

MOBILE PHONE TRENDS IN DEVELOPING COUNTRIES: *POLICY AND LEGAL CONSIDERATIONS*

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Technology should be better leveraged in meeting the MDGs



“New technology-based solutions that did not exist when the Goals were endorsed can and should be leveraged to allow for rapid scaling up. The most important of these technologies involve use of mobile telephones, broadband Internet, and other information and communications technologies.”

Source: Report of the Secretary-General, 12 February 2010, A/64/665.

Main legal issues posed by M-commerce

- *M-commerce or Mobile e-commerce*: e-transactions conducted by mobile phones instead of ordinary PCs
- Similar and new legal issues
 - Security issues
 - Identification of the parties, the formation of contract
 - Payment, different options
 - Privacy
 - Consumer protection

→ *Is m-Commerce in need of specific legislation?*

UNCTAD ICT and Law Reform Programme (1/2)

Building a comprehensive legal infrastructure

Overall objective: support developing countries in preparing enabling legal and regulatory environment for e-commerce by:

- Building capacity of policy makers and legal practitioners
 - distance learning and face-to-face training course on “Legal issues of e-commerce”;
 - national and regional training workshops
- Reviewing and preparing cyberlaws in cooperation with beneficiary countries and regional institutions :
 - Drafts and reviews domestic legislation
 - Assists in the preparation of harmonized legal frameworks
 - Prepares comparative studies on regional harmonization of cyberlaws (Latin America, Central America)

UNCTAD ICT and Law Reform Programme (2/2)

- Financial support from Finland and Spain
- Active in 26 DCs: Latin and Central America, East African Community, Cambodia and Lao PDR in cooperation with regional institutions and UNCITRAL in support of regional harmonization.
- Additional requests from Azerbaijan, Botswana, Mexico, Sierra Leone, Niger and Madagascar.
- UNCTAD associated with OECD work on ICT-related issues (notably the revision of the Guidelines on Consumer Protection)

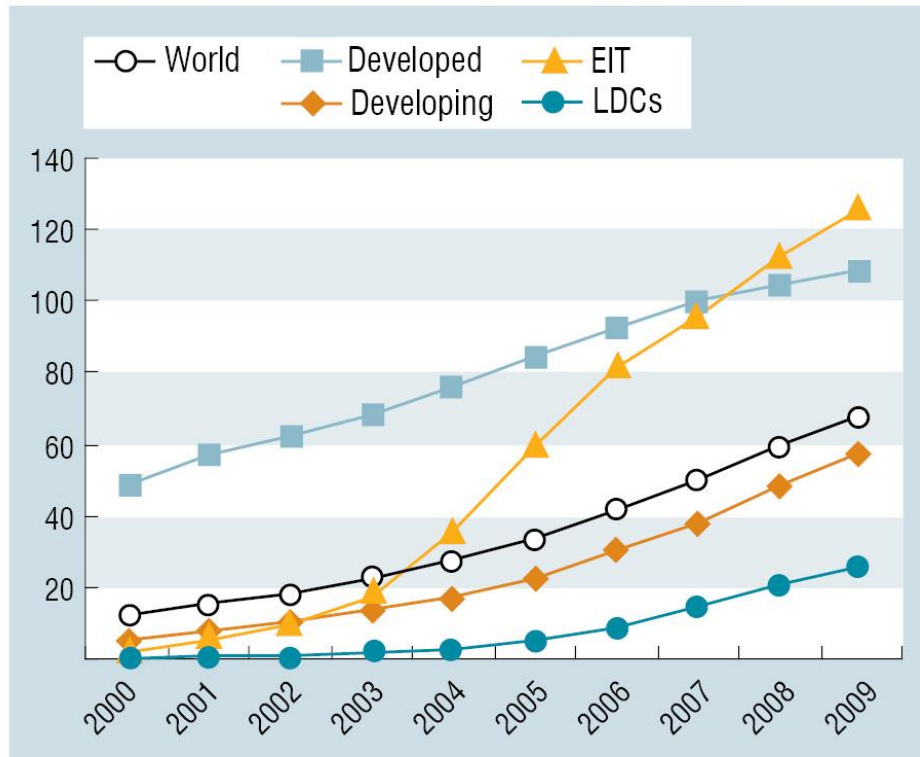
Legal developments in the East African Community *driven by m-money*

- EAC Partner States - E-Government and E-Commerce Programs (2005/2006)
 - 6 training workshops of the EAC Taskforce on Cyberlaws since 2007
 - EAC Framework for Cyberlaws adopted in May 2010 by the EAC (e-transaction, and e-signature, data protection, consumer protection, computer crime);
 - Review of national laws and draft e-commerce legislation
 - Next step: Framework, Phase II (Intellectual property Rights, competition, e- taxation and information security) ; awareness workshops for MPs, PSs (Kenya and Uganda), March 2011

Mobile phones are spreading

from 500 million subscriptions worldwide in 2000 to 5 billion in 2010

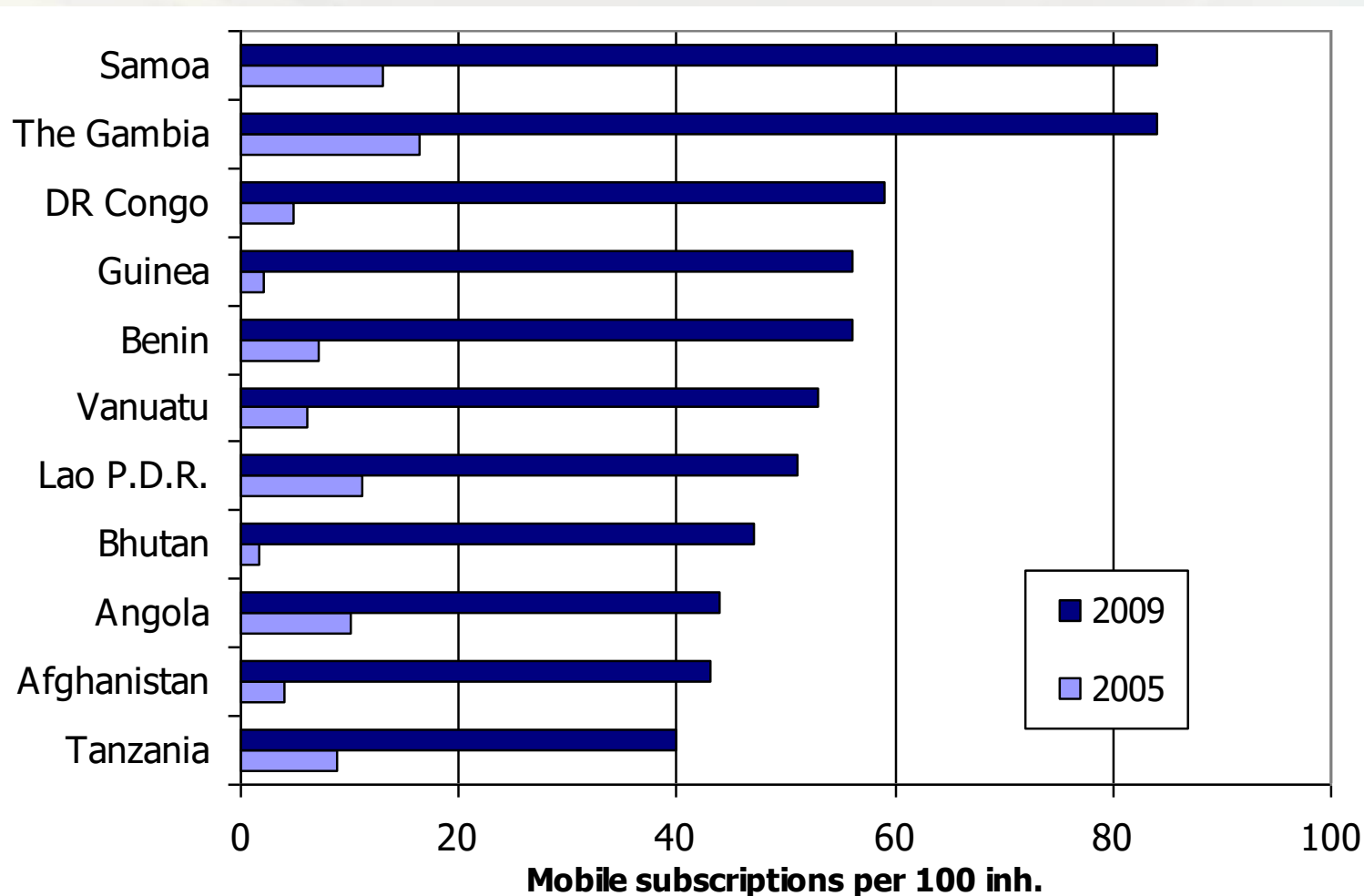
Figure II.4. Mobile cellular subscriptions per 100 inhabitants by country group, 2000–2009



Source: ITU World Telecommunication/ICT Indicators database.
See also annex table II.1.

Dramatic improvement in some LDCs...

Mobile penetration, selected LDCs, 2005 and 2009*

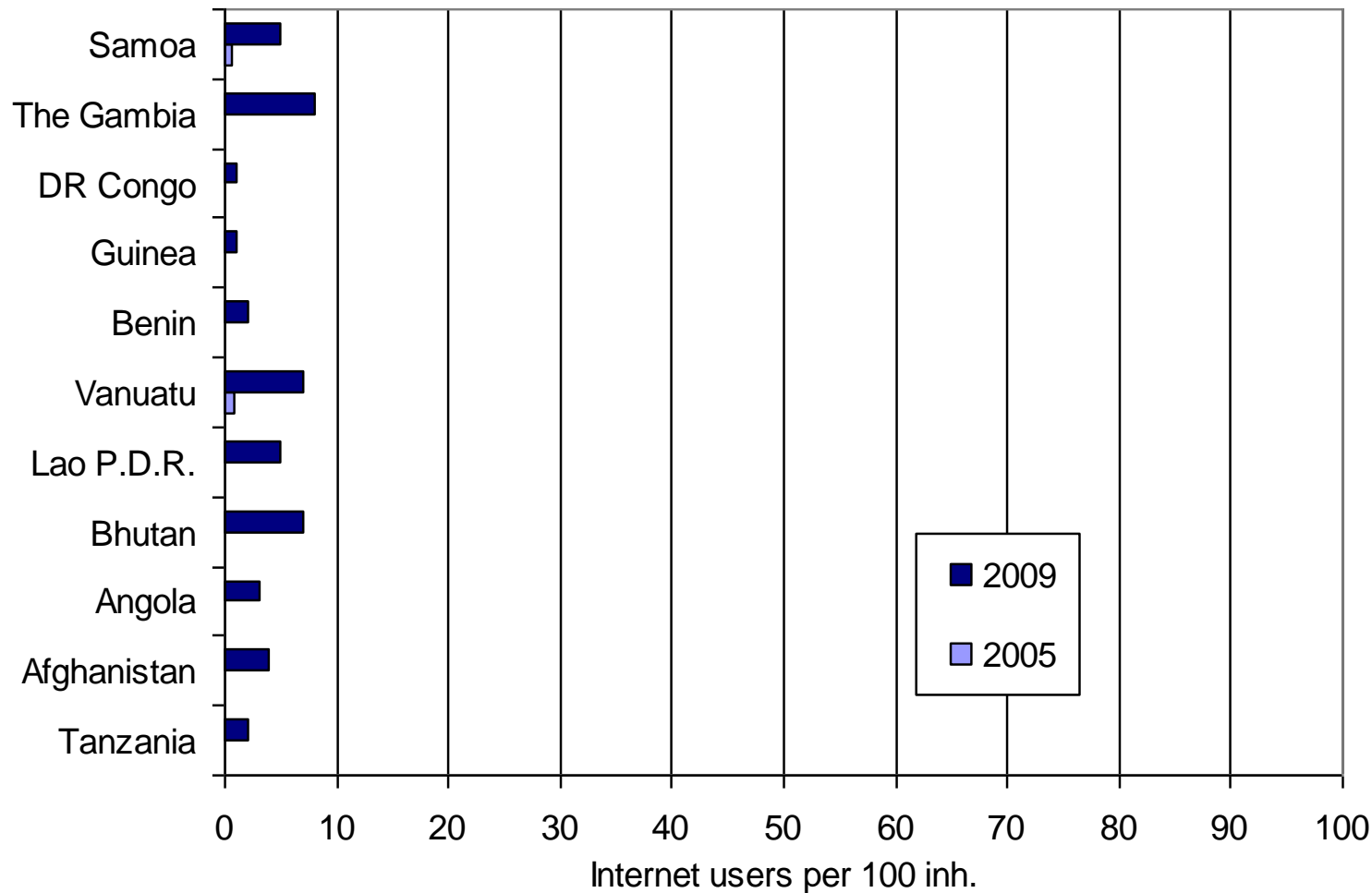


*Highest penetration among LDCs

Source: ITU World Telecommunication/ICT Indicators database.

Less progress in Internet use...

Internet use penetration, selected LDCs, 2005 and 2009



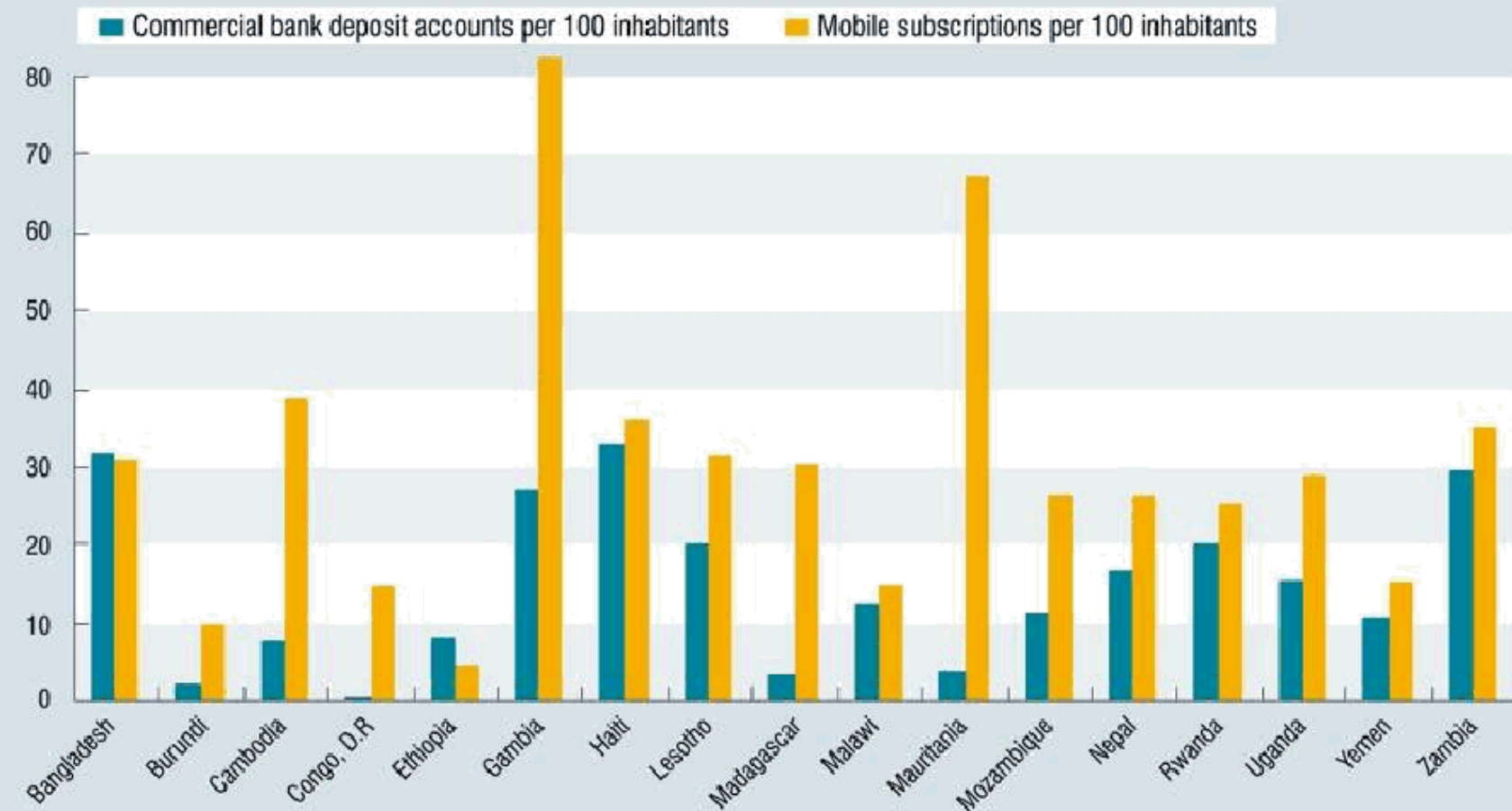
Source: ITU World Telecommunication/ICT Indicators database.

New mobile applications and services

- Voice-based services
 - helplines, agro-messages
- SMS services
 - Election monitoring (Ghana)
 - Earthquake relief (Haiti)
- Mobile money services
 - E.g. M-PESA, M-Kesho, M-Paisa, Wizzit, GCash
- Mobile micro insurance
 - E.g. Kilimo Salama, Kenya
 - Burkina Faso, Mali (index-based crop insurance)



M-money services



M-money services

- Mobile payments are “just” new means of payment
- The lack of specific payments legal instrument is not perceived as “no regulation” - De facto regulation
- As a payment service, m-money services are typically overseen by Central Banks
- New trend: joint ventures between banks and telecommunication companies to create parallel platforms to the financial payment systems ruled by Central Banks in order to promote alternative payment means for strengthening *m-commerce*.

Some policy recommendations

- Build capacity of policy makers regarding legal implications of m-commerce;
- Monitor m-commerce in developing countries and identify best practices
 - Study on m-payment (2011)
 - Studies on cyberlaw harmonization for Africa and Asia (2011-2013)
- Ensure that domestic legislation recognizes main legal principles of m-commerce (validity and enforceability of electronic transactions, etc...);
- “Institutional convergence” between telecom operators, banks, central banks, competition authorities and law reform commissions;
- Review current legal instruments to reflect issues pertinent to m-commerce (eg: UNCITRAL Model laws/CEE, OECD guidelines on consumer protection)

Thank you!

*The Information Economy Report 2010
and cyberlaw studies*
can be downloaded **free of charge** at
www.unctad.org.

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