The Citizen Alternative Budget

Institute of Economic Affairs

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INSIDE

By Institute of Economic Affairs

1.0. INTRODUCTION

The Institute of Economic Affairs (IEA-Kenya) is pleased to present the Citizen's Alternative Budget 2019/2020.

The Citizen's Alternative Budget contains budget proposals from the public and private sector stakeholders, who attended the IEA annual pre-budget hearings that took place on 5th and 6th February, 2019. The proposals submitted were consolidated and synthesized by the IEA according to the various Medium Terms Expenditure Framework (MTEF) sectors, largely based on their feasibility, whether they make economic sense and whether they are in line with the national priorities of the government. Furthermore, this alternative budget takes cognizance of the draft budget policy statement 2019/2020 as a pre-budget statement that sets the macroeconomic framework through which the government will prepare the forthcoming budget and the National Treasury notices on the guidelines' on budget proposal submissions for the fiscal budget for the financial year 2019/2020.

The Alternative Budget seeks to influence government decisions and help civil society develop viable alternatives to government policy. Equally, it provides a complementary avenue for deepening participatory budgeting, given the legal basis for public participation in government planning and budgeting processes. As the country embrace devolved system of government, it is envisaged that, through the IEA pre-budget hearings and Citizen Alternative Budget, there is likely to be an increased civil society engagement in county government planning and budgeting.

2.0 BACKGROUND

2.1 Macroeconomic Framework

The Budget Policy Statement (BPS) 2019 indicates that the economy growth is projected at 6.0 % up from 4.9% in the year 2017 in the medium term and this was supported by good weather, eased political uncertainties, improved business confidence, and strong private consumption. On the supply side, services accounted for 52.5% of the growth, agriculture at 23.7%, and industry for 23.8%. On the demand side, private consumption was the key driver of growth. This growth is supported by a strong rebound in agricultural output, steadily recovering industrial activity, and robust performance in the services sector.

Real GDP is projected to expand by 6.1 percent in FY 2018/2019, 6.2 percent in FY 2019/2020, 6.4 percent in FY 2020/21 and 7.0 percent by FY 2022/23. This growth will be supported by a pickup in agricultural and manufacturing activities underpinned by improved weather conditions, strong service sector, stable macroeconomic environment, ongoing public infrastructural investments and sustained business and consumer confidence. Domestically, therefore points to a continued coordination of monetary and fiscal policies for overall macroeconomic stability which support robust growth, lower fiscal deficits, contain inflation within the target range.

2.2 Assessment of Budget Implementation so far....

Budget implementation for the FY 2018/19 started on slow note in the first quarter of the FY 2018/19 due to budget rationalization to align expenditure priorities to revenues after amendments to the Finance Bill 2018 that significantly affected the expected revenue yields. In addition, expenditure rationalization was effected to reflect lower revenues after the revenue outcome for the FY 2017/18 turned out weaker than anticipated, thereby shrinking the forecasting base for FY 2018/19 as well as the medium term. Presidential directive on inclusion of new projects in the budget had an impact in uptake of development expenditure but this has picked strongly in the second quarter of the FY 2018/2019 budge implementation. The expenditure rationalization was to ensure sustainable fiscal position in the FY 2018/19 and the medium term, and reaffirm the Government's commitment to its fiscal consolidation plan and to prudent fiscal management in general.

Total expenditure and net lending for the period July-November 2018 amounted to Ksh 829.1 billion which was below the projected amount by Ksh 105.7 billion. Recurrent spending amounted to Ksh 553.6 billion while development expenditures and transfer to County Governments (Equitable share only) were Ksh 203.1 billion and Ksh 72.2 billion respectively and net lending expenditures for five months amounted to Ksh 963 million. Whereas recurrent spending was below the projected target by Ksh 80.0 billion mainly on account of lower than targeted domestic interest payments and pension payments, capital spending was marginally above the target by Ksh 3.2 billion.

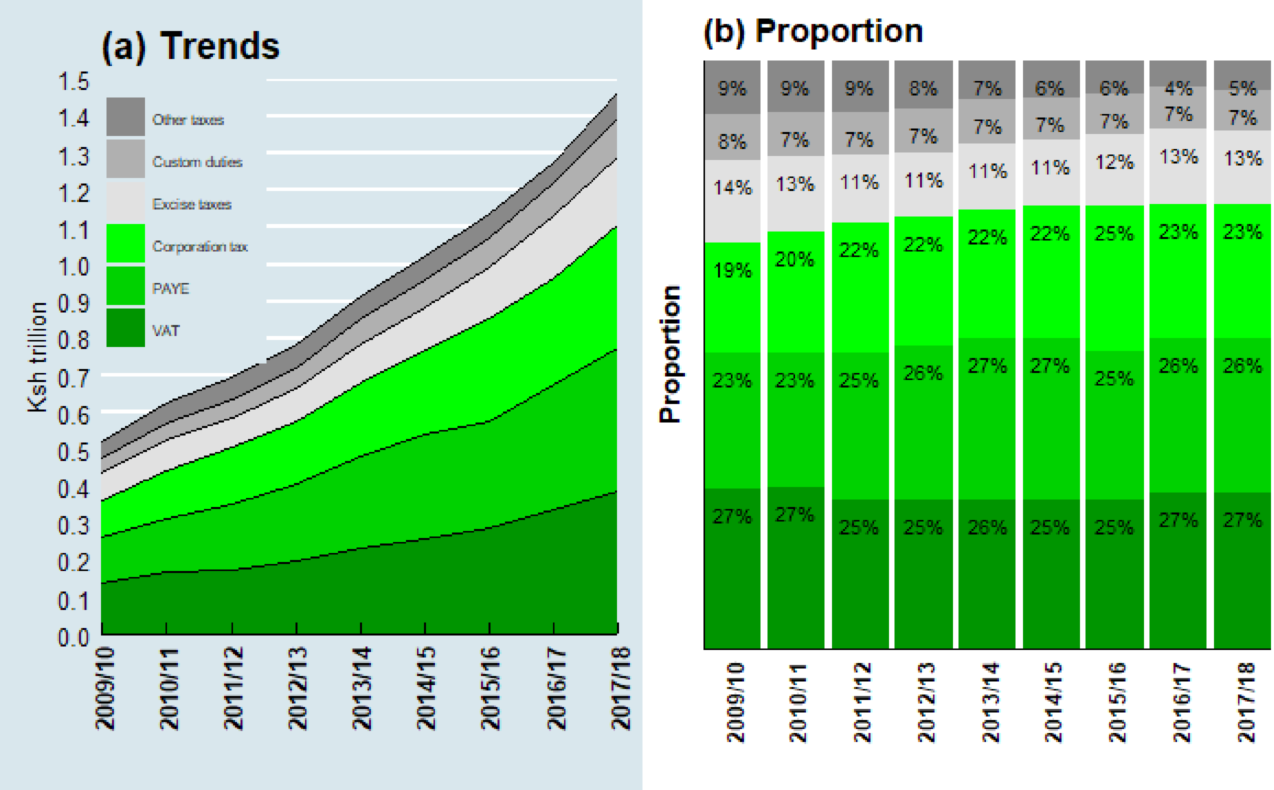
Additional emerging issues regarding implementation of Budget 2018/19 begs the requisite government policy action in order to realize its medium term fiscal consolidation plan without undermining the competitiveness of the economy. It is clear that spending is expected to continue, albeit at a relatively lower rate in 2018/19, a good sign but overall efforts to rein on spending are not correspondingly clear. To this end, the IEA-Kenya notes the following:

- The government need to employ sound revenue enhancement measures (partly discussed in the revenue analysis section of this brief).
- To realistically narrow budget deficits, the government needs to focus attention on reducing recurrent expenditure by a combination of streamlining public service sector, employing retrenchment programmes and temporarily freezing employment.
- In addition, there is need for deliberate efforts to lower transfers to parastatals which take up nearly a quarter of the entire national government budget.
- Parliament should oversight borrowing by the government to ensure it is within plans set out in the medium term debt strategy. For example, increased domestic borrowing crowds out private sector and may in turn affect savings and investments as private sector is starved off credit.
- Slowdown in development spending in pursuit of fiscal consolidation should be wary of a likely subdued economy. Therefore this should be countered by providing an enabling environment and incentives for increased private sector investment.
- Proper appraisal should inform selection of projects to be funded through borrowing to ensure high yield and mitigate cost overruns that may lead to contingent liabilities.
- Adherence to Fiscal Responsibility Principles

2.3 Revenue Projections

The BPS 2019 gives information relating to the overall size of the national budget (revenue, expenditure and deficit).The total revenue collection in nominal terms including Appropriation in Aid (A.I.A) by November 2018 amounted to Ksh 633.8 billion which was 6.3 per cent of GDP against a target of Ksh 677.0 billion reflecting a shortfall of Ksh 43.3 billion. This shortfall comprised of Ksh 27.7 billion in the ordinary revenue and Ksh 15.6 billion in A.I.A.The ordinary revenue shortfall up to the month of November was attributed to the effect of two months effect of the tax policy measures introduced in the finance Act 2018. However, the shortfall in the ordinary revenue is expected to rise in the second half year due to realisation of the full impact of the tax policy measure and the roll out of the Revenue Enhancement Initiatives (REI).

From the above observation of revenue performance during the first quarter of the year 2018 and even in the previous years, it is important to note that although revenue performance has been on an upward trend (see chart below), overall revenue mobilization in relation to target has continued to underperform.



Source: Various issues of KNBS Economic Survey

The picture of economic outlook however looks good. However there are risks that if not mitigated may end up undermining revenue performance as per projections for 2019/20. IEA-Kenya take note of the following issues to be taken into consideration;

First, studies show that revenue performance is strongly linked to economic growth. Despite some positive signs of economic rebound there are a number of policy concerns that if not mitigated may undermine expected economic growth and hence undermine revenue collection. Interest rate capping from September 2016 has undermined private sector credit growth and thus may affect economic growth. In this respect, the IEA-Kenya recommends a reversal by repealing this law.

Secondly, trends show that Kenya's economic growth is quite unpredictable and may be dampened by external factors such as rising international oil prices among other shocks. Therefore policy interventions to mitigate against such shocks are imperative.

Low performance in VAT and income tax affects overall domestic revenue mobilization as they comprise about 70% of total tax revenue. It is therefore important that the government review the exemption regime of both VAT and corporate tax which are often obfuscate but also not always serving their intended purposes of equity and incentivizing businesses.

2.4 Public Debt

Kenya's stock of debt is going up and is anticipated to continue rising given the expansionary policy that the government has adopted in order to spur economic growth. This is on the back of a number of flagship projects that are being implemented by the government including Standard Gauge Railway (SGR) phase two. Additionally, the government has enhanced spending in security in order to combat internal crime and terrorism threats. IEA-Kenya shares the following issues to be taken into consideration on public debt;

1. The government should adopt expenditure reduction measures to match budgetary needs to revenue collections. Focus should be put on curbing expansionary budget by reducing recurrent expenditure which still forms a larger part of the total government spending. Each budget cycle in the recent past has seen increased expenditure proposals that are not matched by sufficient revenue raising measures, thus widening the budget deficit.
2. Prioritise development expenditure by focusing on the benefits, both economic and welfare, to be realised from the projects. Prioritisation should be by considering development projects which can provide immediate return to the economy. Such projects will have immediate impacts on economic performance and welfare and hence reduce the negative impacts arising from debt servicing.

3. Reorganise the debt-mix by borrowing more long term concessional loans which tend to be relatively cheaper as this will reduce the pressure on debt servicing. At the same time, reliance on domestic borrowing may result into crowding out effect. The government should therefore reorganise the mix of borrowing by going for long term concessional external loans rather than relying on domestic borrowing or syndicated loans which are costly to service. This will lead to savings arising from relatively low debt servicing costs which can be channelled to other development use.

3.0 TAXATION PROPOSALS

Tax Proposals on Economic Policy Measures,

The National Treasury should take into consideration the following proposals for the fiscal year 2019/2020;

3.1 Income Tax Bill 2018 and the Tax Laws (Amendments) Act, 2018

Introduction

Article 209 (1) of the Constitution of Kenya, 2010 ('Constitution') provides the basis for taxation in Kenya. The Article identifies four distinct categories of taxes that can only be imposed by the national government. These taxes are; the income tax, value added tax, customs duties and other duties on import and export goods; and the excise tax.

The current Income Tax Act ('ITA') is the primary source of legislation that defines and sets out Kenya's tax structure and revenue base. The ITA predominantly borrowed from the 1920 Income Tax Ordinance and has remained unchanged save for piecemeal amendments, revisions and reform over the years.

The Income Tax Bill, 2018 ('ITB') is the most recent attempt by the government to align tax legislation with Article 10 (2) of the Constitution and the Big Four Agenda to enhance the growth of the economy and to simplify doing business in Kenya. The government aspires to broaden its tax base with the proposals made in the ITB and to reduce the inconsistencies within the tax regime that led to ambiguity in the application of the law and covert tax avoidance/evasion practices.

The Problem

The ITB fundamentally shifts the traditional understanding of taxation within the parameters of the current ITA by proposing three distinct tax features. One, to increase tax rates and remove exemptions. two, to tighten restrictions on expense deductions for the determination of taxable income and three, to broaden the provisions that deem income derived by a non- resident from Kenya to be taxable in Kenya.

The ITB is silent on incorporating international best practice from the implementation of the four minimum standards of the Organisation for Economic Co-operation and Development (OECD) Inclusive Framework on Base Erosion and Profit Shifting (BEPS) and in realigning the taxation of services and intellectual capital to consider their key role in Kenya's business environment.

Situation Analysis

The National Treasury under Treasury Circular No 14/2016 issued guidelines to all Ministries, Departments and Agencies on the process and procedures for preparing the Medium-Term Budget for the Financial Years 2017/18 – 2019/20. The upcoming budget for 2019/2020 therefore, seeks to continue the policy and strategic reform measures that the government set out in the Economic Transformation Agenda9 detailed in the 2016 Budget Policy Statement, and thereafter presented to parliament as the Medium-Term Budget 2017/18 - 2019/20.

The policy to be undertaken by the government aims to create a sustainable fiscal framework that will achieve higher growth, generate employment and reduce poverty and inequality thereby realising the aspirations under Vision 2030. The input therefore, is that the Draft Income Tax Bill 2018 (ITB) makes to the realisation of the economic transformation agenda is to scale up levels of investment in economic infrastructure, support rapid economic growth and development, and sustain macro-economic stability.

The achievement of these objectives is observed in the provisions of the ITB that propose to introduce graduated tax scales and withholding tax on repatriated profits at a rate of 10%; revising the thin capitalisation threshold from the current debt-equity ratio of 3:1 to 2:1; increasing capital gains tax rate from 5 to 20%; abolishing tax holidays for Special Economic Zones (SEZs) and Export Processing Zones (EPZs); abolishing the 150% investment allowance and reduction of various capital allowances on buildings and machinery used in manufacturing, commercial real estate, film and education sectors; removal of tax exemptions; regulations to tax the digital economy, and introducing the presumptive tax at a rate of 15%.

Recommendations

- **Lower presumptive tax rate and Capital Gains Tax (CGT)** - The aim of the economic transformation agenda was to reduce the cost of doing business and to make Kenyan market competitive. The broadened tax base as contemplated in the ITB therefore, approbates and reprobates this aim. While an increase in taxes would result in additional revenue to meet the social and economic needs of the country, it also presents a burden to the different categories of taxpayers.

  While non-resident and foreign based multinational companies are deprived of the tax incentives under the ITA, small and medium sized enterprises ('SMEs'), youth led organisations, women owned businesses and persons living with disabilities face restrictions in developing their businesses and limiting their capacity for growth pursuant to the application of the presumptive tax.

  This in turn would limit investment in rural development by SMEs, youth, women and persons living with disabilities. It restricts their ability to then venture out in business and business led activities. The increase in the capital gains tax further imposes upon these tax payers an additional financial burden that is not commensurate with the levels of rural poverty and unemployment in the country.

  Various studies have demonstrated a strong link between taxation and people's livelihoods and the negative impact taxes can have on small businesses and women. A reconsideration of the 15% presumptive tax rate to align with the Ugandan rate set at between 1.5-3% would set a harmonised trend within the EAC. It will provide the informal sector with the incentive to move towards tax compliance.

  In view of this, it is recommended that a specific percentage of tax collected from the presumptive tax and the capital gains tax be directed into the Equalisation Fund set up under Article 204 of the Constitution so that the counties from whence these taxes are collected are redirected towards provision of basic services including water, roads, health facilities and electricity to rural and marginalised areas within the counties.

  The principles on equity, social justice, inclusiveness and sustainable development under Article 10 (2) of the Constitution can be made meaningful in terms of previous civil society proposals to parliament to demonstrate the application of tax justice and fiscal legitimacy in the allocation of the newly contemplated additional taxes towards rural development. This can be done by parliament providing for a revenue allocation criterion under regulations stemming from the ITB.

- **Lower threshold for application of 35% tax rate** - The guidelines for the preparation of the medium-term budget for the period 2019/20 – 2021/22 were circulated via Treasury Circular No. 8/2018 in accordance with section 36 of the Public Finance Management (PFM) Act, 2012.

  The guidelines recognise the country's limited fiscal space and therefore, leverages on the private sector. As such paragraph 3 of the Third Schedule to the ITB that introduces changes to the corporate rate of tax is not in tandem with this goal. The schedule has reduced the rate to 30% for both resident companies, and non-resident companies having a permanent establishment in Kenya whose income does not exceed Ksh 500 million.

  For taxable income exceeding Ksh. 500 million, a rate of 35% will apply. This is an ineffective provision as Kenya does not have a lot of companies that make it to this threshold. Tax legislation in so far as practical should reflect the context within which companies operate in its jurisdiction. Accordingly, it is recommended that the threshold of Ksh. 500 million be lowered to at least Ksh 100 million to ensure there is higher tax collection from those that earn more and generate available revenue to limit the growing debt crisis.

- **Match ITB to service delivery** - The ITB does not indicate how its provisions link to the Big Four Plan, or at least one of them. Neither does the ITB match any of its provisions to service delivery, in the guidelines setting out the process and planning for the 2019/20 budget, in which the government aims to pursue a fiscal consolidation policy targeted towards reducing the overall fiscal deficit and debt accumulation.

  The Finance Cabinet Secretary should, in accordance with the PFM Act, give details of how tax measures "take into account the principles of equity, certainty and ease of collection". Therefore, this will ensure that tax measures from the Treasury, as encapsulated by the ITB, will clearly elaborate responsiveness to these principles because they have a direct effect on public expenditure.

- **Sustainable expansion of the tax base** - Increase in tax mobilisation serves to address the fiscal deficit and debt crisis. However, such increases must be commensurate with the market. It is hereby recommended that the following areas merit parliament enacting subsidiary legislation or regulations to align the ITB to the global tax agenda.

  a. The tax base has not fully been exploited by the ITB due to a disconnect between technology taxation and sustainable revenue mobilisation. Therefore, introduce regulation and taxation of digital currencies; impose the digital service tax for companies trading and providing services online. This captures the modern developments of the market economy. A tax system should respond to the emerging market trends. In so doing the tax regime creates a sustainable design that is all inclusive of business trends. In this regard, the taxing of SMEs falls within the equality principle when tax rates are also applied to foreign companies with a digital market presence.

  b. Double Taxation Agreements (DTAs) have been exploited by tax dodging companies, thereby re-routing untaxed profits and income out of Kenya. This in turn has led to income inequality and erosion of the Kenyan tax base inhibiting spending on social rights, such as health, education and welfare. ITB to expressly set out Transfer Pricing (TP) rules; country by country reporting measures; taxation of value additions and apply the African Tax Administrative Forum (ATAF) Model Tax Agreement definition on permanent home as measures to combat Illicit Financial Flows (IFF).

- **Remove application of CGT for SMEs** - The CGT rate proposed at 20% unfairly tips the rich against the poor. SMEs are defined as the cornerstone of economies. In this respect, Kenya should borrow from the South African Chamber of Business that has condemned CGT as having adverse implications for entrepreneurship and job creation. Citing France, Germany and Italy as examples, it was argued that the South African government's decision to levy CGT on SMEs was a possible contradiction of its stated objective of tax equity aimed at combating poverty.

3.2 An assessment of the finance act 2018

The Problem

In evaluating the 'amnesty' created through the Finance Act, 2018 in the context of Kenya's municipal and international Anti-money laundering and Counter-Terrorism Financing (AML/CTF) obligations, the section 37B (4) exemption poses legal, policy, and practical threats to the economy's financial architecture.

Kenya has many laws that make provisions for the combating of money laundering and terrorism financing, and related challenges. The framework is still in its nascent stages, with the laws having been enacted less than ten years ago and the Financial Reporting Centre (FRC) having become operational only six years ago in 2012.14 These laws and legal institutions are no guarantee that Kenya will succeed in combating money laundering in the country as well as play its part in combating the vice on the global stage.

It will take vigilance, enhancement of the capacities of the concerned authorities to exercise their mandate, respect for the laid down law and institutions and a culture of that commits to integrity in financial dealings both in public and private sectors. Thus, the broad exemption from Anti-Money Laundering and Counter Terrorism Financing (AML/CTF) laws for foreign cash inflows introduced by section 37 B (4) is a step in the wrong direction for the following reasons:

- The provision creates a gap in the AML/CTF law, a loop hole that can be exploited to repatriate proceeds of crime into Kenya. It could open room for money that is a product of economic crimes committed in Kenya or elsewhere to get back into the country's financial system, and indeed the global financial system. It is noteworthy that the exemption does not cover funds "derived from proceeds of terrorism, poaching and drug trafficking. "This provision is of course intended to address questions that would be elicited by this blanket exemption. In other words, the proviso notes that money can be remitted into Kenya under the amnesty except for dirty money derived from these three crimes. This proviso is unhelpful for two reasons: first, money does not come with labels. In fact, illicit money is always disguised. The illicit source of funds can only be identified upon inquiry and investigations and seeking to understand its source. Thus, barring any inquiry will mean money, legitimate or otherwise, will pass under the amnesty and exemption created by section 37 B. Second, poaching and drug trafficking are not the only predicate offences that are often the source of illicit money. As noted above, the list is long and includes bribery and other forms of corruption, outright theft of public funds, human trafficking, and trade in counterfeit goods among other offences. As already noted, Kenya has suffered and continues to suffer from these problems.
- In exempting money remitted under the amnesty from the provisions of Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAMLA) or any other Act relating to reporting and

investigation of financial transactions" this law interferes with the mandate and operations of FRC, the Central Bank of Kenya (CBK) and other regulators of the financial sector to carry out inquiries into transactions or financial affairs of beneficiaries of income repatriated under the amnesty.

This is because the obligation of a financial institution to report a transaction that is "unusual or suspicious" is waived with respect to funds transmitted under the amnesty. In addition, it would follow that a reporting institution is not obliged to inquire into the source of funds or the intended beneficiaries. Similarly, a customer seeking to transact in money received under the amnesty is not obliged to answer any inquiries from the reporting institution, FRC, or any other law enforcement agency since the money enjoys a blanket amnesty from the laws on "reporting and investigation of financial transactions."In short, the provision weakens the effectiveness of the system to detect, prevent and suppress inflow of illicit money as it restrains financial institutions, respective regulators, and the FRC in their obligations.

- The provision also offends know principles of public policy. It contradicts special laws enacted for the specific purpose of combating money laundering and terrorism financing. The AML/CTF legal and institutional framework discussed above is a gate keeping strategy to safeguard the Kenyan economy from inflow of illicit funds. It is a known principle of public law that encouraging behaviour results in more of it; suppressing results in less of it.The AML laws seek to hinder flow of illicit funds and to deny criminals the proceeds of crime. To exempt any money from AML laws opens a loop hole that offends this principle and could have a snowball effect of spurring predicate economic crimes such as corruption, poaching, and drug trafficking, not to mention internal security threats, and possible economic distortions that money laundering is known to cause.
- AML/CFT strategies such as the Financial Action Task Force (FATF) Recommendations are multilateral efforts anchored in law. Kenya's own AML/CTF laws are the country's attempts to comply with international standards and meet its international legal commitments. The exemption created by section 37 B (4) creates a weakness that makes Kenya's legal and institutional framework fall short of the FATF recommendations. This puts the country at risk of being returned to Pre-2014 position where Kenya had been listed as a country "with strategic deficiencies on AML/CTF "and made subject to FATF monitoring. Should this happen, it will reverse the gains made in positioning the country as a regional financial hub. It should be recalled that the United States State Department retains Kenya as a country of "Primary Concern" as far as money laundering and other financial crimes are concerned.

Recommendations

The Government, both the National Assembly and the Executive, should take steps to repeal section 37 B (4) of the Tax Procedures Act, 2015. The Executive should initiate the process since it is the law enforcement arm charged with AML/CTF enforcement in the country. On its part, the National Assembly should legislate to drop this section since the power to make and unmake laws of this nature rests with it. Pending any legal amendments to repeal section 37 B (4), players in AML/CTF enforcement should device strategies on how best to interpret the section in a fashion that will cause the least disruption and safeguard the effectives of the financial reporting and investigations mechanisms notwithstanding the coming into force of section 37B (4).

SECTOR PROPOSALS

4.1 Energy Sector

Statistics show that 40 million Kenyans are affected by Indoor Air Pollution (IAP). Annually, IAP accounts for a total of 21,560 premature deaths and other related health challenges such as increased risk to childhood pneumonia, chronic obstructive pulmonary disorder, ischemic heart disease and lung cancer among non-smoking citizens mostly women and children. An alarming situation that is costing the exchequer over Ksh. 200 billion each year is management of these health challenges. It is worth noting that the deaths emanating from use of polluting cooking technologies and fuels are seven times higher than the total annual deaths from road accidents as reported by National Transport Safety Authority. It is believed that, removing these tariff barriers on clean cooking solutions will enhance the affordability, hence increased adoption of clean and modern cooking solutions. Achieving better health outcomes necessitates a strong supply to ensure long term access to high quality clean cooking solutions.

The sector is at nascent stage with increased investors' appetite to invest in the country as demonstrated in the past three years when the government removed the excise duty on denatured ethanol and VAT on clean Cookstoves. The sector has been able to attract over Ksh. 15 billion of investment over the period. Therefore, by the removal of these tariff barriers, it is anticipated that there will be an accelerated investment flow by the private sector as Kenya is considered to be a lead in the clean cooking private sector investment, hence resulting to thousands of jobs being created across the value chain as detailed out in the sub-sectors attachments.

Clean Cooking Sector Situational Analysis

Clean fuel and improved cook stoves already exist in the Kenyan market and has gained a lot of investment interest in the country. In 2016, the East Africa Community decided to reduce the import duty on clean Cookstoves from 25% to 10%, in order to boost the uptake across the region of these lifesaving and environmentally friendly stoves which improve lives in many ways. In 2016, Kenya acted to remove VAT on clean Cookstoves to enhance uptake and drive the country toward universal access to clean cooking as enshrined in the Kenya Sustainable Energy for All (SE4All) action plan. Since these policy decisions were enacted, there has been acceleration in the adoption of clean Cookstoves among low-income families in Kenya, which has made the vision of universal access to clean cooking for all more feasible.

Currently, Kenya seeks to provide alternative fuel to kerosene, firewood and charcoal. This calls for enhance-enabling environment for the thriving fuel sectors in Kenya. There is a significant opportunity to develop a major industry around denatured bioethanol cooking fuel. The denatured bioethanol cooking fuel is produced and utilized for cooking in Kenya, but there is a severe deficit in local production volumes. Current production levels are about 2 million litres per year. Projected demand for 2019 is 10 million litres, and for 2020 is 40 million litres. In order to meet the clear consumer demand that exists, imports of denatured bio ethanol are required. In the medium term, the business case for import-replacement of denatured bio ethanol cooking fuel will permit major investments into Kenyan agriculture and production to support this nascent industry.

The nascent briquettes and pellets sub sector requires a level play ground to thrive alongside the unregulated charcoal and firewood production. The recent ban on firewood logging raised the dire need to have the sector improved to ensure sustainable and adequate alternative source of fuel. There is current interest from the health, environment and energy sector pushing for the enabling policy environment for the development of the briquettes and pellets.

Problem Statement

At present, denatured bioethanol cooking fuel carries a 25% EAC import tariff and 16% VAT, which is hindering the growth of this nascent industry. There is also uncertainty on the correct tariff code to apply for Bioethanol Vapour (BEV) stoves.

On June 30, 2018, in the EAC CET Gazette, this policy was reversed. It was stated that: This increase in duty from 10% to 35% will have a huge impact on the accessibility of clean Cookstoves by the target market – low income families, typically with a household income of less than Ksh. 20,000 per month. In addition, there is now an inconsistency within the EAC whereby all other EAC countries have maintained an import duty of 10% whilst Kenya has moved to 35%. This is bound to bring market distortion across the region and severely impact the ability of stove companies to operate in Kenya.

Briquettes and pellets sector is dwindling, with the need to create and enabling socio-economic and environmental policies that will enhance the shift to consumer adoption of these alternative fuels. This calls for the sector request to exempt the briquettes and pellets from VAT to make it attractive and competitive fuel to charcoal and firewood for institutions and households in Kenya. The briquettes and pellets sub-sector has not realized its full potential due to the extra cost of 16% VAT, which increases the production costs as compared to the firewood and charcoal. These taxes are a disincentive to sub-standard producers outside the VAT net to produce clean alternative fuel. By implementing the VAT exemption, the government will raise more revenue since it will be formalizing the sector by encouraging consumers to adopt clean cooking solutions supplied by the formal briquetting and pellets sub-sector. The other sectors of the economy will also receive a boost since, the clean briquettes and pellets result in savings and improved health to the consumers.

Sector Budget Proposals

No	Proposals	Justification
1.	VAT exemption on briquettes and pellets made of sustainable, agricultural or forestry waste	The Government of Kenya has committed to ending deforestation. Briquettes and pellets provide a viable alternative to charcoal and firewood. Briquettes and pellets are made of agricultural waste, sawdust or charcoal dust, and do not require any trees to be cut in the production process. Subjecting them to VAT makes more expensive to afford. Exempting these alternative fuels from VAT will therefore ease production cost hence makes them affordable for households, schools and charities. Informal charcoal and firewood suppliers do not charge VAT and therefore there will be very little loss in revenue.
2.	Provide 25% Import Tariff exemption on denatured bioethanol for a period of 10 years to allow for establishment of local industries that will support the projected fuel demand	Imported ethanol fuel is subject to an import tariff of 25%. This equates to a higher price to customers of Ksh. 10-12 per litre. Achieving mass-market uptake of liquid ethanol cooking fuel requires imports of denatured technical alcohol, because of insufficient local quantities produced. Treasury currently derives no revenue from local imports of denatured technical alcohol, and so this proposal will be revenue-neutral to Treasury with regards to current revenue projections.
3.	Provide 16% VAT exemption on denatured bioethanol for cooking and heating	Currently, the denatured technical alcohol (ethanol) for cooking is subject to VAT at 16%, which adds around Ksh. 12 per litre to the retail price that customers are faced with. The Government of Kenya having evidenced its commitment to SE for All by transitioning Kenyan households to affordable and accessible clean cooking fuel needs to provide technical alcohol with the exemption of 16% VAT.
4.	Classify Bioethanol Vapor (BEV) stoves under HS code 7321.11.00 and attract tariffs applicable to other gas stoves	Current classification attracts a higher tariff which reduces the chances for growth in the sector.
5.	Provide a reduction of import duty from 35% to 15% for complete efficient biomass stoves for a period of three years. This is in recognition of the various policy measures the government has put in place to catalyse local manufacturing.	In 2016, the import duty on clean Cookstoves was reduced from 25% to 10%. This boosted the uptake across the region of these lifesaving and environmentally friendly stoves which improve lives in many ways. The increase in duty from 10% to 35% will have a huge impact on the accessibility of clean Cookstoves by the target market – low income families – with inconsistency within EAC whereby all other countries maintained import duty at 10% whilst Kenya has moved to 35% is bound to bring distortion across the region and severely impact the ability of stoves companies to operate in Kenya. Since 2014, imported Cookstoves have collectively saved some of the poorest people in Kenya, an estimated Ksh. 3.7 billion, with this expected to increase to approximately Ksh. 7.6 billion in the next 5 years. It is the intention of virtually every importer of clean Cookstoves to localize their manufacturing in Kenya, but their analyses indicate that it is only cost effective to locally produce these stoves based on a critical mass of at least 50,000 units per company per annum. These clean cookstove companies anticipate being able to achieve these sales milestones within the next 36 months, provided the tariffs do not remain at the newly increased level.

6.	Improve allocation towards promoting alternative clean cooking solutions	The ban on illegal logging has caused widespread shortage of dominant fuels, e.g. firewood and charcoal. This calls for need to expand the production of the alternative clean cooking fuel like ethanol, briquettes and pellets, and improved Cookstoves. There is current levy tax on kerosene which makes it unaffordable to most of the population.

Water, Sanitation and Hygiene Sector

Introduction

Kenya is classified as a water-scarce country with an estimated total renewable water resource per capita of 692m3 per year against the recommended minimum of 1,000m3 per capita per year. This renewable water resource per capita is projected to fall below the absolute water scarcity level of 500m3 per year by 2030 due to population growth. At the same time, poor sanitation is estimated to cost Kenya's economy Ksh. 27 billion annually.

Adequate access to safe water and improved sanitation services is central to achievement of better health and wellbeing of Kenya's population since these services facilitate prevention of waterborne diseases which in turn help reduce mortality rates and catastrophic health expenditure. Adequate availability of water is also critical for sustainable economic growth and reduction of poverty – currently estimated at 36.1% of Kenya's population – since water supports key economic activities such as agriculture, manufacturing and energy production (hydroelectricity). Furthermore, adequate and equitable access to quality water contributes to reduction of conflicts among communities.

The overall population with access to safe drinking water rose from 53.3 per cent in 2013 to 60 per cent in 2017. Urban water supply coverage increased from 61.7 per cent to 68.3 per cent over the same period. Access to sewerage is estimated to be 25 per cent in urban areas by 2017. The national sanitation coverage (which includes sewerage and on-site sanitation) is estimated at 68 per cent (MTPIII).

Kenya's Vision 2030 has an ambitious target of ensuring universal access to water and improved sanitation services by 2030. This aspiration is also reflected in the Kenya Environmental Sanitation and Hygiene Policy (KESHP) 2016-2030 that aims to ensure 100% access to improved sanitation services by 2030. The National Water Master Plan 2030 has been developed to facilitate achievement of these targets.

Situational Analysis

The quality of available sanitation services is low. Nationally, 78.4% of households use toilets without hand washing facilities, creating public health risks such as increased spread of disease-causing germs. In addition, only 10.6% of households, mostly in urban areas, have access to sewerage services. And only 5% of sewage is effectively treated, creating both environmental and public health risks. Limited availability of quality sewerage services is attributed to inadequate identification of sewerage needs, delays in implementation of sewerage projects and poor maintenance of existing facilities. The World Health Organization (WHO) estimates that almost10% of global burden of disease could be prevented by water, sanitation and hygiene interventions. Other benefits of providing proper water and sanitation include increased productive days for the workforce, time saving and health-care saving.

The national government invested ksh. 98.8 billion in WASH between 2014/15 and 2017/18, which is equivalent to 1.4% of its total expenditure over this period. Of this, 91.8% went to development projects – mostly expansion of water infrastructure such as dams – to increase availability and access to water. In 2016/17 water and sanitation expenditure nearly doubled to Ksh31.4 billion from Ksh16.2 billion in 2015/16 to fund construction of major water infrastructure projects such as the Northern Collector Tunnel and Siyoi Muruny Dam to increase water supply in Nairobi and West Pokot respectively.

The national government has established the Water Sector Trust Fund (WSTF) to finance pro-poor WASH projects in marginalized and underserved regions in the country. WSTF cumulatively invested Ksh7.1 billion directly in pro-poor WASH projects in underserved areas in all the counties between 2005 and 2016. These projects enabled over five million people to access WASH over this period.

However, the impact of WSTF across counties is varied. For instance, the percentage contribution of WSTF to water coverage in Isiolo was 35.4%. However, in Wajir where access to WASH is among the lowest, the contribution of WSTF was only 0.3%. In addition, WSTF mainly relies on donor contributions which accounted for 61.2% and 62.9%

of its total resources in 2015 and 2016 respectively. Heavy reliance on donor contributions may have negative implications for the sustainability of WSTF and the pro- poor projects that it supports.

At county level, expenditure data for water and sanitation is currently available at department rather than programme level. This makes it difficult to determine the actual expenditure on water and sanitation in counties where these functions are combined with others such as agriculture or energy under one department.

Problem Statement

The government requires Ksh. 1.76 trillion to provide universal access to water and improved sanitation services by 2030. This consists of Ksh1.3 trillion for water supply and Ksh. 476.5 billion for sewerage. However, the government can finance only 43.6% and 6.5% of the cost of up scaling water supply and development of sewerage infrastructure. This means the government is facing a resource gap of Ksh. 1.2 trillion which may negatively impact achievement of sustainable development goal 6, particularly target 6.1 and 6.2 which call for universal access to safe water and improved sanitation services respectively by 2030. High incidence of poverty, especially in the northern counties, prevents access to safe water and improved sanitation services. The cost of accessing water from an improved source such as piped water is a barrier to poor households where there are no pro-poor tariffs. In addition, most poor households lack the resources to invest in improved sanitation facilities such as ventilated pit latrines. This leads to a vicious cycle where limited access to water perpetuates poverty which in turn makes it hard to access water.

Inadequate financing constrains investment in the water and sanitation sector by the national and county governments to ensure adequate access. Although expenditure to the water and sanitation sector increased in recent years at the national level and in some counties, significant resource gaps exist that prevent rapid scaling up of access. In addition, little priority has been given to investment in sanitation services, especially in rural areas.

Policies, legal and institutional frameworks for the water and sanitation sector are fragmented, leading to poor provision of services. Overlapping roles resulting from existence of several institutions, including water services providers, water services boards, county governments and different national government ministries that have a mandate in water and sanitation leads to inefficiencies that undermine efforts to enhance access. Poor regulation of faecal sludge management, ineffective coordination of the interventions of relevant ministries, departments and agencies, and lack of technical support to county governments lead to low quality and inadequate service provision.

In addition, effective planning and budgeting for WASH is hampered by use of outdated data. There is limited understanding of the level of water and sanitation service coverage, the cost of providing pro-poor services in marginalized areas and the amount of resources that are already available or being invested through off-budget channels in various counties.

Planning based on outdated or insufficient data coupled with limited consultation of various stakeholders in decision-making means that service provision may not address the needs of the poorest and underserved populations.

Poor planning in informal settlements where the poorest live in urban areas prevents effective development of water and sanitation infrastructure. In most informal settlements, physical plans are not implemented effectively leading to inadequate or no provision for public spaces to develop water and sanitation infrastructure such as sewerage systems. Furthermore, unclear ownership or insecure land tenure patterns prevent investment in water and sanitation facilities in informal settlements.

Budgetary Recommendations

Priority should be given to the following key proposal to the sector;

No	Proposals	Justification
1.	The national government should increase investment in pro-poor water and sanitation projects	To reduce reliance on donor funding. This will ensure sustainable delivery of pro-poor water and sanitation projects across the country.
2.	Increase funding for development of climate-proofed water and sanitation infrastructure	This will ensure that WASH infrastructure will function more effectively without being affected by climate-related hazards such as floods and drought.
3.	Increased investment in regular data collection and analysis at national and county level	To ensure effective planning and budgeting for water and sanitation services. Furthermore, detailed expenditure reporting by county governments could improve transparency and monitoring of the impacts of public investments on access to water and sanitation services.

4.	Increased investment in rainwater harvesting especially in arid and semi-arid land counties	To enhance climate resilience by ensuring food and water security.
5.	Increased investment in capacity building of sector actors (government, CSOs, CBOs, WASH networks)	Intended for better governance, institutional strengthening and creating partnerships for development. Strengthen technical capacity innovations, operations and maintenance

Agriculture Sector

Proposal for increased targeted budgetary allocation for food safety in the dairy sector

Introduction of the Dairy Sector

According to Kenya's Ministry of Agriculture, Livestock, Fisheries and Irrigation (MALFI), the dairy industry accounts for 14% of Kenya's agricultural gross domestic product (GDP), and 6-8% of the overall GDP (MALFI, 2013).

The dairy industry has a production capacity 5.2 billion litres of milk per annum, with cattle milk accounting for nearly 90 per cent of the output (MALFI, 2013).

Milk production has been identified as a key contributor of at least three of Kenya's Big Four strategic priorities; health, food and nutrition security, and manufacturing.

Milk consumption continues to increase; with Kenya Dairy Master Plan projecting the annual per capita consumption could reach 220kg by 2030, from the current 125kg in urban areas and less than half of that in rural areas.

Situation Analysis

Although the dairy sector has been identified under Kenya's Vision 2030 as having a huge potential to contribute to economic development of the country, the full potential is far to be realized due to, among other factors, safety concerns in the milk industry (MALFI, 2014).

The main factor contributing to milk concerns in the country is limited government budget allocation on agriculture, specifically on food safety and loss reduction. This limited budgetary allocation has led to, among other things, non-grade plastic containers for milking and transportation, poor quality livestock feed, poor product quality due to lack of technical know-how, lack of price incentives for efforts to improve quality since farmers are paid based on quantity rather than quality, lack of appropriately trained personnel along the milk supply chain, and lack of market intelligence as well as the poor physical infrastructure of the road network (SNV, 2015).

Studies indicate that the Agricultural Sector in Kenya continues to experience stunted growth owing to limited budgetary allocation from the national government which is also translated in the county government.

According to the Malabo Declaration on the Comprehensive Africa Agriculture Development Programme (CAADP), the government should commit 10% of the government expenditure to investment in agriculture which is not the case in Kenya.

Problem Statement

Consumption of safe milk can significantly contribute to achievement of food and nutrition security and health, key pillars identified for economic growth in Kenya. However, consumption of poor quality and unsafe milk pose several hazards to human health.

Unsafe milk may contain food-borne pathogens that cause diseases such as brucellosis, listeriosis and tuberculosis. Moreover, antibiotics residue in milk may cause antibiotics resistance, which makes treatment of illness more difficult. The presence of antibiotics in milk is also a serious problem in dairy value addition. Antibiotics inhibit useful microbes in starter cultures in yogurt, cheese and other fermented dairy products, leading to huge economic losses.

Consumption of unsafe milk takes a high toll on public health as shown in a study by 3R Kenya Project (Ndambi et al, 2018) which estimates that, on average, 855 full lives per year are lost every year in Kenya due to milk-related infectious diseases, such as brucellosis and salmonellosis. In addition, the total annual public health costs in Kenya linked to consuming unsafe milk were estimated to KES 436 billion.

Sector Budget Proposal

No	Proposals	Justification
1.	Increase in government allocation on agriculture to 10% of the total government expenditure.	This is in line with the Malabo Declaration on CAADP and commitment to accelerate Agricultural Growth & Transformation for Shared Prosperity and Improved Livelihoods.
2.	Allocation of budget specifically targeting food safety in the dairy sector.	Food safety is a 'public good'. Government intervention to ensure food safety arises from the several public good characteristics possessed by food safety. Individual producers/firms of dairy products may not be willing to adequately control a food safety hazard.
3.	Breakdown of budget information relating to dairy food safety programmes for ease in categorization of food safety investments into food safety-specific and food safety-supportive expenditures.	The envisaged Quality Based Milk Payment System (QBMPS) will require the government to set aside some budget to finance laboratory testing equipment and other core infrastructure required to establish quality-driven milk bulking and transportation, as espoused in the dairy development policy, 2013. The budget tracking tool developed by IFPRI aims at tracking government food safety budget in the dairy and horticulture sector. It is a three-step methodology which entails; • Identifying food safety activities • Assessing whether the activities are food safety specific or sensitive • Allocating a portion of expenditure to dairy food safety

Health Sector

The 2010 Constitution effectively ushered in devolution and the health sector was the largest service sector to be devolved. The country has over the years taken important steps aimed at laying a firm foundation to overcome the development obstacles and improve socio-economic status of her citizens including health. Some of the key steps include; launching of Vision 2030, enactment of the Constitution 2010, development of Kenya Health Policy 2014-2030, adopting the SDGs and development of the Health Act, 2017 with the aim of improving health structures in Kenya. Despite all these efforts, the sector currently faces monumental challenges that are related to capacity gaps, low funding, human resource deficiency, lack of critical legal and institutional infrastructure, rampant corruption and a conflictual relationship with the national government.

The Health sector in Kenya is one that has numerous stakeholders pursuing various interests[1]. Of key concern is how stakeholders collaborate with the Government of Kenya (GoK) and how much funding the treasury needs to invest in the health care system to ensure that the Universal Health Coverage (UHC) is supported. In this context UHC refers to access to quality essential health care services, and access to safe, effective, quality, and affordable essential medicines and vaccines as envisaged in Medium Term Plan (MTEP III), Target 3.8 of the Sustainable Development Goals and Vision 2030. On June 8th, 2018, the Cabinet Secretary for Health, Hon. Sicily Kariuki constituted the UHC Health Benefits Package Advisory Panel[2](HBAP) to design of an affordable, responsive health benefits package for the delivery of UHC. HPAG designed a response, however, Kenya's (MoH) budget is yet to attain the requisite health financing threshold for Universal Health Coverage (UHC)[3].

[1] This is according to a report by the Center for Solutions Kenya which was sponsored by the Centers for Disease Control and Prevention (CDC)
[2] Gazette Notice No.5627 in the Kenya Gazette Vol. CXX – No.69
[3] Financing UHC according to WHO should be equivalent to 5% of Kenya's GDP (approximately 429.9 Kshs. Billion)

Sector Budget Proposal

No	Proposals	Justification
1.	Increase public investment in health, research & development	With the introduction of big 4 agenda especially UHC, the health budget needs to increase for it to cater for the heavy investment required during the onset of UHC in 2019/2020 and beyond
2.	A tax based financing system needs to be used to fund the health sector	The health sector is a consuming sector hence it needs to be funded by a producing or supplying sector such as the energy sector To ensure that the health sector does not compete with other sectors in the country, a tax based financing system should be established to cater for every Kenyan
3.	A policy on UHC needs to be developed to ensure that all the UHC initiatives being implemented are supported by law	UHC policy framework is housed under several policies. The Policy Framework for UHC in Kenya is the Kenya Constitution 2010, Vision 2030 on achievement of UHC and Kenya Health Policy 2014-2030 and Kenya Health Sector Strategic and Investment Plan 2014-2018 To ensure the UHC initiatives are not overturn by change of government, a law on UHC needs to be developed
4.	Develop a policy on working closely with the health service providers in the private sector	The private sector is a key stakeholder in Kenya's health sector and they, the Health Act 2017 stipulates that there needs to be one health system in the country, hence the private sector needs to be incorporated into the health system as they are a major stakeholder in addressing health issues in Kenya
5.	Develop human resources for health strategic plan to balance the supply and demand for human resources in the counties and the entire public health sector	The health sector continues to have inadequate key health staff like doctors and nurses. Overall Kenya has only 17 doctors per 100,000 populations. There exist regional disparities in the distribution of the existing health workers, where arid and semi-arid areas are disadvantaged with less staff. For UHC to be successful, there needs to be equitable distribution of healthcare human resources
6.	Reduction of reliance on external support to Kenya's health sector	The country has largely depended on donor funding for HIV/AIDS, Immunization and FP. With the dwindling donor funds, the country needs to budget for these areas for soft landing during donor pull out
7.	Establishing strategies for strengthening of county supply chain management systems	The approach for the national government to directly pay KEMSA for medical supplies and equipment under UHC should be enhanced and ensure that KEMSA has deports at the county levels
8.	Develop a policy on enhancing coordination in disease prevention detection and response to ensure all the stakeholders in the health sector are involved including national and county government, the private sector and citizens	According to KIPPRA disease prevention detection and response is an area that requires policy interventions for the realization of UHC
9.	Ring fence finance for Emergency mobile clinic in remote regions under UHC	To ensure healthy lives and promote well-being for all at all ages. UHC ensure access to basic health services irrespective of geographical location or economic status. Health facilities are always located in far distance from residents. Therefore accessing primary healthcare might be a challenge especially for MNCH.
10.	Increase financial allocation to WASH services in HCF	WASH infrastructural development in HCF especially in rural and remote areas is poor or inadequate. The likelihood of the contamination from communicable diseases mostly for MNCH and the under 5 are high. A well-established WASH infrastructure, maintenance and service delivery reduces mortality & morbidity in MNCH

11.	Ring fence funding for mental health programs to ensure mental illness is budgeted for	Mental health has been identified as a neglected disease which affects every individual in the country. The UHC benefit package for health has a mental health component but it's still not clear what the package covers
12.	Recommendations from the National UHC consortium note that the incremental cost of the benefit package translates to about 13,237 Ksh per household for facility-based services obtained from the public sector and 17,663 Ksh per household assuming public and private sector respectively. These estimates mean that the health sector requires intentional investments for UHC and transparency in the National budget FY 2019/2020	Honorable Cecily Kariuki instituted the UHC Health Benefits Package Advisory Panel which recommended a comprehensive Essential Benefits Package (UHC -EBP) to allocate resources for the public health services, community health services (Level 1), dispensaries, health centers, and sub-county hospitals (Level 2-4) to deliver the essential health services in the public sector. The proposed budget was 16 billion Ksh (per County)
13.	Currently, MoH implements a human rights-based approach following the guidelines in the Kenya Health Policy 2012-2030.The policy needs to be inclusive of the SDGs (target 3.8 of SDG 3) to justify the country's intervention of UHC.	The current health policy needs to align to SDGs commitments so that treasury moves from arbitrary allocation of funds, and adopt strategic SDG and Vision 2030 led strategy.

4.5 Art and culture

Background

Kenya's creative industry and economy is growing and might as well increased in share from the 2015 World Intellectual Property Organization (WIPO) research that put it at 5 % of the total GDP. In recent times, there has been a growing interest in Kenyan creative industry and economy given the 2018 nomination of the Watu Wote flick to the Oscars and an earlier win of the Best Actress in a Supporting Role at the Oscars by Kenya's superstar Lupita Nyong'o. The reintroduction of music and the arts in general into the new Competency Based Curriculum is a clear indication and vindication of this newfound attention and interest into the sector. Yet the latest 2018 of the Public Finance Management (Sports, Arts and Social Development Fund) Regulations under Legislative Supplement No. 58 that has facilitate the proposed use of funds accruing from taxation of Sports Betting in Kenya among other sources. Kenya Cultural Centre has finally reclaimed land grabbed by another government entity and now has room for expansion.

The privately owned Godown Arts Centre is closing for a new reconstruction of an ultramodern art 2 centres. The Little Theatre club in Mombasa is set to reopen after a Ksh 50 million renovation funded by the Tourism Ministry.

The International Film Festival Kenya (IFF-Kenya) will host the first International Film festival in Kenya for the first time in 6 years this year. President Uhuru Kenyatta is set to meet ad receive petitions form artistes in a month's time at Sate House Nairobi. A policy think tank, the Institute for Creative Industries and Economics (ICIE) has been started. International markets with as much 1 billion consumers are ready to watch quality Kenyan films.

Betting in Kenya has the highest number of gambling youth in Sub-Saharan Africa (SSA) and sports' betting has become the most popular form of gambling, according to GeoPoll's series of studies on the rise of sports betting in the continent. In April 2018, GeoPoll ran a quantitative nationwide survey via mobile SMS to a sample of 1300 respondents whose demography had a 50:50 male to female ratio aged 18-45 years old. In Sub-Saharan Africa, gambling has become a multi-billion dollar business. It is estimated that by the year 2022, the global gambling market could be worth Ksh 63,500 Trillion according to new findings by Dublin-based Research and Markets.

The unprecedented success of sports betting companies can be seen with SportPesa - a betting company started in 2013, which managed to accumulate revenue enough to fund major premier leagues in Kenya before breaking into the international arena.

Situation Analysis

- Creative economy /industry contributes 5% of Kenya's GDP (WIPO; 2013)
- New legislation on creative industries passed by East Africa Legislative Assembly (EALA; 2015) but need to domesticate it in Kenya.
- Kenya's music market generated direct revenues of Ksh 2 Billion in 2012, up from Ksh 1.65 Billion in 2008. Annual revenue is forecast to rise to Ksh 20.7 Billion in 2015, but fall back to Ksh 20.1 Billion in 2017(PwC, Informa Telecoms & Media; 2015).
- Digital's share of total spending on recorded music rose to 61.1% by 2017. Consumer spending on live music events in Kenya is set to grow, with a compounded Annual Growth Rate (CAGR) over the next five years of 3.8%.
- There is a newly refurbished Kenya National Theatre with the state of the art facility but lacking in programmes to generate feasible content. Land reverted back to the Kenya Cultural Centre and title deed provided.

Problem Statement

There is a growing demand for the creative products including music, theatre, paintings and videos yet the moneys never seem to reach original owners of copyright – the artistes.

The situation has been occasioned by a number of factors including:

- Lack of proper legislation to rein in Content management Organisations (CMOs) who have failed the transparency test in the manner they deal with business (Skiza tunes and general royalties)
- Failure by Advertisers and broadcasting stations to remit royalties from advertisement (Ksh 14 billion in 2015).In 2014, Music Copyright Society of Kenya (MCSK) collected/distributed Ksh 31.16 million; which was 0.46% of what was due. So, if there is Compliance on Copyright alone, Ksh 6.72 billion represents a 200 times increase to Composers via MCSK and another Ksh 6.72 billion, to be shared between other Rights Holders via Kenya Association of Music Producers (KAMP) and Performing Rights Society of Kenya (PRISK).
- Lack of a national art council to manage the general creative industry that today contributes up to 5 per cent of the GDP (WIPO).
- Laissez faire entry into the Kenyan market of foreign content (Netflix)
- Legal digital music services face stiff competition from unauthorised services and music that is available free online. Despite the fairly low prices charged by digital services, consumers with limited budgets are choosing to download music free rather than pay for it. Most ISPs take no action to prevent access to free music and lax copyright laws in the country make it difficult for rights holders to take action against illegal downloading.

Budget Proposals

- Domesticate the Creative Industry law on creative industry
- A section of the law should compel advertisers to remit royalties in a timely fashion to rights holders and artistes with consequences thereof upon failure
- Establish Consulates in film cities such as Los Angeles and New York with art culture attachés
- Provide for up to 30 per cent in funding for foreign film crews and offer other incentives such as licence fees waivers as well as government scouting hosting for location prospectors .
- Ask Netflix and other digital steaming services to have up to 30 % of their content, Kenyan this way local productions get to have access to high end market and Netflix is still in business (MTV is showing the way with African Magic)
- Government to provide seed funding for productions at the newly renovated Kenya National Theatre as done in other parts of the world where entertainment is a key economic actor
- Provide for funding for the planned Ultra-Modern National theatre Complex and establish branches of the Kenya Cultural Centre in cooperating the Kenya National Theatre in every County Headquarter in the country.
- Empower the Kenya Copyright Board and other content management players to monitor digital theft of Kenyan music.
- Communications Authority should have a department specifically to monitor digital theft of intellectual property and investing in research with a view to developing digital solutions to prevent illegal downloads.

Kenya National Bureau of Statistics (KNBS)

Kenya's development is at a critical stage where accurate information for public sector decision making is necessary. On the other hand, article 35 of the Constitution of Kenya confers the right to access to information and places responsibility on the government to publish and publicize any important affecting the nation. It is therefore contemplated that the state will ensure that data collection is undertaken and that this data is made available for consumption by Kenyan citizens.

This constitutional intent is expressed through the provisions of the Statistics Act which recognizes the role of the Kenya National Bureau of Statistics as the government's primary agency for data collection. The KNBS is greatly constrained in terms of resources to collect data on many critical areas contemplated under article 35 as stated above. For the Financial year 2018/19, the KNBS had a gross allocation of Kshs 7.5 Billion for all operations and remuneration of staff. This allocation works out to a per capita expenditure of Kshs. 150 per citizen. It is possible that the allocation will be higher due to the census this year but the trend of allocations have remained the same with the allocations to KNBS trailing growth in national revenues and total expenditure.

Proposal

That the Treasury proposes a significant increase in the allocation to KNBS with the aim to keep that allocation at the same pace of growth as revenues. The overall aim should be to ensure that in 5 years, the annual allocation is increased to provide up to Kshs 500 per citizen for data collection. This is to enable the KNBS to collect data more regularly and include many more sectors of this dynamic Kenyan economy.

Conclusion

The Budget policy statement indicates that the Kenya's economic growth has remained strong and resilient against the backdrop of emerging global challenges, unfavourable weather conditions and political uncertainty. However, the economy remains vulnerable to both domestic and external shocks. The Kenyan government should therefore employ prudent management of risk as required by PFM Act, 2012.

On the principle of maintaining a reasonable degree of predictability with respect to the level of tax rates and tax bases, the Government should continue to carry out tax reforms through modernizing and simplifying tax laws. In order to lock in predictability and enhance compliance with tax system, the Government through the Finance Act, 2018, amended the Income Tax Act, Excise Duty Act, VAT Act and the Tax Procedures Act.

In November 2018, the National Treasury and Planning launched the Third Medium Plan (MTP) 2018 - 2022 of the Kenya Vision 2030 that focuses on transforming lives through advancing socio-economic development through the "Big Four" Plan. The third MTP advocates for the strengthening of intergovernmental relations between the National and County Governments as key towards ensuring efficient and effective service delivery

These proposals are therefore intended for consideration by the Treasury with the view that they will contribute to maintaining Kenya in its current economic growth and in contributing to wealth creation and poverty reduction as well as the Big Four Agenda under the Jubilee administration.

Annexes

Sector Proposals – Contributors

No	Presentation	Area of Submission
	Corporate Sector	
1.	Mr. Leonard Wanyama East Africa Tax and Governance Network (EATGN)	Financial Sector
2.	Ms. Anne M Songole Clean Cookstoves Association of Kenya (CCAK)	Energy
3.	Mr. Daniel Okendo Asher Consumer Protection and Governance, Consumer Unity & Trust Society (CUTS)	Agriculture
4.	Mr. George Sanga Kavulunze Kenya Water Partnership (KWP)	Water and Sanitation
5.	Mr. Simon Kimutai Matatu Owners Association (MOA)	Infrastructure
	Social Sector	
1.	Mr. George Orido Tone Theatre Productions	Art and Culture
2.	Mr. Anthony Kwache Kisumu County Micro and Small Enterprises Association	Informal Sector
3.	Mr. Geoffrey Kerosi Economic and Social Rights Centre, Hakijamii	Land and Housing
4.	Ms. Hilda Imali Ngusale Deutsche Stiftung Weltbevoelkerung (DSW)	Health
5.	Ms. Catriona Mumuli Health Rights Advocacy Forum (HERAF)	Health

NOTES

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The Institute of Economic Affairs (IEA-Kenya) is a civic forum which seeks to promote pluralism of ideas through open, active and informed debate on public policy issues. It is independent of political parties, pressure groups and lobbies, or any other partisan interests

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