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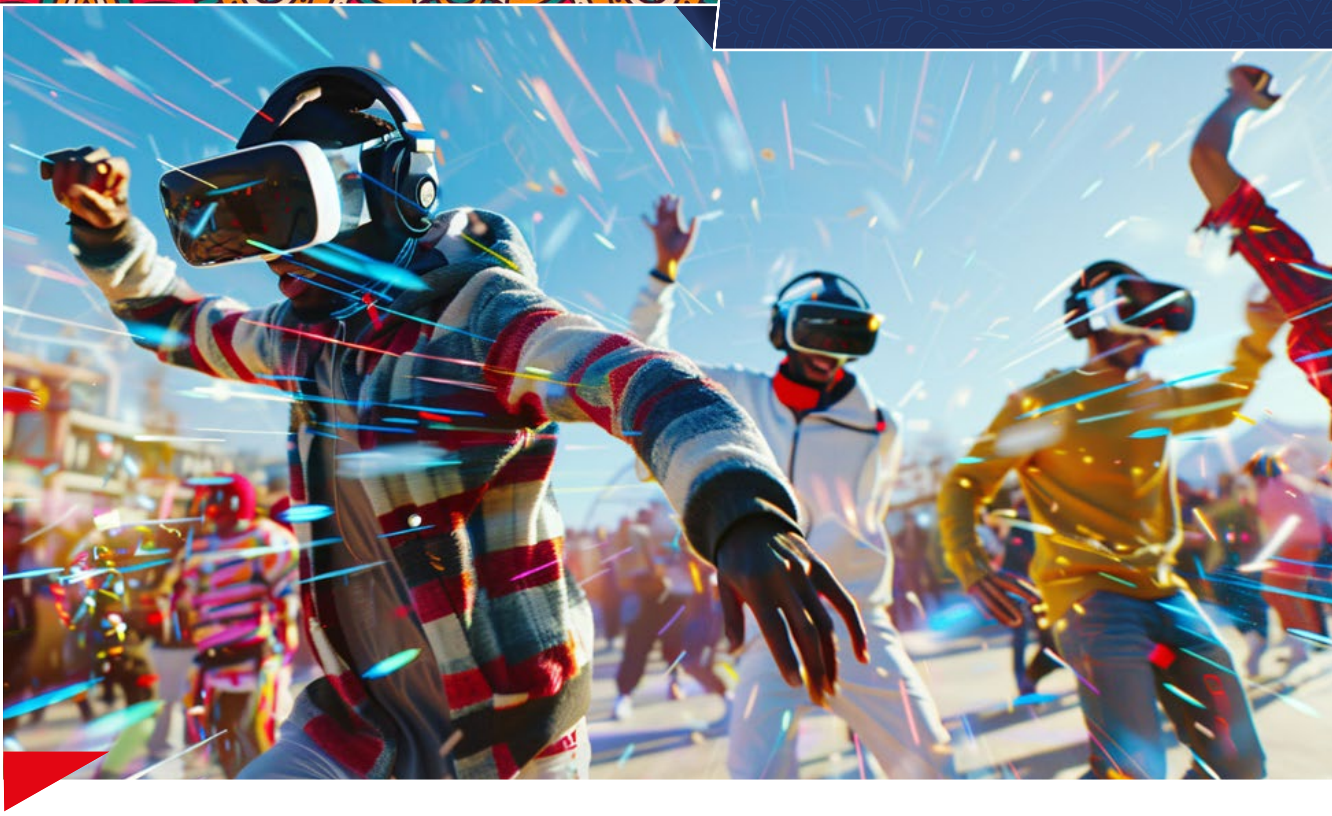

Introduction

We are excited to bring you the Quarter 2 2026 edition of our Sports and Entertainment Law Newsletter. In this edition, we highlight key legal, regulatory, and policy developments that continue to shape and transform Kenya's sports, gaming, and creative industries.

For the Sports sector, we delve into the proposals made in the Finance Bill 2026 on sports betting and the elimination of previous tax exemptions related to horse racing, effectively broadening the tax base within the sport. In preparation of the World Cup 2026 which began on 11th June, 2026, FIFA introduced major rule changes on the Laws of the Game.

On Entertainment, we delve into the proposals made in the Finance Bill 2026 which have the potential to affect the creative industry, namely, the expanded definition on royalties and the introduction of the digital economy withholding tax.

In this Issue, we also highlight the decision by the Court of Appeal which declared sections 22 and 23 of the Computer Misuse and Cybercrimes Act (CMCA) unconstitutional and what it means for creatives. New regulations around gambling advertisements also raise key implications for celebrities, influencers and content creators.

As the sports and entertainment sectors continue to grow and gain traction commercially and globally, legal and regulatory developments remain increasingly relevant for athletes, creatives, businesses, investors and consumers alike.

This newsletter offers valuable insight into these emerging trends, as well as potential risks and opportunities associated with these dynamic industries.

In this Issue, we also highlight the decision by the Court of Appeal which declared sections 22 and 23 of the Computer Misuse and Cybercrimes Act (CMCA) unconstitutional and what it means for creatives.

Sports Sector

Finance Bill 2026 on Sports

The Finance Bill 2026 proposes the reintroduction of a 20% withholding tax on winnings from prize competitions as well as gaming.

Additionally, while the excise duty rate on betting remains at 5%, the bill broadens the tax base such that taxation will no longer be limited to money placed into a betting wallet but would now apply to any funds made available for gambling, including tokens, credits, and chips.

The Bill also seeks to redefine "withdrawals" from the traditional conception of the money withdrawn by a customer from their betting wallet to the amount of money, cash equivalent or money's worth paid or disbursed into the player's account.

The new conception of "withdrawals" as proposed by the Bill would change the tax point for withholding tax from when the player actually withdraws their money from their account to when the money is paid or disbursed into the account.

This is particularly in an effort to seal a loophole that had previously enabled players to evade the tax point by placing additional bets from their winnings instead of withdrawing from their wallet.

Notably, the Bill also proposes to eliminate previous tax exemptions related to horse racing, effectively broadening the tax base within the sport.

Key Implications

- The proposed tax measures, if enacted as they are, effectively increase the participation cost in betting and gaming activities while simultaneously reducing players' net winnings.
- Additionally, betting operators, horse racing stakeholders and even gaming platforms are likely to face increased regulatory compliance and operational burdens due to the revised tax points and broadened tax base.

This necessitates an increased diligence in stakeholders within the betting and sports sector in reviewing their tax compliance structures and operational models in anticipation of the proposed amendments.

For more on the Finance Bill 2026, a summary of the same may be accessed via ***https://koassociates.co.ke/insight/the-finance-bill-2026/***

World Intellectual Property Day 2026

The Kenya Industrial Property Institute (KIPI) marked the World Intellectual Property Day 2026 in two separate events held at Eldoret National Polytechnic and Iten Vocational Training Centre in Eldoret and Iten respectively, on 27th April 2026, featuring a theme of IP and Sports: Ready, Set, Innovate.

This was in collaboration with the Anti-Counterfeit Authority (ACA) and Kenya Copyright Board (KECOBO) as well as the World Intellectual Property Organization (WIPO).

The Principal Secretary for the State Department for Industry, in a speech read on his behalf by the Secretary Administration, highlighted that an effective system of protection of IP would ensure that players in the sports industry are empowered to invest time, money and effort in their talent and innovations and further even earn from them without fearing the infringement of their IP rights.

This followed the launching of a project aimed at benefiting youth-led MSMEs in partnership with WIPO.

Key Implications

- The event signalled a continued emphasis on intellectual property protection, further demonstrating renewed governmental and institutional efforts in recognizing IP as a valuable commercial asset within sports and entertainment.

Stakeholders within the industry, including sports personalities, creatives and MSMEs would benefit from registering their trademarks, copyrights and related IP rights which would safeguard their commercial interests.

Against that backdrop, the industry players should also seek legal guidance on licensing and commercializing opportunities.

FIFA Introduces Major Rule Changes Ahead of the 2026 World Cup

The International Football Association Board (IFAB) has approved several significant amendments to the Laws of the Game, set to take effect during the 2026 FIFA World Cup.

These include stricter disciplinary sanctions for player misconduct, anti-time-wasting measures such as the 10-second substitution rule, expanded VAR intervention powers, and new procedures governing injuries and player treatment.

These amendments are pursuant to an effort to improve game flow, enhance officiating accuracy, and further strengthen the integrity of the sport.

Importantly, FIFA now acknowledges the increased discrimination, abuse and racism faced by different players arising from other players covering their mouths while uttering racist or derogatory remarks.

The latest incident was recorded on 17 February, 2026 in a UEFA Champions League fixture between Real Madrid and Benfica, where Real Madrid player Vinicius Jr. alleged that Benfica winger Gianluca Prestianni used a racist slur toward him during the game that resulted in a 10-minute halt of play. Gianlucca was thereafter suspended for 6 games.

Consequently, players who are seen covering their mouths during a confrontational situation with an opponent may be given a red card by the referee.

Key Implications

- These changes necessitate increased compliance obligations on the part of the players, coaches, clubs and match officials. Said stakeholders need to adapt to a more strictly regulated playing environment.
- The expanded use of VAR and stricter disciplinary measures may as well necessitate and influence tactical and strategic decision-making, player behaviour and match outcomes both at the international and domestic levels.

> *Players who are seen covering their mouths during a confrontational situation with an opponent may be given a red card by the referee.*

It is, therefore, especially relevant for football clubs, federations, coaches and players to familiarize themselves with the new rules and update training, compliance and match preparation protocols accordingly. Sports lawyers and other regulatory professionals should also monitor the implementation of the reforms, considering their potential to influence future disciplinary proceedings, competition regulations and governance standards across the sport.

Case highlight:

In this Issue, we highlight the case of ***Kathure & another v Sports Registrar & 4 others (Constitutional Petition E236 of 2026) [2026] KEHC 5222 (KLR) (Constitutional and Human Rights) (24 April 2026) (Ruling),*** which centered on the Cricket Kenya elections scheduled for 19/4/2026.

The court ultimately struck out the Petition and the application for conservatory orders for want of jurisdiction and non-exhaustion of remedies, for the reason that there was no proof that the Petitioners had sought redress before the Sports Disputes Tribunal (SDT) before filing suit before the High Court of Kenya. This was despite the Petitioners alleging a breach of their constitutional right to access to information.

The relevance of this case is that the SDT remains Kenya's primary first-instance forum for sports-related disputes, handling matters ranging from federation governance and selection and election disputes to contractual claims between athletes and organizations.

The Tribunal's growing body of jurisprudence is an important resource for practitioners operating in this space. Stakeholders should note that Kenyan courts consistently require litigants to exhaust internal dispute resolution mechanisms — including SDT proceedings — before escalating to the High Court, a requirement that, when overlooked, can prove costly.

Entertainment Sector

The Finance Bill 2026, tabled by Treasury Cabinet Secretary John Mbadi, contains several proposals with significant implications for Kenya's creative and entertainment economy.

The Finance Bill 2026 & the Creative Economy

While the Bill is characterised by fewer broad-based tax increases compared to prior years, its targeted measures hit the creative sector with notable precision.

1. *Expanded Definition of Royalties*

The most consequential change for creative-sector practitioners is the proposed rewrite of the definition of royalty in the Income Tax Act. The Bill substantially expands the term to explicitly include payments for the use of any copyright in a literary, artistic or scientific work, as well as films and tapes for radio or television broadcasting, and — critically — payments relating to proprietary digital platforms, payment networks, and software distribution arrangements.

This definitional expansion materially widens the withholding tax net. Musicians earning income from international streaming platforms, filmmakers licensing content to broadcasters, photographers licensing images online, digital influencers monetising content through international platforms, and animation studios licensing intellectual property abroad will all be affected. Practitioners should proactively advise affected clients to review their licensing agreements and payment structures before the proposed July 1, 2026 implementation date.

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2. *Digital Economy Withholding Tax*

The Bill proposes a 20 per cent non-resident withholding tax applicable to certain digital transactions and expands the scope of management or professional fees to include interchange fees and merchant service fees from card-based transactions. Digital platform operators, payment networks, and content aggregators should seek legal advice on whether their transaction structures fall within the expanded definitions.

For more on the Finance Bill 2026, a summary of the same may be accessed via **https://koassociates.co.ke/insight/the-finance-bill-2026/**

The Gambling Control (Advertising) Regulations, 2026

The Betting Control and Licensing Board of Kenya has recently introduced the Advertising Regulations to govern the promotion of gambling activities in the country. This is in an effort to mitigate the heightened risks associated with excessive or irresponsible demand stimulation. The primary aim of the regulations is to ensure that gambling advertising is conducted in a responsible, accurate manner, consistent with public interest considerations.

According to the new regulations, celebrities, content creators and social media influencers are explicitly prohibited from promoting or even merely endorsing gambling activities in any form. This is a manifest effort to reduce the glamorous appeal of gambling activities often propagated by said creatives, particularly to young audiences. Further, the new regulations impose strict guidelines for advertisements on gambling, requiring all promotional content be first vetted and approved by the Kenya Film Classification Board (KFCB) under the Film and Stage Plays Act.

In essence, advertisements are required to include prominent responsible gambling warnings which must constitute at least a third of the advertisement's content and further display the operator's license details as well as authorization. The new regulations further prohibit any gambling advertisements near schools, churches, shopping malls or areas frequented by minors, in an effort to protect vulnerable groups.

Key Implications

- The Regulations significantly restrict the manner in which betting and gambling activities may be marketed. This puts celebrities, influencers and content creators on the spot. Any form of marketing or advertising of said activities by creatives may significantly jeopardize their careers.

Accordingly, betting operators, advertisers and influencers need to immediately review existing endorsement and advertising arrangements for compliance with the new regulations. This also necessitates a reconsideration and reshaping of advertising strategies within the gaming, sports sponsorship and digital content sectors.

Case highlights:

1. **The Court of Appeal Declares sections 22 and 23 of the Computer Misuse and Cybercrimes Act (CMCA) unconstitutional.**

The Court of Appeal, in a landmark decision on 6 March 2026, declared sections 22 and 23 of the CMCA, which effectively criminalised and penalised the publication of certain

forms of false information – fake news – unconstitutional.

This was following a petition by the Bloggers Association of Kenya (BAKE), supported by the media and civil society, arguing that significant portions of the Act, including the aforementioned sections, infringed on and violated fundamental rights and, in particular, freedom of expression, privacy, as well as fair trial protections.

They argued that the provisions under sections 22 and 23 of the CMCA were too broad and would likely result in an injustice, particularly where the publisher of said false information was unaware of the falsity of the information at the point of publication.

The Court reasoned that offences drawing from the said provisions would be difficult to prove in the present age where information which may be held to be false today turns out to be true tomorrow. Accordingly, that would amount to an injustice effectively warranting a declaration of the unconstitutionality of the provisions.

Key Implications

- The decision strengthens constitutional protections on the fundamental rights to freedom of expression and fair trial, effectively limiting the State's ability to criminalize and penalize broadly defined "false information."
- For media, entertainment and digital content industries, the declaration provides greater protection for online expression and creative dissemination of information subject to the laws on defamation and the constitutional limitations on freedom of speech.

While the decision provides greater protection for the media and creators, they should nonetheless remain vigilant and maintain responsible publishing standards.

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