

MOBILE PAYMENT IN KENYA

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A. Introduction

- Money payment is widely accepted in Kenya. It is estimated that approximately two thirds of the adult population in Kenya use the various mobile money payment methods.
- The wide usage is widely attributed to the high mobile penetration and the simple modes of using the mobile money payment i.e. a USSD Code (*.....#) and through an app.

B. Various mobile payment methods

- Person to person payments;
- Stationary point of sale i.e. shops, petrol stations, government services (e-citizen), utility bills e.g.. Mobisol, paying for a taxi ride etc;
- Loans and personal savings platforms; and
- Mobile money platforms in Kenya include; Safaricom's M-Pesa, Telkom's T-Kash & Airtel's Airtel Money.

C. General statistics on mobile payment in Kenya

- The Central Bank of Kenya reports that the value of mobile payments rose by 11.1% to hit Kshs. 2.5 trillion (Appx € 21 Billion) from January to July 2019 compared to Kshs. 2.25 (Appx € 19 Billion) trillion for the same period of time in 2018.
- 60% of services offered by Kenya's commercial banks are accessible via mobile phones.

D. Reasons for success

- Availability and ease of use
- Commercial banks have largely adopted mobile banking
- Mobile commerce links with merchants are rising as they recognise the need to pay without necessarily having to carry cash
- A rise in registration of mobile users of mobile money services with the number of subscribers standing at 53.9 million as at July 2019, up from 42.6 million in July 2018.

E. Regulation

Mobile money service providers are generally regulated under the following legislations and the regulations made thereunder:

- Central Bank of Kenya Act;
 - National Payment Systems Act; and
 - Kenya Information and Communications Act, 1998.
 - Kenya Information and Communications (Licensing and Quality of Service) Regulations, 2010.
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- Key regulatory items applicable based on the extent of operation include:
 - Telecommunication Licence from the Communications Authority of Kenya when operating as a telecommunication entity;
 - Issue at least 20% of its shares to Kenyans when operating as a telecommunication entity; and
 - Payment Service Provider and Monetary Remittance Licence from the Central Bank of Kenya.

F. DENTONS Hamilton Harrison & Mathews – Work experience in mobile money payments

You will benefit from our experience and wide range of expertise in matters in the entire spectrum of mobile money payments including:

- **Advice on setting up of mobile savings & lending products**

We advised Commercial Bank of Africa Limited on the setting up of their highly successful mobile money savings and lending product known as M-Shwari. Our task included drafting and assisting in the negotiations on the related cooperation agreement with the largest telecommunication company in Kenya, Safaricom Limited. A big component of the advice given related to the use of customer personal data collected by the telecoms company and the implications and risks thereof with regard to data privacy and protection laws in Kenya.

- **Advising a confidential client on the legal and regulatory issues**

Advising the client an online money transfer service provider, on various legal and regulatory issues relating to the use of the services for transferring money to and from Kenya.

Work Experience (Cont'd...)

- **Drafting and Advice to a confidential client on a trust account agreement**

The firm drafted and advised one of the mobile money operators on the Trust Account Agreement with a bank. The trust account set up is a key component of a mobile money operator.

- **Opera Software AS**

Worked on the incorporation a Kenyan subsidiary of this fintech company. We reviewed the terms and conditions for O-Kash and providing advice on the regulatory framework and consumer protection matters relating to the application. Additionally, we advised and assisted with the application of the Payment Service Provider Operators License for the client in compliance with the National Payment Systems Act and Regulations.

- **Dispute Resolution**

The firm is involved in various Fintech disputes before the court and an arbitrator. The firm represents commercial banks and insurance companies.

Thank you

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