



KENYA NATIONAL E-COMMERCE STRATEGY

2023

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Abbreviations

AfCFTA	African Continental Free Trade Area
CA	Communications Authority of Kenya
CAK	Competition Authority of Kenya
CBK	Central Bank of Kenya
COMESA	Common Market for Eastern and Southern Africa
DST	Digital Services Tax
EAC	East African Community
EDI	Electronic Document Interchange
FSD Kenya	Financial Sector Deepening Kenya
FTE	Full-time Equivalent Person
ICT	Information and Communications Technology
KBA	Kenya Bankers Association
KEBS	Kenya Bureau of Standards
KECOPAC	Kenya Consumer Protection Advisory Committee
KEPSA	Kenya Private Sector Alliance
KNCCI	Kenya National Chamber of Commerce and Industry
KPI	Key Performance Indicator
MoIC&DE	Ministry of Information, Communications and the Digital Economy
MITI	Ministry of Investments, Trade and Industry
MSMEs	Micro, Small and Medium-Sized Enterprises
ODPC	Office of the Data Protection Commissioner
ODR	Online Dispute Resolution
OECD	Organisation for Economic Co-operation and Development
PCK	Postal Corporation of Kenya
PWD	Persons with Disabilities
SACCO	Savings and Credit Cooperative Society
SMEs	Small and Medium-Sized Enterprises
TVET	Technical and Vocational Education and Training
USSD	Unstructured Supplementary Service Data
UNCTAD	United Nations Conference on Trade and Development
WTO	World Trade Organisation



Foreword

Cabinet Secretary, Ministry of Information, Communications and Digital Economy, Mr Eliud Owalo

The Government of Kenya has taken forward the 'eTrade for all Initiative' launched at the fourteenth session of the United Nations Conference on Trade and Development UNCTAD XIV of 2016 into strategic programs that will make E-commerce a reality. This

National E-commerce Strategy outlines six strategic areas that cut across policy, investment and public-private sector coordination. The Kenya Digital Economy Blueprint 2019, considers the critical role of expanding internet connection capabilities, so that citizens experience real benefits from government services and participate in commercial services. The Government is committed to expanding the current fibre optic backbone infrastructure coverage from 9,000 Km to 100,000 Km over the next five years. Access to the internet is an essential catalyst to E-commerce Strategy. It includes accessible and affordable internet services, access to devices and digital skills, which will power domestic and global commerce.

In order to leave-no one behind, the industry practice must ensure start-ups have an easy market entry and those in practice can sustain their participation in E-commerce. The development of platforms, accessibility across all gender, seamless operation for persons with disability and the ability to on-board rural-urban, the informal and cross-border spectrums will shape inclusivity. Further to this, enablers such as free public Wi-Fi access country-wide, and enhancing a competitive environment to drive affordable internet services should be encouraged.

The strategy is an open invitation to tackle breakthrough areas identified in a manner that will remedy, scale-up or promote conducive policy and regulatory environment. The Ministry of Information Communications and Digital Economy in pursuit of this strategy has identified key areas in inter-operable payment systems, scaling up the postal and logistics sector and expanding the innovation space.

Looking ahead, short term and medium term success indicators include improving the market entry ecosystem for start-ups and MSME's, an online dispute resolution framework, adoption of international standards to increase trust for services and commodities online, expansion of data centres to host innovation including constituency innovation hubs, digital skills and human capital development.

It is an honour to co-chair this success journey together with the Ministry of Trade, Investments and Industrialisation alongside technical and industry experts, who have shaped the E-commerce strategic direction. We now have a call to action so that this National E-commerce Strategy plays a key role towards achievement of a digital economy.

**Eliud Owalo, FIHRM
Cabinet Secretary**

Ministry of Information, Communications and the Digital Economy



Cabinet Secretary, Ministry of Investment, Trade, and Industry, Rebecca Miano, MBS

The E-commerce Commerce Strategy (ECS) has been developed meticulously through a participatory process composed of Inter-Ministerial Committee of Ministries, Departments, Agencies and Private Sector representatives, co-chaired by Ministry of Investment, Trade and Industry (MITI) and Ministry of Information, Communications and Digital Economy (MOIC&DE) and facilitated by technical and financial assistance from our development partners UNCTAD and BMZ/GIZ (On behalf of the German Government).

Electronic commerce is defined as the process of buying and selling goods and services by electronic means such as using mobile applications or the internet. E-commerce comprises of online retail, wholesale shopping as well as electronic transaction systems. (OECD/UNCTAD) Kenya's 2030 Vision for e-commerce is to "Mainstream e-commerce within the overall economy". The government has undertaken various measures on infrastructure development; market improvement; skills and technology upgrading; improved financial transactions; and improved public private Partnerships for e-commerce sub-sector to thrive.

Kenya's Trade Policy underscores the role of e-Commerce to Kenya's economic development. Additionally, the Government plans to help digitize MSMEs to boost national productivity and transform the economy through capacity building. SMEs in Kenya contribute 35% of the country's GDP and employ over 80% of the workforce. Positive transformation of SMEs through safe and secure e-commerce promotion is at the heart of the Ministry of Investment Trade and Industry to increase their domestic and export market capability with a multiplier effect on incomes and creating jobs for to the youth.

Kenya leads other African countries in terms of digital economy contribution to the GDP at 7.7% (UNCTAD,2022). This is encouraged by internet and e commerce penetration rate of 86% and 43.2% of the Kenyan population of 55.2 million (Statista,2022). Kenya's e-commerce penetration is expected to hit 53.6% by 2025. E-Commerce plays a critical role in achieving Sustainable Development Goals with a multiplier effect on domestic and export trade. Therefore, Kenya's capability to harness the e-commerce potential through development of a coherent stand-alone e commerce policy, augmented by successful implementation of this strategy will facilitate enhanced economic benefits in export of goods and services to the global markets.

The Implementation of this strategy by the Inter-ministerial committee and other stakeholders involved in its development will be coordinated by State Department for Trade to ensure that Kenya achieves important milestones in the growth of e-commerce sector as an enabler of trade with a renewed momentum.

Rebecca Miano, MBS

Cabinet Secretary Ministry of Investment, Trade and Industry



Principal Secretary, State Department for Trade, Alfred Ombudo K'Ombudo

Kenya is at the forefront of promoting and championing e-commerce utilization as a tool to towards achieving its national development goals and agenda. The country has been able to leverage on its e-commerce potential through various social and economic spheres that include education, finance, trade, medium and small enterprises development among others. This has led to creation of employment opportunities and nurturing of digital talent among its population especially the youth through the creation of digital content on various e-commerce platforms

The Kenya E-Commerce Strategy whose mission is to provide an enabling environment for the development in Kenya of trusted e-commerce services accessible to and used by all, therefore provides the country with a blueprint upon which it can be able to build on the performance of its e-commerce initiatives to ensure growth, competitiveness and accessibility of services provided under this sector. This is through: Development of law, policy, regulations, and standards; Provision of reliable, universally available, and affordable infrastructure; Development of capacity and skills of the population; Provision of access to finance and putting in place an institutional framework to further the development and use of e-commerce.

This Strategy, in addition to the development of a stand-alone Kenya e-commerce policy also provides the country with an opportunity to actualize other government and regional policies and strategies upon which e-commerce initiatives are embedded. These policies and strategies include Kenya Vision 2030, The National Trade Policy 2017, The Digital Economy Blueprint 2019, The East African Community (EAC) e-commerce Strategy (2022) and the African Union E-commerce strategy (2022).

The role played by various stakeholders in the implementation of this strategy cannot therefore go unnoticed. It is important to note that various stakeholders including government ministries, departments and agencies, the private sector including small and medium enterprises were all involved in the development of this strategy and will therefore play a critical role in its implementation under coordination of State Department for Trade. These stakeholders will be required to undertake their institutional mandate as outlined in the strategy and cascade it to all levels of their institutions as well as to the public through various platforms. This is in line with the e-commerce vision that is founded on inclusivity and widespread use of trusted and secure e-commerce services in Kenya. The State Department for Trade endeavours to sensitize entrepreneurs, especially the Micro, Small and Medium Enterprises to embrace e-commerce as an enabler of enhanced domestic and export trade, with a multiplier effect on economic growth and poverty reduction in Kenya.

We thank our development partners UNCTAD and GIZ (On behalf of the German Government) for their support towards the development of Kenya e-Commerce Strategy and look forward to continuing this collaboration in order to maximize growth, development, and promotion of e-commerce, the preamble of the Fourth Industrial Revolution in Kenya.

A blue ink handwritten signature, appearing to be 'Alfred Ombudo K'Ombudo', written in a cursive style.

Alfred Ombudo K'Ombudo
Principal Secretary State Department for Trade



Principal Secretary, State Department for Broadcasting and Communications Edward Waswa Kisiangani (Ph.D)

The journey to assess the e-commerce readiness for Kenya has been long and challenging. Besides, it has also uncovered the numerous opportunities that would be available to the people of Kenya if the country took bold steps to fully embrace the concept of e-commerce. Thus, our national e-commerce strategy is a logical outcome of many years of national discourses on the entire problematic

of moving businesses from traditional domains to the electronic platforms.

Today, Kenya is at a significant crossroad with more than 50 per cent of its population engaged in online trade and commerce. The online participants are also engaged actively in the social commerce space where the purchase-to-delivery matrix is not always completed electronically. Indeed, most business engagements have a huge manual component. Moreover, the country has not fully developed policies to regulate online businesses. The six strategic objectives and requisite initiatives enshrined in the e-commerce framework propose to build an environment that would establish electronic trust, identify competitive products and services that meet international standards, support a reliable logistics and distribution landscape that accommodates a cohesive inter-play between the private and public sectors. In this strategy, we owe it to our citizens for supporting initiatives to create an operating environment that ensures that a purchase-to-fulfilment experience is end-to-end with the adoption of online enabled solutions.

The technical and focal teams both from the public and the private sectors have considered key legal and regulatory frameworks enshrined in the Kenya Information Communication-KICA Act 2009 (amended 2013), the Consumer Protection Act of 2012, the Data Protection Act of 2019, the Computer Misuse and Cybercrimes Act of 2018, the Electronics Transmission Bill of 2007, the ICT Bill of 2008, the Protection of Intellectual Property Act of 2001, the Industrial Property Act of 2001, the Copyright Act of 2001 and key reference documents and resources including the Central Bank of Kenya - National Payment Strategy-2022-25 as well as international standards around the e-commerce and trade components.

This blueprint is also a build-up of thought contributions on policy innovations and best practices from the e-trade-ready countries. Overall, the entire process has been facilitated by UNCTAD alongside other strategic participants who represent the trade and commerce sectors, the standards and certification fields, fintech companies, Micro, Small and Medium Enterprise (MSME), courier services and the telecommunications and digital innovation zones, among others. To achieve our general objective, the State Department for Broadcasting and Telecommunications has already identified the interventions that will enhance the successful implementation of the e-commerce master plan. The intercessions include but are not limited to building robust infrastructural and policy frameworks supported by a trusted and secure digital environment. The government has taken a conscious step to fast track the design and implementation of the National Addressing System that is anchored on geo-locational technology. It is envisaged that this transformation will serve to not only stimulate e-commerce growth but also offer a conducive environment for innovators and creative actors in the business world.

We look forward in executing this critical strategy so as to profoundly upgrade the business operations in Kenya. The end result is to improve the quality of life for our people.

Edward Waswa Kisiangani (Ph.D)

Principal Secretary

State Department for Broadcasting and Communications.

ACKNOWLEDGEMENT

We wish to acknowledge the following stakeholders for their input and support towards the compilation of this strategy:

Table 1 List of stakeholders

List of Stakeholders

<p>Government Stakeholders</p> <ul style="list-style-type: none"> • Ministry of Information, Communications and The Digital Economy • Ministry of Investment, Trade, and Industry • Ministry of Foreign and Diaspora Affairs • Permanent Mission of Kenya to the UN office, Geneva • Office of the Attorney General • Ministry of Interior and National Administration • Ministry of Labor and Social Protection • Ministry of Lands, Public Works, Housing and Urban Development • Ministry of East African Community • Ministry of Education • The National Treasury and Economic Planning • Central Bank of Kenya • Communications Authority of Kenya • Kenya Bureau of Standards • Central Bank of Kenya • Competition Authority of Kenya • National Communication Secretariat • Kenya Export Promotion and Branding Agency • Kenya Film Classification Board • Kenya Industrial Property Institute • Kenya Institute of Public Policy Research and Analysis • University of Nairobi • Postal Corporation of Kenya • Anti-Counterfeit Authority 	<p>County Government</p> <ul style="list-style-type: none"> • Council of Governors <p>Private Sector, Associations and Development Partners</p> <ul style="list-style-type: none"> • UNCTAD – United Nations Conference on Trade and Development • Duetsche Geselleschaft fur Internationale Zusammenarbeit (GIZ) GmbH • Kenya National Chamber of Commerce and Industry • Kenya Association of Manufacturers • Technology Service Providers of Kenya • Courier Industry Association of Kenya • British Standards Institution (BSI) • Copia Global • FSD Kenya – Financial Sector Deepening Kenya • Jumia • Kenya Private Sector Alliance • Strathmore University • The Tomorrow Partnership - Tony Blair Institute for Global Change • The Nanjala Company • Amari Consultancy Limited
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1. Situational analysis

E-commerce success is reliant on a country's performance in the following policy, legal, regulatory and Institutional framework areas:

- Law and regulation: A legal and regulatory framework that promotes trust between buyers and sellers at a distance from one another and who may not have ever met.
- Information and Communications Technology (ICT): This provides the environment for e-commerce to take place and must therefore be ubiquitous and reliable; perform well; and provide affordable services, including applications for e-commerce merchants.
- Transport, logistics and the underlying infrastructure necessary for the delivery of goods purchased through e-commerce.
- Trade facilitation: Regulation, international agreements and infrastructure that enable rapid processing of e-commerce packages at border posts.
- Payment services, particularly electronic payment services, which enable payment at the time of purchase instead of payment on delivery.
- Educational attainment and widespread presence of digital skills among the population sufficient to use e-commerce, and among merchants for undertaking e-commerce business. The skills of the merchants must also include marketing, accounting and other business skills applied in a digital environment.
- Access to the necessary financial resources for new electronic businesses to get started and for existing businesses to extend their channels to include e-commerce.

Kenya is among the leaders in e-commerce on the African continent, with combined revenues expected to hit \$3.6 billion in 2023. This success is because of a combination of circumstances, including governments' developmental policies and the private sector's grasp of the arising opportunities. Nonetheless, there are still barriers to e-commerce development that need to be addressed. This e-commerce strategy provides initiatives to address these barriers, allowing for further growth and development of the sector.

A. E-commerce readiness

E-commerce in Kenya is largely an urban phenomenon, with its use concentrated in Nairobi, Kiambu, Nakuru, Mombasa and Eldoret. In these towns, major retailers, particularly supermarkets, are complementing their brick-and-mortar business by moving online through e-commerce. In addition, e-commerce-only businesses and marketplaces are a growing presence. The businesses provide full e-commerce services, including a web portal to view and order goods or services, access to electronic payment and logistics services. Marketplaces often provide additional services to merchants – including digital marketing and catalogue creation, an e-commerce portal and back-end administrative systems, as well as warehousing and logistics services – with links to payment service providers and postal, transport and courier services.

A significant amount of business is transacted over social media, mainly between consumers and micro-businesses. Transactions conducted in this way may lack the systems and processes that e-commerce relies upon for reliability and trust, yet they should be considered, as they serve a distinct need for those whose internet access is limited to social media sites and those who do not have the resources to use an e-commerce marketplace or website.

Not all e-commerce takes place over the internet. Those who are unable to access mobile or fixed broadband internet or a smart device use text messaging – Unstructured Supplementary Service Data (USSD) code.

The government is a participant in e-commerce, with services available online since 2014, including facilities for online payment. Since its inception, 27.2 million unique customers have been served.

The government has established a broad policy framework covering many areas to be considered which are laying the foundation for the sector. This includes regular engagement at different levels on broad issues relating to e-commerce. Notably, the Kenya National

Trade Policy 2016 states the need for a policy framework to mainstream e-trade across the economy. Further, it indicates that a market improvement strategy should be implemented, giving responsibility to the Ministry of Investments, Trade and Industry. It also calls for the development of an e-commerce policy. The National Trade Policy 2016 acknowledges that other ministries will be responsible for particular elements, such as infrastructure development and skills and technology upgrading. Nevertheless, it suggests that MITI will lead and coordinate the policy programme. Additionally, there is need for a comprehensive set of statistics on the state of e-commerce for progress to be monitored and policy to be developed and refined.

B. Law and regulation

The framework of law and regulation in Kenya already provides many of the safeguards necessary for trust in an e-commerce environment, which is characterised by trading between parties that may never meet. This legal framework includes the Kenya Information and Communications Act of 1998; the Consumer Protection Act of 2012; the Data Protection Act of 2019; the Computer Misuse and Cybercrimes Act of 2018 and the Electronic Transaction Bill of 2007. Kenya has also put in place laws that promote the protection of intellectual property rights, including those in the constitution promulgated in 2010, the Industrial Property Act of 2001 and the Copyright Act of 2001.

However, compliance remains a challenge, and awareness of the law and enforcement need to be enhanced. Further, there are gaps. The Consumer Protection Act of 2012 needs to be amended to address gaps relating to e-commerce; and there are gaps in the Data Protection Act of 2019. For instance, there is lack of clarity in the ways in which data controllers and processors will gain consumer consent to process personal data, as well as applicability and enforcement with respect to multinational companies.

In addition, there is also a widespread belief in the need to adopt national and international

standards to increase trust in digital services, including e-commerce.

Finally, the infrastructure associated with the Digital Services Tax needs to be reviewed to ensure registration and compliance by businesses.

C. Information and communications technology

Kenya has developed a robust ICT infrastructure, which now serves as a foundation for e-commerce and other digital economy services. Early liberalisation, connections to international submarine cables and developments in electricity transmission and distribution have provided the impetus for investments by the government and the private sector. These investments have resulted in widespread availability of mobile broadband services. This development of ICT infrastructure – coupled with the relatively high rate of internet adoption and uptake of digital devices, and the mobile money innovations that have taken place – means that the country is particularly well placed for e-commerce.

Nevertheless, challenges persist, including the need to reach the final 4 per cent of the population, the provision of affordable services and devices, a gap in knowledge and experience of ICT, and gender differences in access to broadband services, with 96 per cent of the population served, and excellent international telecommunications. These telecommunications infrastructure and ICT-associated laws have meant that Kenya is seen increasingly as the destination in East Africa for international ICT businesses, bringing with them their cloud services operating through Kenyan data centres. These need to be addressed to close the digital divide in access to ICT. With respect to the delivery of ICT services by the private sector, the presence of international businesses has not necessarily brought with it the projects and jobs that enable the growth of an ICT profession.

Many of these issues are already being addressed in other policies and strategies. Therefore, this strategy focuses on e-commerce-specific issues associated with ICT.

D. Trade facilitation

Kenya is a member of several trading blocs. It is among the countries in the region that have ratified the World Trade Organization (WTO) Trade Facilitation Agreement, which aims at expediting the movement, release and clearance of goods across borders and in transit. Kenya has also implemented a single window system, as well as published the import, export and transit procedures for various products. However, there is need for a trade policy that considers digital trade from two perspectives: international trade administration carried out through ICT and international trade in digital products and services.

E. Transport and logistics infrastructure

Kenya acts as a gateway to East Africa, with two modern deep-water seaports at Mombasa and Lamu, and four international airports. These are connected to towns and cities by an extensive trunk road network, which is under continued development. Several national and international couriers cover much of the country, and formal and informal services by bus companies and others also transport small packages. The Postal Corporation of Kenya (PCK) provides accessible, affordable and reliable services to all parts of Kenya. It provides a network of post offices, and is working with courier services to extend its range of services to include doorstep delivery. However, there are major issues that need to be addressed, including:

- The lack of a national addressing system, which significantly limits the efficient reach of deliveries and increases the returns rate, affecting the quality of service.
- The quality of the rural road infrastructure.
- The need for networks of warehouses covering all counties built to standards for efficient loading and unloading, with space for the fulfilment functions required by e-commerce.
- Customer service, particularly the availability of interoperable tracking and tracing services by PCK and courier services.
- Appropriate regulation and monitoring

of postal and courier services, to enable them to work efficiently and safely, while ensuring they meet market needs and operate within the scope of the law.

F. Payment services

Kenya is a world leader in mobile money innovation. It is the home of M-Pesa, the leading mobile money transfer service in Africa, with over 50 million active users. Consequently, mobile money is the most prevalent e-payment method for e-commerce. In June 2020, there were more than 30 million active registered mobile money subscriptions. The total value of mobile money transactions that year was \$50 billion. Additionally, bank transfers, debit and credit cards and cash are widely used for e-commerce among many other payment options. Nonetheless, fraud and the high cost of transactions continue to hamper trust and hinder the use of electronic payments for e-commerce.

G. Education and skills

The government is aware of the glaring digital skills deficit in the country, and has put in place policy initiatives to address it. The initiatives include an enhanced positioning for ICT within the curriculum at all levels of education, and the provision of digital skills training available locally throughout the country. While these initiatives will address the skills mismatch between those leaving education and in employment, as well as the needs of the economy, specific requirements for e-commerce will still need to be addressed, particularly for youth, women and PWDs.

H. Access to finance

Access to finance remains a challenge for entrepreneurs, despite the relatively well-developed financing sector in Kenya. The issue is multifaceted, with lack of knowledge among both entrepreneurs and financing organisations about each other's needs and requirements.

There are several forms of formal and informal financing options available to e-commerce companies. The formal sources include banks, Savings and Credit Cooperative Societies



(SACCOs), mobile loans, government funds, venture capital firms, private equity firms and development partners. The informal ones include chamas (groups), informal money lenders and employers. Nonetheless, entrepreneurs still face many challenges in accessing financing for their businesses. These challenges include inadequate fundraising skills necessary to raise funds for viable ideas, lack of collateral, the prohibitive cost of borrowing, an inability to find guarantors, short repayment periods, and the lengthy approval processes for bank loans. In addition, women face numerous gender-based, cultural and social-based challenges when accessing finances.

Several financing problems faced by entrepreneurs will be addressed in the Kenya start-up bill 2021 once enacted into law. Nevertheless, digital credit providers have now been formalised through the Central Bank of Kenya (Amendment) Act 2021, and the Central Bank of Kenya (Digital Credit Providers) Regulations 2022.

II. E-commerce strategy vision and mission

A. Strategic context

The strategy for e-commerce in Kenya is set in the context of broader government policy and policies in key areas that support e-commerce. These include:

- Vision 2030, which is a series of medium-term plans: The third plan, ending in 2022, is supporting the development of transport, logistics and road infrastructure, education, fibre-optic networks, youth entrepreneurship and skills.
- The Digital Economy Blueprint 2019 contains development strategies, such as the e-commerce strategy, which will drive the expansion of a digital economy in Kenya.
- The National ICT Policy 2019, which envisages Kenya as a globally competitive knowledge-based economy, with initiatives to establish universal access to ICT infrastructure and services, including high-speed broadband and data centres, setting a target for contribution of 10 per cent to the gross domestic product by 2030.

- The National ICT Policy Guidelines 2020, which acknowledge that an effective postal and courier system is key to the development of e-commerce and the digital economy, while ensuring that the country will have a vibrant and efficient postal and courier sector across physical, electronic and financial platforms.
- The Kenya National Digital Master Plan 2022–2032, which includes many initiatives associated with the development of ICT and ICT skills development.
- The National Payments Strategy 2022–2025, whose initiatives will lead to many improvements in e-payments.
- The National Trade Policy, launched in July 2017 contains development principles towards creating an export led and efficient domestic economy.
- The National ICT Strategy for Education and Training, which includes initiatives for enhancing the position of ICT education in the curriculum at all levels.
- The East African Community (EAC) E-Commerce Strategy, which sets a broader context, largely harmonised with the Kenyan e-commerce strategy.

Measures in these policies and plans that are already being implemented will support the development of e-commerce.

B. The scope of e-commerce

Organisation for Economic Cooperation and Development - OECD countries and others have developed formal definitions of e-commerce primarily for the collection of statistics and for policy development. These definitions seek to identify e-commerce reliant on ICT, specifically designed for the purpose

of receiving or placing orders. Nevertheless, a lot of transactions that may be considered to be e-commerce are conducted using social media and other general-purpose digital messaging platforms. Such informal e-commerce is widely acknowledged as developmentally important, often being used as a stepping-stone to formal processes and systems. Therefore, while drawing a distinction between formal e-commerce and informal e-commerce, this strategy is intended to consider and facilitate development of both forms.

A definition of e-commerce is important in order to accommodate the scope and measurement. This strategy adopts the OECD definition of formal e-commerce, which is “the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders”. Eurostat offers a slightly different definition of e-commerce: Electronic commerce refers to transactions over the internet or over other computer networks, for example, electronic data interchange (EDI). The Eurostat and OECD definitions specifically refer to placing of orders as the criterion for e-commerce. Eurostat also specifically includes buying financial investments, confirming travel reservations, participation in lotteries and betting, paying for internet information services and buying via online auctions.

As the OECD definition is used by many national and regional statistical agencies, a comparative analysis of progress in the adoption of e-commerce can be made. Therefore, in this strategy, formal e-commerce is considered to cover the components shown in Table 1.

Table 1 Scope of formal e-commerce

Component	What is covered
Nature of the transaction	Sale or purchase of goods or services
How the transaction is conducted	Over a computer network by methods specifically designed for the purpose of receiving or placing orders.
Who can be a party to the transaction	The OECD definition includes businesses, households, individuals, governments and other public and private organisations. The Eurostat definition excludes governments for the purposes of gathering statistics about e-commerce.
How orders are placed	Over the internet or via Electronic Document Interchange (EDI).
How payments are made	Digitally or by other means.
How goods or services are delivered	Either online or by other means.
What is excluded	Orders made by telephone, fax or manually typed email

In this strategy, the OECD definition of formal e-commerce is used except for the collection of statistics, when the Eurostat definition is to be followed. Thus, this strategy applies also to government service sales as well as those in the private sector.

As noted, this strategy is also concerned with the development of informal e-commerce, which is considered here to differ from formal e-commerce in that it includes the sale or purchase of goods or services conducted over computer networks. Informal e-commerce, therefore, includes receiving or placing orders through text messaging, electronic mail or social media.

A desirable outcome of the strategy would be that more people are enabled to fully participate in e-commerce. Therefore, the initiatives in this strategy are intended to cover e-commerce transactions in both the public and private sectors, as well as business transactions carried out over telecommunications and social media networks. Nevertheless, there is an underlying objective to migrate business over time to e-commerce. Formalisation of e-commerce will enable law and regulation to be applied to e-commerce, and statistics to be collected in a manner consistent with other nations, thereby enabling comparison.

Indeed, the strategy applies to wholesale e-commerce conducted via EDI,

e-procurement and merchants' websites and marketplaces, as well as retail e-commerce that would ordinarily be conducted via merchants' websites and marketplaces, or via social media. In this instance, social media may also conduct both wholesale and retail e-commerce and via mobile phones using USSD-coded dialogue.

C. Vision for e-commerce

E-commerce as envisaged in this strategy is founded on a principle of inclusivity. All members of the society need to be able to participate in the digital economy for it to develop and for all to prosper. E-commerce is an essential service in the digital economy, enabling many other services that would otherwise require face-to-face meetings. Therefore, e-commerce itself is inclusive. Indeed, e-commerce can be a boon to disadvantaged people. For PWDs, people living in rural areas or those who otherwise find it difficult to get to shops to buy goods and services, it can act as a lifeline. For micro and small businesses, particularly those in rural areas, it can give access to a wider market and source of supplies, enabling them to procure goods without travelling to a distributor, thereby improving their personal productivity. Nevertheless, for those without sufficient education or ICT skills, women, youth and some with disabilities, access to e-commerce may be limited by inability to afford internet or

devices like mobile phones.

Within this context, therefore, the vision for e-commerce is inclusive and widespread use of trusted and secure services based in Kenya. This provides focus for the strategy that include:

- Catalytic growth ; Enhance the country's export capacity through MMSE enterprises who can leverage on e-commerce to grow and graduate in international trade.
- Ensuring e-commerce services are trusted and secure.
- Inclusive use; This means that the services can and are used by all consumer groups and merchants irrespective of their circumstances, with a focus on groups that may be disadvantaged.
- Widespread use; This means they are used across all regions and geographies in Kenya.
- That businesses in Kenya are providing the services (the alternative being to rely on businesses in other parts of the world, resulting in lost opportunity and revenue for Kenyan businesses).

D. E-commerce Strategy Mission

To achieve this vision, and for e-commerce to flourish, any gaps in the resources it needs and the environment in which it takes place need to be resolved. This strategy is intended to provide such resources and environment. The mission of this strategy is, therefore, to provide an enabling environment for the development in Kenya of trusted e-commerce services accessible to and used by all.

In particular, the strategy will have the following objectives:

- To build trust in e-commerce among all stakeholders and thereby drive its development and use through the development of and compliance with facilitating law, regulation and standards.
- To create secure, reliable, universally available and affordable e-commerce infrastructure and services sufficiently diverse to meet the needs of all merchants and consumers in Kenya.
- To provide the necessary human capacity and skills in e-commerce among merchants and the public, irrespective of

age, gender and location.

- To provide the necessary institutions, laws and regulations and financial services, for financing e-commerce businesses.
- To establish an institutional framework for furthering the development and use of e-commerce in Kenya.

E. Outcomes

The overall outcomes arising from the implementation of the initiatives in this strategy will be:

- Increased use of e-commerce among Kenyans irrespective of geographical location, age and gender, and inclusive of PWDs.
- Increased adoption of e-commerce by businesses stimulating growth through extended geographic reach and improved range of goods and services sold, and reducing costs through the competition arising from access to a wider range of suppliers.
- Reduced time taken between placing an order and receiving a delivery as well as the increased access to export markets through e-commerce channels for Kenyan merchants.
- Increased confidence in online markets as a result of a safe and secure online environment

F. Cross-cutting issues

1. The variation in resources and capabilities of different social groups

There are major disparities in the capacity and resources available to different social groups, which need to be considered in developing and implementing strategic initiatives to ensure that the strategy is inclusive. The strategy will need to address specific issues among vulnerable segments of the population, like women, youth, the aged and lower-income groups, which are disadvantaged in comparison to the urban middle class. The policy areas where such disparity will be of particular importance include the following:

- **Access to and affordability of electronic devices and telecommunications services**

necessary for e-commerce: Lower income groups and some household members do not have access to computers and tablets, but only intermittent access to mobile phones. The mobile phone may not provide access to the internet or the web, necessitating use of text services and USSD codes for e-commerce. Affordability of telecommunications service will also be an issue, with a need to ensure that very-low-cost or “free” access (paid through advertising) to internet services may be necessary.

- **Access to electronic payment services:** Where individuals must use their partners’ mobile phones for access, it may not be possible for them to pay using the same device. The same groups that lack access to telecommunications services are, therefore, likely to have difficulty accessing electronic payment services of any kind. Other groups may not have bank accounts or accounts at other financial institutions. Therefore, payment services will need to include mobile phone services wherever feasible, for modest expenditure.
- **Familiarity with information technology sufficient to engage in e-commerce:** Familiarity is likely to be lacking in lower income groups, the old and women. Younger groups and men are most likely to be adept at using information technology. Therefore, familiarisation and skills capacity-building will need to be focused on disadvantaged and vulnerable segments of the population.
- **Ability to use information technology for e-commerce:** PWDs may find use of information technology problematic. Modern technology allows speech recognition and spoken computer dialogue. As such ability develops, it will need to be incorporated into e-commerce portals and websites so that dialogue can be maintained for those who are visually impaired or physically unable to manipulate electronic devices.
- **Availability of goods and services online:** E-commerce sites should provide an extensive range of goods and services to meet all consumer requirements.

2. Merchant segmentation

Similar to consumers, merchants vary significantly in capacity and capability to participate in e-commerce. The e-commerce strategy will need to focus on those with gaps in their capacities and resources. These businesses will include:

- Informal micro-businesses selling home-produced goods.
- Family farm businesses.
- Existing small and medium-sized merchants with little ICT experience and limited financial resources.
- Market entrants with a need for capital and access to technical skills.

The needs of these segments will include the following:

- **Access to and affordability of electronic devices and ICT services:** Merchants will need affordable information technology and communications services for e-commerce. The devices and types of ICT service will vary by size of the business and the types of products and services to be sold. But the basis will be a broadband internet service, a telephone service and cloud-based e-commerce applications delivered as services. Sufficient variety will be needed to take account of all sizes of merchants and different product and service categories – discrete and configurable, commodity and so on. Some merchants may want a one-stop shop, selling through a marketplace that not only offers a shop, but also provides fulfilment services (warehousing, picking, packing and delivery). Merchants will want integration with all payment methods. These marketplaces will need to provide a support framework, particularly for small retailers that may also include catalogue creation and support in marketing, including digital marketing.
- **Familiarity with information technology sufficient to develop and maintain e-commerce websites and other digital services:** Most merchants will not have sophisticated technical and business skills and expertise. Therefore, support will be needed. The support and method of delivery will need to be designed with

merchant segmentation in mind. Thus, informal micro-businesses may need a lot of handholding by government and non-governmental organisations, whereas larger businesses may be able to follow guidelines and other general technical, business and legal advice. Wherever possible, the ICT and service infrastructure for e-commerce will need to build support that will lead to successful implementation and maintenance of e-commerce sites and businesses.

- **Business and digital marketing skills :** Micro and small businesses, start-ups and some other categories of business have varying levels of business acumen. Measures necessary to up-skill these segments need to be given emphasis.
- **Access to capital and other financial resources:** Financial requirements and capacity to search out and qualify for support will vary greatly between segments. Measures for improving access to financial resources will need to address the needs of specific segments.

3. Geographic disparity in access to resources and capacity

Rural communities, both consumers and merchants, face particular problems in accessing and using e-commerce. Problems

include lack of access to telecommunication, payment and postal services, electricity, logistics, accessible roads and lower literacy levels. These problems impact the uptake and use of e-commerce and require a focus on rural areas in each of the initiatives in this strategy.

Counties also vary in the resources and capacity of their citizens. Measures in the strategy, therefore, need to accommodate and address this disparity to ensure inclusivity.

4. Adoption of national and international standards and model law

Wherever possible, initiatives need to take into account international best practices. Application of international standards and model law means that integration into international frameworks for trade and e-commerce is easier and affordable. Adoption of international standards and model law implies that systems and processes developed around those standards can be readily implemented without adaption, thereby lowering the cost of provision and speeding up implementation. Use of standard performance indicators will make international comparison simpler to undertake.



Photo: KNA

III.Strategic goals

This strategy has six strategic goals, one for each of the policy areas or pillars that collectively provide the foundations for the development of e-commerce. The pillars and strategic goals are listed in Table 2.

Table 2 Strategic goals

Pillar	Strategic goal
1. Law and regulation	Trust in e-commerce is achieved through increased awareness of ,and compliance in strengthened laws, regulations and standards.
2. Information technology, telecommunications and power	Universal access to e-commerce ICT services by consumers and merchants from all social groups, including women and disadvantaged groups, business buyers and sellers, as well as those in rural and urban areas.
3. Trade facilitation and logistics	Trade logistics and facilitation policies, law and trade agreements that enable rapid and efficient delivery of e-commerce packages in all areas of Kenya, and minimise friction at borders.
4. E-payments	Low-cost, reliable and secure payment services that inspire trust in trade at a distance, for both domestic and cross-border trade.
5. Skills and human capacity	The majority of the population and businesses have the skills and human capacity to use e-commerce services, and merchants for selling goods and services through e-commerce.
6. Access to finance	The finance sector has the necessary laws and regulations, and has developed financial products for the financing of e-commerce businesses of all categories, for women, youth and other vulnerable groups.

Strategic goal 1: Trust in e-commerce is achieved through increased awareness of and compliance to laws and standards.

Trust in e-commerce is achieved through the compliance to laws, increased awareness of consumer and merchant rights and obligations, and the adoption of best practice of international standards.

Trust in e-commerce is also achieved through cyber hygiene in the online space. This is reliant on the enactment of and compliance with laws and regulations to protect all parties involved in e-commerce transactions. A regulatory and standards framework establishes a predictable environment where all parties can exercise their rights and obligations. Consumers can use e-commerce services with the expectation that the merchants, payment and fulfilment service providers will work together to provide a trusted ecosystem with fair-trading practices and pricing.

Nevertheless, trust is ultimately dependent on awareness of the law and compliance through enforcement among consumers and businesses.

The Kenyan law provides an excellent starting point. In many areas, the requirement is to sensitise businesses and the wider population through awareness campaigns. In other areas, there is need to provide relevant agencies with the capacity to enforce existing laws. In three areas, there is need to amend the law or create new ones:

- the Consumer Protection Act of 2012 needs to be amended to address gaps relating to e-commerce;
- there is a need to review tax arrangements for e-commerce and compliance
- there is a need to improve online dispute resolution (ODR).

The adoption of national, regional and

international standards in e-commerce will provide an additional element of trust. Such standards apply to the goods traded and the infrastructure and processes adopted by merchants, logistics firms and payment service providers.

Therefore, the two principal outcomes under this pillar will be:

- Increased compliance and enforcement of existing e-commerce laws.
- Increased adoption and conformity with national and international standards.

Strategic goal 2: Universal access to e-commerce ICT services by consumers and merchants from all social groups, including women, disadvantaged groups and those in rural and urban areas

The vision for e-commerce is reliant on two outcomes associated with ICT:

- Increased broadband access across the country
- Ecommerce platforms that are accessible and affordable irrespective of location, business size and sector

Merchants and consumers engaged in e-commerce are as diverse as society itself. The ICT environment for delivering e-commerce services needs to reflect and support this variety.

To provide universal access, e-commerce, ICT services and underlying ICT infrastructure and services must support:

- Businesses and consumers wherever they are located, in rural villages and in towns.
- Differing levels of skills and capacity among users.
- Businesses operated by women, youth and PWDs.
- Different categories of businesses – formal, informal, home-based, micro, small and large, wholesale as well as retail.
- Procurement and sales-focused approaches so that businesses with a closed list of suppliers and special terms can be supported.
- The variety of goods and services sold and purchased – commodities sold in

bulk form, discrete products, configurable products and services.

- The variety of devices used to interact with e-commerce services.

Information and communications technology and services are already addressed thoroughly in other policies and strategies, notably the Kenya National Digital Master Plan. This e-commerce strategy addresses only those areas that have not been addressed elsewhere. Further, the Communications Authority of Kenya (CA) is exploring the development of community networks to support access to data services in villages and remote areas, supplementing the use of the Universal Service Fund in bringing telecommunications services to the final 4 per cent of the population that are yet to access 3G or 4G mobile service.

Strategic goal 3: Trade facilitation policies, laws and trade agreements that enable rapid and efficient delivery of e-commerce packages in all areas of Kenya while minimising friction at borders.

Kenya has been pursuing several trade reforms central to the realisation of its national long-term development plan – the Kenya Vision 2030. Some of the reforms outlined in this plan – in the form of objectives – are the adoption of a National Trade Policy, fast-tracking enactment of the Trade Development Bill and the Trade Remedies Act, and the development of an e-trade policy. The National Trade Policy was approved by the Cabinet in December 2016 and launched in July 2017.

It builds on the momentum of trade policy reforms that have been ongoing since the mid-80s, and articulates the country's aspirations towards sustainable economic development through the provision of opportunities for expanded markets, income generation and distribution, increased employment and competitiveness.

It also introduces trade-targeted policy formulation across various sectors of the economy as an approach to transform the country into a competitive and prosperous

trading nation. It also offers policy objectives and implementation measures to support e-commerce (MITI, 2017, National Trade Policy, “Transforming Kenya into a Competitive Export-Led and Efficient Domestic Economy”).

Kenya is a member of WTO, and in 2015, it ratified the Trade Facilitation Agreement. This ratification requires it to make reforms to its trade and customs laws and regulations, including the implementation of various facilitation projects, such as Single Window. As of December 2021, the implementation rate of the commitments in this agreement was 7.6 per cent. For instance, the Information for Trade in Kenya Portal (InfoTradeKenya) was launched to ensure compliance with provisions under article 1.2 of the Trade Facilitation Agreement, which deals with the availability and publication of information on import, export and transit procedures, among other requirements.

Kenya is a member of several regional blocs, including EAC, the Common Market for Eastern and Southern Africa - COMESA and the African Continental Free Trade Area - AfCFTA. EAC has ratified a regional e-commerce strategy focusing on initiatives that are best implemented at the regional level. In addition, COMESA is working on a digital free trade area supported by an online portal, enabling business to be conducted and logistics services to be procured online, and providing trade-related information, including legislation. AfCFTA is currently developing a protocol for digital trade.

Kenya has also signed and ratified economic partnership agreements with the European Union and the United Kingdom, enabling duty-free access of Kenyan goods to those markets. This strategy, therefore, concentrates on the domestic issues not catered for. They include:

- An e-commerce policy to be developed as envisaged in Vision 2030.
- A national addressing system to be implemented in accordance with the National Addressing Bill 2021.
- Investment in road and transportation infrastructure on trunk routes and in rural areas for efficient and timely delivery of

e-commerce packages.

- Enforcement of guidelines for postal and courier licences requiring parcel tracking and tracing.
- An integrated single window system available universally for the submission of documents and receipt of necessary clearance documentation.

The outcomes within this pillar will therefore be:

- Transport, postal and courier infrastructure that supports door-to-door delivery of e-commerce packages.
- A legal and regulatory framework for postal and courier services that safeguards customers and meets trade and other statutory requirements, while minimising the regulatory burden.

Strategic goal 4: Low-cost, reliable and secure payment services that inspire trust in domestic and cross-border trade.

Kenya has established a leadership position in e-payments, particularly in mobile money services, and migration towards a cashless society. The legal framework for electronic payments is in place and much of the integration work has been done to provide a fully linked electronic payments regime for retail, interbank and various large payments. The National Payments Strategy 2022–2025 builds on this established capability to continue the development of an efficient and effective payment, clearing and settlement system. It is therefore, the principal means of achieving low-cost and reliable payment services.

Nevertheless, lack of trust in e-payments and high transaction charges act as a barrier to use of cashless methods.

In the context of the National Payments Strategy and the sticking issues, the initiatives needed in this e-commerce strategy are concerned with increasing trust (by reducing fraud) and reducing transaction costs. Therefore, the initiatives in this strategy focus on two principal outcomes:

- Reduction in fraud associated with e-commerce payments.
- Reduced transaction costs.

Strategic goal 5: The overwhelming majority of the population and businesses including merchants possess skills and human capacity that enables them to use and sell goods and services through e-commerce.

Kenya has been investing intensively in the development of digital skills and human capacity in preparation for participation in the digital economy. Nevertheless, there is still a significant skills gap in MSMEs and in youths entering employment, who are the prospective implementers of this new economy. To an extent, this skills gap arises because of the relatively recent investment in digital skills. However, it is also because there is a gap between what is taught at secondary and tertiary levels of education and what businesses need. This has led to individual businesses providing extensive on-the-job training, but this may not suit all enterprises. Besides, the businesses themselves may not have the skills in the first place. The private sector does provide training, but that tends to be product-related, and does not necessarily offer the breadth needed to support e-commerce and the wider digital economy.

The Kenya National Digital Master Plan specifies many initiatives associated with skills development, including:

- The establishment of 1,450 digital hubs for training and access to public and government services.
- Digital literacy training for citizens, ICT professionals, public servants and teachers, providing them with appropriate levels of expertise and awareness so that they can use technology in their businesses and access government services.
- A digital literacy programme to accelerate integration of technology in teaching and learning in all learning institutions.

Required e-commerce-related skills include; system design and coding, marketing, business and knowledge of relevant laws, regulations and standards. Education and learning institutions need to ensure that they are providing training in all the areas needed by the digital economy and ensure that it is

accessible for women and other marginal groups.

The public also needs digital awareness and skills to embrace technology. Older age groups that have not encountered ICT in schools or at universities will have significant skills gaps, and they will slow their adoption of e-commerce and other digital economy services. This may result in exclusion – for example, when a “digital-first” approach is adopted for delivering services, as is happening in many economies.

The initiatives in this strategy are intended to supplement those in the Kenya National Digital Master Plan, where needed, to accommodate e-commerce. The aim is to ensure that digital economy awareness and skills training programmes provide support for e-commerce-related businesses and processes.

The public also needs digital awareness and skills to use technology. Older age groups that have not encountered ICT in schools or at colleges will have significant skills gaps, and this slows their adoption of e-commerce and other digital economy services.

Therefore, the first outcome with respect to the skills and human capacity pillar of this strategy is:

- Increased level of e-commerce awareness and skills among the public, and among those leaving school, in business and in public sector organisations.

E-commerce can provide PWDs convenient access to shopping and other services to which they would otherwise have to travel. For some people, that is sufficient to provide convenient access. For others, however, people with sight problems or lacking the ability to use their hands for typing, ICT itself may make access to e-commerce a problem. This strategy is intended to improve such access by encouraging the design of devices and applications that cater for PWDs. The second outcome of this goal is, therefore:

- ICT that meets the needs of PWDs generally and when using e-commerce in particular.

Strategic goal 6: The financial sector has in place necessary laws, regulations and products to finance e-commerce businesses of all sizes and gender.

There are several forms of financing, both formal and informal, available to e-commerce companies. The formal sources include banks, SACCOs, mobile loans, government programmes such as Youth Enterprise Development Fund, the Women Enterprise Fund, the Uwezo Fund, venture capital and private equity firms as well as development partners.

Formal sources of funds also include digital credit providers since the Central Bank of Kenya (CBK) (Amendment) Act 2021 was promulgated. The informal ones include chama groups, informal money lenders and employers. Nonetheless, entrepreneurs still face challenges in accessing financing. These

challenges include inadequate fundraising or pitching skills necessary to raise funds despite having good ideas; lack of collateral; prohibitive cost of borrowing; inability to find guarantors; short repayment periods and lengthy approval processes for bank loans. These challenges are exacerbated among women, who face numerous gender-based, cultural and social biases when accessing finance.

Financial institutions also face several challenges in lending to these businesses. Though several initiatives have been in place to address them, much more needs to be done to improve access to financing among e-commerce companies.

Therefore, the initiatives under access to finance will have the following outcome:

- Improved access to and availability of investment finance for e-commerce firms across all socio-economic groups and regions.



IV. Strategic initiatives

Strategic initiatives are grouped under seven pillars relating to the goals and outcomes described above.

The initiatives in this strategy supplement other policies and strategies already in place. In some areas, notably ICT and skills development, such initiatives are extensive and will provide much of the environment sufficient for e-commerce to take place. This strategy focuses on any additional initiatives.

A. Pillar 1: Law and regulation

Outcome 1.1: Increased compliance and enforcement of existing e-commerce laws

1.1.1: Enforce existing laws and regulations related to e-commerce

Existing e-commerce laws need to be enforced more rigorously to build trust. Kenya has been one of the leaders in the implementation of e-commerce-related laws. Laws that need to be enforced include:

- The Consumer Protection Act of 2012, particularly in the areas of misleading advertisement, payment fraud and non-delivery of goods.
- Data Protection Act of 2019.
- Computer Misuse and Cybercrimes Act of 2018.

The enforcement of existing laws and regulations will provide a safer environment for both merchants and customers.

1.1.2: Increase private sector awareness of the need to comply with the existing consumer protection laws

A programme to increase private sector awareness on the need to comply with existing e-commerce laws, particularly on consumer protection, will be implemented by CA, the Competition Authority of Kenya (CAK) and the Kenya Consumer Protection Advisory Committee (KECOPAC). It will cover the provision of guidelines and information about e-commerce laws for merchants, including the rights of consumers and the obligations placed on the traders, logistics and payment services providers. It will also cover the provision of training programmes in e-commerce laws for businesses.

Availability of the programmes across the

country will be important. This will be achieved by working with county governments to establish county-based training programmes through existing business training centres, chambers of commerce and industry, and other front-line business organisations. The outcome will be improved customer service by merchants with fewer complaints (latent and reported) by consumers.

1.1.3: Collaborate with the private sector to ensure the requirements in the Data Protection Act, 2019 are practical and provide technical support to ensure compliance

The Office of the Data Protection Commissioner (ODPC) will implement a programme with the following aims:

- Assess the practicality of initiatives in the Data Protection Act and resolve difficulties identified.
- Train country-level trainers and front-line business organisations – such as the chambers of commerce and industry, women and youth associations – so that they may provide support to businesses seeking to implement the Act and ensure conformity to data protection act

The outcome of this initiative will be guidelines for implementing the Act in businesses and other organisations, trained instructors and consultants who can support such organisations and training programmes for those managers seeking to implement the Act within their own institutions. It is envisaged that the training courses will be provided at a county level through existing business training centres and by front-line business organisations, rather than CA itself.

1.1.4: Increase public awareness of existing e-commerce legislation

The CA, CAK, KECOPAC and ODPC will implement a programme of initiatives to increase public awareness in e-commerce and data protection legislation. Leaflets and online publicity material on the legislation are to be available on merchants' websites, the CA and CAK websites, government and county government offices, post offices and other public buildings where such information is usually present. This publicity material will explain consumer rights and obligations, and merchants' obligations under the legislation.

It will also indicate how to make a complaint about an infringement of the law or regulation, giving contact details online and a means of giving such information, by phone and on paper. The provision of such publicity material will be supplemented by advice through consumer programmes on television and radio and articles in newspapers and popular magazines.

The outcome will be a populace that understands its rights and obligations under e-commerce legislation, and be able to enforce rights through the established complaints channels.

1.1.5: Extension of routine market surveillance to e-commerce websites

Market surveillance for counterfeit goods, infringement of copyright and cultural norms will be extended to e-commerce websites using artificial intelligence aids available on the internet. Appropriate action will be taken where possible, either directly or through the authorities of other countries.

Outcome 1.2: E-commerce laws that conform to international best practice

1.2.1: Amend the Consumer Protection Act of 2012 to address the gaps relating to e-commerce

While the Consumer Protection Act was intended to clarify the legal relationships between businesses and consumers, it fails to provide adequate protection to consumers in several areas. This initiative is intended to amend the law to provide that protection in the following areas:

- a. Provision of information pertinent to the supply of goods or services, including product details and transactions, delivery and shipping costs, among others;
- b. Protection against fraud arising from, for example, misleading advertisements and information, payment fraud and non-delivery of goods;
- c. Protection against role repudiation, whereby the sellers can deny having participated in transactions; and
- d. Provision of an adequate complaints handling service and consumer protection when firms supply from businesses

operating from other legal jurisdictions, such as in Europe or the United States of America. This last requirement may require supply from a firm registered in Kenya for the law to apply. The initiative will take into account other laws that may apply (see box 1).

Box 1 Law with a bearing on consumer protection

Article 46 of the Constitution of Kenya provides for the following consumer rights:

- a. Goods and services of reasonable quality;
- b. Information necessary to enable consumers to gain full benefit from goods and services;
- c. Protection of consumer health, safety and economic interests; and
- d. Compensation for loss or injury arising from defects in goods or services.

Part VI of the Competition Act, Sections 55 to 57, prohibit false or misleading representations, and unconscionable conduct by undertakings; while Sections 58 to 64 of the Act ensure that consumers are compensated when they suffer loss and injury due to lack of information regarding particular goods, or the supply of unsafe, unsuitable or defective goods. CAK has prepared guidelines covering these issues.

The Consumer Protection Department of CAK enforces parts VI (Sections 55 to 70) of the Competition Act. The department works with many other agencies and consumer bodies in doing so.

The department also investigates undertakings that fail to comply with prescribed consumer product safety standards and information standards. Other functions of the department are: promoting the creation of consumer bodies and the standards they should adhere to, working with consumer bodies to promote consumer welfare, and sensitising consumers about their rights and obligations under the Act.

The Consumer Protection Act of 2012 provides rights and obligations associated with quality of goods and services, estimates, ambiguities, charging for assistance, unsolicited goods or services, advertising of illegal sites, unfair practices, specific consumer agreements, advanced payments, repairs, credit agreements and leasing. It also establishes the Consumer Protection Advisory Committee. This body advises the Cabinet Secretary and formulates policy, working with consumer bodies and stimulating awareness of consumer rights. Remedies are sought in the appropriate court by consumers.

Source: Consumer Protection Guidelines, The Competition Authority of Kenya, 2017.

Consumer protection law also needs to take into account developments and innovation in e-commerce, such as the virtual/augmented reality world of games and other digital environments in which users may buy digital assets. Such environments will lead to additional issues over fair-trading and consumer protection that need to be addressed in any amendment or development of consumer protection legislation.

The outcome of this initiative is that the Consumer Protection Act will be brought into line with international best practices.

1.2.2 : Review and simplify tax framework for e-commerce firms

The government introduced a Digital Service Tax (DST), which is charged at 1.5 per cent on income derived or accrued in Kenya from services offered through online marketplaces. The tax applies:

- a. In the case of the provision of digital services, the payment received as consideration for the services; and
- b. In the case of a digital marketplace, the commission or fee paid to the digital marketplace provider for the use of the platform

It is payable by Resident and Non – Resident:

- i. Digital service providers
- ii. Digital market place providers, or
- iii. Their appointed tax representatives (in

the case of non-resident digital service providers or digital marketplace providers without a permanent establishment in Kenya).

Under the Digital Service Tax Regulations, the scope of taxable services includes:

- a. downloadable digital content including downloadable mobile applications, e-books and films;
- b. over-the-top services including streaming television shows, films, music, podcasts and any form of digital content;
- c. sale of, licensing of, or any other form of monetising data collected about Kenyan users which has been generated from the users' activities on a digital marketplace;
- d. provision of a digital marketplace;
- e. Subscription-based media including news, magazines and journals ;
- f. electronic data management including website hosting, online data warehousing, file-sharing and cloud storage services;
- g. electronic booking or electronic ticketing services including the online sale of tickets
- h. provision of search engine and automated held desk services including supply of customised search engine services;
- i. online distance training through pre-recorded media or e-learning including online courses and training; and
- j. any other service provided through a digital marketplace.

As an “advance” tax for Kenyan service providers, it represents an early payment for those who pay tax. As a tax levied on foreign service providers, it is a means of raising tax from offshore activities that would otherwise not be taxed. Therefore, it can be seen as supportive of the aims of this strategy in terms of promoting value added in Kenya. Nevertheless, start-up Kenyan firms, those yet to make a profit, would not be able to offset the tax paid in advance against any end of year payment, and for them it would be a cost of doing business, levied at a point when the business is at its most vulnerable, and adding to market entry costs.

Compliance with the DST has been minimal, owing to inadequate infrastructure to register,

motivate and monitor compliance. Further, there is evidence that the complexity of the tax system is an expensive burden for micro and small businesses, and that inconsistent taxation codes expose trading parties to double taxation or arbitrary taxation.

In this initiative, the taxes levied on e-commerce and e-payment transactions will be enhanced to ensure that they are able to accommodate merchants, particularly start-ups, and traditional traders in promoting competitiveness. This assessment exercise will consider any double taxation and additional taxes paid by either group. The outcome will be proposals for enhancing taxation in a fiscally neutral manner to ensure fairness to all parties and thereby support the development of e-commerce.

The assessment will also attempt to simplify implementation and resolve any inconsistencies in the application to start-ups and companies yet to make a profit. The assessment will focus on identifying areas of enhancement that can support the government's tax-raising aims. It will ensure that registration and compliance infrastructure meet requirements for the volume of filings made upon it, and is usable by businesses of all sizes, without the need for specialist tax and accounting support. The outcome of this initiative will be greater compliance with tax law and regulation among e-commerce businesses in both import and export flows.

1.2.3 : Establish a legal framework to settle e-commerce disputes

This initiative seeks to address overlooked elements of digital trading by providing a legal framework to enforce contracts and resolve disputes, thereby meeting one of the requirements of the Digital Economy Blueprint. It will review international practices associated with contracts and dispute resolutions, such as the Consumer Contracts of the United Kingdom (Information Cancellation and Additional Charge) Regulation 2013, and implement law and regulation in this area that is in draft form, such as the National Transport and Safety Authority (Operation of Digital Hailing Operators) Regulations of 2019, which

seek to govern digital taxi businesses.

The outcome will be improved contract enforcement and greater use of dispute resolution mechanisms, leading to fewer unresolved disputes.

1.2.4: Develop legal standards for Online Dispute Resolution

Online Dispute Resolution (ODR) is emerging as an alternative to courts, particularly in the European Union and the United States of America. While the Constitution of Kenya (2010) recognises the use of the alternative dispute resolution mechanism as an avenue for justice, the ODR model is not yet expressly recognised under any Kenyan law. This initiative seeks to ensure that ODR is available as a dispute resolution mechanism, particularly when parties are in different legal jurisdictions or remote from one another. The United Nations Commission on International Trade Law Technical Notes on Online Dispute Resolution¹ may form the basis for such ODR. The outcome will be the ability of parties to resolve disputes without the need for court appearances, lowering costs, particularly for those in rural areas, or otherwise remote from face-to-face mediation or arbitration services. As part of this initiative, a portal would be developed to register and resolve disputes online.

1.2.5 : Ensure that Kenyan intellectual property law conforms to international best practice

Kenyan intellectual property law will be assessed in relation to model law and law in other countries that have assumed a leadership position in protecting intellectual property. Law will be revised in accordance with the findings.

1.2.6: Enactment of the Start-up Bill 2021

The development of lifecycle of ecommerce firms presents a new business model due to commerce facilitation in the digital environment. The enactment of the start-up bill will enable start-ups consider the business models that include online visibility in the domestic and export market attractive.

The enactment of the Start-up Bill 2021 will support the establishment of incubation programs, certification and incentive

structures for start-ups, establishment of a credit guarantee scheme, training and capacity development for start-ups to support the transitions in new business to maturity and the management of patents so that innovation and industry disruptions in the e-commerce space are facilitated.

Outcome 1.3: Increased adoption and conformity to national and international standards

The adoption of standards for goods and services, irrespective of the way they are bought and delivered, is already understood to benefit traders and those in receipt of the goods. Goods and services produced in accordance with national, regional and international standards are more dependable. The adoption of standards requires an assurance mechanism to be in place for use. The adoption of standards for goods and services sold is wider than an e-commerce strategy. This strategy focuses on the standards for the trading and logistics systems and processes used. Payment standards are already imposed and regulated by CBK, and are not in scope here.

The desired outcome is reliant on the adoption of relevant standards in Kenya. In addition, the trans-border nature of e-commerce dictates that adoption of standards by other nations in the region enhances trust in e-commerce in Kenya.

1.3.1: Promote the use of national, regional and international standards and certification

The adoption of diverse national and international standards in policy areas covering e-commerce will lead to the use of standard and tested systems and processes. Such standards will improve e-commerce service reliability, thereby, increase trust. Kenya Bureau of Standards (KEBS) will review standards associated with (a) ICT systems and services; (b) Business processes, including security, protection of personal data, transaction assurance, business continuity processes and dispute resolution; and (c) Transport and logistics. KEBS will then work with MITI and the Ministry of Information, Communications and the Digital Economy (MoIC&DE) to determine which standards to recommend and prepare guidelines for their adoption by business. KEBS will provide

awareness and skills training material associated with the identified standards for use in e-commerce awareness and training events. Such training events will be rolled out across counties.

1 Available at <https://uncitral.un.org/en/texts/onlinedispute>.

Dissemination of awareness and knowledge of standards applicable to e-commerce is covered in the initiatives associated with Outcome 5.1.

1.3.2: Participate in Africa Organisation for Standardisation and ISO/International Electrotechnical Commission committees relevant to e-commerce

MITI and MoIC&DE will participate actively in standards-making bodies, including the African Organisation for Standardisation and ISO, to promote and develop e-commerce-related standards. This work will enable Kenya to influence standards development, thereby encouraging development to satisfy domestic and regional requirements. In addition, standards adoption by other countries in Africa will engender trust more widely, and help to ensure that regional e-commerce services are reliable and trustworthy.

B. Pillar 2: Information technology, telecommunications and power

Outcome 2.1: Telecommunications networks and services provide broadband access to e-commerce services across the country

Kenya already has one of the most advanced digital infrastructures in Africa, because of early liberalisation of the telecommunications sector and investment in the national telecommunications backbone. Kenya, in particular the private sector, has not rested on its laurels, with a continuing programme of development to take telecommunications services out to the furthest regions of the country. Therefore, the initiatives necessary to achieve universal broadband access to e-commerce services are being addressed by other policies and strategies, notably the Kenya National Digital Master Plan 2022–2032 and the National Energy Policy 2014, under which power is being extended in all areas of

the country. The initiatives addressed by these strategies include the following:

- Fast-track implementation of the National Fibre-Optic Backbone Infrastructure and electrical power among other infrastructure services, particularly in regions yet to be universally served.
- Infrastructure-sharing policies and regulations to minimise ICT implementation costs.

Backbone infrastructure has been extended widely by telecommunications operators, which have extended their services over the electrical power transmission and distribution networks. This infrastructure has brought both power and telecommunications to many population centres.

Local distribution networks are more problematic, often relying on the mobile networks or other wireless infrastructure. CA is, however, considering how to develop community networks to ensure that fixed broadband services can be provided in villages.

There is need to ensure that way leaves are provided for telecommunications infrastructure, in conjunction with electric power and water infrastructure. Coordination and collaboration between sector regulators are, therefore, a requirement.

As well as good infrastructure, the population of Kenya is relatively well-equipped with devices, well above the average for the continent. The issue of affordability of services is being addressed through the other strategies, with the active support of the private sector, which is providing financing schemes to improve the affordability of smartphones. Nevertheless, there will continue to be groups of prospective users of e-commerce services that have only a 2G phone or service (most likely in rural areas), and need e-commerce services that can be supported on such devices and networks. These users will need to have USSD-based services.

Finally, PWDs will need suitable devices to participate in e-commerce.

Outcome 2.2: E-commerce services support the diverse characteristics of buyer and seller

The initiatives contributing to this outcome will promote:

- Availability of diverse e-commerce platforms to satisfy the needs of all markets, including business-to-business, government-to-business, government-to-consumer and consumer-to-consumer.
- Collaboration between data centres to provide affordable hosting services and cloud-based e-commerce.

2.2.1: Availability of diverse e-commerce platforms

Most e-commerce merchants want to use applications delivered as a service in a cloud or data centre. This approach is likely to be the most cost-effective implementation method, and minimises any requirement for scarce technical staff and investment in computer hardware and software.

E-commerce as a service is not a one-size-fits-all proposition. The type of e-commerce application used will depend on many factors including the following:

- Types of goods or services
 - Whether goods or services are offered.
 - Whether goods are discrete (e.g. TV set) or volume-related (e.g. fertiliser).
 - Whether goods are configurable (e.g. colour and size)
 - The type of service offered – insurance, travel or ticketing.
- The market and in particular the characteristics of the buyers and sellers
 - Do they have access to smart phones or are they reliant on GSM feature phones?
 - What is their capacity in ICT?
 - What e-payment services do they have access to?
 - Are the buyers businesses or consumers?
 - If the buyer is a business, does it need to integrate its purchasing systems with the sellers' systems?
- Is the service commissioned by the buyer or the seller?
 - A buyer would require an e-procurement service.

- A seller may require a site within a marketplace or a dedicated e-commerce shop.

This strategy expects the following types of services to be available:

- Commodities (such as fertiliser and other farm inputs and foodstuffs) sold in large and small quantities, business-to-business, including micro, small and medium-sized enterprises (MSMEs), either via a merchant's website or USSD codes.
- Discrete configurable goods sold business-to-business and business-to-consumer (such as car parts for repair shops and consumer goods) via a merchant's website.
- Sector-specific services sold via a service provider's website.
- Marketplaces in which goods from different suppliers may be displayed side by side.
- E-procurement services configured for an individual buying organisation with a buyer-specific catalogue and pricing.

The platforms provided will need to include the trading platform, the means of developing catalogues, back-office accounting and stock control systems, call centres, digital marketing and advertising and logistics platforms for delivery scheduling as well as track-and-trace. These systems will need to interoperate with each other and with the payment platforms provided by the financial sector.

ICT firms provide software as a service through a cloud. They exploit the economies of scale that they have from large data centres. The consequence of using such services is that much of the revenue leaves the country. The domestic sector has difficulty in developing its capacity, and telecommunications costs are inflated by the charges of international traffic to and from the remote data centres. Service performance can also be degraded, although there is good availability of international capacity to and from Kenya means that this is less of a problem.

Therefore, more firms in Kenya need to offer hosting and cloud-based e-commerce services to ensure that much of the value chain remains

in the country and is used to develop the capacity of the ICT sector. Customers of these services will include businesses of all sizes, county governments, government agencies, charities and other non-governmental organisations and individuals selling through consumer-to-consumer marketplaces.

Government will encourage the development of the hosting sector and the provision of services within the cloud from domestic data centres by facilitating their development and, where possible, hosting their own applications within them. Governmental and non-governmental organisation in e-commerce projects will be hosted in domestic data centres. Where appropriate, international cloud providers will be invited to build data centres in Kenya to satisfy the East African market.

Government will ensure that laws and regulations facilitate cloud and data centre development, including Kenyan data centre participation in international clouds. This facilitation will include ensuring that laws and regulations applicable to data centres are harmonized with those of key markets in areas such as data protection, privacy and portability.

2.2.2: Promote collaboration between data centres to provide affordable hosting services and cloud-based e-commerce

Several data centres in Kenya offer services from major international software and services vendors, including the ability to host e-commerce platforms. These data centres constitute the nucleus of a developing e-commerce technology ecosystem. It is important that this ecosystem be supported by the necessary expertise to determine requirements, develop business solutions and implement new technology. The government will provide a conducive environment to promote collaboration between Kenyan and International ICT and e-Commerce firms. Such collaboration will include the development of services to be retained in Kenya and strengthen ICT and E-commerce skills.

The skills involved will include:

- Business analysis and planning in

- e-commerce.
- E-commerce platform implementation and configuration.
- Digital marketing.
- Catalogue design and development including graphics.

C. Pillar 3: Trade facilitation and logistics

Outcome 3.1: An e-commerce policy that supports increased exports and improved national competitiveness through the greater use of ICT in international trade

3.1.1: Develop a coherent Stand alone e-commerce policy

International trade is facilitated by using ICT in procurement and in administration activities associated with trade financing, importing and exporting. Many international companies are already equipped to make and receive orders and invoices, and make payments electronically. Increasingly, customs are enabling electronic filing of export and import documents, greatly speeding up processing at customs posts and, thereby, facilitating international trade. Those countries and businesses that cannot trade in a digital form will become increasingly uncompetitive. The policy will define the government's position with respect to digital administration of international trade, specifically in digital products and services. It will consist of two parts:

- In the first part, the policy will evaluate the current position of Kenya in digitising international trade, including that of customs and excise functions, trade financing, and importing and exporting companies. There will be a focus on those sectors that may be least prepared to undertake international trade in a digital form. These may be product sectors and/or sectors defined by size. To do this, there will be a need to review the international e-trade opportunities and issues by county, therefore, engage counties in the work. The policy will also consider the law and regulation associated with international trade, the requirements and obligations arising from Kenyan membership in

- regional trading blocs and WTO, and the use of Export Promotion Zones for e-trade.
- In the second part, the policy will consider the position of Kenya in trading digital products and services and those that may be delivered through ICT. This second part will consider Kenya's strengths, weaknesses, opportunities and threats in relation to other countries in Africa, and the rest of the world. For Kenya to become a hub for digital services, assessment will be made about services that may be included in such a hub and the barriers to provision from laws and regulations in Kenya and countries that may be the recipients of the services – for example, based on specific data protection or other regulatory requirements.

3.1.2: Develop Kenya National e Trade Portal

In addition to development of the ecommerce policy, the Ministry of Investment, Trade and Industry will input relevant trade information and trade administration forms as an expanded component in the Kenya National e-Trade Portal. The information will include all relevant regulations, policies and standards necessary as a reference kit to any participant in Trading. This will be implemented in accordance with the WTO Trade Facilitation Agreement.

The MITI will additionally segment a section in the portal to accommodate registration of merchants to create a global visibility link where buyers can interact digitally with Kenyan providers of goods and services. MITI endeavours to make available on the e Trade portal, description of Kenyan merchants' goods and services for enhanced visibility in the global market to nurture an export led culture for faster economic growth and income generation.

Outcome 3.2: Transport, postal and courier infrastructure that supports door-to-door delivery of e-commerce packages

3.2.1: Fast-track the National Addressing system legal framework.

The National Addressing Bill 2021, which enables street addressing of all properties, will be fast-tracked. This will allow each

building to be assigned a street address, which will be added to a National Addressing System Database. It will also augment existing efforts to provide addresses and locations for pickup and delivery, such as the use of mobile numbers as a proxy for addresses.

This initiative is critical to the performance of courier and postal operators, enabling them to route deliveries efficiently and individual couriers to find properties quickly. It will increase the efficiency of postal and courier services, thereby, reduce the cost of such services. It will also lead to improved forecasts for pickup and delivery times, and tracking and tracing services.

3.2.2: Provide guidelines for alternative means of locating senders and recipients

Despite fast-tracking, implementation of national addressing will take time to complete across the country. In the short-term, therefore, alternative methods of locating senders and recipients of e-commerce packages are needed.

There are already several methods of providing such location information. Mobile phone location data can be sent to a delivery operative to identify the location for pickup or delivery. Alternatively, a proprietary system (such as the what3words app) can be used. MITI will develop guidelines for use of such methods by postal and courier firms.

3.2.3: Enhance domestic transportation infrastructure to enable efficient and timely delivery of e-commerce packages

Much investment is already planned in road and railway sectors. Rail infrastructure is already reducing the cost of long-distance transportation of goods from ports and between other centres of population. Investment in the road network is also taking place, with the doubling of bitumened roads from 2014 to 2021.

A range of initiatives are required to improve domestic transportation. These include:

- a. Elimination of locations in the trunk road network with frequent delays due to little

capacity or poor road quality.

- b. Improvements in the rural road networks to extend bitumened roads to additional locations within the country.
- c. Expansion of the postal system to cover more of the country.
- d. Development of drone and other technologies for last-mile delivery and domestic air freight for long-distance carriage of light packages.
- e. Improved and new warehouses in key locations that enable efficient goods handling for e-commerce.

PCK will develop post offices as locations that courier operators can also use as hubs for the distribution of packages. Nevertheless, the number of post offices will not provide neighbourhood delivery hubs or locations for depositing or receiving packages. CA will review the regulations associated with postal and courier services to ensure that such collaboration and such services may be provided. This will be undertaken under initiative 3.3.3.

The government will encourage the use of drones by ensuring that their regulatory framework enables them to be used for commercial carriage of goods.

As e-commerce develops, there will be an increasing and more general need for clearing centres for e-commerce – warehousing and logistics hubs in strategic locations built to enable efficient handling of e-commerce goods by existing and new logistics firms and couriers.

The government's role will be to facilitate the development of logistics hubs by ensuring that sites are available in strategic locations, and that the existing hubs and warehouses can be expanded and adapted to the needs of e-commerce. Ideally, they will be placed next to trunk routes for ease of access and at regional airports to stimulate the use of air-freight for e-commerce packages. The Ministry of Roads and Transport and MITI will work with county governments to ensure that sites are available, so that the whole country can be served.

Warehousing and logistics hubs will conform

to standards for such facilities to ensure that goods handling and vehicle loading and unloading can be undertaken safely and efficiently. The sites themselves will need space for ease of access and truck movements. Internal spaces will need capacity for in-bound and out-bound logistics, warehousing and fulfilment (unpacking and packing). Such logistics hubs are likely to be large and become major employers locally. Space requirements will need to take account of growth in the size of such hubs as the market develops.

Outcome 3.3: A legal and regulatory framework for postal and courier services that safeguards customers and meets trade and other statutory requirements, while minimising the regulatory burden

3.3.1: Encourage the adoption of guidelines for track-and-trace services

Guidelines are already published for parcel tracking-and-tracing services, yet smaller logistics and bus companies that provide intercity parcel delivery have not implemented them. This initiative will encourage service providers to implement and provide track-and-trace services integrated with the e-commerce merchants. The outcome of this measure should be improved quality of service with more predictable delivery schedules. To facilitate the adoption of track-and-trace, MoIC&DE will work with data centres and cloud operators to provide services that couriers can use.

3.3.2: Streamline overlapping regulatory initiatives on courier and postal services

This initiative addresses issues arising from overlapping guidelines and restrictions among regional economic blocs.

When the coronavirus disease (Covid-19) pandemic struck, COMESA, EAC and the Southern African Development Community implemented the Tripartite Guidelines on Trade and Transport Facilitation for the Movement of Persons, Goods and Services Across the Region, which harmonised the separate guidelines of each bloc into one document.

Many of the initiatives were pandemic-specific,

but Article 3.4 on Handling of Cargo at Points of Entry/Internal Borders specified a number of areas for simplifying and automating trade and transport processes, and documents to minimise face-to-face interaction and delays at ports and border crossings.

Articles 3.5 concerning Movement of Goods in Transit/Inland Deliveries, 3.6 Payments and Communications Services, 3.7 Application of Customs Laws and their Interpretation, 3.8 Inspection and 3.9 Exchange and Sharing of information also provided initiatives that might be taken post-pandemic to simplify and automate trade processes at borders and between countries in Africa.

Under this initiative, the government will generate proposals for streamlining and harmonising overlapping regulatory initiatives in AfCFTA, COMESA, EAC and the Southern African Development Community. It will also press for the adoption of a common or harmonised de minimis threshold within the region, extending the recent adoption of \$50 as the de minimis value for EAC, and the amendment of Section 124 of the EAC Customs Management Act, 2004, to provide for the same to the other blocs.

3.3.3: Enabling alternative delivery services for e-commerce

Regulations covering logistics services will be reviewed to ensure they satisfy the requirements of e-commerce. These include the need for express motorcycle delivery services within congested urban areas, and the use of drones for last-mile delivery, improving the speed of delivery services and reducing costs. The review will also include a regulatory framework for collaboration between courier services and PCK in the use of post offices and shops as hubs, as specified in initiative 3.2.3 above.

D. Pillar 4: Payment solutions

The National Payments Strategy 2022–2025 has one of its main themes as the need to increase trust in payments services. The National Payments Strategy 2022–2025 has as one of its main themes, the need to increase trust in payments services. In doing so, it sets

a goal of having a system that guarantees payments will be made and received in a timely and reliable manner. Initiatives in this area comprise:

- Adoption of relevant common standards and principles, including those for messaging and security for payment service providers consistent with international practices developed in the area.
- Integration of digital identity into “know your customer” systems.
- Development of a customer protection framework for customer protection associated with digital payments.
- Development of a data protection framework for financial data protection.
- Enhancement of customer awareness among digital payment users.

Therefore, many initiatives have already been scheduled to increase trust in payment services. Nevertheless, fraud remains a major issue, thus, further action is required to reduce transaction costs. The outcomes in this pillar are, therefore:

- Reduced fraud associated with e-commerce payments.
- Reduced transaction costs.

Outcome 4.1: Reduced fraud associated with e-commerce payments

4.1.1: Improved stakeholder collaboration to mitigate card fraud

Through this strategy, CBK will encourage collaboration between banks, card issuers, mobile operators and e-commerce platforms leading to further initiatives to minimise fraud. For example, two or three-factor identification may be introduced. Such authentication has been introduced in other countries to reduce fraud. Through multiple-factor authentication on e-commerce sites, users would need to identify themselves and potentially log into the site using a password-protected identification. Any payment made may then require further authentication by the processor. This authentication may require a further factor – insertion of a code sent via a text message, voice or face recognition, depending on the device used and its capacity. Such identification will reduce the possibility of identity fraud.

4.1.2: Amend section 357 of the Penal Code to allow for stringent punishment to those involved in card fraud

Section 357 of the Penal Code will be amended to enable more flexibility and potentially more stringent sentencing to act as a deterrence to those who may be tempted to commit payment card fraud and similar offences.

Section 357 states:

Any person who, with intent to defraud or to deceive:

- Without lawful authority or excuse makes, signs or executes for or in the name or on account of another person, whether by procuration or otherwise, any document or electronic record or writing; or
- Knowingly alters any document or electronic record or writing so made, signed or executed by another person,
- is guilty of a felony and is liable to imprisonment for seven years.

The sentence specified in Section 357 is consistent with that for other crimes specified in the Penal Code.

Outcome 4.2: Reduced transaction costs

Retail electronic payments include transactions done via mobile phone, credit and debit cards, and electronic funds transferred directly between bank accounts. The charges for such transactions are perceived to be high and not based on cost. Nevertheless, high charges may be a consequence of a high-cost base or lack of competitiveness in the payment services market.

Payment transactions are often complex as they involve several financial intermediaries, each of which can levy a charge. This is of particular concern in cross-border payments, but can also apply in domestic payments.

Retail cross-border payments may be subject to a relatively long chain of financial intermediaries or correspondent banks. Excessive length can result in payment delays and high charges. In many cases, these long chains cannot be avoided because banks do not have a direct relationship with other banks. The more correspondent banks that are involved, the slower and more

costly will be the transaction. Therefore, for international payments, it is important that banks in Kenya create additional links with those in other countries, reducing the need to use correspondent banks.

For domestic payments, the work being undertaken by CBK to licence additional payment service providers and the promotion of interoperability should lead to more efficient services, thereby reducing transaction costs. In addition, work being undertaken by CBK in relation to the National Payments Strategy on the Real-time Gross Settlement System, which enables payments between banks, will reduce the time taken and potentially the cost of domestic and cross-border payment transactions.

In a competitive market, prices can be expected to be cost-oriented. However, where the market is over-concentrated, service providers can set higher prices. A competition regulator might then intervene to set prices at a normal level or by imposing other remedies. The payments market is complex because of the risk of fraud and default faced by all parties, and the number involved in the payment transaction chain. Often, charges are designed to accommodate expected losses that may arise. Therefore, any assessment will need to take such a possibility into account. Thus, the complexity and length of payment transaction chains, process efficiency and the profitability of payment services need to be considered in attempting to reduce costs.

Apart from processing fees, the taxation levied on payment transactions raise the costs. The requirement to reduce payment transaction costs will be addressed through three measures complementing the initiatives in the National Payment Strategy. The first addresses the competitiveness and efficiency of payments markets to determine whether prices are reflecting lack of competitiveness, and by reviewing the taxation on payments made. The second considers taxation, and the third considers regional and international payment processes.

4.2.1: Promote competition and efficiency to bring down the cost of transactions

CBK will continue to ensure competition in the payment services market by licensing new firms, reducing the length of payment transaction chains and directly addressing pricing decisions associated with digital payments. In addition, CBK will review the electronic transactions market to determine whether transactions that need to use more than a payment platform to complete are delivered in an efficient manner. This review will identify specific product markets and examine whether any service provider or group of service providers are acting alone or in cahoots to stifle competition. As part of this market review, CBK and CAK will determine the long-term incremental cost of servicing transactions in all links in the transaction chain, and examine the charges levied. CAK will then impose remedies under relevant law including, the imposition of price controls on specific service providers and services. This work will be undertaken in the context of the National Payments Strategy, and in particular the alignment of tariff setting practices to pricing principles, taking account of efficiency, excessive pricing and customer abuse.

4.2.2: Review Digital Service Tax to encourage growth of Ecommerce enterprises

Box 2 The Digital Services Tax

The Digital Service Tax (DST) is payable on income derived or accrued in Kenya from services offered through an online marketplace, which enables direct interaction between buyers and sellers of goods and services. It was introduced in the Finance Act 2020 and became effective from January 1, 2021.

It is levied at a rate of 1.5 per cent of the gross transaction value (excluding value added tax) of the payment received as consideration for the services or, in the case of a digital marketplace, the commission or fee paid to the digital marketplace provider for the use of the platform. Digital service providers are required to file a DST monthly return and payment for the tax due.

The tax is levied on both resident and non-resident digital service providers and marketplace providers. For resident digital service providers, DST can be considered an advance tax, which means that at the point of filing the annual income tax return, it can be offset or deducted from the total tax due at the end of the year. For non-resident digital service providers without a permanent establishment in Kenya, DST is a final tax. It is subject to double taxation treaties that Kenya may have with other countries. The tax applies if the service provider provides or facilitates the provision of a service to a user located in Kenya.

The digital services scope of the DST include: (a) Downloadable digital content, including mobile applications, e-books and films; (b) Over-the-top services, including streaming television shows, films, music, podcasts and any form of digital content; (c) Sale of, licensing of, or any other form of monetising data collected about Kenyan users which has been generated from their activities on a digital marketplace; (d) Provision of a digital marketplace; (e) Subscription-based media, including news, magazines and journals; (f) Electronic data management, including website hosting, online data warehousing, file-sharing and cloud storage services; (g) Electronic booking or ticketing services, including the online sale of tickets; (h) Provision of search engine and automated held desk services, including supply of customised search engine services; (i) Online distance training through pre-recorded media or e-learning, including online courses and training; and (j) Any other service provided through a digital marketplace. DST does not apply to the income derived from sold goods via digital or social media platforms.

While the Digital Services Tax is levied on the service provider, it is often added to the user's charges inhibiting the development of e-commerce. This strategy will review the recovery of this tax from buyers by merchants.

4.2.3: Refine regional and international payment processes

The CBK will review the regional and international payments mechanisms, including those provided by cards, mobile phones and transfers between Kenyan banks and those in other countries. It will consider which constraints are in place on international payments and how they may be relieved, including the adoption of established best practices on electronic payments – for example, British Standards Institution PAS 499:2019, which has been designed to deliver strong customer authentication, in line with the European Union Second Payment Services Directive (PSD2). CBK will then work with the financial service providers to ameliorate the constraints.

In particular is the work being undertaken for the G20 by the Financial Stability Board in conjunction with the Committee of Payments and Market Infrastructures to enhance cross-border payments, including the identification of challenges associated from the friction existing in processes, and developing methods of addressing them. These frictions include fragmented and truncated data formats, complex processing of compliance checks, limited operating hours, legacy technology platforms, high funding costs for advanced settlement, long transaction chains, and weak competition.

In this respect, the use of correspondent banks rather than direct links between domestic and foreign banks will be examined to determine whether payment transaction chains may be shortened.

The outcome of this initiative will be the improved capacity of individuals and businesses to make online purchases in other countries, and for foreign individuals and businesses to purchase from Kenyan firms online, without incurring unnecessary cost, administration and delay.



E. Pillar 5: Skills and human capacity Development

Outcome 5.1: Increased level of e-commerce awareness and skills among the public, those leaving school, in small businesses and public sector organisations

The adoption of e-commerce by business and its use by the public requires an increased level of awareness and skills across the following:

- Marketing and particularly digital marketing.
- Selling/purchasing in a digital environment when sales are made at a distance from the customer.
- E-payments.
- Stock control and logistics.
- Financial management.
- Information systems and services, particularly those used in e-commerce and for managing a digital business.
- Law, regulation and standards associated with each of these areas.

This outcome will be achieved through initiatives concerning: the determination of the skill requirements of businesses to function in the digital economy; the implementation of programmes that will provide those skills; the provision of awareness training for the general population to familiarise all those who are not frequent users of ICT with the necessary concepts, particularly in consumer and other legal rights and the provision of a skills development programme for the public sector. In addition, the ICT curricula will be modified to ensure that students have skills necessary for business.

E-commerce businesses operating in specific sectors will require additional specialist expertise associated with laws, regulations and standards applicable to the products and services sold. The development of those instruments is beyond the scope of an e-commerce strategy.

5.1.1: Conduct business and digital skills gap assessment and implement capacity-building programme for businesses and Public sector

This initiative will take into account the activities planned under the Kenya National Digital Master Plan, providing additional training where necessary for Public sector and business enterprises.

In the Public Sector segment, this initiative will identify relevant skills gaps in national and county governments and public sector agencies associated with e-commerce. The skills evaluated will vary from department to department, but overall will enable respective public sector employees to undertake their jobs in relation to e-commerce promotion. Many kinds of departments and institutions will need to be addressed, including those involved in procurement, development of and enforcement of law, regulation and standards, and commercial policy areas that will inevitably involve the digitisation of trade.

In the business enterprises segment, an assessment of the skills gap will be carried out. This assessment will define the skills requirement covering the areas listed above, and sample availability across MSMEs and large businesses in all counties, and in rural as well as urban settings. The assessment will require a business survey that asks detailed graded questions to determine the level of awareness in each area.

Having undertaken the business enterprise assessment, modular training courses will be developed and then provided in a way that enables, business owners, managers and technicians to take time away from their work for short periods to learn new skills and then to apply them to their businesses.

5.1.2: Enable lifelong learning about ICT and business by business owners and managers

The objective of this initiative is to establish a programme that provides a continuous digital and business skills training for entrepreneurs and managers, particularly addressing the needs of women owned enterprises and, micro, small and medium businesses. Such access would be provided in small chunks,

enabling owners and managers to continue to operate and manage their businesses while also being trained. It would be open to all, irrespective of age and background. The courses would be provided through TVETs and universities, and through the services established in the Kenya National Digital Master Plan. The training provided within this initiative will build on the digital skills gap assessment, differing from the more general capacity-building programme in its focus on experienced business owners and managers.

5.1.3: Revise the curriculum to address the digital skills gaps/monitor and evaluate the implementation of the competency-based curriculum to ensure desired outcomes

The digital skills gap assessment will be used to inform an assessment of the curriculum at secondary and tertiary levels among participating school boards, TVETs and universities. This will be undertaken under the auspices of the Digital Economy Blueprint 2019 and the Kenya National Digital Master Plan. The intention will be to develop a competency-based curriculum that will provide relevant skills for the digital economy in general and e-commerce in particular. The implementation of this competency-based curriculum will result in graduates at both secondary and tertiary levels having skills directly relevant to the new workplaces.

5.1.4: Increase awareness of the safe-shop environment for e-commerce among citizens

Awareness programmes that are associated with consumer rights and other rights related to e-commerce will be undertaken. These programmes will cover the basic ways of buying goods and services online, having them delivered and paying for them; and identifying pitfalls, problem areas and rights and obligations, including:

- Consumer rights and protection in the digital environment.
- Personal privacy and data protection.
- Digital payments rights and protection.
- Copyright.
- Cyber hygiene

Outcome 5.2: Information, Communication Technologies that meets the needs of Persons with Disability (PWDs) in e-commerce

Access to e-commerce by PWDs requires devices and applications to be designed to meet their needs as merchants or consumers. The initiative here is intended to increase access to e-commerce by such individuals. In some respects, access by this group is likely to make a big difference to their ability to access services more generally, since disability often restricts the ability to travel to shops or to other service points. E-commerce enables them to buy and sell goods and services without leaving their own home.

5.2.1: Develop guidelines for ICT applications that take account of the needs of PWDs

MoIC&DE will work with groups supporting PWDs, adopt best practices and standards and, develop an appropriate regulatory framework including Web Content Accessibility Guidelines, and the design of ICT devices and applications. Further, the Ministry will also prepare guidelines for e-commerce and e-payment applications and undertake an awareness programme in the ICT sector.

F. Pillar 6: Access to finance

Outcome 6.1: Improved access to and availability of investment finance for e-commerce firms across all socioeconomic groups and regions

Improved access to finance is particularly needed for marginalised groups such as PWDs, women and youth, and those that live in rural areas. Access to finance relies upon the following factors:

- The finance sector's understanding of e-commerce and the development life cycle of e-commerce firms.
- Financial services aligned to businesses that often have few assets other than stock that can be used to secure loans, but require substantial amounts of working capital to maintain adequate wares in advance of sales. Particular attention needs to be paid to businesses established by PWDs, women and youth.
- Those businesses that need finance having documentation that demonstrates

that they are sustainable. Documentation showing a trading history and a plan for the use of any finance obtained are essential but often lacking.

- Ease of access to financial institutions. There is a need for events, where those seeking loans can explore options for financing with those who can provide them. The access to finance initiatives are intended to overcome these issues.

6.1.1: Improve the finance sector understanding of e-commerce as an investment opportunity

This initiative recognises that , not all institutions have a good understanding of e-commerce. This initiative will improve the financial sector awareness and understanding of e-commerce as an opportunity for loan financing and investment.

An awareness campaign will be undertaken for investment managers, banking and cooperative societies executives, micro-financing institutions, incubators, Uwezo Fund, the Women's Enterprise Fund, the Youth Enterprise Fund and the County Enterprise Funds, and digital lenders responsible for business loans. The campaign will cover issues and opportunities for lending to and investing in:

- Start-up e-commerce companies.
- Businesses that are adopting e-commerce as a channel to market.

The campaign will cover the needs for finance, including:

- Capital needs and requirements for working capital for purchasing stock.
- Typical cash flow and issues that may arise in e-commerce start-ups and high-growth companies.
- Availability of collateral and securing loans.
- The evaluation of e-commerce financing opportunities.
- Evaluation of financing opportunities from women and youth-led companies.

6.1.2 : Develop e-commerce-specific financing products and services

Individual banks, cooperative societies, micro-financing institutions, SACCOs, the Uwezo Fund, the Women's Enterprise Fund,

the Youth Enterprise Fund, County Enterprise Funds and digital lenders will be tasked with packaging their loans and investment products to meet the needs of e-commerce entrepreneurs. This packaging will include the development of marketing campaigns focused on that segment, the preparation of standard evaluation methods that take account of the unique characteristics of the market and the tailoring of products to its characteristics.

The marketing campaigns will cover the whole of the country, and the ability to sell the e-commerce specific products will be available in all branches where business loans are more generally available. To support this programme, relevant branch staff will be trained in e-commerce focused products, so that they are able to provide the advice and undertake the evaluation necessary to sell the services appropriately.

The opportunity assessment carried out in selling the product will be sensitive to the specific difficulties women and youth face in providing collateral and otherwise applying for finance.

6.1.3 : Sensitise MSMEs and women led enterprises to the need to provide documentation and collateral when applying for finance

This initiative will be coordinated by MITI to address the training of entrepreneurs on financial literacy.

There is an apparent lack of understanding of the need to keep accurate financial statements and accounts among entrepreneurs to manage businesses effectively and provide a financial record when procuring financial services. MITI will engage the financial sector (banks, cooperative societies, micro-financing institutions, incubators, SACCOs and digital lenders) and local business support organisations to raise awareness and develop skills associated with financial literacy.

6.1.4 : Improve linkages between businesses and financial institutions

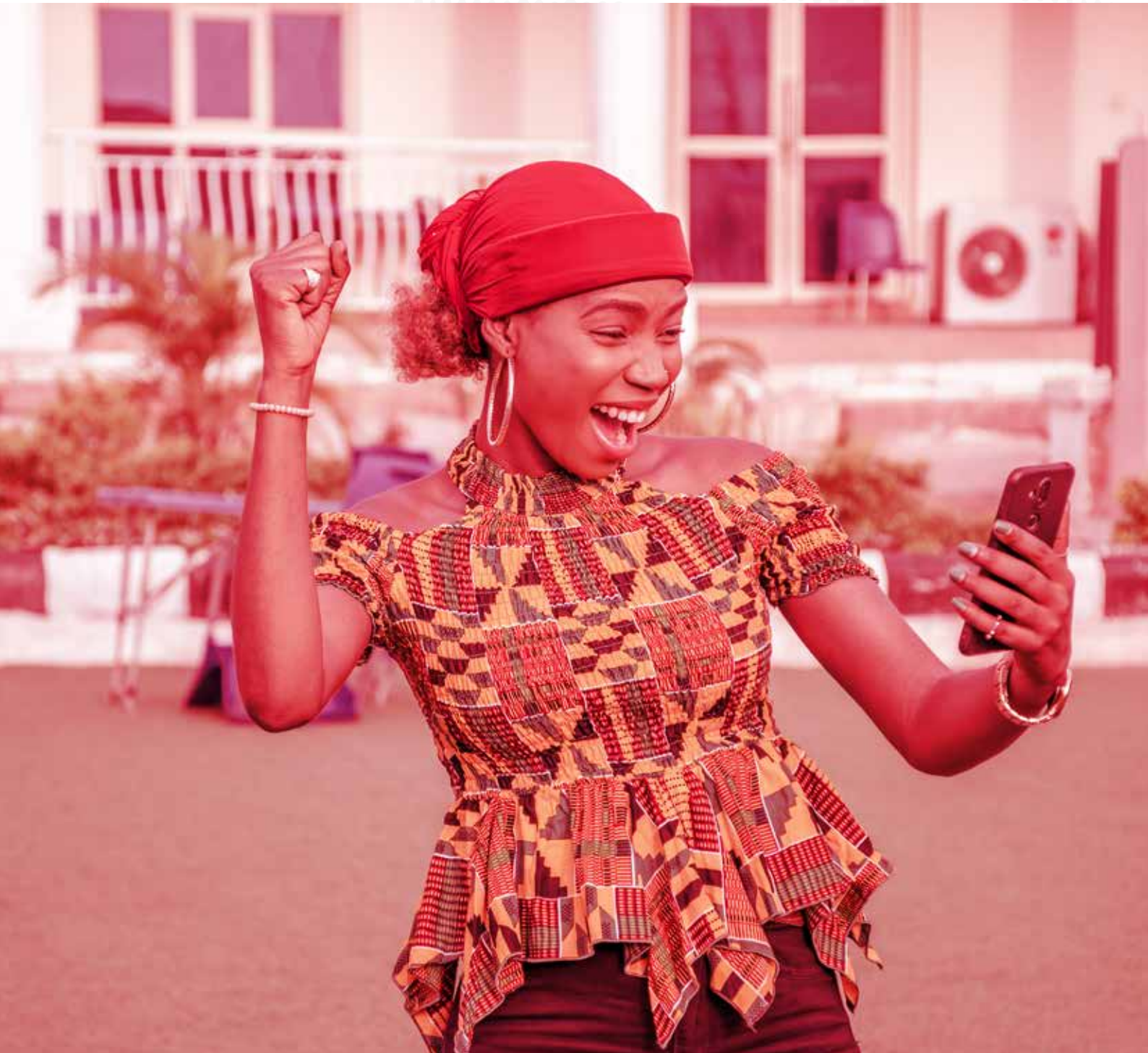
Networking events between businesses, particularly MSMEs and financial institutions,

will be held across the country in regional centres. These events will enable local business owners and managers to discuss their requirements for financing e-commerce and other digital trade proposals. Kenya National Chamber of Commerce and Industry (KNCCI) and the Kenyan Bankers Association (KBA), in conjunction with County chambers of commerce and other business organisations will take the lead role in this initiative.

6.1.5 : Develop investment incentive packages for e-commerce start-ups and businesses founded by PWDs, women and youth

Many financial institutions have dedicated products for women suppliers and farmers.

National and county governments and private institutions have developed funding initiatives for women and youth and marginalised groups who face obstacles to obtain funding from formal banking institutions. There is a need to further support packages for women and youth. The Ministries of Public Service, Gender and Affirmative Action and **MITI**, will undertake research in conjunction with the Women's Enterprise Fund, the Youth Enterprise Fund and county enterprise funds, to determine the gaps associated with financing businesses run by marginalised groups and work with the funds to overcome any identified problems.



V. Institutional framework

A strong institutional framework is needed to ensure that this strategy is fully implemented, and the expected results achieved. The cross-cutting nature of the strategy means that many different parties from the private sector as well as the public sector are involved in its implementation, and hence in allocating resources and decision-making. These parties include government ministries, departments and agencies, county governments, and representatives of commerce, industry, and consumers.

ECS GOVERNANCE

Table 4 Institutional Framework



The institutional framework is, therefore, intended to ensure:

- The strategy remains fit for purpose in a changing environment through stakeholder consultation with and involvement by the private sector.
- Overall programme management is vested in an owning ministry, with particular initiatives managed within the ministry or agency that has the necessary and appropriate powers.
- A strong monitoring and reporting framework supports attainment of the strategic goals; a sufficient set of key performance indicators (KPI) and a comprehensive risk management framework.
- Coordination between public and private sector stakeholders involved in implementing the strategy.
- Increased levels of e-commerce awareness by all relevant actors in the government, counties, business and the general public.
- Availability of statistics about e-commerce necessary for policy formulation and review.

Overall responsibility for e-commerce, as a trade subject, is vested in MITI. The incipient e-commerce section within MITI will manage the e-commerce strategic programme.

Other public sector institutions, business and consumer organisations and individual companies will ultimately be involved in strategy implementation. Those organisations that have responsibility for any initiative will appoint a focal point that will be responsible for the initiative and for reporting progress.

There will also be need to inform a wide set of stakeholders about progress in implementing the strategy. Therefore, the director

responsible for e-commerce within MITI will maintain an “E-commerce Special Interest Group” that will meet from time to time and receive updates about particular subjects as necessary. The communication with inter-ministerial committee and with members of the Special Interest Group will be done through the MITI Principal Secretary. The implementation will be monitored, and progress reported, via the State Department for Planning.

The Kenya National e-trade portal will be extended to provide information about e-commerce and for communication between stakeholders and the public. This will:

- Provide a definitive source of information about e-commerce for the public.
- Act as a repository for training material.
- Support the communication and information needs of agents and stakeholders.
- Ensure that the strategy remains relevant, reflecting current requirements, implementation status and changes, where appropriate.
- Create viability for products from MSME’s and women led enterprises to local and export market

It will be used for information sharing by stakeholders, and will be a public source of information on e-commerce. Information will cover legislation, technology and business services, including ICT, transport, logistics and payment services, applicable standards, tax and duty regimes, training material and events, workshops, guidelines for new products and informational events. Information will be accessible regardless of geographical location.



VI. Monitoring and evaluation framework

Monitoring and evaluation will be key to the success of the strategy. The State Department for Planning, through the Kenya National Bureau of Statistics, will lead the development of an e-commerce statistical framework in coordination with a group of relevant stakeholders, including CBK, CA and MITI. The following components will be included in the statistical framework:

- A list of indicators that will report the performance of e-commerce in Kenya covering all the pillars in this strategy. The indicators will ensure, in particular, that the use and provision of e-commerce by disadvantaged groups – including women, youth and those in rural areas – can be monitored and assessed, and that the proportion of e-commerce services provided by domestic firms can also be monitored and assessed.
- Annual consumer and business surveys to capture performance indicators.
- A method of collecting statistics and other indicators from government departments and counties.
- Training in data collection and subsequent analysis.
- Reporting on the data collected for government and public use.

A. Surveys

The consumer and business e-commerce surveys will be integrated into the standard surveys undertaken by the Kenya National Bureau of Statistics (KNBS) on a regular basis.

The surveys will include selected indicators from those commonly used for evaluating e-commerce and e-payment development, such as described and specified in the Manual for the Production of Statistics on the Digital Economy, 2020 (United Nations Conference on Trade and Development).

B. Key performance indicators

E-commerce national and regional trade statistics and related KPIs for this strategy will be captured by the KNBS. The programme

manager/coordinator will collect other key performance indicators from project focal representatives.

The following KPIs are intended to determine progress in attaining the overall strategic vision and each strategic goal.

1. KPIs related to the strategic mission

These include:

- The proportion of individuals, households and businesses using e-commerce to purchase goods and services, with a breakdown by age, gender and income group.
- The proportion of e-commerce purchases completed using an e-payment service (not cash on delivery).
- The proportion of businesses selling or receiving orders through e-commerce channels, with a breakdown by size, formality and gender.
- The proportion of total turnover in businesses arising from e-commerce sales.
- The proportion of total turnover from exports sales arising from a digital sales channel.

2. KPIs related to the strategic goals

Strategic goal 1: Trust in e-commerce is achieved through increased awareness of and compliance to e-commerce laws and standards.

KPIs include:

- Level of trust reported in the consumer survey.
- Awareness of consumer and merchant rights and obligations reported in the consumer survey.
- Uptake of international standards relevant to e-commerce.

Strategic goal 2: Universal access to e-commerce ICT services by consumers and merchants from all social groups, including women, disadvantaged groups and those in rural and urban areas

KPIs include:

- Feature phone / smartphone / internet penetration overall, in rural areas, among women, people over 60 years and low-income groups.

- Penetration of mobile payment and other financial accounts overall, in rural areas, among women, people over 60 years and low-income groups.
- Telecommunication tariffs: average cost per gigabyte of data per month.
- Average service charge per mobile payment transaction as a percentage of the payment.
- Percentage of merchants with a financial account that can accept e-payments.
- Percentage of interoperability achieved between financial accounts and mobile payment services within and between States especially EAC and Africa

Strategic goal 3: Trade facilitation policies, laws and trade agreements that enable rapid and efficient delivery of e-commerce packages in all areas of Kenya while minimising friction at borders.

KPIs include:

- The proportion of e-commerce packages that transit borders without inspection because they have been pre-cleared.
- The proportion of e-commerce packages for which no duty is levied, due to a de minimis
- limit or because they are delivered in a common market.
- Average delay at borders from processing e-commerce/small parcels.
- Consumer satisfaction with delivery services as reported in consumer surveys.
- Average time taken from ordering to receipt of goods as reported in consumer surveys.
- Percentage of lost and mis-delivered orders.

Strategic goal 4: Low-cost, reliable and secure payment services that inspire trust in domestic and cross-border trade.

KPIs include:

- Average transaction fee as a percentage of transaction value for each service type, including mobile and card payments and, bank transfers.
- Number of fraudulent transactions by payment method.
- Number of transactions by payment method.

Strategic goal 5: The overwhelming majority of the population and businesses including merchants possess skills and human capacity that enables them to use and sell goods and services through e-commerce.

KPIs include:

- Proportion of students at each level of education with basic ICT training.
- The number/proportion of students graduating in ICT subjects.
- The number/proportion of students graduating in law and business studies who have taken courses in e-commerce, ICT or financial services.
- The number of individuals to receive / have received familiarisation and basic skills training in ICT and e-commerce, with separate counts for women, PWDs and elderly persons.

Strategic goal 6: The financial sector has in place necessary laws, regulations and products to finance e-commerce businesses of all sizes and gender.

KPIs include:

- Satisfaction with business financial products as reported in the business survey.

VII. Implementation plan

Implementation of the strategic initiatives will need to be phased in according to their priority. The initiatives cover several areas: policy, law and regulation; human and organisational capacity-building, particularly in customs and in the postal and logistics sector; infrastructure development in transport and ICT; and interoperability, particularly within the financial sector. While measures in these areas might proceed independently, there is a clear dependency that leads to their prioritisation. The implementation plan, therefore, follows the broad prioritisation:

- Policy, legal and regulation.
- Human capacity building.
- Organisational capacity building, including interoperability in telecommunications

and in e-payment services.

- Development of e-commerce platforms.
- Development of road and rail infrastructure.
- Measurement of Results, trends and E-commerce development data

This prioritisation then leads to a timetable for the initiatives, as shown in Table 4, in broad terms (immediate, medium-term, long-term and continuous activity). The table also specifies the expected results, the main actors, an estimate of the manpower (full-time equivalent persons – FTEs) and KPIs. Where main actors refer to ministries, this also includes agencies with appropriate responsibility as assigned by the ministry.

Table 4
Table of initiatives

Ref.	Strategic initiative	Expected results	Main actor(s)	Timing/ priority	Resources	KPIs	Baseline target values
Strategic goal 1: Trust in e-commerce is achieved through increasing awareness of and compliance to e-commerce laws and standards							
Outcome 1.1: Increased compliance and enforcement of existing e-commerce laws							
1.1.1	Enforce existing laws and regulations related to e-commerce	Increased trust and uptake of e-commerce across the country	CA, CAK, MITI	High	2 FTEs	Number of complaints, percentage resolved	First-year number of complaints establishes the baseline
1.1.2	Increase private sector awareness of the need to comply with the existing consumer protection laws	Increased compliance with e-commerce regulations among e-commerce firms	CA, CAK, KECOPAC, MITI	High	2 FTEs	Annual survey on awareness of digital law: consumer protection awareness	First-year survey establishes the baseline
1.1.3	Collaborate with the private sector to ensure the requirements in the Data Protection Act are practical and provide technical support to ensure compliance	Increased compliance with Data Protection Act among e-commerce firms	ODPC, MITI	High	1 FTE	Annual survey on awareness of digital law: satisfaction with data protection initiatives	First-year survey establishes the baseline
1.1.4	Increase public awareness on existing e-commerce legislation	Increased trust and uptake of e-commerce across the country	CA, CAK, KECOPAC, ODPC, MITI, civil society groups	High		Annual consumer survey: awareness of consumer rights under existing legislation	First-year survey establishes the baseline
1.1.5	Extension of routine market surveillance to e-commerce websites	Increased detection of counterfeit goods available on e-commerce websites	MITI	High	1 FTE	Number of counterfeit cases	N/A

Ref.	Strategic initiative	Expected results	Main actor(s)	Timing/ priority	Resources	KPIs	Baseline target values
Outcome 1.2: E-commerce laws that conform to international best practice							
1.2.1	Amend the Consumer Protection Act of 2012 to address the gaps relating to e-commerce	Increased trust and uptake of e-commerce across the country	MITI, CAK, KECOPAC	High	1 FTE for six months	Consumer Protection Act 2012 amended	N/A
1.2.2	Review and simplify tax framework for e-commerce firms	Increased compliance to Digital Service Tax (DST)	Kenya Revenue Authority, Parliament, National Treasury	High	3 FTEs for 6 months	Tax framework simplified	N/A
1.2.3	Establish a legal framework to settle e-commerce disputes	Fast resolution of e-commerce disputes	Judiciary	High	3 FTEs for 6 months	Dispute settlement framework launched	N/A
1.2.4	Develop legal standards for Online Dispute Resolution-ODR	Legal standards for ODR developed	Judiciary, MoIC&DE	Medium	3 FTEs for 6 months	ODR legal standards developed	N/A
1.2.5	Ensure that Kenyan intellectual property law conforms to international best practice	Updated intellectual property law	MITI	High	2 FTEs for 2 years	Revised intellectual property law	N/A
1.2.6	Enacting of the Start-Up Bill 2021	Improved operating environment for start-ups	MITI	High		Kenya Start-up ACT ratified	N/A
Outcome 1.3: Increased adoption of and conformance with national and international standards							
1.3.1	Promote the use of national, regional and international standards and certification	Adoption of standards relevant to e-commerce in Kenya	KEBS, Kenya Institute for Public Policy Research and Analysis, MITI, MoIC&DE, CA	High	2 FTEs for 3 months initially followed by 0.5 FTE	Standards identified and guidelines and training courses prepared	N/A

Ref.	Strategic initiative	Expected results	Main actor(s)	Timing/ priority	Resources	KPIs	Baseline target values
1.3.2	Participate in Africa Organisation for Standardisation and ISO/International Electro-technical Commission technical committees relevant to e-commerce	Adoption of standards relevant to e-commerce in Africa	KEBS, MITI, MoIC&DE	Medium	0.5 FTE	Adoption of e-commerce standards elsewhere in Africa	
Strategic goal 2: Universal access to e-commerce ICT services by consumers and merchants from all social groups, including women, disadvantaged groups and those in rural and urban areas							
Outcome 2.1: Telecommunications networks and services provide broadband access to e-commerce services across the whole country							
Measures in support of this outcome are being undertaken under the Kenya National Digital Master Plan 2022 – 2032 and the National Energy Policy 2014							
Outcome 2.2: E-commerce services support the diverse characteristics of buyer and seller							
2.2.1	Availability of diverse e-commerce platforms	<ul style="list-style-type: none"> • Hosting of e-commerce and related applications remain in Kenya • E-commerce implementation skills developed • Value retained in Kenya • Growth in cross-border E-commerce for social groups • Growth in E-commerce cross-border for Women and the Disadvantaged 	MoIC&DE,CA	Medium	2 FTEs	<p>The number of e-commerce sites hosted in Kenyan data centres</p> <p>The number of end-to-end transactions completed online for domestic and cross-border</p> <p>The number of participants in e-Commerce from all social groups including women and the disadvantaged groups in rural and urban areas</p>	

2.2.2	Promote collaboration between data centres for affordable hosting services and cloud-based e-commerce		MoIC&DE,CA	Medium	1 FTE	
Strategic goal 3: Trade facilitation policies, laws and trade agreements that enable rapid and efficient delivery of e-commerce packages in all areas of Kenya while minimising friction at borders.						
Outcome 3.1: An e-trade policy that supports increased exports and improved national competitiveness through the greater use of ICT in international trade						
3.1.1	Develop an e-commerce policy	E-trade policy developed	MITI, MoIC&DE	High	5 FTEs for 1 year	E-commerce policy enacted by parliament N/A
3.1.2	Expand Kenya National E-trade portal to offer information and visibility of domestic e-trade players to the global environment	The Kenya National E-Trade Portal expanded to include access to E-commerce players	MITI	High		-The number of e-commerce players and other Kenyan enterprises registered in the e-trade portal -The number of online visits and inquiries on the e-trade portal
Outcome 3.2: Transport, postal and courier infrastructure that supports door-to-door delivery of e-commerce packages						
3.2.1	Fast-track the National Addressing System legal framework and Implementation	National Addressing System legal framework in place	MoIC&DE	High	National Assembly	National Addressing Bill 2021 enacted N/A

Ref.	Strategic initiative	Expected results	Main actor(s)	Timing/ priority	Resources	KPIs	Baseline target values
3.2.2	Provide guidelines for alternative means of locating senders and recipients	Adoption of digital location methods by courier services	MITI, MoIC&DE	High	1 FTE for 3 months	The number of courier firms using the methods	0
3.2.3	Enhance domestic transportation infrastructure to enable efficient and timely delivery of e-commerce packages	Improved last-mile delivery in the country	Ministry of Roads and Transport, MITI, PCK	High		<ul style="list-style-type: none"> Percentage of packages delivered next day Percentage of packages delivered in two days Percentage of packages delivered in seven days Percentage of packages lost 	First-year survey results
Outcome 3.3: A legal and regulatory framework for postal and courier services that safeguards customers and meets trade and other statutory requirements, while minimising the regulatory burden							
3.3.1	Encourage the adoption of guidelines for track- and-trace services	Track-and-trace for items provided among smaller logistics companies	MoIC&DE, MITI	Medium	1 FTE	Track-and-trace service availability at courier and border agencies	First-year survey results

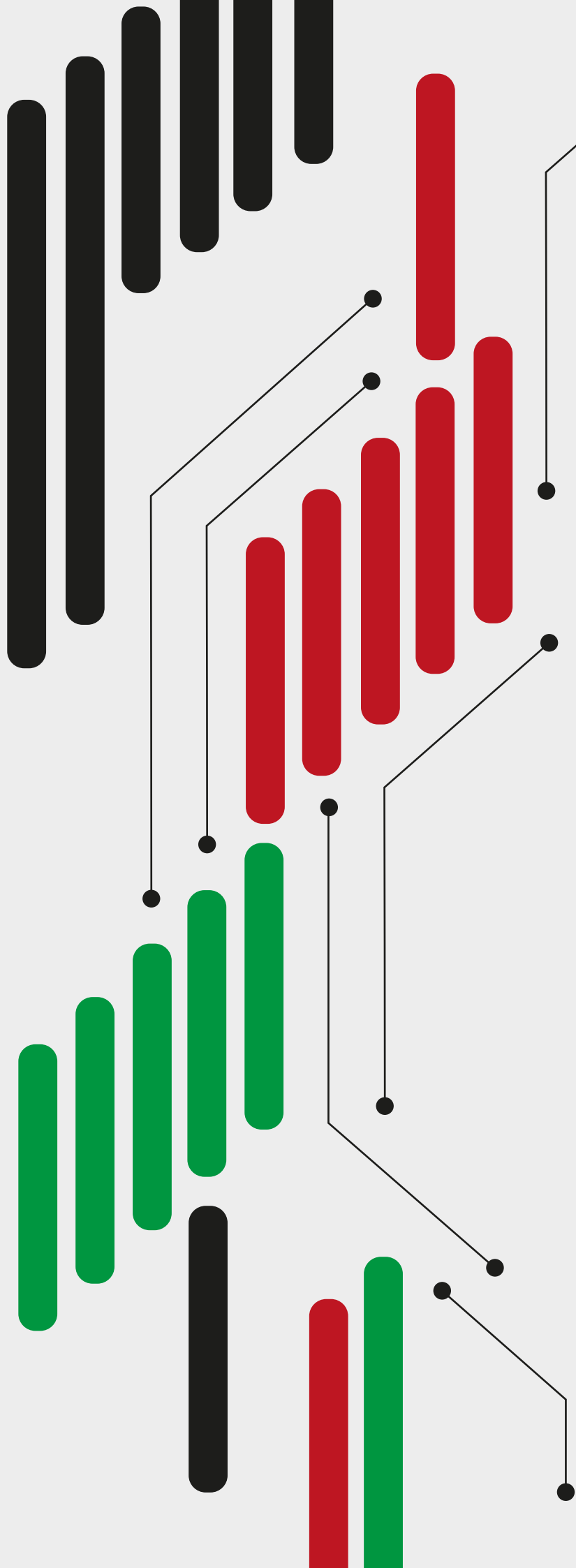
Ref.	Strategic initiative	Expected results	Main actor(s)	Timing/priority	Resources	KPIs	Baseline target values
3.3.2	Streamline overlapping regulatory initiatives on courier and postal services	Reduction in the average number of processes and documents involved in processing clients' applications	MITI, KenTrade	High	3 FTEs for 1 year	<ul style="list-style-type: none"> Length of time required to obtain permissions to establish an e-commerce business by sector Number of processes to be followed to establish an e-commerce business by sector Number of duplicated data requests in processes by sector 	First-year survey results
3.3.3	Enabling alternative delivery services for e-commerce	More rapid and lower-cost delivery of packages	CA	High	1 FTE for 3 months	<ul style="list-style-type: none"> Average urban delivery time Average rural delivery time 	First-year survey results
Strategic goal 4: Low-cost, reliable and secure payment services that inspire trust in domestic and cross-border trade.							
Outcome 4.1: Reduced fraud associated with e-commerce payments							
4.1.1	Improved stakeholder collaboration to mitigate card fraud	Increased consumer confidence in digital payment systems	CBK, KBA	High	1 FTE from each bank and from CBK and KBA	Number of fraud cases per year	First-year survey results
4.1.2	Amend Section 357 of the Penal Code to allow for stringent punishment to those involved in card fraud	Deterrence to those who may be tempted to commit similar offences	National Assembly	Medium	1 FTE for 6 months	Section 357 amended	N/A

Ref.	Strategic initiative	Expected results	Main actor(s)	Timing/priority	Resources	KPIs	Baseline target values
Outcome 4.2: Reduced transaction costs							
4.2.1	Promote competition and efficiency to bring down transaction fees	Lower costs of transactions	CBK, CAK	High	4 FTEs for 1 year	Transaction charges are cost-oriented	Current transaction charges
4.2.2	Review Digital Service Tax to encourage growth of Ecommerce enterprises	Lower transaction costs for mobile and e-commerce payments	Treasury, Kenya Revenue Authority, MoIC&DE	Medium	2 FTEs for 6 months	Levy removed from customers' bills in all cases	N/A
4.2.3	Refine regional and international payment processes	Cross-border traders can access or make payments seamlessly and at an affordable cost	Ministry of EAC ,ASAL and Regional Development	Medium	4 FTEs for 1 year	Transaction times and charges progressively reduced	Current transaction times and charges
Strategic goal 5: The overwhelming majority of the population and businesses including merchants possess skills and human capacity that enables them to use and sell goods and services through e-commerce.							
Outcome 5.1: Increased level of e-commerce awareness and skills among the public, those leaving school, and in small businesses and public sector Organizations							
5.1.1	Conduct business and digital skills gap assessment and implement capacity-building programme for business enterprises and Public sector	More MSMEs transition from offline to online trade	MITI, MoIC&DE, county governments, TVETs	High	4 FTEs for 6 months for skills gap assessment	Number of businesses that have received training	N/A
5.1.2	Enable lifelong learning about ICT and business by business owners and managers	Businesses are kept current in their knowledge of emerging e-commerce services	MITI, MoIC&DE, TVETs, business associations	High	2 FTEs for 6 months to establish the programme	Lifelong learning programme established and maintained	N/A
5.1.3	Revise the curriculum to address the digital skills gaps/ monitor and evaluate the implementation of the competency-based curriculum to ensure desired outcomes	Digital skills curriculum is implemented at different levels of academia	Ministry of Education, business associations, Commission for University Education	Low	4 FTEs for 6 months	Revised curriculum available for each level of education	N/A

Ref.	Strategic initiative	Expected results	Main actor(s)	Timing/ priority	Resources	KPIs	Baseline target values
5.1.4	Conduct a digital skills gap assessment and a capacity building programme for the public sector	A public sector that accommodates and exploits e-commerce	MITI, county governments	High	4 FTEs for 6 months for skills gap assessment	Number of public employees that have received trainings	N/A
5.1.5	Increase awareness of the safe-shop environment for e-commerce among citizens	Increased trust in e-commerce	MITI, business associations, media organisations	Medium	1 FTE	Regular awareness campaigns in media and through business associations	N/A
Outcome 5.2: ICT that meets the needs of PWDs when using ICT in general and e-commerce in particular							
5.2.1	Develop guidelines for ICT applications that take account of the needs of PWDs	Applications that meet the needs of PWDs	MolC&DE	High	2 FTEs for 3 months followed by 1 FTE	The number of accredited websites	N/A
Strategic goal 6: The financial sector has in place necessary laws, regulations and products to finance e-commerce businesses of all sizes and gender.							
Outcome 6.1: Improved access to and availability of investment finance for e-commerce firms across all socioeconomic groups and regions							
6.1.1	Improve the finance sector understanding of e-commerce as an investment opportunity	More financial institutions provide a variety of financial products to e-commerce firms	KBA, CBK, Kenya Private Sector Alliance (KEPSA), Financial Sector Deepening Kenya (FSD Kenya), incubators and other financial institutions	High	3 FTEs for 6 months	Number of business advisors who have been trained	N/A

Ref.	Strategic initiative	Expected results	Main actor(s)	Timing/ priority	Resources	KPIs	Baseline target values
6.1.2	Develop e-commerce-specific financing products and services	More financial institutions provide a variety of financial products to e-commerce firms	KBA, CBK, KEPSA, FSD Kenya, incubators and other financial institutions	High	2 FTEs for 6 months	Proportion of financial institutions with available products	N/A
6.1.3	Sensitise MSMEs and women led enterprises on the need to provide documentation and collateral when applying for finance	More entrepreneurs have the know-how to develop a credit history that can be used to access financing	MITI, KBA, CBK, CRB, incubators and other financial institutions	High	2 FTEs for 6 months	Proportion of financial institutions with guidelines available in their branches and online	N/A
6.1.4	Improve linkages between businesses and financial institutions	Increased networking events between businesses and commercial banks	KNCCI, KBA, CBK, global e-commerce firms, FSD Kenya and financial institutions	High	1 FTE	Surveyed business opinion about the responsiveness of financial institutions to their financial requirements	N/A
6.1.5	Develop investment incentive packages for e-commerce start-ups and businesses founded by PWDs, women and the youth	Increased financing product availability for women, youth and other marginalized groups	MITI , Ministry of Public Service, Gender and Affirmative Action, KEPSA, Women's Enterprise Fund, Youth Enterprise Fund, county enterprise funds and financial institutions	Medium	2 FTEs for 6 months	Proportion of financial institutions that provide incentive packages	N/A





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