

**CRITICAL ANALYSIS ON THE LAW GOVERNING MOBILE MONEY BANKING
IN UGANDA.**

BY

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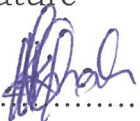
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DECLARATION

I Kiyimba Nakato Salimah Reg. no. LLB/43231/143/DU, do hereby declare to the best of my knowledge that this research report entitled, "a Critical analysis on the law governing mobile money banking in Uganda" is truly my original work and has not been submitted for the fulfillment of any award of degree or diploma in any other institution of higher learning or university so it is entirely my own personal and individual efforts.

Dated this 3rd.....day of SEPTEMBER 2018

Signature



APPROVAL

I confirm that this work is an initiative of Kiyimba Nakato Salimah and has been done under my direct supervision. It meets the consideration of written research report submitted as a requirement for the award of bachelors' degree in law of Kampala International University, Kampala.

Supervisor



Mrs. Nantege Erinah

Signed on the 03RD day of SEPT 2018

DEDICATION

This research is dedicated to my beloved mother Ms. Nalongo Nakayowa Mastulah for her support throughout my studies, had it not been her financial support, I would not have made it. I also dedicate this work to my late grandmother Nusula Nankumbi, my siblings Shifah, Shanitah, Babirye, Kigongo, Sophia and Nakuya, plus my nieces and nephews Myla, Markus, Crispus, Not forgetting my in-laws Mr. Mugagga Micheal and Mr. Luwuge Emmanuel.

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LIST OF ACTS

Bank of Uganda Act 1993 Cap 51.

Mobile Money Guidelines 2013

The Penal Code Act Cap 120

The Contract Act 2010.

ABSTRACT

This Research is aimed at the critical analysis of the laws governing mobile money banking, the relationships involved in mobile money operation there in, the regulatory concerns in the mobile money sector and the risks there in.

The research also focuses on the challenges, loopholes and critics with in the mobile money sector and their possible solutions there into make mobile money a success.

Furthermore Uganda's mobile money has grown rapidly since its introduction in 2009 providing a convenient cheap and safe means of money transfer. Mobile money has spurred increased financial inclusion.

The rapid growth has happened under conditions allows the first mover to reap the rewards of investments made.

The roll out of mobile money services by the mobile telecommunication companies in recent years has received over whelming uptake by sought to analyze the laws governing mobile money banking operation in Uganda.

Lastly the findings indicated that Uganda needs a regulatory system because it lacks laws governing the mobile money sector and a law is needed as early as possible to make mobile money sector and a law is needed as early as possible to make mobile money a success.

CHAPTER ONE

GENERAL INTRODUCTION

1.0 Introduction

Mobile Banking is the use of mobile devices in order to transfer funds between banks and accounts, deposit or withdraw funds or pay bills. It can also refer to the use of mobile device to purchase items, whether physical or electronic¹. Mobile banking is a service provided by a bank or other financial institution that allows its customers to conduct commercial transactions remotely using a mobile device such as a smart phone or tablet². This chapter will cover the background of the study, statement of problem, objectives of the study, scope of study, significance of the study, methodology and the literature review.

1.1 Background of the study

The earliest mobile banking services used Short Messages Services (SMS). It was a facility used by some banks or other financial institutions to send notifications or alerts to customers' mobile phones using SMS messaging or a service provided by them which enables customers to perform some financial transactions using SMS. In 1999, the first European banks started to offer mobile banking to their customers.³ Mobile banking before 2010 was most often performed via SMS or the mobile web. Apple's initial success with iPhone

¹ <http://www.businessdictionary.com>.

² <https://en.m.wikipedia.org/wiki/mobile-banking>.

³ The world's First WAP Bank was Norweign Itavison No. 2 of September 1999.

and the rapid growth of phones based on Google's Android (operating system) have led to increasing use of special mobile applications, downloaded to the mobile device like the MTN mobile money app.

A study by Mapa research suggests that over a third of banks⁴ have mobile device detection upon visiting the bank's main website. A number of things can happen on mobile detection such as redirecting to an App store, redirection to a mobile banking specific website or providing a menu of mobile banking options for the user to choose from.

Mobile money was introduced in Uganda in 2009. The business model involves a partnership between the mobile money operator and a commercial bank. The services offered have so far been restricted to domestic remittances, basic rental payments and money storage services. The growth in mobile money banking has been phenomenal and as of December, 2014 there were over 18 million registered mobile money customers.⁵

In 2013, Bank of Uganda issued mobile money guidelines which stipulate the approval process for the mobile money services as well as the roles and responsibilities of all parties involved. They address interoperability, system standards, competition and supervision. They also stipulate the safeguards to protect customers.

⁴ Mapa Research 116 May 2012. (what is mapa? An abbreviation? If so write in full)

⁵ Remarks by Mr. Emmanuel Tumusiime Mutebile Governor of Bank of Uganda, at the meeting with Parliamentary Committee on information and communication technology Kampala, 25th February 2015.

1.2 Statement of the Problem

The law governing mobile money banking is drawn from and supported by several legal tools as enacted by the government of Uganda, such as, bank of Uganda Act,⁶ The Financial Institutions Act⁷, mobile money guide lines⁸ and from common law.

Mobile money banking arises where there is a connection between a mobile phone and personal or business bank account. Mobile money banking allows customers to use their mobile phones as another channel for their banking services such as deposits, withdrawals, account transfer bill payment and balance inquirely.

Although there are laws that seemingly govern the mobile money banking sector in Uganda, enforcement and implementation of such laws still remains lax. It is arguable that these laws are overwhelmingly insufficient to effectively govern the mobile Money Banking sector in Uganda. This research therefore seeks to analyze and evaluate the effectiveness of the legal framework in Uganda relating to mobile money banking.

⁶ Bank of Uganda Act, 1993 Cap 51.

⁷ FIA Cap 56 2004 (Uganda).

⁸ Mobile Money Guidelines 2013

1.3 Objectives of the study.

This study will comprise of the main objective and the specific objectives.

1.3.1 Main objectives

The study analyses the laws governing mobile money banking in Uganda in order to evaluate their effectiveness.

1.3.2 Specific objectives

- (i) To examine the laws regulating mobile money banking services in Uganda.
- (ii) To discuss the different relationships involved in mobile money banking in Uganda.
- (iii) To assess the weakness in laws governing mobile money banking in Uganda.
- (iv) To provide recommendation and conclusion on the findings of the study.

1.4 Scope of the study

The study will be carried out on the laws governing and regulating mobile banking particularly in Uganda and it focuses on the challenges in mobile money banking and the relationships therein plus the possible solutions to the challenges.

1.5 Significance of the study

The research is intended to lay a solid persuasive ground for the legislators or regulators to draft laws to address the challenges in mobile money banking.

The study will be of considerable contribution to the awareness on the loopholes of the law governing mobile money banking and the possible solutions to the challenges therein.

The study is expected to provide a foundation for future research which will help to high light the existing gaps on mobile money banking issues in the financial sector of Uganda.

1.6 Methodology

The research methodology involves the ways in which the researcher will gather the necessary information on the topic under study and the tools and instruments which the researcher will use to collect the required data.

The data will be collected using library sources including but not limited to statutes, text books, the e-resource (Internet), published and unpublished seminar papers, articles from various law journals on the subject, newspapers and interviews from people carrying on the mobile money business.

1.7 Literature Review.

The rapid spread of mobile phones means that the number of mobile users may already exceed the number of banked people in many low income countries.

Mobile phones can also offer a communication channel for initiating and executing online financial transactions.

This channel may not only reduce the cost of financial transactions for provider and customer, but also allow new entrants to the financial sector, and new relationships to be formed for distributing services. These changes hold the prospect of accelerating access to financial services on the back of the mobile infrastructure.⁹

The UNICT Task Force¹⁰ defined mobile money banking as “Investment, innovation and entrepreneurship” which will build the private sector. However policy makers and regulators in the financial sector usually seek an enabling environment with certain key outcomes such as financial stability, economic efficiency, access to financial services, financial integrity and consumer protection. Billions of people are gaining access to banking services of any sort for the first time and there is no doubt that mobile communications are having a significant impact on the way the world will live work and communicate with each other.

According to the most recent committee on payment and settlement systems (CPSS) survey, (2004)¹¹ a regular survey of e-money and internet and mobile money banking, which scans developments in this sector, it was reported that payments using the internet and mobile phones have advanced rapidly in

⁶ <http://www.devepments.org.uk> accessed on infrastructure 16 October 2009.

¹⁰ UNICT Tax force is now defunct by due to be replaced by global alliance for ICT policy and development.

⁸ CPSS(2004) available via <http://www.bis.org> accessed on 6 October 2009.

recent years, compared to the usage of e-money which has lagged, at least in e-purse form.

Under mobile money banking there are different stakeholders¹² for example the Uganda communications commission, Bank of Uganda, mobile money agents, partnering licensed institutions and mobile money service providers.

Mobile Money Supervision

In line with the mobile money guidelines and as stated by Mr. Tumusiime Mutebile,¹³ Bank of Uganda has the powers to supervise mobile money services. However, the mobile money operator who are the Multinational Telecom Companies and Financial Institutions, have the duty to supervise their agents to ensure that agents conduct the business in accordance with the mobile money guidelines.

Collaboration with Uganda Communications Commission

The mobile money platforms ride on mobile networks and this called for regulatory collaboration with the telecom regulator, the Uganda Communications Commission (UCC). Uganda Communications Commission has to allow telecoms to provide mobile money as a value added services.

Uganda Communications Commission is responsible for ensuring network availability (network system uptime) which is necessary for mobile money

⁹. Paragraph 7 mobile money guidelines 2013.

¹⁰. Central bank speech 10 march 2015 by Emmanuel Tumusiime Mutebile.

services to run. Uganda Communications Commission has also to ensure that there is no unfair competition, i.e. that telecoms do not lockout, nor unfairly charge other mobile money service providers who use their networks. As is standard practice, regulators enter into Memorandum of Understanding to mainly exchange regulatory information and also provide for other regulatory issues in which they can collaborate¹⁴.

Mr. Mutebire Envisaged that mobile money will become an integral part of the National Payments system. The Bank of Uganda Act is being amended to include powers of the central Bank to regulate and supervise the payment systems and national payment systems legislation is being developed whereby payment service providers will be licensed by the Central Bank. Once this legislation is enacted, payment service providers will be directly licensed as payment operators by Bank of Uganda.¹⁵

The growth of mobile money in Uganda is phenomenal and this growth is expected to continue. The success of mobile money is due to its inclusiveness ability to reach and tap into the rural population. With about 80% of Ugandans said to be living in rural areas, of which 50% own mobile phones, it is easier to access mobile money services compared to banking services especially for the village folk. That is why mobile money has experienced phenomenal growth. It enables easy and cost effective transfer of money from urban to rural areas as people in the village are net recipients of mobile money. At the moment, there

¹⁴ Ibid.

¹².ibid.

is no specific law that regulates mobile money. A law is needed as soon as possible as a lot of money is involved¹⁶.

¹⁶ Presentation by Mustapha. B. Mugisha at Uganda Law Society continuing by education seminar on 2nd October 2013, at Golf course Hotel.

CHAPTER TWO

DIFFERENT STAKEHOLDERS AND RELATIONSHIPS INVOLVED IN MOBILE MONEY BANKING

2.0 Introduction

Mobile money banking refers to provision of banking and financial services with the help of mobile telecommunication devices. Mobile money services consist of different stakeholders who are involved in different relationships to make mobile banking successful.

2.1 Mobile Money in Uganda

Mobile money services were first introduced in March 2009 by MTN Uganda Limited a telecom company.¹⁷ The newly appointed Minister of Information and Technology, Hon Aggrey Awori, by then, at the launch of MTN mobile money lauded MTN's innovation and ability to always bring the Ugandan market products and services that are relevant to the people. MTN mobile money was the first mobile money service in Uganda. Currently there are four mobile money schemes in Uganda and these are:-

- MTN Mobile money provided by MTN Uganda Limited
- Airtel Money provided by Airtel Uganda Limited
- M-Sente provided by Uganda Telecom Limited
- Africell Money provide by Africell Uganda Limited

¹⁷ www.itnewsafrika.com/pressoffices/mtn/0816.html.

At the start and similar to other jurisdictions, the main services offered were funds transfers from person-to-person, but this has since evolved to include other services for example paying bills, depositing and withdrawing money to and from the bank.

Bank of Uganda issued mobile money guidelines in 2013. The guidelines provide clarity on the roles and responsibilities of mobile money service providers, customers, mobile money agents and other stakeholders involved in the provision of mobile money services in Uganda. They provide for the meaning of different words in mobile money, supervision, consumer protection and recourse, competition and protect financial inclusion.

Growth of Mobile Money in Uganda

According to Bank of Uganda annual supervision report December 2012, “during 2012, mobile money transfer services continued to register strong growth. The number of registered customers increased from 2.9million in 2011 to 8.9 million in 2012, while the amount transferred by customers rose from Ushs 3.7trillion to Ushs. 11.7 trillion over the same period”¹⁸

In December 2017, Bank of Uganda stated that there were 22 million subscribers registered for mobile money. While opening the seventh international leadership conference in Entebbe in November 2017, Bank of Uganda Deputy Governor Louis Kasekende stated that mobile money

¹⁸ Presentation by Mustapha. B. Mugisha at Uganda Law Society continuing by education seminar on 2nd October 2013, at Golf course Hotel.

transactions had by then hit 54 trillion.¹⁹ This therefore clearly portrays that Mobile money banking has consistently been on an increasing scale from the date on its introduction into the Ugandan economy.

2.2 Stakeholders and their roles and responsibilities

Bank of Uganda

Bank of Uganda is vested with the authority and mandate to license, regulate and supervise all institutions whose business involves deposit taking and remittance of funds. Bank of Uganda is in charge of approval and supervision of mobile money services and issues directives regarding mobile money operations.²⁰

Bank of Uganda also issued mobile money guidelines in 2013 to customers, mobile money service providers, licensed institutions, mobile money agents and other stakeholders involved in the provision of mobile money banking services in Uganda. The role of Bank of Uganda in this sector is most specifically essential to ensure protection of mobile money services customers/users in a business to keep the economy stable.

Uganda Communications Commission (UCC)²¹

The Uganda communications commission is responsible for licensing and supervision of Mobile Network Operators. It ensures that telecommunication networks over which mobile money platforms ride are effective. UCC may

¹⁹ Daily Monitor Newspaper of Friday December 1st, 2017 by Stephen Otagi.

²⁰ Paragraph 7 (1) of the Mobile Operations money guidelines 2013.

²¹ Uganda Communications Act, 2013 and the rules thereunder.

further take measures to strengthen a competitive market environment. UCC helps to regulate rates and charges for communications services with a view to protecting consumers from excessive tariffs and to prevent unfair competitive practices.

The Uganda communications commission receives, investigates and arbitrates complaints relating to communications services, and takes necessary actions.

The UCC also helps to regulate interconnection and access systems between operators and users of telecommunications services.

Mobile money Agents

A Mobile money Agent is the main interface between the customers and mobile money service providers. The agent is selected by the mobile money service provider. The mobile money agent should be a registered business with a physical address and have an account in a licensed financial institution. The Agent should collect mobile money account opening documents for onward transmission to the mobile money service provider. The agent should sensitise the customers not to disclose their personal identification number to any person'²²

The agent receives cash to credit mobile wallet (cash in) pays cash in exchange for e-money from a mobile wallet (cash out) and attend to customer queries and complaints.

²² Paragraph 7 (1) of the Mobile Money guidelines 2013

Customer ²³

A mobile money customer is any person who uses mobile money services from any of the above mentioned service providers for purposes of money remittances, bills payments and other online transactions. A mobile money customer should exercise due care in performing transactions and properly follow instructions given. The mobile money customer is responsible for keeping his/her Personal Identification number secret at all times by not disclosing it to anyone.

The Partnering Licensed Institution²⁴

A partnering licensed institution is any financial institution which operates in conjunction with Telecom Companies to provide mobile money services. The partnering licensed institution should conduct proper due diligence on the mobile money service provider and should keep the escrow account. It should also have mobile money system replicated in real time and ensure that the partnering mobile money service provider has adequate measures in place.

Mobile Money Service Providers²⁵

A mobile money service provider manages the platform. The responsibility of a mobile money service provider is to ensure the smooth and sound operation of the service. Another responsibility is to maintain and provide a back-up of the mobile money system to ensure that this system is replicated at the partnering licensed institution. This is in addition to attending to customer complaints.

²⁰. Paragraph 7(6) mobile money guidelines 2013.

²¹. Paragraph 7(3) Mobile Money Guidelines 2013.

²². paragraph 7 (3) Mobile Money Guidelines 2013.

A mobile money service provider selects, manages mobile money, sensitizes agents on the provisions of the mobile money and the obligation to comply with their requirements.

Furthermore, the mobile money service provider supervises the mobile money agents, ensures that agents receive appropriate training, assign each agent a unique Identification number , keep up to date records of its agent and carries out due diligence on its agents.

2.3 How Mobile Money Banking Operates.

Mobile money transforms your mobile phone into an electronic wallet. One can store funds on a mobile phone for making electronic payments for goods and services or to transfer funds to family and friends.

The e-wallet can be funded via authorized agents of telecom service providers, partner banks and networks of your mobile money services transfers from your ATM, Debit cards or any other funding methods offered by the service provider. Once funded one can securely and conveniently use mobile money to send money to family and friends, buy airtime, pay bills like DSTV and utilities. One can also withdraw cash from your mobile phone at some locations.

Most transactions like sending and receiving money, deposit or withdraw will cost a transaction fee as specified by the service provider. Some services may also charge a monthly fee. One should inquire from the mobile money agent before signing up.

Payments

Mobile money banking can be used to make payments for example school fees, contribute to charity, utilities, paying for a license, taxes like the OTT tax (over the top) on social media which was introduced in the 2018/2019 Budget read on 14/06/2018 which became effective on Sunday 1, July 2018, hospital bills, and other bills. One has to go on the mobile money menu, then select the utility he/she wants to pay for as provided by the network operators and follow the prompts until payment is successfully made.

Banking

Mobile money is used to deposit and withdraw money in the bank. One can deposit money from his/her mobile money account to his/her bank account, withdraw from his/her bank account to his/her mobile money account. For example from MTN mobile money account to Equity Bank account and from the Equity Bank account to his/her MTN mobile money account.

Loan access

Through mobile money services, telecommunication companies have introduced loan schemes, whereby one can use his/her mobile money account to get a loan and pay back later with interests when he/she deposits money on his/her mobile money account. For example "WEWOLE" of - Airtel Uganda Limited and Mokash of MTN Uganda Limited..

Sending and receiving money

One can send and receive money using the mobile device by receiving it on his/her mobile money account and sending it to others on their mobile money accounts. The sender goes to the agent and gives the agent cash, the agent deposits the money on his/her account and the sender goes to the mobile money menu and select instructions that enable sending money to another person. When the receiver receives a message showing that he has received the money, he/she also goes to the agent and money is sent to the agent's mobile money account from the customer's account then the agent gives the customer cash.

2.4 Relationships involved in mobile money banking

The mobile money ecosystem is composed of several players like telecoms, banks, regulators, agents and merchants and the players relate for mobile money to be a success.

2.4.1 Relationship between telecoms and banks

Telecoms must partner with a partnering licensed institution that is prudentially regulated by Bank of Uganda; in Uganda mobile money schemes are supported amongst others by operators who collaborate closely with many regulated financial institutions such as Stanbic Bank, Barclays bank, DFCU Bank, Centenary bank and Equity Bank amongst others. Telecoms don't handle money. All mobile money transactions are done through partner banks. Compliance to Financial Institution Act and regulations is done through

partner banks as they hold escrow accounts where money from customers is received.

To send money, a subscriber deposits money at any of the agents who have an agency line linked to the system. The person also signs in a manual book indicating the amount of money sent and their mobile number and that of the intended recipient. Telecoms credit the recipients mobile account with an equivalent e-value of the money sent and debit cash account (out escrow bank account held in a partner bank). Once the recipient withdraws the money, telecoms credit cash (the escrow bank account balance is produced) and debit the recipients e-value money on their mobile money number. The cash from the agents is directly picked by security guards and deposited to the mobile money account held in escrow at the partner bank.

In simple terms telecoms provide a platform to enable people to buy e value or credits on their mobile money which they can use to pay bills or send to loved ones. Telecoms facilitate money transfer and payments but don't operate financial services.

2.4.2 Relationship between telecoms and customers.

Telecoms earn commission from customers and customer's money is a liability in telecoms accounts held in escrow at a telecoms partner bank. Telecoms protect customer funds and separate them from their claims and customer's

money is in form of e-value and is not recorded as an asset of the telecom companies.

Under this relationship customers trust their money with the telecom companies by giving telecoms a commission.

2.4.3 Relationship between telecoms and agents

There is an agency line that links to the telecom system. The agents also have a manual book they get from telecoms where customers sign indicating the amount of money sent and their mobile number and that of the intended recipients. The agents keep telecom's cash which is directly picked by telecom security guards. The agents earn a commission at the end of every month, paid by telecommunication companies for conducting mobile money banking business.

2.4.4 Relationship between agents and customers.

These agents give cash to customers in case a withdraw takes place. The customer sends the money on the agents' live through transactions made on both mobile phones and in return the agents give them cash and sometimes in case of sending, customers give cash to agents and they send money through transactions to the people customers want to send to.

It is imperative to note that several stakeholders play a vital role to ensure a successful mobile money transaction and the highlighted relationships are important to delineate the rights and duties of each stakeholder.

CHAPTER THREE

THE REGULATORY FRAMEWORK OF MOBILE MONEY BANKING IN UGANDA

3.0 Introduction

Mobile money has been a fast-growing phenomenon in the east African region and Uganda is no exception. The number of registered mobile money subscribers and transactions has grown since 2009 when mobile money was introduced. This success has been partly attributed to the relatively light touch regulation governing the mobile money sector in Uganda.

3.1 Regulatory Environment

There is no legislation governing mobile money services in Uganda. Bank of Uganda put in place guidelines to be followed prior to the licensing of a mobile money service. These guidelines point out the need for a partnership between a telecommunication company and a financial institution before start up. The essence of the partnership is to ensure that Bank of Uganda can protect the monetary value of the mobile transactions through appropriate regulation of the financial institution²⁶. Banks partnering with mobile network operators need to take proper measures for back-up and replication of data, Know Your

²⁶ The role of Money Services in Uganda by George Wilson Ssonko (2010)

Customer (KYC) requirements, handling complaints and liquidity management by agents²⁷.

In a bid to strengthen controls around the mobile money transfer services, a national working group was formed comprising of Bank of Uganda and Uganda Communication Commission (UCC) to enhance cooperation and joint oversight of the mobile money services UCC is in the process of drafting new rules that will oversee the mobile money trade in the country²⁸.

Uganda's regulatory framework appears to be relatively open but ranks below the average in terms of certainty. The legal framework does not prevent non-bank financial institutions from issuing mobile money, albeit there is not a clear regulation on mobile money itself. Mobile financial services such as deposit and withdraw through agents are possible with partnered banks and while there is no strict oversight on agents, banks have to ensure that agents properly manage liquidity, confidentiality of data. There is no interoperability of platforms, which forces users of mobile money services to affiliate with multiple mobile providers. In fact about 43 percent of Uganda customers use more than one operator²⁹.

Mobile number portability has not been introduced based on the perception that the time is not yet ripe. There are no specific KYC exemptions for small accounts or indication of a risk based approach to KYC.

²⁷ Bank of Uganda, (2011), Financial Consumer Protection Guidelines 2011.

²⁸ During the Uganda Mobile money agents Association stakeholders meeting held at Serena hotel in December 2011, Remark by Godfrey Yiga Masajja, Deputy Director of Commercial banking at Bank of Uganda.

²⁹ <http://www.asma.com/mobile-for-development/wp-content/uploads/2012/06/mmu-in-teroperability.pdf>

As per factors related to certainty, an electronic signature Act was legislated in 2011 providing certainty for e-contracting. Customers' protection is not always guaranteed and in some cases customers are exploited by agents who are not directly supervised by banks³⁰.

Partner banks are recommended by Bank of Uganda to work with mobile network operators to handle customer protection and complaint issues.

3.2 Regulatory framework of mobile money in Uganda.

The mobile money industry in Uganda is overseen by two regulatory authorities, Bank of Uganda and Uganda Communications Commission (UCC). Only one regulation specifically governs the mobile money sector in Uganda. These are the mobile money guidelines issued by Bank of Uganda (BOU) in 2013. Its legal status is ambiguous, although it is generally treated as if it is binding.

Bank of Uganda authorizes conduct of mobile money services by issuing a letter of "no-objection" This letter is issued to commercial banks who partner with the mobile network operators and requires the bank to hold the balances recorded in the mobile wallet in an escrow account³¹.

³⁰ <http://allafrica.com/stories/2013/020025.html>.

³¹ The African Journal of Information and Communication (AJIC), issue 17, 2016.

3.3 Mobile Money Guidelines 2013

The guidelines provide the regulatory framework for mobile money operations in Uganda. The Guidelines were developed in consultation with the Uganda Communication Commission (UCC), the private sector and other relevant stakeholders. A draft was circulated to stake holders in June 2013 and comments were incorporated and discussed during a stake holder workshop in September, 2013. The guidelines were issued in October - 2013, and all stakeholders are expected to comply with the Guidelines³².

These guidelines address mobile money operations. These guidelines provide clarity on mobile money services to customers, mobile money service providers, licensed institutions, mobile money agents and other partner involved in the provision of mobile money services in Uganda. This document outlines the approval procedures, roles and responsibilities of parties engaged in the provision and usage of mobile money services. These guidelines also provide for consumer protection for mobile money customers including a mechanism for handling complaints³³.

Anti-Money Laundering (AML) and Countering the Financing of Terrorism (CFT)³⁴.

Paragraph 11 of the mobile money guidelines, 2013 provides that mobile money service providers shall have measures in place to prevent money

³² Mobile money in Uganda, Ivan James Ssetimba Bank of Uganda 14th – 16th March, 2016 Mission, 70 foster price stability and a sound financial system.

³³ Bank of Uganda Mobile Money Guidelines, 2013/DFS Observatory <https://www.dfsobservatory.com>.

³⁴ Paragraph 11 of Mobile Money Guidelines, 2013.

laundering and terrorist financing. The mobile money Information Technology system shall have inbuilt mechanisms to identify suspicious transactions. The following measures shall be in place:

- (a) Adhere to international Know Your Customer (KYC) standards at account opening by carrying out Customer Due Diligence (CDD). The entity conducting customer verification should require at least one of the following documents to verify the identity of the customer: a valid passport, driving permit, identity card, voter's card, financial card, local administration letter or business registration certificates.
- (b) Limits should be set for frequency, volume and value of transactions; and these limits, as well as any revisions thereof, shall be sent to Bank of Uganda for approval.
- (c) Suspicious transactions and large cash transactions should be reported to the partnering licensed institution which should in turn report them appropriately.

Paragraph 11 is to the effect that the mobile money services providers must have controls in place to identify and prevent money laundering and terrorist financing. This is facilitated by the fact that Mobile Money Service Providers already have the identity of the customer through information collected at registration including but not limited to information from passports, driving permits, national identity card and others.

Consumer Protection and Recourse³⁵

The mobile money service being relatively new and involving several players (licensed institutions, mobile money service providers, mobile money agents, goods and services providers) has had customer confidence built on trust. The following consumer protection measures are intended to further this customer trust and ensure protection of customers against abusive practices.

Mobile money is a financial service provided by supervised and licensed institutions in partnership with mobile money service providers. Therefore, the provisions of the Bank of Uganda Financial Consumer Protection Guidelines shall apply. In addition, mobile money service providers shall ensure the following:

(a) Transactions

- 1.0 A mobile money agent shall carry out transactions only when the mobile money system is up and running and transactions should be in real-time.
- 2.0 Every transaction shall require authentication by a customer's PIN. At the time of opening mobile money accounts, mobile money agents should sensitise customers not to disclose their PINs to any other person.

³⁵Paragraph 12 of Mobile Money Guidelines.

- 3.0 There must be a mechanism for the customer to verify the name and number of the funds' recipient for confirmation before a transaction is completed.
- 4.0 The customer shall immediately receive written confirmation of execution of a transaction, including the fee charged.
- 5.0 In case of mobile money sent to unregistered users, the sender must receive a message confirming encashment by the recipient. All funds sent to unregistered users and are not cashed out within two weeks must be returned to the sender.
- 6.0 The mobile money platform shall be secured through security of data measures including end to end encryption of all messages containing information related to mobile money transactions.
- 7.0 The mobile money service provider shall provide in writing the balance remaining in the customer's mobile wallet as well as a statement on previous transactions, including hard copies if requested by customers.

Paragraph 12 (a) of the mobile money banking guidelines is to the effect that mobile money transactions are built on trust. The agents, customers and all stakeholders should play their important roles when carrying on mobile money transactions.

(b) Transparency

At mobile money account opening, the consumer shall obtain a copy of the agreement with the service provider. The agreement shall be explained by the agent clearly and in plain language. The terms and conditions provided by the mobile money service provider shall highlight to the consumer the relevant fees, charges, penalties and any other consumer liabilities or obligations in the use of mobile money services. The mobile money customers should be able to access the service fees chargeable from their phones. The terms and conditions shall also include an indemnity clause in case the customer is defrauded. The licensed institution keeping the escrow account shall also be stated. The consumer shall be given at least 30 days notice, including by SMS, of any changes in terms and conditions (including fees and charges) of the mobile money service.

The agent shall clearly display in a conspicuous place:

- (i) The identity of the mobile money service provider(s) for whom he/she operates as an agent;
- (ii) The agent's unique identification number provided by the mobile money service provider;
- (iii) All applicable charges and fees for the mobile money service;
- (iv) A written notice that no charges or fees are levied at the agent location;

- (v) The dedicated telephone line through which customers can contact the mobile money service provider, including the contact in case the consumer has a complaint about the service; and
- (vi) A statement that the agent does not carry out transactions on behalf of customers.

Paragraph 12 (b) of the mobile money guidelines 2013 is to the effect that the consumer should be given the copy of the agreement and the agreement should be explained to him and the consumers should be shown all fees chargeable from them and in case of a defraud, the customer has to be indemnified. The consumer has to be notified of any changes by notice at least 30 days.

(c) Data Protection.

Paragraph 12 (c) is to the effect that the Mobile Money service provider and agent have to keep the data of the consumers private and confidential and this protection should be in line with all relevant laws.

(d) Complaints handling and consumer recourse

Paragraph 12 (d) is to the effect that Mobile Money Service Providers shall receive, consider and respond to complaints put in place by the consumers. And the aggrieved customers can go for alternative legal procedures for redress like tribunals, courts of law and other legal institutions.

Mobile money service providers shall ensure that appropriate and effective procedures for receiving, considering and responding to complaints are put in place. The complaints handling procedure shall ensure that:

- (i) Information about procedures for handling complaints is easily available at any channel used in the provision of mobile money services;
- (ii) Agents are trained on receiving complaints and handling their resolution or escalation;
- (iii) A dedicated toll free telephone line for complaint resolution is provided; and
- (iv) Records are kept for all complaints lodged.

Customers have a right to contact Bank of Uganda in case they are dissatisfied with the way their complaints are being handled by the mobile money service provider.

Customers who may be dissatisfied with the manner in which the complaints have been handled may resort to alternative legal procedures for redress.

Supervision³⁶

Paragraph 13 of the mobile money guidelines is to the effect that Bank of Uganda has powers to supervise the mobile money services and periodic reports must be provided to Bank of Uganda on mobile money operations by

³⁶ Paragraph 13 of Mobile Money Guidelines.

the partnering provider. Bank of Uganda can appoint an appropriate professional to conduct a special audit on the expenses of mobile money service providers.

The paragraph further provides that;

- (a) The licensed institution shall maintain accurate and complete records of the aggregate e-float and the amount in the escrow account. These records shall be kept for a period of at least ten years.
- (b) The mobile money service provider shall maintain accurate and complete records of mobile money accounts opened, the identity of mobile money customers, agents, transactions undertaken by mobile money customers, the individual balances held by mobile money customers, the aggregate e-float and the amount in the escrow account. These records shall be kept for a period of at least ten years.
- (c) If the Bank of Uganda has reason to believe that the operations of the mobile money service are being conducted in a manner that is detrimental to the interest of the mobile money customers or in contravention of the terms and conditions imposed, it may take any of the following courses of action:
 - (i) Issue directions regarding measures to be taken to improve the management and provision of the mobile money services;
 - (ii) Suspend or cancel the approval/no-objection;

- (iii) Impose any other conditions as it may consider appropriate.

Bank of Uganda may suspend or cancel the approval of mobile money services or impose any conditions or issue direction regarding measures to be taken to improve the management and provision of the mobile money services; this helps to raise the standards of mobile money services and to eliminate fraud and other loopholes in Mobile Money services.

Future Development of the Regulatory Framework for Mobile Money³⁷

These Guidelines are an interim measure for enabling the operation of the mobile money service. The Bank of Uganda in conjunction with other stakeholders will create a comprehensive regulatory framework over time through the necessary legal and regulatory changes.

Paragraph 14 is to the effect that the guidelines are a temporary measure for enabling the operation of the mobile money service but Bank of Uganda and other stakeholders will create a comprehensive legal framework to regulate the mobile money services.

In light of the above discussed, though the central bank has provided some form of guidance in the mobile money sector, the guidelines are not comprehensive enough to properly regulate this sector. The regulator should therefore take steps to pass a substantive law to regulate this sector of the industry.

³⁷ Paragraph 14 of Mobile Money Guidelines.

3.4 Uganda Communications Act No. 1 of 2013

Mobile money services are usually provided by Mobile Network Operators which certain aspects of their activities and services under the purview of Uganda communications commission (UCC), although UCC has not played an active regulatory role in relation to mobile money services. UCC is a creature of the Uganda Communications **Act, No. 1 of 2013**, which mandates it to undertake a number of functions in relation to licensing, tariff regulation competition, spectrum management and economic regulation³⁸. The Act gives License to telecommunication companies to partner with banks and other mobile money operators.

Uganda communications commission is the regulator of telecom providers and also determines if the telecom is conducting its business up to the set standard, or operating within the precinct of the law UCC is charged with the mandate to license and regulate operations of telecom companies. Emphasis is placed on protection of the rights of the customers of telecom services including users of mobile money services.

3.5 Mobile Money Key Areas of regulatory concern

Where a consumer is unable to understand English, the agent shall provide an oral explanation in a language the consumer understands. Some agents also don't know most of the languages and some agents even don't understand English, they just know how to operate mobile devices. The regulatory body

³⁸ Ibid.

should enforce seminars and trainings to agents to get skills in mobile money banking. Where a consumer is unable to understand written information, the agent shall orally explain to the consumer the written information, but were the agents have failed to do this. Therefore the regulatory body should enforce this.

The Regulatory Body should also enforce.

Exploring solutions and proposals aimed at addressing the current challenges such as consumer protection, the 1% tax on mobile money transactions, curbing fraud, system vulnerable, privacy and allocation of liability. There are many challenges and liabilities like fraud obtaining money by false pretense where by a person can pretend to be another's relative and he takes that persons money get he is not a relative even consumers are not protected because they make many losses using mobile money banking for example a consumer might be depositing money on his/her account and misses a number and money ends up on another person's account if that person withdraws immediately the consumer ends up losing his money. Fraudulent people can hack into network operating systems and get to know the information of the consumers and they use this information to get money from consumers mobile money accounts.

Identifying international best and next practices on operational internet controls on security standards. When using mobile money, if someone knows the customer's PIN (Personal Identification Number) of his/her mobile money

account, they are able to withdraw customers money without his/her consent and at times computer misusers can hack into consumer's accounts using the internet and they take their money. The regulatory body should identify a solution to this concern and make laws concerning security.

Harmonizing the existing legislation which are relevant to mobile money. Like the financial institutions Act, bank of Uganda Act, consumer protection Act, Mobile money guidelines. These legislations are relevant to mobile money but they are not enforced when issues of mobile money arise these should be harmonized to make mobile money a success.

Addressing Anti money laundering concerns and countering of financing of terrorism. Terrorists and money launders use mobile money to send and receive money for buying fire arms and gadgets which are not allowed in the country, using mobile money these with money send it to terrorists to commit crimes. The regulatory body should address this concern.

Ensuring that all transactions carried out on the mobile money platform are traceable and accounts held at the banks are fully auditable – breaking down the escrow account balances. Sometimes a consumer makes a transaction and the information concerning that transaction is not shown to them. For example money can be sent from one consumer to another and the one who receives it does not see any notification form the network service providers to show him/her the balance on his/her account.

Liquidity concerns, service interruptions, complaints handling, non-exclusivity, interoperability. The network sometimes is low down and this delays or hinders mobile Money operations because transactions cannot be done because there is no network. And at times consumers complaints are not handled with care for example a consumer may bring a complaint to the agent and the agent tells him/her to take it to the mobile network service providers service centres and at the service centres the lines are very long and the centre workers are small in number yet the customers are money some customers end up not being worked on, and their complaints end up not being handled. The regulatory body should provide for trainings, seminars to all mobile money operators to train them how to keep the network on a stable and good basis and how to quickly handle consumer complains.

Complaints handling and consumer recourse³⁹

Mobile money service providers shall ensure that appropriate and effective procedures for receiving, considering and responding to complaints are put in place. The complaints handling procedure shall ensure that:

- (i) Information about procedures for handling complaints is easily available at any channel used in the provision of mobile money services;
- (ii) Agents are trained on receiving complaints and handling their resolution or escalation;

³⁹ Paragraph 12 (d) Mobile Money Guidelines 2013

- (iii) A dedicated toll free telephone line for complaint resolution is provided; and
- (iv) Records are kept for all complaints lodged. The regulatory body should enforce this paragraph for safety of customers money.

Customers have a right to contact Bank of Uganda in case they are dissatisfied with the way their complaints are being handled by the mobile money service provider. The regulatory body should emphasize providing of the Bank of Uganda contacts to all consumers to ease their communication with Bank of Uganda in case of any dissatisfaction with their complaints handling.

Customers who may be dissatisfied with the manner in which the complaints have been handled may resort to alternative legal procedures for redress. The regulatory body should put fast and affordable legal procedures to ease redress for customers in case they are dissatisfied with the manner in which their complaints are handled.

CHAPTER FOUR

CRITICISM OF MOBILE MONEY BANKING AND ITS REGULATORY SYSTEM IN UGANDA

4.0 Introduction

The chapter looks at the challenges in mobile money banking and its regulatory framework plus the risks loopholes and bars/ limitations in the mobile banking sector.

4.1 Challenges facing mobile money

Despite the success of mobile money, there are still challenges the technology is facing.

Interoperability⁴⁰

Mobile money service providers shall utilize systems capable of becoming interoperable with other payment systems in the country and internationally, in order to facilitate full interoperability. Each network has its own Mobile Money network, money cannot be sent to another user on another network without incurring heavy charges. In simple terms mobile money is not entirely cross-network. The end user should not be worried about what network they are using when their ultimate interest is to keep and use their digital money whenever needed.

⁴⁰ Paragraph 8 of Mobile Money Guidelines.

Heavy transaction charges

The high transaction costs have inadvertently forced the end users to use mobile money only when cash cannot work. In the ideal world, digital money offers better benefits than century old hard cash. The 2018/2019 budget introduced the 1% tax on mobile money transactions. Each transaction made on mobile money will have the user paying 1% of the value to the tax man and this was expected to generate at least shs 115 billion. Government takes 1 percent of the value of a person's money every time a person uses his/her mobile money account. This means that when a person receives money on his/her mobile money account, government will tax one percent of it when a person deposits money on his/her mobile money account, when withdrawing and or when transferring.

Network/ connectivity problems

The network is low at times which hinders transaction and Network problems at times lead to losses. When the network is poor, the agent may make a transaction and It shows success yet it is not successful and he/she gives cash to the customer and when the network comes back to normal, the agent realizes that the transaction was not successful yet he/she had already given the money to the customer and of which sometimes he/she will not see that customer again and he/she ends up in a loss due to network and connectivity problems.

Fraud and theft

Fraudulent people take innocent people's money through fraud by using mobile money. The fraudulent people call the innocent ones requiring money from them pretending to be their relatives and tell them to use mobile money when sending yet they are not the ones. For example on 25th/ May/ 2018 At Buganda Road Magistrate Grade I Court before her Worship Gladys Kamasanyu a 32 year old man John Turyarenga Mutambira was sentenced to a total of 10 years in jail by two separate magistrates at Buganda Road court for defrauding two separate individuals using mobile money⁴¹.

Uganda Vs Mutambira John Turyarenga – CR – 956/17⁴²

John Turyarenga Mutambira was found guilty of duping Ntungamo Municipality mayor Jacob Kafureka through a text message that his son, the Ntungamo municipality member of parliament, Mr. Gerald Karuhanga, needed 3.9 million. Court heard from the prosecution witnesses that on July 12, 2017, Mr. Kafureka, upon receiving the message, tried to reach his son through a phone call in vain.

Mr. Kafureka opted to make a deposit of the sum as directed by the text message using mobile money. However later when he managed to reach his son, MP Karuhanga, he found that he had not asked for any money from him. Mr. Kafureka reported to police and investigations were commenced leading to

⁴¹ Daily monitor, Man Jailed 19 years for mobile Money fraud, By Betty Ndagire.

⁴² *Uganda Vs Mutambira John Turyarenga – CR – 956/17 KLA-00-CR-CO-956-2017.*

the arrest of Mr. Mutambira, who was charged with fraud and theft. The presiding magistrate Gladys Kamasanyu sentenced Mr. Mutambira to seven years in jail.

The magistrate held that the punishment would act as a deterrence to would be offenders.

Uganda Vs Mutambira John Turyarenga – CR – 911/17⁴³

The case before Buganda Road chief magistrate James Ereemye, for which judgment was also entered on Friday, Mr. Mutambira was found to have duped one Mr. David Bazibu, the manager of Ankole Resort Hotel through a disguised text that Rukutana had directed him (Bazibu) to send him an advance payment for a contract the Deputy Attorney General had entered with him. Mr. Bazibu sent him shs 3 million on a telephone line he used registered in the name of Simon peter Mateege.

Mr. Ereemye found him guilty of fraud, theft and obtaining money by false pretense and fined him shs 4 million in default and he was to spend three years in jail. Court also ordered him to compensate the victim with all the sums he deceitfully acquired from him⁴⁴.

⁴³ *Uganda Vs Mutambira John Turyarenga – CR – 911/17 KLA-00-CR-CO-911-201.7*

⁴⁴ *Ibid.*

4.2 Risk Involved in Mobile Banking

The main risks emanating from mobile money banking are the following:

Liquidity risk

Liquidity risk in mobile banking mainly involves the agents, who may not have sufficient cash on hand to effect transactions with customers, such as meeting a demand for a withdrawal of cash from a virtual account. The risk, however, is Idiosyncratic to the individual agent, not the mobile banking system, therefore customers who cannot access cash from one agent could do so from another if available.

Credit risk

The direct risk to customer's virtual money is small. The mobile phone operator holds the equivalent of all the virtual money issued in a settlement account at its partner commercial bank, so that even, if the former were to cease trading and become bankrupt, mobile money customers would still be able to recover their virtual money from the settlement account. Mobile banking does not involve the extension of credit, or any other type of financial intermediation, by the mobile phone operator. Mobile banking customers could still incur losses of their virtual money should the bank holding the settlement account fail, but this risk is no different from that facing all of the creditors of the bank.

Operational risk

This is probably the largest potential risk facing mobile banking and arises primarily from failures linked to the information technology systems used to operated mobile banking, for example attack by viruses, hacking of systems. A breakdown of the information technology system could leave several customers unable to access their virtual money and/or effect transactions. The information technology systems might be vulnerable to errors being made in effecting transactions, debiting and crediting customers' virtual accounts. The security of the information technology system is critical, to prevent frauds being committed on virtual accounts.

Consumer protection issues

The fees and commissions charged for mobile banking operations give rise to consumer protection issues. In particular there is a risk that charges might not be transparent and/ or excessive. There is also a risk that customers, who may have no prior experience of financial services, will not understand their rights.

Money laundering

The risks of mobile banking being used for money laundering are small as it would not appear to be an attractive vehicle for this purpose for two reasons. Firstly, the amounts which can be stored and transferred are capped at relatively low levels and secondly, there is a permanent electronic record of all

transactions. Nevertheless, basic safeguards against money laundering, such as ensuring that customers provide proof of identity, are desirable.

4.3 loopholes in mobile money banking

Many consumers use mobile money banking on their cell phones or other reportable device because it allows them to quickly access information such as account balance and transaction history. The benefits of this convenience are undeniable, but there are a number of loopholes that mobile banking users should be aware of including but not limited to the technology's cost, compatibility issues and security problems may cause a consumer to think twice about using it⁴⁵.

Security

Security experts generally agree that mobile banking is safer than computer banking because very few viruses and Trojans exist for phones. That does not mean mobile banking is immune to security threats.

Mobile users are especially susceptible to a phishing-like scam called "Smishing"; it happens when a mobile banking user receives a take text message asking for bank account details from a hacker posing as a financial institution. Many people have fallen for this trick and had money stolen through this scam. Then in a situation where a mobile device is stolen while all banking applications require the use of a password or PIN, many people

⁴⁵ The loopholes of mobile banking [techwalla.com](https://www.techwalla.com), <https://www.techwalla.com> .

configure their mobile devices to save passwords, or use insecure passwords and PINs that are easy to guess.

Compatibility

Mobile banking is not available on every device. Some banks do not provide mobile banking at all while others require you to use a custom mobile banking application only available on the most popular smart phones, such as the Apple, Iphone and Blackberry. Suffice to note that the third party mobile banking software is not always supported by the mobile phone's operating system. If you don't own a smartphone and at times a particular smartphone, the types of mobile banking you can undertake are usually limited. Checking bank account balances via text messages is not a problem, but more advanced features such as account transfers are generally not available to users of "dumb phones".

Costs

The cost of mobile banking might not appear significant if you already have a compatible device but you still need to pay data and text messaging fees. Some financial institutions charge an extra fee for mobile banking service, and you may need to pay a fee for the software. These extra charges quickly add up, especially if you access mobile banking often.

Lack of mobile money law

The lack of specific laws to regulate mobile banking transactions is envisioned as a potential limitation to their commercial viability due to the fact that users are not aware of who bares the responsibility in case of disputes arising or even allocating liability cases of loss⁴⁶.

4.4 Conclusion

The above discussion provides a clear understanding and enumerates the challenges likely to be encountered by mobile money users in Uganda. Operation of the mobile money and mobile banking specifically is subject to several factors which negatively impact the entire stakeholder. As severally indicated above, it is imperative that a law is passed to effectively regulate this sector.

⁴⁶Law governing mobile money in the offing. Innocent Anguyo

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Findings

The findings indicated that Uganda commercial banks have experienced both a decline in profitability and liquidity in recent years and this to some extent has been attributed to the growth in use of mobile money services. Because people opt to save their money on their mobile money accounts instead of saving it on the bank accounts.

The findings also show a significant increase in awareness and use of mobile money because currently banks have introduced agent bank like Equi-Duuka of equity Bank and a shared platform to be used by all the banks that subscribe thereto.

The findings also indicate that Uganda has no certain or specific laws governing mobile banking. The legal status of the mobile money guidelines issued in 2013 by the Central Bank of Uganda, is ambiguous even though they are generally treated as if they are binding.

5.2 Conclusion

The laws governing mobile money banking in Uganda as of now are the mobile money guidelines 2013 and the Uganda communications commission Act No. 1 of 2013 and they are interim measure for enabling the operation of the mobile

money service and therefore more laws have to be enacted to improve on the mobile money services.

Mobile money banking includes different relationships like the relationship between telecoms and banks, telecoms and customers, telecoms and agents, agents and customers of which the success of these relationships leads to development of mobile money services.

The mobile money business and its operation is exposed to several challenges, therefore, Mobile money stakeholders in conjunction with Bank of Uganda are urged to create a comprehensive regulatory framework through the necessary legal and regulatory changes to eradicate the critics in the mobile money services.

In the interim, Bank of Uganda should enforce the mobile money guidelines issued in 2013.

5.3 Recommendations

The legislature as the law making body of the state should enact laws to govern mobile money banking to manage the challenges, loopholes, bars and limitations in mobile money banking. Laws and controls should be put in place to o activate/ enforce those in existence like the mobile money guidelines issued by the Bank of Uganda in 2013. This was emphatically stated in Paragraph 14⁴⁷ which provides for future developments of the Regulatory framework for mobile money. The guidelines are in an interim measure for

⁴⁷ Mobile money guidelines 2015.

enabling the operation of the mobile money service. Bank of Uganda in conjunction with other stakeholders must create a comprehensive regulatory framework through the necessary legal and regulatory changes.

The study recommends that commercial banks should partner or enter into joint ventures with mobile money operators. With such partnerships, banks would have effective models to expand their physical reach into poor and rural areas. This arrangement would deliver the required level of proximity and low transaction costs, which are essential in increasing client deposits, a source of liquidity. More so, commercial banks should take advantage of the products that are not provided by mobile operators. More banks should partner with other telecom companies to provide and extend mobile money services to places where it is not readily available and increase the number of mobile money agents in places where need for this service is necessary. It is hoped that this will build a strong bond between the client and the bank which guarantees regular flow of cash in or cash out transaction.

Creating an independent easy to use and Unified Application Programming Interface (API) by the stakeholders for the consumers. The API should be able to receive and send money regardless of network. Developing a network independent mobile wallet that allows for cross-network transactions using the API above. This will assist in creating a cut across charge for the services provided by Telecoms and will possible reduce the service charges currently levied by the providers.

Adoption of mobile wallets that allow transfers at a lower cost. The Uganda Revenue Authority and Government should remove that 1% tax because the tax is likely interfere with business, with people expected to shy away from using mobile money services . The newly introduced tax increases the cost of transacting using mobile money compared to other money remittance services. It is anticipated that enforcing this tax will drastically reduce the number of people transacting using mobile money which will ultimately affect the economy. Many Ugandans have expressed their dissatisfaction and are unwilling to bare the additional cost It's strongly arguable that introduction of this tax will have an impact on Uganda's majority poor families which are unbanked, and therefore use these platforms to send and receive money. I therefore recommend that the government should vacate this tax which will grossly affect business transactions and in the alternative, it should lower the tax to avoid adding a burden to the users of this service.

REFERENCES

- Armstrong, M. (2006). Competition in two-sided markets. *The RAND Journal of Economics*, 37(3), 668-691. doi: 10.1111/j.1756-2171.2006.tb00037.x
- Banda, F., Robb, G., Roberts, S., & Vilakazi, T. (2015). *Review paper one: Key debates in competition, capabilities development and related policies: Drawing the link between barriers to entry and inclusive growth*. CCRED Working Paper No. 4/2015. Centre for Competition, Regulation and Economic Development, University of Johannesburg. Retrieved from http://www.competition.org.za/s/CCRED-Working-Paper-4_2015_BTE-Review-Paper-1-BandaRobbRobertsVilakazi-3azp.pdf
- Blechman, J. G. (2016). Mobile credit in Kenya and Tanzania: Emerging regulatory challenges in consumer protection, credit reporting and use of customer transactional data. *The African Journal of Information and Communication (AJIC)*, 17.
- Bank of Uganda (BoU). (2013). *Mobile money guidelines*. Retrieved from <https://www.bou.or.ug>
- Bank of Uganda (BoU). (2015). *Annual supervision report: Issue No. 6*. Retrieved from <https://www.bou.or.ug>

Bourreau, M., & Valletti, T. (2015). *Enabling digital financial inclusion through improvements in competition and interoperability: What works and what doesn't?* CGD Policy Paper 065.

Washington, DC: Center for Global Development (CGD). Retrieved from <http://www.cgdev.org/publication/enabling-digital-financial-inclusion-through-improvements-competition-and-Interoperability>.
(2015). *Mobile platform access for USSD-based applications (MPA-USSD): Market assessment*. Prepared for Uganda Communications Commission (UCC). Retrieved from http://www.ucc.co.ug/files/downloads/SMP_Report_Mobile_Platform_Access_USSD_April%202015.pdf

Dignited. (2016, August 16). *MTN Mokash: 10 things you need to know about Mokash micro savings and loans*. Retrieved from <http://www.dignited.com/20282/mtn-mokash-10-things-need-know-mokash-micro-savings-loans/>

Economic Policy Research Centre (EPRC). (2013). *Unlocking barriers to financial inclusion. FinScope III survey report findings*. Kampala: Makerere University. Retrieved from <http://www.eprcug.org/research/finscope-iii-survey>

Evans, D., & Pirchio, A. (2015). *An empirical examination of why mobile money schemes ignite in some developing countries but flounder in most*. Coase-Sandor Institute for Law and

Economics Working Paper, 723. The University of Chicago Law School.
Retrieved from
http://chicagounbound.uchicago.edu/law_and_economics/744/

EzeeMoney (U) Limited v. MTN Uganda Limited, Civil Suit No. 330 of 2013, High Court of Uganda at Kampala [Commercial Court], (2015). Retrieved from
[http://www.ulii.org/ug/Ezeemoney%20\(U\)%20Ltd%20Vs%20MTN%20\(U\)%20Ltd_1.docx](http://www.ulii.org/ug/Ezeemoney%20(U)%20Ltd%20Vs%20MTN%20(U)%20Ltd_1.docx)

Farrell, J., & Klemperer, P. (2007). Coordination and lock-in: Competition with switching costs and network effects. In M. Armstrong, & R. Porter (Eds.), *Handbook of industrial organization: Volume 3*, (1970-2072). doi: 10.1016/S1573-448X(06)03031-7

Financial Inclusion Insights (FII). (2014). *Digital pathways to financial inclusion: Findings from the nationally representative FII tracker survey in Uganda (wave 1), focus group discussions with lapsed users and nonusers of mobile money, and mobile money agent research*. Final Report. Retrieved from
<http://finclusion.org/uploads/file/reports/FII-Uganda-Wave-One-Wave-Report.pdf>

Ggombe, K. M. (2014). *Mobile money, remittances and rural household welfare: Panel evidence from Uganda*. GRIPS Discussion Paper No. 14-22. Tokyo: National Graduate Institute for Policy Studies (GRIPS).

Retrieved from <http://www.grips.ac.jp/r-center/wp-content/uploads/14-22.pdf>

Hernandez, J., Bernstein, J., & Zirkle, A. (2011). *The regulatory landscape for mobile banking*. GSR11 Discussion Paper. Geneva: International Telecommunication Union (ITU). Retrieved from <https://www.itu.int/ITU-D/treg/Events/Seminars/GSR/GSR11/.../04-M-Banking-E.pdf>

Katz, M. L., & Shapiro, C. (1985). Network externalities, competition and compatibility. *The American Economic Review*, 75(3), 424-440. Retrieved from <https://www.jstor.org/stable/1814809>

Macmillan, R. (2016). *Digital financial services: Regulating for financial inclusion*. GSR16 Discussion Paper. Geneva: International Telecommunication Union (ITU). Retrieved from <https://www.itu.int/en/ITU-D/Conferences/GSR/Documents/GSR2016/>

Digital_financial_inclusion_GDDFI.pdf Mazer, R., & Rowan, P. (2016). *Competition in mobile financial services: Lessons from Kenya and Tanzania*. Washington, DC: Consultative Group to Assist the Poor (CGAP). Retrieved from <http://www.cgap.org/sites/default/files/Working-Paper-Competition-in-MFS-Kenya-Tanzania-Jan-2016.pdf>

McGrath, F., & Lonie, S. (2013). *Platforms for successful mobile money services*.

GSMA Mobile Money for the Unbanked. Retrieved from <http://www.gsma.com/mobilefordevelopment/platforms-for-successful-mobile-money-services>

MTN Uganda. (n.d.). Mobile money tariffs. Retrieved from

<https://www.mtn.co.ug/Mobile%20Money/How%20to%20use/Pages/Mobile-Money-Tariffs.aspx>

MTN Uganda. (2015). MTN Uganda is the leading financial services provider

with its mobile money offering. [Media release.] Retrieved from

<http://www.mtn.co.ug/newworld/press-releases/Documents/2015/October/Mobile%20Money%20Thematic%20-%20Press%20Release.pdf>

Muhumuza, M. K. (2016, January 11). How amended financial law could revolutionise banking.

Daily Monitor. Retrieved from [http://www.monitor.co.ug/Business/How-](http://www.monitor.co.ug/Business/How-amended-financial-law-could-revolutionise-banking/688322-3027954-14dep4fz/index.html)

[amended-financial-law-could-revolutionise-banking/688322-3027954-14dep4fz/index.html](http://www.monitor.co.ug/Business/How-amended-financial-law-could-revolutionise-banking/688322-3027954-14dep4fz/index.html)

Ochieng', L. (2014, July 27). CAK orders Safaricom to open up M-Pesa. *Daily*

Nation. Retrieved from <http://www.nation.co.ke/business/CAK-orders-Safaricom-to-openup-M-Pesa/-/996/2399632/-/69n55oz/-/index.html>

Ochwwo, A. (2016, August 12). MTN, CBA Bank launch MoKash. *The Observer*.

Retrieved from <http://allafrica.com/stories/201608120543.html>

Okwii, D. (2015a, March 9). Almost everyone agrees, Airtel Uganda is leading the mobile money innovation train. *Dignited*. Retrieved from <http://www.dignited.com/12624/airtel-uganda-is-leading-the-mobile-money-uganda-innovation-train/>

Okwii, D. (2015b, January 12). 5 companies changing mobile money transfer and payment systems in Uganda. *Dignited*. Retrieved from <http://www.dignited.com/11675/5-companies-changing-mobile-money-transfer-payment-systems-uganda/>

Republic of Uganda. (2013). The Uganda Communications Act, No. 1 of 2013.

The Uganda Gazette No. 4, Volume CVI. Retrieved from <https://www.ict.go.ug/sites/default/files/Resource/UCC%20Act%202013.pdf>

Roberts, S., Blechman, J., & Odhiambo, F. (2016). *A comparative study of competition dynamics in mobile money markets across Tanzania, Uganda and Zimbabwe: Tanzania Country Paper*. Johannesburg: Centre for Competition, Regulation and Economic Development (CCRED), University of Johannesburg.

Roberts, S., Macmillan, R., & Lloyd, K. (2016). *A comparative study of competition dynamics in mobile money markets across Tanzania,*

Uganda and Zimbabwe: Synthesis report. Johannesburg: Centre for Competition, Regulation and Economic Development (CCRED), University of Johannesburg.

Rohlf, J. (1974). A theory of interdependent demand for a telecommunications service. *Bell Journal of Economics and Management Science*, 5, 16-37. Retrieved from http://www.stern.nyu.edu/networks/phdcourse/Rohlf_A_theory_of_interdependent_demand.pdf

Rysman, M. (2009). The economics of two-sided markets. *Journal of Economic Perspectives*, 23(3), 125-143. Retrieved from <http://pubs.aeaweb.org/doi/pdfplus/10.1257/jep.23.3.125>

Sitbon, E. (2015). Addressing competition bottlenecks in digital financial ecosystems. *Journal of Payments Strategy & Systems*, 9(3), 351-365. Retrieved from <http://www.ingentaconnect.com/content/hsp/jpss/2015/00000009/00000003/art00010>

Suárez, S. L. (2016). *Poor people's money: The politics of mobile money in Mexico and Kenya.* Retrieved from https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2821072

Uganda Communications Commission (UCC). (2013, 2014, 2015 and 2016). *Post, broadcasting and telecommunications market and industry*

report.

Retrieved

from

<http://www.ucc.co.ug/data/pubs/30/Reports-&Surveys.html>

Viscusi, K., Vernon, J., & Harrington, J. (2005). *Economics of regulation and antitrust*. Cambridge, MA: MIT Press.