

As the functionality of such systems are developed and regulation is tailored to match restrictions to the kind and scale of risk involved, the gap between the protectiveness of financial regulation and the financial inclusion opportunity narrows. The Financial Action Task Force (FATF) requires countries to follow a risk-based approach to regulation.⁵⁵ Such an approach allows for applying lighter transaction and balance limits and automated transaction monitoring systems for lower-risk services, such as plain mobile money transfer and payments, while imposing more stringent identification and verification requirements for higher-risk services.

3.3 Agent network issues

3.3.1 Liberalising agent networks

As explained in section 3.1, mobile money services are ‘two-sided platforms’ – they bring together users and agents to create value for each group. Agents are the direct human interface of mobile money with the customer, and agent networks are the backbone of the service for cash-in and cash-out transactions, as well as often assisting with transfers and payments. An extensive agent network is thus centrally important to mobile financial services, just as it is for prepaid telecommunication services.

Agents are responsible for more than 90 per cent of cash-in and cash-out transactions (ATMs and bank branches make up the remainder), illustrating how indispensable they are to mobile money services. They compete with bank branches and ATMs for cash-in, cash-out and other transactions, but do not have the same capital investment costs. They can provide a variety of services in addition to cash-in and cash-out, such as account opening, bill payments, assistance with remittances, G2P payments, insurance, airtime top-up and credit. Innovation at the agent level is important in developing the variety of services available to the population.

Agents present by far the largest operating cost of a typical mobile money provider. In addition to agent recruitment and training, it has been estimated that the largest 10 mobile money providers pay on average 54.4 per cent of revenues in agent commissions for customer registrations and cash-in and cash-out transactions. Commissions in the first year or two can exceed 350 per cent of revenue given the need to sign up customers.⁵⁶

To achieve the necessary scale to enable network effects to take off, mobile money providers must rely on third party agents – shops, airtime resellers and others – to deal with their customers, and even trust them with the customers’ money. In India, for example, the Helix Institute, which is involved in efforts to develop agent networks in many countries, found that 22 per cent of agents were also regular mobile agents, but 86 per cent were shop owners.⁵⁷

⁵⁵ The first of the FATF 40 recommendations provides “Countries should identify, assess, and understand the money laundering and terrorist financing risks for the country, and should take action, including designating an authority or mechanism to coordinate actions to assess risks, and apply resources, aimed at ensuring the risks are mitigated effectively. Based on that assessment, countries should apply a risk-based approach (RBA) to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified. This approach should be an essential foundation to efficient allocation of resources across the anti-money laundering and countering the financing of terrorism (AML/CFT) regime and the implementation of riskbased measures throughout the FATF Recommendations. Where countries identify higher risks, they should ensure that their AML/CFT regime adequately addresses such risks. Where countries identify lower risks, they may decide to allow simplified measures for some of the FATF Recommendations under certain conditions.” Financial Action Task Force, February 2012, *International Standards on Combatting Money Laundering and the Financing of Terrorism and proliferation*: www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

⁵⁶ GSMA 2014, Mobile money profitability: A digital ecosystem to drive healthy margins.

⁵⁷ Helix Institute, 2015, *Agent Network Accelerator Survey: India Country Report 2015*: www.helix-institute.com/sites/default/files/Publications/Agent%20Network%20Accelerator%20Survey%20-%20India%20Country%20Report%202015_0.pdf

As with branchless banking generally, agent networks enable the mobile money provider to operate with far greater coverage than, and without the capital and operating costs of, bricks and mortar bank branches.

Traditionally, regulators limit the delegation of customer-facing functions by financial institutions, for example by requiring them to be registered legal entities with a business licence or minimum amount of capital. However, as a better understanding of the risks associated with agents has evolved, and weighed against the opportunity to drive financial inclusion, regulation of agents has lightened such requirements. This is relevant both to banks seeking to engage in 'branchless banking' and to mobile money providers. For example, early in 2016, Uganda amended its Financial Institutions Act 2004 to allow banks to offer banking services through agents. This liberates banks to increase geographic coverage of their services at far lower cost. This liberalisation coincides with the imminent entry into the savings and loans market of the mobile money providers, and can be expected to spur competition between them in mobile banking. Such competition can be expected to drive financial inclusion to people who previously had no access to lending from the formal financial sector.

Regulators commonly require mobile money providers to carry out due diligence on their agents when selecting them, notify the financial regulator of their appointed agents, train them (e.g., not only to provide agent services but also to spot fraud and abuse), and supervise their activities. Thus the mobile money provider acts as the intermediary between the regulator and the customer interface.

A key question regarding agent networks is whether the mobile money provider (or the bank in the case of branchless banking) should be liable for the behaviour of the agent in the classic principal-agent sense. Such liability reassures the regulator and consumers and leads to lighter restrictions on agent requirements, such as agent eligibility, due diligence requirements in selecting them, and location restrictions. For this reason, the mobile money provider's liability for the agent's conduct may be required by regulation.⁵⁸

However, there are strong arguments that agent networks should be liberalised even further. It has been suggested that they need not be treated as legal representatives of the mobile money provider when it comes to cash-in and cash-out. The agent is not actually issuing money or managing the customer's money. He or she is merely exchanging physical money with electronic money on the mobile wallet.⁵⁹ These arguments may well gain traction as regulators develop experience and are better able to assess the risks associated with agent activities. They may lead to greater liberalisation of the agent market, increasing geographic coverage, speed and quality of service.

Agents do present some risks to consumers using cash-in and cash-out services, such as fraud, lack of liquidity, as well as poor explanation of the service, and of course error. Such risks might be mitigated through a separate licensing arrangement instead of requiring mobile money providers to be liable for agent behaviour. Development of independent agent networks might ensue, with greater flexibility

⁵⁸ For example, the Bank of Uganda Mobile Money Guidelines provide in section 7(3)(b)(i) that a mobile money provider must "Enter into an agreement with the agent stipulating the responsibilities of both parties. The said agreement should not provide for exclusivity and should clearly state that the mobile money service provider shall be liable for the actions of its agents as regards to the provision of mobile money services."

⁵⁹ In a cash-in transaction, the customer transfers physical cash to the agent and the agent transfers electronic money to the customer's mobile wallet. In a cash-out transaction, the transfer of the two forms of monetary value happens the other way round. The agent handles his or her float of cash to ensure he or she has sufficient electronic liquidity to transfer electronic money into customers' mobile wallets when cashing in, and enough physical cash liquidity to meet cash-out requests. The mobile money provider (or bank, in branchless banking) supplies the technology platform that carries out the electronic side of the transaction by guaranteeing the amount held on account by each party and recording the electronic transfer. The mobile money provider (or bank) is not actually a party to the transaction, and is not actually handling the mobile money provider's or the customer's money. It has been suggested that this is no different from a shop selling rice in exchange for cash, except that it is selling an electronic transfer. This is quite different from the situation where a customer deposits cash at or withdraws cash from a bank branch, where the teller takes possession of the cash on behalf of the bank and credits the customer's account. See Mas, I, 29 July 2014, *Shifting branchless banking regulation from enabling to fostering competition*: www.ruralfinanceandinvestment.org/sites/default/files/Shifting_branchless_banking_regulation_from_enabling_to_fostering_competition.pdf

in their delivery of cash-in and cash-out services for a number of mobile money service providers, potentially increasing competition among service providers themselves.

3.3.2 Agent exclusivity

As explained in section 3.3.1, a strong agent network is necessary for the mobile money business to succeed. It depends on physical persons ready to receive cash in a cash-in transaction, or provide cash for cash-out transactions. The enterprising mobile money provider able to establish the first and secure the widest coverage of agents has a significant competitive advantage over entrants that still have to grow their agent network.

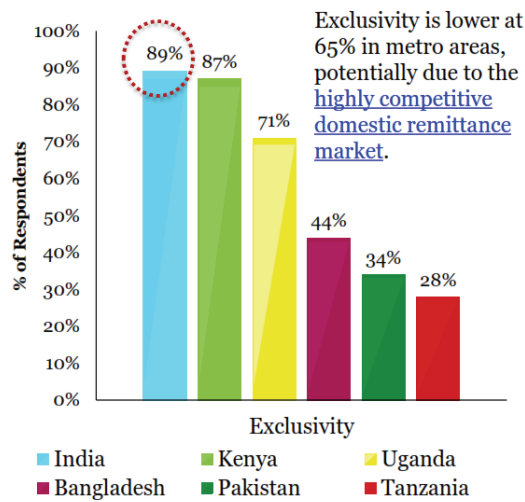
Encouraging providers to be the first mover is an important element in competition law and policy, including in sectors such as finance and telecommunications. Innovation in agent networks has been an important competitive factor. In Uganda, MTN was able to get out ahead of any competitors partly because it decided not to restrict its agent network to its existing retailers, but to allow a wide range of individuals to become its agents.

Building an agent network involves substantial upfront costs in recruitment and training, and ongoing costs in commissions and supervision. It may also involve transfer of 'know-how.' Firms that make such investment and achieve an extensive agent network may argue that they need to recoup their investment, and that their competitors should not be able to 'piggy-back' on their investments by engaging the same agents. After all, a second firm, finding agents that have already been recruited (identified, evaluated, contracted) and trained in the mobile money business by the first firm, will face lower upfront costs. For these reasons, leading firms may wish to ensure that their agents act exclusively for them, and exclusivity is common, protecting their incentive to invest. Like many countries, Nicaragua for example has agent exclusivity. Some countries have a particularly high incidence of agent exclusivity. In India, for example, 89 per cent of agents are exclusive to one mobile money provider (Figure 15).⁶⁰

However, where the leading mobile money provider enters into exclusive arrangements with agents, this may foreclose competition. It may violate the competition laws, or the competition provisions of financial or telecommunication laws.

⁶⁰ Helix Institute, 2015, *Agent Network Accelerator Survey: India Country Report 2015*: www.helix-institute.com/sites/default/files/Publications/Agent%20Network%20Accelerator%20Survey%20-%20India%20Country%20Report%202015_0.pdf

Figure 15. Exclusivity in Helix Agent Network Accelerator countries



Source: Helix Institute, 2015

Exclusive agreements with downstream distributors of a given product or service are not always regarded as anticompetitive, as sometimes there may be justifications for them. For example, franchise agreements (e.g., fast food restaurants) are a common business model where the franchisor (supplier) will typically license to the franchisee (distributor) various intellectual property rights, such as trademarks and know-how, for the distribution of the specific types of goods or services. The franchisor will often provide training and ongoing support throughout the contract. In these cases, exclusive distributorship and single branding will often form a legitimate part of the agreement.

There are several factors to consider when determining whether a mobile money provider should be allowed to restrain its agents from being agents for a competing mobile money provider. Clearly an exclusivity arrangement limits competition – that is the very purpose.

The degree of market power of the mobile money provider will directly affect whether agent exclusivity produces an anticompetitive impact. The competition concerns are greater if the mobile money provider has stronger market power, because the unavailability of substitute services makes it more important to ensure some degree of competition at the customer-facing layer of the business.

The impact of agent exclusivity is not merely in making the first mobile money provider agents unavailable. In many cases, these agents will in reality be the only agents that are economically feasible for the second, third and later mobile money providers to engage.

This is because the business of being an agent depends upon sufficient scale of transactions to generate commissions. It is often not a very profitable business. Where one firm has achieved a large share in the market, the volumes of transactions carried by its competitors are lower. As a result, retailers and individuals may not be able to generate significant revenue by acting as agents for competitors of the larger firm. The smaller rivals may thus be unable to attract other agents.

It may then only be economically possible to build a substantial agent network using agents that already have a core revenue flow from the market leader. For such agents, adding another mobile money provider is a small enough incremental effort to be worth the small amount of additional revenue available from competitor commissions. In addition, if the larger firm has secured the most attractive locations – key retailers and corner kiosks – then there may not be a physical alternative to its agent.

Restricting agents to a single mobile money provider may thus restrict competition. This may result in a lack of competitive pressure on the leading provider to improve quality and variety in its services,

to innovate, or to keep prices down. In Peru, CGAP found that “agent exclusivity can have a negative impact on potential for growth.”⁶¹ It may reduce the variety of services an agent may offer, and reduce the number of potential access points. This may mean, particularly in rural areas, that the population will have less access to services.

Thus agent exclusivity commitments to a larger mobile money provider can be a major impediment to its competitors’ ability to build a viable rival business. As network effects take root, barriers between networks may be impregnable, and the unavailability of agents may cement market leadership, resulting in a single dominant player.

Box 5. Regulating exclusive agent arrangements

In countries where regulators are wrestling with the dominance of the market leaders, they have sought to tackle agent exclusivity. Zimbabwe, for example, recognises the competition problem of exclusivity arrangements, but has not ruled them out entirely and requires justification for them. For instance, in 2014 the Reserve Bank of Zimbabwe (RBZ) issued a National Payment Systems Directive¹ that provides: “Where a payment system provider requires entering into exclusive arrangements with an agent, the payment system provider shall apply to the Reserve Bank justifying why such an agreement is necessary.” Justifications could include, for example, where the mobile money provider owns the agent shop.

Other countries have simply prohibited agent exclusivity. For example, the Regulatory Framework for Mobile Payment Systems in Nigeria, 2009 provides that the agents are not restricted to any one scheme operator and can serve as agents to multiple operators.

In Kenya, until 2014, Safaricom prevented its agents from being agents for other mobile money providers. Following a complaint by Airtel, the Competition Authority of Kenya (CAK) investigated the practice, found it to violate the Competition Act, and ordered Safaricom to allow its agents to be agents for competitors.² Around the same time, the Central Bank of Kenya also issued regulations prohibiting exclusivity.³ Similarly, the Bank of Uganda Mobile Money Guidelines, adopted in 2013, prohibit agent exclusivity.⁴

In Pakistan, the Branchless Banking Regulations for Financial Institutions Desirous to Undertake Branchless Banking (31 March 2008) provide that one agent can provide services to multiple banks provided the agent has a separate service level agreement with each bank.

¹ Reserve Bank of Zimbabwe, NPS 01/2014, paragraphs 4 and 5. www.rbz.co.zw/assets/national-payment-systems-directive--20-2-24-final.pdf

² Ochieng, L. 2014. “CAK Orders Safaricom to Open up M-Pesa.” *Daily Nation*, 27 July. www.nation.co.ke/business/CAK-orders-Safaricom-to-open-up-M-Pesa/-/996/2399632/-/69n55oz/-/index.html

³ Kenya National Payment System Regulations prohibit agent exclusivity in Section 15.2: “No contract for the provision of retail cash services between an electronic retail payment service provider and an agent or cash merchant shall be exclusive.” Section 15.3 allows agents to work for multiple financial institutions.

⁴ See footnote 68.

Enforcement of such prohibitions is important, as in some countries, agents of a leading provider may still come under pressure not to become agents of a competitor. There have been reports of regional agent managers monitoring agents and threatening to terminate their agency agreements if they become agent for another mobile money provider. Physical harm to publicity, kiosks and individuals has also at times been used. In some countries, many agents are unaware that they are at liberty to act

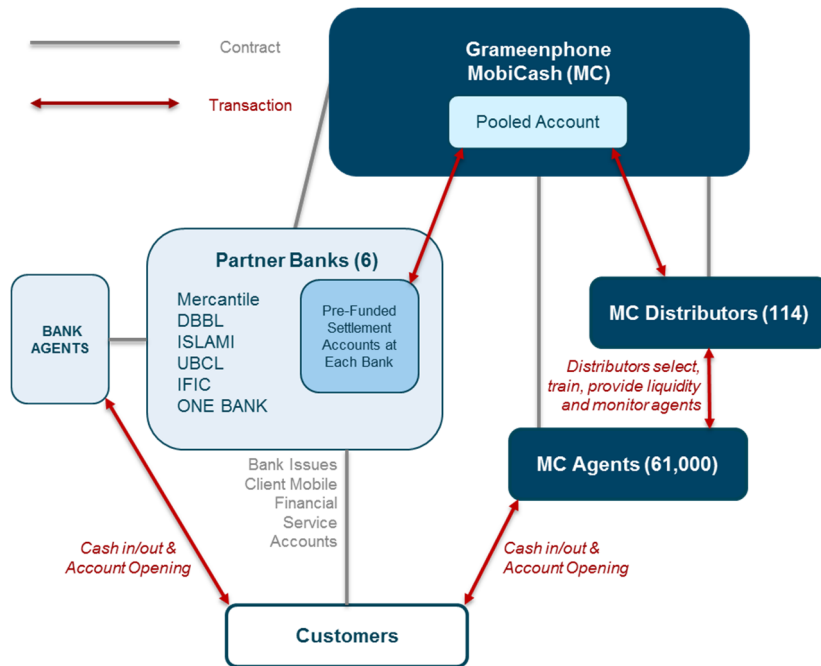
⁶¹ Faz, X. and García Arabéhéty, P., CGAP, January 2015, *Driving Scale and Density of Agent Networks in Peru*. www.cgap.org/sites/default/files/Brief-Driving-Scale-and-Density-of-Agent-Networks-in-Peru-Jan-2015.pdf

as agents for competitors. Public information campaigns may thus be needed to ensure prohibitions on exclusivity are effective. Large numbers of agents remain exclusive to one provider in practice.⁶²

Transition from exclusive arrangements to a non-exclusive market may thus take time and effort, including on the part of the regulators. A the country has one, may be well suited to pursue monitoring and enforcement due to its core competition authority, if business of active monitoring of retail markets, use of mystery shopping and complaints hotlines.

Models for active agent network sharing are arising. Bangladesh, Nigeria and Peru have each seen the development of shared agent networks where agents act seamlessly receiving cash-in and providing cash-out for many different providers of mobile financial services (Figure 16).

Figure 16. MobiCash shared agent network in Bangladesh



Source: Noor, W. and Shrader, L., CGAP, 24 February 2015, MobiCash shared agent network – Bangladesh⁶³

3.4 Telecommunication network access issues

Mobile financial services are provided over the mobile telecommunication network, whether using GSM technology or Internet Protocol over a 3G or 4G network. MNOs control the networks so other providers of mobile financial services must rely on the MNOs for access to these networks and customer devices. Such providers are thus both competitors and customers of the MNOs.

This potential conflict of interest in the MNOs exposes competing providers to the risk that MNOs restrict access to the communications channels. This is a serious risk because mobile networks are already a concentrated market, with only a few of them in each country. MNOs that are dominant in the mobile telecommunication market and aspire to grow (or protect market position) in mobile financial services may have both the ability and the incentive to exclude competitors from, or increase their costs in, the mobile financial services market. As with the harm to consumers from dominant providers operating exclusive agent networks (see section 3.3.2), the harm from MNOs excluding competitors from the market or increasing their costs includes weaker innovation, a narrower range of available services, and higher prices.

⁶² See for example, CGAP, www.cgap.org/blog/mobile-money-agents-tanzania-how-busy-how-exclusive

⁶³ www.slideshare.net/CGAP/mobicash-shared-agent-network-bangladesh