

Online marketplaces might soon cost more

The digital economy has transformed how people buy, sell, and move goods. Apps link customers to riders, drivers, and vendors with little physical interaction. Online marketplaces are now central to daily commerce, but they create a tax question regulators can no longer ignore: who is supplying the service?

Platforms have long described themselves as intermediaries that connect independent providers to customers and earn a commission.

Tax authorities are increasingly testing whether that description fits economic reality. The issue matters because value-added tax (VAT) is charged by the person "making the supply."

If a platform is treated as the supplier, VAT applies to the full customer payment, not just the commission.

This debate came to a head in Kenya in *Commissioner of Domestic Taxes versus Sindy Limited*, decided last month on October 23.

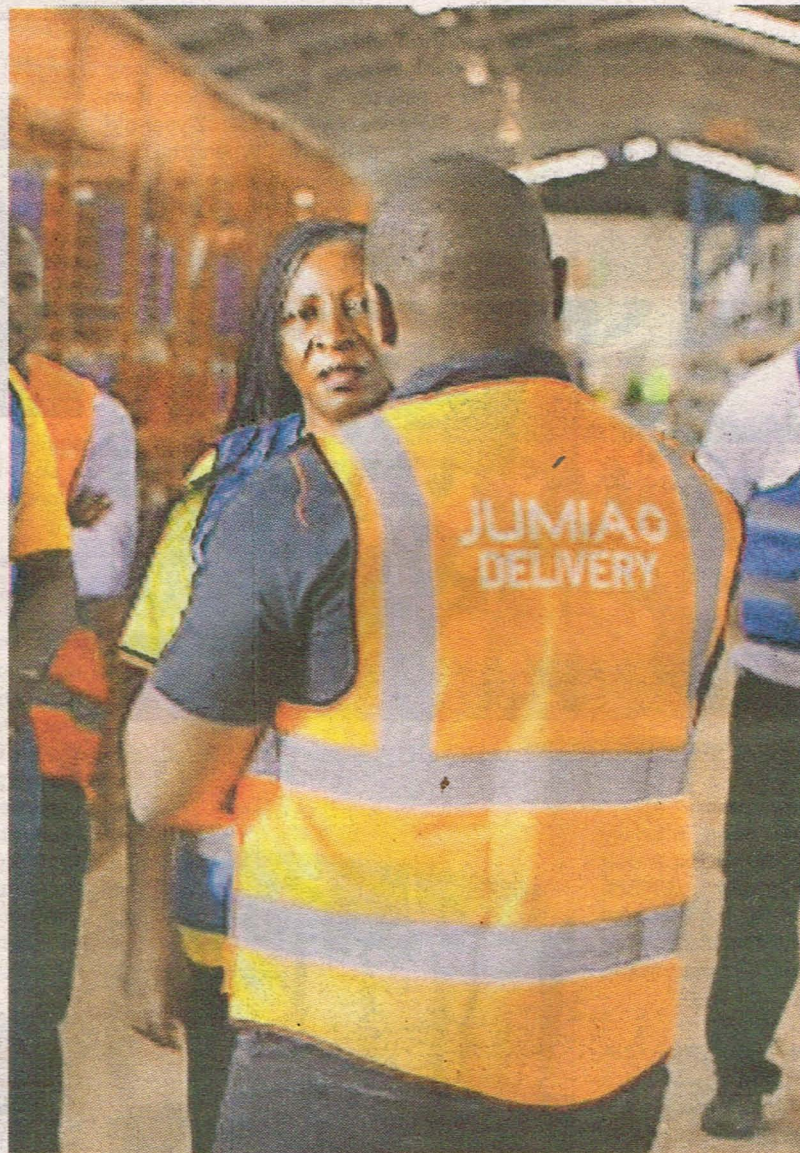
The High Court in Kenya overturned a Tax Appeals Tribunal ruling and clarified when a digital platform can be treated as a supplier for VAT purposes.

Sindy is a logistics app that connects customers needing deliveries with third-party drivers who own their vehicles. During an audit, Kenya Revenue Authority (KRA) found Sindy's bank inflows were higher than sales declared in its VAT returns.

KRA argued that Sindy had under-declared revenue because it was the true supplier of transport services.

What happens in practice drove that conclusion. When a customer requested a delivery, Sindy set the price, collected payment directly into its own bank accounts, assigned a driver through its system, and later paid the driver after deducting commission.

In KRA's view, controlling price, payment, and job allocation goes beyond matchmaking. The Tribunal initially sided with Sindy, calling it a platform provider rather than a transport provider, stressing that Sindy owned no vehicles, treated drivers as the suppliers, and held that VAT was due only on Sindy's commission.



Kenya's Sindy ruling shifts VAT focus to digital platforms that control pricing, treating them as suppliers. Ugandan apps such as Jumia face similar scrutiny as URA weighs taxing full transaction values, not commissions. PHOTO / FILE

On appeal, the High Court reached the opposite result. It applied a "substance over form" approach, focusing on how the business actually works rather than on labels in contracts.

Court noted that where a platform controls essential elements of a transaction, especially pricing and payment, it can become a "deemed supplier."

Applying that test, the Court found that Sindy controlled the transaction in all material respects. It set prices, chose which driver performed the job, issued payment requests in its own name, and received the full customer payment into its accounts.

Amounts later paid to drivers were treated as Sindy's costs, not customer funds passing through. Customers dealt only with Sindy's app and brand, so the service appeared to be supplied by Sindy. The High Court reinstated KRA's assessment and upheld a VAT demand of KSh82.2m (Shs2.29b) on the full customer payment.

Although the decision is not binding in Uganda, it sends a warning to platforms operating in a similar way.

Many Ugandan e-commerce, food delivery, and logistics apps mirror Sindy's structure: customers order and pay through the platform, invoices are issued in the platform's name, and service providers are paid later after com-

missions are deducted. This can make the platform look like the principal supplier because it controls the key transaction levers. Uganda's VAT Act taxes "the person making the supply," but does not explain how digital platforms should be treated.

URA could adopt the Kenyan approach, especially with EFRIS enabling bank-deposit matching.

Andrew Kibaya, Ian Mutibwa, and Roland Kule, tax partners at SM& Co Advocates, formerly Shonubi Musoke & Co Advocates, illustrate in an expert analysis that if a platform invoices for the full amount and receives all the money, URA may argue that VAT should apply to everything the platform collects, not only the commission.

"From a tax-policy perspective, this reflects a shift from taxing the intermediary to taxing the entity that appears to control the transaction," they say.

The Sindy case does not mean every platform in Uganda is automatically exposed. Courts still look at actual conduct and documentation, and different contract terms or payment flows could change the outcome.

Still, the trend is clear: the more control a platform exercises over pricing, customer relationships, and payment, the more likely it is to be treated as the supplier for VAT purposes.

For platform operators, the message is to review structures carefully, app design, pricing control, invoicing, and where customer money lands.

For consumers, the implication is simple: if platforms face VAT on the full value of transactions, their tax bills rise, and some of that cost is likely to be passed on through higher prices over time.

Controlling the transaction
'... this reflects a shift from taxing the intermediary to the entity that appears to control the transaction.'