

Institution: University of the West of England (UWE), Bristol
Unit of Assessment: 20 – Law
Title of case study: Enabling the growth of mobile money business in the telecoms industry in new territories in compliance with international banking regulations
1. Summary of the impact <p>Based on research at UWE into mobile banking regulation, telecoms companies have been able to contribute to growth in these emerging markets internationally. The UWE findings have enabled them to understand the anti-money laundering (AML) and banking regulation implications of their mobile banking initiatives, giving them confidence and competitive advantage in negotiations by being fully versed in the local and international implications associated with mobile money and AML banking regulation. As a result, the France Telecom Group (FTG) has been able to successfully launch new subsidiaries in Tunisia, Niger, Armenia and Uganda which, by bringing mobile money services to new markets, has had a significant impact on local economies and employment.</p>
2. Underpinning research <p>One of the fastest developing areas of banking regulation in the United States (US), the European Union (EU) and United Kingdom (UK) has been mobile banking. Mobile banking is seen as a potential area of growth for many telecommunications companies. FTG approached Professor Nicholas Ryder (then Associate Professor in Financial Crime, appointed 2006) and Dr Umut Turksen (then Senior Lecturer in Law, appointed 2005) to conduct research in the area of national and international banking regulation and its applicability to mobile banking. This built on the body of research conducted by Ryder on banking regulation and white collar crime in the UK and EU. The key findings and conclusions of that body of research related to the creation and development of a global anti-money laundering policy (3.1 below), comparison of related white collar crime strategies in the US and UK (3.2 below), the jurisdictional scope and applicability of the enforcement powers of UK financial regulatory agencies (3.3 below), and the enforcement policies adopted in the US towards breaches of its white collar crime and banking regulations (3.4 below).</p> <p>FTG posed six specific research questions:</p> <ol style="list-style-type: none"> 1) Do FTG activities in Jordan, Egypt and the Ivory Coast constitute a banking activity which falls within the regulatory environment? 2) Are there any other activities that FTG needs to consider to avoid meeting any banking regulation? 3) If FTG were to require a banking licence, what are the key regulations that would be applicable? 4) Is the legislation and related regulations the same in all three countries? 5) What are the consequences for non-compliance or part-compliance in each of the three jurisdictions? 6) Are there minimum standards of compliance? <p>This research was ground-breaking in that it involved comparative research on mobile banking and its regulation in Jordan, Egypt and the Ivory Coast. Furthermore, the project also involved unique research on the scope and applicability of both US and UK banking regulation and white-collar crime legislation in respect of the activities of FTG in Jordan, Egypt and the Ivory Coast. The research:</p> <ol style="list-style-type: none"> 2.1 established that some of FTGs activities did indeed constitute a banking service as defined in the banking legislation applicable in the relevant countries; and determined the scope and applicability of UK and US banking and white-collar crime regulations on the overseas activities of FTG; 2.2 outlined the relevant banking regulations that FTG needed to comply with; 2.3 determined who was legally responsible for the deposit of money in each of the three countries;

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- 2.4 outlined the relevant white-collar crime regulations that FTG needed to comply with;
- 2.5 identified the due diligence procedures that FTG were required to comply with, and outlined the penalties if they failed to comply with these regulations; and
- 2.6 identified the levels of risk for FTG in respect of non-compliance in each of the three jurisdictions.

Ryder and Turksen played a lead role in the research design, implementation and analysis in each of the studies.

3. References to the research

- 3.1. N. Ryder, *Money laundering an endless cycle? A comparative analysis of the anti-money laundering policies in the United States of America, the United Kingdom, Australia and Canada* (Routledge Cavendish, 2012).
<http://www.routledge.com/books/details/9780415583732/>
- 3.2. N. Ryder, *Financial crime in the 21st century – law and policy* (Edward Elgar, 2011)
<http://eprints.uwe.ac.uk/16023/>
- 3.3. N. Ryder, 'The Financial Services Authority, the reduction of financial crime and the money launderer – a game of cat and mouse' (2008) *Cambridge Law Journal*, 67(3), 635-653
<http://dx.doi.org/10.1017/S0008197308000706> <http://eprints.uwe.ac.uk/13696/>
- 3.4. N. Ryder, 'To confiscate or not to confiscate? A comparative analysis of the confiscation of the proceeds of crime legislation in the United States of America and the United Kingdom' (2013) *Journal of Business Law*, *Journal of Business Law*, 8, 767-798.
<http://eprints.uwe.ac.uk/20290/>

4. Details of the impact

- 4.1 *Contribution towards improving FTG's (employees, agents, partners and subsidiaries) understanding of the regulatory environment relating to mobile money in Jordan, Egypt, the Ivory Coast, the United Kingdom, the United States and internationally*

As a result of the research and advice provided to FTG, they were able to expand, cultivate, promote and explore new business opportunities in Jordan, Egypt and the Ivory Coast. FTG realised a competitive advantage with considerable expert knowledge (in the area of banking regulation and AML) when negotiating with telecoms operators in those three jurisdictions, providing a superior negotiating position and strategic competitive advantage. Therefore, the research contributed towards improving FTG's (employees, agents, partners and subsidiaries) understanding of the regulatory environment relating to mobile money in Jordan, Egypt, and the Ivory Coast, and of the applicability of United Kingdom, United States and international banking regulation in this field. The combination of factors that led to FTG winning contracts in excess of €5m included the strong international brand of FTG, the expertise within the bidding team (that included representation from the FTG's Fraud and Revenue Assurance team which had commissioned the research from the UWE team), and the assurance of AML compliance which had been provided by the commissioned research.

The exact value and details of these contracts cannot be disclosed due to a strict confidentiality agreement to which UWE were party. However, the fact that the UWE research team were chosen to conduct two specific pieces of work, worth in excess of €50,000, is evidence that FTG saw considerable value in the engagement. The former Knowledge Management Director with the France Telecom Group, has commented that whilst the financial impact of the research is 'impossible to precisely define', 'France Telecom realised a considerable competitive advantage with expert knowledge when negotiating with telecom operators in the [relevant] territories' [see 5.1]

- 4.2 *Improving awareness of compliance obligations as they relate to mobile money applications*

The research project informed FTG of all of the risks associated with money laundering and

banking operations in Jordan, Egypt and the Ivory Coast. This contributed to the realisation of the following further benefits:

- 4.2.1 FTG were able to launch new Mobile Money services in Tunisia, Niger, Armenia and Uganda
- 4.2.2 FTG were able to continue to manage and limit the threat posed by, and the associated financial costs of, fraud and revenue assurance within acceptable levels (this figure is approximately between 0.5–3 per cent of revenues, but cannot be disclosed precisely because of the confidentiality agreement) by focusing their operational efforts on fraud and leakage items causing repeated costs. Examples include call reselling, roaming fraud, telesales fraud, subscription fraud, SAC related fraud costs, and leakage resulting from change management (including governance of fraud risk acceptance). In particular, the findings and conclusions of the research conducted by Ryder and Turksen resulted in FTG identifying low levels of fraud compliance under obligations imposed by the then Financial Services Authority under its Senior Management Arrangements, Systems and Controls (SYSC) Handbook
- 4.2.3 the UWE findings assisted the FTG to achieve these important goals by not only identifying the relevant banking, AML and fraud regulations that they were required to comply with, but also by advising them regarding best practice
- 4.2.4 industry standards usually quote fraud and revenue leakage as affecting between 5-15 per cent of revenue, depending on geographical location. As a result of the research conducted by Ryder and Turksen the FTG were able to continue to maintain their very low level of fraud and leakage. This was beneficial to the FTG as it enabled them not only to fully comply with the relevant banking, AML and fraud regulations, but by also give them a superior competitive advantage, supported by the provision of expert legal knowledge transfer. As the then Knowledge Management Director, Group Fraud and Revenue Assurance, France Telecom Group, has attested, 'The impact and benefit [derived from the work] was that France Telecom realised a considerable competitive advantage with expert knowledge when negotiating with telecom operators in the named territories providing a superior negotiating position and strategic competitive advantage'

The former Head of Global Development for Orange has said of the research that it 'made a significant contribution to the international success of France Telecom/Orange, not least by improving understanding of the regulatory environment relating to mobile money applications in a range of countries, and improving awareness of compliance obligations as they related to mobile money' [see 5.2]

4.3 *Providing a foundation for FTG anti-fraud policy*

The research findings were utilised by the FTG to form part of its counter-fraud strategy documentation. They were adopted by FTG and circulated to its agents, partners, subsidiaries and overseas offices. The Managing Director of Newlands Horizons (UK) Ltd., has stated that 'knowing the conservative nature of [FTG's] Fraud and Revenues reporting, we can assume that loss has been well controlled and to well below industry standards due in the main to the comprehensive nature of [the UWE] research....' [see 5.3 below]

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5. Sources to corroborate the impact

- 5.1. A testimonial available from UWE** from the former Knowledge Management Director, Group Fraud Revenue Assurance, France Telecom Group, confirming value of contracts gained as a result of improved negotiating position from UWE research, benefits to their business(es) and to their customers.
- 5.2. A testimonial available from UWE** from the former Head of Global Development at Orange, confirming the impact of the research on understanding of the regulatory environment, and on awareness of compliance obligations.
- 5.3. A testimonial available from UWE** from the Managing Director of Newlands Horizons (UK) Ltd. Confirming provision of foundation for FTG anti-fraud policy, forming part of its counter-fraud strategy documentation