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Kenya Removes the 30% Local Equity Shareholding Requirement for ICT Companies.

Introduction

In 2020, Kenya formally introduced the Information and Communications Technology Sector Policy Guidelines (2020 ICT Guidelines) that required all companies licensed to provide ICT services in Kenya to have at least 30% shares issued to Kenyan citizens or Kenyan companies (as defined). This was to guarantee the participation of locals in this ever-vibrant, growing, and very fertile sector.

Challenges of the Local Equity Shareholding Requirement

The local equity shareholding requirement was intended to encourage equity investments among Kenyans. However, the policy paused significant challenges to the operators in the ICT sector trying to comply with the 30% local shareholding requirement. The challenges included: the unavailability of local capital or credit for capital-intensive businesses; financing mobilization challenges by the local domestic capital market; lack of investor interest in the ICT sector; and matchmaking challenges.

In a bid to become Sub-Sahara's tech hub and maintain its regional hub status, Kenya's President, William Ruto, has announced that Kenya will be reversing its local equity ownership policy to zero.

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SWOT Analysis for the Removal of the Equity Participation Requirement

The removal of the 30% local shareholding requirement is expected to increase investment in Kenya's ICT sector. This is particularly with the adoption of the Data Protection Act 2019, which requires the local storage of specific personal data, increased data protection, and security frameworks. Additionally, sectors hugely relying on ICT, such as finance and healthcare, are expected to grow exponentially.

However, there are some players who feel the participation of the locals in the tech sector should be still pursued. If the government intends to encourage local participation. This can be done by providing more local participation mechanisms such as employee share option plans to benefit the local employees; encouraging public-private partnerships, especially when it comes to projects associated with critical national infrastructure; and fastening local content regulations. The government can also devise a policy strategy that will see not only the inclusion of locals but also the inclusion of marginalized groups such as women and marginalized communities.

Disclaimer

This information is exclusively for general consumption purposes and does not constitute legal advice. You are advised to seek specific legal advice from our team regarding any troubling or specific concerns.

Reach out to our Technology, Media, and Telecommunications experts for advice on licensing and operations of ICT companies.

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