

Background paper prepared for the World Development Report 2005

**Managing Investment Climate Reform:
Case Study of Uganda Telecommunications**

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Abstract

This study showcases Uganda's experience with the reform of the telecommunications sector that has taken place over the last decade. The reform of Uganda's telecommunications sector has been billed as a more successful one in relation to experiences in other sectoral reforms, which provides motivation for the study. Incentive for the study also arises out of the need to document how the process was undertaken, particularly from the aspects that will inform the understanding of the design, management and implementation of the reform was undertaken. As a study meant to analyze the political economy of investment climate reform, it deals more with the legal, institutional and political nuances that underpinned the reform management process.

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1. Introduction:

This study showcases Uganda's experience with the reform of the telecommunications sector that has taken place over the last decade. The reform of Uganda's telecommunications sector has been billed as a more successful one in relation to experiences in other sector reform, which provides motivation for the study. Incentive for the study also arises out of the need to document how the process was undertaken, particularly from the aspects that will inform the understanding of the design, management and implementation of the reform. As a study meant to analyze the political economy of investment climate reform, it deals more with the legal, institutional and political nuances that underpinned the reform management process.

The objectives of the study have therefore been laid out as to 1) provide a description of the reforms that were carried out; 2) establish and document the benefits that arose from the reforms; and 3) undertake an analysis of the management of the process including its political management aspects. The above objectives will serve to identify and understand the role of different interest groups and institutions, how consensus for reform was built, and how reform design and implementation was undertaken.

The telecommunications sector in Uganda had been monopolistic with the Uganda Post and Telecommunications Corporation (UPTC) undertaking joint regulatory, operations and policy functions for all communications services in the nation, until the Government's agreement with recommendations of a White Paper on the divestiture of UPTC in July 1994 was passed. This enabled the initial liberalization of the telecommunications sector with the licensing of one private operator in cellular telephony, and a few in other non-core services markets, though the market structure remained largely unaltered with UPTC maintaining responsibility for service provision across the board.

Government's agreement to the White Paper's recommendations was a culmination of a series of measures that had began in early 1993, with Cabinet's decision to re-classify UPTC's, and by extension the telecommunications sector's, status from one where Government would retain a 100% shareholding and have it operate as a monopoly, to one where it would hold a majority stake.¹ Subsequent to the agreement to the White Paper recommendations, UPTC status would over a year be re-classified to one where Government would only have a minority shareholding. Of significance to the reform process, was that at the point of agreeing to the White Paper's recommendations, Government still maintained that the telecommunications sector would be operated as a

¹ The Public Enterprises Restructuring and Divestiture Statute provided for 100% Government ownership (Class I), majority shareholding (Class II), Government holding of minority shareholding (Class III) and complete divestiture (Class IV).

monopoly, with “core services in telecommunication ... not being liberalized for at least 10 years”².

A decade after the Government White Paper, as consequence of a stream of reform measures, a vibrant and competitive market exists in the industry, coupled with a remarkable improvement in services, making the sector one where successful results can be documented. A substantial investment climate reform was achieved, even as the unbundled UPTC, reconstituted as Uganda Telecom Limited (UTL) was being contemplated for sale, as potential investors observed the successful progress of the Second National Operator, leading to ever-higher bid prices being offered. A budding regulator is also in place and has arbitrated in disputes between service providers.

While substantial progress has been achieved, the reform of the sector took some delay, and significant policy shifts were observed. The reform’s implementation exhibited skillful political maneuverings and trade offs with beneficiaries. A study of the management of the reform process from the initial monopolistic market structure to well regulated competitive one, is therefore warranted.

The structure of this report is as follows: Section 2 provides an overview of the pre-reform situation, providing the starting point for the reform process. It also identifies interest groups (and by extension potential losers from the reform initiative) that gained from the decadent state of the telecommunication sector at the onset on the reform process. Section 3 presents the factors that provided impetus for the reform initiative, from both the macro-economic and economy-wide perspective, and from the state of malaise the sector was in. Section 4 documents the nature of specific reform measures, and the process of the reform. Section 5 explores the reform initiative’s distinctive implementation experience. Section 6 explores the reform’s results and outcomes and Section 7 presents a summary of lessons learned and conclusions.

2. Overview of the pre-reform Situation:

The setting to telecommunications sector reform in Uganda rests in the return to macro-economic stability in the early 1990s, following the collapse of the economy in over two decades of civil strife and economic mismanagement. The period was witness to a destruction of the economy’s formal sectors and the institutional framework to support transactions in any modern economy³. The virtual collapse of the Uganda economy is borne by the following facts. The size of the Uganda economy shrunk in absolute terms by one percentage point a year over the 1971-86 period. Per capita Gross Domestic Product (or per capita output) had also declined by a massive 40% over the same period.

² Government White Paper on Divestiture of UPTC

³ “Uganda’s Recovery ...” Ritva Reinikka, Paul Collier, The World Bank, 2001

In the state of anarchy that prevailed, institutions to govern and regulate commercial transactions and activity essentially collapsed. The commensurate social disorder caused by predatory regimes, heralded a structural transformation in production, as activities intensive in capital, such as in telecommunications, declined. As foreign aid dwindled and with government unable to borrow commercially, transactions services, such as telecommunications, declined precipitously as the economy descended more into a subsistence one. For example, activities categorized as those vulnerable to war, together with activities intensive in assets and transactions, which included telecommunications, declined by 50 percentage points over the 1970-86 period⁴. Subsistence activities, on the other hand, grew from 21% to 36% as a share of the economy.

The telecommunications sector was not above the state of affairs in this period describe in the foregoing account. Following the de-regionalisation of telecommunications provision in 1997, government failed to maintain investment in the sector and commensurate service levels. Operating under the three-nation East African Community (EAC) before 1977, telecommunication and postal services were unified with no exchange of traffic, revenue or other accounts, but with interconnection cost sharing arrangements between the East African Posts and Telecommunications Corporation and the East African External Telecommunications, a different corporate body. While each country's operations were semi autonomous, central planning for infrastructural services was undertaken.

The breakup of the EAC in 1977 saw the creation, by decree, of the Uganda Posts and Telecommunications Corporation (UPTC) undertaking unified national and international functions of the regional predecessor organizations. UPTC was, following the enactment of the 1983 UPTC Act, assigned the role of the monopoly operator and regulator carrying out frequency and spectrum management, under the aegis of being the secretariat to the National Frequency Registration Board (NFRB⁵). Of significance was a provision in the Act that UPTC was to also provide policy guidance to Government.

The UPTC was therefore designed to provide a service with no competition and without any clear-cut targets on service delivery, which were only implicit in the annual business plans agreed with Government. Performance targets were also largely absent because Government did not enter any specific and performance criteria for UPTC. The pervasiveness of the monolithic UPTC through the entire

⁴ *ibid*

⁵ The Uganda Posts and Telecommunications Act, 1983

telecommunications sector precluded any consideration of broader stakeholder involvement, either in terms of investment in at least non-core service provision, or in methods of work and in defining service commitments.

In the face of the degenerating national economy, together with widespread civil disorder, UPTC was largely unable to make adequate levels of investment to maintain infrastructure, let alone maintain acceptable levels of service. By 1993, telephone penetration rates had fallen to 0.13 lines per 100 inhabitants, well below the regional sub-Saharan Africa average of 0.4 per 100 inhabitants. Compared to its neighboring countries, telephone penetration rates in Uganda were markedly lower, with Kenya's and Tanzania's at 1.2 lines and 0.3 lines per 100 inhabitants, respectively. Geographical coverage was also severely limited with 60% of lines in the capital Kampala, which had less than 10% of the population. Installed capacity and actual connections were minimal at, respectively, 62,000 telephone lines and 23,000 active connections, for a population of 18 million. As an indicator to the low quality of service, local call completion rates were only 20% against the norm of 75%, and the services were limited to only basic telephone services.

With the restoration of peace and stability towards the end of the 1980s decade, the need for investment to revamp an infrastructure that had received little maintenance for over a decade was immense. A 1987 rehabilitation project was only able to lay a backbone digital network for the central urban centers of Kampala, Jinja and Entebbe, without significant improvement in overall service. In 1993, it was estimated that USD 200 million would be needed to raise penetration rates to the sub-Saharan average of 0.4 lines per 100 inhabitants by 1995, and that up to USD 600 million would be required to get penetration rates in Uganda to 3 lines per 100 inhabitants by the turn of the century⁶.

This state of affairs was largely due to low levels of investment and poor management capacity at UPTC to enable the provision of a quality of service to meet growing demand. Low investment led to a cycle of deteriorating infrastructure to meet growing demand for services, ever-inferior service provision, worsening revenues and further under-investment. Service coverage declined both in terms of geographical spread as lack of investment prevented expansion of provision, and as infrastructure fell into a state of disrepair. Government's deteriorating fiscal situation ruled out its providing investment resources because of the decline of foreign aid to a trickle, and failure to open up to private investment.

⁶ Report of Committee on Investment in Technology (CIT) and July 1993 Bank Mission Aide Memoir

Operationally, UPTC faced persistently inept financial management. Poor collection of bills and the inadequacy of billing systems hampered revenue generation. The return on capital deteriorated from -8.5% in 1988/89 to -20% in 1989/90. Operating profit ratios declined from -21% to -27 in same period. While working capital ratios were in line with acceptable standards, they belied greater financial distress as debt and credit controls were out of hand. It took two a half times longer than the acceptable standard for UPTC's debtors to settle their dues, and almost twice longer than acceptable standards for UPTC to settle its creditors in 1988/89. This situation gradually worsened and by 1991/92, it took almost three times longer and slightly over twice as longer than is acceptable for respective debtor and creditor settlements to occur. Moreover, these indicators were only pertinent to local creditors, as foreign debts had remained unsettled for many years⁷

The lack of competent staff in accounting and finance, coupled with high staff turnover in this function led to further deterioration in financial management. The impact of the virtual collapse of Ugandan society was also not lost to the telecommunications sector as corrupt and fraudulent tendencies became increasingly prevalent on the part of both employees and customers of UPTC. It was known, for instance, for consumers to pay more than the official tariffs to employees to get service ahead of the queue.

The state of affairs in the sector in the run-up to the onset of contemplation of reform was thus characterized by the following:

- Inadequate infrastructure leading to low access and coverage, and declining penetration rates;
- High technical losses arising from inadequate infrastructure due to under-investment in maintenance and rehabilitation;
- Low service reliability due to network congestion;
- Extreme financial difficulties arising from accumulating receivables, inaccurate customer billing, poor cost per installed telephone line, high staff cost-revenue ratios, and substantial unfunded pension liabilities

Beneficiaries from the state of affairs painted above were largely the business community and some UPTC managers and workers who were involved in corruption and outright fraud. This was largely through connivance in non-payment of bills and fraudulent supplies to UPTC. This led to considerable loss in revenues as the findings of the Commission of Inquiry into the UPTC was to

⁷ Report of the Committee on Investment in Telecommunications

reveal⁸. Losers from this dire state of affairs certainly included the economy wide effects of declining service provision, and declining revenues to Government.

3. Factors Motivating Reform:

The reform of Uganda's telecommunication sector needs to be seen from the point of virtual collapse of the country's economy and society up to the mid 1980s. The return to peace and stability in the late 1980s provided an opportunity to revamp the sector, initially from the new Government's approach to improving performance of body corporates through enforcing new management principles, under continued public sector ownership. Indeed the view of the new Government was that telecommunications was largely luxurious, thereby not warranting significant attention.

The new Government, having taken power from a largely socialist, though pragmatic ideological base was initially averse to private entrepreneurship and by extension private investment, opting for a command style approach to economic management. As an objective, the National Resistance Movement had set itself the establishment of an "integrated, independent, self-sustaining economy" as part of its ten point programme before assuming power. Its approach to economic policy and management "assumed that economic agents would respect the basic requirement of military discipline to obey orders."⁹ As a way of circumventing normal financing of development, the new Government opted for barter trade arrangements, exchanging agricultural produce for capital goods for investment in productive sectors. Increasingly, inadequacies in the distribution and supply chain, and glaring failure of price control mechanisms led to major re-think of this approach to economic management.

The shift in economic management paradigm largely took place within the President's Economic Council (PEC), where over time debate between ministers and senior officials shifted thinking towards increasing market orientation to economic management. A major step in this direction was the liberalization of the foreign exchange market and the deregulation of exchange controls in 1991. This in essence, would allow the market determination of the exchange rate and consequently easing the movement of foreign capital.

Liberalising the foreign exchange market, and the eventual removal of restrictions on capital movements, was particularly important in the implementation of the Investment Code, largely an instrument aimed at generating foreign direct investment in the economy. The Investment Code provided a fast track mechanism for near-automatic project approval for foreign

⁸ Report of the Commission of Inquiry into Uganda Post And Telecommunications Corporation, 1993

⁹ Economic Liberalisation in Uganda (Kasekende & Henstridge, 2001)

applicants, allowing them to be licensed within 45 days of applying. Licensing provided incentives including corporate tax holidays, drawbacks from any import duties and sales taxes for inputs used in export production, and the transfer of dividends.

Other measures that Government placed importance on included the removal of restrictions on acquiring land and relaxing immigration controls. A final aspect that was to provide a foundation for a change in the investment climate was Government's policy on property rights. Following the expulsion of the Asian community in the early seventies, and the expropriation of their property, Government policy was to return all these properties to signal to investors that expropriation would never occur again.

This shift in the economic management paradigm had a crucial bearing for the telecommunications sector reform, particularly as Government initially held the position that it would maintain 100% ownership, monopoly control and management of the sector. In line with the economic management paradigm shift, this position was to change to one where Government's position was to relinquish all participation in the ownership management and control of the sector, in addition to agreeing to introduce competition.

With the onset of a more liberalized economic management approach, a rapid turn around in the economy was witnessed, with the restoration of macro-economic stability by the early 1990s, and a concerted focus on the parameters that would henceforth determine continued growth of the economy. It is in this respect that Government began to focus on the need to increase economic investment, particularly from foreign private investors. Impetus from success in macro-economic stabilization propelled Government to pass the Investment Code with elaborate incentives to foreign investors. It is significant to note that telecommunications was not an area of specific focus of the Investment Code, though was eventually recognized as a constraint to investment in other areas. Numerous investors had revealed failure in basic telecommunications service provision was a major obstacle to start up business in the country. Reform in the telecommunications sector was therefore seen as important for business development, and was needed to emulate the successful macro-economic reforms witnessed earlier.

With obvious impatience with the inadequacies of the UPTC to deliver adequate services, Government sought to divest the Corporation to the private sector, with a Presidential directive to expedite the sale of UPTC within a month, by the end of the 1993 Fiscal Year. He had personally expressed his desire to have the

inefficient and corrupt UPTC privatized as quickly as possible¹⁰. From a political perspective, there was increasing pressure from the country's political leadership to address the constraints to investment, a major area of concern to particularly the President. The assistance of the World Bank /International Finance Corporation was sought in this, to which, significantly, a path that tempered a sector reform to improve the operational environment, rather than only a change in the ownership of UPTC, was recommended.

4. Nature and Design of the Reform:

The onset of the design of the telecommunications sector reform can be traced to Cabinet's decision in May 1993 to partially divest UPTC while maintaining a majority shareholding. The main impetus for this decision arose out of continued dissatisfaction with UPTC performance operationally, and the need for the telecommunications sector to facilitate investment in economy. UPTC, on the other hand, argued not too convincingly that their telecommunications component was operating well, the inefficiency of postal services leading to losses, requiring continued Government subsidy. UPTC recommended that Government obtain foreign borrowing to enable rehabilitation of basic network backbone infrastructure beyond Kampala, Entebbe and Jinja.

Government's approach to solving the difficulties brought about by UPTC's ineptness was to constitute the Committee on Investment in Telecommunications (CIT). The backdrop to its work was the view that apart from the inadequacies of UPTC, the major problem was limited investment in the sector. The CIT was appointed in June 1993 to expeditiously (within 30 days) recommend to Government a course of action "to prepare the ground for private investment in Uganda Posts and Telecommunications Corporation." With respect to telecommunications, its terms of reference were to undertake the following¹¹.

- To isolate postal from telecommunication services countrywide;
- To undertake a valuation of telecommunications assets;
- To prepare a legal framework to facilitate private investment in telecommunications;
- To study both postal and telecommunications in order to establish possible ways of privatization;
- To liberalise the telecommunications sector

The CIT had representation from the ministries of Finance, Works and Communications, Justice, and the Uganda Investment Authority (UIA).

¹⁰ From interviews with key informants

¹¹ Report on the Committee on Investment in Telecommunications, 1993.

Government's Chief Valuer, and UPTC, and heralded a crucial milestone to the major reform of the sector that took place subsequently. In response to concerns that inadequacies in the telecommunications sector were an obstacle to investment, and that the UPTC was largely corrupt and inefficient¹², its recommendations were groundbreaking.

Within the thirty days proscribed by Government, the CIT had concretized broad recommendations in line with its mandate. While the report had not been formally completed at this stage, the following three recommendations were of particular significance:

- the immediate separation of the regulatory and operational functions in UPTC and creating an independent telecommunications regulatory body;
- commencement of the liberalisation of peripheral services such as provision of customer premises equipment, pay 'phones, value added services including data communications, and mobile communications
- the immediate tender of a 49% equity stake in the reconstituted Uganda Telecom Limited upon the enacting of legislation that separated telecommunications services of UPTC and the establishment of an independent telecommunications regulator

In tandem with the work of the CIT, Government had also requested the assistance of the World Bank in facilitating the telecommunications reform. The World Bank fielded a mission in July 1993, which began a substantial technical assistance in policy and investment advice from the Bank and the International Finance Corporation (IFC) for the duration of the sector reform and the sale of UTL. The Bank mission to assess the request by Government to expedite the sale of UPTC was significant in that it began the process of turning Government thinking around to recognizing the need to create an enabling environment for the sector operator, rather than only effect a reform of the UPTC through allowing private investment in a monopoly situation. Subsequent Bank missions were to significantly influence aspects of the design of the sector reform. The initial Bank mission proposed government consideration of the following:

- to allow fair competition in the provision of all services and infrastructure in the sector, as "monopoly whether private or public, breeds inefficiency ...";
- to re-classify UPTC to allow Government retain only a minority shareholding, in order to signal Government's desire to transfer operational control to private investors;

¹²Revealed as a result of the 1992 Commission of Inquiry into the Management of UPTC

- clear definition of a transparent sale procedure, including the organizational responsibility for the sale, for UTL;
- improvement of operational and financial performance of UPTC, though limiting new investment only to critical items, to enable realization of higher sale revenue of UTL
- to explore the possibility under the existing legislation, of transferring regulatory functions from UPTC to the Ministry of Works and Communications by the end of 1993.

The Bank also committed to provide technical assistance to undertake a study of the potential demand for telecommunications services, the preparation of a sector policy and regulatory framework and the provision of advice on the sale process. The Bank's recommendations were significant, as they would influence the future structure of the market, as they sought re-consideration of the commonly held view in Government that reform only necessitated the privatization of a new UTL, while it would maintain its monopoly in offering core services.

The CIT formally completed its report in November 1993 and conducted a stakeholders' workshop in January 1994. In the presence of private and public stakeholders, contentious issues that were raised included three critical ones, namely:

- Provision of preference to local investors in the privatisation of UTL;
- The need to compensation of employees of UPTC
- Consumer and security concerns that were aimed at maintaining monopoly.

The first two issues were to substantially impact on the design and implementation of the reform as Government focused on resolving them upfront. The eventual position stated in Government sector policy statement conceded that its equity would be passed on to private investors through the stock exchange, Government thereby relinquishing all participation in ownership. The last issue with respect to consumer protection was to be taken care of by the regulator, though the national security concerns were considered largely frivolous, as they sought encourage the maintenance of Government control over sector operations.

The Workshop proposed a reform timetable which recommended a fast track for the reform to allow the establishment of a regulatory body by the end of 1994 and the privatization of UTL by early 1996. A Technical Working Committee (TWC) of experts, representing the same bodies on the CIT was appointed to

implement the reform. Significantly, the TWC recommended that Government retains minority shares in the new UTL, for the first time signifying that Government should allow the core private investor to takeover operational control.

In respect to UPTC employee matters, the TWC recommended undertaking a personnel audit of UPTC, the termination of employees due for retirement at existing terms, and the identification of personnel who would continue service in the new UTL, with the private investor assuming liability of terminal benefits. In an apparent concession, the management of UPTC was allowed the leeway of determining the cost of terminating employees in case the investor was not willing to take on personnel, which cost would be funded from the UTL sale.

The TWC also recommended restraint in further investments in UPTC, proposing limiting investment to technology and equipment that would last for at least ten years. This was significant as UPTC management was increasingly engaging in procurement of intractable systems and even wished to operate a cellular service, having seen the success of the private operator who had been licensed. Interestingly, this request was denied, regardless of the monopoly and consequent high service tariffs that the private cellular operator was charging.

Government agreed to the TWC recommendation to retain a minority shareholding in the new UTL in September 1994; and to introducing competition through issuing a license for a Second National Operator (SNO) in basic, long distance and international services in December 1994, following further recommendations of a Bank mission in October 1994. Until this point in time, a competitive market structure had not been agreed to, with UPTC being the single monopoly operator for fixed line services, and as a regulator, continuing to provide recommendations to the Minister on issuing private operator cellular and other value added services. A number of private operators offering other non-core services such as paging and tele-fax services and customer equipment had been licensed on the basis of UPTC's recommendations. The fact that UPTC was not eligible to participate in offering these services created a vertical market structure with limited competition. The decision to license a Second National Operator therefore marked the transition to allowing a competitive market, though initially restricted for the five years, to allow a period for infrastructure establishment

In order to operationalise the above measures, Government appointed the International Finance Corporation (IFC) in July 1995 as its investment advisor in respect of the following:

- the establishment of the new Uganda Telecom Limited from the UPTC;

- the privatization of UTL, and the preparation and issuing of a second national operator license, including the specification of sales procedure;
- the preparation of the legal and regulatory framework for the telecommunications sector.

The culmination of the design phase was marked by the public announcement of a joint policy statement in January 1996 issued by the ministries of Finance, and that responsible for Communications. The announcement stated Government's telecommunications sector policy objectives and targets. Policy objectives were to:

- increase telephone density to 2 lines per 100 persons, and serve unmet customer demand for telecommunications services
- improve the quality of service as adding to the variety in new telecommunications services
- increase geographical coverage of telecommunications services

Targets for the sector policy reform were also stated more specifically as to

- Improve average successful call rates from 35% to 65%, and fault recovery percentages to 60% within 24 hours and 95% within 72 hours
- Provide a national network that was at least 75% digital supportive of new intelligent services
- Increase subscriber lines to at least 300,000, and a maximum connections time for new applicants in urban areas to two weeks.

The sector policy statement specified that the above policy objectives and targets would be achieved through legislative reform to provide for the establishment of the new UTL, and the establishment of an independent regulator. The statement also announced that Government would reduce and eventually eliminate its participation as a provider of telecommunications services, allowing participation by its nationals, a matter that had been raised by local private stakeholders. The statement further announced that a Second National Operator license would be issued on a build own operator basis, after competitive bidding. The statement also announced the categorization of service provision into major and minor licenses, the former being basic infrastructure services, which would be restricted and would be allocated through a fair and competitive prequalification and bidding process. Minor licenses were to be less restricted and issued for the provision value added services

Following an extended crafting of the design as depicted above, a path for implementation had been agreed.

The objectives of the reform of the Uganda telecommunications sector can therefore be summarized as follows:

- increasing service coverage to meet unmet demand
- introducing competition and increasing private investment in the sector
- fostering greater efficiency in telecoms sector
- separating regulatory, operations and policy functions in the sector

As the foregoing account shows, the design phase un-intentionally took almost three years to complete, from the pronouncement of Government's decision to introduce private investment in May 1993, to the announcement of the sector policy statement of January 1996. Over this period significant policy shifts in the nature and structure of the reform were discussed and agreed both within Government and externally, particularly with the World Bank/IFC and local private stakeholders.

A marked accommodation of different view points and eventually significant changes in policy stances on the structure of the market occurred, commencing at the onset with Government's view that it would retain majority shares in a monopoly market to a final point where it was willingly to relinquish all participation in ownership, and allow a competitive market to exist. The political leadership and technical officials were eventually convinced that improving competition, beyond only allowing private investment was more beneficial and less costly than continued provision under a public owned or even a private monopoly.

Given the poor performance of UPTC in a monopoly situation, and the experience with the private cellular operator, the design of the reform strategy was then resolutely premised on providing for a regulated competitive environment. Exposure to other similar sector situations both internationally and in the region, also had a bearing on the reforms design, as study tours conducted by technical officials influenced the design and implementation.

5. Implementation of the Reform

The joint policy statement of January 1996 that specified the approach to the reform of the telecommunications sector marks the defining moment for the onset of implementation. Following the statement's issuance, a series of background studies and sensitization workshops for Parliamentarians and other stakeholders were embarked upon. Local and foreign investment seminars were also conducted, and legal consultants hired to finalize the draft legislation.

The implementation needs to be recast in three tracks:

- Preparation and approval of the necessary legislation to define the regulatory and operational framework of the sector;
- Sale of a Second National Operator license;
- The unbundling of UPTC and privatization of UTL.

The first implementation track was the responsibility of the Ministry of Works Communications and Housing and entailed the submission of the appropriate legislation to Parliament for approval. The second and third implementation tracks were the responsibility of the Privatization Unit of the Ministry of Finance, the secretariat of the Divestiture Reform and Implementation Committee (DRIC) of Cabinet. This seemingly made the latter two implementation tracks a largely executive function, though Parliament was crucially interested in how the latter tracks progressed.

This was indeed to be the “Achilles Heel” of the reform process. In passing the 1997 Communications Act, Parliament prescribed that the SNO license could only be issued after UTL had been privatized. This was to hold back the sale of the SNO license as resolution of critical problems pertaining to the valuation and separation of UTL from UPTC took a while. Two unsuccessful bidding processes, coupled with a Parliament’s suspension of UTL privatization at one point, would significantly delay the sale of the SNO license hadn’t Government vigorously sought to amend this provision in the law.

The first implementation track necessitated the preparation and enactment of the Communications Act, finally approved in August 1997, one-and a half years after the joint sector policy statement was made. The Act created the regulatory framework for the sector, specifying the establishment of the Uganda Communications Commission (UCC) as the regulator, and a judicial Uganda Communications Tribunal, which was assigned the jurisdiction to hear and determine all matters relating to communications services arising under the Act. The Act also provided for requirements for licensing communications services, and conditions for enforcement, inspection and investigation. The Act also charged UCC with the task of developing and ensuring fair competition and equal treatment, specifically stating that there should be nor cross-ownership between UTL and the Second National Operator, or its affiliates. The Act further provided for the creation of the Rural Telecommunications Development Fund, funded through a levy from license fees, to promote communications services to the rural populace.

The issues related to creation and maintenance of a competitive environment and the regulatory framework for the telecommunications sector were not of contention in Parliament. Critical concerns were, however, expressed with respect to the resolution of the assets and liabilities, and the eventual status of UPTC's employees. Assets, rights and liability associated with telecommunications, excluding those relating to the functions of the UCC, were transferred to UTL. In a deliberate measure to compensate potentially the biggest losers in the reform process, the Act expressly stated that the transfer of service contracts for employees joining UTL was to occur at similar or better terms and conditions of service. The Act also established a Contributory Pension Fund, initially funded by Government, for the benefit of UPTC employees who would be transferred to UTL, with portability of pension and terminal benefits due from UPTC. The Contributory Pension Fund was allowed of a shareholding of up to 10% in UTL.

The second implementation track focused on the sale of a Second National Operator. While Parliament had prescribed, to the chagrin of Government in the 1997 Communications Act that the sale to be executed after the privatization of UTL, Government proceeded to seek a reversal of Parliament's position, while at the same time proceeding with the SNO license sale process. Amidst intense Government lobbying of Parliament and limited publicity of the finalization of the bidding process, the provision was reversed. The amendment was passed in February 1998, on the same day that a successful bidder for the SNO license was announced. Even with Parliamentary opposition to issuance of the SNO license before UTL's sale, the sale process had continued, a reflection of the tenacity of the political leadership and the technical team.

A major aspect that turned Parliament's stance was Government's agreement expedite the sale of UTL by May, 1998 and to include a separate clause in the Act that took care of UTL employee terminal benefits from its sale revenue, which enabled buy-in from workers representatives in Parliament, the last bastion of opposition to the sale. The stance of the legislature was premised on views that UTL would solicit a much lower value during its privatization, if the SNO began operations earlier and devalued UTL because of perceptions of its inefficient predecessor. This was far from the case as the privatisation of UTL was to play out. The SNO license was eventually awarded in April 1998, and the operator, MTN Uganda, commenced operations September 1998.

The third implementation track related to the privatization of majority shares of UTL to a private investor. Two attempts were made, until a successful third was announced in July 2000. The privatization of UTL commenced in February 1998 with the announcement of Information Memoranda for pre-qualification of bidders. While five bidders were pre-qualified, only one bid was received,

leading Parliament to intervene and suspend UTL's privatization in August 1998. Critical to this suspension was the view in Parliament that Government was not transparent and was steering the privatization process in favor of certain interests. This view stemmed largely from Parliament's discomfort with the bidder, a Malaysian telecommunications firm, given the failure of a successful bid from a company from the same country to pay for Government's majority stake in Uganda's main commercial bank that was unfolding and eventually led to the censure and resignation of the Privatisation Minister in December, 1998.

It was only in May 1999 that Parliamentary suspension was lifted, and UTL was placed on the market for the third and final time, the successful sale being concluded in February 2000. A significant difference in the last attempt was the emphasis Government placed on detailing a transparent sales process. Critical to this was the requirement that due diligence of UTL be conducted by the pre-qualified bidders, a matter that had been overlooked in the second sale attempt. Bids had therefore been submitted subject to the conduct of due diligence, which bids could easily be reversed upon the conduct of a due diligence.

The implementation of the reform, regardless of the time it had taken to elaborate an acceptable design, had apparently not been trouble-free, largely because of the need to protect and apparently satisfy interests of various stakeholders. The first interest was that UTL should fetch a sale price that was not biased in view of UPTC previous poor performance. While this seemed, on the surface, to be a genuine interest to garner as high a sales receipt for UTL as possible, it reflected residual desires to maintain control of the sector by nationals. Agreement to legally protect employees though providing a mechanism to the pay their terminal benefits also enables progress with implementation.

By way of summary, Chart 1 depicts the timeline for the reform of the Uganda Telecommunications Sector.

Chart 1: Timeline for Telecommunications Sector Reform in Uganda

Date	Measures
May 1993	Cabinet decides to privatize UPTC, maintaining majority stake
June 1993	GoU seeks World Bank (WB) assistance in minority shares sale of UPTC
June 1993	GoU sets up Committee on Investment in Telecommunications (CIT) to study ways of introducing private investment
July 1993	WB recommends sector reform with competitive market structure, with GoU retaining only minority interest in UPTC
November 1993	CIT recommends to GoU separation of regulator, from GOU and commencement of liberalization of UPTC peripheral services
January 1994	Sector Workshop recommends local private sector participation and emphasis on UPTC employee compensation;
March 1994	GoU sets up Technical Working Committee (TWC) to guide reform
September 1994	TWC recommends GoU retains 49% stake in new UTL
December 1994	GoU agrees to allowing Second National Operator (SNO)
June 1995	GoU appoints International Finance Corp. (IFC) as Investment Advisor
January, 1996	GoU issues Telecommunications Sector Policy stating, objectives for penetration, quality of service and geographic coverage; announces GoU eventual non-participation of ownership and intention to license SNO
March 1996 (?)	Telecommunication market study
May 1996 (?)	Preparatory work on drafting legislation
Nov, 1996 – Feb 1997 (?)	Awareness and Sensitization workshops for Parliamentarians and stakeholders
March 1997 (?)	Communications Bill first reading in Parliament
June 1997	Tender of SNO license begins
August 1997	Communications Act passed by Parliament
February 1998	Successful Bid for SNO announced
February 1998	UTL incorporated
April 1998	SNO licensed to MTN
April 1998	Approval of Pre-qualified UTL bidders
August 1998	Parliament suspends UTL privatization
October 1998	Second round of UTL privatization begins
November, 1998 (?)	Single bid received and rejected by GoU
May 1999	Third round of UTL privatization begins
February 2000	UTL sold to successful bidder

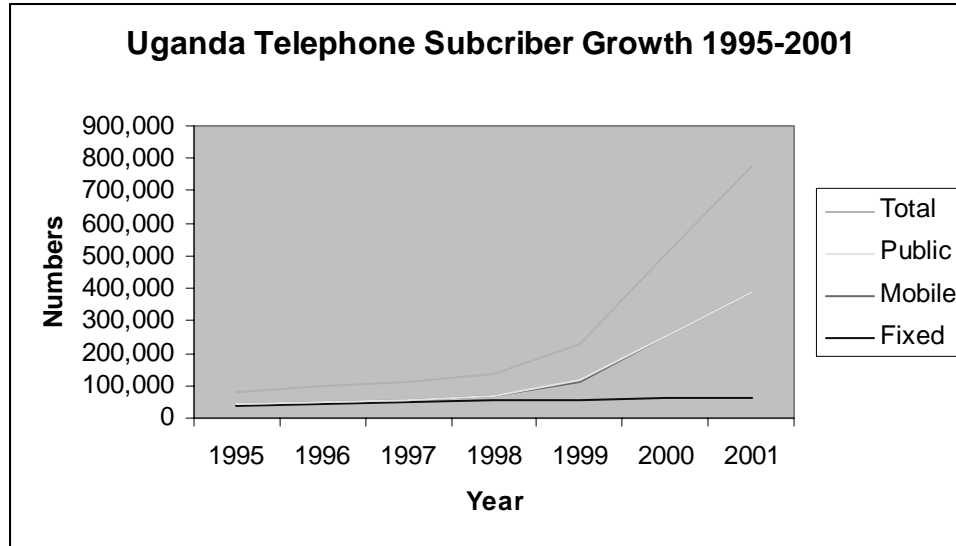
6. Outcome of the Reform Process:

The reform of the telecommunications sector can be considered a largely successful one from three major standpoints. First, the reform achieved a successful restructuring of the sector, introducing competition, even as a duopoly, for the main communication services, and allowing a large number of operators for value added services. The major premise here is that competition spurs expansion of the telecommunication sector, and enables reduction in end user tariffs, with increased efficiency. The main winners from the reforms have been the Uganda population and the economy as a whole. The gains to both individuals and economy have far outweighed whatever losses associated with losers of the reform, particularly UTL managers and workers benefiting from malpractices.

As a result of the reforms, there is more telephone penetration, much higher capacity, and it is much easier and faster to get a telephone connection. Increased competition has led to significant outcomes in terms of service expansion and quality across the country, and in all telecommunication services. The telecommunications sector reform has exceeded expectations with regard to the pace of growth of operator in terms of accessibility and affordability of services. The number of active telephone lines (mobile and landline) has increased from a total of less than 40,000 before the reforms commenced in 1996, to about 700,000 in 2003, regardless of anticipated increases to only about 200,000 as provided for in the national rollout obligations in major operator licenses issued. Furthermore these outcomes have been attained well before the end to the five-year obligatory period for the rollout obligations. Over the last five years alone, the number of fixed line and cellular subscribers has increased ten fold.

Consequently telephone penetration rates have improved from 0.13 lines per 100 inhabitants in 1993 to 2 lines per 100 inhabitants in 2001. Geographic coverage as an indicator of access has also improved significantly. The combined network of all operators had coverage by 2001, in all the 56 district capitals and over 150 towns and their immediate environments, in effect providing services in excess of 90% of the urban population, and that close to urban areas. Figure 1 below shows the growth in connections during the 1995–2001 period. Of significance is the growth of mobile connections, which far outstrip fixed line services, along international trends.

Fig. 1: Uganda Telephone Subscriber Growth 1995-2001



The two national operators have exceeded expectation in delivery of telecommunications services to rural areas, a factor that has (Eone Research, 2002). In addition to the greater than planned provision of telecommunications access mentioned above, both local and international tariffs have reduced by as much as 50% in many real terms, while at the same time improving services with less congestion and increased call success rates. Chart 2 below shows the changes in tariff over the period. Between 1994 and 2000 the number of faults per 100 main lines dropped from 135 to about 80 at UTL. Both the major and minor license operators have introduced many other value added services.

The reforms have brought about improvements in profitability, investment and output. In anticipation of privatization, new management was hired, and financial restructuring undertaken at UTL during 1998. It should be noted that during that year MTN was awarded the SNO operator license. In 1999 UTL, one year after implanting strong operational reforms, made a profit of USD 6 million, a substantial loss of USD 20 million in 1996, and barely breaking even in 1997¹³. During the period 1995 to 2000 the total amount invested in the telecommunication sector was US\$203 million, considerably higher than during 1990 to 1995, the pre-reform period when there was very little investment in the sector.

On the second front, together with increasing competition in the sector, the reform process has introduced regulatory oversight in the sector with the establishment and operationalisation of the UCC. While the establishment of the National Communications Tribunal is yet to take place, the operationalisation of

¹³ Clifford Chance, Booz, Allen and Hamilton, (1998) The Changing International Telecommunications Environment: Uganda Case Study

the UCC and the initial actions in resolving recent disputes in interconnection charges between operators marks a crucial step in beginning to play its regulatory role. Indeed, one of the reasons for the successful sale of UTL is attributed to the presence of the UCC, which enabled potential bidders make a favorable assessment of its track record with the SNO (Shirley, et. al.). Initially, as the reform was implemented in the absence of a regulator (save the de facto role played by the Privatisation Unit), regulatory aspects were specified in the licenses provided to operators on application, which required them to be quite flexible.

The third standpoint that showcases telecommunications reform in Uganda as a successful one relates to its economy wide effects. Firstly, while Government's objectives for pursuing the sector's reform was not the maximization of the sale revenues, substantial revenues are now received from the sector. Indeed Government has been able to secure yet another tax handle from taxing air time, an area previously un-thought of. Corporate tax revenues have also increased significantly not only during the reform implementation, but also as compared to net subsidies Government had to bear the cost of in the pre-reform days. Government's sale of its majority stake in UTL earned it US\$30 million, and at the same time reduced the burden on itself of making new investments and financing maintenance. With the dramatic increase in telephone and other telecommunication services use, revenue from the sector is much higher, thus earning government more revenue from taxes.

The third level of economy-wide impact relates to the multiplier effect that developed an entrepreneurship of different levels and size, across the country. Entrepreneurs have sprung up ranging from countrywide and regional (East African) distributorships, to those operating telephone shops and kiosks in both urban and even the remotest areas of the country have sprung up. The distributors, vendors and franchises have all contributed and added value to the delivery of services beyond the provision of the major operators. Internet service providers, cyber cafes, and tele-centers have sprung up across the country offering services further afield. A concrete assessment of the impact of the reform is currently being undertaken in order to concretize its effect on employment, entrepreneurship and other factors.

7. Conclusions

The reform of the telecommunications sector in Uganda demonstrates success both in outcomes terms but also into terms of the management of the process. In terms of best practice¹⁴, Uganda was able to achieve most in a fairly short period.

¹⁴ Best Practices for Telecommunications Reform, Global Internet Policy Initiative, May 2002

Starting initially from a controlling position, government was able in the reform period to evolve from a provider of services, allowing these to be run more efficiently by private entrepreneurs. While distancing itself from participation in ownership, it placed emphasis on ensuring the adequacy of market structure and putting in place a regulatory framework. Substantial investment in the sector by private entrepreneurs has also been realized allowing the revamping of a decadent sector infrastructure. Competition was also introduced through fairly transparent process. Significant gains have also been achieved towards improving universal access.

Critical to the success of the reform was the unequivocal support provided by political leadership in the Executive. The President was particularly concerned about the constraints to investment posed by the malaise and inefficiencies in the sector and actively promoted reform and implementation. While there were interventions from Parliament that seemingly sought to reverse aspects of the reform process, particularly the sale of the Second National Operator license and UTL itself, unwavering commitment on the part of the Executive enabled the reform to stay on track. The need to ensure consensus from the range of stakeholders, while delaying the reform, enabled greater stakeholder buy-in.

Significant too, in the process, was the tenacity and perseverance of senior management and technical officers involved in the process, to ensure its successful conclusion. Persistent dialogue and lobbying of various interest groups enabled the turn around of positions and the effecting of compromises with commensurate compensation for potential losers. Continuous interaction with Parliamentarians enabled the reversal of the suspension of the privatization of UTL and the change in sequencing in the sale of the SNO license.

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