

**MOBILE BANKING SERVICES IN THE EAST  
AFRICAN COMMUNITY (EAC): CHALLENGES TO  
THE EXISTING LEGISLATIVE AND REGULATORY  
FRAMEWORKS.**



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# Legal and institutional framework of the EAC



# Snapshot of mobile money across the EAC

Table 1. Mobile Money snapshot across the East African Community (as at 31 August 2011)

Category	Burundi	Kenya	Rwanda	United Republic of Tanzania	Uganda
Population (thousands) <sup>8</sup>	8 413	40 669	10 660	45 012	33 532
% of the population 20 years and above	62.3%	57.7%	57.5%	55.5%	51.7%
Mobile network operators	5	4	2	7	6
Mobile subscriptions <sup>9</sup>	1 076 478	24 960 000	3 730 000	21 203 698	16 015 959
Mobile money platforms	1	4	2	4	4
Mobile money subscriptions	29 000 <sup>10</sup>	17 800 000 <sup>11</sup>	309 127 <sup>12</sup>	9 200 000	2 100 000
Ratio of mobile money subscriptions to mobile subscriptions (per cent)	2.7	71.3	8.3	43.4	8.1

Sources: UNCTAD field interviews, EAC Communication regulators' websites and the United Nations, Department of Economic and Social Affairs, Population Division (2011). World Population Prospects: The 2010 Revision, CD-ROM Edition.

## Major outcomes/Results

- **Divergences:** legislative and regulatory frameworks
- **Overlapping issues**
- Legislative and regulatory frameworks do not adequately address the **technological and regulatory convergence** phenomenon.

## Implications to regulation: examples

- Inconsistencies in regulation.
- Regulatory arbitrage (forum shopping)
- Uncertainty
- Overlapping mandates of regulators

## Research approach, methodology

- **Literature review** of the relevant legislative and regulatory environment
- **Analysis of various overlapping issues/ dimensions:** Licensing, Interconnection, Competition, dispute resolution:
- **Assessment criteria:** Rationales underpinning the principle of technological neutrality :
  - Equality;
  - Efficiency;
  - Sustainability;
  - legal certainty;

## Way forward:

- The basic proposition for mobile money to succeed is to create an **open and level playing field**
- **key determinants:**
  - policy & regulation,
  - profitable/sustainable
  - **Interoperability** of electronic systems: cross border/ cross sector: Regular monitoring with a capable monitoring team (capacity of monitoring is very crucial in this case) and periodic audit would help to maintain balance between the benefits and the risks
  - **Collaboration:** regulators to share experience, learn from where others have gone before and in so doing, help expand the availability of this m-banking across the EAC

# The challenge:

**Challenge to policy-makers and regulators is two-fold:**

**1. Customize the legislative and regulatory frameworks accordingly:** Based on the rationales underpinning the principle of technological neutrality :

- Equality;
- Efficiency;
- Sustainability;
- legal certainty;

**2. Allow access to potential new entrants** that can disrupt the lucrative business models of the banks and mobile operators.

- *Regulating solely by type of entity may reduce the effectiveness of regulations and create market distortion, and any regulation intervention should aim to create a level playing field between equivalent services rather than between different providers (Bank for International Settlements (BIS)).*



## Conclusion:

- ***“Just like convergence forced the integration of broadcasting and telecommunications, so mobile banking is forcing the convergence of the financial and telecommunications sectors. Unfortunately, the convergence of two such heavily regulated industries means that this potential is unlikely to be met unless policy-makers lay the ground rules for innovation.”***
- ***“Banks need to get back to basics and focus on making money through financial intermediation rather than through transaction fees. Policymakers and regulators need to ensure that evolving systems serve the broader objectives of economic growth and development as well as protect consumer interests, while creating an environment that encourages and rewards innovation”. (Comninos, Esselaar, Ndiwalana & Stork 2008)***

## Cont.....

- Questions, Comments, Suggestions?

- Thank you!!