

**PARLIAMENT OF KENYA  
THE SENATE**

**SENATE BILLS DIGEST**

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

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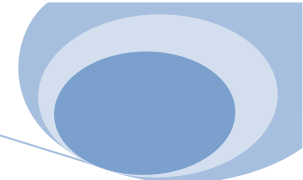
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| <b>Sponsor:</b>               | Sen. Eddy Gicheru Okech, MP                                 |
| <b>Date of Publication:</b>   | 17 <sup>th</sup> May, 2024                                  |
| <b>Date of First Reading:</b> | 6 <sup>th</sup> August, 2024                                |
| <b>Committee referred to:</b> | Standing Committee on Trade, Industrialisation and Tourism. |
| <b>Type of Bill:</b>          | Ordinary Bill.  |

**1. PURPOSE OF THE BILL**

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. BACKGROUND OF THE BILL**

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.



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.

It is therefore imperative to have a supportive regulatory framework for purposes of growing our creative industry and establishing the kenyan creative economy as a formidable sector for both cultural and economic growth.

### **3. OVERVIEW OF THE BILL**

#### ***Object of the Bill***

The object of the Bill is to –

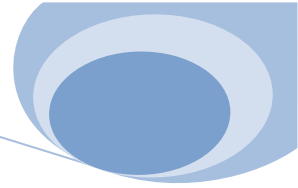
- (a) establish mechanisms for the support of the persons in the creative industry;
- (b) enhance the contribution of the creative industry to the economy; and
- (c) establish the Creatives Fund.

#### ***What scope of the creative industry is regulated under the Act?***

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.

#### ***How will the Government Support the Creative Industry?***

The Bill has tasked the Government with the responsibility of—



- (a) creating an enabling environment through direct and indirect support for creative artists and organisations;
- (b) formulation of policies for industry development;
- (c) promotion of entrepreneurial skills;
- (d) investment in infrastructure;
- (e) review of trade policies;
- (f) facilitation of access to funds;
- (g) establishment of dialogue forums;
- (h) implementation of growth strategies; and
- (i) facilitation of market access.

The Cabinet Secretary for Trade shall further establish and maintain the platform where persons in the creative industry may publish events and current affairs in the creative industry. Additionally, the Cabinet Secretary for Education shall ensure that a curriculum developed under the Kenya Institute of Curriculum Development shall incorporate subjects relating to the creative industry.

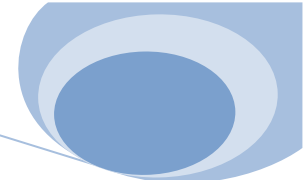
***What institutional structures have been put in place to achieve the object of the Bill?***

The Bill has established the Creative Industry Guild that will advise the Cabinet Secretary on policy matters pertaining to the creative industry, ensuring that governmental decisions are informed by industry expertise. This advisory role will extend to the review and formulation of policies and legislation crucial for the sector's growth.

***How will Kenyan Creatives benefit from the Creative Industry Guild?***

The Guild will —

- (a) facilitate the registration of creative works and collaborate with relevant institutions to protect the intellectual property rights of kenyan;
- (b) oversee the transparent distribution of royalties;
- (c) classify subsectors and stakeholders in the Kenyan creative industry;



- (d) promote entrepreneurial skills development;
- (e) represent the interests of underrepresented groups, including women, youth, and persons with disabilities within the industry; and
- (f) promote the amicable resolution of conflicts arising within the creative industry, fostering a harmonious and collaborative ecosystem conducive to growth and innovation.

***How Will Kenyan Creatives be represented in the leadership of the Creative Industry Guild?***

The Bill seeks to establish an unincorporated Advisory Board to oversee the Guild. The Advisory Board comprise various representatives from key sectors related to the creative industry, such as film, music, fashion, software development, literary arts, visual arts, and dance. Additionally, it will include a nominee from the Law Society of Kenya and a public officer designated by the Cabinet Secretary, who shall serve as the Secretary to the Board.

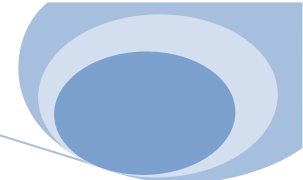
Nominees for the Advisory Board are appointed by the Cabinet Secretary, ensuring gender diversity within the composition, with no more than two-thirds of the members being of the same gender. Criteria for disqualification from Board membership include violations of Chapter Six of the Constitution, bankruptcy, or conviction of an offense resulting in a prison sentence exceeding six months.

***How long will the advisory board serve?***

Members of the Board will serve for a term of four years, renewable for one additional term. Vacancies in the Board may occur due to various reasons, including bankruptcy, criminal convictions, absenteeism from meetings, resignation, removal by the Cabinet Secretary, or death of a member.

***How will the leadership of the advisory board be elected?***

The advisory board will elect a chairperson and vice-chairperson from among its members, each serving a term of two years. The Cabinet Secretary will also designate an administrative unit within the Ministry to serve as the Secretariat of the Board.



The Secretariat will consist of a head appointed by the Cabinet Secretary, along with other public officers deployed by the Cabinet Secretary in consultation with the Board. These individuals will be required to possess expertise in matters related to the creative industry.

The Secretariat's functions will include—

- (a) providing technical and administrative support to the board;
- (b) implementing the board's decisions;
- (c) establishing relationships with relevant institutions;
- (d) collaborating with stakeholders,
- (e) conducting research,
- (f) maintaining databases,
- (g) facilitating capacity building programs, and undertaking any other tasks delegated by the Board.

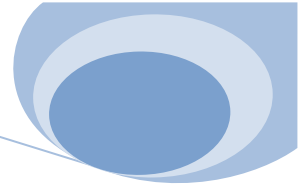
***What is the procedure for applying for Membership of the Creative Industry Guild?***

Membership to the Guild is voluntary. Individuals seeking to join the Guild must submit an application in the prescribed form to the Board, which will be reviewed within fourteen days. The Board will have the authority to approve, grant with conditions, or reject applications. Appeals against Board decisions will be made to the Cabinet Secretary.

Approved applicants will subsequently have their names entered into the roll of creatives maintained by the Board, ensuring eligibility for benefits and incentives under the Act.

***What form of Support and Incentives will the Creative Industry Guild provide for creatives?***

The Guild, in collaboration with relevant county executive committee members, will implement measures supporting the establishment and development of the creative industry. These measures include subsidizing formalization processes for creatives, facilitating intellectual property protection, providing fiscal and non-fiscal support to those admitted into incubation programs, offering research and development assistance, and any other necessary support.



***What fiscal support and incentives does the bill provide for creatives?***

The Bill seeks to establish the Creatives Fund, comprising appropriations from Parliament and donations or grants. The fund is intended to provide grants to individuals in the creative industry according to criteria set by the Cabinet Secretary through regulations.

The Cabinet Secretary, in consultation with the Board, will further establish a credit guarantee scheme to provide accessible financial support, guaranteeing investments, and offering capacity building in financial and risk management for creatives.

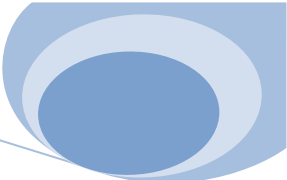
The Guild will also develop training and capacity-building programs for creatives, establishing a platform to disseminate relevant information at both national and county levels. The Guild will also facilitate creative artists in the application and registration of intellectual property rights, including patents and international instruments.

The Cabinet Secretary for trade, in consultation with the Cabinet Secretary for finance counterpart, shall establish fiscal incentives, including tax incentives, to support the development of creatives. These incentives will be reserved for members of the Guild listed in the roll.

***Other provisions of the Bill***

**Clause 27** sets out that the Cabinet Secretary may make regulations for the better carrying out of the Bill including regulations on—

- (a) Exemption of Creatives from Registration Fees;
- (b) Workplace and Labour Issues;
- (c) Employee Benefits and Compensation;
- (d) Protection of Intellectual Property Rights;
- (e) Relationship Between Founders and Employees;
- (f) Exemption of Creatives from Anti-Competition Laws;
- (g) Intergovernmental Support for Creatives;

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- (h) Reporting and Accountability of Grants;
  - (i) De-registration from the Guild;
  - (j) Admission into Incubation Programs;
  - (k) Advertising and Impact Assessment; and
  - (l) Incentives for Investment in Innovative Creatives.

#### **4. CONSEQUENCES OF THE BILL**

The Bill proposes significant consequences for the development of Kenya's creative industry, primarily by establishing the Creative Industry Guild and empowering the Cabinet Secretary to enact regulations for its effective operation. These regulations cover a wide range of areas, from exemption from registration fees to labour issues, intellectual property protection, and incentives for investment.

Furthermore, the bill introduces support mechanisms such as the Creatives Fund and a credit guarantee scheme, alongside provisions for training and capacity-building programs. If enacted, the bill will create a conducive environment for the creative industry, fostering its growth, protecting the rights of creatives, and encouraging innovation and investment in the sector.

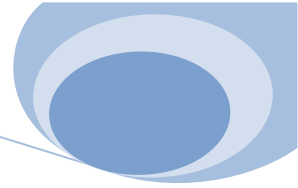
#### **5. WAY FORWARD**

##### ***What next?***

Pursuant to standing order 145(5) of the Senate Standing Orders, the Standing Committee on Trade, Industrialisation and Tourism shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee submits its report to the Senate.

##### ***What is expected of the members of public?***

The members of the public are expected to present their views to the Standing Committee on Trade, Industrialisation and Tourism for its consideration.



### *Next steps*

The Bill was Read a First Time in the Senate on 1<sup>st</sup> August, 2024. Pursuant to standing order 148(1) of the Senate Standing Orders, the Committee is required to submit its report to the Senate within thirty (30) calendar days of the committal of the Bill to the Committee, therefore, by 6<sup>th</sup> September, 2024.

Any comments on the Bill may be submitted to the Office of the Clerk of the Senate, 1<sup>st</sup> Floor, Main Parliament Buildings, Nairobi, Kenya, through P.O. Box 41842-00100, Nairobi, Kenya or email: [tradeindtourismcomm.senate@parliament.go.ke](mailto:tradeindtourismcomm.senate@parliament.go.ke).

### **Note:**

1. The Digest reflects the Bill as published and does not cover any subsequent amendments to the Bill.
2. The Digest does not have any official legal status.