KAM
KENYA ASSOCIATION OF MANUFACTURERS
Driving Global Competitiveness
60 YEARS
OF ADDING VALUE

REGULATORY AUDIT SURVEY 2020

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LIST OF KEY ACCRONYMS

AAK	Agro Chemical Association of Kenya
DOSH	Directorate of Occupational Safety and Health
DVS	Directorate of Veterinary Services
EIA	Environmental Impact Assessment
ERC	Energy Regulation Commission
GCI	Global Competitiveness Index
GCP	Gross County Product
KAM	Kenya Association of Manufacturers
KEBS	Kenya Bureau of Standards
KEPHIS	Kenya Plant and Health Inspectorate Services
KIPI	Kenya Industrial Property Institute
KPA	Kenya Ports Authority
KRA	Kenya Revenue Authority
KSD	Kenya Sugar Directorate
LAs	Local Authorities
MDAs	Ministries, Departments and Agencies
MTP	Medium Term Plan
NCA	National Construction Authority
NEMA	National Environmental Management Authority
NITA	National Industrial Training Authority
NTSA	National Transport and Safety Authority
OCOB	Office of the Controller of Budget
OSR	Own-Source Revenue
PCPB	Pest Control Products Board
PPB	Pharmacy and Poisons Board
RRI	Rapid Response Initiative
SBP	Single Business Permit
USD	US Dollar
VAT	Valued Added Tax
WRMA	Water Resources Management Authority

FOREWORD

Regulations are necessary requirements in any nation. When effectively implemented, they create an enabling environment for competitiveness by enforcing fair business practices, driving equal opportunity and inclusive participation of all in the economy. But what happens when they are cumbersome and arduous?

For any investor, policy and regulatory predictability and stability are paramount. Predictability and stability lead to investor trust, which is essential for making sound decisions on scaling up their businesses and in investing in new markets based on their long-term goals.

For instance, where do they want to see their businesses in a decade, half a century, a century or two? What impact will the firm have on society? Perhaps, the best employer in the country or most sort after producer in the continent?

An environment that constantly makes it difficult for businesses to operate in results in investors seeking alternatives - more suitable, predictable and secure markets to relocate their businesses.
Whilst Kenya is a critical destination for both local and foreign investments due to its strategic location in the region, numerous regulations and arduous regulatory regimes make it difficult to invest in the country. This is coupled with a duplication of roles and mandate of various regulatory agencies and the high tax regime that disincentivize investors.

Kenya has made tremendous efforts to address regulatory concerns in the country, demonstrated in the Ease of Doing Business reports since 2014. However, a lot still needs to be done to promote industry's competitiveness and productivity. For instance, what regulatory agency mandates overlap, and how can they be aligned? How can Kenya streamline its regulatory framework at national and county levels to enhance business competitiveness and service operations for businesses? How can the country ensure that counties attract more local and foreign investments? Additionally, what role businesses can play in shaping the business environment.

This report seeks to answer these questions, as it sheds light on our regulatory framework and how we can make it efficient to support competitive industrial development. Consequently, translate to increased employment, inclusivity, efficient use of resources by industry and all citizens. Additionally, it provides a platform for understanding the teething regulatory challenges facing the local manufacturing sector and presents recommendations to address each issue.

Our sustainability and self-reliance as a nation is only guaranteed through our capacity to be a competitive economy on a global scale.

Time is of the essence. Now is the most crucial time to implement the recommendations highlighted herein as we open our Nation to competitive continental and global markets.
I speak for the Association in saying that we are committed to supporting the journey towards a competitive industry.

Mucai Kunyiha,
KAM CHAIRMAN

EXECUTIVE SUMMARY

Legal, regulatory and institutional framework is an important determinant of a country's level of competitiveness. However, although effective regulation is important for proper functioning of businesses especially where there are many micro, small or medium enterprises (MSMEs), regulations can also become burdensome and hinder enterprise growth. Regulations become troublesome when they are numerous hence increasing the cost of compliance, difficult to administer and to comply with and when similar regulations are administered by more than one agency.

Manufacturing firms in Kenya, like in many developing countries, are required to obtain multiple licenses and pay various fees among meeting other business regulatory requirements. While the need for regulations is appreciated, the nature and how these regulations are administered may lead to onerous regulatory regimes. This could, in turn, discourage investors, sinceit leads to increased cost of doing business. In addition to several regulatory agencies, some of their roles and mandates are duplicated, leading to numerous visits to enterprises by public officials from these institutions. Sometimes this discourages firms from complying with these measures, providing an avenue for extortion of bribes by public officials.

This study was conceptualized to gain a deeper understanding of the regulatory environment in Kenya with respect to regulations, institutions and duplicity/multiplicity of roles by regulatory institutions with a view to offer recommendations on rationalizing them to improve the ease of doing business in the country. More specifically, it sought to: identify regulatory institutions dealing with the manufacturing sector in Kenya; examine their roles, mandates, legislative instruments, licensing regime and funding mechanisms of the identified institutions as it relates to manufacturing sector; identify overlapping roles of regulatory institutions and their impact on the manufacturing sector; identify the challenges faced by Kenya Association of Manufacturers (KAM) members when dealing with these regulatory institutions; and propose ways of addressing overlapping roles.

The study used a combination of secondary and primary data gathered from manufacturing sub-sectors under KAM membership.

Manufacturers from various counties responded to the survey through a questionnaire. Primary data was triangulated with secondary data gleaned from various reports, among others: The KAM Regulatory Survey (2012), Ease of Doing Business Report by the World Bank (2016), The Kenya Economic Report (2020), Global Competitiveness Report (2019), Ease of Doing Business Report (2019), specific County Business Coalition Briefs (Machakos, Uasin Gishu, Kisumu, Mombasa, Kiambu and Nairobi), Census of Industrial Production and Construction Report (2018) by the Kenya National Bureau of Statistics, KAM report on Maize Value Chain in Kenya: Implications of Maize Milling Costs (2020), KAM Leather and Footwear Sector Profile, KAM Salt Sector Profile, Report of the Presidential Taskforce on Parastatal Reforms (2013), among others. The draft report was validated by internal and external stakeholders.

The findings suggest that: -

1. There are various overlapping charges and levies by various quasi institutions. Some of these include: water and sewerage services; effluent discharge; movement of goods taxes and levies at the national and county levels; dust measurements, noise survey and air receiver; and occupational and health certifications, among others. Review and alignment of overlapping mandates and roles will reduce the cost of doing business for the manufacturing sector by 28.9%.
2. These overlapping regulatory roles affect the operations of Kenya's manufacturing sector, since they do not only increase the cost of doing business thus reducing the country's competitiveness, but are also time- due to their multiplicity. Sometimes,they create loopholes for abuse by those mandated to administer them.
3. Government Ministries, Departments and Agencies, and county governments have been increasing charges and levies significantly. This has been partly occasioned by the need to mobilize A-I-A for MDAs and enhance Own Source Revenue (OSR) for county governments.
4. Even with reforms, in some instances, the number of procedures and time taken has gone up due to new requirements. For example, procedures required to obtain a construction permit increased from 9 to 16 because of new requirements to submit a survey plan and register the project with the NCA. The time required to obtain a construction permit increased by over 25% from 125 days (2014) to 159 days (2020). It is also important to note that some of the proposed reforms such as the need for reduction of physical visits to departments have not been implemented.
5. At the devolved level, most county levies and fees are determined haphazardly as counties are yet to formulate tariffs and pricing policy to guide imposition of fees and charges. This is a key legal document required under section 120 of the County Governments Act, 2012.
6. Although in 2000, a Single Business Permit (SBP) was introduced as a reform measure by replacing multiple local authority licenses, numerous licenses have continued alongside the single business permit. Other multiple permits by county governments have led to increased costs, man working hours and administrative requirements.
7. County governments continue to charge Cess despite the fact that it should not be levied on the transportation of produce on which it has already been paid for by the producer.
8. There exists weak customer support channels to eliminate the need for in-person visits when services are delayed or lacking. Further, accessibility and availability of services (such as water and sewerage) are not in any way commensurate to chargeable fees and levies. For instance, majority of businesses are not connected to water and sewer lines, which are essential inputs to their operations.
9. Movement of goods across counties is exorbitantly regulated. Distribution licenses are expensive, vary across counties and are mandatory before goods are allowed to transit. This contravenes Article 209 (5) of the constitution which requires that taxation and other revenue-raising powers of a county shall not be exercised in a way that prejudices national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour.

10. Issuance of permits by regulatory bodies take a long time to process. Response time by regulators is either not embedded in Service Charters/Service Level Agreements or adhered to. Additionally, regulatory body permits take a while to process. Businesses have to pay large amounts of money in form of bribes to save time and avoid cumbersome regulations and lengthy, time consuming legal actions.
11. Standardization mark and fortification permit are issued separately by Kenya Bureau of Standards (KEBS), yet standardization permit cannot be considered and issued without having a fortification permit.
12. Locally manufactured products face stringent regulatory requirements compared to imported products, even when they are sub-standard.
13. Ministries, Departments, Agencies and County Governments have formulated various laws, legislations and policies, whose implementation/enforcement is wanting.

Drawing from the above, the following observations and policy recommendations are made:

1. Reduction in cost to obtain export permits will make Kenya's exports globally competitive.
2. Streamline approval procedures and protocols between national and county government agencies and communicate this to stakeholders to clarify roles.
3. Merge regulatory bodies that have almost similar or duplicative roles as well as fast tracking the enactment of the Government Owned Entities Bill. The establishment of government quasi agencies and their funding mechanisms should be clear and realistic from the onset. The need to raise A-I-A and OSR review disadvantages the private sector.
4. Implement a one-stop shop approach to obtain permits from national and county government agencies. Review fees and regulatory roles of institutions with duplicative roles. These permits should be consolidated into one permit and to be issued by one (1) regulator as opposed to several regulators.
5. Enhance customer support channels to eliminate the need for in-person visits. Chargeable fees and levies should be linked to accessibility and availability of services (such as water and sewerage).
6. Publish a detailed list of requirements for obtaining a permit online to enable manufacturers submit complete and accurate applications.
7. Consolidation of levy filing, payments and reporting into a unified return.
8. Most county levies and fees are determined haphazardly. Hence, there is a need for county governments to formulate a tariffs and pricing policy to guide imposition of fees and charges which is a legal requirement under section 120 of the County Governments Act, 2012.
9. Counties have varying regulations, causing difficulties when it comes to doing business consistently across the country. Kenya needs to further streamline competitiveness, and service operations at county level to benefit local businesses and help all counties attract more investment. Government needs to fast track completion of the County Licensing (Uniform Procedures) Bill, 2019, which aims to harmonize county licensing processes.
10. Both the national and county governments should prioritize the involvement of manufacturers while formulating laws, regulations and policies. This will ensure realistic charges, levies and user fees.
11. Review goods distribution fees to enhance transportation and reduce logistics cost at the county level. Cess and distribution levies should be charged at source. In addition to inter-county transportation levies, national government institutions impose charges such as fuel levies, railway development levy and Cess. Cess levied by Kenya Forest Service and Kenya Roads Board should be abolished.
12. County trade permits should be merged to one business license with all the requirements. Charges for services catered for the Single Business Permit should not be levied, and should be scrapped.
13. Regulatory agencies need to reduce the time taken to issue permits. As such, response time by regulators should be embedded in Service Charters/Service Level Agreements, and monitored and adhered to.

14. There is need to merge permits for the standardization mark and fortification permit. This will ensure reduction of costs/fees paid and issuance of only one general permit for products that have mandatory fortification requirements. The standardization permit cannot be considered and issued without having fortification permit.
15. A clear process of documentation and verification of officials by public regulators is required to ensure that all entries into businesses are documented and available publicly.
16. Review regulatory requirements on imports and exports to spur local production. Locally manufactured products face stringent regulatory requirements compared to imported products, even when they are sub-standard. This affects the competitiveness of the Kenya local products.
17. Businesses are required to submit reports to different agencies which adds on administrative costs. Government agencies should create sharing platforms and work in unity to facilitate compliance and reduce costs for businesses.
18. Enforce compliance with formulated various laws, legislations and policies.

Phyllis Wakiaga,
KAM CHIEF EXECUTIVE

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OVERVIEW

1.1 Introduction

Since the industrial revolution, the manufacturing sector has been a key engine of economic growth. However, the uncertainty in policy led to trade tensions between China and USA, and between the European Union (EU) and United Kingdom (UK). Additionally, the advent of the COVID-19 pandemic has seen the sector being the hardest hit.

Kenya's long term development strategy, Kenya Vision 2030, aims at transforming the economy into a middle-income country by 2030. The strategy has recognized the important role played by the private sector in bringing about faster socio-economic transformation, and improve the livelihoods and well-being of Kenyans. Prioritization of manufacturing in the "Big Four Agenda" is expected to contribute to faster and higher growth by targeting to increase manufacturing contribution to GDP.

As espoused in Kenya's industrial policy, the manufacturing sector has not been dynamic enough to function as an engine of economic growth. Kenya's exports have also remained predominantly primary commodities with low value addition, with manufactured exports accounting for only 36 per cent of total exports.

Kenya's industrial goals, in the medium term, focuse on value addition for both primary and high valued goods, and linkages between industrial sub-sectors and other productive sectors to drive the industrialization process. This is meant to enable the manufacturing sector attain and sustain annual growth rate of 15% by 2022 and beyond, and make Kenya the most competitive and preferred location for industrial investment.

70% It should be noted that over 70 percent of global trade is made up of manufactured goods.

However, Kenya's share of both the global pie as well as in Africa continues to face serious bottlenecks, leading to a huge balance of trade deficit with most of our trading partners. Overall trade performance, as measured by the Balance of Trade, has been poor, recording a deteriorating trend, characterized by huge balance of trade deficits. The manufacturing sector is expected to play a very crucial role in bridging this gap.

Sustained economic growth remains a critical pathway out of poverty and a core driver of human development, world over. As indicated by the various indices developed to gauge development, the current landscape demands more effort to restore productivity and growth to lift living standards. Key among these indices is the ease of doing business, the Global Competitiveness Index (GCI) and the Competitive Industrial Performance (CIP). These three (3) are an annual yardstick for policy-makers to look beyond short-term and reactionary measures and to instead assess their progress against the full set of factors that determine productivity. Among others, the key indicators of consideration include: Infrastructure connectivity; macroeconomic stability; health; skills; product market; labour market; financial system; market size; business dynamism; and innovation capability.

Economies are ranked on their ease of doing business. A high ranking in ease of doing business is an indication that the regulatory environment is more conducive to the starting and operation of a local firm. According to World Bank, Ease of Doing Business Report, Kenya's ranking improved significantly from position 129 in 2013 to position 80 out of 189 countries in 2017 and further to position 56 in 2019, however, this is still below the country's policy target of a ranking of 45 by2022.

Closer home, Rwanda and Morocco are ahead of Kenya in the ease of doing business ranking. Rwanda is doing better than Kenya in most of the indicators: starting a business, dealing with permits, registering property and protection of minority investors and trading across borders. Globally, New Zealand, Singapore and Denmark have been ranked favourably over time. In general, these countries are ranked among top 10 in most of the key indicators on ease of doing business

On the other hand, based on the 2019 GCI Report, Singapore ranks highest. The country ranks first in terms of infrastructure, health, labour market functioning and financial system. Led by Singapore, the East Asia and the Pacific region is the most competitive in the world, followed by Europe and North America. Led by Mauritius (52nd), sub-Saharan Africa is the least competitive region.

Kenya was ranked position 95 out of 141 countries in 2019 compared to position 96 out of 144 countries in 2013-2014 in the GCI Report.

Although the highest ranked country in the EAC, the 2019 GCI report has identified 16 highly problematic areas, with macro-economic environment as the leading. On efficiency of legal framework in challenging regulations, Kenya is ranked position 62. Finland is the leader in this area.

According to the Competitive Industrial Performance Report of 2018 by UNIDO, Kenya is among countries that have performed strongly in the manufacturing sector between 1990 and 2016. Others include: Botswana, Ethiopia, Mozambique and Rwanda. Kenya is ranked position 105 globally.

Overally, the report brings to fore the fact that in Kenya, like in other developing countries, manufacturing in represented by small firms that are often characterized by lower levels of productivity due to internal inefficiencies and an unsupportive business environment, coupled by ineffective regulatory environment.

Drawing from the above, legal, regulatory and institutional framework is an important determinant of a country's level of competitiveness. Competitiveness is important for the growth of enterprises and the general economic development of any country.

Regulations and regulatory frameworks are important to address or prevent three market failure problems: natural monopolies, inadequate consumer information, protection of the common good and considerations of equity and protecting the poor.

Although effective regulation is important for proper functioning of businesses especially where there are many enterprises of small or medium sizes, regulations can also become burdensome and hinder enterprise growth. Regulations become burdensome when: they are many, difficult to administer and to comply with and when similar regulations are administered by more than one agency.

In the Kenyan case, in addition to many regulatory agencies, there is duplication of the roles and mandates of the implementing institutions, leading to numerous visits to enterprises by public officials from these institutions.

This discourages firms from complying with the same, providing an avenue for extortion of bribes by public officials. Manufacturing firms in Kenya, like in many developing countries, are required to obtain licenses and pay various fees among meeting other business regulatory requirements. While the need for regulations is appreciated, the nature and how these regulations are administered may lead to onerous regulatory regimes which could in turn discourage investors as this leads to increased cost of doing business.

The main challenge facing Kenyan manufacturers is not only the many licenses, but also their duplicating nature and overlapping regulations, among the various implementing agencies.

Reforming the Regulatory Framework in Kenya

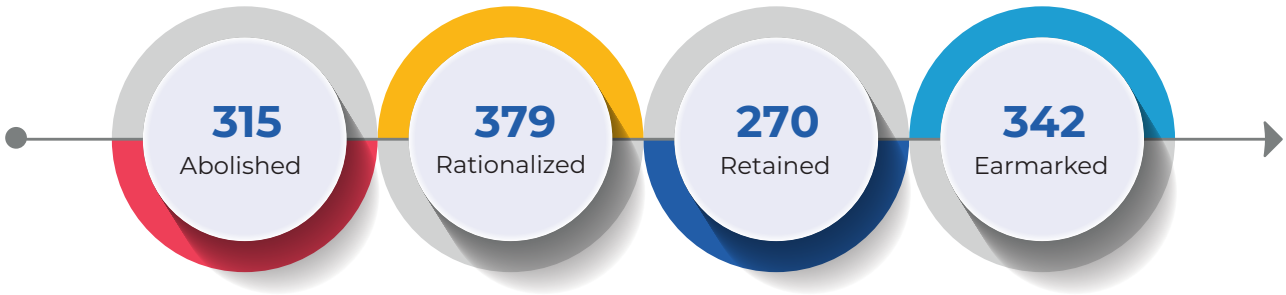
Some efforts have been put towards addressing the issue of regulation in Kenya through business regulation reforms, with strong advocacy from the private sector, particularly the Kenya Association of Manufacturers (KAM). A report by the Department of Business Reforms and Transformation (in the State Department for East African Community) on the Ease of Doing Business in Kenya shows that Kenya has made tremendous strides since 2014. The report examined procedures, time and cost involved in doing business in Kenya. The report appreciates that a lot had been done to make the business environment conducive and is in agreement that the country still needs .

In reforming regulations in the construction sector, the County Licensing (Uniform Procedures) Bill, 2019 has been formulated and is at the Senate. The Bill aims to harmonize the county licensing processes. Further to this, the Minister of Lands and Housing launched the Rapid Response Initiative (RRI) in November 2006.

As part of the initiative, the Physical Planning Department of the Nairobi County found that one of the reasons why it took too long to get building approvals and occupancy permits was that the fire, water and public health clearances required various agencies within the Physical Planning Department to be reviewed by an internal committee. The committee only convenes sporadically thus delaying the process. The RRI removed the need for the committee review, shortening the time to obtain a building permit from 80 days to 50 days.

In order to facilitate business entry, the national government enacted the Licensing Laws (Repeals and Amendments) Act in 2006, reducing the number of mandatory business permits. In 2007, the commercial registry managed to improve the quality of its services, through better coordination between the Ministry of Lands and Physical Planning and the Kenya Revenue Authority. As a result of these reforms, the time to start a business dropped from 54 to 44 days in 2007 and to 34 days in 2009.

Property registration also underwent reforms. The then Registry Superintendent of the Ministry of Lands and Physical Planning allowed the private sector to provide property valuations in addition to valuations available from the public sector; thus reducing the time needed for an entrepreneur to get a valuation to 7 days only.



According to the KAM Regulatory Survey of 2008, in 2007, 315 business licenses were abolished, 379 were rationalized, retaining about 270 licenses. In consultation with other government agencies and departments, another 342 licenses were earmarked for further review.

However, some of the abolished licenses are still being used especially by counties. Although in 2000 a Single Business Permit (SBP) was introduced as a reform measure by replacing multiple local authority licenses, numerous licenses continue to exist alongside the single business permit.

Reforms in regulations in the construction sector, particularly consolidation of the licenses has led to reduction in time for meeting such requirements. For example, the average time to obtain an occupancy permit in Kenya has dropped from 17 days to 14 days. The total time to get a construction permit has decreased from 133 to 120 days. This attests to the observation that streamlining and harmonizing various procedures and regulations can lead to reduction in time and money for Kenyan manufacturers. Despite these efforts, there still remain a number of regulatory challenges facing local industry. It is also important to note that some of the proposed reforms such as the need for reduction physical visits to departments have not been implemented.

At the national level, in the area of starting a business, the 2015 Companies Act eliminated the requirement to have registration documents notarized before the Commissioner of Oaths, which reduced procedural complexity and the time to start a business overall. The year 2016 saw another major improvement with the abolishment of the stamp duty on the memorandum and articles of association and the statement of nominal capital. National registration costs were capped at KES 10,000. There has been automation of the registration process through the online e-citizen portal and payment of fees can be done directly. Four of the seven procedures are already online, making registration and payment seamless.

In the area of registering a property, the Ministry of Lands and Physical Planning made its service charter available online in 2016, increasingtransparency at the national level by giving clients access to critical information about the transactions they undertake at the Lands Offices. Thusis recorded as an improvement on the quality of land administration index.In terms of dealing with construction permits, the 2011 National Construction Authority (NCA) Act and its accompanying regulations passed in 2014 now require contractors to register with and obtain a compliance certificate from NCA before construction can begin.

The requirement's objective is to ensure construction professionals meet minimum standards to perform work. However, obtaining the new certificate is an additional procedure that takes, on average, one week and costs another 0.5% of the warehouse value. In addition, the fees of the National Environmental Management Authority (NEMA) doubled, with a minimum fee of Kshs. 10,000.

As a result, no national reforms that make it easier to deal with construction permits were recorded from 2012 to 2016. However, the number of procedures required to obtain a construction permit increased from 9 to 16 because of new requirements to submit a survey plan and register the project with the NCA. The time required to obtain a construction permit increased by over 25% from 125 days (2014) to 159 days (2020).

For the enforcing contracts area, reforms tend to take years to show results. Such is the case in Kenya, where improvements under the Judiciary Transformation Framework launched in 2012 are yet to bear fruit. In the longer run, the implementation of these reforms should make it easier to enforce a contract in Kenya. the government has also waived registration of a business premise with the Directorate of Occupation Safety and Health, reducing costs by Kshs. 5,000. Others include waiving of the requirement for a single business permit for the first two years of Incorporation; enforcing timelines to process and issue certificates from government agencies (NSSF, NHIF, KRA) to less than one day from the curr

Experience from other countries has shown that properly anchored regulatory framework is key in not only protecting minority investors abut also creating an enabling environment for all players. As an example, streamlining and harmonizing licenses in other countries such as Egypt and Rwanda have proved to save on both time and cost. Although Kenya has been implementing regulatory reforms since 2005, regulations continue to pose challenges to its business sector.

Domestic regulations and administrative procedures are among the major challenges affecting Kenya's manufacturing sector. The regulations, apart from discouraging investment and business, also provide an opportunity for massive corruption practices. This is because, in many cases, manufacturers and other stakeholders have to part with huge amounts of money in form of bribes to save time and avoid cumbersome regulations.ent 21 days.

Efforts towards business regulatory reforms in Kenya have mainly targeted the reduction of the number of regulations but have not focused on overlapping regulatory actions by different regulatory institutions.

However, the key challenge of business regulations in Kenya is that they are still many, and some regulations are administered by more than one regulatory agency. This leads to delays and higher costs of doing business, ultimately reducing the businesses competitiveness.

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1.2 Legal, Regulatory and Institutional Frameworks in Kenya in Selected Counties

Since 2012, the transfer of resources and responsibilities to 47 newly elected county administrations under an ambitious devolution plan created multiple new institutions and systems.

Legal, regulatory and institutional frameworks at the county level is mainly analyzed looking at four (4) key aspects of doing business in Kenya, namely: starting a business, registering property, business permits and enforcing contracts. In this context, these indicators are selected because they relate to regulatory areas where counties have the administrative power to reform and/or make changes in the way the regulation is implemented. While a common legal and regulatory framework applies across counties, its implementation varies and local regulations may be different. One of the areas measured dealing with construction permits is almost entirely governed by the respective county. Across the other three areas, local differences in the implementation of national regulations drive the variations seen.

In a study done in 2016 on the ease of doing business in Kenya by the World Bank, it was easier to start a business in Uasin Gishu (Eldoret), deal with construction permits in Kisumu, register a property in Nairobi and enforce a contract in Busia (Malaba). In Kiambu (Thika), starting a business was easy because it was relatively fast and inexpensive to obtain a business permit, but it ranked near the bottom on enforcing contracts, mainly because of the trial and judgment and enforcement phases.

Starting a business is regulated by Kenya's Companies Law of 2015. The registration process is centralized in Nairobi, therefore requiring entrepreneurs in the other counties to travel to Nairobi to register their companies. On average, starting a company requires seven procedures, takes 23 days and costs 20% of Kenya's income per capita. While the process is less efficient compared with the global Doing Business 2019 average, it is faster and costs less than half of the regional average in Sub-Saharan Africa. Within Kenya, the time varies from 20 days in Mombasa and Uasin Gishu (Eldoret) to 27 days in Narok and Nyeri. Start-up costs range from 18.1% of income per capita in Nyeri to 26.9% in Mombasa. These variations are driven by the time and cost of the local business permits. The process to obtain the business permit is relatively inexpensive and takes two days in Kiambu (Thika) and Uasin Gishu (Eldoret).

Dealing with construction permits requires 17 procedures, takes 108 days and costs 3.8% of the warehouse value, on average, about two (2) months faster than the average for Sub-Saharan Africa (162 days). However, the number of procedures is three (3) times the global average measured by Doing Business. The number of steps ranges from 14 in Kiambu (Thika) to 18 in Isiolo, Kakamega and Machakos.

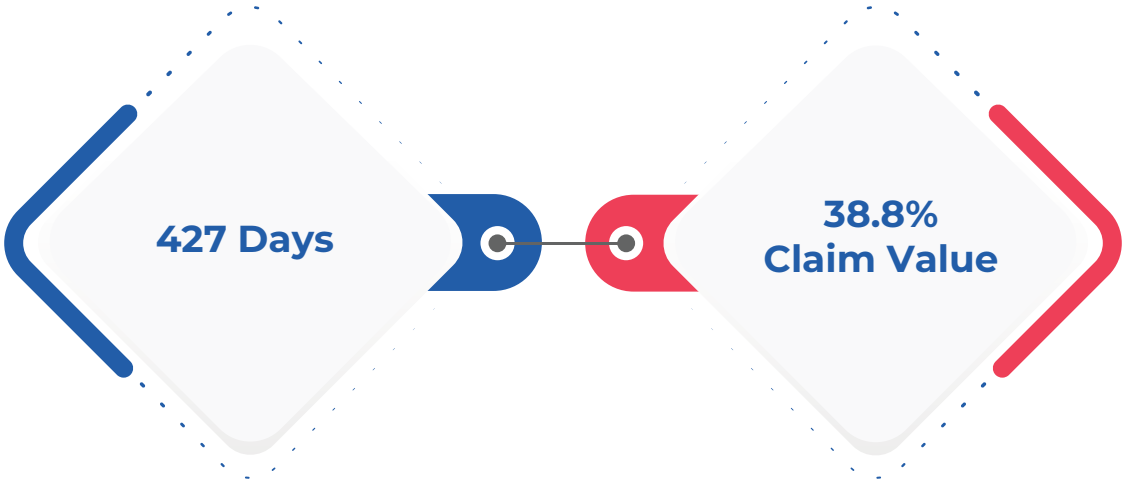
The differences are driven mainly by how local authorities manage the pre-construction clearances issued by various county departments, including utility providers, public roads administration and fire and health departments and by how many inspections take place during construction. The time to deal with construction permits varies from 72 days in Busia (Malaba) to more than twice as long in Kiambu (Thika) and Nairobi. It depends to a large extent on how long it takes to obtain a building plan approval. In Busia (Malaba) approvals take nine days, but in Kiambu (Thika) they take two (2) months. The cost varies from 2.5% of the warehouse value in Kakamega to 7.1% in Nairobi. The building plans approval fees constitute nearly half the total cost.

Simplifying pre-construction approvals would greatly facilitate the construction permitting process in many counties, hence supporting the Building and Construction Sector. This could be achieved by streamlining building plan approvals as a first step towards applying risk-based approaches to plan reviews, inspections and environmental approvals. Electronic platforms could also help by connecting the relevant approving departments.

Registering property takes on average nine (9) procedures, 58 days and costs 6.54% of property value. The cost is in par with South Africa and lower than in Mauritius or the regional average for Sub-Saharan Africa. Across Kenya, property registration requires three (3) times as many procedures as in Rwanda and requires about the same number of days as in Sub-Saharan Africa (57.5 days) which is nearly five (5) times the time required in Botswana (12 days).

Transferring property presents the same procedural complexity at nine (9) procedures across the country. The time needed ranges from 41 days in Mombasa to 73 in Isiolo, depending on how fast the respective county governments issue the rates clearance certificates and how efficient the local Lands Offices are. Cost varies from 6.01% of the property value in Kiambu (Thika) to almost double in Isiolo. Differences in cost stem from the rates clearance certificate fee, which is most expensive 5% of property value in Isiolo as compared to a flat fee in all other counties. Nairobi is the sole county with a computerized and fully digital registry and a geographic information system.

Since seven (7) out of nine (9) property registration requirements are executed at the Lands Office, reforms should focus on making these procedures simpler. Extending the use of the unified application form beyond Nairobi, enforcing time limits and digitizing land records across Kenya could all help simplify the process. Making it easier to obtain a land rent clearance from the Lands Office would also be a significant step towards making it easier to transfer property on the whole.



Resolving a commercial dispute takes, on average, 427 days and costs 38.8% of the claim value.

This is more than six (6) months faster than the average Sub-Saharan African economy, but almost twice as long as in Rwanda. In Kenya, it is nearly three (3) times more expensive than in Tanzania, but 10% less than the average for Sub-Saharan Africa.

In Kiambu (Thika), it takes 455 days and costs 38.6% of the claim value to enforce a contract, while in Busia (Malaba) it is two months faster (390 days) and costs nearly 2% points less as a percent of the claim value (36.7%)

Setting up a company in Kenya costs 22% of income per capita, on average, which is below the global average of 26.1%. Registration fees (levied by the Companies Registry) and business permit fees (levied by the counties) account for more than 85% of the total cost. While the cost of company registration is the same across Kenya, the business permit fees are regulated at the county level and vary widely across counties.

Kenyan counties present a mixed picture of performance so far for entrepreneurs, who face an array of obstacles depending on where they do business. With the exception of Narok and Kakamega, all counties rank in the top half and bottom half on at least one indicator. In Kiambu, for example, starting a business is easy because it is relatively fast and inexpensive to obtain a business permit but the county ranks near the bottom on enforcing contracts, mainly because the trial and judgment and enforcement phases combined take 14 months. Nonetheless, even in counties with lower rankings, good practices can be found to learn from.

The report found no clear correlation between county location and the rankings. For example, Nairobi, the country's capital and most populous county, ranks first on the registering property indicator but last on dealing with construction permits. Similarly, Mombasa, the other urban county, is doing well on registering property and enforcing contracts, but – like Nairobi – ranks in the bottom quarter on dealing with construction permits. Meanwhile, the much smaller Busia ranks first on enforcing contacts, but 7th on starting a business.

1.2.1 Regulatory Framework in light of Devolution

An enabling business environment or climate means creating conditions necessary and conducive for local and international investors to operate and grow their businesses. It includes policy and legislative, as well as market level interventions including infrastructure and services improvement, and access to finance and labour.

Since the adoption of Kenya's Constitution in 2010, the country has embarked on an ambitious devolution agenda - shifting multiple powers and responsibilities from the national government to 47 new county administrations. Counties started setting up new institutions and systems to deliver services formerly assumed by the central government. In order to avoid overlaps and duplication, the functions of the two tiers of government have to be carefully coordinated.

Devolution seeks to enhance accountability and improve service delivery at the local level, thus addressing important limitations to past economic growth and poverty reduction efforts. However, Kenya's low level of productivity, especially in its informal sector continues to constrain firms' ability to grow and generate more employment.

County governments and business operators are key stakeholders in shaping the business environment at that level. County governments have the larger responsibility of providing adequate physical infrastructure and services, to enable business operation and their sustainability; developing and enforcing laws and policies that promote fairness, competitiveness, and sustainability for businesses; as well as revenue collection and compliance enforcement. Businesses are the major sources of OSR for county governments, through licensing and taxation. They also create employment opportunities and platforms for innovation, as well as attract new investment into counties. They are the key drivers of the counties' economy.

Towards improving on the investment environment, the national government and counties have embarked on a bold investment climate reform program that has transformed the regulatory landscape. Implementing the reforms across Kenya, coordinating across the different levels of government and building capacity to ensure efficient and quality service delivery are the main challenges ahead.

In the third Medium Term Plan (MTP III), the government commits to continue implementing public sector and governance reforms in the areas of administration of justice and law and order so as to improve the ease of doing business and sustain a conducive business environment that will promote investment, growth, and employment creation. The MTP III has recognized the need to reduce administrative and regulatory impediments to starting and growing businesses in the country and across the counties.

However, at county level, formulation and implementation of various policies and legislations has been done in a haphazard manner across counties. Further to this, county governments and their agencies, and other national government agencies have designed and implemented various levies and licenses across various sectors of the economy. This has partly been occasioned by the urgent need to upscale county own revenue collection given the current county revenue allocation formula. This notwithstanding, it has greatly impacted the ease of doing business across counties, and by extension the county, hence negating the aspirations of MTP III and Big Four Agenda.

Previously, the need for more local revenue collection significantly exacerbated the cost of doing business, and this phenomenon is likely to continue at least in the next one (1) year. The World Bank 2018 report on the ease of doing business in Kenya established that introduction of various charges have constrained the ease of doing business for entrepreneurs in seven (7) counties. According to the study, counties have been introducing regulations or practices that have increased either the cost, time or complexity to do business. For instance, the study found out that Busia, Isiolo and Kakamega have significantly increased business permit fees for starting a business, while dealing with construction permits became more difficult in Busia, Kiambu, Mombasa, Nairobi and Uasin Gishu.

Various reforms have been undertaken at the county level. The establishment of one-stop shops for multiple government services, known as Huduma Centres; streamlined business start-up requirements; and increased transparency in property registration are among new measures being taken at the national and county level.

According to the World Bank Ease of Doing Business report, the Companies Act of 2015 eliminated the requirement to have registration documents notarized before the Commissioner of Oaths, thus reducing the procedural complexity and time for starting a business. 2016 saw another major improvement with the abolition of the stamp duty on the memorandum and articles of association and the statement of nominal capital.

These reforms have been matched at the county level with, for example, the opening of Lands Office branches to facilitate property registration, and with the establishment of an electronic construction permit platforms to speed up the process of obtaining a construction permit.

1.2.2 Revenue Generation

In the current national budget preparation circulars, regulatory bodies have been empowered to collect charges and fees from business and accruing Appropriation-in-Aid (AIA). In addition to being one of national government resource mobilization strategies, part these monies are repatriated and considered as part of that regulatory institution allocation in the next budget cycle. This, at times, has acted as an incentive for fluctuations in fees, charges and levies. This is also brought to fore by a report by the Presidential Taskforce on Parastatal Reforms of 2013. The report cited duplication of roles and provisions by various government agencies and recommended the enactment of the Government Owned Entities Act (this is yet to be actualized).

At the county level, the need for governments to have reliable revenue is a key principle of Kenya's devolution, contained in Article 175(b) of the Constitution. The 47 County Governments budget for devolved functions and generate revenue from local sources. The Constitution defines County Governments' funding sources to include: Equitable share of at least 15% of most-recently audited revenue raised nationally; additional conditional grants from the National Government's share of revenue; equalization fund based on half of one percent of revenue raised nationally; local revenues inform of taxes, charges and fees; and loans and grants.

The Constitution allows counties to impose: property rates; entertainment taxes; charges for services they provide; and, any other tax or licensing fee authorized by an Act of Parliament. These OSR streams fall into three categories namely: Taxes, User Charges and Fees, and licenses.

Taxes are compulsory government levies for which nothing is received directly in return. Taxes do not necessarily involve the use or derivation of direct benefits from services, regulation or goods. Rather, taxes are unrequited transfers intended primarily to generate revenue for the government. Examples are property rates and entertainment taxes.

User charges and fees are payments for publicly-provided services, or charge for using a public facility such as vehicle parking lot, market, health facility or park. User fees/charges may correspond to usage of services provided, or may be for the bulk or time-limited use of services such as water. The main economic rationale of user fees/charges is not to generate revenue but to promote economic efficiency. Well-designed user fees/charges achieve this goal by: i) providing different information to public-sector suppliers e.g. how much clients are willing to pay for particular services, the type of services to be supplied, the quantity and quality, and to whom; and, ii) ensuring that what the public sector supplies is valued at (marginal) cost by citizens.

Licenses are charges in respect of authorization granted to an entity to undertake a certain action and is mainly issued for regulatory purposes. Examples include business and outdoor advertising licenses.

To fulfil their constitutional mandate, county governments impose tens of user fees and charges, although 70 percent of collections comes from about 10 revenue streams. For instance, 40% of counties' OSR in FY 2016/17 was generated from three (3) imposts namely: Business licenses (14.8 percent); property-related income i.e. poll rates and plot rents (14.1%); and vehicle parking (12.2%). This significantly different from what the National Treasury has projected overtime (see Figure 1-1). In 2019/20 FY, OSR accounted for 11.3% of the total counties' expenditure (See Figure 1-2).

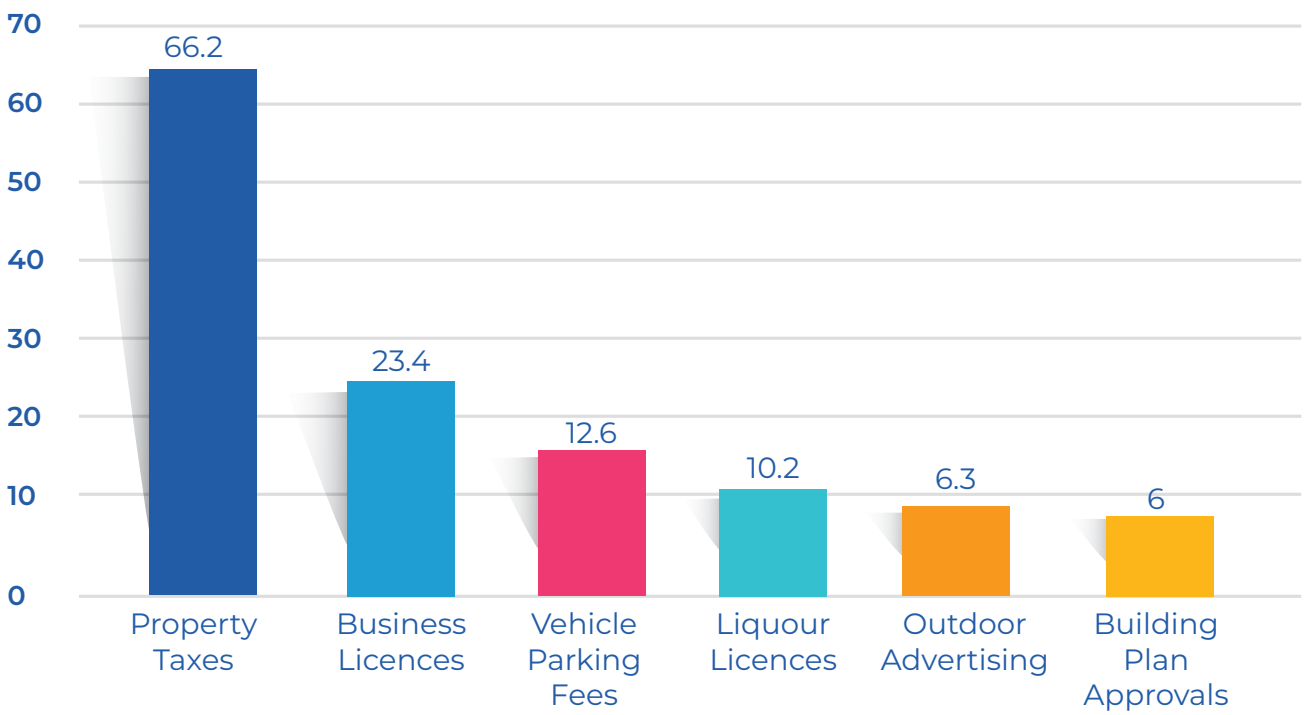


Figure 1-1: Average Potential OSR for County Governments, BPS, 2019

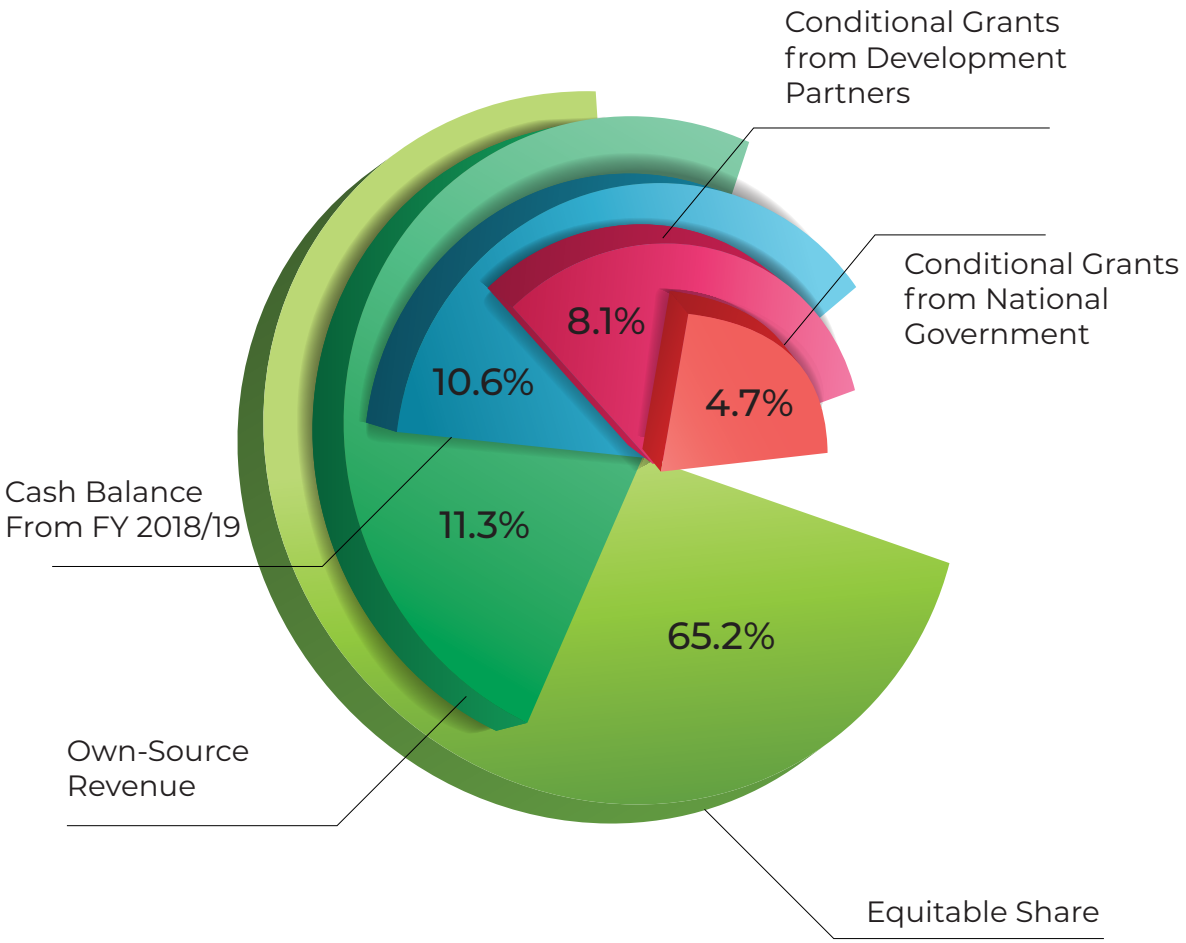


Figure 1-2: County Sources of Revenue, OCOB, 2020

The need for increased Own-Source Revenue has been partly occasioned by the need to bridge the gap between financial resource requirements and allocations, but also by the Commission on Revenue Allocation (CRA) designation of 2% weight for local collection as the third basis for revenue sharing. This has been amplified by the Senate's proposed formula which also retained a weight for fiscal effort. This was also the case with fiscal responsibility and development factor with a weight of one (1), respectively in the second basis for revenue sharing. However, huge disparities exist in county Own Source Revenue (OSR) collections. Counties with a significant share of industry and service sectors collect more revenue compared to counties that are heavily reliant on agriculture. This signifies the importance of manufacturing at that level.

Counties recordedrobust growth between 2014 and 2017, with real Gross County Product (GCP) and real GCP per capita growing at an average of 5.6 and 2.8 per cent respectively. During the period, 22 counties had their real GCP per capita growing at a faster pace than the county average. As of 2017, 10 counties had their real GCP per capita above the national GDP per capita of Ksh 96,799.8. These are counties with relatively well-established industrial sectors.

Counties have the potential of up-scaling the economic growth to the desired levels and improve inclusivity significantly. In all the counties, three sectors are most significant given their size of the value added. These are agriculture, manufacturing, and wholesale and retail trade. Although agriculture is the highest in size, the other two have at least 10.0 per cent of total value added. It is important that more budget is allocated to these three sectors and their respective value chain systems enhanced to deliver the desired outcomes.

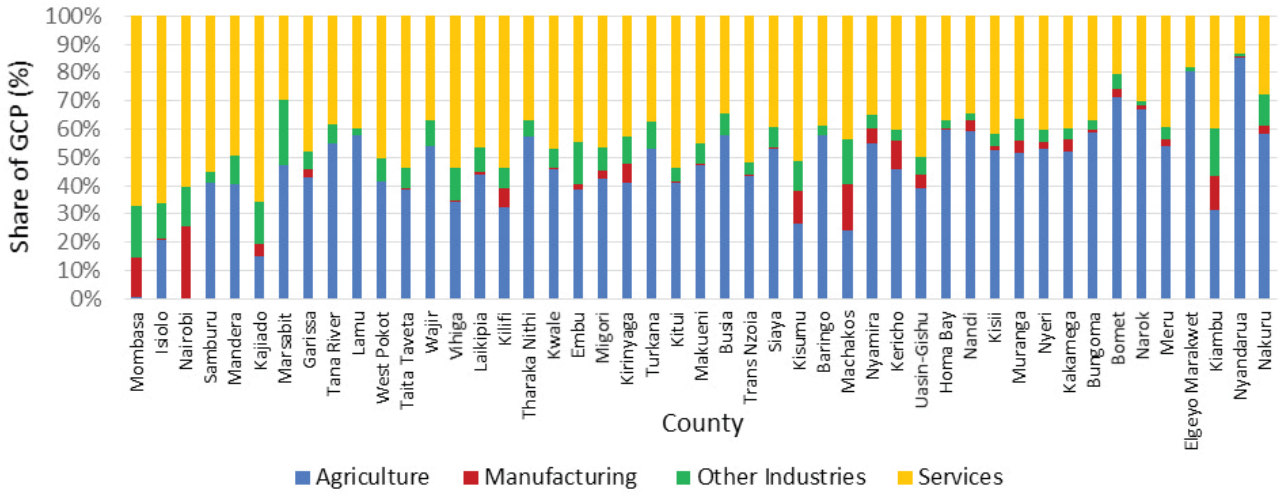


Figure 1-3: Sector Contribution to GCP

Only 15.0 per cent of the 47 counties have significant manufacturing activities, with most counties heavily dependent on agriculture. Agriculture is the key economic activity of most counties, followed the services sector. Counties with relatively well established manufacturing and agriculture sectors have a larger population size.

Several studies on doing business in Kenya have been done. However, most of the earlier ones focused on the national perspective and concentrated on regulations from small and medium-size firms. They have focused on whether the economy has in place the rules and processes that can lead to good outcomes for entrepreneurs and, in turn, increased economic activity. Recognizing the important role governments play in bolstering private sector development and a better understanding of the ease of doing business is key in promoting smart legislations. The key premise is that well-framed policies, laws and regulations designed to be efficient, transparent, accessible to all, enforceable in court and easily implemented, can empower entrepreneurs to devote their time to productive activities and grow their businesses.

For the aspirations of the MTP III to be realized, the government, private sector/manufacturers and other stakeholders require an up-to-date inventory of bottlenecks to the ease of doing business, focusing on a wider spectrum of counties, agencies, policies and legislations. This is an initial step that will go a long way in supporting industrialization in the rural areas to absorb rural labour, and by diversifying economic activities through creating an enabling environment with, for example, infrastructure development to attract investments in manufacturing activity by the private sector.

1.3 Objectives of the Study

This study is a follow-up to two (2) previous ones conducted in 2008 and 2012. The two (2) reports brought to fore salient issues pertaining the regulatory framework in Kenya. Key among these was the need for a review of the mandate of institutions involved in regulating the manufacturing sector in Kenya and enforcement of legal directives. It should be noted that these reports were prepared before devolution took effect and only concentrated on national government Ministries, Departments and Agencies (MDAs).

This study, therefore, was conceptualized with the aim of identifying duplicating roles by regulatory institutions in Kenya with a view to rationalizing them for better productivity outcomes. More specifically, the study sought to:

a) Identify regulatory institutions dealing with the manufacturing sector in Kenya;
b) Identify the overlapping roles of regulatory institutions and their impact on the manufacturing sector;
c) Identify the challenges faced by KAM members when dealing with these regulatory institutions; and
d) Propose ways of addressing overlapping roles.

1.4 Methodology

This study used a combination of secondary and primary data gathered from manufacturing sector businesses in Kenya. Manufacturers from various counties responded to the survey using a questionnaire presented in Annex 1.

Some of the secondary materials referenced include: The KAM Regulatory Survey of 2012, Ease of Doing Business Report by the World Bank (2016), The Kenya Economic Report (2020), Global Competitiveness Report of 2019, Ease of Doing Business Report 2019, specific County Business Coalition Briefs (Machakos, Uasin Gishu, Kisumu, Mombasa, Kiambu and Nairobi), Census of Industrial Production and Construction Report 2018 by the Kenya National Bureau of Statistics, KAM Report on Maize Value Chain in Kenya: Implications of Maize Milling Costs (2020), KAM Leather and Footwear Sector Profile, KAM Salt Sector Profile, Report of the Presidential Taskforce on Parastatal Reforms of 2013, Ease of Doing Business: Reform Milestones 2014-2020 (November, 2020), among others. The draft report was validated, internally and externally.

1.5 Scope

This study used a combination of secondary and primary data gathered from KAM manufacturing sector businesses in Kenya. Manufacturers from various counties responded to the survey using a questionnaire presented in Annex 1.

KAM 60 YEARS
KENYA ASSOCIATION OF MANUFACTURERS
OF ADDING VALUE

COMPARATIVE OVERVIEW OF REGULATORY FRAMEWORK AND COMPLIANCE ACROSS COUNTIES

With a view to understanding the existing regulatory framework and compliance across the counties, Kenya Association of Manufacturers administered a question (Annex 1) to different manufacturers spread across ten key sectors, and which include: Chemical and Allied; Metal and Allied; Paper and Paper Board; Plastics; Building, Mining and Construction; Pharmaceutical; Automotive and Accessories; Timber, Wood and Furniture; Food and Beverage; and Services and Consultancy,

Summaries and county variations are as follows:

2.1 Chemical and Allied Sector

More than 33 different charges and fees are required for the sector. Regulations and institutions enforcing these regulations as well as fees charged in the are presented in Table 2-1 and 2-2. As reported by two (2) firms in Nairobi, it costs an average of approximately Kshs 1,085,450 million to meet requirements in this sector. Out of this, Kshs. 465,500 goes to the county government, with a big chuck of it being the annual renewal of the single business permit.

Some of the bodies regulating the sector include: the County Government, Pharmacy and Poisons Board (PPB), Pest Control Products Board (PCPB), Agro Chemical Association of Kenya (AAK), Directorate of Occupational Safety and Health Services (DOSHS), Kenya Plant Health Inspectorate Services (KEPHIS), NEMA, KEBS and Directorate of Veterinary Services (DVS).

The county government receives 53.2% of the total charges in the sector followed by PPB at 24.8% and NEMA at 21.9%. Major charges include: waste transportation and effluent discharge, environmental audit, branding and distribution license, occupational health & safety audit and trainings.

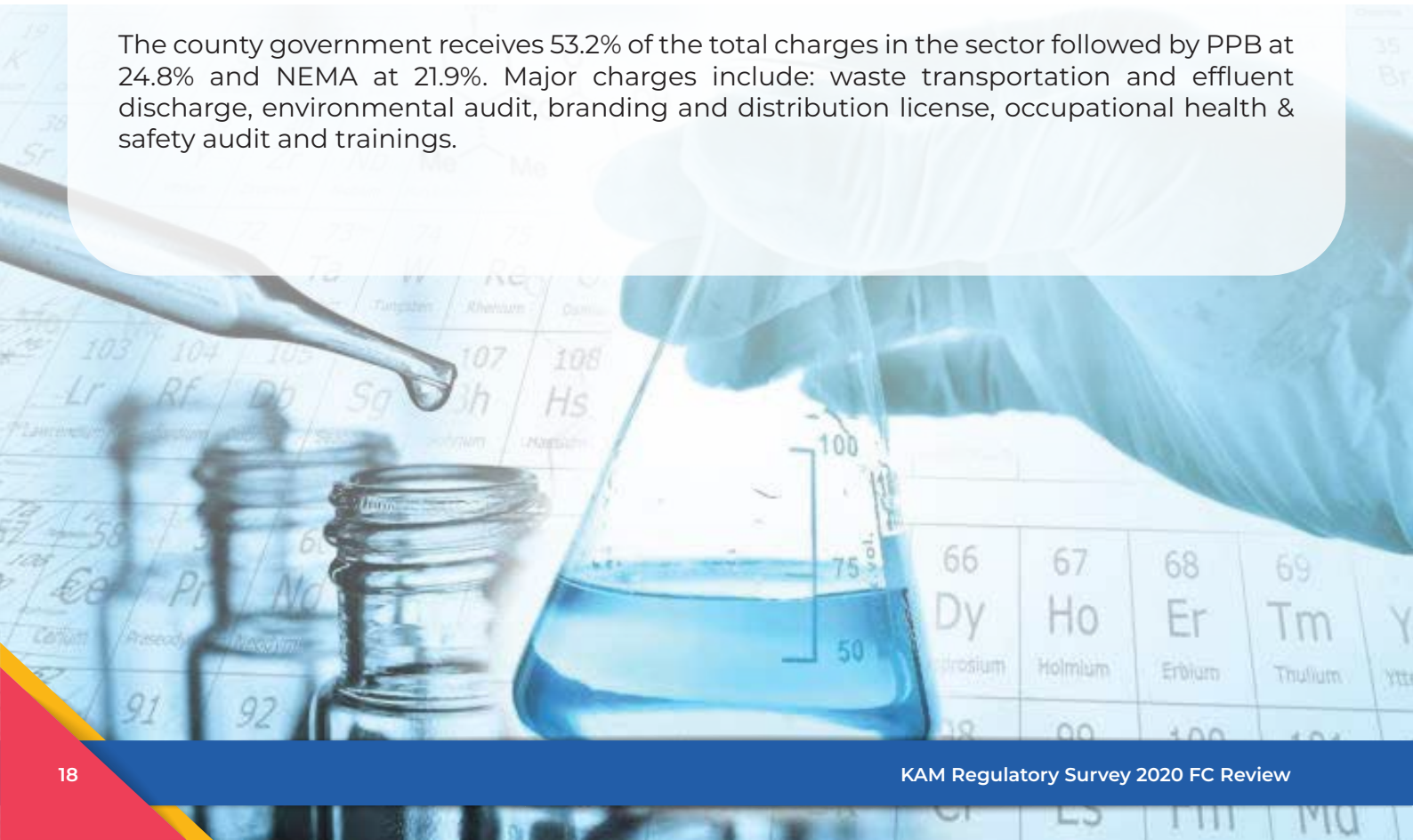


Table 2-1: Chemical and Allied Sector Summary

Obligation	Institution	Frequency
Fire Permit from Nairobi County		Annual
Directional sign at gate		
Free standing gate dignage		
Product registration/retention per product		Annual
Product registration renewal		
Drugs manufacturing licence		
Wholesale dealers licence		
Pharmacists practitioner's licence		
Drug import permits from VMD		Annual
Import processing fee to VMD		
Import permits (0.4% of FOB)		Annual
Manufacturing, Warehousing and Distribution licence	Pest Control Products Board (PCPB)	Annual
Branding permits	County Government	Annual
Workplace registration certificate	Directorate of Occupational Safety and Health Services (DOSHS)	Annual
Seed Merchants Licence	Kenya Plant Health Inspectorate Services (KEPHIS)	Annual
Bull semen permits	County Government	Annual
Effluent Discharging licence	NEMA	Annual
Factory Inspection	KEBS	Annual
Product S-Mark renewal		Annual
KEBS Annual Inspection		Annual
KEBS Levy		Annual
KEBS Renewals		Annual
General Medical License	Pharmacy and Poisons Board (PPB)	Annual
Environmental Audit	NEMA	Annual
Occupational Health & Safety Audit and Training	OSHA	Annual
Veterinary License	Directorate of Veterinary Services (DVS)	Annual
Bovine Distribution licence		
Veterinary Listings & Retentions	Directorate of Veterinary Services (DVS)	
Good Manufacturing Practices	County Government	Annual
Single Business permit		
Certificate of Workplace		
Workplace Registration.		
Regulation from COMESA		
Cullet Transport License		

Table 2-2: Chemical and Allied, Nairobi County

County	National Government Agencies/County	Item/product/service charged	Fees payable (Kshs)	Frequency
Nairobi	Veterinary Medicines Directorate (VMD)	Registration	50,000	Once, during registration
		Annual Retention fees (36 products currently)	108,000	Annual
		Licenses (2)	60,000	Annual
		GMP Inspection	100,000	3 years
		Raw material Import permit	1,000	Per import

Table 2-2: Chemical and Allied, Nairobi County

County	National Government Agencies/County	Item/product/service charged	Fees payable (Kshs)	Frequency
	NEMA	Environmental Impact Assessment	100,000	Annual
		Waste Transportation	30,000	annual
	Directorate of Veterinary Medicines (DVS)	Semen Distribution Licence	1,500	Annual
		Raw material Import permit	1,000	Per import
	Kenya Bureau Of Standards (KEBS)	Factory Inspection	20,000	Annual
		Standardization Mark (8 products currently)	60,000	Annual
	Pest Control & Product Board (PCPB)	Licenses	19,000	Annual
	KEPHIS	Registration certificate	10,000	Annual
		Import Permit	700	Per Import
	NEMA	Effluent Discharge Licence	30,000	Annual
		Annual Environmental audit	100,000	Annual
	Directorate of Occupational, Safety and Health Services	Workplace registration Certificate	5,000	Annual
		Annual Safety and health audit	100,000	Annual
		Fire safety Audit	60,000	Annual
		Risk Assessment Audit	60,000	Annual
		Medical check ups	150,000	Annual
		Fire safety training marshal	60,000	Annual
		First aid training	60,000	Annual
		OSH training	120,000	3 Years
	Pharmacy & Poisons Board	Annual Practice Licence	5,000	Annual
	Pharmaceutical Society of Kenya (PSK)	PSK Licence	10,000	Annual
Total			1,321,200	
Nairobi	NEMA	Environmental Impact Assessment	100,000	Annual
		Waste Transportation	30,000	annual
		Emissions License	55,000	Annual
	PPB	GMP Certificate	100,000	2 years
		Annual MFG License	50,000	Annual
		Wholesale & Dealers	30,000	Annual
		Premises & Practice license	15,000	Annual
		Annual Product Retention	15,000	Annual
	DOSH	Workplace Permit	5,000	Annual
	County Government	Single Business Permit	175,000	Annual
		Wall/Sky Branding Permit	160,000	Annual
		Staff medical examination	500	Annual
		Public Health Certificate	7,000	Annual
		Effluent discharge license	100,200	Annual
		Public Health Certificate	7,000	Annual
Total			849,700	

2.2 Metal and Allied Sector

Different institutions are involved in regulating the Metal and Allied Sector. Some of the regulatory institutions in the sector include: Directorate of Occupational Health and Safety, county government, NEMA, KEBS, Kenya Ports Authority, KRA and KIPI, among others. As shown in table 2-3 and 2-4, it costs about KShs 442,000 to meet these requirements.

Some of the overlapping/related fees include: Effluent Discharge Licence and Licence to operate a Waste Treatment Plant/Disposal site in Machakos and Kilifi Counties; Certificate of Registration of Trademark by KIPI and Permit for use of Standardization Mark by KEBs

In this sector, 47.4% to the DOSH, 43.2% of the charges go to the county government and 9.4% to NEMA. Environment audit, air quality measurement, stack emission and single business permit license are some of the key levies affecting the sector. All of them are renewable annually.

Table 2-3: Summary for Metal and Allied Sector

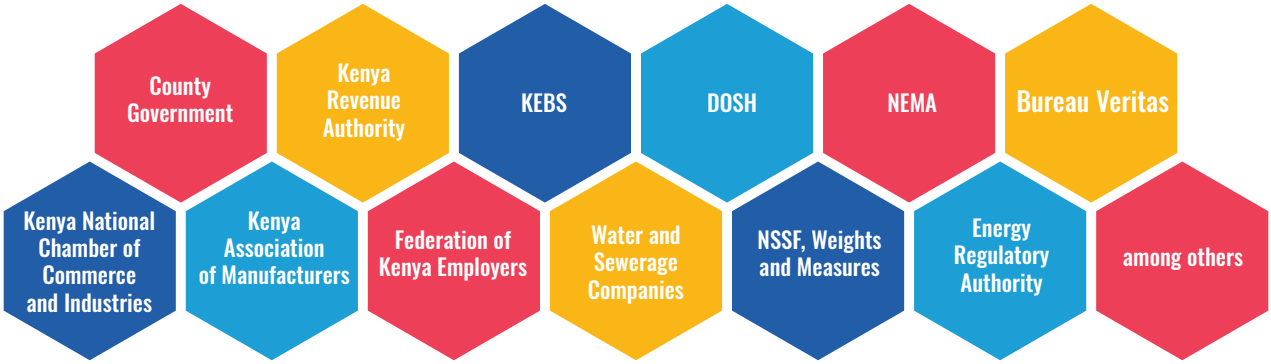
Fee Obligation	Institution	Frequency
Certificate of Registration of Workplace	Director of Occupational Health and Safety	Six months
Single Business Permit	Relevant county government	Annual
Branding Permits for each areas company supplies/transacts	Relevant County Government	Annual
Certificates for Fire Safety Compliance in each company location	Relevant County Government	Annual
ISO Certification -ISO 9001 & ISO 14001.	KEBS	Once every three years
ISO Certification -ISO 9001 & ISO 14001		Once every 12 months or after 24 months after recertification.
OSHA 18001 costs	DOSH	Annual
Effluent Discharge Licence	NEMA	Annually
Licence to operate Waste Treatment Plant/Disposal site (Machakos and Kilifi Counties)	County Government	Annual
Permit for use of Standardization Mark -	KEBS	Annual/ Three years
Permit for use of Diamond Mark of Quality	KEBS	Annual/Three years
Licence for Bonded Warehouse	Kenya Ports Authority	
Licence to operate a canteen	County Government	Annual
Land rates	County Government	Annual
Land rent	Ministry of Lands and Physical Planning	Annual
Certificate of Registration of Trademark (valid for 10 years)	KIPI	Annual
Effluent Discharging Licence	NEMA	Annually

Table 2-4: Metal and Allied, by County

County	National Government Agencies/County	Item/product/service Charged	Fees Payable (Kshs)	Frequency
Nairobi	NEMA	Environment audit	10,000	Annual
		Air quality measurement	60,000	Annual
		Stack emission	35,000	Annual
	DOSH	Occupational risk assessment	10,000	Annual
		Medical examination and audiometric test. Nb: approximate 200staffs examined @500/-	100,000	Annual
		Equipment inspections and air receiver	46,654	Annual
		Noise impact assessment	20,000	Annual
	County Government	For company canteen food & chemicals substances food hygiene regulation	7,000	Annual
		Food & chemicals substances food hygiene regulation For METSEC kitchen staff	4,000	Annual
		Single business permit	150,000	Annual

2.3 Paper and Paper Board Sector

There are about 13 regulations governing the Paper and Board sector business operations including the export and import requirements. These include:



Additionally, there are about 27 (approximate) charges levied by the 13 (approximate) institutions, depending on the firm location.

The major charges in the sector include a standard levy by KRA, single Business Permit by the county government and effluent discharge by water and sewerage companies. About 31% of the total charges go to the county government.

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Table 2-5: Summary for Paper and Paper Board Sector

Fees Obligation	Institution	Frequency
Fire Clearance Certificate	County Governments	Annually
KEBS Certificate	KEBS	Annually
DOSH Certificate	Labour Department/DOSH	Annually
Effluent Certificate	NEMA	Annually
ISO Certification	Bureau Veritas	Annually
Single Business Permit	County Governments	Annual
Health and Hygiene		
Import permit	Kenya Revenue Authority	Varies
Distribution and/or branding charges	County Governments	Monthly, quarterly and Annual
Food handlers' certificates		six months
Environmental Audit	NEMA	Annual
Effluent into the Public Sewer/Permit to discharge	Water Sewerage Companies	Quarterly reports
Statutory audit for Occupational Health and Safety	DOSH	Annual
Annual Environmental Audit	NEMA or its authorized agent	Annual
Standardization Mark	KEBS	Annually
Fortification Permits		

Fees Obligation	Institution	Frequency
Environmental Audit Impact Assessments for new projects	NEMA	Every 12 months
County Medicals	County Governments	Annually
Medicals and DOHSS audiometric tests/Occupational health & safety	DOSH	Every year
First aid training	County Governments	Yearly
Fire safety, marshal and drill training	County Governments	Every 2 years
Compressor checks and certificates	Weights and Measures	every 2 years
Scales Stamping	Weights and Measures	Annual
Air quality testing	NEMA	Annual
Energy Audit	Energy Regulatory Authority	Every 3 years
KEBS permit SMARK renewals	KEBS	Annual
Inspection for license renewal	KEBS	

Table 2-5: Summary for Paper and Paper Board Sector

County	National Government Agencies/County	Item/product/service charged	Fees payable (Kshs)	Frequency
Nairobi	Kenya Bureau of Standards	Standardization mark & quality Assurance	87,500	Annual
	Kenya Revenue Authority	Standard Levy	400,000	Annual
	County Government	fire prevention	25,000	Annual
		Single Business Permit	150,000	

Table 2-6: Summary for Paper and Paper Board, by County

County	National Government Agencies/County	Item/product/service charged	Fees payable (Kshs)	Frequency
	County Health Services	Kitchen Staff	15,000	Annual
	OSHA	Registration of workplace	5,000	Annual
	Nairobi City Water sewerage company ltd	Effluent Discharge	100,200	Annual
	County Government Rates	Property rates	47,625	Annual
		Property rates	65,375	Annual
		Property rates	78,500	Annual
	NEMA	Safety and Health Audit Assessment	40,600	Annual
Total			1,014,800	

2.4 Plastics and Rubber Sector

The plastics and rubber sectors are regulated by various requirements under various regulatory bodies and include: County Governments, Water and Sewerage Companies, DOSH, KEBS, PCPB, NEMA, Weights and Measures and KRA, among others. These institutions levy about 16 charges. Unified Business Permit, Effluent Discharge Licence, Outdoor Advertising Licence and Environmental Audit. Of the total charges, 61% goes to the county government, 31.3% to NEMA and 7% to KEBS.

As shown in table 2-7, firms require approximately Kshs 900,000 to meet these requirements. To the respondents, most of the requirements serve the same purpose and can therefore be harmonized to reduce cost and many documentations.

Table 2-7: Summary for Plastics Sector

Fees Obligation	Institution	Frequency
Unified Business Permit	County Government	Annually
Effluent Discharge Licence	County Water and Sanitation Company (Nairobi)	Annually
Certificate of Registration of a Workplace	DOSH	Annually
Standardization Permit (4 Permits)	KEBS	Annually
Food Hygiene Licence	County Government (Nairobi)	Annually
Outdoor Advertising Licence	County Government (Nairobi)	Annually
County Health Services	County Government (Nairobi)	Annually
Pest Control	PCPB	Six months
Food Handlers Certificate	County Government (Nairobi)	Six months
Environmental Audit	NEMA	Annually
Urban Planning (for Renovations and maintenance	County Government (Nairobi)	Every 3 Months
Approval for Manufacture (After Plastic Ban)	NEMA	Annually
Weighing Scales Stamping	Weights and Measures	Annually
VAT	KRA	Monthly
Manufacturing Cess - Amount varies based on Sale & Production	County Government	Monthly
Single Window System, Online Application & Payments.		

2.5 Building, Construction and Mining Sector

There are several regulatory institutions involved in regulatory activities in the building, construction, and mining sector. County Governments, Ministry of Lands and Physical Planning, NEMA, KEBS, Weights and Measures, Mines Department, DOSH and National Construction Authority (NCA). These institutions are charging about 23 levies in the sector. The major levies include: Single business permits (county governments), construction licence from NCA, and water and sewerage charges. As shown in Table 2-8, it costs an average of Kshs. 935,000 to meet these requirements.

Single business license fees differ significantly across counties, with as low as Kshs. 15,000 in Kitui to Kshs. 175,000 in Nairobi. Branding fees for transportation vehicles also varies across the counties. Of the total charges, 49.8% are levied by the county governments, 26.1% by NEMA and 24.1% by DOSH.

The county government and DOSH both levy for occupational safety and health auditing and training.

Table 2-8: Summary for Building, Construction and Mining Sector

Fees Obligation	Institution	Frequency
Business Permit	County Governments	Annually
Diesel Tank Permit		
Fire safety compliance certificate		
Land Rent	Ministry of Lands and Physical Planning	Annually
Clearance certificate-Public health	County Governments	Annually
Vibration/Noise permit	NEMA	Annually
Environmental Audit and Acknowledgement		
Permit to use standardization mark	KEBS	Annually
Calibration Certificate	Weights and Measures	Annually
License to manufacture explosives	Mines Department	Annual
License to Store explosives		
Blasters Permit		
Certificate of registration of work place	County Government	Annual
Fire Safety Training/Audit		
Occupational Safety & Health Audit	DOSH	Annual
Occupational safety & Health Risk Assessment		
Dust measurement/ Air quality measurement	NEMA	Annual
Noise Survey		
Air Receivers		
Occupational health & Safety Training Medical Examination	DOSH	Annual
Construction licence approximately	National Construction Authority (NCA)	Annual
Transport License	National Transport and Safety Authority (NTSA)	per annum
Water levies	Water and Sewerage Companies	Monthly

Table 2-9: Summary for Building, Construction and Mining Sector, by County

County	National Government Agencies/County	Item/product/service charged	Fees payable (Kshs)	Frequency
Nairobi, Machakos, Homabay and Kitui	DOSH	Air quality audit	25,000	Annual
		Fire audit	25,000	Annual
		Safety and health audit	25,000	Annual
		Fire drill and training	50,000	Annual
		Committee training	25,000	Annual
		First aid training	20,000	Annual
		Workplace certificate	2,000	Annual
		Occupational medical examination fees	36300	annual
	NEMA	NEMA audit	25,000	Annual
		Plastic bags Licence	40,000	Annual
		Flue gas audit report	97,000	quarterly
		Waste water test	30,000	Annual
	BCBP	Product Registration	20,000	annual
	Manufacture of baby food products	Machakos	20,000	Annual
	Food handlers' certificate	Nairobi	3,000	
	Sign board fee	Nairobi	40,040	
	Wall painting	Nairobi	4,000	
	Vehicle branding	Nairobi	10,920	
	Wall branding	Nairobi	13,200	
	Single business permit	Nairobi	175,000	
	Single business permit	Kitui	15,000	
	Single business permit	Machakos	15,300	
	Vehicle branding	Machakos	7,500	
	Single business permit	Homabay	12,500	
	Effluent discharging Licence	Nairobi	100,200	
Total			935,240	

2.6 Pharmaceutical Sector

There are key institutions regulating this sector and include: NEMA, PPB, DOSH and County Government. These institutions charge fees which on average is about Kshs. 850,000 to meet requirements in this sector. Some of the overlapping fees include Waste Transportation charged by the county government and effluent discharged by NEMA. In total, 53.2% of the total levies are charged by the county governments, 24.8% by the Pharmacy and Poisons Board while 21.9% are by NEMA.

Table 2-10: Summary for Pharmaceuticals Sector

County	National Government Agencies/County	Item/product/service charged	Fees payable (Kshs)	Frequency
Nairobi	NEMA	Environmental Impact Assessment	100,000	Annual
		Waste Transportation	30,000	annual
		Emissions License	55,000	1 year
	PPB	GMP Certificate	100,000	2 years
		Annual MFG License	50,000	1 year
		Wholesale & Dealers	30,000	1 year
		Premises & Practice license	15,000	1 year
		Annual Product Retention	15,000	1 Year
	DOSH	Workplace Permit	5,000	1 Year
	County Government	Single Business Permit	175,000	Yearly
		Wall/Sky Branding Permit	160,000	Yearly
		Staff medical examination	500	Yearly
		Public Health Certificate	7,000	Yearly
		Effluent discharge license	100,200	Yearly
		Public Health Certificate	7,000	Yearly
Total			849,700	

The Pharmacy and Poisons Board has the control of the pharmacy profession and that of the trade in drugs and poisons. The Board is the drug regulatory authority of the country. The Board is mandated with the implementation of the appropriate regulatory measures to achieve the highest standards of safety, efficacy and quality for all drugs, chemical substances and medical devices, locally manufactured, imported, exported, distributed, sold, or used, to ensure the protection of the consumer as envisaged by the laws regulating drugs in force in Kenya.

Regulation of medical devices in Kenya is aimed at maintaining balance between ensuring product safety, quality and effectiveness and providing the public with timely access to medical devices and preventing the entrance of unsafe or ineffective devices into the market.

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2.7 Automotive and Accessories Sector

Regulatory institutions with roles in the automotive and accessories sector and fee charged are presented in Table 2-11 and 2-12. It requires over Kshs. 870,000 to meet regulatory requirements in this sector. The key regulatory institutions are: County governments, NEMA, DOSH and KEBS, while the major levies include: Environmental impact assessment, KEBS levy and fire safety. On average, 39.7% of the charges go to DOSH, 28.1% to NEMA, 10.3% to KEBS and 21.7% to the county governments.

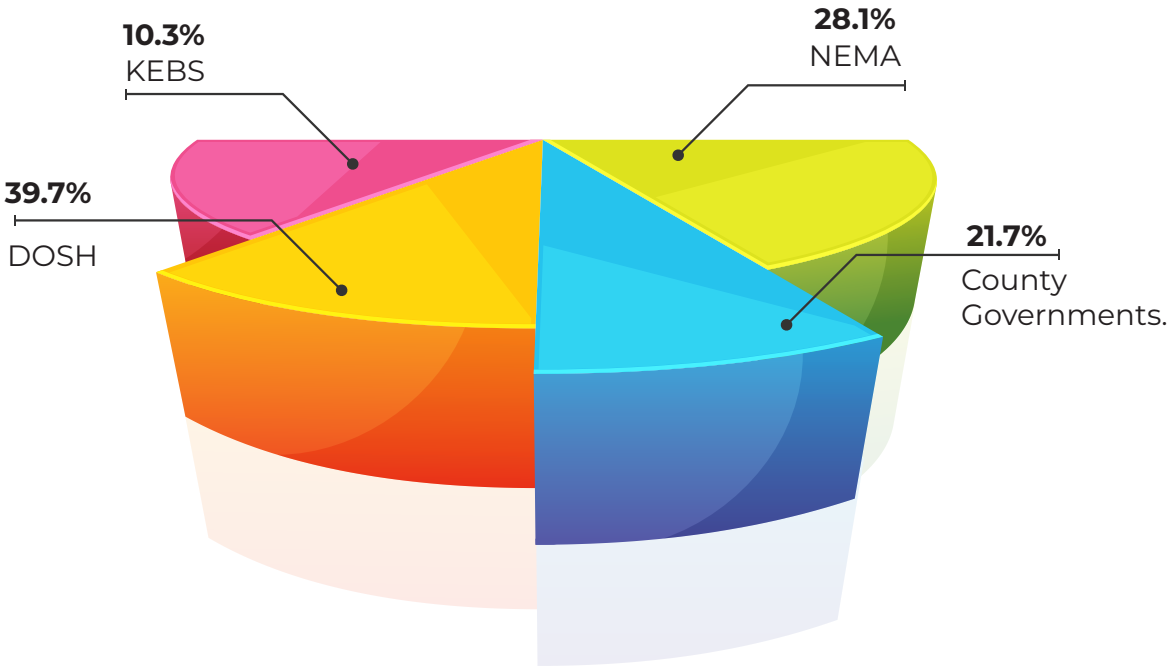

Table 2-11: Summary for Automotive and Accessories Sector

S/No	Fees Obligation	Institution	Frequency
1.	Business licenses	County Government	Annual
2.	Branding licenses	County Government	Annual
3.	KEBS levy	KEBS	Monthly
4.	KEBS Standardization Mark	KEBS	Annual
5.	Training levy	NITA	Monthly

Table 2-12: Summary for Automotive and Accessories by County

County	National Government Agencies/County	Item/product/service charged	Fees payable(Kshs)	Frequency
Nairobi	DOSH	Workplace Registration Certificate DOSHS	5,000	Annual
	County Government	Effluent Discharge License	100,000	Annual
	Ministry of Lands and Physical Planning and County Governments	Fuel storage compliance certificate & Permit	6,000	Annual
	Water Resources Authority	Borehole Water Abstraction Permit	25,000	Annual

County	National Government Agencies/County	Item/product/service charged	Fees payable(Kshs)	Frequency
	County Government	Fire Safety Audit	100,000	Annual
	NEMA	Safety and Health Audit	100,000	Annual
		Source Emission/ Stack Monitoring	300,000	Annual
		Indoor Air Quality Assessment	250,000	Annual
		Noise Level Measurements	250,000	Annual
	DOSH	Chains, ropes and Lifting tackles-OSHA	250,000	Annual
		Electrical Installation testing and maintenance-Energy Act	900,000	Annual
		Fire appliances-OSHA	60,000	Annual
		Fire detection systems-OSHA	60,000	Annual
	Business Permit	Nairobi	150,000	Annually
	Fire Permit	Nairobi	25,000	Annually
Nairobi, Kisumu, Nakuru and Mombasa	NEMA	Environmental impact assessment	100,000	Annual
		Waste transportation	30,000	annual
	Kebs levy	Levy based on the turnover	600,000	Annual
	Kebs standards fees	Registering the product standards for different brands and applications	500,000	Annual
	Fuel levy	Levy on all fuel – tax at the pump	1,200,000	Annual
	Railway levy	When importing raw materials for manufacturing	300000	Annual
	NEMA license	License for polythene for primary packaging	50000	Annual
	Trading license based on the type and size of the premises	Nairobi, Kisumu, Nakuru, Mombasa,	300,000	Annual
	Branding of premises, vehicles	Nairobi, Kisumu, Nakuru, Mombasa	200,000	Annual
	For fire license	Nairobi, Kisumu, Nakuru, Mombasa	50,000	Annual
	License for selling at most towns and counties	All other towns not mentioned above.	120,000	Annual

2.8 Timber, Wood and Furniture Sector

Four (4) key bodies regulate this sector: NEMA, DOHS, KEBS and County Government. Key regulations in timber, wood and furniture sector and fees charged are presented in Table 2-13. It costs about Kshs. 275,000 to meet requirements in this sector annually. Of these levies, 43.6% goes to the county government, 27% to KEBS and 18.1% to NEMA. The county government's single business permit forms the bulk of the charges.

Table 2-13: Summary for Timber, Wood and Furniture Sector

County	National Government Agencies/County	Item/product/service charged	Fees Payable (Kshs)	Frequency
Nairobi	NEMA	Environment audit	50,000	Annual
	DOHS	Health and Safety audit	30,000	Annual
	KEBS	Standardization Mark	75,000	Annual
	County Government	Single business permit	100,000	Annual
		Fire certificate	20,000	Annual

2.9 Food and Beverage Sector

In 2019, the Food and Beverage Sector contributed 3% to the GDP . According to the Census of Industrial Production Report of 2020, within the manufacturing sector, the manufacture of food products had the highest production value of Kshs. 513.1 billion, representing 41.5% of the total manufacturing output during the review period. Out of the total expenses incurred by Kenyan manufacturers, approximately 2.14% went towards license fees, permits, stamp duties and similar fees paid to government. The manufacturing sector spent 52.9% of its utility bills on electricity, water supply, sewerage, waste management in the period under review.

In the Food and Bbeverage Sector, businesses have various regulations depending on the type of the business. On average, 41 levies are charged by various government institutions. The common regulatory requirements (applicable to various types of businesses are and their cost presented in Table 2-14. It cost about Kshs. 2.2 Million to meet regulatory requirements in the Food and Beverages Sector in Nyeri and Uasin Gishu Counties per year. This amount is slightly higher in Nairobi and Mombasa, but lower in Kisumu County.

In Nyeri County, 63.7% of the levies are charged by the county government,lower that the 83.9% charged by Uasin Gishu County, but higher than 17.1% and 57.3% charged by Nakuru and Kisumu Counties, respectively.

Table 2-14: Summary for Food and Beverages Sector

Fees Obligation	Institution	Frequency
Single Business Permit	County Government - Nairobi	Annual
Food Hygiene License	Health and Hygiene – county government	Annual
Health License	County Governments	Annual
Fire License	County Governments	Annual
Effluent Discharge License	Water and Sewerage Companies	Annual
Branding License	County Governments	Annual
Workplace registration	DOSH	Annual
Sugar Import Permit	Kenya Sugar Directorate (KSD)	Annual
Land Rates	County Governments	Annual
Land Rent	Ministry of Lands and Physical Planning	Annual
OSH certificates	Ministry of Labour	Annual
Effluent Discharge License	Water and Sewerage Companies	Annual
Feed certification	Association of Kenya Feed Manufacturers (Akefema)	Annual
Slaughterhouse License	Ministry of Agriculture Veterinary Services Department	Annual
Export Slaughterhouse License		
Halal Certification	Supreme Council of Kenya Muslims	Varies
Halal Certificate	Kenya Bureau of Halal Certification	Varies
Food Handlers Medical Certificate/Choice Meats	County Governments	Bi-Annual
Single Business Permit	County Governments	Annual
Distribution Fees	County Governments	Annual

Fees Obligation	Institution	Frequency
Trading License	County Governments	Annual
Water Extraction permit: Borehole	WRA	Annual
Licence to Transport Waste	NEMA	Annual
Authority to Collect & Transport Recyclable Materials	County Government, Nairobi	Annual
Food handlers Certificates	County Government, Nairobi	Annual
Air Quality license	NEMA	Annual
Plastic bag exemption	NEMA	Annual
Certificate for calibration of weighbridges	Weights and Measures	Annual
NCWSC Permit to discharge Effluent into the Public Sewer	NEMA	Quarterly reports"
Annual Environmental Audit	NEMA	Annual
Food Handlers Medical Certificates	County Governments	Biannual
S-Mark - per brand)	KEBS	Annually
Fortification Permits	KEBS	Annually
Fire safety, marshal and drill training	County Government	Every 2 years
Compressor checks and certificates-	Weights and Measures	Every 2 years
Scales Stamping	Weights and Measures	Annual
Energy Audit	Energy Regulatory Authority	Every 3 years
Fishing License	Ministry of Agriculture	Annually
Health certificate of workplace	Ministry of Labour	Annually
Music – KAMP, PRISK	Kenya Association of Music Producers	Annually

Table 2-15: Summary for Food and Beverages Sector, by County

County	National Government Agencies/County	Item/product/service charged	Fees payable (Kshs)	Frequency
Nyeri	NEMA	Environmental audit	120,000	Annual
	DOSHS	OSHaudit	150,000	Annual
		Noise survey	70,000	Annual
		Workplace Permit	5,000	Annual
		Air quality survey	120,000	Annual
	NEMA	Stack emissions	300,000	Annual
	County Public Health	Public Health Inspections Report, Hygiene License	10,000	Annual
		Public Health Test Analysis, Food Handlers Examination	700	Biannual
		Waste Transportation	30,000	Annual
	Nyewasco	Water Supply & wastewater Treatment	1,500,000	Monthly
Total			2,305,700	
Uasin Gishu	NEMA	Environmental audit	120 000	Annual
		Stack emissions	200 000	Annual
	DOSHS	OSH audit	150,000	Annual
		Noise survey	12,000	Annual
		Workplace permit	15,000	Annual
		Air quality survey	120,000	Annual
	KEBS	Standardization mark permits	62,500	Annual
	County Public Health Inspectorate	Manufacture soft drinks products	15,000	Annual
	ELDOWAS	Water supply	1,800,000	Annual

County	National Government Agencies/County	Item/product/service charged	Fees payable (Kshs)	Frequency
	County Public Health	Food Hygiene Licence	10,000	Annual
		Public Health Test Analysis, Food Handlers Examination	60,000	Annual
Total			2,244,500	
Nakuru	NEMA	Environmental Audits	35,000	Annual
		Stack Emission license	60,000	Annual
		Effluent discharge permit	100,000	Annual
		Air quality survey	35,000	Annual
	EPRA	Earth leakage testing	140,000	Annual
	DOSH's	Health and safety audit	35,000	Annual
		Fire safety audit	25,000	Annual
		Noise survey	20,000	Annual
		Health surveillance checks	200,0000	Annual
		Boiler inspection	28,000	Annual
		Air receivers	14000	2 years
		Lifting equipment	15,000	Semi Annual
		Safety valves inspection	36,400	Annual
		Fire equipment inspection	60,000	Semi Annual
		LPG cylinders examination	300000	5 years
	County Public Health	Food hygiene license	15000	Annual
		Food handlers' tests	200,000	Semi Annual
		Manufacture of mineral water	15,000	Annual
		Fire inspection	10,000	Annual
		Liquor license	60,000	Annual
		Trade license	100,000	Annual
	WARMA	Borehole renewal	200,000	5 years
Total			3,488,415	
Kisumu	NEMA	NEMA Waste disposal permit	25,000	Annual
	WARMA	Abstraction Permit	50,000	Every 5 years
	DOSH	Renewal of workplace registration	25,000	Annual
	KEBS	Standardization Mark	67,500	Annual
	County Government	Public health License	10,000	
		Liquor License	50,000	
		Single Business Permit	165,000	
Total			392,500	

2.10 Milling Sector

Cost of doing business for millers has increased over the past five years, driven mostly by substantial increases in regulatory compliance costs (taxes, fees and permits), costs of compliance with standards (sourcing quality grain and meeting standards requirements for milled products).

Millers spend between Kshs. 193,000 to Kshs. 800,000 annually on permits and fees depending on the scale of their operations and distribution across the country. Some costs, such as cess and distribution fees are charged in all counties in which a miller either transits or distributes his products. For instance, if the distribution network of a miller covers ten counties, he/she will need to obtain 10 distribution permits per consignment. As a result, the overall cost of compliance with the various fees and licensing has increased significantly over the past five (5) years, with some permits/fees rising by over 200% during that period.

In a study on the maize value chain analysis by KAM, the cost of regulatory compliance in the milling sector covers compliance with tax and other administrative laws and regulations at both national and county level. These includes taxes and levies, as well as fees for various permits and licenses. The study found that maize millers are obliged to comply with a long list of regulatory requirements, all of which attract charges. Some of these are as shown in Table 2-16.

Table 2-16: Summary for Milling Sector

Fees Obligation	Institution	Frequency
Organisational Safety and Health Authority fees	DOSH	Annual
Agricultural produce cess	Parking fees for trucks	Monthly
Fee for Standardization Mark by KEBS	KEBS	Annual
Fire protection fee	NEMA	Annual
Health certification	County Government	Annual
Vehicle branding fees	County Government	Annual
Food hygiene/handling fees	DOSH and County Government	Annual
Parking fees for trucks	County Government	Annual
Distribution fees	County Government	Annual
Fortification fee/mark	KEBS	Annual

2.11 Leather and Footwear Sector

The Leather and Footwear Sector comprise of tanneries, footwear manufacturers and leather goods manufacturers. Thesector has been prioritized by the Kenyan Government as per the Kenya Industrial Transformation Program (KITP), the Kenya Vision 2030 and Big Four Agenda.

Despite this the sector continues to face regulation challenges, some for a a long time. For instance, the Hides, Skins and Leather Act (Cap 359, Laws of Kenya) 1988 called for skins and hides trading to be subjected to annual licensing. The Hides, Skin and Leather Act provided for varying cess to be imposed on hides and skins processed to different extents, while the Hide, Skin and Leather Trade (Cess) Rules of 2014 imposed cess on leather trade. All this have affected the sector adversely.

Table 2-17: Summary for Leather and Footwear Sector

Fees Obligation	Institution	Frequency
NEMA	Environment Audit	Annual
DOSH	Occupational Health& Safety Audit	Annual
DOSH	Occupational Risk Assessment	Annual
DOSH	Fire Safety Audit	Annual
WARMA	Effluent Discharge Analysis	Annual
NEMA	Effluent discharge license	Annual
DOSH	Noise Impact Assessment	Annual
DOSH/NEMA	Air Quality Measurement	Annual
NEMA	Stack Emission	Annual
DOSH	Training Office Marshal & First Aiders	Annual
DOSH	Medical Examination and Audiometric	Annual
DOSH	Equipment Inspections and Air Receiver	Annual
NEMA	Effluent Discharge License	Annual
WARMA	Underground Water Supply	Annual
DOSH	Certificate of Registration of a Workplace	Annual
County Government	Solid Waste Management fee	Annual
County Government	Fire safety inspection	Annual
County Government	Waste Management disposal	Annual
County Government	For company canteen food & Chemicals substances Food hygiene regulation	Annual

There are at least five (5) institutions regulating the sector. On average, manufacturers are charged Kshs. 762,000 on an annual basis. Out of this, 33.8% of the levies are charged by the county government.

Table 2-18: Summary for Leather and Footwear Sector, y County

County	National Government Agencies/County	Item/product/service charged	Fees payable(Kshs)
Nairobi	NEMA	Environment Audit	25,000
	DOSH	Occupational Health& Safety Audit	35,000
	DOSH	Occupational Risk Assessment	80,000
	DOSH	Fire Safety Audit	30,000
	WARMA	Effluent Discharge Analysis	-
	NEMA	Effluent discharge license	50,000
	DOSH	Noise Impact Assessment	60,000
	DOSH/NEMA	Air Quality Measurement	70,000
	NEMA	Stack Emission	-
	DOSH	Training Office Marshal & First Aiders	-
	DOSH	Medical Examination and Audiometric	50,000
	DOSH	Equipment Inspections and Air Receiver	-
	NEMA	Effluent Discharge License	-
	WARMA	Underground Water Supply	100,000
	DOSH	Certificate of Registration of a Workplace	4,000
	County Government	Solid Waste Management fee	60,000
		Business permit	90,000
		Fire safety inspection	30,000
		Waste Management disposal	70,000
		For company canteen food & Chemicals substances Food hygiene regulation	8,000

2.12 Salt Sector

Kilifi County leads in salt production in Kenya. The County Government, through the County Finance Act of 2018 increased salt cess charges from Kshs. 60 per tonne to Kshs. 200 per tonne. This has increased the cost of business by 233% on a single cost item. The county has also increased land rates overtime. This was done without the required land valuation roll as required by the National and Kilifi County Ratings Act that provides for all ratable properties to be included in a lands valuation roll. For salt companies, the county government continues to charge for the use of seawater abstracted for the salt extraction. Salt companies are required to pay WRMA 50 cents/m3 for raw water they abstracted for their use. This is despite the fact that the Water Act of 2016 was amended to expressly remove the obligation to obtain a permit or pay water use charge with regards to abstraction and or use of seawater to extract salt. Interestingly, the Kenya Forest Service (KFS) also charges for use of water through mangroves. On average, a firm is levied Kshs. 2,972,152.

Table 2-19: Summary for Salt Sector

Institution	Fees Obligation	Frequency
NEMA	Annual site audits	Annual
NEMA	Permit for vehicles transporting waste	Annual
NEMA	Emission license	ANNUAL
NEMA	Applications for approval of plastic primary and secondary packaging	2 years
DOS	Registration of workplace certificate	ANNUAL
ERC	Investment grade audit	3 YEARS
KEBS	Diamond mark of quality for 3 brands	3 YEARS
KEBS	Factory assessment fee for product certification & s/mark for packaging material	ANNUAL
KEBS	Fortification logo	YEARLY
WARMA	Application for water use permits	NEED BASIS
WRA	Renewal of water use permits	5 YEARS
Ministry of Lands and Physical Planning	Depending on raw salt harvested during the year-(2/=/MTN)	ANNUAL
KILIFI	Single business permits	
MOMBASA	Single business permits	
NAIROBI	Single business permits	
KILIFI	Food hygiene license	
MOMBASA	Food hygiene license	
KILIFI	Food handlers certificate-form - d	
MOMBASA	Food handlers certificate-form - d	
KILIFI	Fire and ambulance certificate	
KILIFI	Cess	
KILIFI	Land rates	

Table 2-20: Summary for Salt Sector

County	National Government Agencies/County	Item/product/service charged	Fees payable(Kshs)
Kilifi	NEMA	Annual site audits	314,360
	NEMA	Permit for vehicles transporting waste	10,000
	NEMA	Emission license	55,000
	NEMA	Applications for approval of plastic primary and secondary packaging	-
	DOS	Registration of workplace certificate	15,000
	ERC	Investment grade audit	435,000
	KEBS	Diamond mark of quality for 3 brands	765,600
	KEBS	Factory assessment fee for product certification & s/mark for packaging material	31,900
	KEBS	Fortification logo	11,600
	WARMA	Application for water use permits	375,000
	WRA	Renewal of water use permits	160,000
	Ministry of Lands and Physical Planning	Depending on raw salt harvested during the year- (2/=/MTN)	
	KILIFI	Single business permits	
	MOMBASA	Single business permits	
	NAIROBI	Single business permits	
	KILIFI	Food hygiene license	
	MOMBASA	Food hygiene license	
	KILIFI	Food handlers certificate-form - d	
	MOMBASA	Food handlers certificate-form - d	
	KILIFI	Fire and ambulance certificate	
	KILIFI	Cess	
	KILIFI	Land rates	798,692

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OVERLAPPING REGULATORY CHALLENGES FACED KENYAN MANUFACTURERS

3.1 General Overlapping Roles

This analysis of the regulatory roles has established that there are overlapping regulatory roles. This was also brought to fore by a report by the Presidential Taskforce on Parastatal Reforms of 2013. The report cited duplication of roles and provisions by various government agencies and recommended the enactment of the Government Owned Entities Act (this is yet to be actualized). A summary of these is presented in Table 3-1.

Among the major levies to manufacturers by the county governments is the Single Business Permit (SBP), environmental assessment/audit and workplace registration, charged by both DOSH and the county governments. Water supply and sewerage/effluent discharge and other levies are charged by the county governments and NEMA despite them being part of the enabling environment for investment. For all these, there is need to implement a one-stop shop approach to obtain permits from national and county government agencies. Review fees and regulatory roles of institutions with duplicative roles. These permits should be consolidated into one permit and to be issued by one (1) regulator as opposed to several.

A key levy under the Food and Beverages sector is Cess. From the onset, Cess was intended to support improvement of production and distribution of taxed agricultural produce. As such, 80% of all Cess collections was used in maintaining roads and other services related to sectors in which it was levied. The remaining 20% was credited to the Local Authorities' (LAs) general account.

In the post-devolution period, cess collection is not guided by any policy, legal and regulatory frameworks. The constitution does not explicitly define cess among the main tax categories that County Governments may impose. In addition, the Agriculture Act on which basis Cess was previously imposed has been repealed by the Agriculture Fisheries and Food Authority (AFFA) Act (2013), which consolidates laws on regulation and promotion of agriculture. Moreover, the High Court has prohibited County Governments from levying agricultural produce Cess or related tax until they enact appropriate revenue laws. In the period before devolution, some LAs were similarly restrained from imposing Cess, mainly for want of necessary legislation.

Administration of Cess by County Governments faces numerous challenges and ambiguities. These include: i) the in discriminate list of commodities for which cess payment is now required, including manufactured goods in transit through and/or across County boundaries; ii) collection of cess both at source (e.g. at farm gate in the case of agricultural produce and at production point in the case of manufactured goods) and at point of exit from the County; and, iii) levying of cess on natural products and/or extractives (e.g. sand, building stones and timber) that should ideally be charged under legal provisions for royalties. Apart from these problems, it is not clear how the Counties compute payable Cess, identify commodities to be levied or determine where collections are to be made. Under LAs, the practice was to levy cess on volume or value traded. In either case, a flat, proportionate or graduated rate was applied at the LA's discretion.

While this is still the practice today, there is no clarity on how different Counties determine applicable Cess rates. The 'barrier' method of Cess administration disrupts free flow of goods between Counties, and may also contribute to high administration and overall economic costs. The practice by Counties, such as the defunct Las, of stationing revenue clerks on barricades along transportation routes leads to unnecessary delays. Farmers and produce transporters are held up at the roadblocks negotiating and seeking clearance. Not only does this practice lead to multiple Cess levies along trading routes; it also presents an opportunity for rent seeking behaviour from County officials.

County Governments and other government institutions impose user fees and charges primarily to raise revenue, without anchorage on policy and legislation or links with service provision or without consideration of which other organization or body levies on the same. At the county level, the fees and charges are entrenched in Counties' legal systems through annual Finance Acts passed by respective County Assemblies. However, lack of clear policies and legislation is a disincentive to compliance by citizens

With most of the user charges and fees, compliance is also a problem where fees and charges are not commensurate with services. For example water charges are levied without guarantee of uninterrupted supply of clean water; or parking fees in the absence of clearly designated or secure parking spaces. As mentioned earlier, the main rationale for user fees and charges is not to generate revenue but encourage efficient use of resources. Properly designed user charges and fees also provide information on citizens' willingness to pay for services..

There is concern that administration costs of some fees may outweigh revenues, and that other charges exceed service provision costs. Fiscal policy aims to minimize administration costs so as to ensure positive yields. A better understanding can inform OSR revenue strategies, such as whether it makes economic sense to introduce new fees (or carry on with existing ones) if projected receipts do not balance underlying costs. The exception would be regulatory fees such as liquor licensing, or administrative charges like for building plan approvals. Other concerns are County charges which exceed service provision costs, or the imposition of fees where no services are provided.

To date, no County Government has developed a Tariffs and Pricing Policy to guide imposition of fees and charges. A legal requirement under section 120 of the County Governments Act, 2012. The Tariffs and Pricing Policy should articulate the rationale for application of tariffs, fees, levies or charges by a County Government and how these are linked with service provision.

Absence of a Tariffs and Pricing Policy may imply that determination by Counties of fees and charges, including the amount paid by different categories of citizen groups, is being done without objective considerations. Setting rates using objective criteria will improve predictability and stability of the rates across all Counties, in addition to enhancing efficiency in revenue administration.

Most County Governments are yet to enact or operationalize required legislation to underpin revenue raising measures. Many Counties maintain fees and charges by the defunct LAs, which were regulated through by-laws that are now irrelevant. Others are mobilizing revenue using outdated policies and guidelines developed by the LAs.

Through annual Finance Acts, some Counties have promulgated fee regimes inherited from Local Authorities. These are further indications that majority of Counties lack principle legal frameworks to support revenue collection and management. The laws are required to support revenue administration, property rating, trade licensing and public participation. County Executives are expected to initiate draft revenue laws and forward them to County Assemblies for consideration and legislation. Upon assent by the Governor, the bills become law. Stakeholder engagement and public participation are important steps in this process.

The practice by the National Government offers guidance on how County Governments should deal with revenue legislation. At the National level, the annual Finance Act does not impose taxes, fees and charges; it merely alters the amount or rate of a tax or fee by amending the clause in the principal law that dictates the rate. Thus, the national Finance Act operates like an annual Statute Amendment (Miscellaneous) Act. This approach is consistent with accepted revenue raising practice, whereby sector-specific legislation imposes taxes, fees and charges and provides for easier financial regulation of each sector.

Lack of clear policy and legal frameworks undermines revenue optimization by County Governments. There is currently no overarching law at the national level that guides Counties in their imposition of property rates. Outdated property legislation and valuation rolls imply low coverage and base of properties, which undermines property-related revenue. A few Counties have enacted Rating and/or Valuation for Rating Acts or updated their valuation rolls. Absence of the legislation also implies that Counties are not entrenched as rating authorities. Further, the absence of an integrated database among Counties and between the two levels of Governments means that sharing of information is not possible, which compromises enforcement.

Owing to this, manufacturers and citizens are adversely affected by the haphazard manner in which County Governments levy user fees and charges. The Counties have created multiple regulations, which they use as “tax handles”, compelling citizens and businesses to pay for numerous licenses and permits. Transportation of agricultural produce and minerals by road attracts multiple cess charges across County boundaries to market points. There have been numerous complaints about such practices, some ending up in court. Multiple fees and charges are caused by lack of clarity in the process relating to introduction of levies, limited consultation and public participation, and the continuing duplication of functions between the two levels of Government. By charging multiple fees and charges, County Governments are in contravention of Article 209(5) of the Constitution. The practice also escalates the cost of doing business besides causing a high tax burden on both the public and businesses.

According to County Business Coalitions,an enabling business environment is key for productive operation and growth of formal and informal businesses. It will not only help County Governments improve their annual revenue collection targets, but also the county’s share of contribution to the national economy. An enabling business environment shall also minimize overdependence by the County Governments on allocations from the National Government. In summary, an improved business environment would: Increase revenue base and collections by the County Governments, which will enhance their capacity to deliver adequate public infrastructure and services; promote fair business competition and reduce the tax burden on formally registered businesses; minimize the cost of registering and operating business enterprises thereby increasing business profitability and creating new employment opportunities; and enable businesses develop sustainably and be resilient to shocks from unforeseen disasters.

Countywise, according to the Mombasa Business Coalition, the county lacks a law or policy to standardize Cess charged on transit vehicles. To them, different Cess charges are levied to different business operators. The county charges businesses without infrastructure and connection to important services. Further, it was noted that multiple agencies charge for water services,hence the need for rationalization of national and county laws on water resources, and harmonize water charges.

The Machakos Business Coalition noted that agriculture contributes more than 73% of total employment opportunities in the county. Therefore, double Cess affects the sector. To them, water connection, public toilets facilities, waste management and access to common manufacturing facilities is way below the national average. Drawing upon this, there is a need link taxation and services, and eliminate double taxation. They felt that the county needs to develop aTariffs and Pricing policy to enable changes in taxation and licensing rates to be predictable to promote predictability of cost of business.

In Kisumu, while many policy, legislative, infrastructure and public services improvement efforts have been undertaken by the County Government, to create an environment conducive for operation and growth of formal and informal businesses, many challenges still exist. Overtime, fees from licensing of trade activities are among the main contributor to Kisumu County's revenue collection. However; use of the Finance Bill to determine and vary business license fees, taxes and levies, contrary to recommendations by the Commission on Revenue Allocation (CRA) has led to a lack of predictability and certainty on cost of doing business.

As a result, businesses in Kisumu County have to pay unexpected costs, which has resulted in high cost of starting and operating business in the county. - Key business sectors from which revenue is generated and collected by the County Government are not receiving adequate support, in terms of annual budget allocation for their development, to spur their growth.

Although public participation is conducted by the County Government during formulation of the county's Finance Act, inputs by business operators for reduced tax and license rates were not considered in 2018 and 2019. Instead, new tax categories were created. Licenses, levies and fees have been increased by between 50 and 100 per cent in some business sectors.

There is, therefore, a need to review business license, tax and levy rates in the current Finance Act, to minimize cost of starting and operating formal and informal businesses. This also calls for the development of a County Tariffs and Pricing Policy to guide variation of licensing and taxation rates; promote transparency and predictability in rate changes. This will minimize unexpected costs for businesses.

In Kiambu, businesses face several challenges, emanating from the coutry's depressed economic conditions.These have been exacerbated by the impact of COVID-19. Other key challenges include:

- Lengthy process of starting a business - The process of starting a business is long, cumbersome and expensive, as a result of various requirements for registration of the business, registration for taxes, and fragmentation of licenses that is required by various county departments.

- Double taxation by other counties and the national government in the following areas - transport vehicles branding charges; cold storage charges; cess on agricultural produce; and charges on flower products (also charged by Horticulture Crop Directorate at national level).
- Manual renewal of licenses, which is inefficient, increases the cost of doing business and creates loopholes for corruption and fraud. Approval processes for construction - these are bureaucratic leading to the stalling of projects. There are no fixed timelines for each of the approval stages.

As such, there is need for unification of charges to single business permits - remove double taxation on branding charges, cold storage charges, agricultural produce and cess by county on flower products (already charged by Horticulture Crop Directorate at national level) to reduce the cost of doing business, improve compliance and increase revenue for the county; and develop trade policy and regulations to support business establishment processes, support management of local markets, promote fair trade and regulate the informal sector.

The Nairobi Business Coalition pointed out the existence of multiple taxation. To them, there are too many permits and licenses that need to be unified, for example agricultural cess and branding charges on vehicles from other counties. Hence, there is need to review the County Trade and Licensing Act 2019 to unify all charges into a single business permit and to remove double taxation relating to branding licenses.

The Nakuru Business Coalition reported that the cost of doing business is quite high in the county. For instance, business licenses are expensive and businesses are subjected to multiple levies, fees and licenses. For instance, the hotel industry is required to pay for 12 different licenses before operation. To improve the business climate in Nakuru County, the Coalition felt that the county should review levies and user fees as a matter of urgency. The county also needs to review and pass the Nakuru County Laws Inspectorate, Compliance and Enforcement Bill, 2014; develop and implement a compliance and enforcement code of conduct for county enforcement officers and business community in the county; develop tariffs and pricing policy for the County; and review business licenses to lower cost and abolish multiple levies and fees subjected to businesses.

The county should also establish a one stop-shop for obtaining the licenses and permits for businesses; and identify and categorize trade zones within the County and ascertain the different amounts payable in licenses. On Environment Protection, Water and Natural Resources, the county should implement the NEMA National Guidelines on Safe Management and Disposal of Asbestos.

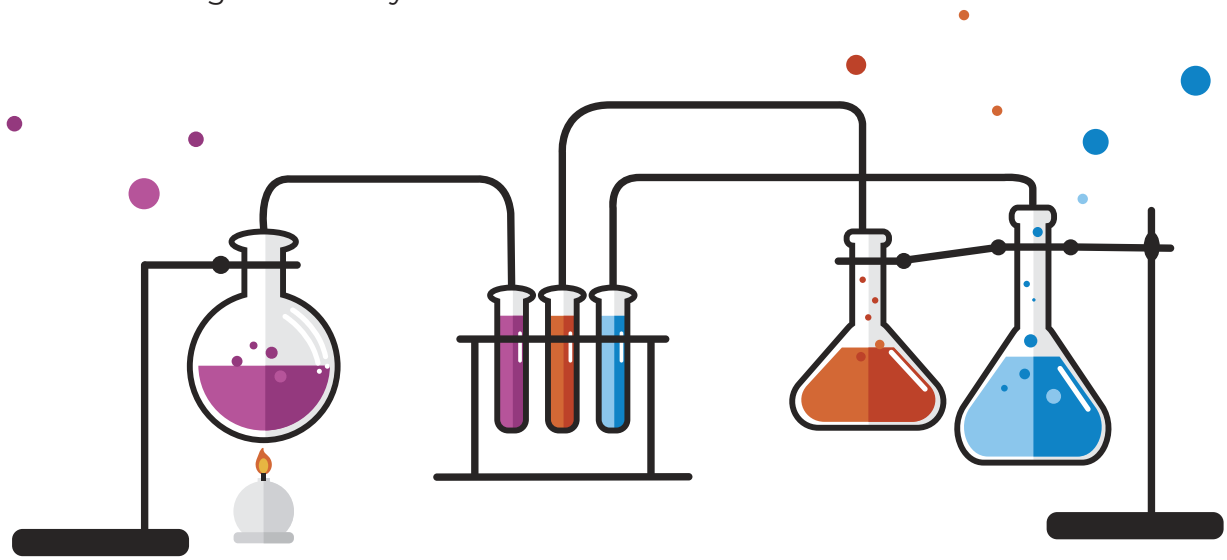
In Kilifi, the County Government, through the County Finance Act of 2018 increased salt cess charges from Kshs. 60 per tonne to Kshs. 200 per tonne. This has increased the cost of business by 233% on a single cost item. The county has also increased land rates overtime. This was done without the required land valuation roll as required by the National and Kilifi County Ratings Act that provides for all ratable properties to be included in a lands valuation roll. For salt companies, the county government continues to charge for the use of seawater abstracted for the salt extraction. Salt companies are required to pay WRMA 50 cents/m3 for raw water they abstracted for their use. This is despite the fact that the Water Act of 2016 was amended to expressly remove the obligation to obtain a permit or pay water use charge with regards to abstraction and or use of seawater to extract salt.

A summary of overlapping regulatory roles per sector follow below.

3.2 Chemical and Allied Sector

It is observed that in addition to overlapping regulatory roles, there is also duplication of requirements, with related payments being paid to the same institutions. A closer look at the various charges indicates that, for example, distribution of chemical products is regulated by the county government, Pest Control and Products Board and Directorate of Veterinary Services (DVS). Branding is regulated by Pest Control Products Board (PCPB) and the county government, while work place registration is regulated by the county government, Pest Control Products Board (PCPB), and Directorate of Occupational Safety and Health Services (DOSH). On average, harmonized regulation will afford the sector reduced requirements and hence cost of doing business.

Institutions with overlapping/similar roles account for a large proportion of the charges. In the Chemical and Allied Sector, the county government, NEMA and the Pharmacy and Poisons Board are the major regulatory bodies. These charges should be reviewed and administered by a single agency. A review and alignment of overlapping roles will reduce the cost of doing business by 37.2%



3.3 Paper and Paper Board Sector

Businesses in this sector identified the overlapping regulatory roles as: Health Regulations by the Directorate of Health and Safety and Fire Certificate by the Nairobi County Government; environmental requirements by NEMA and county governments as well as noise and vibration regulated by NEMA and DOSH. In addition, it was observed that the Standard levy of Kshs. 400,000 and Standard mark payment of Kshs. 8000 per line, both charged by KEBS are duplicative and need to be reviewed and combined to a single payment. Review and alignment of overlapping roles will reduce the cost of doing business by 15%.

3.4 Building, Mining and Construction Sector

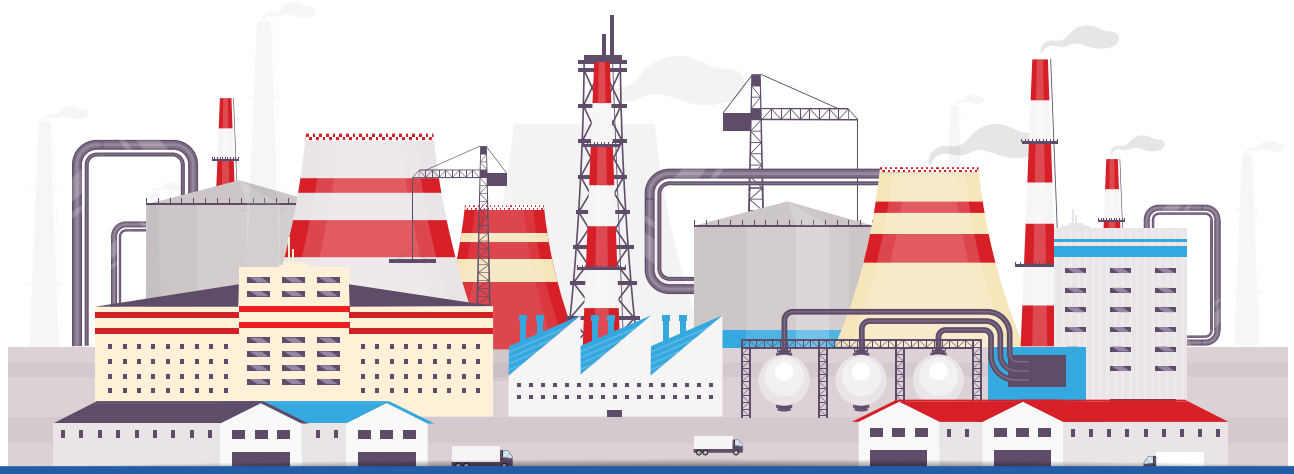
Depending on the county, from six to nine requirements must be fulfilled before construction can begin. The first step is obtaining a survey plan. The architectural and structural building plan approvals take just one step in Kiambu (Thika), but four separate procedures in Isiolo and Kakamega. In most counties, the building plans approval file is circulated internally across departments for review (e.g., the public roads, public health and fire departments). In most counties, the applicant must visit at least one county department in person. Further, the applicant cannot submit the architectural and structural plans together.

The 2014 Environmental Management and Coordination Act requires, for all commercial construction, both a report by a certified expert to identify the potential negative impact on the environment and an approval by the National Environment Management Authority (NEMA). Contractors must also register the construction project with the National Construction Authority (NCA) before submitting the notification of commencement of works to Town Planning in each county. During construction, three to five steps including a permit to connect to the city sewage system and on-site inspections are required

There is an overlap between the Ministry of Health and County Governments' regulatory activities as both have a mandate to regulate the health safety. For construction, besides getting approval from the county government, one must get their plans approved by the Department for Physical Planning, Public Health and Land Departments and NEMA.

In the mining sector, at least three institutions are involved in the provision of licenses. The Department of Mines and Geology provide licenses for mining activities, the county gives licenses for the management of resources, while the Ministry of Energy provides licenses for coal mining. Although the mandate of the three institutions seems to be complementary, there is conflict due to differences of intensity of regulatory requirements. In many occasions firms have argued that the procedures are expensive and can be avoided to reduce costs. Some firms try to avoid meeting some of these requirements thus encouraging corruption in the sector.

To complete various procedures required in various institutions, firms take a lot of time which could be spent on other productive activities. The time required to get the environmental impact assessment approved depends on the efficiency of the local office of the NEMA. Review and alignment of overlapping roles will reduce the cost of doing business by 33.8%



3.5 Food and Beverage Sector

This sector is where most overlaps were identified, since more regulations related to ensuring food safety. Key regulations considered to have regulatory institutions overlaps are KEBS and DOSH.

While Cess is paid to county governments, some firms also pay Cess to Kenya Roads Board for road maintenance in addition to the Cess payments at all counties the product is transported through. This is seen as an overlapping mandate between counties and the Kenya Roads Board. In addition, businesses have to pay cess to various counties through which their produce passes. In some cases, interviewed businesses observed that they maintain their own roads.

There is an overlap between NEMA and the county governments with respect to use and drainage of water used in the food processing industries. There is also overlap between DOSH and NEMA with respect to noise, dust, fumes, vaporsamong others. Regular measurements are done to ensure standards are met. NEMA, through the environmental health regulations, also addresses similar issues. DOSH regulates the 'internal environment' (the environment within a plant), while NEMA regulates the external environment (outside a plant). The two overlap since noise from inside goes out.

There is an overlap between KEBS, county governments and the Department of Fisheries with respect to fish processing. Fish processing and movement license is handled by the State Department for Fisheries, while certificate of compliance, fish handling and processing is done by KEBS. The county governments also have requirements on the fish processing license.

Those in the food canning business including fish and fish products cited an overlap between county government and NEMA on licensing to transport waste and waste disposal, incinerator and waste quality effluent.

In addition to having an overlapping regulatory role, payment of license to dispose waste and the environmental impact license to dispose hazardous material are all duplicated payments to NEMA. On food safety and security, KEBS, KEPHIS, AFA, County Governments and CAK are all involved. These institutions regulate the same aspect, hence a duplication. These levies should be merged and administered by one (1) agency.

In the beverages sub-sector, both NACADA and County Governments impose charges for import and export licenses. For example, in Nairobi County, both NACADA and the county government expect Kshs. 2 Million, each for an annual license. The amount should be reviewed and be administered by one agency.

Review and alignment of overlapping roles will reduce the cost of doing business by 39.5%.

3.6 Metal and Allied Sector

Several overlapping regulatory mandates were identified in this sector. Occupational Health and Safety Waste disposal are regulated by county governments, DOSH and NEMA. On the other hand specialized materials certificate and controlled substance regulation permit are regulated by KEBS and NEMA, while various counties charge for Cess/transport levy. KEBS and Department of Weights and Measures are overlapping on standards while NEMA and DOSH overlap on noise and vibrations. Review and alignment of overlapping roles will reduce the cost of doing business in the sector by 31.4%.

3.7 Pharmaceutical Sector

Firms in the Pharmaceutical Sector identified overlap in several areas. Operational licenses' role is regulated by the Ministry of Health and the county governments. On the other hand, waste disposal is regulated by NEMA and county governments. Health regulations are managed by the county governments, DOSH and Ministry of Health. Overlapping roles lead to multiple payments which lead to the high cost of business operation.. A review and alignment of overlapping roles will reduce the cost of doing business by 37.2%

3.8 Timber, Wood and Furniture Sector

The overlapping of regulatory roles in this sector were identified as: Environmental Impact assessment, Noise and Vibration licenses and Occupational Safety and Health (same regulations), which are separately enforced by NEMA and the DOSH. On the other hand, standards are handled separately by KEBS and the Department of Weights and Measures. Occupational Safety and Health is also regulated by two institutions: the Ministry of Health and DOSH. In addition to the overlapping roles, the sector identified payments for trademark (Kshs.7, 500) and for standardization (Kshs. 55,000), both paid to KEBS as being duplication. Overlapping regulatory roles lead to various payments for the same aspect which affect business costs of production and profitability. Review and alignment of overlapping roles will reduce the cost of doing business by 27.6%.

3.9 Plastics and Rubber Sector

In the sector, conservancy fee and regulations regarding waste management are regulated by both the county governments and NEMA. A review of these charges needs to be undertaken to reduce the cost of doing business by about 16.1%.

3.10 Milling Sector

The sector regulatory requirements highlights a large degree of duplication, which illustrates the extent for over-regulation of the sector. For instance, fortification and quality/standardization certification can easily be harmonized since fortification is also regulated KEBS. On the other hand, health certification and food hygiene/handling fees levied by DOSH and county governments can also be harmonized, while the business permit can also absorb the vehicle branding fees.

In the sector, distribution permits are perceived by millers to have the highest impact on their cost of doing business, followed by business licensing costs, county cess and KEBS certification. On a scale of 1- 5, distribution permits/fees (4.88), business license (3.25), county cess (2.4) and KEBS certification (2.25). Millers are also aware of other regional and international requirements in their day-to-day business operations. For example, Kenya (East African) Standards for grains and flours, some millers also comply with international

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3.11 Automobiles and Accessories Sector

Overlapping regulations as identified in this sector include: Environmental audit by NEMA, Nairobi County and directorate of Occupational Health and Safety. Fire certificate, ground health certificate and bill board advertising are all required by county governments. It was suggested that these requirements be rationalized into a single permit. Departments whose functions impact the licensing and regulation of motor vehicles include, National Treasury and Department of Customs and Border Control at Kenya Revenue Authority.

Other overlapping and duplicative regulatory issues

County governments have continued to charge for advertisements on vehicles (vehicle branding), wall branding, directional signs, mobile advertisements, shop fronts, billboards, posters, and branded items among others. This has been the case despite the fact that most of these advertisements are not on public land or property.

County governments also continue to charge Cess despite the fact that it should not be levied on the transportation of produce on which it has already been paid for by the producer. Cess or any other levy may not be charged for the transit of such produce through a county from another.

Even through businesses should not be charged for the cost of inspections for fire safety including inspecting fire extinguishers because the cost of this service is covered by the SBP, most counties are still charge for this service.

The Minister for Local Government gazetted Legal Notice 147 of the Local Government (Single Business Permit) rules 2008 on 14th November, 2008 provides that any person issued with an SBP by one local authority will be allowed to distribute goods or provide services within any other local authority. Despite this gazettement, some counties are still charging the SBP to all vehicles delivering goods within their jurisdiction. KAM Members have been experiencing a lot of challenges in implementation of the different licenses by the various local authorities. The purpose of the SBP which was to simplify the processes of obtaining a license by replacing multiple local authority licenses and taxes on business with a single permit has not been achieved because numerous licenses have continued springing up alongside it.

Review and alignment of overlapping roles will reduce the cost of doing business by 33.7%.

3.12 Leather and Footwear Sector

Just like any other manufacturing value chain, the Leather value chain is. However, special emphasis is made on waste management, due to significant emissions from leather processing. Various levies such as Fire Safety Audit, Effluent Discharge Analysis and Effluent discharge license are charged by DOSH, NEMA and ounty governments. These can, however, be harmonized. There are international buyer driven and export market inclined standards. International buyers demand an increasingly strict adherence to sustainability standards. In the absence of compliance, manufacturers will neither be able to compete globally nor benefit from the shift in the global sourcing patterns by attracting international buyers. Provision of a favourable tax environment for players within the value chain. Review and alignment of overlapping roles will reduce the cost of doing business by 17.8%.

A summary of other overlapping regulatory roles is presented in Table 3-1.

Table 3-1: Summary of the Overlapping Regulatory Roles

Regulatory requirement	Regulatory institutions involved	Sector/ Products affected
Business registration and licensing	Registrar of Companies, County Governments, Dairy Board, PCPB, Department of Mines and Geology, Ministry of Energy, Department of Trade, Kenya Forest Service, Department of Fisheries, Department of Transport, Department of Livestock, Kenya Radiation Board	Textile and Apparel Sector; Food and Beverage sector; Dairy Products; Chemical and Allied; Building, Mining and Construction and Mining, Automotive and Accessories, Metal and Allied
Standard, labeling and Inspection Regulations	KEBS and PCPB, DPH, Port Health, Department of weights and measures	Chemical and Allied, Radioactive materials, Food and Drugs, Chemicals, Water and Sewerage
	KEBS, NEMA and County Governments	Textile and Apparel Sector
Calibration	WMD, KEBS	Prover tanks, Industrial weighing machines, weighbridges, bulk tanks
Premises safety	Ministry of Public Health, County Governments, Department of Occupational Health and Safety, Kenya Dairy Board, Kenya Radiation Board	Premises i.e. buildings, factories, work places, Radioactive materials
Water and sewerage regulations	Water and Sewerage Companies, NEMA, KEBS, WASREB, WARMA, DPH	Water service providers
Standards regulations	Department of Weights and Measures, KEBS	Timber, Wood and Furniture,;Metal and Allied; Energy, Electrical and Electronics

Regulatory requirement	Regulatory institutions involved	Sector/ Products affected
Occupational safety and health regulations	Ministry of Public Health, Directorate of Occupational Safety and Health (DOSH)	Timber, Wood and Furniture Food Processing, Metal and Allied Energy, Electrical and Electronics
Environmental standards	NEMA and DOSH	All sectors
Cess requirements	All County Governments through which the product is transported; Kenya Forest Service	Food and Beverages sector mainly agro-business processing, forestry products
Food and Beverage Sector processing regulations	NEMA, County Governments and the Department of Fisheries	Food and Beverages sector
Waste regulations	NEMA, County Governments and WAREBs.	All sectors
License to transport waste	County Governments and NEMA	Fish processing businesses Chemical and Allied, Pharmaceuticals, Paper and Paper Board, Plastics and Rubber Metal and Allied
Specialized materials certificate Controlled substance regulation permit	KEBS, NEMA	Food and Beverage, Chemical and Allied, Pharmaceuticals, Paper and Paper Board, Plastics and Rubber, Metal
Noise and vibration licenses	NEMA and DOSH	Timber, Wood and Furniture Paper and Paper Board Metal and allied Motor vehicle and accessories Energy, Electrical and Electronics
Construction regulations	Public Health and County Governments	Building, Mining and Construction
Health regulations	County governments, DOSH, Port Health and Ministry of Health	Pharmaceuticals, Chemical and Allied, Paper and Paper Board
Construction regulations Conservancy	Public Health, County governments and NEMA	Building, Mining and Construction, Plastics and Rubber, Timber, Wood and Furniture

3.13 Business Licensing

Licensing businesses is among the main contributor to county annual revenue. An estimate of county OSR collection potential for Kenya indicates that business licensing is the second largest potential revenue base for counties after property taxes.

Business licensing is undertaken through the Single Business Permit (SBP), issued in respect of a class of business activities in lieu of separate licenses which could otherwise require to be issued in respect of each activity. The SBP was introduced in 1998 by the then Ministry of Local Government as part of revenue mobilization reforms under Kenya Local Government Reform Programme (KLGRP). The introduction was by a Local Government Act amendment through the 1998/99 Finance Act. The amendment enabled Local Authorities (LAs) to issue business permits to allow the conduct of business or trade within their jurisdictions.

Introduction of the SBP consolidated local government revenue raising instruments pertaining to licensing and regulation of commercial enterprises. The regulatory framework for SBP is contained in the Local Government (Single Business Permit) Rules, 2008. The SBP has five objectives, which are to: i) simplify the local regulatory environment to encourage greater economic growth and employment; ii) reduce administration and compliance costs of regulating private sector activities; iii) generate consistent business related data for local level planning, regulatory and service delivery purposes; v) enhance local government revenues so that local authorities can provide local service delivery; and, v) establish a stronger link between local government and the business community in order to improve government transparency, accountability and responsiveness.

In the advent of devolution, administration of the Single Business Permit is encountering a number of challenges. Most Counties have not enacted trade licensing legislation that should underpin the SBP.Some have amended Single Business Permit fee schedules to enhance collections, thereby escalating the cost of doing business.

Kenya's business environment and investment climate is still uncompetitive. This is worsened by unstructured engagement between county officials and business enterprises, and licensing overlaps caused by ineffective coordination between national business regulatory agencies and county departments enforcing SBP obligations. It is common for counties to charge fire protection and other fees in addition to the SBP.

3.14 Key Regulatory Institutions

Institutions/Legal Framework	Description
Factories Act Chapter 514 of the Laws of Kenya	This Act of Parliament was enacted to provide for the health, safety and welfare of persons employed in factories and other related places of work. It also provides for the formation of Health and Safety Committees in the work place
Public Health Act CAP 242	Section 116 of the Act imposes a duty on every Local Authority to maintain its district in a clean and sanitary condition, to prevent nuisances and prosecute those responsible for nuisances.
Waste Management Regulations	Waste management is premised on Local Government Act CAP 265, which places the responsibility of waste management on the respective Local Authority, now counties. Counties have control over sanitation and solid waste management services
NEMA	The authority is responsible for the establishment and enforcement of Environmental Quality Standards.
DOSH	DOSH ensures compliance with the provisions of the Occupational Safety and Health Act, 2007 and promote safety and health of workers with the main objective being to promote safe and healthy standards at workplace. It ensures that manufacturers meet certain health and safety standards by registering them.
KEBS	Kenya Bureau of Standards (KEBS) was established in 2002 by an Act of parliament and The Standards Act, Cap 496 of the laws of Kenya. It is funded through government budget, revenue from Standards Levy, Import Inspection, Testing, Calibration and Certification.
The Department of Weights and Measures	The Weights and Measures Department operates under two Weights and Measures Act CAP 513 and Trade Description Act CAP 505. Its activities are fully funded by the Government of Kenya. The Department regulates the standards in fields of mass, length and volume. The Department also approves patents.
Water Resources Management Authority (WRMA)	Water Resources Management Authority (WRMA) was formed as one of the water sector bodies under the water sector reforms; the body was established under the Water Act 2002. The overall mandate of WRMA is to protect and conserve water resources. The Water Services Boards are constituted under the Water Act of 2002. The WSBs are responsible for the provision of water and sewerage services within their areas of coverage and are licensed by the WASREB. The WSBs are also responsible for contracting Water Services Providers (WSPs) for the provision of water services

KAM 60 YEARS
KENYA ASSOCIATION OF MANUFACTURERS
OF ADDING VALUE

CONCLUSIONS AND RECOMMENDATIONS

4.1 Conclusions

Some efforts have been put towards addressing the issue of regulation in Kenya through business regulation reforms, with strong advocacy from the private sector, particularly the Kenya Association of Manufacturers (KAM). A report by the Department of Business Reforms and Transformation (in the State Department for East African Community) on the Ease of Doing Business in Kenya shows that Kenya has made tremendous strides since 2014. With specific consideration on procedures, time and cost involved in doing business in Kenya, the report appreciates that a lot had been done to make the business environment conducive and is in agreement that a lot needs to be done. The report's conclusion is in consonance with the2020 KAM regulatory survey report.

From the survey findings, it is evident that there are overlapping regulatory roles. This has been the case since the last regulatory report (2008) and subsequently in 2012. The two (2) reports brought to fore salient issues as pertains regulatory framework in Kenya. Key among these was the need for review of mandate of institutions involved in regulating the manufacturing sector in Kenya and enforcement of legal directives. It should be noted that these reports were prepared before devolution took effect and only concentrated on national government Ministries, Departments and Agencies (MDAs).

In the advent of devolution, the county governments have joined the fray, with close to 45.8% of all charges. This has been occasioned partly by the need to mobilize Own-Source Revenue. To date, no County Government has developed a Tariffs and Pricing Policy to guide imposition of fees and charges which is a legal requirement under section 120 of the County Governments Act, 2012.

Despite the clamor for more resources, increased user fees and charges affect the operations of the Kenyan manufacturing sector. These additional costs do not only increase the cost of doing business thus reducing the country's competitiveness, but they also consume a lot of time due to their multiplicity and at times create loopholes for abuse by those mandated to administer them.

The study established that overlapping regulatory roles by various institutions lead to multiple payments, more time spent on meeting similar regulatory requirements, court cases, harassment and at times, closure. It is noted that most of the regulatory body permits take long time to process. Overlapping and multiple regulatory roles becomes an avenue for corruption, with businesses having to pay huge amounts of money in forms of bribes to save time and avoid cumbersome regulations and time consuming legal actions. The cumulative impact of overlapping regulatory roles is that they reduce a firms' competitiveness and income, leading to job losses. High costs coupled with multiple and cumbersome procedures also discourage investments.

The findings suggest that: -

There are various overlapping charges and levies by various quasi institutions. Some of these include: water and sewerage services; effluent discharge; movement of goods taxes and levies at the national and county levels; dust measurements, noise survey and air receiver; and occupational and health certifications, among others. Review and alignment of overlapping mandates and roles will reduce the cost of doing business for the manufacturing sector by 28.9%.

These overlapping regulatory roles affect the operations of Kenya's manufacturing sector, as they do not only increase the cost of doing business thus reducing the country's competitiveness, but they also consume a lot of time due to their multiplicity and at times create loopholes for abuse by those mandated to administer them.

Government Ministries, Departments and Agencies, and county governments have been increasing charges and levies significantly. This has been partly occasioned by the need to mobilize A-I-A for MDAs and enhance Own Source Revenue (OSR) for county governments.

Even with reforms, in some instances, the number of procedures and time taken has gone up due to new requirements. For example, procedures required to obtain a construction permit increased from 9 to 16 because of new requirements to submit a survey plan and register the project with the NCA. The time required to obtain a construction permit increased by over 25% from 125 days (2014) to 159 days (2020). It is also important to note that some of the proposed reforms such as the need for reduction physical visits to departments have not been implemented.

At the devolved level, most county levies and fees are determined haphazardly as counties are yet to formulate tariffs and pricing policy to guide imposition of fees and charges. This is a key legal document required under section 120 of the County Governments Act, 2012. Although in 2000, a Single Business Permit (SBP) was introduced as a reform measure by replacing multiple local authority licenses, numerous licenses have continued alongside the single business permit. Other multiple permits by county governments have led to increased costs, man working hours and administrative requirements.

County governments continue to charge Cess despite the fact that it should not be levied on the transportation of produce on which it has already been paid for by the producer.

There exists a weak customer support channels to eliminate the need for in-person visits when services are delayed or lacking. Further, accessibility and availability of services (such as water and sewerage) are not in any way commensurate to chargeable fees and levies. For instance, majority of businesses are not connected to water and sewer lines, which are essential inputs to their operations.

Movement of goods across counties is exorbitantly regulated. Distribution licenses are expensive, vary across counties and are mandatory before goods are allowed to transit. This contravenes Article 209 (5) of the constitution which requires that taxation and other revenue-raising powers of a county shall not be exercised in a way that prejudices national economic policies, economic activities across county boundaries or the national mobility of goods, services, capital or labour.

Issuance of permits by regulatory bodies take a long time to process. Response time by regulators is either not embedded in Service Charters/Service Level Agreements or adhered to. Regulatory body permits take long time to process. Businesses have to pay huge amounts of money in forms of bribes to save time and avoid cumbersome regulations and lengthy, time consuming legal actions.

Standardization mark and fortification permit are issued separately by Kenya Bureau of Standards (KEBS), yet the standardization permit cannot be considered and issued without having fortification permit.

Locally manufactured products face stringent regulatory requirements compared to imported products, even when they are sub-standard.

Ministries, Departments, Agencies and County Governments has formulated various laws, legislations and policies, whose implementation/enforcement is wanting.

Drawing from the above, the following observations and policy recommendations are made:

4.2 Recommendations

Drawing from the above, the following policy recommendations are made:

Specific Recommendations for Short and Medium Term

Reduction in cost to obtain export permits will make Kenya's exports globally competitive. Streamline approval procedures and protocols between national and county government agencies and communicate this to stakeholders to clarify roles.

Merge regulatory bodies that have almost similar or duplicative roles as well as fast tracking the enactment of the Government Owned Entities Bill. The establishment of government quasi agencies and their funding mechanisms should be clear and realistic from the onset. The need to raise A-I-A and OSR review disadvantages the private sector.

Implement a one-stop shop approach to obtain permits from national and county government agencies. Review fees and regulatory roles of institutions with duplicative roles. These permits should be consolidated into one permit and to be issued by one (1) regulator as opposed to several regulators.

Enhance customer support channels to eliminate the need for in-person visits. Chargeable fees and levies should be linked to accessibility and availability of services (such as water and sewerage).

Publish a detailed list of requirements for obtaining a permit online to enable manufacturers submit complete and accurate applications.

Consolidation of levy filing, payments and reporting into a unified return.

Most county levies and fees are determined haphazardly. Hence, there is need for county governments to formulate a tariffs and pricing policy to guide imposition of fees and charges which is a legal requirement under section 120 of the County Governments Act, 2012.

Counties have very different regulations, causing difficulties when it comes to doing business consistently across the country. Kenya needs to further streamline competitiveness, and service operations at county level to benefit local businesses and help all counties attract more investment. Fast track completion of the County Licensing (Uniform Procedures) Bill, 2019, which aims to harmonize county licensing processes.

Both the national and county governments should prioritize involvement of manufacturers while formulating laws, regulations and policies. This will ensure realistic charges, levies and user fees.

Review goods distribution fees to enhance transportation and reduce logistics cost at the county level. Cess and distribution levies should be charged at source. In addition to inter-county transportation levies, national government institutions impose charges such as fuel levies, railway development levy and Cess. Cess levied by Kenya Forest Service and Kenya Roads Board should be abolished.

County trade permits should be merged to have one business license with all the requirements. Charges for services catered for the Single Business Permit should not be levied, and should be scrapped.

Reduce the time taken to issue permits. As such, response time by regulators should be embedded in Service Charters/Service Level Agreements, and monitored and adhered to.

There is need to merge permits for the standardization mark and fortification permit. This will ensure reduction of costs/fee paid and issuance of only one general permit for products that have mandatory fortification requirements. The standardization permit cannot be considered and issued without having fortification permit.

A clear process of documentation and verification of officials by public regulators is required to ensure that all entries into businesses are documented and publicly publicly.

Review regulatory requirements on imports and exports to spur local production. Local manufactured products face stringent regulatory requirements compared to imported products, even when they are sub-standard. This affects the competitiveness of local products.

Businesses are required to submit reports to different agencies which adds administrative costs. Government agencies should create sharing platforms and work in unity to facilitate compliance and reduce costs for businesses.

Enforce compliance with formulated various laws, legislations and policies.

General Observations and Comments

County Movement of Goods

a **Branding:** Vehicle branding licenses are exorbitant and vary across counties, from Kshs. 8,000 (Homabay) and Kshs. 350,000 (Mombasa). This should be reviewed.

b **Distribution Licenses:** The distribution licenses are extremely expensive and vary across counties, from Kshs. 7,000 (Isiolo) and Kshs. 54,500 (Murang'a). This should be reviewed to enhance transportation and reduce the cost of taxation at the county level.

c **Duplication of movement taxes by national and county governments:** In addition to inter-county transportation levies, national government institutions impose charges such as fuel levies, railway development levy.

d **Cess:** County governments continue to charge Cess despite the fact that it should not be levied on the transportation of produce on which it has already been paid for by the producer. Cess should not be charged for the transit of such produce through a county from another.

Environmental Assessment

a **Air quality license.** Currently, manufacturers are required to pay an average of Kshs. 50,000 for air quality measurement to the National Environmental Management Authority. In some instances, county governments also charge for air quality through the specific health departments. The cost related to air quality licenses and sample testing require review.

b **Response time on environmental regulatory requirements:** The response by regulators on environmental issues is delayed such as Environmental Impact Assessments (EIA) Licenses. The delays affect investment.

c **Merging of environmental requirements on dust measurements, noise survey and air receiver:** The permits should be consolidated into one permit and to be issued by one (1) regulator as opposed to several regulators who include, NEMA, DOSH and county governments. This has caused increased costs for businesses and amounts to double taxation.

Public Health Certification

1. **Inadequate capacity by regulators to offer services.** The County Food handlers Certificates is a requirement for businesses. However, despite businesses making applications and paying for the same, the county health departments have no adequate capacity to conduct tests. Health issues remain of great concern in the advent of COVID - 19 and should be prioritized, especially within the food and beverage sector.
2. **Duplication of roles:** Medical tests and training on health matters is currently regulated by two (2) institutions; DOHS and County Governments.

Water Supply and Sewerage

1. **Overlaps by regulators and permits:** Boreholes are regulated by both the Water Regulatory Authorities and County Water Service Companies. This has created duplicity in permits and payments since they are for similar services.
2. **Service provision:** Supply of water and connectivity to sewerage is limited. Majority of manufacturers are not connected to both sewer and water lines despite having complied with regulatory requirements. It should be noted that the Single Business Permit assures accessibility and availability.
3. **Fire:** Businesses are required to have fire clearances certificates from both the County Governments and DOSH for a similar service. Further, businesses continue to be charged for the cost of inspections for fire safety including inspecting fire extinguishers despite the fact that this service is covered by the SBP.
4. **Occupational Health and Safety Audits:** There a quite a number of audits required on occupation and safety which can be merged into one general compliance audit to ease businesses compliance. It should also be noted that county governments have also joined the fray. There is thus a need to harmonize these roles and fees.
5. **County Permits:** County trade permits should be merged to have one business license with all the requirements. Multiple permits by a County has led to increased costs, time and administrative requirements. Counties need to be clear on services that accompany the Single Business Permit.
6. **Conduct of compliance and regulatory public officers:** The compliance levels by public officials to have identification at both national and county is low. This has led to lack of accountability and uncertainty to the activities of public officers to ensure compliance within business premises.

Standards

a **Standardization mark and fortification of products:** There is need to merge permits for the standardization mark and fortification permit. This will ensure reduction of costs/fee paid and issuance of only one general permit for products that have mandatory fortification requirements. The standardization permit cannot be considered and issued without having fortification permit.

b **Standardization levy:** KEBS imposes the standards marked fees related to manufacturing and also a training levy. The two costs can be merged to have one levy paid to KEBS for ease. The amounts charged are dependent on the sector and vary from a low of to a high of Kshs. 500,000.

c **Rapid increase in fees:** There has been abrupt increase in permit/application fees by KEBS with no extra value added service indicated as a justification.

Sharing of information across Government: Businesses are required to make reports to different agencies which adds administrative costs. Government agencies should create sharing platforms and work in unity to facilitate compliance and reduce costs for businesses.

Revenue Collection

a **Digitalization:** There is need for the Government at both levels to have unified digital and automated payments system. This will reduce compliance timelines and costs associated with the same.

b **Revenue Audits:** Currently, KRA audits are conducted in an ad-hoc manner without clear timelines. There is need to set clear timelines for predictability.

Export

a Export licensing procedures are too cumbersome and are stifling trade.t

b Digitize all other returns required by regulatory agencies

c It would be important for compliance support to send out a list of authorized officers and their mandate or duties. This would improve compliance and reduce conflicts

Annex I: Questionnaire

SECTORS REGULATORY AUDIT QUESTIONNAIRE

NAME OF COMPANY **Name:**		**Year of Establishment:**	
CONTACT PERSON **Name:**		**Email:**	**Tel:**
PAREMETERS	**Units of measure**		
What do you do (please describe your business)		**PRODUCTION AND DISTRIBUTION OF CARBONATED SOFT DRINKS AND PURIFIED WATER & OUTSOURCED ALTERNATIVE BEVERAGES FOR THE COCA COLA COMPANY.**	
Company installed Capacity	**Tons & %**		
Utilized capacity as at 2019	**Tons & %**		
Number of Employees	**No**		
List of Raw materials		**Name**	
Principal products and their brand names: (General Categories			
Main Markets		**Local Market**	**Key Export Market**

REGULATORY AGENCIES

National Government Agencies	Item/product/service charged	Fees payable(Kshs)	Frequency	Remarks

County Government Regulator e.g. County public health	Item/product/service charged	Name of County eg Nairobi	Fees payable(Kshs)	Frequency	Remarks

LIST OF STANDARDS/REGULATIONS GOVERNING YOUR CORE PRODUCTION PROCESS

S/N	Product	STANDARD NAME	Remarks (if any)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			

KEY CHALLENGES AND RECOMMENDATIONS

S/N	Issue	Recommendation
1.		
2.		
3.		
4.		
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6.		
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8.		
9.		
10.		

Annex II: County Gross Product

County Code	County Name	Manufacturing		Total
01	MOMBASA	47,348	14.3%	332,122
02	KWALE	300	0.3%	86,278
03	KILIFI	8,456	7.1%	119,295
04	TANA RIVER	11	0.0%	33,498
05	LAMU	48	0.1%	32,386
06	TAITA TAVETA	101	0.2%	51,381
07	GARISSA	1,153	2.9%	39,394
08	WAJIR	15	0.0%	37,159
09	MANDERA	28	0.1%	35,101
10	MARSABIT	13	0.0%	34,073
11	ISIOLO	12	0.1%	15,850
12	MERU	5,255	2.3%	229,646
13	THARAKA NITHI	133	0.2%	67,692
14	EMBU	2,417	2.3%	103,734
15	KITUI	105	0.1%	101,560
16	MACHAKOS	38,512	16.5%	232,860
17	MAKUENI	412	0.4%	100,924
18	NYANDARUA	1,106	0.5%	245,203
19	NYERI	3,754	2.1%	174,961
20	KIRINYAGA	6,685	6.6%	100,836
21	MURANGA	7,451	4.3%	173,018
22	KIAMBU	49,969	11.8%	421,918
23	TURKANA	65	0.1%	78,301
24	WEST POKOT	27	0.1%	46,785
25	SAMBURU	29	0.1%	26,503
26	TRANS NZOIA	785	0.7%	116,683
27	UASIN-GISHU	7,915	4.9%	162,273
28	ELGEYO MARAKWET	42	0.0%	159,531
29	NANDI	4,116	3.4%	119,691
30	BARINGO	232	0.2%	92,866
31	LAIKIPIA	706	0.9%	81,095
32	NAKURU	14,813	2.9%	517,462
33	NAROK	2,109	1.2%	179,226

County Code	County Name	Manufacturing		Total
34	KAJIADO	5,096	4.7%	107,805
35	KERICHO	13,721	10.0%	136,799
36	BOMET	4,694	2.9%	159,569
37	KAKAMEGA	8,009	4.4%	182,563
38	VIHIGA	350	0.6%	59,050
39	BUNGOMA	1,720	0.9%	183,509
40	BUSIA	158	0.2%	86,712
41	SIAYA	146	0.2%	95,265
42	KISUMU	23,085	11.9%	194,489
43	HOMA BAY	532	0.5%	114,198

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REGULATORY AUDIT SURVEY

2020

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