Macroeconomics of Mobile Money
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Regulatory & Legal Issues in Mobile Financial Services in the Developing World

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The Mobile Financial Services (MFS) Landscape

- **2010:**
  - Over 1 billion people *don't* have a bank account, but do have a mobile phone
  - Some 119 mobile money services will be launched in developing countries by end of 2010, but less than 10% of systems expected to be sustainable.

- **By 2012**
  - 1.7 billion *won't* have a bank account, but do have a mobile phone
  - Mobile phones will be the direct conduit to nearly half of the world’s unbanked.

- **By 2015:**
  - 364 million low-income, unbanked people will use mobile money
  - US$7.8 billion in new revenues for the mobile money industry via transaction fees, improved loyalty, and more cost-efficient airtime distribution.

(Sources: CGAP & GSMA, Dec 2009)
New MFS Paradigm & Players

- **MFS:** “Use phones for banking and payment systems”
  - MFS/MFIs focus more on payments than savings
  - Targets the unbanked, P2P/G2P payments, rural areas, POS
  - Includes basic cash & deposit systems: “Cash in/Cash Out”
  - New: MFI “Agents” taking cash/paying cash [human ATMs]

- **Telecoms & Financial Players Well Positioned**
  - MNOs
  - MFSPs/MFIs/WASPs
  - Bank Subsidiaries

- **MNOs want piece of MFS action as voice/data ARPUs fall**
  - Already have PSMS micropayments infrastructure & reach
  - NFC (proximity) payments coming, although more a developed nation play
  - Challenges for regulators

-> Need for new e/m-money, payment, banking rules?

Regulatory & Legal Issues

- Regulatory Coordination
- Licensing of non-banks
- Legal Characterization of prepaid “money”
- Proportionality of Regulation
- Enabling Branchless Banking/Payments
- Consumer Protection
- Interoperability between systems
- Security Issues
Paucity Of Laws & Regulations

- Very little material available on the regulatory framework for mobile payments by central banks.
- Although there are a number of research articles available, they refer to the practices available rather than regulatory guidelines.
- In absence of statute, widely-framed common law or self-regulation rules apply
- Creates (good and bad) “loopholes” for emerging technologies
  - Eg use of prepaid mobile airtime for non-digital purchases

International MFS ‘Regulations’

- **South Africa:**
  - New emoney paper Nov 09 (bank-only)

- **Zambia**
  - New payments bill ‘09

- **India**
  - New m-banking/payment rules Dec 09 (bank-only, mainly)

- **Kenya**
  - Awaiting publication of new law on m-payments/m-banking

- **Pakistan**
  - State Bank of Pakistan has developed a ‘Draft policy paper on ‘Regulatory framework for Mobile Payments’

- **Maldives**
  - New m-based & payments structure
India

- **Circular 25 Jan 06**
  - Allows banks to appoint MFIs & post offices as business correspondents for small deposit-taking

- **General Rules [June 2008, Dec 2009]**
  - "Mobile payments" is defined as information exchange between a bank and its customers for financial transactions through the use of mobile phones. Mobile payment involves debit/credit to a customer’s account on the basis of funds transfer instruction received over the mobile phone.
  - Only banks which are licensed and supervised in India and have a physical presence in India will be permitted to offer mobile payment services to residents of India.
  - The services should be restricted to only to bank accounts/ credit card accounts in India which are KYC/AML compliant
  - Banks may use the services of Business Correspondents for extending this facility to their customers.

Philippines

- **High penetration of m-transaction usage**
  - Particularly remittances

- **GCash/GXI MFI**
  - Uses agents for cash in/out

- **Banking/Payments controlled by Central Bank**

- **CB wants to limit risk of GCash**
  - Daily, monthly transaction caps
  - Low cap on amount uses may leave in their account
  - GXI must submit monthly reports on its activities, although solvency not monitored
  - **GXI holds net proceeds in licensed banks**

- **Circular 471 KYC**
  - **Agents must register with CB**
  - **Maintain records for 5 years**
1. Regulatory Coordination

- **Issues:**
  - Systemic risk issues
  - Payments, banking, e-money, SV, vs telecoms regulation vs consumer protection

- **Harmony with Telecoms regulations needed**
  - Bearer cost for access to service, disclosure
  - Who has jurisdiction?
  - Role of WASPs and MFI?

- **Legal Rules**
  - Nexus? Make sure no conflicts with common law views on banking/payments
  - Use of prepaid e-money/m-money as legal tender?
    - What is “money”? Avoid EU mistakes
    - What is status of prepaid airtime?

- **Consistency with E-Commerce/Consumer Protection/Privacy Laws**
  - SA ECT Act; EU E-Commerce Directive; Payment Services Directive etc
  - Need consistency, grandfathering of regs

2. Proportional Regulation

- **Regulation should be proportional to the extent of a particular risk.**
  - Extreme price-sensitivity in the BOP segment
  - Supervision and/or regulation?
  - Policy makers should not regulate technology or transaction types
  - Standards/guidelines for customer identification, data storage, conflict resolution?

- **Competition Rules**
  - Create rules for level playing field (interoperability?)

- **Consumer Protection/Security**
  - Standard AML, KYC processes & rules (biometrics?)
  - Regulatory latitude to conduct lower-value transactions without KYC etc
  - Conduct periodic risk management analysis, security vulnerability

- **Taxation**
  - How will transactions be treated wrt VAT, CGT etc?
  - Agency commissions

- **Forex Rules**
  - Remittances rules
  - Use of prepaid mobile airtime as remittance?
3. Enable Branchless Banking

- Focus on services that will rapidly attract a critical mass
  - Use of agents for penetration
  - Transformational vs additive
  - Ameliorate Bank monopolies w/o disrupting banking system
  - Provide competition

- Varying MFS License classes (proportional risk)
  - New agents in the value chain for cash in/cash out processing
  - Mandate Interoperability in regs?
  - New or bilateral or multilateral arrangements for inter-bank funds transfer transactions

- Role of Agents
  - What are the contractual touch points?
  - Role of supervisors?
  - Accept deposit? → Mandatory/agency?
  - Labour regulations for agents

4. Interoperability

- Allow Walled gardens?
  - WG means consumers can only use exclusive payment gateways
  - Creates “islands of excellence”
  - No ubiquitous P2P across brands and borders
  - Bigger (bank or MNO) brands saturate market, exclude others
  - May be necessary at initial phases, but may stifle general growth & increase costs

- Challenge for regulators
  - Reduce cost of cross-brand/walled transactions
  - Allow interoperability at edge of system
  - Grow market without penalising early innovators
  - Control systemic risk of large number of participants
  - Avoid mandating specific technology & transaction solutions
General Regulatory & Legal Conclusions

- No ready available supra-national answers to regulations
  - Can use EU, CPSS, BIS, CGAP etc as guidelines

- Regs must be done at a country-specific level
  - Local exigencies
  - Common Law harmonisation

- Necessary & sufficient regulation
  - Apply risk-based proportionality to regulation
  - So not to stifle innovation

- WEF MFS WG (April 2010):
  - Policy-makers must take proactive measures to aid in rapidly achieving scale eg G2P/P2G/P2P/P2B
  - Initially implement simple solutions for bulk penetration
  - Efforts to regulate a fee schedule risk either making MFS too costly for the poor or unprofitable for retail agents

Thank You

Questions?

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