Legal regulation of mobile money transfer service in Tanzania

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Abstract
This paper examines the need for legal regulation of mobile money transfer services in Tanzania. It notes that mobile money transfer services are supposed to be regulated by two institutions, namely, the Bank of Tanzania – on the financial aspect – and the Tanzania Telecommunications Regulatory Authority – on the telecommunications aspect. It is pointed out in this paper that the two institutions ought to work in collaboration in order to protect the consumers of the services. It is observed that there is no legal framework to regulate mobile money transfer services in Tanzania and hence the need for such legal framework in order to protect consumers of such services.

1. Introduction

This paper examines legal regulation of mobile money service in Tanzania. Two institutions, namely, the Bank of Tanzania (BOT) and Tanzania Communications Regulatory Authority (TCRA) have the responsibility of regulating mobile money transfer with a view to, among others, protecting consumers.

Indeed, mobile money service has made life easy and enabled people to avoid queues at the bank halls and in paying utility bills. The service assists in providing quick and fast money to those who are far away or are unbanked. As for bank customers introduction of the mobile money service has enabled bank account holders to access their accounts with their mobile phones and do all the transactions anywhere in the world.

Unfortunately, fraudsters have not spared those using mobile services. It is common knowledge that fraudulent Sim swap is prevalent in the country and this practice has caused loss of millions of money to a lot of people through mobile money. In spite of the advantages alluded to above the financial viability of the service needs to be monitored. At the moment the service remains unregulated and that is dangerous for the sustainability of the economy of the country.

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Mobile money transfer service[1] requires the integration of at least two major business industries in the country, namely, the telecommunication industry on the one hand and the banking industry on the other. In Tanzania the two industries are regulated separately. While the former is regulated by the Tanzania Communications Regulatory Authority[2] the latter is regulated by the Bank of Tanzania (BOT).[3] Lack of integration leaves consumers of the service at crossroads when a problem arises in the mobile money service.

In Tanzania, as at 30th June 2016 the banking industry had forty one fully fledged commercial banks, three financial institutions and twelve community banks.[4] Some of these institutions engage in mobile money service provision. On the other hand as of August 2014 there were approximately 14 companies licensed to use Network Services by the Tanzania Communications Regulatory Authority.[5] Four of these companies operate the mobile money transfer service to date.[6]

Mobile money service may take any one of the following forms.[7] The first is that done between the mobile telecom operators. Under this form customers can send and receive money within and outside their network service provider.[8] In

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[1] A Mobile Money Transfer is the exchange of funds from one party to another through a brokered service provider. Building on that definition, a Mobile Money Transfer is the use of a mobile handset device to either initiate and/or complete the transaction. Traditionally, Money Transfers have been performed at brick and mortar locations and kiosks. By using a mobile infrastructure, service providers can access a new revenue stream by accessing this new service delivery channel. There is currently a vast Diaspora of technology based models for the delivery of Mobile Money Transfer (MMT) solutions ranging from SMS to native applications; however, success in enabling these services is not simply a function of purchasing and plugging in the required components. Establishing a MMT service that works is a balance of technology and understanding the underlying processes to enable quick, efficient, and secure transactions to end user ecosystem. (http://www.mobile-financial.com/blogs/introduction-mobile-money-transfers retrieved on 13th June 2013 at 5.20pm).

[2] Tanzania Communications Regulatory Authority Act, 2003 and the Electronic & Postal Communications Act, 2010.

[3] The Bank of Tanzania Act, 2006.

[4] BOT, "Directory of Financial Institutions Operating In Tanzania" (PDF). Bank of Tanzania (BOT) June 2016.

[5] http://www.TanzaniaCommunicationsRegulatoryAuthority.go.tz/index.php/licensing/licensed-operators/2-Tanzania Communications Regulatory Authority/39-network-services-licences.

[6] Airtel Tanzania Limited-*Airtel Money*, MIC Tanzania Limited (Trading as TiGO) - *TiGO Pesa*, Vodacom Tanzania Limited-*M-Pesa* and Zanzibar Telecommunication Company Limited (ZANTEL)-*Ezy Pesa*.

[7] Operator-Centric Model, Bank-Centric Model, Collaboration Model and Peer-to-Peer Model.

[8] Mobile-to-Mobile transfer model represents the ultimate adoption of Mobile Money Transfer services. In this model, consumers would be able to send funds from their mobile handset to their friends and family. Receivers would be alerted through their mobile handset of an incoming funds transfer. The transaction would be completed on the handset, and funds would be immediately decremented from the sender's account and credited in the

this case the money transferred to the user of a different service provider will not affect the wallet of the one receiving, rather he will need to cash and deposit it into his own account. There is no interoperability.[9] The second form is when the banks, upon being licensed and given the code by Tanzania Communications Regulatory Authority, allow their customers to use mobile money service such as checking the balance, getting notification when there is deposit or withdrawing from their accounts or any other activity in their account.[10] Under this scenario mobile telephone operators enter into partnership relations with banks for provision of the mobile money service. The third form is where there is a combination of the two and more, in which the mobile telecom operators and banks enter into a partnership in which money can be transferred from the mobile wallet of the mobile telephone customer holding a bank account with the respective bank to his account and *vice versa*. This transfer can either debit or credit the bank account depending on whether the money is transferred from the bank to the mobile phone or the other way round. The same transfer also affects the balance of the mobile wallet directly as well. In this regard, today, a mobile phone has evolved from being a mere device for communication to a banking tool. In this sense the mobile phone is practically used as a teller/ATM of the banks. Such transfers of money through the mobile service have got attendant risks to customers of losing their money or facilitating anti-money laundering practices in the country.

Apart from the risks alluded to above there are problems connected with the use of mobile services. Tanzania is a third world country; while it cannot run away from technological developments sweeping across the world, it is handicapped due to many reasons including poverty; as new technology is expensive. In addition there is the problem of illiteracy as technology needs highly qualified personnel to manage. There is also the problem of poor infrastructure. Most of the time new technology takes a poor country unawares and it is forced to adapt to keep up with the globalization phenomenon. With that situation service providers and customers find themselves in a confusing legal environment towards solving problems when they arise as the service stands unregulated.

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receiver's account. Mobile-to-Mobile represents a significantly high level of consumer adoption.

[9] Interoperability means the ability of the inter-network heterogeneous exchange of information. In case of mobile service, in case one sends money from a different network if the networks are interoperable the mobile wallet of the one receiving will be affected by the amount sent. That is yet to happen now in our country as one needs to withdraw that money from an agent and deposit it again to his account of a different operator that causes higher charges to consumers as every transaction is charged.

[10] NMB Mobile service, PESA FASTA

This paper looks at the present regulatory regime of the mobile money service in the country with a special focus on telecommunication companies and banks. The licensing requirement for banks and telecommunication service providers will also be considered.

The business of deposit taking and money withdrawal is a primary domain of banks and other financial institutions. The Bank of Tanzania Act, 2006 gives a clear distinction between a bank and a financial institution. It defines a bank as "an entity that is engaged in the banking business" and banking business is defined in section 3 to mean:

> the business of receiving funds from the general public through the acceptance of deposits payable upon demand or after a fixed period or after notice, or any similar operation through the frequent sale or placement of bonds, certificates, notes or other securities, and to use such funds, in whole or in part, for loans or investments for the account of and at the risk of the person doing such business;

The Act defines a "financial institution" in section 3 to mean:

> an entity engaged in the business of banking, but limited as to size, locations served, or permitted activities, as prescribed by the Bank or required by the terms and conditions of its licence.

The business of banking ran by banks and financial institutions is regulated by the Bank of Tanzania which puts strict compliance guidelines to safeguard customer funds.

In the recent years financial transactions have also been assumed by mobile phone operators[11] who are regulated by a different regulator, the Tanzania Communications Regulatory Authority (TCRA). Unfortunately, TCRA regulates telecommunication services only and thus leaving the financial aspect of mobile business by the mobile operators unregulated. As pointed out above movement of money has a double effect in the mobile wallet and bank account at some point. This, of course, affects the liquidity of both the mobile operator and the bank. It becomes eminent that mobile money transactions need to be monitored and regulated properly for the sustenance of the economy.

Mobile money service has brought into the Tanzanian financial inclusion most of the formerly unbanked population. This necessitates proper regulation of both industries by both regulators in collaboration with each other. Such collaboration may create a stronger economic environment as it will ensure that the players operate in a safe and sound manner, and that they operate in such a

[11] The primary business of the mobile phone operators is the provision of the telephony services and other value added services not that of deposit taking and allowing withdrawals.

way that they can absorb risks that arise in their operations. While the cost of effective supervision is high, the cost of poor or no supervision at all may be even higher thus jeopardising the country's financial position. That being the case a strong and effective regulation is essential for maintaining stability and public confidence in the financial system. Strong and effective regulation is imperative because today a large population in the country depends on the mobile money service.

While mobile money service is relied on by many people, there are already reported incidences of incompleteness of transactions such as in the bill payments and customers getting stranded as to who they should approach for customer service/help desk to get the service they have already paid for. This brings chaos and disturbance to customers as they do not get value for their money.

In addition there are incidences of fraud in which a SIM card[12] is being swapped fraudulently[13] to a fraudster, who in effect gains access to a SIM card of another person and through a mobile service steals money from the bank account of the customer registered in the mobile money service. Again in this incidence the customer is likely to be rejected by the bank on the ground that the money was withdrawn through the mobile service. On the other hand the mobile service provider is likely going to insist that the money was never deposited with them and that the bank is responsible for the money stolen. This has been a practice and a number of customers' funds have been taken away without any recourse to their refunds. It is time now that the service were regulated to bring about a better and more sound economic environment.

2. Regulatory roles of the Bank of Tanzania in the Mobile Money Service

The principal functions of the Bank of Tanzania are well outlined under section 5 of the Bank of Tanzania Act, 2006. Firstly, the Bank is enjoined to exercise

[12] SIM card" means Subscriber Identity Module which is an independent electronically activated device designed for use in conjunction with a mobile telephone to enable the user of the mobile telephone transmit and receive indirect communications by providing access to telecommunication systems and enabling such telecommunication systems identify the particular Subscriber Identity Module and its installed information(section 3 of the Electronic and Postal Communications Act, 2010.).

[13] The fraudster gets the username, password, and mobile no. in some fraudulent manner and places request to replace the SIM and executes the unauthorized Banking transaction after getting the new SIM card. (http://cybercrimevigilance.blogspot.com/2013/01/sim-swap-fraud.html).

the functions of a central bank[14] and, without prejudice to the generality of the foregoing, to formulate, implement and be responsible for monetary policy, including exchange rate policy, to issue currency, to regulate and supervise banks and financial institutions including mortgage financing, development financing, lease financing, licensing and revocation of licenses and to deal, hold and manage gold and foreign exchange reserves of Tanzania.[15]

Secondly, the Bank has the responsibility to compile, analyse and publish the monetary, financial, balance of payments statistics and other statistics covering various sectors of the national economy.[16] Thirdly, in the pursuit of its objectives and in the performance of its tasks, the Bank is endowed with the status of being autonomous and accountable as provided for under subsection (3) of section 5 of the Bank of Tanzania Act.

Apart from the principal functions, the Bank has been given regulatory and supervisory functions with respect to clearance system[17] and settlement system[18] as outlined under section 6 of the Bank of Tanzania Act, 2006, which provides:

> **6.–**(1) The Bank shall–
>
> (a) regulate, monitor, and supervise the payment, clearing and settlement system including all products and services thereof; and
>
> (b) conduct oversight functions on the payment, clearing and settlement systems in any bank, financial institution or infrastructure service provider or company.
>
> (2) The Bank may–
>
> (a) participate in any such payment, clearing and settlement systems;
>
> (b) establish and operate any system for payment, clearing or settlement purposes; and
>
> (c) perform the functions assigned by or under any other written law for the regulation of payment, clearing and settlement systems.

[14] The entity responsible for overseeing the monetary system for a nation (or group of nations). Central banks have a wide range of responsibilities, from overseeing monetary policy to implementing specific goals such as currency stability, low inflation and full employment. Central banks also generally issue currency, function as the bank of the government, regulate the credit system, oversee commercial banks, manage exchange reserves and act as a lender of last resort. (http://www.investopedia.com/terms/c/centralbank.asp) Central banks also manages money supply and oversee commercial banks in their respective countries (https://en.wikipedia.org/wiki/Central_bank).

[15] Section 5(1) of the BOT Act, 2006.

[17] "clearing system" means a set of procedures whereby banks or financial institutions present and exchange data or documents relating to funds or securities transfer to other financial institutions at a clearing house and includes a mechanism for the calculation of participants' bilateral or multilateral net positions with a view to facilitating the settlement of their obligations on a net or gross basis (section 3 of the BOT Act, 2006).

[18] "Settlement system" means an arrangement established and operated by, or under the control of the Bank for the discharge of payment obligations and settlement obligations between settlement system participants (section 3 of the BOT Act, 2006).

From subparagraph (b) of subsection (1) of section 6 it appears that the Bank of Tanzania has been given power to conduct oversight functions on the payment, clearing and settlement systems in any bank, financial institution or infrastructure service provider or company. Mobile money operators and companies are probably included under that section. However, the Bank of Tanzania is yet to make regulations under section 70 for operationalization of its powers.
The Minister responsible for financial matters in the country is vested with powers to make regulations necessary or desirable to give effect to the provisions of the Bank of Tanzania Act. Such regulations must be published in the *Government Gazette* to take effect. However to date, nothing has been done with regard to the mobile money service that involves banks and mobile phone operators.

The primary objectives of supervision and regulation of banks and financial institutions by the Bank are to maintain the stability, safety and soundness of the financial system and to reduce the risk of loss to depositors.[19] The Bank of Tanzania despite being aware of the fact that mobile phone operators, although not licensed to do banking business as required by law,[20] take deposits from the general public,[21] for unknown reasons has kept mute on this. The Bank of Tanzania should have reacted to this as soon as it became aware of the practice to maintain the stability, safety and soundness of the financial system and to reduce the risk of loss to depositors.[22] The objective to maintain the stability, safety and soundness of the financial system and to reduce the risk of loss to depositors is jeopardized due to non-regulation of the mobile money service.[23]

Section 6(2) of the Banking and Financial Institutions Act, 2006 criminalizes accepting of deposits from the general public by any person who has not been licensed by the Bank of Tanzania to engage in banking business. And, section 65 of the same Act clearly empowers the Bank of Tanzania to carry out investigations to satisfy itself about the legality of the activities of such person. Unfortunately, to the best of our knowledge the Bank of Tanzania is yet to satisfy itself about the legality of the transactions of mobile money service providers.

[19] Section 5 of the Bank and Financial Institutions Act, 2006)
[20] Section 4, Section 6 and section 7 of the Bank and Financial Institutions Act, 2006)
[21] This is one of the permissible activities to the licensed banks and financial institutions under sections 24-25 of the Bank and Financial Institutions Act, 2006)
[22] This could be achieved by excersing powers under sections 31-35; impose special duties as per sections 43-44; protect rights of depositors(section 53) and exercise power of seizure under section 58 impose default fine (section 66)of the Bank and Financial Institutions Act, 2006) in addition to those vested by the BANK OF TANZANIA Act, 2006 mentioned above.

23 While the BANK OF TANZANIA Governor is vested with the power to issue guidelines under section 71 of the Bank and Financial Institutions Act, 2006).

2.2 Regulatory roles of the Tanzania Communications Regulatory Authority in the Mobile Money Service

The Tanzania Communications Regulatory Authority (TCRA) is the telecommunication regulatory authority in the country established under section 4 of the Tanzania Communications Regulatory Authority Act, 2003.

TCRA has been enjoined to perform the following duties:[24]

(a) Promote effective competition and economic efficiency;
(b) Protect interests of consumers;
(c) Protect the financial viability of efficient suppliers;
(d) Promote the availability of regulated services to all consumers including low income, rural and disadvantaged consumers;
(e) Enhance public knowledge, awareness and understanding of the regulated sectors including
   (i) The rights and obligations of consumers and regulated suppliers;
   (ii) The ways in which complaints and disputes may be initiated and resolved;
   (iii) The duties, functions and activities of the Authority.

Under section 6 of the same Act,[25] TCRA has further been vested with, among others, the following functions:

(a) To perform the functions conferred on the Authority by sector legislation;
(b) Subject to sector legislation -
   (i) to issue, renew and cancel licences;
   (ii) to establish standards for regulated goods and regulated services;
   (iii) to establish standards for the terms and conditions of supply of the regulated goods and services;
   (iv) to regulate rates and charges;
   (v) to make rules for carrying out the purposes and provisions of this Act and the sector legislation;
(c) to monitor the performance of the regulated sectors including in relation to -
   (i) levels of investment;
   (ii) availability, quality and standards of services;
   (iii) the cost of services;
   (iv) the efficiency of production and distribution of services, and
   (v) other matters relevant to the Authority;
(d) to facilitate the resolution of complaints and disputes;
(e) to disseminate information about matters relevant to the functions of the Authority;
(f) to consult with other regulatory authorities or bodies or institutions discharging functions similar to those of the Authority in the United Republic of Tanzania and elsewhere.

On the other hand the Electronic Postal and Communications Act, 2010 (EPOCA, 2010) has further elaborated and strengthened the functions and duties of TCRA by establishing its licensing obligation to the operators.[26] Through

24 Section 5 of the Tanzania Communication Regulatory Authority Act, 2003.
[25] TCRA Act, 2003.
[26] Section 4 of the EPOCA, 2010.

these powers TCRA is enjoined to issue unique codes to the telecommunication operators for the operation of the mobile money service.[27] Not only that, but it goes further and provides some unique codes to the banks (which are basically regulated by the Bank of Tanzania) for the purpose of providing mobile money service.[28] In using these unique codes, the banks use the platforms of the mobile telephone operators to provide mobile money services to their bank customers who are also using the mobile telephone service. This may happen even without any communication between the mobile telephone operator and the banks in some services. The mobile phone operators are not capable of establishing if their customers are enrolled in the mobile banking service. In this regard the telephone mobile operators' network and that of the banks are connected in a way that access to the simcard[29] is the access to the bank account of the customer by use of the PIN (password) that is originally set by the customer when enrolling with the service. Because of illiteracy of most customers on the risks associated with the use of the service, thieves use fraudulent ways to get the information of the customer to access their accounts online. This has been happening and many people from villages to towns have lost millions of money on such kind of incidences. The problem arises when the customer needs to recover his lost money. He would not know who to face; the bank or the mobile phone operator? If he goes to the bank he will be told that his money was stolen through his mobile phone and that they are not responsible. If he tries to approach the mobile phone operator the reply will be that the operator has no access to his bank account and after all he deposited the money with the bank and thus he should claim the money from the bank where he deposited the money. This is so because the service is not regulated; no one wants to take ownership of the problem and dodges it through blaming another while the customers are losing their money.

2.3 Challenges experienced in the mobile money service

The main challenges in the mobile money service in the country are the sim swap frauds and the incompleteness of transactions due to poor service which are discussed below.

2.3.1 Sim swap frauds

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[27] Airtel Money code: *150*60#; TiGO Pesa code: *150*01#; M-Pesa code: *150*00#

[28] These may be in the form of Internet banking, sim-banking and mobile banking services. There are services like NMB Mobile (this has been one the earliest mobile banking service in the country) and there is also CRDB Sim-Banking just to mention a few. NMB Mobile Code:*150*66#; and CRBD Simbanking code:*150*03#; these are given by the TCRA.

[29] "SIM card" means Subscriber Identity Module which is an independent electronically activated device designed for use in conjunction with a mobile telephone to enable the user of the mobile telephone transmit and receive indirect communications by providing access to telecommunication systems and enabling such telecommunication systems identify the particular Subscriber Identity Module and its installed information.

Sim Swap fraud[30] occurs when a fraudster, using social engineering techniques, dupes the victim's mobile phone operator into porting the victim's mobile number to a SIM in the possession of the fraudster and so starts receiving any incoming calls and text messages, including banking one-time-pass codes, which are sent to the victim's phone number. Sim swap porting is a common request and is therefore relatively easy for professional fraudsters to perpetrate.

The fraudster can then perform transactions over a range of banking services such as internet banking; and when the bank tries to verify the transaction via the mobile, by either a voice call or SMS, the fraudster is able to confirm it and the transaction is authorised.

SIM Swap fraud is a type of Spear Phishing (targeted) attack. It is more complex than Phishing (duping) and is particularly insidious. The bad news is that a fraudster has decided to target an individual and has sufficient knowledge of the individual's personal details to be able to carry out these attacks. Also, because the attack is typically cross channel, individuals will not intuitively deduce that they are under attack. How many people would immediately suspect that their bank account was under attack if they suddenly stopped receiving calls on their mobile, for example? The fraudster gets the username, password, and mobile number in some fraudulent manner and places request to replace the SIM and executes the unauthorized banking transaction after getting the new SIM card.

In simple steps the *modus operandi* of sim swap fraud can be demonstrated as follows.[31] The fraudster needs to get One Time Password (OTP) and prevent the SMS alert from the bank to your registered mobile to carry out his fraudulent online transactions. The steps are:

1. Fraudster requests your Mobile service provider for replacement of SIM card citing reasons like loss of SIM or Mobile Handset etc. with fraudulent documents/information obtained from the customer by fraudulent manner.
2. The Mobile service provider deactivates the SIM and issues a new SIM; the delivery of which is taken by the fraudster on some pretext.
3. Fraudster uses your username, password and OTP received in the new SIM.
4. Executes transaction/s, gets the SMS alert from Bank in the new SIM.
5. All this time, the real SIM holder is not aware of the transactions happening in his bank account.

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[30] http://www.finextra.com/community/fullblog.aspx?blogid=6358

[31] http://cybercrimevigilance.blogspot.com/2013/01/sim-swap-fraud.html

6. During this time of cyber robbery, the SIM of real owner gets deactivated or the mobile will not get signal or the mobile will simply not work.

With the service being unregulated it will be a nightmare to curb down this problem. In a country like Tanzania it is not easy for a person to be alerted that his bank account is being accessed through his mobile phone. Surprisingly, most of the time the customers give away their passwords to fraudsters just because they, fraudsters, introduced themselves as working with either the mobile company or the bank.

Despite all that, it is the duty of TCRA as mentioned earlier to educate the public and generally protect the Tanzanian population. And, since money is involved, it is the duty of the Bank of Tanzania to ensure financial stability and protection of depositors. In this regard the Bank of Tanzania and TCRA have not shown how they use their regulatory powers to regulate this service.

2.3.2 Incompleteness of transactions

This usually occurs in bill payments using the mobile money service. It has been a trend these days that you can purchase almost everything either online or through your phone.[32] In accessing this service there may be more than two persons involved. These may be the mobile operator/bank on the one side and the utility bill provider on the other side. Sometimes there is a middle person who puts together the two. Mostly, it appears that a person pays for the service but does not get a reference number for the service paid for because the transaction for one reason or another, unknown to the customer, was not complete. In such a situation it is not clear whether the customer should approach the mobile phone operator/bank or the utility bill provider. Usually customers are not aware that a middle person is involved. Money was deducted from his mobile wallet, but did not reach the utility provider because it is hanging somewhere. Customers are being sent back and forth without resolution and most of the time they lose their money. There is a need to have proper guidance on how these services should be offered and avenues for customer complaints to resolve disputes when they occur. At the moment there is no such avenue.

2.4 The impact of the mobile money business in the economy

Mobile money service is a very potential tool for the economic development of the developing countries due to the increased financial inclusion of the unbanked sector of the population in these countries. The faster money moves the better is the economy. It has been noted by one writer that, the full potential

[32] Payment for LUKU, DStv, DAWASCO, Air and bus ticketing, fuel-refilling at petrol stations, supermarkets shopping and many other.

of mobile money has not yet been realized.[33] That is so because 2.5 billion people in developing countries still lack a viable alternative to the cash economy and informal financial services. 1.7 billion of them have mobile phones, but the mobile money industry has found it challenging to launch and scale services for the unbanked because many policy and regulatory environments are not genuinely enabling.[34]

The digital financial inclusion environment and a cash-lite economy would enable customers of small businesses to keep electronic records of their transactions, banks would use the ubiquitous distribution networks of third parties to deliver credit products, third parties would play a role in educating consumers, and microfinance institutions (MFIs) would have access to a new group of customers that are already using digital transactions. But to achieve this there must be tailored Know Your Customer (KYC) procedures and other efforts to ensure this occurs. Due to the interaction of the services between the telecommunication industry and the banking industry, it is important now that regulators of the industries join hands to enable sustainability of the service for the growth of the economy. This is so because their regulation will enable driving innovation into mobile financial services and building inclusive, secure, and efficient financial sectors.

The potential of mobile money in the developing countries is clear because of the following reasons. First, there were 5.9 billion active mobile connections worldwide in 2012. The number of GSM mobile connections doubled in the last four years in Africa and South East Asia, and more than tripled in South Asia. The total number of unique mobile subscribers is 3.2 billion (46% of the world's population) and it is forecast to grow to 4 billion in five years.[35]

Secondly, out of the 2.5 billion people in the world who still lack access to the financial system,[36] 1.7 billion have mobile phones.[37] Thirdly, Mobile Number Operators (MNOs) are much more experienced than banks in building and managing large, low-cost distribution networks in un-served areas. The largest MNO in a developing country has 100–500 times more airtime resale outlets

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[33] Simone di Castri, "GSMA – Mobile Money for the Unbanked, Mobile Money: Enabling Regulatory Solutions", Annual Report, February, 2013.
[34] Ibid.

[35] "GSMA Announces New Global Research that Highlights Significant Growth Opportunity for the Mobile Industry," Press release, 18 October.
2012, http://www.gsma.com/ newsroom/gsma-announces-newglobal- research-that-highlights significant- growth-opportunity-forthe- mobile-industry.
[36] The Global Financial Inclusion (Global Findex) Database, http:// econ.worldbank.org.
[37] CGAP, GSMA, and McKinsey & Company "Mobile Money Market Sizing Study." The figure is reported in Mark Pickens (2009), "Window on the Unbanked: Mobile Money in the Philippines," CGAP Brief. Available at http://www.gsma.com/ mobilefordevelopment/wp-content/ uploads/2012/06/br_mobile_ money_philippines_d_30.pdf.

than banks have branches.[38] In addition mobile money transactions have begun to represent significant proportions of national GDP – 60% in Kenya, 30% in Tanzania and 20% in Uganda.[39] The potential growth of the service calls for its regulation so that it becomes a grace not disgrace to the economy of a country.

3. Conclusion

It has been pointed out above, that while the laws are clear on the functions, duties and powers conferred on the regulators, namely the Bank of Tanzania with regard to the banking business and the Tanzania Telecommunications Regulatory Authority, with regard to the telecommunication industry, neither regulator seems to be much concerned with mobile money service. Since the mobile money service has to do with money one would expect the Bank of Tanzania to be primarily involved in its regulation. With regard to the communication part, TCRA has been empowered to issue licence; however, such licence does not cover monetary transactions. This being the case it seems there is a grey area. It is submitted that the grey area should be addressed by the Bank of Tanzania in collaboration with the Tanzania Communications Regulatory Authority.

38Claire Alexandre, Ignacio Mas, and Dan Radcliffe. (2010), "Regulating New Banking Models that can Bring Financial Services to All," Bill & Melinda Gates Foundation paper, August 2010. Available at http:// www.papers.ssrn.com/sol3/papers. cfm?abstract_id=1664644.

[39] Posted by: Wayan Vota on June 3, 2013.

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