

Case *Note*

CASE NOTES & COMMENTARY
ODPC & HIGH COURT, KENYA

ONE RULING, DIGESTED ON ITS OWN – THE FACTS, THE HOLDING, AND THE PRACTICE POINT

📄 [2026] KEHC 4944

A recycled phone number doesn't make the new owner a data subject of the old customer's data

Taifa DT Sacco Society Limited v Otieno

APPEAL ALLOWED CASE NOTED DATA PROTECTION · ADMINISTRATIVE LAW

BY THE EDITORIAL BOARD, MUCHANGI PATRICK & CO. ADVOCATES

A man who had never joined a SACCO kept receiving its credit and debit alerts after inheriting a recycled mobile number from an existing member. The ODPC ordered KES 250,000 in compensation for the SACCO's failure to stop the messages fast enough. The High Court reversed entirely: the complainant was not a data subject in respect of that number because no data of his was ever processed — only the original member's — and a month's delay in verifying a number reassignment the telco carried out without the SACCO's knowledge was reasonable, not a breach. The Court was blunt that the Act "should not be used as a cash cow," warning against turning number-recycling inconvenience into a compensation industry.

PRACTICE POINT

The person receiving unwanted messages is not automatically the "data subject" if no data about them was actually processed — and reasonable verification time before switching off a communication channel is a valid defence.

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HOW THIS TOUCHES A LIVE ODPC MATTER

Whether you are defending a complaint, appealing a determination, or bringing a privacy claim of your own, the forum you choose and the procedural record you build early usually decide the outcome.

Muchangi Patrick & Co. Advocates represents complainants and respondents before the Office of the Data Protection Commissioner and on appeal, judicial review and constitutional petition before the High Court.

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