



## GOVERNMENT ABOLISHES 30% LOCAL SHAREHOLDING REQUIREMENT FOR ICT SECTOR

### *Summary*

Kenya's ICT sector is set to receive a major boost following the recent removal of mandatory local shareholding requirements by the Cabinet Secretary for Information, Communications, and Digital Economy. The move is aimed at enhancing the country's digital economy and attracting foreign investment.

### *Background*

The operations of all ICT companies in Kenya, including those in telecommunications, radio communication, broadcasting, postal, and courier services, are regulated by the Kenya and Information Communications and Act, 1998 (KICA), and its

accompanying regulations.

According to Regulation 9(1) of the Kenya Information and Communications (Licensing and Quality of Service) Regulations 2010, all ICT licensees must ensure that their shareholding complies with the Government's communications sector policy, which is periodically published.

The most recent ICT sector policy is contained in the National Information Communications and Technology (ICT) Policy Guidelines, 2020 (**2020 ICT Policy Guidelines**), released on August 7, 2020, which previously required all ICT licensees to have a minimum of 30% Kenyan ownership.

The requirement for local shareholding has created difficulties, especially for foreign investors who

struggle to find a suitable local partner that shares their fiscal and ethical values.

### *Removal of Mandatory Local Shareholding Requirements*

The 2020 ICT Policy has now been amended by the Cabinet Secretary for Information, Communications, and Digital Economy, by deleting local equity participation requirements<sup>1</sup>. This amendment follows a recent cabinet approval of the shift in policy and an earlier request for public comments issued by the Ministry.

Removing the mandatory 30% local shareholding requirement is a positive step towards encouraging foreign investment in the ICT sector in Kenya and this significant change is expected to make Kenya an attractive destination for multinational companies looking to expand their operations in Africa.

### **Key Impacts of the Policy Change:**

- 1. Increased Foreign Investment:** With the removal of the local ownership requirement, Kenya is signaling its openness to foreign investment. This could lead to a surge in foreign capital, driving growth in the ICT sector and the broader economy.
- 2. Technology Hub:** Kenya's reputation as a leader in technological innovation on the African continent is set to be further solidified. Multinational tech companies may consider expanding their operations in Kenya, potentially creating high-skilled jobs and stimulating economic activity.
- 3. Innovation:** Greater foreign investment in Kenya's technology sector is likely to fuel research and development and spur innovation. This will benefit not only the tech industry but also other sectors relying on digital services and solutions.
- 4. Global Competitiveness:** By simplifying the process for foreign companies to operate in Kenya, the country has the potential to enhance its global competitiveness. This could lead to improved access to technology, enhanced

infrastructure, and more opportunities for local talent to collaborate on international projects.

- 5. Partnerships and Knowledge Transfer:** Foreign companies often bring valuable expertise and technology to the countries they invest in. This facilitates knowledge transfer and partnerships with local firms, fostering the growth of local talent and capabilities.

In conclusion, this policy change represents a positive development for Kenya's digital economy, holding the potential to drive significant economic growth and innovation.

We are committed to supporting you in maximizing the opportunities arising from this transformative shift.

Kenyan telecommunications companies that wish to restructure their shareholdings should seek legal and financial guidance to plan their next steps strategically. This will allow for compliance with regulations and protection of stakeholders' interests, ultimately ensuring success of the restructuring and competitiveness in an industry that is rapidly evolving.

Our team is readily available to assist your telecommunications company in restructuring shareholdings in response to the shift in policy. Please feel free to reach out to us with any questions or concerns.



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