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Who Regulates the Mobile Money Operations by Telco's? The Need for an Effective and Robust Legislative and Regulatory Framework in Ghana

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Abstract

Ghana has evolved with the rest of the world in technological advancement. Mobile phones have so many peripheral merits besides phone calls and text messaging. Mobile Network Operators (MNO) has ventured into rendering financial services other than the usual mandate of providing telecommunication services. Mobile Money Operations (MMO) by the Telco's in Ghana has become a tool to mobilize and encourage savings for the mostly unbanked populace of Ghana, and again as vehicle towards the ultimate aim of moving the economy into a cashless economy. However, there are unseemly implications if these activities of the Telco's are not strongly regulated by the appropriate regulatory bodies. Telecommunication activities in Ghana are normally regulated by the National Communications Authority (NCA), apparently the financial services activities of Telco's are beyond the purview of NCA and naturally falls within the mandate of the Bank of Ghana (BoG). This article seeks to implore the BOG to come out with a much stronger and robust legislative framework than what is currently available. The article compares and analyses some legislative frameworks of countries such as Nigeria, Kenya and Tanzania. Finally, the paper gives recommendations on regulating the MMO of Telco's.

Keywords: Mobile money operations; Mobile network operators; Bank of Ghana; National communications authority; Regulatory and legislative framework

Introduction

There is growing recognition of the importance of mobile phones. The mobile phone revolution and the introduction of mobile money have brought unprecedented benefits: improving clients' lives and livelihood, and enhancing a more stable and secure financial systems particularly across Africa. For instance, In Kenya and Nigeria, mobile phones can be used to verify the authenticity of a drug [1]. Another use of the mobile services by the Telco's is mobile marketing. Mobile marketing offers direct communications with consumers at anytime and anyplace [2].

At the centre of the current revolution of the mobile telecommunication is mobile money. According to Jerkins [3], mobile money could be described as monies assessed and used through the use of mobile phones. Mobile money could be used for transactions such as utility bills payment, remittances to family and friends, purchase of goods and services, payroll payment, airtime top up and micro insurance.

Mobile money has served both as a compliment to traditional banking services and in other cases served as the only form of non-traditional banking services [4]. In Africa, the fastest growing brand of mobile money in one country has been the M-PESA both in Kenya and Tanzania [4,5]. Mobile money does not only enhance people's lives, it serves as an outlet through which a more inclusive financial sector could be built. Furthermore, mobile money serves as an opportunity for the unbanked and new clients who feel the conventional banks are too congested, time consuming, and charge higher fees and commission. Therefore, affordability and convenience of the service become key determinants in negotiating banking choices by rational clients. Some of the reasons for the unbanked population in Ghana include account opening requirements (KYC), cost of financial service and distance to financial service outlets [6].

Indeed, mobile money operation in Ghana is fairly recent. However, the field is fast growing in Ghana. With 2.5 billion people still lacking access to basic financial services globally (GSMA, 2012) [7], much of which comes from the sub-regions in Africa, the essential role of mobile money operation: as an alternative entry point for the unbanked rural areas becomes important. In Africa, the fastest growing brand of mobile money in one country has been the M-PESA both in Kenya and Tanzania [4,5,8].

Despite the beneficial consequences of mobile money operation, it remains a major challenge for mobile network corporations to meet the growing clientele needs. Ofcourse, Mobile Network Operators do not operate in a vacuum. They operate within internal and external circumstances. Thus, depending on the context and specificities of constraints thereof, further deployment can be done. Regulatory issues have been a major determinant in the landscape of operation for most telecom industries. Indeed, a favourable and friendlier regulatory architecture could facilitate further penetration of the telecom market. Paradoxically, this has not been the case and this hugely undermines the operation of telecom operators [9]. Emerging evidence suggests that in contexts where institutionally marked barriers in the form of regulations do not allow mobile money operators to design and set up effective distribution network and/or put in mechanisms that can facilitate easy registration and identification of clients (which has investment wisdom) can hamper free flow of operation [10].

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The questions that remain less discussed are: Who should regulate MNOs? How should MNOs be regulated? And should this regulation be a fair play ground? This paper, therefore, situates its arguments in drawing attention to the need for a strong regulatory framework in the emerging mobile money industry. This article seeks to draw government and other regulatory bodies' attention on the need to ensure safety of clients' monies in order not to disincentives or further distant them from financial system. This article also serves as an entry point for further recommendation in terms of regulatory and legislative framework in the Telco industry in Ghana and beyond.

The next section gives an overview of MMO in Ghana. This is followed by a section that synthesizes and discusses the regulatory and legislative frameworks available in other countries. The last section concludes with some recommendations.

Overview of MMO in Ghana

The role of the Bank of Ghana include other things such as to regulate, supervise and direct the banking and credit system and ensure the smooth operation of the financial sector whereas the role of the NCA includes granting licenses and authorisations for operation of communication systems and services ensure fair competition among licensees, Establish and monitor quality of service indicators for operators and service providers, Consumer Education and Protection, Equipment Standards and Type Approval and International Frequency Coordination [11].

Mobile money started in Ghana in the year 2008. The population of Ghana is over 25 million and over 80% of the population is unbanked whiles mobile phone usage as at 2013 is over 100% (i.e. 27.51 million users) (Appendix A).

Mobile money usage

The illustration above gives the trend of mobile money registered customers and annual usage. The number of registered mobile money customers increased by 64.1% from 2013 to 2014. The total annual value of mobile money transactions increased by 393% from 2013 to 2014. Table 1 gives an increasing trajectory for mobile money operations is Ghana.

In March 2014, The BoG at the Strategic Payments System Roadmap for Ghana deliberated on the way forward of electronic payments systems including mobile money. In Ghana, whiles new mobile money agents are been registered and approved by NCA, the BoG also needs to approve these new agents as part of payment system providers, thus the need for greater collaboration between NCA and BoG [12].

According to the National Communications Authority, the total number of mobile phone subscribers in Ghana as at February 2015 was 31,028,253. Three out of the six mobile network operators in Ghana are involve in mobile money operations. These are Scancom (MTN), Millicom (Tigo) and Airtel. As at 2012, MTN had 3 million mobile money subscribers, Airtel had 900,000 mobile money subscribers and Tigo had 3.75 million mobile money Subscribers [4].

According to the Bank of Ghana (2014), two of the key objectives of the payment system in Ghana are: (a) to discourage the use of cash for transactions whilst encouraging the use of paper-based instruments for payments as part of the short-term development plan; (b) to develop an integrated electronic payment infrastructure that will enhance interoperability of payment and securities infrastructures. Although, there is the Payment System Policy and Oversight division at BoG, which in part oversees the activities of MMO. The BoG recognizes the Telco's as participants in payment system but only in the capacity as providing the telecommunication infrastructural arrangement for the payment system [13]. Thus the central bank and commercial banks plays the active roles because the BoG recognizes them as financial intermediaries while the Telco's play a passive role because they are recognized as MNO. There is no concrete legislative framework for MMO. The BoG sees the MMO as part of other electronic payments such as Ghana Interbank Payment and Settlement Systems Limited (GhIPPS).

The BoG issued Guidelines to Branchless Banking in 2008 which purported to provide the basis of mobile financial services in Ghana. In analyzing these guidelines, one could see that it only provides the basics for branchless banking for the traditional commercial banks and non-bank financial institutions. Further guidelines or legislative framework should address the following: Who will monitor and control the mobile money agents to make sure they compile with Ghana's Anti-Money Laundering Act as well as the Anti-Money Laundering and Financing of Terrorism (AML/CFT) standards as set by the Financial Action Task Force (FATF). Currently, the BoG finds it even difficult to regulate, monitor and control Microfinance, Savings & Loans and other money lending institutions. The Guidelines define the Telco's as agent in the Branchless Banking. Apparently, these Telco's are actively involved in the mobile money operations. They are not mere agents but principals or play a lead role in MMO.

Discussions

The Telco's MMO makes it unclear as to the regulatory distinction between telecommunication and financial services. For instance, in Ghana, at prima facie it's unclear as to whether it falls under the purview of the National Communications Authority (NCA) or BOG. MMO is a simple financial intermediation activity but can also be compared to a complex financial transaction in terms of the operations of the Telco's. Therefore a strong systems needs to be out in place before Ghana is hit by a financial crises caused by MMO. The Central Bank of Nigeria does not allow Telco's to engage in MMO but allow other operators to use the networks of the Telco's.

Indicators	2013	2014
Total number of mobile phone subscribers	20,346,016	21,721,814
Registered mobile money customers (Cumulative)	3,303,837	5,424,650
Active mobile money customers	963,495	2,369,997
Registered Agents (Cumulative)	17,467	26,889
Active Agents	10,404	20,722
Total volume of Mobile Money Transactions (Annual)	36,796,146	106,431,007
Total value of Mobile Money Transactions (Annual, GH¢'Million)	2,351	11,592
Balance on Float (GH¢)	62,809,945	223,325,189
Source: Bank of Ghana (2014) Payment System Statistics.		

Table 1: Mobile money usage.

In future, it could possible to transfer mobile money from MTN to Tigo or Airtel and vice versa. It would even be possible to transfer mobile money from one operator in Ghana to the other in Nigeria. These are major transformations that need strong legislative controls.

There are no limits on these mobile money transactions because no regulatory and supervisory control exists. This could be a great avenue for money launderers to infiltrate and wash clean their dirty monies.

Mobile money helps cultivate the habit of savings both in adults and the youth. The Bank of Ghana's (BOG) know-your-customer (KYC) policy disqualifies a lot of people from opening bank accounts. Not all bankable (everybody above 18 years) Ghanaians can provide a proof of residence, a form of identity (i.e. passport, national voter's ID and national health insurance card) and also a proof of source of income.

The mobile money service is in the emerging/transition stage now. The service will grow and consolidate and might pose serious problems if regulatory actions do not start now. The rapid growth of MMO has initiated the urgency for the need of an effective and robust regulatory and legislative framework [14].

Can the Telco's effectively and efficiently manage the financial services operations?

Capacity – Can the management of Telco's run MMO as financial services effectively and efficiently? No, they need the services of expertise in the banking and finance industry to run it. MMO might look very simple but it's a complex financial transaction. It needs to be managed well otherwise it could lead to a financial crisis.

Infrastructure – MMO does not need any huge investments in physical infrastructure. The Telco's already have the platforms and technological infrastructures in place. A MMO operation runs on a branchless banking operations model.

Customer base of Telco's – According to NCA, the total number of subscribers of MTN, Airtel and Tigo was as 22,186,257 at February 2015. This number is more than the total number of the banked population of Ghana. Assuming, MMO becomes fully developed/ matured and most subscribers are registering for the mobile money service. This will create an oligopoly and Ghana's financial services sector will be controlled by a few Telco's engaged in MMO.

MMO models and some legislations in Nigeria, Kenya and Tanzania

According to Jimoh who happens to be the Head of Payment System Policy and Oversight, Central Bank of Nigeria [6]. The three regulatory frameworks are as follows:

- **Bank-focused model:** This is where a bank delivers banking services to customers using the mobile phone as a mode of delivery. This model can only be deployed by licensed deposit-taking financial institutions including Microfinance Banks and Discount Houses.
- **Bank-led model:** This is where a bank or consortium of banks, partnering with other organizations, jointly seeks to deliver banking services by leveraging on the mobile banking system. The model could only be possible where; there exists collaboration between a licensed bank and an organization duly verified by the partner bank.
- **Non-bank-led model:** The model allows a corporate organization that has been duly approved by the Central Bank to deliver mobile payments services to consumers. The model is applicable to any organization other than a licensed deposit money bank and telecommunication companies.

Ghana could adopt the three regulated frameworks of Nigeria or adopt what the article termed as Telco-Bank led model. This is where Telco's are actually in MMO and partner banks to carry out the activities. Here, the MMO of the Telco's must be ring fenced from the Mobile Network Operations for taxation and clear business operating line purposes.

Nyaga 2014 lists a few legislative frameworks that regulate mobile money in parts of eastern Africa.

In Kenya, these include:

- Central Bank of Kenya Act (enacted 1966, amended through 2009), creating the Central Bank of Kenya and defining its mandate.
- Banking Act (enacted 1991, amended through 2010), regulating the activities of banking institutions within the financial sector in Kenya.
- Guideline on Agent Banking (2010), providing for the appointment of agents to extend banking services within Kenya.
- Draft Electronic Retail Transfers Regulation and Draft E-Money Regulation (stake holder consultations have been organized and comments to the draft are now being integrated), regulating electronic money issuance and exchange, as well as its transfer between different parties within Kenya.
- The Kenya Information and Communications Act (enacted 1998, amended in 2010), providing the mandate of Communications Commission of Kenya (CCK) and a framework to regulate the information, communications, media, and broadcasting subsectors.
- A range of Kenyan information and communications regulations made by the Minister in charge of Information and Communications in tandem with the CCK to regulate various aspects of the communications sector that include consumer protection, competition, tariffs, numbering, inter-connection, quality of service, etc.
- The Kenyan Competition Act (enacted 2009), which includes some elements of consumer protection and provides for the creation of an autonomous Competition Authority to replace the Monopolies and Prices Commission

In Tanzania, these include:

- The Bank of Tanzania Act (enacted 2006), creating the Bank of Tanzania and defining its principal functions.
- The Banking and Financial Institutions Act (enacted 2006), providing the legal framework for undertaking licensed banking operations within the United Republic of Tanzania.
- There are a number of guidelines from the Bank of Tanzania that are relevant to mobile money including the National Payment Systems Guidelines for retail payments, rules and regulations for retail payments, and the guidelines for introducing electronic payments.

- The United Republic of Tanzania Communications Regulatory Authority (TCRA) Act no. 12 (enacted 2003), establishing and providing the mandate for the communications regulator. The Electronic and Postal Communications Act (enacted 2010), principally repealing the Broadcasting Services Act and the Tanzania Communication Act with the aim of putting in place a comprehensive regulatory framework for electronic and postal communication.
- The Fair Competition Act (enacted 2003), fostering competition in different sectors, while at the same time protecting consumers. As part of this Act, the Tanzanian government has set up the Fair Competition Commission (FCC) to administer the law, and the Fair Competition Tribunal (FCT) to provide a judicial forum where appeals of various commission decisions can be made.

Analysis of legislative and regulatory frameworks in Kenya, Tanzania and models in Nigeria

From the above listed regulations in both Kenya and Tanzania, we can see that MMO by the Telco's has made it very difficult to clearly distinguish the financial regulations from telecommunication regulations. Both Central Banks in Kenya and Tanzania has adopted flexible and calm posture waiting how the MMO will eventually span out before they react. Nigeria, on the other hand, has blocked the Telco's from getting involved in MMO because of the complexities and uncertainties.

In Kenya, the Communications Commission of Kenya defers specifics of M-PESA oversight to the Central Bank of Kenya and in Tanzania, there is a MoU between the Bank of Tanzania and the Tanzania Communications Regulatory Authority.

Conclusions/Recommendations

The government and other regulatory bodies should provide an enabling environment for MMO because of the merits. MMO presents a new set of operational challenges for the central bank [14]. The paper would recommend a Telco and Commercial Banks partnership led model which would be easier to regulate.

Telco – Bank led Model – This is where Telco's are actually in MMO and partner banks to carry out the activities. Here, the MMO of the Telco's must be ring fenced from the Mobile Network Operations for taxation and clear business operating line purposes. This model calls for a robust legislative and regulatory framework otherwise the Telco's would form an oligopoly because of their subscriber base and would also take advantage to charge higher fees, engage in activities outside the boundaries of Banking and Non-Banking Financial Institutions as players in the Financial services industry such as insurance and moving funds around. In effect, the MMO business unit of Telco's would be duly decoupled from the MNO and operate as either a Banking Institution or Non-Banking Financial Institution, whichever is appropriate. The National Telecommunication commission should still remain as the regulator of the core operations of the Telco's while the BOG takes up the regulatory role of the mobile money and other financial services provided by the Telco's.

However, decoupling the MMO from MNO's would mean the MMO business unit would fall under financial services industry which is primarily regulated by BoG. This would create accessibility problems because many unbankable persons in Ghana would be prequalified from opening accounts as they would not meet the basic account opening criteria. Subsequently not all MMO users would be required to open accounts, many of them would only be required to register with their phone numbers.

Apparently, this is where the Branchless banking of BOG would work effectively. Here, all the agents would be duly registered by the MMO unit and the Telco shall be held responsible for any lapses caused by the agents. Therefore the Telco's shall strictly monitor and evaluate the MMO agents on a regular basis to ensure proper record keeping and strict adherence to regulations.

Government could get more revenue where financial services of the Telco's are properly supervised so the appropriate taxes could be collected. The government has a major role in developing mobile money ecosystems and regulators are responsible for providing environments that enable ecosystem development to happen [3].

Nobody can predict what would happen in the mobile money industry three to five years from now. The paper admits the need for mobile money services by the telecommunication networks but it needs to be properly regulated before it get out of control or goes bust.

References

1. Qiang CZ, Yamamichi M, Hausman V, Altman D, Unit IS (2011) Mobile applications for the health sector. Washington: World Bank.
2. Scharl A, Dickinger A, Murphy J (2005) Diffusion and success factors of mobile marketing. Electronic Commerce Research and Applications 4: 159-173.
3. Jerkins B (2008) Developing Mobile Money Ecosystems. IFC and the Havard Kennedy School, Washington, DC.
4. William I (2013) Regulatory frameworks and Implementation patterns for Mobile Money in Africa: The case of Kenya, Ghana and Nigeria. Ghana ICT Conference, Accra.
5. Hughes N, Lonie S (2007) M-PESA: Mobile Money for the "Unbanked" Turning Cellphones into 24-Hour Tellers in Kenya. Innovations 2: 63-81.
6. Jimoh MI (2013) International Conference for Payment Systems 2013.
7. GSMA (2012) Mobile Money for the Unbanked (MMU) Deployment Tracker.
8. Mas I, Morawczynski O (2009) Designing Mobile Money Services Lessons from M-PESA. Innovations 4: 77-91.
9. Pénicaud C (2013) State of the Industry: Results from the 2012 Global Mobile Money Adoption Survey. GSMA, London, UK.
10. Leishman P (2011) Is There Really any Money in Mobile Money? GSMA Mobile Money for the Unbanked position paper.
11. NCA (2012) What We Do.
12. Bank of Ghana (2014) Overview of Payment System in Ghana.
13. Bank of Ghana (2011) Participants in Payment System.
14. Nyaga JK (2014) Mobile Banking Services in the East African Community (EAC): Challenges to the Existing Legislative and Regulatory Frameworks. Journal of Information Policy 4: 270-295.