



Foreigners controlling the Nairobi Stock Exchange

By Jackson Okoth

In defiance of market forecasts, the Nairobi Stock Exchange (NSE) has maintained a bullish run.

In the past one year alone, the NSE market capitalization figures have risen from Ksh 481.29 billion in January 2006 to Ksh 817.95 billion by close of business on 11th January 2007.

The market's 20 share index, on the other hand, has risen from 4171.80 points in January 2006 to 6117.35 over the same period.

The value of total shares traded, similarly, has grown from Ksh 1.04 billion by 6th January last year to Ksh 3.2 billion on January 12th, 2007.

But even as the market's 20-share index scales up, a huge chunk of the money, running into billions of shillings, could be ending up in the pockets of foreigners.

Information from annual financial reports of listed companies indicates that British-owned Barclays Bank Plc International is the largest foreign investor at the exchange.

Further, our findings indicate that majority of the top 20 wealthiest listed firms are in the hands of foreigners.

Across almost all the major counters at the bourse, foreign investors hold huge volumes of shares.

According to available figures, foreign investors control a large portion of equity in virtually all the key blue chip firms listed at the exchange.

From banking to tourism and agriculture, air transport to beer and cigarettes manufacturing business, foreign shareholding is substantial. United Kingdom (UK)-headquartered Barclays Bank Plc is the largest single foreign investor at the NSE, owning 68 per cent of Barclays Bank of Kenya. The Barclays Bank Plc stake at the NSE is estimated at over Ksh 61 billion (see table).

Petroholdings and Gambit Holdings Limited, ranked as the highest local institutional investors in our previous reports, pale in comparison with the massive Barclays Bank Plc's stake.

The London-based Barclays transnational is followed by Standard Chartered Holdings (Africa) BV, also from the UK, which owns 73.8 per cent of Standard Chartered Bank of Kenya valued at Ksh 47.5 billion.

Together, the two transnationals, which control over 60 per cent of Kenya's formal banking system, own shares worth more than Ksh 108 billion.

Similarly, British-owned Guinness Overseas Limited through Diageo Kenya Limited and Diageo Holdings Netherlands own a large stake in the largest brewer in the region, East African Breweries Limited (EABL). Guinness through Diageo Kenya Limited alone controls 42 per cent of EABL, with shares worth Ksh 40.6 billion.

Other foreign investors playing in the NSE's big league include Fincem and Kencem Holdings, top shareholders at Bamburi Portland Cement.

These two major foreign holding companies own 58.6 per cent of Bamburi, the country's leading cement producer, with over 212 million shares under their ambit.

At the Nation Media Group, the Aga Khan family, through a Swiss-based fund, controls over 44.73 per cent of the giant media house or 31,893,312 shares valued at Ksh 10.4 billion.

In total, foreign shareholders own 45.2 per cent of Nation Media Group.

However, the true worth of what the Aga Khan family controls is unclear given that it also holds shares in other companies through one Amin Nanji Juma, who is listed as a local investor.

Research also indicates that foreign shareholders own 31.05 per cent of the national airline, Kenya Airways. Dutch-based KLM Netherlands alone, a key strategic partner of the carrier, controls a massive 26 per cent or 120 million shares valued at Ksh 14 billion.

Altogether, foreign shareholders in KQ, operating through nominee accounts and companies, have a massive 31.05 per cent stake, valued at Ksh 16.2 billion.

Apart from the national airline, foreign holding companies, nominee firms and individuals own a huge piece of the country's agricultural plantations, including coffee, tea, horticulture and flowers growing.

For instance, UK-based Williamson family controls over 54.20 per cent or 4.7 million shares of George Williamson Kenya Limited through a number of holding companies and nominee accounts, leaving local investors who comprise 81.8 per cent of total shareholders scrambling for the remaining 1.9 million shares.

Brook Bond Group Limited, operating under the umbrella of Unilever Plc, owns 88.2 per cent or 43 million shares of Unilever Tea Kenya Limited.

Foreigners also own shares in Rea Vipingo Plantations Limited, a key player in sisal and dairy farming, having 58.6 per cent ownership or over 35 million shares. This stake is held through Rea Holdings, Unitbuckle Holdings and Rea Trading Company Limited as well as other firms and nominees.

In Kakuzi, foreign shareholders own 33 per cent of the firm through Bordure Limited-UK and other holding companies. But these figures could be higher given that a number of foreign companies are listed as local institutions in the financial reports.

Available figures also indicate a heavy presence of foreign shareholders in Limuru and Kapchorua tea companies, blue chips at the NSE's agricultural counters.

At the Standard Group Limited, listed under the alternative investment market segment (AIMS), foreign shareholders control 69.6 per cent of the media house, with shares valued at Ksh 2.6 billion.

In summary, foreign shareholders have a majority interest in over 12 listed firms, with more than 70 per cent equity stake in Bamburi, Standard Chartered, Total Kenya, Unilever Tea Kenya Limited and Brook Bond.

This group of investors also has a controlling interest in British American Tobacco Limited, Jubilee Holdings, TPS East Africa and the plantations-Rea Vipongo and George Williamson (K) Limited.

The Aga Khan-owned TPS Serena is the only hotel chain listed at the exchange, with foreign investors controlling over 56 per cent of the company or 49.6 million shares.

Apart from listed firms, foreigners also control a large section of the economy. Unquoted transnationals doing business in Kenya include the giant US car maker, General Motors and soft drinks multinational, Coca Cola.

The UK-based Vodafone Plc is expected to become one of the big players at the exchange once the state-controlled Safaricom floats its shares. Presently, it owns 40 per cent stake in Safaricom.

Other unquoted but huge foreign firms in Kenya include MTC Group (Celtel Kenya), Libyan-owned Tamoil, Shell-BP, Sara Lee Bayern, Nestle Foods and Nivea. Also on this list is Vtel Holdings Limited, the winner of the second national fixed-line operator license, and Fairmount Group of Hotels.

The question of who owns Kenya's wealth has generated debate since the early 1960's. The skewed distribution of wealth between Kenyans and foreigners is like a slap in the face of efforts by independence leaders to put the country's resources in the hands of indigenous Kenyans.

Sessional Paper No.10 of 1965, which drew up an Africanisation policy for Kenya's economy, appears to have achieved little 44 years down the line, with foreigners still firmly in control.

Incidentally, a debate is now on among high-level policy makers on whether to remove restrictions on foreign companies interested in investing locally.

By allowing foreigners to invest locally without asking for 30 per cent local ownership, the investment climate could be skewed in their favour even more.

Interestingly, while the government through its privatisation programme has opened up virtually all the strategic corporations to private investors, the story in Europe and US is quite different.

For instance, the railway and telecommunications sector is still controlled by the state in Britain and several other European Union countries. In Kenya, the state-owned railway has already been rented out to a South African-led consortium. Equally, a large foreign airline controls a huge stake in the national carrier, Kenya Airways.

Pressure has also been mounting on the government to sell of its stake in Telkom Kenya. Whether foreigners should be allowed to own huge chunks of public resources and wealth is debatable.

In an interview, James Murigu, the Managing director of Suntra Investment Bank Limited says, "The huge participation of foreign investors at the NSE is a vote of confidence in our market by the international community".

He adds that with the introduction of Automated Trading System(ATS) and removal of exchange controls, the NSE has now acquired international standards, enabling foreign investors to participate at the bourse comfortably. The entry of foreign investors also injects massive foreign exchange in the economy, Murigu says.

Linett Oyugi, a researcher at Institute of Policy Analysis and Research (IPAR) disagrees.

"The reason why the current boom at the stock exchange is not felt by ordinary Kenyans is because the bulk of this wealth is repatriated abroad," says Oyugi.

Perhaps, the only benefit of the bullish run at the exchange is tax revenue on dividend yields accruing to foreign shareholders, the researcher says.

Oyugi now contends that while the economy has expanded over the past year, benefits of the growth are yet to trickle down as most of it shifts abroad.

Meanwhile, the NSE with market capitalisation exceeding Ksh 900 billion is still considered somewhat small and speculative in nature.

In recent years, it has continued to acquire international standards and practices including the ATS, a regime that allows for instantaneous real-time trading in shares.

Foreign investors are allowed to acquire shares freely subject to a reserved ratio of 25 per cent for domestic investors in each listed company.

The 75 per cent portion is considered as a free float available to local, foreign and regional investors without restrictions on the level of holding.

Established in 1954, the NSE is sub-saharan Africa's fourth-largest bourse.

Foreign investment on the exchange and foreign ownership of companies is by application.

But despite this domination by foreigners, the stock market continues to attract a lot of local interest.

It is poised to play an even increasingly important role in the economy, especially in the privatisation of state-owned enterprises.

Over the past decade, the public has been able to acquire part ownership of over nine public enterprises, which have been successfully privatised through the NSE.

The most historic transaction remains the sale of 30 per cent stake in state-owned KenGen by the government to the public through an Initial Public Offer (IPO).

The government raised about Ksh7.8 billion (\$108.5 million) from the KenGen IPO and, since then, the appetite for new issues has remained high.

With only 48 listed companies to choose from, Kenyan investors are starved of choices leading to the ongoing bullish run at the exchange.

National

Getting ready for the polls

It is just two weeks into this election year but political parties are already in a campaign mood . The Financial Post talked to Butere MP Wycliffe Oparanya about the happenings on the political front.



Question: Mr Oparanya, it is only weeks into this election year, yet there is a flurry of activities on the political scene. Is this a sign of panic?

Answer: Let's face it. Election time is when people chose those to lead them for five years and at such times, you must expect excitement. This is the time to evaluate the performance of government, MPs and councillors.

Q: Both Narc Kenya and ODM Kenya are positioning themselves for the eventual duel. How do you evaluate their performance?

A: It is sad that at this particular time, we are not talking about the party that brought the government to power-the National Rainbow Coalition (Narc), but about other parties. The war is between ODM Kenya and Narc Kenya and the latter represents government. Instead of evaluating them, I can only say that is best left to the electorate.

Q: In Western Kenya where you come from, there seem to be no dominant party. You and a few others are in ODM Kenya, Trade and Industry Minister Dr Mukhisa Kituyi is Narc Kenya, Local Government minister Musikari Kombo is leading Ford Kenya and there several other outfits like Cyrus Jirongo's Kaddu.

Would you please enlighten us on this?

A: What is happening in western Kenya is what may be termed as true democracy and all parties are welcome. But if you go to the ground you will definitely notice that the people have not changed from what they did during the referendum in 2005.

Q: Is that the reason you are in ODM-Kenya when your colleagues from Western province are in other political parties?

A: My decision to join ODM Kenya was not my own but it was dictated by the electorate who had read the mood of the country and saw that the Narc government had failed to deliver the election pledges. It was only safe to look elsewhere.

Q:Both ODM-Kenya and Narc Kenya have been holding retreats. Any gains from such meetings? .

A: I cannot speak for Narc Kenya but I can speak for ODM-Kenya. A lot of positive things have happened in the party; in particular the issue of searching for a flag bearer to cross the valley of election come December.

I fully support the on-going initiative to bring the presidential hopefuls to the table to agree on a single candidate. We must urge them to reach consensus because that is the sure way of forming the next government.

Q: And what will be the implications if the candidate is not from your native Western province and another party say Narc Kenya, Ford Kenya fronts say Dr Kituyi or Kombo.

A: What would be the purpose of supporting a Luhya candidate (for presidency) in a party we know very well will not form the next government? We must look at these issues with open minds.

Q: This is your first term in parliament. Would you tell us how it has been so far for you?

A: I must admit that being elected to the ninth parliament has opened my eyes to a number of issues and above all it has made me come face to face with how Kenyans live and go about their business .In short, it has made me to be part and parcel of the activities that people involve themselves in. Again, being in Parliament has opened me up to very many things that I did not know. Not even pursuing education to masters level could open me up to what I have experienced in the last four years that I have been in parliament.

Q: Any particular areas?

A: Yes there are many. Having a finance background I joined the Parliament Select Committee on Finance, Planning, and Trade and Tourism Management, Parliamentary Investment Committee (PIC) and was later appointed to the Pan African Parliament which sits in Addis Ababa, Ethiopia.

Q: Let's focus on your constituency. Do you feel intimidated by the big names of Butere politics like Martin Shikuku and Amukoa Anangwe?

A: I was elected a member of parliament in an election where the two also contested, so the issue of intimidation does not arise. The election was fought on equal level basis and I was the winner and I am going to contest and win the 2007 elections. But I pray that we focus on issues of bringing development to our people and alleviating poverty.

Q: Sugarcane is a major cash crop in your constituency. Do you think all is well in that industry?

A: There is Sugar Development Committee of Parliament where I must commend Members of Parliament for working hard to improve the services including making and amending laws that affect the farmers. True, the sugarcane farmers have got raw deals from middlemen but these will soon change.

We have motions, amendments and bills before the house that seek to do just these and I am sure sooner or later we will make a breakthrough and farmers will reap the benefits of their sweat. I must also commend such bodies as Sugar Campaign for Change (SUCAM) and Kenya Human Rights Commission among others, who have been in the forefront in fighting for the rights of sugarcane farmers both in and outside Parliament.

Entrepreneur

Once beaten twice shy

By **Samwel Kumba**

The expression that experience is the best teacher might be considered a cliché, but for David Muraya, it has a lot of meaning.

If anything, he has learnt it the hard way. Ask him about politics, or the civil service, and he fidgets, to the extent that if you were interested in any of these, you might give the idea another round of thought.

The year was 1997 when he considered himself ripe for a parliamentary seat. Of course, he had the financial muscle then. But he was in for a rude shock.

It did not take him long to realise that it just does not take money to succeed in politics –even though it counts. In Kenya today, most business owners are interested in politics. But Muraya would advise them to think twice. And he argues from experience.

He contested for the Kandara parliamentary seat in Maragwa but lost to Joshua Toro, currently the Assistant Minister, Roads and Public Works.

Muraya explains his experience: “It was suicidal. If you do not manage politics well, you will be in for a rude shock. I vividly remember the year, 1997, when I unsuccessfully contested. I came out poorer. However, there were many factors why I lost. It was not about the party, rather what I could have done for the community.”

On the other hand, he turns sarcastic when you mention the civil service. He has never been one. But while he was still a student at the University of Nairobi, he had an opportunity to work for the government during his vacation.

He was stationed at the then Ministry of Works having been an architecture student. Too much bureaucracy scared him from ever permanently working in such an environment.

Besides, Muraya says, one does routine work every day - it is never a challenge. “In private practice,” he explains, “I can try a few new areas and it is generally challenging.”

Muraya had to seek registration for private practice immediately after graduation in 1979. He was registered in 1981. It was after practicing for about seven years that, in 1988, he relocated to South Africa. Not as an architect, but specialising in project finance.

“I have developed a liking for the sector,” Muraya says.

When he returned to Kenya, he saw an opportunity in lottery and decided to explore it alongside project financing.

Earlier, Muraya had unsuccessfully tried his entrepreneurial prowess. He was to print a directory for the East Africa Community business contacts in which he closely worked with the Kenya National Chamber of Commerce.

“Unfortunately, some people came and praised the idea and offered a price for it. Unknowingly, I looked at the bottom line. Of course I made a little more than I invested but in the long run, I lost a lot of money. But today, I have learnt to look at an idea to its logical conclusion. I won’t wait for a wake up call,” elucidates Muraya.

On June 9 last year, Ansellia Holdings Limited announced that Playwin Gaming Pte Limited had taken a 40 per cent share in a new Kenyan lottery operation ‘Pata’ run by a new company called Playwin Kenya Limited. Muraya then became the chairman of the company.

Muraya incorporated Ansellia Holdings Limited in May 2003 with two other shareholders, Dr Sam Nthenya, Chief Executive Officer Nairobi Women’s Hospital and Terry Ndung’u, a businesswoman.

However, Muraya reveals that since then 60 other Kenyan shareholders have bought into the company.

Financing

Muraya takes issue with the country’s banking sector, saying it still needs to offer all-inclusive products.

“Unlike their South Africans counterparts, in Kenya, banks do not finance lotteries, not even casinos. In fact, I had two offers from South African banks to finance this project but I did not agree with their terms.”

But Muraya was fortunate to land on his Indian partners who agreed to provide the necessary technology.

“I was looking for, Ksh 511 million (US \$ 7 million) as a loan that I am still paying. As collateral, they took 50 per cent shareholding. Obviously, we had to institute a management agreement with them and they have sent a chief finance officer who represents their interests and ensure that we are servicing their loan.”

So what happens when the loan is repaid?

“Once we finish paying the loan, we will then agree whether to retain them or buy them out.”

For the vendors, Muraya had organized for funding with Equity Bank.



One of the problems they, however, faced was the fact that most of the small enterprises lack track records and getting them to apply for a loan was an uphill task.

No wonder most of them preferred to buy the outlet machines in cash, though the price was prohibitive. It was priced at Ksh 175,000. However, the company has since revised its terms.

"We used to give them 6 per cent commission. Today, we finance the terminals, take five per cent to pay back the loan and the vendor remains with one per cent. Now a vendor needs only Ksh 35,000. With that, I have so far received more than 1000 applicants. I am also organizing for refunds for the others."

But one issue is worrying him:

"Even after recently putting up an advertisement for vendors to come forward, we have not received even one application from Kisumu."

Banking

Muraya reiterates that banks do not often provide funds for projects, which is a major obstacle to entrepreneurs in the country. "You can have, say, a prime piece of land, but how do you package the design for a bank to take a risk on it. That is where project financing comes in. We look at the project, do a business plan for it, on behalf of clients, negotiate with the banks, and manage the project. That is what I used to do in South Africa."

The difficulty, however, is that many banks believe in short-term loans and need collateral. Under his project finance, Muraya maintains that all they examine is the viability of the project to serve as collateral.

"If, say, I wanted to borrow Ksh 40 million for a project. Ordinarily, banks will require me to raise 25 per cent deposit of the total value of the project and produce collateral valued at the total cost of the project. That is where I have a problem with Kenyan banks," reminisces Muraya.

He argues that if the risk looks manageable, then a bank needs to appoint collateral managers to take care of the risk and finance it. Unfortunately, the banks are used to the 'traditional' system of borrowing and lending.

Dismissing the bank's interest in entrepreneurs, Muraya says, "These are the same banks which are not able to assist you take off, approach you when you are 75 per cent off the ground and since at that point you offer a manageable risk. The questions they ask is; do you have collateral, if the answer is no, then they will tell you they cannot manage the risk. They throw away the project. That is incongruous."

But why do most entrepreneurs collapse in their second or third year of operation? "A business can go under for various reasons. If the management structures are not good, especially the financial management, they will collapse. Sometimes people lose priorities along the way. A business can pick up very well and the proprietor start investing in other areas instead of plying back to the business. Such a hurried diversification can affect the business," explains Muraya.

He equally encourages entrepreneurs to open up. "For example if I got stuck in this project, I will seek partners who have a better know-how than me as far as running the business is concerned. The problem is that many Kenyans would die with their own ideas."

And what is his progress so far? "Some of the outlets are hitting an all high Ksh 41, 000 a day. There is one in Nakuru doing up to Ksh 18,000 in a day, in Nyahururu there is one that does up to Ksh 15,000. In general, about 80 per cent of my outlets are doing up to Ksh 8,000 a day. However, there are very many too doing poorly, less than Ksh 5,000 per day."

"But most of these outlets have taken the terminals as a subsidiary business and they are concentrating less on it. I need to convert this into full-time business," concludes Muraya, who often winds up by engaging in heated discussions on topical issues which he is good at sustaining.

E-commerce

Billions lost in slow online trade

Kenyans unwilling to embrace new technology

By Guchu Ndung'u

Alfred Muigai generates close to 90 per cent of his business from Internet marketing. Ironically, while the sourcing of the business is supposed to be the hardest part for him, payments, especially through credit card, is actually the hardest.

Muigai's Africa Point, an online tour firm, is among a group of enterprises losing millions of shillings as Kenya drags its feet in embracing the electronic payment system.

At the heart of the blame game are Kenyan firms, banks, and their regulator, the Central Bank of Kenya (CBK).

While firms blame banks for their 'rigidness' in not allowing them to receive instant credit card online payments, the banks are citing the risk of fraud and lack of a regulatory framework as their main reason.

For instance, banks are reluctant to let local traders open merchant accounts where they can receive payments from online credit card sales.

In a perfect scenario, a customer willing to pay for online goods and services in Kenya will need to enter details of his credit card into a secure website and, after confirmation, the money sent straight to the account of the trader, known as the merchant account.

But that, according to the traders, is equally impossible in the country as banks are reluctant, if not unwilling, to embrace the technology making online players especially in crucial foreign exchange earning sectors like tourism and other service industries to lose out.

Instead, the traders have to get details of an online customer's credit card and physically verify them with their banks in Kenya, a process that takes time and which a customer maybe unwilling to go through.

Muigai, for instance, after clinching a deal online, has to wait for clients to fax their credit card details, which he then takes to his bank in Kenya for verification after which the money is transferred into his firm's account.

"Some prefer to book elsewhere where they can pay instantly. It is even more risky as the credit card details can be faxed to the wrong hands," says Muigai.

Merchants take responsibility for the loss of money in a credit card and that discourages many of them.

The two leading banks issuing credit cards, namely, Kenya Commercial Bank (KCB) and Barclays Kenya, are citing fraud as the main reason for their reluctance.

"Once a fraudster gets hold of a customer's pin number, they can misuse the card by making payments through such cards," says Sam Muturi, the head of card business, KCB.

Muturi says the bank is encouraging traders to take only prepaid credit cards where customers only load money that they need to use.

"If a customer knows the transactions online will cost him Ksh 20,000, he can load the exact amount in the prepaid card and use. In case a fraudster accesses such a card, the account will have no money as it will have been spent on the intended purpose," says Muturi.

KCB also cites the challenges of authenticating such transactions as a major handicap for banks.

CBK, while admitting that local businesses sometimes cannot receive instant payments for sales through credit cards on the Internet, attributes the situation to the delay in the validation of information on the cards supplied by the users against data held by a central systems operator.

It also cites a relatively inadequate level of development on communication to support the network for e-commerce as a factor contributing to the cost and time required for efficient on-line authorization.

"Failure by local businesses to adhere to the terms and conditions of the contracts has also contributed to the impasse," says a CBK reply to our enquiry.

The statement adds that the bank is aware of the risks associated with the rapid changes in information technology (IT) and fraud and is working on a comprehensive legislative framework on the National Payment Systems.

Subsequently, the bank referred us to the Ministry of Information and Communication, who are the drafters of the Kenya Information Communication Technology (ICT) Bill.

"The real issue is the lack of a legal framework to take people to court and get a quick resolution when they commit fraud online. If that is solved, then the banks may start to slowly embrace online payments," says Jonathan Somen, the managing director of AccessKenya, a leading Internet service provider.

Access Kenya recently invested Ksh 100 million in its IT infrastructure.

Somen adds that credit card companies are very strict about allowing local banks to provide these services on their behalf and thus require banks to adhere to strict standards, which can only be adhered to once the necessary legal framework is in place.

In the meantime, the country is losing in crucial industries as the world embraces IT.

According to Damian Cook, a web consultant for the Kenya Tourism Board (KTB), less than one per cent of bookings in the country are done online despite Kenya's major markets slowly moving away from paper bookings.

For instance, the United Kingdom, which accounts for a huge chunk of the 1.5 million tourists who visited Kenya in 2005, 17 million of its holidaymakers expect to book all or part of their 2007 holiday on the Internet.

This is contained in a report by the European Travel Commission, a European Union-funded commission on tourism and trade-related matters.

"Around 70 billion dollars (Ksh 4 trillion) are done online in travel only. If most cannot book and pay online, they will go somewhere else. This will have to change if we are to remain competitive," adds Cook, who is involved in updating and maintenance of Kenya's premier website, magicalkenya.com.

And in the United States (US), for the first time ever, transactions on the Internet will account for over half (54 per cent) of all US travel bookings this year, according to a report by US Online Travel Overview.

However, for Kenyan firms to tap into the growing online market, they have either to transact through the expensive wire money transfer system or device unconventional, but acceptable, methods of payments.

Most firms, such as Kenya Airways, have opened overseas merchant accounts to handle their credit card online systems.

Njoroge Muiruri, the Chief Executive Officer of Widexports Limited, an online artifacts export company, navigates the online payment hurdle through a working relation with 2checkout.com, a US-based online distribution and e-commerce center.

"The company deducts sales money from a client's credit card, deducts its own percentage before remitting the rest to us. This eventually makes our products more expensive and, therefore, less competitive in the international market."

KTB's Cook adds that when foreign tour firms realize that people want to come to Kenya and cannot pay instantly, they will facilitate the payments overseas, cutting a significant portion of revenue from the country's tourism earnings.

"The bulk of tourism money will thus remain overseas taking us back to the old days when everything was done in western capitals and tourists just came to Kenya for the trip."

Kenya earned Ksh 60 billion from tourism last year.

Also, the country's relatively fast developing outsourcing industry is also having bottlenecks in our ICT law.

Gilda Odera, the managing director of SkywebEvans, offers that the legal framework for the growth of the industry is not only being hindered by lack of an efficient online payment system but also the non-recognition of electronic signatures in Kenya.

"We are expecting this to change once the ICT Bill is passed," says Gilda, whose firm does transcription and other outsourcing services.

Currently, electronic signatures are not recognized within the Kenyan legal system but are widely used especially in e-commerce globally.

However, the draft ICT Bill, one of the bills pending in Parliament, provides for the recognition of electronic signatures as per some regulations to be drafted by the minister (Finance) and in accordance with the United Nations ICT policy.

The Bill proposes that persons who knowingly falsify an Electronic Signature Certificate or use it for unlawful purposes commit an offence punishable by a fine not exceeding Ksh 1 million or imprisonment for a period not exceeding five years or both.

In addition, the regulations criminalizes hacking of computer systems and persons convicted shall be liable to a fine not exceeding Ksh 300,000 or imprisonment for a term not exceeding three years or to both.

The Bill also provides for creation of protected systems to be gazetted by the minister and persons attempting to access such systems will be liable for a term of not more than five years or a fine not exceeding Ksh 1 million or both.

The minister has the powers to declare a system 'a protected system'.

"This Bill has the key to most of the problems hindering the growth of the ICT sector. Parliament should make it a priority," adds Odera.

Not all will join the IT gravy train if the Bill becomes law as some players in the tourism industry, especially travel agents, will feel threatened as most customers may prefer to book online, thus gradually facing them out of business.

Though Kenya has experienced relatively low online payment fraud, the most common form of fraud with credit card thieves is where a dishonest employee of a legitimate merchant, either manually or using a magnetic stripe reader on a pocket-sized electronic device, copies numbers before illegally using the card to make purchases.

"The introduction of a pin number has, however, mitigated the risk of skimming," opines Rob Warlow, the head of risk at Fina Bank.

Currently, half of all credit card fraud is conducted online.

"In the short run, we should educate the judiciary on how to convict culprits who facilitate online frauds," recommends Muturi of KCB.

Pundits observe that Kenya needs to pass the Bill, which is made crucial not just because of the changing business environment but also Kenya's growing Internet users.

Africa Online estimates that Kenya has the fastest growing Internet population in sub-Saharan Africa.

The number of Internet users in Kenya has reportedly grown from 500,000 to 1.5 million in 2006 within a space of three years.

Kenya has the fifth largest number of Internet users in Africa with Egypt, South Africa, Morocco and Nigeria occupying the first four positions respectively.

However, Africa still constitutes 3 per cent of over a billion Internet users in the world.

Kenya's Internet penetration is set to increase marginally once the fibre optic, which will make Internet cheaper and more accessible especially in the rural areas, is complete.

Yet, if the necessary regulatory framework is not put in place, Kenya's dream of moving from the industrial to the Information age will remain a mirage.