

# AG wants Shs2t tax audit for telecoms

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**A** new audit by Auditor General Edward Akol has indicated that the country may be losing billions of shillings in telecom taxes due to inadequate government oversight, unverified declarations, and knowledge gaps.

According to the 2024 report, over the past three years, Shs2.4 trillion was made in intragroup transactions by MTN Uganda and Airtel Uganda, but there was no evidence that the transactions were audited by tax authorities. The failure to audit the transactions, Akol stated, risked causing revenue loss because of potential transfer price manipulation and tax avoidance by the companies, findings MTN Uganda refuted.

In the report, most of the payments went to foreign-related companies such as Shs1.4 trillion paid by MTN Uganda Ltd to MTN International Mauritius Ltd between 2021 and 2023. For Airtel Uganda, the company paid Shs65 billion to Bharti Airtel International (Netherlands) BV, Kenya Branch, Bharti Airtel International (Netherlands), and Bharti Airtel (UK) Limited, according to the report.

"I noted that no transfer pricing audits had ever been carried out by URA [Uganda Revenue Authority] relating to multi-national telecom operators despite being the largest contributors to revenue and having potential avenues for base erosion and profit shifting," Akol stated in the report.

Transparency International defines Base Erosion and Profit Shifting (BEPS) as the process by which multinational companies shift the profits generated in the country outside and into jurisdictions such as offshore financial centres with lower or zero tax to minimise their tax burden. This practice is legal, but aside from eroding the tax base of countries where the profits have been made, it also creates an unbalanced playing field.

Mr Akol, referring to the findings from the Diagnostic Work in Uganda's Domestic Revenue Mobilisation Strategy for 2019 to 2024, said: "Uganda has suffered significant base erosion through the abuse of Double Taxation Agreements and transfer pricing. Failure to carry out transfer pricing audits is likely to result in significant revenue leakages resulting mainly from exorbitant costs for goods and services from related parties."

The audit, reviewing URA and Uganda Communications Commission (UCC) revenue collection, also found flaws in the Telecommunications Intelligent Monitoring System (TIMS) and Data Monitoring System (DMS) used by the authorities, missing key revenue streams. Akol also noted that TIMS and DMS are only focused on the two major telecom companies, MTN and Airtel, leaving



The OAG said they discovered other serious shortfalls in tax recoveries from mobile money transactions. PHOTO/FILE

out 22 other operators, who are making money in the country.

## Findings questioned

MTN Uganda disputed the claims of possible tax avoidance and profit shifting. "MTN Uganda is a responsible and ethical corporate citizen, committed to meeting all its lawful obligations, including the payment of all taxes that are properly assessed and are due and owing," Rhona Arinaitwe, the senior manager of communications and stakeholder management at MTN Uganda, said. "As part of a multinational group, MTN Uganda's related-party transactions are conducted in strict compliance with the Uganda Revenue Authority's Transfer Pricing Regulations (2011) and the OECD Guidelines on Transfer Pricing. All such transactions are undertaken on an arm's-length basis and fully disclosed in accordance with applicable laws and accounting standards."

David Birungi, Airtel Uganda's lead for public relations, said the company submits "to all lawful audits whenever the authorities wish to." He added: "...we will continue to do so at all material times."

The taxman told the Office of the Auditor General (OAG) in an official response that there are ongoing audits, with MTN's completed and Airtel's in progress. URA management further noted that "transfer pricing audits require substantial resources and time, averaging one and a half to two years and, therefore, the

reason to do one at a time."

Akol, in his recommendation, stated: "I advised URA to continue carrying out transfer pricing audits for large multinational companies to guard against base erosion and profit shifting."

The value for money audit sought to examine the extent to which revenue assurance practices by URA and UCC have led to the effective collection of revenue from the sector, and detailed how the problem is compounded by insufficient training and knowledge transfer to both URA and UCC staff.

"It is not accurate to state that no revenue assurance was done during the period under review. What the Auditor General highlighted was the absence of revenue audits using the TIMS and DMS data, which were expected to provide an independent, system-based assurance mechanism," Ibrahim Bossa, the UCC spokesman, said.

## Mobile money discrepancies

The OAG also said they discovered other serious shortfalls in tax recoveries from mobile money transactions. To detect the gaps, the report indicates that the OAG assessed Mobile Money Withdrawal amounts declared by MTN and those reported from the TIMS. MTN Cash Out (Local Excise Duty (LED) Return) was Shs67 trillion between 2021 and June 2024, yet TIMS recorded Cash Out from MTN in the same period was Shs65 trillion. This compelled the OAG to conclude

that "for MTN Mobile Money Uganda Limited, the revenue declared by the operator in the LED returns over the three financial years is higher than that reported by the TIMS by three percent."

Schedule 2, part 13(e) of the Excise Duty Act, Cap 336, imposes a 0.5 percent charge on the transaction value of Mobile Money withdrawals. This implies that for all mobile money withdrawals, 0.5 percent of the amount withdrawn is supposed to be declared as a return and remitted to URA.

For Airtel Money, the TIMS reported more withdrawal amounts than those declared by the operators (Airtel Money Commerce) in the LED returns by an average of eight percent. Airtel Cash Out (LED Return) for 2021 to June 2024 was 48 trillion, yet TIMS reported Cash Out for the same period as Shs52 trillion.

"It was noted upon reconciliation between URA and the operators that the TIMS data included other elements such as agent float balancing, wallet-to-bank transfers, transfers from Airtel Wallet to other transfers, and Money transfers from Enterprise to unregistered customers," the report reads. "The returns having more information than the TIMS implies that the TIMS is missing out on some of the information."

The taxman told the OAG that the "current business rules engagement shall include an auto separation" to address the variance. In his report, Akol advises URA management "to work with the Bank

of Uganda to develop and implement a framework to ensure mobile money operators provide accurate information on their operations for revenue assurance, specifically on mobile money withdrawals."

## Gaps

According to the report, in addition to signals of a knowledge gap among staff, URA had only seven out of nine required staff in the ICT and gaming unit, which is directly concerned with handling the telecom sector.

"For the past three years, no international conferences, knowledge transfer initiatives, or benchmarking Initiatives have been conducted to equip staff reviewing revenue from the telecom sector with the necessary skills to appropriately ensure all possible compliance gaps are flagged and appropriately addressed," the report reads.

URA management told the OAG that "all telecom staff had gone through all the TIMS and DMS modules by the end of June 2024."

Enock Nyorekwa Twinoburyo, a senior economist at the Sustainable Development Goals Center for Africa, said the gaps in revenue collections have contributed to rising public debt.

"For a long time, our tax to GDP has stagnated at about 13 percent," he noted. "And 13 percent is what you need to meet the basic functions of the State. But also tax effort and collection is the basic indicator of State efficiency in being able to organise and mobilise."

The country's debt stock has grown astronomically, with Fred Muhumuzi, an economist, saying this has an effect on the government's ability to provide social services like education and health all of which are "emerging critical needs."

## Potential

The UCC's Market Performance Report for the quarter ending June 2024 puts mobile telephone subscriptions at 38.5 million subscribers and mobile money registered subscriptions at 44.2 million subscribers. While digital financial services remain the main driver of financial inclusion in Uganda, with 40.7 million digital wallets recorded at the end of June 2022, at least 36.9 million of the 40.7 million digital wallets were mobile network operator (MNO) mobile money wallets linked to MTN, Airtel, and UTL alone.

In the Financial Year 2021/2022, the government introduced a direct 12 percent levy on the net price of Internet data, after which a Value Added Tax (VAT) of 18 percent applied. The tax replaced the Over-the-Top (OTT) tax, which was introduced in 2018 but failed to generate the anticipated revenues.

A 12 percent Excise Duty is also levied on prepaid and postpaid airtime and value-added services. These services also attract VAT of 18 percent, which is applied to all ICT products except mobile money. Airtime on mobile cellular, landlines, and public pay phones is subject to a 12 percent levy, a charge that a telecom operator is required to declare in a tax return remitted to URA.

The audit revealed deeper disparities in records generated by the TIMS system. While voice revenue declared by MTN Uganda Limited, regarding prepaid voice, is higher than that reported by TIMS by over 14 percent over the years, that of Airtel Uganda Limited, the voice revenue declared by the operator regarding prepaid voice is sometimes higher and other times lower than that reported by TIMS.

## IMPROVEMENTS

It's understood that URA and UCC are working to enhance the Telecommunications Intelligent Monitoring System (TIMS) platform so that postpaid files, enterprise resource planning (ERP) services, and other non-real-time revenues are fully integrated to enable TIMS to be used more effectively for comprehensive revenue audits, closing the gap identified by the Auditor General, once the enhancement is complete.

Per URA, the original technical design and contract for TIMS and DMS, signed by the Uganda Police Force as contract holder, focused mainly on real-time data transfer

from prepaid services.

By design, it excluded ERP files and certain non-real-time revenue streams such as postpaid services. UCC has since engaged with the TIMS and DMS implementation teams, together with URA and the operators, to expand the scope of the systems. On the issue of Transfer Pricing audit, URA acknowledged that it had embarked on conducting transfer pricing audits while admitting that postpaid business in the telecom space was on a downward trend, with customers' preference made for prepaid provisioning of services. Whereas the telecom sector comprises complex processes from which significant

revenue is generated, the report revealed how the sector continues to operate without a manual that details a clear understanding of the business processes of the telecommunications sector, identification of risks relating to the telecom sector, industry-specific tax audit guidelines, and compliance improvement checklists, among others.

The audit tasked URA and UCC to urgently develop a framework that will define and streamline business operation rules and ensure timely sharing, reconciliation, and oversight to enhance efficiency and effectiveness in revenue mobilisation.