



THE BUSINESS



ADVOCACY FUND  
Supporting Private Public Dialogue

End of project evaluation

Kenya Association of Manufacturers:  
Impact of licensing reforms on  
doing business and competitiveness  
in Kenya

December 2009

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# End of project evaluation

## KAM: impact of licensing reforms

### 1. EXECUTIVE SUMMARY

#### 1.1 Overview

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This report provides the results of an evaluation of an advocacy project undertaken by the Kenya Association of Manufacturers (KAM) intended to reduce significantly the costs of doing business thereby improving the enabling environment with the ultimate objective of encouraging the creation, growth and development of business in Kenya.

The project sought to achieve this goal by addressing the prohibitive and stringent laws, regulations and administrative procedures that impose high costs (compliance, operational etc) on businesses ultimately leading to lower investment and innovation, corruption, reduced income generation and employment growth. The project was funded by the Business Advocacy Fund (BAF) and implemented between June 2007 and August 2008.

The objectives of the evaluation were to determine (a) whether the objectives of the project were achieved, (b) the impact of revised licences on businesses, (c) KAM's relationship with stakeholders, partners and networks, (d) the media coverage achieved and (e) KAM's experience in working with the Business Advocacy Fund (BAF).

The evaluation was conducted over a period of seven days in November and December 2009 and used mainly qualitative methods to collect information from KAM, businesses, government ministries, local authorities, and reviewed secondary data available at BAF project offices and other relevant reports.

#### 1.2 Results, conclusions and recommendations

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##### 1.2.1 Identification and understanding of the issues

The KAM commissioned study on the "Impact of Licensing Reforms on Doing Business and Competitiveness in Kenya" was considered by many in the business community to be the most significant contribution to successful amendment of business regulations in Kenya. The study provided previously unavailable information on the total number of business licences in use in Kenya and developed a criteria and mechanism for review of licences.

The results of the study were (i) identification of a total of 1,325 licences, (ii) development of criteria for the review of licences that included legality, necessity (safety, health and environment), business friendliness and cost of compliance; and (iii) an adapted guillotine mechanism for review of licences.

##### 1.2.2 Development of a common ground and policy position

A government established multi-stakeholder committee, the Regulatory Reform for Business Activity (RRBA) working committee, of which KAM was a key member, reviewed and recommended the elimination of 424 licences, simplification of 607 licences and retention of 294 licences pending further review.

The extensive consultation process used during the licensing review process resulted in support and agreement of the recommendations by all stakeholders and working committee members.

KAM engaged and collaborated with over 32 organisations including government institutions, private sector organisations, business associations, research organisations, local authorities and media organisations in both developing and advocating changes in business regulations. They considered KAM as “credible, trustworthy and representative of the private sector”.

### **1.2.3 Advocate for changes in policy**

KAM held direct negotiations with government in meetings, and conducted media campaigns targeting members of the public, businesses and other stakeholders that aimed to inform and sensitise on licensing reforms and how to advocate for changes in business regulations.

KAM’s business regulation and licensing advocacy initiatives appeared in the electronic media a total of 15 times and 16 articles were published in the main local dailies.

The government reviewed the 1,325 licences recommended by KAM and the working committee on reform and approved the following actions for 1,306 licences: 315 were eliminated, 379 were simplified, 270 were retained, while 342 were retained pending review through budgetary processes and the Licensing laws (Repeals and Amendments) Act.

The result is that a total of 685 licences are still pending further review and approval by government, of which 361 licences have not been approved (109 licences were not eliminated, 228 were not simplified, and 24 were not retained), while 342 were retained and still pending review.

### **1.2.4 Monitoring of implementation of licensing reforms**

The key strategies adapted by KAM to monitor and follow-up the implementation and progress of the licensing reforms were neither effective nor properly executed which resulted in KAM not achieving the expected results and outcomes of this objective.

A key contributory factor was KAM’s lack of any plan detailing the objectives and outputs of what was to be monitored, the methods and responsibilities for monitoring, and the expected results, reporting and feed-back of the process.

This resulted in a lack of systematic implementation of the revised licences by different authorities, uncoordinated and unreliable reporting and information on the status of the licensing reforms, and lack of credible evidence on the impact of the policy changes. Interviews with selected businesses indicated poor sensitisation and awareness, and poor knowledge of the revised licences.

## **1.3 Impact of the revised changes**

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A case study of a food processing business showed no change in the number and costs of licences charged in the period prior to 2006 and after the revised license regime in 2008. The key reasons were poor application of revised licensing regime by local authorities with different levels applying different procedures, and poor knowledge on revised licences by businesses.

Kenya’s ranking on the ease of doing business in the country has deteriorated by 11 positions from 84<sup>th</sup> in 2008 to 95<sup>th</sup> in 2009 according to the World Bank’s “Doing Business Report: 2010” currently the only authoritative source of business regulatory reform information in the country.

### **1.3.1 Relationship with BAF**

KAM considered BAF as a facilitator, and thought that it provided crucial support in advocacy activities that are vital, based on need, and which had an immediate impact. KAM credited BAF for the breakfast meetings with key stakeholders (local authorities), press conferences and media briefings, and facilitation of the Prime Minister’s Round Table talks.

## 1.4 Conclusions

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KAM achieved all its project objectives related to understanding, developing a common policy position, and advocating for a change in business and licensing regulations.

The KAM led and financed study on business licensing was the most crucial contribution to the overall process and changes in licensing reforms through providing credible information and mechanisms for review that earned the support, participation and involvement of stakeholders in the review process.

However KAM's success in monitoring and follow-up on the implementation of the licensing reforms was ineffective and neither the increased public involvement nor sustained government pressure were realised.

## 1.5 Recommendations

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The evaluation recommends that BAF ensures that future advocacy projects;

- i) Include a monitoring and evaluation plan as part of BAF requirements for implementation and funding of advocacy projects.
- ii) Support development of BMOs technical and organization capacity to effectively monitor and follow-up on the policy changes achieved, so as to ensure sustained implementation and realisation of desired results.

## 2. Introduction

The Kenya Association of Manufacturers (KAM) with funding from the Business Advocacy Fund (BAF) implemented an advocacy project that sought to support KAM's involvement in the licensing review process. The purpose was to improve KAM's focus and effectiveness of advocacy activities and guarantee favourable outcomes in support of local competitive manufacturing.

The constraints and challenges imposed by licences on businesses in Kenya were well documented in several studies including the World Bank's "Doing Business Report". However the number of business licences in operation in Kenya and the licensing agencies in charge were not properly documented and hence unquantified. In addition, the process for reviewing existing and new licences as well as the criteria to rationalise these licences was non-existent.

KAM was member of the Working Committee on Regulatory Reform in Kenya that was formed by the government in 2005 to address the detrimental effects of licences on business activity in Kenya. The committee was mandated with the responsibility of reviewing all business licences in Kenya and developing a "guillotine" approach to eliminate unnecessary or redundant licences, while simplifying those that were unnecessary.

Hence KAM's key objective in seeking BAF funding was to support the working committee in identifying and establishing an inventory of all business licences in Kenya, as well as to develop a criteria and process for rationalisation of licences. In addition KAM aimed at sensitising the public, businesses and organisations on the rationalisation and changes to those licences, as well as monitor and follow up on the implementation of the revised changes.

## 3. Background

### 3.1 Kenya Association of Manufacturers

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The Kenya Association of Manufacturers is a membership business association that is owned, funded and managed by its members. KAM has a current membership of 625 members drawn from small, medium and large business enterprises that are classified into 14 sectors and categorised based on activity into either productive, service sectors or affiliate associations.

KAM represents a significant sector and membership in Kenya, and serves as a common voice for manufacturing and other value added sectors in Kenya. Overall manufacturing contributes 10 per cent of GDP to the economy and employs more than 250,000 Kenyans directly. KAM represents 40 per cent of value-added industries in Kenya and its members constitute up to 60 per cent of top taxpayers in Kenya.

KAM is governed by a Board of Directors (BOD), which gives strategic direction to the organisation, and a Secretariat appointed by the BOD, headed by a Chief executive officer (CEO) and supported by professional staff. KAM operations are guided by a Business Development Plan (BDP).

The BOD has formed working committees to facilitate KAM's engagement with government in pursuance of its advocacy agenda. Both the Licensing and Security Committee, and the Standards and Regulatory Affairs Committee are mandated to manage the Business Regulations Project.

Three of KAM's strategic objectives relevant to the Business Regulation Advocacy Project are:

- To advise the government and lobby for its support on policy matters
- To provide and make available relevant business information services to its members
- To provide for and encourage discussions between the private and public sectors on issues which affect the manufacturing sector.

Key achievements relevant to the business regulation advocacy project are:

- Publication of the biennial Kenya Competitive Benchmark Report, Trade Facilitation study, Licensing Reforms in Kenya, the NBA
- Initiated biennial meetings with government, which later developed into the Prime Minister's Round Tables to discuss the NBA
- Developed Regional Business Agenda (RBA) in 2009, through which KAM chapters collaborate with other business associations to identify key areas for government intervention in facilitation of doing business
- Represents manufacturing on government boards and key ministerial committees including the committee on "Infrastructure, Private Sector, Energy and Environment".

### **3.2 The issue**

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Business regulations, licences and administrative procedures have been identified in various studies as a major impediment to the ease of doing business and increased business growth and investment in Kenya. Business licences have been described variously as "cumbersome, prohibitive, excessive, pervasive, confusing, stifling, hindrance etc<sup>i</sup>".

The costs and administrative burden of complying with all licensing requirements imposes high risks and costs on formal business due to the following issues: (i) the numerous (over 1,000) number of licences, (ii) the multiplicity of licences, (iii) the high cost/fees charged, (iv) the administrative burden and time taken to comply, (v) the frequency of licence renewals, (vi) duration and complexity of application procedures, (vii) the dual application and licensing procedures, (viii) the duplication of environmental and other regulations, (ix) dual administration of licences by different agencies and (xii) differences in the standards and quality regulations.

In Kenya these issues are brought about by structural problems which include i) lack of centralised government body with regulatory functions with clearly defined roles, ii) numerous number of government agencies (60) and local authorities (175) authorised to issue new licences, iii) lack of a coordinated regulatory system that provides guidance on the procedure and process on who

should impose regulatory costs on business and citizens and iv) the use of licences as a means of raising revenue by mainly local authorities

The outcome of the high risks and costs imposed by licensing on formal businesses is to hinder the creation, growth and development of businesses, and resultant low investment levels, high unemployment rates, low household incomes, eventually leading to low economic growth rates.

### **3.3 The project**

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KAM sought BAF funding to enable its continued involvement in the licensing review process. The purpose of the project was to bring about a significant reduction in the cost of doing business thereby encouraging more business start-ups. The objectives were:

- Undertake research in licensing and permits
- Hold stakeholder workshops and forums to advocate and lobby for rationalisation of licences
- Develop and execute a communications strategy
- Monitor implementation of the policy changes

The expected outcomes were: i) A position developed on rationalisation of licences, ii) An advocacy position developed in regard to NEMA's two regulations on waste and water quality, iii) A solution to KAM members and private sector issues sought and validity of KAM positions checked and action plans created and followed, iv) Public informed and pressure on the government sustained on how to reduce the cost of starting and maintaining business in Kenya, v) Public kept in the know on implementation of licensing changes, and the government kept on watch and members up-dated on the progress of licensing reforms.

The strategies adopted by KAM to achieve these objectives and outcomes included use of consultants, stakeholder workshops, meetings, lobbying forums and monitoring of results.

The project was implemented over a period of 14 months with the initial project period of 10 months from June 2007 to April 2008, with a no-cost extension up till August 2008. The total project budget was Kshs 2,100,000.

### **3.4 Methodology**

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#### **3.4.1 Evaluation Methodology**

In order to establish KAM success in meeting its project objectives, the evaluation uses the 5 Step Advocacy Model as a basis for assessing the achievement of project results and expected outcomes. This a structured approach that identifies five critical steps considered as "best practice" in the advocacy process. Using the basic activity-output-results-outcome-impact framework, the evaluation seeks to establish whether intended activities were undertaken, their results and compares the achievement of outcomes to those planned. In addition, this evaluation approach will provide lessons on the strengths and weaknesses of the different strategies adopted by KAM and its success in meeting BAF's objectives.

The evaluation used structured and semi-structured interviews to collect data and information from various sources that include KAM project staff, KAM members, Officials of Government Ministries including Trade, Local Government Reform Programme, Finance, Industry, the working committee on Regulatory Reforms, Local Authorities including the Nairobi County Council Licensing Department. Six business enterprises were purposively selected and interviewed. In addition, secondary data including the Doing Business Reports 2008, 2009, 2010), KAM's project proposal, strategy, policy papers, reports and diagnostic studies available at both the BMO office and BAF headquarters were reviewed and analysed.

## 4. Findings and discussion

This section presents the findings of the various activities undertaken by the KAM project and discusses the results and expected outcomes in each of the advocacy steps. Strategies such as capacity building, networks, partnerships and relationships etc are not discussed separately as they form outcomes of various stages in the advocacy process. A key limitation of the evaluation of the KAM project was the lack of a clear monitoring, evaluation and reporting plan for the project which made verification of project activities and results challenging as reports on project activities including training sessions and workshops reports were either unavailable or not readily provided.

### 4.1 Objective 1: Identifying the Issues

#### 4.1.1 Strategies

KAM adopted the following strategies in identifying the issue, who was affected and who needed a solution to the issue.

KAM gathered views from members through both informal meetings and discussions, held formal meetings and discussions with Government agencies, the private sector, business associations, and network organisations.

KAM participated and collaborated with research and multilateral institutions in conducting research on the costs and ease of doing business in Kenya.

#### 4.1.2 Outputs and results

- Three policy briefs were shared with members, the private sector, and government on the manufacturing sector's challenges with regard to business licensing and regulations.
- KAM participated in studies for the "Kenya Competitiveness Benchmark Report" contributing to the improved understanding of regulations and other factors that constrain business.
- KAM represented the private sector at key public national economic forums including the Economic Revitalization Strategy (ERS) and Vision 2030 strategies, and presented the private sector's role, priorities and challenges including business regulations and licensing.

#### 4.1.3 Expected outcomes and discussion of results

- KAM participation in the "Kenya Competitiveness Benchmark" studies has increased the public sector understanding of the costs and challenges that licences impose on business.
- *Increased participation and collaboration with Stakeholders:* KAM established strong relationships with Government entities and institutions and the officials interviewed thought KAM was credible, representative, trustworthy and had the capacity to represent, negotiate and participate in business licensing reform.
- *Improved understanding of the views and concerns of different stakeholders:* KAM success in seeking the views, participation and collaboration of different stakeholders is varied. Small business mainly consisting of micro and small businesses and their associations, enterprise programmes felt that they were not involved or participated in any formal forums called to present and discuss the regulatory issues. They also felt that KAM was an "elitist" organisation that represented "big business interests"
- There were no records either to refute or substantiate these non involvement claims and business regulations are legal obligations that apply evenly across all businesses. However it is worth noting that available data "did not seek to understand" the impact of different types of businesses regarding size, legal status, location, activities and gender etc necessary to establish the relevance and impact of licences reforms on different businesses in Kenya.

- In conclusion, KAM contributed to improved identification and understanding of the issues in licensing and business regulation, as well as enhanced participation and collaboration with government and private sector organisations.

## **4.2 Objective 2: Understanding of the Issue**

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This objective is closely inter-linked to the previous step and builds on the issues identified, and constitutes a key objective of KAM under the BAF business regulations project.

### **4.2.1 Strategies**

- KAM set out to undertake research on the nature of business regulations and licences in Kenya with a view to (i) determining the number of business licences in the Kenya, and (ii) developing criteria and a mechanism for review and rationalisation of licences.
- KAM commissioned Ben Musau, a legal consultant to undertake this study in a process that was open and transparent and which involved preparation of terms of reference, request for proposal (RFP) and selection of a consultant in close consultation with the Regulatory Regulation Reform Working Group members.
- In addition, a similar process was used in identifying and commissioning EMS consultants to undertake a study of new environmental laws and regulations in Kenya with a view to streamlining and harmonising them with other regulations affecting businesses.

### **4.2.2 Outputs and results**

- A study report on “Impact of Licensing Reforms on Doing Business and Competitiveness in Kenya” was submitted and approved after a review and discussions of its contents at a workshop attended by 25 stakeholders in Nairobi.
- Similarly, a report on “Environmental Regulations and Licences and effect on Business in Kenya” was submitted and approved by stakeholders after review and discussion of its contents at a workshop attended by 17 stakeholders.
- The study identified a total of 1,325 licences that faced business in Kenya and developed criteria for reviewing licences that included parameters such as legality, necessity (safety, health and environment), business-friendliness, and the budget effect of the license.

### **4.2.3 Expected outcomes and discussion of results**

- *Improved understanding of the issue:* Both studies met the study objectives and provided an analysis of the issues regarding licensing regime in Kenya, in addition to offering mechanisms for review. Interviews with government officials and other participants showed that the studies (i) were comprehensive and thoroughly executed, (ii) provided an agreeable review mechanism and process, and (iii) provided a framework for continued consultation and partnerships between stakeholders.
- *Enhanced research capability and capacity:* This is a Key objective of the Business Advocacy Fund in Kenya and also a strategic objective of KAM to be the “leading organisation in research based evidence”. KAM’s policy and advocacy staff found their involvement in the research process as “useful” and felt that they benefited from “improved knowledge and skills” in the research process. They also felt confident of managing and leading similar research work.
- When asked why KAM has not translated this capacity and lessons learned to undertaking a study that would provide evidence based data on the impact of regulations on businesses, the advocacy staff said that the costs and scale of such a study were prohibitive.

### 4.3 Objective 3: Development of policy position

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The final agreement on a feasible, value added solution to licensing regulations determines the success of this advocacy objective.

#### 4.3.1 Strategies

Based on successful understanding of licensing issues, KAM in collaboration with the working committee on reform undertook the following activities in developing a common policy position.

- Conducted a review of the 1,325 licences using the criteria and process recommended
- Consulted and discussed with government agencies, private and civil society sector on their views regarding the elimination of various licences.
- Developed a final list of licences for elimination, simplification, harmonisation or retention
- Produced and published a summary report on the regulatory and licensing changes recommended and agreed.

#### 4.3.2 Outputs and results

- KAM and the working committee submitted a report of recommendations on the number of licences for elimination, simplification or retention to the government (MOF, AGs, and Trade & Industry) on 5 March 2007.
- KAM compiled and published the "Licensing Reform in Kenya 2006 Report" intended as an information booklet of the licensing reform process in Kenya.
- According to the "Licensing Reform Report" over 178 regulatory public bodies and private sector organisations were consulted in the review process, in a process described as "thorough, consultative and extensive".

#### 4.3.3 Expected outcomes and discussion of results

Stakeholders and working committee members were supportive of the regulatory and licensing recommendations adopted citing the extensive consultation during the review process as adequate and inclusive.

### 4.4 Objective 4: Influencing policy makers

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#### 4.4.1 Strategies

KAM adopted the following strategies to influence policy makers in advocating for a change in business regulations and licences reforms:

- Direct negotiations and discussions with government ministries, agencies and line departments on the proposed changes in formal meetings and sessions
- KAM developed a communications strategy that targeted members of the public, businesses, and other relevant stakeholders

#### 4.4.2 Outputs and results

The government reviewed the 1,325 licences recommended by KAM and the working committees and accepted and approved the following actions for 1,306 licences

**Table 1: Approved Government Action on Licences**

	KAM Recommended Action	Approved Action by Government
Total No of Licences	1,325	1,306
Elimination	424	315
Simplification	607	379
Retained	294	270
Retained pending discussions		342

- The Government through the Ministry of Finance enacted the elimination and simplification of the above licences through budgetary processes and the Licensing laws (Repeals and Amendments) Act.
- KAM also published information to its members through the normal email circulation, monthly newsletter, and weekly executive briefs and posted the same information on the web-site. Members were also informed about the changes in two annual feed-back forums i.e. the Annual General Meeting and end year cocktail
- KAM also published "The licensing reforms in Kenya 2008 Report" which highlighted the licensing reforms that have taken place over time

### **Relationship with the Media**

KAM felt that their relationship with the media was exemplary and admired by other business membership organisations. The media are quick to contact and consult KAM when they need clarifications on key issues and "recognise" KAM as a major source of business intelligence, as well as a "one stop shop" for information on issues impacting on manufacturing.

KAM, according to the communications department, has "worked hard not only to build but also to maintain this good relationship by always giving feedback to media enquiries and recognising them as one of its key external publics"

### **Results: Media Coverage**

Over the duration of the project, the following business licensing and regulation activities and articles were published in local dailies: six articles were carried in the Daily Nation, two in the Business Daily, two in the Standard Newspaper and two in the People. There was one each in the Kenya Times, Nairobi Star and Financial Post

KAM licensing reform issues appeared in the main electronic media a total of 15 times as follows: Nation TV once, KTN six times, KBC four times, K 24 twice, Citizen TV twice, and one appearance each in Kenya News Agency (KNA) and Bloomberg News. In addition, KAM used the following radio stations to communicate and sensitize the public on business licensing and regulations: KBC radio, Kameme FM, KASS FM, Eastern Broadcasting Corporation, Radio Waumini, Baraka

### **Relationships with other stakeholders**

Increased collaboration and partnership with stakeholders: KAM held regular meetings with key government ministries including the Ministry of Finance, Trade, Industrialization, Local Government, Environment and Natural Resources (MENR), Economic Planning and National Development, Tourism, Justice and Constitutional Affairs, Attorney General, as well as Private Sector Organisations including KEPSA, NBA, FPEAK, FKE etc amongst others. In total KAM worked with 38 institutions, agencies and organisations.

#### **4.4.3 Expected outcomes and discussion of results**

- Enhanced Image: KAM was regarded as a "credible", "trustworthy" and "focused" organisation and "a lead representative" of the private sector by government ministries including Ministry of Finance, Environment, Prime Ministers' Office, Trade, East African Community etc. They stated that they "consulted" or "sought KAM and KEPSA's views in development policies that touched on business include trade and manufacturing issues".
- Dialogue with the Government: KAM is a lead founder and representative of its member at the Prime Minister's Round Table Talks, where the National Business Agenda is discussed and issues and challenges facing businesses resolved expeditiously

## 4.5 Objective 5: Monitoring and follow-up

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### 4.5.1 Strategies

The key strategies adapted by KAM to monitor and follow-up implementation and progress of the licensing reforms were two-fold:

- Organise workshops, business fora and meetings and held discussions with various government ministries to monitor the status and progress of licensing reforms.
- Publicise information on the results of the review process to members and other associations.

### 4.5.2 Outputs and results

- Two meetings were held with Ministry of local government and local authorities from various regions (175 LA) to review the status of licensing administration.
- Prime Minister's Round Table talks and breakfast meetings were held to discuss issues facing businesses including licensing reforms although licensing reforms featured only twice.

### 4.5.3 Results

It was observed that KAM didn't have a plan that charts the results or objectives KAM intends to monitor or a reporting and feed-back plan. The evaluation observed that there were no reports on the sensitisation and review workshops or meetings that were held with either the local authorities or participants.

KAM held two meetings with the Ministry of Finance to discuss the status of the regulatory reform recommendations. KAM was informed that the completion of an electronic licensing register would be operational by February 2010, while completion of the review of the remaining 612 licences was being "managed by the Ministry of Finance".

### 4.5.4 Discussion of results

KAM's goal of informing its members, the public and organisations to support and "guard the reform process" could have been more effective if it availed information relevant and which showed the impact of these changes on business. Businesses cannot support goals to which they cannot relate.

- *Increased knowledge on the new licences and their application:* Both the local authorities and business associations were sensitised on the revised changes and their application through half day workshops sessions. The effectiveness of this method in increasing the level of knowledge is questionable given the mixed standards in the administration of licensing.
- *Public Informed and Sustained Pressure:* Similarly, KAM used the same approach to increase public knowledge on how to sustain and demand for a reduction in the costs of starting and maintaining business in Kenya.
- *Increased knowledge on revised business licences:* *The evaluation* interviewed six purposively selected businesses who showed low levels of knowledge on revised business licences reporting lack of awareness on the licensing reforms, and businesses mates and licensing authorities as the main sources of information on licensing. None claimed to have participated in any forum to discuss the revised licensing regime. In spite of the above findings, KAM communicated effectively with its members through e-mails and in members meetings and forums. In addition, self-reported answers to questions on activities that have immediate relevance elicits activities may not yield very reliable information.

## 5. IMPACT OF THE PROJECT

The expected impact can be categorised into short-term impacts that relate to the purpose of the project and long-term impacts that relate to the goal of the project

- The expected short term impacts of the project were i) reduction in the costs of licences and cost of meeting licensing procedures, ii) increase in the number of businesses created and started and iii) increase in business turnover due to increased business activity.
- The expected medium/long-term impacts and benefits include i) increased business and economic growth ii) improved employment and income for businesses and iii) improved business competitiveness and climate
- The unintended impacts of the project would occur if (i) revised licensing regulations hurt other sectors of the economy or business (ii) increased economic costs of implementation of the licensing reforms and (iii) increased costs of doing businesses due to external factors.
- There is no quantifiable data and evidence on almost all the above impact parameters from either the advocacy project or associated government ministries and partners. Further, it is almost impossible to attribute such changes directly to the very discrete changes brought about by this project. The information available is mainly qualitative data of people's views, observations and non-representative assessment of business.
- It should be noted that the World Bank/IFC's "Doing Business Report: 2010" (DBR) indicated a deterioration in Kenya's ranking in the ease of doing business from position 84 in 2008 to position 95 in 2009 (DBR 2010). Despite limitations in the range and methodology used by the DBR in assessing business regulations, and focus on process rather than impacts the DBR ranking was the chief clarion call and justification used by KAM, RRBA and other stakeholders to consolidate support and advocate for the urgency of changes in business regulations in Kenya in 2007 and 2008.

### 5.1 Impact Assessment

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#### 5.1.1 Economic impact of the project

To address this limitation, and assess the impact and effects of revised licences reviewed impact of business regulations; a case study of food processing businesses was undertaken and is presented in the Appendix section of this report. The key findings are:

- Revised regulations: The revised business regulations resulted in the elimination of five licensing requirements facing our case study, and a reduction in licensing costs by 27 per cent.
- Implementation of revised regulations
  - i) *Number of licences:* The case results show that was no difference in the number of required licences facing or charged by the local authorities to the food processing business in 2006 and 2008.
  - ii) *Cost of licences:* The total cost of the licences (both required and one-off licences) paid by the business were unchanged in both 2006 and 2008.

In other words, despite the revised regulations, local authorities were still charging for old licences that existed prior to 2007 and the case study respondents said they were not aware of the changes.

#### 5.2 Cost effectiveness of the Project

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The total costs budgeted for project activities was Kshs 2.1 m. Planned activities included research studies, seminars and workshops, and publishing of research reports.

The budgeted costs incurred by the project in realizing its project outcomes were (i) Kshs 900,000 or 42 per cent of total project costs for a revised licences regime (ii) Kshs 800,000 or 38 per cent of total costs for publishing the licensing report (iii) Kshs 425,000 in sensitisation workshops, breakfast meetings. The evaluation observed that following expenditures:

- The project undertook all the activities planned in the project design
- In addition, the project undertook additional activities considered critically impactful on businesses and closely related to business regulations. These activities included participation in AGOA cotton conferences, organization of power and energy costs conferences and decongestion meetings, and were reviewed and approved by BAF.
- The project incurred increased costs in the publication of the study report (Kshs 800,000) as a result of both an increase in the size of the report and the number of copies published and distributed.
- The costs of activities aimed at sensitisation, awareness creation, and monitoring of project implementation were significantly of a lesser amount than that of other project activities. Whether this had a bearing on the poor outcomes and achievement of this project objective cannot be established at this stage. However, KAM has realized this constraint and applied and has received funding from BAF to address this objective.

## 6. Relationship with BAF

KAM regarded BAF as a good facilitator of dialogue between KAM and the public sector, the public and other associations and organisations. BAF attributed its crucial meetings with local authorities on important issues affecting businesses to BAF's funding used in organising many stakeholders and affected parties together.

In addition, KAM credits the participation of the private sector in the Prime Minister's round table talks and several breakfast meetings with BAF funding and facilitation.

This facilitation has enabled KAM to respond promptly to urgent concerns of businesses regarding licensing reforms by offering practical support to stakeholders through training and conflict management and resolution activities as well as development of action plans.

KAM recommends that BAF should continue to support such advocacy efforts as they have immediate results. KAM also recognises the lack of empirical data on the impact of business reforms and suggest that BAF should sponsor such a research initiative.

## 7. Lessons learnt

Based on the broad objectives of the KAM project the following lessons can be drawn

- *KAM's collaboration and partnership* with diverse stakeholders including government and bilateral organisations gave it both the credibility and strategic position to promote, "drive" and realise policy changes in licensing reforms in Kenya.
- KAM focussed on its comparative strengths which include research management, coordination and representation of the private sector, successfully to provide well researched study on the process and activities in reviewing the licensing process.
- Improved monitoring and control mechanism during implementation: Achievement in approval of policy changes is only the beginning in implementation and realization of policy change. Lack of an institutional mechanism with a clear plan on what to monitor, the expected results and

responsibilities of monitoring can seriously erode any gains made in bringing about policy change, and contribute to loss of public goodwill and trust.

## 8. Conclusion

Using BAF's objectives the following conclusions can be drawn:

- *Improved research and evidence collection:* KAM managed the research and evidence collection process transparently, leading to achievement of credible, relevant and useful results for all stakeholders in the reform process. However, its application of the same capability and capacity in providing impact based policy information on different levels of Kenyan businesses would provide an opportunity of increasing its image as a "true representative" of the private sector in Kenya.
- *More effective lobbying on regulatory framework.* KAM only realized half the goal of lobbying for changes in the licensing regime as it failed to follow through on the remaining license that still imposes a heavy cost burden on Kenyan businesses. KAM's increased credibility and involvement with stakeholders in the business regulations project provides an opportunity to implement a project that addresses this limitation.

## 9. Recommendations

Three recommendations can be drawn from this evaluation.

- *Increased focus on monitoring and evaluation in advocacy projects:* BAF has a results based approach in its advocacy funded projects. However, the evidence from this project suggests that BMOs are not effective in delivering on the final two steps in the advocacy process, namely: lobbying for adoption of the measure concerned; and monitoring impact once the measure is in force. It is essential that BMOs carry through on their projects and it is incumbent on BAF to see that they do so.
- *BMO capacity building:* BAF's CB programme should show how it can more generally support BMOs to develop the technical and organisational capacity to better ensure positive outcomes and impacts arising from advocacy initiatives.
- *Should this project have involved more BMOs?* KAM essentially represents the organised and (generally) larger scale segments of the private sector, whereas this project covers all businesses. Better outcomes might have been achieved if this had been a project involving KAM and other BMOs covering the full spectrum of businesses in Kenya affected by licensing.

## Appendix 1: Case Study: Restaurant & Food Packaging Business

This case study presents information which seeks to establish whether changes in the costs, number and administrative burden of licences resulted in reduced costs to business as well as providing a snapshot of the effectiveness of the implementation of licensing reforms and the challenges faced by businesses in the country.

**KAMUKI Foods Ltd** is a restaurant and food processing firm that specialises in selling chicken and chicken products, sandwiches, samosas, burgers, bhajias etc to consumers in Nairobi's vast Eastern and Industrial area market. Located on rented premises on Jogoo Road in close proximity to industrial, residential and commercial areas, the enterprise sells its products from its premise and other sales outlets in the industrial area, using six bicycle vans that operate on a mid-morning and afternoon shift.

The business is joint proprietorship and has been in operation for over eight years. It employs 15 persons including the business owner and her husband. The premises include the restaurant room, store, kitchen, food preparation room; the business applied for expansion of the premises by construction of an additional space in 2008.

Data on all licences, fees, levies and other charges for two time periods i.e. 2006 representing the pre-licence enactment period and 2008 representing the post law enactment period was collected from records and accounts of the business and supplemented by detailed discussions with the business owners.

The table below presents the number and type of licences required of the business, the cost paid for each of the licences in 2006 and 2008 and the recommended licence fees and licences as per the revised business regulations enacted in 2007.

**Table 2: Licence fees and charges for 2006, 2008, and recommended rates**

Business licence category	Validity period	Licence fee pre-2006	Licence Fee post-2008	Recommended licence fee
Business permit	1 Year	8,000	8,000	200 to 150,000
Medical certificate	1 pp/year	300	300	500/-Retained
Food hygiene	Annual	300	300	100-1000/= "
Garbage collection	1 Month	100	200	500 per year
Bicycle – sales permit	1 Week	50	100	Incorporated SBP
Bicycle – road licence	1 year	300	300	Non/A
Cess – Per Cess LA – 2	Per chicken	50	50	N/a Eliminated
Drainage – 100 metres	Per request	3,750	3,750	Simplified
Music /TV –	Installation	9,000	9,000	N/a Eliminated
Health inspectorate fee	Each Test	150	150	Eliminate all food & water tests
Building plan – alteration license	Total Per Plan	3,500	3,500	Kshs 1,000 –Retained
Solid waste	Per Service	500	500	500/ Retained
Medical fines	Per Fine	1,500	2500	Council Court
Business name/wall	Per Year	1,500	1,500	N/a Eliminated
Total licences fees	Per year	31,210	22,910	16,700
<u>Other levies</u>				
Electricity	Per Month	8,000	17,850	KPLC User Levy
Water -standing charge	Per Month	300	300	NCCSW fee

*NB: Shaded boxes not included in total cost computation*

### A1.1 Findings of the Case Study

- *Number of Licences charged or facing Business:* The total number of licences paid by the business in 2006 was 14 licences, of which 12 were regular yearly charges and two (music/TV, medical fines, building alteration licence) were one off licences. In 2008 the business paid for 13 licences with 12 as regular yearly licences. The results show that was no difference in the number of regular or required licences facing or charged by the local authorities to the Food Processing Business in both 2006 and 2008.
- *Cost of Licences:* The total cost of the licences (both required and one-off licences) paid by the business in 2006 was Kshs 31,210/= and Kshs 23,260/= in 2008. However, the costs of the regular annual licences and permits paid by the business was 22,910/= in 2006 and 20,860/= in 2008. Hence the costs of licences paid by the business were similar in both 2006 and 2008.
- *Revised Regulations Recommended Licences and Costs:* The total number of licences required to be paid by our case was a total of seven licences. Hence five licences had been eliminated by the revised regulations. The total cost of the recommended licences was Kshs 16,700/=, a reduction of 27 per cent in recommended license fees.
- The cost of Cess for chicken has not been included, as it is never a receipted licence fee except in very exceptional circumstances, and is discussed in the cost benefit section below.

#### Discussion of Results

- *Implementation of the Revised Regulations:* It is clear from the above that the local authorities were still charging for licences and fees that existed prior to those revised and gazetted in 2007. Discussions with six business enterprises including the case study revealed that three of the six entrepreneurs were not aware of the revised licensing regulations, and mentioned colleagues as their main source of information on new licence regulations.
- *Licence Administration:* According to the licensing office of the Nairobi City Council (NCC) the implementation of revised licensing regulations was being effectively administered and pointed to the increased level of businesses complying with the revised regulations as prove. The council observed that "90 per cent" of targeted businesses were complying with payments of the Single Business Permits (SBP) and the council's revenue target of Kshs 1 Billion in 2009 was on track.
- Asked about the licensing fees facing our case study, the officer said that the council's focus on monitoring payment of key licences which form its core revenue base (SBP and land rates) created opportunities for its licensing officers to demand for fees for other licences that were not adequately policed and monitored by the council.
- *Double taxation:* A key detriment towards a reduction in costs of doing business and growth in investment is the continued double taxation of agricultural commodities through Cess. The costs of Cess paid for chicken from rural areas in our case above e.g. Machakos, Kiambu, Kajiado etc attracts a double Cess as each local authority charges Kshs 25 per chicken at each Cess point. The effect is higher product prices for both the business and consumer and lower business turnover.
- *Increase in number of businesses registered and operational:* The Nairobi Licensing Office noted that there was an increase in the number of new business registered over the last two years, with Micro and Small Enterprises constituting the majority of businesses registered and key revenue base. Revenue from the temporary and single business permits was targeted to generate Kshs 1 billion in Licence fees in 2009. However, as stated above, there is no empirical evidence as baseline data to confirm the increase in number or type of business enterprises that had been newly formed due to changes in licensing regulations.

- In conclusion, the reduction in the costs of licences and registration of businesses is dependent on the effective implementation of the revised licensing regime by the authorized institutions and agencies, as well as increased awareness, knowledge and understanding by businesses of the licensing regulations in order to increase their participation, demand and adoption of revised business regulations. From the above assessment both neither were sufficiently and effectively achieved resulting in lack of any significant changes in the costs of business licences imposed or facing businesses over the project period, and hence negating any favourable outcomes and achievement of the desired goals of the project.

## **Appendix 2: List of References**

“Licensing Reforms In Kenya 2008: Impact of doing Business & Kenya’s Competitiveness”, KAM, 2009

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“How to Advocate Effectively: A Guidebook for Business Associations”, The Center for International Private Enterprise (CIPE)

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<sup>i</sup> Various articles including “Licensing reforms in Kenya, 2008”, Daily Nation Newspaper Articles, Doing Business Reports 2009/2010, etc