

MEMORANDUM TO KENYA NATIONAL BUREAU OF STATISTICS ON STATISTIC BILL 2026

SUBMITTED TO:



SUBMITTED BY



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ABOUT VIFFA

VIFFA's mission is to support evidence-based enabling policies and programs for MSMEs and Startups in collaboration with enterprise support organisations (ESOs), Business Member organisations (BMOs), Development partners, national government ministries, departments, agencies and county governments.

VIFFA is a founding member of both Association of Startup and SMEs Enablers of Kenya (ASSEK) and Association of countrywide innovation hubs (ACIH) key networks that bring together enterprise support organisations supporting startups and SMEs across Kenya.

VIFFA is part of other innovation networks such as: Virtual Assets Association of Kenya, Blockchain community in Kenya, Data and Infrastructure community of practice under the Kenya Space Agency and Sub-Saharan Africa Skills and Apprenticeship Stakeholders Network Kenya chapter among others

VIFFA's practice areas are: MSMEs, Startups, Innovation, Agriculture, Space, Creative Economy, Digital Economy, Financial Inclusion, Manufacturing, Wholesale and Retail

EXECUTIVE SUMMARY

The Statistics Bill, 2026 introduced by the National Treasury and Economic Planning Cabinet Secretary to repeal and replace the Statistics Act No. 4 of 2006 (Cap. 112) provides a sound and progressive legislative foundation for Kenya's national statistical system. It establishes the Kenya Statistics Authority (KSA) as a successor to KNBS, creates County Statistics Offices, institutionalizes the National Statistical System, and introduces provisions for citizen-generated data, big data, biometric data, and administrative data access. These are welcome innovations that position the Bill substantially ahead of the 2006 Statistics Act it replaces.

However, the Bill was developed prior to or in parallel with several landmark frameworks that Kenya has since adopted, which create new statistical obligations and opportunities not reflected in the Bill's current text. VIFFA's memorandum provides targeted recommendations for aligning the Bill with five such frameworks:

- (1) Kenya National AI Strategy 2025–2030 and the AI and Emerging Technology Policy (expected finalization June 2026)
- (2) Kenya Earth Observation Data Sharing Framework 2026
- (3) ODPC Draft Data Sharing Code (2024/2025)
- (4) Kenya AI and Emerging Technology Policy (under development, 2026); and
- (5) the imperative to include the startup and digital economy as a recognized sub-sector of economic statistics. Each recommendation is grounded in the specific provisions of the Statistics Bill and supported by credible references.

1.0 RECOMMENDATION 1: INTEGRATE AI AND EMERGING TECHNOLOGY PROVISIONS AT NATIONAL AND COUNTY LEVELS

1.1 Current Position in the Statistics Bill

The Statistics Bill recognizes big data (Section 26) and citizen-generated data (Section 25) and requires guidelines on their production, use, and validation. Section 7(2)(b) empowers the Authority to 'establish standards and ensure the use of best practices and methods in the production and dissemination of statistical information.' Section 27 requires secure data processing and storage. The Bill's First Schedule includes 'Information society and digitalization' (item 57) as a statistical domain. However, the Bill does not explicitly address: (a) the use of AI and machine learning in statistical production, compilation, and analysis; (b) the ethical governance of algorithmic statistical outputs; (c) the designation of AI and emerging technology specialist roles within the board of authority, Kenya Statistics Authority or County Statistics Offices; county intergovernmental coordination committee or (d) the statistical measurement of the AI and emerging technology sector itself.

1.2 The Framework Gap

The Kenya National AI Strategy 2025–2030, officially launched on 27 March 2025 by the Ministry of Information, Communications and the Digital Economy, identifies data pillar as one of three foundational pillars alongside AI infrastructure and innovation. The Strategy explicitly calls for harmonized national policies for AI and emerging technologies and for agile legal and regulatory frameworks. It identifies 'AI Digital Infrastructure' and 'Data Research and Development' as two of its six key areas and calls for the development of a structured national monitoring and evaluation framework with clear KPIs a task that squarely falls within the remit of the Kenya Statistics Authority.

Additionally, the Kenya AI and Emerging Technology Policy, led by the Ministry of ICT with KICTANet as implementing partner and supported by the British High Commission, is under active development as of early 2026 with finalization targeted for June 2026. This policy is expected to serve as the 'mother of emerging technologies' providing an overarching framework from which sector-specific strategies including statistical applications of AI can be developed. The Statistics Bill should anticipate this framework and embed foundational provisions that will align with it upon adoption.

The Bill contains no provisions on: (1) AI-assisted statistical data collection, processing, or validation (2) algorithmic transparency requirements for AI-generated statistics; (3) ethical frameworks for automated statistical outputs that may affect constitutional functions such as revenue allocation and electoral delimitation among others (4) designated AI literacy and capability requirements within the Kenya Statistics Authority and County Statistics Offices.

1.3 Specific Recommendations

Recommendation 1A – Amend Section 7 (Functions of the Authority)

Add a new subsection 7(2)(n) to explicitly empower the Kenya Statistics Authority to develop standards and guidelines for the ethical and transparent use of artificial intelligence, machine learning, and automated analytical tools in the production, processing, and dissemination of official statistics consistent with the Kenya National AI Strategy 2025–2030 and the United Nations Fundamental Principles of Official Statistics.

Recommendation: Insert Section 7(2)(n): 'develop and publish guidelines for the use of artificial intelligence, machine learning, and automated analytical methods in the production, processing, validation, and dissemination of official statistics, ensuring transparency, explainability, accuracy, and compliance with applicable ethical standards and the Data Protection Act, 2019.'

Recommendation 1B – Amend Section 26 (Big Data)

Section 26 currently requires the Authority to 'issue guidelines for the production, use and validation of big data for statistical purposes. This should be expanded to explicitly include AI-generated datasets, synthetic data, and outputs of large language models, which are increasingly used as inputs into statistical analysis, but present unique validation, bias, and reliability challenges not addressed by conventional big data frameworks.

Recommendation: Expand Section 26 to read: 'The Authority shall issue guidelines for the production, use, validation, and quality assurance of big data, AI-generated data, synthetic data, and emerging data sources for statistical purposes, including requirements for bias detection, model explainability, and accuracy benchmarking.'

Recommendation 1C – Amend Section 14 (Statistician-General), Section 43 (County Statistician), Section 8 (Board of the Authority) and Section 45 (County Intergovernmental Coordination Committee)

The Statistician-General's qualifications (Section 14), County Statistician (Section 43), board of the authority (Section 8) and County Intergovernmental Coordination Committee (Section 45) mention data science, artificial intelligence, or emerging technology expertise. Given that the Kenya National AI Strategy 2025–2030 identifies data ecosystems as a foundational pillar and that AI will increasingly drive national statistical production, both roles should require demonstrated competence in these areas.

Recommendation: Amend Section 14(2)(b) and Section 43(3)(b) to add 'data science, artificial intelligence, or related computational analytical fields' as qualifying disciplines. Amend Section 14(2) to add a new sub-clause requiring 'demonstrable familiarity with the application of artificial intelligence, machine learning, and emerging technologies in statistical production. Amend section 8 (1) (g) two other members, being persons who have distinguished themselves in the field of statistics, data science, artificial intelligence, or related computational analytical fields. Amend section 45 (1) to align with section 8 (1) adding persons who have distinguished

themselves in the field of statistics, data science, artificial intelligence, or related computational analytical fields.

Recommendation 1D – Add New Section on Emerging Technology Standards

The Bill should include a dedicated provision mirroring the structure of Sections 25 (citizen-generated data) and 26 (big data) on 'Artificial Intelligence and Emerging Technology in Statistics.' This would align the Bill with the Kenya National AI Strategy 2025–2030's call for harmonized national policies and agile legal and regulatory frameworks and anticipate the overarching AI and Emerging Technology Policy expected in June 2026.

Recommendation: Insert new Section 26A: 'Artificial Intelligence and Emerging Technologies in Statistics': (1) The Authority shall develop a framework for the responsible integration of AI, machine learning, and other emerging technologies in the National Statistical System. (2) The framework shall include: (a) ethical standards for algorithmic statistical outputs; (b) requirements for transparency and explainability of AI-assisted analysis; (c) mechanisms for human oversight of automated statistical decisions; and (d) capacity building obligations for Authority staff and County Statistics Offices in AI and data science competencies.'

2.0 RECOMMENDATION 2: ALIGNMENT WITH THE NATIONAL DATA GOVERNANCE POLICY 2026 AND THE PROPOSED NATIONAL DATA GOVERNANCE AND EMERGING TECHNOLOGIES COUNCIL

2.1 Section 39 of the Statistics Bill, 2026 – As Currently Drafted

Section 39 of the Statistics Bill, 2026 reads as follows:

39. Committees of the National Statistical System (1) The Authority may establish inter-agency statistical committees to promote cooperation among stakeholders in the production, management and dissemination of official statistics. (2) The Authority may prescribe the composition, mandate and procedures of such committees.

Section 39 is an enabling provision discretionary in nature ('may establish'), minimalist in design, and silent on the relationship between any NSS committee and other bodies in Kenya's broader data governance ecosystem. It confers power on the Kenya Statistics Authority to create committees but provides no guidance on: the mandatory categories of committees that should exist; the specific institutional actors who should participate; the relationship of these committees to cross-cutting data governance bodies; or the mechanisms for ensuring that statistical committees are informed by, and contribute to, broader national data governance priorities.

2.2 The National Data Governance Policy 2026 – The National Data Governance and Emerging Technologies Council

The Kenya National Data Governance Policy 2026 is being developed by the Ministry of Information, Communications and the Digital Economy (MICDE) following a public sector stakeholder validation workshop held on 5 February 2026, at which the Principal Secretary for

ICT and the Digital Economy, Eng. John Tanui, reaffirmed the Government's commitment to positioning Kenya as a data-driven economy. Implementation of the policy is expected to begin in July 2026 following formal adoption.

The Policy's central institutional innovation is the proposed National Data Governance and Emerging Technologies Council (the Council). The Council's mandate, as announced by the Principal Secretary, encompasses three primary functions:

- ▶ **Policy implementation oversight:** The Council will oversee the implementation of the National Data Governance Policy across all government institutions, establishing accountability for compliance and progress reporting
- ▶ **Standards enforcement:** The Council will enforce data governance standards across the national data ecosystem, including standards for data quality, interoperability, classification, and sharing
- ▶ **National data marketplace development:** The Council will guide the development of a national data marketplace – an initiative directly relevant to statistical data dissemination and access

The Council will be supported by two structures: a strengthened Data Governance Office within the Ministry of ICT; and a multi-stakeholder steering committee drawn from both state and non-state actors. PS Tanui also identified the core challenge the Council is designed to address fragmented legal frameworks, siloed data systems across government institutions, inconsistent standards, and limited capacity in data management and analytics challenges that are equally acute within Kenya's National Statistical System.

The Council's mandate of enforcing standards, overseeing policy implementation, and guiding a national data marketplace is functionally inseparable from the core mandate of the NSS committees proposed under Section 39 of the Statistics Bill.

Without a formal alignment mechanism, Kenya risks establishing two parallel data governance coordination structures that address the same problem from different institutional vantage points: the Kenya Statistics Authority managing statistical data governance, and the Council managing broader national data governance, with no formal interface between them.

GAP ANALYSIS: WHERE SECTION 39 AND THE COUNCIL DIVERGE

The following comparative analysis maps the functional gaps between Section 39 as currently drafted and the Council's proposed mandate, identifying five specific dimensions where alignment is absent:

Dimension	Section 39 – Statistics Bill, 2026	National Data Governance Policy 2026 – National Data Governance and Emerging Technologies Council
Institutional mandate	Establishes NSS committees for statistical cooperation narrowly defined around statistical production and dissemination	Oversees national data governance policy implementation, enforces cross-cutting data standards, and guides the national data marketplace broader mandate encompassing all government data, not only statistical data
Composition of committee	Entirely discretionary the Authority may prescribe composition; no mandatory members specified; no reference to the Ministry of ICT, ODPC, or AI governance bodies	Multi-stakeholder includes state and non-state actors; the Data Governance Office within MICDE serves as secretariat; representation from county governments and development partners anticipated
Standards function	Section 40 requires the Authority to develop statistical standards, but Section 39 committees have no standards enforcement role	Council has an explicit mandate to enforce data governance standards across government directly overlapping with the KSA's statistical standards function under Section 40
Data marketplace	No reference to data dissemination marketplaces, open data platforms, or digital statistical access infrastructure	Council is specifically mandated to 'guide the development of a national data marketplace' statistical data is the most valuable category of government data to include
Relationship to other governance bodies	Section 39 committees operate entirely within the NSS under KSA authority; no linkage to MICDE, ODPC, Kenya Space Agency, AI governance structures, or the Cabinet Committee on data matters	Council is positioned above sector-specific data governance structures it is the overarching coordination body; the NSS should operate within, not parallel to, this structure
Legal status	Permissive. 'The Authority may establish'; no obligation to create any committee; no minimum composition or frequency requirements	Policy-mandated. the Council is a core institutional pillar of the National Data Governance Policy; its establishment is a Policy commitment, not a discretionary option
Scope of data	Official statistics as defined in the Bill – primarily structured, survey-based, and administrative data	All government data – including administrative data, spatial data, AI-generated data, cloud-stored government records, and real-time platform data; statistical data is a sub-category

SPECIFIC RECOMMENDATIONS FOR AMENDING SECTION 39

The following recommendations are designed to align Section 39 with the National Data Governance Policy 2026 and the proposed National Data Governance and Emerging Technologies Council while preserving the Kenya Statistics Authority's professional independence under Section 5 of the Bill and its primacy as the custodian of official statistics. The recommendations are grounded in the principle of complementarity the NSS committees and the Council should reinforce rather than duplicate each other.

Recommendation A – Convert Section 39(1) from Permissive to Mandatory for at Least One Committee

Section 39(1) currently uses the permissive 'may establish.' This means the Kenya Statistics Authority is under no obligation to establish any inter-agency statistical committee at all. The National Data Governance Policy 2026, in contrast, treats the Council as a mandatory institutional pillar. The Statistics Bill should be amended to require the Authority to establish at least one mandatory Data Governance Committee within the NSS, creating a permanent and obligatory interface with the Council.

Proposed amendment to Section 39(1): '(1) The Authority shall establish inter-agency statistical committees to promote cooperation among stakeholders in the production, management and dissemination of official statistics, including a mandatory National Statistical Data Governance Committee responsible for aligning the National Statistical System with national data governance frameworks. The Authority may establish such additional committees as it considers necessary.'

Justification: The National Data Governance Policy's implementation is expected from July 2026. Making the Data Governance Committee mandatory ensures the KSA has a permanent, designated institutional interface with the National Data Governance and Emerging Technologies Council from the date of the Policy's commencement. A permissive provision risks the Committee never being established, leaving the NSS outside the national data governance coordination framework.

Recommendation B – Add a New Section 39(3) Linking the NSS Data Governance Committee to the National Data Governance and Emerging Technologies Council

Section 39 currently has no provision linking NSS committees to any body outside the National Statistical System. The National Data Governance Policy 2026 establishes the Council as the overarching coordination body for all government data governance. A new Section 39(3) should expressly require the National Statistical Data Governance Committee to coordinate with and report to the Council, while preserving the KSA's statistical independence under Section 5.

Proposed new Section 39(3): '(3) The National Statistical Data Governance Committee established under subsection (1) shall – (a) serve as the formal interface between the National

Statistical System and the National Data Governance and Emerging Technologies Council established under the National Data Governance Policy; (b) coordinate the harmonization of statistical data governance standards with national data governance standards issued by the Council; (c) submit an annual report to the Council on the state of data governance within the National Statistical System; and (d) ensure that the production, management and dissemination of official statistics is consistent with national data governance frameworks, without prejudice to the professional and scientific independence of the Authority under section 5.'

Justification: This provision creates the formal institutional bridge between Kenya's two data governance structures the NSS under the Statistics Bill and the broader national data governance framework under the Data Governance Policy. The provision protecting Section 5 independence is essential: statistical independence is a UN Fundamental Principle given force of law under Section 5(2) of the Statistics Bill and must be preserved even as the KSA engages with the Council.

Recommendation C – Specify Mandatory Membership of the National Statistical Data Governance Committee

Section 39(2) currently provides that 'the Authority may prescribe the composition, mandate and procedures of such committees' leaving membership entirely to the KSA's discretion. Given the Council's multi-stakeholder mandate and the cross-cutting nature of data governance, the Statistics Bill should specify a minimum mandatory membership for the National Statistical Data Governance Committee that mirrors the Council's stakeholder architecture and ensures coherence between the two bodies.

Proposed amendment to Section 39(2): '(2) The Authority shall prescribe the composition, mandate and procedures of the committees established under subsection (1), provided that the National Statistical Data Governance Committee shall include, at a minimum – (a) the Statistician-General, who shall be the Chairperson; (b) a representative of the Ministry responsible for ICT and the Digital Economy; (c) the Data Protection Commissioner or a designated representative; (d) a representative of the Council of Governors; (e) a representative of the Kenya Space Agency, in respect of Earth observation statistical data; (f) a representative of the ICT Authority; (g) two persons representing producers of official statistics within the private sector and academia; and (h) such other members as the Authority may determine, having regard to the principle of stakeholder inclusion.'

Justification: These members directly mirror the cross-institutional mandate of the National Data Governance and Emerging Technologies Council, ensuring that the NSS Data Governance Committee can meaningfully interface with the Council's work. The inclusion of the Kenya Space Agency reflects the alignment recommendation on the Kenya Earth Observation Data Sharing Framework 2026. The Council of Governors' inclusion ensures county-level data governance is represented, consistent with the National Data Governance Policy's mandate to address county government data silos.

Proposed Member / Body	Existing Mandate / Role	How They Bridge Section 39 and the Data Council
Statistician-General (Chair)	Chief executive of the Kenya Statistics Authority; custodian of official statistics; secretary to the KSA Board	Provides statistical authority and professional independence; anchors the committee within the NSS mandate; ensures all committee outputs are grounded in official statistics principles
Ministry of ICT – Data Governance Office	Strengthened Data Governance Office within MICDE serves as secretariat to the National Data Governance and Emerging Technologies Council	Direct institutional link between the NSS Data Governance Committee and the Council; ensures KSA receives and contributes to Council workstreams on standards and the national data marketplace
Data Protection Commissioner	ODPC: independent authority mandated to oversee and enforce the Data Protection Act, 2019; already a Board member of the KSA under Section 8(1)(f)	Already embedded in KSA governance their inclusion in the Committee operationalizes this relationship at the working level; ensures statistical data collection, sharing, and dissemination complies with data protection standards and the ODPC Data Sharing Code
Council of Governors	Represents 47 county governments: County Statistics Offices established under Part V of the Statistics Bill report to county governments	Addresses the national data governance challenge of county-level data silos; ensures county-level statistical data governance aligns with both the NSS Code of Practice (Section 46) and the Council's national standards
Kenya Space Agency	Mandated under the Kenya Space Agency Order, 2017 to promote and coordinate space-related activities; custodian of Taifa-1 Earth observation data; chairs the National Earth Observation Data Council (NEODC) established 23 March 2026	Links the NEODC governance structure to the NSS Data Governance Committee; ensures Earth observation data used for statistical purposes under Section 26 is governed under consistent standards across both bodies
ICT Authority	Responsible for ICT infrastructure standards, digital economy oversight, and government technology interoperability across Kenya	Provides digital infrastructure expertise critical to the national data marketplace; ensures NSS digital dissemination systems are interoperable with the government-wide data architecture governed by the Council
Private sector and academia (2 members)	Representatives of non-state statistical producers, research institutions, and data users	Embeds non-state perspectives in NSS data governance; ensures statistical standards reflect the needs of researchers, businesses, and civil society consistent with the Council's multi-stakeholder steering committee model

Recommendation D – insert new section 39a: statistical data governance standards

The National Data Governance Policy 2026 identifies as a core challenge 'inconsistent standards' across government data systems. The Council is specifically mandated to 'enforce standards.' The Statistics Bill currently addresses statistical standards only in Section 40 (Harmonization), which focuses on standards within the NSS. A new Section 39A would create a formal two-way standards alignment mechanism between the KSA and the Council, ensuring that: (a) statistical standards issued by the KSA under Section 40 are notified to and recognized by the Council; and (b) national data governance standards issued by the Council are incorporated into the NSS Code of Practice under Section 46.

Proposed new Section 39A – Statistical Data Governance Standards: '39A. (1) The Authority shall, in developing and issuing statistical standards under section 40, consult the National Data Governance and Emerging Technologies Council and ensure that such standards are aligned with applicable national data governance standards. (2) The Authority shall notify the Council of all statistical standards issued under section 40 within thirty days of their publication. (3) Where the Council issues national data governance standards that affect the production, management, or dissemination of official statistics, the Authority shall review and, where appropriate, incorporate such standards into the Code of Practice issued under section 7(2)(k) within six months of their issuance. (4) In the event of a conflict between a statistical standard issued by the Authority and a data governance standard issued by the Council, the Authority shall seek resolution through the National Statistical Data Governance Committee, provided that the professional independence of the Authority under section 5 shall always be preserved.

Justification: This provision operationalizes the relationship between the KSA's statistical standards mandate (Section 40) and the Council's standards enforcement mandate under the National Data Governance Policy. The six-month incorporation period is consistent with international best practice for standards harmonization processes. The conflict resolution mechanism is critical: without it, overlapping standards mandates between the Council and the KSA could produce contradictory requirements for producers of official statistics.

Recommendation E – align section 39 with the national data marketplace mandate

The National Data Governance Policy 2026 mandates the Council to guide the development of a national data marketplace. Official statistics GDP data, census data, FinAccess data, agricultural production statistics, population health data are the highest-value category of government data that would form the backbone of any national data marketplace.

The Statistics Bill is silent on the Authority's role in a national data marketplace, creating a risk that official statistics are excluded from, or inappropriately included in, a marketplace without the KSA's authoritative input.

Proposed new Section 39(4): '(4) The National Statistical Data Governance Committee shall – (a) advise the National Data Governance and Emerging Technologies Council on the conditions, standards, access frameworks, and pricing principles applicable to official statistics within the national data marketplace; (b) develop and publish access protocols governing the use of official statistical data within the national data marketplace, consistent with the confidentiality protections under section 29 and the data access provisions under sections 23 and 24; and (c) ensure that the dissemination of official statistics through any national data marketplace complies with the restriction on disclosure provisions under section 29 and the Authority's data quality standards under section 40.'

Justification: Official statistics are subject to strict confidentiality protections under Section 29 of the Statistics Bill. Any national data marketplace must therefore incorporate KSA-designed access protocols that protect individual-level confidentiality while enabling aggregate data access.

Designating the National Statistical Data Governance Committee as the authoritative advisor on this matter ensures that the KSA as the constitutional custodian of official statistics retains effective control over how its data flows into the marketplace, consistent with Section 57's designation of statistical data as a matter of constitutional importance.

3.0 RECOMMENDATION 3: ALIGN WITH THE KENYA EARTH OBSERVATION DATA SHARING FRAMEWORK 2026

3.1 Current Position in the Statistics Bill

The Statistics Bill's First Schedule includes 'Environmental statistics' (items 35–40) covering environmental conditions, resources, hazardous events, and environmental protection. Section 24 provides for access to administrative data from national and county government entities. Section 37 includes 'statistical units of ministries, State departments and agencies of the National Government' within the National Statistical System.

However, the Bill does not: mention Earth observation (EO) data or satellite-derived data as a recognized statistical data source; establish an institutional linkage between the Kenya Statistics Authority and the Kenya Space Agency (KSA); or provide for geospatial and satellite data as a category of statistical information that the Authority has a mandate to coordinate and validate.

3.2 The Framework Gap

The Kenya Earth Observation Data Sharing Framework 2026 was officially launched on 24 March 2026 by the Kenya Space Agency (KSA) in partnership with the British High Commission, the Research Institute for Innovation and Sustainability (RIIS), and VIFFA Consult. The Framework establishes a National Earth Observation Data Council (NEODC) as the central body responsible for coordinating, overseeing, and guiding the management of Earth observation data across government, academia, private sector, and development partners.

The Framework's stakeholder meeting in February 2026 explicitly included KNBS (now to become KSA under the Statistics Bill) as a key participant, alongside the Kenya Meteorological Department and the ICT Authority. This establishes a direct institutional linkage that the Statistics Bill should formalize.

Current Gap: The Statistics Bill does not mention Earth observation, satellite-derived data, geospatial data, or the Kenya Space Agency as an institutional partner in the National Statistical System. The environmental statistics provisions (First Schedule, items 35–40) are not linked to EO data standards, classification systems, or coordination with KSA or the NEODC.

3.3 Specific Recommendations

Recommendation 3A – Amend the Definition of 'Big Data' in Section 2

The current definition of 'big data' in Section 2 ('large, complex and high-frequency datasets generated primarily outside the traditional statistical system') should be expressly extended to include Earth observation data and satellite-derived datasets, which meet this definition but require specific governance, technical standards, and interoperability frameworks that differ from conventional big data sources.

Recommendation: Amend Section 2 to add: "Earth Observation data" means data derived from satellite-based remote sensing, aerial surveys, ground-based sensors, or geospatial platforms,

including data generated by national satellites or under international data-sharing agreements, used for statistical purposes.'

Recommendation 3B – Add Kenya Space Agency to Section 37 (National Statistical System Composition)

Section 37 defines the composition of the National Statistical System. The Kenya Space Agency should be explicitly included as a statistical data partner within the NSS, given its operational mandate under the Kenya Space Agency Order of 2017 and its role as the custodian of Taifa-1 satellite data and the Earth Observation Data Sharing Framework 2026.

Recommendation: Amend Section 37 to add: '(g) the Kenya Space Agency, in respect of Earth observation, satellite-derived geospatial and environmental data used for statistical purposes.' Add a corresponding obligation under Section 24 (Access to Administrative Data) requiring the Kenya Space Agency to provide relevant EO data to the Authority upon request for statistical purposes.

Recommendation 3C – Amend Section 40 (Harmonization) to include EO Data Standards

Section 40 requires the Authority to 'develop and issue standards, classifications, methodologies and procedures' for official statistics. This should explicitly extend to geospatial and Earth observation data standards, requiring alignment with the NEODC governance framework established under the Kenya Earth Observation Data Sharing Framework 2026.

Recommendation: Amend Section 40 to add: 'Without prejudice to the generality of this section, standards issued under this section shall include geospatial data classification, metadata standards for Earth observation datasets, and interoperability protocols with the National Earth Observation Data Council established under the Kenya Earth Observation Data Sharing Framework, 2026.'

Recommendation 3D – Include Geospatial and Satellite Data as Permitted Statistical Source

Add 'geospatial and Earth observation data' to Section 20 (Collection of Statistical Data) and Section 26 (Big Data) as a recognized source of statistical information, subject to the governance frameworks established under the Kenya Space Agency Act and the Kenya Earth Observation Data Sharing Framework 2026.

Recommendation: Milestone 6 of Kenya's OGP National Action Plan 2023–2027, commits Kenya to 'publishing of government satellite data for use in planning, monitoring and innovation as open data to support climate change initiatives, planning, innovation and service delivery.' The Statistics Bill should explicitly enable the Kenya Statistics Authority to collect, validate, and disseminate statistics derived from this satellite and Earth observation data complementing the Kenya Space Agency's role as the publisher of the data with the KSA's role as the institution responsible for converting that data into validated official statistics."

4.0 RECOMMENDATION 4: ALIGN WITH THE ODPC DATA SHARING CODE (2024/2025)

4.1 Current Position in the Statistics Bill

The Statistics Bill addresses data sharing in several provisions: Section 23 (Access to Information), Section 24 (Access to Administrative Data), Section 29 (Restriction on Disclosure of Information), Section 30 (Provision of Special Information), and Section 27 (Secure Data Processing and Storage). Section 24(3) provides that confidentiality or secrecy provisions in other laws shall not prevent administrative data from being provided for statistical purposes 'unless that law expressly excludes such use.' Section 66 establishes the supremacy of the Statistics Act over conflicting written laws. Section 8(1)(f) includes the Data Protection Commissioner as a member of the Board of the Kenya Statistics Authority.

4.2 The Framework Gap

The Office of the Data Protection Commissioner (ODPC) published a Draft Data Sharing Code in June 2024, with a finalized version issued in March 2025. The Data Sharing Code establishes principles and procedural requirements for data sharing by public and private entities under the Data Protection Act, 2019, including: the requirement for a lawful basis for data sharing; data minimization and purpose limitation requirements; data subject rights in the context of data sharing; the conditions for sharing sensitive personal data; and data sharing agreements as legal instruments. The Future of Privacy Forum submitted formal comments to the ODPC on the Draft Data Sharing Code on 6 January 2025, highlighting the importance of aligning sector-specific data access provisions with the Code's framework.

The Statistics Bill's data access provisions particularly Sections 23 and 24 do not reference the Data Sharing Code or establish clear alignment mechanisms with it. Section 24(3)'s override provision could create legal uncertainty about whether statistical access to administrative data must comply with the ODPC's Data Sharing Code requirements, since the Code derives from the Data Protection Act rather than creating a competing confidentiality framework. The inclusion of the Data Protection Commissioner on the Board (Section 8(1)(f)) is a positive step but does not resolve the substantive alignment gap.

Current Gap: The Bill does not: reference the ODPC Data Sharing Code as a governing framework for statistical data sharing; prescribe data sharing agreements or memoranda of understanding as procedural requirements for administrative data access under Section 24; require that statistical data sharing comply with data minimization and purpose limitation principles under the Data Protection Act; or establish a formal consultation protocol between the Kenya Statistics Authority and the ODPC on data sharing matters.

4.3 Specific Recommendations

Recommendation 4A — Amend Section 24 to Align with the ODPC Data Sharing Code

Section 24 (Access to Administrative Data) should be amended to expressly require that administrative data access under this section be conducted in compliance with the ODPC Data Sharing Code and the Data Protection Act, 2019, including the requirement for a documented lawful basis, data minimization, and purpose limitation. The statistical purpose exemption (Section 24(3)) should be explicitly preserved while ensuring it operates within, not above, the Data Sharing Code framework.

Recommendation: Amend Section 24(4): 'Access to administrative data under this section shall be conducted in accordance with the Data Protection Act, 2019 and any guidelines or codes issued by the Data Protection Commissioner, including the Data Sharing Code, save that compliance with confidentiality provisions in other laws shall not be required where statistical use is the purpose, consistent with subsection (3).'

Recommendation 4B — Require Formal Data Sharing Agreements for Administrative Data Access

The ODPC Data Sharing Code requires formal data sharing agreements as the legal instrument governing cross-agency data transfers. The Statistics Bill should mandate that administrative data access under Section 24 be formalized through data sharing agreements or memoranda of understanding specifying the data categories, purpose, retention, and security measures aligning with the ODPC Code's procedural requirements and creating an auditable access trail.

Recommendation: Add Section 24(5): 'The Authority shall enter into a data sharing agreement with each public entity from which administrative data is requested under this section, specifying the data categories, statistical purpose, retention period, security measures, and disposal procedures, in accordance with any guidelines issued by the Data Protection Commissioner.'

Recommendation 4C — Expand Section 29 to Reference the Data Sharing Code

Section 29 (Restriction on Disclosure of Information) prohibits publication of information identifying individuals but does not explicitly reference the ODPC Data Sharing Code's broader framework for managing disclosure risks in data sharing arrangements.

Section 29 should reference the Data Sharing Code as the governing framework for any inter-agency statistical data sharing by the Authority, ensuring consistency between the Statistics Act's confidentiality regime and the ODPC's cross-sectoral data governance framework.

Recommendation: Amend Section 29 to add: '(3) In managing the disclosure of statistical data between the Authority and other entities within the National Statistical System, the Authority shall comply with the Data Sharing Code issued by the Data Protection Commissioner under the Data Protection Act, 2019, and shall implement appropriate technical and organizational measures to prevent re-identification of individuals.'

5.0 RECOMMENDATION 5: ALIGN WITH KENYA AI AND EMERGING TECHNOLOGY POLICY (UNDER DEVELOPMENT – 2026)

5.1 Context and Policy Status

Kenya's AI and Emerging Technology Policy is under active development as of May 2026, led by the Ministry of Information, Communications and the Digital Economy with KICTANet as the lead implementing partner, supported by the British High Commission. The policy was described at its launch in January 2026 as the 'mother of emerging technologies' an overarching framework above sector-specific strategies. The target for finalization is June 2026, with substantial drafts expected by March 2026. A five-phase work plan includes scoping, drafting, consultations, finalization, and implementation. The Statistics Bill, if enacted on a comparable timeline, should include provisions that can readily absorb and operationalize the AI and Emerging Technology Policy's statistical obligations.

5.2 Recommended Future-Proofing Provisions

Recommendation 5A – Enable AI Policy Integration through Section 65 Regulations
Section 65 (Regulations) empowers the Cabinet Secretary, in consultation with the Board, to make regulations on a range of statistical matters.

The Bill should explicitly extend this power to include regulations on 'the use of artificial intelligence and emerging technologies in official statistical production,' enabling rapid regulatory response once the AI and Emerging Technology Policy is finalized without requiring fresh primary legislation.

Recommendation: Amend Section 65(2) to add new sub-clause: '(k) the integration of artificial intelligence, machine learning, and emerging technologies in the collection, processing, analysis, and dissemination of official statistics, including ethical standards, transparency requirements, and human oversight mechanisms, consistent with any national AI or emerging technology policy in force.'

Recommendation 5B – Include AI and Emerging Technology Statistics in the National Statistical System Coordination Mandate

Section 38 empowers the Authority to coordinate the National Statistical System. This coordination mandate should explicitly extend to statistical activities relating to the AI and digital economy including statistics produced by the ICT Authority, the Communications Authority, and private sector platforms to ensure that AI-related data flows are governed within a unified statistical framework aligned with the emerging AI and Emerging Technology Policy.

Recommendation: Amend Section 39 (Committees of the NSS) to add: 'The Authority shall establish an AI and Digital Economy Statistics Committee comprising representatives of the ICT Authority, Communications Authority of Kenya, Kenya Revenue Authority, ODPC, and private sector AI and digital economy associations, to coordinate the collection, validation, and dissemination of statistics on AI adoption, digital economy output, and emerging technology deployment.'

Recommendation 5C – Algorithmic Accountability for Statistics Used in Constitutional Functions

Section 57 of the Bill declares that statistical data shall support revenue allocation, electoral boundary delimitation, affirmative action, and socio-economic rights planning recognizing these as matters of constitutional importance. The use of AI or algorithmic tools to produce statistics for these purposes creates specific accountability risks. The Bill should prohibit the use of unvalidated AI-generated statistics for constitutional functions, consistent with the risk-based approach of the emerging AI regulatory landscape in Kenya.

Recommendation: Add Section 57(4): 'Statistical data used for the constitutional purposes specified in subsection (2) shall not be derived solely from algorithmic or AI-generated outputs without validation by the Authority against independent enumeration data, and the methodology for any AI-assisted statistical process used for such purposes shall be published for public scrutiny before the results are used.'

6.0 RECOMMENDATION 6: INCLUDE STARTUPS AND THE DIGITAL ECONOMY AS A RECOGNISED ECONOMIC STATISTICS SUB-SECTOR

6.1 Current Position in the Statistics Bill and First Schedule

The Statistics Bill's First Schedule lists the matters on which statistical data may be collected (Section 3(a)). Under 'Economic Statistics' (Part B), the Schedule includes Business Statistics (item 19), Entrepreneurship (item 23), Business Demography and Dynamics (item 22), and 'Information society and digitalization' (item 57, under Cross-cutting Statistics). However, there is no specific statistical category for: the startup ecosystem as a distinct economic sub-sector; the digital economy's contribution to GDP as a discrete measurable domain; e-commerce and platform economy statistics; digital gig economy and platform labour statistics; or AI and emerging technology industry output statistics.

6.2 The Policy and Evidence Gap

According to Business Monitor International (BMI), as reported by the US International Trade Administration's Kenya Digital Economy and ICT Guides, Kenya's ICT sector has grown at an average of 10.8% annually since 2016, with the digital economy projected to contribute up to 9.24% of GDP by 2025 (Accenture Africa iGDP Forecast, 2020). In 2023, Kenyan startups raised just under USD 800 million making Kenya the top startup funding destination in Africa by dollar value ahead of Nigeria, Egypt, and South Africa (Africa: The Big Deal, January 2024). Google, AWS, IBM, and Microsoft have all established development centres in Kenya. Yet KNBS methodology does not disaggregate digital economy contributions

Current Gap: The First Schedule does not include: startup ecosystem statistics (enterprise formation, survival, employment, and funding); digital economy GDP contribution as a discrete sub-sector; e-commerce and platform economy transaction statistics; digital gig economy labour and income statistics; AI and emerging technology industry output; or creative economy digital statistics.

6.3 Specific Recommendations

Recommendation 6A – Amend the First Schedule to Add Digital Economy Sub-categories

The First Schedule should be expanded to add a new Part G – 'Digital Economy and Emerging Technology Statistics' establishing these as distinct domains in which the Kenya Statistics Authority has a mandate to collect, compile, and disseminate official statistics. This would align with the Kenya National AI Strategy 2025–2030's KPI framework and the National Digital Masterplan 2022–2032's commitment to measuring digital economy progress.

Recommendation: Add Part G to the First Schedule: 'DIGITAL ECONOMY AND EMERGING TECHNOLOGY STATISTICS: (68) Startup ecosystem statistics, including enterprise registration, funding, employment, and survival rates; (69) Digital economy contribution to GDP, including e-commerce, platform economy, SaaS, fintech, and digital services; (70) Artificial intelligence and emerging technology industry output; (71) Digital gig economy and platform labour statistics; (72) Creative economy and digital content statistics; (73) Cybersecurity industry statistics; (74) Space and Earth observation technology statistics.'

Recommendation 6B – Align Entrepreneurship Statistics with the Kenya Startup Ecosystem

The Startup Bill (Senate Bill No. 14 of 2022), currently in the parliamentary mediation process, proposes a definition of 'startup' and a startup registry maintained by the Kenya National Innovation Agency." Item 23 of the First Schedule ('Entrepreneurship') should be explicitly aligned with this definition and the startup registry, requiring the Kenya Statistics Authority to produce an annual Startup Ecosystem Statistical Report in collaboration with the State Department for Science, Research and Innovation, Kenya National Innovation Agency in collaboration with, ICT Authority and the Ministry of ICT and Digital Economy

Recommendation: Amend item 23 of the First Schedule to read: 'Entrepreneurship, including startup ecosystem statistics aligned with the definition and registry established under the Startup bill (or equivalent legislation), covering startup formation, funding, employment, export contribution, and sectoral distribution disaggregated by gender, age, and county.'

Recommendation 6C – Mandate a Kenya Digital Economy Satellite Account

International best practice as demonstrated by the OECD's Going Digital Toolkit and the IMF's work on digital economy measurement recommends the development of a 'Digital Economy Satellite Account' as a supplement to the System of National Accounts (SNA 2008), which Kenya's national accounts are already aligned with.

The Statistics Act should mandate the Kenya Statistics Authority to develop a Digital Economy Satellite Account, providing a comprehensive and internationally comparable measure of Kenya's digital economy contribution to GDP within five years of the Act's commencement.

Recommendation: Add Section 7(2)(o): 'develop and publish, within five years of the commencement of this Act, a Digital Economy Satellite Account aligned with international standards for measuring the digital economy's contribution to Gross Domestic Product, including the contributions of the startup ecosystem, e-commerce, platform economy, and artificial intelligence industry, and shall thereafter update it annually.'

Recommendation 6D – Include Digital Economy in County Statistics Mandates

Section 42 lists the functions of County Statistics Offices but does not mention digital economy statistics. Given that Kenya's startup and digital economy is geographically distributed – with significant activity in Kisumu, Mombasa, Nakuru, and Eldoret in addition to Nairobi – County Statistics Offices should have a mandate to collect disaggregated county-level digital economy data, enabling a Gross County Product breakdown that reflects digital economy contributions.

Recommendation: Amend Section 42(g): 'collect, compile, analyze, abstract and disseminate county statistical information, including county-level digital economy statistics covering startup activity, e-commerce participation, digital employment, and ICT infrastructure utilization, disaggregated by gender and enterprise size.'