



# Court throws out Safaricom IPO suit

The much-touted sale of the Kenyan government's 25% shares in Safaricom will go on after all; following the High Court Judge Justice Joseph Nyamu's decision to throw out the suit filed by three opposition legislators, seeking to bar the government from selling the shares until the Privatisation Act 2005 comes into force.

By [Zachary Ochieng](#) 5 Oct 2007

It is noteworthy that President Mwai Kibaki assented to the Act two years ago but Finance minister Amos Kimunya has yet to make it operational by publishing it into law in the Kenya Gazette.

In dismissing the suit, Justice Nyamu argued that no illegality on the part of the government had been proved to warrant cancellation of the Initial Public Offer (IPO). "Granted that the government is selling the silver of the house, but unless it is acting illegally, it is entitled to do so with finality and without interference in order to realise maximum public benefits," the judge ruled.

The court judge also argued that the application came late before the court and excluded Telkom Kenya, which owns 60% of Safaricom's shares.

Through lawyer James Orengo, opposition Orange Democratic Movement (ODM) legislators Prof Anyang Nyong'o, Omingo Magara and Mwandawiro Mghanga had filed a suit under a certificate of urgency, arguing that neither the government nor Kimunya had legal powers to authorise the IPO, besides lacking powers to form a privatisation committee to implement the IPO process.

The ruling now means that the IPO will go on as scheduled, with the government expecting to net about KSh 30-billion to finance the gaping budget deficit for this financial year. "It is not in dispute that the IPO has serious financial implications for the country," argued the judge.

Controversy has dogged Safaricom's IPO, with opposition MPs opposing it mainly on the grounds that a 5% stake in the company remains a mystery.

On paper, the Government of Kenya, through the landline monopoly Telkom Kenya owns 60% while the British giant, Vodafone Plc, owns 40%.

However, after investigations, it was discovered that a company known as Mobitelea Ventures ostensibly owns 5% stake on behalf of Vodafone. Both the government and Safaricom management have denied this but it continues to generate heated controversy.

With a presence in all of Nigeria's 36 states and Abuja, MTN's coverage currently spans some 89% of Nigeria's total landmass. It has installed in excess of 2,800 base stations, 45 mobile switching centres and over 50 base station controllers across Nigeria.

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