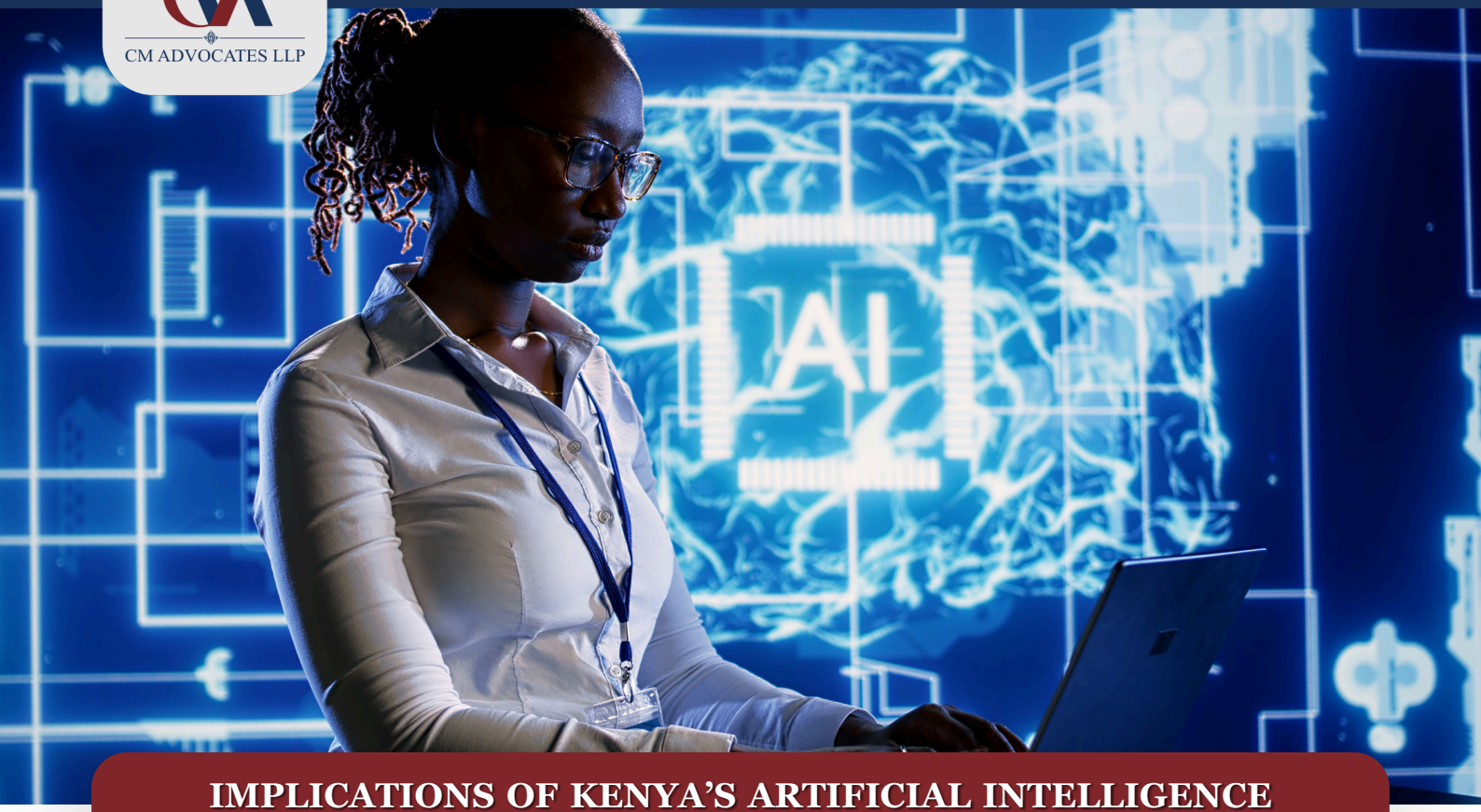


IMPLICATIONS OF KENYA'S ARTIFICIAL INTELLIGENCE BILL, 2026

The **Artificial Intelligence Bill**, 2026 ("the Bill") marks a turning point in Kenya's approach to regulating artificial intelligence (AI). Moving beyond fragmented policy guidance, the Bill introduces a structured and enforceable framework to govern how AI systems are developed, deployed and used in Kenya.

At its core, the Bill establishes a regime anchored in accountability, transparency and the protection of fundamental rights, supported by clear statutory obligations, institutional oversight and penalties for misuse.

KEY PROVISIONS OF THE BILL

1.Establishment of the Artificial Intelligence Commissioner

A central feature of the Bill is the establishment of the Office of the Artificial Intelligence Commissioner under Part II. The Commissioner is designated as the primary regulatory authority responsible for oversight and enforcement.

The functions of the Commissioner include:

- Supervising and enforcing compliance with the statute;
- Developing regulatory guidelines and standards;
- Monitoring risks associated with AI systems; and
- Advising the government on artificial intelligence policy and regulatory developments.

The Bill further grants the Commissioner investigative and enforcement powers, including the authority to request information, conduct audits and issue compliance directives.

2.Risk-based classification of artificial intelligence systems

Under Part V, the Bill establishes a risk-based regulatory framework that classifies artificial intelligence systems according to the level of risk they present. The categories include:

- Unacceptable risk, for systems that pose severe threats;

- High risk, for systems used in critical sectors including healthcare, education agriculture etc.;
- Limited risk, for systems with moderate risks; and
- Minimal risks, for systems with negligible risks.

3.Prohibited artificial intelligence practices

The Bill prohibits AI applications deemed inherently harmful, categorizing them as unacceptable risk under Clause 25(3). In line with this classification, Clause 35(1) stipulates that a person commits an offence if they deploy or operate an AI system designated as an unacceptable risk, except in circumstances expressly permitted by regulation.

4.Transparency and accountability requirements

The Bill establishes obligations to promote transparency and accountability in the deployment of AI systems. Entities must inform individuals when they are interacting with AI, particularly in contexts involving automated decision-making or AI-generated content.

5.Regulation of AI-generated content

The Bill addresses risks arising from synthetic media and AI-generated content. It prohibits the creation, deployment or distribution of such content, deepfakes, that uses a person's image, voice or likeness without their explicit consent.

6.Human-centric artificial intelligence

The Bill embeds a human-centric approach to artificial intelligence governance, requiring that AI systems be developed and deployed in a manner that respects human dignity, fundamental rights and societal well-being. The Bill further proposes that AI systems be designed to support human involvement and enhance human capabilities rather than replace them.

7.Artificial intelligence impact assessments

The Bill introduces mandatory AI impact assessments for high-risk systems under the relevant provisions of Part III. These provisions require developers and deployers to conduct prior assessments of potential risks to individuals and society, including risks relating to discrimination, privacy and economic harm.

8.Enforcement and penalties

The Artificial Intelligence Commissioner is vested with powers to investigate non-compliance, issue directives and impose administrative sanctions.

In addition, the Bill proposes criminal liability for egregious breaches, with penalties including fines of up to KES 5 million and imprisonment for offences involving the malicious or harmful use of artificial intelligence.

CONCLUSION

The Artificial Intelligence Bill, 2026 introduces a comprehensive legal framework for AI regulation in Kenya, marking a shift towards enforceable governance. Its emphasis on accountability, transparency, risk-based classification and oversight reflects a maturing approach to managing emerging technologies.

However, there are concerns around institutional overlap, the proportionality of penalties and the potential impact on local innovation. In particular, questions around the necessity of a new regulator, the effect of flat fines on startups and the practical implementation of regulatory sandboxes highlight areas that may require refinement.

As the Bill advances through the legislative process, its effectiveness will hinge on achieving a balance between meaningful regulatory oversight and the need to support innovation and competitiveness within Kenya's artificial intelligence ecosystem.

For further clarification or legal support on compliance with the Artificial Intelligence Bill, 2026, please contact our Intellectual Property and Technology team on tmtpractice@cmadvocates.com.

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How Can We Help?

For further clarification or legal support on compliance with the proposed **Artificial Intelligence Bill,** 2026, please contact our Corporate Commercial team on corporate.commercial@cmadvocates.com or tmtpractice@cmadvocates.com

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