

**THE ROLE OF KENYAN GOVERNMENT IN VIDEO ON DEMAND REGULATION:  
A CASE STUDY OF THE KENYA FILM CLASSIFICATION BOARD**

**BY**

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AWARD OF A DEGREE IN MASTER OF JOURNALISM AND MEDIA STUDIES  
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MOUNT KENYA UNIVERSITY**

**MAY 2025**

## DECLARATION

**DECLARATION AND APPROVAL**

**Declaration**

This thesis/project is my original work and has never been presented for any academic award in any institution.

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## DEDICATION

This research project is dedicated to my sons Ethan and Casper who are avid consumers of VoD content.

### **ACKNOWLEDGEMENT**

I would like to first of all thank the Almighty God who renewed my strength every time I would feel weary and exhausted as per His promise in the Book of Isaih 40:29. Secondly, my deepest appreciation goes to Mt Kenya University's Department of Journalism and Mass Communication led by for ensuring that I had the best tutors to guide me throughout the period for writing this project and for offering a conducive environment and materials for reference. Particularly, this endeavour would also not have been possible without the inputs of my supervisor, Dr. Ong'ong'a Oloo whose guidance and mentorship gave me hope of reaching indefinite miles in this academic journey. I would also like to acknowledge emotional and moral support from my family and colleagues which gave me the impetus I needed to delicately balance time for work, family and writing this Research Project.



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## ABSTRACT

Consumption of Video on Demand content in Kenya has been on the rise for the past few years fuelled mainly by good internet connectivity and availability of hand-held mediated communication devices. Consumption of this kind of content spiked during Covid-19 Pandemic due to containment measures which restricted movement of people. The study looked, in details, at the role played by the Kenya Film Classification Board (KFCB) in this new frontier of media regulation. The study focused on aspects of regulation such as strategies employed or that are still at the formulation stage to regulate the sector, the current regulatory frameworks that Kenya is implementing in reference to the sector and the specifically look at various VoD platforms operating in the country, both local and foreign and their monetization models. The researcher adopted a mixed method design to generate both quantitative and qualitative data. The methodologies used were a survey and in-depth interview. For the Survey, a sample size formula calculator was used to achieve a sample of 357 film producers from a sample size of 5,000. A management representative from KFCB was selected using purposive sampling to be interviewed for insights on the research topic. The research engaged a two-way ANOVA technique and the results summarized and analysed in terms of types of regulations, policy and strategy frameworks engaged and monetization models. The findings of this study will be significant in informing policy, not only in Kenya where KFCB is domiciled, but also within the African continent where such audio-visual regulatory challenges are a commonplace. The harmonization of content regulation in Africa debate is running concurrently with the narrative of creating a borderless Africa under the aegis of the Africa Continental Free Trade Area (AfCFTA). In view of this, this study will help Kenya as the region's economic hub in crafting a strong memorandum to table at AfCFTA to argue its case on why harmonized content regulation is important in the wake of the envisaged borderless and digitized continent. Monetization models highlighted will help operating VoD platforms and aspiring start-ups in Kenya to ascertain the best monetization models which can be adopted to reap maximum commercial benefits from the business. To scholars, this work will help in unearthing new knowledge in the world of audio-visual content regulation and the internet. The study recommends an urgent need for review of the existing VoD regulatory policies to be in tandem with the changing regulatory environment fuelled by the internet and a robust engagement with key stakeholders that KFCB regulates. The study also recommends further research on the interconnectedness of consumption of VoD content by young people and cultural imperialism.

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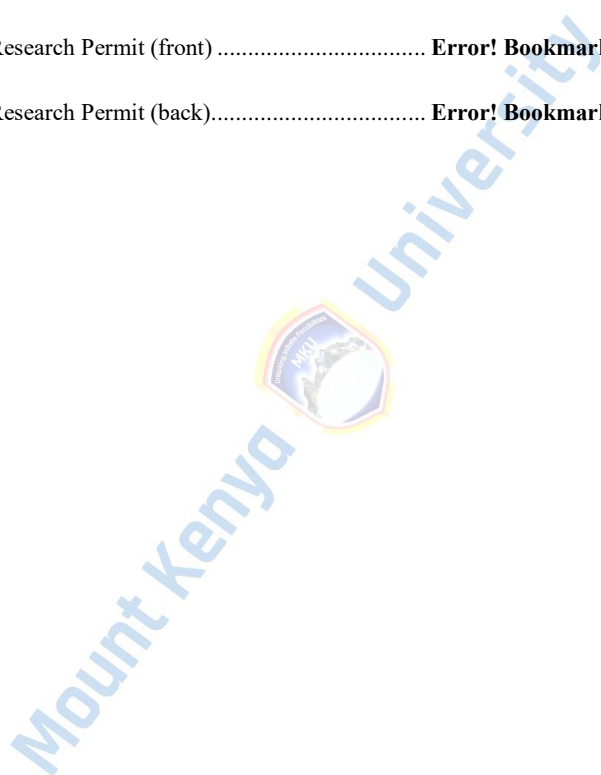
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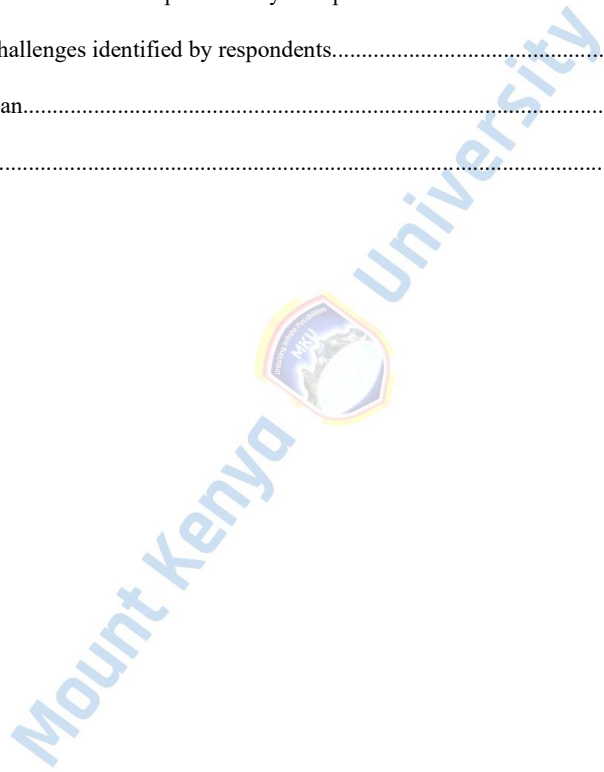
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## LIST OF ABBREVIATIONS AND ACRONYMS

**AfCFTA** – Africa Continental Free Trade Area

**AMWIK** – Association of Media Women in Kenya

**AVoD** – Advertising Video on Demand

**AVSMD** – Audio Visual Media Services Directive

**CA** – Communications Authority of Kenya

**4G** – Fourth Generation Mobile Connectivity

**5G** – Fifth Generation Mobile Connectivity

**FPB** – Film and Publications Board

**KFCB** – Kenya Film Classification Board

**KICA** – Kenya Information Communication Act

**KLRC** – Kenya Law Reform Commission

**MCK** – Media Council Kenya

**NFVCB** – Nigeria Film and Video Censorship Board

**OECD** - Organization for Economic Cooperation and Development

**OTTS** – Over the Top Services

**PVoD** – Premium Video on Demand

**SVoD** – Subscription Video on Demand

**TVoD** – Transactional Video on Demand

**ISP** – Internet Service Provider

### DEFINITION OF KEY TERMS

**Regulation** – Regulation is ensuring that content that is exhibited to the public meets all the legal safeguards and is not harmful to the vulnerable members of the society especially children

**Video on Demand** – This is video content that can be accessed through devices that are connected to the internet and it is accessible anywhere, anytime.

**Monetization model** – A framework through which Video on Demand platforms make money.

**Content Quota** – A requirement by government to broadcasters or VoD platforms to dedicate a certain percentage of their programming to local content or production.

**Net Neutrality** – A requirement by governments that Internet Service Providers should treat all users equally without blocking or suppressing their content and should desist from paid prioritization of content.



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## CHAPTER ONE

### INTRODUCTION

#### *1.1 Background of the study*

The internet has caused so many changes in the audio-visual sector especially in the way content is created, distributed and consumed. Consumers are now shifting to real time broadcasting and pay TV platforms have been overtaken by Video on Demand (VoD) platforms. According to Lee (2020), Conventional television media transmissions, including cable, satellite, and terrestrial networks, are giving way to digitalized, online, smart, and mobile media. VoD is a term commonly used to refer to distribution of multimedia content via the internet. Zinch (2005) gives an apt definition, terming this type of content distribution as True VoD in the sense that it allows users to watch a certain video at any desired point and still offer what the traditional Video Cassette Recorder (VCR) can do. In the past few years, governments have been enacting legislations to make audio-visual content regulation feasible in a rapidly changing digital space. In 2023, the United Kingdom's (UK) department for Culture, Media and Sports, for instance, came up with the draft media Bill. According to Neafcy and Pinto (2023), the draft Bill includes a raft of legislative interventions geared towards regulating VoD service providers. However, whereas VoD regulation is defined by a legal framework, some jurisdictions seem to grope in the dark. In India for instance, the government, in 2022 announced that it would regulate content on VoD platforms but did not issue any guidelines to that effect (Phartiyal, 2022).

Whereas India's case might seem like that of a government buying time, there is more to it. Politics of media regulation play a crucial role in platform governance. Reviewing the European Audio-Visual Media Services Directive (AVMSD), Vlassis (2021) opines that global VoD platforms trigger governance challenges for policy makers. Although VoD

platforms have become a major enabler of flow of cultural content, the availability of on-demand content presents a challenge both for policies expected to protect national and local cultures (Debret, 2009) and for media governance related to production, distribution and consumption of cultural content (Albornoz & Leiva, 2019). This fear of cultural imperialism, especially for African nations, is what has led to the rising advocacy for government direct regulation of VoD content. As Schiller (1973) contends, countries in Western Civilization are the major producers of media content such as films, news and comics which is exported as a cultural product to other continents. third world. Singh (2018) defines media regulation as the entire process of government and other political and administrative entities controlling or guiding various media operations through set policies and procedures. Therefore, according to Singh (2018), regulation is always a possibility for intervention in continuing activity, usually to further some declared "public interest" objective but also to meet market demands.

In Africa, there has been a drive to harmonise content regulation driven by South Africa, Kenya, Nigeria, Lesotho, Swaziland, among other countries. This has been informed by the fact that there is proliferation of unfiltered content distributed through the internet that poses danger to vulnerable populations such as children. Furthermore, as Kurilovská and Hajdúková (2021) contend, sexual abuse also takes place online when indecent videos and images are distributed online and one of the measures to curb this is ensuring there is supportive legislation. Regional content regulation bodies such as South Africa's Film and Publications Board (FPB), Kenya Film Classification Board (KFCB), Nigeria's National Film and Video Censorship Board (NFVCB), Lesotho Communications Authority and Eswatini Communications Commission are the bodies behind this drive (KFCB,2021).

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In Kenya, media regulation is overseen by three main government agencies, namely the Media Council of Kenya (MCK) which regulates media standards by ensuring that journalists stick to the laid down code of ethics. MCK is anchored on the Media Council Act, 2013 which is operationalised by Article 34 (5) of the Constitution of Kenya (Kenyan Const. art. 34 (5)). The Kenya Information and Communication Act (KICA) established the Communication Authority of Kenya (CA) which is mandated to regulate and facilitate the development of the Information and Communication sectors which include broadcasting, cyber security, multimedia, telecommunications, electronic, commerce, postal and courier services. Finally, there is the Kenya Film Classification Board (KFCB) established by the Film and Stage Plays Act, CAP 222. Notably, KFCB is the oldest among the three media regulatory agencies in Kenya. Even though Kenya seems well up when it comes to media regulation, there have been concerns regarding what this portends for the industry, especially in creating confusion on which body is supposed to regulate what. Otieno et al. (2019), for example finds it confusing when it comes to discerning who regulates conduct and practice and wonders whether Kenya needs all these regulatory bodies in the era of convergence. However, some players see the mandate of media regulation as being encapsulated only within CA and MCK, leaving out KFCB perhaps because its regulatory work is in the actual content moderation. Such players include the Association of Media Women in Kenya (AMWIK) which cites the Media Council Act, 2013 and Kenya Information and Communication Amendment Act, 2013 as the two laws guiding media operation in Kenya. The global and local creative economy is undergoing rapid transformation driven largely by digitalization, ubiquitous internet access and fast developments in Information and Communications Technologies (ICTs). According to data from CA's Sector Report for the third Quarter of 2023/2024 Financial Year, mobile data subscriptions stood at 47.96 million with 67.1 % being mobile

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broadband, an indicator that consumers want faster broadband connectivity fuelled by demand for streaming high quality VoD content (CA, 2023).

### *1.2 Problem statement*

The parent law, that is Film and Stage Plays Act, Cap. 222 laws of Kenya under which KFCB is established was assented to in 1962. This was just about the time internet was getting invented and way before the World Wide Web was launched to the public in the 1990s. From a social perspective, Web 2.0 is a term invented at a conference of Web experts that followed the dot-com clash of 2001. With the help of internet technologies, anyone with a computer may become an author, filmmaker, or musician by remixing material from many sources. This is known as the highly participatory and dynamic Web 2.0 (Rodman, 2010). Recently, a petitioner presented his petition to the Kenyan parliament to ban TikTok on the premise that content posted on the platform was sexually explicit. Bob Ndolo told parliament in his submission that the explicit content displayed on TikTok promotes sexual violence, hate speech, and vulgarity which undermines Kenya's moral fabric. Following that pressure for the government and non-government players, TikTok was forced to adopt stronger measures to remove offensive content from the platform (Mwangi, 2023; Ngigi, 2024). As Ong'ong'a (2020) contends, in a world dominated by new media, it is becoming increasingly easy for children to access adult content and also subject them to online abuse which calls for apt policy intervention. In 2024, the role of internet particularly X and TikTok to mobilise and fundraise was evident when, in a revolution style, young people came out in large numbers across the country to protest and demand for changes in government.

Baker (2007) holds that media regulation takes many forms ranging from clauses in national constitutions and laws to administrative procedures and technical specifications and that it can be internal or external. Internal regulation refers to internal regulation

where internal controls are applied especially in response to criticism from outside. Local studies focus on media regulation as per the dictates of the Constitution of Kenya (2010), Media Council Act and Kenya Information and Communication Act. Little literature is available on regulation of audio-visual sector bearing in mind the danger this might pose to the vulnerable groups of the population such as children. Exceptionally, Bala (2013), looked at the effects of liberalization on the role of censorship and classification of film and video programmes by KFCB. The study found out that liberalization of airwaves led to the exhibition of video programmes with coarse language, violence, sex and nudity (Bala 2013). The study recommends a regulatory response to changes in technology in order to meet the challenges of access to unclassified video content in the new media.

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With the already highlighted statistics, it is apparent that there is availability of good broadband connectivity and mobile devices, especially smart phones in Kenya. With these multimedia enabled devices, citizens are able to generate and share content through social media (User Generated Content). Whereas there is no law that governs usage of UGC, KFCB whose enabling legislation dates back to the 1960s enables it to regulate audio visual content but has not given it capacity to regulate VoD content. However, with the public outcry for both UGC and content shared through commercially established VoD platforms, there is need to find out what is the government doing in this regard despite lack of an enabling legal framework. How, for instance, is content that is distributed in Kenya via Netflix handled by the regulator? Are there established mechanisms in the intervening period, and if yes, what are these mechanisms?

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### *1.3 Objectives of the study*

#### *1.3.1 General objective*

This research study investigated interventions that KFCB has put in place to effectively regulate audio-visual content accessed through VoD platforms in Kenya. It specifically explored the causal relationships between regulation of VoD platforms, regulatory

infrastructure, content distribution, content access, content conduct and content quotas vis-à-vis dependent variable such as content monetization, freedom of expression, cultural standards, public decency, content quotas and net neutrality.

### **1.3.2 Specific objectives**

- i. To find out strategies that KFCB has employed to regulate VoD market in Kenya;
- ii. To find out monetization models available for the VoD platforms in Kenya;
- iii. To explore the usage of net neutrality in regulation of audio-visual sector in Kenya;
- iv. To investigate the operational audio-visual regulation in Kenya

### *1.4 Research questions*

- i. What are the strategies is the Kenyan government employing to regulate VoD content?
- ii. How has the current regulatory framework affected KFCB's regulatory work?
- iii. What are the monetization models available for VoD platforms available in Kenya?
- iv. What type of audio-visual regulation exists in Kenya?

### *1.5 Significance of the study*

Githinji (2020) avers that KFCB is facing challenges in controlling User Generated Content (UGC) and content on VoD platforms. Whereas a careful look at the current law (Film and Stage Plays Act) does not also mandate KFCB to regulate UGC and VoD, one expects it to at least to have some form of internal mechanisms or regulations ratified by the relevant bodies to give it some legal mandate to this end. This study by Githinji leaves a grey area on the bit of interventions being carried out hence the need for further examination.

This study findings will be significant in informing policy not only in Kenya where KFCB is domiciled, but also within the African content where such audio-visual regulatory challenges are a commonplace. The harmonization of content regulation in Africa debate is running concurrently with the narrative of creating a borderless Africa under the aegis of the Africa Continental Free Trade Area (AfCFTA). In view of this, the findings of this study will help Kenya in crafting a strong memorandum to table at AfCFTA to argue its case on why harmonized content regulation is important in the wake of the envisaged borderless and digitized continent whose occupants can access audio-visual content anywhere and anytime through VoD platforms.

Monetization models highlighted will help operating VoD platforms and aspiring start-ups in Kenya to ascertain the best monetization models which can be adopted to reap maximum commercial benefits from the business. To scholars, this work will help in unearthing new knowledge in the world of audio-visual content regulation and the internet. The findings of this research project might for example offer good insight for instance to scholars interested in investigating the relationship between cultural imperialism and film regulation.

#### *1.6 Limitations of study*

One of the methods to be used for data collection, that is interview can be time consuming and relied on the availability of the respondent. If the respondent did not prioritize the appointment for the scheduled interview, then it means that there would have been delays in collection, analysing and reporting which would have affected timelines for this study.

Further, Video on Demand is a relatively new phenomenon and it is mostly limited to towns and cities where electricity and internet connectivity are assured. This means that the target population can only be in these major towns. This is also an evolving

phenomenon which means new developments in terms of policy could crop up when this study is active, which might force the researcher to go back to the drawing board.

VoD business in Kenya provides a relatively new market niche hence the few VoD platforms available. This is in contrast with other markets such as US and Europe. The market is therefore saturated by foreign VoD platforms such as Netflix and YouTube. Whereas this is a limitation, it might provide a good platform to study cultural imperialism brought about by distribution of content over the internet.

Part of findings for this study are also be formed by analysing the information given out by a government official. Most of government information, however, is protected and most government officials are under the Official Secrets Act, meaning that there some information labelled as confidential, secret or in some cases, top secret. Any information that the research seeks to have and falls in one of these categories was therefore, be a big limitation.

#### *1.7 Scope of the study*

The study looked at the critical role played by KFCB to regulate the VoD sector, a new frontier in media regulation. The study setting was in Nairobi and the population data was collected on strategies, monetization models for VoD platforms, regulatory framework in Kenya the outlook of VoD platforms in Kenya. The sample size of 357 film producers from Nairobi County was obtained from a target population of 5,000 film producers. This is a finite population giving the researcher a leeway to apply the formula from calculator.net. This provided a confidence level of 95% with a margin of error of 5%. The studies on effects of mass media have evolved over time, with scholars shifting from passive to active mass media audience. This study utilized the underpinnings of the Authoritarian Theory of the Mass Media which advocates for State's regulation of media.

Proponents of this theory argue that mass media cannot be left unchecked as it is likely to cause anarchy and upheaval in society.

#### *1.8 Delimitations of the study*

This study focused on audio-visual regulation, particularly in the realm of VoD regulation in areas of type of regulations, policy and strategy frameworks, monetization and the general outlook of VoD landscape in Kenya.

The theoretical framework for this study could have employed pillars of theories such as Uses and Gratification Theory which brings out the active audience perspective as opposed to earlier media studies like the Hypodermic Needle Theory whose focus and scope was a passive audience. However, the researcher limited himself within the boundaries of Authoritarian Theory because it focuses on government regulation of media.

Nairobi County is chosen as the research setting owing to its vibrancy and sophistication in terms of internet connectivity and other infrastructure. The case study which is KFCB is also located here, therefore the researcher used this as his research setting.

Tied to the above, the target population was justifiably those that are tech savvy and make use of modern technology devices such as smart phones. Getting the target population from a WhatsApp Group gives the researcher confidence that the sample size arrived at least possess a smart device. This is also a delimitation because this locked out other producers who are video content is increasingly being produced via smart devices.

#### *1.9 Assumptions of the study*

One of the key assumptions of this study was that the participants would answer the survey questions honestly and factually. A theoretical assumption is that there exists some form of regulation for the audio-visual sector in Kenya and the researcher attempted to find out what kind of regulation that is and how it is effected.

*1.10 Operational definition of key terms*

**Regulation** – Means checks and balances a State puts in place to ensure that the mass media operates within the given legal parameters.

**Video on Demand** – Video content that is available on a device that is connected to the internet and can be accessed by the audience anytime, anywhere; it is consumer-driven as opposed to the traditional media-driven model.

**Creative Economy** – An evolving concept based on the contribution of creative industries such as arts, film, music and dance, fashion and design, e.t.c., to a country's Gross Domestic Product (GDP).

**Content quota** – A government's regulatory measure that ensures broadcasters or VoD platforms operators include a certain percentage of local content in their libraries.

**Monetization** - The process of making money out of digital content uploaded on a VoD platform.

## CHAPTER TWO

### REVIEW OF RELATED LITERATURE

#### *2.0 Overview*

This section takes a look at scholarly works in respect to strategies for VoD regulation, monetization models, monetization models available for VoD content available in Kenya and the type of audio-visual regulation (s) that exist in Kenya. One theory related to this concept was also explored.

#### 2.1 Empirical Literature

##### **2.1.1 VoD content Regulation Strategies**

As observed by Ngigi (2024), African governments who have banned TikTok like Senegal and Somalia base their justification on erosion of cultural values whereas countries such as US and UK base their justification on access to sensitive government data. The Kenyan government has, however, mulled plans to regulate TikTok instead of banning it altogether. The regulation will involve publishing of compliance reports after every three months showing content taken down and reasons thereof (Mutua, 2024). KFCB is mandated by law to regulate the creation, possession, broadcasting, distribution, and exhibition of film and audio-visual content. The regulation is meant to ensure that content conforms to Kenyan culture, moral values and national aspirations and to protect children from exposure to harmful content.

In recent past, a number of scholars have examined the role of citizen journalism and mobile phones as key facilitators of activism in Africa. This has been examined in the works of Wasserman (2011); and Mutsvairo (2015). Mutsvairo (2015) suggests that mobile communication is spearheading the global mobilization of social and political protests. In Kenya, Mwaura (2021) observes, internet technologies have become indispensable for political engagement, especially for marginalized groups like women

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and youth. The 2024 street protests in Kenya led by a generation cohort of Generation Z (Gen Z) is a good example of digital activism which resulted in key policy changes following the withdrawal of the Finance Bill 2024.

Most recent literature indicates that KFCB has faced headwinds when dealing with content exhibited in UGC platforms such as YouTube. The bone of contention is whether legally, content which is uploaded in these platforms falls within the ambit of KFCB (Kariuki 2024).

Kariuki (2024) cites Section 2 of Cap 222 which defines film as a cinematographic film, recorded video cassette film, recorded video discs or any recorded audio-visual medium. Notably, all these are obsolete content distribution technologies, but KFCB regulatory operations are confined within that establishing law.

In June 2024, KFCB attempted to issue a directive to content creators uploading their content on YouTube but the decision was challenged in court by a petitioner who argued that the directive was meant to curtail the growth of the promising creative industry propelled by technology (Gitonga 2024).

However, according to Kariuki (2024), the biggest premise on which such a decision can be challenged is on legal grounds, especially because platforms such as TikTok and YouTube subject the working to their own internal moderation in accordance to their community guidelines.

Kariuki (2024) further avers that there is need for a progressive legal and regulatory framework which factors in technological advancements in cinematography and filmmaking. This will have interrogated how modern cinematography and filmmaking are different from those envisioned in Film and Stage Plays Act, Cap 222.

In addition, Kariuki (2024) states that the office of the Data Protection Commissioner ought to release a guidance note on the content creation industry in the spirit of safeguarding personal data, including an individual's image, at a time when content creation is carried out in public spaces and displayed on VoD platforms such as TikTok and YouTube.

A study conducted in 2018 on the explorations of gratifications obtained by Sports fans while using OTT live streaming services for sports content found out that convenience was the biggest gratification. The fact that fans could access this content anytime and anywhere was the major driving force behind increased desire for OTT services (Whittle 2018; Rono & Gilbert, 2019). In this study, Whittle (2018) found out that OTT/VoD, as a new technology was becoming a greater challenge to traditional television services. In yet another study, Lewis et. al (2017) found out that participants enjoyed the convenience of accessing sports in multiple devices and that OTT online streaming services could offer participants a more gratifying user experience due to the ability to watch content on various portable devices. A study conducted by Kabusheva et. al (2016) on the overview of the transformation of telecommunication business in the Czech Republic showed that telecom technologies such as the radio access has moved from initial GSM and CDMA technologies to third and fourth generation technologies. As a result, there was advancement of viability and massive launches of voice over the internet messages, video calls, media sharing, microblogging, video downloading and streaming.

The history of VoD can be traced with emergence of Cable-TV in the 1970s (Streamyard, 2023). It however gained currency with advent of interactive Web 2.0 in the 2000s (Rodman, 2010). Today, what used to be social media sites have transitioned into Advertising Video on Demand sites offering users who post their content compensation depending on a number of parameters, key among them the number of views. Facebook

Watch is an example of social media VoD which is embedded on the Facebook platform. It rides on UGC but also allows users with Facebook accounts to share content.

Owing to the immense contribution of the creative industries to the Gross Domestic Product (GDP), several countries have developed strategies to bolster their growth. Howkins (2001) contends that creativity is using an idea to generate another idea, and that it is an endless cognitive and emotional process of creation, exploration and innovation. Caves (2000), examines the economics of arts, focusing specifically on how arts come to the market and how artists get remunerated for their work. He identifies the principal characteristics of creative activities, such as the uncertainty of demand, the “arts for art’s sake” attitude for artists, or the infinite variety of products. David Throsby developed an abutting model of the creative industries. In his concentric circles model, Throsby (2000) suggests that the cultural value of cultural goods and services distinguishes these industries and places them closer to the centre of cultural concentric circles. Creative ideas and influences diffuse outwards in the model through different layers of concentric circles. The cultural and commercial content ratio decreases as one moves outwards from the centre. Notably, technological advancements have had significant impact on cross border trade of creative goods. The export of CDs, DVDs, tapes, newspapers and other printed materials has declined significantly between 2002 and 2020, while the export of recorded media and video games increased (UNCTAD, 2022).

### **2.1.2 Net Neutrality and content quota as a form of VoD regulation**

Observing it from a policy level, governments also impose stricter regulatory measures such as content quotas to ensure that VoD platforms offer a greater percentage of content from the host country with a view of promoting local creative economies. Going back to the European Audio-Visual Media Services Directive, Donders, et al (2018) observe that

in countries such as France, Germany, Italy Poland, Denmark and the Flemish Community, there are obligations that foreign VoD platforms must adhere to in provision of VoD audio visual media services. Such obligations include a compulsory contribution to the Polish Film Institute which was also a policy measure to cushion the Polish film industry from the vagaries of Covid-19.

Kenya does not have content quota tailor-made for VoD platforms but a Programming Code for Broadcasting Services. The code specifies that Free to Air (FTA) broadcasters should ensure at least 40% of their station's programming is local content, excluding news and advertisements (CA, 2024). Other notable policy interventions include a case whereby the European Court of Justice (ECJ) has rejected Netflix's protest about payment of fee to the Federal Film Board. In rejecting, ECJ opined that because California VoD platform's content is available in Germany, then Netflix is obliged to the National Film Fund (Albornoz and Leiva, 2020).

Another common phenomenon in the VoD audio visual sector, especially post-covid-19 is the taxation of the cultural product. This was fuelled by a sudden demand for VoD content due to availability of more leisure time to spend as a result of lockdowns and other containment measures. This resulted in banning of public gatherings and closure of entertainment spots including film theatres. In many countries, including Kenya, there was introduction of digital Services taxes on Subscription VoD (Vlassis, 2021). Kenya had initially opposed the Organization for Economic Cooperation and Development (OECD) framework which proposed 15% minimum tax rate for global firms involved in digital commerce, but later ratified it in 2023 (Muiruri, 2023). Vlassis, (2021) observes that there are other countries who have ratified this framework including Brazil, Paraguay, Indonesia, New Zealand, Philippines and South Africa.

The post-Covid-19 era has drawn considerable attention to the international trade on cultural and creative goods, which includes audio-visual content. The United Nations (UN) declared the year 2021 as the International Year of Creative Economy “at a time when creative solutions are needed to overcome global challenges,” (UNCTAD, 2022, p. 13). This has pushed the need to map out the number of those in the creative industries and in creative occupations outside the creative industries. (UNCTAD, 2022).

Evens (2014) contends that the use of distinct, innovative consumer models has sharply driven the adoption of OTT services. The study by Evens (2014) established that players such as Netflix, Hulu and Amazon have used distinctive and innovative consumer models thus leading to the adoption of multi-screen devices. The study found out that Ad formats has given users more control of their ad exposure. Further, platforms like Netflix and YouTube had driven TV broadcasters to collaborate to reduce costs. While examining the various factors that lead users to utilize over-the-top (OTT) services, Sujata et al. (2015) discovered that because OTT players were exempt from Telkom regulations, they were able to offer their customers inexpensive or free services, which resulted in an increase in their customer base. A related study from Sawe (2015) in Kenya, which found that net neutrality has made it possible for VoD platforms to flourish there, bolstered this one. Net neutrality refers to a form of internet regulation that gives priority to some URLs while subduing others (Ganley & Allgrove, 2006).

### **2.2.3 Media Regulation Models/frameworks**

Advocates of technocratic control or government regulation of mass media argued that practitioners cannot be relied upon to use media responsibly or to efficiently fulfil important public needs, particularly in times of civil unrest or war. According to Davis and Baran (2009), such advocates included Harold Lasswell and Walter Lipmann who are credited with the development of the Propaganda Theory. Other proponents of statutory

regulation also based their arguments on Mass Society Theory. Additionally, proponents of statutory regulation contend that since a democratic government is elected by the people, enacting laws governing the media is in the public interest. (Jonia, n.d.). In yet another regulatory model called co-regulation, the government and the media work collaboratively to ensure that what goes to print, on air or online conforms to media laws of that jurisdiction. In co-regulation for VoD content classification for instance, the VoD entity submits some of its work - e.g. 50 % of total content on the platform - to government for censorship or rating. This applies in cases where the volume of the content cannot be handled by human being content moderators, e.g. government film examiners. Critics of the statutory and self-regulatory models have called for co-regulation due to the propensity for statutory regulation to be exploited and the belief that self-regulation is insufficient. A co-regulatory system combines elements of self-regulation and traditional statutory regulation to form new and self-contained regulatory system (Palcher & Scheuer, 2004). In self-regulatory model, the government builds capacity to media institutions in terms of teaching them the journalistic ethics, codes and guidelines they are supposed to adhere to. The institutions then implement these ethics, codes and guidelines as the regulator monitors content to ensure that it complies as guided. One of the reasons for this kind of approach as Jdrzejewski (2014) points out is always informed by high cost of engaging other frameworks and inadequacy of traditional regulations such as lack of enough human capital by government agency involved. Jdrzejewski (2014) also points out that self-regulation may be used in areas to which state regulation does not seem appropriate. One advantage of self-regulation over statutory or co-regulation according to Jdrzejewski (2014) is that it gives the media legitimacy and confidence. Another reason for self-regulation, according to Jdrzejewski (2014) is the case in which

self-regulation responds to changes and new developments in the media industry such as new emerging ways of content distribution.

Self-control in terms of media sector, according to Telsaç (2022), is the expert examination of publications and writings that are deemed to be in opposition, by assessing them against a set of norms that include legislation, political ideals of societies, philosophy, tradition, and the law. Telsaç (2022), based his support for self-regulation of the media on rapidly developing technology which is a precursor of there being so many news and broadcast sources that it would be hard for the government to swiftly and efficiently regulate them all. In Self regulation, the media can broadcast and report freely without being supervised because of the self-regulatory mechanisms that they have developed via their internal dynamics.

#### **2.4.2 VoD platforms and monetization models**

By January 2024, the social media site with most users was Facebook (13.05 million), followed by TikTok (10.60 million), YouTube (9.79 million), LinkedIn (4.30 million), X (1.87 million) and Instagram (3.05 million), (Owino & Ondieki, 2024).

Other locally owned platforms include *ViuSasa* which was launched in 2017 after the founder, George Waititu identified a gap in terms of emerging market needs and problems that producers of short videos face (Business Daily, 2018). It has grown to be Kenya's biggest VoD platforms, a revolutionary and disruptive idea in Kenya's media industry as it targets user preference and convenience (Maina, 2018). The platform is available on Android (Play Store) and Ios (Apple Store) and through the website giving consumers the flexibility of accessing content from anywhere and anytime. The platform was later acquired by Content Aggregation Limited, a subsidiary of Royal Media Services. Being a locally owned SVoD, Wetumi (2021) argues that it has been all smooth for *Viusasa*, with the subscription fee being reviewed downwards from the initial Kshs. 30 per day to Kshs.

10 per day. *Viusasa* was transformed to become VoD platform in 2020 and in an effort to diversify revenue, a gambling platform as well. Other services offered on *Viusasa* include, bidding and online shopping services and also a platform through which one can pay bills (Wetumi, 2021). *ViuSasa* also utilises PVoD which is integrated with the mother company's TV brands. Through this model, subscribers are able to access content before it airs on Royal Media Services TV channels.

Safaricom Baze is the second Kenyan VoD platform to be featured here. it is a mobile based service and is owned by Safaricom, the biggest Telecom in Kenya. It offers a wide selection of local and regional short form videos in comedy, drama, lifestyle, music, among others. In 2021, Safaricom launched Baze Music, which is a mobile-first spin-off of Safaricom's Baze VoD which offers ad-free access to a catalogue of over 45,000 Kenyan songs and 1.1 million international songs (Siele, 2021). Safaricom Baze Music, an extension of Safaricom Baze, was launched to compete in Kenya with other services including global giant Spotify (launched in 2021) and *Mdundo*. Other global VoD platforms dealing specifically with music include BoomPlay (Siele, 2021). As mentioned earlier, Kenya is a lucrative ground for foreign VoD platforms, mainly due tech savvy and youthful population, a segment of restive and active media audience. These audiences are decision makers who choose - sometimes deliberately and sometimes less consciously - which media to use and how to use them (Rodman, 2010). As a result, so many foreign companies have made an inroad to the local VoD market. The following are the most common foreign VoD platforms available in Kenya.

The third platform is Safaricom Baze. This is an American VoD platform and also production company founded in 1997 whose primary business is subscription based streaming service (SVoD) offering online streaming from a library of films and television

series including inhouse productions (Netflix Original) (Flixpatrol, 2024). The platform has the largest 4K-quality video library giving its key competitors such as YouTube, Hulu, Disney, Amazon a run for their money. Netflix premiered its first original TV Show between 2012 and 2013. Notably, films like *LilyHammer*, *Orange is the new Black* and *House of Cards* premiered with the platform but today it has over 1,500 original TV shows and movies (Rayome et al, 2023). Recently, Netflix added another tier to its business model. They included AVoD model where just like YouTube, consumers can watch content which is interlaced with adverts. This makes Netflix a mix-model platform whereby subscribers have a choice SVoD and AVoD. The latter comes with a subsidised subscription fee. Venturing into ad-based subscription was one of the strategies to boost subscriber base. The other one which caught many users unawares was the password sharing crackdown which targeted subscribers who use shared passwords their passwords to family members and friends, such that a single account could be used by users from different devices and locations. Password sharing was a revenue leakage that saw Netflix subscription numbers stagnate for a long time in 2022 and in cracking down the password sharing, the VoD platform had risked losing subscribers who felt that the move was too hostile to them. Consequently, the hashtag #CancelNetflix started trending on X lobbying subscribers to opt out of the platform. On the contrary, in October 2023, Netflix reported that it had gained 9 million new subscribers following the crackdown and revenue went up by 8% (O'Flaherty, 2023). According to Flix patrol (2024), a website that provides VoD charts and streaming ratings worldwide, the platform boasts of over 260,000,000 subscribers as at the end of 2023, 10,000 of them being from Kenya.

YouTube is an American online video sharing platform owned by Google. The difference between this and the already discussed platforms is its ability to utilize User Generated Content and adverts to achieve hegemony. When Steve Chen, Chad Hurley and Jawed

Karim started YouTube in 2005, their goal was to create a space where people could upload, view and share their content (Heibner, 2014). The platform utilizes UGC, a concept whereby a platform builds a library of a dynamic and diverse collection of videos created by its user community (Hisbox, 2024). The platform utilizes AVoD business model (discussed earlier in this chapter), whereby audiences can access content for free from a platform subject to them watching adverts that run at the beginning, alongside, in the middle or at the end of a video (Anon, 2021). As of January 2024, statistics from Statistica indicate that India had the largest YouTube audience, with 462 million users, followed by USA with 239 million. Brazil came in third with 144 million users while United Kingdom was fourth with 56.2 million users (Statistica, 2024). Kemp (2023), while analyzing Google's advertising resources, avers that YouTube had 9.44 million users in Kenya by January 2023. However, it is worth noting that these figures do not necessarily represent monthly active users. According to Kemp's analyses of data from Google's own ad planning tools, YouTube's potential increased by 150,000 between the start of 2022 and early 2023 (Kemp 2023). However, it is worth noting that YouTube has YouTube Premium which uses the SVoD model whereby subscribers can watch ads free, uninterrupted streaming.

Showmax is another platform which operates in Kenya. It is a streaming service is owned by Multichoice - the South African based company which also owns DSTV and Gotv - has been operating in Kenya since October 2016 (Techrunda, 2021). The streaming service is popular among Kenyan youth because of boosting local film productions especially series (Showmax originals) and ability to access SuperSport content including all English Premiere League through Showmax Pro. Showmax has over 150,000 subscribers in Kenya.

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A series of other recent studies highlight various monetization models being used by VoD platforms. Kandari (2023) for instance, classifies the models into various categories based on subscription, advertising, transaction, premium and membership. Kandari (2023) cites Advertising-based Video on Demand (AVoD), as the most common model, whereby viewers can access as much content as they want as long as they watch advertisements that come with them. One such platform is YouTube, where content creators upload User Generated Content (UGC) to the platform's servers and monetize it with advertisements via the YouTube partner programmes (Ericson, 2019). In August 2024, Meta announced that Kenya creators could earn money through ads when streaming their videos and eventually earn money through the AVoD model. The advertisements may also be easily integrated into Facebook reels, a short-form video feature that Meta debuted to take on TikTok and YouTube clips. More than 30 languages, including Swahili, are supported by the monetization option (Nzomo, 2024).

Further, Kandari (2023) looks at subscription based VoD (SVoD) model which, unlike AVoD, relies on users who pay some subscription fee, mostly on a monthly basis to access the content. He observes that one of the biggest SVoD platforms is Netflix. In this model, content is 'served' in a 'buffet-like' manner. Another model is Transactional-based VoD (TVoD). This model is also known as Pay-Per-View because it gives viewers the flexibility to pay for whichever content they want to watch and it doesn't have to tie them to a fixed subscription as in the case with SVoD (Kandari, 2023). He lists Amazon Prime as one of the platforms that uses this model. Finally, there is Premium VoD (PVoD), which Kandari (2023) terms as the latest. It is similar to TVoD only that for PVoD, consumers pay extra fee for early access of content. In content distribution business, "Premium" is used to describe content that is new or blockbuster type. A more comprehensive

description of PVoD is offered by Kaysen (2017) who portends that PVoD is mainly associated with services that would affect the movie theatre industry.

### *2.3 Critical Review of Research gap identified*

From the above reviewed works, it is evident that crucial data is lacking on VoD operations in Kenya. The research into the effects of VoD on different segments of population, especially children and youth has also been identified as a research area that needs more attention. This being a relatively new area of study, more work needs to be done especially to help regulatory bodies in regulating this space, as negative effects of on-demand content consumption. This has been proven by several studies; while looking at Over-the-Top Services (OTT) (another term used to refer to VoD platforms) platforms regulation in India.

Locally, Githinji (2020) looked at the role of film policies in the growth of Kenya's film industry, with a case study of the film and Stage Plays Act, Cap 222. Nguma (2015) looked at internal and external factors affecting the Kenyan film industry, focusing on the film production aspect. Nyutho (2015) evaluates the Kenyan film industry from a historical perspective. A number of authors have recognized a policy gap in the country when it comes to revitalizing the film industry. Githinji (2020), for instance, while looking at the Film and Stage Plays Act, Cap 222, the primary legislation which establishes KFCB, found out that there is need to urgently implement the proposed National Film Policy. Simiyu (2022) found out that different political regimes in Kenya have not given a lot of impetus to film industry in terms of policy development to ensure that the industry is well regulated. He argues that although the Kenyan Constitution which was promulgated in 2010 ensures freedom of expression under Articles 32, 33, 34 and 35, this freedom is limited and extends to film production. This denies filmmakers freedom to express themselves in form of freedom of artistic creativity as provided for in article 33

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(b). Regulating the film industry can therefore, be interpreted to mean curtailing freedom of artistic creativity (Wanuri Kahiu versus KFCB case cited earlier). In a bid to regulate the sector, CA wanted a regulatory framework to correct the regulatory imbalance where online streaming services are not within the purview of local regulatory bodies despite selling their services locally (Ambani, 2022). In order to estimate the Economic contribution of the Film Industry in Kenya, The Kenya Commission in collaboration with the Kenya National Bureau of Statistics (KNBS) established the Film Industry Satellite Account (FISA) in 2023. The report found out that the Kenyan film industry created 42,823 jobs in 2022 and earnings stood at Kshs. 14.5 billion (KNBS, 2023). The study also shows how export revenue trends vary, with a notable increase anticipated in 2022 due to equipment and parts used in the film industry. These results highlight the impact of outside variables, like the COVID-19 pandemic, on international trade in Kenya's film industry (KNBS, 2023). One of FISA Report's recommendation is the establishment of film incentives such as a film fund as was highlighted in an earlier 2015 draft National Film Policy highlighted earlier. Mukara (2019) averred that the National Film Policy and Bill had a raft of recommendations that would spur the film industry's growth.

The above literature reveals a gap in terms of relevant legal and policy framework in regulating VoD platforms. It is a cause of concern for regulatory bodies concerned given the effects media messages spread by such platforms have on society. Given their algorithm driven feeds for instance, platforms such as TikTok are able to offer personalised experience to users leading to addiction (Ngigi, 2024).

From the above reviewed works, it is also evident that crucial data is lacking on VoD operations in Kenya. The research into the effects of VoD on different segments of population, especially children and youth has also been identified as research that needs urgent attention. This being a relatively new area of study, more work needs to be done

especially to help regulatory bodies in regulating this space, as negative effects of on-demand content consumption.

#### *2.4 Recap of Literature Review*

This chapter delved into past studies on the topic in order to provide perspective in the area of study. This began with a look at the empirical literature, where past studies were reviewed. Particularly, there was a deeper scrutiny on literature relating to Policy issues of the creative industries worldwide and how universal bodies such as UNCTAD, UNESCO and European Audio-Visual Media Services. The review also looked at the state of the Audio-visual sector during post Covid-19 pandemic and how the Pandemic gave rise to the demand of VoD content. The interconnectedness of the audio-visual sector and its contribution to the Gross Domestic Product (GDP) of many countries is brought out clearly in the literature review and we see governments starting to pay keen interest in this cultural product by, for instance, introducing digital services taxes on VoD content. Owing to this, the review also looked into various strategies adopted by various nations to bolster trade on this cultural commodity. A connection is also drawn between these models and David Throsby's model of concentric circles was looked at as an example.

Further, a look at various monetization models used by various VoD platforms varying models which include Advertising-based Video on Demand (AVoD), Subscription based VoD (SVoD), Transactional-based VoD (TVoD), and Premium VoD (PVoD). The most prevalent model was identified as the SVoD model which is engaged by Multinational VoD platforms such as Netflix.

Locally available literature on VoD was a bit scanty, but various authors such as Githinji (2020), Nguma (2015), Nyutho (2015) and Simiyu (2022) look at the Policy aspect of realigning the film industry with the changing technological advancements. Mukara and Githinji (2019) looks at the 2015 National Film Policy 2015 which has never been ratified.

Ambani (2022) highlighted the most recent attempt to change the law to enable government of Kenya to regulate the VoD sector as CA's attempt to conduct a Survey to study the reach of OTTs in the country in 2022, but findings could not be found. A research gap came out during the literature review in the sense that there are no documented studies found on the effects of VoD content on children in Kenya and also Government's interventions in regards to regulation to curb these effects. Independent variables such as State regulation, self-regulation and co-regulation also came up during the literature review. We also saw independent variables such as legal framework, content quotas, economic value of the creative economy, government secrets, privacy, freedom of expression, freedom of the media, public decency and monetization models. There was also a set of intervening variables which were seen as hypothetical but which could affect the relationship between the mention independent and dependent variables. These are pandemics, net neutrality, litigations, change of government regimes and so on.

The Authoritarian Theory which attempts to justify the need for Government's regulation of the mass media informed the theoretical framework.

## *2.5 Theoretical Literature*

### **2.5.1 Theoretical Framework: The Authoritarian Theory of Mass Media**

This study is based on Authoritarian Theory (AT) of mass media of mass media which argues for technocratic control of the mass media. It was advanced by Fred S. Siebert and it is discussed in detail in a book he co-authored with Theodore Peterson and Wilbur Schramm called *Four Theories of the Press* (Siebert et al., 1963).

The Authoritarian idea was the driving force behind the professionalization of journalism throughout the 1920s as public demand for media regulation grew by leaps and bounds. Joseph Pulitzer (famed for coming up with the Pulitzer Awards) and William Randolph drove this demand in the USA and established professional awards. The lobbying by

leaders in the newspaper industry at the time saw the establishment of professional schools to train journalists. In 1923, the American Society of newspaper editors (ASNE) adopted the first set of professional standards as we know them today. This was the birth of *The Canons of Journalism* and subsequent introduction of Press Councils to enforce these canons.

The AT postulates that the government should censor media to ensure that what goes out to the public benefits them. While advancing this theory, Siebert (1963) argues that human societies naturally develop systems of societal control where the relations of individuals and institutions are adjusted and common interests and desires are secured. Siebert (1963) further uses the works of W.J. Shepard to describe these systems as those that spring directly from common sense and those that are guided by definite institutional organization and operate through a legal mandate, i.e. institutions that are legally mandated to exercise authoritative regulatory control over the media, such as the Media Council of Kenya (Media ethics enforcement), the Communication Authority of Kenya (Telecommunication and broadcast Regulator) and the KFCB (audio visual content regulation – which is supposed to include such content distributed over the VoD platforms). Siebert (1963) argues that AT is a theory under which the press, as an institution, is controlled by an organized society through another institution, the government.

The tenets of the Authoritarian theory of mass media have been used by the past repressive regimes in Kenya to muzzle the press and punish journalists who supposedly rubbed officialdom the wrong way. Section 194 of the Penal Code and the Law of Contempt were largely used by President Moi's regime in the 1990s to silence perceived anti-government voices. David Makali and Bedan Mbugua are some of the veteran pundits who fell victims of these authoritarian approaches to govern the media. In 1999, Tony Gachoka lit a touch

paper by accusing top Moi officials of complicity in the Goldenberg affair together with senior members of judiciary and was charged with criminal libel for his scurrilous attacks (Mutiga, 2005).

This study looked at the role of government in regulating the VoD platforms and is relying on the AT as its basis. Regulation of these platforms has caught the attention of many governments. Take TikTok for instance; as mentioned earlier, the Kenyan government is reportedly mulling plans to ban TikTok on official government devices and follow examples of countries such as US and UK on the basis of potential risks associated with the access and utilization of sensitive government data (Mutai, 2024; Ngigi, 2024).

Lendvai (2022), while looking at the differential focus of media regulation, highlights six regulated media aspects. They include *infrastructure, distribution, access, conduct, and content*. In Kenyan case, infrastructure, distribution and access are taken care of by the CA while MCK takes care of conduct, leaving KFCB to regulate content. In content regulation, Lendvai (2022) avers that the rapid extension of new technologies has brought media content within the scope of regulation adding that film video and music are forms of art that are affected by negative regulation. Further, Lendvai (2022) identifies key reasons for media regulation including maintaining public decency, maintaining cultural standards and supporting regional and national culture, preventing harm to society especially to children and young people from undesirable content, among others. AT postulates for government to exercise its full authority when dealing with media content. Kenyan government has the freedom of expression and media freedom enshrined in the Constitution and it would be interesting to find out what kind of strategies it engages in light of AT to regulate VoD platforms in such kind of environment, hence addressing research questions (i) and (iii).

## 2.6 Conceptual framework

State regulation, self-regulation and co-regulation are the main thematic areas under the study topic which revolves around VoD regulation in Kenya. These variables are independent because as the subject of investigation, they cannot be manipulated by the researcher. They represent specific indicators from the government side.

Dependent variables whose existence is because of the causal relationship they have with various forms of regulation enablers of regulation. These dependent variables include legal framework, content quotas, economic value of the creative economy, government secrets, privacy, freedom of expression, freedom of the media, public decency and monetization models.

In between Government regulation of the VoD content, there are other hypothetical variables in the sense that they cannot be observed in an experiment. A Change of government regime or government re-organization is an intervening variable because governments always change policies to reflect their manifestos or for other interests like political interest. What might be a policy in one regime might, therefore shift in the next. Litigations might also intervene between dependent and dependent variable when aggrieved parties seek legal address. In this case, a big legal risk might be litigation of violation of freedom of expression by KFCB if a party feels that the latter is curtailing their freedom to use the VoD platforms to express themselves through their content . The figure below summarises this conceptual framework:

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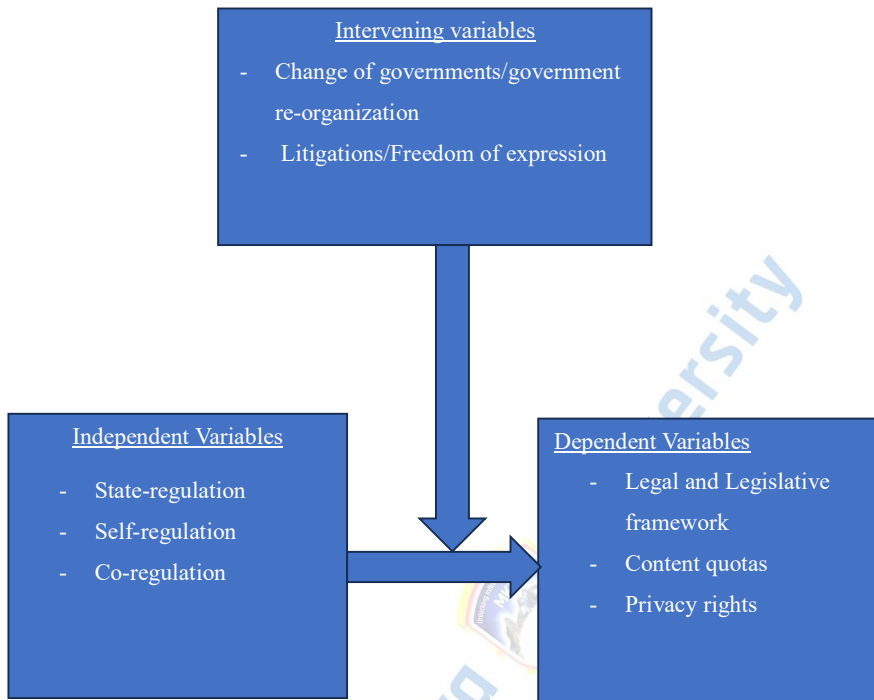


Figure 1: Conceptual framework

## CHAPTER THREE

### RESEARCH METHODOLOGY

#### *3.1 Introduction*

This chapter looks at the Research techniques the researcher used to gather data which culminated into this research's findings. It gives a detailed look at the two techniques used, that is the questionnaires and in-depth interview.

#### *3.1 Research Design*

This study adopted a descriptive research design. This type of design is mostly concerned with describing the characters of a phenomenon (Kothari, 2004). This, being social research, saw this type of design befitting. Data for this study was collected using questionnaires and depth interview, making it a mixed-method design for it yielded data both in quantitative and qualitative forms. The data collection procedure employed adequate safeguards to avoid bias and overall unreliability.

#### *3.3 Research Setting*

The study was conducted in Nairobi County, specifically in Starehe Sub-County. KFCB has eight regional offices but its headquarters is in Nairobi County from where the top management, the Board of Directors and the CEO operate. As a result, this is where key policy decisions are made and cascaded to the regional offices for implementation. Key industry stakeholders are also located here. The film producers targeted are also located in Nairobi. As explained in chapter one, Nairobi is equipped with good infrastructure needed for the VoD market, that is fast 5<sup>th</sup> Generation (5G) internet connectivity. Most Internet Service Providers (ISPs) also operate in Nairobi. This means that filmmakers in Nairobi are more likely to distribute their content via VoD platforms than any other population elsewhere in the country.

### 3.4 Target Population

The study targeted 5,000 film producers/content creators based in Nairobi County and one Management representative of KFCB (the CEO) in order to get insights guided by the research questions. Most of the film producers in this group also have production companies and act as fixers for foreign companies who want to film in Kenya. These content creators produce content which they commission for mainstream media houses, VoD platforms or upload it on UGC reliant platforms such as YouTube. Compliance with the industry's regulator - the KFCB - is supposed to start from pre-production stage where they are required to apply for filming license all the way to post production whereby they are required to submit content for rating/classification to determine age appropriates. They therefore, formed a crucial part of this study.

### 3.5 Sample Size

There are basically two types of universes when it comes to sample design; these are the finite and infinite. In finite universe, the number of items is fixed or known, but for infinite universe, the number of items is unknown (Kothari, 2004). The population of a country is for instance finite since the data can be obtained from the concerned bodies, e.g. KNBS but the number of stars in the sky is infinite, i.e., no statistical record is available for this. The sample size for this study was carefully selected such that is neither too large nor too small, i.e. an optimum sample. From a population of 5,000, a sample size of 357 was obtained using a prescribed formula from calculator.net.

### 3.4.2 Sampling procedure and technique

Deliberate/purposive sampling techniques were used to deliberately select the CEO of KFCB as the interview respondent by virtue of his position as the management representative and also because of the institutional memory he possesses. For the second target population, that is, Film producers based in Nairobi with a population of five thousand (5,000) members in a WhatsApp Group called Nairobi Film Directors Hub

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Commented [DM18R17]: Revised upwards to 100

Commented [MOU19]: WHERE DID YOU GET THIS FIGUREE

Commented [DM20R19]: The WhatsApp Group of Nairobi Film Directors Hub

(NFDH). Admittedly, getting a target population from a WhatsApp group is not easy because of limited studies done using this methodology. However, Systematic Random sampling can be suitable for such population. According to Kothari (2004), random numbers are used to select a starting unit for the sampling process, which adds a random element and helps the procedure reach the intended sample size. The researcher picked a random point in the list and then every  $n$ th element was selected until the desired size is achieved.

To get the desired sample size, the researcher used a formula that provided a **confidence level** of 95%. The **margin of error/confidence interval** is defined as the amount of error that the findings can tolerate. The most commonly used margin of error is 5% and the researcher used this to determine the sample size. A standard deviation of 0.5 was used to ensure that the sample size represents the population 357 respondents for the survey. The formulae below adopted from calculator.net was used to get the desired sample:

$$n' = \frac{n}{1 + \frac{z^2 \times \hat{p}(1-\hat{p})}{\epsilon^2 N}}$$

Where  $z$  is the score,  $\epsilon$  is the margin of error,  $n'$  is the population size and  $\hat{p}$  is the population proportion. Using this formula, the researcher achieved a sample size of 357 respondents out of a population of 5000 film producers.

### 3.5 Data collection methods and instruments

In order to gather first-hand insightful data for this study, primary data collection methods were used. This data went a long way in informing the outcome of the study based on the target population.

The survey method was used to collect data from film producers based in Nairobi County, Kenya. The data collection tools to be used for this are the questionnaires. One of the key

advantages of questionnaires is their ability to reach a high number of respondents at minimal cost and also enable researchers to collect information from a sizable and varied sample, offering a more comprehensive portrayal of the intended audience. This improves the findings' external validity and generalizability (Lindemann, 2024).

A pilot survey helped determine the availability of these devices among the respondents. Rutledge and Hogg (2020) observe that In-depth interviews are capable of boosting quantitative studies when they add the participants' subjective experience and motivations represented by the quantitative data.

The choice of this method of data collection is informed by the fact that this is a case study and required an in depth focus rather than breadth of the subject under study. This method is expected to bring out the mutual inter-relationship between variables. It also enabled the researcher to trace the natural history of the subject under study in terms of origin and marry that with the current forces in the industry.

### *3.6 Procedures for data collection*

Khavé (2006) avers that one of the shortcomings of in-depth interview can be viewed from a broader social context in what he terms as "power dynamics" within the interview environment whereby the respondent (interviewee) "takes over" the interview leading to a one-way dialogue. To overcome this, this researcher established a rapport with the respondent days before the interview to curb the possibility of such a limitation curtailing gathering of data.

### *3.7 Reliability and validity of instruments*

Ong (2012) defines validity in a questionnaire as the amount of inbuilt or systematic error in it. To measure validity of the questionnaire, the researcher used content validity. Cooper and Schindler (2006) look at three dimensions of reliability for a questionnaire. These are; Content validity, which was achieved by looking at questionnaires used for similar

studies. Content validity refers to the extent that the measuring tool has adequate coverage of the concept (Wong et al., 2012).

A number of studies have relied on in-depth interview as a data collection method. Hull (2008) for instance while studying standards and values of local authorities affecting mobility on local transport services in the United Kingdom used this method to get insights from national experts, environmental workers, transport planners and a variety of professionals related with business policy. It has also been demonstrated that by including the respondents' subjective experiences and motives that are reflected in the quantitative data, in-depth interviews improve interview research (Rutledge & Hogg, 2020). In their paper titled *Social Capital, self esteem, and the use of online social network sites: a Longitudinal analysis* for example, Steinfeld et al. (2008), used in-depth interviews to supplement survey data. Luik et al. (2019) also used depth interview to study what motivates enrolment in Massive Open Online Courses (MOOCs).

This study also factored in Rutledge & Hogg's (2020) view that in order to guarantee the integrity of data collected through in-depth interviews and to ensure that it reflects the voice and meaning of the respondent, there ought to be careful recording of the interview as the source data. To avoid a breach of privacy, consent sought from the respondent beforehand in regards to use of recording instruments.

Krippendorff (2004) outlines three types of reliabilities in coding semi-structured interviews; first is *stability* which is concerned with whether a coders use of codes changes over time. The second is *accuracy* where a gold-standard coding is first applied and then compared with other developed coding schemes, and finally *reproducibility* or *intercoder reliability* concerned with whether different coders would code the same data

the same way. The researcher used codes that are reproducible for in-depth interviews. A coding software was used to develop detailed codes for data analysis.

### *3.8 Data Analysis and presentation*

The mixed method design led to generation of both quantitative and qualitative data. The Delve Software was used to code the in-depth interview data. The recorded interview was first transcribed. Transcription, according to Guion et al. (2011) is creating verbatim text of the interview by writing out each question and the interviewee's response and it also includes the interviewer's side notes which were not in the recorded audio. The researcher analysed the transcript and come up with codes which assisted in further analysis of the data.

The software allows transcribed interview data to be imported to it and various codes created, e.g. for this case, the researcher used codes such as monetization, regulation, strategies, and so on. After generating sufficient codes, the researcher then went through the transcript, sentence by sentence assigning different codes to them.

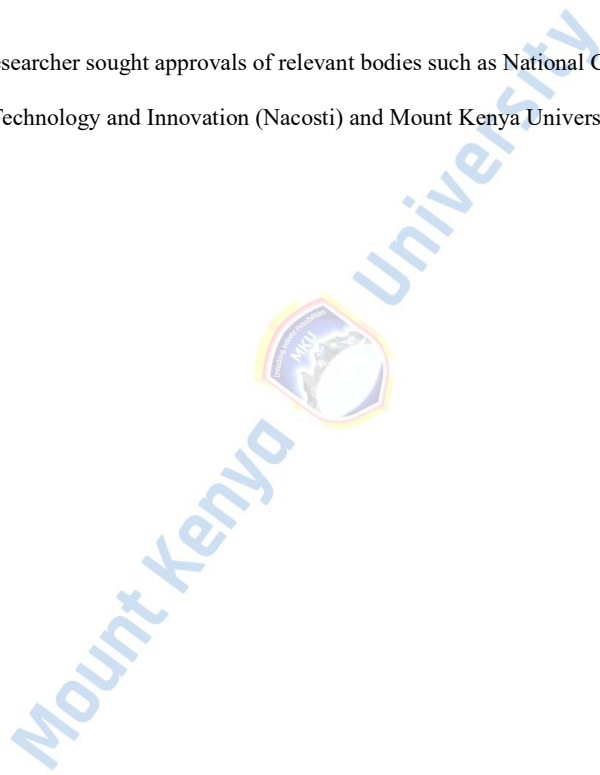
The interoperability of Google forms with other data handling software such as Microsoft Excel and Google Sheets informed the researcher's choice of this method to administer questionnaires. Data collected through the questionnaires was imported to Microsoft Excel where more analysis was done. This data was presented in form of pie charts and tables.

### *3.9 Ethical Considerations*

These are set principles that guided this research. First and foremost, data collection in this research was guided by the principle of voluntary participation. The participants were free to opt out any stage and don't need to be coerced to give their reasons for doing so. Informed consent was sought from the participants so as to decide, out of their own volition, whether they want to participate in the study. Personally identifying information

in terms of names, photos, videos etc was not collected to guarantee anonymity and confidentiality. Although total anonymity is not guaranteed in research as Bhandari (2023) contends, the researcher tried as much as possible to assure that their anonymity was protected. Potential harm for participants be it psychological, social physical or legal harm was also considered. Plagiarism, including self-plagiarism and any other form of academic fraud was avoided.

Finally, the researcher sought approvals of relevant bodies such as National Commission for Science, Technology and Innovation (Nacosti) and Mount Kenya University.



## CHAPTER FOUR

### RESEARCH FINDINGS, ANALYSIS AND PRESENTATION

#### *4.1 Introduction*

This chapter presents the findings, analysis, interpretation, and discussion of data gathered during the investigation of the regulation interventions that KFCB imposed to regulate audio-visual content accessed through VoD platforms in Kenya. The chapter is presented in four sections discussion of demographic characteristics, analysis, interpretation, and discussion of the findings. The interpretation of the data also addressed the issues raised in Objective 1 and Objective 2 of this research study. This chapter aims to offer a clear understanding of the regulatory landscape and its implications for VoD services in Kenya. The insights offered will contribute to understanding the evolving role of government oversight in Kenya's growing VoD sector.

The Delve Software was used to code the in-depth interview data. The recorded interview was first be transcribed. Transcription, according to Guion et al. (2011) is creating verbatim text of the interview by writing out each question and the interviewee's response and it also includes the interviewer's side notes which were not in the recorded audio. The researcher then analysed the transcript and came up with codes which were helpful in further analysis of the data.

#### *4.1 Response Rate for survey*

The study targeted 5,000 film producers and film content creators based in Nairobi County and one management representative of KFCB. A systematic random sampling technique was then used to get a desired sample size of 357 participants. Data was obtained from self-administered questionnaires completed by 238 of the contacted participants (n=238), a 66.7% response rate. A total of 256 questionnaires were received, however, only 238 of them were usable for this study and met the required inclusion

criteria as discussed in the previous chapter. The high acceptance to participate in this study is justified by the tech-savvy nature of video producers and content creators and their willingness to participate in online research projects. Of the 18 questionnaires deemed unusable, 16 respondents did not complete the questionnaire and two or more subsections of the questionnaire were omitted. Two respondents reported that they do not know any of the existing KFCB regulatory work regarding VoD use and platforms.

#### 4.1.2 Demographics Characteristics

The study gathered data from 238 film content creators and one regulatory official. The first sections of the questionnaires listed questions aimed to collect data about the demographic characteristics of respondents including gender, age, education, and years of work.

Demographic Characteristics		Frequency	Percentage
Gender	Male	137	57.6%
	Female	101	42.4%
Age	20-30	54	22.7%
	31-40	104	43.7%
	41-50	41	17.2%
	51-60	39	16.4%
Education	Diploma	76	31.9%
	Bachelor's degree	104	43.7%
	Post Graduate Degree	53	22.3%

	Doctorate Degree	5	1.4%
Work Experience	1-3 Years	28	11.8%
	4-10 Years	83	34.9%
	11-20 Years	98	41.1%
	21-30 Years	29	12.2%

*Table 1: Demographic characteristics*

From table 4.1 above, it is seen that 137 of the 238 respondents were males and 101 were females. These figures account for 57.6% and 42.4% respectively. Even though male respondents were slightly higher than females, the proportion of their percentages indicates that there was a proportional representation of gender in the process of data collection. Hence, this research captured data that addresses each group of gender in the sample population.

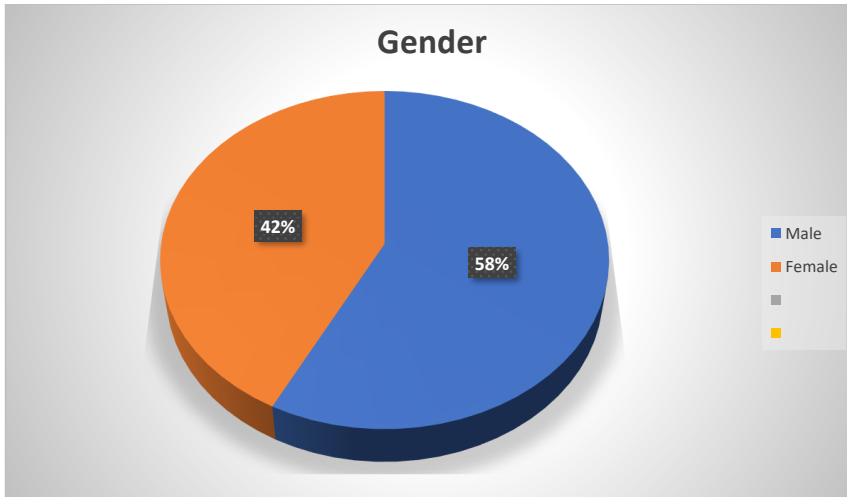


Figure 2: Frequency of Participants based on Gender

Another investigated aspect was the ages of the respondents, 54 (22.7%) respondents were respondents with age between 20-30 years while 104 (43.7) were aged between 31-40 years old. Those with ages between 41-50 and 51-60 are 41 and 39 respondents forming 17.2% and 16.4% respectively. Based on the findings presented above, it proves the study was a proportional presentation of each working group in terms of age and gender which justify the findings of this study were cut across each working age index hence the coverage of all working age indices.

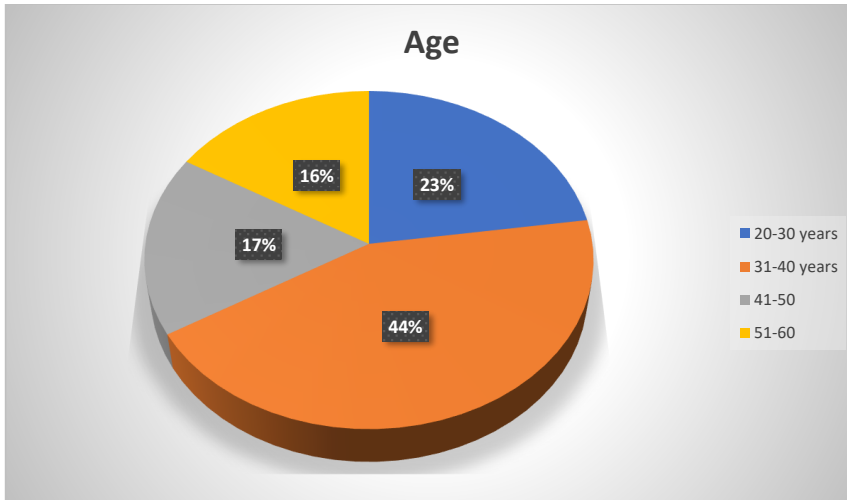


Figure 3: Frequency of Participants based on Age

The education level of the respondents was another aspect investigated in this study. The findings above show that most of the respondents were Diploma and bachelor's degree holders both consisting of 76 and 106 respondents which was the equivalence of 31.9% and 43.7% respectively. Respondents with postgraduate and doctorate degrees had 53 and 5 accounting for 22.3% and 1.4% respectively thus making them the minor groups. The above-presented percentages indicate that at least there was a proportional representation of different groups of respondents in terms of education in the process of data collection which helped to capture data that addresses each group of education level.

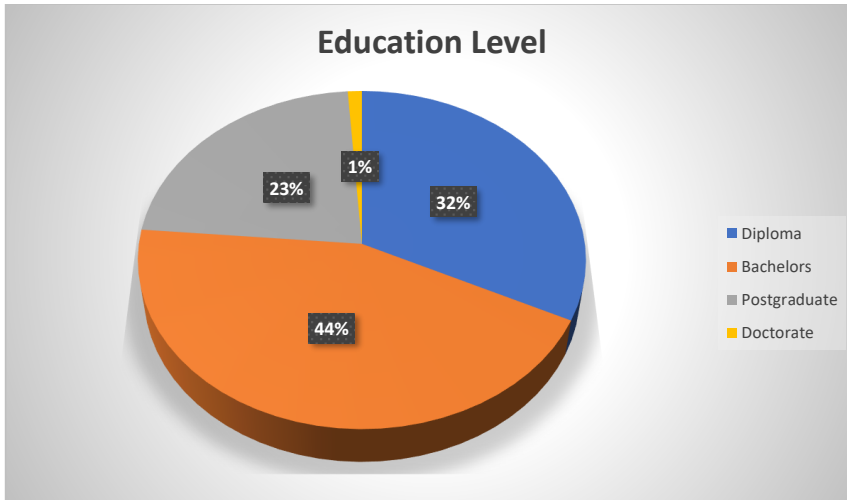


Figure 4: Frequency of Participants based on Education Level

The last investigated demographic characteristic was in work experience. From Table 4.1 above, the majority of 98 (41.1%) of the respondents had experienced between 11 to 20 years, followed by those with 4 to 10 years of experience which amounted to 34.9%. The respondents with working experience of 1 to 3 years and 20 to 30 years had 11.8% and 12.2% respectively.

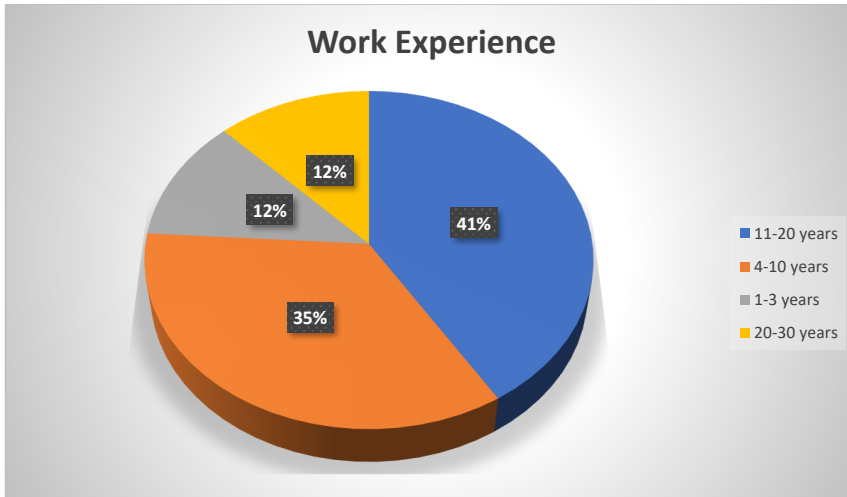


Figure 5: Frequency of Participants based on Work Experience

Based on the data presented above, it is evident that the researcher obtained the data from a wide range of relevant and experienced respondents. Hence, the researcher was confident that the data given came from respondents who are well-versed in VoD and the regulations involved.

#### 4.2 Presentation of Findings

To understand the relationship between the independent variables such as gender, age, education level, and work experience, and the dependent variable which is the perception of the effectiveness of KFCB's regulations on VoD platforms, a multiple regression analysis was conducted. Applying this statistical technique enabled the evaluation of the combined effect of the independent variables on the dependent variable while accounting for the influence of each variable individually. The key aim of this analysis is to determine which demographic factors significantly influence perceptions of KFCB's regulatory measures on VoD platforms.

#### 4.2.1 Multiple Regression Model

The general form of a multiple regression model is expressed as follows:

$$Y = \beta_0 + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3 + \dots + \beta_n X_n + \epsilon$$

Where:

- Y is the dependent variable (Perception of KFCB's VoD regulations)
- $\beta_0$  is the intercept (the value of Y when all X variables are zero)
- $\beta_1, \beta_2, \dots, \beta_n$  are the coefficients of the independent variables
- $X_1, X_2, \dots, X_n$  are the independent variables (demographic factors like gender, age, education, and work experience), and
- $\epsilon$  represents the error term or residuals.

For this study, the following model was used to assess how demographic factors influenced the perception of KFCB's regulations:

$$Y = \beta_0 + \beta_1 (\text{Gender}) + \beta_2 (\text{Age}) + \beta_3 (\text{Education}) + \beta_4 (\text{Work Experience}) + \epsilon$$

Where:

- Gender is coded as a binary variable (1 for male, 0 for female)
- Age is represented as a continuous variable in years
- Education is treated as a categorical variable (Diploma, bachelor's degree, Postgraduate and Doctorate), and
- Work experience is measured in years.

#### 4.2.2 Data Preparation and Assumptions

Before conducting the regression analysis, the data was cleaned to ensure that it met the assumptions required for multiple regression. The key assumptions include:

- **Linearity:** The relationship between the independent and dependent variables is linear.
- **Independence of errors:** The residuals (errors) are independent.
- **Homoscedasticity:** The variance of residuals is constant across all levels of the independent variables.
- **Normality of residuals:** The residuals are normally distributed.
- **Multicollinearity:** The independent variables are not highly correlated with each other.

The data met these assumptions after conducting tests such as the Variance Inflation Factor (VIF) to check for multicollinearity and residual plots to check for homoscedasticity and normality.

#### 4.2.3 Results of the Multiple Regression Analysis

Running the multiple regression analysis on the Excel software gave the following results.

The following table 4.2 shows the results of the multiple regression analysis,

##### SUMMARY OUTPUT

<i>Regression Statistics</i>	
Multiple R	1
R Square	0.98
Adjusted R Square	0.87
Standard Error	0
Observations	2

## ANOVA

	<i>df</i>	<i>SS</i>	<i>MS</i>	<i>F</i>	<i>Significance F</i>			
Regression			0.035					
n	14	0.5	714	0.025	5			
Residual	0	0	65535					
Total	14	0.5						

	<i>Coefficients</i>	<i>Standard Error</i>	<i>t Stat</i>	<i>P-value</i>	<i>Lower 95%</i>	<i>Upper 95%</i>	<i>Lower 95.0%</i>	<i>Upper 95.0%</i>
Intercept	1.030612		655			1.046	1.0306	1.0306
pt	245	0	35	0.03	1.0283	8	12	12
Male	0	0	35	0.06	0	0	0	0
Female	0	0	35	0.06	0	0	0	0
20-30 years	1.049497		655					
31-40 years	1.020848		655	0.02				
41-50 years	1.039757		655					
51-60 years	1.041080		655					

Diplo			655					
ma	0	0	35	0.04	0	0	0	0
-								
Bachel	0.010204		655			0.010		
ors	0.082	0	35	0.02	-0.0102	2	-0.0102	-0.0102
Postgra			655					
duate	0	0	35	0.03	0	0	0	0
Doctor			655					
ate	0	0	35	0.03	0	0	0	0
			655					
1-3 XP	0	0	35	0.06	0	0	0	0
4-10			655					
XP	0	0	35	0.06	0	0	0	0
11-20			655					
XP	0	0	35	0.06	0	0	0	0
21-30			655					
XP	0	0	35	0.06	0	0	0	0

Table 2: Results of multiple regression analysis

The R squared value for the model was 0.98, indicating that 98% of the variation in the perception of KCB's VoD regulations can be explained by the demographic variables.

The adjusted R-squared was slightly lower at 0.87, correcting for the number of predictors in the model.

#### *4.3 Presentation of Findings*

Based on the regression results, the independent variable age was found to be a significant predictor of the perceptions towards KFCB's regulations with a positive coefficient ranging from 1.02 to 1.05 for the different age groups. Hence, it implies that older respondents tend to have a more favorable view of KFCB's regulatory interventions on VoD platforms. This may be associated with the fact that these people have a more conservative outlook on content regulation and would prefer a more radical approach to VoD regulation, specifically Government Regulation.

In contrast, gender and work experience were not statistically significant predictors where  $p > 0.05$  suggesting that these factors do not significantly influence perceptions of VoD regulations in this sample. Such findings indicate that opinions on VoD regulation are not deeply divided along gender lines, nor are they shaped significantly by years of experience in the video content production industry.

Looking at education level, the data was marginally significant, with respondents holding higher education qualifications such as postgraduate degrees showing a more critical view of KFCB's regulations. These findings could be attributed to the fact that individuals with higher education levels are more likely to be informed about global regulatory trends and may advocate for more liberal content regulation policies. They cited conduct as the reason as to why government should exercise strict regulatory control over VoD platforms because foreign content has the capability of diluting the moral fibre of the Kenyan society. Those with lower levels of education did not seem to understand VoD regulatory concepts such net neutrality. Those with higher levels of education, however, suggested that net neutrality is a possible avenue for the Kenyan government to explore in future, should it want to effectively regulate VoD platforms operating in the country.

The multiple regression analysis provided valuable insights into the demographic factors influencing perceptions of KCB's regulatory interventions on VoD platforms. The resulting significant factors were age and education with older respondents and those with advanced degrees demonstrating distinct attitudes towards the effectiveness of these regulations. These findings suggest that KFCB may need to consider these demographic insights when crafting future regulatory policies to ensure they align with the expectations of different population segments.

#### 4.3.1 Regulation of VoD services in Kenya

The first objective sought to explore the extent to which the Kenyan government, through KFCB, regulates VoD services. Respondents were asked about their awareness of KFCB regulations, their compliance with these rules, and the perceived effectiveness of government intervention.

Table 4.3 shows the percentage of respondents aware of KFCB regulations regarding VoD

Awareness of KFCB Regulations	Frequency	Percentage
Yes	201	84.5%
No	37	15.5

Table 3: Percentage of respondents aware of KFCB regulations regarding VoD

Most of the respondents 84.5% were aware of the regulations set forth by KFCB, indicating that there is a relatively high level of knowledge regarding government efforts to regulate VoD content. These findings suggest that KFCB has been somewhat effective in communicating its regulations to the public, though nearly a third of respondents remain unaware, highlighting a gap that could be addressed through more extensive public outreach campaigns.

A majority of the respondents (52.3%) prefer to distribute their content through the social media platforms such as YouTube, Facebook, X and TikTok while a few (38%) use VoD platforms while only 9.7% use movie theatres. Those who use social media platforms as their preferred content distribution platforms cited their main reason as the accessibility of these platforms and little bureaucracy in content uploading. Another reason was the ability to monetize content due to monetization policies of platforms such as YouTube. Those who use VoD platforms prefer foreign based platforms operating in the country such as YouTube due to their monetization capabilities enabled by AVoD models. Because this platform uses adverts to generate revenue, users are assured that if their content meet the conditions or certain number of views, they would be rewarded for it. Majority of those who use social media and VoD platforms argue that these platforms have overtaken the traditional model whereby media houses suggested what content viewers should watch, suggesting a strong affiliation toward “on-demand” content.

Channel	Frequency	Percentage
Social media	112	52.3%
VoD platforms	84	38%
Movie theatres	41	9.7%

Table 4: Distribution channels preferred by film producers

#### 4.3.2 Challenges in VoD Regulation (Objective 2)

The second objective focuses on the challenges faced by both the government and VoD service providers in implementing and adhering to regulations.

Challenge	Frequency	Percentage
Rapid technological changes	112	47.1%

Inconsistent enforcement	84	35.3%
Lack of resources for monitoring	41	17.6%

*Table 5: Main challenges identified by respondents.*

The leading challenge, cited by 47.1% of respondents, was technological advancement of the VoD sector followed by inconsistent enforcement measures. Inconsistent enforcement of regulations is a significant obstacle to effective governance in the VoD sector. Rapid changes in technology also make it difficult for regulators to keep up, suggesting the need for continuous adaptation and investment in regulatory infrastructure.

In summary, while KFCB has made significant strides in regulating VoD platforms, several areas require attention. Consistent enforcement, keeping up with technological advancements, and better support for local content are key areas for improvement. Future strategies should focus on increasing public awareness and collaboration with VoD providers to promote Kenyan culture and protect consumers.

The sole respondent or interviewee for the in-depth interview was the Chief Executive Officer of KFCB. The first question in the guide required an overview of KFCB which included its mandate and enabling legislation as guided by the interview schedule. It was meant to set pace for the interview while at the same time extracting crucial information on the establishing law of the KFCB.

It was established that KFCB is a state corporation established under Cap 222 of the laws of Kenya. The establishing legislation vests KFCB with regulatory responsibilities spanning across the creation, exhibition, distribution, broadcasting and possession of film content.

The above two findings covered the first two questions of the interview guide. However, more probe was needed especially on how producers and film makers submit films for classification to the Board. On this, it was established that KFCB has an online portal through which content can be uploaded by clients, in this case film makers and accessed from the back end by the KFCB's content classification officers.

The fourth question tackled monitoring of content to ensure compliance of content creators to which the interviewee responded by saying that KFCB works collaboratively with CA to ensure that broadcasters stick to the watershed rule. The watershed period starts from 8.00am and ends at 10.00pm.

It is assumed that most children actively consume television content between 8am and 10pm, a period known as the watershed period. During this period, advertisers are only supposed to air content rate GE (General Exhibition) and PG (Parental Guidance). Alcoholic adverts, for instance, are not supposed to be aired within this time (Respondent, KFCB Ag. CEO)

To achieve this, the CA has allowed KFCB's monitoring officers to have access to CA's broadcast loggers which analyses data from television channels within the country. KFCB's mandate only revolves around pre-recorded audio-visual content. Still on monitoring, the respondent revealed that KFCB has a team of monitoring officers who periodically venture out in the streets to monitor whether there is compliance in terms of exhibition (whether content being shown in cinema theatres is rated by KFCB for age

Question five sought to find out whether there is any other regulatory role that KFCB has other than content classification. The respondent outlined that KFCB has a crucial role of consumer advice which intends to address gaps such as limited knowledge on the effects

of media content consumption among parents, caregivers, and guardians as well as inadequate knowledge on the available media distribution platforms.

On strategy or policy, the first question sought to find out what measures the government, through KFCB, has instituted in the wake of new content distribution channels, particularly VoD platforms. The first policy measure according to the respondent seeks to address the **legal and regulatory inadequacies**. For this, the respondent pointed out that the Act did not contemplate new forms of media platforms, such as the VoDs under investigation.

Lately, digitization and the high internet penetration have resulted in an exponential increase in the volume audio visual content production as well as real time broadcast, distribution and exhibition. This has resulted in the distribution of content that has not been rated by the Board. (Respondent, KFCB Ag. CEO).

In this case, the interviewer probed further to know what KFCB is doing in the intervening period before an appropriate legislation put into place: Here is the excerpt from the interviewee:

The law in its current form, anticipates a situation where content broadcasters, distributors and exhibitors submit film content for classification prior to dissemination. However, the emergence of new services and digital transformation in the sector have witnessed an expansion of the content created. This is beyond the Board's capacity. Imagine a situation where all content creators submit content for the Board to classify? This cannot be possible especially for VoD platforms such as Netflix which depends on

global releases. Even a co-regulation framework will not work here because it will mean a 50/50 collaboration.... that content is still a lot for KFCB to classify minute by minute.

The respondent said that in 2022, KFCB developed the Film and Stage Plays Self Classification Regulations. These Regulations apply to broadcasters and providers of VoD services in Kenya. Here, the applicable entity (VoD platform) will avail its content classifiers for training by the KFCB team. The classifiers will then be responsible for classifying and rating content on their platform. The platform is required to open its library to KFCB for periodical monitoring and evaluation of compliance. (Respondent, KFCB Ag. CEO)

Further probe on this sought to know the level of implementation of self-classification regulation. It was found out that one of the entities already onboarded into self-classification model albeit on a trial basis is Netflix. Local entities in the process of being onboarded by the time of this investigation were Viusasa and Safaricom's platform called Baze. All these utilize a monetization model known as subscription VoD.

The study also found a raft of other policy measures instituted by KFCB with regards to regulating the film industry.

It was established, for instance, that there is a draft film policy in place and it has already undergone Public participation. There is also the Kenya Film Bill which, together with the aforementioned policy, seeks to revitalize KFCB's regulatory role by tuning it to the requirements of the digital age. Legislation is a lengthy process. However, VoD platforms continue to operate with content that is has not been subjected to rating. It was found out that KFCB has, in the interim, instituted other measures to deal with the regulation of VoD content. The study found out that it has been difficult to develop legislations that

could benefit the sector in the past mainly because government policy priority areas change from regime to regime. However, the respondent said that the current government has identified the creative sector as an area that could be explored to counter the unemployment crisis which could see goodwill from the current regime to revise the laws governing the sector.

To this end, the Board is pursuing various strategies to enhance the regulation of the Film Industry with the context of a rapidly evolving technological developments. These includes the review of the legislative framework. In the Financial Year 2022/2023 the Board developed two and reviewed three statutory instruments. (Respondent, KFCB Ag. CEO)

The study established that the reviewed instruments include Films and Stage Plays (Film Censorship) Regulations, 2023, Films and Stage Plays (Film Censorship) Regulations, 2023, Films and Stage Plays (Self-Classification) Regulations, 2023, Films and Stage Plays (Cinematograph Films) (Forms and Fees), Regulations, 2023, Films and Stage Plays (Film Classification) Guidelines, 2023

On whether KFCB regulates User Generated Content, the interviewee revealed that KFCB has made efforts towards this even though it is also not specified in the law.

User Generated Content has been a thorn in the flesh and hard to regulate, because first the law stipulates that KFCB regulates only pre-recorded content, which leaves live TikTok videos outside the regulatory purview of the Board (KFCB). Secondly, Live Content automatically disappears once the user exits the live feature. However, going by the interest UGC especially that shared on TikTok recently, it is an option the government is considering. Recently, the ICT Ministry informed Parliament that instead of banning the

platform altogether, policies measures should be put in place to regulate it.

(Respondent, KFCB Ag. CEO).

In order to ensure our children's online safety, parents and caregivers must be aware of the software solutions included in these gadgets. It is encouraging to see that every partner in this program has established secure online areas for kids or added parental control features to their individual platforms. These solutions are essential in guaranteeing that kids of different developmental stages are shielded from unsuitable online content.”

On the type of VoD content regulation available it was established that Kenya practices **full government regulation**, based on the fact that the government has a responsibility of sifting content that is consumed by the people. This mirrors the theoretical framework of this investigation which looked at the Authoritarian Theory of media regulation. However, as earlier established in the interview, KFCB is slowly transitioning to **self-regulation** whereby they will only be left with the monitoring role. This is informed by the increased production of content due to availability of affordable gadgets with video recording capabilities, good internet connectivity and also business models of some platforms such as Netflix which relies on global releases of films. Section 35 of the current legislation (Films and Stage Plays Act Cap 222) gives a provision to the Cabinet Secretary to develop Regulations to effectively enforce the Act. This addressed questions six, seven and eight.

*As a regulator, how do you see the future of content consumption? What are VoDs likely to metamorphose to?*

The respondent averred that content distribution will gravitate towards wearable technology just the way audio has morphed. Internet is likely to play a greater role in this

this drive. In fact, governments might shift its regulatory focus to the internet. Content Quotas and Net neutrality might be the next big thing for content distribution.

The Broadcasting Code talks about content quota of 60% of local content. In the near future, we are likely to see government imposing policies on net neutrality such that a certain percentage of VoD platforms are local. ISP may be required to only host a certain percentage of VoD platforms. In terms of production, cameras will become better, smaller and cheaper. In recent past, we've also seen filming equipment such as drones revolutionizing the aerial photography. In post-production, the paradigm shift has been designing of better video editing software. Eventually, we have seen this video editing software being embedded into VoD sharing platforms so that users can edit their images and videos and post them on the go. This is likely to improve with Artificial Intelligence taking over as we are already seeing. VoD platforms might also have to adapt to different release formats as immersive technologies continue to advance from 3D all the way to 7D (Respondent, KFCB Ag. CEO)

#### *4.3 Discussion of individual objective results*

##### **4.3.1 Strategies of VoD regulation in Kenya**

The role of KFCB to regulate film and broadcast content in Kenya has faced a myriad of challenges occasioned by technological advancements. However, as a Regulatory agency, the government of Kenya expects so much from it that they. It was established that KFCB has in the recent past tried to review its legislative framework and has also come up with several Regulations to enable it regulate the sector. This is because the current VoD government regulation whereby content creators required to submit content for

classification is no longer tenable due technological advancements and high rate of content production and new form of distribution channels, including VoDs.

Data collected revealed that KFCB has already developed a **self-classification framework**. The study revealed that among the regulations that have been developed and have been taken through the public participation as is required by Kenyan law as the above-mentioned framework. (Films and Stage Plays -Self-Classification).

Further, the study established that KFCB has drafted the National Film Bill and Policy based on the fact that the industry has been adapting well to technology while embracing global changes, but there is no singular, systematic, goal-oriented vision to guide it.

#### **4.3.2 Monetization models available for VoD sector in Kenya**

The study established that the most preferred monetization models for VoD platforms operating in Kenya and Content creators/film producers are the advertisement based VoDs (AVoD) and Subscription based VoDs (SVoD). AVoD was the most preferred by film producers because since it depends on adverts to raise revenue, there was almost a guarantee they could get paid if their content received substantial number of views. This agrees with Kandari (2023) view that Advertising-based Video on Demand (AVoD), as the most common model, whereby viewers can access as much content as they want as long as they watch advertisements that come with them.

#### **4.3.3 Net neutrality and content quotas as a regulatory consideration**

The study established that net regularity is not familiar with film producers, especially those with lower levels of education. However, those with higher levels of education are familiar with it and would recommend it since they advocate for total government regulation of the VoD sector. From the regulator's perspective, it was established that net neutrality is not yet enforced by the ICT government agencies in Kenya yet. However, it

was established that Kenya enforces content quotas for traditional broadcast channels (60% of local content), but does not enforce the same for VoD platforms. The study established net neutrality and content quotas for VoDs might be considered for future regulatory purposes. The study affirmed CA's statement that Kenya does not have content quota tailor-made for VoD platforms but a Programming Code for Broadcasting Services, which specifies that Free to Air (FTA) broadcasters should ensure at least 40% of their station's programming is local content, excluding news and advertisements (CA, 2024). A study by Sawe (2015) found that lack of net neutrality has made it possible for VoD platforms to flourish in Kenya. The findings established that Kenya does not have a net neutrality policy, but might find itself heading to that direction in the near future.

#### **4.3.4 Operational VoD regulatory regime in Kenya**

The study established that the current operational model is Government technocratically regulates the VoD market in Kenya through KFCB. VoD platforms are required to submit content to KFCB for rating. This control is supported by early proponents of government control of the media as advanced by early media scholars like Harold Lasswell and Walter Lipmann. However, this is not practical in the current media landscape and the study revealed that Governments are now shifting to a more accommodative self-classification models which takes a more collaborative regulation approach between government and media.

## CHAPTER FIVE

### SUMMARY, CONCLUSION AND RECOMMENADTIIONS

#### *5.1 Introduction*

This study looked at the government of Kenya's role in regulating emerging media, particularly the VoD media. It delved into various regulatory frameworks applied world over to regulate the media and narrowed down to Kenya's current regulatory regime for VoD platforms operating in the country. To give the study a perspective, the study dissected the operative nature of Kenya's film sector regulator, the KFCB looking into how the body handles regulation especially content that is distribute through the VoD platforms. It also looked at monetization models that make the sector a preferred content distribution platforms for content creator/film producers and make it a lucrative business venture for VoD companies.

#### *5.2 Summary of result findings*

From the data and information collected, it was found that the government of Kenya exercises technocratic control over VoD platforms in Kenya by requiring that every content that is required to be exhibited within the boundaries of Kenya be submitted to KFCB for scrutiny. It was established that this requirement is anchored on a colonial law, the Film and Stage Plays Act, Cap 222 which was established in the 1960s. This agrees with the theoretical framework of this study which was based on the authoritarian theory of mass media. It also speaks into studies highlighted in the literature review, for instance, Kariuki (2024) who argued that there is need for a progressive legal and regulatory framework which factors in technological advancements in cinematography and filmmaking. This would have interrogated how modern cinematography and filmmaking are different from those envisioned in Film and Stage Plays Act, Cap 222.

Here are the specific findings:

### **5.2.1. Objective 1: Strategies that KFCB has employed to regulate the VoD market in Kenya**

Under objective number one on strategies, the study found out that the outdated Kenya's film industry legal and regulatory framework is not suitable in the face of emerging technologies in video distribution necessitating a review of the framework to move from state-regulation to another accommodative form of regulation. The government of Kenya through KFCB is mulling to migrate to a self-regulation regime for VoD platforms and it has developed a self-regulation framework which is awaiting parliamentary approval. There is also a self-regulation framework and already VoD operators such as Netflix have been onboarded on trial basis and more are expected to onboard once the Regulations are ratified by Parliament. The study also established that there is a National Film Bill which has been developed by KFCB through the mother Ministry and it is awaiting the public participation exercise as it is required by the Constitution of Kenya, 2010. Still on strategies, the study established that besides the draft self-regulation framework, KFCB has also developed or revised several other regulatory tools which include film classification guidelines to incorporate a PG 10 rating. This bridges the current gap between PG10 and PG 16. It was established that film policies have been developed in the past but they have died mid-way mainly due to change of government regimes. This echoes Simiyu (2022) notion that different government regimes in Kenya have not given the film industry/creative economy its deserving priority. User Generated content is proving to be a headache and might shape the future government VoD regulation approach. Platforms that distribute User Generated TikTok have been blamed by governments for mobilising protests, like the 'Gen-Z protests' witnessed in Kenya in 2022. This collaborates the works of Mutahi and Ngigi (2024).

Majority of film producers with higher levels of education feel that due to conduct of VoD platforms, government should exercise stricter regulatory control over them. To enhance its regulatory role, KFCB works collaboratively with other government agencies such as Communications Authority of Kenya and Media Council of Kenya. KFCB's recent attempt to regulate the VoD platforms such as YouTube have been met by an uproar from the industry players who have said that the regulatory body lacks legal mandate to regulate content creators on those platforms. Legal and regulatory inadequacies have been the biggest hindrances to KFCB's regulatory role over VoD platforms with aggrieved parties resorting to litigation.

The investigation revealed that other legal instrument developed in this regard are the Film and Stage Plays (Film Censorship – Amendment Regulation 2023) which seeks to introduce a PG 13 rating. This was informed by the fact that there is a big age gap between the currently existing PG 10 (content that contains scenes unsuitable for children under age 10) and 16 (content unsuitable for children under 16). To bridge this gap, KFCB seeks to introduce PG 13 through this amendment. The study found out that there is also a draft film Bill awaiting public participation.

### **5.2.2 Objective 2 – Monetization models**

Although the VoD market in Kenya is dominated by foreign VoD platforms, there is still a lot of potential due to good internet connectivity especially in Nairobi as espoused in the literature review. The research established that Advertising Video on Demand (AVoD) is the most preferable content monetization platform due to expected high returns. Most content creators therefore, want to monetize their content through platforms that incorporates adverts in their strategy. Revenue from the advertisers is then shared between content creators and the platform.

### **5.2.3 Objective 3 - Net neutrality as a strategy**

The study established that net neutrality as a VoD regulatory strategy is not applied in Kenya. However, there is a provision in the Kenya Information and Communication Act that gives broadcasters to have 60% content quota. That is 60% of their content should be local. A study by Sawe (2015) found that lack of net neutrality in Kenya has made it possible for VoD platforms to flourish there. The findings of this study agreed with Sawe's view but found that Kenya might take it as an option going forward.

### **5.2.4 Operational VoD regulation model in Kenya**

The study established that Kenya currently applies the total Government regulation to regulate the sector. However, due to the mode of VoD content distribution, this model is proving ineffective. KFCB has, therefore, developed a self-classification model to assist in regulating the VoD platforms. The model is at the pilot testing phase with VoD platforms such as Netflix and local platforms such as Viusasa. This agrees with part of Jedrzejewski (2014) view that governments engage self-regulation due to inadequacy of traditional regulations and lack of enough human capital by government agency involved. KFCB will be incapacitated if it was to engage all its workforce in classifying VoD content due to the high volume of the same content. Another reason for self-regulation, according to Jedrzejewski (2014) is the case in which self-regulation responds to changes and new developments in the media industry such as new emerging ways of content distribution. The findings strongly agree with this since adoption of self-regulation by KFCB is informed by changing regulatory environment brought by the internet.

### *5.3 Conclusion*

While web 2.0 has overhauled the way people communicate and consume mediated messages, it is agreeable that it has also presented its dark side. Cyber crime characterised by unethical hacking, phishing, malware, identity theft among other crimes are prevalent

in today's society. Because children are also spending time online, they are one of the most vulnerable groups and are easy targets for online criminals in terms of sexual exploitation and abuse. As espoused by Ong'ong'a (2020), because of the new media, it is becoming increasingly easy for children to access adult content which calls for apt policy intervention.

This policy intervention can only be delivered by players in government such as KFCB in collaboration with those in the private sector and stakeholders in this space. KFCB is mandated to protect children from exposure to harmful film and broadcast content and also to ensure that the country culture is protected. The study has established that there are concerted efforts by KFCB which works closely with players such as TikTok to ensure that content that may corrupt the morals of children is not shared through the platform.

The study has found that a key hindrance to KFCB fully achieving its mandate is lack of an enabling legislative framework that takes into consideration advancements in technology and content creation and consumption. Kenya is touted to be among top countries with good broadband connectivity in Africa. This, coupled with availability of smartphones especially in major towns present a regulatory challenge to a regulator that is not backed by an up-to-date law.

However, this notwithstanding, it is worth noting that KFCB has made efforts to counter this by revising the current regulations and developing self-classification framework. This framework will see the body move from state regulation of content on VoD platforms to self-regulation with regular checks and balances from KFCB. Already, Netflix and a few local VoD platforms, including Viusasa and Safaricom Baze have signed contracts to onboard albeit on trial basis. Interestingly though, these regulations have not yet been

gazetted and therefore cannot be implemented fully because their legality can be challenged in a court of law.

#### *5.4 Recommendations for practice*

##### **a) Recommendation to authorities**

The Cabinet Secretary in the Ministry of Youth Affairs, Creative Economy and Sports where KFCB is domiciled is hereby recommended, through the findings of this research, to immediately ensure that the National Film Bill is enacted into Law. This will see the repeal of Film and Stage Plays Act, Cap 222 which is the current operative law. In the intervening period, the Cabinet Secretary is recommended, through the finds of this research, to ensure gazettelement of key legislative instruments mainly the self-regulation framework. This framework, if gazetted, will give KFCB a legal muscle to classify content distributed via the VoD platforms.

To KFCB, there is need for robust stakeholders' engagement with content producers to ensure that they understand the government regulatory role for VoD platforms. Those responsible for content being regulated need to be informed about what is expected of the content they produce, that is content that does not expose children content and that which also conforms with Kenyan moral standards, cultural norms and national values. To authorities regulating the ICT sector, it is recommended that technocrats get down to work and start crafting net neutrality policies to enable the country be able to control what platforms are allowed to operate in the country in future.

On a continental front, the self-regulation framework, if implemented, will act as a benchmark for other African countries struggling with regulating audio-visual content in the digital age. Policy crafters should start thinking of developing a fit-

for-purpose all self-regulation framework factoring in one borderless continent under the aegis of the AfCFTA and harmonization of content regulation in Africa initiatives. Article 16 of AfCFTA's Regulatory Framework on Communications Sector talks about freedom of expression and Self-regulation of content provided over broadcasting and VoD services.

**b. Recommendation to service users/beneficiaries**

Film producers who generate content for VoD audience need to familiarize themselves with the law governing regulation in Kenya as a guiding mantra. The ultimate beneficiaries for this are children who will have the benefit of not consuming harmful content in today's media saturated world.

**c. Recommendation to other stakeholders**

Advertisement-based VoD and Subscriber-based VoD are the most common monetization models for VoD platforms in Kenya.

To entrepreneurs wishing to start online content distribution business, this study recommends that these monetization models due to their economic viability as established by the findings.

*5.5 Recommendations for further research in this field of study*

This study looked at the VoD regulation in Kenya with KFCB as the case study. One of the study findings was that KFCB regulates content to safeguard the country's culture. This speaks to a strong correlation between culture dilution and consumption of foreign audio-visual content via VoD platforms. Further study is therefore recommended on the effect of VoD content consumption and cultural imperialism in Africa, picking a conservative nation as a case study. Using the cultural imperialism theory, this study would look into how, for instance, Netflix, an American based VoD platform distributing its content in many African nations has imposed America's pop culture to those nations

young people. Lastly, the debate on whether internet should be classified as a public utility has been lingering around for some time now. This study recommends further studies on the topic of net neutrality with a focus on video streaming services. This will inform authorities on the whole issue of internet regulation.



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## APPENDICES

### Appendix 1: Questionnaire

## QUESTIONNAIRE

My name is David Mukara. I am a Student at the Mount Kenya University Reg No: MJMS 2023/41/465. undertaking a Masters Degree in Mass Media and Communication. As part of this, I am undertaking a research project titled, 'The Role of Kenyan Government in Regulating the VoD platforms in Kenya: A case study of the Kenya Film Classification Board.' You have been identified as part of a population that sits at the heart of the film industry as film producers and also interact regularly with KFCB as a major stakeholder. Your input will, therefore, go a long way in this study and help inform policy that will shape the film industry.

1. How do you distribute your content? (please tick)

**Through VoD platforms**

**Through Social Media**

**Through film exhibition theatres**

2. If your answer to Question one above is VoD platforms, please tick:

**Local VoD platform**

**Foreign VoD platform**

**Mix of both**

3. Please name the VoD platform for number two (2) above according

**Local** \_\_\_\_\_

**Foreign** \_\_\_\_\_

**Both** \_\_\_\_\_

4. What is the nature of subscription of the VoD channel you have interacted with?  
(Please tick)

**Advertisement Based Video on Demand**

- Subscription Based Video on Demand
- Premium Based Video on Demand
- Transactional Based-Video on Demand

5. Do you think that the government has instituted sufficient measures to regulate the VoD sector in Kenya?

- Yes
- No

6. If no, suggest measures that the government can institute to regulate the sector \_\_\_\_\_

7. What kind of Regulation would you prefer?

- Government
- Self-Regulation
- Both (Co-regulation)

8. Please justify your answer for number nine (9) above. \_\_\_\_\_

9. Which aspect of media regulation do you think government should focus on?

- Infrastructure
- Conduct
- Content
- All the above

10. As a professional film producer, why do you think government should regulate User Generated Content?

- To maintain public decency
- To maintain cultural decency
- To protect children from exposure to harmful content

11. Please justify your answer in (10) above - \_\_\_\_\_

12. Do you think that OTTs/VoDs have become a better alternative to traditional TV?

- Yes

No

13. If 'Yes' please tick one

Ability by your audience to access/stream via multiple devices

Readily available platform for content distribution

Ability to export content as a cultural product to the international market

14. From your experience as a content producer, do you think the Kenyan government has imposed good policies to ensure there is content quota for locally produced content?

No. Please  
Explain \_\_\_\_\_

Yes. Please  
explain \_\_\_\_\_

15. Do you understand what network neutrality is when it comes to VoD content?

No.

Yes. Please  
explain \_\_\_\_\_

## INTERVIEW SCHEDULE

### INTERVIEW WITH THE CEO, KFCB

Hello, as communicated through my letter of intent, my name is David Mukara I am a student at Mount Kenya University, undertaking a Master of Journalism and Media Studies (Corporate Communications Option).

As part of fulfilment for the award of the degree, I am required to undertake a research project titled '*The Role of Kenyan Government in Regulating the VoD platforms in Kenya: A case study of the Kenya Film Classification Board.*' As the case study for this research, your organization's inputs will form an important part of the findings. If it is okay with you, I will be tape-recording this interview so as to capture all the details of our conversation. I would like to assure you that all the information you give will remain confidential. After this interview, I will compile a report which will be published in various online journals for academic purposes.

Thank you for granting me this interview!

---

#### SECTION A: OPERATIONAL

1. I'd like to start by asking you to briefly introduce KFCB, its mandate and the enabling legislation.
2. How long has this legislation been in place? Has it ever been revised? If so, when?
3. What is the procedure for your film classification? How do film producers submit films they wish to be classified?
4. How do you monitor content that is being exhibited out there to the public and it has not complied with Film and Stage Plays Act, cap 222?
5. Apart from film classification, what else do you do?
6. How does your regulatory role compare with Media Council of Kenya and Communications Authority of Kenya? Is there a difference?
7. How do you deal with non-complying entities?

#### SECTION B: POLICY

1. Have you recently developed any policies to regulate the VoD market in the country?
2. If yes, please explain these policies to me and what they mean for the industry?
3. Do you maintain a database or register VoD's in the country?
4. If yes, kindly provide for me a list of VoDs and how they conduct their business.
5. Do you regulate User Generated Content?
6. What kind of VoD regulation do you have currently?
7. Would you want to move to another regulatory regime?
8. If yes, please explain why

#### SECTION C: CLOSING REMARKS

1. As a regulator, how do you see the future of content consumption? What are VoDs likely to metamorphose to?

Thank you so much for your time!

Appendix 3: Respondent's informed consent

**INFORMED CONSENT**

**RESEARCH TOPIC: THE ROLE OF KENYAN GOVERNMENT IN VIDEO ON DEMAND REGULATION: A CASE STUDY OF THE KENYA FILM CLASSIFICATION BOARD**

You are being requested to participate in a research study. Before agreeing to be a participant of this research, it is vital for you to understand the reason for the research and what it entails. Kindly read the information and feel free to ask the researcher anything that is not clear.

**RESEARCHER DETAILS:**

**Name:** David Njeru Mukara

**Institution:** Mount Kenya University

**Phone number:** +254721 887 113

**Email address:** dmukara@gmail.com

**STUDY REQUIREMENTS:**

You are required to consider the question as per the interview guide and respond based on your personal experience and views.

**RISKS:**

There are no risks attached to your participation in this study. However, you are free to decline to answer or decline to answer or terminate your participation at any point and time.

**BENEFITS:**

There are no direct benefits related to participating in this study. However, the information attained will be publicly shared and is expected to indirectly you, by adding insight and knowledge to your organization and also expanding your individual knowledge on the topic.

**CONFIDENTIALITY:**

Your responses presented in this study will be in confidentiality. Your name, personal information, or any other self-identifying information won't be published in the research in strict adherence to the provisions of Data Protection Act, Laws of Kenya.

**COMPENSATION:**

There will be no compensation attached to participants of this research

**CONSENT:**

I have read and understood the information availed and I have been given the opportunity to enquire on the research modalities of this research. I also understand that my participation is voluntary and that I am free to withdraw at any time, without giving a reason and without cost. I voluntary agree to take part in this study.

Participant's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Researcher's name: David Mukara Signature: [Signature]

Figure 6: Consent form

Appendix 4: Introduction letter from MKU

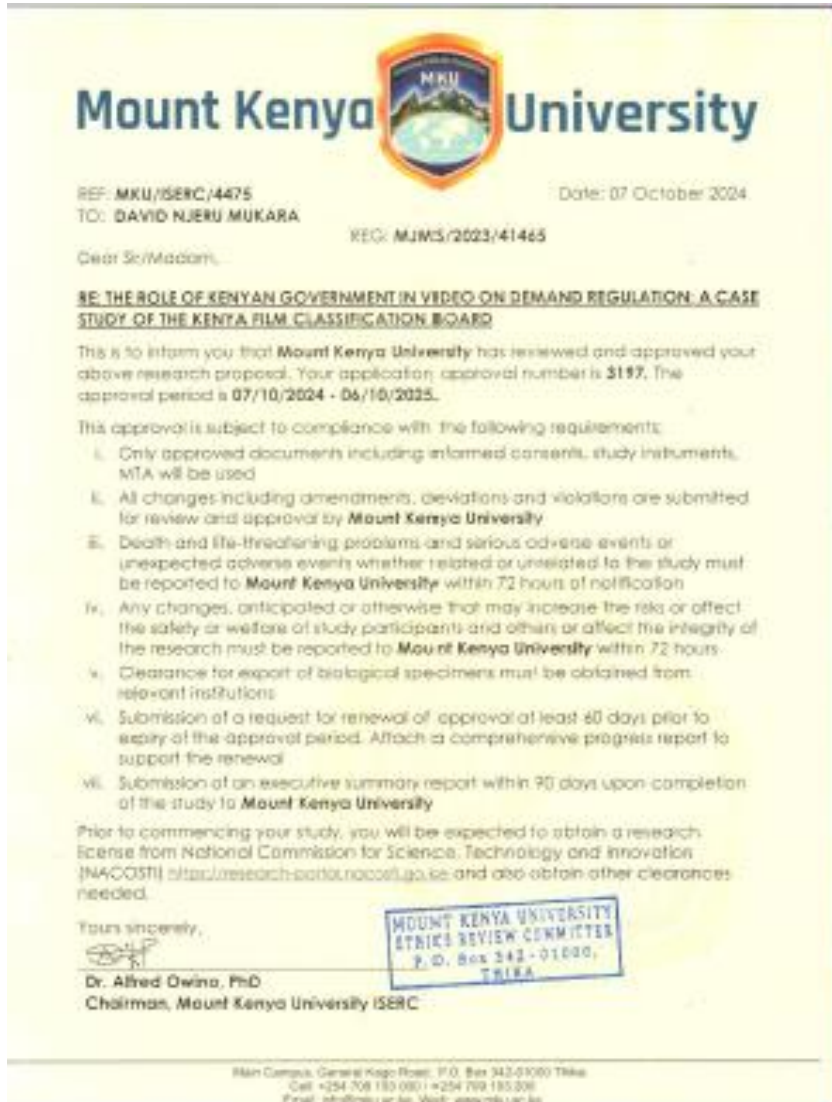


Figure 7: Mount Kenya University ERC clearance

APPENDIX 5: NACOSTI Research License – Front page

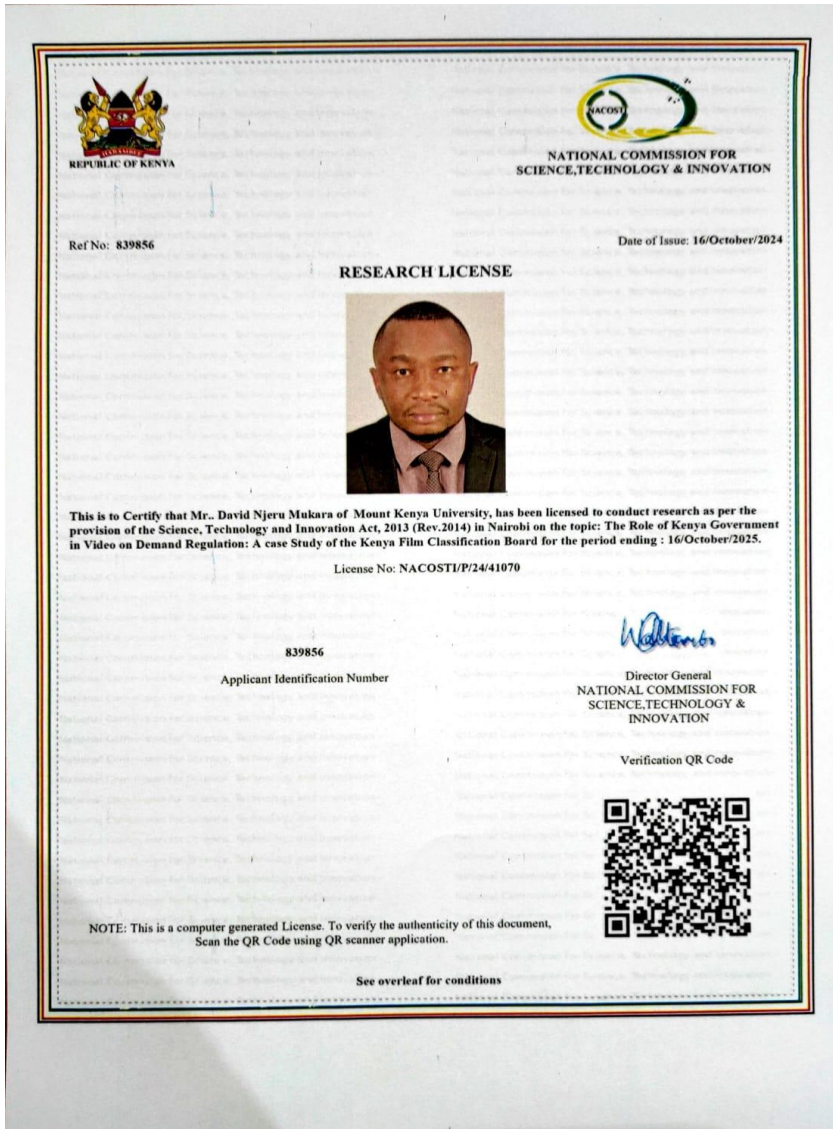


Figure 8: NACOSTI Research License – Front page

APPENDIX 6: NACOSTI Research License – Back page

**THE SCIENCE, TECHNOLOGY AND INNOVATION ACT, 2013 (Rev. 2014)**  
Legal Notice No. 108: The Science, Technology and Innovation (Research Licensing) Regulations, 2014

The National Commission for Science, Technology and Innovation, hereafter referred to as the Commission, was established under the Science, Technology and Innovation Act 2013 (Revised 2014) herein after referred to as the Act. The objective of the Commission shall be to regulate and assure quality in the science, technology and innovation sector and advise the Government in matters related thereto.

**CONDITIONS OF THE RESEARCH LICENSE**

1. The License is granted subject to provisions of the Constitution of Kenya, the Science, Technology and Innovation Act, and other relevant laws, policies and regulations. Accordingly, the licensee shall adhere to such procedures, standards, code of ethics and guidelines as may be prescribed by regulations made under the Act, or prescribed by provisions of International treaties of which Kenya is a signatory to
2. The research and its related activities as well as outcomes shall be beneficial to the country and shall not in any way;
  - i. Endanger national security
  - ii. Adversely affect the lives of Kenyans
  - iii. Be in contravention of Kenya's international obligations including Biological Weapons Convention (BWC), Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), Chemical, Biological, Radiological and Nuclear (CBRN).
  - iv. Result in exploitation of intellectual property rights of communities in Kenya
  - v. Adversely affect the environment
  - vi. Adversely affect the rights of communities
  - vii. Endanger public safety and national cohesion
  - viii. Plagiarize someone else's work
3. The License is valid for the proposed research, location and specified period.
4. The license any rights thereunder are non-transferable
5. The Commission reserves the right to cancel the research at any time during the research period if in the opinion of the Commission the research is not implemented in conformity with the provisions of the Act or any other written law.
6. The Licensee shall inform the relevant County Director of Education, County Commissioner and County Governor before commencement of the research.
7. Excavation, filming, movement, and collection of specimens are subject to further necessary clearance from relevant Government Agencies.
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11. The Commission reserves the right to modify the conditions of the License including cancellation without prior notice.
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13. The Licensee shall disclose to the Commission, the relevant Institutional Scientific and Ethical Review Committee, and the relevant national agencies any inventions and discoveries that are of National strategic importance.
14. The Commission shall have powers to acquire from any person the right in, or to, any scientific innovation, invention or patent of strategic importance to the country.
15. Relevant Institutional Scientific and Ethical Review Committee shall monitor and evaluate the research periodically, and make a report of its findings to the Commission for necessary action.

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Figure 9: NACOSTI Clearance License – Back page

## David Mukara

### Project Plagiarism Report MJMS202341465 (Without ref).docx

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Figure 10: Turnitin Report – Page 1



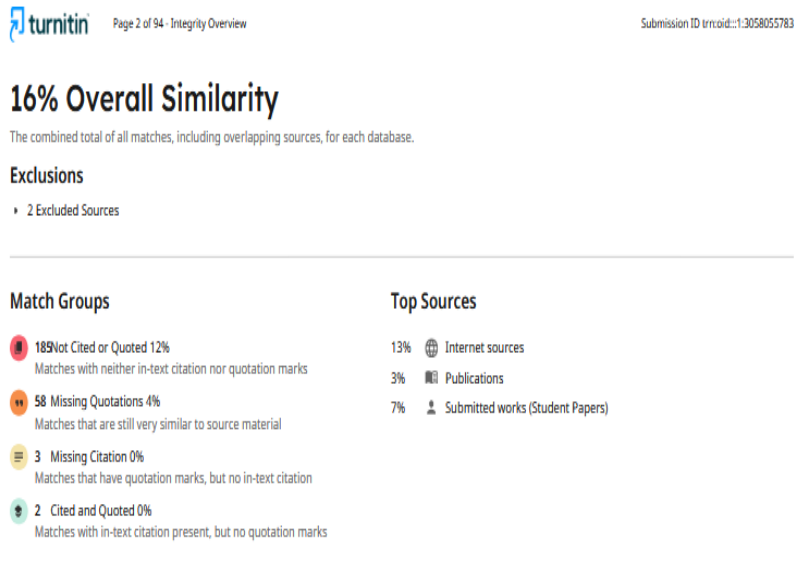


Figure 11: Turnitin Report – Page 2

Appendix 4: Research site map

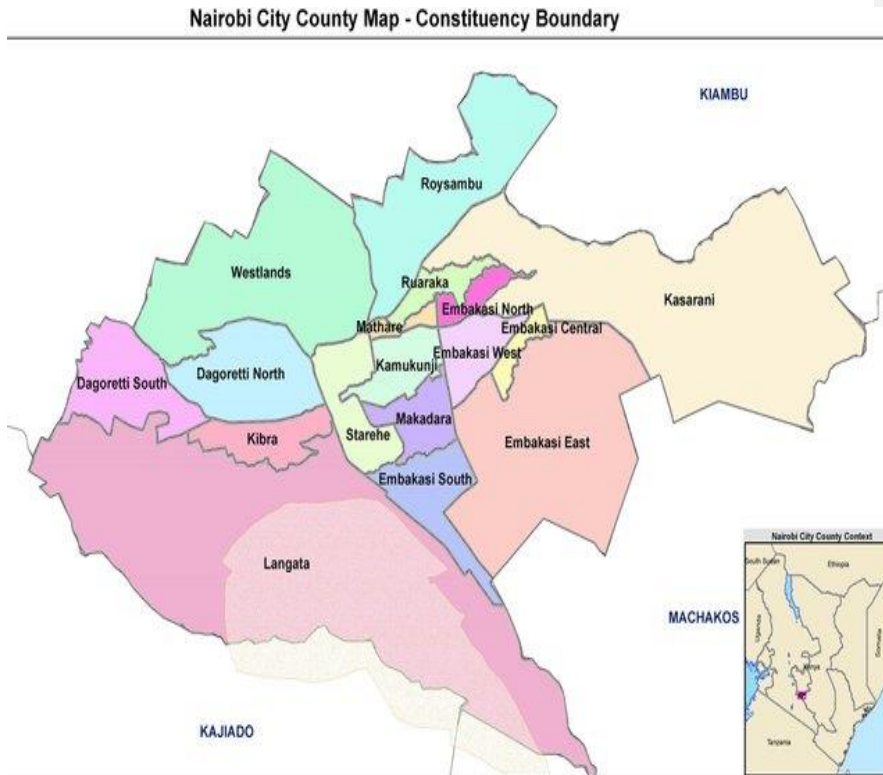


Figure 12: Study area

Appendix 5: Workplan

Table 6: Workplan

<b>Timelines</b> <b>Activity</b>	<b>Sept.</b> <b>December 2023</b>	<b>to</b>	<b>Jan.</b> <b>May</b> <b>2024</b>	<b>to</b>	<b>May</b> <b>2024</b>	<b>August</b> <b>2024</b>	<b>November</b> <b>2024</b>
Research topic conception	✓						
Submission of proposal for review and correction			✓				
Research Proposal defense					✓		
Nacosti, ERC and MKU clearances					✓	✓	
Data Collection						✓	
Data analysis and presentation						✓	
Publication							✓
Examination							✓

Appendix 6: Budget

Table 6: Budget

S/NO	Item	Amount in Kshs.
1.	NACOSTI permit	1,000
2.	ERP clearance letter	1,000
3.	Interview transcriber and coder	5,000
4.	Stationery (including printing and binding)	10,000
5.	Journal publication	10,000
6.	Airtime and Data bundles	5,000
7.	Article processing charges	10,000
8.	Miscellaneous	5,000
	<b>Total</b>	<b>47,000</b>

