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CONTENT CREATORS VS. THE TAXMAN: The Battle for Digital Dollars

The government's proposed withholding tax on payments made to content creators in Kenya has sparked mixed reactions from industry players. While it could generate revenue, it may stifle the growth of the creative industry, which is still in its infancy. The proposed tax rate is higher than usual and could discourage existing and potential content creators, leading to reduced creativity and innovation. A holistic approach to developing the creative industry is necessary before imposing new taxes to encourage growth, innovation, and creativity.

The emergence of digital content creation has been a game-changer in the advertising industry globally. With the rise of social media, content creators have found new ways to monetize their creativity and reach a global audience. In Kenya, digital content creation has become an avenue for self-expression and income generation. However, as the industry continues to grow, content creators are facing a new challenge in the form of taxation.

WHT on Monetized Social Media Content

The Finance Bill (2023) published by the Government of Kenya proposes a withholding tax (WHT) of 15% on payments made to content creators beginning 1 September 2023. Analysts point out that the effective tax rate for digital content creators could exceed the 30% threshold that corporations pay. It is noteworthy that the WHT rate for professional services is 5%.

Kenya's creative industry is still developing, and monetization structures are yet to mature. There are an estimated 300 content creators with followers exceeding 100,000, with 5% making meaningful income. Even then, it will take years for Kenyan content creators to accumulate audiences and earnings compared to African leaders like Egypt's Creative Crafts in Five Minutes, Nigerian comedian Mark Angel and Algeria's Oum Walid.

Tax Administration

The new tax measures target work commissioned by corporate organizations as the Finance Bill (2023) stipulates that those paying content creators collect and remit the tax.

The Bill is, however, silent on administering the tax among minors – who form a significant part of the industry. If they are to pay taxes, adult or corporate taxpayers may assume responsibility for their earnings - which poses compliance risks to the parties. The complexity is in the fact that talent management is undeveloped in Kenya.

The proposed measures may seem lopsided to many industry players, who are not formal businesses, now that other creatives in informal music, art, writing, stage, audio and video productions are off the hook.

Government Support and the Development of the Creative Industry

The Talanta Hela Council of the Ministry of Youth Affairs, Sports, and the Arts urgently needs to develop policies to support the growth of the creative industry. For example, Nigeria launched the Investment in Digital and Creative Enterprises (i-DICE) Programme in March 2023 to drive funding for the country's digital and creative industries. i-DICE has pooled USD 618M from various partners to support 650+ tech and creative start-ups. The initiative should generate $6.4 billion in Nigeria's economy and create 6 million new jobs.

Navigating Taxation and Monetization as a Content Creator

Content creators must inevitably navigate the challenges of taxation and monetization. A key measure required to minimize the impact of tax on their net earnings is to embrace the practice of engaging talent managers who are qualified to provide professional advice as they explore various revenue streams, especially those to do with brand partnerships and merchandise sales. Their managers should ensure compliance with tax regulations and keep accurate records of their income and expenses. Many have attempted to do these tasks on their own with disappointing outcomes.

Content creators also need to collaborate and advocate for their rights. They can form industry associations and networks to provide mutual support and share information and best practices. They need to systematically engage with policymakers and regulators to advocate for policies that support the creative industry's growth and protect the content creator's rights.

Conclusion

The battle for digital dollars between content creators and the taxman in emerging markets is a complex and ongoing issue. While taxation is necessary to fund government services and infrastructure, policymakers need to ensure that tax policies do not stifle the growth of the creative industry. Content creators, on the other hand, need to stay informed, seek professional advice, and collaborate to ensure that they can monetize their creativity while remaining compliant with tax regulations.

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