creative Industries Cultural statistics for public-policy making pg 3
[2] National Policy on Culture and Heritage Chapter 5 Introduction to Cultural Industries

Issues with the Bill As Proposed

The Bill in its entirety has the following glaring issues:

1. There are already existing structures and institutions in various ministries that cover the subject matter of this legislation and instead of creating other institutions they should empower the institutions through current bills and upcoming bills and amendments on this strengthening including institutions such as but not limited to Department of Culture, Department of Arts, The Kenya Cultural Centre, National Museums of Kenya, Department of Film Services, Kenya Film Commission, Kenya Film Classification Board, Kenya National Archives, Ministry of Education, Ministry of Foreign Affairs, Ministry of Tourism and Wildlife, Ministry of Information, Communication and Technology. This bill proposes to have its affairs managed by the Ministry of Trade which does not include any of the departments heavily involved in the Creative Economy and therefore creates a bureaucratic barrier to its efficacy and a danger that the Cabinet Secretary will neither have a team on hand with relevant knowledge but also the risk that the the Creative Economy will be deprioritised in a docket that has many more prominent sectors.
2. There already exist funds including the Youth Fund, and Sports Fund that have not been properly managed and made available to the Creative Economy and creating a new fund will not ensure that the funds reach the ones who are most critical in building the industry furthermore the national government has a mandate in the institutions mentioned above and in my opinion, the Creative Economy funding bill other than creating a guild should be guiding the counties where culture has been devolved to, to create allocations within their budgets for the already identified needs of the creative economy through professionally conducted studies by for example allocating a minimum percentage of county fund allocation to the creative industries to achieve the constitutional commitments at a devolved level.
3. The proposed fund exclusion of non-youth actors in the creative economy in addition to being discriminatory, is counterintuitive by not supporting intergenerational development to ensure that there is early, mid and advanced career support

I hope that the bill is withdrawn and **if** another bill is tabled it is created through research with the relevant stakeholders including government bodies so that it harmoniously focuses on the needs of the entire Cultural and Creative Industries that make up the Creative Economy. The stakeholders must be appropriately represented so that the laws, present and future, leverage already existing structures and strengthen the institutions by ensuring the integrity of the officeholders and adherence to the Constitution is prioritised.

Yours Sincerely



WAndiri Karimi

Co-founder, African Women's Orchestra.

MEMORANDUM TO THE SENATE OF KENYA REGARDING THE CREATIVE ECONOMY SUPPORT BILL (SENATE BILLS NO.30 OF 2024)

30TH AUGUST 2024

The Clerk of the Senate
Parliament Buildings
P.O BOX 41842 - 00100
00100 Nairobi

Cc: Committee on Trade, Industrialisation & Tourism

1. Preamble
Honourable Chair and Committee members,

I am responding to the invitation by the Clerk of the Senate for the public's input on the Creative Economy Support Bill (Senate Bill No. 30 of 2024)

As a Kenyan citizen who advocates for accountability, good governance, gender equality, and a strong democracy, I have considered this bill and submitted my insights, commentary, and response to the above bill.

2. CONCERNS AND APPRECIATIONS OF THE CREATIVE ECONOMY SUPPORT BILL 2024 (SENATE BILLS NO.30 OF 2024)

a) **Appreciation** of the Creative Economy Support Bill and the recognition of the need for a creative fund.
b) The **concern** of the bill being under the Cabinet secretary of the Ministry of Trade and Industry instead of being under the Cabinet secretary of the Ministry of Youth Affairs, Sports and Creative Economy, or the Cabinet secretary of the Ministry of Gender, Culture the Arts and Heritage which are ministries directly dealing with the creative economy and those working in it.
c) The concern in the bill assigning excessive powers to the Ministry concerned with matters of trade. There is little oversight on the cabinet secretary and in my opinion it is also unrealistic to expect the cabinet secretary to oversee so many duties and this includes but is not limited to maintaining and establishing an online platform (Section 4) and listening to appeals made by applicants to the guild (Section 16 subsection 4). Our aim should be to strengthen institutions not individuals.
d) The concern in the bill forming a creative Industry guild (Section 6). Guilds should not be formed by bills or acts of parliament. Guilds and more so creative guilds world over are formed by industry players to champion for the rights of the individuals in the various industry. Kenya already has several guilds representing various actors in the creative industry. Moreover it is wrong to group all creatives under one guild without consideration for the nuances and differences in the work they do and in their diverse needs.
e) The concern in the bill creating a guild and secretariat that will replicate the work done by other organisations for example section 7 subsection B, it is already the mandate of the Kenya film Commission to Generate and manage film industry research. In Section 7 subsection there is also a replication in the duties performed by the Kenya Copyright Board
f) The concern in the Bill to create a guild and board that can be weaponised to curtail freedoms provided for in the constitution. Section 7 subsection k and l for example can

be used to enhance censorship and the curtail the right to freedom of expression and right to artistic creativity (article 33 section 1 subsection b of the constitution of Kenya)

g) The concern in the bill to create an unincorporated advisory board to govern the guild. The creation of this unincorporated board is very worrying as a board like this cannot be sued or held to account for decisions made while in office. This lack of accountability will enable corruption.

h) The concern in the bill to create an administrative unit to serve as a secretariat of the Board. This administrative unit will be domiciled in the ministry of trade and will perform functions as per Section 14 of the bill. I feel that this is unnecessary because we already have two ministries dealing with matters of the creative economy and creatives. This is a replication of duties as the duties listed in section 14 are in the mandate of various government bodies and in the mandate of the Ministry for sports, Youth Affairs and Creative economy as well as the Ministry for Gender, culture arts and heritage.

i) The concern in the bill discriminate against persons not in the guild. Though membership to the guild is voluntary (Section 15) the bill goes on to give incentives only to people in the guild (Section 26). This is unconstitutional and curtails on creatives' freedom of association.

j) The concern in the bill to discriminate against people above the age of 35. The bill establishes a creative fund which is only accessible to people below the age of 35 (Section 21 subsection 3 a.) There is no need to cap the age limit for the fund as this fund is not under the ministry of youth. This can therefore be deemed as unconstitutional as it uses age to discriminate.

3. RECOMMENDATIONS TOWARDS THE CREATIVE ECONOMY SUPPORT BILL, 2024 (SENATE BILLS NO.30 OF 2024)

Honourable Senators, after careful consideration of the bill, these are my recommendations concerning this bill

I. That the Senate reject or withdraw this bill as it is detrimental and unnecessary to the creative industry. The bill will duplicate services and offices, and in effect weaken already existing offices. The government of Kenya should play an oversight role, strengthening existing guilds and ensuring prosecution on those infringing on copyright laws and not establish a guild. The government should fund government bodies already administering grants and funds to creatives.

4. CONCLUSION

Honourable members, I thank you for considering this response and my recommendations. I appreciate the drafter of this bill and request the rejection and, or withdrawal of this bill as it is likely to the creative industry to harm.

Kind regards,
Concerned Citizen and Filmmaker



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Kind regards,
Concerned Citizen and Filmmaker



Strathmore University
Centre for Intellectual Property and Information Technology Law

30th August 2024

J.M. Nyegenye, CBS,
Clerk of the Senate,
P. O. Box 41842-00100,
Nairobi, Kenya.

Dear Sir,

RE: MEMORANDUM SUBMISSION – THE CREATIVE ECONOMY SUPPORT BILL (SENATE BILLS NO.30 OF 2024)

Greetings from the Centre for Intellectual Property and Information Technology law (CIPIT) at Strathmore University. CIPIT is a think tank established in 2012. The scope of our work includes evidence-based research and training in intellectual property (IP) law and policy, especially as they contribute to African law and human rights.

In response to your call for Memoranda, we submit herewith our input on the Creative Economy Support Bill ("the Bill"). Our detailed comments on the Bill are in the attached addendum. Below, we provide some general comments on various aspects of the Bill.

The proposal to enact a law aimed at supporting the creative industry and enhancing its economic contribution is commendable. However, the current version of the Bill contains several issues that could hinder its effectiveness if passed as is. The Bill suggests establishing a voluntary Guild to support Kenya's creative industry, but the benefits are restricted solely to Guild members. As a result, creatives who choose not to join the Guild would be excluded from government support, including fiscal incentives, intellectual property registration and enforcement, and capacity-building initiatives. This approach is both limiting and exclusive. To rectify these concerns, the Bill should be revised to include criteria for membership that extends support to all qualifying creatives, irrespective of Guild affiliation, and to broaden the eligibility criteria for incentives. This would foster a more inclusive strategy that benefits the entire creative industry and enhances its economic impact.

Additional key recommendations for improvement include:

1. Establishing clearer mechanisms for financial accountability and specifying funding sources to enhance transparency and resource management.
2. Promoting collaboration in the development of creative subjects in the curricula.
3. Removing age restrictions for funding eligibility.
4. Providing detailed guidelines regarding the roles and responsibilities in administering support programs.
5. Clarifying the scope of support offered by the Guild and implementing measures to avoid conflicts of interest, which are essential for creating a fair and supportive environment for all creatives.

Strathmore University
Centre for Intellectual Property and Information Technology Law

CIPIT advocates for a comprehensive approach to developing an IP legal framework that maximizes benefits for all stakeholders. Best practices suggest that policy development should precede legislation, as this process highlights weaknesses and constraints that need to be addressed within the law. We urge that the content of the Creative Economy Startup Bill be first incorporated into a policy framework to leverage strengths and opportunities for supporting the creative industry. We are eager to assist in the development of policies and laws that contribute to a model IP system. You may contact CIPIT at cipit@strathmore.edu or +254 0703 034 612.

Yours sincerely,
CIPIT.

Ole Sangale Rd, Madaraka Estate. PO Box 59857-00200, Nairobi, Kenya.
Email: cipit@strathmore.edu Website:www.cipit.strathmore.edu

Strathmore University
Centre for Intellectual Property and Information Technology Law

Addendum to the letter dated 30 August 2024

Detailed analysis of the Creative Economy Support Bill

Clause	Provision	Recommendations	Justification
Section 3	Mandates both the national and county governments to create an enabling environment for the creative industry through various means, including policy formulation, investment in infrastructure, and market access facilitation.	Amend Section 3 to include clear mechanisms for accountability and enforcement. The Bill should outline specific, measurable outcomes and timelines to ensure the obligations of both national and county governments result in tangible benefits for the creative industry.	Defining measurable outcomes will reduce the risk of non-implementation and hold government bodies accountable for delivering their commitments to the creative sector.
Section 5	Requires the Cabinet Secretary responsible for education to ensure the curriculum developed under the Kenya Institute of Curriculum Development Act includes subjects related to the creative industry.	Include Intellectual Property among the key subjects within the curricula.	The current curricula already include subjects related to the creative industry, such as music and art. It would be prudent to incorporate intellectual property, as it is missing and is crucial to the creative industry. Additionally, collaboration between the Creative Industry and the Cabinet Secretary for education will ensure that the subjects align with the evolving demands of the creative industry, thereby enhancing the relevance of educational content and preparing students for careers in the sector.
Section 15	Provides for a voluntary basis of membership to the Guild.	Expand the section to specify the criteria for membership to the Guild.	A clear set of eligibility criteria for membership would provide clarity for applicants and enhance transparency in the Board's vetting, approval, or rejection process outlined in Section 16. The voluntary nature of membership should be explicitly connected to the fact that it does

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			not limit access to support and incentives for those who opt not to join. If support is exclusively available to Guild members, this provision could be misleading and insufficient to address concerns about potential exclusion.
Section 16	Application to the Guild.	Include guidelines or criteria on what constitutes grounds for approval, conditional approval, or rejection to ensure transparency, consistency and fairness.	The application process should be designed to be accessible and straightforward to ensure that interested individuals are not deterred by bureaucratic hurdles.
Section 20	This section establishes a Creative Fund to provide financial support to creatives through grants.	Provide specificity regarding funding sources from Parliament. Expand the section to specify funding sources and provide guidelines on the management of external contributions to ensure transparency and accountability. Include detailed provisions on the governance structure, management, and financial oversight of the fund. Include measures to prevent conflicts of interest and ensure ethical management of the fund.	Relying on money that " may be appropriated by Parliament," lacks guarantees and unpredictable grants or donations, with no clear management guidelines could lead to potential instability of the Fund. These gaps ought to be addressed to ensure that the Creatives Fund is a reliable, transparent, and effective tool for supporting the growth and development of the creative economy.
Section 21	Provides the objects of the Creative Fund including the criteria of eligibility. Section 21 (3) restricts the age limit to 35 years.	Revise the eligibility criteria for the Creatives Fund to remove the age limit. The fund should be accessible to all creatives, regardless of age.	Creativity does not diminish with age. Expanding eligibility would encourage a more diverse and enriched contribution to the creative industry, supporting innovation across all age groups.
Section 22	Allows the Cabinet Secretary, in consultation with the Board, to establish	Revise the language in subsection (1) (*The Cabinet Secretary **may**, in consultation with the Board and*	These amendments will ensure the credit guarantee scheme is well-funded, effectively managed,

	a credit guarantee scheme to support creatives.	***where necessary for the development and growth of creatives under this Act**, establish a credit guarantee scheme*) to make the scheme's establishment mandatory. Specify funding sources and financial commitments for the scheme. Provide detailed implementation and oversight mechanisms.	and sustainable, providing meaningful support to creatives while mitigating potential risks.
Section 24	Mandates the Guild to facilitate creative artists in various IP-related processes, including registration, grant revocation, and legal action for infringement.	Amend the heading from "Application for grant or revocation of patents" to "Registration and enforcement of intellectual property rights." Revise Section 24(1) to clearly define the scope of the Guild's support, for example, legal representation, financial assistance, or advisory services. Additionally, include a framework for managing conflicts of interest among members with competing or overlapping IP claims.	The proposed reviewed heading encompasses the provision of the section. Clarifying the Guild's role will ensure transparency and fairness, enabling creative artists to understand the IP support available and how resources are allocated efficiently.

REPUBLIC OF KENYA

COUNTY ASSEMBLIES FORUM (CAF)

Flamingo Towers, 5th Floor Wing B, Mara Road, Upper Hill P.o Box 73552 - 00200 Nairobi Kenya Tel: 0701 046 933
Email:communication@countyassembliesforum.org www.countyassembliesforum.org

CAF MEMORANDUM ON THE CREATIVE ECONOMY SUPPORT BILL, 2024 (SENATE BILLS NO. 30 OF 2024)

TO: Mr. Jeremiah Nyegenye, CBS
Clerk of the Senate, Parliament of Kenya.

FROM: The County Assemblies Forum.

DATE: 30th August 2024

SUBJECT: CAF Memorandum on The Creative Economy Support Bill, 2024 (Senate Bills No. 30 of 2024)

1.0 INTRODUCTION

1. The County Assemblies Forum (CAF) is the coordinating body of the 47 County Assemblies in Kenya. The primary mandate of CAF is to promote networking and synergy among the 47 County Assemblies, coordinate intergovernmental relations and enhance good practice in legislative development. Our Mission is to provide effective leadership and coordination of the 47 County Assemblies and through policy and legislative action, promote a conducive working environment for all its members, and in that way deliver quality services to the people.

2. As one of the pillars of the devolved government system, CAF is committed to engage in processes that promote socio-economic development across all counties. The Creative Economy Support Bill, 2024, introduced by Senator Eddy Gicheru Oketch, is a critical piece of legislation aimed at establishing a framework to support the creative industry, which plays a significant role in Kenya's economy.

2.0. BACKGROUND

2.1. The principal object of the Creative Economy Support Bill, 2024 is to establish a legal framework for the support of persons in the creative industry and further enhance entry and contribution to the industry. The Bill further seeks to establish a Creatives Fund for purposes of financing creative initiatives by various creatives in the industry and for supporting the implementation and execution of creative projects.

2.2. Article 33 of the Constitution sets out that every person has the right to freedom of expression, which includes the freedom of artistic creativity. It is against this backdrop that Kenya's creative industry has developed over the last decade. This has especially been facilitated by the growth of diverse social media platforms through which Kenyans, especially the youth have found an outlet for expressing their creativity.

2.3. The traditional creative sector of television, film, performance theatre and music in

Kenya additionally still has a lot of potential for creative growth and employment. Various African countries such as Nigeria have greatly synergised with their respective creative sectors and built cultural identities around music, tv and film production. These countries have enabled citizens to create sustainable careers in their creative economies, an objective we seek to achieve through this Bill.

2.4. Additionally, The Bill defines the creative industry as all activities or trade by persons that produce artistic, cultural or innovative goods and services, including fashion, publishing, advertising, craft, music, audio, visual and performing arts, video, film and imaging photography, gaming, animation, graphic design and web design that originate from creativity, skill and talent whose exploitation may result in the creation of wealth and livelihood through the generation and exploitation of intellectual property, knowledge and technology.

2.5. The Bill proposes the creation of a Creatives Fund, sourced from monies appropriated by Parliament, grants, donations, and other gifts. This Fund will provide financial assistance to individuals and organizations within the creative industry.

2.6. The Bill mandates the incorporation of subjects related to the creative industry into the curriculum developed by the Kenya Institute of Curriculum Development (KICD), ensuring that the education system supports the growth of the creative economy.

3.0. GENERAL COMMENTS.

3.1. The CAF acknowledges the potential of the Creative Economy Support Bill, 2024, to transform the creative industry in Kenya. However, while the Bill introduces several positive measures, there are also areas that require careful consideration to avoid unintended negative consequences.

3.2. The establishment of the Creatives Fund (Clause 20) is a commendable initiative. By providing a dedicated financial resource, the Bill ensures that creatives have access to necessary funds for their projects, which is crucial for sustaining and growing the creative industry.

3.3. The mandate given to the Creative Industry Guild to protect intellectual property rights (Clause 7) is a critical step towards ensuring that creatives can benefit from their work. This will encourage innovation and creativity by providing a secure environment for creatives to produce and share their work.

3.4. The Bill's provision to include creative industry subjects in the national curriculum (Clause 5) is a forward-thinking approach. This will equip future generations with the skills and knowledge necessary to thrive in the creative economy, thereby ensuring the industry's long-term sustainability.

3.5. The Bill centralizes significant control within the Creative Industry Guild and the Cabinet Secretary, particularly in the distribution of funds and the creation of regulations (Clauses 21 and 27). This could lead to bureaucratic delays and uneven distribution of resources, potentially disadvantaging creatives in more remote or underserved areas.

3.6. Clause 26, which limits incentives to members of the Guild, risks excluding a significant portion of creatives who may not be aware of or able to register with the Guild. This could lead to inequality within the industry, where only those affiliated with the Guild

benefit from the Bill's provisions.

3.7. While the establishment of the Creatives Fund is a positive step, there are concerns about its long-term sustainability (Clause 20). The reliance on parliamentary appropriations, donations, and grants may not be consistent, leading to potential shortfalls in funding that could hinder the effectiveness of the support provided to creatives.

3.8. CAF appreciates the opportunity to contribute to this Bill and on the basis of the foregoing proposes the following amendments;-

4.0 SUMMARY MATRIX OF THE PROPOSED AMENDMENTS.

NO.	CLAUSE	PROPOSED AMENDMENT	JUSTIFICATION
1.	**Clause 19 (d) of the Bill** **Support the Creatives** "The Guild shall, in collaboration with the respective county executive committee members responsible for matters relating to trade, put in place measures to support the establishment and development of the creative industry and shall, for this purpose – …… …… **(d)** provide support in the form of research and development activities; and……..."	Amend the Clause to state: - "The Guild shall, in collaboration with the respective county executive committee members responsible for matters relating to trade, put in place measures to support the establishment and development of the creative industry and shall, for this purpose – …… …… ……(d) provide support in the form of research and development activities that are aligned with county-specific	➢ This amendment ensures that research and development activities supported under the Bill are relevant to the unique cultural and economic conditions of each county, thereby enhancing the impact of the Bill at the local level.

		needs and opportunities, ensuring that creatives across all counties can access tailored support that reflects local cultural and economic contexts; and……..”	
2.	**Clause 22(2)(e) of the Bill** **Credit Guarantee Scheme** “…….**(e)** capacity building on financial and risk management to creatives.”	Amend the Clause by adding a subclause 22(2) (e) to state: - *“(22(2)(f) The credit guarantee scheme shall include provisions for collaboration with county governments to ensure that creatives in all counties have equitable access to financial support and that the scheme addresses regional disparities in access to credit”*	➢ This amendment ensures that the credit guarantee scheme is inclusive and considers the diverse needs of creatives across different counties, thereby promoting equitable development of the creative industry nationwide.
3.	**Clause 26 of the Bill** **Scope of Incentives** “The incentives and benefits under this Part shall only be made	Amend the Clause by adding a subclause 26(2) to state: -: - “"26(2) *The Guild shall, in collaboration with county*	➢ Decentralizing the registration process and access to incentives will ensure that creatives in remote and underserved areas

	available to members of the Guild whose names have been entered into the roll under section 11."	*governments, ensure that the process of registering with the Guild and accessing incentives is decentralized to county levels, thereby promoting wider participation and inclusion of creatives from all regions."*	are not disadvantaged, thereby fostering inclusivity and promoting the growth of the creative sector across all counties.

Yours sincerely,



HON. PHILEMON K. SABULEI,

CHAIRPERSON CAF

Arthur Oloo

P.O Box 70515 - 00200

Nairobi, Kenya

19th August 2024

The Chairperson Senate Committee on Trade, Industrialisation and Tourism Parliament Buildings Nairobi

Dear Sir/Madam,

Re: Submission on the Creative Economy Support Bill, 2024

I write in reference to the Creative Economy Support Bill, 2024, which is currently under consideration by the Senate Committee on Trade, Industrialisation and Tourism. As a stakeholder in the creative economy, I wish to submit the following comments and recommendations for the Committee's consideration.

While the Bill is a commendable step towards supporting the creative industry, I propose an alternative approach that I believe will have a more profound and sustainable impact on the sector.

I propose the establishment of the Kenyan Recording and Creative Arts Academy (KRCAA) through the strategic utilization of the Blank Tape Levy. This model, inspired by the success of the America's Recording Academy, aims to create a holistic ecosystem that supports artists at every stage of their careers, from education and training to recognition and welfare.

The KRCAA would offer a range of initiatives, including:

- World-class education and training programs
- The Kenyan Music Awards (KEMAs)
- A Hall of Fame for industry legends
- Welfare programs for artists in need

By redirecting a portion of the Blank Tape Levy to fund these initiatives, we can create a sustainable financial model for the academy.

I believe this approach will not only benefit artists but also contribute significantly to the growth and development of the Kenyan creative economy.

I would be happy to elaborate on these proposals during a meeting or provide additional information as required. Thank you for considering my recommendations.

Sincerely,

Arthur Oloo

olooarthur@africabeat.app

+254792008528

30th August 2024.

GEORGE KIMANI - SUBMISSION : CREATIVE SECTOR SUPPORT BILL.

As a member of the Distributors Guild of Kenya a registered entity in Kenya, composed of professionals who handle the business of acquisition and licensing of films on behalf of film makers locally and internationally.

With experience of 20yrs working in the media sector (not a journalist) in the management and as a consultant for Television and Radio channels in Kenya and East Africa. At the same time started distributing film from 2003 to date.

I have been actively involved in the Film Sector policy discussions from 2006 during the Local content policy making, I have read the Creative Sector Bill severally, and also read related bills and Acts affecting the Creative Sector to get a clearer picture of the intention and remedies being offered.

Creative Economy Development Policy

The Creative Industries Bill

The Creative Economies Support Bill

The Film Policy

Communications Act 2012 plus Amended till 2023/4

My researched feedback on the Bill.

1)
2)
3) Obligation of the National Government – it's a general comment with no commitment on deliverables
    a) A general sweeping statement
    b) No remedy for coordination between County and GOK
    c) A random statement – colleges already offering programs, what shall be different?
    d) A sweeping statement – What about the existing spaces and facilities what's their utilization rate? before we create more
    e) Should cite the trade barriers if any exist?

f) Access of Funds for youth, women and people with disability is good; question is How?
g) We have had too many forums between private sector, little progress made on access of funds, investments etc
h) Why do we need a new bill to act on Kenya Film Commission mandate?
i) Why do we need a new bill to act on KFC mandate?

4) Online data base – already exists of works, artists and companies under Kecobo, KFC and KFCB
5) Already done under CBC and the 62 Year old Drama and Music Festivals is the best practical masterclass for our creative sector – remedy should be how to commercialize the winners to create jobs
6) Industry is already well organized into guilds and associations, there is a heads of associations, guilds engagement forum
7) This is a misguided idea which will create another layer of red tape and bureaucracy to further stifle growth
   a) Guild and Association heads already been engaging for the last 10years
   b) These (a) to (I) functions already been undertaken by KFCB, KFC, Kecobo, this replication of roles will kill the creative sector. Unless the intention is to disband KFCB, KFC and Kecobo for this group to handle their roles
   c) (m) CS should support and prop up already existing platforms if intention is to grow the industry
   d) (n) Guilds and Associations already have written down roles and responsibilities of their members and conflict resolution mechanisms
8) ' Unincorporated advisory board' is an amorphous group with no legal standing and shall be rejected by the creative industry
   a) (a) to (j) The association heads are always available and mandated by their members to represent their interests at all levels of government and private sector.
   b) The mandate of the industry heads is determined by the members, when their mandate to the association or guilds ends but the CS mandate is ongoing then trouble starts and the group mandate is questioned.
9) OK
10) This is a trigger for trouble 8.(b) – Industry trust shall be eroded because of government interference

11) From (11) to (18) demonstrate the wanton wastage of time and resources we are so accustomed and have normalized confusion by replicating the roles, functions and KPIs of already existing offices instead of enforcing the already existing mandates.
12) – (19) : Private sector is already incubating and the gov/ county Hubs across the country are actively doing this
13) – (20) : Creatives Fund – What's the source of funds ? How much shall it open with ? What is the criteria of disbursement ? How often ....random or structured calls to the industry ?
14) – (21)
    a) the only regulation deemed appropriate was to cut of the above 35yrs ? Is this a replica of the youth fund ? Creatives have no age limit , there is no legal or moral reason to have a cut off age, its discriminatory
    b) CS shall without public participation arbitrarily decide on all regulations for disbursement
15) - (22) May create a credit guarantee scheme.... Why is it may not happen ? this is a basic requirement for international investors like the Afrexim Bank
16) – (23) Utilize already existing platforms, institutions like TVETs and colleges to train other functions already being handled by other bodies
17) – (24) This is Kecobo officers role. Why replicate ?
18) – (25) First incentive would be to create a market at home by fully implementing the Communication Act of 2003 which stated 60% Kenyan content on radio and TV. Other countries are at 80% going to 100%
19) – (26) Incentives are for foreign investors, film companies the information should be openly available. South Africa has set the standard NVF website has full information
20) – (27) Self-regulation and creating a friendly business environment

RECOMMENDATIONS.

1) This Bill seems to suggest the creation of A National Creatives Authority (NCA) which would remedy all the issues of the creative sector
    a) A harmonized and coordinated legal environment – currently we have various disjointed confused and ineffective scenario

b) The key areas include but not limited to
   i) Culture and heritage
   ii) Music
   iii) Film
   iv) New Media and Digital
   v) Advertising
   vi) Architects and Design
c) The Creatives Support Bill replicates the roles of KECOBO, KFC AND KFCB – These would be departments / directorates within the authority
d) The Creative Sector is much wider than a simple act could cure, an independent authority will have the legal , policy mandate to incorporate the sector needs
e) The act doesn't even attempt to remedy the genocide of creative dreams in the music industry because of open thuggery taking place at some the well-known CMOs. When our music industry thrives it shall be very easy for the other industries to piggybag
f) The Act seems to want to handle issues of film but without any commitment – Film has the ability of employing 200,000 people in one year, support 20,000 businesses directly. Under an authority the Kenya Film Commission mandate can be streamlined to focus on the growth of productions and marketing of films.
g) Film already has budget which can be used to invest in the production of films without need for new laws, bills etc The 500Million used to put up film awards by the CA – Kuza awards, KFC – Kalasha and KFCB awards

2) The National Creatives Authority will have the mandate to run a Creatives Fund in a well-structured manner
3) Coordination of the national government and county government shall be well coordinated within the legal mandate of an authority
4) Kenya has not been able to access funds for film and creative sector through collaborations and co-productions because of lack of a substantive Creative Authority – Fund of their own.
5) National Creative Authority should be located in another county e.g. Nakuru or Makueni which has been known to have friendly creative sector policies to tap and grow the creative sector in other counties

Opposition to the Creative Economy Support Bill, 2024: Safeguarding Creative Freedom, Economic Empowerment, and Integrity

As stakeholders in Kenya's vibrant creative industry, we recognize the importance of legislative support for our sector. However, the Creative Economy Support Bill, 2024, in its current form, poses significant risks that could undermine the very creativity and innovation it aims to nurture.

Below are our key critiques, directly addressing specific clauses and referencing the rights enshrined in the Constitution of Kenya 2010:

1. Government Overreach and Censorship (Clause 27):

The bill grants extensive regulatory powers to the Cabinet Secretary responsible for trade, allowing for the creation of regulations that could severely limit creative freedom. This broad discretion risks censorship and suppression of dissenting voices within the creative industry. **Article 33** of the Constitution of Kenya 2010 guarantees the right to freedom of expression, including artistic creativity. The bill, as it stands, threatens this fundamental right.

2. Lack of Transparency and Accountability (Clauses 20, 22):

The establishment of the Creatives Fund and a credit guarantee scheme is commendable. However, the bill lacks robust mechanisms for ensuring transparency and accountability in the management of these funds. Without independent oversight, there is a high risk of corruption and misallocation of resources. **Article 10** of the Constitution emphasizes national values and principles of governance, including transparency and accountability. The bill must be revised to include stringent oversight mechanisms to align with these constitutional principles.

3. Potential for Misuse of Security Agencies (Clause 4):

The requirement for an online platform where creatives can publish events and current affairs, while seemingly beneficial, could be misused for surveillance and intimidation. This clause could lead to self-censorship among creatives. **Article 31** of the Constitution guarantees the right to privacy, including the right not to have one's private affairs unnecessarily required or revealed. The bill must ensure that this online platform is used solely for its intended purpose and not as a tool for surveillance.

4. Inclusivity and Representation (Clauses 6, 8):

While the bill aims to ensure representation from various creative sectors, it may not fully address the diversity within these sectors. Smaller or emerging sub-sectors might find it challenging to have their voices heard and needs met. **Article 27** of the Constitution guarantees equality and freedom from discrimination. The bill should be revised to ensure fair representation and inclusivity of all creative sub-sectors.

5. Enforcement and Compliance (Clauses 7, 24):

The protection of intellectual property rights is crucial for the creative industry. However, the bill's enforcement mechanisms depend heavily on cooperation between various stakeholders, which may not always be forthcoming. **Article 40** of the Constitution protects the right to property, including intellectual property. The bill should provide clear, enforceable mechanisms to protect these rights effectively.

Conclusion:

While the Creative Economy Support Bill, 2024, may be well-intentioned, its current form presents significant risks to the creative industry. True support lies in enhancing the freedoms that allow creativity to thrive, and not legislating such freedoms away into a den of corruption and favouritism.

Support for the creative economy MUST be done in a manner true to incorporating safeguards for transparency, accountability, holistic inclusivity, and artistic freedom. By aligning the bill with the rights and principles enshrined in the Constitution of Kenya 2010, we can ensure that it genuinely supports and enhances our creative economy.

#ProtectCreativeFreedom #KenyaCreativeEconomy

Yours faithfully

Njeri Macharia

Concerned Citizen of Kenya

To: The Parliament of Kenya: Senate

From: James Ahere- Weza Interactive Entertainment

Date: 29th August 2024

Memorandum on Recommendations for the Creative Economy Support Bill, 2024

1. Sector-Specific Regulations for Creative Clusters

Reference: Section 6-8 (Creative Industry Guild and Functions)

The proposal for a unified Creative Industries Guild covering all art disciplines, as outlined in the Bill, may not adequately address the specific needs of different creative sectors. Each art discipline, such as writing, film, music, and visual arts, has unique challenges and opportunities that require tailored interventions. A more effective approach would involve establishing an umbrella body that oversees sector-specific guilds, each dedicated to managing the distinct requirements of its respective field. This structure would allow for a nuanced and effective approach to supporting creatives, ensuring that all sectors receive the specific assistance they need to thrive.

2. County Involvement and Role of County Laws

Reference: Section 3 (Obligations of Government)

The Bill assigns significant responsibilities to both national and county governments in supporting the creative industry, particularly through collaboration with the Guild and decentralization of services. However, it currently lacks mechanisms for direct engagement between county executives and local creatives. Furthermore, it does not mandate the integration of creative industry development into County Integrated Development Plans (CIDPs) or the creation of county-specific strategies. To bridge these gaps, the Bill should include provisions that:

- Mandate regular ground-level consultations between county executives and local creative communities.
- Require the inclusion of creative industry development within CIDPs to ensure proper planning and resource allocation.
- Introduce monitoring and evaluation frameworks to assess the effectiveness of county-level initiatives in supporting the creative sector.

3. Addressing Exclusionary Membership Criteria

Reference: Section 21-22 (Creatives Fund and Credit Guarantee Scheme)

While the Bill introduces valuable frameworks for supporting creatives, the current age limit of 35 years for eligibility is overly restrictive. This limitation excludes many talented individuals who continue to contribute significantly to the creative economy beyond this age. Creativity is an

enduring quality that often matures over time. Therefore, it is recommended that funding criteria focus on the merit of the creative work and its potential impact rather than the age of the creator. An inclusive approach would establish funding guidelines that prioritize innovation, sustainability, and the capacity to contribute meaningfully to the creative economy, regardless of age.

4. Potential Issues with an Umbrella Guild

Reference: Section 6-8 (Creative Industry Guild and Functions)

The proposed creation of a blanket guild for all creative sectors poses several potential risks:

- **Increased Overlap and Confusion**: Given the diverse needs of different creative sectors, an umbrella guild might struggle to address these effectively, leading to generalized solutions that do not satisfy any particular sector.
- **Coordination Challenges**: The complexity of coordinating activities across vastly different creative fields could result in diluted focus, making it difficult for the guild to prioritize and effectively manage sector-specific issues.
- **Resource Allocation**: Larger or more established sectors might dominate the guild, leading to unequal representation and resource distribution, potentially marginalizing smaller or emerging sectors.

5. Concerns Over Corruption and Fund Management

Reference: Section 20 (Creatives Fund)

The establishment of a large, centralized fund to accommodate the needs of all creative sectors raises significant concerns about corruption and effective fund management. Given Kenya's history of public embezzlement and the presence of cartels within various sectors, a one-size-fits-all fund may be challenging to monitor and manage. Each creative sector has unique needs, and managing these under a single fund could lead to inefficiencies and increased opportunities for corruption. To mitigate these risks, it is crucial to implement stronger financial controls, transparency measures, and sector-specific oversight mechanisms. This could include independent audits, real-time monitoring of fund allocation, and stringent penalties for mismanagement.

Conclusion and Recommendations:

Given the current issues faced by existing guilds, the priority should be on addressing these problems before considering the establishment of an umbrella guild. The following steps are recommended:

- **Clarify Roles**: Clearly define the roles and responsibilities of each guild to avoid overlap and ensure efficient operation.
- **Enhance Legal Support**: Provide comprehensive legal education and representation to protect creatives from exploitation and ensure fair treatment.
- **Foster Collaboration**: Encourage collaboration among existing guilds for unified advocacy, without necessarily merging them into a single body.

- **Strengthen Anti-Corruption Measures**: Implement robust financial controls and sector-specific oversight mechanisms to ensure that funds are managed transparently and effectively, minimizing the risk of corruption and misallocation.

Final Note:

These recommendations aim to refine the Creative Economy Support Bill, 2024, ensuring that it effectively addresses the diverse needs of Kenya's creative sectors and provides a robust framework for sustainable growth and development in the creative economy.

PGK
PRODUCERS GUILD OF KENYA

29th August 2024

ATTN: Office of the Clerk of the Senate
clerk.senate@parliament.go.ke
cc: tradeindtourismcomm.senate@parliament.go.ke

Dear Sir/Madam,

RE: The Creative Economy Bill (Senate Bill No. 30 of 2024)

We, the Producers Guild of Kenya, write to you regarding the above-referenced bill.
Below are our comments and recommendations concerning the Creative Economy Bill (Senate Bill No.30 of 2024)

PART I – PRELIMINARY

Under Point 3:
Through the Kenya Film Commission (KFC), the film industry currently has a film liaison officer to coordinate production-related matters. We recommend that each county establishes a film department with a film liaison officer to coordinate with KFC and filmmakers on film production within the respective counties. This will streamline the filmmaking process and make it more seamless.

Under Point 4:
The proposed online platform should include a page with links to trailers for upcoming and past productions, catalogued by year.

Under Point 5:
In the curriculum developed for film production, locally produced films by Kenyan filmmakers should be licensed from the producers and included as part of the students' coursework. These films should be licensed on a three-year cycle. Additionally, experienced Kenyan film practitioners should be integrated into academia to teach and lecture on film production.

PART II – CREATIVE INDUSTRY GUILD

6A:
We recommend renaming the "Creative Industry Guild" to the "Creative Industry Federation." The term "guild" may limit creatives to specific crafts or artistic ventures, while "federation" suggests an umbrella body that can encompass multiple guilds.

The Creative Industry Federation should work harmoniously with existing guilds and associations within the industry. These guilds or associations should have the ability to bring forward issues that need addressing, which the federation would then action accordingly.
"Rogue" players in the industry should be reported to the Creative Industry Federation through the existing guilds or associations. The federation should have the authority to hold these players accountable and take necessary actions.

7(J):
The Federation should represent the interests of everyone working in the creative industry, not just women, youth, and persons with disabilities. This clause should be revised to ensure it is inclusive of all individuals in the industry.

15:
It should be stipulated that members of the Creative Industry Federation shall be drawn from the existing guilds, such as the Kenya Producers Guild, Kenya Film and Television Professionals Association, Third Force, the Actors Guild, the Kenyan Scriptwriters Guild, Musicians Alliance of Kenya, etc. This structure will ensure effective representation and encourage

creatives to join specific guilds to advocate for their views and agendas. There should also be a provision for the inclusion of new guilds/associations that are registered after the bill is formalized.

PART III – INCENTIVES FOR CREATIVES

19(a):

Subsidies for the formalization of creatives should be more specifically defined.

19(c):

In addition to incubation programs, there should be both fiscal and non-fiscal support for filmmakers whose films, projects, or proposals have been selected for local and international festivals and events.

21(3)A:

The availability of funds should not be capped for individuals below the age of 35. Many experienced producers in the industry are over 35, and it is their constitutional right to access these funds once available. This clause is punitive and does not encourage the growth of the industry, particularly in film and TV, where collaboration and support are essential.

Additional Recommendations:

1. **Corporate Incentives:** Consider including incentives in the bill for Kenyan corporates that finance local productions, allowing them to claim the money invested as an expense. A similar model to that of sports sponsorships could be applied, helping film productions secure funding.

2. **Mentorship Programs:** There should be a provision for stipends or allowances for Kenyan mentor-mentee programs in the film industry. Participants attached to Kenyan productions should receive allowances for their involvement, and the associated costs should be covered by the government, not the production house. This will effectively grow the industry by attaching experienced practitioners to productions and providing opportunities for new entrants to learn on the job.

3. **Board Representation:** A clause should be included allowing for members of the guilds to be appointed to the respective boards of agencies like KFC and KFCB. This will ensure that the industry's true interests are represented at the board level by those who best understand it. These members could then communicate with the Creative Industry Federation to guide the industry's future.

Thank you for your efforts in bringing this bill forward. We hope our recommendations will be considered and incorporated. Should you require a meeting to discuss or clarify our suggestions, please do not hesitate to contact us. We are more than willing to engage further.

Kind Regards,



Martin Munyua
Chair
Producers Guild of Kenya

Key recommendations and representations by John Wambugu for the Kenya Creative Economy Support Bill (Senate Bill No. 39 of 2024)

1. Increased Funding and Grants

- Establish a national fund dedicated to supporting creative industries.
- Offer grants and financial support to emerging and established creatives.
- Encourage private sector investment through tax incentives.

2. Capacity Building and Training

- Implement nationwide training programs to enhance creative skills in high schools and TVETS
- Partner with educational institutions to develop creative arts curricula.
- Offer mentorship programs to bridge the gap between academia and industry.

3. Intellectual Property Rights Protection

- Strengthen laws to protect intellectual property and ensure fair compensation.
- Establish a clear and accessible system (sub-office or department) for registering creative works.
- Provide legal support and advisory services for creatives to protect their IP rights.

4. Market Access and Distribution

- Develop platforms to promote and distribute Kenyan creative content locally and internationally.
- Support the creation of online marketplaces for creative products.
- Facilitate participation in international creative industry events and expos.

5. Infrastructure Development

- Invest in infrastructure such as cultural centers, performance venues, and studios.
- Promote the establishment of creative hubs and co-working spaces.
- Enhance digital infrastructure to support online creative work and collaborations.

6. Tax Relief and Incentives

- Provide tax relief for creatives on income generated from their work.
- Offer incentives for companies that invest in the creative economy.
- Introduce reduced tariffs and Tax incentives on suppliers and distributors on essential creative tools and equipment.

7. Inclusive Policies

- Ensure that support is inclusive of all creative sectors, including digital content creation, film, music, fashion, and the arts.
- Focus on supporting marginalized groups, including women, youth, and persons with disabilities in the creative sector.
- Promote regional equity in distributing resources to support creatives across all counties.

8. Public-Private Partnerships

- Encourage collaborations between government and private sector players to boost investment in the creative economy.
- Support the creation of joint ventures and collaborations between local creatives and international partners.

9. Research and Data Collection

- Establish a national body to collect and analyze data on the creative economy.
- Conduct regular research to identify growth opportunities and challenges in the creative sector.
- Use data-driven insights to inform policy decisions and resource allocation.

10. Content Creation for National Identity

- Encourage the production of content that promotes Kenya's cultural heritage.
- Support initiatives that highlight Kenya's creative talents on global platforms.
- Incentivize the creation of content that fosters social cohesion and national pride.

11. Environmental Sustainability

- Promote sustainable practices within the creative industries.
- Encourage the production of eco-friendly creative products and services.
- Support initiatives that raise awareness about environmental issues through creative work.

12. Monitoring and Evaluation

- Establish a framework for regular monitoring and evaluation of the Bill's impact on the creative economy.
- Set clear benchmarks and targets for growth in the creative sector.
- Adjust policies based on feedback from stakeholders to ensure the Bill's effectiveness.

PROPOSED AMENDMENTS TO THE CREATIVE ECONOMY SUPPORT BILL 2024

PART II - CREATIVE INDUSTRY GUILD

1. Amendment to Section 7, Subsection (j):

Amend Section 7, Subsection (j) to read as follows:

(j) represent the interests of men, women, youth, and persons with disabilities working in the creative industry;

2. Amendment to Section 8, Subsection (1):

Add the following parts:

(k) One person, not above the age of 35, from the creative industry, nominated by the Cabinet Secretary to represent the youth;

(l) One person with a disability, nominated by the Cabinet Secretary from the creative industry;

3. Amendment to Section 14, Subsection (h):

Amend Section 14, Subsection (h) to read as follows:

(h) Maintain a manual and digital database, accessible to the public, containing information on creative artists in Kenya, stakeholders, and participants across various sectors of the creative industry, as well as the programs in place to facilitate the industry's growth.

Rationale:

These proposed amendments seek to enhance inclusivity within the Creative Industries Development Bill, 2024, by ensuring representation for youth and persons with disabilities in the creative sector. Additionally, the amendments aim to create a comprehensive and accessible database for stakeholders, promoting transparency and the growth of the creative industry in Kenya.

Submission:

Dated the 17th of August,2024.

These proposed amendments are submitted by ONDICHO JEREMIAH, a Bachelor of Performing Arts and Film Technology student at KCA University.

Opposition to the Creative Economy Support Bill, 2024: Safeguarding Creative Freedom, Economic Empowerment, and Integrity

As stakeholders in Kenya's vibrant creative industry, we recognize the importance of legislative support for our sector. However, the Creative Economy Support Bill, 2024, in its current form, poses significant risks that could undermine the very creativity and innovation it aims to nurture. Below are our key critiques, directly addressing specific clauses and referencing the rights enshrined in the Constitution of Kenya 2010:

1. Government Overreach and Censorship (Clause 27):

The bill grants extensive regulatory powers to the Cabinet Secretary responsible for trade, allowing for the creation of regulations that could severely limit creative freedom. This broad discretion risks censorship and suppression of dissenting voices within the creative industry. Article 33 of the Constitution of Kenya 2010 guarantees the right to freedom of expression, including artistic creativity. The bill, as it stands, threatens this fundamental right.

2. Lack of Transparency and Accountability (Clauses 20, 22):

The establishment of the Creatives Fund and a credit guarantee scheme is commendable. However, the bill lacks robust mechanisms for ensuring transparency and accountability in the management of these funds. Without independent oversight, there is a high risk of corruption and misallocation of resources. Article 10 of the Constitution emphasises national values and principles of governance, including transparency and accountability. The bill must be revised to include stringent oversight mechanisms to align with these constitutional principles.

3. Potential for Misuse of Security Agencies (Clause 4):

The requirement for an online platform where creatives can publish events and current affairs, while seemingly beneficial, could be misused for surveillance and intimidation. This clause could lead to self-censorship among creatives. Article 31 of the Constitution guarantees the right to privacy, including the right not to have one's private affairs

unnecessarily required or revealed. The bill must ensure that this online platform is used solely for its intended purpose and not as a tool for surveillance.

4. Inclusivity and Representation (Clauses 6, 8):

While the bill aims to ensure representation from various creative sectors, it may not fully address the diversity within these sectors. Smaller or emerging sub-sectors might find it challenging to have their voices heard and needs met. Article 27 of the Constitution guarantees equality and freedom from discrimination. The bill should be revised to ensure fair representation and inclusivity of all creative sub-sectors.

5. Enforcement and Compliance (Clauses 7, 24):

The protection of intellectual property rights is crucial for the creative industry. However, the bill's enforcement mechanisms depend heavily on cooperation between various stakeholders, which may not always be forthcoming. Article 40 of the Constitution protects the right to property, including intellectual property. The bill should provide clear, enforceable mechanisms to protect these rights effectively.

Conclusion:

While the Creative Economy Support Bill, 2024, may be well-intentioned, its current form presents significant risks to the creative industry.

True support lies in enhancing the freedoms that allow creativity to thrive, and not legislating such freedoms away into a cesspool of corruption and favouritism. And, at this point, the focus must be on purging the already-innumerable agencies that exist of corruption and ineptitude, to enable them properly perform their functions.

Support for the creative economy MUST be done in a manner true to incorporating safeguards for transparency, accountability, holistic inclusivity, and artistic freedom. By aligning the bill with the rights and principles enshrined in the Constitution of Kenya 2010, we can ensure that it genuinely supports and enhances our creative economy.

#ProtectCreativeFreedom #KenyaCreativeEconomy

Email addresses to send to are:

clerk.senate@parliament.go.ke

tradeindtourismcomm.senate@parliament.go.ke

CHAMBER OF YOUTH ECONOMISTS

MAIL: economistschamber@gmail.com

LOCATION: NAIROBI

Hon. Jeremiah Nyegenye,

The Clerk of the Senate,

P.O. Box 41842-00100,

Nairobi.

2nd September 2024

Dear Sir,

MEMORANDUM: RECOMMENDATIONS ON CREATIVE ECONOMY SUPPORT BILL, N.O 30 OF 2024

The Chamber of Youth Economists expresses its support for the Creative Economy Support Bill, No. 30 of 2024, and urges the Members of the Senate of Kenya to support the aforementioned bill. This is because the Creative Economy Support Bill recognizes the significant economic contribution of the creative industry, including job creation, tax revenue, and global economic participation, and as such, seeks to provide much-needed structures and frameworks to guide and promote the growth and expansion of the creative economy in line with larger national developmental goals.

Background:

Given the rapid and expansive digitalization of the modern world, the creative economy represents a critical and potentially lucrative sector of Kenya's economy. That is because the creative economy, specifically in Kenya, is one of the sectors that has led in adoption of digital solutions, including digital media. Resultantly, the creative economy will greatly benefit from the global reach facilitated by digital infrastructure, infinitely

increasing its revenue potential. However, for this revenue potential to be harnessed into tangible economic benefits, there must be comprehensive frameworks and structures that can enable both national and county governments to implement systemic interventions and support the growth of the creative economy in Kenya.

Recommendations:

The Chamber of Youth Economists, as per the outfit's objectives, finds the following components of the Creative Economy Support Bill, No. 30 of 2024, particularly useful, and hence offers a few recommendations that the Senate should consider;

i) Obligations of Government

- **Enabling Environment:** By mandating the national and county governments to create an enabling environment through direct and indirect support for creative artists and organizations, the bill will ensure the existing legislation serves not just to regulate, but proactively promote the growth of the creative industry in Kenya. Therefore, the Chamber of Youth Economists recommends that **the government ensures the legislation and policies relating to the creative economy do not present binding constraints to the growth of the sector**.

- **Policy Formulation:** By formulating policies informed by the current landscape of the creative industry, including policies taking into account the extensive integration of technology in the sector, governments can accelerate the development of a sustainable and diverse creative industry. Therefore, the Chamber of Youth Economists recommends that henceforth, **all policies formulated to promote the creative industry, not only consider the needs of organized creative entities with clear structures but also the thousands of creatives who are active participants in the sector but are not domiciled within formal entities**.

- **Public-Private Dialogue:** By establishing a dialogue forum between the creative industry and relevant government departments, the government will have a useful channel through which it can obtain and understand the creative economy in Kenya, including the more nuanced realities of the sector that may not be obtainable through preexisting processes and structures. Therefore, the

Chamber of Youth Economists recommends that **the government has a clear calendar of these dialogues, that the forums focus on obtaining priority interventions with the maximum socioeconomic benefits to implement, and that these forums be as inclusive as possible to accommodate all key sector actors to ensure circumspect solutions**.

- **Market Access:** The high rate of integration of technology in the creative economy is crucial to enabling Kenyan creatives to access global markets. This will significantly expand the revenue potential of the sector. Therefore, in supporting the industry through systemic interventions, the Chamber of Youth Economists recommends that **the government, through relevant ministries, agencies, and other entities like the Creative Industry Guild, engage and form more partnerships with global digital and creative platforms to open up channels for engagement of Kenyan creatives**.

ii) **Creative Industry Guild**

- **Transparent distribution of royalties:** Establishment of the Creative Industry Guild to oversee the development and support of the creative industry is potential useful in formulation of circumspect policies and obtaining accurate market intelligence to base decision-making. Therefore, in pursuing partnerships with global platforms to increase the revenue potential of the outputs in Kenya's creative economy, the Chamber of Youth Economists recommends that **the Guild works closely with relevant ministries and agencies to not only ensure transparent distribution of royalties, but also to advocate for better royalty percentages for Kenyan creatives**.

- **Board Composition:** The Guild will be governed by an Advisory Board consisting of representatives from various creative sectors and government officials. The Chamber of Youth Economists recommends that **this Advisory Board include a representative(s) of tertiary-level students studying related creative courses to enable the design of recommendations that are best-placed to enable Kenyan students to transition into productive creative pursuits in Kenya's creative economy**.

iii) Incentives for Creatives

- **Fiscal Incentives:** Provision of tax incentives and other fiscal measures to support the development of creatives will be useful in minimizing the impact of financial barriers to growth of the Kenyan creative economy. Establishment of a fund to provide grants to persons in the creative industry, with specific eligibility criteria will also help to reduce the financial burden on Kenyan creatives. The Chamber of Youth Economists recommends that **the proposed tax incentives take into account peculiarities of the creative economy such as the differentiated monetization terms for Kenyan creatives with primarily local audiences versus those ones with a more globally diverse audience. This will help ensure equitable taxation terms that optimize revenue from the creative industry while avoiding the financial suffocation of startups which, in the long run, will limit expansion and inhibit the realization of the full economic potential of the creative industry**.

Support for the Creative Economy Support bill is vital with potential benefits including job creation, tax revenue, and global economic participation, especially for the youth. Therefore, I urge the Senate to consider the recommendations as put forth by the Chamber of Youth Economists in this Memorandum on the Creative Economy Support Bill, No.30 of 2024.

Signed,



Isaac Chibole,

Chairperson,

Chamber of Youth Economists.

Contact: Mobile: +254 799 069179, Email: economistschamber@gmail.com.

MEMORANDUM ON THE INCLUSION OF PERSONS WITH DISABILITIES IN THE CREATIVE ECONOMY SUPPORT BILL, 2024

TO:
The Senate of the Republic of Kenya

FROM:
Young Kenyan Creative Minds Living with Disabilities

SUBJECT:
Comprehensive Inclusion of Persons with Disabilities in the Creative Economy Support Bill, 2024

INTRODUCTION

This memorandum is submitted on behalf of the Young Kenyan Creative Minds Living with Disabilities, to express our concerns and recommendations regarding the Creative Economy Support Bill, 2024. We recognize the Bill as a significant step toward fostering the growth of the creative economy in Kenya. However, it falls short in addressing the specific needs of persons with disabilities who contribute to this sector. Our goal is to ensure that the Bill not only promotes inclusivity but also provides the necessary support systems for persons with disabilities to thrive in the creative economy.

1. LACK OF AWARENESS ABOUT THE CAPABILITIES OF PERSONS WITH DISABILITIES

Current Situation:
Persons with disabilities often face societal biases that underestimate their potential in the creative sector. This lack of awareness creates barriers to their full participation in the industry, leading to their marginalization and underrepresentation.

Challenges:

- Prevalence of stereotypes and misconceptions about the capabilities of persons with disabilities.
- Limited public visibility of the work and contributions of disabled creatives.
- Inadequate representation of persons with disabilities in media and public discourse related to the creative economy.

Recommendations:

1. **Awareness Campaigns:**
    - The Bill should mandate the implementation of nationwide awareness campaigns to highlight the capabilities and achievements of persons with disabilities in the creative industry.

- Collaborate with disability rights organizations, media houses, and educational institutions to ensure these campaigns are inclusive and far-reaching.

2. **Public Education Programs:**
   - Introduce educational programs that challenge societal stereotypes and promote the inclusion of persons with disabilities in the creative economy.
   - Integrate disability awareness into the school curriculum, particularly in subjects related to art, culture, and innovation.

2. LACK OF ACCESSIBLE AND TAILORED TRAINING PROGRAMS

Current Situation:

There is a significant shortage of training programs that are both accessible to and tailored for persons with disabilities. This gap prevents many talented individuals from acquiring the skills needed to succeed in the creative industry.

Challenges:

- Insufficient training facilities that cater to the needs of persons with disabilities.
- Lack of specialized training programs that incorporate assistive technologies.
- Inadequate provision for sign language interpreters, braille materials, and other accessibility tools in existing programs.

Recommendations:

1. **Development of Accessible Training Centers:**
   - Establish training centers across the country that are fully accessible to persons with disabilities, equipped with necessary assistive technologies, and staffed with trainers who are skilled in working with disabled individuals.
2. **Creation of Tailored Training Programs:**
   - Design and implement specialized training programs that address the unique needs of persons with disabilities in various creative fields such as visual arts, performing arts, digital media, and crafts.
   - Ensure these programs are available in all counties to promote inclusivity and equal access.
3. **Partnership with Educational Institutions:**
   - Partner with universities, colleges, and vocational training institutions to offer inclusive creative courses that accommodate persons with disabilities.

- Provide scholarships and grants specifically for disabled individuals to encourage their participation in these programs.

3. LACK OF MENTORSHIP AND SUPPORT NETWORKS

Current Situation:

Mentorship is a critical component for success in the creative industry, yet persons with disabilities often lack access to mentors who understand their unique challenges and can guide them effectively.

Challenges:

- Limited availability of mentors who are experienced in working with persons with disabilities in the creative industry.
- Lack of structured mentorship programs that connect disabled creatives with industry professionals.
- Social isolation of persons with disabilities, leading to reduced networking opportunities.

Recommendations:

1. **Establishment of a National Mentorship Program:**
   - The Bill should include provisions for the creation of a national mentorship program specifically for persons with disabilities in the creative sector.
   - This program should connect disabled creatives with successful industry professionals, including those with disabilities, to provide guidance, advice, and support.
2. **Mentorship Training for Industry Professionals:**
   - Provide training for industry professionals on how to mentor persons with disabilities effectively, addressing both the technical and emotional aspects of mentorship.
3. **Creation of Support Networks:**
   - Develop local and national networks for disabled creatives to facilitate peer support, collaboration, and sharing of resources.
   - Encourage the formation of associations and groups where persons with disabilities can come together to advocate for their rights and interests within the creative economy.

4. LACK OF OPPORTUNITIES FOR PARTICIPATION AND GROWTH

Current Situation:

Opportunities in the creative sector are often inaccessible to persons with disabilities due to physical barriers, lack of targeted initiatives, and

discrimination. This results in limited participation and career advancement for disabled creatives.

Challenges:

- Physical inaccessibility of workspaces, studios, galleries, and event venues.
- Discrimination in hiring practices within the creative industry.
- Lack of targeted initiatives and programs that support the inclusion of persons with disabilities.

Recommendations:

1. **Accessibility Audits and Upgrades:**
    - Mandate regular accessibility audits of creative workspaces, public venues, and event spaces to ensure they meet the needs of persons with disabilities.
    - Provide funding and incentives for businesses and organizations in the creative sector to make necessary upgrades for accessibility.
2. **Incentivization of Inclusive Practices:**
    - Offer tax breaks and other incentives to companies and organizations that demonstrate a commitment to hiring and supporting persons with disabilities in the creative industry.
    - Establish a quota system for government-supported creative projects, ensuring a minimum percentage of participants are persons with disabilities.
3. **Creation of Opportunities for Disabled Creatives:**
    - Introduce grants, scholarships, and fellowships specifically aimed at persons with disabilities to encourage their participation and growth in the creative sector.
    - Support the development of inclusive creative hubs and incubators that cater to the needs of disabled creatives.

5. LACK OF ENCOURAGEMENT AND SUPPORTIVE ENVIRONMENTS

Current Situation:

Persons with disabilities often lack the encouragement and support needed to pursue careers in the creative sector. The absence of role models, recognition, and supportive environments can discourage them from realizing their full potential.

Challenges:

- Limited recognition of the contributions of persons with disabilities in the creative sector.

- Lack of role models and visible success stories to inspire disabled creatives.
- Unsupportive environments that fail to nurture the talents and skills of persons with disabilities.

Recommendations:

1. **National Recognition Programs:**
    - Establish a national recognition and awards program to celebrate the achievements of persons with disabilities in the creative industry. This would serve as a source of inspiration and motivation for others.
    - Include categories for disabled creatives in existing national and regional awards in the creative sector.
2. **Promotion of Role Models:**
    - Highlight success stories of persons with disabilities in the creative industry through media campaigns, documentaries, and public speaking engagements.
    - Encourage disabled creatives who have achieved success to mentor and support others who are starting their careers.
3. **Supportive Community Initiatives:**
    - Create community-based initiatives that provide a nurturing environment for persons with disabilities to develop their creative talents. These could include workshops, community centers, and online platforms dedicated to supporting disabled creatives.

6. LACK OF EQUAL SPACE AND VISIBILITY

Current Situation:

Persons with disabilities often struggle to access and utilize spaces where creative work is produced, displayed, or performed. This inequality limits their visibility, participation, and ability to showcase their talents.

Challenges:

- Inaccessibility of creative spaces such as studios, theaters, galleries, and public event venues.
- Limited opportunities for persons with disabilities to display or perform their work.
- Inadequate representation of disabled creatives in mainstream media and industry events.

MEMORANDUM ON THE INCLUSION OF PERSONS WITH DISABILITIES IN THE CREATIVE ECONOMY SUPPORT BILL, 2024

Recommendations:

1. **Mandating Accessible Creative Spaces:**
    - Ensure that all creative spaces, including studios, theaters, galleries, and public event venues, are fully accessible to persons with disabilities. This includes physical access as well as access to information and communication technologies.
    - Introduce penalties for non-compliance to ensure that accessibility standards are upheld.
2. **Creation of Inclusive Events:**
    - Support the development of inclusive creative events that provide equal opportunities for persons with disabilities to showcase their talents.
    - Encourage the participation of disabled creatives in mainstream events by offering accessible accommodations and resources.
3. **Increased Media Representation:**
    - Promote the inclusion of disabled creatives in media coverage, including television, radio, and online platforms.
    - Encourage media houses to feature stories, interviews, and profiles of persons with disabilities who are making significant contributions to the creative industry.

CONCLUSION

In conclusion, while the Creative Economy Support Bill, 2024 presents an opportunity to enhance the creative sector in Kenya, it must be more inclusive of persons with disabilities. The recommendations provided in this memorandum aim to ensure that the Bill addresses the specific needs of disabled creatives, thereby promoting a truly inclusive and equitable creative economy. We urge the Senate to consider these recommendations and amend the Bill accordingly to reflect the diverse talents and contributions of all Kenyans, including those with disabilities.

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