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Privatisation of Public Enterprises in COMESA: An Exploration of Approaches and Strategies: The Case of the Privatization of Telkom Kenya

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27 JUL 2006

Kitiabi Reginah Kiti Khatemende

Thesis Submitted for the fulfilment of the Degree of Doctor of Philosophy (PhD) -2006

University of Durham
School of Business, Economics and Finance

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Abstract

This thesis investigates Kenya's approach to the privatization process through an exploration of Telkom Kenya's (TKL) unfolding privatization. The thesis research identifies outlines and documents the developments in Kenya's approach to the privatization programs in a developing economy of the COMESA region. In the process, the analysis contributes to an approach of privatizing and restructuring in Kenya. It has also helped explain new phenomena in privatizing in an environment with no institutional infrastructure and in the process has generated and contributed to new knowledge whose detail is discussed in chapter five.

The research took an exploratory approach because there are few or no earlier studies in which a secondary data analysis solely was to be analyzed. The empirical data was based on observing and experiencing the real world with a focus to gain insights and familiarity on approaches to the privatization process. Although there is a variety of privatization literature and studies, these have tended to focus on developed and emerging economies and lately specific sectors of their interest.

The analysis uses field primary and secondary data sources and an extensive literature review on privatization focusing on specific elements of approaches and developments in the less developing countries (LDCs) and in Kenya. The data collection and analysis focused on outlining Kenya's actual process of choosing and implementing sectors, objectives, methods, techniques and strategies of transacting Telkom Kenya as a strategic enterprise under the GOK's privatization program.

In attempting to respond to the central research question raised in chapter one (page 9), the thesis undertakes an in-depth mixed method analysis (majorly qualitative) of approaches to the privatization process. The research is driven by the central research question (s): "What are (why and how) the approaches and strategies of Kenya's privatization program in a developing economy?"

The research outcome identifies and outlines a 'sketch approach' to Kenya's privatization program and process. The research analysis concludes that efforts to institutionalize (i.e. regulatory framework) the process, in order to make Kenya's approach more tangible, effective, efficient, and accountable need further attention. Evidence further shows that privatisation of Kenya's strategic state enterprises (SSE, s) raises concerns of the socio-political dynamics of the management of the selected approaches, methods, processes, and objectives of privatization by GOK. Indeed 80 % of the respondents argued that privatization is crucial in enabling the government divest from business. However, the political control remains an impediment to independent and fair strengthening and building of privatization institutions. In this regard, this thesis' major contribution of identifying Kenya's approach provides a first attempt at a 'guide' to the privatization process that is clear, accountable and open to checks and balances.

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Acknowledgements

My Sincere thanks goes to my scholarship sponsors, the Commonwealth Association of Universities (ACU) and the Award administrators, Commonwealth Secretariat (CSC) and the British Council for the Financial and moral support. Specific mention goes to the former award Administrator Vikii Chen and the then ACU Secretary Terry who encouraged me to take up the award in the U.K, when bereavement in the family was overwhelming. Without their encouragement, this thesis would not have materialized. Gratefulness unmatched with any words goes to Ms. Claudette Coke and Helen Newsome of the British Council and Karen Langdon and Nick Barker of Garden Villa Durham who were pillars of hope and emotional support. Thanks to Mr. Kajumbi of Ministry of Education Kenya, for moral and financial support and Mr/Mrs Urquhart of Sherburn village Durham

My sincere thanks go to my Supervisors at Durham Business School especially Prof. Tony Cockerill, for his valuable guidance and advice during the thesis research and PhD process. I am grateful to the graduate school team for their concern and help in expediting the examination process, it was an unforgettable experience.

I am greatly indebted to Prof. Kiamba (V.C) and Prof. Karani (DVA) of the University of Nairobi for their encouragement and support in pursuit of the PhD programme. Their continued support and encouragement (after my father's demise) made this PhD thesis possible. I am indebted to the public and private sector officials in Nairobi, Mombasa, Zambia and Uganda, who were able to provide me with primary and secondary (data) Information that was valuable and formed the basis of this thesis. Joseph Ogutu of TLK, Jan Mutai of ATU, Dr. Ngeno (Ps Trade), Mkanadawire of COMESA, Mr. Ikiara (Ps Transport), Mr. Kipng'etich of Investment promotion Centre deserve special mention, for their insight Knowledge, advice and discussions. Special thanks to my relatives and friends who provided support, encouragement and took care of my baby in my absence. Special thanks to Albert Musasia of the office of the President who was instrumental in helping with the research logistics in the field and for his support and encouragement. I am greatly indebted to Mukhwana, Khakali, B, auntie Kabibi Ngala-Keah, and Uncle Mathias Keah, auntie Inyanji, Omurembe, Echessah, Dr. Taracha, Eddy, Catherine, Dorica, Violet and Marita. Their love, care, moral and financial support made this thesis possible.

Lastly, and more importantly Thanks to God the Almighty who saw me through all the challenges and opportunities and all the hard work. May his name be praised!

Dedication

To My baby Son Kofi Kitiabi who had to endure
Long periods of separation and pressure,
From his "Mamaa"
For his Unconditional
Love, encouragement, Cheer,
And
Prayers

***

To My late Father Chibuyi Kitiabi, who died
During the write-up of this thesis.
He was immensely
Proud of My
Accomplishment.

***

To my late Siblings;
Butsili, Jennifer
And Shole,
All who died
During my pursuit
Of this PhD Thesis.

***

To My late Uncle M'msaba, who
Died 12.12.01. For Educating
And loving me dearly.
His believe and
Trust in me Made
This PhD.
He is
Proud in Spirit

***

To My Mother who had to endure
Long periods
Of worrying about my health and
Wellbeing for her
Unconditional Love
And
Daily Prayers,
Thanks Mum

Thesis Structure

This thesis is divided into two parts containing seven chapters as follows:

Chapters one, two and three whose major themes are the introduction to the thesis Research Design, Conceptual Framework Research Methods, and field study methodology.

Chapters One and three: - lay out the thematic area of the thesis. Outlining the study area, motivation and purpose of the research, overview of the study, a brief theoretical basis, and the justification of the Study to the thesis and to Kenya's privatization program. These two chapters also outline the aims, objectives of the study and briefly discus the research design and methodology, introducing the central research questions. Chapter three specifically discusses the methodology of the field study, the methods used for questionnaire application, data analysis and the problems experienced in data collection process

Chapter two:- develops an overview analyses of the theoretical concepts and practical experiences of the privatisation Processes. Discussing *the conceptual framework and literature review*- of the privatization concepts, perspectives, methods, objectives, approaches and processes. It outlines the impact, reasons, trends and spread of privatisation, in transition and developing economies. It lays out a conceptual framework for understanding policy approaches to privatization and their institutionalization, their impact and role in building a case for analysis of the developments in the telecommunications sector. It reviews liberalization and reform approaches, and how these relate to the Privatisation of Telkom Kenya and telecoms in the COMESA region. It further lays the foundation for the interactions in chapters four, five and six.

Chapter four, chapter five (sections one and two), and chapter six constitute the research analysis and findings. Their analyses is based on primary and secondary data collected in Kenya *Sections 1 and II* is contained in chapter five, and it is an analysis of findings of the Field survey data of the case Study of privatization of Telkom-Kenya .

Chapter Four: - gives a detailed analytical overview of the developments in the Privatisation of telecommunications Sector, with special focuses on the Challenges and Opportunities of privatizing Telkom Kenya. This analysis is based on secondary data field research, undertaken in Kenya. It details the unbundling of Kenya Posts and Telecommunications, its valuation process, and discusses the business options TLK might need to strategise on , as it transits into from a monopoly to a competitive environment. This chapter is the foundation for the empirical primary study and analysis of chapters five and six

Chapter Five:- Section I & II: outlines Research Findings, Evidence, and Data analysis On Kenya's Privatization program and the case study of Telkom Kenya's privatization process. It critically analyses the evidence against the research questions, using empirical data collected. Showing the relationship between the field evidence presented, and its contribution to a "new model" for privatising in a developing country. It concludes with the presentation of the overall findings and their implications to the Kenya's approach to privatization, and reveals a case approach to Privatization in the region.

Chapter six: - is a summary and conclusion of the thesis findings and conclusions of the secondary data analysis, the literature review, and the analysis of the primary (empirical) data analysis in chapter six. It gives an overview of the policy implications of the privatisation process to divestiture and investment programs. It outlines options and recommendations to proceed in policy and in research. It concludes with the implications of policy findings and policy conclusions made in preceding chapters two, four and five.

Acronyms and Abbreviations

AAS African Academy of Sciences
ATU- African Telecommunication Union
BOO Build Operate and Own
BOT Build Operate Transfer
BrettonWood Institutions – World Bank, International Monetary Fund, and The EXIM Bank
BTS Base Trans-ceiver Stations
CCK- Communications Commission of Kenya .
CCOP- Cabinet Committee on Privatization
CEEWA-K- Council for Economic Empowerment For Women of Africa
CEO – Chief Executive Officer
CMA- Capital Markets Authority
COMESA - Common Market for East and Southern Africa
CPE Customer Premises Equipment
DE Developing Economy (s)
DGIPE- Department of Government Investments and Public Enterprises
E1 Rate of Data network Management System
EAA East African Airways
EBO Employee Buy Outs
EACSO - East African Common Services Organization
EAHC - East African Harbours Corporation
EAR&C- East African Railways Corporation
EIT Economies in Transition
EMS – Express Mail Service
ETACS – Extended Total Access Communications System
ESTU - Executive Secretariat and Technical Unit
FA,s - Financial Advisors
FIDA- The Federation of Women Lawyers Kenya
FDI - Foreign Direct Investment
FKE- Federation of Kenya Employers
GATT General Agreement on Trade and Tourism
GDP Gross Domestic Product
GMPCS- Global Mobile Personal Communication by Satellite
GOK- Government of The Republic of Kenya
GSM - Global System for Mobile Communications (cellular phone technology)
ICDC- Industrial Commercial Development Corporation
ILDTS- International Long Distance Telephone Service
IMF- International Monetary Fund
IPO – Initial Public Offer
ISPs. Internet Service Providers
ITU International Telecommunication Union
KAM- Kenya Association of Manufacturers
KANU - Kenya African National Union
KEN-RE- Kenya Reinsurance Company
KIPPRA- Kenya Institute for Public Policy Research and Analysis
KP&LC Kenya Power and Lighting Company
KPBW- Kenya Business & Professional Women's Clubs
KPLC Kenya Pipeline Company
KPT&C- Kenya Posts & Telecommunications Corporation
KQ- Kenya Airways
KRC- Kenya Railways Corporation
LDCs Less Developed Countries
LTANO- Local Telephone Access Network Operators –

MCS-	Mobile Cellular Services
MEBO	Management Employee Buy Out
MKC-	Mt. Kenya Communications.
MO	Mobile Operators
MOTC	Ministry of Transport and Communications
MPD-	Ministry of Planning and Development
MSS-	Mobile Satellite Services
MTP	Mobile Telephony Providers
NARC-	National Rainbow Coalition
NLDTS-	National Long Distance Telephone Service
NSE -	Nairobi Stock Exchange
PRC	Parastatal Reform Committee
PC-	Privatization Committee (or Commission)
PCK-	Postal Corporation (Postal Corporation of Kenya),
PE.s	Public Enterprises
PIC-	Parliamentary Investment and Accounts Committees
POSTA –	Swahili operational Name for Postal Corporation of Kenya
RBA-	Retirement Benefits Authority
RFSM-	Radio Frequency Spectrum Management
RTO	Regional Telecommunications Operator
RTOs-	Regional Telecommunications Operators
SDH	Synchronous Digital Hierarchy or/and Signal Degradation-Handoff
SNO-	Second National Operator
SOE's-	State owned Enterprises
SSA	Sub-Saharan Africa
SSSB-	Schroeder Salomon Smith Barney
STI -	Strategic Investor
STP-	Strategic Partner
TKL-	Telkom Kenya Ltd
TMO-	Third Mobile Operator
UPTC	Uganda Posts and Telecommunications
TRO	Telecommunication's operators
VAS	Value added Services
VOIP-	Voice Internet protocol
VSAT -	Very Small Aperture Terminal Services
WAP-	Wireless Access Protocol
WTO-	World Trade Organization (WTO)

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Appendix 1

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1:0 CHAPTER ONE

1:1 INTRODUCTION

The major objective and overall focus of this thesis is an exploratory exposition of Kenya's approach to the privatization process from 1993 to 2003. The analysis is based on the program as described in the Kenyan government divestiture strategy of 1996[1] and that of the Common Market for East and Southern Africa (COMESA) [2] using the case study of Telkom Kenya Company Ltd (TKL).

This chapter briefly introduces the concept of privatization, Kenya's program and research problems, the area of study and justification of choice of sector, country, as well as a discussion of its focus. The research purpose, aims and objectives setting out the central research question and extended research questions as guided by the data collection and analysis are also laid out. In addition, the problem statement – outlining a search for an approach and strategy towards the privatization process, their interactions with variables (addressed in chapters two, three, five and six) and in the divestiture programs of Kenya and COMESA sub-region are introduced.

The study is intended to analyze the approach to the process of privatization utilizing the case of Telkom Kenya's privatization as the major focus of the thesis. The research period is that of the implementation of the Government of Kenya (GOK) divestiture program from 1993 to 2003.[3] This thesis did anticipate but did not necessarily require witnessing a 'definite' conclusive outcome to TKL's sale transaction closure within the research period and academic thesis. The completion of TKL's transaction originally scheduled for December 29 2002 was however brought forward (to June 2005)[4] and all the transaction steps indicated in figure 5-2 in chapter five were undertaken. Central to this thesis is the unfolding research whose outcome was not to produce 'clinically testable theoretical conclusions' on the issues under study[5] but to explore an approach to the process that can stimulate debate and generate theory that can identify the approaches to privatization in less developed countries (LDC). In addition, the theories and practice are investigated in a way that identifies new issues, new challenges and raises new research questions and redefines old ones.

---

[1] GOK, (1996)
[2] The East and Southern Africa economic region involving 21 countries
[3] This period excludes the agenda setting period of the World Bank's global privatization imitative
[4] Note that the finalization of TKL's transaction sale had not taken place when this thesis document was concluded
[5] The proposition of any firm hypothesis could not be attained due to lack of knowledge and documentation on the unfolding case hence use of one central and four research question section 1:3

1:2 Research Motivation and Study Area

The following section explains further this design by discussing the research interests and processes, the rationale for the selection of the study area and the units of analysis.

1:2:1 Research Motivation:

This research was motivated by the desire and interest to investigate Kenya's 'model, pattern'[6] approach to the privatization process in the COMESA region.[7] The study is also a commitment and desire to analyze study and document the various approaches to privatizing Public Enterprises (PE's) in the Eastern and Southern Africa region. Along with this is an interest in investigating the relative benefits and challenges of the socio-political and economic elements of the privatization approaches as theorized in sections 2:1 and 2:1:2 of chapter two. Some of these include the process as a source: of **1)** liberalization and restructuring**; 2)** business/job creation and investment opportunities; **3)** revenue to the government; **4)** access to service and new technology; **5)** an opportunity for extensive enterprise and internal restructuring and **6)** opportunities for the redistribution of national wealth, coupled with a curiosity to investigate whether approaches to privatization transactions and management of the processes, as in TKL, form a pattern for an approach 'model-case'.

In spite of globalization, interest is drawn to the differences in economic, social and political environments between developing, transitional and industrialised countries. This existing 'gap' provided a challenge and dilemma of exploring, analyzing and recording in this thesis *a "case"* for an approach to the privatization process in a developing country and may be unique.

[6] As perceived and practised in western countries and as advocated by international donor agencies
[7] COMESA has 21 member states. Its major mandate is regional trade, investments and integration. Active members include Egypt, Mauritius, Kenya, Uganda and Zambia

1:2:2 The Study Area and Justification

The Study Area- Why

The choice of the area of study was determined by several factors; *primarily* my own interests as a researcher; *secondly* an interest in the sub-regional debates on issues of privatization, trade, and investments; and *thirdly* a need to answer specific questions and add to the body of knowledge in the area of privatization in the COMESA region.

This research is an academic research; its scope, study context, field preparation and data collection are based on the time and resources available during the two phases of field study and data collection which took less than five months in total over a two year period. The investigator operated within a limited timeframe and personal resources for the major part of the field research that pragmatically determined these choices.

The privatization of telecommunications provides a unique opportunity to examine privatization in a growing and popular service sector. Besides this, the thesis's case study uses new datasets instead of existing old data sets from the internet which although desirable and easy to analyse are unavailable. Kenya has been studied as a 'case' because the research problem was conceptualised by the author within the Eastern and Southern African context, with an envisaged applicability of the findings to other developing countries. More importantly, conformity to the requirements and resource limitations of the financial sponsors of the thesis program made it logical to situate the study in Kenya.

The election of Kenya's divestiture program was based on Kenya's leadership and commitment to market liberalization, investment and trade in the region, as well as on the strength of her economy in the sub-region. More importantly, Kenya's comparatively large divestiture program, her consistency in liberalisation reforms, enterprise restructuring and the establishment of a regulatory framework (GOK, 1996; Wallsten, 2002, p.19) are factors that make it ideal for theory generation.

While the Telecommunications sector is a challenging selection for the study for several reasons, four are paramount. *First,* due to its rapid growth globally and regionally and an increase in the number of privatizations in the sector, it provides an exemplar case for an

approach to the privatization process in the sub-region. Hence, findings can easily be generalised directly with those in the telecoms sector in COMESA and other developing economies. *Secondly,* divestiture trends show that telecoms leads other sub-sectors with better opportunities for expansion and growth (Shirley, Tusubira, Gebread and Haggarty 2002); (Africa-America Institute, 2002). *Thirdly* the sector is large, employing 15% of Kenya's total workforce and accounting for the creation of between 50-200% in jobs, employment and business opportunities in the COMESA region as indicated in chapter two section 2:5, in the findings in chapter six and as stated by the Investment Promotion Centre (IPC) managing director:

> I would as a matter of fact estimate that 200% of jobs and businesses created in the COMESA region directly were related to reforms, restructuring and privatization of telecommunications in my capacity as the current chairman of the COMESA Regional Investment Promotion Centre (CIPC), and over 150% jobs and businesses created in Kenya directly as a result of the privatization of Telkom Kenya ... (Julius Kipng'etich-Managing Director Investment Promotion Centre, December 2003).

Furthermore, its fast growing nature opens the sector to levels of technological change (Wallsten, 2002, p.5; Laffont and Tirole 2000) important to Kenya's industrialisation as argued in GOK's 1997 Sessional Paper, (pp.55-84). This also provides clear candidacy for an interesting case study of an approach to the privatization process in a sector that is attractive to investors due to its perceived potential quick and high returns despite its high risks. *Fourthly*, investors globally realize that positive changes that take place in telecoms account for efficient gains in related sectors in the transportation industry (air, water, road, and rail), banking, insurance, computers, communications and broadcasting (Wallsten, 2002).

Consequently, the importance of this sector to industrialized, transitional and developing economies is reflected in the literature review and in chapters five and six showing clear linkages between sister industries. Developing countries of the COMESA recognise the importance of telecoms as a major ingredient in other service areas such as the reduction of transportation costs, linking up regions and ultimately reducing the cost of business transactions in order to improve competitiveness and increase trade and investment opportunities (GOK, 2001; 2003).

1:2:3 Research Problem and Statement

This thesis seeks to investigate how *and in what ways* Kenya has approached the privatization process in implementing its public enterprise divestiture program.[8]The approaches and strategies in the privatization process are defined in this thesis as comprising of all elements of the implementation process of GOK's divestiture program. These include; defining objectives of the program and enterprises, institutionalizing and developing a privatization framework, selecting and enlisting enterprises and methods for disposal (GOK, 1996) and creating legal economic and political institutions that ensure fairness and good governance of the process. A transaction is the systematic process[9] and technique of sale, transfer or disposal of a public enterprise (PE) and is one of the elements and often the last task, of a privatization process. Divestiture is defined as the act of a government's withdrawal of ownership and control of a public enterprise targeted for disposal. Privatization is one form of change of ownership and control from the government to private or public interests.[10] The terms divestiture and privatization are occasionally used here interchangeably[11]. It is important to note that the implementation stage of the GOK's divestiture program is the starting point for this research.

To view the research analysis in context, a brief discussion of the wider problem statement is necessary. For over two decades (*1985-2003*), Structural Adjustment Programs (SAPs) or deregulation, economic reform programs, liberalisation and the privatization of state owned enterprises (SOEs) have been in progress in Africa (Kikeri, Nellis and Shirley 1999; 2002). Large-scale privatizations pursued through complex programs combining several approaches and strategies with various methods are underway. Some of these include: outright sales, stock flotation, foreign investment, marketing of shares to local investors (public offerings), voucher or coupon exchanges, negotiated sales, stock distributions, management contracts, management buyouts (MBOs), employee buyouts (EBO), commercialization, mass privatization, strategic

[8] and the COMESA
[9] see steps in a transaction process in chapter five section 5:6 –5:7 and chapter six 6:3:5
[10] see section of 2:1 and 2:7 chapter two and chapter five findings on definition of privatization
[11] see glossary for detailed definitions for Divestiture, privatization and Transaction

partner sales, and tailor made investment programs designed to attract government employees' local savings.[12]

However, an approach that includes institutions, sectors, pace, timing, methods, techniques, forms, and quantities of firms may differ from country to country and from one administration to another. In this respect, the wider problem area, purpose and outcome of this research is the critical examination of the approaches and strategies taken to dispose of state-owned enterprises (SOEs). Along with this are the subsequent implications for the elements in the privatization process outlining characteristics and steps of the Kenyan (approach) 'model' replicable to the general COMESA sub-region. In addition, analyzing the social-political and economic implications of undertaking privatization provides an opportunity to draw useful conclusions for an approach to privatization in a developing economy while contributing to the generation and expansion of theory of privatization, bearing in mind that little or no empirical research exists which explicitly evaluates specific approaches and strategies to divestiture programs in the COMESA region.

1:2:4 Research Strategy

As the aim of the research is theory building rather than theory testing and verification (see Lincoln and Guba, 1985), the thesis research drew on grounded theory methodology and the research methods were triangulated. The research strategy, methods and data analysis employed involved a case study of TKL where the researcher conducted field research. The method comprised qualitative and quantitative research involving secondary and primary data collection and analysis using a questionnaire of structured and semi-structured interviews amongst organizations that dealt with the privatization process. The questionnaire research strategy was designed to build a profile of Kenya's approach 'culture' to the privatization process.

The research design is cross-sectional. Questionnaire and interview data was collected once over a short period (Hussey and Hussey, 1997) of less than two months, before it was analyzed and presented here in this thesis. This explains why many of the interesting

[12] These are known as the "Golden Handshake" in the East African downsizing language.

correlations in the findings of chapter six might not have been pursued further. In total, 28 different institutions and firms involved with the privatization process were investigated. This includes 14 face to face interviews with a total of 36 respondents at every level of each institutions and enterprise as shown in tables 3:1 and 3:2. Forty questionnaires were distributed, 22 were self-administered mixed with telephone interviews and the rest were face-to-face interviews carried-out by the investigator. In this research, the survey served to provide broad and quantifiable background data in which to contextualize the case study and did not play a subsidiary role often associated with surveys (erroneously so) in relation to the qualitative research.

The study methodology adopted is an unfolding exploratory mode of inquiry, with a combination of qualitative and quantitative methods left open to possibility. This research takes an exploratory approach because there are no earlier studies from which a solely secondary data analysis could be undertaken. In view of this, the aim of this study was to look for patterns and ideas and maybe a hypothesis, as argued by R. Hussey and J. Hussey (1997: p.10), rather than testing or confirming a hypothesis. A qualitative analysis of primary data collected was undertaken using in-depth, semi-structured interviews as proposed by Punch, K. (2000) and Brannen, (1992), with the randomly selected representative sample of[13] institutions and individuals numbering n = +-40 (out of a list of a number of 50) from the public and private sectors. The full research strategy and methodology including data collection and analysis that takes the survey form of a case study of TKL (annex 1) are outlined in chapter three.

[13] The random sampling is discussed in detail in section 3 in chapter three.

1:3 Purpose, Aims, and Objectives of the Research

The purpose of this study is to explore and discover approaches and their appropriateness to the privatization process in Kenya and in the COMESA region, using an in-depth case study of Telkom Kenya's transaction. The research used triangulated or mixed methods of data collection and analysis with 40 respondents involved in interviews and questionnaire responses.

To achieve this objective this research utilizes field data collected using questionnaires and face-to-face interviews developed from research questions in a cross-sectional study. General and specific country and regional data was collected on: **(1)** policy issues in approaches to divestiture, restructuring and privatization by examining the GOK strategy-techniques, methods, forms, objectives and motives applied during the transaction of TLK; **(2)** interviewees' knowledge, facts, assessment and opinions on the approaches and strategies for privatization; and **(3)** information and opinions from managers in the industry on the approaches and 'best practices' in Kenya. Further information of investments, costs and sales in telecommunications and specific data on number two above; **(a)** the similarities of approach for ongoing and finalized transactions; **(b)** discussion on importance and public ratings of GOK performance in achieving major objectives, and motives for the divestiture of PEs in completed or scheduled transactions;**(c)** policy and practice assessment of the levels and importance of the institutional and legal (regulatory) framework that add to a solid approach to privatization by thorough analysis of the privatization act as a major step towards the building of legal, regulatory and operational institutions, as raised in number one.

The study purpose and central research question determine the expected outcome of this research, which was the identification and documentation of an approach was motivated by both the researcher's desire to move away from the prevailing temporary explanations, debates and descriptions, to a critical exploration of a dynamic unfolding approach. An approach that is likely to have a broad scope of application as an example for privatizations in the COMESA sub-region in general and for the telecommunications sector in particular. It is important to note that the outcome (as indicated in the study

justification) is that of the process rather than that of a completion of a single transaction, that of TKL's sale to a strategic partner.[14]

In the process, this thesis contributes to theory generation; it also contributes to records and documentation as well as to increase the overall knowledge and understanding of approaches to the privatization of public enterprises in Africa. The study also contributes to the generation of a new empirical data set and new information on privatization that is likely to initiate dialogue on 'best approaches' in the process of privatization in the COMESA region and thus providing opportunities for further challenging research and publication on major issues.

1:3:1 Central Research Question

The central research question (CRQ) that drove this research as a major thesis was/is 'what, and why are the approach(es) and strategies of Kenya's Privatization program in a developing economy and how is it applied' In order to achieve what is outlined in the purpose and aims of this research, the study uses the central research question and four supporting questions to generate theory at both policy and practice levels and contributes to the body of knowledge through an identified and documented approach to privatization. The CRQ was backed up by four extended research questions (RQs) or statements that helped in the secondary and primary data collection (questionnaires and interview), analysis and conclusion (chapter three, four, five and six).

These four supporting research questions included (but are not limited to): **RQ/1**-how does GOK implement the privatization program in an environment of social-political and economic uncertainty? **RQ/2**-how do choices (approaches) made in liberalizing and restructuring in an enterprise like TKL enhance the privatization process? **RQ3** -what are the roles, goals, objectives and techniques of the GOK or/and COMESA towards policy formulation, building necessary institutional frameworks and priorities in the privatization process? Is it to increase economic efficiency, increase competition, increase access to services, reduce costs, create and distribute wealth, create jobs and businesses, facilitate the process or to transfer productive activities to the private sector? RQ4-what are the major objectives, goals, motives, techniques and implications for

[14]TKL underwent all the various procedures and steps except the last step of closing the sale rescheduled to 2005.

privatization in the telecommunications and related sectors in an environment of 'infant' institutional and regulatory frameworks?

The central question covers the whole policy process, while research questions 1 to 4 address the specific policy and transactions elements that help the data collection and analysis and the conclusions made in the following chapters. The privatization of the service industry and revealing its radical or unique characteristics would be guided by the central research question and supporting questions whose aim is to generate a theory rather than test a theory; hence, this thesis study focus is on the major question.

Unit of Analysis

The unit of analysis for this research is a specific group of public and private sector institutions, individuals and enterprises (determined by the closed nature of the process) involved in the privatization program and process at policy, management and operational levels. These include the case study of TKL, policy-makers officials, managers, employees, technical persons, committee members, regional advisory experts and manager-employee relationships, as the sample size in table 3:1 in chapter three delineates clearly. An initial interest of including three COMESA[15] countries in the study was scaled down in the interest of time and resources; however, for the academic thesis, a case study of TKL offered a full-length exploratory and explanatory analysis of Kenya's approaches to the privatization process that is generalisable.

[15] Egypt, Uganda and Zambia

1:3:1:1 The Research Question

Research Questions and Theoretical Framework

This thesis has as its central research question 'what and why are/is Kenya's approach (es) to the privatization process'. It takes a more general form, that Werner and Schoepfle (1987) called 'a grand tour question'. Four sub-questions supplement the major question and help to outline the focus of the study to the lower levels of units of analysis and not restrict the enquiries. This is important in the case of the unfolding and still-emerging nature of the case study of Telkom Kenya. Hussey and Hussey (1997) concur when they state that the central research question should be in a general form. The sub-questions also help in shaping the questions for data collection tools in order to answer the central question.

> By doing this, the researcher does not block off any other potential lines of enquiry. This is particularly necessary where the methodology is considered to be of an emerging nature and where one phase of the research guides the next stage, as in grounded theory...some phenomenologists pose one grand tour question and follow it with some four to eight sub-questions. These are not intended to constrain the research, but merely to delineate the focus of the study (p.127)

Therefore, the four supplementary research questions all share a basic common goal - the delineative exploration of the approaches of Kenya's privatization program (see page 12).The four extended sub-questions focus mainly on the variables in the privatization process and their interactions to the central issues of restructuring, and privatization activities as outlined in section 1:3, 1:3:1 and 1:3:1:1[16]

Due to complications in social science theory, it has been advanced by Bulmer (1977, P.276) that it is important to 'clarify issues related to methods used in order to understand the limitations' and implications of each. A principal assumption of this study is that governments (countries) have different approaches to privatization and that all respondents in this study possess some knowledge and information about the privatization program and process. That is, they are able to communicate at some level on major privatization policy and operational issues and have the experience and ability to

[16] See definitions chapter two, page 21 and findings in chapter six

interpret them correctly. This assumption is based on a specific sample size drawn from the 'closed' process of actors in the privatization 'sample population' in Kenya.

The theories and assumptions used in this research are derived from the theoretical framework in chapter two and further supported by data analysis in chapters five and six. In addition, Hussey and Hussey (1997, p.123) argue that although the theoretical framework is very important in a purely quantitative or positivistic research study, it is less important in a qualitative or phenomenological types of studies like this one. However, they further suggest that this indeed does not imply that theory is not important when they state that:

> Some researchers attempt to approach research with no prior theories, as they believe that to do so would constrain and blinker them. However, even in wanting to escape theory, to be open-minded or wanting to believe that theorising was unimportant to science, we would be practising a theory (Slife and Williams, 1995, p.9. in R. Hussey and J. Hussey 1997, p.123)

In view of the foregoing, this thesis's theoretical framework makes references to theories advanced by academicians and analysts as discussed in detail in the literature review in chapter two. Similarly, the discussion on the research questions strategy and methods that follow developed from the purpose of this research guided by the literature review or theoretical framework which partly shaped the research questions. These evolved and were refined during the course of the secondary and primary field research process that was broadly examined. Explanations and clarifications of the research questions were sought through the development of theory rather than the replication of previous studies (Lincoln and Guba 1985) that did not exist in this case. This allowed for investigations into influences and dynamics embedded in the approach to the process that otherwise would be hidden. Gummesson (1991) maintains that because individuals in similar situations are unique, it is also possible for existing theory to prove inadequate for new investigations. In view of this perspective, this research adopts Glaser's and Strauss' (1967) preposition which argues that categories and concepts developed should emerge from data and research experience, and in cases where new relationships emerge during the study the categories are complemented by the reality being researched. It is in recognition of this fact that this thesis is heavily reliant on the findings as a basis of its analysis rather than the literature or existing theories.

1:4 Justification Of The Study

The privatization of Telecommunications in Kenya allows for the generation of an explorative theory analysis of the approach that Kenya has taken in implementing its overall privatization program. A rigorous case study of TKL's divestiture provides for new literature and adds to theory on approaches to privatizing telecommunications in a developing economy. As per the time of this study, published and unpublished literature on Kenya's privatization approach has been so far scarce and unavailable. This was evident during the first phase of this research. This study is further justified for four practical aspirations. First, the desire to contribute to a body of knowledge and theory on the specific approaches to the process of privatization of State Owned Enterprises (SOEs) using the transaction of TKL as an unfolding case. Second, the quest for a 'model case' approach for the sub-region. Third, to contribute to the gap of records and documents of Kenya's approach (es) to the privatization process.

Lastly, to contribute to the field of academia and business with a 'systematic analysis of the approaches and strategies to privatization transactions in developing countries' as exemplified in the TKL case study. The case study used to explain the factors in the process as well as in a particular sale, is reviewed through a rigorous qualitative analysis of data on why, how, when, and what, approaches and strategies direct the privatization process. This exploration provides practitioners and academicians with an introduction to understanding the complex process of Kenya's (and indeed the sub-region's) privatizations. In response to filling in this gap, the case study highlights the impact of approaches on restructuring, regulatory issues, sale methods, downsizing, ownership issues, job and business creation and regional integration.

Why the case study of Telkom?

To accomplish the study of Kenya's approach to the privatization process, the telecommunications industry was selected as a focus of the study for reasons described in the justification. However, the choice of Telkom Kenya as a case study was significant. *Firstly,* as an unfolding case and still in a state of being privatized and in a sector that plays a leading role in driving other industries into investments and trade integration zones in Kenya's economy and in the region. *Secondly,* it is listed as GOK's strategic enterprise "not to sell" but to restructure and commercialize (GOK, 1996, p.5). *Thirdly,* Telkom

Kenya is a major driver of Kenya's plans to strengthen the regulatory framework and technology in the communications and transport sectors. This framework acts as COMESA's example for regional telecom regulatory frameworks for member states undertaking reforms in telecommunications. *Fourthly,* the intricate unfolding political and business dynamics of the sector led by Telkom Kenya as a national operator and three mobile operators generate new and unique data in Kenya and in the COMESA sub-region. *Fifthly*, Telkom Kenya's potential for growth, expansion and profitability based on its size, and level of technological change requirements (Wallsten, 2002, p.5; Laffont and Tirole 2000) makes it an attractive study and investment case. Additionally, the unbundling of Kenya Posts and telecommunications (KPT&C) Parastatal as the biggest SOEs in Kenya, producing three large companies (CCK, POSTA[17] and TKL), provides new data that raises the stakes of the discussion on restructuring and new company creation that are of major interest to this research as (discussed in detail in section s 5: and 6:)

Furthermore, Telkom Kenya (TKL) itself as a new enterprise created out of the unbundling of KPTC has three large business subsidiaries in one (i.e. telecommunications as a fixed telephony provider, Safaricom, the Gigil communications and equipment firm. It is also the largest employer in Kenya employing well over 30,000 workers.[18] The selection of TKL as a case study provides this thesis with an opportunity to explore actual 'real world' approaches, and strategies using the basis of other corresponding privatization case studies and theory developed in industrial and transitional economies[19] (as discussed in chapter two).

[17] CCK stands for Communication Commission of Kenya, which is the regulating institution, while POSTA is the official operation name of the Postal Corporation of Kenya –(PCK)

[18] See various World Bank and GOK reports

[19] Megginson W. and Netter, J. (2000: 2001); Masoor, A. (1988); Shirley, M. (1988); Stiglitz, J. (2003:2002) Shirley, M. and Nellis, J.(1991): Shirley, M. and Wash, P.(2001); Shirley, et al. (2002), Ramanadham, V. (ed), (1993)

1:4:1 Practical Justification for Kenya

The practical justification and context for this study lies in Africa's and indeed Kenya's search to develop a clear and effective approach to the implementation of the privatization program/process (GOK, PRGS 1996). Kenya before 1993 assented to the global World Bank/IMF reforms agenda that included a continuation of the failed Structural Adjustments programs of the 1970s and 80s (Ake, 1993 and Mugrewa, 1996.) and by the 1990s, Kenya had graduated to reforms, liberalization and privatization as an important vehicle for attracting foreign direct investment (FDI) in developing countries. However, as B. Samuel (1999) has argued, the dynamics of attracting investments in an environment with weak institutions and governance, weak economic business structures as well as poor physical and fiscal infrastructures can be overbearing even to World Bank operatives. Having set the agenda for the privatization program and process, the World Bank often 'retreats', leaving regional governments to embark on the implementation of the set agenda. This rationale should be understood in the context of Kenya's program outlined below in brief.

A Brief Overview of Kenya's Privatization Program

To contextualize the wider area of study, purpose, objectives and outcome of this research discussed earlier, a brief exposé of Kenya's privatization divestiture is necessary. Privatization proceeds accounted for 15% of the total FDI and almost 50% of merger and acquisition (M&A) sales in developing countries (World Bank report, 2000) in the year ending 2000. Kenya has engaged in a wide-ranging structural liberalization and reform program over a period of ten years from 1993 to 2003 but a lot still remains to be done in improving the investment climate as per the World Bank measures. After accepting privatization as part of its reform agenda, Kenya's re-orientation of its public expenditure has been focused on economic growth and poverty reduction outlays geared towards improving, monitoring and strengthening transparency in public finances. It further seeks a strengthening of tax administration and revenue collection, procurement procedures and application, as well as restructuring public sector enterprises in readiness for privatization. Strengthening of the financial and banking sector and working towards improving the exchange market have been on course (World Bank report, 2000; UNDP, 2000).

The program was interrupted by four major events; the constitutional review process of 2002; the December 2002 election that changed Kenya's administration to that of the

National Rainbow Coalition (NARC) under Mr. Mwai Kibaki of the Democratic Party as President and the late Mr. Michael Wamalwa of Ford Kenya Party as Vice-President; sudden catastrophic world events namely the 1998 Nairobi bomb blast, the September 11 bombings in the US, and the invasion of Iraq by USA/British forces in March-April 2003. Some of the challenges to the program included the GOK using these events as an excuse for delaying or halting the privatization process or diverting the funds for the program. Much more damaging to the privatization program was the use of these events as an excuse for parliament to shelve and delay the enactment of a privatization law, in favour of what the GOK termed more urgent matters related to these events. The change of administration after the elections meant that the new administration changed the individuals dealing with the process, causing further delays in the process.

However, the new administration quickly got the program back on track, by first enacting a legal framework for the privatization program and taking steps to hasten the process. The government modified and published the Privatization Bill in November 2003 and developed a draft plan with a view to streamlining the process.[20] High ticket items like telecommunication, oil and gas, the power sector, along with finance and banking, were earmarked for strategic investor sales. To achieve this, internationally reputed firms like Schroeder, Solomon, Smith, and Barney (SSSB), JP Morgan, Goldman Sachs, Merrill Lynch and Price-Waterhouse Coopers were actively involved as financial advisors in Kenya's Privatization program.

The NARC administration took further steps to place emphasis on additional dimensions of governance that affect investments and privatization environments. These included strengthening, assessing and reviewing the overall institutional and legal frameworks of existing regulation and procedures that affect the interaction between the public sector administration and the private sector, with a view to eliminating red tape and corruption. In addition, the government also undertook judicial reforms aimed at strengthening the rule of law, enhancing transparency and accessibility of the legal system by modernizing the court system at all levels, and strengthening the capacity, effectiveness, and accountability of law enforcement agents. All these reforms are directed towards improving the investment climate in the country. It is anticipated that over a 5 year period from 2002 to 2007) [21]

[20] see Daily Nation, March, and April (2003).
[21] led by Mr. Mwai Kibaki an economist educated in Makerere University and US with 30years public sector experience

reforms are expected to continue and act as an impetus for consistency and transparency in economic policies that affect the privatization process positively. It is evident from the literature that the World Bank research group (which includes Samuel, 1999; Shirley, et al., 2002; Shirley, 1991:1994:1995:2001; Shirley and Elliot, 1987; Nellis and Shirley, 1997; 2001; Wallsten, 2001:2002; Weiss, 1998) and Wellenius, 1992) amongst others believe that any and all the approaches adopted for the privatization programs need to match local challenges and the socio-economic environment.

In the process of restructuring, there has been a recognition of the complementarities within the various privatization approaches and sector linkages in relation to social and political programs, institutional and legal frameworks, firm sizes, and the strategic importance of sectors earmarked for privatization to the overall economy growth, corporate governance and regional integration. Yet, the approaches adopted for the privatization program have been sporadic, non-committal and slow. They have focused on the listing of potential divestiture enterprises, rather than development of a solid inclusive approach to restructuring specific, strategic and growth sectors and enterprises for the full benefit of the economy. In addition, Kenya and COMESA conscious of the effects of the dominance of large privatizations as discussed earlier need to encourage periodic studies on divested firms. As yet little research exists which explicitly investigates, records, documents, catalogues, evaluates and analyses the systematic approaches to the privatization processes, as advanced by this thesis.

1:4:2 Why Not A Comparative Study?

As stated in the introduction- for the justification of this thesis's choice of field, there were various reasons why an unfolding, case study of Telkom Kenya was preferred. Similarly, the reasons for not engaging in a comparative study have been discussed in the justification. However, more importantly for an academic thesis with a limited period of 36 months academic study and funding for international students in Britain, it was not possible to undertake large-scale field research. This would have involved collecting primary data in each of the countries, and with the time and resources allocated to this thesis it would have been an impossible task. In addition, there are no existing datasets for COMESA countries on privatizations under study i.e. Egypt, Kenya, Uganda and Zambia.

1:4:3 Why not a Study on the Government of Kenya, The World Bank and IFI's?[22]

First, it is important to note that this thesis begins its analysis in the implementation period of the privatization program for the region and Kenya in particular. This is the period between 1993 –2003. This is the stage when all the negotiations disagreements and so on, have ended and Kenya has agreed 'whether reluctantly or not' to implement the privatization program.

Secondly, basing this thesis on the relationship between the World Bank and Kenya would have provided difficulties in terms of time, resources and access issues. Specifically the question of accessibility to the resources at the World Bank in Nairobi and in Washington was not guaranteed. It would have been vital to interview those involved in the planning and negotiation stages of the pre-privatization process. Most of them are based in Washington or have since left the Bank. Indeed, an effort was made to try to pursue this line of study but the staff on Kenya's privatization program has since left the Bank. The one manager, who was in charge of initiating the KPTC divestiture from government, was still with the Bank but is no longer on the Kenyan desk and was unwilling to discuss anything related to the unbundling of the KPTC and Telkom Kenya's restructuring and privatization.

Thirdly and finally, the World Bank and the International Finance Corporation (IFC) are involved in the privatization program as a an element of Kenya's financial aid from international financiers. UNDP and other donors are involved in fostering the Millennium Development Goals (MDG) and poverty eradication strategies in all other sector levels. The World Bank demands that liberalization and reforms that take place are in conformity with MDGs and the opening-up of markets. Furthermore, there are instances where the national Legislative Assembly 'prescribes' what laws to pass and when. The scale of such a research project involving the entire service sector would require enormous resources and time and would be unsuitable for an academic thesis with a limited mandate. More often than not, there are conflicting messages from financial donors and development agencies that are either involved or opposed to privatization. To undertake an investigation of these agencies would require more time, resources and access to preliminary factual data, which did not exist before this thesis research.

1:5 Methodology and Research Design

Three reasons guided the methodology preference. First the paucity of major and sub-research questions about the approaches and strategies of privatization programs, their linkage to implementation realities and implications for success and performance of enterprises, especially in a developing country setting made it necessary to generate information inductively. Secondly, the politically sensitive nature of privatizations viewed by governments as strategic in general and viewed by the public as a conspiracy against citizens calls for a qualitative, explorative and unfolding method of proceeding. Thirdly, the phenomenological nature of a study with empirical data collection and analysis coupled with serious logistical, time, and resource constraints makes it necessary to limit the scope and methodology of the study.

1:5:1 The Research Design

There were two phases and four stages to this research. The first phase involved two stages; the preliminary stage- concept inception and literature review, and the secondary data collection which established and scaled down the scope of the study. This helped in the formulation of relevant questions for the second phase which was the empirical investigation, which included preparation of data collection tools, data collection, analysis and presentation as detailed in chapter three. Although the case study was the focus of the investigation, two stages of the overall empirical study in the same period were planned and undertaken. In the third stage of the study, the overall investigation of approaches and processes of the privatization program was surveyed in detail.[23]

In the second phase (primary data collection), the empirical research and in-depth analysis were of the strategies and approaches of the privatization of SOEs, using theoretical frameworks derived from the literature review and secondary data analysis. This analysis forms a part of the findings analysis in chapter five.

The sample of interviewees was selected from a fixed number of CEOs of SOEs in the privatization program that included Telkom Kenya totalling 40 public and private sector,

[22] International Finance Institutions (IFI)
[23] see field research methods

regional and national institutions and individuals that were involved in the process. The interviews focused on the goals, objectives, methods, motives and strategies for Kenya's privatization program. The data collection tools used to support this research consisted of two sets of questions contained in one questionnaire with three sections each containing structured and semi-structured questions and one questionnaire of 'guiding' questions used for face to face interviews, as detailed in chapters three and six and appendix 1: annex I.

The empirical research tool[24] used to support interviews and discussions included use of e-mail conferencing and postage system to minimize on telephone, fax and postal costs. Additional qualitative and quantitative analysis was undertaken on the Public Enterprises (PEs) earmarked for privatization/or already privatised to support evidence of the case study of the approach to the process. Out of a total of 40 sampled respondents a total of 36 respondents responded to the research. The findings are discussed in chapter three and listed in annexes IIIa and IIIb. The research questions indicated in section 1:4 focused on approaches and strategies of Kenya's privatization program as manifested in the GOK's divestiture process of Telkom Kenya Company Ltd (TKL). The central research question entailed the exploration and analysis of the 'explanations' and 'descriptions' for the approaches and strategies for privatization of telecommunications in the region and in Kenya. Therefore, the research question entails more than a mere quantification of phenomena (Yin, 1984). It involves an exploration of underlying reasons for the selection of objectives, methods, forms, techniques, and activities of the privatization programs. Hence, because of the exploratory nature of the study, the unfolding nature of the telecom privatization, the closed and controlled process of divestiture programs by the Kenyan government and the lack of time and resources, the case study approach was an appropriate choice.

[24] Chapter three outlines the detailed field research methodology

1:5:2: Data Gathering and Analysis

During this stage, an in-depth case study of Kenya's privatization program, TKL's privatization process and its subsidiaries was conducted using interviews. The sample selection was based on the pre-determined (participating PEs and other stakeholders) but random participants of the closed 'divestiture' process as detailed in annexes IIIa and IIb. It has been argued by several researchers and scholars (Pidgeon and Henwood, 1996; Turner, 1981) that one of the most important aspects of theory generation is the full documentation of the analytical process. It is said that this serves as a prompt for further analysis and is an important part of forcing the tacit, implicit or subliminal to the surface of awareness (Turner, 1981). The documentation of data results in the generation of an "array of concepts, categories and theoretical observations, which provide the building blocks for subsequent theorizing" Pidgeon and Henwood, (1996, p.87) and delineating of study results using qualitative analysis as presented in chapter six of this thesis.

Ultimately Pidgeon and Henwood (1996) maintain that success in generating theory that is well grounded in data depends upon maintaining a balance between the full use of the researcher's own subjective understandings, and concept matching. For example, in the analysis of the quantitative data a series of non-parametric tests were performed. In addition, descriptive statistics provided a further source of analysis and helped to identify the prevalence of emerging issues and trends when combined with the qualitative data.

2:0 Literature Review and Conceptual Framework

INTRODUCTION

Background

Privatization

This chapter begins with a brief introduction to the privatization processes all over the world, which gives a background to the development of thought in this field. Following from this the literature reviews more recent thinking, touching upon and led by the contribution of two major influential schools of thought and researchers in this area, namely the World Bank group of researchers (past and present) and academic based publications. These include various publications of Mary Shirley, Kikeri and Nellis, Joseph Stiglitz, Paul Cook and Kirkpatrick, George Yarrow, and John Vickers and Wellenius, and Wallsten Scot, discussed in this chapter and referenced throughout this thesis. The main locus for discussion rests upon the research based works for developing countries and Africa in particular, prominently Paul Cook, Shirley, Kirkpatrick, Yarrow and specifically Shirley, Samuel, Stiglitz and Wallsten who each recognize that developing a local-based model of approaches and strategies to privatization has become necessary for developing countries competing in regional and global markets. The aim of this chapter is to review literature appropriate to local economic, social and political structures and circumstances in developing countries and to see how far recent thinking may inform or influence understanding of the approach Kenya has taken to privatize Telkom Kenya.

In the late 1990s, the literature in the field of privatization of SOEs discussed in this chapter began to reflect a growing uncertainty and disenchantment with globaly prescribed approaches to the privatization process. The World Bank and IFC traded Structural Adjustment programs along with deregulation, liberalization, globalization and democratization created uncertainties in public and private organizations (Adepoju, 1993). Governments in Africa were finding it difficult to manage and plan parastatal reform, particularly using classical and prescriptive approaches that were based upon future prediction as an extension of past performance.

The failure of parastatals to perform was seen to rest in a failure of markets, the monopolistic nature of the enterprises and the government's poor record of enterprise management as argued by Vickers and Yarrow, (1988: 1991) and Cook and Kirkpatrick, (1988). These are reasons why governments should divest from public enterprises in the developing countries. At the same time other commentators continued to debate on the switch that the World Bank had made to failed SAPs programs and privatization, at the expense of economic growth and 'controlled' market liberalization (Loxley, 1990, p.8; Olukoshi, 1993). This school of thought argues that liberalization and privatization had been introduced too soon after the SAPs with equally negative consequences for poverty reduction and industrialization for developing countries (Ake, 1981). Others such as Samuel, (1999), Kikeri, et. al (1992) have sought to defend privatization.

This conceptual framework seeks to point out this dynamism in the debates, by reviewing literature trends in the shifts of the best approaches, strategies, and methods of divestiture as well as their costs and benefits. The outcome of this thesis is expected to close the current policy 'gap' in a developing country and provide a case for privatisation (chapter five). The study survey's connection to the literature is direct, juxtaposed with current theories in the literature, which are almost entirely focused on developing approaches, forms and processes of privatisation in either industrialised, transitional, or developing countries. The thesis focuses on seeking to find 'unique' strategies and approaches while acknowledging implementation challenges in the wake of globalisation difficulties (Stiglitz 2003, pp.8-88). More importantly, this thesis moves beyond previous work and what is already known, by detailing an exploration of the unfolding case of privatization approaches and strategies in a developing economy.

Several descriptive studies exist on privatisation in developing countries describing post-privatisation effects (Al-obaidan, 2002)[1]. While the merits of a market-based economic system are well established under certain theoretical frameworks- i.e. various theorists of economics led by Keynes (1936) and his works (Moggridge 1973); Dasgupta and Stiglitz (1971); Hoff and Stiglitz (2001), the various theories of economics and of politics, development economics, public choice, business, markets and the neo-classicals are far less known (Mukandawire, 1995; Sah and Stiglitz, 1992; Kumssa, 1996 and Ake, 1993). They are also far less researched in the empirical studies of

[1] Vodopivec and Orazem (1995); Hadi and Mookherjee. (1995)

developing countries; most studies concerned with privatisation often limit themselves to the impact of privatisation at the firm and country levels, often only to a few companies.

Thus this analysis moves away from descriptive generic presentations and generalisations of a global view of privatisations in transitional, industrial and developing economies as detailed by Cook and Kirkpatrick (eds), (1988;1998; 1995); Wright, (1995); Berg and Shirley, (1987) and Shirley, (1994). The review and analysis for this study rely on this extensive global analysis as a theoretical framework, while exploring the unique case of privatising SOEs in a developing environment (Megginson, et. al., 1994: 1998; Boubakri and Cosset, 1998)

Discussions and arguments on privatisation as a form of enforcing political, market, economic and business policy reforms are in their thousands and this chapter selectively outlines a conceptual framework for general privatisation theories and practices relevant to the analysis in chapter five. It then proceeds to focus on literature relating to privatisation approaches and strategies in SOEs that yield business opportunities in a developing economy (Common Market for East and Southern Africa- Free trade Area – COMESA-FTA) for the last decade (1993-2003). In so doing the relevant literature helps this research by drawing selectively comparisons from Asia, the UK and Eastern Europe.

While this review outlines arguments on various approaches it is evident from the analysis in chapter five that there is no single global "best" approach to privatization; the appropriate privatization path depends on the goals that the government seeks to attain, the individual circumstances facing the enterprise and the economic and political context of the country. Conclusions emerge from most studies in transitional and developing countries by Babai, (1988); Berg, and Shirley, (1987); Bienen, and Waterbury, (1989) that: i) "efficiency and competition" are not the main driving forces of privatisation if compared to "distribution and conflicts" and political "ideology". ii) the process of privatisation requires more than the theoretical term "privatization" suggests, i.e. it goes beyond merely establishing private property rights and iii) institutional change approache's depend on shared models structuring peoples behaviour and stabilising actors' expectations.

It should be noted that privatization is fundamentally a political process as well as a commercial and economic process. Privatization changes the distribution of power within a society as it diminishes control of the economy by the state and government appointed managers. Workers often feel threatened by the potential changes inherent in privatization, although employees frequently benefit from the process. As a result, public support is a major consideration in any privatization program and many of the choices made in designing and implementing transactions reflect the need for such support. Two consequences flow from this factor. 1) *Firstly*, the choice of approach is sometimes altered due to "political" considerations, meaning that equity must be promoted in the privatization strategy and 2) *secondly*, program implementation must be objective and fair to avoid adverse publicity.

The popularity of the concept of privatisation is varied in the literature. Young (1991) contends that the divesture of public enterprises has become an increasingly salient issue in Africa. He argues that given the diverse national, class and regional interests it touches upon, divesture remains not just technically difficult but also a politically sensitive issue for African regimes. Although there were multiple obstacles in practice during the implementation of privatization programs, these proved an important marker to the shifting balance occurring between states. This has allowed for privatisation, liberalization, restructuring and regional trade integration that provide capital, new technologies and new opportunities in Africa and particularly in the Free Trade Areas (i.e. COMESA-FTAs, ECOWAS, EAC and so on).

This literature review assesses the impact (Gayle and Goodrich 1998) of the privatization perspectives which dominate the literature with the arguments on free markets, public and private sector performance, and objectives and structures of ownership and management (Bojnec, (1999). It also covers the impact of restructuring, globalisation, (Friesen, (2003); Daouas, (2001) technology and the financial interventions of the IMF, the World Bank and donor agencies, (Cook and Kirkpatrick, 1995), and the impact of privatization methods on enterprise performance in Eastern Europe particularly in the Czech Republic.

The exploratory approaches and impact of privatization provide a basis for the vast and numerous theoretical perspectives that exist in the literature that cannot all be reviewed herein. The *first* perspective is that of the strategies and methods employed in

privatisation programs by industrial, developing, and transitional economies. These three environments apply the same methods differently, from free distribution to the direct sale of state assets. The *second* is the way to proceed; approaches and strategies that include political feasibility and creation of ownership incentives that do not contradict each other. Recent empirical comparisons of enterprises seem to support this second view (Bennett, Estrin and Maw, 2001).

In conclusion, it is clear that there exists a vast body of literature and that for any study to acquire a suitable focus, one needs to narrow the scope of the literature to the manageable interests of the researcher and the study. It is also evident that forms, processes, approaches, and strategies have received considerable attention in the literature cited herein. While acknowledging the value of the literature, especially in assessing previous research, an analytical approach in dealing with the literature is taken (Brink and Wood, 1994). It is particularly difficult to narrow the organisation, completeness, coherence, and consistency of the above expansive literature in an area as vast and as extensively analysed as privatisation. It is clear that more than one body of literature might be relevant, for example the theoretical literature versus the research literature and findings. The literature varies in its degree of relevance to the study; some of it is centrally relevant, some only peripherally relevant thus making the levels of focus and relevance to this thesis extremely difficult. This literature review highlights these variations while its relevance to this research is mixed.

2:1 Theoretical Elements of Privatisation, An overview

Selecting literature on the overall importance of privatisation of PEs and the exploration of the unfolding case study of Telkom Kenya's privatization restricted the choice to approaches and strategies that lend lessons to developing economies in Africa, the COMESA region and Kenya in particular. Literature on unique factors to gain an understanding of the approaches and successes of privatization programs in Africa is reviewed. In an attempt to maintain a coherent focus to approaches and strategies, it is hoped that coverage is not sacrificed. Clearly, for this thesis to be focused within the research mandate and its major questions, it has to be limited to the most relevant literature of the research agenda.

The period between 1993-2003 witnessed a significant global shift away from state socialism or control towards entrepreneurial capitalism. This is particularly so in the transitional economies of Asia, Eastern Europe and Africa. One of the most important and visible aspects of this trend has been the enthusiasm with which governments of all political persuasions have divested state owned enterprises, hoping that the general unsatisfactory economic performance of firms can be improved by introducing disciplined private sector ownership into the public sector (Butler, 1991). The theoretical and conceptual frameworks have been held up within these perspectives (Butler, 1991; Wright and Perrotti 2000, p.3).

This form of divesture and denationalisation, which is said to have originated from Germany after World War II, gained momentum in 1979. It was defined by Hemming and Unnithan (1996) as " an ideological principle that supports smaller governments, fewer taxes and less state involvement in society." Denationalization as argued by Megginson and Netter (2001) and Megginson, et. al (1996, p.406-408), was first referred to as 'privatisation' by the former conservative government of Margaret Thatcher in 1979. However, other researchers attribute the terminology to earlier studies done and that Margaret Thatcher's government merely operationalized the term. Privatization however, remains a fuzzy concept (Starr, 1988, p.101) that evokes sharp political reactions. The term has been used to cover a range of policies from those of

governmental disengagement and deregulation to the sale of publicly owned assets.[2] However, several scholars in trade and business economics agree as to when the term privatisation showed-up in the business and private sector literature. In the late 1970s, and early 1980s Heald D., (1980:1985), and Henry (1990)[3] wrote about privatisation. Condoy-Sekse and Palmer (1988) indicate the initial patterns of privatisation drawn from the first inventory of privatisation in a worldwide sector, published in 1988. Privatization represents a counter movement to the growth of government that characterized much of the post-World War II period. Privatization gained momentum in the 1980s and acceptance in the 1990s in industrial, developing and transitional economies.

Privatization may mean reducing all forms of state control over resource allocation. Whatever its effects and impact, critics of privatization agree that it has transformed the role of the state in all economies.[4] In spite of its early 'entry' the term and process of privatisation have continued to dominate economic and political debates. There is continued debate on which of the privatization approaches, forms, and strategies make a successful privatization, rather than a definitional debate on privatization. Definitional theorists agree that privatisation is generally defined as a divesture of the government from public enterprises (PEs) by transferring majority ownership equity from state to private hands including the contracting out of publicly provided services (World Bank). It is also defined as:

> .... the sale or leasing of assets in which the state has a majority interest, and the contracting out of publicly provided services. Privatization is in part a response to the need for fiscal austerity.... (Bienen and Waterbury 1989, p.617)

A more extensive and encompassing but similar definition is found in the American literature:

> ...as any process aimed at shifting functions and responsibilities, in whole or in part, from the government to the private sector. (US Government, 1997)

[2] See Hemming and Mansoor, (1988, p.1).
[3] ibid
[4] Pushkar and Rajan, (2003 and Bayliss, (2002)

In the COMESA regional literature as indicated by study survey in chapter five, privatization is defined as;

> ....a process geared towards bringing in resources in order to restructure by separating the core functions in order to sell. Restructuring and privatization is thus the same process and cannot be separated..." (Investor Promotion Centre and Investment Secretariat, Kenya (2003)[5]

Whatever its definition, approaches, effects and impact, critics of liberalization and privatization agree that it has and continues to transform the role of the state in all sectors of the economy as argued by Aggarwal, and Harper, (2000); Bayliss (2002); Newbery, D.(1999, p.134) and Pushkar and Ranjan (2003). They all contend that countries might experience less profound but equally dramatic shifts in the balance of power between the state and the private sectors after they adopt liberalization and privatization programs. They further argue that depending on the levels of impact, these dramatic shifts are defined differently by each group, country and individual. Furthermore, Sticker (2001); Kirkpatrick and Cook (1995) and Kunda (2001)[6]show that there is a tendency to narrow the definition to specifics. However, the overall literature tends to dwell on the various trends, approaches, outcomes and impact of privatization rather than its definition. The definitions are varied but not different.

More recent assessments of post-privatisation performance outlined by Sohn and Hayes, (1999), Megginson, and Netter (2001), specifically report on telecommunications privatization emphasizing its economic, political and technological benefits (Wallsten, 1999; 2002 ; Wellenius, 1993 and Wellenius, et al 1989). Among those most frequently cited are Galal, et. al (1992), Megginson, et.al (1996) and Boubakri and Cosset (1998). However, these studies have largely concentrated on financial measures of performance and have incorporated industrialised countries and higher income developing countries in their relatively small databases. In recent years, there have been a few attempts to measure the direct impact of privatisation on economic growth in a cross-country context as argued by Plane, (1997); Cook and Uchida (2001) Barnett, (2000) and Samuel, (1999) which have concluded that privatisation has had a sizeable and positive effect on economic growth.

[5] Chief Economist, 2003, Investment Secretariat Kenya.

However, the payoffs from privatization are also relatively small as indicated by Kenya's total revenues in tables 4-1 and 4-2. There is high opportunity cost in time and management for the complicated task of preparing public assets for sale. Capital market thinness characterizes developing economies (DEs) and "popular capitalism" does not appear to be a realistic option. Shleifer and Vishny, (1994, pp.1-5) argue that in situations where privatization is likely to be entangled in regional, ethnic and political conflicts the gains have been small and the process has been highly partisan, complicated and slow, as evidence in chapter four and five indicates. Indeed, many privatizations may be implemented in the absence of a commitment to market forces but where the state seeks to redefine the instruments and scope of its interventionism (Bienen and Waterbury, (1989, p.617), efforts to improve markets and investor environment should be undertaken, as evidence of TKL's privatization indicates in chapter five. The relationship between the privatisation of state-owned enterprises and the influence of a government in restructuring efforts and managerial behaviour is analysed by Boycko, Shleifer & Vishny (1996). The authors develop a model in which the efficiency gains resulting from the transfer of control from politicians to private managers and the 'depoliticization' of the generation of market information is explained, using the assumption that state-owned enterprises are not able to produce as efficiently as private ones owing to the predomination of political goals over profit maximisation.

A bird's eye-view of the current literature reveals that there is little hard evidence (data) on the privatisation approaches of PEs that confidently chart the way forward for a developing economy. A lot of the literature has been so far been what Keynes refers to as an 'essay in persuasion', an elegant term that allows one to proceed in the absence of evidence (Patinkin, 1982). Moreover, whatever data exists bears conclusions that can hardly be generalised to every kind of setting as they are based on the experiences of the world's richest economies with sufficient resources to undertake high-risk experiments and to devise new strategies in relation to state intervention and market efficiency, revealing interplay at the heart of the privatisation process. Different experiences from Eastern Europe and Africa (Wright and Perroti, 2000) have shown that privatisation approaches in the context of transition economies transpires under unique circumstances. The theoretical and practical preconditions for implementing privatisation in Britain or France are found in an analysis by Wright and Perroti, (2000)

[6] See also Schusselbauer (1999); Kirkpatrick and Cook (1995);Yarrow, & Jasinski (1996) and Vickers and Yarrow (1991)

to be lacking in economies in transition (EIT). This does not invalidate the attempt to privatize in EIT or in developing economies (DE) but it does require that any attempted measures should be well suited to local conditions and it calls for a rethinking on the part of those outsiders offering prescriptions argued by Shirley (1988) and Nankani (1990). This is the basis of the major objective of this research as stated in chapter one, page one.

A majority of empirical work has been based on the weak assumption that privatisation methods were/can be applied on a randomly selected sample of enterprises, allowing for a direct comparison as argued by Kikeri, Nellis and Shirley, (1994); Shleifer and Vishny (1994). The evidence on the ground suggests the contrary as the dynamics of privatization in telecommunications reveal in chapter five. However, governments indeed select enterprises non-randomly and therefore the resulting selection bias should be incorporated into any analysis. The main point argued by Bennett and Maw (2003) and Estrin (1994) is that the selection process influences performance and that a combination of disposal methods that include vouchers,[7]mass privatization and partial state ownership of firms in transition economics is preferred due to their potential to involve the general citizenry.

The other perspective, examining the justifications and advocates for privatisation (Cook and Kirkpatrick, 1995; Galal et al., 1994:1992; Gupta, et al., 1999) found that the widespread belief in a prerequisite of privatisation by other reforms is largely well founded. They noted that there were economic, political, and technological benefits with investors bringing in money that reduces government subsidies (Gupta, et al., 1999; Sohn and Hayes, 1999). However, many problems and weaknesses of privatization are associated with implementation, and changing nominal ownership as argued by Gayle and Goodrich (1998); Boratav, (1993) and Cook and Kirkpatrick (1995) is certainly not a sufficient basis for creating a market economy. Privatisation therefore, is likely to be economically beneficial only when accompanied by other contributory changes. This thesis addresses these changes through research questions 3 and 4 stated in chapter 1 page 12. It is highly likely to take several years for the effects of many of these reforms to be measurable. As Schusselbauer (1999, p.5) and the World Bank (1996) argue, the creation of flexible labour markets has to confront various facts that contribute to drastic

[7] See definition of methods in glossary

increases in long-term unemployment. Institutional imperfections (dynamics) exist owing to labour regulations and increasing resistance on the part of the losers in the transition process. Those who were laid off because of massive over-employment and labour hoarding by the government (i.e. in the TLK case in chapter five), contribute to the imperfections. Along with this is the strengthening of financial markets[8] that are crucial in the process. More importantly the process depends on the existing social-political and economic rapport between the public and private sectors. For example, as Musgrave (1983) and Samuelson's (1981) work indicates, the supply of public goods and social services would still have to be provided by the public sector in cases of successful and non-successful privatizations. This reality complicates approaches to privatizations in LDCs, which as discussed here are highly politicised and closed to the public. The challenges of providing social services to a public that are unemployed or live below the poverty line is enormous and this determines the approaches and choice of specific goals, objectives, and techniques. The major research question and research question three and the results of the field work reveal that the challenge to balancing provision of affordable public services to all citizens continues to be a major problem in Kenya and in the sub-region. How does the government for example, continue to provide telecommunications, water and electricity services in rural areas where it is not profitable for private companies?

The concepts of privatization, liberalization reforms and restructuring in the analysis of privatisation so far presented by economists are those of a process that fits into the economic analysis models of market efficiency and state functions (The Economist, February 5, 1994). This, however is not the case from a public policy and private sector point of view. Privatisation is seen as, and manifests itself in, a more complicated interplay of inter-relationships between the theoretical elements of the state; the custodians of policy instruments; the 'market' as an operational device; and the private sector stakeholder, as the implementers of production. Indeed, the analysis of the privatization of TLK in chapter five reveals these dynamics. Civil society acts as custodian of social welfare elements that have long been a major component of public enterprises (Shirley, 2000) and has to be seen as a major partner in economic reforms that involve privatization. These stakeholders' combined efforts determine approaches to a privatization process and how the process helps maintain the delicate role of

[8] Schusselbauer, (1999); Shirley, (1988);

government in social welfare, wealth creation and distribution in the provision of an enabling environment for the private sector to invest and make profit.

Inherently, the first generation of reforms for the transition to market-led growth has produced enormous benefits in those countries where they are most advanced and not necessarily complete. Yet second generation reforms are necessary to re-align fractured relations between the institutions of the state, the market and civil society to sustain market-led growth and to boost privatisation and social welfare, often caused by the mistrust and divergent views of privatisation transition from state-led to market led and the subsequent Pareto efficiency effects (Stiglitz and Greenwald, 1986). An allocation is Pareto efficient if there is no way by which some individuals can be made better off without making at least one individual worse off (Stiglitz and Greenwald, 1986, p.234). This process is far from complete and far more complicated, and is not well depicted in the existing literature. The literature on second generation reforms seems to suggest that there is discomfort in dealing with the first generation of reforms which focused on revitalizing market functions through economic liberalization and opening markets, including withdrawal of the state from ownership and from intervention in market entry, market exit and pricing.

However, in developing countries (including Asia and Eastern Europe), this transition from first generation to second generation reforms has proved much more difficult. Ironically, most of the reforms are needed as a preparation for privatisation i.e. economic liberalization and opening of markets came at a time when most of these economies were experiencing downturns. More importantly, the IMF/World Bank agenda does attach political liberalization and opening "social-political markets" to economic liberalization programs (Stiglitz, 2003; GOK/WB, 1991; Nyong'o 2000 p.111). The results here are similar to those of the colonization/post colonial era. An example of this is found in the literature from the early 1970s and 80s (Ake, 1981, p.88) focusing on the structural perspectives of Africa's economies with a narrow resource base. This means that the bulk of the export earnings come from a limited range of economic activities, in most cases agriculture (as in Kenya and Uganda) and in few cases, manufacturing (Egypt) and mining (Zambia). Within this framework, the range of specific products is very limited and in most cases the bulk of the earnings come from two products which are dependant on external markets. The economies have undergone structural differentiation, which gives organic unity and resources through

complementarity, making linkages in these economic activities largely external. It is also significant with few exceptions, such as palm oil and tea, to note that the domestic consumption of these products ranges from insignificant to zero, underlining the external orientation of these economies. In the event that external demand for their products weakens considerably, they would experience economic difficulties (Ake, 1981, p.90).

This scenario of over reliance on external demand for its products and the total labour force indicates that African economies have made very little progress towards overcoming market forces that slow their efforts to industrialize in order to compete, with Japan, India, Malaysia and Singapore. This problem is worsened by weak markets caused by disarticulation, which is a distorted form of economic growth under which there exists weak or missing linkages among economic sectors/industries, with different sectors having radically different levels of development and productivity. Highly developed sectors tend to produce goods for export, rely heavily on foreign investment and often monopolize available capital leaving others underdeveloped.

This scenario contrasts sharply with countries such as India, China, Japan and the United States. For instance, Japan exports cars but the internal demand for cars in Japan itself is so strong that a drastic reduction of external demand will not matter so much. This illustrates the fundamental problems experienced with first generation reforms and will continue to second-generation reforms that include tourism, services, coffee, tea, cocoa, tobacco and cotton. The small share of manufacturing in Gross Domestic Product is affected by a drastic decline in major economic activities. Most African economies cannot sustain reforms in the same industries that are in decline, due to a decline in external /internal demand. This affects decisions made on how to implement reforms leading to increased trade, investment and privatization.

Ake (1981) submits that, it is indeed the complex network of forward and backward linkages that comes from industrialisation that would make the postcolonial African economy completely capable of self-sustained growth. Of course, there are other internal and extraneous reasons as to why the rate of industrialisation is so sluggish, including the rigidity of the international division of labour not to allow African economies to break out of the role of primary producers.

This role in itself prohibits access to technology and the ability to have a comparative and competitive advantage with the industrialised nations in manufacturing. More so, the inconsistent WTO rules that provide advantage to industrialised countries to give non-tariff subsidies to their agriculture and manufacturing sectors, constrains domestic markets. These and other constraints are so powerful that the attempt at industrialisation has sometimes been self-defeating (WTO, 2000: 2003).[9] For instance, the attempt to industrialise by import substitution led to very heavy importation of inputs, which created debt burdens and balance of payments problems and in turn encouraged the intensification of primary production to pay for imports. Recent efforts to promote industrialisation (GOK, 1997)[10] by enhancing export capacity have not been successful. Part of the problem has been restrictions to the markets of industrialised countries and the tendency for the competitive advantages of the developed countries to compel retreat from the idea of exportation to that of inefficient production for domestic consumption behind protective tariffs.

Several pieces of development literature and commentators Ake, (1981:1985:1993) Mkandawire (1988), Nakani, (1990); Kiggundu, (2002:1989); Hyden, (1970:1983); Vinaya, (1994) and Mugerwa, (1996) conclude that in the final analysis, the problem will be resolved by the development of productive forces or, to be more specific, by industrialisation. With industrialization, the issue of efficiency and fair distribution of resources and opportunities remains an issue that persists in second-generation reforms that include privatization as indicated by the works of Dallago, et al. (1992); Bruno, (1992) and Csaba, (1993). The survey evidence of this thesis (chapter five) and Schusselbauer (1999) further emphasize that the speed of reforms (and ownership) depends not only on the solution of this conflict (i.e. efficiency versus fair distribution) but also decisively on the coherence of the legal and institutional framework and the abandonment of interventionist policies by governments and international agencies.
This discussion detailed in chapter five provides an exposé of the importance of institutionalising the legal framework by enacting a privatization law. Therefore, as evidence from the literature and field findings show, a more balanced view, which emphasizes rapid macroeconomic stabilisation, the building of an institutional framework and an elaboration of approaches to a privatization program, is preferable.

[9] i.e. WTO Seattle and Cancun reports on Trade negations between industrialized and developing countries
[10] The GOK's Sessional Paper No.2 of 1997 on industrialisation

The main conclusions that emerge in the literature and in the findings indicate that the central conflict in the privatization approach raised by the two distinct objectives, efficiency and fair distribution, can only be resolved if a comprehensive privatization cum-restructuring approach is employed as articulated in the Kenyan /COMESA definition of privatization.

2:1:1 An Overview of Literature: Theories

A snap shot of the privatization and restructuring literature indicates that while there are no universally accepted explanations, the poor economic and financial performance of public enterprises and the effects resulting from cases of successful privatization have been used as convincing arguments for widespread privatization by the International Monetary Fund and the World Bank. Indeed, World Bank studies and others such as Megginson et. al (1996), Rama and MacIsaac (1999) and Parker (2001) show overwhelming support for privatisation Megginson and Netter (2001) state unequivocally that;

> .... The evidence is now conclusive that privately owned firms outperform SOE's... empirical evidence clearly shows that privatization significantly (often dramatically) improves the operating and financial performance of divested firms (p.5)

Privatization is in part, a response to the need for fiscal austerity. Its pace, scope and strategy is determined importantly by the way in which the public sector was built; (Bienen and Waterbury 1989). The forms, varied methods, techniques and types of transfer Wright and Perrotti (1999) argue are triggered by many factors such as technological change, political considerations and budgetary pressures. Privatisation problems and paradoxes seem to happen everywhere, to every country and every nation and it affects all countries equally, rich or poor, underdeveloped or developed, the difference is in the approaches and strategies taken to adopt the privatisation process.

Furthermore, considerable research and theory highlights the importance of divesture and privatisation (Kikeri, 1999) programs across the world and Africa in particular on trends, goals, objectives, efficiency levels and impact, in reference to Kirkpatrick and Cook (1995) and Gayle and Goodrich (1990). On the increasingly growing public policy perspective, Wright, (1995) and Wright and Perrotti, (2000) examine a public policy perspective in detail, covering privatization methods , techniques and types, trends, rationalization and strengthens and weaknesses. Samuel (1999, p.2.) argues on the dynamics of public versus private perspectives and its interplay with implementation issues. He details the "do and don'ts"[11] of the process. Discussions on privatisation

[11] see page 60 for details of the ten commandments

finance and private sector participation involvement, infrastructure finance and the role of international financial institutions are ongoing and contentious, as indicated by Borish and Noel, (1996); Hadi and Mookhejee (1995); Gomulka, (1994); and Guislain and Kerf, (1995).

Further overviews on the lessons and strategies of privatisation programs in the three economic contexts of industrial, transitional and developing economies are given a prominent exposé by Kikeri, Nellis and Shirley, (1994) and Stephan (1994). Macroeconomic stability discussion and issues, and growth effects, are given prominence by Easterly, (1999) and Easterly et. al (1994). Meanwhile, on-going debates on shocks experienced because of structural adjustment strategies and their effects on the African economy are advanced by Ake, (1989), Hyden (1983) and Vinaya (1994) and Mugerwa-Kayizzi, (2003). Arguments for and against the effects of downsizing on poverty reduction, blamed on the divesture programs, are advanced[12] and have increasingly dominated the current discourse and literature on privatization. This debate provides the theoretical framework for the analysis of the field data on objectives and choices of methods of privatising that tend to exclude downsizing issues. It also illuminates the political nature of privatization approaches with delays in the sale of Telkom Kenya pointing to the reluctance of politicians to give power to the regulator to effect reduction of workforces and to effect privatization timetables.

Lipton, and Sachs, (1990); Hinds, (1990), and Nuti, (1995), discuss the unique nature of privatisation strategies in transitional economies and how they affect the performance and success of privatization programs, depending on the appropriateness of methods and techniques. Aharoni (1991); Ramamurti and Vernon (1991), pursue the never-ending debate on the role of various privatization methods and forms (i.e. voucher and contract method) in divestiture of public enterprises and their subsequent outcomes especially in utility privatization. They examine the integration of the build-operate-own and build-operate-transfer techniques within national privatization strategies. Along with big infrastructural projects, is the application of mass privatisation approaches as presented by Shafik's (1993) work in the Czech republic and by other analysts in transitional and developing economies. They argue that their appropriateness and varied results imply a cautionary application.

[12] see also Lipton, (1990). Dieter, (1991); Megginson, et.al, (1996); Ayubi, (1992); Kiss, (1994)

The discourse on various techniques is examined critically by Vickers and Yarrow, (1985) Cook, and Kirkpatrick, (1988); Nankani, (1988); Vuylsteke, (1988); Mayer, and Meadoweroft, (1985) in their application of 'case-by-case' methods dominating this literature especially in Africa. Their pace, speed and scope are advanced by a large spectrum of analysis by OECD (1993:1995) and the World Bank (1989: 1994:1999:2002:2005) working papers that outline their current status. This body of literature suggests an increase in the pace of privatisation and a cautionary approach to the effects of speed and approach to catalytic approaches. Choudhury (1999) and Falstaff (1996) voice long held doubts on whether privatisation is or should be the answer. Anderson (1996), along with Aharoni (1991), cast doubt and urge caution on the impact and success of privatisation, at various levels of enterprise and economy. Abdala (2000) provides an exposé of institutional and regulatory outcomes of privatisation emphasizing the view that there is need to increase the capacity (and political attitude) of African governments to privatize and evaluate the performance of their strategies (Ake, 1989: Danso 1990).

In addition, the World Bank, OECD and others[13] spearhead the lengthy, often repetitive, and sometimes well-targeted research studies, discussions, program/project reports, outcomes, and general reviews on privatisation trends, role of market structures, performance, and best practices in privatization in transitional and developing economies. The World Bank and OECD working publications update some of this literature periodically and are now getting into post privatization analysis of firms as shown by the studies by Shirley et al (2002); and Wallsten, (2001a: 2001b:2002); Yarrow, (1994) and McNary, (2001) and discussed herein. Aharoni, (1991), Ramamurti and Vernon (1991), and Dieter (1991) uphold the discussions on measuring the success of privatization, and on control of state-Owned Enterprises. Arguments on privatization and its theories are advanced by Rocha (1994) who redefined the role of the bourgeoisie in dependent capitalistic economies and their interactive roles in privatization and liberalization programs.

[13] See the extensive analysis by the World Bank research group on privatizations in LDCs and telecommunications

Central to the public choice argument, as advanced by Wolf, (1979), Vickers and Yarrow (1988, pp.7:125) and Andic (1992), that favours privatization, is the notion that everyone involved in decision-making in the public sector seeks to maximize his or her own stakes, which in general is not identical to the public interest. Indeed, in what seems like conflicting objectives they advance the argument that explanations for the poor performance of public enterprises have been theorized from a variety of perspectives, which are collectively referred to as the theory of government failure. At the very minimum, the necessary transformation from a state-administered ownership system to some form of private ownership and the underdevelopment of market economy institutions are stressed here (Wyplosz, 1993, p.382; Begg and Portes, 1993).

Cook and Febella (2002, p.1) argue that the majority of theories on privatization in developed countries have placed a focus on the effects of ownership as entailed in property rights issues. Vickers and Yarrow (1988); Cook and Kirkpatrick, (1995, pp.5-8) further argue that state ownership may be superior to private ownership when the 'ownership effect' is absent. Such an outcome assumes public enterprises operate in a competitive market, and other non-welfare and political inducing influences are not considered (Gayle and Goodrich, 1998 pp.1-11;395)

On the other hand, studies and reviews focusing on public enterprises have been limited and unwelcome by the governments of the day. In addition the balancing of economic and non-economic factors in the privatization process has not been closely monitored, as argued by Cook and Fabella, (2002, pp.1-3), and its consequences or impact contribute to poorly managed and implemented privatizations and approach models. Indeed it, has become apparent that there is a need to model socio economic and political factors holistically that have a major impact on the trends, approaches and process of privatization in developing countries. As Cook and Fabella (2002) argue, this may require a refocus from a limited focus by governments on budget constraints, subsidies, inefficiency of public enterprises and budgetary constraints and their impact financial on gains to the aforementioned factors.

2:1:2 Reasons, Objectives, Goals, and Rationalizations for Privatisation

There is a body of literature examining the reasons, objectives, goals and rationalization of privatization. This body of literature is important to the success of privatization programs and to the major research question of this thesis. This is because the privatization concept and programs are viewed by a majority of governments, citizens and some development organizations as 'foreign' by developing and transitional economies (Whitfield 1983:1992).

Privatization in developing and transitional countries has indeed taken its own direction as discussed at length by Commander and Killick (1988) and Killick (1995). Ilori, et. al (2003) also discuss the impact of post-privatisation business performance in transition and developing economies. The arguments by Colin (1990),Cook and Kirkpatrick (1998), Schusselbauer (1999); Hashi,(2000) and Yarrow (1999) provide a broad survey of the basic issues, values, reasons, objectives, rationale, modalities, goals, constraints and problems involved.[14]Typically, privatization has several objectives or goals, including increasing service provision, quality, and efficiency of enterprises, draining public subsidies, which represent scarce public resources needed elsewhere. Creating employment and business opportunities and introducing new technology through restructuring and generating revenue for government coffers (Wallsten, 2002, pp.2-3) are also important objectives.

In their conclusion scholars and researchers offer an expose that deals with privatization led economic development in developing countries, which raises both country specific and general issues that provide a theoretical basis for the empirical analysis of the Telkom Kenya (TLK) case study. There are several reasons that explain why some governments have embraced privatisation as a tool in the reform of the public sector. Multiple and potentially conflicting as they may be, amongst the widely given reasons and objectives are; the need for immediate cash income or foreign exchange and the need for settling foreign debt: and control of budget deficits and the debt burden. Additionally, privatization is used to encourage industrial development and foreign investment; to encourage the creation of an active and efficient 'stock exchange' in

[14] see also Berg Report, (1989); Ramanadham (1989b); Heath (1989)

order to widen capital markets and to aid the introduction of efficiency in creating a market economy. The key objective in developing and transitional economies is promoting a political philosophy geared towards macroeconomic and sectoral policy reforms, such as financial stabilization, deregulation, and liberalization, and the desire for the reduction of the state's role in managing the economy. Thus, this encourages private enterprise and the expansion of the private sector in general (Kiggundu 2002:1989, Nakani, 1990), in order to create wealth, and increase regional integration opportunities by attracting regional and international Foreign Direct Investment (FDI).

In the privatization literature it is often argued that the varied goals pursued in privatization programs can be categorized along two dimensions; a) those based on macroeconomic and social goals; and b) those based on public enterprise with microeconomic and macroeconomic dimensions. In each of these dimensions the governments work on the basis of the ultimate goal which is to promote the private sector and maintain public sector social goals.

An in-depth privatization overview report of more than five regional states' governments in the US (US Government 1997)[15] argues that these goals can be categorized into:1) larger social macroeconomic goals and (2) specific macroeconomic goals. As stated earlier, the major goal is to reduce the government's role in the larger economy and in specific enterprises because increasingly governments have not been good at doing business. An important aspect of the specific macroeconomic goals of privatization is developing, strengthening and promoting the private sector, in order to create an enabling environment as argued by Waddell (1994, pp.1-2) and Taylor and Blair (2002). Along with these broad goals are the various objectives that help in the achievement of these goals. Some of these objectives include controlling unfair competition through a strong independent regulatory framework (as discussed in chapter five), spreading the share holding ownership through IPO sales and efficient utilization of privatization proceeds to create wealth through business creation.

The enterprise specific goals that include the broadening of share ownership in order to encourage public savings and investment is revealed by the survey findings as a major

[15] US Report of the House of Representatives on Privatization

objective for the GOK's divestiture from KQ and KCB, unlike the TLKs objectives as a new enterprise.

However, the motives of the privatizers are multiple and often contradictory as indicated above, with different constituencies defending privatization for different and often conflicting reasons (Boycko, Shleifer and Vishiny 1995, p.194); the field findings in chapter five confirm this argument. As an example, Kenya's privatization motives for privatizing telecoms changed from revenue and national jewel to greater access to services and restructuring of the enterprise. Second, motives may change over time - as was the case in the United Kingdom (Moore, 1989). Indeed, as has been argued, the reasons for many of the privatizations in Britain followed rather than preceded the programs. They were invented after the privatization in the search for a rationalization for them. The privatization of British Rail is an example (Moore, 1989).

Then there are the unspoken motives (often political) unravelled from declared reasons (Grossman and Hart 1986). Broadly speaking, however, they may be distinguished between the (i) ideologically and politically inspired privatization ambitions of, for example, the conservative governments of Chile, Britain and France (1986-88), Portugal and Norway;(ii) pragmatic, budgetary-driven programmes elsewhere in Europe; (iii) the programmes imposed on developing countries by international financial institutions as part of a wider package of economic restructuring; and (iv) strategic approaches as part of wider privatization programs.

A good example of this difference is in the privatisations of Britain and Chile. In Britain, privatisation marked such a decisive change of policy that it is still worth asking: Why it happened? Privatization in Britain was different, in that it gradually emerged as the decisive instrument to achieve the objectives of the Conservative government under Thatcher, signalling a clear change in direction of government's economic philosophy. Chile had re-privatized companies that had been taken into state ownership by the Allende government but Chile's privatization hardly marked a decisive change in policy, it was merely a restoration of the previous status quo. There is also the case of developing economies whose programs are mainly directed by World Bank and IMF agenda. Thus, reasons range from the systemic benefits to be derived from privatization to the advantages to be gained by a particular industry or a particular sector, in particular market liberalization.

A second ideological underpinning is the belief that public sector industries and services limit consumer choice and Megginson and Netter (2001) advance this monopolistic argument. Furthermore, it is argued that public ownership deprives individuals of economic freedom by forcing them to hold 'implied shareholdings' in public enterprises that they might not choose to have if given the choice.

The third ideological strand in the privatization argument lies in the desire to create a 'property-owning democracy' or 'popular capitalism'(hence, the incentives often employed to induce citizens to buy shares at the time of privatization). In other countries - notably in Latin America - privatization has been perceived as a means of creating or strengthening the bourgeoisie as a necessary precondition for breaking the tradition of state-led economic development (Aarts,1999, pp.917-920). A set of arguments in favour of privatization may be described as based on an economic firm and system efficiency model by for instance, increasing competition, facilitating incentives, introducing a tougher labour market and enterprise culture among the general population (Ake, 1985).

Fourthly, a set of financial reasons has been advanced to justify privatization. Privatization, it is alleged, provides easier access to firms involved in international capital markets and fosters the growth of domestic stock exchanges - widening capital markets by introducing new investors and deepening them by bringing in mature companies with strong market positions. Privatization also distances states from the financial plight of ailing enterprises (the fate of many state-owned companies) and perhaps more importantly, raises money for cash-strapped governments. It should be noted, however, that asset sales may improve short-term cash flows in a once-and-for-all manner in general but they do not enhance a government's long-term net worth, and may even cause it to deteriorate if profitable assets are sold off too cheaply. Examples are evident in the case with Kenya's hotel and transport disposals in the early 1990s that were sold under liquidation, fetching little revenue for the exchequer (Mwale, 2000). It follows from the above that the motives for privatization are multiple and can be potentially conflicting as this review has argued.

2:2 The Role of Liberalisation: From SAPs[16] to Privatisation

The literature on privatisation and liberalization in Africa focuses on the principles and practice of privatisation, various modes of privatisation in developing economies (DEs) and an examination of the performance and shortcomings of the public enterprise sector, as exemplified by Davis and Sanders (1993), Killick (1980), Ramanadham (1995), and Cook, (2001). Bates and Krueger, 1993) discuss comprehensive coverage on the efficiency of firms after changes of ownership in terms of their economic, financial and distributional aspects and conclude that there is a noticeable change. Other writers emphasize the process of restructuring liberalisation: Cook and Kirkpatrick (1988), Crook (1988) and Gibbon, et. al (1992) and lately the effects of deregulation on privatisation related policies: Jilberto and Mommen (1998), Haggard and Webb (1994) particularly in GOK's parastatals under privatization. During this process of restructuring, pertinent issues of resource allocations (i.e. Pareto efficiency), ownership, structure, labour and methods to be applied are major parts of the negotiation agenda. Change of ownership does not necessarily mean efficiency. Researchers see the government's role as being that of a 'better government, not necessarily a smaller' government (Champy, 1996).

Liberalisation in the Structural Adjustment Programs (SAPs), in the context of domestic agricultural markets in Africa which abolished marketing boards was done with mixed results. In most countries except for Nigeria (Akanji 1992), the withdrawal of the state has not left in place a free and competitive market (Rapley, 1994). Agriculture markets all over the developing world, especially in Africa, are often fraught with imperfections (Harriss and Crow 1992; Guillaumont and Guillaumont 1989) in such cases, small groups may end up absorbing the price gains, perhaps even depositing them abroad. Not all African agricultural markets work so badly (Beyond 1992, p.8: Ake, 1981) but when they do deregulation rather than liberalisation appears a better way to increase output (Harriss and Crow 1992).[17] Again, better rather than less state intervention is what is needed since it has been established through experience in cooperatives marketing boards in EAC (Mugerwa-Kayizzi (1996) and Kenya that apart from reducing market distortions, marketing boards can perform other functions. Some

[16] Structural Adjustments Programs
[17] See glossary definitions on deregulation versus liberalization

sub sectors in Africa, examples include cotton and bulk food crops, rely on public marketing because they are unattractive to private traders (Gibbon, et. al 1992, p.58). More important is the role of marketing boards in price stabilisation. A completely free market in primary goods will reflect the vagaries of world commodity markets, with their sometimes-violent price swings. Peasant producers are often more concerned with risk than with price, and will retreat from the production of crops in which the risks of price fluctuation are very high (Ake, 1981). Many theorists argue for the retention of marketing boards (Guillaumont and Guillaumont 1989; Beyond 1992 p.7) though reform remains an option.

In addition to the liberalisation of markets for primary products, neo-classical theory has advocated financial liberalisation and labour market deregulation. Although financial liberalisation can free up credit, especially that available to small firms (Oyejide 1993 on the Nigerian experience), it can equally increase rather than lower capital costs if the banks choose to lend money to firms rather than invest in them. Whereas in a more regulated market, in which banks are required to invest directly in firms, (Megginson, and Netter, 2001)[18] one can add in long-term bonds rather than stocks, so as to maximize the efficient use of capital (Taylor 1993a, pp.585-86) and Fitzgerald (1997, pp.385-386)[19] effectively reducing the cost of capital.

The growing criticism of liberalisation policies (which have been encouraged by SAPs) has not gone unnoticed by neo-classical theorists. Among other things, they have recognised that structural adjustment has tended to fall rather hard on the poor (Adepoju, 1993). The World Bank itself admits that there is a political element to adjustment and citizens (World Bank et.al, 2000 and 2001)[20] must be sheltered from its hardest effects if regime stability is to be preserved (Davies and Sanders 1992 p.81). With this in mind, the World Bank has come to advocate targeted programmes of assistance to the poor (i.e. Poverty Reduction Strategy Papers, PRSPs, based on sustained economic growth), which are said to have achieved partial if not complete success in Jamaica (Grosh 1992), Chile (Barrientos 1993) and India (Chellaraj, Brorsen and Farris 1992). In Kenya, the "dream team" package of infusing into the government private sector personnel in order to revitalize the economy and reduce poverty was

[18] They discuss banking and telecoms in a Survey of empirical studies on privatization
[19] see also Haggblade, et. al (1990 p67); Azam, (1995)
[20] World Bank et. al (2000)

abandoned in late 2002 and its impact is yet to be assessed. Yet underlying such 'externally grown' programmes is a continuing mistrust of the state. Grudgingly, neo-classical theorists accept that state intervention is a good idea but only for a while. For a better/ more efficient state, the mandate is changed fundamentally, the neo-classical faith in the market remains unshaken, even if one can detect clear shifts away from earlier radical free-market approaches, e.g. the World Bank's call for an increased state role in its 1991 World Development Report (Perkins and Roemer, 1991).

The state continues to play an important, and often essential role in the development of third world countries and as the influential work of Lance Taylor has shown, more state does not necessarily entail less market. The two may expand and contract together even though Taylor acknowledges that state investments can sometimes 'crowd out' private investment Taylor (1993a, p.5). It is now apparent that there is no firm evidence to suggest that less government leads to faster economic growth. If there is any relationship between the two, it may be that on aggregate more government leads to more growth (Sattar, et. al 2002). Moreover, many of the successes attributed to the increased role of markets may in fact have stemmed from other factors, as Bramall (1993) argues with regards to the "de-collectivisation" of Chinese agriculture.

But this argument defeats the 'regulate the financial and labour markets' argument advanced in favour of regulating financial markets in order to involve the banks in investments as less regulation means less government (Wyplosz, 2002, Stiglitz, (2001), O'pon, (2001). What this research is pointing to is not more government, as the evidence elsewhere shows that more government causes economic stagnation, and therefore this research views the alternative of defining rather the role and effectiveness of government in the privatisation process, as a relevant theoretical basis to proceed. The government's role has been identified as that of an enabler, a custodian of the infrastructure that makes it possible for entrepreneurs to save and invest and enables firms to compete on a level playing field. Evidence outlined in chapter five emphasizes the importance of the role of government as a facilitator of privatization activities.

Effectively, both the structural economists and developmental state theorists will hardly be shocked to hear that the state has a vital role to play in the development process. What is perhaps surprising is that many neo-classical economists are now coming around to the view that the size of the state is not significant but its role and

effectiveness that is the key to development (Singer and Roy 1993, p.23). Indeed, even the World Bank appears sensitive to the renewed importance of the state in its approaches to privatisation and development. The current literature on globalization and trade from the World Bank by for example Stiglitz (2003:2004), and Samuel, (1999) suggests that the bank is rethinking its past mistakes.

What is also emerging in the current development debate is a subtler and more sophisticated view of the state than the traditional state-market dichotomy allowed for. It is concerned not so much with the quantity as with the quality of state intervention. This theoretical framework will drive this research. In other words, the quality of interventions determines successful privatisations in the world, in Africa and particularly in the privatisation of state owned enterprises in COMESA. This is with the full realisation that the capacities of states to implement development and privatisation programmes and policies differ widely, and can have serious implications on the impact of programs (Ake, 1989). As regards Africa, many Africanists are coming to the gloomy conclusion that many states are simply not up to the task of development (Rothchild and Chazan 1988; Seidman 1992, p.10). Some, yearning for the elusive 'governance' that has become the World Bank's "Holy Grail",[21] have looked to the recent wave of democratisation as a means to improve the functioning of African governments. Half-heartedly, they hope that the increased accountability forced on political leaders by liberal democracy will yield results such as a reduction of corruption (The East African Standard newspaper, December 10, 2004; Mkandawire 1992). Unfortunately, a good many Africans are pessimistic as to what democratisation can achieve and are more interested in building corporate structures and institutions that can sustain good governance in SOEs and privatized firms. The issue of democratization and good governance is important to privatization and is a continuing debate.[22] However it is not the focus of this research.

However, it should be recognised that for effective privatisation to be realised and for markets and social policy to co-exist (i.e. where the private sector is called upon to pay for social costs; e.g. schools, hospitals and community services), governments have to be transparent and invest in developing the physical and communications infrastructure

[21] i.e. "Buss-word"
[22] In some quarters privatization is viewed as one element of democratization and introduction of good governance

in order to enable private sector to invest and make profit; only then can the benefits be shared on both sides.

Governments in East Africa have realised that the newfound 'public private partnership'[23] is paramount to not only achieving a strong private sector but also to achieving economic growth and as a result, social and political growth (GOK, Economic Survey. 2003), (GOK investment conference, March, 2004). In that category, there have been cases of good, and even outstanding, state performance in Africa, like Botswana, Uganda, South Africa and recently Kenya. They have made long strides in changing the political landscape by holding elections thus disproving those such as Shaw (1993); Clapham (1993: 1996); Bratton and de Walle (1992); and (Jeffries 1993) who have been unfairly sceptical on the impact that political changes have made on the operation of government's policy.

[23] See definition in glossary

2:2:1 SAPS and Privatization

Privatisation programs started after various African governments adopted the drastic political, social, and economic changes designed by the IMF and World Bank (Commonwealth, 2002). These programs known as Structural Adjustment Programs (SAPs), have had far reaching consequences for and influence on, social-economic sectors of development in all countries that implemented SAPs. The effects of their design and impact have had devastating effects and are well documented (Adepoju, 1993)[24]. Inevitably, dramatic structural changes in the form of SAPs (deregulation) and privatisation were widespread phenomena in the late 80s and early 90s not only in Africa but also in North America and Europe.

An anatomy of SAPs helps explain why they (i.e. SAPs programs) elicited more negative effects making them be evaluated as having failed. Different elements of structural adjustment programs have met with differing degrees of success (Loxley, J. 1990, p.8). Beginning with economic deregulation or liberalization of trade, investment and finances to actual privatisation, agreement is emerging that such policies aimed at restructuring developing economies have changed little. Not only does the basic assumption underlying them, that private ownership leads to improved firm performance, not stand to reason, the growing body of evidence believes it based on the economic models that are widely acceptable globally (Loxley, 1990). To the contrary, it is questionable that public firms can always be assessed by the same criteria as private ones, with the standard measures being financial performance and efficiency in the developing countries when they don't perform the same functions. Doubts have been raised about the principles of structural adjustment. Even its supporters admit that while SAPs restore macroeconomic stability, it is not entirely obvious that macroeconomic stability on its own leads to growth (Frenkel and Khan 1992; and Doroodian 1993). Africanists can easily point to countries that have faired badly under structural adjustment (Guillaumont and Guillaumont 1989), while where the policy has produced more positive results, expectations still remain unfulfilled (on Nigeria see Oyejide 1993; on China and Tanzania see Shao et. al 1997). In the case of Ghana, for example, arguably Africa's test case for structural adjustment, most observers say there have been

[24] See various country reports evaluating the effects of SAPs in developing countries

clear gains, but hasten to add that these gains relied on strong donor backing, which is unlikely to be repeated elsewhere in Africa[25] while the long-term sustainability of the programme remains in doubt (Rothchild 1991; Loxley 1990, p.8).

After the SAPs, governments are examining ways of giving a greater focus to poverty alleviation in their design of market reform programs and dealing with the question of 'ownership' (through deregulation, liberalisation and privatisation), an important determinant of their sustainability. The African experience with structural adjustment has generally pointed to one conclusion: while yielding short-term improvements, the policy was jeopardising long-term development (Adepoju, 1993). Indeed, quite apart from the moral and political critique of structural adjustment, the fact that SAPs have concentrated benefits while impoverishing a substantial part of the population (Jamal 1992; Guillaumomt, 1997) makes them undesirable. A cursory glance at the evidence from *Africa*, as well as from some Asian economies (see, for instance, Rahman, (1992) on Bangladesh) could lead one to conclude that structural adjustment and with it the neo-classical approach to development, has generally been an unmitigated failure. Indeed, this failure created apprehensive governments and citizens moving into privatization in the mid 90s.

That conclusion would be hasty. For turning to Latin America, we find that structural adjustment yielded some considerable gains, even if the benefits remained unevenly distributed (on Chile, see Ritter 1990, and Diaz and Korovkin 1990). This contrast points us towards an emerging consensus in development studies: liberalisation works best in those economies which have first been through a phase of infant industry promotion before proceeding to an industrialization status (Ake, 1989). Indeed, South Korea export led growth was pushed towards industrialization by governmental measures and prepared by direct investment infrastructure. After the Korean War, the country was partitioned and economic links were severed between the industrialised north and the agricultural south. South Korea had to rely on American aid to overcome its underdevelopment (Kim and Roener 1979). In addition, Japan was responsible for 65.5% of all direct investment (McCormack 1992 p.94). Africa was not so lucky after World I and II, apart from the sporadic donor agency developmental aid Africa has had to create its own miracle. For example, in the early 1970s, Mauritius received food aid from donor agencies, but by

[25]In Kenya, IMF, World Bank and Multilateral Donors withdrew Support during the Privatization program

2004 it had a surplus budget and is leading in levels of FDI in Telecoms with a strong economy and is a strong member of COMESA.[26] Privatisations done well along with industrialization (GOK, 1997) could provide the opportunity for a miracle of sustained economic growth through regional opportunities, entrepreneurial growth, infrastructure, manufacturing and financial services respectively.

It is also notable however, that the prevailing thinking, strategy, and literature especially from the World Bank and IMF (Dhonte 1997 and Kapur 1995; Camdessus 1999, and Mauro 1996) discuss issues of corruption and governance in investment structures, in the process of developing a market economy and strengthening private sector initiatives. Tanzi, 1994:1997); Sheetal and Chand (1999) and Rijckeghem and Weder (1997) reflect a move to include other standards of measurement necessitated by the social-political environments such as good governance, corruption, capital discipline, entrepreneurship, labour and the capacity to reform.

One of the common themes that has arisen from critiques of neo-classical theory has been that government and markets are often symbiotic rather than conflictual[27]. In other words, to make the market more efficient one need not so much reduce the state's role in the economy as alter it. Given that structural adjustment has been the practical manifestation of neo-classical theory in the developing world, it is telling that much of the empirical research on structural adjustment points to a similar conclusion. Structural adjustment programmes (SAPs) aim to remove blockages believed to thwart the efficient operation of markets. Typically, these blockages are seen to result from government intervention. Therefore, SAPs have usually included such elements as the removal of price and other controls on enterprises, the removal of quantitative barriers to trade and the streamlining of taxes on imports (import liberalisation), the abolition of marketing boards (market liberalisation), exchange rate devaluation, the privatisation or denationalisation of state-owned enterprises and the encouragement of new industrial private foreign investments.

The SAPs however introduced the issues of sustainability, ownership, and control into the subsequent privatisation debate. The programs engaged by governments (under the

[26] In the early 1970s, Mauritius received food aid from donor agencies as by 2004 it has a surplus budget and is leading in levels of FDI in Telecoms with a strong economy and is a strong member of COMESA.
[27] (see, for example, Commander and Killick 1988; Stewart 1985; Taylor 1992, 1993a, 1993b; Toye 1992

World Bank) were required to "produce" efficient firms from the public enterprises that had been inefficient for years. In that regard, in the privatisation-based production of new efficient firms from inefficient ones, large SOEs (a focus of this study) emerged and have aroused a great deal of interest amongst practitioners and scholars alike. For over a decade (1993-2003) now in Africa south of the Sahara and indeed the world over, governments increasingly utilize the concept of transforming public sector entities into efficient private sector led companies.

In the COMESA region, SAPs paved way for privatisation. Bromley, (1995), Bromley and Bush (1994) examine the nature of SAPs in Egypt and the impact and influence of IFIs within the context of Egypt's economic and political crisis. They also evaluate the effectiveness of policies of liberalisation in agriculture and economic growth and the IFI's promotion policies for reducing the Africa's state role. However, in this case, the IFI did not consider issues of 'good governance' and democratisation. The experience from failed SAPs for IMF and World Bank has shown that that issues of good governance and democratisation are crucial in making markets function, and are now included as a preliquisite for all privatisation Programs in continental Africa. The conclusion has been that since crucial issues of 'good governance and democratisation' were not addressed, the IFI's strategy for economic reform merely repeats failed policies attempted by Egypt's government twenty years ago .

The SAPs experiences in the 1980s and 90s, characterized by important changes in the policy orientation of many mixed economies in the developing world; privatization approaches; weak economic performance; and mounting debt, have prompted a rethinking of strategy. The emergence of the so called "South-East Asian Miracle" of Taiwan, South Korea, Hong Kong and Singapore, discussed by Jilberto and Mommen(1996:1998); and Haggard (1994, p.222), as an integrated regional area of development has provided a model of what could be achieved through strategies founded on export promotion. Also important is an active private sector, and a public sector "bureaucracy" that was supportive and facilitative of the growth and expansion of enterprises; this allowed Hong Kong to emerge as the top supplier to China, as argued by Goodman and Chongyi (1994).

2:3 Privatisation: Public and/or Private Ownership

2:3:1 State Intervention and Free Markets

Historically, state owned industry was largely created about forty years ago (in Kenya) due to the perceived market failures of the 50s and 60s, leading to strong government intervention which culminated into giving power to the state to balance macroeconomics. While traditional literature characterized market failures as exceptions to the general rule that decentralized markets led to efficient allocation, in the new view the presumption is reversed. It is only under exceptional circumstances that markets are efficient; Stiglitz (1989); Hyden, (1983).This makes the discussion on what the appropriate role of government should be a difficult one. The issue becomes one of not identifying market failures, for these are pervasive in the economy, but of identifying large market failures where there is scope for welfare-enhancing government interventions. In modern mixed capitalistic economies, such as the USA, Canada, Western Europe and Japan, these rules typically involve the legal enforceability of contracts, provisions for bankruptcy, and law defining property rights and liabilities. This basic framework has much to do with how the economy performs, and have the other functions of government are affected by the kind of ground rules under which the private economy operates. Its primary function is that of "preserving and stabilizing the property relations of the capitalistic economy"; Gordon (1972a, p.322)[28]

African governments south of the Sahara, experienced this wave (i.e. government intervention) through an inherited English, French and Germany colonial past, in particular from England. The motivation to nationalize originally was political, economic and philosophical. It was believed that bringing industries into state ownership would instil a sense of the 'public good'[29] (Grimstone 1990) in management and employees. The state provides and produces 'public goods' because the market would under produce. Other arguments to justify this intervention, in a mixed or capitalist-oriented economy include issues of 'natural monopolies'; that is that intervention is based on the need to exploit economies of scale that would be derived

[28] Atkinson and Stiglitz (1980)
[29] Grimstone (1990 P.3)

from only one producer in the industry[30]. The introduction of various producers/ or operators is likely to result in a less socially efficient solution in output, qualitatively and quantitatively.

'Externalities': governments must examine issues of externalities: - as their its impact is vital to any privatisation program. These are factors that are not included in gross national product (GNP) or transaction price but which have an effect on human welfare. Pollution is a prime example of an external cost imposed on society. National output which may only be maintained by allowing a certain degree of pollution is a prime example, which detracts from the quality of life. A firm will include the private costs of materials, labour and capital used in producing goods and services but will not count the social costs of pollution involved (Abu and Osama 1991). On the other hand, positive externalities such as social benefits conferred by firms in training workers who become available for employment elsewhere are again not counted in national output. In this case, private costs and benefits that diverge considerably from social costs and benefits and state intervention are needed to internalise both for the benefit of society (Abu, and Osama, 1991 and Brett, 1988, p.47)[31]. 'Inequality reduction' is also critical as the distribution of income that arises from the operation of the market place may be entirely at variance with that which society regards as appropriate, and the state intervenes to reduce the inequality that would otherwise materialise. An Australian government statement sums-up this scenario;

> " Where the government has entered into the arena of trade, the object has not been to secure monopoly or to squeeze out of business legitimate private traders, but to protect the latter on fair and efficient lines" (Australian Government ,1978)

Ownership Matters: the question posed by a spectrum of literature that reveals the reluctance to privatize is why privatize? The answer very often is because ownership is said to be a significant determinant of enterprise performance. In both developed and developing countries, good SOE performance has been very difficult to bring about and even harder to sustain, especially in telecoms (Wallsten, 1999). Governments facing financial crisis often try to improve performance by bringing in new and dynamic managers, and paying them incentive salaries, more often with the help of the World Bank (i.e. Kenya's recent "dream team" string of permanent secretaries and parastatal

[30] Atkinson and Stiglitz (1980)
[31] also in Cook and Kirkpatrick (1988)

heads, on the World Bank pay-roll). These measures more often than not have a short-term positive effect but inevitably these are edged out by partisan politics. However, as the crisis dissipates, so does political resolve. In Kenya's case, the "dream team" lasted less than two years and its impact has yet to be assessed.

As the findings in chapter five illustrate political interference in SOE's reforms, restructuring and privatization programs limit the ability for countries to reduce their fiscal burden and maximize the positive effects of privatization. This argument is also advanced by Yarrow (1999 p.162). Further evidence is the example of Stiglitz, (1996), as the then senior vice president of the World Bank, who took issue with the government-led reform drive. "A firm's life or death is something that its management will decide upon, not the government," and he stated that the views of the private sector should be reflected in the policy-making process; Stiglitz also stressed that the governments should not determine policy unilaterally. Ignazio Visco, (the chief economist for OECD) echoed his view too, when he reiterated;

> "With the crisis over and a strong recovery underway, the success of the reform program will depend on reducing the extent of government intervention," (in Len and Sung-Tae (1999)[32]

In Kenya, the parastatal reform program has been on the table since 1993 with the government merely changing chief executive officers and deepening the non-performance of the Public Enterprises (PEs)[33]. The privatisation of the banking, insurance and now telecommunications industries is a good example of this deterioration. It has taken the concerted effort of the private sector, the civil society and opposition lobbying for the government to move forward with the reform and privatisation program without interference. In 2003 and 2004 the 'new government' has been embroiled in court cases with chief executives officers who have mis-invested[34] public funds and deliberately withheld information on reforms and privatisation, leading to the international aid 'drought' of 1997 to 2002. This greatly affected privatisation revenue, strategy and pace.[35]

[32] See also Nation Daily Newspaper, (2003) for a list amounts deposited and the individuals
[33] See Various Newspaper references
[34] Kisero, (2003)
[35] See World Bank/GOK 1991 Policy Framework agreement that started the privatization program

In addition, further evidence presented by Kikeri, Nellis, and Shirley (1994) in support of privatization indicates that properly structured reforms/privatisation yield substantial and enduring benefits.[36] Indeed, this perception could be at variance with instances where there has been little or no gain. In particular, chapter five evidence shows that there were new opportunities in the industries and there is re-employment taking place. These benefits outweigh the downsizing of Uganda Telecom, Kenya Telkom, and Senegal Telecom, companies in the process of privatization. For example, World Bank literature (Kikeri, et.al 1992)[37] and evidence from the COMESA region in chapter five (i.e. Kenya, Uganda, and Mauritius) supports this view with field findings indicating increased numbers of new businesses and employment of over 50%. This notwithstanding, most privatization success stories come from high-income and middle-income countries (Wallsten, 1999:2002). In the COMESA region, especially in East Africa, privatization has turned around telecommunication related companies. In addition, the introduction of new management and new technology in Kenya Airways (KQ) after its privatization in 1996 was associated with increased performance and profitability. The conclusion is straightforward, privatization, when done right, works well as Kikeri, Nellis, and Shirley (1994) have stated.

However, Privatization works best when it is part of a larger program of reforms promoting efficiency. New Zealand, the UK Mexico, and Chile are all successful privatizers. Their privatizations were accompanied by reforms to open markets, removal of price and exchange rate distortions and the encouragement of the development of the private sector through free entry (i.e. SAPs) (Vickers and Yarrow, 1995). Revenue maximization should not be the primary goal of privatization (see field interview findings in chapter five). Additionally, it is far better to eliminate monopoly power and unleash potentially competitive activities than to boost the sales price by divesting into protected markets. As discussed, regulation is critical to the successful privatization of monopolies. In the sale of Chile Telecom, for example, everybody won consumers, labour, government, buyers and the productive efficiency of the company increased because of a well developed, well-administered regulatory framework, which was able to protect consumers, as opposed to maximising on price to sell in an unregulated market (Wallsten, 2002), with a limited capacity for consumer protection.

[36] Privatization and reforms in Telecommunications in Kenya, Senegal and Uganda show this trend. In particular, chapter six evidence shows that there were new opportunities in the industries and there is re-employment taking place.

The problem with most privatisations in transition and developing economies is that programs are started without strong foundations in legal and regulatory frameworks.[38] Governments need to identify these issues (Nicoletti, Giciseppe (2002). The COMESA region and indeed Kenya, are now in the process of institutionalizing regional and national regulatory frameworks after their members states are well into their telecommunication privatisation programs (Wallsten, 1999 p.5, Shirley, et. al 2002). More importantly, field interview findings in chapter five indicate that both the private sector and the public sector rank a strong regulatory framework in telecommunications as an extremely important objective for privatizing PEs (especially telecoms).

However, governments and the private sector agree that privatization cannot resolve all challenges in the management of public enterprises set-up to support a social-political agenda. Performance has to be reviewed within a changing and new environment. Evidently, there is a lot of debate regarding the differences between public and private management (Boyne, 2002).

[38] COMESA countries are now in the process of institutionalising regulatory and legal frameworks, within their membership.

2:3:2 Consequences of Market Reforms and Privatisation

The complexity of divestiture and privatization functions makes their implementation a daunting task the world over, especially in relation to telecoms. Apart from the major objective of raising cash, which gives the government control and use of the cash, the large program of asset sales is counted as negative public spending which reduces the reported level of public spending and reduces tax revenues, so the budget gap remains the same thereby reducing the gap between revenues and expenditure. As Redwood et. al (1990, pp.54-55) have argued although some African governments have been against privatization the trend started changing in the mid 1990s, when they were forced to address debt burdens and thus foreign exchange proceeds. Since the political set-up sees privatization as a process that substantially transforms both the political and economic processes, the breaking up of SOEs into manageable entities is desirable since it affects economies of scale and scope, and may result in growth, merger or acquisition. This changes control and ownership patterns. In this regard, many countries in Africa are deciding when to start, in which sectors and how far to take the privatisation process, rather than why.

The majority of current World Bank literature has emphasized the use of pragmatism in privatisation in view of the consequences that may arise. Samuel, (1999) outlined 'Ten Commandments' for how to approach privatisation in developing economies as part of a due diligence and pragmatism. This is an important reference list for policy makers summarized as;

> **1.**Thou canst lead thy horse to water, but verily... Thou canst not make it drink.**2.** Know thy priorities: **3.** And there shall come forth a host of thine enemies **4.** Privatization must bringeth forth the benefits: **5.** Money is NOT the root of all privatization: **6.** Fatten thy calf before the slaughter: **7.** Competitive bids bringeth better bargains **8.** Involveth all stakeholders: **9.** Privatization costeth money (a lot of it): **10.** Thou shalt regulate and choose good advisers: (Samuel, 1999, pp.30)

This in essence captures the cautionary approach to privatisation in developing countries, alluded to initially by Stiglitz, (2003), in his analysis of the contradictions between globalisation, development and political leadership in developing and transitional economies. This is also evident in the privatization literature for the period of 1996 to 2003. For the COMESA region, and indeed sub-Sahara Africa, privatisation is linked to the macroeconomic burden experienced by public sector enterprises. The

strategy has been to improve the private sector, by reducing the burden of financing public enterprises[39], at the expense of developing infrastructure needed for a viable private sector to drive the economy. Privatisation should be done in such a way that it does not create private monopolies that are equally in- efficient and cause 'unnatural monopolies', Gayle and Goodrich (1990).

Regulatory bodies have been used to 'keep an eye' on the performance of the enterprises, rather than to help the privatised entity not revert to an unnatural monopoly, predation, or unfair/unequal access condition. Some governments argue that they do this because domestic interest groups do not benefit in the same measure from policies of privatisation and deregulation. Some form of protection for existing income distribution patterns is required even in cases where it limits competition and potential efficiency gains (Corden, 1997). TLK privatization is an example, having ended its exclusivity (monopolistic) period in June 2004, and is now experiencing the challenges of competition (Wallsten, 1999, pp.3-5).

The Canadian telecommunications sector is a case in point. Besides, this evidence shows that regulated natural monopolies can be difficult to privatise in a responsible manner because rate regulation typically involves pricing criteria, which allow cost recovery together with a return on capital (Gayle and Goodrich (1990). In this case, regulators may find themselves managing privatised utilities, or serving producer rather consumer interests; Kenya Power is a classic example of this (Mwangi, 2003). In the USA for example, since the divestiture of AT&T on January 1, 1984, seven regional holding companies that resulted from it have found themselves dealing with the inconsistent requirements of fifty state regulatory bodies, as well as those of the US Justice Department and the judge who oversees the divestiture decree.

Privatisation of natural monopolies raises issues that relate to performance and reforms. The same governments who have to give up control of the pubic enterprises establish the regulatory bodies (Foster, 1992. p.4) in order to assure consumers that they are interested in the performance and subsequent service provision of the privatized entity; however, the governments are often the ones that resist change. In the process of resisting change and manipulating market forces, regulatory offences are committed. A

[39] ibid

key economic regulatory offence is that of unnatural monopoly, where a monopoly or dominant firm is not more efficient, but only more profitable, because it can abuse its monopoly power (Wellineus, 1999, p.5; Wallsten, 1998). There are three key regulatory offences; unnatural monopoly, predation, and unfair or unequal accesses (Foster, 1992 p.5). Where competition is not available or efficient, an effective regulatory system will be needed to prevent the abuse of monopoly; however, the same governments who want to maintain monopoles are the same one who are charged with creating effective regulatory institutions.

Foster (1992) has argued that since most natural monopolies are intrinsically predations because they embody networks or grids, the most demanding process then becomes interconnection, that is, creating competitive access to those networks and TKL and Telecoms in COMESA is no exemption. By comparison with interconnection, yardstick competition is creating entities whose performance can be compared. Though useful to regulators, it is not a real extension of competition. To counter these offences of excess profits and inefficiency some regulators in the US have persisted with rate of return regulation. It is important to keep in mind that privatized monopolies' performances are not guaranteed, due to the creation of market imperfections and for reasons of monopolistic tendencies of PEs (Newbery, 1999, p.13; Laffont, and Tirole, 2000, p.16).

However, market imperfections make it impossible for market forces to achieve an efficient allocation of resources, so it is safe to assume that regulation is supposed to recreate what market failure has destroyed. The pursuit of non-economic objectives of a regulatory body may in many circumstances weaken its ability to serve the objectives of economic regulation and be undemocratic. For example, this is so in addressing the challenge of whether a change of ownership is essential to overcome the problems of public enterprises, and how far such problems could have been and can be overcome without a change of ownership. Public enterprise reform (liberalization) as an alternative (or as a first step) to privatisation is advised by most practitioners as a response to the ownership debate (Foster, 1992).

Besides, in most developing countries there is a tendency for management competence in the private sector to be low, capital is scarce, and thus domestic investors (bidders) may be non-existent. However, just as the widespread foreign ownership of enterprises in the late 1970s contributed to nationalization, privatisation will inevitably invite

charges of "recolonization." Although as discussed before, these charges are often rhetoric calculated to cloud the debate on privatisation by those with a stake in the status quo. The World Bank, trade analysts, African governments, and regional trade institutions[40]have come to the realisation that there is need to liberalise further and restructure enterprises (see field interviews) before privatisation especially where the politicians have entrenched themselves in the enterprise to be privatized as in the case of TKL as a major employer for 'voters.' This helps in addressing some of the conflicting objectives, interests, long term effects of imperfect markets and monopolistic tendencies in the utility sector as argued by Newbery, and Pollitt, (1997) and as confirmed by the findings in chapter five.

[40] These are: Common Market for East And Southern Africa – Free Trade Area (COMESA-FTA), East African Community, (EAC), and South African Development Corporation (SADC)

2:4 APPLICATIONS OF PRIVATISATION STRATEGIES AND APPROACHES

2:4:1 Privatization Approaches, Strategies, Methods, Techniques and Current Trends

The underlying assumption in the literature outlined is that various theories explain why some methods of privatization may be preferred. A few examples of the impact of privatisation on the success of divesture programs and on enterprise performance (Marconi and Wijnbergen 1997) give an indication of why different methods are used by governments in developing and transitional economies alike.

As the theoretical debate continues, small and large-scale privatisation has been taking place. Several units of property have been disposed of in Britain, Australia, Argentina, Canada, Asia, and the USA, Kenya Uganda, Tanzania, Zambia, Zimbabwe, Namibia and South Africa, to mention a few (section 2:4:2). Large scale privatisation is pursued through complex programs combining several forms of privatisation (Edgren, 1987 Cook 2001; Killick 1998); Cook and Kirkpatrick 1995) e.g. outright sales, public offer for sale or stocks, foreign investment, marketing of shares to local investors, and investment tailor made programs designed to attract government employees' local savings (these are dubbed the "Golden Handshakes" in Kenya).

The privatisations' experience, practice and approaches are also very prevalent in the literature. Case studies undertaken by the World Bank Research Group specifically from Africa, Malaysia, Singapore, and Chile feature particularly heavily (Singapore Port Authority:2000; Loizos 1999). These cover almost every aspect of privatisation (on a case by case basis) in their respective countries, such as privatisations in Malaysia, performance in Singapore, and public enterprises before and after privatisation programs in Chile. They cover sectors like the water supply, waste removal, telecommunications and airlines (i.e. Singapore Airlines, and Malaysian Airlines) (World Bank, 2002: 1994: 1989). The case studies are well picked for the relevance of the privatisation experience of other LDCS. However, the Singapore case (as in the Telkom Kenya case) is unique as regards the programs for privatisation in Singapore. These are different compared with those of other LDCS like Kenya. The distinct difference is that the Singapore government explicitly stated that their major objective

was not to raise funds from their divestment programme to the exchequer, whereas financial consideration in the 1980s/1990s was the major factor for LDCS to privatise. This is still the major motive for privatisation for most African countries, and Kenya in particular, made it clear that its main motive for seeking a strategic partner in the privatisation of TLK was to raise funds and to acquire new technology for restructuring.

Methods, forms, objectives and techniques[41] for privatisation and expansion of the enterprise depend on the strategy and approach of each program. The literature has highlighted of why governments prefer various methods. The most spectacular privatisations worldwide have been those that aim at attracting large numbers of shareholders into partnership and co-ownership in what were state owned industries. A public offer for sale may include a majority or a minority of shares. Some governments like to retain some shares or require that local investors retain the majority of shares. A public offer often needs quite a substantial amount of background and preparatory work to be done. Due-diligence is required as a matter of private sector standards; this might involve: the accounts, legal title, legal structure of the industry, policy and review. This has to be undertaken, to ensure that the terms of trade and requirements placed on the businesses are clear to investors. All these have to be done before the sale (Schulssebaur, 2000). In the provision sector, load shedding could be used as a method of privatising. In this case, the state withdraws from the production of a service but does not redesign the program into a purchase-of -service arrangement.

The trade sale, which is a technique where assets that do not have a good track record are disposed of, typically through a public offer, requires the preparation of a sale memorandum, which is usually more detailed than the prospectus which sets out details of a company in a public offer for sale. Once the memorandum has been prepared, several techniques are used to arouse interest and negotiation of the price (Welch, and Fremond, 1998). An auction is then used to dispose of the sale. The other forms of privatisation commonly used are, voucher or coupon exchanges, negotiated sales, stock distributions, management-employee buyouts (MEBO/EBO), leasing contracts, joint ventures and the contracting out of traditional state functions and are defined in the glossary section of this thesis. The latter is usually achieved through concessions and

[41] see definition of methods in glossary and findings in chapter five

attracting private capital into infrastructural projects (Shafik, 1993). Arrangements are based on build –own-operate (BOO), build-operate-transfer (BOT) or build-own-operate-transfer (BOOT). Joint public and private investment based on BOO structures is particularly popular in Middle Eastern countries.

It is however important to note that just as pragmatism and due-diligence is well advised to be custom made so are these methods. They differ according to the social, political and economic environments of each country, and sectors of operation. Classic examples of customized methods of application can be found in Eastern and Western European privatisation cases. Poland for example, used spontaneous versus centrally controlled methods to privatise the SOEs earmarked for privatising which were from the non-farm private sector. In 1989 this accounted for 10.3 per cent of industrial production and employed less than 14.1 percent of the non-agricultural workforce and consisted mainly of unincorporated businesses in crafts, service and retail trading.

The real turn-around came when the private sector expansion was realised, with the coming into power of the Solidarity controlled government of 1989. Due to this rapid growth in the private sector, the most important practice and method in privatising the Polish economy became 'spontaneous uncontrolled privatisation'. Gomulka (1993), and Jermakowicz, (1993) defined it as 'organic privatisation' and suggests that the two terminologies are interchangeable. "The spontaneous or organic privatisation involves setting-up new private businesses and the autonomous growth of existing private businesses". The latter is due to asset privatisation, which encompasses the purchase of equipment, machinery, or means of transportation from the state-owned enterprises. By 1993 spontaneous privatisation encompassed approximately 99.9 percent of all new private businesses (Balcerowicz, 1993).

The other methods used in Poland were under one strategy of centrally controlled privatisation. This strategy assumed at implementation five main ways to privatise which were namely; a) commercialisation followed by privatisation; b) privatisation through liquidation (i.e. by dissolution of enterprises);c) foreign investment through joint ventures; d) re-privatisation or restitution and e) small- scale privatisation "program prywatyzacji". The Polish government found these methods and strategies of privatising to be more realistic in their view, recognising that privatisation would not only take time but would also require a multi-approach comprising separate paths for

the various categories of enterprises (Jermakowicz, 1993), often with a simultaneous use of different methods within a category. At that time, this was not the view of the consultants and experts as they used a 'customised approach'. Jermakowicz aptly states;

> ...At that time, great optimism prevailed that privatisation and foreign investment would solve most of the country's economic problems and that the process would be accomplished relatively quickly. The illusionary nature of this view became apparent when the newly established office of plenipotentiary for transformation changes together with western experts began preparing the legal, regulatory, and institutional framework for privatisation. These foreign experts initially focused almost exclusively on a firm by firm sale strategy, not unlike the program in which they participated in other parts of the world "this customised approach is," as Lipton and Sachs (1991, p.12) wrote, "likely to bog down for political, economic and financial reasons well before a significant portion of state firms are actually privatised" (Jermakowicz, 1993, p.*66).*

From this thesis review, forms and methods are therefore best dealt with on a case by case basis, furthermore new ways emerge as environments change and as social-political circumstances intervene to re-shape economic paradigms. Allowing for new creative techniques as further discussion and empirical findings of the privatisation of Telkom Kenya in chapter five indicates an important step forward.

2:5 Trends[42] and Impacts of Privatisation

The impact of privatization is a popular topic in privatization analysis in the developing and transitional economy writings. This research addresses the impact of privatization only as it affects the choices made in approaching the privatization process rather than an evaluation of the approach and program and assessing its impact to the Kenyan Economy.

Indeed many emerging economies have recently launched ambitious efforts to privatize their state-owned enterprises (SOEs), with the intention of replicating the success of these programs in industrialized economies (Megginson, et. al, 1994). The volume of privatization has increased in emerging economies, from $8 billion in 1990 to over $90 billion in 1999 (OECD 2000). Nonetheless, research shows (Frydman et.al 1999, McDonald, 1993 and Park, 1997), mixed empirical evidence concerning the success of such efforts. For example, Frydman found that privatized firms outperformed SOEs in the Czech Republic, Hungary, and Poland. Wright et.al (1998), further describe the experiences of many Polish and Russian firms that have failed to achieve efficiency after privatization. Furthermore, Park, (1997) found mixed support for privatization among fifteen Korean firms; six firms increased efficiency, two had decreased economic performance, and the seven remaining firms' performance did not change, indicating that the impact of privatization varies.

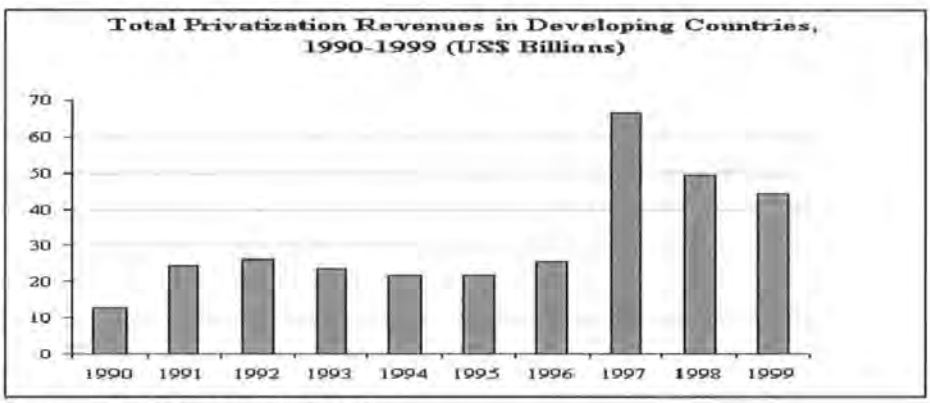
An analysis of trends of privatization over a decade (1993-2003) reveals that private participation in the infrastructure of developing and transition economies has increased dramatically (figure 2-3). There have been over 1000 transactions in over 100 countries in the last decade (1993-2003). According to World Bank figures provided on its sister website the "Privatization Link," privatization proceeds as an indicator of the increased privatization activity all over the world have:

> "Risen from US$12 billion in 1990 to US$44.1 billion in 1999. After reaching peak revenues of $66.6 billion in 1997 privatization transactions slowed down considerably in 1998 and 1999 (see figure 2-1). This trend was in part caused by the *East Asian and Russian crises as well as the completion of major elements of the Brazilian privatization program. The World Bank data for 2000 suggest that privatization proceeds have risen again, reaching an amount of over 65 billion above the peak levels reported in 1997.*" (World Bank/Privatization Link: 2004) " As shown in figure 2-1

[42] See abstract on page (iii)

There is therefore every reason to believe that as African countries step up the speed to their privatization programs and the transitional economies, China, and Asia increase the sectors for privatization, those volumes are expected to continue throughout the rest of this decade (2003-2013) as indicated by Wright and Perrotti (1999). The empirical findings of this research show some of these trends, and volumes in the world, the COMESA region and Kenya.

Figure 2:1 Total Privatization Revenues in Developing Countries, 1990-1999 (US $Billions)



Sources: The World Bank, (2000)

Accordingly, as seen in the regional distribution figure 2:2 (of the World Bank) sub-Saharan Africa accounted for just over $2.5 billion of the world's proceeds as the world's total proceeds fell short of $70 billion in 1997, falling to just below $50 billion in 1998.While Africa, South Asia, East Asia and the Pacific, Europe and Central Asia fell to below $0.8 billion with the exception of Latin America and the Caribbean (figure 2-2).[43]

In 1997, Africa's increase in privatization revenues, activity and private sector participation could be explained in part by the increase in private capital flows to Africa that were responding to liberalisation reforms of the specific sectors,[44] thus creating a better climate for the private sector. In 1993 for example, net private flows were still negative. In 1995, net private capital flows increased by 75% and by an estimated 30% in 1996, reaching $11.8 billion. There have been some notable foreign direct investment

[43] It is important to note that these privatization data include proceeds from domestic and foreign investors as well as direct and portfolio investments.

[44] i.e. Transportation, Banking and utilities sectors, involving the Air industry, Privatizations of Kenya Airways (KQ), Uganda Airways, Tanzania, Airways, and Zambia Airlines In (1993-1997). The 1996 Banking crisis in Nigeria and Kenya.

success stories. Uganda's foreign direct investment rose by 38% in 1995 and an estimated 28% in 1996, Tanzania's foreign direct investment rose by 200% in 1995 and an estimated 27% in 1996. A further look at portfolio equity flows showed that Cote d'Ivoire received $30 million in 1996 up from $3 million in 1995, and Kenya received $15 million in 1996 up from nothing in 1995 as indicated by Wallsten, (2002) and World Bank, (2000) respectively.

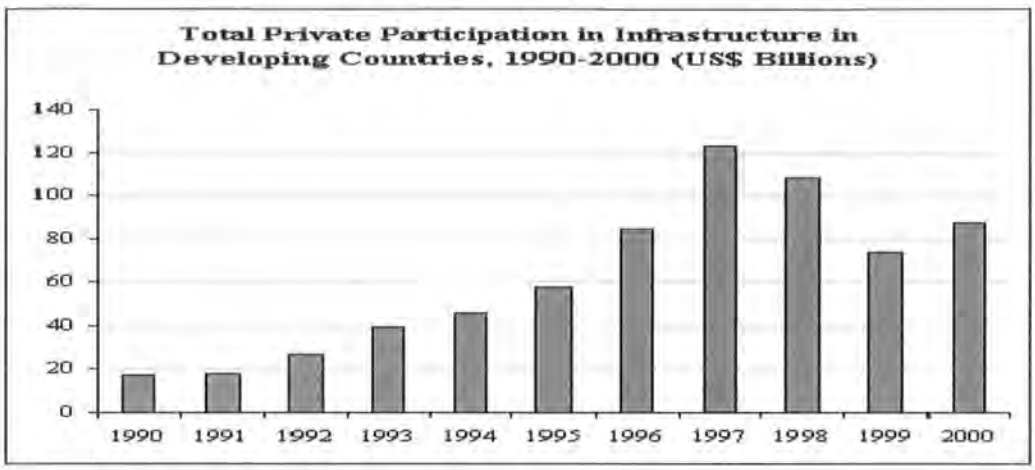
Figure 2-2 Privatization Revenues in Developing Countries by Region, 1990-1999 (US $ Billions)

Sources: The World Bank development report (2000)

In specific sectors, the transportation and infrastructure industries have taken up the largest share of revenues. According to the World Bank figures shown in Figure 2:3, transactions in telecommunications raised overall revenues in the period 1997- 1998, while the primary sector rose in 1999, overtaking the infrastructure and the financial services and manufacturing during this period as shown in figure (4-1).

The figures show that private activity in infrastructure rose within the decade of 1993 - 2003, whilst between 1990 and 1997 private sector investments in infrastructure rose from US$16 billion to more than US$120 billion. At the same time, the financial crises in East Asia and Russia in the late 1990s caused an investment decline of 20 percent in 1998 and 30 percent in 1999.

Figure 2-3 Total Private Sector Participation in Infrastructure in Developing Countries, 1990-1999 (US $ Billions)



Source: The World Bank , (2000)

In terms of the infrastructure by regional distribution, most developing countries have some private activity in infrastructure but Latin America and East Asia dominate investment. Consequently, Latin America and East Asia were most heavily affected by the downturn of private investment activity. World Bank figures for 2000 however, show a significant recovery, as noted in the regional private sector participation distribution chart (figure 2-3). In terms of sectoral distribution, telecommunications and energy account for the largest share of private participation. The downturn in activity in 1998 and 1999 affected those two sectors most, but was also felt particularly in the transport sector and to a lesser degree in the water sector, as shown in the sectoral distribution figure 4-1. More specific country and COMESA region trends discussed in the field findings show that the lead COMESA countries (i.e. Egypt, Kenya, Uganda and Zambia) were undergoing liberalization, restructuring and privatization in these sectors, that had affected revenue and performance (Tables 4-1 -4-13)

Despite the alternative view held on rising numbers as an indicator for well done privatizations, the rise in privatisations at regional, national and sectoral levels does not in itself suggest that all privatisations are done well and are beneficial to all. For instance, for the first time since 1994, global privatisation activity recorded a sharp decline in 1998. Proceeds dropped by 26 percent to around US$ 145.5 billion, from an all time high of US $ 153.8 billion in 1997 (figures 2:1-2:3). Kenya's proceeds dropped from a 1999 level of $10 billion to below $300 million. This coincided with the fall of private sector investments in all sectors (2-2) (i.e. manufacturing, primary sector,

infrastructure and the financial and service sectors). Consequently, the private sector and the progressive public sector view is that, privatisation through consistent stakeholder participation partnerships should be encouraged. This process can be carefully planned privatisation programs that target entities with the potential to boost the economy through increased savings and entrepreneurial investments. Inevitably, those monopolies that have not experienced growth for a long period of time will in the short run experience "bad" privatisations, due to job cuts and expensive and slow institutional restructuring that negatively affects employees and third parties.

However, in the end, the research findings of this thesis (chapter five) show that they create a more robust and skilled workforce (Szymanski and Haskel 1992) especially in the telecommunication industry, where technology keeps changing, and employees seek to keep up with the changes in technology, growth, and expansion. Nellis (1999) points out that those countries that have implemented rapid programs of mass privatization show no signs of better economic performance than the countries that have undertaken a more gradual reform path. This suggests that the approach and not the pace is significant.

In the United Kingdom the basis of privatisation's political debates was/is Thatcherism, in Australia it was the Labour government, and in the USA it was interest groups. In Africa, there are special cliques of "public interest groups" within governments whose management and operations have accumulated large budget deficits that are choking their economies and which are forcing the privatisation momentum upwards (Steel and Heald 1982, pp.14-15). Most governments have welcomed privatisation or the rolling back of public sector as a way of restricting the power and influence of the trade unions. The Thatcher government used this strategy quite openly and successfully.

The privatisation of public enterprises (PEs) in Britain was seen by the government as contributing to four objectives; i) enhancing freedom by extending the sphere of the market and contracting that of the state; ii) improving efficiency through the private sector; iii) the reduction of the public sector in Britain and iv) the re-introduction of market disciplines missing in the determinance of public sector pay. It is/was common for these arguments to be deployed in Britain and in Africa without qualifications; however lately, this has changed. There is a now growing need and requirement for a careful balancing of the merits and demerits of public and private ownership, and of the

scope and clarity of efficiency and competition on a case by case basis (Heald, 1985). Increasingly, the state is confining itself to the role of exercising specific regulatory and fiscal functions, during the introduction of economic liberalization and deregulation policies in the process of facilitating economic reforms and privatisation, which are viewed by citizens of these countries as a way out of an economic mess. As Kisero, (2000)[45] outlines:

> "... The darkest shadow looming over the economy is that of national indebtedness. This huge debt is the principal cause of upward pressures on interest rates in the economy. Debt service and the domestic debt has been crowding out the private sector from credit...clearly, we must bring these debts down as we have no right to saddle the future generations with debt. The government should consider itself unauthorised to burden posterity with its debts, which is why privatisation of Telkom Kenya and indeed other strategic parastatals must be allowed to go on smoothly and insulated from intrigues of powerful individuals bent on manipulating privatisation projects for personal aggrandisement".

In Britain, the current 'New Labour' government seem to hold a flexible view on privatisation and reforms as a member of the government retorted on a Radio 4 program;

> " where markets work let us have the private sector – but where markets don't work (i.e. health) let us have public sector reform"... (New Labour Government Minister on Radio 4 News February 2003)

However, trends and approaches to privatization and their impact on socio-economic structure casts concerns suggesting that in some cases privatisation has promised more than it has delivered. There are many cases where privatisation has not led to efficiency improvement especially in situations where the degree of competition has remained unchanged before and after privatisation (Shusselbauer, 1999). In central Europe for example, market reforms have not achieved the intended objectives, instead it has hindered the development of entrepreneurs (Spicer, et. al 2000). When this occurs the more dramatic effects and impact related to unemployment caused by downsizing are highlighted and become the focus.

In Tanzania, the debate and reluctance still lingers on, as do the fears of costs and repercussions of unemployment caused by downsizing. Rama and Newman (2002), have addressed the public sector restructuring, including labour downsizing, and argue that it has been one of the main areas of policy activism in developing countries and

[45] Kisero J., The Daily Nation 2000

transition economies, but little is known about its actual effects. Rama and Newman used panel data on Colombian enterprises spanning more than one decade to assess the impact on several productivity indicators. The results suggest that the productivity gains from downsizing are larger in state-owned enterprises than in private enterprises.

Chong, and Lopez-de-Silanes (2002, p.1) of the World Bank have argued that poor labour force restructuring is a key concern and that governments should establish better retrenchment programs. The field evidence in this thesis supports this argument with the analysis of TLK and KQs[46]which lacked a well set-up and organised program to address the challenging labour issues that arose during restructuring and after privatization (as discussed in chapters four and five in detail as the "union debt").

In most cases however, the governments in developing countries do not want to let the new owners retrench due to control and political implications. Infact, as the secondary data in chapter four shows, the main reason for the breakdown of the transaction negotiations was disagreement on the treatment of an "excess workforce" of an estimated ten thousand employees, that had been demanded by the investor (MKC) and the World Bank. This research found that if this is not done it leaves the privatized TLK with a downsizing problem that shows signs of a liability that will negatively affect its schedule and future operations in a new competitive market .

Unfortunately, for markets to respond positively for a business to be privatised, issues of over-employment and underemployment (quite common in parastatals) must be addressed by the interested investors. In most cases, the investors find the burden of taking on a 'bloated' workforce unattractive. However, Kirkpatrick (1988) and Ghal (1985) disagree with this argument when they argue that privatization as a policy option has been greatly exaggerated and that an improvement in the economic performance of SOEs is more likely to flow from increased market competition rather than from a change in ownership of enterprises that involves downsizing unskilled employees. Ghal charges that Africa could not erect a private sector on the foundation of competitive forces in an economic system in which competitive markets were non-existent. The solution to the current performance problems of the Public Enterprises (PEs) (defined on page 2) according to Ghal is one of restructuring and improvement, which the GOK

[46] ibid

demanded to do with strategic enterprises. Indeed, the findings show that the GOK and the TKL management preferred restructuring first before privatization The International Labour Organization (Powell,1987), contends that this is the way to proceed, notwithstanding full recognition that privatization today is more acceptable in a growing number of both industrialized and developing countries (Nankani,1990).

Retrenchment and downsizing have contributed to the unpopularity of privatization programs. There are still ongoing debates on the subject amongst the majority of the citizenry from Kenya to Uganda, Tanzania to Southern Africa and Central, North and West Africa. Privatisation is seen by the public sector and some sections of the population as a return to colonization (GOK 1997) [47] despite the poor economic performance experienced by these public firms.

Generally, the impact of privatization has had mixed consequences. In some countries - Chile, Britain, and Portugal - there has been an undeniable widening and strengthening of the private sector. Elsewhere, in Africa and the ex-communist bloc, lack of political will, lack of policy ambition and lack of financial capacity combined with constitutional and political obstacles have left public sectors more or less intact to the frustration of international funding bodies who insist upon structural change.

Indeed, one of the major paradoxes of privatization may be enhanced indirect state control of privatized industry through regulatory agencies (Majone, 1994). For example, the British conservative government under former British Prime Minister Margaret Thatcher started and accelerated the privatization program. The British government also encouraged the world to privatize by example. Over seven major commercial airports[48] were divested. These included Heathrow, Gatwick, Aberdeen and Stansted. Over 1.4 billion shares of stock in the airports were sold to over 2 million Britons raising revenues of over $ 40 billion.[49] Whereas this provides good political mileage for the government, it does not however give the whole picture of the social and economic implications (Reed, 1992).[50]

[47] Sessional Paper No. 2 on industrialization
[48] Airport Privatization: (GAO/OECD 1996).
[49] One of the privatization objectives under Thatcher was to encourage the public employees to be supportive and buy stocks at discounted prices
[50] This approach has not worked in Kenya and COMESA because ownership is still disputed and politicized

In summary, due to the intrigues and varied approaches to privatization, the study of its impact exhibits variation too. It has been plagued by several difficulties, some of which are explicitly explored by Aharoni (1992) and Wright and Perrotti (1995). The first complication lies in the extremely varied scales, forms and techniques of privatization. Different governments have pursued privatization with very different degrees of enthusiasm and success. The second complication is the distinction between its financial, economic, political and social consequences. Third, even if we restrict ourselves to the economic level, the effects of the enterprise have to be explored at both sector and system levels. The fourth complication arises from the fact that it is not always easy to unravel the impact of privatization 'per se' from that of the change of management, the technological transformation of the sector reforms in the labour market and in the regulatory environments. Fifth, the criterion for assessing the impact of privatization is exploring the consequences for 'efficiency'.

There are, of course, great problems in comparing the performance of public and private enterprises because the criteria for evaluating performance are varied. Private sector management has, in principle, a basic duty to maximize profits for shareholders (the reality may be messier); that is not the case with public sector firms. Difficulties of comparing have not prevented comparison but the evidence is confused and far from conclusive. Several studies[51] however, suggest that privatization does improve efficiency, but the weight of evidence does not appear to support any general intrinsic efficiency of private ownership. Rather it points to the scale and nature of competition as the key factor. Efficiency also appears to be enhanced when owners are closely involved in management (Stiglitz 1986).

The task becomes even more complicated in the countries of Africa, Eastern, and Central Europe, where privatization is occurring at the same time as other basic structural reforms such as those of the legal system, of accounting practices, of banking systems, and of financial markets. Additionally, a distinction should be made between the short-term and long-term consequences of privatization using a non-partisan criterion. Otherwise we are often reduced to the counterfactual or the speculative in assessing its impact, more so from a partisan perspective. TKL for example was viewed as a strategic enterprise economically and politically and fits into this typology.

The studies of Latin American and Central European provide very different messages Werner and Nazmi (2000) point to the 'fragile' character of the privatization process and cast doubt on the regulatory capacity of the weakened state to produce allocative and productive efficiency. Rocha (1994) and Werner (2003) are critical of the results of privatization in Brazil, whilst Shirley (1994) on the other hand is somewhat more optimistic and suggests that there are lessons to be learned by developing and transitional democracies in Central and Eastern Europe. (Shirley,1994 and Ramanadham (1995).

The complex nature of the political consequences of privatization is also high. Ayubi, (1992) in his study of the privatization program in the Middle East argues that such programmes may involve changes in the ruling coalitions but will not necessarily lead to political liberalization. Some of the paradoxes be they transitory, sectoral or country specific, are more apparent than real (Shirley, 2001). Others, however, are structural in character, and point to the problematic character of privatization, an argument made by Kiss, (1994) in a study of privatization in Eastern Europe, and in an analysis of the programmes carried out in Western Europe and Africa.

Yet, in spite of its problem-ridden nature, and in spite of the challenges and resistance of certain groups i.e. development, social and political theorists, privatization is likely to remain on the policy agenda of most governments, whatever their political hue (Samuel, 1999). In a period of challenging fiscal environment and internationalization, governments, squeezed by a powerful group will ensure that privatization remains a 'policy fashion'. This research's thought and analytical process emanates from, and upholds, this perspective

[51] Shirley (1994); Megginson, et al. (1996); Aharoni (1991); Ramanadham, (1989a)

2:5:1 Privatization in East and Southern Africa

Until the entry of privatisation in late 1980s the Kenyan and Tanzanian economies were dominated by an elaborate system of state enterprises - the parastatal system. Parastals in East Africa are defined as;

> 'Commercial enterprises owned by the government or with majority government participation and are run on commercial principles and whose accounts are not directly integrated into the government budget'. (Kenya National Assembly (1983, p.20)

The number of parastatals in Tanzania started to increase rapidly after the Arusha Declaration of 1967 which committed Tanzania to socialism (Nyerere, 1973). By 1967, there were only 43 parastatals but by 1970 the number had risen to 85 and by 1974 it had risen to 139 and has continued to rise (Aseto and Okelo, 1997). The significance of the parastatal sector in the Tanzanian economy may be gleaned from the capital formation in the country by sector. In both Kenya, whose business and trade policies tend to be capitalistic, and in Tanzania where they tend to be socialistic, there are parastatals in every sector of the economy: agriculture, mining, manufacturing, transportation, communications, commercial, finance, and services. As has been indicated before, this tendency towards the development of state-owned enterprises is not limited to countries with socialist aspirations such as Tanzania. The trend is/was very strong in countries such as Uganda, Kenya, Rwanda, Burundi, Egypt and Morocco, which all lean towards capitalism. Ake (1981) argues that that state capitalism arises primarily out of the desire of the national petit-bourgeoisie which inherited political power from the colonisers to create an economic base for its political power. While Reed (1992) argues that they provide services that the private sector cannot provide.

Privatisation literature and programs in the context of COMESA[52] region are relatively recent. Regional perspectives presume that increased privatisation should free up the markets, create competition and hopefully increase regional integration and produce business opportunities. The privatisation process can be said to encourage business opportunities and contribute to regional trade integration. As clearly indicated by the thesis survey in chapter five, COMESA has contributed to new businesses under its

[52] see detailed discussion on COMESA Appendix2, Annex IIIb

divestiture programs. Lessons on privatisation transactions are important in examining the process. Some countries are more difficult than others (Samuel, 1999; Shafik, 1997), but where markets are already competitive and policy is market-friendly, privatisation is easier. Where the private sector is small, capital markets thin and the interest of external investors is limited, the sale of enterprises even in competitive markets may be difficult (contrast Egypt, Zambia, Kenya, and Uganda and South Africa). Some sectors are harder than others, and timing is crucial as partial privatisation can have an impact on special circumstances. Political and social issues raised here may cause reluctance in privatisation, which often may lead to the creation of private monopolies. Indeed, the privatization approach should always seek to develop and strengthen the private sector (World Bank, (1998); Commonwealth, 2000; 2001). In the case of Kenya the research findings analysis outlines the process of transfer from SOEs/parastatals to privatized firms in detail.

2:5:1:1 Monopolistic Tendencies- Evolution of Parastatals in the East African Sub-Region

As is generally recognised, the nationalist movement, which arose from the contradictions of the colonial economy, achieved political independence and not economic independence (Ake, 1989). The change in the locus of political power was of course bound to have consequences for the locus and the distribution of economic power. However, these changes (often subtle) took a long time to register, and it is only more recently that they are beginning to be clearly discernible. Market imperfections and monopolistic tendencies are economic features of the colonial social formation that have been very slow to change.

Thus, the great monopolies of the colonial era used their advantages to their own good effect and survived, as is evident from the strength of their companies. Some of these are:[53] The East African Portland Cement Company; Kenya National Trading Corporation (KNTC), Block Hotels; Kenya Ports Authority; and Kenya Posts and Telecommunications. There is also United African Company; Kenya Railways; Kenya Commercial Bank (KCB); Kenya Reinsurance Company (KCR), Mumias Sugar Company, Chemelil Sugar Company; and the Agro-Chemical and Food Company Ltd. (ACFC). Under the umbrella of the Industrial and Commercial Development Corporation of Kenya are: Kenya National Properties; Kenya Industrial Estate Ltd; the KENATCO Transport Company; East African Fine Spinners Ltd; the Fluorspar Company of Kenya; Somerset Africa Ltd. and Kenya Mining Industries Ltd. The GOK still maintains a level of control in the majority of these enterprises, be it managerial or minority shareholding. More importantly, it is important to understand the origins of the monopolistic enterprises in East Africa and their relations to colonialism and multinationals.

Some elements of infrastructure activities have been said to exhibit "natural monopoly" characteristics; this means where the market can support only a single firm. Examples include electricity transmission and distribution, telecommunications networks and gas and water pipelines. This raises the issue of organizing an infrastructure industry to gain the advantages of production by a single firm, without encouraging monopolistic conduct. However, not all elements of infrastructure exhibit natural monopoly

[53] see annexes Va and VI

characteristics; (Mwangi, 2004). Market competition is both possible and highly desirable in many activities, such as electricity generation and long distance and cellular telephony, as indicated by Cox, et. al (2002, p.709).[54] Foster (1992) argues that a reason for the survival of the great monopoly enterprises of the colonial era and for the persistence of monopoly tendencies in the postcolonial situation, is that the monopoly concerned represented more than anything else an effective presence of international capital in Africa, to which the postcolonial economy remained and remains a client. The explanation of their persistence is subsumed by the general and persistent domination of the African economy by international capitalism.

Ake (1981 p.47) has submitted that the failure of particular monopolies to survive does not mean that the pressures for competitiveness, real or potential, are strong in Africa. Rather, the rise and fall of particular monopolies were reflected in the objective conditions of the metropolitan economy, particularly the oligopolistic rivalries between the multinationals, the state of development of productive forces and more generally in the competition between imperialisms and development. These realities, which may be summed up as representing the pathological maturity of a colonial and postcolonial capitalism into a monopoly stage, tend to allow for the displacement or replacement of particular monopoly enterprises without allowing for the displacement of monopoly by competition. A new dimension is the creation of a new type of monopoly resulting from state capitalism that is the involvement of the state in an entrepreneurial role. Tanzania and Kenya [55]present two of the most striking examples of this development.

The governments in East Africa established these enterprises, first, in order to promote industrialisation, economic growth and the development of productive forces. The assumption is that the interests of the private investors, which dominate the colonial economy, could scarcely be expected to be entirely harmonious with the national needs of development, particularly the need for industrialisation and the diversification of the economy. In their development, plans of each African government's state enterprises were seen in every African country as a necessary part of the process of industrialisation, diversification, the development of productive forces and of national economic independence. The second reason for the growth of these state enterprises is

[54]Cox J.C. et. al (2002 pp.709-736.
[55]These two countries have similar colonial background geographical landscape, language, and culture but Kenya is predominantly capitalistic while Tanzania has been socialist.

that they were crucial in the struggle for the control of the economy as well as the struggle for economic independence. It was necessary to encourage the development of enterprises controlled by nationals that could compete with and, if possible, displace those controlled by foreign capital.

The national bourgeoisies who came to office in the wake of the independence movement soon found that they were in office but not in power because they had very little control of the economy. They set up state enterprises with public funds and sometimes in partnership with private investors (Hyden, 1983). These enterprises were/are given privileges in regard to things such as import licences, credit and government guarantees of credit, tax concessions, government contracts, government patronage and preferred treatment in the granting of foreign exchange. In effect, they were given subsidies. Indeed some of them were given outright monopoly (i.e. Kenya Airways and KPTC) status in the very fundamental sense of having the exclusive rights to operate in a particular line of business or to supply particular commodities or services.

These state enterprises were needed not merely to compete with metropolitan capital for control of the economy but also to undertake some forms of investment which were considered necessary for development, but which the metropolitan capital would not be disposed to undertake. A good proportion of these state enterprises were started as a means to promote exports and to realise import substitution. It is also partly for these reasons that they were given monopoly privileges. The monopoly privileges were expected to help them to survive and eventually become competitive and profitable.

Some of the state enterprises came into being because of nationalisations of foreign-owned private enterprises. Such nationalisations have been recurrent and popular in postcolonial Africa (Aseto and Okelo, 1997, p.58). It is important to note that they were not necessarily motivated by ideological commitments. They occurred with significant frequency in countries with socialist aspirations as well as those with capitalist aspirations, although more so in the former than the latter. To all appearances, these nationalisations reflected the desire for local control of the economy.

The monopoly tendencies and market imperfections are highly significant features of the postcolonial economy (Ake, 1981). They affect the character of accumulation, the prospects of liquidating underdevelopment, the character of political competition and the prospects of political stability. The implications for socio-political economy are enormous, one of which is a narrow resource base. For any of the firms to become natural monopolies there must be obstacles to entry that even similar sized firms find it hard to surmount. The notion that successful privatisation should improve economic efficiency leads to the larger debate of economic regulatory offences, allocation problems, market failures and so on whose empirical evidence is not the subject of this thesis.

2:5:1:2 Rate of Industrialization and Privatisation in Africa: "Catch-22"?

Closely related to monopolies is the process of industrialisation in the East African Community (EAC) and COMESA at large which is a step towards competitive tendencies. For privatisation programs to be successful, Africa has to industrialize at a much faster rate than it currently does. The core principle in industrialization is building these complex networks of forward and backward linkages, which come from industrialization that can enable African economies capable of self-sustaining growth and has a direct effect on the progress of privatization. Ake (1981:1993) maintains that unless the rate of industrialisation is improved by rapid introduction of improved technology to enable African economies to break their cycle of "primary producers" comparative and competitive advantages, it would be difficult to improve their various sectors and remove constraints in the domestic market. Ake (1981) maintains that this can only be addressed through industrialisation, and he argues that this is the step necessary in order to privatise successfully. Only then, can competition, privatization and restructuring be viewed as a catalyst for overall development. The assumption being that during the privatisation process a business has to utilize the latest technology to be competitive.

The relevance of the industrialization (Ake 1981:1989, GOK, 1997, Aseto and Okello, 1997) argument to privatisation is important and with privatisation programs being financed by the World Bank, International Monetary Fund, and bilateral donor agencies it is difficult to foresee an acceleration of industrialisation. Moreover, apart from sustainability of the cost of privatization programs, there is considerable difficulty in the LDC governments to adopt entirely the concept of private enterprises provision of social services. In this regard, the basis for liberalisation spearheaded by the World Bank and the International Monetary Fund termed 'neo-liberalisation' by Konings-Giberto and Mommen (1996 p.224) cannot be entirely realistic, it is suitable for only western countries, and is bound not to hasten industrialization in developing countries.

This will indeed happen since the IMF and WB believe that rolling back the state and liberalising the economy will automatically induce economic development and democracy. The evidence is scant and unsolid. Furthermore, the current misnomer by the Bretton Woods institutions, that there is an intrinsic connection between capitalism and democracy, that is the notion that democracy is thought to enhance the prospects of

economic development, while economic liberalisation is thought to enhance the prospects of democracy (Beckman 1993; Jefferies 1993, and Mkandawire 1994a), inevitably has turned out not to be entirely true. In many cases recent World Bank reports signal not only a shift to a quest for democratic governments but also increasingly to democratic and dysfunctional institutional structures whose capacities cannot sustain adjustment, liberalisation, restructuring and ultimately privatisation without full collaboration from private sector and civil society (Dnes, 1996; Rama, 1999; and Hogan, 2001).

Mugerwa-Kayizzi, (1996 p.278) argues that whatever the intention, purpose and modalities of a privatisation program, the 'new industries' need the intervention of government as an enabler that creates the conditions under which the new firm can thrive after privatisation. This calls for the removal of constraints on tariffs, a legal framework policy, an investment policy, infrastructure, and energy saving investments in order to improve competitiveness. Transaction costs have to be reduced and financial availability and credit affordability have to be guaranteed. In the case of COMESA, governments have to create this environment under the new free trade area of COMESA[56] as a requirement.

The International Monetary Fund and the World Bank have to realize that while the pace of privatisation has been rapid in some countries, manufacturing output growth has remained very weak because change of ownership has not removed the structural weaknesses of former parastatals (Ake, 1993). For example, after the removal of credits and subsidies enjoyed by TLK, alternative financial sources are still inadequate due to small and undeveloped equity and stock markets, whilst access to financial institutional loans is still limited. This means that privatised companies are unable to rehabilitate equipment or introduce new technologies as promised in the letters of intent (of the World Bank, 1991 grant agreement, with GOK)[57]. Other limitations include slow legal regulatory structures, a lack of skilled labour, a lack of access to technology, poor physical infrastructure, policy reversals[58] and a lack of political will.

[56] BAH/USAID Telecommunications Report (1999)
[57] ibid
[58] For example, SNO tendering processes cancelled by the Minister, September, 2004

2:5:2 Political Dimensions of Privatisation

Political dimensions contain several important theoretical and practical lessons. Yet, privatization raises many other political questions. At the logical level, for instance, it raises the sensitive issue of nationalism (Ake, 1981). The financial market place is increasingly apatride as it ignores national frontiers. Nevertheless, should small countries with inadequate financial markets allow their privatized industries to fall into foreign hands?[59]

The question has been posed with increasing anxiety in several transitional democracies and in some developing countries (Hanke and Walters 1990, pp.97-108). Moreover, which industries are considered so 'strategic' that they have to remain in state hands? Answers to these questions revealed different national industrial cultures. So too do reactions relating to the regional development labour market and employment dimensions of state enterprises. Clearly, perceptions of the role of the public sector differ very sharply from one country to another and these embedded perceptions shape the nature of the privatization programs pursued. Stark (1990) makes this point when describing the privatization processes in Eastern and Central Europe. If industries are privatized, what degree of control continues to be exercised by the state, through such devices as limiting the percentage of shares allocated to foreigners, structuring ownership around national firms, state representation on the board, retention of a blocking minority of shares[60] or even through a 'golden share' which confers veto rights in certain circumstances? Privatization demonstrates the power of both the market and the state (Wallsten, 2002).

Furthermore, politically motivated privatizations may involve an important redistribution of power at the national level and it is certainly not politically neutral (Nyong'o et al, 2000). In the *first* place, actors in the privatization process are often 'bound' by constitutional and legal norms; as Gui (1994) argues, courts are often mobilized to define the parameters of the programmes and have sometimes limited the scope or slowed down the pace of the privatization drive. *Secondly*, and this is one of

[59] The Kenya Parliamentary debates: The Weekly Hansard 1998; See also The Standard of April 28 2004

[60] GOK divested from enterprises, still maintain minority shares in some Parastatals.15% shares in KCB 11% in Safaricom

the most important lessons of privatization - the pursuit of radical privatization programs requires a great deal of political will and durability and a capacity to mobilize a pro-privatization constituency, clearly a public relations strategy.

This may also involve the introduction of new actors or the strengthening of existing pro-privatization actors such as commercial banks and financial markets. It may also mean an attack on the coalition of interests, which protect the public sector and a reshaping of the sectoral policy network in the industry destined for privatization (Richardson, Maloney, and Rudig 1992). *Third,* and linked to the previous point, privatization involves winners and losers; a fact that is not lost to governments intent on rewarding supporters and penalizing opponents. This is demonstrated by Pint (1990) and Dunleavy (1986) in their rational choice analyses of the British privatization program, and by Boix, (1997), Feigenbaum, and Henig, (1989) whose comparative studies highlight the role of partisan choice in dictating the scale of privatization in several countries. This is also demonstrated by African and Asian governments, where when the government changes, all policy and management changes (i.e. Bangladesh, Pakistan, India, Nigeria, Zambia, Egypt). Kenya's TLK, KQ and KCB management changes by the government are recent examples.

Privatization also has significant *institutional* implications. Not only has it often involved the courts, it has also required institutional innovation through the reshaping of policy agencies that can push through privatization by creating agencies to implement privatization. The '*Treuhandanstal'* in Germany is perhaps the best known (Meaney 1995) and through the establishment of bodies to regulate privatized monopolies. The contribution of Guislain, (1995), provides a good account of the role of both traditional and new actors (such as legal and financial advisers) in various privatization programs. Meaney's (1995) argument is an excellent description of the role of foreign financial experts and of privatization ministries in four countries of the ex-communist bloc. What emerges from this analysis is that successful privatization requires not only political will but also robust financial and political institutions that ensure markets to operate consistently as findings of the field research show in chapters four and five. The study of the privatization of state-owned enterprises in Ghana by Danso, A. (1998) is but one of many which underline this point.

Finally, as a consequence of the above factors, privatization raises fundamental ethical questions about justice and citizenship - a point made forcibly by Buttle (1993) who questions the moral premises on which much privatization is based, especially when PEs that otherwise provide social services at a cost that cannot be competitive with the private sector (for example, the Tanzania train service provision of subsidized transport to all primary school children who receive free education), are forced to privatize. Also, at a macro-political level, in many countries the link between democratic transition and privatization, which was assumed to be axiomatic, is proving much more complex and problematic, as is argued by Bahgat (2000) in his brief study of privatization and democratization in the Arab world and by Mcfaul (1998) in his study on Russia. Is democracy strengthened if privatized property merely serves to reinforce already powerful banking or industrial interests, feudal ruling families, or ex-communist bureaucrats transformed into Mafia-like entrepreneurs, or a mere handful of very rich people – as is the case in Nigeria where opposition to privatization was brutally suppressed (Cook and Kirkpatrick, 1998).

In summary, privatization may be driven by technological, economic and financial pressures and may find its theoretical rationale in the private sector investment climate and in development and industrialization theory and regulation theory, but it is a profoundly political act in its motives, processes, approaches, implications and ramifications. To ignore this point is to fail to grasp why privatization programs have differed so much across the world and why the impact has been varied (Commander and Killick 1988). This research found that the underlying weight of privatization lies in the political dynamics in developing and shaping approaches and strategies to privatization in Kenya and in the COMESA region.

2:6 Restructuring and The Cost Benefit Analysis-A Performance Process?

The other techniques or measures of privatization (i.e. liquidation, direct sale, trade sale etc.) that are popular and are recommended by the World Bank include restructuring prior to privatising with a detailed review (cost benefit analysis) of positive and negative external and internal factors. The restructuring process has introduced unions into the privatisation debate. During the restructuring process, most governments in Africa and the COMESA region in particular, have tended to worry about the "worthiness" in preparing the firm for privatisation by disposing hundreds of workers whom the government should not have employed anyway (Belser and Rama, 2001). It is therefore important that governments undertake a cost benefit analysis, in order to evaluate the total social costs and benefits associated with each privatisation. Because most governments have not reviewed their social and economic benefits in detail there has been a general ambivalence as to whether privatisation as a labour market policy is supposed to be a pleasurable experience-the "carrot" of lucrative worker shareholdings and more liberal promotion structures-or a stern discipline for a "lax" public sector. Unions have suggested that in most cases the significance of worker shareholdings is overstated to the point of absurdity. Indeed, unions the world over have had to adopt new attitudes towards privatisation as Edmonds clearly states;

> ".... the trade union's initial view was that the policy was so self-evidently foolish the government would not get away with it. Next came strident campaigns of opposition and then a feeling of some alarm at our apparent lack of public support. (Edmonds, 1988)

Attitude changes in both western and African countries have been inevitable, and have been catalysed by the rapid change in policy by governments in order to adopt restructuring. In East Africa, the governments have no initial strategy for workers and often come up with "carrots" for the workers after there have been protests. Edmonds (1988) argues that most governments in Africa initially conceive mechanisms of deregulation, liberalisation and increased competition as part of their privatisation program. However, they quietly make it an indispensable revenue raiser for a government whose commitments to reduced income tax rates, lower public borrowing and macro-economic policies leave substantial social obligations that come up as a result of their privatisation programs – i.e. mass unemployment. For example, there is the case of the UK fire fighters who were against modernization as a negotiating

principle, yet new technology and new ways of managing are key ingredients of privatization. This contradiction is not always reconciled. Edmonds (1988) emphasizes that the problem arises with the government's rapid change in policy. He argues that the government's preoccupation with the balancing of the books forces them to establish firmly the *revenue raising mechanism* over the *policy mechanism* for promoting competition by breaking-up monopolies and other large units. This rapid change in policy and rating the revenue side of privatization as the important aspect gives way to conflicts and contradictions and eventually creates *private monopolies* at the public interest's expense. This view is evident in Britain as Edmond (1988) reiterates;

> So, British Telecom and British Gas were not opened up to greater competition. Public monopolies become private monopolies and the treasury took the spoils..." Edmonds. (1988, p7)

This is indeed true of most privatisation programs, and while this research's mandate is not to investigate what happened later with BT, it particularly looks at Kenya's privatisation of TKL with a view to analysing whether it has or does not have the potential to turn out to be a 'private monopoly'[61]. As a sign of retreat to monopoly Kenya's President suddenly halted the privatization of TLK in December, 2000, stating that "we will not sell Telkom at a throw-away price,"[62] after evidently realising that it would not necessarily be a "private monopoly" (i.e. subject to government control). Clearly, the motive here is that of revenue rather than restructuring for greater competition and efficiency.

However, Kenya's official policy for the Privatization of Public Enterprises Program states that the main motives include increase in competition, creating efficiency, and thus new opportunities. Kenya's Policy Paper on Public Enterprise Reform and Privatization (PERP) outlines its primary objectives as: (1) to enhance the efficiency and performance of the private sector; (2) to reduce the financial burden of the sector on the government; and (3) to achieve these objectives through the introduction of reforms that will enforce financial discipline, mobilize managerial and financial autonomy and set up adequate accountability and appropriate incentives. While the PERP's overall aims are:

[61] ibid
[62] Daily Nation Newspaper December 14, 2000 (Business News)

> ..."1) "Enhancing the role of private sector in the economy; 2) Reducing the demand of the public enterprises; 3) Reducing the role and rationalizing the operations of public enterprise sector; 4) Improving the regulatory environment; 5) Broadening the base of ownership; 6) enhancing capital market development" (GOK, 1996 pp.1-5)

In the majority of cases, privatization in Africa has made the interests of the consumers of services, and those who provide these services, subservient to the often short-term interests of investors – on whom the government depends for a revenue raising exercise (Grimstone, 1989 and Richardson, 1990). Kenya must raise a total of Kshs. 26 billion in privatization proceeds in a period of three years to retire its crippling domestic debt (World Bank 1999). It had raised under Kshs.10 billion in revenue by 1999; in fact it had only raised Kshs. 6.4 billion proceeds by 1997 as indicated by government records presented in appendix 2 annex C.

2:7 Summary and Conclusion

This chapter constitutes a literature review and forms a theoretical framework for this thesis study. To summarize, it provides a synthesis of the various theoretical discussions on privatization as outlined in sections under relevant subject headings of this chapter. Sections 2:1:2 through 2:3:2 contain a discussion on the dynamics between privatization, liberalization, and market reforms, public and private ownership, and state intervention, and the impact of applying these theories to an actual program. Furthermore the discussion on the application of theories of privatization strategies and approaches to the process in practice are outlined in sections 2:4 to 2:5:2. Section 2:6 discusses other techniques or measures of privatization recommended by the World Bank, such as restructuring prior to privatizing in terms of costs and benefits.

The synthesis of the various theoretical (texts) discussions on privatization was to narrow the scope, relevance and organization of the literature on privatization which has increased within the ten year-period considered by this thesis research. The approach was to classify and evaluate the themes of the texts that are relevant to this thesis, with each section of the review dealing with different aspects, while recognising that more literature and perspectives on the same subject exist specifically for developed, transitional and developing economies. As a result, the review highlighted some of the critical issues in the implementation of privatization programs and policy. The various sources utilized in the sections are addressed in the data presentation and analysis in chapters four, five and six, and convey the extent and complexity of the literature in relation to the privatization programs, process and implementation.

In terms of major agreements or /and disagreements in the privatization literature, the focus of this research was on discussing privatization issues that are argued in the theories and the questions raised on process, methodologies and methods applied that were/are appropriate and useful to Kenya's situation. This is extensively presented in section 2:1. A major agreement is that of the 'origin' of privatization and its definitions. Indeed, section 2:1 contains specific theoretical elements of a critical review of the 'origins' of privatization and privatization programs. There is agreement as to its origins when the World Bank engaged privatization in order to phase out the failed structural adjustment programs (SAPS) for macroeconomic reforms of the early 19980s (Ake

1985: 1993; Bangura, et. al 1989; Jamal, 1992; Sohn and Hayes, 1999; Islam and Monslave, 2002; Boubakri and Cosset, 1999). Privatization was first introduced in Germany as denationalization of SOEs after World War II, but did not gain recognition and momentum as a policy until the late 1970s and early 1980s when it was actively implemented in Britain under Prime Minister Margaret Thatcher's administration (Meggison and Netter, 2001). As for the definition of privatization, agreement in the literature is that definitions may be varied but are not different. Within section 2:1, the various definitions by Hemming and Unnithan, (1999); Bienen and Waterbury (1989, p.617); US Government, (1997); and the World Bank (1999) are discussed. The main conclusion is that definitions of privatization, as advanced by researchers and authors, present no disagreement. It is also agreed that the term 'privatization' has expanded over the years to include direct disposals of SOEs, restructuring of SOEs and changes in ownership forms and patterns as dictated by the local socio-economic, political, and globalised business environments.

The other agreement is that privatization has taken root in LDCs. This moves the debate to how to proceed instead of why proceed (Samuel, 1999). In this regard, the literature conclusions show that as long as governments in LDC are required to use prescriptive approaches to implement privatization programs and manage the SOEs, little progress will be achieved in transforming enterprises from a monopolistic status and state control to competitive and free enterprise status, thus transforming economies to the desired levels.

This literature further shows that it is now evident even amongst the World Bank, and other proponents of market reforms and structural adjustment programs in LDCs, as led by Killick, (1980:1989), Taylor, (1993) Greenwald and Stigilitz, (1989), Kikeri and Nellis (2002); Kikeri et al (1999), Samuel, (1999), Wallsten, (1999), Vickers and Yarrow,(1985), Yarrow, (1999) and Guislain and Kerf, (1995), that no matter the prescription, each government and region should factor into their privatization approaches the social-economic and socio-political variables in order to attain positive transitions from SOEs to competitive enterprises.

More importantly, there is agreement that prescription doesn't work. The literature concludes that while the approaches may be prescribed by the World Bank each approach should be on a case by case basis (Welch and Fremond, 1998), since their implementation takes a unique form and are shaped by realities of each government's unique economic needs and the socio-economic (Stiglitz, 2003:2004) and political environments of each country or each region (Young, 2003; Yeats, 1999; Cook and Minoque, 1990). Indeed, the positioning of privatization into an economic and political category that implies a reduction of all forms of state control over equitable resource allocation however well argued by economists (Vickers and Yarrow, 1988: Shirley, 1991; Cook and Kirkpatrick, 1994; Megginson and Netter, 2001) is not always smooth. Whereas it may enable the transformation of the role of the state in all economies, it may also have serious ramifications for the socio-political economy, as indicated by Reed, 1992: Hyden, (1983); Nyong'o et al. (2000); Ake, (1985); Wright and Perrotti, (2000); Hanke and Walters, (1990).

The literature further reviews the continued debate on the social function, performance and benefits of public versus private enterprises (Birch and Davis International, 1989; Ramanadham, 1989a&b; Grimstone, 1989; and Heath, 1989). In this respect, the literature is not in agreement as to the levels at which the social functions can be provided effectively by the private sector at a profit. There is also no agreement as to whether the public enterprises can provide social functions without major subsidies and adjustments in the socio-economic structures and major political implications. The conclusion here is that it is believed that policy objectives such as job creation and income distribution[63] fall into the government domain. However, as Rondinelli and Kasarda, (1991, p.110) point out "privatization is a means through which governments simply divest themselves of obligations for performing important but expansive or politically undesirable social functions. By privatizing, they can diffuse political pressures to deal with critical social needs."

The debate still evolves around which functions should be provided by the private sector. This constitutes an important debate since it determines the choices of sectors and enterprises earmarked for privatization or those retained as strategic. A few economic authors concur that "public goods," including services that meet basic human

[63] see chapter five

needs, are likely to remain the responsibility of the government (Cook and Kirkpatrick, 1988; Cowan, 1990; Ramanadham, 1989a; Triche, 1990; Roth, 1987). Consequently, while little consensus by structural economists, developmental, neoclassical and private sector theorists has been arrived at on how to resolve these matters, the governments in LDCs and transitional economies have been forced to implement prescriptive privatization programs (Stiglitz, 2001; Singer and Roy, 1993, p.23; Ake, 1989).

The challenge is set in this research in cases where inequalities and poverty makes it difficult for governments to levy user charges (used as subsidies for a public good like water, health and education) for political or economic reasons and the World Bank prescriptive conditionality would be against provision of subsidies. These services are not likely to be profitable to private companies (Wallsten, 2002; Rondinelli and Kasarda, 1991; Cook and Kirkpatrick, 1988).These dynamics determine the choices of sectors, approaches, transactions strategies and techniques as is the case with Kenya.

Section 2:2 focuses on the role of SAPs i.e. liberalization and reforms of the early 1980s to the privatization process in Africa and the COMESA sub-region in particular. This discussion is based on the premise that the domestic markets earmarked for reforms had characteristics that were not necessarily based on free markets (Akanji, 1992; Rapley, 1994; Harris, 2002; Harris and Kusi, 1992; Mugerwa-Kayizzi,1996). In this case, growing criticism by neoclassical theorists and citizens at large of the impact of SAPs and privatization policies on the balancing between eradication of poverty and introduction of free markets was found to negatively affect the approach to the privatization process (Davies and Sanders, 1993, p.81). It provided the nationalistic and protectionist mentality that breeds opposition to privatization (Ake, 1981). The literature thus concludes that this conflict of contributions to national economic development as opposed to correction of market failures or deficiencies (Greenwald and Stigilitz, 1989) have greatly affected the pace, quality and size of privatizations in LDCS[64]. Indeed, the spin-offs that enhance the development of the economy but are not profitable for individual firms to undertake such as research and development or human capital formation conducive to the development of the private sector, may include embracing difficult sub sectors whose development is necessary to the economy but which private firms eschew (Lesser, 1997, p.66 and Kemp, 1991). In Cote d'Ivoire, for instance, while

[64] see various World Bank and OECD Reports on numbers of privatization by region and sectors

the Banque Ivoirienne de Développement Industriel's unrecovered loans eventually drove the bank into bankruptcy, this was not before it had funded the creation and expansion of a large number of successful local private ventures. These ventures would probably not have been funded otherwise, because the foreign-dominated private banking sector avoided Ivoirien entrepreneurs in favour of safe investments in large multinational corporations (Rapley 1993, pp.135-36). Such a case is scarcely exceptional. Research on Taiwan (Crook, 1988), Brazil (Faucher, 1991), Ethiopia (Stiglitz, 2003, pp25-28) and Indonesia (Ellis, 1993) has also highlighted cases of public firms whose individual performances were questionable but whose contributions to national economic development was evident. This conflict still continues in the full privatizations as discussed in the case of TKL privatization and most social sectors in Africa. Further consequences of reforms and free market intervention are discussed at length, as presented in section 2:3.

Sections 2:4 to 2:5:2 discuss the application of theories of privatization strategies and approaches to the process in practice. These theories include the experiences of different countries in their involvement in complex programs that combine privatization in several sectors (Edgren, 2001:1987; Killick, 1990; Cook and Kirkpatrick, 1998 and Kirkpatrick and Cook 1995). The theories explain why different approaches are preferred by different countries as is the case with TKL (Aggarwal and Harper, 2000; Bayliss, 2002; Newbery, 1999, p.134; Pushkar and Ranjan, 2003). In addition to trends and the impact of privatization in relation to approaches in COMESA, East Africa and Kenya, this review further discusses some case studies and the methods, forms, objectives and techniques applied in transitional and industrial economies and some of their positive and negative effects. In particular, Loizos, (1999); Singapore Port Authority, (2000) and World Bank, (2002) on Africa, Malaysia, Chile and Singapore Chile's experiences; and Shafik, (1993); Gomulka, (1993); Jermakowicz, (1993); Megginson, et al, (1996) and Frydman et al., (1999) on Eastern Europe, in particular Poland and Hungary. These experiences provide a large reference base of literature both for the analysis of the case study of TKL and for generating an approach to privatization in Kenya, as presented in chapters four and five.

Indeed, one can conclude from this review and research findings that, although there is a wide ranging of theories and experiences on how to proceed with privatization, effectively an approach to a privatization program would have unique characteristics.

These depend on the capacity and capability to organise the program, select the sectors, and institute a legal and regulatory framework that help in the implementation of any privatization program. It is also clear that the political landscape plays a major role in shaping the approach that any country takes to privatization. And while this thesis' theoretical framework shows the complications involved, the research findings confirm that this landscape is dynamic and so is the privatization process.

In conclusion, the conceptual or theoretical framework in this chapter gives this thesis research the impetus and guidance to the theoretical aspects of privatization and provides a context in which the field data, analysis and presentation are made. However, unlike an analysis that is based entirely on a theoretical framework with an existing database, this literature review was used as a point of reference and not the literature itself as a subject of discussion. Thus, it does not necessarily constitute the basis for the theory generated and major conclusions made. More significantly, this review does not one position for or against privatization. Nevertheless, it has served as guidance to the analysis and conclusions for this research in subsequent chapters.

3:0 CHAPTER THREE

3:0 RESEARCH APPROACH AND METHODOLOGY

Introduction and Overview

This chapter outlines the research methodology employed throughout the course of the research and by drawing upon the relevant literature explains why this approach was felt to be the most suitable way of addressing the research aims and purpose. Consequently, selecting the basic research methods to use depends on various considerations as "the overall goal in selecting basic business research method(s) is to generate new academic information and get the most useful information to key decision makers in the most cost-effective and realistic fashion" (McNamara, 1999, p.3).

The research, which forms the basis for this thesis, is a single case study design within a larger privatization program. It was chosen because of the nature of the process under investigation. The organization involved in the research was selected because it was likely to provide an exemplar of practice within the case study approach, utilized to focus on an enterprise likely to provide special elements and knowledge of the process. This involved carrying out face to face interviews within public institutions and private companies over the research period.

The methodology used depends on the nature of the research question, and the ability of that approach to address the pertinent questions more accurately than alternatives (Denzin, 1978). It is also determined by the extent to which there exists knowledge about the subject, which may guide a more specific search for answers to the question (Yin, 1984). In contemporary research, the most frequently favoured approaches are the survey, relying on quantitative data, and the case study generally relying on qualitative and quantitative data. Qualitative approaches using the case study are favoured in both 'exploratory' and 'explanatory' studies (Yin, 1984; Eisenhardt 1989), or in process analyses (Denzin, 1970).

Research Strategy and Approach

The research methodology for this thesis is divided into two phases; the first phase is that of literature review to establish a theoretical framework; secondary or documentary data collection and analysis of Telkom Kenya, as detailed in chapters two and five. The second phase involved primary field data collection, research and analysis, using interviews and questionnaires. The case study method is fully discussed on page 90 and the results of interviews are presented in chapters 5 and 6.

A substantial review was undertaken primarily in the areas of the theories of the privatization process and market reform elements, detailed in chapter two. These included all selected elements of the conceptual framework and a literature review outlining the theoretical elements of the privatization process; this included: reasons, objectives, goals, rationalization and methods; public private sector ownerships issues; the application of current approaches and strategies in practice; and the trends and impact of restructuring in privatization. This categorization was done in order to ascertain the current state of knowledge in both areas, and to construct a conceptual and theoretical basis 'model' which could be used to guide the research and identify relevant research issues.

The research strategy involved policy and enterprise levels' case study of Telkom Kenya and Kenya's enterprises listed for divestiture. It was conducted over a scattered total of 4 months between March 2001 and January 2004. Several research techniques were used, including secondary data (or documentary) analysis, and detailed interviews and informal discussions with public sector and regional managers, operational individuals and private sector individuals, politicians involved in the process of privatization in Kenya and in the sub-region. All of which provided qualitative and statistical data that was transcribed, listed, added, compared and analysed using various computer based analytical instruments, discussed in section 3:6.

3:1 Research Methods

3:1:1 A Qualitative Research Design

An examination of the literature suggested that various approaches manifest themselves in the way public and private enterprises under privatization manage the process. The dearth of available research and the prescriptive nature of the existing literature, determined the exploratory nature of the research design. The conceptual model derived from the literature identified a number of research questions to be addressed, which suggested that a qualitative approach would be an appropriate way through which an understanding of an approach to privatization could be gained within the context of the Telkom Kenya enterprise and the telecoms sector.

In determining an appropriate research approach the crucial question is the extent to which one method contributes to a greater understanding than any alternative method would have done within a given timeframe and level of academic thesis resource.
Conventional business, econometric and organizational analysis would require a different (i.e. econometric analysis) approach for the study and conventionally it would be studied as an object using an existing panel data 'equation estimation' approach. However, the literature suggests that divestiture programs in developing economies present a way of strategically managing a transition to the process that is more to do with 'organizing' than 'organization' and thus requires an approach that is holistic. Because of the lack of country specific research-based knowledge on approaches in LDCs, and the apparent complexity of the process, it was evident that the research would be exploratory and inductive.

Research of this nature can be found in studies like that of Mintzberg (1979), a key writer in the field of strategic management (Zikmund, 1984). Archer adds that it is becoming common to see calls for qualitative research in disciplines concerned with business and management (Archer, 1988). Indeed, the objective of qualitative research is to:

> "describe translate or otherwise come to terms with the meaning, not the frequency, of certain, more or less naturally occurring phenomena in the social world." (Van Maanen 1979 p.520)

The insight of the privatization process that could be gained from qualitative study is, in an instance, analogous to that reported by Bryman (1989) in the study of corporate culture in InsCo by Smircich (1983), which involved following through the implementation of an initiative to deal with backlog of insurance claims;

> ..without the detailed knowledge of the varied interpretations of life in InsCo and the background context, the programme could easily have been interpreted by an outsider as a success...(Bryman 1989 p137)

It is evident therefore that it was only through the adoption of a qualitative research design that questions were raised as to the correctness of this interpretation. Similarly, the privatization model derived from the literature review clearly suggests a process that requires individual and government involvement across the organization. The complexity of the process, and the importance of the temporal nature of its progression, suggest that to gain an insight into the way events and service institutions are interlinked and how a strategic approach is managed and developed over time, requires the adoption of a qualitative approach. Pettigrew, who argues that in the field of strategic management and public policy, a contextualist approach should be adopted states;

> "understand the emergent situation and holistic features of an organisation or a process in its context, rather than divide the world into limited sets of dependent and independent variables isolated from their context." (Pettigrew 1985 p. 22)

Indeed the central/major question in a study whose focus is the use of qualitative methods does not require a rigorous testing of the hypothesis as in the case of a pure hypothesis. Central/major research questions are used here to generate theory in this 'model case' rather than to test theory of approaches to a privatization process.

The central/major question and four sub-questions are used in this research to address the overall elements in the approaches to the privatization process. They help "guide" the major indicators of the privatization process as discussed in the conceptual and theoretical framework in chapter 2 and in chapter five's extensive analysis of the telecommunications sector.

One major strength of qualitative research is that of depth and detail. This depth may not be achieved in a standardized questionnaire; can generate new theories and recognize phenomena ignored by most or all previous researchers and literature. It also helps people see the worldview of those studied and their categories rather than imposing categories and attempts to avoid pre-judgements, while focusing on the goal

of capturing what is happening, presenting people from their own perspectives and views.

Some of the weaknesses of qualitative research that might concern this analysis include the fact that fewer people studied adequately may result in less easily generalized results and as such it is usually difficult to aggregate data and make systematic comparisons. This was not necessarily the case in this study as the same group can be studied for a longer period. Further discussion on the benefits of qualitative research analysis can be found in section 3:3.

3:2 Process of Investigation

3:2:1 Sample and Sampling

A major institution in the GOK that manages the policy side of privatization was identified during the preliminary field secondary data collection. After discussions and preliminary enquiries with senior management in both the public and private sector an initial listing of 50 public/private institutions and individuals was drawn in consultation with major players. There are/were no alternative listing for sampling as Good (1999, p.41) explains;

> An individual sample may not be representative, that is, an exact copy of the population, but the method by which you sample must be representative in the sense that it ensures that every possible sample is equally likely

In order to enhance validity of the sample this listing was backed up by re-checking with the Telkom Kenya management using their listing of the institutions/individuals involved in the process directly with the private sector. The listing sample is shown in appendix 1 annex IIIa. In view of the 'closed nature' of the processes of investments in Kenya and developing countries, the underlying population from which a sample was drawn are representative.

The sampling for respondents in this study was a non-probability form of sampling, the purpose of which is/was not to establish a random or representative sample, but to identify those people who have information about the process. It is a means of identifying relevant institutions, people, and documents and sub-processes. In drawing a distinction between the two forms of sampling Johnson suggests;

> "Probability sampling yields the researcher a representative picture of various features of the population; non probability samples yield a small number of informants who provide representative pictures of aspects of information or knowledge distributed within the population." (Johnson 1990 p23)

This sample for the primary data survey drawn from a government listing of a possible fixed population of 50 institutions and individuals is a selected population in the area of the privatization program. Because of the 'closed nature' of the public process, the underlying public population from which a fixed sample is drawn has to be representative and observed in random order. This unique sample of one group of non-homogeneous institutions and individuals is closely involved and plays a major role in

the process in Kenya, in COMESA and in the communications and transportation industries.

After the initial consultation, the original possible sample listing of 50 was scaled to a population of 40 institutions and individuals by excluding those institutions that had less involvement in the privatization program and process. This estimate of the actual listing of the possible sample that are involved in privatisation programs (regional experience) was also based on the closed nature of the process in Kenya and in the COMESA region (Nyong'o 2000). To further ensure representation, consultations the government head of privatization in the Treasury, with TLK and with the private sector were made. A sample population of 40 was selected based on their level of involvement, length of, and close involvement in dealing with/and managing the privatization and private sector development processes in the region, in Kenya and in their own companies. The levels and length of, involvement were important because they were likely to act as an exemplar of the practice.

Further validation was made through phone calls and visits clarifying the levels of involvement in the implementation of the privatization program. Those sampled are listed in appendix 1 annex III (IIIa)[1]. Tables 3-1 and 3-2 show the sample frame, number of institutions and distribution of the sample interviewees used in the study.

After establishing the final sample preliminary interviews were held with senior management to outline the steps involved in the policy making process. This preliminary process provided background information relating to all the public, private and regional institutions and enterprises.[2] Since there was little or no institutional or company documentation relating to the privatization policy and process to be examined, accounts of previous experiences and transactions, i.e. KPTC, were gathered by way of discussions.

[1] Excluded population of the sample included (1.Kenya School of Monetary Studies, 2.Export Promotion Council, 3.Kenya Sugar Authority, 4.Government Printers, Ministry of Planning and 5.Home Affairs, 6.Parlimentary Accounts Committee, 7. Ministry of Foreign Affairs Economic Desk, 8.UON Institute of Development Studies, 9.National Secretariat for Transport 10. Kenya Railways

[2] See appendix for a brief of selected institutions

The questionnaires were distributed to 40 possible respondents, by post, hand delivery, and email, along with customised letters (annex IV). The respondents had been sampled using a representative GOK list discussed above in detail.[3] Follow-up telephone calls, emails, faxes and initial meetings were made to those sampled to make appointments and confirm the number of respondents from each institution. The responses via email acknowledging receipt was positive and led to a high response rate; out of the study sample of 40 earmarked for interviews in the field research plan, a total of 36 responded to the study, accounting for an 90% response rate. This research anticipated a target high of a 100% response rate and a low target of a 50% response rate. Fourte en interviewees were available for face to face and telephone interviews using both the list of semi-structured questions and the full questionnaire. Tables 3-1 and 3-2 show the sampling frame and response rate. The reasons why the 90% response was unexpectedly successful was because of the difficult nature of the primary data collection experienced with this sample population of busy bureaucrats and chief executives. It was seen as unlikely that would respond to the interviews positively as they did.. Indeed, all the 28 major institutions involved in the privatisation process responded to the study (see table 3-2) unexpectedly, thus raising the response rate. More importantly the major drivers of the privatization program in Kenya and in the region, that is the ten parastatal chief executives, availed themselves for interviewing during the research period.[4] All these factors culminated into the 90% response rate. While the 90% response rate would seem high, it is not unusual to a 'closed' or 'fixed' sample size as is the case in this research. A high response rate and high percentage of responses in specific questions as presented in the analysis in chapter five shows a high interest in the subject and has no negative effect on the results as might be the case in a purely quantitative analysis.

Table 3-1 Sample Size and Response Rate

Total Number of Respondents Sample Size	Number of Total responses to interviews	Response Rate- %
40	36	90 %

Source: Author's Compilation (2003)

[3] See the list of Institutions (annex IIIa and IIIb) and a further listing in annexes V and VI,

[4] These were: 1) The Investment Secretary Ministry of Finance, 2) The Permanent Secretary, Ministry of Transport and Communication, 3) Investment Promotion Centre, 4) Minister of Planning and Development 5) The Chairman Parliamentary Investment Committee, 6) The Managing Director of Telkom Kenya, 7) General Manager Strategic Planning, Telkom Kenya 8) The Director General of Communication Commission of Kenya; 9) the Secretary General COMESA, and 10) the Secretary General TTCA.

3:2:2 The Sample -Actors

The actors involved in the research came from all institutions listed and were drawn from all levels within institutions (see figure 3-1 and Appendix 1: annex IIIa for more details). They included senior management teams, middle managers and operational staff. Senior managers' roles involved having the wider picture of the privatization process and were expected to describe and explain significantly Kenya's 'unique approach' to the privatization process. All others involved had a significant role in their respective institutions and were expected to have significant knowledge of the privatization program and its implementation.

The research method adopted was central to the selection of the interview sample: the Manager of the Department of Government Investments and Public Enterprises (DGIPE) or the Investment Secretariat; the General Managers strategic planning and technical operations of Telkom Kenya and the Managing Director of the Investment Promotion Centre championed the research and were the "gatekeepers" into the public sector privatization 'club' and an important link to private/public sector actors. The General Manager (Strategic Planning) of Telkom Kenya was particularly instrumental in facilitating access to resources and providing important updates and progress on privatization events on a regular basis. Access was provided readily in cases where contact had been made before the field interviews (see appendix1 annex v for interview schedule).

The majority of the participants had been in employment with the respective companies since their set-up in 1999 and during the period of the unbundling of Kenya Posts & Telecommunications (KPTC). They comprised three major levels, top management, middle management and operations/technical levels. A few of the senior management in both POSTA and TLK had been employed by KPTC before the implementation of the privatization program and the subsequent unbundling of KPTC that produced Telkom Kenya Company Ltd. (TKL). These 'gurus' came in handy to inform the process and substantiate data and continued to give a critical input throughout the study in Kenya and the analysis in United Kingdom. The major institutions surveyed are briefly discussed in appendix I: annex I. and the characteristics of the sample are described in the following sections.

Table 3-2 Sampling Frame and Interviews

Sampling Frame		
Number of Institutions	Total Number of Sample (people)	Number of Interviews (people)
28	40	36
Source: Author's Compilation (2003)		

It is important to note that all respondents were sampled and interviewed based on their position in the institution or industry and not as individuals, even in cases where specific questions required a personal view or response, as in question 19 page 12 of appendix 1 annex 1.

Documentation

Documentation was sought throughout the course of the research. In some cases company brochures and newsletters provided valuable information from which historical company information could be obtained. They proved to be a useful indicator of involvement levels in the process and provided valuable statistical data on employees, performance and types of service provision. As far as possible top-level policy planning and annual reports documentation for each year detailing the translation of activities were collected and helped the verification and tracing of activities to inform the process and substantiate data. The notion that documentation is a useful tool for validation is further supported by Yin who states:

> "For case studies, the most important use of documents is to corroborate and augment evidence from other sources." (Yin 1994 p80)

Indeed, this thesis research used documentation to corroborate primary or interview data evidence, throughout the analyses in chapters two, four and five.

However, it should be noted that almost all GOK institutional documentation was listed as "confidential" and was only available for inspection on limited occasions and periods after clearance[5]. TLK and the consulting companies could not release first hand reports for inspection and analysis since they were all GOK documents. Obtaining documentation from bureaucratic systems within the government that value documents

as their major tool of operation was a difficult task. The challenge is that GOK considers most of their documents private and confidential even to a researcher during the period of the research. There is no legislation on "freedom of information" to enable obtaining important documents. It is left to the negotiation skills of the researcher and the "terms and conditions" of the official giving the document to resolve access to 'classified' documentation and information.

3:3 The Case Study Approach

3:3:1 Applications of Case Study Research - a Scientific Approach

The approach to case study is one that emulates the scientific method, posing clear questions and the development of a formal research design. Its use of theory and reviews of previous research to develop research questions or/and hypotheses and rival hypotheses, has applications to TLK's study. Case studies typically involve the collection of empirical data to answer these hypotheses/research questions and rival hypotheses, the assembling of a database independent of any narrative report; interpretations or conclusions that can be inspected by third parties; and the conduct of quantitative or qualitative analyses (or both), depending on the topic and research design.

The use of a single case study approach in the field of business management and strategic management is not without precedent. As Mintzberg argues, "what, for example is wrong with samples of one?" In discussing the grounds for his own research, he argues that management research has "paid dearly for the obsession with rigor in the choice of methodology. Too many of the results have been significant only in the statistical sense of the word." (Mintzberg 1979, p.583). Michael Porter, another influential academic in this field, supports the need for this research approach:

> "Academic journals have traditionally not accepted or encouraged the deep examination of case studies, but the nature of strategy requires it. The greater use of case studies in both books and articles will he necessary for real progress at this stage in the field's development." (Porter 1991 p99)

The lack of identified research led to the adoption of a single in-depth case study approach to gain a holistic view of the process. Consideration had to be given to the

[5] Note: all documents were under the governmental "zeal" as GOK documents

practical issues of the small number of identified enterprises and institutions and the problems of time, access and the resources available to carry out the research. In this context, case research seeks to obtain a holistic view of a specific phenomenon or series of events. This is a time consuming exercise and it is generally not possible to carry out more than one case or a very limited number of in depth studies in an academic research project. Glaser & Strauss recognize the value of a single case study in laying the foundation for future work:

> "Since accurate evidence is not so crucial for generating theory, the kind of evidence, as well as the number of cases, is also not so crucial. A single case can indicate a general conceptual category or property; a few more cases can confirm the indication. (Glaser & Strauss 1967 p30)

The argument for supporting a single case study approach to this research is further reinforced by Burgleman who argues that:

> "Living with these concerns (about the external validity of findings) may be a necessary cost of providing new insight in as yet incompletely documented management processes in complex 'public' organizations. The purpose of such efforts is primarily to generate new insights that are useful/or building theory." (Burgleman 1985 p42)

Yin further suggests three reasons for a single case study, one of which, the revelatory case, applies to this study:

> "This situation exists when an investigator has an opportunity to observe and analyse a phenomenon previously inaccessible to scientific investigation. " (Yin 1994 p40).

The approach adopted overcame the acknowledged problem in organizational research of taking account of the temporal processes in organizations/enterprises; especially the issue of temporal validity:

> "In particular when research is based on detailed case study, there are often clear benefits associated with either an extended stay or a return to the organization in question. One of the strengths of qualitative research which is based on detailed case studies is that it is able to capture processes overtime..."(Bryman 1989 p243)

Case studies are often associated with 'qualitative' as opposed to 'quantitative' methods and data, which is associated with questionnaire-surveys and experiments. Clarification of two issues is necessary. First, while case studies more often than not use qualitative methods and gather qualitative data, they are by no means confined to this categorisation. Second, depending on the nature of the case study it can be difficult to perform statistical analyses of such data because the cases tend to be few in number or data may not be comparable across cases.

However, qualitative data does lend itself to statistical analysis and developments in qualitative research methods for example, Glaser and Strauss, 1987; Yin, 1984; Miles and Huberman, 1984; Strauss and Corbin, 1990 demonstrate that it is possible to analyse systematically qualitative data using a variety of regimes. Glaser and Strauss have argued in defence of case study and qualitative methods:

> There is no fundamental clash between the purposes and capacities of qualitative and quantitative methods or data. What clash there is concerns the primacy of emphasis on verification or generation of theory - to which heated discussions on qualitative versus quantitative data have been linked historically (Glaser and Strauss 1967, p.17).

It has been reported that case studies offer the researcher an ability to collect rich data of high validity while presenting and analysing data within their wider context (i.e. the holistic view). Mitchell (1983) has argued that the critics of case study reliability do not consider that the case study inferential mechanism relies upon 'the cogency of or the quality of being logically valid, believable, rigorous and relevant in theoretical reasoning' than merely seeking the typicality or representativeness of the case.

Case studies are not without critics. Bryman reports that case studies have been labeled as idiosyncratic as evidence derives from one or two untypical organizations (Bryman 1989). Implicit in most research as discussed earlier is the notion that generalization is a desirable outcome. Gummesson however, argues for cases; he reports that in case study research generalization has two dimensions, that which arises from qualitative studies based upon a large number of observations in order to determine the 'how' question, how much, how often and how many, and in-depth and exhaustive case studies which can be used to explain the alternative meaning of generalization (Gummesson 1991 pp78-79).

Generalization from case studies has to be approached differently and should be evaluated in terms of the adequacy of the theoretical inferences that are generated (Yin 1995, Mitchell 1983). Bryman concludes "the aim is not 'necessarily' to infer the findings 'directly' from a sample to a population, but to engender patterns and linkages of theoretical importance." (Bryman 1989 p.173).

Case studies therefore play a unique role in providing and understanding the workings of organizations' and institutions' processes, that are not well documented and which are not amenable to investigation through qualitative methods of investigation. Indeed,

Bryman reports the exploratory case study approach utilized to achieve insights into a previously uncharted area leads to subsequent generation of theory (Bryman 1989). Note throughout that the purpose of this thesis study was not to propose and test hypothesis, but to explore and clarify a largely unknown situation guided by a conceptual framework established through previous research as laid out in chapter 2.
This research further focuses on investigating the linkage between approaches of privatization of public enterprises (PEs) and their outcomes in the region providing a unique case for a developing country. A case study (unique case) can therefore be defined as one that is:

> expected to catch the complexity of a single case. We study a case when in itself is of very special interest. We look for the detail of interaction with its contexts. Case study is the study of the particularity and complexity of a single case, coming to understand its activity within important circumstances. Each case is of interest in its uniqueness and commonality. We seek to understand them (Stake, 1995: xi: 1)

For example, the approaches that define the objectives, methods and techniques of privatization may be in general common to industrial, emerging and developing economies (environments). What differs are the various approaches and strategies applicable to specific environments unique to those sub-regions or countries. Case studies are useful for unfolding research findings because they are easily cross-compared and generalized with other telecoms privatisations i.e. Uganda, Britain and South Africa, with a time series sample over the period of 1993-2003 to isolate any themes or patterns. For example, various case studies about process, approach, strategy and program failures might be compared to commonalities in these 'privatization' experiences and how they went through the program[6]. These commonalities might highlight where in the program the process needs to be strengthened. Empirical research i.e. data-collected, is based on Kenya's 'experience'. Punch (2000) used the general term 'observation' alongside the term 'experience', thus defining 'empirical' to mean based on direct experience or observation of the world. He further explained the question of empirical data:

> "To say that a question is an empirical question is to say that we will answer it — or try to answer it — by obtaining direct, observable information from the world, rather than, for example, by theorizing, or by reasoning, or by arguing from first principles. The key concept is 'observable information about (some aspect of) the world'. The term used in research for this 'observable information about the world', or 'direct experience of the world', is data.[3] The essential idea in empirical research is to use observable data as the way of answering questions, and of developing and testing ideas."

[6] See analysis by Shirley, and Wallsten (2002; 2001) on Ghana; Shirley et.al (2002; 2003; 2004) on Uganda And Azam; Dia, and N'Gussan, (2002) On Senegal

An exploratory case study method is useful in challenging existing approaches and strategies and the structure of privatization by presenting an example which existing theory cannot explain completely. The case of telecommunications is unfolding (i.e. happening at the time of study and that implies that the theory may arise or be explained by researching the case. The exploratory case method was used in both phases of this research (secondary and primary phases). This is necessary to show the approaches to the privatisation process and their impact as exemplified by the case of TLK's privatization in a developing country environment where there are less resources and differing priorities/objectives from those of financiers of privatisation (i.e. donor agencies, and sometimes those of the public and the government).

The case study approach (which emphasises theory generation rather than theory testing) therefore became appealing in exploring the privatization transactions and subsequent search for a model approach/strategy. In its examination of public policy implications versus private ownership under different approaches and market structures, this research design enables the study to draw useful conclusions on the quest for an approach to privatization for a developing economy.

Further, through the case study used herein, when profiling privatization activities of the State owned enterprises and related private sector and regional institutions, it is possible to replicate or generalize the prevailing privatization approaches and strategies to the COMESA sub-region as discussed in the transferability subsection of this chapter. The general empirical approach to this study is sub-sectoral, and as Boomgard et al. (1992) would argue, a sector strategy approach to privatization enables a focus on observation of the implementation evolution by examining the characteristics of approaches to a privatization i.e. forms adopted, processes and strategies using a case study as discussed in chapter two.

Strengthens and Weakness

Furthermore, as noted in the overview of this chapter, the main validity weakness attributed to the case study approach is its alleged lack of representation (in application to population) and the difficulty in identifying the specific biases of each case, which affects the external validity of the research study. Yin (1984) addresses this often cited limitation of the case study approach and provides a solution by arguing that:

> "Case studies, like experiments, are generalisable to theoretical propositions and not to populations and universes. In this sense the case study, like the experiment, does not (page 148) represent a 'sample' and the investigator's goal is to expand and generalise (analytic generalisation) and not to enumerate frequencies (statistical generalisation)." (P.21).

This thesis supports this view. The case of Telkom Kenya is easily replicated in the COMESA region due to its similar policy characteristics shared by other similar member states, and the implementation of a similar agenda prescribed by the World Bank. Further, Eisenhardt (1999) asserts that it is neither expedient nor necessary to sample the population scientifically, when indeed it is a unique unfolding case like that of Telkom Kenya;

> "The sampling of cases from the chosen population is unusual when building theory from few studies. Such research relies on theoretical sampling (i.e. cases are chosen for theoretical, not statistical, reasons...)" (P537)

The choice and sometimes the number of the case(s) in qualitative research is significant because a study that investigates more than one case may allow the research to gain a broad view of the issues but preclude a more detailed examination of these same issues in contrast to a single case study. Clearly, in multiple cases, questions of reliability and frequency may be more important to the research objectives than in this study. The single case of TLK allowed for an in-depth analysis of a typical case with "closed" or "limited" representativeness. Although the case may be chosen randomly, random selection is neither necessary, nor even preferable. Eisenhardt (1989) has also argued that it is to the advantage of the research to select cases which replicate previous cases or extend emergent theory, the "incremental approach to case selection", or tend to fulfil theoretical categories and provide examples of polar types. In this respect, representativeness is not a necessary condition. Indeed, because of the small number of privatized cases in the population of interest, this strategy is applied.

3:4 Field Research Methods

The research instruments were designed based on these discussions, on the theoretical framework outlined in chapter 2 and on the analysis of the telecommunications sector in chapter 4. The questionnaire was divided into three sections to target the public sector policy makers, the private sector stakeholders and the regional economic and trade policy makers (i.e. COMESA, EAC and IGAD). At this stage, three major levels of how/what to divest from and how to apply the global theoretical principles (chapter 2) became more important. In addition, how to develop a longer-term approach, unique and appropriate to the Kenyan economy, that can absorb the impact of reform activities (i.e. institutional building and establishing framework) seemed much less clearer. The stage was then set for an empirical investigation.

Measures/Measurement

Field research is distinguished from other styles of research by the fact that one enters into the natural settings of respondents. In studying Kenya's approach to privatization, primary multiple data collection techniques were employed. Brewer and Hunter (1989) argue that fieldwork methods, i.e. participant observation, informant interviewing, surveys, groups and analyses of clients and cases, are often combined. Field work is therefore inherently multi-method and as stated by Brewer and Hunter (1989, p.45) derives it strength from its flexibility in data collection and its unique strategy of observing natural elements first hand.

The major thesis question was not intended to be measured or tested but to provide guidance to data collection and analysis. The research questions guided the research into collecting data on approaches to a privatization process with specific reference to Telkom Kenya's transaction. Recent approaches to identify more robust measures of the practices and impact of privatization have proved to be problematic (Truss, 2001). The questions of the field questionnaire described in the data collection section used an average of a five-point Likert-scale that required respondents to rank or/ and rate from the highest to lowest. Interviewees responded to 'how' to determine approaches/strategies taken and were asked to explain why certain decisions and actions were taken, agree on a 'yes' or 'no' basis and indicate the extent to which they strongly

agreed or disagreed with specific statements. As Guzzo et. al (1994), and Meyer and Allen (1997) noted, perceptions of 'reality' are likely to influence respondents' performance thus making it necessary to collect individual perceptions of Kenya's approach to the privatisation process, using a qualitative analysis of a case study discussed herein.

In privatization and investment deals that involve sale of enterprises and joint ventureships confidentiality of transactions is required to avoid an 'insider information' situation. In view of this, most of the respondents did not want to be identified. As Punch (1986 p.44) argues conventional practice and ethical codes demand that various safeguards should protect the privacy and identity of research subjects. Bulmer (1982) in Punch[7] argues that "identities, locations of individuals and places are concealed in published results, data collected is held in anonymity form and data are kept securely confidential (Punch, 1986, p.44).

In addressing the confidentiality and possible conflicts of interest in this thesis study, a personalised letter explaining the purpose of the study and follow-up phone call was made. In addition at the start of the interview terms of confidentiality were restated. The interviewee was verbally assured that the information and issues discussed would not be used for any other purposes than that of an academic study for a PhD thesis.

Respondents were further assured that the researcher and no other person would handle access to their responses. Where their comments, quotes and their names were to be used, their verbal or written permission would be sought, during and after the interviews. The format and expected length of the interview was explained on the phone and at the start of the interview. In all cases, permission was sought to take notes. This was acceptable in all the cases except five where the respondents were uncomfortable with note taking and preferred anonymity in representing their information.

[7] These two individuals are industry players who have been in the industry for over 15 years. One of them was a former CEO of KPT&C and is now in the private sector (telecoms). The other individual has both an investment and academic background.

3:5 Data Collection

The field primary data collection combines two major data methods: questionnaires that included structured and semi-structured questions and a list of guiding open ended semi-structured questions (numbers 10-15). This small number conveyed the focus of the interview, allowing for conversational flexibility (annex I & II). The questionnaires used had three sections namely: the public sector; the private sector; and regional sections, with an average of 20 closed and open questions and were administered using face-to-face interviews, telephone interviews and an e-mail conferencing system where necessary. Face to face interviews were used to get more in-depth information from specific respondents directly involved in the process. More specifically data on the operations of TLK as a parastatal under the GOK's privatization program were collected and focused on its core business; that of a fixed line telephony service provider, with particular reference to the customers, growth and performance targets, competitors and so on (figure 5-8). These data were as a result of a combination of the above methods, including documentation (applications, histories, records, etc.) and observation, as stated in the research methodology.

The research questions were designed to elicit both qualitative and quantitative information. The nature of the research also required that data were gathered in both methods to ensure validity and variable inclusiveness. Due to lack of resources and distance involved, necessary information was collected 'on 'site' to avoid major data 'gaps' during the analysis process. A questionnaire (tool) was either administered by the investigator or completed by respondents and picked up by the researcher. Typically, interviewing (see section 3:2:4) was used to collect information and took place in the work place or preferred venue of the interviewee. An interview schedule of a list of semi-structured questions was administered in enterprises and to individuals. Additional evidence was sensibly required to further "ground the theory" with qualitative data leading to textual information structured under agenda headings of approaches, objectives, methods, and techniques of privatisation programs detailed in chapter 5 and discussed in chapter 2. The main field data collection activity was undertaken in late October 2003 to January 2004, and the data were gathered, sorted, recorded (i.e. notebooks) and analyzed as described in the data analysis and interpretation section.

3:5:1 Methodology Used in Conducting Field Interviews

Questionnaire Design and Implementation.

The overall purpose of the questionnaire (tool) was to broadly target the major research question outlined in chapter one and get information that would sketch the institutional pattern of approaches and to uncover a region's divesture program. It further served three purposes; first it enabled the study to collect information from respondents who for personal or distant reasons were unable to participate in interactive interviews. Second, the semi-structure questions were used as guiding interview questions for public, regional institutions' managers and private sector representatives. Questionnaires enabled the study to use face-to-face, phone, email and mail interviewing methods for the three distinct (but related) groups of respondents in a unique but similar manner, thus maintaining the quality and quantity (reliability) of the data to be collected, within limited time and resources. Third, the questionnaire was helpful in sampling out those respondents that needed follow-up for clarification or in-depth purposes. It was a time saving tool for the respondents that were unable to do interviews and the semi-structured guiding questions (annex II) helped in focusing the interviews.

Specifically, information and data gathered by semi-structured questionnaires was based on indicators focusing on; i) broader privatization policy-approach areas. That of rating, ranking and comparing divestiture objectives using interview responses in percentages, targets of expected revenue, sales and total real revenue received by regional governments; ii) wealth creation and share distribution (who buys the enterprise); iii) the specific institutional roles, including the increase in percentage of business opportunities/jobs created, management competencies, public sector capacity to manage a privatization program; iv) the specific enterprise targeted for privatization the telecommunications case, to restructuring, through an increase number of lines per employee, technology levels, speed of technology adaptability, size of market, rate of market penetration and debt levels and eventually achieve a sale and; v) qualitative and statistical sector data on costs, sale timeframes, number of customers and employees, investment levels, preferred methods of disposal, and competition. A large part of the data addressed qualitative information on different expectations of GOK's management and the private sector on the management of the process of actual transfer of assets.

3:5:2 Interviews

Types of Interview Techniques

The interviews allowed the researcher to examine more deeply the reasons why certain steps or systems within the process were, or were not being utilized. In following the study of Telkom Kenya throughout the privatization process the unstructured interviews are used as a means through which:

> "Perceptions, motives and different levels of influence of the various participants in the process under investigation....and the data will describe patterns in the broadest sense rather than in terms of causal relationships." (Hornsby and Simon 1994 p.168)

Each respondent was interviewed separately to avoid influences or cases of restriction, where respondents were restricted in their answers due to the presence of others or were in an environment that caused discomfort. Good, (1999, p.40) states that the...

> "restrictions would arise if one did a survey of political preferences by going from house to house interviewing the occupants while they sat around the dinner table. Their answers would not be the same as those expressed in the privacy of the polling booth. People care about what others think and when asked for an opinion about an emotionally charged topic in public, may or may not tell the truth. In fact, they are unlikely to tell the truth if they think third parties are listening in. If a wife hears a husband say "Democrat," she may just reply "Democrat" herself to avoid argument. To obtain a true representative sample, our observations must be independent of one another"

Indeed, in view of the sensitive and 'closed' nature of a public enterprise disposal – a high level of confidentiality of 'insider' information had to be maintained during this thesis's study observations, and interviews with respondents were arranged and done in acceptable, 'safe' and comfortable environments. As Punch (1986 p.44) has correctly argued, emotional practice and ethical codes demand that various safeguards should protect the privacy and identity of research subjects. The in-depth interview technique was used in order to probe the ideas of the interviewees about the phenomenon of interest, while maintaining all protocols including confidentiality. This was utilised extensively because some of the CEOs interviewed had a 'monopoly' regarding specific information, thus requiring an in-depth session, which this technique provided. Interviews also helped in the gathering of in-depth information on actual situations and on the figures behind respondents' experiences of their role in the privatisation process.

In cases where the respondents preferred to go through the questionnaire but did not physically complete it, telephone interviews, were undertaken. In some cases, several phone calls were made or another meeting was arranged to complete the questionnaire.

About 10% (4 interviewees) of the respondent interviews were unstructured or informal and conversational - at the request of the respondents, and no predetermined questions were asked, in order to remain as open and adaptable as possible to the interviewee's nature and priorities. This line of interviewing was particularly useful for exploring broad areas in cases where CEOs were unwilling to discuss structure. However, the disadvantage was that since each interview tended to be unique it was more difficult to analyze unstructured interview data, especially when synthesizing across respondents. In this regard, it was a method used in limited cases where the respondent requested this format, or had limited time, or was uncomfortable with guided interviews.

All other interviews followed a general interview guide, based on either the questionnaire or a summary of the semi-structured list of questions. This summary guide was intended to ensure that the same general areas of information were collected from each interviewee. This provided more focus than the conversational approach, but still allowed a degree of freedom and adaptability in getting information from the interviewee.

The questionnaire interviews varied, but overall it took a maximum of 2 hours to complete during the interview. It took the respondent approximately an hour and 30 minutes to complete one section without an interviewer and one hour to complete each of the three section without the interviewer. The telephone interviews lasted 30 minutes[8]. In some instances, the closed questions still elicited discussion in the face-to-face interviews. This format was useful for getting standard answers that helped in providing factual figures, numbers (statistical) information on specific events; such information turned out to be very useful in the data analysis.

In addition to the semi-structured interviews, an 'expert group panel' discussion was used. This group went into an in-depth discussion on the privatisation process in Kenya and in particular, discussed the Privatisation Bill. The Ministry of Planning and

[8] While you can time interviews these are estimates cognisant of individuality of speech and experience

Development (MPD) convened the expert work-group panel in collaboration with the African Academy of Sciences (AAS). It was chaired by the Minister of Planning and Development and included: the Permanent Secretary (PS) in the Ministry of Transport and Communications; the directors of divestiture, Kenya Power; the Investment Secretariat; Treasury economists; trade specialists, private sector individuals; and academicians. The group's main mandate was to critically review and analyse the privatization program's major sectors (utilities, sugar industry, banking, transport and communication).

The advantages of using semi-structured interviews for this thesis study include: its low-cost; its rapid form of gathering information from individuals, institutions or small groups; its flexibility; and its use as an advance guide. The interviews also provided benefits in the assessments of the capacity and character of institutions, to verifications of macro-economic data about the state of local socio-economic conditions; and in efforts to understand the basic mind set of intended policy makers, investors and beneficiaries. Their focus on issues of factual knowledge, opinions and perceptions of program approaches, objectives, ownership and reasons for ownership as well as selection criteria was an advantage. They also provided practical suggestions and recommendations on specific issues and subjects, such as the introduction of new technology, levels of investments and choice of objectives and speed of privatization. The semi-structured questions used were reviewed by two representatives from the privatization program.

The semi-structured interviews were also very useful in providing detailed information on policy issues and the comparative perspectives of diverse populations (i.e., male, female, young, old, buyer, seller, producer, public, private). They provided an option for the interviewer to repeat or add interviews in the event that unforeseen biases or perspectives became apparent. Feedback from interview participants was found to be a valuable means of verifying information during and after the field interviews. In some instances, this feedback was sought directly and continued to the analysis stage.

3:6 Data Analysis and Interpretation

> "There is no particular moment when data analysis begins. Analysis is a matter of giving meaning to first impressions as well as final compilations. Analysis essentially means taking something apart. We take our impressions, our observations, apart. Analysis and interpretation are the making sense of all this. How is this part related to that part? Analysis goes on and on..."(Stake, 1995, p.71)

As described in sections 3:1:1 and 3:3, one of the difficulties in utilizing a qualitative research design is the quantity of data generated and handling the data in a consistent manner. The process of analysis often begins before the data collection with the development of the conceptual model as presented in chapter 2, and the secondary analysis of the telecommunications industry in chapter 4. These two chapters provide for a tentative framework through which the sampling and/or the relevant data collection could be undertaken. The exploratory nature of the research determined the way in which the analysis developed as an iterative inductive process, the aim of which was to develop an understanding of the approaches and strategies within the context of the privatization process and using a particular organization (TKL).

Levels of Analysis and Study Units

This study used a holistic case approach, described by Yin (1989) as advantageous when "no logical subunits can be identified and when the relevant theory underlying the case study is itself of a holistic nature". The study reported here meets both conditions. In addition, the research questions in chapter one suggest that the approaches to the whole program were in question, making it difficult to isolate units of analysis. However, various levels (as stated herein) of response are used to explore, examine and analyse data collected on a broad spectrum of institutions, enterprises and individuals involved in the privatization processes that are employing approaches to the parastatal reform (GOK 1996) program. Hence, while following the holistic level of analysis, the inputs to this analysis were solicited from various empirical responses and secondary sources. This had the added advantage of circumventing one of the problems of holistic approaches; that of allowing the "investigator to avoid examining any specific phenomenon in operational detail" (Yin, 1989, p.49).

Throughout the continuous process of analysis, data was being organized at several different levels and this is reflected in the way in which the study results are presented later in the thesis. The secondary/primary data collection and analysis generated robust information that allowed the development of an understanding of the way the institutions under study operated, and the context within which they did this, including the relationships. The final results are presented in Chapter 5 with conclusions in chapter 6, linking theory to field data and the documentary analysis of in-house publications which entailed a process of clarification and summarizing, noting the significant issues for the study of TLK as an organization and the analysis of relevant data from interviews, questionnaires and transcripts for interviews.

This analysis consists of three concurrent flows of activity: data sorting/reduction, data display and conclusion drawing (Miles & Huberman 1994). Because the research question sought to establish the approaches to the privatization programs, the first level of analysis was/is an overview of approaches and privatization processes relevant to specific enterprises that have been privatised, data which is itself summarized. The second level was that at which an understanding and knowledge of the data developed so that themes and gaps were identified and clarified, and the third was that at which the data was synthesized and major themes were explicated to produce conclusions. This level of analysis included establishing from the chief executives guidelines for proceeding to privatise, their strategic intentions and actions (i.e. the selection process of firms for privatisation, objectives, techniques, selection of approach, treatment of restructuring and downsizing, and so on). This separation practically proved challenging at an operational level but was necessary for purposes of analysis. Given the exploratory nature of the research, an inductive iterative analytical approach guided by a tentative conceptual framework proved to be a fitting approach to adopt in order to make sense of the rich body of data that resulted from the field research.

The next stage of analysis focused upon a need to develop an understanding of the restructuring and actual sale of TLK; the results of this analysis are presented in chapters 4, 5 and 6. As has already been noted, the process of analysis began before the field research with the development of the conceptual model and the research design. The focus upon the progress of objectives (discussed in section 1:3 chapter one) provided a way of ordering the iterative collection and analysis of the relevant data by

subdividing and reducing the data. The analysis was further assisted by the interviewing and transcribing process, described in sections 3:4 to 3:5.

The advantage of notebook transcription, which occurred as soon as possible after the interview, allowed the development of a perspective that combined immediacy with a reflective overview of what went on in the contact. This was captured using annotations throughout the transcription that were a reflection upon the main concepts, themes, issues and questions which arose as a result of the contact interviews. Because recordings of interviews were transcribed almost immediately, the impact upon the perspectives of those involved was recognized and follow up interviews were arranged later.

During the process of data collection and analysis what were sought was evidence of the way in which Kenya approached the privatization process and the issues associated with its operation at policy and enterprise levels. What was of interest was the uncovering of the way the process worked from the perspective of the enterprise/organizational actors; that is, what they did and how they did it and how they thought it ought to be. Each organizational actor might have referred to one or more of the four or more stages involved in any single privatization transaction and process as outlined in the introduction. While there was no formal structure to the interview process, during the interview informants were asked to provide examples of how they would treat stages of the privatization process and transactions operating at their level of involvement.

The dynamic research approach facilitated a constant process of verification, as throughout the research common themes and/or anomalies became apparent, and sometimes differing perspectives emerged. What is presented in this thesis is a representative view of an approach to a process, which reflects the experience of Kenya's public and private sector actors involved. This is evidenced by the use of quotations derived from the open questions and answers in questionnaires; the evidence also shows that there was no significant difference interview respondents in understanding the way in which the process operated.

Data from the questionnaires and field notes collected from October 2003 to January 2004 were extracted, sorted, analyzed and organised using the SPSS, Excel and Word database management applications[9]. The data in a qualitative form was organized into highlights of the focus of the study; the approaches to privatization in Kenya and in the COMESA region. Data in this case was extracted question by question around the research questions' themes (as indicated in chapter five) and written out to show how they revealed the structure of the divesture program. As each question in the questionnaire was analysed with collaborating evidence from the notes and memory, patterns began to emerge. This analysis forms the development of Telkom Kenya's case study narrative that integrates and summarizes key information around the focus of the case study. The results of these analyses are discussed in section two of the thesis in chapters five and six.

The iterative nature of the process necessitated continuous analysis at this stage to enable the identification of the relevant individuals who had more information, so as to contact and interview them throughout the flow of the research. This meant that there was a constant movement back and forth between the process of thinking about the existing data and the collection of new data. In addition, this uncovered bias and surfaced areas for clarification. One example of this is reported in Chapter 5, which was the potential impact upon the research process of the organizational restructure affecting the middle managers, technical and clerical staff (for downsizing), and the resulting recycling of technical staff and CEOs.

At the same time, there was recognition of the potential positive and negative impact of restructuring POSTA and Telkom Kenya for privatization (i.e. labour and financial impacts as discussed in chapters four and five). The analysis required a constant "feeling of the way to a set of relationships that accounted for important pieces of what was seen and heard" (Miles and Huberman 1994 p.62). The constant process of analysis and rereading of transcripts allowed a deeper analysis as the research progressed, and knowledge developed about local dynamics allowing a shift from descriptive analysis to a more inferential, exploratory and explanatory analysis (Miles and Huberman 1994).

[9] See Sample of the Interview schedule in Appendix 1: Annex V .Electronic (FSD, 2004) and hard copy data are available

Analysis also sought to develop an understanding of the process as a sequence of events from the perspective of the actors involved as they occurred during this period.

The process was assisted by continuous writing up, which was itself part of the analytic process, and resulted in the production of interim study results. As part of this writing process a number of figures, tables and matrices were constructed which were both a development of the analytical process and its outcome. They assisted in the reduction and sense making of the relevant data, and provided a means to present themes and relationships in a 'user friendly' way. The final versions of some of the tables, figures and matrices are presented as part of the study results, mainly in chapters 4 and 5.

Throughout the process of writing and analysis themes began to emerge and tentative conclusions were drawn which were continuously challenged as the research process progressed, until the final conclusions from this study which are presented in chapters 4, 5, and 6 of this work were arrived at.

3:7 Validity

After the aforementioned discussion on methodology, data collection, analysis and interpretation, a brief overview of the elements of validity, reliability, transferability and conformity in the study are discussed.

Validity of cases is a major criterion for qualitative research and is a vital aspect of quality control in any research study. Internal validity was not a problem here since it was an exploratory study (Yin 1989) and since Kenya's divesture program (as discussed in chapter one) is a 'closed' activity with few 'insiders'. The validity of the information is based on the 'specialized' sample; the interconnection of the validity of case study research could be threatened by any number of factors, mainly those related to the design of the study and the actual process of data collection and analysis. This research did not encounter serious validity problems, because the respondents were all interested parties and were willing to counter check the validity of the information. Validity, reliability, triangulation and transferability as discussed in sections 3:7 -3:7:4.

The validity of case study research could be threatened by any number of factors, mainly those related to the design of the study and the actual process of data collection.

Case studies have been criticised on grounds of laxity in validity arising from factors such as the absence of precise research instruments and factors related to case selection. In this approach, validity is threatened right through from design to analysis as the process of case research itself can be viewed as a continuous design activity (Yin, 1989:41). While internal validity was not of concern due to the exploratory nature of the study, external validity was critical. Also critical was the general reliability of the data collected and the credibility criteria involved establishing that the results of qualitative research are credible or believable from the perspective of the participant in the research. Since from this perspective, the purpose of qualitative research is to describe or understand the phenomena of interest from the participant's eyes, the participants are the only ones who can legitimately judge the credibility of the results.

Qualitative researchers argue for different standards for judging the quality of research. Criteria for judging the soundness of qualitative research as an alternative to more traditional quantitatively-oriented criteria were: internal validity; credibility; external validity; transferability; reliability; dependability; objectivity; conformability and focus groups. Although this study will not involve all of them, some are highlighted.

CEOs validated information continuously during data collection and analysis. The expert focus group was also used to validate information collected in some instances. Besides this, follow-up phone calls and rechecking information especially during the data analysis stage, helped enhance the validity, credibility, reliability and objectivity of the interviews and information collected during field research. The expert group meeting, for example, served as a forum to address a particular concern of the Privatization Bill and its institutional capacity, which was how a regulatory framework can be developed in order to build stakeholder (public/private partnerships) consensus, providing an opportunity to crosscheck information with a large number of people in a short period.

3:7:1 Conformability

Qualitative research tends to assume that each researcher brings a unique perspective to the study. Conformability refers to the degree to which the results could be confirmed or corroborated by others. There are a number of strategies for enhancing conformability. The researcher can document the procedures for checking and rechecking the data throughout the study. Another approach is to take a "devil's advocate" role with respect to the results, and this process can be documented. The researcher can actively search for, and describe, negative instances that contradict prior observations and after a study, one can conduct a data audit that examines the data collection and analysis procedures and makes judgments about the potential for bias or distortion. In analysing the information collected, in chapters four and five, this thesis takes both views as and when it is necessary.

3:7:2 Transferability

This refers to the degree to which the results of qualitative research can be generalized or transferred to other contexts or settings. From a qualitative perspective, transferability is primarily the responsibility of the one doing the generalizing. The qualitative researcher can enhance transferability by doing a thorough job of describing the research context and the assumptions that were central to the research. The person who wishes to "transfer" the results to a different context is then responsible for making the judgment of how sensible the transfer is. In our case study for this thesis as indicated in chapters six results are easily transferred to the context of COMESA, because of the similarities in their social, political and economic environments. In fact this research is planned for a pilot replication amongst the ten countries of COMESA free trade area. Besides, the COMESA free trade area membership is pursuing similar investment and trade policies that include enterprise restructuring and privatization hence; there are a curry-over findings.

3:7:3 Triangulation and multiple Data Sources

Triangulation is a strategy which qualitative researchers often use to ensure both internal and external validity by eliminating some of the biases which arise from, and are because of, the research process. It involves the use of several data sources (respondents and/or secondary data sources) during fieldwork, or the use of several data collection strategies. In her example, Eisenhardt (1989) uses the triangulation of data collection strategies, arguing that when qualitative and quantitative data are used together, the qualitative data is useful in understanding the rationale underlying relationships revealed in the quantitative data. Yin (1989) and Denzin (1978), on the other hand, advise the use of triangulation by various data sources rather than various methods or approaches. Denzin (1978 p.295) adds, that by triangulating data sources, analysts can efficiently employ the same methods to maximum theoretical advantage".

This study used triangulation between various sources of information as well as between methods (face to face, telephone interviews and questionnaires). Several data sources (respondents) were used in this study, which made it possible to collaborate information or to confirm some findings. On a second level, observation was used as a form of collaborating information about processes provided by respondents. In addition, it was possible to use some secondary materials regarding the history of the process and of the enterprise to confirm some perceptions, figures and projections.

3:7:4 Reliability

Another quality control measure is the reliability of a piece of research: the extent to which the operations of a study can be repeated with the same results (Yin, 1989:41). One of the criticisms levelled at qualitative methods, particularly the case study method, is the high level of 'subjectivity' emanating from the lack of 'objective' measures, among others. One way of dealing with this objection is to standardise research procedures so that the data collection can be replicated. Data source and method triangulation are some approaches used by researchers such as Bourgeois and Eisenhardt (1988) and Denzin (1978) to address this problem. Other researchers have addressed it by studying specific constructs and variables across cases (Yin and Heald, 1975).

This survey used 'standardised' data collection methods (as discussed above) for the Telkom Kenya case study by using an interview guide (questionnaire, and a listing semi-structures questions) which addressed similar issues across the privatization process and in TKL's case. These were not treated as pre-defined but as potentially evolving during data collection so as to include variables not included (Miles and Huberman, 1984) in the questionnaire. Indeed a second way is to study specific pre-defined constructs and variables as described by Yin and Heald, (1975) and as applied by Schusselbauer (1999); and Carlin, and Aghion (1996). This study did not take that approach. Consequently, the study explored the research question along three lines, the nature and extent of restructuring and privatising Telkom Kenya; the perceived and actual factors influencing the choice of approaches and strategies; and the nature of interactive relations between and within stakeholders and enterprises that emerge. This way, it was possible to 'standardise' the research process and follow only particular variables over all the cases of interest, although care was taken not to confine the respondents to particular responses.

3:8: Limitations, Constraints and Problems in Field and Thesis Study

Every field study does pose its own challenges, and this study is not exempted. However, the challenges discussed herein did not present any significant negative effects on the results of this thesis study. There are however some study problems that need to be discussed here to aid other studies to be undertaken, while noting the sentiments of Connell, et. al (2001) that research suggests that there is no one best way to research social phenomena; "clearly, each methodological approach has its own strengths and weaknesses, nuances and peculiarities, and all can be altered, refined and merged with other methods to meet the specific demands of the research question and the local context within which the research object exists"

Generally, as is discussed in the chapters, the study was faced with inadequate time and resources. There was little or no material and supervisory support from the academic institutions of the researcher's affiliation, and fieldwork was a lone range affair with any difficulties encountered in the field and during analysis in Kenya and in the UK being dealt with personally. There were no research assistants and when instances of health problems or death in the family did occur, the study was halted or delayed.

More significantly, there was no possibility to undertake specific courses or to update specific methods and analytical skills for the research. For example, it would have been easier, quicker and appropriate for this study to have taken a purely statistical method of data collection and analysis. A straightforward regression analysis - more familiar to the academic supervisor, and perhaps may have been less complicated for the study and time saving for the thesis process. In addition, the University of Durham and the Business School in particular did not provide the needed institutional and financial support for an international student undertaking field study in a developing country. The family situation was negatively affected with a bad financial position and this interfered with the study's progress. The financial constraints eventually did have a negative effect on the person and the research.

Field Research Problems

More specifically, obtaining documentation or reconstructing documentation in cases where records were poorly kept or did not exist was a difficult task, as discussed in the documentation section.

As a single researcher conducting field interviews occasionally the verification of interview data during and after the interview process was not possible between interviews and writing-up due to back to back interview schedules. In some cases where the respondent did not feel comfortable with note taking during the interview, verification was difficult, unless done with another respondent. In some cases, it was difficult to verify the written notes, e.g., to clarify any statements or statistical information, or complete any notes that were unclear immediately after the interview due to limited time.

In a few cases, interviews were interrupted and had to be rescheduled for a later time or date. This affected the momentum of the interviews and the research schedule but not the quality. In some instances, it was difficult to find an alternative date. As stated above, in some instances note taking was not allowed and this made the immediate transcription and verification of the interview notes extremely difficult and time consuming. It meant using memory to remember the important points of the responses.

In addition, the researcher had no assistants and no resources to help in the verification of the recorded information schedules and cross checking of information. Although this slowed down the data collection and analysis, it did not significantly affect the validity and quality of the data collected and the data collection process. It only meant that the process took more time and that the investigator had to collect as much information as was physically possible and make more follow-up calls.

Since most of the respondents were chief executives, it was difficult to choose a setting with little distraction. Where possible this was often done with the help of the respondent in the majority of the interviews, however avoiding answering of telephone calls during interview sessions was not possible. In some instances the interview was disrupted and had to be rescheduled; this which happened on several occasions, thus generating a new research hypothesis of "answering calls during interviews as an

indication of a specific culture of management amongst Kenyan CEOs." This thesis submits that this is one of those hypothesis generation settings alluded to in the methodology and is an interesting research area for those in public and strategic management.

In some instances where the interviewee indicated that the information on the approaches to privatization in TLK was confidential, plans were made in advance to respect their position. For example, for respondents who did not feel comfortable to be interviewed in their office environment, arrangements were made for a more acceptable venue, time and method of proceeding. As indicated earlier, where possible interviews were rescheduled and this was done in five cases. In some cases, the interview dates and venue were changed several times which disturbed the investigator's schedule. In two cases, the interview was cancelled after a four hour wait without prior notice. On three occasions, the respondents turned out not to have any useful knowledge of the process (after 1.5 hours of interview) although they were in a public or private sector position involving the process of privatisation. This explains the "closed" nature of the privatisation process/program in Kenya.

In conclusion, the constraints and compromises involved in the field study could be summarized as follows; specifically, the sensitivity of the issues, resources and time involved meant that the researcher chose to compromise the research strategy by limiting data gathering techniques to semi-structured interviews and document analysis where respondents expressed discomfort with filling in the questionnaire or discussing the questionnaire with the researcher. This compromise however did not jeopardise the research process.

The constraints and compromises experienced in any research reinforce the notion that compromise of some sort is common to all research strategies. Inevitably, researchers are faced with not only the demands of the research question but also other local limitations and contextual conditions which sometimes force a re-appraisal of the method, without compromising the research process or findings. The experience of this researcher suggests that, although clearly influential, the choice of research methodology is rarely completely conditional upon the research question's assumptions. The researcher's choice of methodology is inevitably shaped by limitations and research considerations out in the field that go beyond research question issues and which ultimately may result in compromise.

3:9 Summary

The review of the literature suggested that the nature of the approaches to privatization in LDCs was such that it required a qualitative research approach. The lack of research based knowledge on the unfolding process and the apparent complexity of the process required an exploratory and inductive approach. A single in-depth case study design was decided upon as it would provide valuable insights into Kenya's privatization process over time within an enterprise context.

The selection of Telkom Kenya Company Ltd as the focus of the investigation was based upon its potential in providing an exemplar of practice because of the likely transfer of learning which would have resulted from its unbundling, formation, operation and its sale to a strategic partner status. This would act a tangible example to the Investment Industry of an approach to privatization. As an exemplar of practice, this study was likely to provide a richer and more informed understanding of the process, and as such was of particular interest.

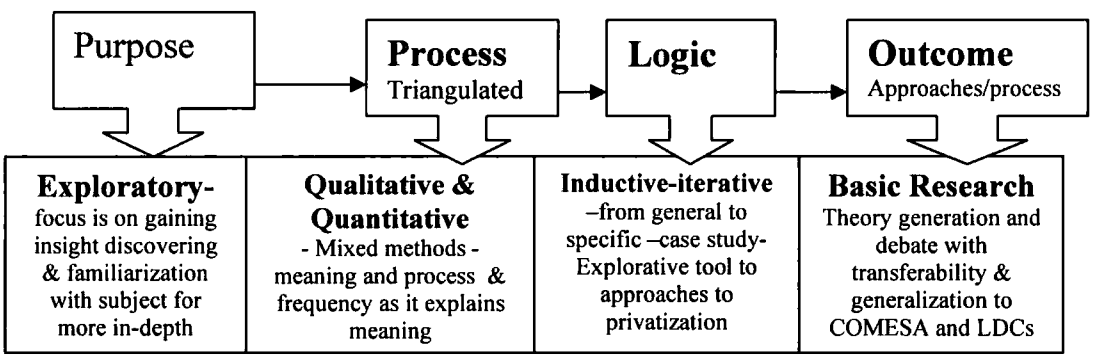
Using documentation and a series of 40 questionnaire responses, based on structured and semi structured interviews including 14 face to face interviews over the research period, data were collected to support the aims of the research as outlined in chapter one. Analysis was carried out using the theoretical conceptual framework proposed in chapters two and secondary data in chapter four, the results of this analysis are presented in chapters 5 and 6 and the thesis's reflexive account of the impact of this research approach upon the research itself, and the limitations of the research are discussed herein.

Thus, the aim of this study was to look for patterns, ideas and hypothesis rather than the testing or confirmation of existing hypothesis (Hussey and Hussey, 1997: p10) .The techniques that were employed included a case study of TLK that provided qualitative and quantitative data. The case study technique was favoured because there was little or no existing data. Secondly it was a flexible technique offering few constraints on the kind of data to be collected and the nature of activities addressed by this thesis. Thirdly,

the case study analysis technique provided an open approach to the research in an environment where information on privatization was confined to a limited sample population mainly in the public sector. Indeed, Hussey and Hussey, (1997, p10) emphasize that "techniques used in exploratory research include case studies, observations and historical analysis which can provide both quantitative and qualitative data. Such techniques are very flexible since there are few constraints on the nature of activities employed or on the type of data collected."

Due to the academic limitations of time and resources this study did not venture into in-depth descriptions and explanatory research – i.e. analyzing causal relationships and related issues. The thesis was investigating the transaction process as it pertains to privatizing, not as it relates to enterprise performance. In some instances research moved progressively from exploratory and analytical to descriptive and predictive research, as indicated in figure 3-1

Figure 3-1 Logic of Research Process



Source: Author's compilation

This research utilised triangulated methods customized according to the research questions and objectives described in chapter one. Ultimately, as Patton (1990) pointed out, the validity and reliability of qualitative data depends largely on the methodological skill, sensitivity and integrity of the researcher. As this research found, the generation of useful and credible qualitative findings occurs through observation and interviewing. This requires significant discipline, knowledge, training, practice, creativity and hard work to analyse and present the rich data often collected using triangulation. In some instances when qualitative data was compared with the quantitative data, some quantitative results may be unexplained; however, since a large amount of qualitative and quantitative data was produced, overall the quantitative findings assisted in supporting the qualitative findings.

4:0 **CHAPTER FOUR**

4:0 DEVELOPMENTS IN THE PRIVATIZATION PROCESS OF TELECOMS: The Case of Telkom Kenya Company Ltd (TKL).

4:1 Introduction and Background

This chapter seeks to provide an insight into the telecommunications sector based upon analysis of secondary and primary information i.e. company documentation and information gained through the research process. This information provides a context of the detailed findings of the empirical field survey study which follows in chapter five.[1] The discussion is based mainly on secondary data analysis with some field (interviews and questionnaire) data analysis indicated by a referenced short form of "FSD, (2004)"[2]. A brief historical overview of the unbundling process of KPTC, the birth of Safaricom, TKL and other subsidiaries and their ownership structures is also set out in this chapter. This context provides a backdrop against which the approaches of GOK's privatization process preparatory stages can be examined. The process moves from engaging and adopting the World Bank reform agenda; to the institutionalization of the practice of privatization through engaging with relevant stakeholders; to setting up an approach that provides a basis for understanding an exploratory account.

This chapter highlights areas of this research which are further informed and analysed by the results of primary data (i.e. questionnaire and interview data) and analysis as presented in chapter five and conclusions made in chapter six. This chapter also highlights the progress to-date of the developments in the privatization of the telecommunications sector in Kenya and of Telkom Kenya in particular (GOK/MOT&C,

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[1] GOK/TKL 1998-2003) Various internal confidential unpublished documents and reports cited herein as necessary

[2] Indicates field interview and questionnaire data referenced as Field Survey Data, (2004) in the list of references.

1999). In the process it explores the implications of that choice through a critically detailed examination of Telkom Kenya (TKL) divestiture, restructuring and privatization. It also examines the recent developments in the worldwide spread of liberalization, reforms and privatization of telecommunications and the surge of competition into the telecommunications sector. Indeed Petrazzini, (1996a&b) and Wallsten, (2001), p.1-2 have argued that the telecom markets around the world in the 1990s became increasingly competitive although traditionally telecom is viewed as a *natural monopoly* and could be provided at the lowest cost only by one firm due to levels of technology.[3] However, these research findings show that this view has changed due to the rapid change in technology that has encouraged rapid growth, reduction in entry in barriers and investor interest in the sector. Telecoms services seem to be falling rapidly out of the category of natural monopolies as lower costs in the provision and entry to telecom and utility services are attained. This view is also supported by the ITU (2000) report on International Telecommunications Regulators (ITRs), Bolt and Humphrey (2005) discourse on public good issues also support this view.

However, there has been notable slow progress with respect to the reform of the core and more strategic public enterprises (PEs) that includes telecommunications in LDCs and in the COMESA region in particular, although the successful completion in 1996 of the Kenya Airways privatization and liberalization of the telecoms sectors in Kenya, Uganda and Zambia has shown upward trends (COMESA, 2003). Strategically on the public front few efficiency improvements have accrued in the railways, ports, water, power, energy and telecommunications sectors (World Bank, 2000), despite the extensive technical work performed within the sector reforms framework. These companies play a significant role in the economy and the lack of progress in their reform and privatization accounts for the overall impact of the program on the economy.

Indeed, the overall impact of the telecommunications privatizations is rather modest, at least in relation to its potential; this is because the more ambitious privatization programs adopted by most governments in 1997/98 are still largely at the level of

[3] See Noll, (2000) for a comprehensive examination of telecommunications reforms in developing economies

intentions. However, significant but delayed progress has occurred in the privatization of telecommunications as evidence from Latin America (Wallsten 1999, p.5), shows. In particular, Wallsten's empirical analysis of competition and regulation in Africa indicates that the existing "empirical work to date consists largely of case studies and non- econometric tests of the effects of competition, privatization, or regulatory changes" (Wallsten, 1999, p.1). This gap exists because reforms in telecommunications have occurred only recently. He also argues (as chapter five findings confirm) that these studies find positive effects of reforms on the development of telecoms sector. Indeed, other case studies support this view including that of Wellenius, (1992) which concludes that:

> "Initial results from privatizing state telecommunications enterprises are generally very encouraging. Governments have successfully sold to consortia led by experienced foreign operating companies capable of providing expert managers, specialised management tools, and continued access to latest technologies. Good financial performance, reflecting major tariff adjustments and lower costs, is allowing privatized companies to initially finance accelerated investments largely from internally generated funds. Also, international markets have been increasingly willing to provide large amounts of capital for privatized companies in countries with sound macroeconomic and regulatory frameworks (e.g., Chile, Mexico, Argentina) (Wellenius, (1992, p.8)

Most developing economies nationalized their telecom providers in the 1960s with resulting consequences of limited and poor service. Saunders, et al (1983) note that by 1981 Africa and Latin America averaged only 0.8 and 5.5 telephones per hundred people, respectively, compared to 83.7 in the United States.

There was a general worldwide trend towards divestiture started largely by Britain's Thatcher government in 1979 (alluded to in chapter two), which coined the term "privatization" (Megginson, 2000). In developing countries, by the end of 1999, the International Telecommunications Union reported that more than half of Asian and Latin American countries and one-third of African countries had privatized their telecommunications providers. Wallsten (2002), and Shirley et al (2000) discuss evidence revealing that privatization of telecommunications can lead to increased and efficient service provision. Megginson et al (1994) compare pre- and post- privatization financial and operating performance of 61 companies (in 32 industries, including telecommunications) from 18 countries and find positive sales, investments and

employment following privatization. The findings of questionnaire data analysis in chapter five also found that there were increased employment and job opportunities nationally and regionally. The existing literature on telecom reforms in particular contains primarily two types of analyses: case studies and empirical work that compare average performance indicators across firms or countries. An ITU (2000) report indicate that no Arab states have privatized their telecommunications providers before and after reforms took effect. Not surprisingly, given the region's relatively early start in reforms, most of this evidence is from Latin America. In general, these studies find that with positive effects (e.g., Wellenius, 1992; Kikeri, Nellis, and Shirley, 1992) the spread of telecommunications reforms around the world is increasing.

These telecommunication privatization trends point to the possibility of vastly improved telecom service for literally millions of people (Wallsten, 2001, p16). However, the empirical literature as noted by Wallsten (2001), Megginson et. al (1994) and Shirley et. al (1992; 1999) almost completely ignored the details of the privatization process (as laid out in chapters two and five of this thesis). These details can make an enormous difference. In particular, governments tend to give the newly privatized firm a monopoly concession on telecom service (i.e. TKL's exclusivity monopoly). While some contend that an exclusivity period is necessary to encourage investment, Wallsten (2001, p.16) argues that the only reasonable explanation is to increase the government's revenues from the sale, as was indeed the case with TKL when the GOK used TKL's monopoly to delay its privatization whilst responding to pressure to maximize the sale price under the guise of restructuring.

However, turning a public monopoly into a private monopoly may not necessarily generate the improvements reformers envision. Guaranteeing the newly-privatized firm a monopoly can increase the government's windfall from the sale but may seriously reduce investment in the telecom network and potentially the country's net welfare (GOK, 1996). As illustrated by the case of Telkom Kenya in this chapter and in chapter five.

4:1 TELECOMMUNICATIONS AND POSTAL SECTOR POLICY ENVIRONMENT

The postal and telecommunications sector policy launched by the Government of Kenya (GOK) in 1997 and strengthened by the 1998 act stipulates the role of the sector as that of instituting measures for revitalisation and transforming the postal services into a market oriented economy. Kenya's telecommunication Policy Statement attempts to map out objectives, strategies and features that are necessary to facilitate the orderly expansion and modernisation of the sector in the period 1999 to 2015 through divesture of the communications sector (GOK/MOT&C, 1999). The aim is to ensure that, the sector develops an adequate capacity to meet demands for basic services and rapidly emerging requirements for new services. The GOK is aware that the sector will continue to experience rapid changes (i.e. reforms, deregulation/market liberalization) with implications for both the service providers and users.

The Policy Statement is reviewed periodically to ensure that the sectoral objectives and strategies being pursued are relevant, efficacious and supportive of national development. The GOK in translating the policy statement into an act (GOK, 1998) intended to attract investors and appropriate opportunities for investment that would catalyse the building of a modern, efficient and reliable communications network to face the challenges of the twenty first century. More importantly it defines the framework within which postal and telecommunication services are provided.

The GOK's aim is to establish Kenya in the medium to long term as the centre of industrial and financial activities in the Common Market for East and Southern Africa Free Trade Area (COMESA-FTA) region. To this end, telecommunications and air transport sub-sectors are key in the achievement of first generation reforms aimed at revitalizing market functions through liberalization and opening up markets including the withdrawal of the state from ownership, market intervention, market entry, market exit and pricing (Kikeri et. al 1994; Megginson and Netter, 2001). Indeed the overall GOK objective for the sector is to optimise its contribution to the development of the Kenyan economy as a whole by ensuring the availability of efficient, reliable and affordable communication services nationally (GOK/MOTC, 1998; GOK, 1996, pp 1-5).

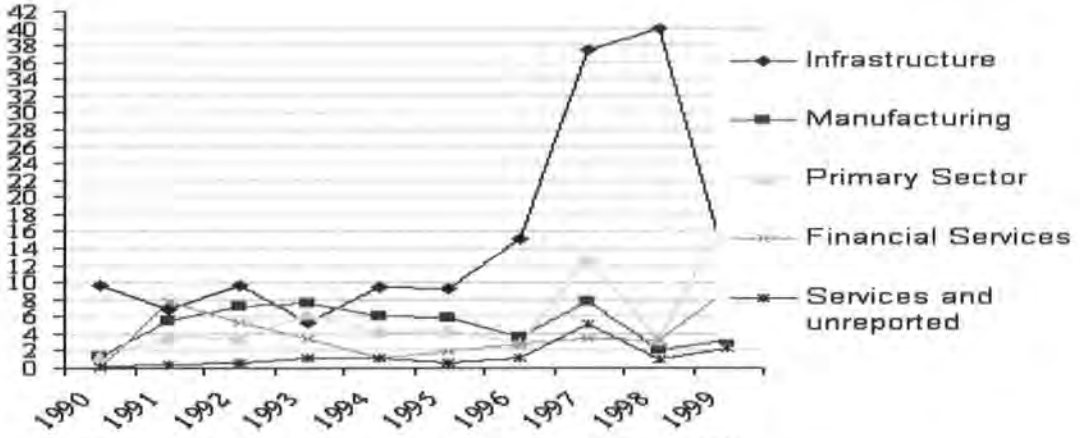
4:2 Liberalization & Restructuring of the Communications Industry

Overview and Trends

While reviewing the trends in the communications industry in the World and indeed in the COMESA sub-region, it is evident that, in the 1980s, the nationalization trend began to reverse itself with the introduction of SAPs; although the specifics differ nationally and regionally largely three common factors drove liberalization reforms around the world. Apart from the international financial lending agencies' pressure to African governments, the exceptionally poor performance of state-owned telecom firms generated pressure for reforms. Long waiting periods for telephone connections (averaging 1-5 years in the COMESA region) and the unreliability of those connections generated reforms by popular demand, while inefficient operations often requiring large subsidies encouraged governments to divest firms that were draining national treasuries. Wellenius (1992) notes that in the 1960s the World Bank funded primarily infrastructure investments and organization and management reforms in the 1970s, but by the 1980s the focus switched to sector reforms including privatization. Using panel data on 167 countries from 1980 through 1998, Li, Qiang, and Xu (2000) found empirical evidence of telecom reforms brought about both in response to poor sector performance and foreign aid including the presence of World Bank telecommunications loans.

Trends in developing countries show that divestiture and disposal of large-scale infrastructure, such as telecommunications, power and transport accounts for the largest share of privatization revenue, and telecoms transactions were largely responsible for 1997-1998's revenue peak. However, in 1999, the primary sector privatizations for example, petroleum, mining, agriculture and forestry—overtook infrastructure privatization, as indicated in figure (4-1)

Figure 4-1: Privatization Revenues in Developing Countries by Sector 1990-1999 ($billion)[4]



Source: Global Development Finance, the World Bank (2000)

Meanwhile, the actual liberalization and restructuring of telecommunication state enterprises started back in 1993 but was only effected in 1996 after the successful privatization of Kenya Airways (KQ) as described by Atieno, (2002, p.19-34). This research found that the telecommunications sector in Kenya had been identified as a priority in view of the required investments in fixed and mobile telephone networks (GOK, 1996).

Kenya's parastatal liberalization, reform and privatization program is managed by the Investment Secretariat based at the Ministry of Finance Treasury and operates as the Department of Government Investments and Public Enterprises (DGIPE (see figure 5-1). In general, reforms of parastatals since 1992 have resulted in the reduction of direct and indirect government subsidies to parastatals. For example, loans serviced on behalf of Kenya's six largest parastatals and their recurrent and development expenditure declined from Kshs. 2.25 billion (US $ 29.61) in fiscal year 1992/994 to less than Kshs. 300 million (US $ 3.95 million) in fiscal years 1999/2001 (World Bank, 2002). This decline should be viewed against Kenya's privatization related revenue estimated at $ 70 million and that of COMESA totalling to US$ 5.2 billion raised by 2000 in the four major member countries of Egypt, Kenya, Uganda and Zambia ,as indicated in table 4-1

[4] Note that this data include proceeds from domestic and foreign investors as well as direct and portfolio investments.

Table 4-1: Total Privatization Transaction Proceeds in COMESA

COMESA's Privatization Transaction Proceeds in 1993-2002		
Country	Year	Amount In US $
Egypt	1995-2000	3,868,612,213.00
Kenya	1993-2002	136,840,000.00
Uganda	1995-2000	174,494,375.00
Zambia	1995-2000	826,200,000.00
Total Proceeds		5,239,906,588.00

Data Source: World Bank Privatization Link, Listings, (2003)

However, this research's initial field survey found that GOK maintained that Kenya's revenue rose to over US $ 306.3 million by 2003, with an estimated $100 million proceeds accrued to the exchequer in support of the government's budget from 169 enterprises fully or partially privatized, up from $ 86.5 million between 1992 and 1997 (GOK, 1996; KNA, 1997; and annex C). Out of a total of 267 non-strategic and 33 strategic enterprises which were listed for disposal since 1992, the privatization transactions gave Kshs. 8.12 billion (US $ 106.84 million) to the exchequer out of the total proceeds of Kshs.10.4 billion (US $ 136.84 million) raised by 2002 (see table 4-2) (World Bank/Privatization Link 2004). Over 50 percent of share trade sales have been transacted through initial public offers (IPOs), as in the case of Kenya Airways. Mumias Sugar Company was transacted by management contract; and Kenya Commercial Bank, ICDCI investment Company Ltd, and KPT&C through strategic investor sales and an IPO after unbundling. (GOK/DGIPE, 2002; GOK, 1996; Kenya National Assembly - KNA, 1997).

Table 4-2 Kenya's Total Reform and Privatization Transaction Proceeds 1992-2003

Year	Amount in Kshs.	Amount In US $
1992-2001	10.4 billion	136.84 million
2002-2003	12.9 billion	169.46 million
Total Proceeds	23.3 billion	306.30 million

Data Source: GOK reports/Interview data (2003)

Interestingly, in the 2003/04 National budget, the government factored in the US $64 million revenue expected from the license fee sale to a Second National Operator

(SNO), yet publicly the GOK claimed the transaction had not been completed and the licence fee had not been paid. The balance of the $64 Million was used to service the government's debt and support restructuring efforts and investments into the privatization process. Notably though, none of the COMESA governments nor the World Bank had explicit records available (except through interviews) showing levels of reinvestments put into the privatization restructuring process (FSD, 2004).

Specifically, liberalization and reforms in the telecommunications sector in Kenya were started actively in 1999 in line with targets set in the 1998 act. Liberalization of the sector was meant to attract private sector capital and increase efficiency by allowing competition in certain crucial areas. The first phase involved reforms and restructuring the policy environment, and the supply, installation and maintenance of terminal equipment, external cabling and wiring. Where as, some of the targets in phase II involved licensing of over 40 companies as service providers for e-mail and data transmission internet services. Phase III focused on paging, mobile phone services, trunk radio networks, public data systems, and Very Small Aperture Terminals (VSAT) installation and maintenance (GOK, 1998; CCK, 2001)).

In addition, TKL installed a new toll switchboard in Nairobi in 2002 to ease the connection of new telephone operators which consists of 5,460 channels designed to enhance both international and local telephone calls. During the exclusivity period extended to June 2004 Telkom Kenya was under obligation by law to provide these channels to any telecom company licensed by the Communications Commission of Kenya (GOK, 2001:1998; CCK, 2003). This facility was part of the company strategy to offer connectivity infrastructure to the second largest mobile telephone operator, Kencell Communications and the third mobile operator (TMBO) ECONET. These channels were intended to make telephone calls cheaper and enable faster connections.

Other telecommunication infrastructure expansion projects were being carried out in Mombasa, Eldoret, Nakuru, Kisumu and Nyeri (see chapter five). Phase IV was the identification and licensing of a new fixed line network operator to compete with TKL which had a five-year exclusivity period for the Nairobi market. Efforts to liberalise VSAT were slow and controversial with complaints from the private sector regarding

TKL's lack of technical and human capacity to effectively liberalize VSAT services. However, by December 2002 Radio stations were streaming and some banks had been issued with licences to operate VSAT services. Additionally, the local Operators Association of Kenya (TOPAK- service providers) was licensed to operate a local internet exchange point known as an Internet Service Provider (ISP) in 2001, which was intended to ease the internet traffic flow (TLK, 2003; GOK/TKL, 2000 and CCK, 2002).

4:2:1 Status of the Telecommunications Sector in Kenya: An Historical Evolution

This research found that historically the submarine cables linking Zanzibar, Mombasa and Dar -es- Salaam laid by the Eastern & South African Telegraph Company in 1888, were Kenya's earliest telecommunications connections to the outside world (KPT&C 1984; KPTC, 1999). Within the country, the construction of a telegraph network began with a 200-mile coastal line linking the port city of Mombasa with Lamu. Further linkages to other parts of the country began in 1896 in conjunction with the building of the railway system forming a dual "backbone" for Kenya's telecommunications infrastructure. The telegraph line reached Nairobi in 1898 and Kampala and Entebbe in Uganda in 1900. Telephone service soon followed and in 1908 the public telephone network began service in Nairobi and Mombasa and eighteen telephone subscribers were connected. The connections remained low during the 1960s and 1970s.

However, in the 1980s there was a notable gradual development of Kenya's network. It attained a slight increase of 73,932 direct exchange lines of public telephone lines by 1980 an annual growth of 1.4% and 1,030 lines (KP&TC, 1984). Along with this was the slow transition from telexing and faxing to internet and text services offered by KPTC (GOK, 2002).

During this research the telecommunications sector was managed by the Ministry of Information, Transport and Communications (MOITC) operating under the Kenya Communications Act of 1998 which replaced the Kenya Posts and Telecommunications Corporation Act 411. The 1998 act, (i.e. GOK, 1998) enabled the establishment of the National Communications Secretariat (NCS) within the parent ministry that serves as

the policy advisory arm of government on matters pertaining to the telecommunications sector. The Communications Commission of Kenya (CCK) serves as the regulator for the sector, the Appeals Tribunal (with powers of the High Court) serves as the independent arbitrator and Telkom Kenya Limited and other licensed network operators serve as public telecoms operators (GOK, 1998).

The Government of Kenya's (GOK) main objective of restructuring KPTC (and its subsequent choice of gradual liberalization of Telkom Kenya as an option), was to ensure high quality service, cost effective expansion, introduce new technology, and financial self-sustenance which effectively would help minimize unfavourable distributional impacts on taxpayers, consumers and employees as indicated by GOK's privatization objectives (1996); FSD (2004); and Ramanadham, (1995). In addition, this process would enable the enterprise to operate with improved efficiency and improve on the future divesture price. To achieve this, KPTC was split into three legal entities namely Telkom Kenya Company Limited (TKL), Postal Corporation (POSTA) and the Communications Commission of Kenya (CCK) as the regulator discussed here and in chapter five in detail. The TKL Company took over the KPTC telecommunications business and started functioning in 1999 after the enactment of the Kenya Communication Act of 1998.[6] The Postal Corporation of Kenya (POSTA) established by the Postal Corporation Act (GOK, 1998) is the public postal licensee with the specific role to ensure universal access of postal services. POSTA holds exclusive provision of stamps and private letterboxes but competes in all other market segments while the state controls the extensive postal service network.

4:2:2 Restructuring of Kenya Posts & Telecommunication Corporation (KPTC)[7]

Against this historical backdrop and with the act in place and in order to address the poor performance of growth in lines, the GOK embarked on liberalization and reforms of the telecommunication sector in the early 1990s in four phases described earlier. This meant that Telkom Kenya become the sole provider of basic telecommunications services. After the unbundling of Kenya Posts and Telecommunications Corporation (KPTC) its valuation and separation of assets/liabilities, the privatization process was set in place (GOK/TKL, 1999; GOK/MOT&C, 1999). KPTC's specific outcomes of its unbundling and strategic nature required that the GOK request an extension to the World Bank (privatization/liberalization project based on an agreed timetable for privatization. This was to be completed with the sale of Telkom Kenya with preparatory legal and investment banking support provided by the World Bank. It was expected that the Stage I period of 12-24 months transaction period stipulated in the Interim Poverty Reduction Strategy Paper (PRSP) of 1999, would include the completion of the privatisation of Telkom Kenya through the sale of a 49% shareholding to a strategic partner and commercialization of postal services (GOK, 2000). Stage two of 18-36 months schedule transaction (figure 5-2) was to be completed by FY 2002/04 with the introduction of a second national fixed telephony operator (SNO). The project also provided support to the Government allowing further reforms and liberalization in the sector (CCK, 2002).

Telkom Kenya Limited (TKL) is a public telecommunications operator established in 1999 under the companies act with the GOK as the only shareholder (TKL/ Safaricom, 2000). The government initially offered 49% of TKL's equity shares to a strategic investor through the Nairobi Stock Exchange (NSE). This ratio (subject to change without notice) was later revised as discussed in chapter five. TKL took over all the telecommunication functions of the parent organisation KPTC and held licences in all telecom services including in its access to service requirements where it is obliged to provide interconnection to duly licensed operators. Theoretically the CCK Act set out a

[7] KPTC's restructuring is discussed at length by GOK, (1998) and KNA, (2001) on public accounts

modern regulatory regime suitable for a multi-operator environment necessary to support the revitalisation of the telecommunication and postal sectors. The Act also provides for the rights and obligations of licensees and service consumers. It also sets out principles on interconnection, public service obligations and fair competition which ensure the protection of consumers and investor interests. CCK's major functions include licence issuance, price regulation, establishment of interconnection principles, type approval of equipment and management of the radio and the communication frequency spectrum. These functions, which are periodically revised and expanded, are discussed thought-out section 4:2 and in the major findings in chapter five (GOK/CCK, 2001).

Following the liberalization of the non-strategic portion of the telecommunications network in 1999 the opening up of the value added service market that included internet and calling cards in 2001, the number of private telecommunications service providers increased considerably. There were over 300 registered companies dealing with vending, installation and maintenance and customer premises' internal & external wiring. There were about 60 registered Internet Service Providers (ISPs) and other value added service providers between 2001 and 2002. Many privately operated telephone call offices and Internet cyber cafés have sprung up throughout the country's urban centres during this period (CCK, 2002).

The findings of this thesis show that overall, despite years of efforts towards expansion and modernisation of the country's postal and telecommunication services, substantial demand for basic services remained unsatisfied and the disparity in the distribution of communication facilities between the rural and urban areas continued to widen (see table 4-3). This re-emphasises the fundamental structural reforms that must be initiated. Kenya has to respond by implementing Stage II of the World Bank Project whose objective was to strengthen the liberalization and reform agenda that led to the sale of the second cellular telephony licence to Vodafone as a second mobile operator (SMO) and the introduction of a third mobile operator (TMO) effected after October 31, 2003, to further speed-up liberalization of the sector through increased competition.

This process would improve penetration in the rural areas from the present 0. 16 lines to I line per 100 people and improve service penetration in the urban areas from the present 4 lines to 20 lines per 100 people by the year 2015. These targets translated to the installation of 300,000 lines in rural areas and 2.4 million lines in urban areas respectively, at an estimated average cost of US$ 800 to $1,250 per line, the total investment over the 20-year period amounting to US$ 5.4 billion. This means on average the annual requirement was estimated to be about US$ 270 million (TKL 2003). This high level of investments requires new initiatives to attract capital into the sector from the private sector by the introduction of new investments in technology, targeting cellular and fixed lines through restructuring of KPTC and TKL and the gradual liberalization of the telecommunications sector.

Table: 4-3: Service Penetration Projections

	Current	Planned -2015
	Rural Areas	
Lines → Population	0.16 Per 100 people	1 Per 100 people
	Urban Areas	
Lines → Population	4 Per 100 people	20 Per 100 people

Sources: Author's compilation from field Data, (2004)

4:2:3 Telecommunications Network Development

Kenya's development of telecommunication services since 1981 saw telephone exchange capacity increase to an average growth rate of 15% annually rising from 112,861 lines in 1981 to about 480,000 lines in 2000 and to 600, 00 lines by 2003. In addition, the rural component of total telephone exchange capacity increased from 16.6% in 1981 to 24.3% in 1990 before declining to 15% in 1997. A relatively outstanding achievement during this period was the expansion of the public telephone service, with public booths increasing from 588 in 1981 to 10,000 in 2000 as the growth of the operational fixed lines increased to 350, 000 by 2002 as shown in table 4:4. In addition table 4:5 shows the growth of cellular or mobile subscribers since 1997 (GOK/TKL, 2003-1998; GOK, 2002).

Table 4-4: Growth in Number of Mainlines in Operation (1993 to 2000)

Main Telephones in Operation, 1993 - 2003									
Year	**1993**	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2003**
Lines	214,759	228,522	256,434	266,780	271,816	288,251	296,400	310,000	350,000: **245,000**[8]

Sources: TKL Reports: Market structure, (2001)

Table 5-6 and figures 5-7-5-9 of chapter five further show the growth in cellular and fixed telephony and table 5-13 shows the network expansion plans for TKL.

Table 4-5 Growth in Cellular Subscribers (from 1997-2001)[9]

Cellular Subscribers					
MO[10] -Provider	1997	1998	1999	2000	June 2001
Safaricom Ltd	3,000	6,000	20,000	54,000	160,000
Kencell Com. Ltd	-	-	-	60,000	190,000
Total Subscribers	3,000	6,000	15,000	114,000	350,000

Sources: Author's compilation from field Data, (2004)

The GOK made encouraging progress in its efforts to modernise the network, increasing automation levels from 84.3% in 1981 to 98% in 2000. The greatest impact of this

[8] This figure is given by engineers and technicians of TKL as the actual connected and operating by end of 2003.
[9] Figures in Table 4-5 are rounded to the nearest thousand and chapter five shows figures for 2002-2004.
[10] MO – Mobile operator.

automation was felt in the rural areas with levels improving from 15.3% to 40% in 2003 (TLK, 2003). Kenya's telephone service density (teledensity) stands at about 0.16 fixed lines per 100 people in the rural areas and about 4 lines per 100 people in the urban areas (table 4-3). The telephone penetration factor which is the percentage of households/offices with a telephone was 4.2% of the households having a telephone line by 1999. This factor, however, varies widely from 0.1% in the very remote districts to 27.7% in the city of Nairobi (TKL, 1999; GOK, 2002). However, most of the telephones in the urban areas are within offices rather than households.

The GOK's aims at increasing customer choice and investment through the introduction of competition - the envisaged competition in the telecoms sector - is within a defined market structure fostering new licences, to attract entry of new players in a previously monopolised sector (FSD, 2004). Some of the specific elements or conditions of the telecoms programme include provision of *Universal service-* within the international telecommunications law; the GOK has committed to continue the provision of basic postal services to all unserved or underserved areas at affordable rates (GOK, 1998).

However, such rural service is often deemed uneconomical by the private sector because of high overhead costs caused by poor infrastructure, distance and low number of users. The government can undertake some selected services in order to create balance (FSD, 2004). Consequently, it is an investment requirement that any firm licensed to provide services in the liberalised market segment should have at least between 51-60% of its equity owned by Kenyans. However, the field interviews show that for all the listed companies, the equity participation often conforms to the capital markets regulator's rules and procedures. This policy is reviewed when necessary in line with the country's investment needs.[11] TKL's initial privatisation of 26% sale of its equity to a strategic investor (STI) was planed in 2000 with 23% to its local and international investors on the Nairobi Stock Exchange (NSE) and 51% to be shared between employees, local investors and the government.

[11] Field Survey Data, (2004).

4:3 Objectives of Restructuring before Privatisation

The restructuring of Kenya Posts and Telecommunication (KPTC) started in 1996, with a study commissioned by the Ministry of Finance of the Government of Kenya (GOK). The study's overall objective was defining options for the financial restructuring of the three separate commercial entities created out of KPTC. POSTA was to remain a government operation and Telkom Kenya was to be privatised (GOK/TKL, 1999). Transaction advisors were engaged to consider the best option for GOK and to implement TKL's privatization; and a regulatory advisor was also appointed to advise on the best regulatory framework for the sector and measures to realise this framework. The advisory team prepared TKL for operation, audited KPTC's accounts; considered the treatment of certain non-core functions within KPTC under the valuation of TKL; and considered options for the financial restructuring of KPTC. During this process of restructuring a number of core business areas of KPTC[12] were reviewed by commissioned consultants. A study into pension liabilities; a review of assets by Tyson's Ltd; and a review of balances with government departments and parastatal organisations, were done (GOK/TLK, 1999: FSD, 2004)

This research found that the major portion of the restructuring of KPTC was financial restructuring. The subsequent valuation of TKL had four major objectives: maximisation of sales proceeds from the transaction, minimisation of cash injection from GOK prior to sale (clearly there was balance with the latter); consideration of public perception of value for money and safeguarding the ability of the Company to operate optimally in the short to medium term. During the financial restructuring process, the "joint funds" (i.e. inter-business account for KPTC/POSTA and TKL) was the basis of the criteria used to separate KPTC into the Telecom and Postal divisions, using 25% of the total current assets (GOK/TKL, 1999).

12 By a Steering Committee comprising, Permanent Secretary Ministry of Communications, Investment Secretary DGIPE GM KPTC, Ps Division World Bank Nairobi & PMG

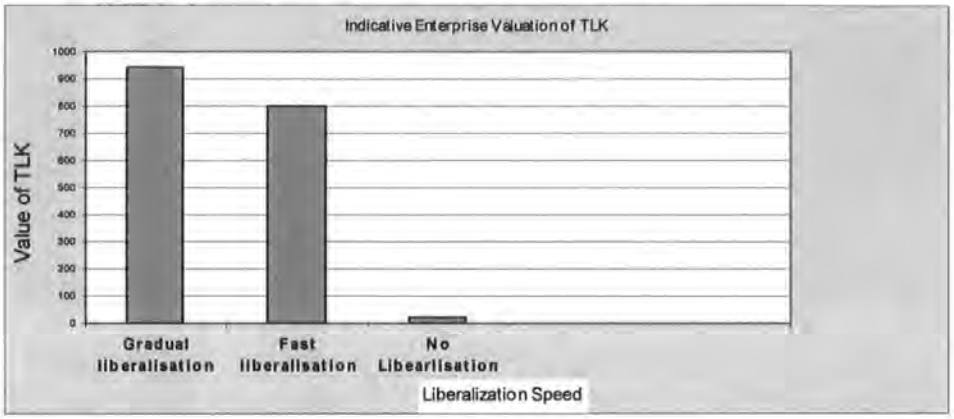
Loss of Market Share – on Valuation

With the introduction of new products and services and continued restructuring of postal and telecommunications institutions, it was clear on valuation that there would be a loss of market share by TKL and PCK due to increased competition, unless they fast trucked the restructuring of operations and management of their core businesses (GOK/TKL, 1999*:2000*). Indeed, the TKL's base case valuation of an estimated 3% of services reflect the realisation that each service would lose a market share at a rate of 3% per year although the model employed reflected no loss of market share for local traffic while the loss on international market share was 4% annually (Stiglitz, 1999; Wallsten, 2001a:2002). The figures presented were correctly based on a 3% per year loss of market share across local, national and international traffic. The valuation and financial restructuring of Telkom Kenya as an entity earmarked for privatisation was important to the achievement of GOK's objectives with respect to the communications sector in Kenya (FSD, 2004).

According to the GOK, the valuation exercise was undertaken to give GOK and TKL an initial view on what investors might consider a reasonable price for acquiring a stake in TKL. It should be noted however, that the true valuation of a company could only be defined by what investors actually pay. The valuation process was intended as an advice to GOK of the potential range that future investors might be expected to pay and to allow the consideration of different options. In this case the GOK had to re-confirm/validate the valuation of TKL once decisions on the privatisation process were confirmed in late 1999 (GOK/TLK, 2000*)[13]. The discount rate was considered to be between 20% and 24% a value that reflected the assessment of prevailing local conditions including political and economic developments and could have been reduced to 18%, a value that can be predicted by taking an optimistic view of future economic developments- in particular interest rates and exchange rates (GOK/TKL, 1999*, p.40).

[13] *indicates a confidential report that included a financial valuation of assets especially labour issues

Figure 4-2: Indicative enterprise valuation of Telkom



Sources: Authors compilation from TKL various reports, (2000)

Analysis (section 4:5) shows that in addition to the discount factor, tariffs and capex are both critical factors in determining the value of Telkom Kenya under the gradual liberalization scenario (figure 4-2). A small variation in either of these factors will influence significantly the value of the company (Stiglitz, 1999).

The reason for this is that loss of market share does not become significant until later years by which time high discounts have to be applied to reduce the amount to the present value (in other words given revenues in later years contribute less to total present value). A similar argument applies for the low impact of productivity. This is because there is a phased reduction over time to achieve the target productivity level and an associated cost of staff redundancies that act to offset any immediate cost savings. Notice however, that TKL had major problems with staff downsizing and yet this is an aspect not reflected in their revenues as indicated in figure 5-10 and table 5-14 in chapter five.

Nevertheless there were some significant changes made from the original position of KPTC to achieve the modelled scenario of three sister companies namely; POSTA, TKL and Safaricom. In particular, there was a substantial change in productivity level, penetration and capex per net productivity. For example improvements from 16 lines per employee in 2000 to 90 lines per employee in 2010 for the fast scenario and to 100 lines per employee in 2015 as indicated in table 4:3. This analysis identified the key parameters affecting the value of TKL. Telkom Kenya could orient its strategy accordingly by balancing its commercial objectives and its financial position. An

optimum strategy can then be found, for instance, Telkom Kenya knows that by discounting significantly its tariffs, it is likely to maintain its market share more readily and slow down the progress of competition as discussed in sections 5-6 to 5-7 in chapter five. However, a significant impact on the cash flow of the company must be expected, (as is evident in their June 2001 annual results), which was occasioned by its subsidiary Safaricom reducing tariffs to retain market share after Kencell's entry into the market.[14] Before describing TKL's market structure in detail in sections 4:4 to 4:5 it is important to briefly examine the key assumptions that drive the telecommunications valuation model. First general assumptions relating to the Kenyan economy and demographics are important before considering assumptions specific to the telecommunications sector.

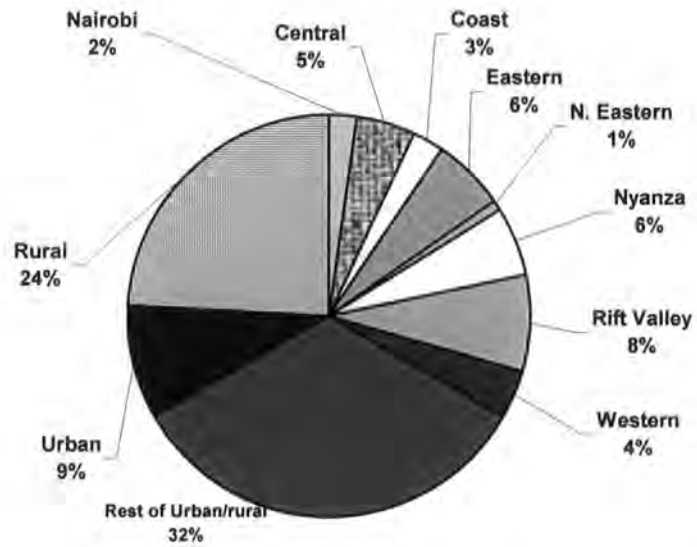
4:3:1 Demographic Assumptions

According to Kenya's economic survey (GOK, 2003), Kenya is divided up into eight geographical regions or provinces and its population, land area, population density, household size, household density and urban population for each of these regions are shown in the figure 4-3. Central Bureau of Statistics (CBS) further indicates that of rural and urban populations 84.5% of population can be found in rural areas. The World Bank/GOK, (1996)[15] report however estimates the rural population at 70 % in 1994. The Economic survey of 2003 indicated that the rural population still stands at 81.4% with a decline in urban migration starting from 1999. The differences in these figures is due to the different definitions of rural and urban. To aid the work in terms of international comparability of statistics, the figures used were assumed from the WB/UN for urban population figures. Percentage urban/rural populations in each Kenyan province have been adjusted by the GOK accordingly (GOK, 2003).

[14] See sections 5:1:2 -5:1:2:3 and 5:6 -5:7:4:1

[15] The World Bank Kenya Poverty/Welfare Report of 1996.

Figure 4-3 Demographic data



Sources: Author's Compilation from TKL data in various reports, (2001)

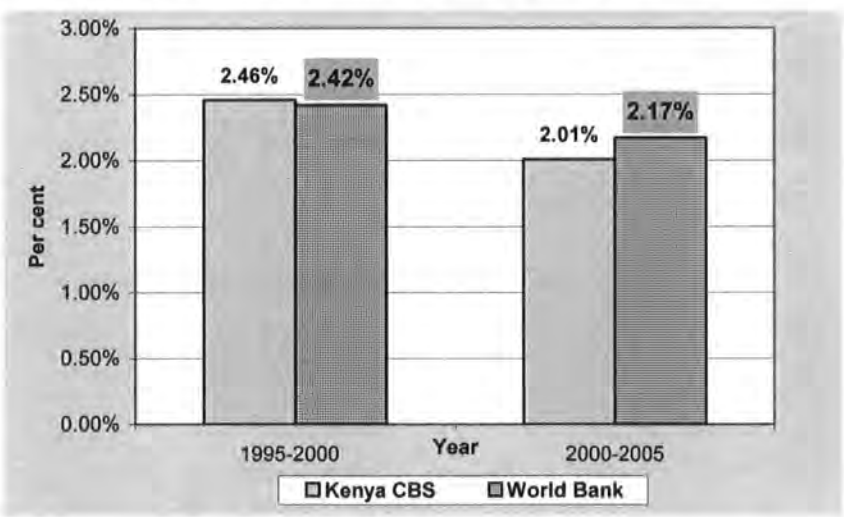
In terms of telecommunications service provision and improvement in market share Kenya could be split into three demographic regions based on household density statistics: Nairobi (very high household density); Central & Nyanza provinces (medium household density) and the remainder of the country (low household density). In regions of low household density, the cost for TKL installing an additional telephone line is much higher than supplying a new line in Nairobi where houses are located more closely together. It would therefore be economically more attractive for TKL to install a new line in the city or urban areas than in villages that are more rural or provinces if revenue per line was equal. It is important to note that on average household size varies dramatically across regions (KP&TC, 1984).

Furthermore, in Nairobi a telephone line in one house on average allows access to the telephone by 3.7 people. In North Eastern province with 6.1 people per household each new line effectively gives access to 64% more people than the equivalent line in Nairobi. All variables being equal, less telephone lines are required in provinces with a higher number of people per household than those with a lower household size.

4:3:1:1 Population Growth Rate

Kenya's population growth rate has been increasing by 3% per annum in the 1990s and went down to 2.9% in 1999 and settled at 2.17 in 2000 (Kenya's Economic survey of 2003 (GOK, 2004). Such high growth has meant that KPTC has had to install lines at the rate of approximately 7,000 per annum just to stay still in terms of teledensity, Population growth is expected to slow in Kenya, however and views on the speed of slow-down vary depending on the source. Two population growth rate scenarios were selected (by the GOK) for the purposes of examining the impact on TKL of variations in the expected number of customers for a given teledensity in Kenya. The first of these was sourced from the Kenya Bureau of Central Statistics, the second from the World Bank. The World Bank/United Nations estimates urbanisation increasing at the rate of 2.52% per annum rising to 46% of the population by the year 2010 (World Bank, ABB., and UNCEA, 2000). This demographic shift acts to improve the disparity between rural and urban teledensities over time.

Figure 4-4: Population Growth Assumptions



Data Sources: GOK-CBS[16] and the World Bank, (2003)

[16] Central Bureau of Statistics

4:3:2 Market Structure and Liberalization

In service industries the demographic and populations assumptions are important in shaping the market structure. In this regard, population and demography enhance the challenges and demands faced by policy makers in Kenya in their attempt to fulfil economic needs of the market through; infusion of finance and capacity to expand the network, enhance service quality and features and upgrade operational efficiency and productivity (Wellenius, 1992; Kikeri et al, 1992). While Kenya has had a rapidly expanding economy over the years, it is also reported to have one of the world's highest annual population growth rates its population is expected to reach 40 million by 2005 even at its lowest growth rate of 2%. Kenya will also need to invigorate agriculture and enhance the lives of those in its rural areas to stem the tide of migration into the towns (GOK, 2003).

The Kenya economic survey of 2002 (GOK, 2003) estimated that five million new jobs needed to be created in the urban areas. This is to help Kenya avoid massive unemployment and social unrest that Schusselbauer (1999) has argued is often likely to follow the restructuring and privatization of the communications industry in emerging and developing economies. The GOK responded to these challenges with a market-oriented economic policy, which emphasizes openness to the world economy and export-led growth. This policy necessitates a more universal and reliable telecoms network than would be needed had Kenya attempted a predominantly inward-looking, centrally directed economic strategy similar to those attempted by other African countries (e.g. Tanzania in the early and late1990s).

4:3:2:1 Telecommunications Services

The approved market structure (appendix 2: annex XI)[17] consists of the following major segments: customer premises equipment; internal and external wiring; resale services (value added services); internet backbone; VSAT services; mobile cellular services; mobile satellite services; local telephone access services; national long distance telephone service; international long distance telephone services (CCK, 2002).

Telkom Kenya holds licences for and operates all the services previously offered by its predecessor KPTC as shown in table (5-5 p.239) These include: Local telephone Services, National long distance telephone Service, International gateway service, Global mobile personal communication by satellite (GMPCS), Mobile radio services, VSAT Services, Internet node and Backbone services, Value added services (VAS), Customer Premises Equipment (CPE); vending and Internal & External Wiring services (CCK, 2002). TKL however faces stiff competition in almost all of these market segments from new market entrants following the current market liberalization trends.

Mobile Cellular Operators: - The cellular phone market was expected to operate in a duopoly environment until the licensing of the third mobile operator (TMO), ECONET and a Second National Operator (SNO) (CCK, 2002).[18] Before the entry of SNO in 2004, the three major players in Kenya's telephony market included TKL as a fixed line operator; Safaricom Company Limited, (whose 60% shares are held by TKL and 40% by Vodafone UK); and Kencell Communications (Ltd) which was licensed as the second mobile cellular operator on the 28th January 1999 (CCK, 2001). Kencell Communications limited is a Franco-Kenyan consortium made up of Vivendi International, Vodafone (40%) and Sameer Investments Group (60%), with Celtel as the new entrant who purchased Vivendi shares in an interesting sale spearheaded by Sameer Investments Group, who own 40 per cent of the shares in Kencell. This acquisition of

[17] Appendix 2
[18] Beardsley, S. Patsalos-F. (1995); Faulhaber, G. and Hogendorn C. (2000)

the 60 per cent equity in KenCell Communications was made at a cost of Sh18.3 billion. Celtel was in competition for the sale with another African giant, MTN. Vivendi, the initial chief shareholder in KenCell, had agreed to sell its majority stake to MTN. However, the South African group was beaten to the finish line by Vivendi's partner in Kenya, the Sameer Investments Group, which owns 40% of KenCell (Financial Standard, June, 2004). After this acquisition, Celtel become a majority shareholder in KenCell and changed its business name from Kencell to Celtel. This change enabled the branding and increase of Celtel's market share in the COMESA sub-region by merging the Celtel networks in Kenya, Rwanda, Burundi, Uganda and Zambia, to become the single largest COMESA Mobile network operator (Financial Standard, June, 2004;. FSD, 2004).

The awarding of the second and third licences was carried out through a competitive tendering process. The total market share had combined connected lines of approximately 350,000 mobile cellular subscribers by 2001. However, Safaricom was accused by its competitor Kencell for over-subscribing above the capacity of the line infrastructure, resulting in higher demand than Safaricom could supply causing poor service provision due to congestion. These congestion and network access problems persisted into 2004, enabling an easier roll out for ECONET as TMO with dissatisfied Safaricom customers shifting to the new provider (FSD, 2004).

Regional Telecommunications Operators & other players: - The Communications Commission of Kenya (CCK) issued seven regional licences to private entities to operate both local and regional long-distance carrier systems within the licensed regions. The licences are for the provision of local exchange basic voice services, inter-exchange basic voice services, and regional long-distance basic voice carrier services in each of the seven provinces outside Nairobi City. The licences were granted to experienced operators of fixed and mobile telecommunications systems (CCK, 2002: 2001). Eight Regional Telecommunications Operator (RTO) Licenses were issued by CCK, under the liberalization program of the telecom sector in Kenya. The provision of Regional Telecommunications Operators was to stimulate competition in the market and

encourage expansion in the sector.[19] Table 4-6 shows the eight telecoms regions established by CCK, following the liberalization of the non-strategic portion of the telecoms network in 1991 and opening of the value added service, market which increased the number of private telecommunications service providers considerably (CCK, 2002; FSD, 2004).

Table 4-6: Eight Regional (Telecoms) Operations

Region	Population (1998 est.)
Western Telecoms Region	3.0 Million
Nyanza Telecoms Region	5.1 Million
Coast Telecoms Region	2.4 Million
North Eastern Province	0 .44 Million
Eastern Telecoms Region	5.0 Million
Central Telecoms Region	3.9 Million
North Rift Telecoms Region	3.5 Million
South Rift Telecoms Region	3.6 Million

Data Sources: TKL Report, (2002)

By 2004 there were over 300 registered companies dealing with customer premises equipments (CPE) vending, installation and maintenance and customer premises internal and external wiring and about 60 registered Internet Service Providers (ISPs) and other value added service providers. In addition, privately operated telephone call kiosks and internet cyber cafés had sprung up throughout the country's urban centres by June 2004 (CCK, 2003).

[19] The response to RTO's depends on FDI and local investment financing, especially for COMESA investors.

4:3:2:2 Customer Premises Equipment & Wiring; internet-backbone and VSAT:

In view of the fact that TKL monopolized the internet-backbone and VSAT terminals for over fives years since the start of reforms program in telecoms i n 1998, the deregulation and liberalization process of the internet-backbone and VSAT services discussed below was important in the privatization process of TKL. It become clear to the GOK that in order to attract investors and create efficiency in the communications and telephony market VSAT terminals had to be fully accessible to the market. In this regard, liberalization of the entire communications and telephony market was made part of the restructuring and privatization strategy for TKL (CCK, 2003). It was viewed as the only way for TKL and the Ministry of Transport and Communications to introduce competition into the market as part of their restructuring program. The liberalization of VSAT services or Internet-Backbone service in particular, was much more important because competition allowed the introduction of new products and services, new technology in data and voice related services. This positioned TKL favourably in its quest for a strategic investor.

Indeed, by December 2004 the provision of telecommunications terminal equipment and customer premises wiring was relatively fully liberalised, (notwithstanding persistent problems of poor or non-existent telecommunications infrastructure, transport and high utility costs). Along with these, resale services or Value added service, which include internet services, electronic mail messaging, voice mail, videoconference services and data are subject to class licences issued by CCK (CCK, 2003). This market segment is sufficiently open to competition to public telephone operators such as telecentres to act as service re-sellers with their major role being to increase accessibility of services.

The CCK encouraged competition in the provision of these services and increased licenses to operators or service re-sellers in 2002 in order to encourage a creative service delivery system. Public telephones were exempted from being subject to price regulation until after the licensing of the SNO. However, CCK continued to monitor rates to ensure that the consumer is always protected from unregulated price hikes (CCK, 2002). To

ensure rapid expansion of the important service of internet- backbone and Very Small Aperture Terminal (VSAT) the establishment of an internet backbone is necessary. These services were licensed through Telkom as the sole provider (before June 2004) to enable providers to establish internet nodes/points of presence within the backbone infrastructure to connect customers directly from their businesses (FSD, 2004; CCK, 2003).

The GOK opted to gradually liberalize the supply and installation of VSAT terminals. By 2001 VSAT services were restricted to national and intra-corporate data traffic within national boundaries and with the carrying of public voice services on VSAT not authorised in an interim period (2001-2003). Consequently, only Telkom Kenya and operators of long distance and international services were licensed and authorised to operate a VSAT hub. The result was that this service did not open up as quickly as expected. Despite liberalization of the sector TKL continued to control the VSAT and access to the internet directly through 2003. For example, big hotels, universities, hospitals and other large businesses still use a Telkom phone dial-up system by "leasing" access lines to access the internet. This results in expensive internet access use due to high TKL telephone bills---high costs and prices, resulting in a slow liberalization process, yielding less than the desired competition promised in the GOK's 1998 sector policy statement. In fact, introduction of complete competition failed to take off due to this control by the expected end of monopoly date of June 2004 (FSD, 2004).

The other fact that affected the speed of market structure liberalization was the pricing of operator licenses for postal and telecom operators, TV operators, radio operators and various types of telecommunications network operators and service providers which was and still is largely based on 0.5%-1% annual gross turnover or a fixed amount, which ever is higher. This complicated the pricing system and continued to make it expensive as is the case in a monopolistic market. Section 4:4 discusses VSAT licensing and regulating in the COMESA.

4:4: Telecommunications Services in the COMESA Sub-region

In recent years, the industry has known dramatic changes, as *COMESA* countries compete to open their markets, attract investment and improve the regulatory environment to develop telecommunications services. As part of this effort, Governments and regulatory authorities are increasingly permitting companies to operate private networks for their internal needs. Liberalization, restructuring and privatization of the Transport and communication sectors are taking place in leading COMESA (Egypt, Kenya, Uganda and Zambia) countries in one form or another (FSD, 2004; COMESA, 2003). Nevertheless, the small portion of the market occupied by private networks in relation to public fixed and mobile services, as well as the lack of collected information on their management as a policy objective, has made them an understudied feature of telecoms deregulation.

National governments throughout the African continent first began introducing real competition in telecommunications services in 1999. Initially, with the exception of a few discrete alternatives, the only services available, if any, were those provided by the national operator's public-switched terrestrial network ("PSTN"). Consequently, the new policies naturally tended to focus on privatisation, competition and deregulation as they affected the national operator*s*. The subsequent gradual availability of mobile phone services and to a lesser extent, internet-based services, starting in the second half of the 1990's, both expected but surprising the speed which they expanded, monopolised attention in the field of telecoms deregulation in Africa.

Licensing and Regulations

While the Kenyan telecoms market was struggling to open up, private VSAT networks were already a growing feature of telecommunications services in Africa and in the COMESA sub-region since the mid 1990s (COMESA, 2003). Telecommunications, long since an important business factor, over a decade (1994-2004) become an integral part of the security, speed and quality of communications and transport essential to any modern business undertaking across borders in the COMESA region. That integrity was also dictated by the fact that telecoms services became a significant part of corporate expenditures often reaching a significant percentage of operating costs. Not surprisingly then, companies focused on reducing costs in this area and improving the quality of their intra-corporate networks. Private VSAT systems have an important role to play in this regard on the continent providing reliable high-speed, high-quality data and voice transmission and cost-effectiveness for large users of telecommunications who have made VSAT a preferred solution in the COMESA region (CCK, 2002).

In the COMESA telecommunications harmonization program, VSAT networks are a benefit to consumers and to the development of an improved national telecoms infrastructure. They are also easy to regulate, for the following reasons: Consumers of private VSAT networks are invariably corporations with the clout to negotiate favourable service terms and are therefore not in need of consumer protection measures such as those that regulators might apply to public networks (CCK, 2001). In private network services, there are no real issues of unfair competition between private network operators, as no service provider is sufficiently dominant and there is vigorous competition from the many operators in the market (Ros, 1999; Wallsten, 2001a).The regulator's attention to unfair competition, if any, in this field, must be directed at preventing the national operator from *abusing monopoly* (Mwangi, 2003), such as by restricting access to space segments. If anything, some regulatory authorities have created conditions of unfair competition by restricting the market to a small number of VSAT operators and denying end-users the possibility of obtaining their own licences. These private networks do not represent any competitive threat for public fixed or mobile services. The only serious concern that the liberalization of private VSAT

networks therefore need present to regulators is to ensure that the process for their approval be as open and lightly-regulated as possible. This implies that regional regulators like CCK, Communication Commission of Uganda (CCU), Communication Commission of Egypt (CCE) and Communication Commission of Zambia (CCZ), must be strengthened and made completely independent of government in order to encourage competition (Wellenius, 1992; Ambrose, et. al 1990). However, such an open approach has only sparingly made gains against the more widespread perception held by many individual regulators entrusted with deregulation, that private VSAT networks must be treated with as much scrutiny as fully-fledged universal service public telecoms services.

Indeed, applications for authorisation to install and operate a private VSAT network, serving one company, often take as much time to be processed as it takes to grant a licence to an entire cellular network (CCK, 2001). This narrow-minded and heavy-handed regulatory view has been exercised in plain defiance of clear and governing legislative goals and is contrary to promises from governments that there would be no formal barriers in a "full" liberalization scenario for private VSAT networks. These were vital to telecommunications end-users who faced no restriction in access to such services.

The literature confirms the problems with VSAT networks arguing that the unavailability, unreliability and high cost of telecommunications service*s* in many *local* areas today (Shirley, 2001) mean*s* that a company's decision to invest in any African country must take into account the ease with which it might be able to freely decide what private telecommunications service best suits its commercial needs. Only a few years ago this was next to impossible due to monopolistic tendencies and regulatory barriers (Wellenius, 1992; Galal and Nauriyal, 1999). All telecommunications services were the monopoly of a national operator (Wallsten, 1999) and the VSAT was an exclusive service until the end of Telkom's monopoly period set for June 30th, 2004.
This provision of exclusive "monopolistic service" has increasingly been a popular feature of telecoms liberalization and privatization in Africa and Europe (Wallsten, 2000). For example, BT had a fixed line and voice monopoly for several years (ending

2005) long after its restructuring and privatization and Egypt Telecom a COMESA member still holds this monopoly.

Denial of voice transmission –this was a common restriction practised by Telkom Kenya, South Africa Telkom (SAT), British Telecom (BT) and Egypt Telecom (ET). Under the full liberalization model business end-users were allowed transmission and receiving data, voice and video signals, both domestically and internationally to connecting their company facilities across the continent without artificial restriction imposed by regulation. However, this research found that where deregulation of private networks occurred it was dogged by a number of enduring restrictions, as illustrated by demand for voice transmission.

Despite the chronic and demonstrated failure of national operators to live up to their own conditions of licence and provide service to corporations, their unwarranted monopoly over voice transmission continues to be perceived in many quarters as a birthright vital to the national interest. However, some countries including Uganda and Senegal allowed end-user licences with no voice restriction for several years. There is no evidence that voice liberalization has harmed the national operator - indeed, it happened during a period in which the national operator was expanding, rolling out a cellular network in the face of competition and successfully attracting investment to privatise (Azam, et. al, 2002, pp.25-35).

It was evident that the retention of a formal monopoly in the case of Telkom Kenya would limit private networks to domestic use, making a mockery of any purported liberalization policy of private VSAT networks, as one of the main benefits and use of private VSAT networks is to link facilities across extensive geographical distances typically in different countries. Barring international use is therefore equivalent to disallowing private networks entirely. Moreover, the banking institutions, whose networks of branches within a country make them a natural user of domestic networks, always require an international connection to process electronic transfer transmissions. Allowing domestic networks only is thus an expedient allowing an administration to lay a claim to liberalization without actually modifying the basic regulatory framework. Kenya is an example of a market that has purported to liberalise VSAT services

without actually taking any effective deregulatory measures. However this position has changed with the expiry of the monopoly and the privatization of TKL (CCK, 2003; GOK/CCK, 2001).

Initially in April 1999, the Government of Kenya issued its Telecommunications and Postal Sector Policy Statement on VSAT services, which gave Telkom Kenya the monopoly of the same carrying of public voice services on VSAT. Consequently, only Telkom Kenya and operators of long distance and international services, when licensed, *were* authorised to operate VSAT hub (sic). Indeed, the only liberalization measure contained in the Kenyan policy *was* allowing the sale and installation of VSAT equipment by suppliers other than Telkom Kenya (which previously had a monopoly the same). Actual operation was reserved to Telkom Kenya until June 2005; this meant in practice no opening up of the market as it seems more possible to enter into an agreement with Telkom Kenya for the operation of a private VSAT network, than to establish one independently while the quality of service and reasonable pricing thus remain elusive (CCK, 2001).

Throughout the 1990s, many national operators in Africa attempted to upgrade their networks and the range of services they could provide by installing large-scale, expensive VSAT hubs and leasing a large quantity of bandwidth. An internal KPTC report (1998) estimates that Telkom Kenya spent some US$2 million on installing a VSAT hub from 1992 to 1997 of which over 93% of the transponder capacity was unutilised. TKL seems not to have evolved from this position as indicated by figure 5-9 and tables 5:12-13 on network expansion and utilization (CCK, 2001:2003).

Despite the failings of such projects, or rather in part due to those failings, subsequent liberalization policies have often attempted to force users to route their private network transmission through national hubs regardless of technical or financial disadvantages. It was not commercially or technically reasonable for end-users to route through a national hub, because of reduction in the quality of transmission service and lack of the up-to-date bandwidth management equipment to allow the end-user to select the best mode of

access to the satellite. There are other technological reasons like the national hub and the "hop" transmission[20] factor, national competence of engineers and end user reliance on one service provider, a technical discussion that although interesting was outside the scope of this research thesis.

While the number of countries requiring routing through a national hub is steadily dwindling, there are others, for example, South Africa, who require transmissions to transit through SA Telkom hub. Most other jurisdictions that allow private VSAT networks have now dropped the requirement of transiting signals through the national hub.

Allowing End-User Licences, But Not Operator Licences: Most countries that now allow private networks have regulations allowing for both end-user and operator licences, thus allowing for the full range of services possible with VSAT networks (CCK, 2001: 2002). Zambia opened its market in this respect as early as 1994 followed by Côte d'Ivoire in 1995 and more recently Mozambique in 1999. However, a small number of countries have more timidly approached the issue, some allowing operator but not end-user licences others end-user but not operator licences. This restriction was aimed at allowing users to install their own private network, but not to allow operators to set up their own hub and provide private network services (for example Kenya and Egypt) ((CCK, 2003; COMESA, 2003).

The regulatory objective here is clearly to allow some liberalization, while limiting the progression of services and controlling each new network installed. Yet it has not been clear why some jurisdictions essentially chose to allow private VSAT networks, yet at the same time interfere in the market by freezing operators out. Such a policy results in needless regulatory delay and cost to end-users each of which must go through the application process which can last from several months to a year, the licensing of a TMO and SNO in Kenya is a good example. It also increases the cost of service itself,

[20] "hop" transmission is the One step, from one router to the next, of the path of a datagram on internet or wave in radio or voice in telephony .The whole journey from source to destination may take for example 5 or 10 hops

since each end-user must acquire the entire range of equipment needed for a self-standing private network, rather than use private services off a hub run by an operator (ITU, 2002).

Allowing Operator Licences, But Not End-User Licences [21]- This situation only exists in a minority of situations in Africa, such as Botswana, Morocco and Uganda (World Bank, 2001). This approach is predicated on the notion that consumers require protection against the unavailability of service that can result if operators fail commercially. This is quite a reasonable safeguard in the case of services intended for the public - such as fixed or mobile services where operators are required to invest very substantial amounts incurring service provision obligations that span up to a decade.

While the failure of such operators may theoretically result in areas being unserved or under-served, the main driver behind the restriction of operators in this area of service is the public operators themselves, who would otherwise not risk the large investment required. In the case of private VSAT operators this only results in creating an oligopoly between the few service providers licensed to provide service, with resulting poor quality and high prices to consumers, who are thereby deprived of using the service provider of their choice. This research found that Kenya for example moved from a monopolistic Telkom Kenya to introducing a second national operator (SNO) creating perfect conditions for an oligopolistic situation; these are not desirable conditions for attaining high levels of competition (FSD, 2004).

Denying connection to the public network; - Some jurisdictions theoretically allow connection to the public network for additional licence fees, although in practice this concession is very difficult to obtain. As private networks are primarily intended for intra-corporate communications this has not been a major concern for end-users. The restrictions mentioned above were official policy but there were unofficial/unwritten restrictions almost as a matter of routine that imposed additional burdens on users and

[21] See CCK, Regulations (2001) and GOK/CCK, (2001)

operators of VSAT services. These included lack of transparency, inefficiency in processing applications, failure to adopt regulations specifying the manner in which general legislative principles are to be applied (thus leaving decision-making to the arbitrary decisions of individual regulators) and disregard for the rule of law (Nation Newspapers, July 23, 2004)[22] by policy, and legal reversals by politicians. The cost of VSAT licences has come down to commercially reasonable levels throughout a majority of those countries in which they were available. However, there remains a clutch of countries whose national operators claimed astronomical costs for VSAT authorisations (CCK, 2002), effectively stifling use of VSATs. Nevertheless, it should be said that a majority of African jurisdictions implemented some form of liberalization, the most common being the authorisation of private VSAT networks restricted to data transmission excluding voice (COMESA , 2003).

Mobile Cellular and Satellite Services: Over the last decade (1993-2003) the growth of mobile telecommunications market was rapid the technological changes caused a drastic reduction in cost and a rising differentiation in the supply of services. The Kenyan mobile telecommunications market was forecast to grow from over 1 million users in 1999 to an estimated 3million in the year 2004. This research survey interview data found that the entry of the three MOs in the Kenyan market had positive effects on final consumer prices but other effects of a new entrant carrier in terms of profits and market share among the competitors were carefully evaluated (FSD, 2004). As Cricelli, et.al (2002) have argued this model may be useful to highlight regulatory considerations and understand relevant features related to the structure of the mobile telephony industry. This field research found that mobile cellular services and trunked radio services were awarded by TKL through a competitive selection process subject to the availability of appropriate frequencies (FSD, 2004). The Mobile Satellite Service (MSS) including the Global Mobile Personal Communication by Satellite (GMPCS) service was considered a new evolution in telecommunications in 2003 provided by means of a satellite to the end users. The mobile satellite services include voice telephony, data and paging

[22] The minister of communications in Kenya stopped a procurement for an SNO against the regulator's advice

services. In their annual sector statement the GOK and CCK emphasized that the three main MSS service elements considered in its operations were:

> First is the satellite system operator whose main duty is to provide world wide connectivity through its satellite; the second is the Mobile Satellite Service gateway operator who provides connectivity between the satellite network and the terrestrial public switched network. Thirdly is the mobile satellite service provider who markets the service and connects the end user. These satellite systems have already been agreed under the auspices of the International Telecommunications Union (ITU) that spearheaded the formulation and worldwide acceptance of the Global Mobile Personal Communication by Satellite Memorandum of Understanding (GMPCS- MOU). Separate licences are required for the provision of mobile satellite service gateway in the country. Provision of mobile satellite user terminals will be done under a class licence. (GOK/CCK, 2001 p.5)

MSS considered local access network exchanges and granted licences in specific geographic areas/regions for the purpose of providing telephone services and other related services that may be defined in the licence. These operators are expected to interconnect with the TKL network. Terms the for interconnection agreement are mutually agreed but are based on principles developed by CCK. Local access operators become like TKL subject to universal service obligations and some form of price regulation (CCK, 2003: 2001). However, TKL continued to be a monopoly on National Long Distance Telephone Service (NLDTS) and operated the national long distance telephone services even after the end of the exclusive monopoly over a period of five years. The GOK and TKL deliberately delayed the entry of the SNO, citing lack of TKL's preparedness.

Initially, CCK and GOK planned to introduce competition in this market segment in phases in accordance with the law and was to take account of the need to avoid unnecessary infrastructure duplication (GOK/CCK, 2001). Licensed operators of local access networks and mobile cellular services were encouraged to maximise the utility of the TKL trunk network. International gateway and telephone services were operated mainly by TKL with Kencell (the SMO Third cellular operator) showing interest after the privatisation of TKL was delayed in 2002 and when there were doubts that the market could withhold three major players (CCK, 2002). Besides, the monopoly period for TKL offering the NLDTS was still active and the industry players contend that this helped delay the roll-out strategy for the operators. In addition, the cost of old and

inefficient technology infrastructure risked rendering telephone services as undesirable business. Ultimately, the operators had to spend resources to upgrade the infrastructure to increase the possibility of a good return on their investments (see tables 5-12-13).[23]

4:4:1 Telecommunications Infrastructure- (Carrier Systems)

This research found that Public Telecommunications infrastructure or carrier systems were provided by Telkom Kenya until June 2004. Other operators showed interest to provide services such as local access service, long distance telephone service and international long distance services (GOK/CCK, 2001). There were other sector specific telecommunications facilities and services provided by TKL, POSTA, Kenya Railways (KR) and Kenya Pipeline (KP) in support of their critical operations, these are still operated by these institutions, under licence from CCK (CCK, 2003). It is worth noting that KR and KP were earmarked for privatisation although they were previously considered strategic (annex Va).While POSTA is in a transformation stage with a lot of its services under restructuring and privatization along with TKL. POSTA's postal services (as a support carrier to Telecoms) are still a monopoly business.

[23] Telecommunications Operators Association Of Kenya –(TOPAK), African Telecommunications Union- (ATU) and Private Sector Players in Telecoms

4:5 Market Structure and Privatisation of Telkom Kenya

4:5:0 Sector Overviews

What are the implications of reviewing the market structure? Liberalization of the telecommunications sector in Kenya like any other liberalization programme is designed to expand the depth and breadth of telecommunications services and introduce market forces where appropriate to improve quality and reduce cost. The introduction of customer oriented services for example, is what drives customer loyalty in the telecommunications industry (GOK/MOT&C, 1999). Studies show customer satisfaction as being important in the telecommunications industry. Indeed, Khatibi, et. al (2002) argue that there is a significant relationship between customer satisfaction and quality of service. They also suggest that the reliability dimension of any service provider consists of three elements, namely a fault-reporting centre, response time and restoration time that have a strong correlation with customer satisfaction. These are elements of weakness for most SOEs. The empirical analysis of TKL as an SOE confirms this argument, as indicated by figure 5-13 showing TKL's poor fault response rate.

In addition, this collaborates Shirley, et. al (2002) on Telecommunications Reforms in Uganda, which showed that there was poor quality of service before reforms and improvement after reforms. The GOK's objectives as stated in its telecoms policy statement (of 1998 and 1999), seek to ensure the availability of reliable and affordable communications services throughout the country by encouraging expansion of telecommunications services and facilitating development of advanced services; improving quality and quantity of service by encouraging sector investments; and initiating price competition and encouraging indigenous Kenyan participation in the sector. The desirable sector characteristics that government hoped to achieve were protecting the value of investments; achieving proper balance between competition and regulation; promoting universal service/universal access programs and encouraging entrepreneurial spirit, in creating new business opportunities across COMESA borders as indicated in GOK/MOT&C, (1999), and the findings in chapter five.

Telkom Kenya Ltd (TKL) operates the national telephone network in Kenya that was formerly in the hands of KPTC. TKL has four subsidiaries namely; Safaricom-which operates a cellular phone network (in partnership with Vodafone Airtouch, which has 40 percent shares), Gilgil Telecommunication industries-manufacturers of telecommunication and postal products (telephone handsets, PABX systems etc), Kenya Postal Directories Ltd that publishes the yearly telephone directory, and Kenya College of Telecommunications Technology (KCCT) which offers training to the communications sector. TKL also offers a satellite-based communication service (VSAT hub), KENSAT and operates Jambonet, which links local Internet service providers to the rest of the world. Other facilities include a digital leased line service, KENstream and an analogue packet switching service, KENPAC as indicated by tables 4-7 and 5-13. (CCK, 2001; TKL, 1999).

Table 4-7: [24]Market and Competition Structure of the Expected Framework

SERVICE	LICENSE REQUIRED	COMPETITION STRUCTURE
CORE SERVICES (BASIC TELEPHONY)		
Local	Yes	TKL issued a nation-wide license with a five-year exclusivity period for Nairobi and Mombasa. Additional local service licences are issued to qualified operators on a geographic basis
Interurban	Yes	TKL was issued a nation-wide license with a five-year exclusivity period-2004
International	Yes	TKL was issued a nation-wide license with a five-year exclusivity period-2004
GSM Mobile	Yes	Duopoly with TKL and a second operator holding nation-wide licences
Non-core Services	Yes	
Other mobile	Yes	Regulator reserves the right to issue additional, mobile licences using older analog technologies or new digital technologies based on spectrum availability and service demand
Paging	Yes	Within the limits of spectrum availability there should be no limit on the number of paging licences
VSAT	Yes	VSAT market should be fully competitive. Only private network services are permitted
VAS	Class License	Fully competitive firms register to operate under the conditions of class license.
Public Telephones	Class License	Fully competitive firms register to operate under the conditions of class license.
Customer premise Equipment	Certificate &/or type approval of equipment	Fully competitive- no license to operate is required. All equipment sold must obtain certification or type approval

Sources: CCK, Market Regulation Report, (2001)

[24] Table 4-7a is annex XI : Source CCK, Licensing Regulations, (2001)

The set-out competition (structure) framework outlines seven core basic services (telephony) that require licensing and another four (i.e. public telephones and customer preuse equipment) that requires class licences or certificate of approval. However, the VSAT framework has been a contentious issue as outlined in detail in sections 4:3:2:2. through to 4:4 while TKL operated the VSAT technology without restrictions until 2004 when the VSAT services were fully liberalised and ISPs got access to VSAT (CCK, 2001). However, the state-owned corporation also enjoyed a statutory monopoly that allowed it to exclusively operate an internet backbone making it the biggest wholesaler of bandwidth to ISPs in the COMESA region (CCK, 2001). However, during TKL's exclusivity period, entrepreneurs and business managers of local internet service providers raised concerns with GOK to allow VSAT usage. The decision to maintain TKL's exclusivity period for internet backbone helped keep the cost of internet connectivity high in Kenya. Although the regulator (CCK) maintained that VSAT service in Kenya was fully liberalized except for international voice, by controlling the voice license (i.e. TKL), ISPs can only receive data via the technology but cannot send out. This decision was largely interpreted as motivated by the need to control the content that Kenyans can send out of the country-a relic of the oppressive days when the government was keen on muzzling political dissent in the country in the 1990s.[25] Besides, this slowed down infrastructure (investment) reforms in the sector which is a major variable in the growth of telecoms (Wallsten, 1999).

This thesis field research revealed that Jambonet (as an internet backbone monopoly) continued to impair the development of the information communication technology (ICT) sector as the GOK moved the exclusivity period to June 2004 (see table 5-5 in chapter five) thus failing to license another backbone service provider to allow for competition. In addition, Jambonet's bandwidth capacity became inadequate in servicing the needs of all the telecommunications providers effectively, forcing companies to install servers in the US to avert risk when Jambonet failed rendering Jambonet's services poor, expensive and unreliable. This made for a strong case by the

[25] The Financial Standard of July 23rd and 30th 2004

private sector for early elimination of exclusivity and monopolistic awards to TKL (FSD, 2004).

Indeed as interview results indicate, and as argued by Wallsten, (1999, p.2), for mobile operators operating public phones ideally the market structure of TKL should have been set by the introduction of competition through reforms rather than maintaining monopolistic services.[26] It has been argued that competition shapes the market structure by lower prices, increased efficiency and rapid expansion of services, more universal access and more diversity through appropriate reforms. Such reforms have several key ingredients: First, there can be no granting of monopoly powers, it should be recognized that in some segments of the industry, especially in the "last mile," the final interconnection to the user, and it may be some time before competition arises on its own (Shirley and Tusubira, 2002). Second, given that there were likely to be important segments in which there was little if any competition, it was important to have a regulatory structure that protects consumers (CCK, 2001; TKL, 2003). By ensuring that firms with monopoly power do not exercise that power to raise prices excessively and ensure that monopoly power in one segment (in the "last mile") was not leveraged to achieve power over other segments. Because abusive practices are hard to monitor regulation may entail structural separation (e.g. between the provider of "last mile" services and other services). In addition, TKL management argues that an important and essential goal of regulation should be to ensure access and interconnections.

Third, international service providers and investors are an essential source of services and financing for the telecommunications sector in developing countries; however, competition for international services for the domestic market is just as essential (ITU: 2000:1999). The rationale behind any market structure during post- privatisation is that the regulatory participation and the level of licensing should vary based on the importance of the service and the need for consumer protection. The ideal market structure should also have the capacity and autonomy to manage the dynamics of the market so as to encourage a substantial increase in the levels of investment in

[26] See tables 4-7 on competition structure and on TKL monopolies 5-5.

telecommunications infrastructure in many COMESA countries. These countries and Kenya in particular, look to the private sector to provide that investment and should seek to create an environment which attracts that investment (GOK/TKL, 2003).

An indispensable precondition for sustained large-scale investment is the institutional capacity of national (i.e. COMESA) countries to strengthen their regulatory framework and restrain arbitrary administrative discretion, enabling a commitment in a credible manner to a stable regulatory process. Without government commitment to regulatory stability, frequent changes and semblance of lack of independence in the regulatory regime could have the same effect as (partial) expropriation of sunken investments and raise questions of the independence and capability of CCK as a regulator. (USAID/BAH, 1999; Galal et al.1994). Private telecoms operators that are vulnerable to administrative intervention could be expected to invest less than the optimal amount and especially to make disproportionately low investments in activities characterized by large sunk costs (for example, in house R&D are costs that cannot be eliminated in the short or intermediate term). In this regard, it is important that the core and non-core services shown in table 4-8 conform to the criteria (Nauriyal and Galal, 1995; Young, 2003)

Table 4-8: Core and Non-core Services

CORE SERVICES	NON-CORE SERVICES
1.Core services are presumed to be critical public services with participation in the sector reserved for highly qualified service providers operating in a controlled environment 2. Core services are also presumed to require significant investment in network assets thus implying increased risk for the sector if operations are unsuccessful. In the Kenyan environment, with limited resources, developing many unsuccessful networks is risky 3. Core services require licences that contain quality of service standards and mechanisms for price regulation	1. Non-core services are not viewed as essential with the risk of unsuccessful operators to the public and the economy no greater than in any private business venture 2. Licenses in non-core services should be easily obtained in order to encourage innovation and competition 3. Licenses will serve primarily as a means of maintaining minimum standards and of monitoring overall sector performance 4. In most cases, prices for non-core services should be based on competition rather than regulation

Source: CCK, (2001)

4:5:1 Sector Segmentation

With a liberalised environment and entry into the market of new third mobile and second national operators, various improvements in the sector were expected. Advanced technology was to be naturally introduced into the market and an increase in ISPs was to be realised. This advanced technology was intended to reform the old market and introduce a business portfolio reflecting new services, new products and product differentiation as investigated by Wallsten, (1999, p.3) and indicated in figure 5-12. In the old sector, market segmentation structure included only three major "players": Ministry of Information, Transport and Telecommunication, TKL and POSTA. The new sector includes geographical local service operators, public telephone operators, VSAT operators and wireless operators (table 4-7). It also included the Ministry of Transport and Telecommunications as part of the telecommunications regulator, the TKL as a dominant (monopolistic) carrier with operating licences in specific areas, Safaricom (a TKL subsidiary) as a first cellular national operator, Kencell as a second cellular national operator, GSM operators, paging operators, internet providers, and POSTA as a postal service regulated by the postal rate commission and the postal service (table 5-12).[27]

This research further revealed that as a dominant carrier in the sector, TKL had certain unique privileges and responsibilities that enabled it to operate as a duopoly. In this regard, as a single major GSM operator TKL was granted licences that facilitated network build-out issues, which enabled it to account for a large majority of sales in the market. A duopoly should result in price competition thus minimising the need for price regulation. However the GSM operators in the market were dependent on TKL for interconnection and for inter-switch trunking and this opened the regulator and TKL to be subjective in their decisions, since TKL participates in the industry as "first and third national operators" respectively (through Safaricom), it raises questions on possible conflict of interest. This calls for the recognition of the needs (CCK, 2002) of GSM operators and licence conditions to contain certain build-out and universal service

[27] Three cellular operators and two SNOs by June 2004

requirements (CCK, 2002: 2004) in order to create a 'true' duopolistic market where price competition is real.

The local telecoms service operators are issued with the same licences as TKL, the latter differing only in the "dominant carrier obligations". Five-year concessions were granted to operators in specific geographic areas for the purpose of providing local service (core service) as well as other non-core services subject to license conditions. In addition, local operators can be awarded licences on an exclusive basis with the exception of Telkom Kenya, which has a nation-wide license. Local operators are subject to some form of price regulation but allowed to price their services differently than the Telkom Kenya tariff (see CCK Tariff schedule). However, interconnection holds the key to the local operator although its accomplishments in the sector segmentation (after the abortive sale to the Mount Kenya Consortium) were clearly stated but the positive effects of the pre-privatization (Megginson et. al (1994)[28] competition were already noted by the entries of the Third Mobile Operator (TMO) and Second National Operator (SNO) in 2003. The second national operator (SNO) was expected to be awarded the license one year prior to the end of Telkom Kenya's exclusivity period. According to the GOK the introduction of SNO was expected to encouraged price reductions, sector efficiencies, expansion of services and improved customer services. SNOs are subject to similar license conditions as Telkom Kenya including interconnection and universal service (infrastructure assets –access) obligations (FSD, 2004).

According to CCK management, the non-core service (table 4-8) public telephone operators have certain obligations designed to protect the consumer, however, public telephone operators require wholesale prices for accessing Telkom Kenya and GSM lines. At the same time licences required were designed to promote market entry and to encourage creative service delivery systems (telecentres, card phones etc.). Public telephones were not subject to price regulation however, the CCK monitors rates and is

[28] Their studies of 61 companies (in 32 industries) from 18 countries, find that during and after privatization, firms increase sales, profitability, capital spending, operating efficiency & increase skilled workforce

anticipated that after privatisation a series of new companies would enter the telecommunication market providing services on a competitive basis. The commission, (at this stage of market entry) limited its role to a monitoring role, rather than a regulatory role with respect to core services. During this stage of multiple entry most licences are issued as "class licences" on an administrative basis. With the entry of new companies fair and reasonable network access was required. Moreover, additional mobile operators in new spectrum bands are classified either as core or non-core services depending on government policy (CCK, 2004: 2003) and activities.

4:5:2 Efficient and effective Market Structure operation: Issues of Focus

In conclusion the interview analysis and Telkom's strategic plan that in order to encourage and structure efficiency and effectiveness in the sector, universal service, interconnection, price regulation and telephone numbering plan (i.e. from analog to digital) have to be the centre of focus (TLK, 2003; FSD, 2004). This means that there have to be viable mechanisms for supporting universal service. For example, service obligations should be established that avoid hidden subsidies. Core service provided should have certain universal service obligations in their licences. Since not all-universal service might be profitable, it is prudent that a "universal service fund" is established to provide operators with funds for meeting universal service obligations. Examples of universal service funding mechanisms from South Africa, the United States and the United Kingdom exist and Uganda in particular set up a fund using a 2% overall surcharge on profits that was charged from the service providers (COMESA, 2004; COMESA/ITU, 2003)

Alternatively, license conditions could require the connection of certain universal service lines based on a specific formula without designating a funding source. It is important however, to emphasise that universal service obligations must be consistent with operator resources and market position, recognising that they are dynamic (GOK/TKL, 2003).

4:5:2:1 Interconnection and Market Structure

Interconnection plays a critical role in influencing technology development market development, and the success of new operators. The dominant carrier's tariff structure should be fair without discounts or subsidies that influence market share; as indicated in TKL's confidential reports (GOK/TLK, 2000*) the regulatory environment could constitute barriers to entry due to economies of scale, which in turn affect the new entrant's pricing strategy and cost structure. The cost structure is determined to a large extent by the interconnection agreements, influenced by profits and returns of new entrants, through the development of a competitive environment. The market share determines the quality of service of both the dominant carrier and a new entrant. Elements of the interconnection agreement define the relationship among network operators, thus enabling consumers to benefit from broad sector participation.

Table 4-9: Elements of interconnection and the relationship among network operators

TOPIC	DESCRIPTION
1. Scope of the agreement	1. Which services , which partners does the agreement include , which additional steps and services have to be considered
2. Definition of interconnection services	2. Distribution of responsibilities for maintenance, provision, quality, management, routing principles, transmissions etc
3. POI	3. Location and number of POI, time schedule, definition of standards, physical realisation, control over connection
4. Network planning	4. Guarantee of capacity, traffic forecast mechanism, adjustment of POI to modernisation, penalties, etc
5. Charges –Circulation and payment	5. Circulation method, structure and value of charges, payment dates, recording principles
6. Customer access and billing	6. Who bills the customer, where and how does the customer get access to the network of the competitor?, equal access conditions, customer authentication and handling billing information
7. Operative questions and Conflict Management	Which information should have to be exchanged, responsibilities in day-to day work, avoid conflict escalation
8. Actualisation	8. Time frame for calculation procedure, which topics are subject to actualisation etc
9. Legal Formalities	9. End of agreement, security for personnel and confidentiality of intellectual capital

Sources: CCK Licensing Regulation Guidelines (2001)

The interconnection factors are key to both liberalization and successful privatisation of the telecommunication sector. Interconnection policy must be well thought-out, in order for it to promote competition and enable consumers to have a real choice of service providers (TKL/Safaricom, 2000). The provision of fair competition may often require the frequent intervention by the regulatory authority in order to secure equitable agreements between operators. However, interconnection arrangements should be based on cost and should recognise legitimate technical considerations.

4:5:2:2 Price Regulation

Telecoms and electricity utilities are capital-intensive sectors and require heavy investments. However, privatisation of telecoms or utilities does not rest on the financial case. In order to privatise a network utility, the buyer has to be convinced that prices can be set at cost recovery levels and that profits are adequate to finance the investment (Newbery, 1999). There has to be real effort to rebalance tariffs based on the cost service areas under regulation and based on market factors in competitive segments. The problem is the elimination of price regulation in order to ensure that regulators maintain "real" competition; TKL operated under a price cap regime during its period of exclusivity and the local network operators may operate under a price cap scheme if competition from Telkom Kenya is weak in specific geographic areas. With the licensing of three companies (i.e. Safaricom, Kencell and ECONET) GSM is still currently under regulation although initially it was stated that regulation would only be necessary if a second GSM operator was delayed and if two strong companies did not emerge. At the moment non-core services are unregulated and prices are determined by the market forces (CCK 2004:2001).

4:6 Telkom Kenya Valuation Process

Before deciding on TKL's sale price a valuation of the TKL as a going concern had to be done. The interviews for this study revealed that the managers of TKL, the GOK had estimated the value of TKL at $800 million (GOK/TKL, 2000*:1999*). Several valuation techniques are used by investors to ascertain the 'cost' of a company earmarked for sale as discussed by Welch and Fremond, (1998, pp.21-40), who report several methods that can be appropriate to dispose of a company depending on the entity within the valuation study. There various steps to be followed to a successful sale and these are discussed in chapter five. However, one Key step is the discounted cash flow (DCF)[29] approach that (in this case) aimed to model the complete operations process of TKL in order to determine the price. According to industry analysts interviewed during the field data collection for this thesis, this is a very flexible tool and allows the impact on value between different options for TKL to be considered (GOK/TKL, 2000; FSD, 2004). In a strict business model this is an important step to determine the price of an enterprise; however, it is not the major subject of this thesis and is reviewed here as tool used in all the valuation processes in the developing countries as influenced by the World Bank (2002). A number of different regulatory options were considered. Different stakeholders in TKL perceive value differently. The enterprise value of TKL looked at the value of the company as a whole by considering cash flows resulting from the daily operations of the company. It did not consider the value to a particular stakeholder. In particular, the total effect on GOK will only be partly addressed by considering the enterprise value and the broader potential benefits to GOK resulting from financial restructuring. The initial enterprise is only important in as much as it sets a sale price as indicated in figure (5-2) which forms the basis of negotiations for transaction.

The field survey data (2004) on KPTC's audit report of June 1997 (table 4-10) shows KPTC in its pre-restructured format was highly geared because they raised most of their

[29] See glossary for DCF definition

funds from fixed interest loans, (Pendleton et. al, 1995, p.82)[30] since they were not yet members of the Nairobi Stock Exchange - NSE 20 index .On examining the restructured balance sheet's possible options, the valuation report (TKL, 2000) recommended various scenarios regarding the treatment of the inter-business account and pensions as discussed in sections 4:8 through 4:9 and summarized in table 4-15. After the study was completed, TKL was still not in a position to settle the pension liability (TKL, Pension Report, 2000)[31]. In the interim, they agreed to handover the Teleposta towers (one of TKL's prestigious and biggest fixed asset investments) proceeds to the pension fund. TKL's was still in discussion with the TKL/PCK Trade Union (as of June 2004) to find ways in which part of the debt can be turned into equity shares, when they are floated on the Nairobi stock exchange. The only available adjusted balance sheet of Telkom Kenya reflects this position and is summarised in table 4-10. The details of the options of dealing with the pension debt are discussed in section 5:6:1 of chapter five (TKL, 2003).

Table 4-10: Restated Balance sheet for TKL as at June 1996

KShs. Million	Telkom Kenya Financial Restructure	Adjusted	Restructured Telkom
Kenya			
Fixed assets	**39,045**		**39,044**
Investments	900		**900**
Current assets			
Stock	4,0 17		**-1, 0 1**
Debtors	9,67/3	(4,267)	5,406
Deposits	127		
Cash at bank and in hand	2 2 4		224
Intercompany account	4,560	(4,560)	-
	18,601		**374**
Current liabilities			
Creditors	28,204	(23,643)	4.556
Overdraft	177	28,381	4,733
Net current asset / (liabilities)	**(9,780)**		**5,041**
Long, term liabilities			
Loans	I8, 685	15,67-33)	3, 0 121
Pension liability	5,148		5,148
	23,833		8,160
Net assets	**6,332**		**36,826**
Financed by			
Grants	95	(95)	-
Revaluation reserves	10,114	(10,114)	-
General reserve (3,877)	33, 8 7 7		
Equity capital	36,826		16,826
	6,332		36,826

Source: KPTC Audit Report June 1997

[30] A company is highly geared when it raises more funds using fixed interest loans and less from shareholders

[31] This Study was discussed in the interviews but was not made available as it was considered confidential.

Before detailing the analysis of the valuation elements in the financial restructuring of KPTC -TKL it is important to revisit the action recommendations made by internal and external advisors to the GOK after the re-alignment of the balance sheet in table 4-10. The recommended approach to proceed was that GOK should maximise the headline sales proceeds and be required to forgive or take on some debt under KPTC as it did with KQ. This was because during the privatization process, KPTC/TKL was still 100% owned by the GOK with a high level of gearing and net assets of about Kshs 8 billion, making it very difficult to dispose of it especially through an STI or an IPO (GOK/TKL, 1999*).

The GOK financial advisors (i.e. World Bank and IMF) and transaction advisors recommended a financial restructuring with a long-term benefit of an reduction in value of GOK ownership to 70%, was that GOK forgives the 30 billion of debt by converting it to equity. This would benefit TKL in real terms because TKL would have no debt servicing as was the case with Kenya Airways privatization. According to the 1996 audit report,[32] in its pre-restructured format, TKL's gearing[33] was 1.79:1 or 179%. An analysis[34] of the profit and loss account indicated that interest cover (being operated on profit/interest and penalty charges) was 1.9: 1. This could not attract potential investors and they needed to be confident that TKL would be able to fund future operations including any network development requirements (table 4-15, figures 5-9 and 5:13 and table 5:11). The buyer needed to be convinced that profits are adequate to finance the investment. If not they may conclude that the company was not be able to sustain such high gearing and interest cover in the medium to long term. If a potential investor reaches such a conclusion, they would seek to ensure that more proceeds go to the company to achieve a lower gearing. This position is reflected in the price proposals discussed in sections 4:8:1 on financial restructuring and 4:9:0 on TKL's sale negotiations (GOK/TKL, 2000, p.45).

[32] This was the last audit report that was available – done before the privatization process. The subsequent Audits undertaken by the Auditor General were unavailable for this research.
[33] See definition of Gearing of a company in the glossary section
[34] GOK/TKL, (2000*, pp40-56) valuation report

However, it should be noted that the acceptable level of gearing would depend crucially on issues yet to be decided by government. These include tariff policy, the timing for the introduction of competition and network development objectives, putting together an independent and effective regulatory body, balancing the political variables in order to correct the old image (i.e. partisan, inefficient management, service and technology) that dents the value, and seeking membership in the NSE. Such issues define the need for cash and the ability to fund this from future revenues; resolution of these issues are fundamental to the final financial restructuring (GOK/TLK, 2003; FSD, 2004).

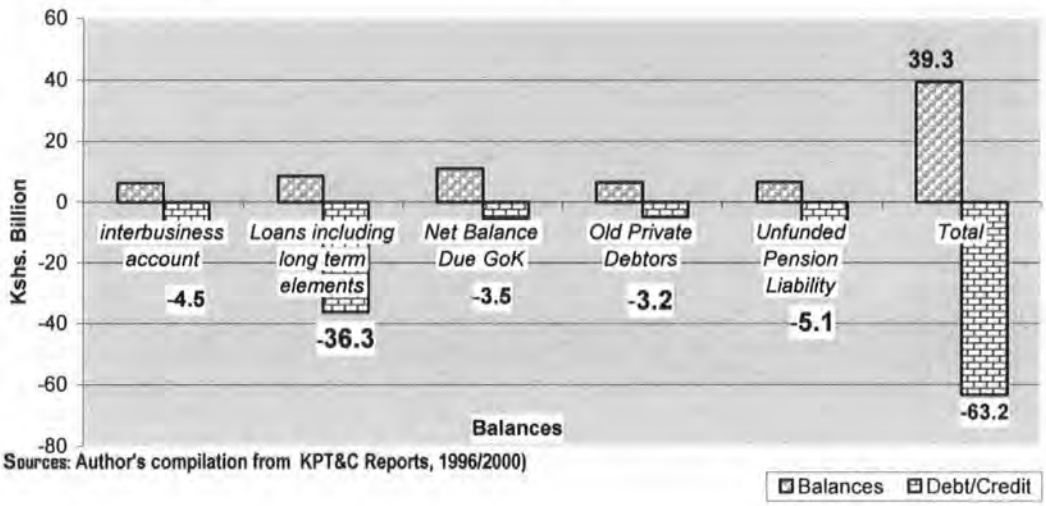
Indeed, TKL's valuation[35] further indicated that some of the decisions taken by management on factors and options of the business strategy contributed to KPTC/TKL's high gearing. This amounted to some KShs 4.5 million, representing what the postal division owed TKL on the basis of the criteria used to separate KPTC into the telecoms and postal divisions. The account represents the funding over time of the postal business by the telecoms business whose balances were not transferred to TKL. This write-off did not have an impact on the value to government and internal reports showed that pension liability faced by TKL highlighted a need to fund a pension scheme at inception by some KShs 5.1 billion ('15% of the total assessment of liability) with the remainder funded through increased contributions in the future (TLK, 2003).

There were still other considerations to be examined in which the pension liability could be funded. The principal balances are indicated in figure 4-5 in detail. Internal TLK documents show an increase in a corporate tax liability of Ksh1.6 billion ($20.7 million) on the books of Telkom relating to the defunct Kenya Posts and Telecommunications (KPTC) as at June 2003. Indeed, an internal confidential document showed the total pensions liability amounting to Ksh4.2 billion ($54 million) resulting in a shortfall of Ksh3.8 billion ($49 million). The GOK and TLK engaged the PKF consultants in late 2003 to review the treatment of the liabilities before June 2004. This report was expected in August 2005.

[35] as indicated in their internal confidential reports of 1999 and 2000

This research further found that the third liability (the first and second are tax and pension liabilities) for TLK is a $ 33 million 'loan' the government lent Telkom in 2000 to facilitate the acquisition of the Safaricom licence, must be paid within two weeks of its privatisation, according to an agreement signed between TLK and the GOK (FSD, 2004; TKL/Safaricom, 2000).

Figure 4-5: KPTC's Principal Balances



Sources: Author's compilation from KPT&C Reports, 1996/2000)

4:6:1 Considerations for Financial Restructure and Privatisation of TKL

According to the GOK/TLK (2000*:1999*) valuation reports, the restructured balance sheet had to make the recommendations regarding the treatment of the inter-business account and pensions as summarised in table 4-15.[36] This was important because the process for the privatisation of Telkom Kenya required the formation of Telkom Kenya as a stand-alone company with shares that would then be sold. In order to form this company, the GOK and its advisors needed to decide whether certain assets and liabilities of KPTC should be vested in the company before privatisation or assumed by government. This determines the balance between debt and equity and the financial structure used to finance the new company of TKL and also determines the price for a Strategic Investor (STI).

[36] KPTC, (1999)

The approach taken was to identify the relevant balances to be considered, assess the pros and cons of the various options for the treatment of these balances and review suggested approaches for the treatment of the balances. In making the decision on whether a particular balance should be vested in the new company (Telkom Kenya), it should be recognised that there was no right answer in achieving the best option for all concerned. The decision depended upon the perception of the decision maker and other major stakeholders (for example the Trade Unions) involved in the decision making process. All stakeholders viewed similar situations in a different light depending on their interests. For example, the implications differed depending on whether the future of TKL was considered or the realization of value price of TKL due to privatisation.

Other things being equal, if TKL was left with higher debt after restructuring, more of the proceeds of any future sale of equity could be injected into the company and less of the proceeds would be received by GOK; this meant that the GOK were unwilling to address the issue. Further more, as already stated the investors' perception as to the acceptable treatment of proceeds would also be determined by the obligations imposed on it by government. For example, a high level of investment required by the imposition of rapid development targets will require more proceeds to be vested with the company. On the other hand, limited tariff intervention by government may encourage an investor to be more willing to accept less favourable arrangements on financial restructuring (GOK/TLK, 2003; FSD, 2004)

For GOK to achieve the principal objectives for the telecommunications and postal sector as laid out in the policy statement, it made decisions based on making TKL a regional force in telecommunications by, ensuring private investment in infrastructure improvement and expansion of the sector;[37] maximising headline sales proceeds in the transaction and retaining a majority of the sales proceeds; and minimising the requirement for any initial cash injection by reducing the risks related with the impact of unqualified elements of current liabilities in the interest of the public.

[37] The objectives are stated in the Sector Policy Statements of 1996/1998 revised in 1999

4:6:1:2 The Investor and the Investors in a Trade Sale

TKL and GOK chose this approach to privatize Telkom Kenya; the trade sale is often used for assets that do not have a good record of accomplishment. KPTC had been a natural monopoly for over forty years with a negative financial performance record (see table 4:10). The investor in a trade sale is likely to arrive at the price he would pay by deducting from a value based on cash flows before financing activity and has his perception of existing or future liabilities irrespective of what TKL's marketing states. Clearly, therefore, higher debt in the company would result in a lower sale price and/or a proportion of the proceeds being injected into the company. Further-more, business experience and the literature, for example Gayle and Goodrich (1990), suggest that the value gained from a trade sale is likely to be enhanced by the presence of a number of interested parties in the bidding process (see section 4:9:0 on TKL's transaction).

Certain aspects of any transaction that are perceived by an investor as risky are likely to reduce the number of interested parties and therefore could impact on the sales proceeds eventually derived. In the TKL's trade sale specifically the bidding (privatisation) process was ongoing over the planned eighteen months (figure 5-2) starting June 2001 to December, 2002 during which time there was considerable confusion as to the government's objectives, organization and approach as to who or which institution/ministry was responsible for moving forward the process.[38] Secondly, the final price is often likely to be affected by different policy decisions that would result in different prices for acquisition. Thirdly, the lack of a clear relationship between the telecommunications and privatisation processes appeared to undermine the GOK's rationale for the privatisation of TKL, as well as its intentions with regard to other privately-owned telecommunication companies (FSD, 2004).

Along with the foregoing, the industry analysts and Welch and Fremond (1998) contend that any investors in a trade sale consider the means by which the risks in their discounted cash flow assumptions can be limited. For example, the trade investor

[38] Due to lack of a law that institutionalizes the instruments and offices of privatization, (Appendix 2 annex IIIa)

considers the economic background, the clarity and definition of the regulatory regime (especially with regard to tariff control and timing for the introduction of competition) and the level of operational control that can be exercised, especially with regard to the investor's ability to improve operational and purchasing efficiency. Perceptions of the investor in a trade sale are regarded as in a "debt free sale" state only when sales proceeds valued as discounted cash flow are less than the debt. The bidder's impact on sales proceeds, require a well defined regulatory regime and a level of operational influence or control. Whereas the investor in an IPO would be emotive and obtains information from the press on comments and sale particulars, reviews perception of past performance and has strong perception of future and general performance of the company and of the NSE (Young, 2003). Additional mechanisms to improve accounting and the investment return objective (e.g. management changes) would be of importance in a trade sale (Welch and Fremond, 1998; FSD, 2004).

4:6:1:3 The investors in an IPO

A public offering commonly referred to as an Initial Public Offering (IPO) of stocks is used by investors as a vehicle for raising a substantial amount of cash to implement a company's growth plans, through the stock and securities exchange. Although a sophisticated institutional investor in an IPO could view a valuation in a similar manner as an investor in a trade sale, the majority of private investors have a less considered view of whether the company is a viable investment (Welch and Fremond 1998). They are likely to focus more on several aspects which include: the likely level of dividends to be paid by the company; the level of debt in the company; their perception of past performance and their perception of future performance - based principally on press reports and hearsay and perceptions about the quality of the management team, along with the general performance of the Kenyan Stock Exchange and the critical presentation of the company in the press and in the prospectus that often accompanies the IPO.

the institutions involved in the process are subject to arbitrary changes by the president of the day

4:6:1:4 The Company

The company while in accord with a majority of the perceptions of the government tries to secure the future of its staff, operations and to an extent, profitability. Its objectives may include: (1) making Telkom Kenya a regional (i.e. COMESA) force in telecommunications by; (2) ensuring investment in infrastructure improvement and expansion. (3) maximizing headline sales proceeds in the transaction while retaining a lion's share of proceeds; (4) safeguarding job security and retirement benefits; (5) maintaining operational and financial autonomy; (6) minimizing any assumption of future liabilities and; (7) ensuring that any transaction is presented to the public and staff in a controlled manner (Welch and Fremond, 1998; Lee 2002, p.536)

4:6:2 The Criteria Used to Assess the Financial Restructuring of Telkom Kenya

While all the aforementioned matters need to be considered and are vital for a privatization transaction, to arrive at a revised capital structure, the objectives of all parties cannot be achieved. Studies undertaken therefore have concentrated on reaching congruence between the objectives of the Government and the Company (Welch, and Fremond, 1998). The principal objectives used to review any financial restructuring can be concluded as follows:

First, that KPTC assets and liabilities are important during the restructuring process and the formation of TKL necessitated recommendations at a broad level, on what would be an appropriate treatment of the assets and liabilities due to the financial restructuring. In particular, the importance of *GOK balances*, that of debtors due from GOK and creditors due to GOK; loans', pension liabilities, and old service debtors (many which are bad debts). The liability of uncollectible old service debtors are estimated at Kshs. 30million.[39] The figures are indicative[40] and the valuation is based on assumptions and predictions that could not be given with certainty. Second, the true value of a company

[39] This is a conservative figure and as evidence in findings shows this debt has increased to of Kshs. 5billion
[40] As indicated in the 1997 balance sheet

can only be determined by the actual price paid by investors for the company as a result of a trade sale or stock market flotation (Stiglitz, 1999). If the valuations given in a report become publicly known it may adversely influence the sale prospects. For example, the discount rate on which the valuation is based influences value significantly and thus the true cost of capital in future cannot be determined.

During valuation, information provided by the former KPTC (1975) showed key assumptions driving the DCF model were documented; although sources of information were listed,[41] verification was not done independently.[42] Three different valuation approaches were used during the process: analysis of comparable transactions, market value and analysis of discounted cash flow (DCF). However, the discussion of a DCF model and its pros and cons is not within the mandate of this thesis research.

Indeed, good marketing and healthy competition during the sales process can mean that a trade sale pushes the value up and may yield a better return. The higher values achieved in some strategic sales for example in Uganda, Cote' d'Ivoire and Senegal as described by Shirley, et. al., (2002) demonstrate this effect. Additionally, the market value at flotation significantly depends on the company's management at the time. A strong management team, possibly involving outside expertise yields premium valuations. This was a big shortcoming on TKL's side, as the top management was perceived to be partisan with TKL experiencing a high labour turnover since the active discussions started in 1997. This led investors to perceive the management team as weak, unreliable, lacking in technical capacity and unpredictable (GOK/TLK, (1999; FSD, 2004).

The comparative transactions approach was based on an analysis of recent strategic sale transactions involving other telecommunications companies. The value paid was compared to a number of key parameters relating to the company. Parameters typically

[41] List of sources include: data provided by KPTC, Ministry of Finance, GOK, economic and demographic s statistics from the Central, Bureau of Statistics; Interviews with KPTC senior and middle management (appendix I annex V) and World Bank Data

[42] Data used for the TKL valuation process could not be independently verified in this case any of the data provided except to the extent of assessing its reasonableness in the light of industry experience was acceptable

used include the number of access lines the company had; its turnover; earnings before interest and tax (EBIT); and earnings before interest, tax, depreciation and amortisation earnings (EBITDA). It can be said that the valuations for TKL implied by other transactions cover a wide range. Some of these are explained by the fact that investors in these transactions had access to unpublished, confidential information about the current or future performance of the company; however, a general pattern can be discerned. Transactions that are more recent have had fewer bidders (Ireland. South Africa, the latter of whom is still searching for a strategic investor) and less good marketing and have been less highly valued. This demonstrates the importance of good marketing in the sale process (FSD, 2004).

4:6:2:1 Demand and Network Rollout

The future demand for telephone lines in Kenya was one of the key variables that affected the value of Telkom Kenya. Clearly if usage, line rental and installation charges are reduced, telephone services would be more affordable and more people would demand a telephone line. The DCF valuation model links the demand for telephone lines with tariffs so that the impact of lower tariffs as a result of price regulation enables efficient service provision; more access to services; and also consideration to introduction of price competition.

Three scenarios were identified (during TKL's valuation) and these allow for an estimate of the impact of varying levels of demand on value. These are shown in tables 4-11 and 4-12 and correspond to the likely level of demand for telephone lines arising by the year 2010 (see table 5-15 and 5-16 in chapter five), given the three different tariff scenarios described in the preceding section which are based on the economic and demographic projections for Kenya. In general terms, as a country's economy grows its expenditure on telecommunications services increases, due to telecoms complementarity's to other communication related sectors. As line connection, rental and call charges decrease, owning a telephone line becomes cheaper and therefore the 'demand' for lines increases accordingly. The relationship between an increase in lines demanded and reducing tariffs is the price elasticity of demand for telephone lines

noting that the number of lines as at June 2004 was way below the target in the "High" scenario as shown in table 4-11 (GOK/TKL, 2000*; TKL, 2003)

Table 4-11 Tele-density Projections

Scenario	Tele-density 2010	Number of new lines required by network size by 2010	Multiple of 199	Notes
LOW	2.1%	560,00	2.4V	Demand arising as a result HIGH tariff scenario
BASE	2.4%	700,00	2.9v	Demand arising as a result HIGH -BASE tariff scenario
HIGH	2.8%	810,00	3.4x	Demand arising as a result of LOW tariff

Sources: TKL, (1999) annual Reports

The target tele-densities and number of lines in table 4-11 are calculated based on macroeconomic models. These models predict the demand for telephone lines based on the affordability of the service in comparison to the wealth of a country's population. The price and income elasticity of demand for telephone lines are estimated econometrically by examining the tariffs, GDP and demand for telephone lines in a large number of countries throughout the world. The data that drives this model is often collected over a number of years (Shirley, 2002; Wallsten, 2001, p5.). The model predicts that as tariffs are reduced, the demand for telephone lines increases. This reflects the increased affordability of service that lowers tariffs (resulting from either price regulation as part of sector policy or through price competition).

The regulatory policy analysis was done against a back-drop of a projected teledensity by region in Kenya as shown in table 4-12 and figure 5-7 respectively. Notably these business elements attract investors to telecoms because they catalyze the growth in teledensity. For example in the COMESA region the top ten COMESA countries by Fixed Teledensity (telephones per 100 inhabitants) included Mauritius 28.52 %, Seychelles 26.92% Egypt* 12.45%, Swaziland 4.43%, Sudan 2.7%, Zimbabwe 2.56%, Comoros 1.66%, Djibouti 1.42%, Kenya* 1.04 and Eritrea 0.92%.Uganda and Zambia are below 0.60% and this can be attributed to higher Cellular tele-density

Table 4-12: Projected Tele-density By Region

Area	Nairobi	Central	Coast	Eastern	North Eastern	Nyanza	Rift Valley	Western	Weighted
House Hold Size	3.7	5.3	5.3	5.8	6.1	5.0	5.3	5.8	
GDP /Cap	852	218	299	176	332	245	284	185	
Projected tele-Density 2010 Base	9.5	1.8	2.4	1.3	2.3	2.1	2.3	1.4	2.4

Data Sources: TKL, (1999:2000) Reports

Indeed, in the COMESA region historically KPTC was exempt from government duties if such duties now become payable then capex per line[43] would increase accordingly and overall value would be reduced. Such duties may however encourage the production of materials for telecommunication systems in Kenya, rather than being sourced predominantly from abroad. In practice, overall efficiency targets are reached by a combination of both techniques of increasing the number of telephone lines in the network and reducing employee numbers by downsizing as discussed in detail in the major findings in chapter five. In order to investigate the impact of efficiency improvements, modelling three efficiency scenarios for a given level of demand or network roll-out (BASE case tele-density 2010 as above) was used. These are shown in the table 4-11 and correspond to LOW attaining efficiency levels in 2010 of an average African country (in 1995). (GOK/TKL, 2000*; CCK, 2003)

To achieve the staffing level scenarios described in efficiency targets (table 4-13 and 5-15) some staff numbers could be reduced through natural attrition (leavers, people retiring, sickness etc.). KPTC estimated that between 2 and 3% of staff leave each year through natural wastage (retirement. death in service etc.). Others may leave through voluntary schemes i.e. early retirement and voluntary redundancy compensation payments. For example, required redundancy levels are based on a growing network based on the BASE case teledensity scenario. Real salaries are estimated to grow at 3%

[43] Capex per line or capital expense. – is the amount of money spend to upgrade or acquire a line (and other related physical assets such as buildings and machinery this tends to be a very large expense for telecoms companies in manufacturing facilities and much less of an expense in the services sector.

per annum from their 1996 levels. Voluntary redundancy payments are assumed at KShs 100.000 (1996 currency) adjusted for inflation in successive years. Table 4-13 indicates an approximate number of staff that KPTC needed to make redundant in the early years to achieve the desired level of productivity. However, these levels were not achieved as discussed in section 5:7:4:1 of chapter five.

Table 4-13: Impact of Efficiency Targets on Redundancies

Scenario	Lines per employee target (2002)	Approx. Number of redundancies P.a Over 6 years 1997-2002)	Approx. Total cost of redundancies Pa Over 6 1997-2002)
"Current"	16	0	-
"Average Africa" (LOW) Million	45	1,290	Kshs. 774
"Top quartile Africa" (BASE) million	75	1,920	Kshs. 1,152
"Best Africa" (HIGH) million	90	2,090	Kshs. 1,254

Sources: TKL Reports (2003)[44]

There was a political aspect to the number of redundancies that were to be effected. It is worth mentioning that even if Telkom Kenya targets a 'best in Africa' efficiency level by say the year 2002, based on 1995 African efficiency levels, this would not necessarily mean that TKL would be the most efficient operator in Africa. Other African countries had to increase their efficiency over the same period (Egypt and Uganda are examples).

To model the impact of competition under scenarios 2 and 3[45] it was assumed that in each core business area (local, national, International and mobile) a fixed percentage of total revenues for the relevant service was lost to competition in each year including and following the year of introduction of competition (e.g. if competition was introduced in local loop infrastructure in 1999 and the assumed loss of market share per annum was 3%, then KPTC market share in 1999 was 97% of total, 2000 was 94% of total, 2001, was 91% of total and so on). The impact on the value of KPTC of the loss of market share and timing of competition is presented in TKL's market structure and transaction in sections 4.5 to 4:5:2:1 and 4:9 to 4:10 of the analysis, respectively.

[44] Staffing levels based on total of I 8,660 telecoms staff
[45] KPTC/TKL reports (1996-1999)

4:7 Regulatory Policy

The above analysis of the financial restructuring and the dynamics of different interests that need to be taken care of during the privatisation and liberalization processes calls for a regulatory framework. Two distinct regulatory scenarios for KPTC were envisaged by the transaction and GOK/TKL's valuation team (see 4:1). These two scenarios correspond to either a relatively quick (FAST case or else a more relaxed pace for sector liberalization (SLOW case).

In the Slow case, competition in cellular telephony was expected one year after privatisation of Telkom Kenya by awarding a second licence in March 1999, with competition expected to start at the beginning of 1999/2000 financial year. While competition in the provision of local loop infrastructure was expected to be on board three years after privatisation of Telkom Kenya schedule date of June, 2004.[46] Competition in national long-distance infrastructure and services was expected five years after privatisation and competition in international PSTN, six years after privatisation. However, this slow pace meant that there would be no substantial growth in the industry. This Confirmed the arguments in the literature which indicated that early or faster liberalization and competition in the telecommunications industry is paramount for the growth of the sector (See Wellenius 1992; Wallsten, 1999; 2001; Shirley, 1998: 2002 and Beardsley and P-Fox, 1995).

Telkom Kenya preferred the FAST case scenario, where competition in cellular telephony was expected one year after a licence awarded to GSN joint venture was negotiated and awarded in July 1999 to Safaricom Limited. Competition was also introduced in all service areas of local national and international sectors. For the purposes of valuation analysis, two regulatory scenarios namely: Retain the "status quo" (without competition); and two "no competition" but stringent price control were considered These two scenarios were to enable the regulator to force tariffs to reduce to

[46] TKL /CCK Reports, (1999)

levels similar to the FAST regulatory scenario described above. These two were added during the valuation process. The regulatory scenarios are summarised in table 4-14

Table 4-14 Regulatory scenarios[47]

Regulatory scenario	Description	Notes
1. Status quo	No competition as today	Existing tariff levels are likely to be retained
2. Slow (intro. of) competition	Mobile competition in 1999	Slow tariff decline and rebalancing is likely to occur; competition introduced in other service areas from 2001 to 2005
3. Fast (intro. of) competition Mobile competition in 1998	Rapid tariff decline rebalancing is likely to occur	Competition introduced in other service areas in 2001
4. No competition, with stringent price control	Monopoly for TKL in basic voice services and stringent price control	Price control simulates effect of competition on tariffs to benefit consumers

Source: GOK/TLK, (2000*) Valuation Scenarios for KPTC/TKL

[47] See also Market structure, appendix 2: annex XI

4:8 Overall Objectives used for Financial Restructuring of TKL

In considering the options for restructure, the objectives and perceptions of the three principal interested parties in the transaction are considered and often differ: in this case the investors, the GOK and the company are paramount (TKL, reports, 1998; 1999; 2000). Since the interests and perceptions of all the interested parties cannot be met, overall objectives under which it is assessed are assumed to yield options for financial restructuring as described in the TKL valuation criteria.

It was concluded that: a) the inter-business account needs to be written off prior to setting up Telkom Kenya as a going concern; b) responsibility for all GOK related debtors and creditors should be assumed by GOK; c) there was a direct relationship between the sales proceeds and the amount of debt in the company to be privatised as described herein chapter five. Therefore, GOK was advised to assume liability for GOK guaranteed loans, for GOK on-lent loans while responsibility for the commercial loans was to be vested in TKL. In addition, the treatment of the unfunded pension liability and responsibility for old service debtors should be vested in TKL. This recommended approach was intended to maximise the headline sales proceeds which required that the GOK forgave the debt and made a cash injection of Kshs. 30 billion into TKL based on the GOK benefit in the medium to long term as illustrated by table 4-15

Table 4-15 GOK Benefits Medium to long-Term

Present State	Financial Restructure	Transaction	Long term
100% Ownership of a company with a high level of gearing and net assets of about **Kshs. 8 billion**	Recommendation to forgive **KShs 30 Billion** of debt (debt/equity conversion is one approach	Sales proceeds from sale or flotation of (say) 30% of the equity of TKL	Increase in value of 70% owned by GOK
Difficult to sell	100% ownership of a company with net assets of nearly **Kshs. 40 billion**	Increase in value of the 70% owned by GOK in line with Valuation	Increased corporation tax from a profitable company
			Increased Dividend from Company

Sources: GOK/TLK, Reports (2000*)

According to the initial review, although the GOK needed to make an investment (TKL, reports, 1998-2000) in the short term, it was likely to reap the benefits of the financial restructure in the medium to long term. As the GOK valuation team in 1999 and the due diligence treasury team 2002 advised, this would enable GOK to move forward with the privatisation of TKL cognisant of the following: that the financial items that a strategic investor could dispute had largely been removed from the accounts leaving GOK in a stronger negotiating position and increasing confidence in the re-structuring already undertaken. The balance sheet as indicated in table 4-10 and figures 5-9 and 5-10 is strong enough for TKL to continue to operate and invest in the short term prior to the completion of a strategic sale or IPO. Besides, the balance sheet was strong enough for TKL to be able to fund a dividend flow which could have benefited valuation on an IPO (GOK/TLK, 1999*)

As stated above, final decisions on the appropriate level of gearing post sale, whether by IPO or by strategic sale, can only be made in the light of final decisions on licence tariffs. Such issues as roll-out and tariffs and the competitive environment and decisions taken on whether loans should be assumed by Government do not impact value realised from the process but increase the head-line sales proceeds achievable. The implementation of the above recommendations was thus to enable the transactions to start with a "clean sheet".

4:8:1 Financial Restructuring: Loans and other Liabilities[48]: Options

When considering the treatment of loans a number of issues that are common to all types of loans and those that are specific to the type of loan, should be addressed (GOK/TKL 2003:2000*:1999*). Internal Valuation and Due Diligence reports, generally, these are considered as:

Effects of press comment: - the amount of liability transferred could result in adverse comment in the press[49]. If significant liability were assumed by GOK, the perception perpetuated in press comment would be that the GOK were writing off too much debt prior to sale. Conversely, if the debt were to be vested in Telkom Kenya. the press perception would be that the sales proceeds received were too low and profitability unlikely. In practice, if the liability were assumed by the GOK, an argument could be portrayed in the press to balance the sales proceeds with the amount of liability assumed. The other perception could be that, there was a risk of future 'control' by GOK

Free cash flow in practice: - TKL would have to generate cash through operating an activity, which is used principally to fund loans repayments in the early periods.

The future scenario: - It was apparent that the amount of debt in TKL would decrease the amount available for operations, therefore reducing inward investment in the operations of the company or for distribution as dividends. If investor perception and impact on sales proceeds is as outlined above: - an investor in a trade sale is likely simply to reduce his equity valuation of TKL by the amount of debt left in Telkom Kenya. In addition, the sales proceeds will therefore be reduced proportionately to the size of the stake sold (GOK/TKL, 2000*)

Therefore, where the debt is vested should make little difference to an investor in a trade sale. However, it was also noted that sales proceeds in a trade sale transaction could be affected by the number of bidders attracted to the sale. Leaving the debt in Telkom

[48] based on the GOK/TLK's (1999*: 2000*)valuation reports and TKL's Due diligence internal report of 2003
[49] See sample of TKL press articles: Appendix 2: annex XVI

Kenya without compensating benefits could make the company look unattractive to a potential investor thus reducing the number of bidders and consequently reducing the sales proceeds by more than the value of the debt. In extreme cases, either trade investors may insist that proceeds be injected into TKL rather than given to GOK, or that other compensating measures are taken. A private investor in an IPO is likely to react more strongly to a highly geared company than in a trade sale. A highly geared company is one where the company raises more funds by using fixed interest-loans and few funds from shareholders. In a situation where the company raises more funds by using shares and uses very few fixed interest-loans, it is said to have a low capital gearing (Pendleton et al. 1995, P.82) and a company presented for an IPO with a high gearing is often likely to suffer from low interest from investors.

Ability to raise new finance: - All the options open to TKL management require the ability to raise new financing and a company that is already highly geared would find it more difficult and more costly to raise new funds either as short term working capital or for expansion plans indicated in table 5-13. However, the prospective strength of Telkom Kenya's operating cash flows would be attractive to providers of alternative forms of financing (e.g. high yield debt (equity) and project finance) in early years. One of the advantages of a trade sale is often to use the strategic partner's ability to raise finance (in this case perhaps cheaper overseas finance) to fund the operations of the company. However, guaranteed loans from GOK may still be required. Leaving the TKL highly geared was likely to impede its ability to raise funds and therefore nullify the effects of this advantage (GOK/TKL, 2000*; TKL, 1999).

GOK guaranteed loans: - these loans were transactions where KPTC was the principal but where the repayment of the loan was guaranteed by the GOK. Considerable redemption arrears and interest remain outstanding and the company had suffered significant management charges on late payment of amounts. There were principally two options considered either: the loan is vested in the Company, Telkom Kenya, that was to be privatised or the loan was to be assumed by GOK before privatisation. The two options are considered and discussed herein in sections 4:8:2-3 ((GOK/TKL, 2000*)

Government on-lent loans: - The industry analysts maintained that these are back-to-back loans where, Government was/is the principal to the external lender and acted as the sub-lender to KPTC and therefore all the suggested options apply to the treatment of on-lent loans. However, in practice other issues should be considered: *The mismatch between service and the loan by* KPTC and GOK: - KPTC was substantially in arrears on the repayment to GOK of these loans. However, this does not necessarily mean that the GOK incurred the same redemption arrears, interest or management charges through late payment of the loans which were truly back-to-back and the profile of repayment by the GOK matched the profile of repayment by KPTC to the GOK. Any assumption of the liability for the debt would require the repayment of that debt by GOK and therefore require the injection of new cash by GOK or an allocation of sale proceeds which the GOK was unwilling to undertake (GOK/TKL, 2000*; FSD, 2004)

If the GOK had maintained their repayments to the head lender, while KPTC had not, the balances outstanding would not represent the need to repay the loans but would actually represent loans that had already been paid by GOK. Under these circumstances, the assumption by Government of the liability and an allocation from sales proceeds would result in the immediate pay-back to GOK of old monies already remitted to the lender by GOK. This would increase the strength of the argument for the GOK to assume the liability for the debt. The link between the relationship of GOK and head lender and the relationship of GOK and KPTC is not clear since KPTC operates as POSTA and is delinked from KPTC and TKL.

The size of the amounts outstanding: GOK on-lent loans represent some KShs 23.9 billion (65%) of the total loans amounting to some KShs 36.3 billion. In the discussions in section 4:8:1 above, the assumption of the liability by GOK was mitigated by the transfer of sales proceeds, and the size of the amount outstanding as on-lent loan. This would mean that in the best case, a substantial part of the proceeds would need to be allocated to GOK, or in the worst case the liability would not be covered by sales proceeds and lead to need for cash injection from GOK (TKL, 2003: (GOK/TKL, 2000*)

An important conclusion made by analysts and this study was that the objectives stated and options available above would best be met by the GOK assuming the liability for- all on-lent loans with the exception of loans at preferential rates, which should be vested in Telkom Kenya prior to sale and negotiations with the investor in order to derive the value reflected in sales proceeds for the preferential rates. This is because certain on-lent loans could be perceived by an investor in a trade sale to be at advantageous rates (FSD, 2004)

Commercial loans: - Commercial loans are those entered into by KPTC as the principal on open market terms and conditions. KPTC had serviced these loans and given the size of these loans, the cash flow needed to service them was not unduly damaging to TKL's ability to invest. In this case, there was no reason for GOK to assume this liability. In practice, the reassignment of this loan could lead to the crystallisation of the liability and require the loan to be paid on demand due to public perception (GOK/TKL, 1998: 2000*).[50]

Regulatory and Market Institutions: - From the analysis in this chapter it is clear that the GOK needed to make some serous institutional and policy strengthening in order to improve on the market infrastructure for telecommunications. Telecommunications investments have become global and therefore there is demand from investors and industry players for global legal and regulatory frameworks that drive expansion, growth and access in the telecommunications sector.

[50] see various financial restructuring of KPTC internal Reports.

4:8:2 Option I - Invest the Liability in Telkom Kenya

Note that any strategic investor would require GOK to continue to guarantee existing loans already guaranteed by GOK. New loans arranged following the privatisation may be guaranteed pro-rata by the shareholders if a guarantee is required. Alternatively, it may be possible for TKL to borrow in its own right without the benefit of shareholder guarantees if its balance sheet and projected future cash-flows were considered sufficiently strong along with looking specifically at the pros and cons of vesting the liability in Telkom Kenya prior to privatisation as is considered in option 2.

4:8:3 Option 2: Government Assumes Liability

Option 2 summarizes the pros and cons of the liability for guaranteed loans being assumed by the GOK prior to privatisation as detailed in table 4-16

Table 4-16: **The Pros and Cons of Guaranteed Loan Liability by GOK**

Pros	Cons
1. Value of company was likely not to be reduced by the amount of liability assumed by government 2. GOK's reputation would not be affected by any default by Telkom Kenya 3. If GOK assumed the liability for the loan, it would lead to an increase in the available funding for the company which would enhance its ability to operate in the medium and short term	1. In practice, the reassignment of this loan could lead to the crystallisation of the liability and require the loan to be paid on demand (as was the case with MKC in December 2002) 2. Public perception of the value for money could be compromised as the amount of liability assumed by GOK increased- since TKL would need the GOK as a guarantee in the future

Sources: GOK/ TKL, (1999*: 2000*)

4:9 PROGRESS IN THE PRIVATISATIONS OF THE TELECOMS SECTOR

4:9:0 Privatising Telkom Kenya Transaction; Policies, Process and Negotiations

The analysis and description of TLK's step by step restructuring and privatization process as outlined in this thesis is based on government documentation and various interviews with public sector officials involved in the process and TLK Management. The actual process took off in June 2000 when the GOK Cabinet approved the strategy for the second phase of the privatisation program (TLK, 2003a).

The main thrust of the second phase was the privatisation of the infrastructure / utility sectors which were originally considered strategic. The Cabinet also approved the tabling of a Sessional Paper on the strategy, to achieve the earmarked privatisation. However, the GOK decided in January 2001 to draft a privatisation law for Parliament to consider on a priority basis; a draft bill was published in November 2003 (annex IX) and was presented before Parliament in December 2003 for debate and enactment in 2004. The GOK committed to its fast facilitation for approval by Parliament and implementation by the policy organs; this draft law is critically discussed in chapter five (GOK, 2003).

The privatisation of TKL was officially launched in April 2000 after the Cabinet approved TKL's sale to a strategic investor.[51] for an initial ratio of 49% GOK shareholding in Telkom Kenya, to be sold only if foreign investors made a bid that the government deemed as reasonable. Following the official launch, bids were invited from interested investors in a process that culminated with receipt of final bids on 4th December 2000. In this respect, Schroeder Salomon Smith Barney (SSSB) were appointed (in 2000) as lead transaction advisors to manage the TKL privatization process while Linklaters of UK with Hamilton, Harrisons and Mathews (HHM) and Oraro and Company were retained as legal advisors. The consultants carried out financial and legal

[51] Section 5:1:1:1 describes a Privatization transaction in detail

due diligence and other transaction advisory services including valuation of the TKL shares. They fixed the asset valuation of the 49% of TKL shares at US$224 million and the adjusted equity value of the same percentage of shares at a value between US$337million and US$ 386 million. They valued Telkom Kenya at US$1.633 per line, which compares to the international norms. Six companies were short-listed for the bidding process. However, as a result of the global depressed state of the telecommunications sector since the end of 1999 and the poor investment environment in Kenya only three bids were received by the bid submission date (of December 4th 2000). South Africa-based Mount Kenya Consortium (MKC) was the highest bidder offering US$240 million for the 49% stake that included a $15 million in the form of preferred shares. This bid was followed by Orascom of Egypts' of US$160 million and Telkom Malaysia's bid of US$134 million. Later in the follow up discussions, MKC agreed to raise a further US$65 million in loan finances that improved their bid to US$225 million plus $80 million in form of preference shares and loans. The transaction team with the assistance of Solomon, Schroeder and Smith Barney (SSSB) as advisors evaluated the bids and observed that all the three submitted technical bids qualified as per the criteria issued (FSD, 2004; (GOK/DGIPE, 2002; TKL, 2003a).

This research found that the transaction/privatization committee (made up of Treasury, Communications and transport, Telkom Kenya and Ministry of Trade as shown in figure 5-1) evaluated the financial bids and submitted a report to GOK which recommended the Mount Kenya Communications (MKC)'s[52] initial bid price offer totalling to US$240 million. Government of Kenya found the MKC financial bid to be low compared to GOK valuation earlier undertaken along with SSSB, which estimated TKL's value to be approximately $300-800 (as per scenarios options to be implemented by the GOK). Consequently, the Government proposed to Mt Kenya Communication a price of US$ 350 million and an exclusive negotiation period of 2 weeks which MKC rejected and presented a counter offer by increasing its bid to US$305 million (i.e. US $225 plus US

[52] consortium of ECONET (lead negotiating company for the consortium) South Africans, the Netherlands and Kenya

$80) with a two month exclusivity period. The GOK rejected this counter offer (GOK/DGIPE, 2002).

During the period when MKC rejected the GOK's offer to increase its price to US $350 million with a 2 week exclusivity period, the GOK invited Orascom Telecom (OT) of Egypt[53] to re-evaluate their bid in line with the proposed price of US$350million and the exclusive negotiation period of two weeks. Orascom Telecom accepted the proposed price and the exclusive negotiation period of two weeks before the signing of definitive agreements. Discussions with Orascom Telecom did not commence immediately because SSSB the lead transaction advisor demanded extension of their contract, which had expired on 30th June 2000 and an immediate payment of all their outstanding payments. The outstanding payments were made and the contracts extended to July 2001. It was only after these arrangements were completed that the transaction advisors were willing to begin serious discussions with Orascom Telecom (FSD, 2004).

Meanwhile, Safaricom showed signs of financial losses that were worrisome to the potential investors. As a result Orascom pulled out of the race after reviewing the June 2001 accounts statement for Safaricom that showed signs of financial trouble and MKC asked for a review of the agreed parameters.

The initial timetable developed by the financial advisors envisaged a visit for initial discussions with the relevant party for exclusive negotiations, which were scheduled for early July 2001. However, Orascom Telecom (OT) did not honour the appointment and instead proposed a meeting in London in mid June 2001. Given the importance of the transaction and the need to progress in a timely manner, a sub committee for transaction met representatives of Orascom Telecom in London.

[53] Orascom Telecom Holding S.A.E (OTH) was established in 1998, and has grown to become the largest and most diversified GSM network operator in the Middle East, Africa, and Pakistan with nine licences covering the region

Orascom Telecom proposed the following payment structure: US$ 80 million cash payable to the GOK upon closing of the transaction; US$190 million capital contribution by OT to TKL in the form of installed lines to meet the expansion; and four additional cash instalments of US$ 20 million payable by OT to the GOK on December 3rd of years 2002-2005. An analysis of the Orascom Telecom proposal indicated that Orascom's financial proposal did not meet the minimum cash proceeds of US$ 350 million as sought by the GOK. It did not split the proceeds in a required ratio of 23:26 between the Government and Telkom in respect of the 23% sold shares by GOK (US$ 164,285,000) and 26% subscription of new TKL shares (USD 185,714,000). Second, it did not anticipate any separate payment for the settlement of the Safaricom License fee debt (US$ 33 million) annually, which was contemplated as part of the transaction. It also reduced significantly the value of the price paid, (a Net Present Value at a discount rate of 15% of only US$ 295.5 million), way below the nominal price of US$ 350 million. In addition, to commit US$ 190 million into the network, as part of "purchase price" did not add value since future capital expenditure and expansion of number of lines was already part of what each bidder committed to provide. The proposal also appeared too complicated to manage. Further to this OT informed the transaction team that they were unable to commit human resources. In addition, Orascom Telecom (OT) did not make any reference to Korea Telecom or WorldTel,[54] two previously named partners who were supposed to bring necessary experience to manage the fixed line business and to help raise the necessary capital. They also did not mention the capital investment of US$ 533 million that they were required to commit during the period of 2000- 2005.This led to the discontinuation of the negotiations with Orascom Telecom (OT).(TKL, 2003; GOK/DGIPE, 2002; FSD, 2004)

[54] World Tel- is a reputable company with holding companies in Bermuda and Mauritius and a strong management team of professionals in the fields of private equity investments, project finance, network operations, technology, licensing regulation, equipment evaluation, law & accounting.

Meanwhile, in early July 2001 MKC again expressed interest to reinstate their proposal for 30 days with effect from that date and to increase the price previously discussed by up to a further US$.20 million to a maximum US$325 million; the amount was to be paid on the anniversary of the completion date. MKC further stated in their business plan that they would double the number of telephone lines in the network in 24 months. They also promised to invest Kshs. 8 billion (US$100 million) in the company over the initial 12-month period supported by KPN Royal a privatized Dutch telecoms company[55]. The government then entered into a contractual agreement with MKC that stated as follows:

- A foreign managing director to be recruited by MKC
- The government to appoint the members of the board.
- The strategic equity partner was to control the Company's management.
- The rights and obligations of both the GOK and the strategic investor as stated on the shareholders agreement were to be produced and followed.
- The GOK was to take over the pension fund liability
- The GOK was to downsize the workforce or allow the strategic investor to do so within its own schedule

However, MKC's proposal was subject to confirmation of exclusivity and announcement of preferred purchase status, satisfactory outcome of further due diligence inquiries of MKC's subsidiaries abroad by the GOK privatization committee, final documentation and agreement on process and timetable. Preliminary discussions took place between the Government and MKC in Nairobi in late July 2001. As a result, the parties entered into an exclusivity agreement for a period of three months commencing August 1, to 31st October 2002 both dates inclusive. The purpose of the exclusivity period of three months was to allow for further due diligence, discussions on regulatory issues, finalisation of management accounts for the period ending 30th June 2001 and finalisation of negotiations on the transaction documents. Subject to successful negotiations, the legal documents to complete the transaction were to be signed before the end of the exclusivity period (GOK/DGIPE, 2002).

[55] This was MKC's operating partner

During the exclusivity period, (October 2001-December 2002) the GOK's constituted Privatization Committee (PC) undertook an in-depth due diligence of the consortium 'subsidiaries' and decided to discontinue the negotiations with MKC after it was established that from the time the consortium submitted its bid it had weakened considerably by loosing Eskom Enterprises of South Africa, the consortium member who experienced liquidity and technical problems in the South Africa Power market this loss rendered MKC's bid technically unqualified. Besides, KPN Royal Dutch Telkom of Netherlands had abandoned an option to acquire shares in MKC, remaining only as a manager of TKL under a management contract while Transtel, the telecommunications subsidiary of Transnet of South Africa had pulled out (Investment Secretariat Report, (2003). After the due diligence and expiry of the exclusivity period there was no further negotiations between MKC and GOK and negotiations broke down. Although the GOK remained silent as to the reasons of the breakdown in negotiations, the industry analysts argued that there was simply too much political manoeuvring of various stakeholders in the TKL privatization deal that accounted for the delayed transaction scheduled for December 2002 and that the dynamics involved indicated the problems and delays in a transaction process. The politicians argued that these delays gave government more time for restructuring the entity and instituting a legal and regulatory framework. This study found that the government meanwhile had to restate its commitment to the sale of TKL to the investors, World Bank, donor agencies and to the public. (GOK/DGIPE, 2002). However MKC moved to court seeking legal action for the time and resources wasted when negotiations failed just before the last step of concluding and closing action, shown in figure 5-2, that contributed to lowering further the price of TKL in an STI option. These dynamics are discussed and updated in Chapter five.

4:10: Conclusion

In conclusion, the developments in the telecommunications sector leading to the privatization of TKL and PCK were speared headed by the setting of GOK's objectives and goals for its privatization program. In doing so the GOK targeted the telecommunications industry as one of its strategic sectors. GOK's liberalization and restructuring program that began with the unbundling of KPTC moved subsequently to restructuring of the three major enterprises (TKL, Safaricom and PCK/POSTA) and helped shape the growth and changes in the telecommunications sector. This process encouraged the review and design of a telecommunications policy framework that led to the institutionalization of the legal and regulatory framework (i.e. CCK and the Privatization Bill).

The restructuring and policy changes introduced competition into the sector encouraging growth and access to telecommunications services, with the entry of cellular and National operators. It is also during this process that the GOK developed an approach to a privatization process that included outlining in detail the strategy for disposal of a strategic enterprise in a strategic sector. This approach included putting together a team that would engage with the investors on a daily basis and engage a transaction by preparing an enterprise for sale through seeking political approval, price valuation, inviting bidders, due diligence, bidding, and closing of the bid, just to mention a few steps (see figure 5-2).

Indeed, research analysis in this chapter shows that determining the value of an enterprise for privatization is a significant step in the process. Equally important is analysing the market structure in which the transaction would operate and making changes that add value to the enterprise and to the business and policy environments. Some of theses changes include specific operational aspects of the market and enterprise in preparation for a sale.

This chapter specifically discusses the operational and market options available to TKL on its road to privatization. Most of these options or choices are affected by the

value, management and liabilities in TKL and the possibilities for future improvements. In summary then, TKL and GOK needed to take cognisance of the fact that there was/is direct relationship between the amount of liability assumed by the GOK and the sales proceeds from the transaction, as was the case with KQ's privatization where the investors viewed GOK's assumption of liability as a positive step. Even where amounts outstanding from KPTC had already been remitted to the head-lender by the GOK, there was strong argument for the GOK to assume liability, presenting it as a swap not a write-off, otherwise negative press comment could likely have affected the sale to an STI or through an IPO. Significantly, for the company to be attractive to an investor in a trade sale or IPO, GOK needed to assume liability for a significant proportion of the debt and more importantly, address the ability of Telkom Kenya to raise funds in the future by reducing its high gearing through vesting in Telkom Kenya certain loans which were/are at preferential rates.

In addition, GOK is likely to be able to retain a higher proportion of the proceed and it can therefore be concluded from the discussion in section 4:6 that Telkom Kenya's financial objectives[56] would be best met by GOK assuming liability for all government guaranteed loans in KPTC. In practice, this would be achieved by the cancellation of the government guarantee and re-negotiation of the terms and conditions of the loan with Telkom Kenya at a revised price subject to an assessment of the benefit to TKL of the terms of the loan as per the time of negotiations.

This chapter also indicated that although the GOK has made some important steps towards institutionalization and creation of market structures that support the growth and expansion of the telecommunications industry, it still has a long way to go in instituting irreversible legal and regulatory institutions through the political system as exemplified by the reversal of the ECONET contract by the Minister of Communications in 2004 and the delays that were initially experienced in the enactment of the Privatization law.

[56] The conclusion are based on the TKL's original valuation report , considered an internal document

5:0 CHAPTER FIVE

5:1 Major Field Findings and Data analysis

5:1:0 General Findings: The Institutional and Regulatory Framework

This chapter is discussion of the research findings of interview and questionnaire data evidence of Kenya's approach, in the light of the recent developments (i.e1993-2003) in the application of the privatization process, in the context of the discipline of public enterprise reform and business administration. The field research findings generate theory and practice that establishes the nature of existing patterns in less developed countries (LDCs) through the approach of Telkom Kenya privatization.

While the data analysis and the theoretical privatization model elements raised in Chapter Two may guide the discussion, the major conclusions made are based on the findings in Chapter Four and this chapter. The data also show how far the knowledge of the privatization of Telkom Kenya Company Ltd (TKL) can inform and develop models of privatization presented by the World Bank, GOK's 1996 framework and the various theory analysts.[3]

Indeed, the choice of TKL was based on its potential in informing the approach as an example of practice and the likely transfer of learning which resulted from its unbundling, formation, and operation. Of particular importance, is its "sale to a strategic partner" status as a first tier supplier to the investment sector of an approach to privatization. This chapter further highlights evidence showing that as an example of practice, this thesis provides new data, new information, and a richer and more informed understanding of the approach and the process of privatizing.

3 That include: Mansoor, (1988); Cook and Kirkpatrick, (1988); Cook and Monique, (2002) Cook and Uchida, (2001) Loxley, (1990); Kikeri and Shirley, (1999) ; Letwin, (1988); Haggarty, et al (2002); Megginson et al (1996); Little and Meredith, (1994) amongst others

The evidence of the results of the primary data survey analysis presented herein are based on field interviews and questionnaire data collected to support the aims and objectives of the research as outlined in chapter one and includes secondary data (in chapter four). The analysis was carried out using the theoretical conceptual framework delineated at length in chapters two, chapter four and more importantly the field survey data findings in this chapter.

To accomplish this a main questionnaire and semi-structured questions or interview guides (Annexes 1 and II) consisting of open-ended questions were designed to gather responses that correspond to the central question and sub-research questions outlined in chapter one, focusing on Kenya's approach to privatization in the light of TKL's privatization.

The analysis herein listed, explained, enumerated, rated, scaled, and ranked the major objectives, methods, and processes of privatization programs and contextual insights with potential for comparative insights as put forward by Dyer and Wilkins, (1991 p.614). In their brief rejoinder to Eisenhardt, they argued that "stories" are what makes good social science, not better constructs. In ranking, rating and measuring on a scale, this survey data analysis identified and blended the exploratory description (chapter four) with case analysis and conclusions in chapter five and six respectively. This analysis further reveals patterns of GOK's approach to privatization and strategies that are unique to the case of Kenya and that of the COMESA region. Using triangulated data, this research analysis was compiled and presented in the form of figures, tables, diagrams, and statistics. The thesis results generated information that challenges the existing theory reviewed in the literature and as outlined in section 3:3 of chapter three. The field survey data evidence analysis is discussed as field findings and presented from the specific to the general results, responding to the central research question to collect data and focus on 'an approach' to privatization. Indeed, the field evidence in this chapter, corroborate the documentary and literature discussions in chapters two and four.

5:1:1 Kenya's Approach to the Privatization Process

Selection Criteria

The criteria and strategy for selecting public enterprises to be privatized is dependent on decisions by the GOK Treasury, often based on producing a list describing whether a public enterprise is strategic and commercially viable versus non-strategic non-performing enterprises. This research's interview data shows that the Ministry of Finance used the financial performance criteria to enlist the enterprises. The study further found that after the initial division of public enterprises by the Ministry of Finance into strategic enterprises (appendix 1: annex v) to be retained and restructured and non-strategic that were to be privatized, the GOK further listed those that were non-central to the economy and constituted a burden to the exchequer and were under liquidation. The research reveals that the basis of this categorization and indeed of the whole privatization framework is a subject of discussion amongst the private sector, civil society, and Parliament (FSD, 2004).

There are no particular criteria and strategies for grouping enterprises into strategic and non-strategic; the process is dependent on the government divestiture department listing what they consider as "national jewels or family silver" and the government (and the COMESA) does not define what a national jewel (Colin, 1990) is. In most instances however, the GOK is pressured into adopting the World Bank's "advice" criteria that involves targeting those enterprises that receive direct or indirect government subsidy to be listed for liquidation, whether they are national jewels or not. This criterion is one of the World Bank conditions for funding privatization and related programs.

Along with the World Bank conditionality, the 'strategic firms', especially those in telecoms are under pressure from COMESA region's telecommunication harmonization program to liberalize and reform, not withstanding the realities of globalization, and international and regional competitiveness. Indeed, evidence is discussed herein[4] of

[4] see section 5:1:3 and tables 5-10, 5-13 and 5-15 and figures 5-8 and 5-9

increasing numbers of subscribers and activities in the expansion of coverage to rural Kenya; reductions in tariffs for mobile calls; shifting local calls from fixed line telephony (TKL) to mobile telephony (Kencell, Celtel, Safaricom and Econet); and increasing revenues. These developments are accelerating reforms in the sector along with increased revenue and coverage for the mobile sector. The third criterion has been simply listing of those enterprises with liquidity problems and using the 'list' as the only prudent action for their disposal. However, 86% of the respondents were not aware of the criteria for selection.

Effectively, this unclear criterion has affected the overall restructuring and privatization outcome of Kenya's program in the last five years (1999-2003). It has been in a state of "stop and go paralysis", as one of the CEO's described it when he stated that the GOK "has no tangible strategy, no commitment, and no political will to effectively privatize." (appendix 1 annexes V). Largely, the research found that the outcome has been dependent on the donor conditionality and personal interests within the government of the day. Evidence of non-commitment to a clear selection strategy and approach to privatization was indicated during the interviews and in Parliament on the debate on the privatization Bill (Annex IX).This lack of urgency, barely seventeen months after the 'new' NARC administration was voted into power on the promise of instituting a legal framework and finalising the sale of TKL, was a worrying rally point for Kenyans, donor agencies[5] and in particular to the World Bank.

The study findings show that along with lack of a clear selection criterion, 58%[6] of the respondents concluded that the outcome of Kenya's privatization program is slow and unplanned. It has completed few privatization transactions, accumulated low proceeds as shown in table 4-1 and 4-2 and its approach to the process is lengthy and unclear. With the exception of Kenya Airways, service industry (banking, hotels /tourism) and selected sugar companies, the rest of the privatizations cannot be accounted for and their approach is not well documented. This thesis's field survey revealed that if Kenya and the region had a strong operational privatization law, clear criteria and clear approach to the process, TKL's transaction would have been finalised in December of

[5] East African Standard Newspapers, August, and September 23, (2004)
[6] (n=21)

2002 as scheduled. This would have been of great advantage to TKL, giving it a head start in the expansion and securing of a substantial market share in the region. On whether the government had a strategy that enables a systematic operation of privatization, 90% of the respondents strongly agreed that government does not have such a strategy. The introduction of a privatization Bill and the planned creation of a privatization Commission were seen as an effort to bring order and clarity to the process. At the same time, the respondents viewed the delay of the enactment of the bill as a politically motivated delaying tactic pursued by corrupt individuals within the KANU and NARC administrations, taking advantage of the apparent lack of a clear approach and criteria (East African, 2002; KNA, 2001:2002; FSD, 2004; Opiyo, 2004).[7]

This thesis finding therefore concludes that the framework of privatization was not well thought out and was ill conceived. Indeed, Nyong'o, (2000)[8] argues that a legal framework for the facilitation and the development of a strategic approach needed to be put in place as a first priority to enable the enactment and implementation of the privatization law. This would protect stripping of public assets by CEOs, politicians and unscrupulous businesspersons. For instance, an external audit by the Auditor General contained in the PIC tenth report, (KNA, 2001) on the privatization of African and Tours chain of hotels, sugar companies, insurance corporations and the milling corporation revealed irregularities and under-valuation of the privatized firms. Although the Parliamentary Investment and Accounts Committees (PIC/PAC) KNA,1996-2003)[9] recommended a "stop and review" stage and for fresh bids to be invited in the case of the sugar and hotel industries, citing the lack of an institutionalized privatization approach that was organized, clear and transparent, the administration took no action.

Apart from clear parliamentary interventions, regarding lack of a clear approach, this thesis data also showed public concerns regarding the laxity and unprepared manner in which public assets were 'sold' at less than market prices to well-connected politicians and government officials, in the name of privatization or rolling back the role of

[7] Bill was presented to Parliament in 2001 and was not passed for enactment until November 2003
8 see also KNA, (1997:1999; 2001 pp. 19-35 Hansard parliamentary Reports
9 KNA, PIC and PAC reports

government in the economy.[10] Much more dramatic was the case of workers being laid-off as public enterprises started to downsize to give way to privatization. This gives impetus to the contributions of the World Bank, (1981), Young (2002), Estache, (1997), Cook and Kirkpatrick, (1995:1998) and Nyong'o (2000), who argue that privatization should be undertaken in a context where the rules of the game are clear and central institutions are constructed and reformed. This encourages reduction of subsidies, encourages competition in the buying of public assets, increases deregulation, and gives momentum to government divestiture. They further argue that where there is no accountability PE's are used as a tool for enriching the power elite and where the law provides for accountability and protects the proceeds realized, privatization would contribute positively to the Treasury and help in attracting investments into a depressed economy.

More importantly, the field interviews found that investors often are more willing to invest in impersonal markets where property rights are protected, contracts are less costly to enforce and government policies are relatively credible. Contract enforcement can only be implemented when laws are in place to register and enforce rights and obligations, when constitutional, legislative and electoral rules make it hard to change laws arbitrarily and when legal and bureaucratic systems function effectively, efficiently and honestly. Experience in Kenya, the COMESA and in transitional economies show that it is difficult to carry out a successful privatization initiative where institutions are weak and uncoordinated, laws easily ignored and laid down procedures undermined without any penalties from established authority. The World Bank (2002) argues that in many cases the authorities undermine the laid down procedures as confirmed by the various instances[11] of transaction interference by the GOK in the telecommunications and insurance industries.

10 The East African Standard, May, 2000

[11] see discussion on Kenya Re- and the halting of the SNO tendering (processes) procedures

5:1:1:1 The Privatization Process: Steps in A Transaction– An Overview

In attempt to understand the dynamics of a privatization process within an operational business transaction, it is necessary to gain an overall understanding of the general framework in which the privatization transactions take place. This thesis delineates the six steps involved in a single transaction and figures 5-1, 5-2 and table 5-1 complement the steps and help contextualize the privatization process.

Step1 – Identification of Entities to be Privatized

This is an important step often carried out by the agency in charge of the parastatal reform program, which is the Department of Government Investments and Public Enterprises (DGIPE) within the investment secretariat of the Ministry of Finance. As discussed earlier this field research survey found that while the criteria for selection of enterprises for privatization were found to be subjective and unclear, the major identification criteria generally are based on the strategic nature of a country's national social-political and economy interests. Kenya's privatization program operates under the investment secretariat, and is an example of similar divisions or committees across COMESA and developing countries as figure 5:1 of the Kenyan privatization organization structure shows. The role of the DGIPE internal committee[12] is to review amongst other issues the viability of the enterprise and its central role to the economy. In collaboration with the agency, the committee or division then runs a "test" to determine the enterprise's specific importance to government. This initial evaluation determines whether the enterprise should be earmarked for privatization or be retained as a state enterprise and be commercialized. This is also the organisational stage where the government selects/appoints a competent individual or team in charge of the process. If the enterprise is found not to be important to the government then the agency proceeds to step two.

[12] The committee is the first step in the privatization process in Kenya. Its position is indicated in the GOK's approach figures 5-1 and 5-3

Step 2- Consideration and Acquisition/Hiring of Financial Advisors

The second step in the process is the hiring of financial service advisors or a consortium of advisors that include legal, regulatory and technology experts who take over the initial privatization process. They may be used in a feasibility study during the identification of enterprises and the examination of various policy issues that often arise. In Kenya, this should be the Investment Secretary; however, that is not the case, (for undisclosed reasons) and instead the Minister of Finance determines the choice of the Financial advisor (s) (FA). Ideally, this should be a competitive process. It should be noted that in most cases the IMF and the World Bank weigh in heavily on the final decision with the approval of a Privatization Board or Committee (see figure 5-1) in cases where they provide the funding and the "advisory services." The feasibility study investigates policy issues relating to privatization and proposes solutions. Some of the issues include instituting a regulatory framework i.e. a communication regulator, a legal agency and a privatization Commission. These are important in creating effective competition and addressing challenging labour and financial matters during the privatization process.

Further issues under investigation by the FAs during the feasibility study include debt/liabilities; employee downsizing; buyouts; ownership; and management of any shareholding issues. The FAs advise the privatization Committee/Commission on how best to proceed. During this process, the current and future commercial viability of the enterprises is determined. If they are found to be unviable then the privatization manager, committee, or Commission[13] embarks on the process to wind–up the enterprises and if they are viable, the FAs undertake an in-depth analysis of the above policy issues that lead to steps 3 and 4.

STEP 3: Strengthening and Instituting a Regulatory Framework

A strong independent regulator and regulatory framework are the hallmarks of a successful privatization program.[14] This is especially so in enterprises where high growth and fast technological changes are experienced, determining the market

[13] As presented in figure 5-1

[14] Foster, 1992, p4); Czada, (1990); Meany (1995) in Wright and Perroti (eds)

structure and extending liberalization and its effects on the industry. In most cases, this step has to be undertaken along with valuation of the enterprise. This step is important if the country privatizing anticipates attracting foreign investors as well as providing new local investors with equal opportunities. A regulator is important in checking that the competition is fair and that the legal process of bidding and acquisition of entities is done in an internationally accepted legal framework. The regulator is also important in instituting and applying rules determining tariffs, penalties, prices, standards, and compliance. After the regulator is in place step 4 flows.

Step 4: Valuation of Enterprise and Possible Methods and Sale Timing

The valuation step also consists of the Government's Privatization Plan; this is a very important step because it gives indication of a market price for the enterprise. More importantly, it matters whether the entity is a strategic or a non-strategic enterprise. In Kenya's case, the Privatization Committee (PC) comprises of the Permanent Secretary, Ministry of Finance and the Investment Secretary for Treasury, the Permanent Secretary from the parent Ministry of the enterprise to be privatised, a member of the Attorney General's Chambers in charge of the State Corporations Act and the director general of CCK - the regulator (see figure 5-1). This committee decides what kind of process will be followed and mandates a "sub-committee" to take on enterprise valuation in the transaction process. More often, FAs base valuation on market principles and this is considered important for two other reasons: *First,* it helps quell disquiet amongst the citizens that would suggest that the government is not receiving a fair price for a public enterprise. *Second,* it increases the chances of attracting investors who might not be in a position to have sufficient knowledge of the value of the particular enterprise in a given market. Valuation is based on discounted-cash flow projections of future earnings and comparisons of similar enterprises' market prices (especially through trade or negotiated sales). During the valuation process, the options[15] of those policy issues that include value of enterprise, debts, employee levels, technical and human capacity, and shareholding for national and foreign investors identified in steps 1 and 2 are analysed in detail and target resolutions are identified. This leads to step five, due diligence.

[15] see analysis on TKL's initial valuation in chapter four section 4:6 and 4:8

Step 5: Seller's Due-Diligence[16]

This important stage determines the appropriateness and seriousness of the buyer or strategic investor(s). It examines the legal financial and technological encumbrances in evaluating the assets and accounts of the company. To accomplish this it is necessary for the PC and FAs to seek the input and cooperation of the management of the enterprises and the public. It is at this stage that the value of entity is determined and a decision taken as to whether its approval for sale should be sought or not. This step may also include recommendation of the necessary restructuring aspects that need to be undertaken before privatization.

Step 6: Pre-bid and Bid Process-Sale-Approval Process

This process includes sales options/methods, approval of the bidding and post-bidding process. The Privatization Committee recommends to Cabinet and the President (see figure 5-1) the acceptance or refusal of the bidder and bid price. This also includes the sale options and methods, which could be; trade sale, auctions, trade sale negotiated, IPO share flotation, STI sale, or mixed sale options that are presented to the Privatization Committee and cabinet for approval. If the Cabinet approves, the regulator (i.e.) and the Minister of Finance issue letters of acceptance to the bidder, paving the way for the final sale negotiations between the winner of the bid, the regulator and the Privatization Committee. During this process, new financial advisors or sales agents may be hired or the step two advisers reconfirmed as sales agents to help in the finalization of the process.

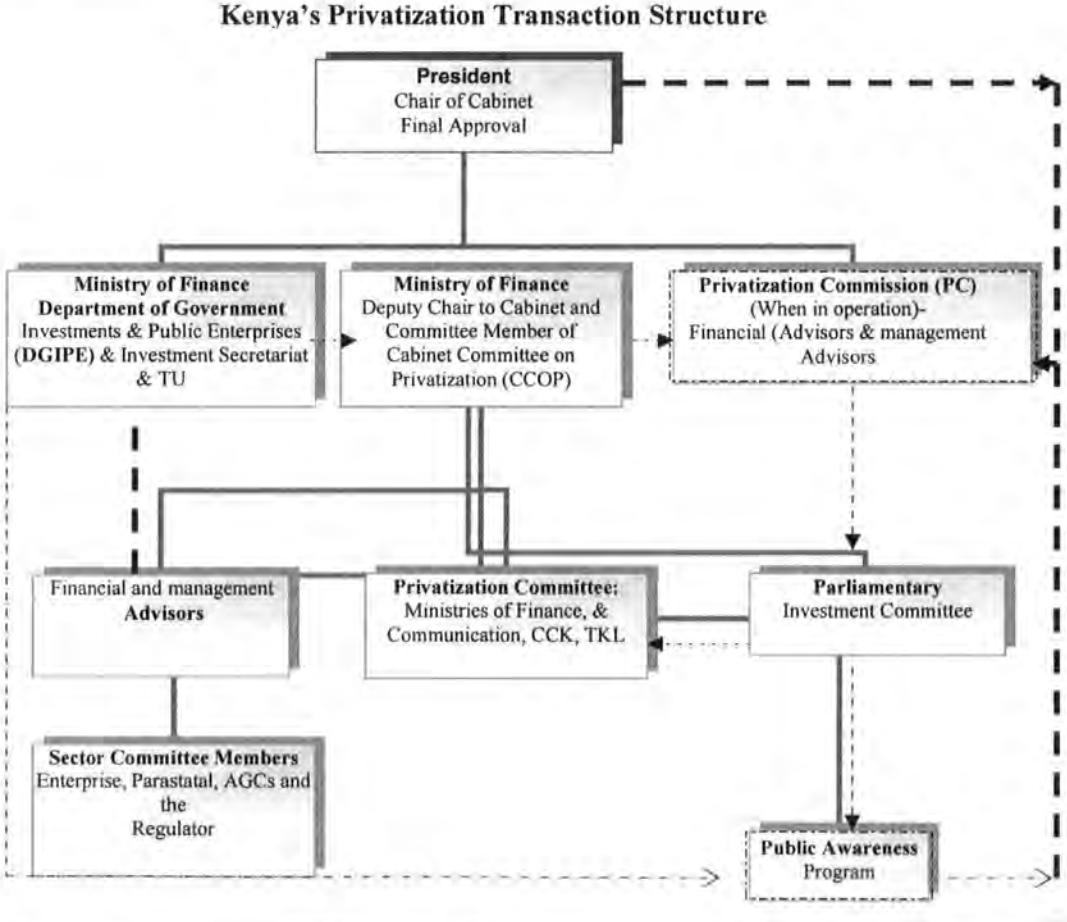
Step 7: Post-bid Matters

This stage is closely related to step six and includes forwarding of acceptance or refusal recommendations of the bid to the agency in charge of approving the bid. The lengthy process of instituting a regulatory framework delays privatization in developing countries and further exacerbates delays in sector reform policies and enterprise

[16] Due Diligence Review include: Review of accounting policies, procedures, quality & sustainability of earnings, cash flow the condition and value of assets, along with review of real and potential liabilities, accounting systems and controls, tax implications of deal structures and Capacity of the entire company

restructuring. In addition, resolution of transactional and inter-ministerial and party politics issues (raised in chapter two and sections 5:1:2, 5:1:3:3, 5:4 and 5:5 of this chapter) often result in major delays in the bidding process. Furthermore, the complexities and difficulties arising from differences between various interest groups in the due diligence and negotiation processes and the lack of technical and operational capacity to effectively manage this stage compound the delays.[17] Figure 5-1 gives an overview of the organizational structure of the privatization management team and figure 5-2 gives a detailed chronological schedule of a transaction sale with an estimated period of 18 months. Table 5-1 gives a glimpse of some of the transactions that are underway or planned that have to utilize the steps described herein.

Figure 5-1 Kenya's Privatization Transaction Structure

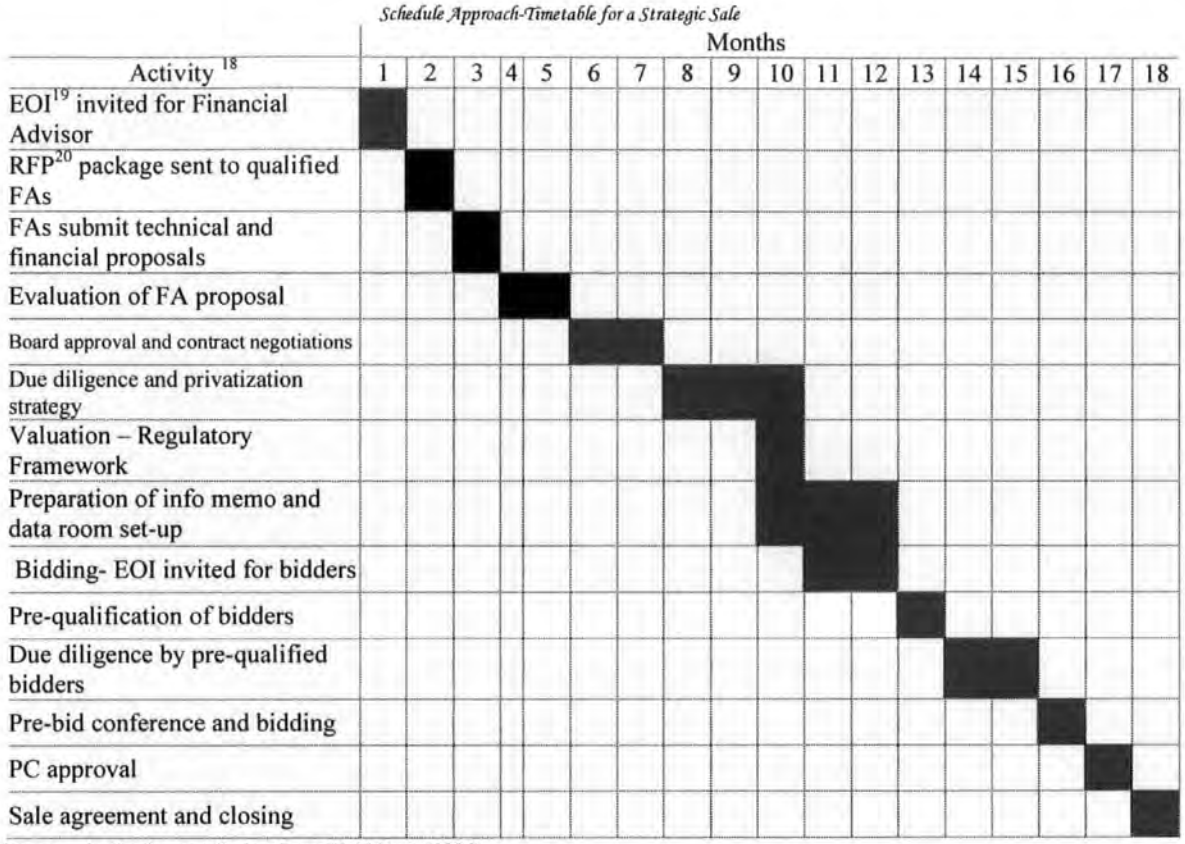


Source: Author's compilation from field data (2004)

[17] World Bank (1998); Ake, (1981)

Figure: 5-2: Schedule Approach-Timetable For a Strategic Sale

Schedule Approach-Timetable for a Strategic Sale



Source: Author's compilation from Field Data (2004)

Table –5-1: List of Up-coming Privatization Transactions (as per Research period)

Company – Approx. Date	Type of Sale Envisaged
Banking and Finance Sector	
Kenya Commercial Bank - 2004	26% of 35 % government shares strategic sale. 65% already sold
National Bank Of Kenya – 2005	**Under Review**
Oil and Gas	49% Public Offer
Kenya Oil Refinery (KOF) – 2004	51% strategic sale
National Refinery Ltd (NRL) – 2003/04	51% strategic sale
Power Sector	**Under review**
Kenya Power &Lighting Company (KPLC)- 2004/5	51-74% shares
Kenya Electricity Generating Company (Ken Gen)2006	51% shares
Nairobi City Water Department – 2004	Management Contract given to a joint venture
Transport Industry	Concession, & Asset sale (Real estate)
Kenya Railways Corporation (KRC) - 2005	Concession of the Container Terminal and Conversion of
Kenya Ports Authority (KPA) – 2004	KPA into a landlord port and Asset Sale

Source: Author's compilation from Field Data (2004)

18 note: that each step may be undertaken by different actors
19 EOI – Expressions Of Interest
20 RFP- Request For Proposals

5:1:1:2 Telkom Kenya's Strategic Option: The Privatization Roadmap

This research revealed that the privatization process described in section 5:1:1 is informed by various internal positions on how the process should proceed. One of the strategic positions was for TKL to drew–up a final strategic option in the form of a cabinet memorandum or roadmap. This strategic roadmap outlined proposed scenarios for proceeding with the restructuring and privatization of TKL through an IPO and strategic equity collaboration (TKL, 2003a: 2004).It also outlined details of the "final" strategic option for approval by cabinet after June 2004/05.

The Privatization roadmap (PR) became necessary after the stalled negotiations between the GOK and the Mount Kenya Consortium (MKC) in December of 2002. According to TKL's management the roadmap proposed a strategy on how to resolve the debt issues (pension and tax deficits), especially the pension fund which needed to be raised to the 70% level in order to meet the acceptable requirement levels of the Retirement Benefit Authority (RBA). The roadmap also advised cabinet to take quick, serious and innovative efforts for financial restructuring that are key to the success of TKL's privatization. More critically, the perception of the sector by the potential investors needed to be reversed with TKL's strategic sale proposal depending on the implementation of the efforts contained in the roadmap.

The draft cabinet memorandum or roadmap also outlined the "new" ratio for sale of TKL with a 26% strategic equity partner and 25% through an IPO on the Nairobi stock exchange in reverse of the original ratio of 49% of government shares intended to be sold to the strategic partner in 2002. The roadmap's compelling reason for an IPO option was the slow down in growth in the telecoms industry worldwide at the time with; big telecommunications operators selling off their assets or merging, as alluded to earlier by the BellSouth case (Scanlon, 2001). For example, in early 2004, Cingular acquired AT&T Wireless, creating the largest wireless carrier in the United States. Vodafone USA sold-off its assets in USA, in South Africa and were contemplating selling in Kenya, where the partnership is between Vivendi and Sameer group of companies, (see The Financial Standard, June 17, 2004 and The Sunday Standard, May

23, 2004).[21] Therefore, the window of opportunity for a Strategic Investor (STI) expired rendering this option unattractive. Moreover, the GOK hoped to rely on the history of Safaricom's subscriber oversubscription originally set at 400,000 maximum capacity This thesis's field survey interview responses and TKL/Safaricom, (2000) showed that the other consideration for the IPO was the high cost of money on the equity market, which would be resolved by a public offering. However, the politics of who pays the cost of the already acquired equity loan from Citibank and Barclays to Safaricom guaranteed by Vodafone U.K had been a point of disagreement between GOK and Safaricom for over two and half years from 2002-mid 2004. The private sector and Vodafone argued that in the spirit of government divestiture from the industry the GOK should relinquish its 11% shareholding in Safaricom as its contribution to the loan repayment. This debate continues after this research along with it is the political and economic landscape for investor confidence levels that have been in a "wait and see attitude." (FSD, 2004; TKL, 2003)

Furthermore, the roadmap outlined original government divesture objectives stipulating the introduction of efficiency and infusion of capacity measures to remove TKL's monopoly status by June 2004, with the intention of introducing an SNO along side TKL. This was to create a duopoly status that would introduce competitiveness in order to raise efficiency levels, reduce prices, improve the quality of services and encourage diversification into a wide range of products and services (TKL, 2003a).

However, the strategy does not stipulate a timetable and strategy for negotiating with the unions on the issue of pension liability and as Haskel and Szymanski (1990b, p.208) argue, privatization has an enormous effect on the negotiating positions and the role of unions. They further argue that privatization gives the "right to manage" and the managers in this case as agents maximize an objective function dictated by the shareholders represented by trade unions as in the case of TKL. The challenge for TKL's management is the realization that a privatized TKL will cross quite rapidly from its current 'control type relations' by government to that of a shareholder partner as it transcends to private ownership after its sale. This poses some difficulties for the

[21] This sale of shares went through but was largely viewed as a hostile takeover, when Sameer blocked a South African investor acquisition of Vodafone shares. Sameer used its pre-emptive rights to mobilize funds and bought shares, only to sell them to Celtel a few hours later.

TKL management-government relationship because the necessary institutional change 'buffer' has not been rapid because of changes in the re-election objectives of the NARC administration. Again, Haskel and Szymanski (1990b, p.214) argue that inherently in all economies the short-term effects of privatization are often unfavourable to the government objectives of realising profits because of slow improvements in poor outputs, declining employment, and price rises. Whatever the theory on this, the GOK seemed forced into taking on the option[22] suggested in section 4:8:3 of chapter four where the government assumes responsibility in dealing with the pension liability and labour issues raised by the KPTC/TKL trade union and the strategic investor, before the implementation of the roadmap.

[22] i.e. scenario one – where the government assumes liability

5:1:2 Market and Institutions in the Privatization Process: Findings Overview

At the policy level, the study found that the number of objectives, in relations to markets and institutions, flowing from the government privatization policy varied over the research period and changed overtime depending on the sector being privatized. The TKL's roadmap was a classic example of shifting objectives. Indeed, the interview data analysis revealed that some objectives i.e. revenue was considered less important than the overall benefit of the program by the private sector and yet, it was considered very important by the government at the planning stage and gradually by the transaction stage the government's focus and objective changed (FSD, 2004; TKL, 2003a).[23] This shifting nature of the approach indicated that the objectives of the process remained firmly within the domain of public sector senior management and politicians lending itself to the tendency for governments to be bureaucratic, centralized, and hierarchical. In addition, the objectives and motives of the program were largely determined by the degree to which senior public sector management specified and dictated the course of action to an approach, highlighting the closed nature of the divestiture program. Samuel., (1999), Boycko, Shleifer and Vishny (1996), Stiglitz., (2003) and Wallsten, (2001:2000a) discuss the emphasis given to political goals over efficiency goals and the differences which exist between the LDCs and the developed countries regarding the purpose and importance of setting up institutional and legal frameworks before privatization. The field interview discussions showed that although the GOK acknowledged the importance of institutional frameworks rhetorically, it was not matched with action in the market.

In addressing the central research question and questions three and four, the research found that regional objectives of telecommunications privatization differed from the national objectives at country level. The regional objectives were ranked as; sector reforms; liberalization; regional integration; and unbundling or splitting up of SOEs in order to allow for restructuring, competition, investments, efficiency, and profitability. These objectives were important to the region as far as they could encourage regional integration through investments and trade.

[23] Interviews focused on the main questionnaire appendix 1 annex1 questions 7, 8,11 and 15 and appendix 2 annex 1 questions 2, 4, 5,6, and 21

This important finding suggests that with manageable enterprises managers are able to undertake growth-oriented strategies that may include infusing more funds into the enterprise, allowing the introduction of new technology, new management, and product diversification. The growth strategies in-turn provides the enterprise space, capacity, and capability to engage in regional and global competition. Wright and Perroti (1999) further argue that growth oriented types of transactions are given impetus by factors of technological change, political considerations and budgetary pressures, along with the expectation that governments have to free markets and build institutions simultaneously. In line with this discussion the interview findings corroborates this evidence and revealed that the regional responses ranked sector liberalization, unbundling, restructuring and new management as extremely important objectives in any approach taken to privatize telecommunications, while ranking introduction of new technology, equity and regional integration as very important objectives (FSD, 2004).

The research further found that regional responses maintained that liberalizing and reforming the telecommunications sector is vital since it permeates the closely related sectors of communications, transportation (i.e. road, rail, water, and air), banking, and insurance (FSD, 2004). The respondents also indicated that telecommunications and banking are the two sectors that have been relatively easy for the government to restructure and privatize with minimal difficulty corroborating the literature. Although politically telecoms presented significant social, economic and political challenges. They reported that airlines and agriculture were the most difficult sectors to privatize occasioned by the 'national jewels' syndrome that has dogged the privatization programs in Africa (FSD, 2004; Megginson,1998) since the structural adjustment programs of the late 1980s. This finding is particularly important because it responds to the central research question of this thesis in relation to selecting sectors to privatize as discussed in the selection criteria. In relation to the selection objectives, it is notable that the government of Kenya lists (see appendix1 annex Va) POSTA and Telkom Kenya as strategic enterprises and yet goes ahead to initiate their privatization based on its viability and potential to create wealth. This is also true of other COMESA countries that are in the process of privatising telecommunications, notably Uganda, Tanzania, Zambia, and Egypt.

On the issue of institutionalization and organization of the privatization structures, the research found that the government did not have a systematic documentation process, which could be followed and identified. The various offices and officers indicated in figure 5-1 did their work seemingly independently and there was no one office or officer with a complete mandate of the program. The only documentation available to the public as evidence of the existence of a privatization program and process was the 1996 Divesture framework document. In effect, this thesis was the first known attempt to document the approach Kenya takes to implement its divesture program. However, the research revealed that the GOK under the Privatization law is moving towards the institutionalization of the process by instituting a Privatization Commission that will have a mandate to operationalize and document the implementation of Kenya's approach to privatization under the law. A related issue is the degree to which a balance can be reached between working towards implementing the World Bank privatization agenda and building an overall strategic direction while maintaining local responsiveness as argued by Stiglitz (2003). The research further suggested that prioritization of the GOK's privatization objectives and the objectives of SOEs listed for privatization were important not only at the top of the governmental organization, but also at every other level of the approach and transaction. A lack of this clarity was evident in discussions with government officials (FSD, 2004; Appendix 1 annex V)

Related to the findings on lack of a documented approach and legal framework, the research found that, while senior government officials established and decided on the direction of the organizations earmarked for privatization they had no clear programme of achieving an approach at policy and managerial levels. The establishment of a relatively strong semi-independent communications, banking, capital market and sugar industry regulators with the existence of sporadic non identifiable transportation and insurance regulators, suggested a greater degree of involvement by the GOK at a later stage of the process than would have been anticipated. However, as discussed earlier in chapter one this closed process was perceived by the GOK as a seedbed for new ideas and managers were able to develop the means through which the 'restructure before privatization' targets were to be achieved. The major part of this achievement was the challenge of building strong independent market, legal frameworks in their respective sectors as a basis for proceeding with privatization.

5:1:2:1 Characteristics of The Market

Size of Market: Facilities and Network Elements

To understand how the legal institutional frameworks interrelate with privatization objectives, this section continues the preceding discussion on market characteristic, by discussing the TKL's market, facilities and network elements. Telkom Kenya Ltd operates the national telephone network in Kenya that was formerly in the hands of KPTC. Telkom Kenya has four subsidiaries namely; Safaricom that operates a cellular phone network (in partnership with Vodafone Airtouch, with 40 percent shares), Gilgil Telecommunication industries-manufacturers of telecoms and postal products (telephone handsets, PABX systems etc), Kenya Postal Directories Ltd that publishes the yearly telephone directory, and Kenya College of Telecommunications Technology (KCCT) which offers training to the communications sector.

In an attempt to prepare fro competition after June 2004, Telkom Kenya merged several exchange centres as part of the ongoing internal restructuring and modernization to promote efficiency, aiming at retaining only six exchanges countrywide with the introduction of new technology service capacity and capability as shown by tables 5-13 and 5-14. (CCK, 2001; TKL, 1999 and GOK/MOT&C, 1999).

The research showed that two mobile phone licences were issued in 2000 and 2001 to Safaricom and Kencell Communications Ltd. Safaricom is a joint venture between Telkom Kenya (60 %) and Vodafone Airtouch (40 %), while Kencell is a partnership between Sameer Investments of Kenya and Vivendi of France, the latter of which started operations in August 2002. The two companies had a total of over two million subscribers between them by December 2003, with the resulting competition expected to broaden the subscriber base and reduce charges for mobile phone services. Their coverage has also improved substantially and their networks now cover most of the major towns and some rural areas in Kenya (CCK, 2003:2004).

The study found that the fixed telephone network had a capacity of 600,000 lines, out of which 328,116 lines are installed and 250,000 are functional. The government plans to improve service penetration from the present 4 lines for every 100 people to 20 lines in urban areas by the year 2015. The penetration in the rural areas is to increase from 0.16 lines for every 100 people to one line during the same period. This translates to around 300,000 new lines in rural areas and 2.4 million new connections in urban areas, respectively. At an average cost of US$2,000 per line, the total investment required is US$5.4 billion or US$270 million annually during the period 1995-2015 (compare this with TKL's plans in figures 5-9 & 5-12 and table 5-14). The government has been moving in earnest to achieve this goal but the process has been slowed down by limited funds, and lack of an operational legal framework for its privatization process and programs outlined in figure 5-3. One of the key GOK objectives for its privatization process was to attract private capital to realise the above tele-density targets, but TKL in its operating financial and business position between 2001-2004 (discussed in detail in chapter four and updated in this chapter in sections 5:7 and 5:8) could only attract IMF and World bank funds for restructuring and privatization.

This research found that TKL had relinquished its exclusivity of regional fixed telephony in anticipation that mobile phone providers would; first, rollout further network to the fixed lines with a goal of connecting all households at affordable rates, and second, install card phones and other essential services. Indeed Kencell installed network receivers in 44 towns across the country by December 2003 (see table 5-5, CCK, 2003). To avoid a situation where the large mobile phone customer base stretches the operator's network, and results in unreliable and low quality service (as frequently happened to Safaricom), a third mobile Operator (TMO) (ECONET) was licensed by CCK but did not commence operations by October 2003. It was expected to have rolled-out its network by November 2003 to ease pressure on Safaricom and Kencell. The current operator's emphasis as stipulated by the Kenya Government through the Communications Regulatory (CCK) is to make sure that the targets for universal coverage were adhered to by a rapid expansion of the operator's network to rural areas, in order to increase universal coverage through Regional Telecommunications Operator (RTOs) licences issued by CCK. The RTOs were a strategy to cover the unprofitable market areas unattractive to competing national mobile operators.

Three companies were issued with Regional Telecommunication Operator (RTO) Licences in June 2000 to compete with Telkom Kenya in provision of fixed line services in other regions excluding Nairobi (Telkom had a five-year exclusivity period in Nairobi, expiring in 2004), as shown in table 5-5. The companies were to operate as follows: Safitel (North Rift and Eastern regions), Bell Western (North Eastern) and Widestream Communications Ltd (Western, Central, Coast, South Rift and Nyanza). The companies were expected to be operational in 2001 but encountered serious start-up problems. Industry experts argue that the rollout of mobile phone networks covering most of the country made the viability of Regional Telecom Operators (RTOs) questionable, as the expansion, speed and span of mobile telephony had not been anticipated. These RTOs were also expected to install public pay phones under the universal service obligation rule.

Cellular Phones

Currently the cellular phones market is expected to operate in a duopoly environment. The two telecommunications companies providing cellular services are Safaricom Company and Kencell Communications with a third mobile operator entry in early 2004. There has been a tremendous growth in the use of cellular phones since 1997, increasing the number of subscribers to cellular phones by millions, a record speed in a six-month period in a year as shown by table 5-2. This is in contrast with the growth comparisons of cellular and fixed line growth during the actual privatization process shown in table 5-6 on page 267.

Table 5-2 Growth in Cellular Subscribers

Provider	**1997**	**1998**	**1999**	**2000**	**2001**	**2002/03**
Safaricom	3,000	6,000	26,000	64,000	170,000	1.8million
Kencell	-	-	-	60,000	190,000	600,000
Total Subscribers	3,000	6,000	26,000	124,000		2.4 million

Sources: Author's Compilation from field Data, (2004)

5:1:2:2 Market Structure and Trend

As detailed in section 4:9:0 this thesis research revealed that in the process of restructuring as a fixed line operator, a strategic partner to take up the 49 percent shares in Telkom was identified but the process was shelved towards the end of 2002 after fallout with the leading bidder (FSD, 2004).[24] The strategic partner who was expected on board by the end of 2003 in order to attract additional shares in the market through a public flotation on the Nairobi Stock Exchange created false expectations for the local and international investors in the telecoms market. Viewing the stalled process with scepticism, the employees of Telkom Kenya planned to take up shares through an employee buy out share ownership plan (EBO) in an attempt to resolve the pension liability problem. The industry analysts argued that if an EBO had succeeded it would have diluted the government shareholding substantially giving the strategic partner a free hand to steer the company into a profitable position. The GOK and the management were unwilling to enter into this arrangement. To buy time and counter the pro-privatization critics during this period, TKL planned a major expansion project for upgrading its capacity and facilities as indicated in tables 5-13 and 5-14. The plan was to increase exchange capacity by 430,000 lines before December of 2002 (later extended to June 2004). In order to respond to competition and attract more investments it was anticipated that TKL under a strategic partner would join the mobile phone sector as the new operators expanded the coverage of their networks to smaller urban and rural areas under a poor infrastructure (TKL, 2003; GOG/DGIPE, 2002).

Local Calls

A local call is defined as a call that originates from an exchange and terminates within 60 kilometres radius from a designated reference charge point for that exchange. The same reference charge point can be shared by several exchanges and one unit is equivalent to 3 minutes. As a monopoly offers no discount or economy rate for local calls that is a disadvantage to TLK's efforts to contain the cellular phone competition,

[24] Mount Kenya Consortium (MKC) (led by Econet Wireless)

as the two mobile phone companies have rationalized their national and international charges/tariffs[25] making their services more attractive?

Table 5-3 Charges per Unit

	Charge per unit (US$)
Customer Lines	**0.07**
Public Payphones	**0.06**

Sources: TKL Reports, (2003)

As tables, 5-3 and 5-4 indicate during the privatization period national, local and long distance calls continued to attract higher charges compared to the rest of COMESA region (TKL, 2003). These tariffs were also higher than those of mobiles when you sum up the other variables of access and convenience. Yet, 80% of Kenya's population are based in the rural areas and utilize landlines or fixed telephone. This posed a challenge for Telkom Kenya, which needed to be more competitive in the rural areas by reviewing their tariff structure downwards for their fixed line, and improving access and convenience of their product and services. The research found that these detailed factors on market operations shape Kenya's approach to privatization and determine the levels of investments into the sector (TKL, 1999; COMESA, 2003).

Table 5-4 Long Distance Calls

	Charge per unit (US$)
Trunk I (60-230km)	**0.22**
Trunk II (over 230km)	**0.27**
Trunk III (East Africa Region)	**0.48**

Sources: TKL Reports, (2003)

Payphones

This thesis research found that the public payphones play a major role in the support of objectives of economic efficiency by providing broader access to public telephones. During the research period there were a total 9,604 payphones countrywide compared to Kenya's population of over 30 million (as per the 1995 population census, GOK, 1998). This disproportion was found to be common in developing countries of the COMESA region where over 80 % of the people do not have access to a telephone line at home or/and at work or cannot afford the high cost of the mobile sets and air time. In

[25] i.e. it costs the same amount to text nationally and internationally

addition, payphones are valuable as part of a communication policy of the Kenyan government since they serve the majority poor households in low-income urban centres and the rural communities who vote in politicians to political office. They are important also to small businesses that cannot afford the connection costs of a telephone line.

The study interview responses (FSD, 2004) showed that one major disadvantage in using payphones was the lack of adequate numbers of payphones resulting in long queues occasioned by malfunctioning of half of the phones and the time it takes to complete a call, which is much longer than that of mobiles telephones. Besides, issues of security and vandalism make them more unattractive to use and uncompetitive to mobile phones. It is hoped that this situation would change with the entry of an SNO and an end to TKL's fixed line monopoly. Additionally, the mobile phone companies also joined in the provision of telephone booths in order to help improve efficiency and usage of fixed telephone lines and step up the competitive pressure as indicated by figure 5-9 (p.293), showing the progress made in growth of telecom indicators (CCK, 2004).

5:1:2:3 Telkom Kenya Monopolies

The monopolistic nature of the telecommunications sector was not a focus area of this thesis research, however, the monopolistic tendencies related to restructuring and privatization of the telecoms sector in particular help explain Kenya's approach. In addition, the theoretical framework in chapter two sections 2:2 and 2:3 and 2:5:1:1 raise issues related to performance and reforms in monopolies as argued by Gayle and Goodrich (1995); Foster, (1992 p.4); Mwangi, (2003); Newbery, (2000) and Foster and Olsab (1991) amongst others. Similarly, this study found that although GOK had declared total liberalization of the communications market, TKL continued to operate under the monopolistic market structure approved by the Investment Secretariat, the Ministry of Transport and Communications and implemented by the CCK (CCK Reports 2002). The Investment Secretariat representing the government on the matter argued that TLK's monopolistic behaviour was because of its delayed strategic investor sale, which was "due to circumstances beyond the government's control." This situation bore all the hallmarks of a monopoly as TKL operated six complete

monopolies shown in (table 5-5) with the full backing of the government. This meant that over the period of over five years (1999- 2003) these services and areas could not be further liberalized and TKL had a monopoly to compete unfairly. As Mwangi (2004), Shirley, Tusubira, Gebeab and Haggarty (2002) and Wallsten (2002) have argued, governments in LDCs continue to use monopolistic behaviour in smaller activities within the enterprises in order to gain time over impending competition. Wallsten (2002) specifically argues in defence of exclusivity periods as a time buying measure to further break up the monopoly during restructuring.

Indeed, this state of affairs was similar for example, to British Telecom (BT), which by 2004 retained monopoly on voice telephony and landline installations. This meant that any other telecoms companies, (i.e. car-phone telecoms subsidiary), cannot offer lower prices on telephone calls terminating on BT landlines unless these are diverted into a specific product as in the case of Car Phone communications, TALK service. This position is expected to change when BT looses monopoly on provision of voice telephony via landlines in 2005. TKL still maintained its voice telephony monopoly in 2003, which was 90% of its business portfolio (figure 5-11) but was missing the data transmission and mobile business sectors. In contrast, BT for example utilized its data monopoly to venture into the broadband market and has rapidly grown its internet and TV (i.e. Sky) connections business. By June 2004, TKL had lost its monopoly on VSAT, GMPSC and Internet Node and Backbone services and was experiencing operational and technical difficulties, with new competition from GSM and Internet Service Providers (ISPs). The position of the divestiture literature and academic arguments on creation of monopolies at firm level activities, and the larger infrastructure within privatized enterprises in LDCs although divided has gained momentum[26]

It was evident from the interviews that Telkom Kenya and the Kenyan government continue to make serious "bad business" judgments (*The Standard Daily,* November 2003); as access to its services was severely limited, for example an old underground cable system. For example, forty years after independence (1964-2004) only 330,000 fixed lines were installed in Kenya most of which were in Nairobi and Mombasa with

26 see Shirley Et al (2002) , and Wallsten, (2002)

limited functional capacity as indicated by the preceding discussion on markets. In spite of the fact that Telkom incurred huge monetary penalties charged by CCK for lack of compliance with license conditions (discussed in section 5:1:3:2), it failed to significantly increase the rate of access for the duration of the five-year monopoly. The services offered by TKL were found to be of low quality, and quantity and costly by competitive local and international standards as figure 5-5 and Table 5-10, figure 5-7, and table 5-12 indicated respectively. Jambonet (the Internet Gateway Service) for example operated in a state of disrepair 90% of the time in spite of all TKL's stated efforts to improve this service.

Table 5-5: Telkom Kenya Monopolies

Monopolies	Geographical Location	Expiry
Local Telephony	Nairobi	June 2004
National Long Distance	Republic	June 2004
International gateway &services	Republic	June 2004
Global Mobile Personale Communications via Satellite (GMPSC)	Republic	June 2004
International Commercial VSAT Networks and Services	Republic	June 2004
Internet Node and Backbone	Republic	June 2004

Sources: CCK and Leadership Centre, (2004)

This thesis research also found that TKL did not utilized this monopolistic advantage over other companies to create a niche for itself, indeed, over 75% (n=27) of respondents argued that TKL had no convincing explanation to offer for its poor performance as a monopoly in fast growing industry. TKL's service had been non-competitive with poor non-operational lines, poor connection rate, a slow and confusing billing system, poor record of unresponsive repair and disconnection time and a slow fault response service (figure 5-13). Some of the customers indicated that in some cases the non-response to a fault repair service extended to several years of waiting.

In addition to an abused monopoly, the termination and transit agreements that TKL holds with other international carriers under ITU regulations, provided TKL with a rich set of revenues for precisely that purpose – to expand access to domestic users – both in terms of pricing of telecommunication facilities and for rural access. On the contrary, Telkom and its predecessor (the KPTC) appear to have abused monopoly power by

restricting access to the public.[27] For instance, there are less than 700 international circuits available for making telephone calls into and out of Kenya; that means that only fewer than 700 fixed line calls can be made into or out of Kenya at any one time. This casts doubt on TKL's ability to compete globally and calls for the questioning of where and to whom the benefits of this monopoly power accrued, and one need not look far because most of these have gone into bad investments, referred to as "white elephants." This field survey found as an example of these 'white elephants' the VSAT station in Kericho which was not used for over three years (i.e. between 2000-2003) and was subsequently underutilized under the period of this thesis writing (2001-2004). In addition, TKL undertook a large expansion program of the exchanges in Nairobi without due regard to its human and technical capacity for connections and last mile capability, along with the introduction of wireless exchange in Eastlands in 2003 without backup power installations and maintaining a large workforce. With this kind of background, an SNO was a welcome addition to the market (FSD, 2004, see also table 5-13).

However, it was not clear whether the SNO would have supplied the market with sufficient relief because TKL still owned the telephone lines by the end of 2004. The question is whether the SNO would ensure an adequate degree of competition, and indeed, it could be argued to the contrary from first principles,[28] as outlined by 45% of the respondents. They argued that it appeared that the solution offered by the new NARC administration did not provide a market assurance of a satisfactory outcome with regard to increased access or competition, (although the policy makers in this study expressed their satisfaction on greater access and competition). Most importantly, the law and indeed the market share implied that CCK should have licensed at least three players in any market segment of telecommunications in order to rid the market of any obvious abuse of monopolistic status and tendencies. Theorists often reflect this lack of provision for sufficient competition by the regulator as characteristic behaviour of infrastructure and utility sectors (see Wallsten, 2001a; Newbery and Pollitt, 1997 and Newbery, 1999)

[27] The reason TKL/KPTC were given monopoly of specific services was for the GOK to ensure that there was access to services by a larger public. Opening up to competition was seen as restricting access through tariffs

[28] These contained in the reforms and liberalization discussion in chapter and access and interconnection in chapter 4 i.e. removal of monopolistic activities, greater and easy access to interconnection services etc.

5:1:3 Providing an Institutional[29] Framework Context

The preceding discussion on TKL's behaviour in the market and institutions leads this analysis of field findings to the context in which these institutions and enterprises operate as outlined in the Privatization Bill (GOK, 2003) and the CCK regulations GOK/CCK, 2001). Vuylsteke, (1988) and Estache, (1997) have argued that providing a context within which privatization action takes place i.e. an institutional and legal regulatory framework for privatization, prevents hap-hazard implementation of programs which has been a trademark of divestiture of SOEs in Sub-Saharan Africa. Stiglitz adds to this argument when he contends that a legal regulatory framework is important because investors use it to set the value of the firm. Indeed field interview evidence[30] showed that foreign investors viewed lack of a regulatory framework as a high-risk environment. However, providing vision cannot be adequate on its own and the question asked in any privatization process is to what extent national governments should be trusted to develop the institutional frameworks and capacities that go beyond providing static exhortative statements for action suitable for local environments (Stiglitz 2003, pp25-28; 1999). This thesis research and indeed the literature found that very often the political will needed to catalyze the establishment of a strong institutional infrastructure has been absent; indeed, Young, (2003) echoes this sentiment when he reports the importance of building strong institutions;

> There are many choices in how to undertake a State Owned Enterprise (SOE) reform programme – do it quickly, do it slowly; involve many enterprises, or just a few; use these methods, or those. But international experience shows that however a country chooses to designs its programme, it is important to construct a very robust institutional framework to implement it (p.1)

[29] Infrastructure and capacity of a country to engage a privatization program often with an outside developed agenda by the international financial and development agencies

[30] Appendix 1 annex V and FSD, 2004

This research's field interviews (appendix I annex V) further indicated that there was a lack of respect and trust as to the effectiveness of the existing institutional framework for implementing privatization along with lack of capacity of the governments to build institutions. As Hill and Abdala's experiences echoed these sentiments in Argentina:

> ... while privatization proceeded rapidly in 1990, little attention was paid to the regulatory framework. Though a regulatory framework was drawn up the same year, little was done at first to implement it. Many of these rules were rewritten and the management changed within a year. This uncertainty seemed to hurt the privatization process, causing investors to demand very large risk premiums (quoted from Wallsten, 2002, p.7)

The field interviews notes further show that there were no clear strategies and allocation of roles and responsibilities between and amongst government departments and PEs managers, exposing confusion in the separation of the various decisions to be made about the enterprises. For example in response to question 16 section 2 a senior investment manager retorted; "Yes I strongly agree. Because as an investment agency we have the difficult job of directing the investors to the various officers dealing with privatization, and the management is confusing to say the least". The study also found that the approval process of the overall approach and approval of specific details in single transactions are not separated but are dealt with in a group. The research suggested that the approach activities thought to have been undertaken to underpin incremental improvement in the privatization process, were in fact reactive, and tended to be operationally focused in the sense that they were reactions to identifying crisis areas rather than a well thought out daily operation of the process. Those activities, which were undertaken because of applying regulatory policy, tended to bring about proactive outcomes for example, the initial valuation and tendering process derived from policy, were focused upon external as well as internal issues. The research further found that for many working on policy related activities sometimes the outcome was circumvented by a government ministerial directive issued over the electronic mass media on contractual reversals as in the case of the Econet Wireless contract as a TMO, thus putting the whole process in jeopardy (The Standard Business News, March 18, 2004).

5: 1:3:1 The Communications Regulatory Structure and Sector Legislation

The analytical review in chapter two and the findings of the secondary and primary data in chapters five and six show the importance of legislation in privatization programs and telecoms divestiture in particular. They also show the difficulties experienced in the institutionalization of regulatory frameworks in any privatizations around the world. It is particularly difficult in the COMESA countries where the regulatory institutions are either non-existent or are in their embryonic stages. According to the COMESA secretariat Egypt, Kenya, Mauritius, Rwanda, Uganda and Zambia have made substantial efforts towards the creation of regulatory frameworks in the communications sector (COMESA, 2003);[31] they implemented the COMESA transport, and telecommunications reform program.

In Kenya, the Communications Commission of Kenya (CCK) is the regulatory body responsible for developing and coordinating the policies, strategies, and operation of telecommunications services (GOK, 1998). It is also responsible for coordinating the COMESA Regional Regulatory Framework and its target is to bring the telephone line density to 20 lines / 100 people in urban areas and 1 line per 100 in rural areas by the year 2015. These targets refer to the installation of over 375,000 lines in the respective national rural areas and 2 million lines in the urban areas at an estimated cost of between 800 and 1,250 US dollars per line with the total investment estimated to cost between US $ 2 billion and US $ 3 billion. This is a large investment requirement, which calls for new initiatives to attract capital into the sector. It was in this context that a systematic liberalisation of the sector has been undertaken with a view to attracting capital from the private sector.

31 COMESA , (2003)

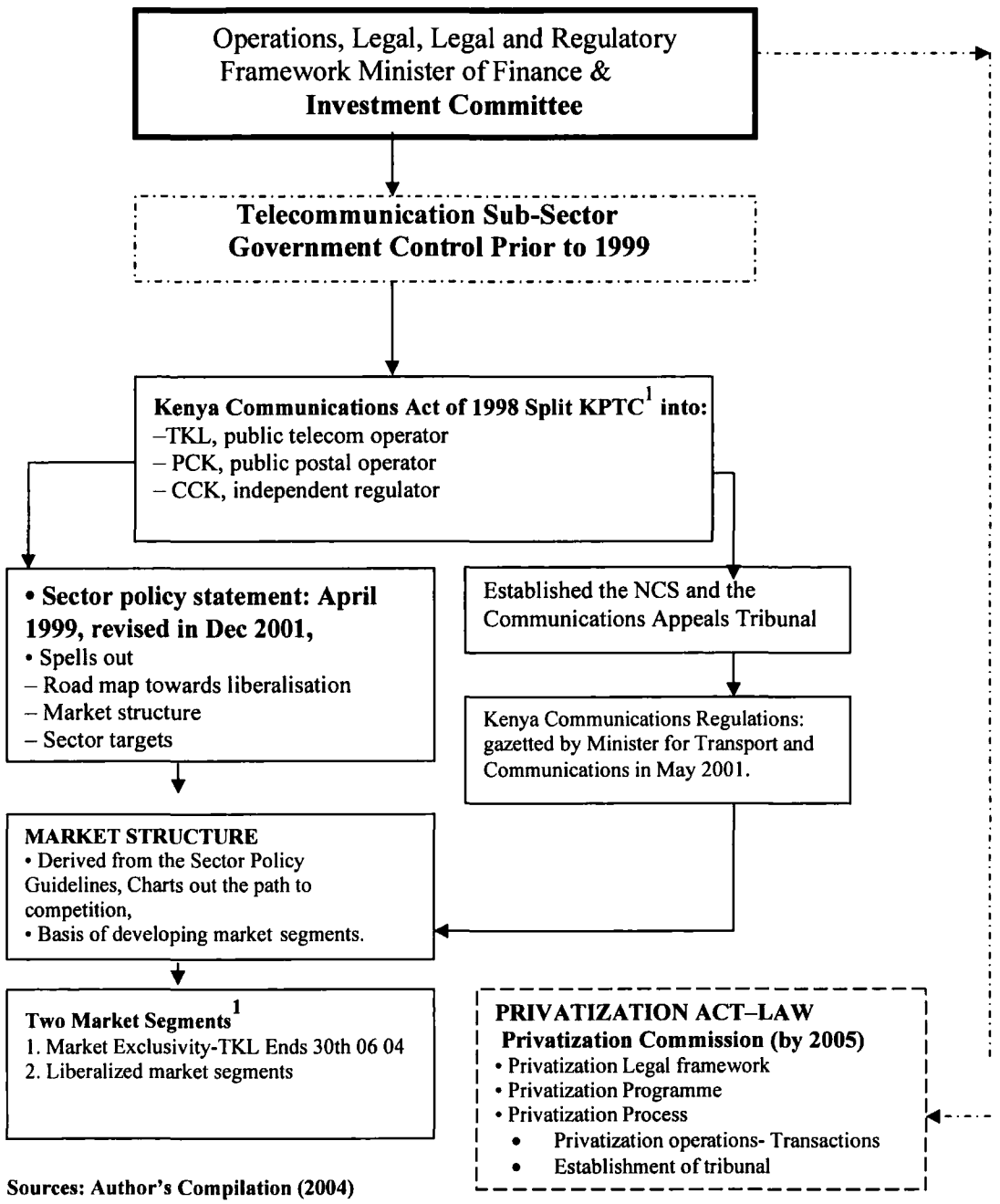
5:1:3:2: Major Telecom Licences (Issued By CCK)[32] and the Kenya Communications Act

This thesis research found that the Kenya Communications Act (KCA) No. 2 of 1998 sets out policy and stipulates the rules and regulations for operating the licensing market by CCK. The KCA further reinforces the understanding of the implementation of the regulatory framework as presented in the structure of the Communication Act (see appendix 2 annex Xb).[33] The KCA in particular the section on telecommunications services, is an important legal instrument that provides the basis for liberalising the communications sector and privatizing TKL. In particular, the major licences provided by CCK are fixed line Services to Telkom Kenya Ltd (TKL) licensed on 1st July 1999 .

According to the CCK's annual report (2003), the mobile telephony services provided three operators licensed for countrywide coverage using GSM Technology : Safaricom Limited licence issued on 1st July 1999; Kenya Communications Limited (Kencell) licence issued on 28th January 2000; and Econet Wireless as a TMO licence issued in May, 2003. The main features of fixed and mobile service licences include: licence duration of 25 years for major licences, 15 years for GSM licence duration extendable by 10 years; and annual rollout obligations (CCK, 2001). The CCK licences consist of provision of universal service, specifically a national numbering plan and number portability, interconnection obligations, non-discriminatory provision of services, prohibition of anti-competitive practices and quality of service requirements. Other mandatory requirements for complying with licensing requirements include the provision of free emergency services to specialized life saving service institutions and individuals i.e. beepers for doctors, signals for the police, airlines, aviation, and rail transport. The other requirements are mandatory CCK inspections of installations and operations, rate regulation; provision of relevant information to CCK and submission of returns and payment of requisite fees to CCK, (2003:2001).

[32] Appendix2 -Annex Xa: shows a schedule of varied licenses
[33] This framework is similar to the COMESA legal framework for communications

Figure 5-3: Privatization Approach: The Operational/ Regulatory Framework

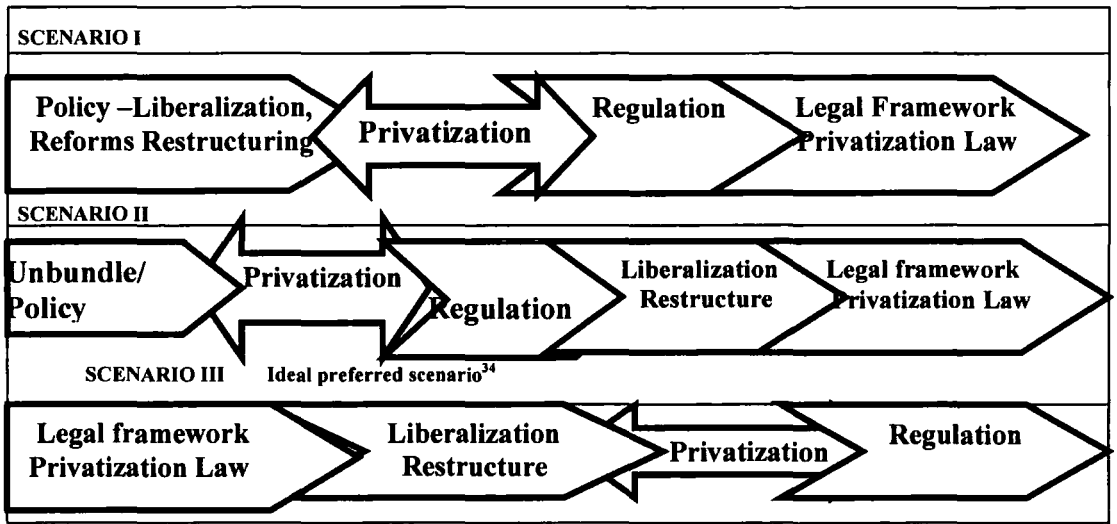


Sources: Author's Compilation (2004)

Figures 5-1 5-2, 5-3, and 5-4 show the approach a privatization transaction takes in Kenya and in the COMESA region, and one of the major findings of the study was the tracing of Kenya's approach to privatization as presented in summary in figure 5-3 and discussed in detail herein. However, although the initial literature and secondary data analysis indicated that the approach is not as clear or did not exist, this thesis' analysis

of the field data generates a tangible approach to the privatization process as indicated in figures 5-1, 5-2, and 5-3. The findings further show that there is no clear operational 'manual' and no records to show GOK the operational approach to the process before this thesis study. In the process of generating elements of the sketched approach, these study findings captured the views of the industry players on the progression of the approach. The various views on the actual process outlined three scenarios presented in figure 5-4. This mapping of the progression or approved format of privatization of telecoms was not entirely conclusive. However, in these findings there were three emerging scenarios of approaches to the privatization in Kenya. These three scenarios adhere to the on going discourse on the form, structure, order and timing of the theoretical elements of restructuring, liberalization and regulation raised in sections 2:1 and 2:6 of chapter two and summarized in figure 5-4.

Figure 5-4 Progression of Approaches to Privatization



Sources: Author's compilation from field interview Data, (2004)

The study found that in the COMESA region, most countries started with structural adjustment programs then liberalisation/reforms of major sectors (i.e. banking, manufacturing, transport and telecommunications).[35]After liberalisation came restructuring and or privatization that was followed by policy, measures or guidelines

[34] Preferred scenario for Telkom Kenya's privatization (TKL, Management, field interview, (2003)
[35] Due to pressure from the IMF and World Bank

used to create a legal-regulatory framework. The findings do not show a particular pattern but it was evident that most of the PEs managers interviewed favoured scenario I which was popular because of the freedom it allowed SOE management and government to gain time under the mode of perpetual restructuring. This scenario sacrifices other important steps in the transaction process for example the strengthening of regulatory instruments, which as the research interviews shows is an important step but is easily relinquished to the last page. The interview evidence show that in cases where the SOE was in the restructuring stage (i.e. TKL) it was clear that the priority of the government and the TLK management was not strengthening the regulatory instruments or resolving the pension liability problem. The priority was on who would buy TKL and how it would be sold (FSD, 2004)

5:1:3:3 Major Issues and Critical Overview of the Privatization Bill 2003

After a detailed description of the legal and regulatory structures that include the Communications Act and the privatization Bill (PB) in the preceding sections, this section takes a critical view of the Bill in the context of the privatization process. The analysis is based on the findings from interviews and the focus group workshop discussions (AAS/GOK, 2003). The Bill provides for a piece of legal framework that was absent in the process. It gives good transition from the fragmented sector policies to a privatization law that was to be enacted in the early part of 2004.[36]The Bill's enactment was to incorporate flexibility of implementation dynamics to reflect the turbulent privatization environment as indicated in these thesis findings. The structure of the Privatization Bill (act) is critically examined pointing out challenges to its implementation and as highlighted in the preceding section 5:1:3:3:1.

5:1:3:3:1 Structure of The Privatization Bill: [37] The Legal Framework

> The 'privatization Bill, 2003' is "A Bill For an Act of Parliament to provide for the privatization of public assets and operations, including state corporations, by requiring the formulation and implementation of a privatization programme by a Privatization Commission to be established by this act and for related purposes" (GOK: Kenya Gazette Supplement N0. 88 (Bills No.26) p.1005).

These thesis findings indicate that over the last decade (1993-2003), the privatization process in Kenya has relied on fragmented policy statements and acts of parliament as a basis for legal framework (GOK, 1998 and GOK/CCK, 2001).[38] In order to change this position, the Privatization Bill (PB) provides for a law, as a basis for a structure and framework for Kenya's restructuring and privatization process. This is a much-needed instrument that will guide the privatization program in Kenya, although contextual issues are not adequately covered, since it is clear that privatization in COMESA goes beyond legal and political issues. As a legal instrument, it is a giant step for the privatization and globalisation process in the COMESA/Kenyan investment environments. However, since the Bill comes in between an already ongoing and

[36] The Bill was taken before parliament for enactment in December of 2003
[37] See AAS/GOK, (2003) –Privatization Expert Group Workshop Proceedings
[38] As discussed in sections 5:1:3:1 and 5:1:3:3:1 on structures

elaborate privatization program, there are major operational issues that needed a critical review before its application to the privatization program is considered.

In the early nineties, the privatization and liberalization movement reached Kenya and the COMESA region through the International Bank for Reconstruction and Development (IBRD), the International Monetary Fund, (IMF) and international donor agencies. These agencies were anxious to create markets for their respective multinational and transnational corporations (MNC's and TNC's) in a bid to cover up the negative effects of SAPs (discussed in chapter two sections 2:2, 2:2:1 and 2:3:2 pp 45, 50 and 54).[39] Since World Bank economists were eager to 'spread' textbook market doctrines, all state owned enterprises (SOEs) were targeted premised on market failure assumptions and on the belief and justification that the SOE underperformance was squarely based on state political control. In contrast, Mwale, (2000), Mugerwa-Kayizzi, (1996), Ramamurti and Vernon (1991) and Ake, (1981) make extensive commentary against these assumptions and programs. They advance arguments that suggest that privatization and liberalization in Africa was based on weak conceptual frameworks inherited from the West with application of some knowledge of the Latin American experience. These analysts further argue that privatization and liberalization were quickly adopted as the 'new' model that would correct the social political and economic imperfections of the LDC's occasioned by the failed SAPs that were implemented by the same institutions and in some cases the same economists. Indeed this thesis findings also show that the unique social economic-political conditions and non-existent institutional and economic frameworks in the COMESA region and Kenya in particular received very little attention. Key lessons from this oversight are evident in the privatization approaches in Africa as shown by this thesis field findings (FSD, 2004).

In reality, towards the process of regulation and enforcement, the government published The Privatization Bill (PB) of 2003; after a lengthy debate by parliament in November 2003, the Bill was to be brought into law in February 2004. However, it was evident that there was need to discuss the PB with other stakeholders and regulatory experts to

[39] see Daouas, (2001); Mugerwa-Kayizzi, (1996); Ramanadham (ed), (1993); Stiglitz (2002:2003); Cook and Kirkpatrick (1988);

avoid any ambiguities or contradictions raised before its enactment. Theoretically, the PB appears well drafted as part of an institutional legal document and as law, but the difficulty arises in its application and enforcement as indicated by the expert group discussions (AAS/GOK, 2003, p. 25). The major question is whether the Bill as an act of law would shape positively Kenya's approach to the privatization process substituting the various fragmented committees. This thesis findings show that these committees have been inefficient, lack human and technical capacity resulting in bad governance, bureaucratic tendencies and poor implementation COMESA, 2003; FSD, 2004).

Key Concepts

The Bill[40] starts by defining some key concepts but does not define what *a public good is*. It also does not address the importance of government divesture from business and direct control of public enterprises held in trust by the government. Moreover, the same Members of Parliament (who have to enact the bill) perceive these enterprises as strategic and of national importance and therefore should be retained under GOK management. However, the Bill does not define the core and non-core projects and does not outline the criterion for the categorization. Moreover, the parliamentarians influence the contents of the Bill since they have the largest input. In this regard, it is important that the Bill give provisions for preferential schemes for Kenyans in the privatization process and has a clear mandate to check on cases of possible collusion in the approach to the process. This is in view of the often-lengthy discussions on the privatization process being a project between those in power and foreign investors whereas, the public "who own" the enterprises seem to be left out of the discussion and process. The other important issue in the Bill is compromising national security with the sale of 'strategic enterprises' (i.e. airlines, agriculture, transport, and telecommunications) to foreigners, which is not clearly stated by the Bill. On these issues, the study found that 95% of the private sector respondents rated GOK's performance on the institutionalization and management of the process as extremely poor and lacking clarity.[41]

[40] GOK, (2003).
[41] Evidence is derived from question number 15 section two page 5 of the field questionnaires

In Whose Interest?

The research reveals that PB in its current form does not protect the interests of the Kenyan public given that the process of ownership transformation is of critical concern in any public sector sale. This could be explained by the lack of structure and strategy of the privatization process; on the other hand, it may be simply that the process is not open to the public or to the interested parties within the private and public sectors. A further concern on the PB is that it is double edged and presupposes that the Minister of Finance will act in good faith and in the interest of the public; this may not be the case in reality where the political economy is highly partisan.[42] In this regard, it is paramount that the Minister's role should be clearly spelt out and his/her mandate clearly stipulated. The industry analysts recommended that the Ministers' role should be amended to be facilitative and not posses arbitrary powers designed to overrule the Privatization Commission (PC); for example, the Minister should be mandated to advise the government in availing credit facilities and financial resources to local investors to effectively participate in the privatization process. In addition, the PC should be empowered to reserve a given percentage of shares to local investors as a strategic measure of encouraging management, employees and the public to support and participate in the privatization process, this in turn would create a sense of ownership that has over the years endeared the public to SOEs.

It is worth noting that the process of privatization cannot be reversed without a proper law. As such, it would not be prudent to ignore the previous cases of abuse of the process in which public assets were stripped (KNA, 1997:2000:2001). Nonetheless, the Economic Crimes Act and the new constitution that were to be enacted in 2003 would adequately handle any wrongs committed under the guise of privatization as a back-up measure to the privatization law.[43] Ninety per cent of respondents argued that it is important for the Commission to be independent and for this reason it should be empowered to refer cases to the Kenya Anti-corruption Authority, or directly to the courts.

[42] As was the case in the immediate former KANU administration and as is the case in the NARC administration in office from 2002-2007Government

[43] The Anti-corruption and Economic Crimes Bill was enacted under a regional COMESA program and is contained in Appendix 2: Annex XII

The Bill is also expected to resolve some real problems in telecoms sector that revolve around public versus private monopolies. Indeed, as indicated in chapter two, the desirable situation for any public enterprise to operate would be to reform the market and restructure the enterprise substantially before privatization, as favoured by the TKL/GOK managements. The reforms in the sector were carried out on a piecemeal basis neglecting proper regulation and the process of institutional building. Yet the Bill seems to depend erroneously on the same institutions that have not performed in the past and does not address the importance and role of the Commission in institutional building, or creating a good environment in which the institution of the PC would operate efficiently. This has been compounded with the fact that both the KANU[44] and NARC[45] administrators considered Telkom Kenya a strategic enterprise and could not avail it for privatization in good time. This helped prolong TKL's monopoly or" exclusivity" on the provision of select telecom services indicated in table 5-5. This monopoly was provided by virtue of government order for exclusivity that exceeded the five years (i.e. June 2004), noting that CCK, as a regulator abhors monopolies. Notably, although TKL was charged for extending the monopolistic activity beyond June 2004 there was no evidence of payments from the government records.

The research findings further conclude that the Bill should allow for the Commission and the telecoms regulator (CCK) to collaborate, creating an effective regulatory mechanism that would deal with issues of monopolies and inefficiencies discussed in the TKL monopolies section. Multinational companies represent 80 per cent of the shares quoted on the local stock market but even with this nature of ownership, the Bill only gives the Commission broad reference on what to do to curb monopolies and "exclusivity periods" without giving specific guidelines. The Commission has to interpret properly its own powers, creating accountability problems. Although the National Economic Social Council was created to provide support to the interpretation of the law, the interview evidence suggested that it should also provide technical advice to the Commission. The other important concern to the public is the handling of the proceeds from the sale / disposed assets. The Bill should mandate the Commission to be

[44] Conservatives or Republicans
[45] Democrats

involved in stipulating in detail the total proceeds and the criteria for allocations instead of dependence on the consolidated fund, whose structure, accountability and performance is unclear.

The Program

The research also found that the Bill provides for a privatization program, but does not stipulate the requirements for the inclusion of various sectors in the privatization process. For example, in the event that privatization of the transport infrastructure (i.e. Kenya railways) has to be undertaken there is no provision as to who ensures inclusion of a strategic programme for development. Part II section 2 (e) of the Bill states that the focus should be based on market forces, the question posed by respondents was whether the PB's response, whose priority was to balance the social and economic gains, would be wholly based on market forces. Besides, investment gains need to be made by clearly spelling out target sectors in order to open up the region. In this regard, the Bill aught to provide the Commission with capacity to respond to these economic challenges. For example, the government needs to invest in both the physical and institutional infrastructure for the roads, railway, airports and communication structures needed for privatization of the utility and agriculture sectors. Furthermore, in cases of review the Bill does not stipulate who would be responsible for the review of the law. For example, section 5 (IV)'s statement on the review is vague: should it be "may review" or "will review". How about in cases of overlap, who does the review? In the case of roads/rail and air/transport this issue becomes vital because the Commission does not have the right and capacity to review the assets and it is open to interference from the various sector-stakeholders especially from parent ministries. The act is silent on the potential interactions with other statutes that may raise possible conflicts, for example the State Corporations Act,[46]and does not provide modalities for the treatment of such conflicts. Indeed as a respondent in the field interviews put it, "the biggest stumbling block to any private and public sector enterprise operations is the big monster called the State Corporations Act of 1987"(FSD, 2004).

[46] See appendix 2: annex VII

This thesis research findings show that Section (22) of the PB does not discuss the treatment of a monopoly. Instead it states that a monopoly should not be annexed but rather the monopoly power because regulators are not created for the purposes of un-regulating. Recognizing that it is not possible to have unregulated monopoly given competition unless sectoral regulators are in place. Section (23), states that the Commission is mandated to give a notice of transfer but who formulates the privatization policy between the Minister, the Commission and the sectors? The Bill only talks of programmes but not the actual transaction process and there is need for clarity and update as shown in figure 5-1 and 5-3, since the Bill as an act is the legal framework and forms the basis of regulatory institutions. Wellenius, et al (1992) pointed out that there is a tendency for countries to rush telecoms privatization at the expense of building a regulatory capacity at a much slower pace for various reasons. This research found that in COMESA, this was occasioned partly by the potential for growth and raising capital in the sector and in particular, the World Bank's initiated privatization programs that were rushed as a replacement for failed SAPS as discussed in chapter two.

The Technical Competencies

On technical competency, this field research survey found that the Bill's proposals to have the Commission conduct privatization reviews raises issues of the technical competencies of the Commission, and its exact mandate in valuation of assets and businesses and in the due diligence process before and during divesture of an entity. All indications show that the Commission would be constituted as stated in the public acts. This leads to section 33 (g) which provides for the critical question of representation on the board—why involve interested parties when you cannot satisfy the rest of the stakeholders? As discussed in chapter four, privatization elicits stakeholder interest and their selective involvement as outlined in the Bill can only create conflicts and delays in the process (Nyong'o, 2000).

Representation on the Commission should not be based on customary representation as is the case in Government Commissions. For example, ninety per cent of the

respondents indicated that there should be less government representation in the Commission, it was argued that out of twelve members, Government representation should not exceed three officials. More importantly, representatives from the public sector should be competent and add value to the Commission. The criterion for hiring the representatives is not clear and is based on selection which the privatization law (PL) should change. In addition, stakeholders[47] representing potential investors are ill advised to be part of the Commission; as conflict of interest may arise.

The respondents also suggested that it should be made mandatory for the permanent secretaries of finance and attorney general to attend the Commission's meetings without delegating the responsibility to their junior counterparts who often do not have the authority to make immediate decisions. In addition, the criteria for the composition of stakeholders aught to be restated. For example why Kenya Association of Manufacturers (KAM), Federation of Kenya Employers (FKE) and not Kenya Business & Professional Women's Clubs (KPBC), Council for Economic Empowerment For Women of Africa (CEEWA-K), or, Kenya Institute for Policy Research and Analysis (KIPRA), or The Federation of Women Lawyers Kenya (FIDA)? In other words, by requiring participation of some minority groups without clear criteria and a predetermined programme, the act cannot be adequate and is difficult to implement. It also exposes the Commission to criticism, and sceptical overtures and acts as a hindrance to the creation of a tangible privatization approach. The interview evidence indicates that the role of the state needs to be clear in particular where, for example, operations could be better handled by the private sector in order to provide for the protection against influence from partisan politicians.

[47] i.e. Federation of Kenya Employers (FKE) and Kenya Association of Manufacturers (KAM)

5:1:3:3:2 Capacity and Effectiveness?

Field interviews (i.e. FSD, 2004) and documented evidence (see KNA-2002, The Weekly Hansard, 2002; Finance week, 2002; KNA, 2002; KNA, 2003 and The Standard Newspapers, 2004) further indicated that there has been notable effort of exclusion and mischief in the way privatization has been carried out in Kenya as exemplified in asset valuation, fudging and outright theft of public property. The evidence is supported by the number of cases in court contesting the acquisitions of hotels and sugar companies acquired at lower than market value[48]. While Article 28 provides for valuation of the assets and gives the Commission open-ended options for valuation methods it is not adequate and may still be open to abuse and capture by different interests.

The Commission should be mandated to acquire the capacity to continuously obtain and analyze information on the value of the enterprises to be privatized. The Bill, setting aside this function to independent valuations (selected by GOK) exposes the Commission to capture, by parent ministries and parastatals. Independent valuations can only be used to endorse what the Commission already knows. In return, the Commissioners should be liable to prosecution if they abuse this privilege or leak 'insider trading' information. The same principles that guide investment institutions and stock exchanges globally should guide the asset valuation by the Commission. This means that the government would also have to depart from their usual way of forming Commissions (i.e. by selection) and instead constitute them professionally at inception in order to give them credibility and full investigative powers. In addition, for the Commission to be an effective legal instrument of the privatization process, it needs to have the capacity, the capability and the stature to operate independent of government, acting as "one stop shop" for the privatization process.

Industry expert evidence from the discussion group[49] suggested that the Commission should be a technical Commission rather than political and administrative, and should

[48] See (PIC/PAC) reports on State Corporations (1999:2001)
[49] Researcher was in the group as an expert participant

be empowered to create a research wing for conducting urgent due diligence and business inquiries. This information would help inform the process of privatization (without compromising "insider information"), advice investors, the public and the government so as to make informed decisions on approaches to privatizations. Besides, since the Commission was expected to be central to the implementation of the privatization law, it should have the capability to verify the value of assets on a continuous basis and price discovery. This is important because the major problem experienced in the listing and valuation of enterprises is a lack of the legal framework to enable independent valuers and financial analysts to access information and documents for valuations (FSD, 2004).

Along with lack of capacity, the SOE enterprises are hampered by poor sequencing and coordination of liberalization activities as a whole, requiring a clear distinction between privatization law and policy. This is reinforced by the fact that the Privatization Act is the instrument that the state would use in sequencing an approach to privatizing and should be supported by sound economic and business policy. The Commission should state clearly the privatization period and the context of obligation to social service provision by the state. The field findings for this thesis indicated that there is need for clarification of the role of the state in the new law, especially procedures and actions to be undertaken by the PC during and in post privatization periods. For example, outlining clear strategic buffers for any complications that may arise in connection with renegotiation of difficult transactions and failed privatizations in the post privatization stages (i.e. Sugar industry). More importantly, the findings suggest that the law should be strengthened in order to mandate the Commission to put in place a privatization plan that would deal with unexpected outcomes, for example, sudden change of administration and policy and public opposition to specific sector privatization.[50]

[50] The case of a recent move by the British Government to "renationalize" certain business services of the network rail is an example of post privatization complications.

5:1:3:3:3 The Bill flawed on Globalization and Trade Issues

The research found that the Bill is silent and negates Kenya's international obligations on trade and globalization. For example, the bill does not address issues related to globalization which under the World Trade Organization (WTO) and the General Agreement on Trade in Services (GATS') target the service sector of which telecommunications is a major part (providing, email, voice mail etc).The service industry relies heavily on efficient and effective telecommunications. The services to be privatized under GATS needs to be made clear in the Bill because of the socio-economic sensitive service sectors such as health, security and education which when privatized would have adverse impact on the poor. According to country, WTO reports (WTO, 2002:2000) on GATS it is estimated that over 50% of African domestic services are untapped and the GATS's agreement requires that they be liberalized; however, Article 3 (1) of the proposed privatization law does not address how the process would be undertaken.

The Bill transfers sole authority to the Commission on recommendations of methods of privatization, yet in global trade development terms the Bill does not address accessibility, affordability and coverage for the low income and less privileged. As discussed in section 5:1:2:2 on markets, Regional Telephone Operators (RTOs) experience problems delivering services to low income population areas (e.g. North Eastern, which is dependent on government subsidies); it was feared that the RTO operators might use the licence to divert traffic to other international destinations, especially being close to Somalia where there is no government. In this respect, the Commission needs to design and develop a differentiated tier system in setting of prices and consumer protection and state how it would relate to GATT and the consumer organisation of Kenya. This is paramount because the Commission can only implement what is contained in the enacted law, anything else however important would be outside the Commission's mandate.

5:2 Policy and Operational Strategy: Critical Issues

Highlights of Specific Findings: Some Lessons from the Past

The thesis findings discussed in this section specifically highlight some lessons from finalised privatizations of Kenya Airways, Mumias Sugar, hotels and Kenya Commercial Bank (KCB) transactions that inform Kenya's general approach. In this regard, the respondents were required to discuss some specific differences and similarities in the transactions, especially those of Kenya Airways, TKL and KCB by ranking rating and scaling the various levels of major objectives, plans, methods and transactions of the privatization process. This analysis identifies patterns of an approach to the process and further addresses the central research question and questions two, three and four.

In order to contextualize GOK's approach and strategy to its privatization process, it is important to note that applying the World Bank's approach has set minimum benchmarks of the "best practices"[51] for privatization that influence the shape of Kenya's process. In this respect, the study found that in the case of TKL the proportion of shares were as follows; TKL floated shares were new shares at a ratio of 26% TKL: 23% government and strategic partner respectively. The shares from a Strategic Investor (ST) were expected to bring in capital and new technology. Whereas, shares in KCB and KQ were existing shares owned by the GOK and the strategic partner (KLM) was expected to acquire management rights, while the GOK was to offload its 35% shareholding in KCB, making the ratios financially different to the new shares in TKL (FSD, 2004).

The study further revealed that in its first stage, TKL was a newly created private company from KPTC whereas Kenya Commercial Bank (KCB) and Kenya Airways (KQ) were already operating as public companies before privatization. More importantly, KCB's 65% shares did not involve a strategic partner whereas KQ's 26% strategic partnership with KLM is similar to the position of TKL. KCB and KQ

[51] See Samuel., (1999) on Ten Commandments and White, and Weissman, (2002) of the Multinational Monitor, on private sector development strategies (PSDS) as a World Bank privatization tool

benefited from government intervention (i.e. GOK took over KQ's debt amounting to Kshs. 1.07 billion (US $ 7.7 million) and the government injected Kshs. 2 billion (US $ 26 million) into KCB in 1999 to help restructure its (political) bad debt. These findings raise two issues. First in privatizing TKL the GOK would have to refer to the lessons learned from the privatization of KQ, KCB and Mumias Sugar Company, namely, the difficulties experienced in justifying to the public, parliament and the World Bank the absorption of the bad debt, often occasioned by bad management by the state (FSD, 2004; TKL, 2003; GOK/DDGIPE, 2002). Second, as argued in the literature review (i.e. World Bank, 2002; Yarrow, 1999; Kirkpatrick, 2001), if governments privatise for revenue purposes, then inheriting bad debt contradicts this objective. This experience necessitated a cautionary approach by the GOK in TKL's pension debt matter as it was still under negotiation by June 2004. Further more, investors are more interested in the financial state of the company before its privatization. The company's financial status is also important in determining policy, price and methods for its divestiture.

5:2:2 Financial and Strategic Decisions- Reform Consequences

The study found that in an effort to improve its operational and financial status and public image, the GOK appointed to KCB a CEO from Barclays Bank. However, the situation had not improved by December 2003 and in May 2004 a new CEO was hired from Citibank into Kenya Commercial Bank. The new CEO improved the position and KCB was to undertake privatization, through a stock option on the Nairobi Stock Exchange (NSE). (Financial Standard Weekly July 5, 2004). However, the bank continued to steadily loose customer confidence and faced political difficulties over the huge salary earned by a government acquired CEO. However, its performance seemed to defy the slow recovery of the Kenyan economy with KCB reporting an 89 per cent growth in profits during the first quarter of 2004. Profits rose to Sh284 million ($ 2.03 million) during the first quarter of 2004, compared to Sh150 million ($1.071 million) during the same period in the 2003 financial year. A huge fraction of the earnings came from revenue growth and from an increase in operating income, which resulted from continuing strict management of expenses and a reduction in bad and doubtful debt expenses that forced government intervention in 1999. Owing to its huge losses and bad debt experience in the past, KCB become a much weakened player lacking enough capital to aggressively chase new business opportunities (through privatization) in the unsecured personal lending and home loans market.

However, a year of increased profitability improved the situation enabling KCB to grow its ratio of total capital to weighted assets of 12.88 per cent, compared to the similar period in 2003 of 10.99 per cent. The 2004 operational figure is ahead of the Central Bank of Kenya (CBK) minimum of 12%. To address this situation, KCB strategically planned to raise Shs.2 billion from its shareholders through a rights issue and the management was expected to explain its grand plans to the shareholders specially why the firm's capital base needed to be increased. The GOK argued that the new capital was expected to reduce the government holding from 35 per cent to 15% allowing for investor interest. By January 2004 nine commercial banks and two building societies that include National Bank, K-Rep, Investment, and Mortgages, Co-operative Bank, Barclays Bank, Commercial Bank of Africa, Standard Chartered, Equity, and Family Finance, had agreed to facilitate the proposed rights issue.

These financiers are also expected to take part as agents and at the same time provide credit to shareholders to take up this rights issue. The bank appointed Suntra Stocks and Dyer & Blair, Standard Stocks and Kestrel Capital as the co-sponsoring brokers with Ernst & Young as the auditors and financial advisors (figure 5-2). Ogilvy & Mather Advertising PR provided the advertising and publicity direction. Oraro & Company advocates were to act as the transaction lawyers.[52] The unique 'approach' of involving other players improved KCB's image and attracted unlikely investors thus shedding-off the bad image of a "politically-correct bank with political debt".[53]

Besides, the participation of partner players in the industry raises prospects for the success of the offer as they would facilitate sale of shares nationwide and finance them to take-up additional rights. In addition, with the Kenyan stock market facing a shortage of new securities in 2003/04, KCB's rights issue was expected to be "a hot sale" especially in the light of its improved prospects for its earnings. Notably, it was listed as a strategic enterprise, viewed as a 'national jewel' since it is the first and largest indigenous commercial bank with the largest rural network in Africa.

Whereas KCB has rapidly moved from restructuring to privatization, the research found that GOK and Telkom Kenya management experienced difficulties making this transition. They seem to favour restructuring and commercialisation over direct sale of TKL, noting that commercialisation can be applied as an aspect of restructuring specific products/areas of an enterprise in order to increase efficiency (Kikeri, et al. 1992). The difference between restructuring before privatizing and after privatization (e.g. the case of Kenya Airways), is that the restructuring is a 'survival strategy' in the case of TKL whereas, it a long-term growth strategy in the case of Kenya Airways (KQ).

However, the government and TKL management prefer this option as a short-term measure to give them time for reorganising their strategy. Interestingly, the divestiture team prefers commercialization as an intermediate method for TKL restructuring, which would mean that TKL remains a government enterprise relating directly to the options/scenarios discussed in chapter four. In this regard, it is apparent that GOK and

[52] see figure 5-2 activities 1 and 2

[53] This is a terminology used for firms that are embedded in businesses and politics with the government of the day, giving unsecured loans to politicians, their business partners and relatives in order to gain favour from contracts and businesses from the government in power.

TKL in favouring restructuring are in need of a delaying tactic in order to "settle" the liabilities stipulated in the valuation scenarios addressed in the markets section (5:1:2:2). The study findings show that profits made under restructuring are not enough to payoff the liabilities within the TKL's privatization schedule. Secondly, GOK become increasingly reluctant to absorb TKL's debt[54] since the perception has been that TKL is a very profitable going concern (see Okwatch, 2004). Meanwhile, the GOK risks the fall in sale price of TKL under a strategic investor option and disinterested share investors for TKL shares on the Nairobi stock market (TKL, 2003a; GOK/TKL, 2003).

The difficulty with the two options[55] is in their sustainability as argued by Kikeri, (1999), and Haltiwanger and Singh, (1999) in terms of financing, resource availability, management and new technology. Public management has problems of sustainability alongside poor corporate governance. Management of Telkom Kenya and the Ministry of Transport in particular were not keen on the strategic investor option due to the demands of control by the CEO and the downsizing of half of TKL's workforce that the strategic investor was expected to enforce. The restructuring option was preferred by the top management since it gives them time to stay in office longer aware that a strategic investor would prefer to engage new management (FSD, 2004).

The government was not comfortable with a repeat performance of Vodafone's demand that they retain their chief executive in Safaricom, occasioned by a condition of the equity loan from Citibank, which demanded that the Vodafone's CEO be retained for longer than the original three years. Besides, the restructuring option gives TKL and GOK management time to find a strategic solution to the options for downsizing the workforce as demanded by the World Bank. Realistically, 90% of the private sector respondents favour short-term restructuring to make the company more attractive to investors and then privatize. The private sector respondents saw this as a good time for TKL to change its image in order to attract "perception" investors by infusing new management, additional finance, new technology and best business practices.

[54] See recommended scenario/options in chapter five
[55] Commercialization and restructuring

The thesis field study also showed that there were three major disadvantages in the privatization of Telkom Kenya namely: (1) settlement of the pension liability and GOK's involvement and unwillingness to take on the debt. (2) The "government control image" which discourages investors signalled by the government's refusal to allow market forces to determine the top management and its interference in the licensing and bidding processes. (3) Old technology and infrastructure, that requires large investments to turn around TKL under privatization making it unattractive to investors. In the case of TKL's sister company, Safaricom and POSTA, the findings reveal that complete government divestiture needs to take place for restructuring as the best option to take place before full privatization (TKL, 2003; CCK, 2003). This would provide these enterprises with an opportunity to improve efficiency, expand their services and products and increase revenue levels at Kshs.2.7 billion (in 2003/04) from Kshs.1.8 billion in 2000/2002 (FSD, 2004)

Operational Issues

In response to the question of how the privatization of TKL should be done, these research findings indicated that 90% of the managerial respondents interviewed[56] raised concerns at the lack of a clear linkage between the policy statements the roadmap and the bill in outlining clear strategies for liberalising, restructuring and privatising the communications sector. There was a sense in which the government and the public expected that market forces would help sort the TKL corporation out and force it to privatize without the economic, political and social concerns that a government propelled privatization brings. The widening gap between the process and the actual operations raises concerns; for example, although the bill was taken to parliament for enactment in 2003, the parliamentary process in itself is a public sector process that takes a lot of time and resources. Meanwhile, there is no clear law and no "one stop shop" for the process of transactions in progress as advertised by the Investment Promotion centre's Website.

While waiting for the enactment of the law, CCK as the regulator along with TKL and the Ministry of Transport went ahead and sought an SNO through a tender process;

[56] See appendix I annex V and Field Survey Data (i.e. FSD, 2004)

however, this model or option has not proved to be successful in Africa. According to industry, analysts interviewed investing in Africa under an SNO in the past revealed bad experience citing the example of Telkom South Africa's privatization and its subsequent quest for an SNO that yielded no results. This raised calls for the option of engaging two or three international licences to replace an SNO. At the same time, CCK revealed that it received a good response to the tendering process for an SNO,[57] with a specific interest for Econet Wireless. Forefront to the SNO debate is the GOK's focus on the STI option; the TKL's roadmap proposal to cabinet[58] was to sell 26% to an STI and attract an SNO. This strategy was complicated by the trends in 2002-2004 all over the world, where big investors (i.e. AT&T, BellSouth, and Vodafone) sold-off their assets. For example, BellSouth's assets that it needed to sell-off in 2004, due to the decline in telecoms investments world wide, were its strong customer base, a reliable revenue stream, a relatively stable stock price, good leadership and clear vision (Scanlon, 2001).

Telecom companies all over the world are weighing options that improve shareholder value, particularly getting into areas like gaining stream in the long-distance market. As the BellSouth CEO Mr. Kaut put it "Drip, drip, drip - the long-distance revenues are getting eaten away by competitors, If you can't beat them, join them." (Scanlon, 2001). In other words, mergers are the norm not acquiring 'new' enterprises, rendering STI opportunity unattractive. In addition, the Safaricom commercial paper was oversubscribed (bonds not shares) making the cost of money (capital) quite high for TKL and scaring away potential STIs who did not favour raising expensive funds within a short period (one to six months). Commenting on the licensing of an SNO, 65% (n=23) of the respondents from the private sector felt that it would be delayed by government to give advantage to TKL. Although CCK was positive, the industry's trends sets odds against the seriousness of a viable SNO entering the Kenyan market in the privatization period, as argued by Sclar (2000) and as experienced by the South Africa government noting that there was still no SNO in South Africa by the end of 2003.

[57] Financial East African Standard, Newspapers, July 23, 2004)
[58] See the Privatization Roadmap or cabinet memorandum discussion

"The absence of legislation and inadequate supervision leads to abuses and fraudulent behaviour by management; if such situations persist, the public may assume a negative attitude towards privatization, and then it would be very difficult, in an atmosphere of general lack of trust, to carry out a successful privatization programme." Ninety six percent[59] of the respondents agreed strongly with this statement and pointed to the lack of approach and legal framework. TKL is a case in point in the sense that TKL as a "strategic" enterprise had its transaction managed by a 'special' committee from the Ministry of Finance as outlined in figure 5-1 whereas the other parastatals were under the Parastatal Reform Committee (PRC). The PRC's role was to supervise the non-strategic enterprises and act as an oversight.

Since the operating policy is to privatize all public enterprises irrespective of their original status, 80% of the respondents strongly agreed that the absence of legislation and inadequate supervision has led to abuse of 'insider trading information.' An example is the failed negotiations of TKL and MKC in October 2002 and the halted privatization of Kenya Reinsurance Company which failed to take off because of special interests from government employees who fronted their proxies the rendering the process illegitimate (KNA, 2003 p.25). This leads to negative attitudes towards privatization making it very difficult for the government to carry out a successful privatization. This situation has been exacerbated by nepotism that is prevalent in the parastatals earmarked for privatization. In addition, the Investment Secretariat had two units, The Technical Unit (TU) and the DGIPE,[60] while the Ministry of Transport and Communications has two offices, Office of the President and the Ministry of Trade's Investment Promotion Centre (IPC), all adding to the confusion. The delay in constituting a clear approach was indicated by the mismanagement in the enterprises; this makes the government not value legislation but instead to view it as an impediment.

On new approaches and strategies: "Strategies and approaches adopted for the privatization programs have been sporadic, non-committal and slow. Focusing mainly on the listing of potential divesture enterprises, rather than development of a solid

[59] n=35

[60] Department of Government Investments and Public Enterprises (DGIPE) and The Executive Secretariat Technical Unit (ESTU)

strategy for restructuring enterprises for the full benefit of the economy." Ninety five per cent of respondents strongly agreed with the lack of a solid privatization and divestiture strategy, citing the absence of an institutionalised regulatory framework to guide the process of divesting from state owned enterprises. The case of Telkom Kenya was cited as a classic example, as it has taken over five years since the unbundling, restructuring, and the transaction process to reach its completion stages (figure 5-2). Meanwhile, there was no particular and single institution accountable to the process that was fragmented and not well coordinated and the respondents translated this to mean lack of clear approach and strategy. These respondents (75%) mainly from the private sector further stated that there were some serious accountability and governance problems[61] in PEs and no proper guidelines from a government that was still seen to apply the state corporation act (SCA), perceived as an instrument of "control and regulation of state corporations." As one respondent stated " as long as the government continues to force the CEOs to apply the SCA in the enterprises for privatization, there will be no progress, this act is a monster that is eating up these enterprises and slowing down their capacity to grow."[62] Besides, those charged with implementing and designing Kenya's approach and operations lacked capacity to implement the privatization process effectively (annex IV).

However, despite the operational difficulties and poor regulatory structures, liberalisation efforts towards restructuring and privatization have definitely increased competition and opened up the telecommunications sector in Kenya and in the COMESA region (COMESA, 2003: CCK, 2001:2003). Notably mobile telephony CEOs confirmed this by emphasizing their market share in 2003 as follows; Kencell had approximately 45% of the mobile market share, while Safaricom had an estimated 65% market share of with an estimated 2 million subscribers, while the combined mobile subscribers stood at 2.6 million (Telkom reports, 2004). The industry analysts predict that the market has a potential to grow to four million subscribers. After the failed first attempt of the TKL sale in December 2002, TKL management, CCK and GOK have embarked on a "new" approach for TKL's privatization, however, the challenges ahead of this new approach are huge. As Table 5-6 indicates, Telkom

[61] A concern that was subsequently voiced by the World Bank see Standard Report October 15 2004

[62] A CEO respondent at the Expert Group discussions from the Sugar Industry required to operate under the SCA

Kenya's fixed telephony growth has been slow compared to the mobile telephony. The figures indicate that since 1999 to December 2003 TKL realized an overall growth of 11 percent of its core business and only 6.2 percent growth in lines (of the total 540,000 lines) representing less than 33, 000 lines in five years and an annual growth of only 2.2%. In comparison, the Safaricom's mobile growth has been way up the scale with a total of 1.3 million lines in 2003 up from 20, 000 in 1999 a five year period, equalling a growth of 256,000 lines, per year compared to TKL's 6,720 per year. This record speaks for itself and outlines how much work was to be done in TKL to improve growth in their core business (figure 5-12). By the end of 2004, Safaricom's subscriber base hit 1.8 million and was expected to reach 2 million by early 2005 (FSD, 2004).

Table: (5-6) Cellular and Fixed line Subscribers during the reforms and Privatization period

	Safaricom	Kencell/Celtel		Telkom Kenya		
	Cell	Cell	Fixed	Fixed	Cell Under KPTC	Total Annual Growth of Mobile Subscribers
1998						
1999- July 00	26,000	Nil			20,000	26,000
2000	64,000	Nil		220,000		64,000
2001	170,000	190,000		301,000		360,000
2002	600,000	400,000	20,000	332,000		900,000
2003/2004	1.3 million	600,000		330,000		1.9 million
2004	1.8 million	940,000		350,000		2.74 million
2004/2005[63]	2.5 million	1.3 million		400,000		3.8 million +1.8 TMO in 2005 Totalling to 4.6 million[64]

Source: Author's compilation from field data (2004)

[63] Forecast numbers
[64] Expected total subscribers in the FY 2005

5:4 Major Field Findings and Data Analysis

5:4:1 Challenges of the Restructuring Process: Performance versus Retrenchment: A Human Resource Debate

This section continues the discussions of the outlined responses of disposal methods, objectives, employee and enterprise performance vis-à-vis reforms, restructuring, liberalization and privatization. The analyses outlines major challenges in the restructuring process revealed by findings of the questionnaire and interview data. Chapter two raised the dynamic debate on matters relating to employment, staff and management rationalization in any business transaction and the introduction of new employees and how this process is often very delicate and presents enormous challenges during the restructuring phase. It is not surprising that downsizing was rated as the most unpopular approach to privatization with 95% [65] respondents in the public sector rating it as very unpopular.

The application of the management employee buyouts and employee buyouts (MBO/EBO) [66] method of sale, where ownership transfers to management and employees was favoured by the public and was ranked the most popular by 89% [67]of the respondents. Yet the GOK did not mention this method as a way to proceed in transaction sales. The GOK applied this method in a one-off attempt in the disposal of Kenya Re-insurance and the cooperative sector after pressure from employees with little success. This clearly indicates that the government and the public are not in accord as regards methods, objectives and techniques of the privatization process (FSD, 2004). One explanation from the research was that the government was unwilling to guarantee loans to the employees and management to invest. Further evidence from the study shows that this method works best in a financial environment with low interest rates and quick and available financial advice, a status Kenya has been struggling to attain. This method also has been popularly applied in Egypt and Uganda[68], successfully in manufacturing, construction, and agriculture respectively.

[65] n= 34
[66] see glossary for definitions
[67] n=32
[68] See World Bank- Privatization Link (1999)

The entire downsizing program for the three unbundled entities (i.e. TKL, CCK and POSTA) experienced a high labour turnover within the last five years (1999-2003). In particular, there were changes in top management with no strategic focus for growth, profitability and performance. The new management insisted that they would focus on objectives for infusing good governance, new investments, new energy, new ideas and creating a forward-looking strategy. This strategy would stir TKL's profitability and expansion and Safaricom's network expansion and diversity (tables 5-11-15), along with restructuring of the Postal Corporation of Kenya (PCK) and diversification as indicated in tables 5-12 and 5-13 on financial and business performance and field interview data (FSD, 2004).

However, interview data analysis of question 11 of section 2 (see appendix 2 annex I) reveals that "new management" hired during the restructuring phase were government employees or former KPT&C employees recycled back. TKL's six managers out of twelve were previous employees of KPT&C or were 'trading' with Telkom Kenya whilst in the private sector. The sitting TKL CEO during the research period was an excellent example of this finding. He was a previous KPTC senior engineer in management who resigned and become a supplier to TKL, was then a board member and was reappointed by the NARC administration on a partisan basis as TKL's CEO (FSD, 2004). The impression within and without these corporations indicates that the recycling of these "new managers" cannot improve the corporation's restructuring program envisaged in the timetable of June 2004.

Besides, top managers who were forced to resign and those middle managers that were replaced by "outsiders" are disillusioned and have moved to the courts for redress.[69] Interestingly, the major accusations for their removal from office are vague; for example, "conflict of interest"; "owning and operating similar business to TKL"; and "reached retirement age." These were and still are the same concerns investors have with those employees who replaced them including the CEOs. This situation does not provide for a good environment for restructuring and privatization, and shows the

[69] three of these former managers were interviewed

complexity of human resource issues, it particularly does not help an IPO strategic option for disposal.

The findings also show the importance of restructuring human resources[70] as a key ingredient in turning around parastals for privatization. Despite this fact, there was no evidence to show efforts by GOK to seriously address this matter. The privatization law is supposed to spell out the guidelines: but the three communications parastals (i.e. TKL, POSTA and CCK) have no (attractive) incentives program for voluntary retirement and all the three companies owe the workers a growing pension debt estimated at Kshs.12 billion (US$155miliion). These challenges are enormous and their likely effect on the success of the sale of TKL through an IPO was evident in the delay of IPO plans. Investors are often very sensitive to management changes without specific targets, skill capacity and record of accomplishment for success. In this regard, 89% (n=32) of the sample respondents indicated that they had no confidence in the new management of Telkom Kenya and in POSTA and had serious doubts about their capacity to turn around the corporations in record time for the end of TKL's exclusivity period.

In addition, the new middle managers (sourced from the private sector selectively) might have had the competence but lacked the experience needed to think creatively on strategic plans at a desirable speed to counter competition in the telecoms sector.[71] Again, the approach of sourcing top management in the restructuring and privatization phases by GOK was ill advised and unpopular with investors and contributed in discrediting the managers' judgements and technical competencies. It also changed the dynamics of operations at TKL and POSTA as the chain of command and line of accountability had to include the government rather than the customers and prospective shareholders as in the case of a privatized enterprise.

The interview evidence further showed that 100% of the respondents agreed that the CEOs to these corporations should be hired competitively from the telecoms private

[70] ibid

[71] In most cases these top and middle managers take over a year to learn the dynamics of the industry, gather momentum and create the networks necessary to compete in a first changing environment

sector and not be selected by the President[72] and the parent ministries. Inevitably, the public sector need to learn that any management put in place in a parastatal preparing for divesture and sale through "public" divestiture instruments, must have the confidence of investors in order to help raise the value of the enterprise. The government recognises this fact but ignores it. This confirms the arguments advanced by the literature on politics and public management discussed in chapter two.[73]

5:4:2 Downsizing (Retrenchment), New Employees and Performance issues

Restructuring

This research further indicates that the most challenging aspects of any approach to privatization is getting the balance right between attaining increased efficiency and production while maintaining a lean workforce.[74] In the literature review in chapter two these challenges are discussed at length in sections on impact of the social-political consequences of liberalization, markets reforms (SAPs), and enterprise restructuring (i.e. 2:2, 2:3:2 2:5 and 2:6), while in chapter four section 4:7 discusses specifically the financial challenges of TKL related to labour and retrenchment issues. The analysis in the preceding section on restructuring and management are intertwined with downsizing and labour, since SOEs often use downsizing to create efficiency. Furthermore, in addressing the central research question and supplementary questions 3 and 4, the specific research findings herein show interesting results, that include for example, restructuring by downsizing which found to be most unpopular method of privatization PEs by 89% (n=32) respondents, while the GOK and the TKL management favour restructuring as a major method of privatizing.

With regard to downsizing and acquisition of new employees, the field data analysis further underscored their effects on production, competitiveness and profitability. Ninety five percent (n=34) of the respondents were concerned about their effects although the government down played their impact. Indeed, the GOK does not

[72] World Bank Letters to GOK, (2000;2001;2003)
[73] see Pint, and Dunleavy, (1990); Boix, (1997); Feigenbaum, and Heing, (1989)
[74] see discussion in chapter two sections on political dimensions and consequences of reforms Buttle (1993), Edmond (1998, p7), Nyong'o, (2000)

specifically mention downsizing as one of the objectives of its divestiture program, instead the GOK lists as its third objective "reducing the role and rationalizing the operations of public enterprise sector." More specifically a major impediment to the downsizing problem was the doubtful treatment of the pension debt for TKL employees. In addition, the government's constant change of the top management in entities for privatization, intensified the industry doubts of GOK's commitment to divestiture from TKL, with an average span of a CEO being two and half years in an organization. The problem becomes the investor perception of the competency of the GOK to appoint CEOs and that of the CEOs themselves, hired on partisan grounds.

The interview data of this research confirmed that most of these CEOs do not have market knowledge of their respective enterprises, or distinctive or special skills that would add value to these organisations.[75] As one manager in Posts & Telecoms put it "my Boss knows nothing about the strategy for our company yet he is the Boss" and a General Manager said, "I have worked for posts and telecommunications for 18 years and reached the level of General Manager. My boss was a teacher promoted by the NARC government to deputy secretary of Teacher Service Commission and now CEO of POSTA. Yet he knows nothing about Posts business." This way of hiring CEOs by GOK negates the goals and objectives for restructuring through introduction of new private sector oriented management in PEs as outlined in the GOK's divesture objectives as required by the World Bank and common good business practice (FSD, 2004).

Alongside, the chief executives are middle managers, hired through a competitive process whose details were not available for 'public view.' Discussions with internal managers showed that the process was not entirely transparent and the performance record of the new managers showed that they relied heavily on the "old managers" with the expertise and had been relegated to junior positions, in eligible to receive new salaries given to the "new middle managers." This resulted in low morale amongst the old managers and low performance and output. Besides, due to frequent changes of CEOs and middle managers, there was no continuity in leadership and strategy; the new

[75] Except the CCK director general who is a lawyer, a qualification necessary in a regulatory and contracts business environment

managers took sometime to figure out the market structure and operations, this selection was compounded by the government's inability and technical capacity to provide direction to the CEOs (FSD, 2004).

It is a widely held opinion in the World Bank literature and business practice that effectively downsizing and acquiring new employees should culminate in increased performance (Shirley, 2002; Schusselbauer 1999), and therefore increased efficiency and production for Telkom Kenya (TKL). In this respect, the 2003 turnover for TKL was reported to be between Kshs.18-24 billion (figure 5-10 and table 5-14). However, TKL had major liabilities, the pension liability, VAT/taxes liability and the contingent unpaid contract claims liability; the fixed assets (buildings), which by 2003 were still owned by the pension fund, guaranteed these liabilities. These liabilities slowed down the downsizing program substantially and reduced the ability for effecting substantive changes in the employee levels. Although TKL's management is confident it can rationalise its expansion and employee programs their lack of a clear strategy to address the liability issues was evidence to the contrary. In addition, although TKL underwent a due diligence process during the search for a strategic partner (STP) before the end of 2002, by the end of 2003 it's financial, and business position had not substantially improved to attract big investors as anticipated by GOK and TKLs top management. It was notable however, that 60% of the private and public sector respondents strongly agreed that TKL had potential to be a profitable company and capture its lost market, occasioned by TKL's poor financial performance and lack of a clear strategy to return to profitability. In this regard, 35% of the respondents who had full knowledge of the communications labour market indicated that there had been a number of middle to senior managers averaging 10% -15% who left with telecoms acquired specific skills and had been re-employed by TKL and the telecommunications industry. However, due to the span of control in TKL, these managers had not been utilized in the development of TKL's needed business strategy (FSD, 2004).

The majority of the unskilled workers who are members of the Workers Union constitute the original workforce of 21,000 under KPT&C. The difficulty for TKL, which inherited the original Posts and Telecommunications Trade Workers Union (PTWU), has been downsizing a workforce of 18,000 without much success. In the

research period, the employment levels stood at 19,676 employees. Safaricom had 450, POSTA with 1,000 and CCK had 100, with an estimated combined 300 new employees. TKL under its 2003 strategy indicated a planned reduction of over 10,000 workers during the restructuring period as demanded by the World Bank and a minimum of between 3000-5000 before the end of June 2004. This looked unlikely with a NARC administration that rescinds on its promises to the electorate and the international finance community. Clearly, downsizing is unlikely to be a priority to the NARC administration although it is a sound business strategy for TKL and a step that ought to be taken in order to increase the price of TKL's shares. Besides, restructuring is one of the conditions of the World Bank before it can the release funds earmarked in the 2001 agreement for GOK's privatization program.

The findings indicated that the top officials of GOK agreed privately that the reduction of the unskilled workforce in TKL in particular would have to be done albeit in an atmosphere of little political will (TKL, 2003). Meanwhile TKL had to deal with the reality of an lower increase in proportion of TKL's business between 2001 and 2003 and an increasing labour wage bill that was eating up the revenue, with an estimated 90% of the proceeds going to recurrent expenditure (see tables 5-11 and 5-17 -18). Besides, by the time of this survey new management had not made any positive impact on turning around TKL for privatization. In this regard, 89% of the respondents revealed that if they were responsible for privatizing Telkom Kenya,[76] they would first "overhaul" the top management by replacing the CEO as a matter of urgency. The sector's top and middle management recycling rate averaged about 30-45% of the total managers and has a substantial negative impact on restructuring, and the speed and pace of TKL's privatization.

The findings indicated that in addition, the 15-50% skilled and experienced middle/top managers retained by TKL and POSTA were underemployed and underpaid, while newly employed and inexperienced middle/top managers were overpaid. Meanwhile TLK and POSTA spend 20-40% of their revenue taking on new top/middle managers, without a clear program targeting training gaps in the levels of staff created in the period of

[76] n=32 see Annex I : section 2: question 19 pages 12 -Questionnaire

transition from a monopolistic to competitive environment.[77] This indicates that there was little adjustment made to match the needs of the restructured enterprises (tables 5-15-18). In its last mile of privatization, TKL was still stuck with employees under the pension scheme who did not match its growth requirements in rebuilding their business portfolio (see figure 5-5).

Closely related to downsizing and new employees, is the popularity and application of the disposal methods. The research findings show that the major reason for the MEBO/EBO 90% popularity as ownership transfer methods amongst respondents was the increasing insecure employment environment for all employees in LDCs. This result also confirms the arguments about the negative impact of downsizing as a step in restructuring and privatization. Restructuring by infusion of good business practice was ranked as important by 60% of the respondents. This was because in restructured enterprises very often public money saved through improved productive efficiency leads to cost reduction in utility and telecom services, increased supply and accessibility (figures 5-5, 5-8 and 5-9 table 5-10) and the savings may be invested in poverty-targeted projects for the downsized workers.

The questionnaire data further generated results focusing on efficiency improvement and accessibility; for example, 80% of the respondents indicated an over 60% significant improvement in access and supply.[78] However, the study also found that the cost of telephony services and especially mobile phone handsets had not shown significant decrease, confirming, perhaps, Wallsten's (2002) and Shirley et al's(2000) concerns about the rate of reforms in the post privatization period in LDCs. The study also found that 40% of the respondents argued against access as a single measure of the positive impact of privatization, in the sense that those who received subsidized services can only benefit from reduction in prices below the levels of the subsidy. The government pointed out the importance of access and affordability of service and accessories as a major indicator of restructuring TKL and singled out to their credit access and affordability as important indicators of the reform process in telecoms. More specifically the GOK used this objective to justify the entrance of an SNO and two MOs into the market.

[77] Although TKL has made efforts to rationalize its staff as shown in tables 5:16 and 5: 17 in order to be competitive

[78] See questions 7 and 14 appendix 2 that asked them to rate levels of importance, improvements in services, speed and products.

The research reveals that for the overall privatization program, raising revenue in the rankings was extremely important for 60% of the respondents. This was a significant finding because of the concerns advanced by anti-privatization analysts[79] on the choices and prioritization of objectives by African governments. These analysts have argued that the focus on revenue has been for personal gain rather than for addressing the budgetary deficits. More importantly, revenue has ranked as being important to government but does not contribute to the growth of the telecommunications industry because once the government received revenue there was no evidence of checks and balances for ensuring that proceeds are infused back into the industry.[80] Closely related to revenue is the objective of distribution of the public property and wealth creation, which was ranked as very important by 80% of the respondents. The development and political economy theorists have long supported this objective as a way of enabling African economies to breakout of the role of primary producer syndrome (Ake, 1981; Dusan and Harold (eds.), 1973; Schusselbauer, 1999).

Related to the wealth creation objective is the reduction of government involvement, which was ranked as significantly important to Kenya's approach to the privatization program and process by 51% (n= 18)of the respondents. However, this position changes when the respondents are asked to rank the sectors in what is perceived as "strategic enterprises" listed in appendix 1 annex Va. In the case of TKL listed as a strategic enterprise, just over 55%(n=20) of the respondents ranked financial infusion, new technology, new management, reduction of costs, increase in competition and access to telecommunication services as extremely important objectives.

The study also found that in the reforms and liberalization of the banking and insurance industries, 51% of the sample respondents ranked new technology, new management and increase in competition and reduction in interest rates (costs) as extremely important objectives. Wallsten (2002) discusses the importance of these objectives in his recent analysis of the post-privatization performances in Uganda and Senegal. In the insurance sector, financial infusion and liberalization were indicated as important objectives by 60% of respondents as discussed in detail in section 2:1:2 in chapter two.

[79] Donso, (1999), Nankani (1990)
[80] The PIC 10th report of 2002 details the procurement actions in the parastatals that undermine efficiency and output

In the sugar industry, the respondents ranked good governance and liberalization as important. This is influenced by the method of utilising management contracts to restructure the sugar sector and in particular to focus on restructuring agriculture. In the transport industry that includes Kenya Airways, Kenya Railways and the Ports Authority, financial infusion, restructuring, liberalization and new technology were ranked as extremely important objectives for privatizing the transport sector by 70% (table 5-9) of the respondents. Introduction of new technology, reduction of costs and infusion of new management were ranked as very important by 80% of the respondents.

On the relationships between the various objectives of government divestiture and ultimately privatising, tables, 5-8 and 5-9 show the responses in relation to the three extremely important objectives for strategic enterprises. Above 60% of respondents were categorical on the extreme importance and linkage of restructuring and the introduction and consistent updating of new technology to the fast growing and wealth creating industries of telecommunications, airways and banking. At the same time, above 50% of the respondents rated the withdrawal of government interest in the public enterprises into the hands of the private sector as extremely important; interestingly, these included the majority of the strategic enterprises as shown in appendix 1 annex Va.

However, when they were asked whether the privatization process has created new businesses, 80% of the public respondents indicated privatization had created between 50-90%[81] new businesses specifically in the telecommunications and banking sectors. Chapter 6 concludes on the implications of this contradiction between new businesses and employment. This differed sharply from private sector respondents(n=15)[82] who rated private sector strengthening, wealth creation and reduction of costs as priority objectives of any privatization program and linked these priorities to successful creation of new businesses and employment. Although attracting Foreign Direct Investment (FDI) is, often a controversial objective in the privatization process the world over, it is viewed as good objective and rated as important but with indications that it should not be the focus objective at the expense of encouraging local investments. FDI is often

[81] Percent levels not numbers the (CEO) respondents estimated these to be between 50-90% of existing businesses.
[82] See appendix 1 annex V

viewed as a foreign intrusion and unfair competition in the privatization process, with little confidence that the foreign investors would "stick it out "when business does not go well, thus causing serious, political, social and economic risks both in the short and long run.

Table 5-7: Levels of Importance of Major objectives by Sector/Enterprise

n= 36	Extremely Important KQ, TKL		Very Important KCB, Agric	Not Important
Objectives				
	%[83]		%	%
Restructuring and New Technology	78		68	26
Liberalization and reforms	66		56	20
Government- Divesture Liberalisation	70		50	11
New management/Restructuring	50		22	22
Financial Infusion/FDI	80		20	0

Sources: Author's Compilation from field Data, (2003)

After the growth progress shown by indicators for the various objectives (figure 5-9), the findings indicated that the levels of importance of the major objectives of enterprises for privatization are best examined on a case-by-case transaction as indicated in table 5-7. In this regard, although revenue is believed to be a priority in banking (KCB) and telecoms privatizations, restructuring and introduction of new technology were rated as extremely important by 68% and 78% of the respondents respectively. 66% of the respondents rated continued liberalization and reforms in TKL and KQ as extremely important, whereas restructuring and return to profitability were rated as extremely important in government divesture from Kenya Airways by 70% of the respondents. Although on paper, the government received a substantive US $ 55.0 million in foreign exchange from KLM/Kenya Airways joint venture in 1996, compared to the US $ 26.0 million (new share sale) of TKL in 1999-2002, it was notable that in both cases the Kenya government owed over US $ I billion to TKL and KQ in the form of acquired debt.

[83] each objective is rated Independently

5:5: Approach and Process: Impact and Importance of Objectives, Methods, and Techniques

The specific findings discussed in this section answer the central research question and specifically research questions 3 and 4 reviewing government performance in their achievement of objectives ranked in the preceding section. The findings yielded some interesting results on objectives, methods and techniques (of national governments in the COMESA) that shape respective approaches to the privatization process. The data analyzed rated the GOK's overall levels of performance in its major objectives as shown in table 5-8, notably however, no approach scored an excellent rating. Revenue and speed as major objectives of privatization were poorly rated, indicating that the government experienced dismal performance in their major objectives.

Table 5-8: GOK Approach and Strategy: Performance Levels to Privatization Transactions

Methods and Objectives				
	Excellent	Good	Average	Very Poor
	%	%	%	%
Revenue to exchequer	-	-	-	98
Speed of program	-	-	-	95
Efficiency in enterprises	-	-	-	65
Reducing subsidies	-	-	50	-
Attracting FDI	-	-	48	-
Fair wealth distribution	-			87
Radical change in socio-economic system	-			95
Fairness and equal opportunity	-			85
Methods				
Strategic investor sale (STIS)	-	95	-	-
Direct sale	-	60	-	-
Capital infusion	-			98

Source: Author's compilation from field interviews (2004)

This thesis research analysis shows the importance of goals, objectives and motives of privatization to the public, investors and to the transactions as adopted by the GOK. Although the literature, the World Bank report (2002) and interview responses argued that attracting maximum revenue is a central objective to most governments, in the Kenyan case evidence shows disappointing revenue performance with a total of $370 million raised by 2001/02 fiscal year, as indicated by table 4-1 and 4-2. Indeed, in addressing the central research question one; this thesis argues that revenue would

[85] see Shafik, (1993);Gomulka (1993), Jermakowicz, (1995); Balcerowicz, (1993); Toy and Flynn (1993); Rondinelli and Yurkiewicz (1996)

remain an important objective and strategy for the GOK's privatization program, and that it would however change depending on the importance of the sector and enterprise. However, by January 2004 Kenya's overall proceeds were speculated at between $ 300-400 million over the last ten-year period the program has been underway, a dismal performance of an annual average of between $ 30-40 million. Table 4-1 shows Zambia and Uganda's proceeds as much higher although their privatization programs started much later with fewer enterprises but have been more rapid. In applying the major socio-economic policy objectives of a multiple nature often advanced by African governments, development analysts and political economists like Kiggundu (1989), Nakani, (1990) and Cook and Kirkpatrick (1999), these findings corroborate their arguments that equitable wealth distribution and provision of social services remain the preserve of government. But Vickers and Yarrow,(1986; 1989, pp.35-39) indicate that if the private sector's objectives for privatization could be more effective in motivating managers and entrepreneurs then privatization may be more efficient, and able to provide both social and economic services. Indeed, this argument is supported by the discourse on restructuring by downsizing and change of CEOs (page 271-275).

However, Mukandawire, (1995), Stiglitz and Dasgupta (1974) and Keynes, (1974), indicate that the effects of IMF intrinsically inflexible economic models versus the practical development priorities of the countries forced into reforms reluctantly or unprepared would be a recipe for poor performance on objectives and goals that are termed as priority. For example, the GOK performed especially poorly on fair wealth distribution and radical socio-economic change objectives, which the IMF and the World Bank rates in its agreements with donor agencies as a priority. For a priority that would help maintain an acceptable level of service provision, in an environment of high poverty levels and unemployment, the government scored between 87-95% poor performances rating by respondents, as shown in table 5-8. Further exploration of levels of satisfaction with Kenya's approach and strategy in some of the major elements of their privatization process resulted in a 65% "very dissatisfied" rating for the poor management of process/program by the GOK, with respondents citing absence of strategy, coherence, transparency and organization as major deficits.

In addition, the study revealed that lack of a public information process leading to a non-transparent due-diligence process was rated as highly dissatisfying by 70% of the respondents. Related to public information, were the methods of financial mobilization to enable management and employees to buy out shares of enterprises to be privatized, as was the case in transitional economies that included privatizations in Russia, the Czech Republic, Poland, Romania and Turkey.[85] The responses indicated an 80% "highly dissatisfied" rate by respondents, with 70% of respondents remaining neutral on commercialization and IPO (stock options) methods of privatization, only rating them as neither satisfied, nor dissatisfied. This was an interesting result since policy makers, managers, and politicians favour these methods as the 'best' way to proceed with privatization. This confirms this thesis research questions, the interview responses, and the literature arguments by Young, (2003), Estache, (1997) and Vuylsteke, (1988) which indicate that the government did not bother to explain to its potential investors the merits of these methods by creating capacity for public information.[86] For example, when the public raise objections to the sale of TKL to foreigners, what they imply is a need for public involvement in the sale; that is, the need for dialogue on objectives, methods and techniques of proceeding with the sale, that give preference to employees or management whom they perceive as nationals, and immediate stakeholders. Thus, this result shows a gap in public information on privatization clearly, there was no public program for information on methods of disposing of assets and the approach to the privatization process, unlike in other COMESA countries where some form of public information program exists that educates the public on privatization activities.[87]

The findings indicate that some of the original major objectives/goals for the privatization program (see GOK, 1996) can be dynamic during the process and may change when designing specific objectives for strategic sectors, as evidence in the literature review in chapter two sections 2:1:2 may show. To address the metamorphosing nature of its objectives, the GOK designed a two-phased strategy for Telkom Kenya privatization. In the first phase unbundling and restructuring was used into three enterprises as described in detail in section I before the divestiture program as a means of attaining the intended objectives rather than a straightforward objective in

[86] see White and Wissman, (2002

[87] Egypt, Uganda, Mauritius, and Tanzania have public programs mostly through the radio, and internet

itself. According to the GOK, the major goal was to reduce telecoms costs and attain greater access by the population to telecoms services and products by 2000 while the major objectives in the first phase were infusion of capital, new technology and new management.

In the second phase, the objectives focused on infusion of good governance, greater access, reduction of transport/telecommunications costs, increase of efficiency, creating businesses, increase in investor confidence and broadening the share holding through a strategic investor/partner. By focusing on broadening the shareholding, the government hoped to address the public concerns on redistribution of wealth and inclusion of local investors in the privatization process. In response to the second phase specific sectors made marginal but important gains in reduction of costs, increasing access to services and products, increasing efficiency and creating new business opportunities. Amongst the objectives surveyed in the second phase the government changed its ranking to increase in competition, reduction in communications costs, access to services and new management as extremely important objectives in raising the performance levels of TKL, specifically focusing on attracting a good price and a strategic partner. In particular, GOK favoured enhanced access to services and improved service delivery to increase competitiveness and to attract the private/public investors to the TKL IPO.

Table 5-9: Major Objectives for Privatization

	n=36 and %= 100 [88]				
	Extremely Important	Very Important	Important	Not Important	Total
Major Privatization Objectives and Motives	%	%	%	%	%
Reduction in costs and Greater access to telecoms	98	1	1	-	100
Restructuring, Commercialization and Contracts	74	20	6	-	100
Employment and Business creation	86	4	-	-	100
New management	5	95	-	-	100
Increase competition /New technology	5	95	-	-	100
Financial infusion-and FDI	95	2	3	-	100
Private sector development	5	91	4	-	100
Revenue and income	-	10	60	30	100
Wealth distribution	-	40	4	56	100
Efficiency improvement	15	15	45	25	100
Increase competition	38	20	17	25	100
Liberalization and reforms	8	40	52	-	100
Government- divesture from PEs	50	30	10	10	100

Source: Author's compilation from field interviews (2004)

[88] The emphasis in this table is based on the percentage of responses totals not on numbers of respondents Note that respondents have to rank the 13 objectives in four possible categories

Table 5-9 gives a summary of the overview of the major objectives of Kenya's privatization as ranked by the research respondents with each objective ranked by all respondents individually. The study results of the rankings of the major objectives for GOK's overall privatization program are herein summarized: Reducing communication costs and greater access to products and services were ranked as extremely important by 98% of the respondents and were indicated as a major goal of privatization by the government. Employment and business creation were ranked as being extremely important objectives by 86% of the respondents and 95% ranked new management and increase in competition as very important. Ninety-five per cent ranked financial infusion as extremely important to a successful privatization, with 91% ranking private sector development as very important. The results also show that although revenue as an objective was highly favoured in the privatization literature as a major objective of LDCs as argued by Wright and Perrotti (2000, p.137) and others,[89] 60% of the respondents ranked it as merely important to the process of privatization. Along with this, 30% of the respondents indicated that it was not an important objective in the end and 10% indicated that it was very important. This contradicts the perception created by the World Bank (1999) of revenue as an important objective/goal. Indeed, to confirm that this perception is not common, the study revealed that the GOK regarded greater access and reduction of telecommunications costs as their priority objective for attracting investments from the COMESA and matching regional competition from Uganda, Egypt and South Africa. This research also noted that there was a significant difference in the rankings of the private and public sector respondents reflecting the private and civil society participation in the process (FSD, 2004).

Additionally, on job creation or employment objectives, 100% of the respondents agreed that overall privatization has created new business opportunities. The findings of national, regional and international new business creation estimates ranged between 50-100% levels, with some responses indicating that in telecoms new businesses nationally could be over 200%.[90] Indeed privatization and liberalization processes have contributed to new business opportunities, private sector development and regional

[89] See Shirley, (1997), Shirley and Nellis, (1991); Kikeri, et al (1992); Vickers and Yarrow (1988) and OECD (1998:2000), reports on privatization revenues (1998:2000) ILO National Framework for Globalisation (2002)
[90] Specifically the Investment Centres of COMESA, Telecoms public, and private sector CEOs indicated that 200% to be a conservative figure in the absence of proper documented figures.

trade expansion. As indicated by over 70% of respondents there were new business in supplies, new technology and skilled workers were re-employed into the communications sector.[91] These results indeed echo the pro-privatization arguments as advanced by the World Bank and other academic analysts who include Samuel (2002), and Kirkpatrick, (1998) who claim that privatization has more gains than loss.

The findings also revealed that the process of restructuring[92] which was ranked as extremely important (by 74% of the respondents) in enabling enterprises to acquire new technology (i.e. TKL and KQ) forced movement of skilled workers across sectors, implying that most of them had to acquire new technical/operational skills especially technology and computer related skills, marketing and sales. These skilled workers' re-entry into the communications industry helped speed up the introduction of new services and products. In voice and data communications, TKL and POSTA did benefit by diversifying their portfolios. For example, POSTA introduced commercial letterboxes charged at a premium, financial payment outlets for teachers, schools and cooperatives and increased improved EMS services, internet services for customers and expanded overnight parcel services to the rural areas. POSTA managers indicated that restructuring and unbundling of POSTA has enabled them to make business decisions faster and more profitably than when under KPT&C. Restructuring is credited with an increase of about 30% of the new businesses in POSTA.

This field research further found that in the process of expansion Telkom Kenya acquired four subsidiaries namely:[93] Safaricom which operates a cellular phone network in partnership with Vodafone Air-touch; Gilgil Telecommunication Industries, manufacturers of telecommunication and postal products (i.e. telephone handsets, PABX systems; Kenya Postel Directories Ltd (which publishes the yearly telephone directory); and Kenya College of Telecommunications Technology, which offers training to the communications sector. Telkom Kenya also offers a satellite-based communication service (VSAT hub), Kensat (VSAT services) and operates Jambonet, which links local internet service providers to the rest of the world. Other facilities

[91] Questions 12 and 13 appendix 1 and 9, 10 of appendix which targets percentage levels which do not indicate number of business. This is because there is no government agency that keeps the exact numbers of business created by sector.
[92] Schusselbauer G, (1999).
[93] Discussed in detail in chapter five

include a digital leased line service, Kenstream and an analogue packet switching service, (KENPAC). Additional new businesses were generated in the privatization process in areas of accessories, supplies, subcontracting and internet outlets ISP provision and increased backward linkages amongst a number of small businesses in technologies, supplies and Internet café sprung up in large numbers.

The research figures for COMESA indicated that liberalization, restructuring and reforms in the air transport, telecommunications and banking sectors has increased the number of flights to the COMESA region (COMESA, 2003). Kenya Airways (KQ) privatization contributed to this increase with an introduction of regional competition on the Southern/Eastern Africa route with South African Airlines. A major accomplishment of the COMESA-led reforms has been the increase in daily flights to the Southern Africa region from one Kenya Airways (KQ) flight a week to Lusaka and Lilongwe in 1998 to approximately three flights a day in 2004.[94] British Airways (BA) and Regional Air (RA) also introduced daily flights to Lusaka, Lilongwe and Johannesburg. This growth translates to multiple businesses in airports, telecoms services and road transport estimated at 80-150% new businesses generated out of the privatization of telecommunications, airways, railways and ports. These businesses are very crucial for the growth and integration of the region by the estimated 380 million consumers of the COMESA market with further increase in new businesses and products still anticipated with the completion of TKL, ZAMTEL (Zambia Telcom) and ZIMTEL (Zimbabwe) privatizations (COMESA, 2002). Furthermore, the Investment Promotion Centre and COMESA secretariat Secretary General indicated that 50% of the benefits of increased jobs and air transport could be directly be attributed to privatization of telecommunications (FSD, 2004).

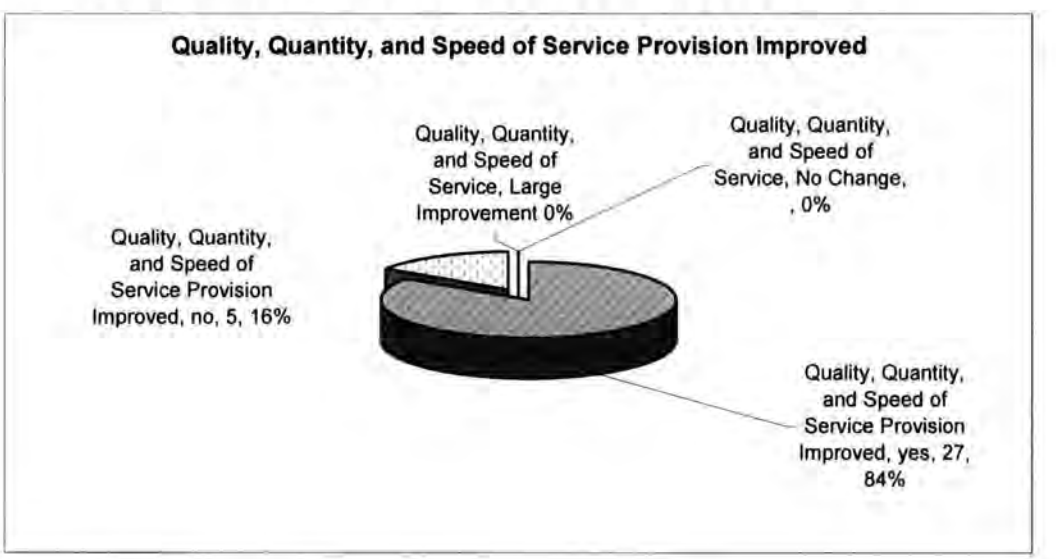
More significantly, the increase of flights into Nairobi has enabled Jomo Kenyatta International Airport – (JKIA) to acquire "a regional hub" status (4 hours stopover) in the region and contributed to a direct increase in businesses in air, and road transport, hotels and airport related businesses. In this regard, the focus in the literature review in chapter two turned to the role of the state in the privatization process (Gibbon, 1992;

[94] The capital of Zambia and headquarters of COMESA secretariat

Kusi, 1991; Killick, 1993; Champy, 1998).[95] The findings further indicated that 75% of the respondents expected the government to provide an enabling environment for the process instead of controlling the process; as one of the respondents stated; "since the government and its officials are not able to transact business in a transparent and accountable manner, they should create a Privatization Commission urgently."

In further pursuit of the goal for increased competition and quality services, along with ranking objectives, levels of performance and number of business opportunities, figure 5-5 and Table 5-10 show the impact of privatization on service provision, with 84 % of the respondents indicating a positive effect on quality, quantity and speed of service provision in TKL and in the industry and 16% indicating no marked improvement. The quality of service provided by TKL and the mobile providers experienced a large improvement as indicated by 10% of the respondents. While 90% the respondents indicated that the quality, quantity and speed of provision of services within Telkom Kenya showed a small improvement (information based on question 7 appendix 2 annex II). There was a zero percentage or no change in large improvements in quality, quantity and speed of service

Figure 5-5 the Impact of Privatization and Service Provision



Sources: Author's compilation, (2004)

[95] see sections 2:0, 2:1 and 2:2

While responding to specific improvements in TKL's service provision as shown in table 5-10, 23% respondents saw a large improvement in new products as opposed to 11% who indicated a large deterioration. Fifty two percent of respondents indicated a noticeable small improvement or no change in the quality services, against 31% and 38% who indicated a large deterioration in quality and quantity of service respectively. At the same time there was a total of 33% marked small improvement and small deterioration in quality of service, and a 31% no change in speed of service with a significant 39% of respondents indicating a small deterioration.

Table -5-10: TKL'S Quality, Quantity and Speed of Service Provision during Privatization

N=36

Service – Provision during Privatization	Has Service Improved Yes	NO	Large Improvement %	Small Improvement/or and No. Change %	Small Deterioration %	Large Deterioration %
	27	9				
New products			23	-	-	11
Quality			-	52	-	31
Quantity			-	23	9	38
Speed of service			-	31	39	

Sources: Author's compilation, (2004)

Publicity and Marketing Program

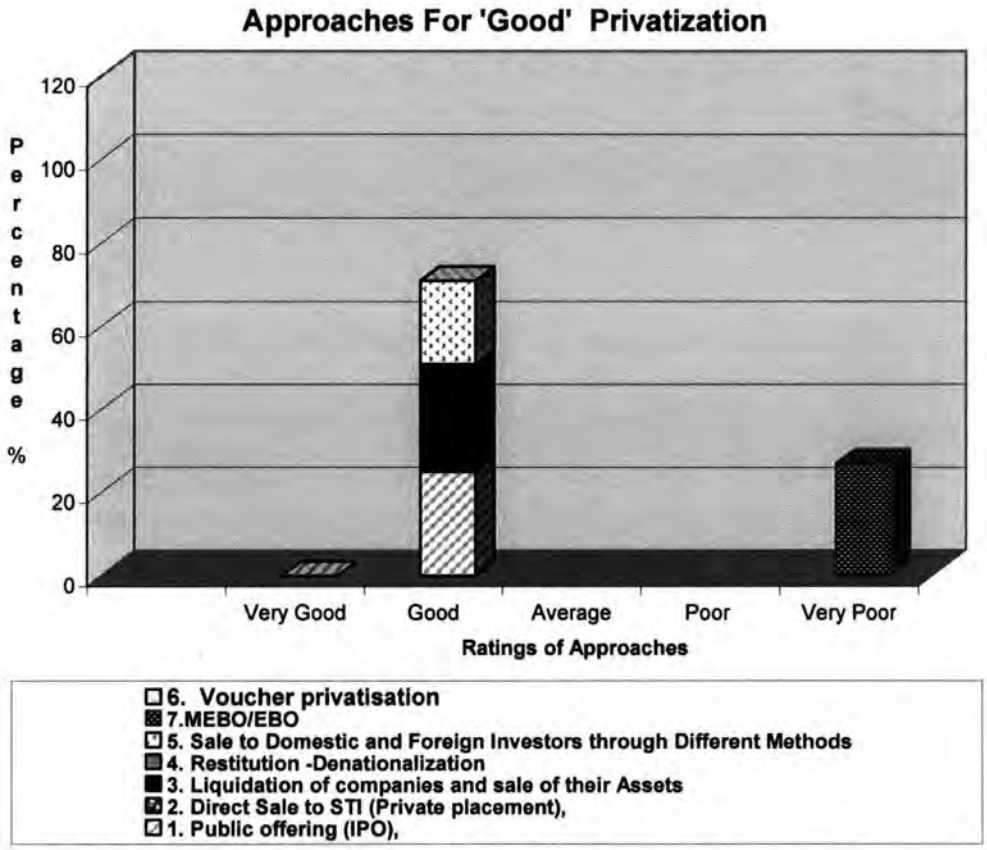
In relation to a good and effective publicity program, the findings indicated that 89% of those interviewed stated that Kenya had no strategy for marketing its privatization program. Indeed, the World Bank was reminded occasionally by civil society[96] on the importance of informed decisions on privatization and investments in LDCs. Indeed, the World Bank acknowledges this state of affairs when one of its officials states that "privatization hasn't been explained to people, how can they benefit? Mrs. Thatcher made sure everyone knew how they benefited."[97]The findings further emphasized the lack of an information strategy as 86% (n=31) confirmed that the privatization program was prescriptive rather than empowering or facilitative.[98] This is a significant finding as

[96] See various Multinational Monitor reports 2000-2003, Jubilee 2000 Debt relief organs and Tradecraft reports
[97] White and Wessman (2002, p.6)
[98] see question 17 appendix 1, annex I

Stiglitz (2003) and Moore (1986) argue that IMF and the World Bank prescribe the majority of privatization programs in Africa. Stiglitz's (2003, pp.25-26) further incisive discussion on Ethiopia's gallant response to IMF's persistently wrong policy and approach to Ethiopia's objectives on banking reforms and sector priority for investment, illustrates this point. In the case of Ethiopia, the World Bank economists were insisting on prescriptive measures while Ethiopian economists needed the World Bank to be facilitative in their choice of reforms and restructuring policies. In Ethiopia, as was the case in Kenya and Nigeria in the mid 1990s, the World Bank initiated reforms in the banking sector and was unwilling to let the countries come up with homegrown programs. The World Bank insisted on the application of their prescribed program. The result was that many of the 'indigenous' businesses went under administration and eventually wound up. The economics repercussions are still felt to this day; thousands of businesses, homes, and jobs lost. In Nigeria, alone 356 banks were liquidated in less than three years (World Bank, 2005; Kisero, 2003; The Standard Newspaper, 2004; KNA, 2003; and O'pon, 2001).

The thesis research confirms the prescriptive nature of the IMF program and the responses to the central research question, and the purposes and aims of this research, and illustrates how prescriptive programs carry financial support as an incentive to governments to engage in privatization. As an example of the prescriptive nature of the World Bank's program, Kenya's program came to a halt in 1997-2000, the same period that IMF and World Bank suspended their financial program to Kenya, and resumed in 2002. However, 20% of the respondents indicated that the program was facilitative, mainly government officials who perceived this to be the case but could not illustrate. The aforementioned findings of this thesis also adequately respond to the central research question and research questions 2, 3 and 4 discussed in chapter one. The discussion shows that it is important to have the right objectives , motives and goals since they play a major role in determining not only the outcome of the transactions like that of TKL but ultimately determine the approach to the privatization process (FSD, 2004).

Figure 5-6 Approaches Important for a "Good" Privatization



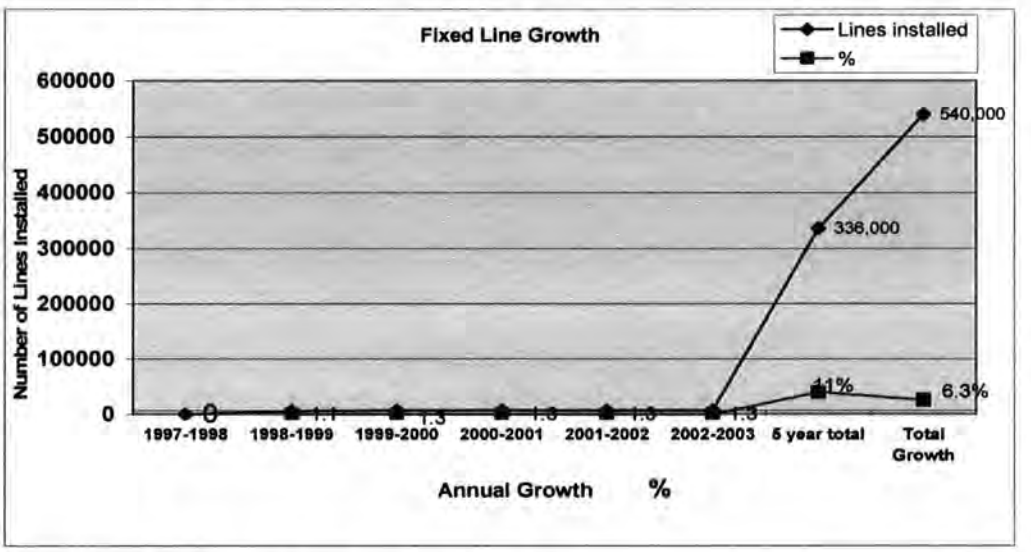
Sources: Author's Compilation from field Interview Data, (2003)

Along with the choices of objectives and performance of methods discussed earlier, and importance of methods shown in table 5-9, the GOK decides on the methods of disposal. In this regard, this research sought to find out which methods are good and desirable for' a good' privatization but have not been actively applied by the GOK or have simply been ignored and yet are popular among investors. The findings indicated that although management employee buyouts and employee buyouts (MEBO/EBO) have been poorly utilised by GOK, they were at the same time two methods rated as highly likely to make for a good and successful privatization. In figure 5-6 the x-axis the ratings from very good to very poor. The y-axis shows the levels of popularity by respondents in percentage. This figure further shows that public offering was rated at as very good by 30% of the respondents and 72% respondents rated sale to local and foreign investors through various methods as a good approach. Management and employee buyouts were rated as a good approach by over 75 percent of the respondents; however, it is notable

that the GOK did not use this method of disposal. Indeed these result indicated that the local investors were willing to buy the enterprises under privatization, through MEBO and EBO since these are the only methods that can guarantee employee participation.

Along with quality and good methods, is the progress and growth of selected indicators of service provision and new products, (see figures 5-5, 5:7, 5-8 and Table 5-10), which relates to choice of methods and affects service provision. Growth impact by indicator (figures 5-8 and 5-9) shows that there was tremendous progress in line growth of mobile business while in fixed line business there was very small improvement (figure 5-7).

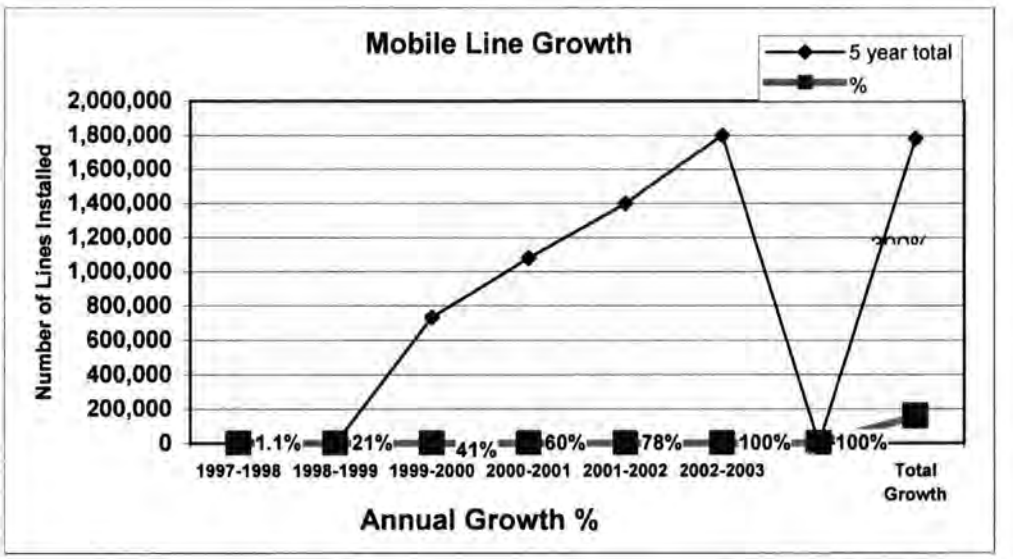
Figure 5-7: Growth in Fixed Lines



Sources: Author's Compilation from field Data, (2004)

In the fixed line growth (figure 5-7), 90% of the respondents indicated that the change in size of waiting list was minimal (figure 5-9), in view of an exodus of customers to the mobile phone network. The fixed line growth has been quite disappointing growing only by 336,00 lines in five years accounting for an overall 11% growth, with an average of 1.2% growth per year, representing a 6.3% growth of the total fixed lines of 540,000 and an approximate installation of 6,720 lines per year indicated by figure 5-7. This has been a dismal performance by Telkom Kenya, with a monopoly in fixed line and voice telephony for over ten years. There were indications in the findings showing that TKL had developed a strategy before privatization that would address the poor performance of line growth as shown in figure 5-12

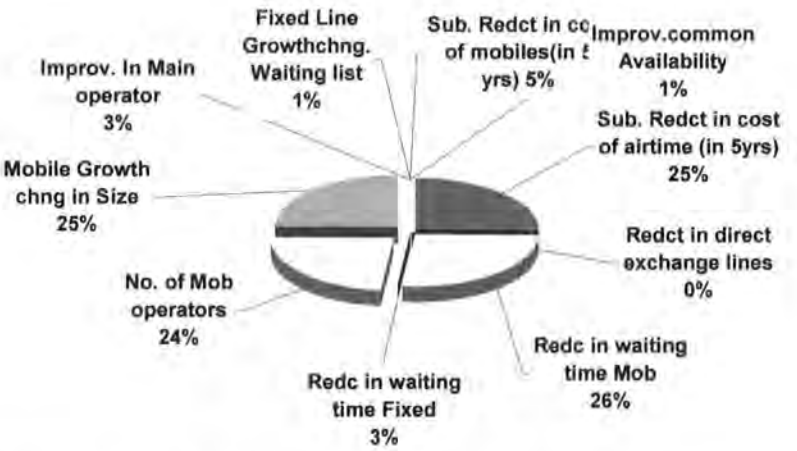
Figure 5-8: Growth in Mobile Lines



Sources: Author's Compilation from field Data, (2004)

TKL sought to improve its efficiency and growth in fixed line businesses as shown in figure 5-7. Growth in mobile lines is shown in figure 5-8. This thesis field survey found that the mobile growth escalated from 20,000 lines in 1998 to 1.8 million lines by end of 2003, a massive annual 5 year total growth increase of 300% representing 356,000 lines per year as indicated by figure 5-8 and in table 5-6. Although TKL's 5 year growth shows a 100% growth, clearly, TKL was unable to respond to the competition challenge from Safaricom and Kencell largely due to bad management and ancient technology. Safaricom's use of TKL's basic infrastructure and infusion of new technology enabled both companies to increase their customer base but both Safaricom and Kencell would not be able to lure fixed line customers away from TKL's because of its monopoly status. However, TKL did not take advantage of its monopolistic position and its beneficial position of having a subsidiary company in the mobile business telephony. In the end, it seemed like Safaricom grew its mobile business (table 5-12) as a separate entity by spending a total of US $ 70 million on restructuring and new product services in the year 2000. In this period, Safaricom invested a substantial amount of US $ 30 million in network expansion and US $12 million in new technology and transmission in order to respond to competition from Kencell as a new mobile operator.

Figure 5-9 Telkom's Growth Progress by operating Indicators



Source: Authors Compilation from Field TLK interview Data (2004)

There was agreement amongst respondents that service in the fixed and mobile telephony had improved by varied degrees. There was a substantial reduction in cost of airtime by 25% in mobile line provision and installation-waiting time indicated by figure 5-9. Improvement in the fixed line was minimal showing a 1% improvement rate with no substantial impact to service provision as shown in figure 5-5.

However, there was a substantial reduction of 26% in waiting time for mobile lines as compared to 3% reduction in waiting time for fixed lines. Additionally, there was a substantial increase of 24% in the number of mobile operators, accounting for a mobile growth change in size of 25% in comparison to a 3% improvement in TKL as a main operator, and 1% improvement in common availability of its fixed lines, as shown in figure 5-9. As table, 5-16 shows change in direct exchange lines connected per employee was minimal and TKL was aware that it needed to make improvements in this area. TKL's connection record is behind the COMESA region as indicated in table 5-17, 3% respondents noted a substantial restructuring & efficiency improvement in the main fixed line operator, TKL. This improvement was seen as below that of its sister company Safaricom, the mobile operator especially after Kencell's entry, which put pressure on Safaricom to lower its tariffs, increase coverage and advertising. It was not surprising then that 100% of the respondents agreed that there was a substantial

reduction in cost of mobile phones and in cost of airtime averaging 5-20% in the last five years because of competition. However, the tariff rates for fixed line national and international businesses are still high. For example, rates for faxing (table 5-12) and telex have not been reduced by TKL yet these services compete with emailing and mobile text services whose rates are low and service provision efficient and quick (FSD, 2004).

5:6 Financial Restructuring, Debt, Liability Process in TKL

Who should "inherit" the People's Debt?

After extensive discussions on TKL liabilities in chapter four, the question remains that of how do the GOK and TKL extricate themselves from this quagmire. Chapter four provides some options and the findings indicate that TKL needs to act and operate as a business and hasten its restructuring and privatization so as to catch up with the competition from mobile operators and the SNO. It also needs to make substantial profits improvements in order to repay the outstanding tax and pension liability. In the words of a senior government official "Telkom Kenya must be ready to face full competition by the end of their monopoly period of June 2004 or perish"

Respondents from the private sector tended to view the restructuring problems of tax and pension liabilities at TKL with cynicism. They indicated that the top management of the state-owned monopoly was not utilizing the opportunities provided by the monopolistic period to their advantage to resolve the financial crisis. According to TKL, they developed a strategy for a gradual reduction of its debt burden (pension and creditors shown in table 4-13 and 4:15) and a plan to recover bills owed to TKL by the government ministries and parastatals. According to the top management of TKL interviewed, they had devised a strategy for debt collection that would force TKL's biggest debtor, the GOK to start to pay off its bills, which were previously unpaid. In 2002/03 TKL disconnected all telephones in government departments with unpaid telephone bills, by introducing various products that included calling cards, and dialling pin numbers. However, in spite of these efforts, TKL had no long-term strategy for debt

collection and bill payments and the government still owed TKL Sh3.5 billion and had no specific documentary or verbal evidence for the reduction of a debt with a time scale arrangement (Okwatch, 2004; FSD, 2004).

Despite its financial position, TKL plans to go out to the stock exchange to convince investors to invest in TKL purely based on an anticipated growth potential in the telecommunications sector, while noting that telecoms stocks were on a downward trend. This creates a big challenge posing the question of whether this option was workable. Opinion was divided but unfortunately for TKL, having been a monopoly for a long period, investors had watched as the company underwent a decade of mismanagement, corruption and a predatory culture that saw senior employees squander company resources (Okwatch, 2004; Opiyo, 2004). For example, there are cases of employees owning companies that were competing for services or products with their employer (TKL). In some instances, the managers were also suppliers to TLK, and drove expensive cost ineffective cars at the expense of TKL causing conflict of interest as discussed in section 5:4:1. In addition, high inefficiency (figure 5-13), rising costs of telephony and diminishing quality and quantities of services (table 5-10: figure 5-9) caused by misplaced priorities had affected performance negatively (FSD, 2004).

As a result, TKL was put under a microscope after the mobile companies moved into the market with a business focus of cutting on operational and tariff costs, increasing efficiency, providing quality services and announcing high profits in 2001-2004. TKL over the years had developed a bad reputation (World Bank, 2000) and it stood out among the various troubled state-owned companies as the most mistrusted company eliciting non-performing and non-delivery perceptions from target investors,[99] as indicated by thesis findings. As an example, before the floating of its 51% of shares into a 25% IPO and 26% strategic partner, 85% of the would be investors indicated they would take a "wait and see" position before the sale.[101] TKL did not act swiftly to redress this investor indifference perception to its first Request for proposals (RFP) in 2000 and paid the price with no response from a strong strategic investor.

[99] See Annex XIa the various analytical articles in the East Standard Financial standard,
[101] Nairobi Stock Exchange Report; Sunday Standard January 2002

What Telkom needed was a delicate balancing of acts of public relations for investors and consumers on the one hand and a focused strategy of reducing debt, creating efficiency and effectiveness, on the other. At the time of data analysis (2004), the investor perception was still highly sceptical of TKL's management and GOK's ability and capacity to utilize the substantial monthly cash flow of Kshs. 1.6 billion (US$ 20.5 million), with an estimated annual revenue of Kshs. 20 billion (US $ 256.4 million, indicated in figure 5-10), to turn around the company quickly enough. This was compounded by the reality that TKL seemed to be struggling financially (figure 5-10 and table 5-14), it owed creditors nearly Kshs. 20 billion and in turn customers were owed Kshs. 18 billion worth of phone and related services. Rapid change therefore on all the aforementioned major issues was pivotal to a successful sale and transition of Telkom into the private sector.

The research also found that on advice of the World Bank/GOK, (2001) the TKL management was instructed by the GOK to lay-off employees numbering between 3000- 5,000 whose work is not related to Telkom's core business before June 2004/2005. Some of its services of catering, cleaning and security had to be out-sourced. This retrenchment program is to provide savings to the tune of over Kshs 2 billion and frees up the desperately needed resources to upgrade the telephone exchanges and cables (table 5-13). However, interview evidence showed that the NARC administration lacked the political will to implement the downsizing since the GOK moved the date to June 2005.

5:6:1 What Telkom Kenya Has To Do To Survive Competition?

TKL Options

The preceding discussion focused on the creation of efficiency and increasing profitability through various restructuring strategies. However, the reality was that competition had come and TKL and GOK needed to do more to survive. The government and TKL's strategy of off-loading 26% of the company to a strategic investor and the other 25% to the general public through an IPO, was envisaged to be a quicker and smoother way to increased revenue, profits and a good reputation under a new privatization law for TKL. In this regard, TKL hoped that the Commission's set-up expected in June 2005, would give control to TKL's management, in order to grow the company's business portfolio allowing it to concentrate on repositioning itself into the market as a competitive player. Meanwhile TKL had to revisit the valuation and image issues discussed in chapter four in view of both the IPO and the strategic investor, and as indicated by respondent evidence herein (FSD, 2004).

The findings indicated that to further improve its competitive advantage and address the image problem TKL made changes to its management structure, with two general managers overseeing local, international and data services divisions in order to take on the 'run-away' growth and competition in cellular phones. At the same time, they needed to maintain their competitive position in the businesses where they had automatic or partial competition. This includes international commercial KENSAT VSAT network operators, internet backbone service and local access /regional telecom operators, long distance telecom operators and international telephone operators as indicated in tables 4-6 and 5.13 respectively.

On the revenue side this field research survey found that over the last three years (2001-2003), both Safaricom and KenCell Communications have had revenues that surpass fixed line telephony. In 2003, Safaricom was expected to gross nearly Kshs 20 billion and surpass TKL in revenues and profitability, a scenario that would not have been imaginable three years earlier. The subscriber base for mobile telephones stands at 2.7

million (FY 2003/04) and outnumbered TKL's installation of 330,000 landlines by a factor of six. Even if Telkom was to supply enough telephone lines to 330,000 people on the waiting list, it would be less than their capacity and over half of their current connected customers[102], forcing the company's subscriber base to still lag far behind. Moreover, there was no guarantee that the revenues from the new telephone lines would grow fast enough to compete with mobile lines or even help to reduce the pay back period of the capital expenditure incurred in the expansion. As alluded to earlier, the company already faces heavy fines from the telecoms regulator (CCK) for failing to roll out additional lines, one of the conditions set out for the granting of the five-year monopoly and as rationale for the introduction of an SNO.

Therefore, the issue of fast growth and efficiency of fixed line services becomes vital for TKL's competition strategy. As regards quality and quantity of services (indicated by figure 5-4) respondents agreed that the qualities of landlines are poor due to the state of infrastructure, this forces many customers to underutilise their fixed line connections because of lack of a dial tone. However, TKL responded with a strategy to undertake a 70 % upgrade of their network to a digital format (table 5-13). In this connection, for over a one-year period (2003-2004) TKL was to spend Sh5 billion (figure 5-9 and Table 5-13 and 5-14) to convert the remaining 30% of the analogue exchanges to digital format and expand the connection capacity. This money was used to repair the existing cables and install a fibre optic line extending from the Coast of Mombasa to the Malaba border. Telkom hoped to borrow funds from the financial markets to meet the costs of this investment programme, a difficult task to accomplish given its unfavourable credit rating occasioned by the relationship between Safaricom/TKL and the Citibank credit arrangements, which involves GOK's refusal to relinquish its 11% shareholding in Safaricom (FSD, 2004).

[102] asserts that the accurate number for the waiting list is 55,000 customers and not 330,000 But there are no documents to clarify

Indeed, according to TKL's technology manager, a digital exchange would help TKL to increase its product diversification program and enable a review of its product pricing which had not been done under a monopoly. In addition, fibre-optic technology would also greatly improve the slow internet connections in the country, whose ineffective and congested backbone service operated by Jambonet was blamed (Annex VIb) for Kenya's poor and unreliable internet connection.

Once the modernisation was, complete TKL rolled out a new suite of data services in 2004 that included a virtual mailbox that allowed internet users to connect to their accounts from anywhere in Kenya at the cost of a local call (table 5-4). It was also strategising to bundle its telephone services with an automatic internet connection that would allow TKL to send its customers one bill for voice and internet services. This plan has the potential of increasing the number of paying internet subscribers and connections from 30,000 to 330,000 instantly, thus revolutionalizing the internet access business in Kenya and the COMESA region.

In response to this strategy, Telkom increased the cost of local calls and reduced the charges for long distance calls in 2002, in order to attract more customers to make national, regional and international calls and provide competition to texts and email services. At the same time, though local calls account for 70 % of the voice traffic and are heavily subsidised by the huge margins charged for long distance calls, revising the pricing structure would dramatically improve Telkom's profitability and help to boost the volume of trunk and international calls. However, as a strategy in response to mobile competition, respondents indicated that it fell short, because in the price "war" TKL competes with a better call completion rate, quality of connection and efficient service provided by mobile providers. TKL may have the perception of cheaper price but the mobile telephony provides convenience, efficiency and quality albeit at higher cost. TKL's marketing and customer service strategy had to reverse this perception quickly to be competitive. As one ex-Telkom Kenya CEO retorted "They (TKL) management have to put together a powerful customer service strategy to counter mobile business or go down"

According TKL management, to counter perception and competition Telkom management devised a strategy that included reducing internet costs by launching a new system that was expected to slash the cost of internet services to businesses by 85%. This new system was estimated to cost US$5,000 to install, down from US$35,000, which had been the charges by KENSAT, Kenya's VSAT (Very Small Aperture Terminal) Network arm. These changes were expected to provide the market with price sensitive products; as the brand manager states; "with our installation of KENSAT's VSAT network which consists of two hubs, a C-band hub in Kericho and a KU-Band hub in Nairobi, we have lowered the entry point levels and made it affordable. Because we want small organizations to look at VSAT as an alternative means of sorting out their communication needs." Among the benefits offered by KENSAT's VSAT terminals included giving support to two way data voice, multimedia and provision of one-way video communications.

Safaricom and Telkom Kenya's Performance

This research revealed that, Safaricom was launched in 1997 as a fully owned subsidiary of Telkom Kenya, with Vodafone Plc, the world's largest telecom company, having a stake of 40% in the firm. In May 2000. Safaricom embarked on a four phased annual expansion programme that was still on course. In the fiscal year 2004 Safaricom set aside Kshs.8 billion (US $ 103 million) for network upgrading and expansion (as indicated in table 5:11). This investment included installation of new receivers and more than 14 new Base Trans-ceiver Stations (BTS) to better serve the sub-region. The aim was to extend the company's geographical coverage to key rural markets that are "too remote" to be covered by traditional infrastructure profitability. InterWAVE Communications, a compact wireless communications systems firm, had won a Kshs.98.8 million (US$.3million) contract to expand Safaricom's mobile telephone network. The California based firm provides highly portable mobile, cellular networks and broadband wireless solutions to companies in over 50 countries. Interwave's specialized GSM network extension solution was to allow expansion into markets faster and in a cost-effective manner. Safaricom embarked on the fourth phase of its expansion deployment project with InterWAVE.

Table 5-11: Levels of Investments by TKL, Safaricom and Kencell

	Amount in US $					
	Telkom Kenya		Safaricom		Kencell	POSTA
Service/Product Target	**2000**	**2003/4**	**2000**	**2003/04**	**2002-04**	**2002.04**
Restructuring/ New products/services	40m	5m[103]	40	1.6m		40m
New Technology-Transmissions etc.		6.7 m	12m	10m	10m	
Liberalization and reforms	40m		NP			10m
Network Expansion			30m	103m		
New management/ Employees	15m		NP			4m

Source: Author's compilation from field data (2003/4)

The research further found that the Safaricom management was confident with its regional expansion programme that extended its mobile phone services to North Eastern Kenya to cover four major towns of Wajir, Mandera, Dadaab, and Moyale in the semi-arid province of North Eastern. According to Safaricom management, this program would help TKL and GOK attract investments and business owners who had previously feared to invest in North Eastern Province, citing a lack of a reliable telecommunications infrastructure, security and a weak policy on future developments in these areas.

[103] internet facilities to provide ISP services to the private sector will cost to US $ 5,000 to install down from $35,000

5:6:2 Postal and Telecommunications Services

Postal sub-sector complements and is closely linked to the telecommunications services. According to the government statistics, the performance of the sub-sector postal communications showed a slow but significant improvement (table 5-12; GOK, 2003). The POSTA CEO indicated the performance of POSTA had gone through a rocky restructuring period; Respondents reported that the slow improvement wasoccasioned by stiff competition from courier and money agency services that mushroomed courtesy of the liberalisation of the financial and communications sectors. However, POSTA's money and postal orders businesses continued to diminish by 24.3 percent and 47% respectively in 2002. Correspondence business grew by only 1.2 per cent from 172 million in 2001 to 174 million in 2002. During restructuring the number of post offices was reduced from 893 in 2001 to 889 in 2002 while the express mail services stations were increased from 0 in 2001 to 75 in 2002.This was in response to increased demand for direct delivery services for parcels as carried out by competitors (KP&TC, 1999).

Table 5-12 Performance of Postal and Telecommunications Services

Description	Unit	1998	1999	2000	2001	2002/03
Postal offices	**No.**	**1,033**	**941**	**890**	**893**	**889**
Total Courier Outlets (licensed)	**No.**	-	-	**185**	**296**	**320**
Total		**1,033**	**941**	**1,075**	**1,189**	**1,209**
Private letter Boxes						
Installed	000 NO.	340	303	332	290	293
Rented	000 NO.	301				
Registered and Insured items Posted	000 NO.	2,101	1,961	1,951	1,834	1,815
Total Correspondence handled	millions	403	147	114	172	174
Parcels handled	000 NO.	175	161	65	172	173
Money orders	000 NO.	1,791	1,726	1,800	1,812	1,371
Postal Orders	000 NO.	71	68	32	55	29
Telephone Exchange						
Capacity	**000 No.**	403	411	444	446	508
Connections	**000 No.**	280	296	304	326	332
Public Call Boxes (telephone Booths)						
Coin Phones	**No**	7,263	8,397	8,388	8,293	8,225
Card Phones	**No.**	212	876	1,061	799	2,493
Mobile Telephone	**000 NO**	9	15	85	620	1,068
Manual Telephone Calls Made	**'000' NO**	3,700	3,500	3,861	5,412	3,098
Telex Subscribers	**No.**	1,100	1,000	685	527	506

Data Source: Bureau of Statistics, Economic Survey, 2003

The CCK registered courier outlets increased by 8.1 percent from 296 in 2001 to 320 in 2002 in response to the demand in the market. Meanwhile, though POSTA continued to increase the installation of private letterboxes its demand continued to decrease, falling to 304 thousand in 2002 from 323 thousand in 2001. POSTA nevertheless registered a gross profit of Kshs. 11 million in 2003. The findings show that there were serious problems with business strategy, portfolio and management rationale when POSTA employed a set of new managers paid at unaffordable rates that the corporation could not afford while retaining the old experienced managers at lower salaries. The existing managers were underpaid and had an increased workload of training the new managers, a strategy that attracted a demotivated workforce and dissatisfied workers' union (FSD, 2004).

In relation to telecoms business growth, table 5-12 shows telephone connections recorded a marginal growth of 1.7 per cent to 332 thousand connections in 2002 from 326 thousand in 2001, due to poor call completion rates, and poor facilities. Although this is attributed to the sluggish growth and to competition from mobile phones, this study showed that, the real problem was lack of focus and priority for the TKL investments. For example, the expansion of the exchange capacity from 446 thousand

lines in 2001 to 508 thousand lines in 2002 (table 5-11), did not include the last mile (i.e. the infrastructure that connects the customer). Secondly, there was no increase in technical capacity to manage the connecting process of the exchange lines resulting in low connection, and poor call completion rates. The concern for poor facilities and other marginal performance was more related to the poor management of response time and capacity to faults, Bills and reconnections.

The study showed a substantial drop of over 24.2 per cent in the telephone connections to 250 thousand in 2002 and not 330 thousand (as indicated in table 5-15 and figures 5-7-8 on line growth).[104] The coin/card pay phones also registered a substantial decrease with the introduction of pre-paid phone card service that increased to a record high of 2,493 thousand in 2002. This research showed that the majority of the coin phones were not user friendly; half of the time they did not work, the response time for any faults reported and customer service was at zero. According to 89% of the respondents, the coin phones, which have not grown since 1999 as indicated by table 5-12 have been inefficient, often there is no dialling tone and its coin usage was poor, accounting for a 65% failure rate and non-completion of all calls made. There were no specific and instant services on long distance pricing and customers were taken by surprise on dialling long distance destinations; they were faced with lack of enough coins to complete a call with no provision for change booths. There was no proper warning on how long the call would take when using coins and in most cases, the coins were rejected with no text alert for voice or screen option. The phone booths and coin telephone technology installed widely in 2000 were poorly managed and were not adaptable to Kenya's environment.

[104] There is a difference between the TKL figures and those given by respondents, as explained in the analysis

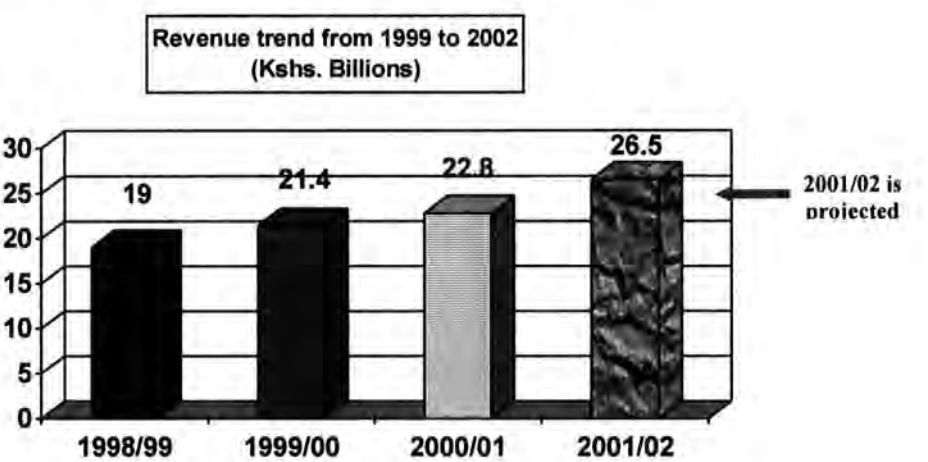
This research further found that with a poor and inefficient public telephone system, the fixed line customers have moved to mobile lines substantially. The number of combined subscribers of national telephony increased from 630 thousand in 2000 to 1 million in 2001, to above 2.3 million in 2003, an increase of over 100% in less than three years. Over 80% of the towns now have access to cellular phone service networks and several major roads and highway areas have transmitters installed for access and clarity. Kencell also introduced a wireless access protocol (WAP) service in 2001/02, for customers to make network connections to further rural areas and increasing the network coverage for its customers. Safaricom was limited to the operational areas of TKL's transmission connections and did not introduce WAP in selected areas until the end of 2002.

5:7 Expansion and performance of Telkom Kenya

5:7:1 New Products, Services and Market share

According to TKL management having realized the decrease in interest to a strategic partner option, the GOK/TKL focused on an IPO and had to make urgent service and product improvements to increase market share and improve financial performance. The financial year 1998/1999 was a very difficult year for TKL's financial performance with the immediate effects of unbundling and the resulting restructuring and settling down to an actual privatization. Despite this, the first financial year of operation saw a revenue of approximately US $ 245 million, with a subsequent average annual increase of US $ 26, million, giving a total of Kshs. 89.7 billion (US $ 1.15 billion). In total, revenue for the first five years of implementation of the privatization program was improved at a total of US $1.2 billion with an estimated profit of $734.6 million and an estimated annual profit of US $ 146.9 billion as indicated in figure 5-10 and table 5-14. Telkom's management contend they have been able to retain and maintain staff from KP&TC[105] by undertaking improved staff training, including front office staff training on customer services to cover for the new products and services introduced during this period which allowed for capital investments of about Kshs.15 billion to be generated through internal funds.

Figure 5-10 Revenue Trends 1999-2002 (Kshs. Billion)



Data source: TKL reports, (2004)

[105] Inherited 20,025 workers in 1999 decreased to 18,994 in 2003

However, as discussed before, TKL's creditors account stood at Kshs. 20 billion (US $ 256.4 million), with customers owing Kshs.18.1 billion (US $ 232 million) to TKL.[106] The trend in revenue between each period illustrates the unpredictable nature of the restructuring and privatization process. For example, in the first period of 1998-2000 which saw the unbundling process of KPT&C and the setting up of subsidiary enterprises that included Safaricom, Kensat and Jambonet, TKL still improved revenue by Kshs. 2.4 billion (US $30.8 million). The second period of 2000-2001 saw readjustments and setting up of "new" departments, products and services, streamlining procurement, personnel, financial and employment processes. The fall in the revenue trend indicated by figure 5-10 from Kshs 2.4 billion, to Kshs1.4 billion (US $17.9 million) reflects this period. This was also the period that TKL implemented a "golden handshake" program extended by the GOK (through a World Bank agreement) to all state enterprises listed for privatization. In this program, they offered a negotiated voluntary package to employees who opted to take early retirement. These payments affected revenue for that period, since the numbers of individuals taking the "golden handshake" could not be planned for, as it was a voluntary program.

The third period of 2001-2002/3 saw another large leap from Kshs.1.4 billion to Kshs. 3.7 billion profits (US $ 47.3 million). This was the period of sale of the 49% of shares to the strategic investor (MKC) and the introduction of a sec ond mobile operator Kencell into the market which paid a license fee of over Kshs. 300 million (US$ 3.8 million), this explains the revenue trend.[107] Besides, internally, TKL had settled down to its core business and was beginning to take advantage of the exclusivity and monopoly position by introducing new products and services into the market. These included an intelligent network, a prepaid card service, free phone link to corporate customers call (similar to 0800 service), premium rate services call (mainly in broadcasting and marketing) and a public relations marketing image and re-branding of TKL.

[106] The US Dollar exchange rate is calculated at Kshs. 78 to one dollar in 2003/04

[107] The sale to a Strategic Investor was suspended in December 2002 in the last stage when fee is already paid.

5: 7:2 Expenditure and Payments

This thesis research further found that with a record revenue base of US $ 1.15 billion in 2002 (figure 5-10); Telkom had to respond to competition from cellular businesses entering the market through liberalization of the communications industry. Faced with pressure to restructure in readiness for privatization and response to competition from cellular businesses, TKL had to pay Kshs. 2.8 billion of Kshs. 3.8 billion corporation tax, and customs and excise duty and Kshs. 1.471 billion all inherited from KP&TC, totaling to Kshs. 8.167 billion for current and past VAT and telecoms tax liability. This included VAT and telecoms tax arrears of Kshs. 1.310 inherited from KP&TC, as indicated in (table 5-14). In addition to this, TKL embarked on the expansion and modernization of Network systems as indicated in table 5-13 (TKL, 2003:2004).

Meanwhile, expenditure continued to escalate totalling to an estimated US $310.5 million in ongoing and planned projects for the financial periods of 1999-2003 as indicated in table 5-14, driven by a desire to level out technological and capacity levels to match the competition from cellular phones and a fixed line phone operator in 2004. In addition, the high expenditure was driven by the overburdening labour costs caused by inaccurate billing and weak collection processes[108] compounded with lack of capacity and political will to collect debts, thus experiencing low revenue levels. In 2002-2003 TKL continued to experience collection problems compounded by the NARC government's[109] outright delays (see Shirley, Tusubira, Gebeab, and Haggarty, 2002) in paying its telecoms bills and TKL's inability to keep accurate accounts of the government's indebtedness. As a result, the company's profits could not stabilize because expenditure and revenue controls were still under capture by GOK through the CEO and there was a lack of serious capacity for debt collection. TKL still practiced the pre-privatization informal practices of "netting off" debts between KPTC&C and other government agencies that left balances owed to KPT&C and seldom paid (Laidlaw and Parkinson 1995).[110] For example, TKL provide hotline services to the

[108] World Bank. (1996:1999)
[109] NARC government had promised not to delay the sale of TKL
[110] see also Uganda's Privatization of Uganda Posts and Telecommunications (UPTC)

government of Kenya without any contract and payment agreement, a service that is not offered to other customers (TKL, 2003; FSD, 2004).

TKL spent quite a substantial amount of their operational budget on new technology, new products and services (Table 5-13). The research data suggested that TKL over a period of ten years (1993-2003) had spent an estimated Kshs 4 billion (US $ 50 million) annually on modernization a substantial income that would have enabled TKL sharpen its competition strategy, increase efficiently and profitably.

Table 5-13 **Expenditure Statement and Modernization of the Network Systems 1999 – 2003**

Modernization of the Network Systems1999 – 2003			
Project	**Capacity**	**Cost (US$)**	**Remark**
International exchange	1,800 to 12,000 Trunks	**4.3 million**	666% Growth
International facilities (modernization and		**15.3 million**	Transmission & Earth Station Systems
Installation of interconnection facilities	54,820 Trunks	**21.2 million**	6 – Toll Switches
Installation of 7 new local exchanges	128,500 Lines	**55.7 million**	Nairobi & Mombasa
Intelligent Network Platform (INP)		**6.0 million**	Calling Card, Premium rate, Free phone, VPN, UPT
Transmission & Data Networks		**17.1 million**	SDH Ring Nairobi, Mombasa, Ken stream upgrade
Planned and on-going projects1999 – 2002			
Replacement of analogue, expansion and modernization of exchanges in Nairobi	153,820 Lines /trunks	**47.8 million**	
Replacement of analogue, expansion and modernization of exchanges in Mombasa	61,411 Lines/trunks	**15.42 million**	
Additional exchange capacity in Nyeri, Kisumu, Nakuru, Eldoret	31,000 Lines	**3.15 million**	
Nairobi – Nyeri Panaftel Upgrade	5,670 trunks	**4.6 million**	
Mombasa – Malindi SDH Radio	5,670 trunks	**3.2 million**	
Wireless Local Loop (WLL)	6,000 Lines	**10 million**	
Nairobi SDH Ring Phase 2	30,000 trunks	**4.2 million**	
EA Digital transmission	30,000 trunks	**11.5 million**	
Access network, Copper, OFC, Wireless for Mombasa and Nairobi		**62.3 million**	
Ku band VSAT		**1.7 million**	

Source: TKL Reports (2002:2003:2004)

The modernization plan was implemented along with the marketing and customer service strategy, whose major elements were the establishment of a corporate identity through twenty-two telecare centres in operation countrywide to improve customer

service. The marketing and customer service strategy included, tariff reductions in order to ensure service affordability, improved modes of Bill payment that included prepaid and credit card (VISA) facilities, and Improved communication with customers through integrated media and promotional activities. In addition, introduction of itemized billing for mobile calls to reduce disputes with customers and setting up an external evaluation of customer feedback were undertaken. Along with this, TKL planned to respond to the competition from the SNO and TMO by introducing products and services that were customer driven by providing, for example, fully automated customer service processes. TKL intended to work in partnership with customers in order to introduce new product and services that match the competition. It also planned to avail high-speed access and value added services, improve on the prepaid phone services, maintaining customer loyalty, expanding and retaining the customer base and ensuring growth in revenue and profitability. However, TKL did not quite articulate what exactly they were planning to do against tough competition from an SNO and cellular companies in the event that the competition offered the same or better products and services (TKL, 2003:2004).

5:7:3 Financial Strategic Plans Planned Options

In response to the financial options and difficulties outlined in chapters four and five, the TKL management outlined a business and financial strategy to back up its modernization program. TKL's new business plan for the period 2002/05 included financial and marketing customer services plans. On the financial side, the company took initiatives to reduce its liabilities and increase its revenue as shown in figures 5-9 and 5-10 in response to the financial scenarios proposed in chapter four. Specifically on the expenditure side, expansion and modernization of the network were expensive; nevertheless, TKL needed to undertake the modernization plan to be competitive and to increase its image for credit rating for banks and would-be shareholders.

In this regard, TKL had embarked on projects to achieve 100% digitalization in the shortest time possible. TKL installed cost effective, scalable and flexible network systems to meet (table 5-13) customer requirements; it migrated towards technologies offering integrated voice, data and video (multimedia) improvement, and expansion and modernization of its exchanges (Nairobi & Mombasa) totaling 197,231 trunks/lines at an estimated cost of US$ 61.5m. TKL intended to install transmission systems at a cost of US$ 25.2m and install an access network at a cost of US$ 72.3m. To achieve this strategy and maintain profitable revenue levels, TKL was focusing on utilizing alternative sources of funding as a major aim for the company. Specifically, the company hoped to tap into offshore lending (borrowing), deferred payments, and supplier credit, and to tap new revenue streams by introducing new services in information technology. It also planned to improve business processes to enhance service delivery, to offer an integrated customer service, a billing system, and improvement of the management information system. In response to image and marketing, TKL embarked on introducing products and services that were customer driven as indicated in table 5-13 confirming that the modernization and expansion of the network was a vital part of a more effective, efficient and responsive strategy to a competitive market and an increasingly educated consumer (FSD, 2004; TKL, 2003:2004).

5:7:4: Financial and Business Performance[111]

Table 5-14: Telkom Kenya (TKL) Financial and Business Performance (Kshs. Million)

	1998/99	1999/00	2000/01	2001/02	2002/03
Turnover (Kshs). Million	19,391	21,325	22,767	24,749	21,479
Profit after Tax (Kshs. Million)	582	3,204	1,782	314	(2,084)
Exchange Capacity	390,180	420,370	446,302	452,460	508,198
Lines Connected	288,251	304,636	321,482	328,104	330,202
Capacity Utilization	74	72	72	73	65
Staff Population	20,998	19,828	19,337	18,900	18,500
Lines Per Employee	14	15	17	17	18

Source: TKL Reports 2002/2003

The expansion of the network and the enlarged scope of activity escalated along with an increasing financial performance of TKL's (figure 5-10 and tables 5-14 and 5:15); revenue and business performance indicating that the turnover increased by over 30% and the value added doubled. The increase in profit in the period preceding privatization was notable. It seems to correlate with a fall in the number of employees and of employees per main line, along with efficiency gains in improvement in capacity utilization. Indeed, the decline in profits to Kshs. 314 million in the FY 2001/02 is explained by a fall in employees who had to be paid their "golden handshakes." It can also be explained by the settlements in large payments made by TKL to the pension union and to the tax authority (Okwatch, 2004; GOK/TKL, 2003; TKL, 2003)

However, it should be noted that though telephone exchange connections in Kenya rose from 271,000 in 1997 to 305,000 in mid-2000, the exchange capacity was forecast to more than double from 446,000 in 2001 to 943,000 in 2008. Kenya's teledensity is at 1.5 % in the East African Community and in COMESA. The expansion and good financial performance along with an SNO was hoped to increase telephone facilities in the rural areas increasing the tele-density from the current one line per 100 persons to 10 lines per 100 persons by the year 2010. By comparison, Tanzania's telephone

[111] Note: The Auditor General publishes financial reports for TKL but none-was available, the last published financial statement was in 1996, contained in chapter five table 4-8

density is very low at only 0.3 per cent, while Uganda's teledensity is only 2.8 lines per 1000 people. In Egypt, two million new lines were functional by December 2001, increasing the number of fixed telephone lines in Egypt to 9.2 million. With the installation of the new lines Egypt's teledensity grew from around 10.5 per cent to 13.6 per cent, accounting for 13 lines per 100 people. The increase was expected to cost some US$ 643 million and was part of a broader US$ 3 million five-year plan for the development of Egypt Telecom's network and services. In Zambia, the teledensity was 2 lines per 100 people and in South Africa; the teledensity was 11.6 lines per 100 people as indicated in table 5-17. COMESA has been working towards harmonization of its telecommunications program in its member countries.

Telkom Kenya's expansion program and the financial and business performances indicated in figures 5-10, 5-11 and Tables 5-13-14 made a significant contribution to the country's telecoms reform and restructuring program and contributed significantly to the country's GDP/GNI[112]. Its value added was estimated to have accounted for 2.5% of GDP in 2001/2002 (GOK, 2002). This figure should be noted with caution because of the 20-30% additional domestic product generated in the communications informal sector and in parallel trade that was probably unrecorded in the official data. Interestingly, the number of employees fell in the period of TKL's due diligence process in 2001 from a high of 20,998 to 18,500 and maintained the levels after the negotiations failed in December 2002.

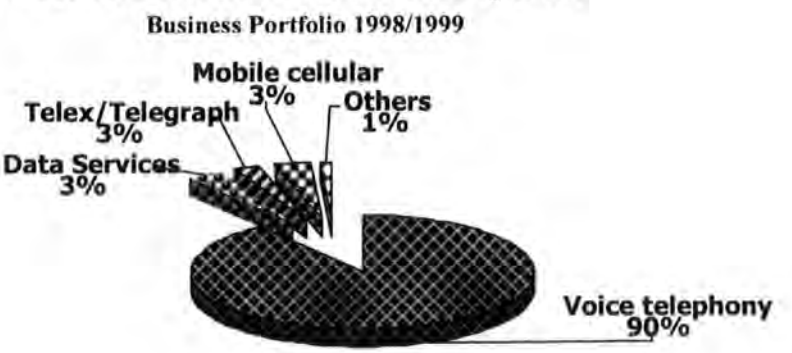
However, the field data analysis show that this marginal fall may also be attributed to natural demise caused by HIV aids and voluntary resignations rather than the actual privatization transaction. TKL's management was unwilling to release these figures, but industry analysts estimated a loss of five employees a month (Kenya Financial Standard, December 2002) in total. To compound this situation TKL is still servicing two huge debts one to the telecoms pension fund and the other to Citibank- for an equity loan obtained for Safaricom. TKL's total financial expenditure in investments translate to between 0-70% of its total investment budget in specific areas of service, technology, competition, increasing efficiency and broadening their market share in readiness for the expiry of the monopoly of Telkom as indicated in table 5-5.

[112] GNI – Gross National Investment

The TKL portfolio's strength is in voice telephony (figure 5-11) which accounts for 90 per cent of their portfolio and should be at 49% in a competitive market as indicated in figure 5-12. TKL worked towards improving services in voice telephony by investing in new technology and increasing the number of fixed lines using wireless technology. The quality of services marginally improved as the numbers of successful phone calls (last mile) increased from 49% to 65% for local calls and from 43% to 55% in STD or intercity calls. However, the improved services in figure 5-5 do not translate to real indicated improved quality, quantity and speed of services and like faults response, which remain much below the international standards set out by ITU, which specifies over 70% as the target for local calls and 60% for inter-city calls, and which are implemented by regulatory agencies (i.e. CCK).

In an effort to address this gap, TKL implemented the numerical network at 97%. It dramatically reduced tariffs for local, long distance, and international calls by regional standards, however, these gains were cancelled out by the more accessible, convenient, efficient and prompt mobile lines introduced into the market, which despite offering higher tariff rates than the fixed line proved more popular for elements of service delivery stipulated above (TKL, 2003).

Figure 5-11: TLK Business Portfolio Management



Data Source: TKL Reports, (2003)

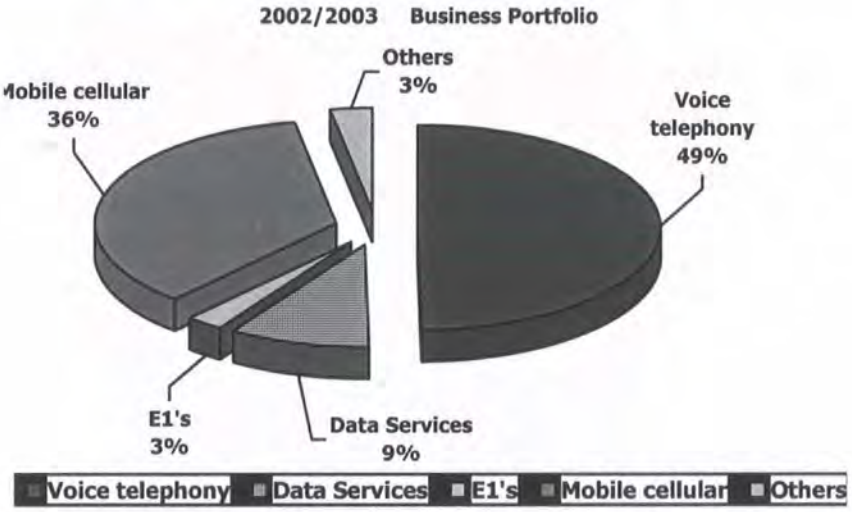
Telkom Kenya's business portfolio by 2003 comprised of 90% voice telephony and 3% of data services, telex telegraph, and mobile cellular respectively as shown in figure 5-10. It was quite apparent that TKL could not maintain this portfolio in the wake of

competition from mobile phones and specifically from the SNO. TKL's strategy addressing the imbalance was to specifically double the data services business, increasing the mobile cellular business to about 40% of the total. This is important because it was anticipated that there would be a decrease in voice telephony business to create better balance of its business portfolio with the entrance of the second national operator (SNO), as indicated in figure 5-11; thus, TKL would position itself for stiffer competition ahead.

TKL's business portfolio (figure 5-11) divided into international long distance and local, with the Emergency Mail Service (EMS) business going to POSTA operated as a separate business competing with DHL and Federal Express. TKL's challenge was to move its portfolio into a viable business by improving and expanding products and services from the ratios in figure 5-11, to one that includes data and EI of telex/telegraph services shown in figure 5-12, into core business areas with a ratio of 49% voice telephony, 36% mobile cellular and 12% data and EI services. These may include backbone services, international telephony, long distance and local telephony, leased lines and premium numbers, radio beepers and telephone cards.

5:7:4:1 New Products and Competing Market share: TKL's Dilemma

Figure 5-12 Business Portfolio 2000/2002 (Share of 1999 business and Revenue)



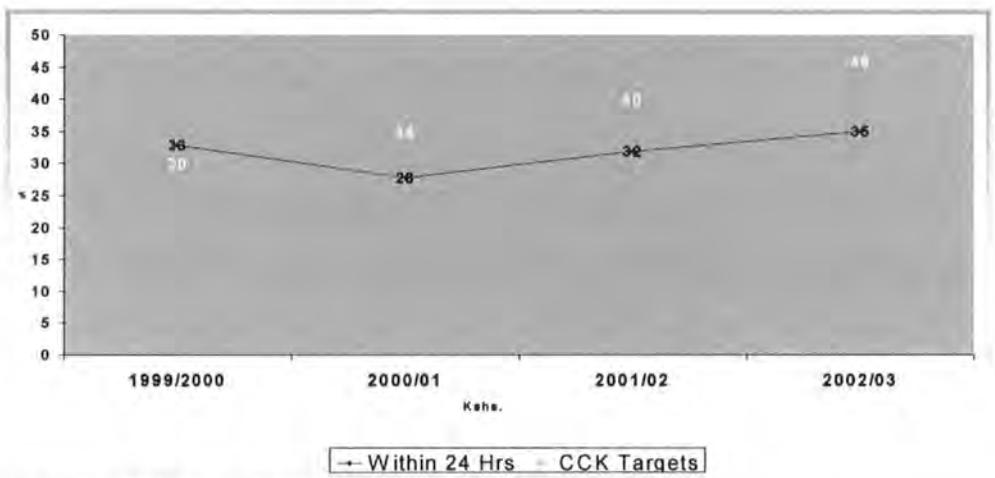
Data Source: TKL Reports, (2003)

However, despite the opportunities offered by the expansion program discussed above, the findings show that TKL had no strategy to compete with mobile operators (MOs) in the short-run. TKL did not take advantage of its strength; for example, TKL has a niche as a broadband provider through fibre optics,[113] that it can exploit through electronic media business to compete with the mobile operators, instead of trying to get into the mobile sub-sector market, which according to industry specialists would take a longer period to get into. Accordingly, for TKL to upstage the SNO competition and increase its market share and product diversification into the new area of broadband, it needs to enter the TV and home base internet connection service rather than staying in voice services where the mobile sector commands both comparative and competitive advantage. In introducing new products TKL should also invest in new technology to help improve its record in call completion, efficiency and timely response to customer inquiries, repairs, fault response time (figure 5-13), line connections, and reduced waiting time (figure 5-9) and lists for connections. Efficiency and effectiveness in

[113] Optical fibre is a plastic or glass (silicon dioxide) fibre no thicker than a human hair used to transmit information using infrared or even visible light as the carrier (usually a laser). AT &T is working on a world network to support high volume data transmission, international computer networking, and electronic mail and voice communications. A single fibre can transmit 200 million telephone conversations

products and services was the only way that TLK could improve performance, increase revenue and ultimately receive a high price for IPO at the NSE (TLK 2004; Vickers and Yarrow, 1985; Coffee, 1999; Aggarwal and Mjstrik, 1992).

Figure 5-13: Fault Response Rate



Data source: TKL Reports, (2003)

5:7:4:2 Staff Rationalization Strategy

Staff rationalization is an option the TKL management had to address in its effort to improve performance and increase revenue. Discussions and analysis in chapters two, five, and six indicate how difficult the process of staff rationalization and downsizing can be in the privatization of parastatals in Africa and the world over (Schusselbauer, 1999). To increase its sale price and maintain its market share in the face of competition, TKL put in place radical strategies for enhancing its staff management, through rationalization, rather than merely downsizing (TKL, 2003; FSD, 2004).

Furthermore, strategic initiatives in staff productivity to 45 lines per employee by 2006/07 need to be operational. To address rationalization and productivity of staff two scenarios as considered by TKL management are outlined in tables 5-15-16. Scenario I in figure 5-15 shows a position of TKL where growth in lines is not rationalized with actual lines connected and staff available. Scenario II shows an increase in lines connected in order to address staff rationalization, although falls short of COMESA figures in table 5-17.

Table 5-15 Staff Rationalization versus Growth in Lines

SCENERIO I:	Assume Zero Growth in Number of lines	
	2003/04	**2006/07**
Lines Connected	330,000	**330,000***
Lines connected & operational	**250,000***	330,000
Lines Per Employee	18	45
Number of Employees	18,109	7,300

Source: TKL Reports, 2003

It is notable that whereas TLK's records show 330, 000 lines are connected, the study revealed that only an estimated 250,000 of this total were operational and should be the number accounted for in revenue calculations. In addition, there was no evidence from the financial or business performance (table 5-14 and figure 5-10) to indicate how this figure can be increased to TKL's targets o f 330,000 (June 2004) and 600,000 by 2006/07. This was reinforced by evidence in figure 5-13 showing inability to reach the regulatory targets for faults response and repairs. There was also lack of capacity in key short-term ingredients to attain the performance target of 330,000 lines connected, functional billing and fund collection (table 5-15). Furthermore, TKL's staff rationalization strategy of cutting their workforce into half (a condition of the World Bank) directly conflicts with the strategy to increase connected and operational lines. It was not clear what the strategy for staff rationalization entailed, which level and types of staff were to be downsized and what positive implications this would have on the financial and business performance of the company. TKL expected to clearly spell out these contradictions in the revised 2004/05 strategy (TKL, 2003:2004).

Table 5-16 : Staff Rationalization & Growth in Lines Connected

SCENARIO II:	Increase Number of lines Connected to 500,000 at Least 60,000 per year	
	2003/04	**2006/07**
Lines Connected	330,000	500,000
Lines Per Employee	18	45
Number of Employees	18,109	11,100

Source: TKL Reports, (2002:2003)

On staff productivity, it was quite apparent from the statistics contained in table 5-17 that TKL had no competitive advantage compared to the other countries in lines per employee (table 5-17) and needed to remedy the

situation before a second national operator enters the market. It was noticeable that Safaricom/Kencell staff productivity line per employee was way up at 2000 after barely two years of operation (1998-2000).[114]

Table 5-17 Comparative Lines per Employee

Comparative Staff Productivity Line per employee (year 2000)	
Country	
Egypt	**50**
Uganda	49
Zambia	43
South Africa	113
Swaziland	70
Tanzania	48
Mozambique	37
Zimbabwe	30
Telkom Kenya	18
Safaricom/Kencell	**2000**

Source: Field Survey Data (2003)

[114] The 2003 waiting list is estimated at 150, 000 people by customers and industry players. Although, TKL maintains that the waiting list is about 50,000. There is no accurate figure on this figure because TKL does not keep proper records of waiting lists and disconnected lines.

5: 8 Third Mobile Operator and Second National Operator

The survey also sought to inquire the objective for the introduction of a third mobile operator (TMO) and an SNO. Ninety percent, of the respondents agreed that a third mobile operator (TMO) would introduce further competition in the sector by offering new and competitive tariff rates to customers, new price levels for handsets and expanded products and services. Besides, it was estimated that the Kenyan telephony market could absorb four operators or competitors. ECONET, the lead company in the Mount Kenya Consortium (MKC) that bid for strategic partnership in TKL's privatization Phase 1, won the tender process as a third mobile operator and was to start operations after June 2004, when TKL's monopoly expired. The third mobile operator had the difficult task of starting without a subscriber base, unlike Safaricom's experience. In the case of an SNO, CCK and government agreed that its entry into the fixed telephony market provides needed investments to expand the sector, especially to fill in the regional services which KPT&C and now TKL had been unable to provide. Secondly, the SNO introduces a duopoly situation that creates some competitiveness and tension that reduces prices, widens the range of services, introduces an updated and new technology, innovations and hence improves the quality of services. This achieves the major GOK objectives of liberalization and privatization, "greater access" "reduction in communications cost" and "introducing more competition in the market" (FSD, 2004; TKL, 2004).

However, whereas there was unanimous agreement as to what the economic rationale of a second national operator would be, the argument against SNOs is that in the COMESA region it was difficult to explain to investors the need to realise profitability in SNOs due to the regional services provision requirement, which has traditionally attracted subsidy and thus been unprofitable. There was also the problem of a subscriber base in rural areas with low populations and limited purchasing power reflected in the poor licence fee payments by the Regional Telecommunications Operator (RTOs), and confirming the arguments that economically, local calls were

unprofitable, and this could explain the delay in fee payments. There was also the concern from TLK strategists that for an SNO to be profitable it would have to engage in subcontracts after June 2004, hence providing international telephone call diversions from stateless Somalia through the northern part of Kenya, which already had an RTO and had not started operations (see Shirley et al 1999). According to industry analysts, this argument is supported by the so far inactive nature of RTOs awaiting the entry of an SNO to facilitate sub-contracting.

In response to this potential absence of an SNO and RTOs, Safaricom management devised market strategies to "subsidize" the mobile connections by packaging their pricing together with that of handsets. This strategy recognises that the price of handsets was not substantially reduced worldwide and in low-income areas (regional coverage); it had become a big impediment to connections, specifically in sparsely populated areas of Kenya (i.e. North Eastern). This strategy did in fact increase Safaricom's market share by 20% in low income and low population areas in FY 2003/04.

5:8:1 The Parent –Child relationship between TKL and Safaricom?

The then KP&TC founded Safaricom in 1997/1998 during the unbundling to capture the cellular market. The acquisition of Safaricom from Kenya Posts and Telecoms Corporation (KPT&C) involved three parties; Telkom Kenya Limited, Vodafone Airtouch PLC and Vodafone Kenya limited (VKL), a publicly traded corporation with quarterly and annual reporting requirements imposed by U.K securities laws and by the stock exchanges with 30% of the share capital. The shareholding was at a 51%:49% ratio in accordance with the Kenyan investment laws of 51% for a local investor and 49% for a foreign investor. Safaricom Company was incorporated on the 3rd of April 1997, with a share capital of Kshs. 20,000 divided into 1,000 shares of Kshs. 20 each and seven shares (1997) for TKL, three shares (1997) for Vodafone Kenya Limited and five shares (1999) for KPT&C. When KPT&C transferred the cellular business to the company (Safaricom) in 1999, KPT&C had 70% of the issued share capital of the company. KPT&C agreed to indemnify all costs and keep each of Vodafone Kenya Limited costs separate. The VKL as a company is indemnified against all liabilities that

include the pension debt and bank loans which either VKL or the company may incur because of any claims[117] brought in connection with the Transfer of Businesses Act in relation to all transactions contemplated by the acquisition agreement, not taken into account in the valuation. Control and management of the company lies with the Board of Directors, appointed by shareholders in collaboration with the general manager, who is a secondee, being an employee of an affiliate i.e. Vodafone Group PLC). For every 15% of the share capital held by the shareholder, he/she is entitled to nominate and have appointed one director to the board (subject to a maximum of four directors) as indicated in Table 5-18. The GOK had an 11% shareholding and was therefore not qualified to elect a director, a positive factor for operations at Safaricom. The shareholding ratio thus has major implications for governance in the privatization process and plays a major part in the administration of privatized firms (TKL/Safaricom, 2000).

Table 5-18: Ratio of Director Appointments

% of Shareholding	Number of Directors
Less than 15	0
15 to 29.9	1
30 to 44.9	2
45 to 59.9	3
60 to 100	4

Data source: TKL Reports

Practically though, Safaricom is 60% TKL/GOK and has $ 150 million in assets. With regard to the network, TKL had only 300, 000-customer base compared to Safaricom's 1.3 million in 2003. Safaricom's business was licensed as a GSM and ETACS (although the latter is obsolete) cellular telecommunications system on a commercial basis. It has also been licensed to provide telecommunications services, international roaming services and value added systems and services. The company distributes its products and services direct to its customers through licensed main dealers, sub-dealers and leasing of local transmitters (i.e. leases land from farmers to install receivers). The initial capital into Safaricom Company Limited was $33 million, comprising of

[117] Initially through Barclays and then Citibank

$7million (20%) from Vodafone, $ 3 million from TKL in equipment and $26,000 million for network rollout (from commercial paper).[118]

Safaricom's Head –Start Highlights

Safaricom had a remarkable success in Kenya as the first single mobile operator on the market and was considered a real national Kenyan company (i.e. a home-grown 'jewel'); viewed as a complete subsidiary of Telkom Kenya. This helped Safaricom increase its subscriber base to an estimated 1.3 million subscribers from 20,000 in 1999/2000 (table 5:2 and 5-6). Safaricom had a head start after it took over TKL's twenty thousand mobile subscribers in 1999-2000 and in four years (2000-2004), it increased its subscriber base substantially to 1.8 million benefiting from the parent company (TKL) relationship by sharing its national segment of the market since its first operation in July 2000. It squarely depends on the transmission and technology capacity of TKL; that was seen as an advantage at the beginning, however, with competition from a TMO this became a disadvantage. This disadvantage was due to the slow pace of improvement in infrastructure, technology levels, and the human resource and management capacity of TKL to provide transmission fibre-optic service to non-urban regions (table 5-14), where Safaricom had competitive advantage to expand (FSD, 2004; TKL, 1999).

Safaricom management estimated in 2003 that it would take close to two years to rollout the national network that TKL delayed to put in place. For this Safaricom would use its own technical capacity and financial resources. During this time, Kencell was able to take advantage of the gap provided by lack of infrastructure for Safaricom and expanded nationally, since it was prepared to rollout new infrastructure as a new entrant. This explains the superior national coverage (network reception) by Kencell communications as opposed to Safaricom. However, Kencell still had to deal with customer loyalty and improved value added services. Industry respondents indicated that this is an area with which both Kencell and Safaricom would have had problems when TKL's privatization was to be finalized in 2005 and a SNO licensed in the same year. This is because the nature of mobile telephony services is that it depends entirely

[118] See annex VII

on cost and coverage, whereas fixed telephony really depends on access. There was a possibility that when TKL and a new SNO rolled out their new services and coverage, a number of customers might switch back to fixed line telephony, presenting a big challenge to MOs and providing for further empirical research on the process of competition. It was also evident from the research that the pressure to delay an SNO entry and TKL's privatization was intentional on the part of GOK (Opiyo, 2004; The Nation Newspapers, 2004; FSD, 2004).

The study further reveals that at first Safaricom was exempted from the Corporation Act,[119] which is very restrictive for all state corporations in order to give it a first start, but TKL but was subject to the Act by the GOK. The Act is a disadvantage to Safaricom particularly because TKL operates on business principles with a separate management from the government unlike the other public enterprises, with the management reporting to shareholders and directors and not the GOK. Safaricom also operates independent accounting procedures and bank accounts from those of VKL and KPT&C or any of the respective successors or affiliates (TKL, 2003).

Internal discussions with TKL revealed that Safaricom faced a major problem because it had been set up as a company under the Company Act and operating as the business arm of TKL in a mobile core business, Safaricom was supposed to act as a core business of TKL, making a strategic 'early entry' into the mobile business market. However, Safaricom went on to become an independent business causing complications as to the actual relationship between TKL and Safaricom. For example, unhappy with Safaricom's independence, TKL and GOK 'colluded' to re-subject Safaricom to the state corporation act of 1987. This was to restrict operations of Safaricom since the GOK was uncomfortable with the fact that the management was accountable to the shareholders rather to TKL/GOK,particularly because TKL has a major say in Safaricom's operations when ownership and financial operation issues come to the fore. This thesis research found that there were concerns as to what the actual position of TKL was and what GOK's attitude towards Safaricom would be in the future, as it grows. These were clear indications of a frosty relationship (FSD, 2004).

[119] GOK, (1987) and appendix 2 annexes vii and viii

Besides, the operational matters there were unresolved investment issues in terms of the payments that TKL made periodically to Safaricom and that were not disclosed. There was also Safaricom's opposition to the suggested sale by TKL of 11 % of TKL/GOK shares in Safaricom on the stock exchange to raise funds, a strategy suggested and contained in the privatization roadmap and supported by GOK (TKL, 2003a). Safaricom's management opposition is based on the arguments that legally it is a breach of the contract between them singling out the fact that the 11% of the shares should be offloaded to Vodafone U.K for guaranteeing the equity loan. Safaricom was aware that the TKL and GOK as majority owners had pre-emptive rights, which they could use and may be taking over from Vodafone U.K. The Safaricom management itself was also controversial since the contractual agreement stipulates that the CEO representing Vodafone be expected to hand over to a Kenyan CEO within a period of two years. However, due to unresolved financial equity debt obtained through Barclays/Citibank, it became necessary for Vodafone's CEO to continue as (secondee) general manger for purposes of securing the financial position of the company (TKL/Safaricom 2000).

On the privatization of TKL, Safaricom's CEO argued for further restructuring to enable TKL's management to make bold decisions; the Safaricom management further argued that it was only in a climate of freedom that business decisions could be done quickly and urgently. For example, the completion of restructuring and opening up of Jambonet, as an ISP attracted more players, these were pressing for more restrictions to be removed and a level playing field created so as to enable TKL to face competition. "These could have been done faster and profitably if TKL was a privately owned and operated enterprise," concluded the Safaricom CEO.

On financial and human resource performance, Safaricom management was apprehensive of TKL's handling of the pension liabilities and a VAT debt in excess of $250million. Safaricom argued that there was need to restructure this debt and inject funds for development of the transmission network and for building the long distance and international linkage businesses that provide competitive advantage to the cellular business. Safaricom has had problems with coverage as stated above, which was key to

its market growth; its strategy is to build on TKL's customer's base, rollout nationally in order to consolidate its national coverage and then concentrate on cutting prices competitively, building a truly national and recognised nationwide network. Safaricom realised that expanding coverage would take the majority of the shareholding investments and it estimated that it would take from 0-8 years before it registered profits and an average of 10 years to be able to pay dividends. Although Safaricom is profitable, it has not been able to pay dividends so far and has invested $ 175 million to get to the current price point level (FSD, 2004).

In conclusion, 100% of respondents[120] indicated that, although there is a lot of work before TKL's monopoly expires in June 2004 coupled with the challenges ahead for TKL's privatization, rescheduled for completion in June 2005, TKL seemed committed to prioritizing its financial restructuring program. This would enable TKL to continue its expansion of technology, product innovation, improving the connections, creating efficiency, and lowering prices. However, private sector and industry respondents did not share this optimism and viewed TKL as lacking in political support, will, and managerial capacity, to resolve financial and expansion issues. Some TKL managers on request of anonymity shared this view; as one of the respondents stated: "how can TKL claim progress in line connections when 90% of those customers are either disconnected or do not pay their bills." On managerial capacity and investor perception, one manager responded: "how is one expected to take the Government's comments on investor confidence seriously when they keep bringing into TLK CEOs that are intended to maintain the GOK's interests rather than expand and grow TKL?" However, despite these views TKL and the GOK were confident that their strategy of going to the Nairobi stock exchange for an IPO to raise funds was key to TKL's financial stability (FSD, 2004; TKL, 2003a).

Notwithstanding the complicated prospects, this research sought to find what leading industry players would do if "given the opportunity to privatize TKL." This question drew enthusiastic responses from respondents (see Question 19 appendix 1 annex I and 14 in annex II) who agreed on almost all basic strategies: *Firstly,* divestiture of government shares in TKL and Telecommunications business in general, whether it

[120] See appendix 2: annex V n=19

was strategic or not, was v iewed as quite important. *Secondly*, revamping the top management through advertising the top positions, branding TKL, and getting management's commitment to the financial restructuring was considered as an important step, along with a publicity program to change the negative perception of TKL's management by the public and investors. *Thirdly*, with a solid strategically focused private sector oriented management in place, corporate governance should be instituted in order to introduce business solutions in a systematic manner, as argued by Safaricom's management. The respondents concluded that TKL needed to perform as a private sector business first and show its potential through independent management before seeking an IPO or STI. More importantly, TKL needed to show independence by highlighting its direct linkage to Safaricom as a subsidiary. This strategy of consolidating TKL as a potential growth led and profitable company would be the best way forward in privatising TKL (TLK, 2003a: 2003; FSD, 2004).

5:8:2 Conclusions

This chapter concludes by addressing this research's central question of exploring Kenya's approach to privatisation as a first empirical study on Telkom Kenya in the sub-region. This chapter's field survey data (FSD) analysis illustrates the thesis' generation of theory of Kenya's approach to privatization through the eyes of TLK's privatization, with insights that can be applicable to the COMESA region and the larger sub-Saharan Africa.In general, the findings conclude that in cases where there has been a large number of SOE's in operation for a long time, the objectives for methods of privatization should be based on the social, economic and social political realities of each sector in order to avoid mistakes during the privatization process. In addition, the data analysis concluded that the impetus and focus of approaches depend largely on each case's prioritised objectives, methods, strategies and the capacity of institutions to implement an 'outside' program by adopting it to the local environment. This could be done by measuring the commitment to economic growth and social development of the people nationally, regionally and particularly of the administration in power. Whereas the literature and this research show the levels of government involvement in the SOE divestiture as unavoidable, investors have tended to view the government as strongly

partisan (Nyong'o, 2000). This analysis of the thesis findings focus on the dynamics in the exploration of an approach to privatization.

The findings have clearly shown that GOK's approach to privatization and TLK's privatization present challenges faced by public enterprises in their transformation process (Schusselbauer, 1999, pp.64-66). It has also shown that during the transformation process, some sectors are more complicated than others are. Consequently, suitable methods and techniques need to be applied by sector and enterprise to fit the restructuring and privatization strategies. For example, in the case of the telecoms sector and TKL in particular, the process enabled entrance of new businesses, products, equipment, software, ISPs and Cyber cafés. TKL capitalized on this growth expansion and strengthened its portfolio from that of figure 5-11 to that in figure 5-12 and as discussed in sections 5:4 and 5:5.

Indeed, due to the complicated relationship between GOK and TKL as a public enterprise, TKL's management could not make swift and appropriate decisions for restructuring TKL for privatization. For example, TKL's equipment, business processes and technology remain old and un-reengineered (Kitiabi and Kuzmak, 1998) due to its public sector uncompetitive attitude. TKL still operates old cabled technology prone to breakdowns and requiring a substantial work force for cable repair and response to faults (figure 5-13). On the business side there was no clear customer segmentation, market segmentation and sales representation that match the competition with the three national cellular providers, the Second National Operator (SNO) and other companies in the COMESA region. This research clearly shows that TLK still had a lot of restructuring to be done before it was ready for privatization and for it to achieve a maximum financial, market, product and management transformation, and to be an attractive enterprise as KQ was in the long term.

More specifically, the empirical data collection and analysis process generates a first attempt at sketching Kenya's approach to a privatization process as discussed in chapters five and six. Figures 5-1 -5-4 and table 5-1 present a chronological approach to Kenya's privatization process with the specific discussions on the privatization of TLK giving the details of transactions. The findings clearly show the importance of any

approach in paying close attention to building a regulatory capacity, and in not only institutionalizing the process (Young, 2003) but also in increasing the value of the firm and attracting investors (Stiglitz, 1999). The evidence in this chapter further concludes that there has been tremendous growth in the telecommunications and related industries (table 5-5 and figure 5-7) after KPTC's unbundling; however, this growth has not translated into attracting investors and a solid privatization approach.

More importantly, the knowledge of an exploration of Kenya's approach developed in this thesis has implications for the different approaches to privatization advocated by the World Bank and donor agencies, which are current in the literature. The arguments of the World Bank and Vickers and Yarrow (1988, p.185) on revenue as a major objective for divestiture by LDCs falls short of evidence on the ground. This thesis findings concluded that although Kenya along with her counterparts in COMESA made a direct positive relationship between total raised revenue to government and liberalisation, with 93% of the respondents indicating that the main reason governments agreed to liberalise was to raise revenue to the exchequer, this did not drive the choice of major objectives and strategy. For instance, although 93% of respondents and the World Bank thought that revenue was a major objective and goal in divestiture to the GOK and COMESA,[121] the government rated technology, restructuring and liberalisation as extremely important to the success and privatization of "strategic enterprises" that included, KQ, TKL and KCB amongst the list of the thirty-three strategic enterprises. Notably, the revenue goal argument had been used by the World Bank to encourage further privatizations as was clearly stated by the revised Kenya/World Bank/ IFC agreement (GOK/World Bank, 2001) and the PSDS program (GOK, 2000) approved by the World Bank Executive Board in 2002.[122]

The major concern generated by this research, and discussed at length in the literature, was the creation of legal institutional frameworks that would provide for checks and balances in the utilization of the privatization revenue i.e. infusing it back into the relevant sectors. For example, the respondents argued that most African governments saw the amounts in revenue accrued from privatized entities but did not factor the costs

121 See Appendix 1: Annex V A list of "Strategic Commercially Oriented " State enterprises
[122] see also section 2:5 in chapter two figures 2:1-2:3 on Privatization revenue trends

of liberalisation and reforms into the strategy at the beginning and as such found their budgets still short of the anticipated revenue levels. In the case of TKL, after receiving revenue from the liberalization and restructuring process (i.e. licences and shares sold to a strategic partner), TKL/GOK still owed the workers' pensions (Okwatch, 2004; FSD, 2004).

Furthermore, the findings did not indicate that the governments themselves had priorities drawn out to influence privatization to benefit development objectives and programs that were articulated in the UN, World Bank and donor agencies development programs menu. For instance, the wealth creation, private sector strengthening, cost reduction, and new business creation objectives were rated by the public policy respondents as merely being important and had a cumulative percentage of only 20% of respondents. Yet these objectives are stated by the World Bank as important to the success of a privatization program implemented by Kenya, thus addressing the issues raised in the central research question and supporting research questions.

In summary, this analysis of the thesis data based on the responses from the findings imports the intricate ongoing debate that centres upon approaches, strategies, objectives and methods of privatization transaction argued in the literature review of chapter two (2:1:2) and discussions on analysis on secondary data in chapter four. In this regard, this thesis-generated theory adds and relates to some of the theoretical basis that defines privatization in LDCs, and Africa in particular, in relation to economic and socio-political privatization policies and operations that makeup an approach. Indeed, the research presented in this thesis extends the privatization models presented by Vickers and Yarrow, (1985); Cook and Kirkpatrick, (eds) (1988); Shafik, (1993); Stiglitz, (2000) and Ramanadham, (1995; 1999) adding to their in-depth theoretical arguments on the reasons, objectives and approaches to privatization and the basis of the government's approach, assuming that these objectives were externally influenced.

6:0 # CHAPTER SIX

6:1 Summary, Conclusions and Policy Implications

This chapter concludes with a summary of the research findings of this thesis. It presents a brief outline of the major contributions of the findings to the privatization process and their implications for privatization policy and practice for both Kenya and the developing economies (DEs). The chapter also outlines a summary and conclusions on the major outcomes of the research. The research generated new empirical data which is useful for analysis of 'best practices' of the process and provides an opportunity for further regional research and publication. The unfolding nature of the study makes this research unique as it provides for one major contribution of generating new information on a privatization approach in Kenya through the eyes of Telkom Kenya's privatization and provides an actual 'model' case sketch.

6:1:1 Contribution of the Research to the Field of Privatization

This thesis research contributed to privatization theory and practice. *First*, is the unfolding nature of the study making this research unique in its contribution of a documented case of a privatization in the region using new data unavailable elsewhere. In the analysis process this thesis generates new theory that helps explain the dynamism in the approaches employed in the region, adding to new information specifically in the field of telecommunication policy with the example of the transaction of Telkom Kenya. *Second,* it contributes comprehensively to the records of an LDC's systematic approach to the privatization process. Earlier attempts noble as they may have been, took a global exposition of various approaches, strategies and techniques as reviewed in the literature (see Nyong'o, 2000; Ramanadham, (ed.), 1995).

Third, the research analysis contributes to the existing literature through generation of a body of knowledge on the privatization of public enterprises and an exploration of approaches to privatizing telecommunications in the region. In the process the thesis sets the stage for increased dialogue globally, regionally and nationally in the exploration of the socio- economic, and social-political dynamics of the privatization process as outlined in the former chapters. *Fourth*, the expansive review of the literature in chapter two and the critical discourse of the theories arising provides the field of privatization, public enterprise administration and private sector

development with an important reference source for understanding the theory of privatization in LDCs. The literature and field findings further indicated that privatization is a tool for attaining institutional reforms and liberalization[1] of development and socio-economic structures and not a goal in itself. Indeed, the literature review and secondary data analysis of telecommunications concluded that privatization, like globalization[2], has become a reality in Africa and the world-over, but the approaches and processes remain the issues of focus in the literature.[3] For instance, issues associated with cultural, economic and institutional infrastructure differences between western countries and African countries flag up further potential research questions related to applying the same privatization process in different environments.

Fifth within this expansive literature, this research concludes that significantly few empirical based studies on the approaches and processes of privatization in developing countries have been undertaken (see Shirley et al 2002 on Uganda and Wallsten, 2000a: 2001 analysis on Senegal). Indeed, the conclusion is that two streams of literature were identified. The first comes from the World Bank development policy research groups-mainly based on technical research papers within and from related sister agencies. These are highlight various experiences of privatization in LDCs and other parts of the world (see Samuel, 1999; Schusselbauer, 1999; Wallsten, 1999; Stiglitz, 1996; UNCTAD, 1995; Wellenius, et al. 1992; Shirley and Nellis 1991; Shirley and Elliot, 1987; Ramanadham, ed. 1989; and Vuylsteke, 1988). The other stream comes out of academia and is largely institutional and consultancy based. It has been strongly influenced by abstract economic arguments based on theories of development and market economics (see Stigilitz, 2003:2001:1993; Ramanadham, 1993; Killick, 1991, Cook and Kirkpatrick, 1988; Vickers and Yarrow, 1988). In general the World Bank based accounts of approaches to privatization in LDCs focus on institutional policy reforms through liberalization, and restructuring that are expected to lead to substantial performance improvements in public enterprises (PEs) through cost reductions, access to services and products, regulated competition, efficiency, revenue diversification and creation of new business opportunities, as outlined by this thesis study.

[1] See research question 3
[2] See Stigilitz, (2003)
[3] see sections 2:1-2:2:1 - chapter two

6:1:2 Summary and Conclusions on Policy, and Transactional issues

Sixth, the purpose, aims and objectives of the research stated in chapter one are 'tested' by the analysis in chapters four and five which gives research questions meaning and provides insight into the approaches and strategies to privatization in Kenya. This was particularly evident in the extent to which the government selected objectives, goals, techniques, methods and utilized government led institutional frameworks to determine outcomes and complete TKL's privatization transaction along with those of Kenya Commercial Bank (KCB) and Kenya Airways (KQ). In particular, the analysis of the various factors that account for engagement and completion of the process by government itself, give rise to a unique approach that contributes to institutional building and interactions of the aims and objectives for Kenya. This has strong relevance within the telecommunications service sector in the sub-region with possible applicability to the surrounding countries with similar socio-economic and political contexts that affect the process.

Seventh, the study findings summary and conclusions presented in chapters four and five included; 1) the conclusion that the objectives, motives and methods for a program (though written) are dynamic and may change during the implementation process. In the case of GOK, greater access to telecommunications services and enterprise restructuring become major goals (see tables 5-8 and 5-9). 2) This thesis further concludes that governments in Africa recognize the need to divest from SOEs shareholding and management; however, the clear dilemma of depending on markets to resolve social-political and economic reform challenges still remains unresolved and the analysis of this thesis is a major contribution towards a resolution. 3) The thesis efforts to sketch Kenya's approach to privatization using field data from Kenya uniquely contribute directly to the 'empirical gap' of a body of knowledge in the literature on the privatization process, on telecoms and in the COMESA region as presented in the analysis of chapters four and five. 4) The research also extends the privatization debate on the effects of the interplay between improved services, greater access, reduced costs of services and the increasing challenge of lost jobs, new jobs and job security in uncertain economic environments created by privatization.[4] 5) In addition, the thesis submits that this interplay is unique to fast growing sectors like telecommunications and

[4] Evidence in chapter six shows 50% lost jobs in divested SOEs but 60-200% new opportunities across the sectors

responds to the objectives and aims of research questions one and two which indicate that in some cases as stated the dynamics overwhelm the larger objectives and motives for privatization.[5]

Eighth, From the analysis of the secondary and primary data it was indicated that TKL has potential to beat the competition through rapid expansion, realise big profits and remain the largest operator in Kenya and in COMESA. The conclusion made on this is that for the GOK and TLK to accomplish this status, they have to do several things: first they have to adhere to business principles at policy and practical levels by reducing the political priorities. For example, the parastal top management (and TKL's in particular) have to be sourced from the market and not selected. Second, more specific internal restructuring has to continue i.e. TKL needs to maintain a high interconnection rate (as set by CCK). This includes; 1)improving on its last mile by raising its tariffs (as in 2004) in order to attain comfortable revenue levels, and 2) improving its net interconnect revenues (receipts less out-payments) by maintaining revenue levels in TKL's favour, clearing its liabilities by implementing the social safety-net recommendations,[6] in order to enable space for realignment and growth through an IPO. These realignment have to be fast tracked as discussed in detail in chapter four and sections 5:5 through to 5:7 of chapter five. In particular TKL ought to improve its performance in revenue and staff rationalization in order to attract a good price (IPO), face-off anticipated competition from the Second National Operator (SNO) and deal with uncertainties created by the dynamics of business and politics of government divestiture. These specific tasks are replicable to other PEs in Kenya's completed and up coming privatizations of infrastructure, utilities and banking shown in table 5-1 and also to other COMESA countries.

Ninth, as to whether the central research question has been addressed by the study, this research concludes that the thesis's literature review and the research analyses have adequately responded to the central research question and the four supporting questions. In addition, the purpose, aims, objectives and goals have been addressed adequately through the identification and documentation of an approach to Kenya's privatization of TKL. The results show the GOK's approach to privatization has been done through a set

[5] detailed in section II of chapter six
[6] Discussed in chapters 2,5 and 6

of guidelines developed into an approach[7] whose structure is documented for the first time by this thesis and clearly outlined in the TKL process and figure 5-1.

Tenth, this thesis summarizes how the GOK implements its privatization program by using a set of guidelines from a divestiture policy framework[8] developed and reviewed by the Investment Secretariat in the Ministry of Finance. This framework outlines the objectives and goals of the privatization program, and lists enterprises for restructuring and privatising. The divestiture secretariat team initiates strategies for privatization and then sets in motion rather haphazardly the creation of a set of new institutions and methods to form an approach to the privatization process as indicated in figures 5-1, 5-3,5-4 and table 5-9. The case study (in response to the central question and questions three and four) however concludes that GOK's privatizations, in particular the transaction of TKL, involved an hitherto undocumented close collaboration and cross functional way of proceeding to form a unique model of a national approach to a privatization process, and represents a unique way of working in LDCs to that of western countries. For instance, the TKL approach largely used government controlled unwritten divestiture policies to manage the privatization priorities leading to a strategy falling into place like a jigsaw. This framework has proved to have a formative influence in the identification, understanding and documentation of Kenya's unique approach to the privatization process as anticipated by the central research question in chapter one page 8.

Eleventh, in answering the central question and questions 3 and 4, the analysis of TKL's privatization in chapter five and the objectives of the research indicated that specific legal and policy institutional frameworks for driving the privatization process are still in their infant and creation stages (see Young, 2002 and Wright and Perroti, (eds.) 2000). The study concludes that there are serious resource and capacity deficiencies in applying privatization elements in an environment whose development priorities do not include privatization (GOK, 1997).[9] In this regard, dynamics involved in the legal institutionalization of the privatization process, through the enactment of the Privatization Bill discussed in section 5:1:3:3, indicated lack of capacity, resources and political will by the ruling elite, for institutionalizing the privatization process, in answer to the central research question.[10]

[7] see sections (4 9 and 5:1:1 and figures 5-1 5-3, and 5-4)
[8] see GOK 1996
[9] As an example, Kenya's Development plan of (1995 /1998) do not include the privatization program
[10] What , why, and how are the approach(es) of Kenya's Privatization Program in a developing Economy?

Twelfth, still on objectives, goals and process, the study concludes that the process is closed and is non-participatory as evidenced by the different prioritizations of the objectives, methods and techniques by the various stakeholders involved in the process of privatising Telkom Kenya. The study suggests that the GOK's objectives fundamentally differ from those of the public, the business community and the World Bank. Indeed where the government agrees with these three groups its actions tend to be contradictory to public opinion, especially in cases of policy reversals and contract cancellation by politicians instead of by the regulatory body and the judicial system (i.e. the case of ECONET). In this regard, this thesis recommends that the GOK needs to provide a public information program that would enable citizen participation at policy and investment levels. In some instances, the GOK is so desperate to maintain control of the top management of the parastals listed for privatizing that it contradicts its own objectives and goals for privatising by selecting partisan management. For example the objective of introducing new management and reducing the workforce in order to attract more revenue and a strategic partner before the IPO (Schusselbauer, 1999; Shirley,1988) was overlooked during Telkom Kenya's restructuring monopoly period of December 2002 to June 2004.

Thirteenth, this thesis is a further illustration of the dynamics of the relationship between government's (politician's) role as a manager of the public enterprises and the private sector as a 'takeover' agent. The analysis indicates that the objectives of the privatization program are determined by political motives seeking votes to employ their constituents, and political allies and to maintain control over SOEs. This action pushes operating costs at state enterprises (airlines and telecoms) higher than in the private sector. For instance the findings showed that TKL's operating costs were found to be extremely high, with a wage bill of Kshs. 0.5 billion a month (in December 2002). Therefore, with an uneconomical wage bill, along with a perception of political intrigues and patronage this thesis concluded that TKL as a public enterprise has been more focused on pursuing political goals[11] rather than the socio-economic goals, as stated in the Roadmap (2003) and the GOK divestiture objectives of 1996.

Fourteenth, the primary data analysis over-whelming by confirmed the correlation between pubic enterprise reform and restructuring to secure increased jobs and business

[11] Ibid and (Shirley, 1992: Megginson et al, 1994)

opportunities. There was agreement amongst all respondents that due to the process of privatizing of telecoms in general there was a marked increase of between 50% to 150% in jobs in the transport and communications sector in Kenya and across the COMESA region.[12] This answered the research questions two and three (RQ2 &3) on whether privatization can yield employment and new business opportunities. In agreement with the literature these constitute two major objectives or motives of privatising that all stakeholders and 86% of the respondents ranked as extremely important in this research, particularly in the telecommunications industry where high levels of technological growth have been closely linked to job and investment opportunities[13]

In summary, this thesis research, in its attempt to 'trace the footsteps' of a privatization approach or strategy for a developing economy[14]reveals that the government's "laxity" in enacting a privatization law critically delays the transaction process (as indicated in figure 5-2). Instead of the estimated 18 months period, Telkom Kenya's privatization took 24 months). The findings further indicated that there were no serious efforts to build legal and administrative institutional frameworks that are crucial to successful privatizations. In the case TKL, the delay of the enactment of the Privatization Bill and the investment code into law further exacerbated the delays. In this respect, the findings of chapter five show that the government of Kenya did not engage in any considerable preparations for the sale of large enterprises like Kenya Airways, Telkom Kenya and Kenya Railways, preferring to rely instead on the international financial agencies who provide financial and technical assistance, while failing to build local and national institutions for privatization. The thesis notes that this position is changing, however, with the introduction of regional economic blocs (i.e. COMESA and EAC), whose focus is on regionalization of privatization programs and approaches that require the use of regional rather than national strategic policies for attracting regional investment and integration.

In addition, the successful outcome of the privatizations of large enterprises reviewed and analysed by this research lies in a government's (i.e. GOK's) internal dynamics of breaking the entities into competitive and manageable units, bringing in ownership of assets, dynamic private sector managers, settling past liabilities (i.e. KQ and TKL), and

[12] data on jobs, and employment creation and business opportunity was collected using questions 12 in section one and questions 9 and 10 in section 2 of the questionnaires and was volunteered.
[13] see RQ4
[14] See central Research question.

shedding excess labour (as in TKL and KR). Yet, evidence in chapters four and five show that the progress made on GOK's privatization approach proceeded on a 'management by crisis' basis under the watchful eye and prompting of the World Bank, IMF, donor agencies, bilateral governments and now COMESA. Related to this is the controversial objective of enterprise restructuring which is a pre-privatization step that governments in the developing world manipulate to delay privatization. Schusselbauer, (1999, p.9) has reported that this process should be brief and specific, limiting itself to the balance sheet and organization changes related to workforce issues. This research concluded that the government favoured restructuring in the case of TKL because they did not have to relinquish control of the top management and had the power to manipulate the process, whereas TLK's management favoured restructuring because in a full sale to a strategic partner or in an IPO the managers risked losing their jobs as government nominees. This explains why governments and PE top management intentionally delay instituting legal and institutional frameworks necessary for fast tracking transactions, as discussed in the policy and operational strategies section in chapter five.

Indeed, this thesis's conceptual framework reviewed in chapter two and the field findings in chapter five confirm the importance of the interaction between theories (raised in chapter two), indicating that privatization in LDCs is often a political process. The practice of privatizing in a highly political and complex social-economically environment adding to the various government justifications and perspectives is heightened by social-economic differences in the benefits of privatization to the political elite.[15]

This thesis provides an insight into the necessity and importance of the process of institution building, strengthening and transparency in the approaches taken to privatize. Evidence in chapters four and five leads this thesis to conclude that the sale of enterprises could be made transparent by adopting competitive bidding procedures, developing objective criteria for selecting bids, and creating a clear privatization focal point (i.e. the Privatization Commission to replace CCK[16] shown in figures 5-1 and 5-2) with minimal bureaucracy to monitor the overall program.[17] Lack of transparency can result in a political backlash that often delays the process or brings it to a halt. Some of

[15] See sections 2:1,2:1:2 on motives and rationalization and section 5:0 and 5:5 on study findings
[16] see figures 5-1, 5-2, 5-3 and table 6-9
[17] Case of TKL and see the bill in page 246

the relevant cases have been the case of Kenya Re, and TKL delays (this research, 2005) and also cases in telecoms in Senegal, Guinea, Uganda and Zambia (Shirley, et al. 2002) and water privatization in Tanzania (World Bank, 2004). A comprehensive public program to address information and transparencies issues is desperately needed in the sub-region.

Lastly, this thesis has traced an outline of Kenya's approach to privatization through a comprehensive case study of TKL and data analysis of the GOK's implementation of its divesture program. Discussion on telecommunications and the prescriptive literature suggests it is easily replicable regionally amongst the countries that share similar economic and political environments with Kenya. Significantly, the findings herein attempt to identify and document Kenya's approach through an explorative study of TKL. The sketched approach in this thesis to transactions needs further review and consolidation. Besides, there is need for Telkom Kenya, CCK, and the Privatization Committee at Treasury to be brought under one Privatization Commission. This will help in understanding and applying the important steps in any privatization transaction shown in figure 5-2 especially for a public offering followed in a 'case' privatization like that of TKL (Welch, and Fremond, 1998).

6:2 Policy Implications and Future Research Agenda

6:2:1 Summary Implications

A major implication of this thesis findings to privatization policy is the objective of building and strengthening the institutional framework. To do this the GOK first needs to restructure and improve the operations of public enterprises (PEs) by outlining their approach and process clearly and tangibly in order to attract local and international investors. The Kenya government should also divest the PEs that are earmarked for restructuring and privatization. Evidence from this research shows the importance of divestiture to allow for substantial restructuring before privatizing. *Second,* the GOK ought to institute a privatization commission independent from government and from international financial institutions, its role would be to coordinate the privatization activities together with the regulators. The importance of building institutions and a legal framework is shown by the findings in chapter five and also as argued by Ogus, (2002), Schusselbauer, (1999), Young, (2003), and Wellenius, (1997).

Third, after institutionalization of the process, the commission needs to build alliances with the private sector, civil society and other government institutions in order for the government to be able to develop special programs that provide information to the public and to the investors. In the process it must develop a social safety net, to deal with the negative short-and long-term effects of privatization. *Fourth*, GOK needs to consider utilising some of the methods available for creating safety nets that include:

1) using a voucher method to spread out the public shares to the larger population through MBO and MEBOs creating a semblance of equity as indicated by study respondents in chapter five and in the literature review.[18]; (2) continuing to use the 'golden handshake" generous severance packages to encourage voluntary retirements and reduce the need for outright dismissals; (3) along with this, providing counselling and investment service, to employees who would not know how to utilize the generous pay-outs (4) converting the debt into equity shares especially in the case of telecoms and insurance; (5) encouraging employee/management ownership schemes through access/affordable credit; (6) creating unemployment benefits; (7) using retraining-

[18] see discussions by Mayer and Meadowecroft, (1985); Calker, (1996); Finance Weekly, (2002, p.48)

redeployment programs to ease the social costs of privatization, and (8) considering using case by case privatization as argued by the world Bank (1998)

Fifth, while a qualified non-intervention policy appears to be the safest bet in labour retrenchment before privatization, another policy might be to set up a social safety net or labour reallocation program before privatization, and then let the new private owners decide on redundancy levels. *Sixth,* setting up a public awareness program before privatization may help with the political viability of the process, and letting the new owners manage the retrenchment may help avoid adverse selection. In most cases however, the governments in developing countries do not want to let the new owners undertake retrenchment due to the political control and political motives discussed earlier. In fact as the secondary data show on TKL, the main reason for the breakdown of the transaction negotiations was the outstanding pension for the workers and the retrenchment of an estimated ten thousand employees, viewed by interested investors as a burden to initial profits. Besides, incoming strategic partner investors made it clear during the due diligence process that the union problem of downsizing was to be taken over by the government before privatization. This is because the cost of downsizing for an incoming investor can prove to be too costly to sustain in a new market.

Seventh, this thesis suggests that TKL should find innovative ways to settle the debt because of the uncertainty created by labour and financial liabilities. Chapter four further outlines in-depth details of the historical perspectives of the unbundling of the former KPT&C, to the rebirth of Safaricom and Telkom Kenya. The focus on Telkom's performance as a fixed telephony operator and as an enterprise undergoing privatization further reveals the difficulties experienced by TKL in trying to operate in different regulatory scenarios and with different financial options. In this respect, the downsizing and the pension liability (estimated at Kshs. 15-17 billion in 2003) matters reviewed at length still remain an obstacle for the GOK in receiving good value for TKL.

Lastly, the GOK needs to review its policy on sector and industry regulators and regulatory frameworks. The thesis findings emphasize the importance of building and strengthening regulatory frameworks. The theoretical and field findings suggest that privatisation in Africa accompanied by proper regulation and backed by strong political commitment to expenditure redistribution is a valuable alternative to state management. A tool can ensure increased access for consumers and overall improvements in quality.

This was demonstrated in Uganda, Egypt, Ghana, Senegal and South Africa,[19] where the privatisation of the telecommunications and electricity companies led to substantial extension of their networks.[20]

This thesis has outlined Kenya's approach to privatization. However, overall the African privatisation process is still developing its own approaches. It will continue to do so given that it has been facing significant bottlenecks in terms of lack of a clear approach, a poor regulatory framework, and a general lack of human and resource capacity in operation. The lessons learned from the past ten years (1993-2003) of privatisation can be used to improve divestiture methods for the companies that remain to be privatised. In a number of countries, these include some of the largest and strategic companies.[21] Moreover, the way privatisations are managed has a considerable impact on public opinion and the attitude it would take towards further privatisations and more generally towards any kind of structural adjustment programmes. The outcomes of privatisation should thus be a major concern for policy makers and especially for international donors who are the main instigators of privatisation programmes in Africa[22].

[19] Ibid
[20] Minges M., (ITU, 2003); Harggsrty, Shirley, and Wallsten, (2002); Azam and Dia, (2002)
[21] For example insurance, Rail, mining, water and Health related companies in Kenya, Uganda, Zambia, and Egypt
[22] Mail and Guardian, September 28, 2004

6:2:2 Future Policy Agenda

This thesis further indicates that Kenya's privatization program urgently needs to implement four major aspects of a 'good' privatization program; **1**) Institute a visible strong public information strategy/process that will be able to respond to the perception concerns raised in the findings, because investors care about perception. (**2**) Strengthen the capacity of public institutions and individuals involved in the divestiture process. (**3**) Strengthen the private sector's capacity to respond to the tendering processes, procedures and objectives of privatization by participating in the introduction of competition into the market, (as was the case with Regional and Second National Operators) to avoid creating 'private monopolies'.[23] (**4**) Along with institutionalizing of the privatization process, this thesis forwards the fundamental principle of transparency underlying the Privatization Bill (PB) of 2003 and the Communications Act of 1998. Public participation through inquiries and industry forums is recommended good practice. More extensive notions of transparency are desirable and possible as advised by Welch and Fremond (1998), since the Ministers for Finance, Transport and Communications ultimately determine the extend and pace of the key regulatory policy decisions.[24]

[23] Vickers and Yarrow, 1995, pp.80-84)
[24] Stigilitz, (2003)

6:3 Limitations and Future Research

6:3:1 Limitations of the thesis

This thesis has addressed the limitations of the research in chapter three (section 3:4). However, the major limitation to the study and thesis process that the field research, as a first study to be undertaken, suffered was a substantial 'deficit' of documentation evidence on the approaches to the privatization process. *Secondly*, the challenge of dealing with a study on approaches and strategies of the case of an unfolding privatization of Telkom Kenya whose transaction was dynamic could have occasioned missing out important information that could have affected the findings. *Thirdly*, Kenya's and indeed COMESA countries' approaches have not been documented making it difficult to obtain systematic and coordinated information that would have made analysis expandable. *Fourthly*, government departments often arbitrarily decided what was confidential, and this could be the cause of "gaps" in some information used for analysis. However, the private sector individuals who were willing to fill in the gaps helped in the process. *Fifthly*, as an academic thesis study there were serious limitations to the financial and physical resources that caused substantial delays in time and capacity to analyze and present quality results in the given time of 36 months.

On the possible reflexivity and subjectivity of the qualitative research - this research aimed at eliminating the researcher's impact on the research process through the short time of the study. The field research was undertaken in Nairobi in a less than four months period, the researcher was based in the U.K. This ensured that the researcher was not continuously interacting with those being researched, to risk influencing the process. In this regard the researcher was not in a position to influence the research structure outcome through personal and professional characteristics. In addition, the sample respondents involved CEOs, senior government officials and private sector individuals who had no time to interact with the researcher to the level that they would subjectively influence the outcome of the research. The interactions between the respondents and the researcher were strictly based on their official capacities, in their respective research fields and within the interview times only. In this regard this study, was not in any way seriously influenced by the research respondents. More importantly, this researcher did not work in a public sector environment and had not previously worked in the field of study, therefore eliminating the threat of collecting prejudiced or trivial data. The researcher had little time to engage in unnecessary or

invalid discussion, information collected was non-contaminated, valid, and reliable knowledge. Similarly, the study period and the professionalism of the researcher did not allow for influence on the research outcome by the respondents.

6:3:2 Future Research- Recommendations

The field findings provide some interesting areas of consideration for future research. *First,* this study requires further empirical work on the privatization approaches and strategies in four major COMESA countries, in order to record the process, and study the relationships between strategies and the outcomes of the privatization programs. This 'gap' in the literature and knowledge needs to expand from this thesis to a larger study.

The *second* research area would involve targeted empirical work on estimated and actual annual value and performance of the public enterprises before and after privatization, noting that this was not the focus of this research. This was a serious gap within the theoretical and field studies analysed by this thesis. Most of the PEs were last valued in the 1960s creating a debate on the estimated value. This would provide basic information that is necessary for a privatization transaction sale without governments spending public funds to undertake non-credible (partisan) valuations and business performance audits. The impact of the relationship between the final value and the sale value on performance related variables such as capital mobilization and utilization, human resource, expansion, growth, and national and regional characteristics should also be studied.

A third area of research suggested would be the separation of 'badly' performing variables in pre-and post privatizations and their study in order to find the linkage with the privatization approaches. *Fourth,* an empirical study on the treatment of contentious issues in the privatization process; some of these include: labour and finance liabilities and their impact on pre/post privatization especially for the for COMESA region. Future research would have to look at the transaction processes across sectors and indicate the differences, investigating whether all sectors and countries can be treated in a similar way. *Fifth,* research on the role and contribution of privatization to trade and regional integration across borders by country and industry is long overdue. Empirical studies in this area are urgently required and are very important to the economic regional

integration efforts and agenda across African trade and economic blocs (ECOWAS, COMESA, NAEC, and SADC).

Sixth, the majority of new jobs and business opportunities have been in telecommunications. Research that empirically targets their enhancement needs to be undertaken in the COMESA region to quantify these figures. This would help the governments and COMESA attract telecoms investments into the region. *Seventh*, urgent research on the relationship between entrepreneurship and the new industries and businesses arising from privatization across COMESA should be undertaken by member states. This would help in planning and investments in small businesses. In addition, research on the impact of privatization of selected "social sectors" to the overall development of a country and the ability of its investors to compete regionally is desirable. This research would also investigate the role of the 'third sector' (charitable organizations) in the provision of public or social services.

In conclusion, this thesis indeed has outlined Kenya's approach to privatization, knowledge that did not exist before, along with challenges for privatising Telkom Kenya. The thesis has further shown that there is need to periodically catalogue, monitor and update the privatization transactions by objectives, sector, approaches, proceeds and their impact on the developing countries economies. It was evident that such basic statistical data was unavailable in any form.[25]The exploration of TKL is about constructing a tangible approach to the privatization transaction in Kenya and is about the management of the privatization process which seeks to integrate related activities. New knowledge and analysis of the privatization of Telkom Kenya process adds to the debate of the approaches discussed throughout this research. More generally there is a trend in the literature towards a convergence of various approaches in western, transitional and LDCs economies, and the discussion recognises overlapping linkages.

The thesis research provides an insight into a process which has to date remained unexplored from an academic perspective. The need for further research has been highlighted in order to build upon and develop this knowledge. The contribution to the current debate and literature 'gap' and the field study as a source of credible records for reference in the field of privatization has been outlined and areas of further investigation suggested.

[25] World bank listings were last updated in 1999

References and Bibliography

_____ (2004). 'Railway Gazette International,' May, Vol. 160 (5), p.260

_____ (2003). 'Privatization: The FACTS: "We did not Fight for Liberation so that we could Sell Everything We own to the Highest Bidder",' *New Internationalist* April No.355

_____ (2003). 'Market Pointers,' *Business Africa*, March, Vol. 11 Vol. 26, p.6.

_____ (2003). 'Telecommunications Indicators' 3rd World Telecommunications/ICT Conference, Geneva January

_____ (2003). 'Telecommunications Indicators,' 3rd World Telecommunications/ICT Conference, Geneva January

_____ (2001). 'Plane Thinking' *Business Africa*, October, Vol. 10 Vol. 18, p.9.

_____ (1999) 'Privatisation Pains for Parastatals,' *Sunday Times: Business Times*

_____ (1998). 'Globalization: What should be the African Policy Response?,' *African Development Bank Background Paper*

_____(1998). *Privatisation International: Annual Privatisation Yearbook* London.

_____(1997). 'Privatization, Public Enterprise Reform and the World Bank: Has 'Bureaucrats in Business' Got it Right?' *Journal of International Development*, Vol.9 Pp.887-97.

_____(1995). *Mass Privatisation: An Initial Assessment* Paris.

_____(1994). 'Privatization Lessons from Market Economies,' *WBRO* Vol. 9, (2) July

_____(1993) 'BT: ' Shooting a Line,' Guide to the UK Privatisation and Restructuring Programme. *Sunday Business Times*

_____(1993). '*World Bank Staff Papers' Argentina's Privatization Program: Experience, Issues, and Lessons*, Washington, D.C World Bank.

_____(1993). *Privatisation of Public Undertakings and Activities: Recommendation No. R (93) 7 and Explanatory Memorandum*, Strasbourg: Council of Europe Press.

_____(1987). *Laws of Kenya: The State Corporations Act Chapter 446*, Nairobi, Government Printers

_____(1984). 'Privatizing Public Enterprises Options and Dilemmas', London: *Royal Institute of Public Administration.*

_____(1993). 'Privatisation: Selling the State,' *Economist*, 21 August, Pp.18-20

_____(1988a). *Privatization -An Economic Analysis*, Cambridge, Mass.: MIT Press.

_____(1988b).'Regulation of Privatised Firms in Britain', *European Economic Review*, 32: Pp.465-72.

AAS/GOK, (2003). '*Privatization Expert Group Workshop Proceedings*,' Naivasha: *African Academy of Science (AAS)* unpublished Report, November

Aarts, P.(1999). 'Dilemmas of regional cooperation in the Middle East Lancaster ,'Lancaster University, *Dept. of Politics and International Relations*

_____(1978) Australian Government, *Hansard*; Vol. 100, p. 1969

Abdala, M., (2000).'Institutional Roots of Post Privatisation Regulatory Outcomes: Telecommunications Policy,' a *Universidad CEMA*: Elsevier Science, September, Vol.24,(8) pp. 645-668.

Abu, S., Osama, J. (1997). *Privatization and Development,* Basingstoke: Macmillan.

Adam Smith Institute, (2000). 'Jordan: Privatization Communications Project,' *Technical Paper Proposal,'* London

Adams, C. (1997). 'Privatization in sub-Saharan Africa: Issues in regulation and the macroeconomics of transition,' in Paulson J A (ed.) *Changing the Role of the State in Key Markets,* London: MacMillan.

Adams, C., (1997). 'Privatization in sub-Saharan Africa: Issues in Regulation and the Macroeconomics of Transition,' in Paulson J. A. (ed.) *Changing the Role of the State in Key Markets*, London: Macmillan.

Adepoju, A., (1993). *The Impact of Structural Adjustment on the Population of Africa: The Implications for Education, Health and Employment*, Washington D.C: Heinemann.

African Business. (1998.) 'Privatisation in The Rest of Southern Africa,' *African Business*, January Vol. 228, p.17.

African Investment Forum (2003). 'A Paradox of Financing Privatization of Parastatals by Parastatals' *Tran Africa 21*, April, London

Agar, M., & MacDonald, J. (1995). 'Focus Groups and Ethnography. Human Organization,' *Human Organizations* Vol.54 (1), Pp.78-86.

Aggarwal, R., and Harper, J. (2000). 'Equity Valuation in the Czech Voucher Privatization Auctions,' *Financial Management, winter*, Vol. 29 Vol. 4, p.77.

Aggarwal, R., and Jstrik, M. (1992). 'Privatization and Capital Market Development in Eastern Europe: Lessons from the Czechoslovak Experience,' *CERGE Working Paper* No.14, Center for Economic Research and Graduate Education, Charles University, Prague

Aharoni, Y., (1991). 'On Measuring the Success of Privatization,' in Ramamurti, R., and Raymond, V., (eds.), *Privatization and Control of State-owned Enterprises,* Washington, D.C: World Bank, *EDI, Development Studies,* pp.73-85

Aharoni, Y., (1992). 'State-Owned Enterprise: An Agent without a Principal,' in Jones, L.P. (ed.), *Public Enterprise in Less Developed Countries,* Cambridge: Cambridge University Press

Ahmed, R., (2000). 'The Pace Hots Up,' *African Business,* 10 November, pp.20-23

Air Transport World, (1993). 'Airline of the Year: British Airways,' February, Vol. 33, (35)

Air Transport World, (1999). 'Guide to the UK Privatisation Programme,' Vol. 15, (1) January pp.65-92.

Airport Privatization: (1996). 'Issues Related to the Sale or Lease of U.S. /UK Commercial Airports,' *GAO/RCED*- November 7th, Pp. 97-3.

Akanji, B., (1992). *Cocoa Marketing under Nigeria's Structural Adjustment Programme*, Ibadan: NISER

Ake, C., (1996). *Democracy and Development in Africa.* Washington DC: Brookings Institution.

Ake, C., (1993). 'The Unique Case of African Democracy,' *International Affairs*, Vol.69 (2), pp.239-244.

Ake, C., (1985). *A Political Economy of Nigeria*, London: Longman.

Ake, C., (1981). *A Political Economy of Africa*, Harlow: Longman.

Ake, C., (1989). How Politics Underdevelops Africa. In *The challenge of African Economic Recovery and Development.* (eds.) Adebayo A. and Bugemba, p. 316-329. London: Frank Cass.

Alderman, H., Canagarajah, S., and Younger S. (1994). 'Consequences of Permanent Lay-off from the Civil Service: Results from a Survey of Retrenched Workers in Ghana,' In Lindauer, D., and

Nunberg, B. (eds.). *Rehabilitating Government: Pay and Employment Reform in Developing Economies*. World Bank.

Al-Obaidan, A. M., (2002). 'Efficiency Effect of Privatization in the Developing Countries,' *Journal: Applied Economics* January Vol 34 (1), Pp.111-17

Altheide, D. L., and Johnson, J.M. (1994). 'Criteria for Assessing Interpretive Validity in Qualitative Research,' In Denzin, N. K., and Lincoln, L.S. (eds.). *Handbook of Qualitative Research* (Pp. 485-599). Thousand Oaks, CA: Sage.

Alzira, S. (1995). *Privatization: Implications for Corporate Culture Change*. Aldershot, Eng.: Newbury.

Ambrose, B.W., Hennemeyer P., and Chapon, J. (1990). 'Privatizing Telecommunications Systems: Business Opportunities in Developing Countries,' *IFC Discussion Paper* No.10.

Anderson, G.L. (2001). 'Do Frogs Jump As A Result Of Privatisation?' Impact of Privatisation on Buyer-Supplier Relationships,' *European Journal of Purchasing and Supply Management*, March, Vol. 7, (1) Pp.1-13. Bath: University Of Bath, Calverton Down UK

Anderson, T. L and Hill, P. J. (eds.), (1996). *The Privatization Process: A Worldwide Perspective*, Editors. Lanham, Rowman & Littlefield Publishers.

Anderson, R. E., (1994). 'Voucher Funds in Transitional Economics: The Czech and Slovak Experience,' *Policy Research Working Paper* No. 1324. Washing ton D.C: World Bank

Anderson, D. (1987). 'The Public Revenue And Economic Policy In African Countries: An Overview Of Issues And Policy Options,' *World Bank discussion papers* No.19, Washington, D.C.

Andic, F. (1992). 'Privatization Theory and Policy,' Paper Prepared for United Nations Industrial Development Organization. *IPCT.* April, No. 156, (16) pp.1-57.

Anyango, G., (1997). 'Comparative Costs of Transport: The Northern Tier Countries of Greater Horn of Africa, AFR/SD and REDSO/ESA Publication, *Technical Paper No. 61*. Washington D.C

Archer, S., (1988). 'Qualitative Research and the Epistemological Problems of the Management disciplines,' In Pettigrew. A. (ed.) *Competitiveness and the Management Process.* Oxford: Basil Blackwell, Pp.265-302.

Armstrong, M., (1997). 'Competition in Telecommunications,' *Oxford Review of Economic Policy*. Vol 13 (1) Spring Pp. 64-82.

Ascher, K., (1987: 1958). *The Politics of Privatisation: Contracting Out Public Services*, Basingstoke: Macmillan Education.

Aseto, O., and Okello, J. (1997). *Privatization in Kenya, Nairobi*, Venture Books

Atieno, O. (2002). 'Impact of Privatization: Case Studies of Kenya Railways and Kenya Airways,' *African Academy of Sciences*, (AAS/USAID) Research Project Report. Pp.19-34).

Atkinson, A.B., and Stiglitz, J.E (1980). *Lectures on Public Economics,* Lectures 2, 6, 7-14 and 16 Maidenhead: U.K

Atlanta Chronicle (2003). 'Bellsouth to Cut Spending, Possibly Future', Jobshttp://www.bizjournals.com/

Ayoke, O.B., Härtel, C.E., Callan, Victor J. (2002). 'Resolving The Puzzle Of Productive And Destructive Conflict In Culturally Heterogeneous Workgroups: A Communication Accommodation Theory Approach,' *International Journal of Conflict Management,* Vol. 13(2) p.165.

References

Ayubi, N. N., (1992). 'Political Correlates of Privatization Programs in the Middle East,' *Arab Studies Quarterly*, Spring/Summer No. 2&3.

Ayubi, N. (2002). *Political Islam. Religion and politics in the Arab world*, Routledge, London-New York

Azam, J., Dia, M., and N'Guessan, T., (2002).'Telecommunications reform in Senegal,' Washington D.C: World Bank *Working Paper* No.2894.

Azam, J.P. (1995). 'Macroeconomic reforms in the CFA zone,' paper presented at the Eleventh World Congress of the *International Economic Association*, Tunis, December

Babai, D. (1988). 'The World Bank and IMF: Rolling Back the State or Backing its Role?' In Vernon, R. (ed.), *The Promise of Privatization*. Pp.254-285 New York Council on Foreign Relations

Bachmann, H. (1997). 'Implementing Deregulation and Promoting Foreign Direct Investment in Africa,' In Megyery, K., and Sader, F., (1997). *Facilitating Foreign Participation in Privatization. Foreign Investment Advisory Service* Occasional Paper No. 8

Baer, W. M. (1994). *Privatization in Latin America* Westport, Connecticut: Praeger.

BAH/USAID, (1999). 'Transforming Regional Telecommunications and Transport Policy in Southern Africa,' Southern Africa Regional Telecommunications Restructuring Program (RTRP). RCSA and Ghabrone

Balcerowicz, L. (1993). 'Common Fallacies on the Debate on the Economic Transition in Central and Eastern Europe,' London: *ERD Working paper* No.11

Bangura, Y., and Beckman, B. (1989). 'African Workers and Structural Adjustment with a Nigerian Case Study,' *UNRISD/ISER Conference of Economic Crisis and Third World Countries*: Impact and Responses, Kingston

Bahgat, G. (2000). 'Privatization and Democratization in the Arab World: Is There a Connection?,' In Wright, V., and Perrotti, L. (eds.), *Privatization and Public Policy*, Williston, VT: Edward Elgar Publishing Inc.

Barbour, E., (1997). 'Privatization and Strategic Alliances in Latin American Telecommunications: Legal and Contractual Issues,' *NAFTA: Law and Business Review of the Americas*. Vol 3, (1) winter.

Barbour, R., and Kitzinger, J. (1999). *Developing focus group research, politics, theory and practice.* Thousand Oaks, CA: Sage

Barnett, S. (2000), 'Evidence on the Fiscal and Macroeconomic Impact of Privatisation,' *IMF Working Paper*, Washington DC, IMF, July.

Barrientos, A.(1993). 'Pension Reform and Economic Development in Chile,' Development Policy Review, Vol. 11 pp.91-107

Basu, P. (1994). *Demystifying Privatization in Developing Countries,* London Gyosei Institute. U.K

Bates, R., and Krueger, A. (eds.), (1993). *Political and Economic Interactions in Economic Policy Reform: Evidence from Eight Countries* .Oxford: Basil Blackwell

Baumol, W., and Sidak, J. (1994). *Toward Competition in Local Telephony*. Cambridge, Mass. MIT Press

Bayliss, K. (2002). 'Privatization and Poverty: The Distributional Impact of Utility Privatization,' *Annals of Public & Cooperative Economics*, December, Vol. 73 (4) p.603

Beato, P., and Laffont, J-J. (2002). 'Competition in Public Utilities in Developing Countries,' Washington D.C. *Inter-American Development Bank* Report IFM No. 127

Bayliss, K., Hall, D., and Lobina, E. (2001). 'Has Liberalization Gone Too Far? A Review of the Issues in Water and Energy,' London: *International Research Unit*, University of Greenwich

Bayliss, K (2000). 'The World Bank and Privatisation: a Flawed Development Tool,' *PSIRU and Global Focus* publications, University of Greenwich

Beardsley, S., and M., Patsalos-Fox, (1995). 'Getting Telecoms Privatization Right,' *The McKinsey Quarterly*, No. 24 p.3

Becker, H. S. (1970). *Sociological Work: Method and Substance*. Chicago: Aldine.

Beckman, B. (1993). 'Economic Reform and National Disintegration,' Paper contributed to workshop on *Economic Reform in Africa's New Era of Political Liberalization*, Washington DC, World Bank pp.20-33

Beesley, M.E., and Littlechild, S.C. (1989). The Regulation of Privatized Monopolies in the United Kingdom,' *Rand Journal of Economics*, Vol. 20 Pp.454-472

Begg, D., and Portes, R. (1993). 'Enterprise Debt and Economic Transformation,' Journal *Economics of Transition* Vol 1(1), pp. 116-117

Belser, P., and Rama, M. (2001). 'State ownership and Labour Redundancy: Estimates Based on Enterprise Level Data from Vietnam,' *World Bank Working Paper*, No. 2599. Washington, DC: World Bank

Bennell, P. (1996). 'Privatisation in Sub-Saharan Africa: Progress and Prospects during The 1990s,' Working Paper *University Of Sussex. Institute Of Development Studies* No. 41.

Bennett, J., and Maw, J. (2003). 'Privatization, Partial State Ownership and Competition,' *Journal of comparative Economics*, March Vol. 31(1), p.58

Bennett, J., Estrin, S. and Maw, J. (2001). 'Mass Privatisation and Partial State Ownership of Firms in Transition Economics,' *CEPR Discussion Paper* No. 2895. London, Centre for Economic Policy Research.

Bennetta J., and Mawb J. (2000).'Privatisation And Market Structure In A Transition Economy,' *Journal of Public Economics*, September Vol. 77, No. 3, Pp. 357-382(26) Elsevier Science

Berg, Associates, (1989).'Private Provision of Public Services: A literature Review,' Virginia Report: Private Sector Development Division, World Bank

Berg, Associates., and Berg, E., (1997).'Methods of Privatization,' *Journal of International Affairs, winter,* Vol. 50 (2), p.357.

Berg, E., and Shirley, M. (1987). 'Divestiture in Developing Countries,' Washington D.C: *World Bank. Discussion paper* No. 11

Bernard, H. R. (1996).'Qualitative Data, Quantitative Analysis. *Cultural Anthropology Methods' Journal,* 8 (1) Pp. 9-11.

Bernard, H. R., Killworth, P., Kronenfeld, D., and Sailer, L. (1984).'The Problem of Informant Accuracy: The Validity of Retrospective Data,' *Annual Review of Anthropology,* Vol.13, Pp.495-517.

Berry, A., (1997). 'Globalization, Adjustment, Inequality and Poverty,' Background Paper for UNDP *Human Development Report*, University of Toronto.

Bertero, E., and Rondi, L. (2000). 'Financial pressure and the behaviour of public enterprises under soft and hard budget constraints: Evidence from Italian *Journal of Public Economics* Elsevier, Vol. 75(1), Pp.73-98.

Beyond, C. (1992). *Economic Growth and Agriculture Markets*, New York: McGraw Hill

Bienen, H., Waterbury, J.(1992). ' The Political Economy Of Privatization In Developing Countries,' *In* Wilber, C.; Jameson, K. (ed.), *The Political Economy Of Development and Underdevelopment* (5th ed.). Random House, New York: Pp. 377–402.

Bienen, H., and Waterbury, J. (1989).'The Political Economy of Privatization in Developing Countries,' New Jersey: Princeton University, *World Development*. Vol. 17 (5), P.617-632

Birch and Davis International, Inc.(1989). 'The Privatization Review: Public-Private Partnerships in Health Care,' Special Conference proceedings, February 28- March 1,Kuala Lumpur, Malaysia. A publication of *The Privatization Council,* Birch and Davis International and AID

Bishop, M., Kay, J., and Mayer, C. (eds.). (1996: 1994). *Privatization and economic performance*, Oxford University Press.

Bjorn, L., and Shah, A. (1994). 'Global Tradable Carbon Permits, Participation Incentives and Transfers,' *Oxford Economics* Papers Vol. 57 Pp.175-199

Boix, C. (1997). 'Privatizing the Public Business Sector in the Eighties: Economic Performance, Partisan Responses and Divided Governments,' *British Journal of Political Science* Vol. 27 Pp.473-496

Boix, C. (1998). *Political Parties, Growth and Equality: Conservative and Social Democratic Economic Strategies in the World Economy*. Cambridge, UK: Cambridge University Press.

Bojnec, S. (1999). 'Privatization, Restructuring and Management in Slovene Enterprises,' *Comparative Economic Studies*, winter, Vol. 41 (4), p.71.

Bolt, W., and Humphrey, D. (2005).'Public Good Issues in Target Natural Monopoly, Scale Economies, Network Effects and Cost Allocation,' European Central Bank *Working Paper Series*, No. 505

Boomgard, J., Davies, S. P., Haggblade, S. and Mead, D.C., (1992).'A Sub sector Approach to Small Enterprise Promotion and Research,' *World Development*, Vol. 20 (2) Pp.199-212

Booth, P. (1998). 'The Transition from Social Insecurity'. *Economic Affairs,* March, Vol. 18 (1) p.2

Booz, Allen and Hamilton, (1999). 'BAH-USAID/RSCA Telecommunications Report (1985: 1999),' Washington D.C

Boratav, K., (1993). 'Public Sector, Public intervention and Economic Development: The impact of changing perspectives and policies during the 1980s,' *UNCTAD Discussion Paper*, No. 61. July

Borish, M.S., and Noel, M. (1996). Private Sector Expansion in Central Europe. *The Transition* Vol. 7 (5/6), May-June.

Bos, D. , (1991). *Privatization: A Theoretical Treatment*, Oxford: Clarendon Press

Boubakri, N., and Cosset, J. (1999).'Does Privatization Meet The Expectations? Evidence from African Countries,' *African Economic Research Consortium* Biannual Research Workshop Nairobi.

Boubakri, N., and Cosset, J. (1998).'The Financial and Operating Performance of Newly-Privatized Firms: Evidence from Developing Countries,' *The Journal of Finance.* Vol.53, (3). June, Pp.1081-1110.

Bourgeois, L. J., (1988). 'Strategic Decision Processes in High Velocity environments: Four Cases in The Micro-computer Industry'. *Management Science*, Vol.34, Pp.816.

Boycko, M., Shleifer, A., and Vishny, R. (1996). 'A Theory of Privatization,' *The Economic Journal*, Vol. 106, Pp.309-319

Boycko, M., Shleifer, A., and Vishny, R. (1995). *Privatizing Russia,* Cambridge, Mass. MIT Press.

Boycko, M., Shleifer, A., and Vishny, R.W. (1994). 'Voucher Privatizations,' *Journal of Financial Economics*, Vol.76 (1) Pp. 249-266.

Boyne, G. A. (2002). 'Public and Private Management: What is The Difference?' *Journal of Management Studies,* Vol.39 (1)

Boyne, G. A. (1998). 'Bureaucratic Theory Meets Reality: Public Choice and Service Contracting in U.S Local Government,' *Public Administration Review*, Vol.58 Pp.474-484

Brada, J. (1996). 'Privatization is Transition or is it? *Journal of Economic Perspectives*, spring, Vol. 10 p.67

Braga, C. A., Forestier, P.E., and Stern, P.A. (1999). 'Developing Countries and Accounting Rate Reform—A Technological and Regulatory El Niño?,' World Bank, *Public Policy for the Private Sector*, No. 173. January

Bramall, C. (1993). 'The Role of Decollectivisation in China's Agriculture Miracle 1978-1990,' *Journal of Peasant Studies*, Vol. 20 (2), pp.271-295

Brannen, J. (1992).'Combining Qualitative and Quantitative Approaches: An Overview,' In Brannen, J. (ed.), *Mixing Methods: Qualitative and Quantitative Research* (Pp. 3-37). Brookfield, VT: Ashgate.

Brannen, J. (ed.), (1992). *Mixing methods: qualitative and quantitative research*, Aldershot: Avebury.

Brannen, M.Y., and Salk, J.E. (2000). 'Partnering Across Borders: Negotiating Organizational Culture in a German-Japanese Joint Venture,' *Human Relations Journal*, April Vol. 53(4), p.451

Bratton, M., and van de Walle, N. (1992). 'Towards Governance in Africa: Popular Demands and State Responses,' In Bratton, M., and Hyden, G. (eds.) *Governance and Politics in Africa.* Boulder: Lynne Rienner

Bret, E. (1988). 'Adjustment and the State: Problems of Administrative Reforms,' *IDS Bulletin,* Vol. 19 (4), P.4

Brewer, J., and Hunter, A. (1989). *Multimethod Research: A Synthesis of Styles*. Beverly Hills CA: Sage.

Brink, P.J., and Wood M. (1994). *Advanced design in Nursing Research* (2nd ed.), CA: Thousand Oaks, Sage.

References

Bromley, S. (1995).'Making Sense of Structural Adjustment,' *Review of African Political Economy*, September Vol.22 (65), pp.339-348

Bromley, S., Bush, R.(1994).'Adjustment in Egypt? The Political Economy of Reform,' *Review of African Political Economy* , June Vol. 21 (60), pp.201-213

Bruno, M., Ravallion, M., and Squire, L. (1998). 'Equity and Growth in Developing Countries: Old and New Perspectives on the Policy Issue,' in Tanzi, V., and Davoodi, H. *Roads to Nowhere: How Corruption in Public Investment Hurts Growth* , Washington, and D.C: International Monetary Fund

Bruno, M. (1992). 'Stabilization and Reform in Eastern Europe: A Preliminary Evaluation,' *IMF Staff Papers,* Vol. 39 (4) Pp.319–347.

Bryman , A. (1989). *Research Methods and Organization Studies* Unwin Hyman, London.

Buchannan, C. (1996).'The Debt Crisis, Structural Adjustment and Women's Education: Implications for Status and Social Development,' *International Journal Comp. Sociology*, Vol. 37(1-2) Pp.5-31

Buchannan D., Boddy D., and McCalman, J. (1988). 'Getting In, Getting On, Getting Out, and Getting Back,' in Bryman, A (ed.), *Doing Research in Organizations*. London, Routledge. Pp.53-67

Buchanan, J.M. (1975). *The Limits of Liberty: Between Anarchy and Leviathan*. Chicago: University of Chicago Press.

Bulmer, M. (ed.). (1982). *Social Research Ethics,* London: Macmillan

Burgleman, R. A. (1985). 'Managing the New venture Divisions: Research findings and Implications for Strategic management,' *Strategic Management Journal* Vol. 6 (1). Pp.39-54

Burk, K. (1988). *The First Privatisation: The Politicians, The City, And The Denationalisation of Steel*, London: Historians' Press.

Burke, R., and Cooper, C. (eds.). (2000). *The Organization in Crisis: Downsizing, Restructuring, And Privatization* Oxford: Blackwell Publishers.

Burton, J. (1987). 'Privatization: The Thatcher Case,' *Managerial and Decisional Economics* Vol. 8(1) Pp.1-29,

Business Africa, (2002). 'Prospects,' *Business Africa*, January, Vol. 11(2) p.12

Butler, R. J. (1991).*Designing Organizations: A Decision-Making Perspective*, London: Rutledge

Buttle, F. (1993). 'Ideology and Agricultural Technology In the Late Twentieth Century; Biotechnology As Symbol and Substance,' *Agriculture and Human Values.* (Vol. X, No. 2, Spring).

Button, K.J., and Barker, J. (1975). *Case Studies in Cost Benefit Analysis,* London: Heinemann

Calker, S. (1996). 'Privatization and Labour: What Happens to Workers When Governments Divest?,' *Private Sector Development Department,* World Bank, December, mimeo .

Calker, S. (1996). 'Privatization and Labour: What Happens to Workers When Governments Divest?' Private Sector Development Department, World Bank, December, mimeo.

Calker, S., Nellis, J., and Shirley, M. (1994). 'Privatization: lessons from market economies,' *World Bank Research Observer, Vol.* 9 (2), July.

Calvo, G.A., and Coricelli, F. (1993). 'Output Collapse in Eastern Europe: The Role of Credit,' *IMF Staff Papers*, Vol.40 (1), Pp. 35–52

Camdessus, M. (1999). *From Crisis to a New Recovery: Excerpts from Selected Addresses*. Washington D.C: International Monetary Fund

Campbell-White, O., and Bhatia, A. (1996). 'Commitment Is What Counts: The Progress of Privatization in Africa,' Washington DC: World Bank, August, mimeo.

Campos J, and Esfahari H (1996). 'Why and, when do governments initiate public enterprise reform?,' *World Bank Economic Review* Vol. 10, (3)

Carlin, W., and Aghion, P. (1996). 'Restructuring Outcomes and The Evolution of Ownership Patterns in Central and Eastern Europe,' *Economics of Transition*, Vol.4 (2), pp.371–88.

Carson, R.L. (1991). 'On the Decline of Socialism,' *Comparative Economic Studies*, Vol. (3), Pp.167–177.

Cassell C., and Symon, G. (eds.) (1994). *Qualitative Methods in Organizational Research: A Practical Guide.* Sage, London.

CCK, (2004). *Telecoms License Fees: Schedule Of License Fees Payable by Various Types of Telecommunications Network Operators and Service Providers in Kenya*, Nairobi: CCK Publications

CCK, (2003). 'Annual Report,' Nairobi: CCK Publications

CCK, (2002). '*Tender for A GSM License to Construct and Operate Cellular Mobile Systems and Services in Kenya:* A Guide,' Nairobi: Government Printers/CCK

CCK, (2001). 'Telecommunications Market Structure and Licensing Requirements,' Nairobi: A CCK publication

CCK, (2001). *The Kenya Communications Regulations*, Nairobi: A CCK publication

Champy, J. (1996). 'Better Government, not Necessarily Smaller,' *Government Executive*, September 1st, Washington D.C

Chellaraj, G., Brorsen, B.W., and Farris, P. (1992). 'Impact of Rice Subsidy on Food Consumption in India,' *Indian Journal of Agricultural Economics*, Vol.47 (2) pp.215-223

Chief Economist, (IS) and Managing Director (IPC) (2003). Responses Interview sessions Quotes During the data collection interview period of this thesis as quoted in this thesis analysis in chapters four and five and interview schedule in appendix 1 annex V. Nairobi

Chillemi, O., and Gui, B (1992). 'The Performance Of Worker-Managed Firms: Does Participation Only Exert "Technical" Effects?,' *Journal of Comparative Economics,* Vol. 16 (2), pp.294-301

Chong, A., and Lopez-de-Silanes, F. (2002). 'Privatization and labor force restructuring around the world,' Washington D.C: September. *Working Paper No. 2884,* World Bank

Chossudovsky, M. (1997). *The Globalization of Poverty: Impacts of the World Bank and IMF Reforms*, London: UK Zed Press

Choudhury, S. (1999). 'Is Privatisation Really the Answer? Governments in Sub-Saharan Africa Discover the Benefits of Privatization,' *African Business*, November No. I248 (3) p.26 IC publications.

Claessens, S., and Djankov, S. (1999).'Ownership Concentration and Corporate Performance in the Czech Republic,' *Journal of Comparative Economics*, September, Vol. 27(3), p.498.

Clapham, C. (1993). The African state in the post-Cold War era. *The African Studies Association of South Africa (ASASA) Biennial Congress,* Magaliesberg, June 17-18, p. 6.

Clapham, C. (1996). *Africa and the International System: The Politics of State Survival*, Cambridge: Cambridge University press.

Clifford, V.R., (1993).'Implementing Privatization Policy in Developing Countries: A selected Literature Review,' A Publication of *USAID's Implementing Policy Change Project,* Working Paper, No. 3

Coffee, Jr. J. (1999). 'Privatization and Corporate Governance: The lessons from Securities Market Failure,' *Journal of Corporation Law*, September, Vol. 25 Vol.(1) p1.

Colin C. (1990). *Selling the Family Silver: Has Privatization Worked?* London: Hutchinson Business Books.

Collier, P., and Dollar, D. (2001). *Globalization, Growth, and Poverty: Building an Inclusive World Economy* Washington D.C: Oxford University Press, World Bank

COMESA, (2004). 'Regional 'Model' Policy Guidelines for Postal and Regulatory Services: Ninth Meeting of the Transport and Communications Committee: *COMESA Secretariat Working Documents*,' Lusaka:

COMESA, (2003).'Regional Regulatory Program' Lusaka: A Report of The Transport and Infrastructure Division , *COMESA secretariat*

COMESA, (2003). 'Regional Transport and Communications Strategy: Priority Investment Plan For COMESA Member State,' Lusaka: *COMESA Secretariat Publication*

COMES/ITU (2003). 'Costing Approaches for ICT services that will address the interest of consumers, operators/service providers and the public interest in African Countries,' COMESA *Workshop Proceedings Report* Cairo, 27-30 July

COMESA, (2002). Report of the First Consultative Meeting for COMESA Regional Investment Promotion Centres, Lusaka: *COMESA Secretariat* April

COMESA, (1992). *The COMESA Treaty* Lusaka: COMESA Secretariat Publications

Commander, S., and Killick, T. (1988). 'Privatisation in Developing Countries: A Survey of the Issues,' in Cook, P., and Kirkpatrick, C.(eds.), *Privatisation in Less Developed Countries* Brighton: Wheatsheaf.

Commonwealth Secretariat, (2002). 'Trade liberalization in Africa, *Annual secretariat report,* London

Commonwealth Secretariat,(1998). 'Current Good Practices and New Developments in Public Service Management: A Profile of the Public Service of Singapore,' *The Public Service Country Profile Series,* No. 8. London: Commonwealth Secretariat .

Condoy-Sekse, R., and Palmer, A. (1988). *Techniques of privatization of State-Owned Enterprises Volume III: Inventory of Country Experience and Reference Materials:* Washington D. C: World Bank

Connell, J., Lynch, C., and Waring, P. (2001).'Constraints, Compromises And Choice: Comparing Three Qualitative Research Studies,' *The Qualitative Report,* December vol. *6*(4).

Cook, P., The British Council, Governance and Law, *The Evolution and Performance of UK Privatization*, internet address: http://www.britcoun.org/governance/briefing/iss2int.htm.

Cook, P., (2004).'Competition Policy, Market Power and Collusion in Developing Countries,' In Cook, P., Kirkpatrick, C., Minogue, M., and Parker, D. (eds.) *Leading Issues in Competition, Regulation and Development* , Edward Elgar

Cook, P (2002). 'Competition and its Regulation in Developing Countries,' In Clarke, R., Kirkpatrick, C., and Polidano, C., (eds.) *Handbook on Development Policy and Management*, Edward Elgar

Cook, P., and Fabella, R., (2002).'The Welfare and Political Economy Dimensions of Private versus State Enterprise,' *The Manchester School,* Vol. 70, Pp. 246-261

Cook, P., and Minoque, M. (2002).'Introduction: Privatization Regulation and Competition in Developing Countries,' *Annals of Public Cooperative Economics,* Blackwell Publishers, Vol. 73, (4) Pp.485-492

Cook, P (2001). 'Privatisation and Regulation of Utilities,' in McCourt, W., and Minogue, M., (eds.) *The Internationalisation of Public Management: Reinventing the Third World State*, Edward Elgar

Cook, P. (1999), 'Privatisation and Utility Regulation in Developing Countries: The Lessons So Far,' *Annals of Public and Cooperative Economics*, Vol.70, (4), pp.549-587

Cook, P., and Uchida, Y. (2001). 'Privatization and Economic Growth in Developing Countries,' Manchester: *Journal of Development Studies*, Vol. 39, pp.121-34

Cook P., and Kirkpatrick, C., (1998). 'Privatization, Employment and Social Protection,' In Cook, P., Kirkpatrick, C., and Nixson, F. (eds.) *Privatization Enterprise Development and Economic Reform*, Cheltenham: Edward Elgar

Cook, P. (1997). 'Privatization, Public Enterprise Reform and the World Bank: Has Bureaucrats in Business got it Right?,' *Journal of International Development.* Vol. 9 (6)

Cook, P., and Kirkpatrick, C. (ed.), (1995). *Privatisation Policy and Performance. International Perspectives.* New York: Prentice Hall, Wheatsheaf

Cook, P., and Kirkpatrick, C. (1994). 'Assessing The Results Of Privatization: A Review of Methodologies and Evidence,' report submitted to UNCTAD, May, mimeo.

Cook, P., and Minoque, M. (1990). 'Waiting for Privatization in Developing Countries: Towards the Integration of Economic and Non-Economic Explanations,' *Public Administration and Development,* Vol.10 (4), Pp. 389-403.

Cook, P., and Kirkpatrick, C., (eds.) (1988). *Privatization in Less Developing Countries,* New York: St. Martins press.

Corden, W. M., (1997). *Trade Policy and Economic Welfare*, (2nd edition) Oxford: Oxford University Press

Coricelli, F. (1998). *Macroeconomic Policies and the Development of Markets in Transition Economies*, Budapest: Central European University Press.

Cowan, L. G., (1990). *Privatization in the Developing World,* New York: Greenwood press.

Cox J.C., Offerman T., Olson M.A., and Schram A. J. (2002). 'Competition Versus the Rails: A Laboratory Experiment,' *International Economic Review*, August, Vol. 43 (3) Pp.709-736

Craig, J. (2002). 'Privatization and Indigenous S Ownership: Evidence from Africa, *Annals of public and cooperative Economics*, December, Vol. 73 (4) Pp. 695-696, Blackwell

Cricelli, L., Gastaldi M., and Levialdi N. (2002). 'The wholesale Competition in International Telecommunications,' A Paper presented at the *ITS 13th European Regional Conference*, Madrid.

Crompton, J. L. and Lamb, C. H. (1986) *Marketing Government and Social Services*, John Wiley and Sons, New York.

Crook, D.H, (1988). 'Deregulation of Private Rented Housing in Britain,' *Urban affairs annual Review* Vol:36,

Csaba, L. (1993). 'Transition to the Market: Theory and Evidence,' in H.-J. Wagener (ed.), On the *Theory and Policy of Systemic Change*, Heidelberg: Physica-Verlag, Pp.219–243.

Cull, R. Matesova, J., and Shirley M (2001). 'Ownership Structure And The Temptation To Loot: Evidence from Privatized Firms in The Czech,' Washington DC: *Economic Development Research Group*, The World Bank.

D'Souza, J., and Megginson, W. (2001). 'Sources of Performance Improvements in Privatized Firms: A Clinical Study of the Global Telecommunications Industry,' The World Bank *Working paper* No. 26.

Dabbs, J. M. (1982). 'Making Things Visible,' In J. Van Maanen, J., Dabbs, J.M., and Faulkner, R.R (eds.), *Varieties of Qualitative Research* (pp. 31-63). Thousand Oaks, CA: Sage.

Dallago, B., Ajani, G., and Grancelli, B. (eds.), (1992).*Privatization and Entrepreneurship in Post-socialist Countries: Economy, Law, and Society.* New York: St. Martin's press

Danso, A. C. (1998). 'Displacement Caused by fighting in Mombassa region/Coast Province (1997),' In U.S. Department of State, Kenya *Report on Human Rights Practices for 1997.* Bureau of Democracy, Human Rights, and Labor, Washington D.C:

Danso, A. (1990). 'Causes and Importance of the African Debt Crisis,' *Review of Black Political Economy*, Vol. 33 (3). P.445

Daouas, M. (2001). 'Africa Faces Challenges of Globalisation,' *Finance & Development*, December, Vol. 38(4), p.4

Das, T. (1983). 'Qualitative Research and Organizational Behaviour,' *Journal of Management Studies* Vol.3.Pp.301-314

Dasgupta, P., and Stiglitz, J. E. (1985). 'Learning-by-doing, Market Structure and Industrial and Trade Policies,' *CEPR Discussion Papers* No. 80.

Dasgupta, P., and Stiglitz, J. E. (1971). 'Differential Taxation, Public Goods, and Economic Efficiency,' *Review of Economic Studies*.Vol.38 (114), pp.151-174

Davis, R., and Sanders, D. (1992). Liberalization for Development: Zimbabwe's Adjustment without the Fund,' In Cornia, G.A., Van der Hoeven, R., and Mkandawire, T. (eds.), *Africa's*

Recovery in the 1990s: from Stagnation and Adjustment to Human Development Houndsmill: Macmillan. Pp.135-155

De Luca, L. (ed.) (1990) Labour and social dimensions of privatization and restructuring - Public utilities Water gas, electricity. Part I: Africa/Asia-Pacific Region,' Geneva: *ILO Inter-departmental Action Programme*

Denzin, N. K., and Lincoln, Y. S. (eds.) (1994). *Handbook of Qualitative Research*, CA: Thousand Oaks, Sage.

Denzin, N. K. (1978) *The Research Act: A Theoretical Introduction to Sociological Methods*. McGraw-Hill, New York.

Denzin, N. K. (1970). *Sociological Methods: Sourcebook*. Aldine Publishing Company

Dexter, W. (1983). *Making It Public: Evidence and Action against Privatisation*, London: Pluto Press.

Dhonte, P. (1997). 'Conditionality as an Instrument of Borrower Credibility,' Washington D.C: *Working Paper on Policy analysis and Assessment* No.97 (2) IMF

Díaz, P., and Korovkin, T. (1990). 'Neo-liberalism in Agriculture: Capitalist Modernization in the Chilean countryside,' In Galleguillos, N., and Nef, J. (eds.), *Chile/Le Chili. Canadian Journal of Latin American and Caribbean Studies*, Vol.15 (30). pp. 197-220

Dickinson, P. (1994). 'Market efficiency in developing countries: A case study of the Nairobi Stock Exchange,' *Journal of Business Finance and Accounting*, Vol.21, p.133

Dieter, B. (1991). *Privatization: A Theoretical Treatment,* Oxford: University Press,

Dietmar, R., (ed.) (1996). *Liberalising India: Progress And Problems,* New Delhi: South Asia Books

Dnes, A. (1996). 'Franchising and Privatization,' *Public Policy for the Private Sector* note 40, Washington D.C: World Bank

Dnes, A. (1995). 'Post-Privatization Performance--Lessons from British Telecommunications: Testing for Regulatory Capture,' *Public Policy for the Private Sector* note 60, Washington D.C: World Bank

Doh, P. J., Teegen, H., and Mudambi, R., (2004), 'Balancing Private And State Ownership In Emerging Markets,' In *Telecommunications Infrastructure: Country, Industry, And Firm Influences*,' Journal of International Business Vol.35 (3) pp.233-250

Domberger, S., and Piggott, J. (1986). 'Privatization Policies and Public Enterprise: A Survey,' *The Economic Record*, June, Pp.145-162

Doroodian, K. (1993). Macroeconomic performance and Adjustment under Policies Commonly Supported by the International Monetary Fund,' *Economic Development Cultural Change,* Vol. 41(4), pp.849-864

Drodskie P., (2001). 'Rail Efficiency Critical for Hopes of Privatization, *South Africa Business Report*, April

Dieter, B. (1991). 'Arguments on Privatization,' In Dieter, B. *Privatisation: A Theoretical Treatment*, Oxford: Claredon Press, pp 315.

Dubravcic, D., (1995). 'Entrepreneurial Aspects of Privatisation in Transition Economies,' *Europe-Asia Studies,* March, Vol. 47 (2)

Dunleavy, P. (1986). 'Explaining the Privatization Boom: Public Choice versus Radical Approaches. *Public Administration*,' London: Vol. 64(1).

Durupty, M. (1988. 'Les Privatisations En France,' Notes Et Etudes Docunientaires 4857. Paris: La Documentation française.

Dusan, S., and Harold K. (eds.) (1973). 'Political Decision-Making Processes: Studies in National, Comparative and International Politics,' *International Political Science Association;* September; Amsterdam; New York: Elsevier Scientific

Dyer, W. Jr., and Wilkins, A.L. (1991). 'Better Stories, Not Better Constructs, to Generate Better Theory: A Rejoinder to Eisenhardt,' *Academy of Management Review, Vol.*16 (3) pp. 613-619.

East African Standard, (2004). 'US Firm Bags Sh99m Safaricom Expansion Deal,' *The Standard Limited Publications* April 20

East African (2002). 'Delay in Privatising Telkom Kenya: Politics of Underhand Dealings in the Privatization Process,' *A Nation Newspapers Publication* August 18

Easterly, W. (1999). 'The Ghost of Financing Gap: Evaluating the Growth Model of the International Financial Institutions, *Journal of Development Economics*, pp. 423–438

Easterly, W., and Fischer, S. (1995). 'The Soviet Economic Decline,' *World Bank Economic Review* Vol. 9(3) Pp. 341-371.

Easterly, W., Carlos A., and Klaus, S. (eds.) (1994). *Public Sector Deficits and Macroeconomic Performance* New York: Oxford Univ. Press.

Edgren, G. (1987). 'The growth of Public Sector Employment in Asia,' in Edgren, G. (ed.), *The Growing Sector: Studies of Public Sector Employment in Asia,* New Delhi: ILO/ARTEP

Edgren. G. (2002). 'Aid is an Unreliable Joystick,' Development and Change, April Vol. 33 (2), pp. 261-267 Blackwell

Edmonds, J., (1988). 'Privatization and Unions,' *Financial Times,* September 16, pp 5-7. Quoted in Hurl, Bryan (1988, P.7), *Privatization and the public sector,* Oxford: Heinemann

Efange, P., and Balogun, J.M. (1989). 'Policy and Managerial Responses to Crisis,' In Balogun, J.M and Mutahaba, G. (eds.) *Economic Restructuring and African*, Westpom: Kumarian

Egerer, R., (1995). 'Capital Markets, Financial Intermediaries, and Corporate Governance: An Empirical Assessment of the Top Ten Voucher Funds in The Czech Republic,' World Bank, Washington, D.C.

Eglin, R. (1993). 'BT Prepares to Beat the World: Guide to the UK Privatisation Programme,' *Management Today* July, Vol. 9 (12)

Eisenhardt, K., and Bourgeois L. J. (1988). 'Politics of Strategic Decision-making in High velocity Environments: Towards a mid-range theory,' *Academy of Management Journal,* Vol.16: 3, Pp.613-619

Eisenhardt, K. (1989). 'Building theories from Case Study Research,' *Academy of Management Journal,* Vol.14: pp.532-550

Ellis, F. (1993). 'Private Trade and Public Role in Staple Food Marketing: The Case of Rice in Indonesia,' *Food Policy.* Vol 18. (5) pp.428-38

Elling, M. (1992). 'Privatization in Germany: A Model for Legal and Functional Analysis,' *Vanderbilt Journal of Translational Law* 25(4) Pp.581-642.

English, R. D., (1991). 'Privatization By General Fund: Economic Empowerment For Central And Eastern Europe,' George Washington: *Journal Of International Law and Economics* No. 24: Pp.527-86.

Esfahani, H., (1994). 'Lessons from The Political Economy of Privatization and Public Sector Reform in The Meddle East and Southeast Asia,' *Quarterly Review of Economics and Finance* Vol. 34, Pp.301-331, Summer

Estache, A. (2001). 'Privatisation and Regulation of Transport Infrastructure in the 1990s,' *The World Bank Research Observer*, 16(1), pp. 85-107.

Estache, A., (1997). 'Designing Regulatory Institutions for Infrastructure – Lessons from Argentina,' World Bank, *Private Sector* and Note No. 114;

Estrin, S. (1994). *Privatisation in Central and Eastern Europe* London: Longman.

Falstaff, H., (1996) 'Is Privatization the Answer? Africa's Steel Industry,' *African Business*, November Vol. 34 (2) IC Publications, November

Faucher, P. (1999). 'Restoring Governance: Has Brazil Got it Right (at Last)?,' In Starr, P.K., and Oxhorn, P. (eds.) *Markets and Democracy in Latin America: Conflict or Convergence*? Boulder: Lynne Rienner Publishers pp.103-132

Fawzy, S., and Galal, A. (eds. (1999). 'Partners For Development: New Roles For Governments and the Private Sector in the Middle East And North Africa,' Washington, D.C: World Bank.

Feigenbaum, H., and Heing.J, (1989). 'Ownership and Governance: The Privatisation of New Zealand Universities,' *Singapore Polytechnic Educational Research:*

Ferguson, K., and Kreiter, C. (2004). 'Using a Longitudinal Database to Assess the Validity of Preceptors' Ratings of Clerkship Performance,' *Springer Science and Business Media B.V.* March Vol. 9 (7b/1), pp.39 - 46

Field Survey Data (FSD), (2004). Analyzed and Recorded Responses of Data from Field interviews and Notes of Sampled Individuals from the Public and Private Sector.

Finance Week, (2002). 'Corruption Charges Slow Privatization,' *Finance Week*, August, 23rd JSE Securities P.48.

Financial Market Trends (1998), 'The Developments of Securities Markets Transition Economies: Policy issues and country experience'. *Financial Markets Trends,* Vol. 70, p111.

Financial Market Trends (1998). 'The Developments of Securities Markets Transition Economies: Policy issues and country experience,' Financial *Markets Trends,* Vol. 70, p.111

Fisher, S. (1991). 'Growth, Macroeconomics and Development,' in Blanchard, O.J., and Fischer, S. (eds). *National Bureau of Economic Research Macroeconomic Annual*, Vol.6, Cambridge: MIT Press, January

Fitzgerald, E. (1997). 'The Theory of Import Substitution,' in *Centro Studi Luca d'Agliano,* Oxford: Queen Elizabeth House, *Working Paper* 108.

References

Foster C.D. (1992). *Privatisation, Public Ownership, and the Regulation of Natural Monopoly.* Oxford U.K: Blackwell.

Foster, J., Greer, J., Thorbecke, E. (1984). 'A Class of Decomposable Poverty Measures' in *Econometrica,* Vol. 52, pp.761-765.

Foster, C. (1971). *Politics, Finance and the Role of Economics: An Essay on the Control Of Public Enterprise,* London: Allen and Unwin.

Frenkel, J.A., and Khan, M.S. (1992). 'The IMF Approach and Its Implications for Economic Development,' *AEA/AAEA Paper,* Atlanta: Pp.27-30, December 28-30

Frenkel, J.A., and Khan, M.S. (1990). 'Adjustment Policies and Economic Development,' *American Journal of Agricultural Economics,* Pp.815-818 August

Frydman, R., Gray, C., Hessel, M. and Rapaczynski, A. (1999). 'When Does Privatization Work? The Impact of Private Ownership on Corporate Performance in the Transition Economies,' *Quarterly Journal of Economics,* Vol. 114 (4) Pp.1153-1192

Garcia, N. (1993). *Lessons From Structural Adjustment Processes of Costa Rica, Chile and Mexico,* Santiago: ILO PREALC.

Galal, A., and Nauriyal, B. (1999) 'Regulating Telecommunications in Developing Countries: Outcomes, Incentives, and Commitment,' World Bank, Working *Paper* No.1520. Washington D.C

Galal, A., Jones, L., Tandon, P., and Vogalsang, I. (1992). *The Welfare Consequences of Selling Public Enterprises: Case Studies from Chile. Malaysia, Mexico and the UK,* Washington D.C: World Bank

Galal, A., Jones, L., Tandon, P., and Vogalsang, I. (1994). *The Welfare Consequences of Selling Public Enterprise: An Empirical Analysis,* Oxford: Oxford University Press, Pp.13-14, p.86

Gayle, D.J., and Goodrich, J.N. (eds.), (1998). *Privatization and Deregulation in Global Raising the Stakes in Economic Reform,* Washington, DC: Brookings

Gayle, D.J., and Goodrich, J.N. (eds.) (1990). *Privatization and Deregulation in Global Perspective,* New York: Quorum Books

Ghal, Y. (1985). 'The State and the Market in the Management of Public Enterprises in Africa: Ideology and False Comparisons,' *Public Enterprises* Vol.6, pp.15-26.

Gibbon, P., Bangura, Y., and Ofstad, A. (eds) (1992). *Authoritarianism, Democracy, and Adjustment: The Politics of Economic Reform in Africa,* Upsala: Nordiska Afrikainstitutet

Gibbon, P., and Olukoshi, *A.* O. (1996*) Structural Adjustment and Socio-Economic Change in Sub-Saharan Africa.* Nordiska Afrikainstitutet (Report No 102), Uppsala.

Rocha, G. (1994). 'Redefining the Role of the Bourgeoisie in Dependent Capitalist Development: Privatization and Liberalization in Brazil,' *Latin American Perspectives,* No.21 (1), pp.72-98.

Giersch, H. (1986). 'Liberalisation for Faster Economic Growth: Internal and External Measures Required,' *Institute of Economic Affairs. London.* Wincott Foundation

Gill, J., and Johnson, P. (1991). *Research Methods for Managers, London:* Paul Chapman

Gillespie, G. (1986). 'Using Word Processor Macros for Computer-assisted Qualitative Analysis,' *Qualitative Sociology*, Vol.9, Pp.283-292.

Gillis, A., Perkins, D.H., Roemer, M., and Snodgrass, D.R. (1992). *Economics of Development*. New York: W.W. Norton and Co.

Glade, W. (1989). 'Privatisation in Rent-Seeking Societies,' *World Development*, 17(5), pp. 673-382.

Gladstone, H. (1991). 'Efficiency Gains Through Privatization of UK Industries,' In Attiat F., and Keith H. (eds.), *Privatization and Economic Efficiency: A Comparative Analysis of Developed and Developing Countries,* Aldershot: Edward Elgar,

Glaser, B.G., and Strauss, A. L.(1967). *The Discovery of Grounded Theory: Strategies for Qualitative Research.* Chicago: Aldine.

Glen, J.D., and Sumlinski, M.A.(1995). 'Trends in Private Investment in Developing Countries,' *IFC Discussion Paper* No. 25.

GOK, (2003). *Economic Recovery Strategy for Wealth and Employment Creation 2003-2007*, Nairobi: Government Printers

GOK, (2003). 'The Privatization Bill 2003: *Kenya Gazette Supplement No. 88*,' 7th November, (Bills N0. 26), p.1003). Nairobi: Government Printers

GOK, (2003). *Economic Survey 2004*, Nairobi: Government Printers

GOK/TKL, (2003: 2000*:1998:1999*[1]).Telkom Kenya and GOK various Confidential Unpublished Reports

GOK/DGIPE (2001:2002). Mid Year Update of Progress Report of the Department of Government Investments and Public Enterprises (DGIPE or Investment Secretariat) August

GOK, (2002). *Economic Survey 2003* Nairobi: Government Printers

GOK/CCK, (2001). 'Telecommunications and Postal Sector Statement,' Joint Annual Sector publication, Nairobi. December.

GOK/CCK, (2001). 'The Kenya Communications Regulations,' *Kenya Gazette- Legislative Supplement No.* 21, 4th May. Nairobi: Government Printers.

GOK/World Bank, (2001). 'World Bank/Government of Kenya Agreement of 2001 on the PSDS,' Nairobi: Washington D.C: World Bank

GOK, (2000). 'The Poverty Reduction Strategy Paper (PRSP) 2000-2003,' *Ministry of Economic Planning,* Nairobi:

GOK,/MOT&C (1999:1998). 'Telecommunications and Postal Sector Policy Statement,' *Ministry of Transport and Communication,* Nairobi

GOK, (1998). 'The Kenya Communications Act of 1998: The Postal Corporation Act, 9th November,' *Kenya Gazette Supplement No. 64, Kenya Act No.3* Nairobi: Government Printers

GOK, (1998). 'The Constitution of Kenya Commission (Amendment) Act,' *Kenya Gazette Supplement No. 72*, 30th December, (acts N0.6), Nairobi: Government Printers.

[1] *indicates a confidential report

References

GOK/World Bank, (1999). 'World Bank/Government of Kenya Credit: Memorandum of Economic and Financial Policies of GOK,' Nairobi: World Bank

GOK, (1997). 'Economic Management and Renewed Growth,' *Sessional Paper* No.1 of 1986 Nairobi: Government Printers

GOK, (1996). 'Public Enterprise Reform and Privatization,' *A Policy Paper* of the Ministry of Finance: Department of Government Investments and Public Enterprises, Nairobi: Government printers. (Pp.1-5)

GOK, (1997). 'Kenya Gazette Supplement No. 37,' Nairobi: Government Printers

GOK, (1997). 'Industrial Transformation to the Year 2020,' *Sessional Paper* No.2 of 1997, Nairobi: Government Printers

GOK, (1987). 'The State Corporations Act,' *Laws of Kenya* Chapter 446. Nairobi: Government Printers

Gomulka, S., (1995). 'The IMF-Supported Programs of Poland and Russia, 1990-1994: Principles, Errors and Results,' *Journal of Comparative Economics*. Vol. 20, Pp.316-346

Gomulka, S., (1993). 'Poland: Glass Half Full,' In Portes, R. (ed.) *Economic Transformation in Central Europe: A Progress Report*. Brussels: Office for Official Publication of the European Community

Gomulka, S., (1994). 'The Financial Situation of Polish Enterprises 1992-93 and Its Impact on Monetary and Fiscal Policies,' *Economics of Transition*. No. 2 pp.189-208

Good, I. P. (1999). *A Re-sampling Methods: A Practical Guide to Data Analysis*, Boston: Birkhauser, USA

Goodman, D.S., and Chongyi, F. (1994). Guangdong: Greater Hong Kong and the New Regionalist Future. In Goodman, David S.G. and Gerald, S. *China Deconstructs: Politics, Trade and Regionalism,* (eds.), London and New York: Routledge, pp.177-201.

Gordon, D. M. (1972a). 'Economic Theories of Poverty and Underemployment,' *American Economic Review*, Vol. LXII, (2), pp.319-328, May

Gordon, D. M. (1972b). 'Taxation of the Poor and the Normative Theory of Tax Incidence,' *American Economic Review,* Vol. LXII, (2), pp.319-328, May

Government of Ghana, (1988). 'Divestiture of Selected State- Owned Enterprises in Ghana,' Accra, Divestiture *Implementation Committee Report*

Graham, C., and Prosser, T. (1991). *Privatizing Public Enterprises: Constitutions, the State, and Regulation in Comparative Perspective*. New York: Oxford University Press.

Greene, J., and Caracelli, V. (eds.). (1997a). *Advances in Mixed-Method Evaluation: The Challenges and Benefits of Integrating Diverse Paradigms*. San Francisco: Jossey-Bass.

Greenspan-B. and Kolaja, T. (1993). 'Capital Privatization and The Management Of Environmental Liability Issues In Poland,' *Business Lawyer* 48(3), Pp.943-61.

Greenwald, B., and Stiglitz, J.E (1989). 'Pareto Inefficiency of Market Economies: Search and Efficiency Wage Models,' *NBER Working Papers* No. 2651,

Grimstone, G., (1990). 'The British Privatization Programme,' In Richardson, J. (ed.) *Privatization and Deregulation in Canada and Britain.* Aldershot: Dartford

Grimstone, G., (1989). 'Privatization: Macroeconomics and Modalities,' in Ramanadham, V.V., (ed.) *Privatization in Developing Countries.* London: Routledge, Pp. 102-117

Grosh, M. (1992). 'The Jamaican Food Stamps Programme: A Case Study in Targeting Food Policy,' *TUFTS Food Policy Journal* February, Vol. 17 (1), pp.23-40

Grossman, G. and Helpman, E. (1991). *Innovation and Growth: The Global Economy,* Cambridge, MA, MIT Press.

Grossman, S.J. and Hart, O.D. (1986) 'The Costs and Benefits of Ownership: A Theory of Vertical and Lateral Integration,' *C.E.P.R. Discussion Papers* No. 70

Gui, B. (1994). 'Third Sector in Central and Eastern European Post-Soviet Type Economies,' In Clarke, T (ed.), *And International Privatisation: Strategies and Practices.* Berlin/ New York: Walter de Gruyter; p. 273-288.

Guillaumont, P., Collier, P., Guillaumont, S., and Gunning, Jan Williem (1997). 'Redesigning Conditionality,' *World Development*, Vol. 25 (9), pp.1399-1407

Guillaumont, P., and Guillaumont, S. (1989). 'The implications of the European Monetary Union for African countries,' *Journal of Common Market Studies*, Vol. 28 (2), pp.139–153.

Guillen, M. F., and Suarez, S. L. (2001). 'Developing the Internet: Entrepreneurship and Public Policy in Ireland, Singapore, Argentina,' *Telecommunications Policy*, Vol. 25 (5), P.349.

Guislain, P. (1997). 'The Privatization Challenge: A Legal and Institutional Analysis of International Experience,' Washington D.C: World Bank

Guislain, P., and Kerf, M. (1995). 'Concessions: The Way to Privatize Infrastructure Sector Monopolies,' in *http:www.worldbank.org/html/fpd/notes/59/59guislain.html* Private Sector No. 59

Guislain, P. (1992). *Divestiture of State Enterprises: An Overview of the Legal Framework, Technical Paper* No. 186, Washington D.C: World Bank

Gummesson, E., (1991). *Qualitative Methods in Management Research*, Newbury Park: Sage,

Gupta, S., Schiller, C., and Ma, H. (1999). 'Privatization, Social Impact, and Social Safety Nets,' *Working Paper, IMF.* Washington D.C.

Guzzo, R. A., Noonan, K. A., & Eiron, E. (1994). 'Expatriate Management and The Psychological Contract, *Journal of Applied Psychology*, Vol.79, pp. 617-626.

Hadi S. E., and Mookherjee, D. (1995) 'Productivity, Contracting Modes, and Development,' *Journal of Development Economics*, Vol. 46, (2).

Haggard, S., and Webb, S.B. (1994). *Voting for Reform: Democracy, Political Liberalization, and Economic Adjustment*, Washington D.C: Oxford University Press, World Bank

Haggarty, L. Shirley, M., and Wallsten, S. (2002). 'Telecommunications Reforms in Ghana,' Working *Paper* No. 2983, Washington D.C: World Bank

Haggblade, S., Liedholm, C., Mead, D. (1990). 'The Effects of Policy and Policy reforms on Non-Agricultural Enterprises and Employment in Developing Countries: A Review of Past Experiences,' In Stewart, F., Henk, T., and Wilde, T., (eds.), *The Other Policy: The Influence of Policies on*

Technology Choice and Small Enterprise Development. London: Washington D.C: IT publications- Appropriate Technology International, pp.58-98

Haltiwanger, J., and Singh, M. (1999). 'Cross-Country Evidence on Public Sector Retrenchment,' Washington DC: *The World Bank Economic Review,* Vol. 13. (1), pp. 23-66.

Hamel, J. (1993). *Case Study Methods. London:* Thousand Oaks: Sage.

Handoussa, H., Nishimizu, M., and Page, J. (1986). 'Productivity change in Egyptian public sector after 'the opening' 1973-79,' *Journal of Development Economics,* Vol. 10, (1)

Hanke, S.H., and Walters, S.J. (1990). 'Privatization and Public choice: Lessons of the LDCs' in Dennis J. Gayle and Jonathan N. Goodrich (eds.), *Privatization and Deregulation a Global Perspective*, New York: quorum Books

Hanke, S. H., (ed.), (1987). *Privatization and Development*, San Francisco: Institute for Contemporary Studies Press, International Center for Economic Growth, Pp.33-47

Harper, J. (2001)' Short-term Effects of Privatization on operation Performance in the CZECH Republic,' *Journal of Financial Research*, Vol. 24 (1), p.119

Harper, J. (2002) 'The Performance of privatized Firms in the Czech Republic': T. Journal of Banking & Finance, April, Vol. 26 Vol. 4, p621.

Harper, J. (2002) 'The Performance of Privatized Firms in the Czech Republic': *Journal of Banking & Finance*, April, Vol. 26 (4), p.621.

Harris, J. (2002). *Depoliticizing Development: The World Bank and Social Capital,* London: Anthem Press

Harris, R.S. (2001).'Bumpy Flight Heading For A Crash Landing,' *Financial Times*, London: 4 August.

Harriss, J., and Kusi, N. (1992). The Impact of IMF and on Government Expenditure: A Study of African LDCs,' *Journal of International Development*, Vol. 4(1) January

Harriss, J., and Crow B. (eds.) (1992). *Rural Livelihoods. Crises and Responses.* Oxford: Oxford University Press.

Harrisson, A., and Bartel, A.P. (2000). 'Ownership Versus Environment: Disentangling the Sources of Public Sector Inefficiency,' Washington D.C: World Bank, *Working Paper* No. 2272.

Hashi, I. (2000). 'The Polish national Investment Fund Programme: Mass Privatization with a Difference?,' *Comparative Economics Studies*, Vol. 42 (1) spring pp.87-134

Heald, D. (1985). 'Privatization Policies, Methods, Procedures,' Paper Presented at a Conference in Manila, Philippines

Heald, D. (1980). 'Financing Devolution Within the United Kingdom: A Study of the Lessons from Failure,' Australian National University, Canberra. Research Monograph No. 32

Heath, J. (1989). 'Privatization: Modalities and Strategy,' in Ramanadham, V.V., (ed.), *Privatization in Developing Countries,* London: Routledge, Pp. 118-124

Hemming, E., and Unnithan, N.(1996). 'Determinance of Privatization Levels in Developing Countries,' *Social Science Quarterly*, No.77(2). Pp.434-444

Hemming, R., and Mansoor, A. (1988).'Is Privatization the Answer?,' *Finance and Development* September: Vol 25.(3) Pp. 31-33.

Hennig, J.R. (1990). 'Privatization in The United States: Theory and Practise,' *Political Science Quarterly,* Vol. 104 (4), p. 652.

Henry, R. (1990) 'Privatization and the State Enterprise Sector in Trinidad and Tobago: Market and Non-Market Issues in a Plural Political Economy,' in Gayle and Goodrich, *Privatization and Deregulation in Global Perspective*, Washington D.C: Quorum Books

Hensley, M., and Edward W. (1993). 'The Privatization Experience in Malaysia: Integrating Build-Operate-Own and Build-Operate-Transfer Techniques within the National Privatization Strategy,' *Columbia Journal of World Business* No.28, (105) Pp.70-83.

Hinds, M. (1990). *Issues in the Introduction of Market Forces in Eastern European Socialist Economies*, New York. The World Bank

Hoff, K., and Stiglitz J. E. (2001). 'Modern Economic Theory and Development,' In Meier, G., and Stiglitz J.E. (eds.), *The Future of Development Economics in Perspective*. Oxford: Oxford University Press, pp.389-459

Hogan, W. (2001). 'Electricity Market Restructuring Reforms of Reforms,' 20th Annual Conference May 23-25, *Center for Research in Regulated Industries*, Rutgers University

Honey, M.A. (1987) 'The Interview As Text: Hermeneutics Considered As A Model For Analysing The Clinically Informed Research Interview,' *Journal of Human Development*, P 69-82.

Honey, M.A., (1987). 'The Interview as text: Hermeneutics Considered as a model for analysing the clinically informed research interview,' *Journal of Human Resource Development*, Vol.41 (2) Pp.69-82.

Hood, C. (1994: 1947) *Explaining Economic Policy Reversals: Buckingham,* Open University Press.

Hopper, T., and Koga, T. (1999). 'Cost Accounting in Small and Medium Sized Japanese Companies: An Exploratory Study,' *Accounting & Business Research*, Vol. 30 (1) p.73

Hornby, P., and Symon, G. (1994). 'Tracer Studies,' In Cassell C., Symon G. (eds.), *Qualitative Methods in Organizational Research: A Practical Guide*, London: Sage, Pp.167-186.

Hurl, Bryan (1988) *Privatization and the public sector,* Oxford : Heinemann, 1988

Hussey, J., and Hussey, R. (1997). *Business Research: A Practical Guide for Undergraduates and Postgraduate Students*. Hampshire: Palgrave.

Hyden, G. Jackson, R., and Okumu, J. (eds.) (1970). *Development Administration: The Kenyan Experience,* Nairobi: Oxford University Press

Hyden, G., (1983). *No Shortcuts to Progress: African Development in Perspective* California: Berkeley : Univ. of California

Hyden, G., (1983). *The Changing Context of Institutional Development in Sub-Saharan Africa: In the Long-term Perspective Study of Sub-Saharan Africa, Vol.3 Institution and Social Political Issues*. Washington D.C: World Bank

IFC, (1995). *Privatization Principles and Practice,* Washington D.C: World bank

IFC, (1999).'Building the Private Sector in Africa to Reduce Poverty and Improve Peoples Lives,' *IFC Africa Dept*. Washington D.C.

IFC, (2000). Annual Report, Washington D.C.

References

Ikara M.(2002). 'Impact Of Foreign Direct Investment (FDI) On Technology Transfer In Africa: Conceptual Issues And Research Agenda,' *African technology policy studies (ATPS), Special Paper* No. 6, Nairobi: Kenya.

Ikiara, G.K.(2003). 'The Privatization of Tourism Assets in Kenya,' *African Academy of Sciences,* Nairobi

Ikiara G.K., and N.S. Ndung'u (1997). 'Employment and Labour Market During Adjustment: The Case of Kenya,' *ILO Publications* Geneva

ILO, (1992). 'Privatization, Employment and Social Protection in Slovene Enterprises,' World Labour Report, Geneva: ILO. *Comparative Economic Studies*, winter, Vol. 41(4), p.71

ILO (1995). 'Privatization, Employment and Social Protection,' World *Labour Report* 1992. Geneva: ILO.

Ilori, M.O., Nassar, M.L., Okolofo, J.O., Akarakiri, J.B., and Oyebisi TO (2003). 'An Evaluation of Business Performance and Technology Development in the Pre- and Post-Privatisation Period of a Public Company in Nigeria,' Technovation Vol.4 (2) pp.175 – 182

InfoDev Program (2003). *Website, http://www.infodev.org* Washington D.C: World Bank-Info-Dev programme.

Islam, A., and Monsalve, C. (2001). 'Privatization: A Panacea or a Palliative,' New York: United Nations Economic and Social Commission for Asia and Pacific. *Development Papers,* Vol. 64, p.23

ITU, (2001) Website:http://www.itu.org, Geneva: ITU

ITU, (2001). *World Telecommunications Indicators 2000/2001,* Geneva: ITU

ITU, 2002). 'General Trends in Telecommunications Reform,' ITU publications August

ITU, (2001). *ITU Year Book of Statistics and Telecommunications Services 1990-1999, 27th edition,* Geneva: ITU publications

ITU, (2001). *World Telecommunications Development Report: Mobile Cellular,* 5th edition 1999, Geneva: ITU publications

ITU, (2000). *International Telecommunications Regulators,* ITU publications

ITU, (2000). *Trends in Telecommunications Reform: Country profiles* Geneva: ITU publications

ITU, (2000). *World Telecommunications Development Report: Universal Access,* 4th edition 1Geneva: ITU publications

ITU, (1999). 'Trends in Telecommunications Reform: Convergence and Regulation,' Geneva. ITU publications October

Iyer, R.R. (1988). 'The Privatization Argument,' *Journal of Economic and Political Review Weekly*, Vol. 96 (3) pp. 554-556.

Jalilian, H., and Weiss, J., (1997). 'Bureaucrats, Business and Economic Growth,' *Journal of International Development,* Vol. 9 (6)

Jilberto, A.E., and Mommen, A. (1998). *Regulation and Globalization in the Modern World Economy: Perspectives on the Third World and Transitional Economies,* London and New York Routledge

Jilberto, A.E., and Mommen, A. (eds.), (1996). 'Liberalization in the Developing World Institutional and Economic Changes in Latin America, Africa and Asia,' Routledge *Studies in Development Economics*

Jalilian H., and Weiss J (1997). 'Bureaucrats, Business and Economic Growth,' *Journal of International Development,* Vol. 9, no 6.

Jamal, V. (1992). 'Wages and Implications of Structural Adjustment: How To Survive in Africa,' Bremen (ed.) In Research Group on African Development Perspectives *Industrialization Based on Agricultural Development*

Jeffries, R. (1993) *The State, Structural Adjustment and Good Governance: The Economic Impact and The Social and Political Impact*, London: Zed Books.

Jefferies, C.L. (1996). 'The Privatization Debate: Examining the Decision to Outsource a Service,' *Business Officer*, Vol.29 (7) pp. 26-30.

Jermakowicz, W. (1993). 'Economic Reform and Foreign Investment in Poland,' In Bank Austria, Economic Transformation in Eastern Europe: Privatization and Foreign Investments: Vienna: AG. Pp.103-125

John, K. A., and Doucet, L. (1997). 'Developing Categories for Interview Data: Consequences of Different Coding and Analysis Strategies in Understanding Text: Part 2,' *Cultural Anthropology Methods Journal*, Vol.9 (1), pp.1-7.

Johnson, J. C. (1990). *'Selecting Ethnographic Informants: Qualitative Research Methods*,' London: Sage

Johnson, A., & Johnson, O. R. (1990). From Quality to Quantity: On the Measurement Potential of Ethnographic Field notes. In R. Sanjek (Ed.), Field notes: The Makings of Anthropology (Pp. 161-186). Ithica, NY: Cornell University Press.

Johnson, A., & Johnson, O. R. (1990). From Quality to Quantity: On the Measurement Potential of Ethnographic Field notes. In R. Sanjek (Ed.), Field notes: The Makings of Anthropology (Pp. 161-186). Ithica, NY: Cornell University Press.

Johnson, A., and O., Johnson, (1990). 'From Quality to Quantity: On the Measurement Potential of Ethnographic Field notes,' In R. Sanjek (Eds), *Field-notes: The Makings of Anthropology* (Pp. 161-186). Ithica, New York: Cornell University Press.

Jones, S., Megginson, W., Nash, R., and Netter, J. (1999). 'Share Issue Privatizations as Financial Means to Political Ends,' *Journal of Financial Economics*, Vol. 53, pp. 217--53.

Jones, L, Tandon, P., and Vogelsang, I. (1991). 'Selling State-Owned Enterprises: A cost benefit Approach,' In Ramamurti, R., and Vernon R. (eds.) *Privatization and Control of State-owned Enterprises,* Washington D.C: World Bank, EDI

Jones, I.P. and G.F. Papanek (1983). 'The Efficiency of Public Enterprise in Less Developed Countries,' in Reddy, G.R. (ed.), *Government and Public Enterprise*

Kapur, A. (1995) Airport Infrastructure: the emerging role of the private sector,' Washington D.C: World Bank Technical Paper No.313

Karanja R.W. (1995) 'Privatization in Kenya' in Ramanadhan, V.V. (ed) *Privatization and Developing Countries,* New York and London: Routledge.

Kasakoff, A. (1986). 'The Construction of Primary Data in Cultural Anthropology,' *Current Anthropology,* 27(4), 382-396.

Kaufmann, D. Siegelbaum, P. (1997) 'Privatization and Corruption in Transition Economies,' Journal *of International Affairs,* winter, Vol. 50 Vol. 2, p419

Kaufmann, D. Siegelbaum, P. (1997) 'Privatization and Corruption in Transition Economies'; Journal of International Affairs, winter, Vol. 50 (2), p.419

Kay, J. A., Mayer, C. P., and Thompson, D. J. (1986). *Privatisation and Regulation: The UK Experience.* Oxford: Clarendon Press.

Kay, J.A., and Thompson, D.J. (1986). 'Privatization: A Policy in Search of Rationale,' *The Economic Journal,* Vol. 96 (381) pp. 18-32, March.

Kemp, R. (1991). *Privatization: The Provision of Public Services by the Private Sector*, Jefferson: McFarland & Co.

Kennedy R. M., and Jones, L.P., (2003). 'Reforming State-Owned Enterprises: Lessons of International Experience, Especially for the Least Developed Countries,' Geneva: UNIDO

Kenya National Assembly Parliamentary Debates (2002). *The Weekly Hansard, 1998-2002* 8th Parliament, 2nd Session, Vol. 2 No.98-104. A Clerk of the National Assembly Publication

Kenya National Assembly (KNA), (2003). 'Pubic Investments Committee on the Accounts of State Corporations Special Report Focus on Divestiture of State Corporations,' *Parliamentary Reports*, A Clerk of the National Assembly Publication Nairobi

Kenya National Assembly (KNA), (2002). 'Pubic Investments Committee on the Accounts of State Corporations 11th Report,' *Parliamentary Report*, A Clerk of the National Assembly Publication Nairobi

Kenya National Assembly (KNA), (2001). 'Pubic Investments Committee on the Accounts of State Corporations 10th Report Focus on Kenya Posts and Telecommunications Corporation,' *Parliamentary Reports*, A Clerk of the National Assembly Publication Nairobi

Kenya National Assembly (KNA), (2000). 'Pubic Investments Committee on the Accounts of State Corporations, *Parliamentary Reports*, Vol. I, (9th), A Clerk of the National Assembly Publication Nairobi

Kenya National Assembly, (KNA) (1999). 'Pubic Investments Committee on the Accounts of State Corporations,' *Parliamentary Reports* , Vol. 1 (8th), A Clerk of the National Assembly Publication Nairobi

Kenya National Assembly Parliamentary Debates (1998). *The Weekly Hansard,* 8th Parliament, 2nd Session, Vol. 1 No.51-54. A Clerk of the National Assembly Publication

Kenya National Assembly, (KNA) (1997). 'Pubic Investments Committee on the Accounts of State Corporations,' *Parliamentary Reports*, Vol. 1 (7th), pp.1-32. A Clerk of the National Assembly Publication Nairobi

Kenya National Assembly, (1983). 'Pubic Investments Committee on the Accounts Parastatal Corporations 1966-1974 *Parliamentary Report* , Nairobi.

Keynes, J.M. (1936). *The General Theory of Employment, Interest, and Money* , New York and London: Harvest/HBJ edition 1964

Khandwalla, P. (1987). 'Effective Management of Public Enterprises,' Washington, D.C: World Bank.

Kiggundu, M.N. (2002). *Managing Globalization in Developing Countries and Transition Economies: Building Capacities for a Changing World.* Westport, CT: Praeger

Kiggundu, M.N. (1989) '*Managing Organizations in Developing Countries.* West Hartford, CT: Kumarian.

Kikeri, S., and Nellis, J.(2002).'Privatization In Competitive Sectors : The Record To Date, Vol 1,' Washington D.C: *World Bank Working Paper* No 2860

Kikeri, S. (1999). 'Labour Redundancies and Privatization: What Should Governments Do?,' Note No. 174 *Public Policy for the Private Sector*, Washington: The World Bank. January

Kikeri, S., Nellis, J., and Shirley, M. (1994) 'Privatization: Lessons from Market Economies,' Newark: *IFC. Ipnet,* Jolis Library

Kikeri, S. (1998). 'Privatization and Labor: What Happens to Workers When Governments Divest?,' World Bank *Technical Paper* NO. 396. Washington, D.C.

Kikeri, S., Nellis, J., and Shirley, M. (1992). 'Privatization Eight Lessons of Experience,'. Washington, DC: *Economic Policy Report* No. 11104. World Bank.

Kikeri, S., Nellis, J., and Shirley, M. (1992). *Privatization: The Lessons of Experience,* Washington DC: World Bank.

Killick, T. (1998). *Aid and the Political Economy of Policy Change:* Routledge: London

Killick, T. (1995). *IMF Programmes in Developing Countries: Design and Impact,* London: Routledge, ODI

Killick, T. (1995b). 'Structural Adjustment and Poverty Alleviation: An Interpretative Survey,' *Development and Change,* Vol. 26(2) pp.305-331

Killick, T. (1994). 'Adjustment and Economic Growth,' In Boughton, J.M., and Lateef, K.S. (eds.). *Fifty Years After Bretton Woods – The Future of the IMF and The World Bank*, Washington D.C: IMF and World Bank Group

Killick, T. (1980). *Development Economics in Action: A Study of Economic Policies in Ghana,* London: Heinemann.

Kirkpatrick, C. (2001).'Regulatory Impact Assessment in Developing Countries: Research,' Manchester: University of Manchester

Kirkpatrick, C., and Cook, P. (1995). 'The Distributional Impact of Privatization in Developing Countries,' In Ramanadham, V.V., (ed.) *Privatization and Equity.* London: Routledge, pp.35-48

Kirkpatrick, C. (1989). 'Some Background Observations on Privatizations,' in Ramanadham, V.V., (ed.) *Privatization in Developing Countries*, London: Routledge, pp.94-102

Kisero, J. (2003). 'Banking Crisis: Protect Innocent Depositors from Looters,' *Daily Nation Newspaper* Wednesday, March 26.

Kisero, J. (2001). ' Most Layoffs are not Absolutely Necessary,' *Daily Nation Newspaper* Wednesday, June 27.

Kisero, J. (2000). 'The Darkest Shadow Looming Over The Economy is that of National Indebtedness,' Nairobi: *The Daily nation Newspaper,* Business News, Wednesday December 13

Kiss, Y. (1994). 'Privatization Paradoxes in East Central Europe,' *East European Politics and Societies*, winter Vol. 8, pp.122-152.

Kitiabi, R., and Kuzmak, R. (1998). 'The Investor's Roadmap for Kenya: An Empirical Report of Kenya's Investment Environment,' TSG/USAID: Washington D.C and Nairobi: Unpublished, USAID/GOK report August

Khatibi A.A., Ismail H., and Thyagarajan V. (2002). 'What Drives Customer Loyalty: An Analysis From The Telecommunications Industry,' *Journal of Targeting, Measurement and Analysis for Marketing.* Vol.11 (1) pp.34-44

Koester, D., and Thorn, M. (1993). Programming in WordPerfect to Aid in Text Analysis. *Cultural Anthropology Methods Journal,* 5(2), 4-5.

Kolderie, T. (1990). 'The Two Different Concepts of Privatization,' In Gayle, D., and Goodrich, J. (eds.) *Privatization and Deregulation in Global Perspective*. London: Printer Publishers: 24-33

Kolderie, T. (1987). 'What do we mean by Privatization?,' *Society* 24:46-51.

KP&TC, (1975:1999).Various Internal unpublished Reports, KPTC, and Nairobi: Kenya

KP&TC, (1984). *The Status of Kenya's Telecommunications Before and after 1964: A National Report:* Nairobi: Government Printers

Krippendorff, K., (1980). *Content Analysis: An Introduction to its Methodology*. Thousand Oaks, CA: Sage.

Kuczynski, P. (1999). 'Privatization and the Private Sector,' *World Development* No. 27(1) pp.215-230

Kumssa, A. (1996). 'The Political Economy of Privatization in Sub-Saharan Africa,' *International Review of Administrative Sciences*. Vol. 62 pp.75-87

Kunda, A. (2001).'Zambia Africa's Copper Giant,' *African Business*, April Vol. 264, p.9.

Kvale, S., (1983). 'The qualitative research interview: a phenomenological and a hermeneutical mode of understanding,' *Journal of Phenomenological Psychology*, Vol.14, pp.171-196

Laban, R. C., (1993). 'Large-scale Privatization in Transition Economies,' *American Economic Review*, December, Vol. 83 (5), p.1199.

Labour Party. (1973). 'Labour's State Holding Company: Opposition Green Paper,' London: *Labour Party.*

Laffont, J., and Tirole, J. (2000). *Competition in Telecommunications* Cambridge, Mass., London: MIT Press

Lancaster, C. (1990). 'Governance in Africa: Should Foreign Aid be Linked to Political Reform: African Governance in the 1990s,' Atlanta GA: *Working Papers*, the Carter Centre,

Langobr, H., and Viallet, C. (1986). 'Compensation and Wealth Transfers in the French Nationalizations 1981-1982,' *Journal of Financial Economics*, Vol. 17 pp.273-312.

Lastarria, C.S. (1997) 'Impact of Privatization on Gender and Property Rights in Africa'. *World Development*, August, Vol. 25(8), p.1317.

Lee, C. (2002).'Telecommunications Reforms in Malaysia' Annals of Public Cooperative Economics Vol.73. No4. P.541-540

Lee, C. (2002). 'Telecommunications Reforms in Malaysia,' *Annals of Public Cooperative Economics* Vol.73 (4) pp.541-540

Len, S., and Sung-tae, S.(1999). 'Seoul Forum Looks at Unfinished Tasks in South Korea Economic Reform Plan,' *Korea Herald* , December 4.

Lensink, R. (1996). *Structural Adjustment in Sub-Saharan Africa*, New York: Longman

Lesser, W. (1997). 'Assessing the Implications of Intellectual Property Rights on Plant and Animal agriculture,' *American Journal of Agricultural Economics*. Vol.79(5), pp.1584-1591.

Letwin, O. (1988). *Privatising the World: A Study of International Privatisation in Theory and Practice*, London: Cassell.

Li, Wei., Qiang, C-Wei., and Xu, Lixin-C. (2000). 'The Political Economy of Telecoms Reforms, *Working Paper* Mimeo

Lieberman, W. (1993a), 'Privatization: The Theme Of The 1990s.' Columbia Journal Of World Business 28 1-17.

Lieberman, I. W. (1993). 'Privatisation: The Theme of the 1990s: An Overview,' *Columbia Journal of World Business*, 28(2), pp. 1-17.

Lillis, A. M., (2002). 'Managing Multiple Dimensions of Manufacturing Performance –an Exploratory Study,' *Accounting Organizations and Society* Vol.27 (6), p.497

Lincoln, Y. S., and Guba, E. G. (1985). *Naturalistic enquiry*, London: Sage

Lipton, D., and Sachs, J. (1990). 'Creating A Market Economy In Eastern Europe: The Case Of Poland,' *Brookings Papers On Economic Activity*, pp.75-133.

Lipton, D., and Sachs, J. (1991). 'Privatization in Eastern Europe: The Case of Poland,' Brookings Papers on Economic Activity, Vol.2 pp.293-304.

Littlechild, S., and Meredith. (1994). Guide to the UK Privatisation Programme,' In Moore (1992). Privatisation in the United Kingdom: *The Private Life of British Telecom Director* (April): pp.29-32.

Littlechild, S. C. (1979). 'Controlling the Nationalised Industries: Quis Custodiet Ipsos Custodes?' Series B *Discussion Paper* No. 56, University Of Birmingham.

Liu, A., and Saal, D. (1993). 'Structural Change in Apartheid-era South Africa, *Economic Systems Research,* September, Vol. 13 (3)

Loizos, H. (1999). 'Privatisation: Global Trends and Implications of the Singapore Experience,' *International Journal of Public Sector Management. Vol.* 12(5), pp. 432–444

Lofland, J., and Lofland, L. (1995). *Analyzing Social Settings*. (3rd ed). Belmont, CA: Wadsworth.

Lone, S. (1989). 'Africa's Adjustment Concerns Gaining Support,' *Africa Recovery*, Vol 3, pp.24-30.

Lopez-de Silanes, F., and La Porta, R. (1997). 'The Benefits of Privatization: Evidence from Mexico,' World Bank, *Public Policy for the Private Sector*, June, p.3

Loxley, J. (1990). 'Structural Adjustment in Africa: Reflections on Ghana and Zambia,' *Review of African Political Economy*, spring Vol. 17 (47), p.8

Luke, D.F. (1988). 'The Economic and Financial Crisis Facing African Public Enterprises,' *Public Enterprise*, Vol. 8, (4), pp.165-175.

Macavoy, P. and Paul, W. (1989). *Privatization and State-Owned Enterprises Lessons From The United States*, London: Kluwer

MacQueen, K. M., Nopkesorn, T., Sweat, M. D., Sawaengdee, Y., Mastro, T. D., and Weniger, B. G. (1996). 'Alcohol Consumption, Brothel Attendance, and Condom Use: Normative Expectations among Thai Military Conscripts,' *Medical Anthropology Quarterly*, 10(3). pp.402-423.

Majone G. (1994). 'The Rise of the Regulatory State in Europe, West European Politics,' Vol. 17 (3), pp. 77-101.

Mansoor, A. (1988). 'The Fiscal Impact of Privatization,' In Cook, P., and Kirkpatrick, C. (eds.) *Privatization in Less Developed Countries,* Sussex: Wheatsheaf and New York: St Martins Press.

Martin, S. and Parker. D., (1997). *The Impact Of Privatisation: Ownership And Corporate Performance In The UK*, London: Routledge,

Mauro, P. (1996). 'The Effects of Corruption on Growth, Investment, and Government Expenditure,' Washington D.C*: IMF Working Paper* No.96/98 IMF.

Maxwell, J. A. (1992). Understanding and Validity in Qualitative Research. *Harvard Educational Review*, 62(3), pp. 279-300.

Mayer, C. P., And Meadoweroft, A. (1985). 'Selling Public Assets: Techniques and Financial Implications: Fiscal Studies,' Reprinted In J. A. Kay, C. P., Mayer, and D. J. Thompson (eds.), *Privatisation and Regulation: The UK Experience*. Oxford: Clarendon Press,

Macgregor, J., Peterson, S., and Schuftan, C. (1998). Downsizing the Civil Service in Developing Countries: The Golden Handshake Option Revisited,' *Public Administration and Development* Vol.18, (1) pp. 61-76

Mbaku, J.M, (1991). *Corruption and the Crisis of Institutional Reforms in Africa*, New York: Edwin Mellen Press

McCormack, R. (1992) 'Japan To Displace U.S. As World's Largest Economy,' *New Technology Week* 6(20): May 18.

McDonald, K.R. (1993). 'Why Privatization is Not Enough,' *Harvard Business Review* pp.49-59. May

McFaul, M. (1998). 'Russia Needs True Reform, Not Higher Taxes,' *Hoover Digest* No.4: *New York Times* August 4

McKinnon, C., and Konopielko, L. (1998). 'Pensions Reform, Privatisation and Restructuring in the Transition: Unfinished Business or Inappropriate Agendas?,' *Europe-Asia Studies,* December, Vol. 50, (8)

McNamara, C. (1999). 'Basic Business Research Methods: Management Assistance Program for Nonprofits,' New York: *The Authenticity Consulting, LLC*

McNary, R. (2001). 'The Network Penetration Effects of Telecommunications Privatization and Competition,' *Public Policy paper* No. 58. Stanford University: Stanford.

Meaney, C. S. (1995). 'Foreign Experts, Capitalists, and Competing Agendas: Privatization in Poland, the Czech Republic and Hungary,' *Comparative Political Studies,* Vol.28 (2), pp. 275-305

Megginson, W., and Netter, J. (2002). 'History and Methods of Privatization,' Mimeo,

Megginson, W. (2000). 'Privatization: Think Again,' *Journal of Foreign Policy*, Spring No.14

Megginson, W. L., and Netter, J.M. (2001). 'From the State to Market: A Survey of Empirical Studies on Privatization,' *Journal of Economic Literature*, Vol. 39 (2), pp.321-389

Megginson, W., Nash, R., Netter, J., and Schwartz, A. (1998). 'The Long Term Return to Investors in Share Issue Privatizations, *Working Paper* Athens GA: University of Georgia,

Megginson, W. (1998). 'Impact of Privatization,' in *Economic Reform Today, The Lessons of Privatization Center* for International Private Enterprise paper No. 1

Megginson, W., Nash, R., Netter, J., and Poulsen, A. (1997). 'The Choice of Privatization: An Empirical Analysis, *Working Paper*, Athens GA: University of Georgia.

Megginson, W., and Netter, J. (1997). 'Equity to the people: The Record on Privatisation by Public Offers, Privatisation Year book,' *Privatisation International*, London: pp. 27-34.

Megginson, W., Nash, R., and Van Randenborgh, M. (1996). 'The Financial And Operating Performance of Newly Privatized Firms: An International Empirical Analysis,' In Teny L.A., and Hill, P. J. (eds.), *The Privatization Process, A Worldwide Perspective*. Pp.403-452

Megginson, W., Nash, R., and Van Randenborgh, M. (1994). 'The Financial and Operating Performance of Newly Privatized Firms: An International Empirical Analysis,' *Journal of Finance* Vol. 49, pp.403-452.

Meier, G.M. (1995). *Leading Issues in Economic Development.* New York: Oxford University Press

Meredith, S., and Pope, K. (1995). 'Utility Privatizations Backfire in the U.K.,' *Wall Street Journal*, March Vol.30 (13).

Meredith, S. (1992): 'Water Privatization: The Dangers and the Benefits of long Range Planning' (August): Vol 32 pp.72-81;

Meredith, S. (1992). 'Guide to the UK Privatisation Programme: Privatisation in the United Kingdom, 'Privatised Utilities of Wealth and Water,' *Economist,* October 6th pp. 69-70

Merton, R., Fiske, M., and Kendall, P. (1990). *The Focused Interview: A Manual of Problems and Procedures.* (2nd ed.). New York: Free Press.

Meskill, M., Mouly, S., and Dakin, S. (1999). 'Managerial Disturbance Handling: A Case-Study Approach,' *Journal of Managerial Psychology*, Vol. 14 (7/8), p.443

Meyer, J.P., and Allen, N.J (1997*). Commitment To The Workplace: Theory, Research and Application.* Thousand Oaks, CA: Sage Publications, Inc

Milanovic, B. (1994). 'Transfers and the Transition from Socialism: The Key Tradeoffs,' *WPS* No. 1380 November

Miles, M. B., and Huberman, A. M. (1994). *Qualitative Data Analysis.* 2nd ed. CA: Thousand Oaks, Sage.

Mintzberg, H. et al. (2003).*The Strategy Process: Concepts, Cases*. London: Prentice -Hall

Mintzberg, H., (1978: 1979). 'An Emerging Strategy of 'Direct' Research,' *Administrative Science quarterly Vol.* 24, pp.582-589.

Marcincin, A. and van Wijnbergen, S. (1997). 'The Impact of Czech Privatisation Methods on Enterprise Performance Incorporating Initial Selection Bias Correction,' *CERT-Edinburgh, Discussion paper* No.9704

Mitchell, J. C., (1983). 'Case and Situational Analysis,' *Sociological Review Vol.*31 (2) pp.186-211

Mitchell, S. K. (1979). Inter-observer Agreement, Reliability, and Generalizability of Data Collected in Observational Studies. *Psychological Bulletin*, Vol. 86(2), pp.376-390.

Mkandawire, T., and Soludo, C. (1999). *Our Continent, Our Future: African Perspectives on Structural Adjustment.* Trenton, NJ. African World Press

Mkandawire, T. (1995). 'Adjustment, Political Conditionality and Democratization in Africa,' In Eshetu, C. and Ibrahim, J. (eds.), *Democratization Processes in Africa: Problems and Prospect.* Dakar; CODESRIA.

Mkandawire, T. (1994a). 'The Political Economy of Privatization in Africa,' In G.A. Cornia , G.A., and Helleiner, G.K. (eds.), *From Adjustment to Development: Conflict, Controversy, Convergence, Consensus.* New York: St Martin's Press

Mkandawire, T. (1992) 'Adjustment with a Democratic Face In Cornia, G.A., Mkandawire, T., and van der Hoeven (eds.), *Africa's Recovery in the 1990s: From Stagnation and Adjustment to Human Development* Macmillan

Mkandawire, T. (1988) The Road to Crisis, Adjustment and de-Industrialization: The African Case,' *Africa Development*, Vol.13 (1).

Molz, R. (1990). 'Privatisation in Developing Countries,' *Columbia Journal of World Business*, 25(1&2), pp. 17-24.

Mok, H. M., and Chau, S.M (2003). 'Comparison Of The Performance Of Private, Mixed, And State-Owned Enterprises,' *Journal Of Law And Economics,* April issue 3-4, Vol. 30 p.513

Moggridge, D. (ed.) (1973). 'John Maynard Keynes's General Theory of Employment, Interest and Money,' Scanned from the 1973 edition of the *Collected Writings of John Maynard Keynes, Vol. 7 - The General Theory*, London: Macmillan

Moore, J. (1992). *Privatisation Everywhere – The World's Adoption of The British Experience,* London: Centre for Policy Studies.

Moore, J. (1989). 'British Privatization—Taking Capitalism to the People,' *Harvard Business Review* January pp.115-124.

Moore, R. J. (1987). *Contracting Out: A study of the Honduran Experience* Washington DC: World Bank

Morgan, Gareth and Smircich, L. (1980) 'The case of Qualitative Research' *Academy of Management Review,* Vol.5 pp.491-500

Morrison, H., (1989). *Government and Parliament: A Survey From The Inside,* 3rd ed. (London: Oxford University Press,

Mramor, D. (1996). 'Primary Privatization Goal In Economies In Transition,' *International Review of*

Financial-Analysis, Vol. 5 Vol. 2, p131.

Mugerwa- Kayizzi, S. (eds.) (2003). *Reforming Africa's Institutions: Ownership, Incentives, And Capabilities* Tokyo and New York : United Nations University Press, c2003.

Mugerwa- Kayizzi, S. (eds.) (1996). *The African Economy, Policy Institutions and The Future*, Hague: Routledge

Muir, R., and Saba, J. (1995). 'Improving State Enterprise Performance: The Role of Internal and External Incentives,' *World Bank Technical Paper* no 306, Washington DC: World Bank

Muir, R., and Saba, J. (1995) 'Improving State Enterprise Performance: the Role of Internal and External Incentives' *World Bank Technical Paper* No. 306, Washington D.C: World Bank

Musgrave, R. A. (1983). 'Public Goods,' In: Brown, E.C., and Solow, R. M. (eds.), *Paul Samuelson and Modern Economic Theory*, New York,

Mwale, S.M., (2000). 'Context of Privatization In Kenya: Genesis and Evolution of Privatization Policy in Kenya,' in Nyong'o (ed.), *Context of Privatization in Kenya,* and Nairobi: African Academy of Sciences, p.60

Mwangi, E., (2003). 'Kenya Energy Sector: Strategic Options for Energy Sector Regulation and Privatization of State –Owned Public Utilities,' Kenya Leadership Institute Policy Brief papers, Nairobi: *African Academy of Sciences* (AAS) unpublished

Mwangi, E., (2004). 'Kenya Telecommunications Sector: Telkom Kenya Operating a Monopoly,' *Kenya Leadership Institute Policy Brief paper series*, Nairobi

Nankani, H. B. (1990). 'Lessons in Privatization in Developing Countries,' *Finance and Development* March, Vol. 27 (1), pp.43-45

Nankani, H. B. (1988). Techniques of Privatization of State-Owned Enterprises, Volume II, Selected Country Case Studies, Washington D.C: *Technical Paper* No. 89, World Bank

Nauriyal, B., and Galal A. (1995). 'Regulating Telecommunications in Developing Countries,' Washington D.C: *World Bank Working Paper* No.1520. October

Nation Daily Newspaper, (2003) March 11th, Tuesday, Journal- *A Daily Nation* Publication

Nazih N. Ayubi A. (1992). 'Political Correlates Of Privatization Programs In The Middle East,' *Arab Studies Quarterly, Vol.* 2 (3), Spring/Summer.

Nellis, J. (2003). 'Privatization in Africa: What Happened? What is to be done? *The Center for Global Development,' Working Paper* No. 25, Washington D.C: World Bank February.

Nellis, J. (1999). 'Time to Rethink Privatization in Transition Economies?,' *Finance and Development IMF Quarterly,* June Vol. 36 (2)

Nellis, J., and Kikeri, S. (1989).'Public Enterprise Reform: Privatization and the World Bank,' *World Development*, Vol. 17, (5) pp.659-672

Nelson, J. (1991). 'Organized Labour, Politics and Labour Market Flexibility in developing countries,' *World Bank Research Observer* No 1. p.1016.

Naidu, G. (1995). 'Infrastructure.' In K. S. Jomo (ed.) *Privatising Malaysia: Rents, Rhetorics, Realities*, Oxford: Westview Press

Nelson, J. (1991). 'Organized Labour, Politics and Labour Market Flexibility in developing countries,' *World Bank Research Observer* No.1016, (1).

Nellis, J. and Kikeri, S. (1989). 'Public Enterprise Reform: Privatisation and the World Bank,' *World Development*, 17(5), pp. 659-672.

Nevin, T. (1998). 'Damned if you do; Damned if you don't,' New York: *African Business*, January, Vol. 228, p13.

Newbery, D., (1999). *Privatization, Restructuring, and Regulation of Network Utilities*, Cambridge Mass: The Walras-Pareto Lecture. XVI, MIT Press

Newbery, D., and Pollitt, M., (1997). 'The Restructuring and Privatization of Britain's CEGB- was it worthy it?,' *Journal of Industrial Economics*. Cambridge Mass: September, Vol. XLV, No.3, p.45

Newbery, D., (1991). 'Reform in Hungary: Sequencing and Privatization,' *European Economic Review*, 35:2-3, Pp.571-80

Nicoletti, G., and Sébastien J.(2002). 'Competition, Innovation and Productivity Growth: A Review of Theory and Evidence,' *OECD Working Paper No. 317* January

Nixson, F., Cook, P., and Kirkpatrick, C. (1998). *Privatisation, Enterprise Development and Economic Reform: Experiences of Developing and Transitional Economies*, Manchester: Elgar

Noll, R. (2000).'Telecommunications Reform in Developing Countries,' In Krueger, A. O (ed.), *Economic Policy Reform: The Second Stage*, Chicago: University of Chicago press

Noll, R. (1987). 'The Twisted Pair: Regulation and Competition in Telecommunications,' Stanford: *Regulation (SIEPR)* Vol.3 (4)

Normann R. (1970). *A Personal Quest for Methodology*. Stockholm: Scandinavian Institutes for Administrative Research publications

Nuti, D. M (1995). 'Employeeism: Corporate governance and Employee Ownership in Transitional Economies,' *ILO, Turin Centre*, May 31-June 2nd

Nyerere, J.K., (1973). *Freedom and Development: The 1967 Arusha Declaration*, Dar-es-Salaam: Government Printers

Nyong'o A. (ed.) (2000). *The Context of Privatization in Kenya,* Nairobi: African Academy of sciences, Nairobi: Colour-printers

O'Brian, K. (1993). 'Improving Survey Questionnaires Through Focus Groups,' In Morgan, D.L., (ed.). *Successful Focus Groups: Advancing the State of the Art.* (Vol. 156, Pp. 105-117). Thousand Oaks, CA: Sage.

O'Brien, D.and D. Patrick, (1968: 1939). *Information Agreements, Competition and Efficiency,* London: Macmillan.

O'Pon, C. (2001). 'Impact of Privatization on the Financial Sector in Kenya,' Nairobi: *African Academy of sciences*, Unpublished AAS/USAID Report

Opiyo, G. (2004). 'Tactical Delay in Telkom Rival's Licence,' The Financial Standard of *The Sunday Standard Newspaper:* Sunday , July 11

Ochola, S.O. (2002). 'The Process of Privatization of Sugar Industry in Kenya: Issues and Problems Facing The Industry,' Nairobi: *African Academy of sciences AAS/USAID* unpublished report

OECD, (2004). 'The state of Africa Privatisation in Sub-Saharan Africa: Where Do We Stand?,' March *OECD Development* Centre, OECD Observer No. 242, March 2004

OECD, (2001). 'Privatization Trends and Impact,' Paris, *OECD annual report*

OECD, (1998). *Fostering Entrepreneurship*, Paris, p.25

OECD, (1996c). 'Trends and Policies in Privatization,' Paris: *OECD* Vol.3 (1)

OECD, (1996). 'Selected Trends in Privatization, 1993-1996,' *Financial Market Trends*, No. 64 June

OECD, (1995). *Governance in Transition: Public Management Reforms in OECD Countries*, Paris: OECD

OECD, (1993). Trends and Policies in Privatisation, Paris, Vol. 1,(2) Paris: pp.107-126.

Offe, C. (1984) Contradictions of the Welfare State. Cambridge, Mass.: MIT Press.

Ogus, A. (2002) 'Regulatory Institutions and Structures,' *Annals of Public & Cooperative Economics* December, Vol. 73 (4), p.627

Ohmae, K. (1982).*The Mind of The Strategist: The Art of Japanese Businesses*, New York, London: McGraw-Hill

Ohmae, K. (1995). *The End Of The Nation State: The Rise Of Regional Economies, London*: Harper Collins,

Olukoshi, B. (ed.) (1993). *The Politics of Structural Adjustment in Nigeria*, London: James Currey.

Okwatch, D. (2004). 'Workers Kshs.12 Billion Missing As Telkom Monopoly Ends,' The East African Standard, Nairobi: *The Standard Limited Publications* Sunday June 13

Oswald, S., and Sharon, L. (2000). 'Economic Transition in the Czech Republic,' *Administration & Society,* July, Vol. 32 (3), p.227.

Oyejide, T.A. (1993) . 'Effects of Trade and Macroeconomic Policies on African Agriculture,' In Bautista, R., and Valdes, A. (eds.), *The Bias Against Agriculture: Trade and Microeconomic Policies in Developing Countries*, San Francisco: ICS Press.

Park, M. (1997). 'A Comparison on Public Sector Reforms in Korea and EU,' *The European Union Studies, Association of Korea*

Park, Y-S. (1999). 'Financial and Corporate Restructuring : Lessons from Korea to Latin America and The Caribbean,' Washington D.C: *Korean Economic Institute of America*

Parker, D. (1999), 'Privatisation in the European Union: A Critical Assessment of its Development, Rationale and Consequences,' *Economic and Industrial Democracy*, Vol.20, pp.9-38

Parker, D. (1997). 'The Regulation of Privatised Utilities: Reflections on the UK Experience,' *The Review of Policy Issues*, Vol. 3(3), pp. 3-37.

Parker, A. F. (2001). ' Strategic Choices in a Dynamically Changing Deregulatory Environment,' *Journal of Business Research* Vol. 51 (32) pp.201-208

Parliamentary Reports (various), (1996-2003). 'Public Investment Committee on the Accounts and Operations of State Corporations 1997- 2002 reports,' *GOK, parliamentary publications*

Patinkin, D. (1982). *Anticipations of The general Theory and other Essays on Keynes,* Oxford: Blackwell

Patton, M. Q. (1990). *Qualitative evaluation and research methods* (2nd ed.). Newbury Park: Sage.

Patton, M. Q. (1980). *Qualitative Evaluation Methods.* Thousand Oaks, CA: Sage.

Pendleton, C., Pass L., and Chadwick, P. (1995).*Unwin Hymana, Business Dictionary* 2nd Edition. Leicester: Harper Collins Publishers

Pereira, P. (2000). 'Business Needs Private Education,' *Finance Week*, March, p.14

Perkins, D. H., and Roemer, M. (eds.) (1991). *Reforming Economic Systems in Developing Countries*, Cambridge: Harvard ID, pp. 11-54

Petrazzini, B., (1996a). 'Competition in Telecoms-Implications for Universal Service and Employment.' *Public Policy for the Private Sector:* Washington DC.

Petrazzini, B., (1996b). *Global Telecom Talks: A Trillion Dollar Deal.* Washington, DC: Institute for International Economics publications

Pettigrew, A. (1985). *The Awakening Giant: Continuity and Change in ICI.* Oxford: Blackwell

Pindeiro, A. C., and Schneider, B. R. (1995). 'The fiscal impact of privatization in Latin America,' *Journal of Development Studies,* June, Vol. 31(5)

Pint, E. (1990). 'Nationalization and Privatization: A Rational-Choice Perspective on Efficiency,' *Journal of Public Policy*, Vol. 10, pp. 267-98

Plane, P. (1997). 'Privatisation And Economic Growth: An Empirical Investigation from a Sample of Developing Market Economies,' *Applied Economics*, Vol.29, pp.161-178

Ponterotto, J.G., and Lourdes, L. (2000). 'The Career –in-culture Interview: A Semi-Structured Protocol for The Cross-Cultural Intake Interview,' *Career Development Quarterly*, Vol. 49 (1)

Poole, R. (1987). 'The Political Obstacles to Privatization,' In Hanke, S. H., (ed.) (1987). *Privatization and Development*, San Francisco: Institute for Contemporary Studies Press, International Center for Economic Growth, Pp.33-47

Porter, M. (1991). 'Towards A Dynamic Theory of Strategy,' Strategic *Management Journal* Vol. 12, Pp.95-117

Powell, V. (1987). *Improving Public Enterprise Performance: Concepts and Techniques*, Geneva: ILO Publications

Preece, H. (2001). 'Mbeki Must Offer Big Rise in Pension,' *Finance Week*, August, No. 130 p.13

Pryke J. (1989:1982) 'Privatisation in the United Kingdom: The Comparative Performance of Public and Private Enterprise,' *Fiscal Studies,* Vol.3 (2) pp.68-81.

Pulkingham, J. (1989). 'From Public Provision to Privatisation: The Crisis in Welfare Re-Assessed',' *Sociology,* Vol.23, pp.387-407

Punch, K. F., (2000). *Developing Effective Research Proposals*, London: Thousand Oaks, Sage.

Punch, M. (1986). *The Politics and ethics of Fieldwork: Qualitative Research Methods*, London: Newbury Park, Sage

Pushkar, M., and Ranjan, R., (2003). 'The Effect of Transfers on Household Expenditure Patterns and Poverty in South Africa,' *Journal of Development Economics*, June, Vol. 71 (1), p23.

Quale, A.C., (1991). 'Papelcol: A Case Study of Privatization In Colombia,' *World Bank Legal Department*, Washington, D.C.

Radio Four (2003). Comments on Privatizing the Health Sector by New Labour Government Minister on Radio 4 News, 14th February

Rafafel, L., and Lopez- De- Silanes, F. (1999). 'The Benefits Of Privatization: Evidence From Mexico,' *The Quarterly Journal of Economics* MIT Press Vol. 114 (4) pp.1193-1242

Rahman, S.H. (1992). 'Structural Adjustment and Macroeconomic Performance in Bangladesh in the 1980s,' *The Bangladesh Development Studies,* xx (2/3).

Ratnam, V.C.: " Privatization: Role of employers' organizations, employers' activities ", Working Paper No. 12, ILO, Geneva, 1991.

Rama, M., and Newman, C. (2002) Downsizing and Productivity Gains In The Public and Private Sectors of Colombia,' Washington D.C: World Bank *Working Paper No.* 2770

Rama, M. (2001). 'Globalization and Workers in Developing Countries,' Washington D.C: *Development Research Group* World Bank

Rama, M., and MacIsaac, D. (1999). 'Earnings and Welfare After Downsizing: Central Bank Employees in Ecuador,' *World Bank Economic Review*, Vol.13 (2).

Rama, M. (1999). 'Public Sector Downsizing: An Introduction,' *The World Bank Economic Review*, Vol.13 (1) pp.1–22.

Rama, M. (1997).'Efficient Public Sector Downsizing,' World *Bank Working Paper* Series, Washington D.C

Ramamurti, R. (1991a). 'Controlling state-Owned Enterprises,' In Ramamurti, R., and Vernon, R., (eds.) *Privatization and Control of State-Owned Enterprises.* Washington D.C: Development Studies, pp.206-233

Ramamurti, R. (1991b). 'The Search for Remedies,' In Ramamurti, R., and Vernon, R., (eds.) *Privatization and Control of State-Owned Enterprises.* Washington D.C: World Bank, EDI, Development Studies, pp.7-25

Ramamurti, R., (2000). 'A Multilevel Model of Privatization in Emerging Economies,' *Academy of Management Review*, July, Vol. 25(3) p.525.

Ramamurti, R., and Vernon, R. (eds.) (1991). *Privatization and Control of State-Owned Enterprises* Washington D.C: The World Bank.

Ramanadham, V. V. (ed.) (1993). *Privatization: A Global Perspective*, London: Routledge.

Ramanadham, V. V. (ed.) (1995). *Privatization and Equity,* London: New York: Routledge

Ramanadham, V.V. (ed.) (1989a). *Privatization in Developing Countries,* London: Routledge.

Ramanadham, V.V. (ed) (1989b).'Privatization: The United Kingdom Experience and Developing Countries,' In Ramanadham, V.V., (ed.) *Privatization in Developing Countries,* London: Routledge, pp.3-93

Rapley, J.,(1994). 'The Ivoirien Bourgeoisie,' in Bruce J. B., and Leys, C., eds. *African Capitalists in African Development* Boulder, CO: Lynne Rienner Publishers.

Rapley, J.,(1993). Ivoirien Capitalism: African Entrepreneurs in Cote d'Ivoire Boulder: Lynne Rienner

Reed, D. (ed.) (1997). *Structural Adjustment, the Environment and Sustainable Development*, London: Earthscan Publications

Rees, R. (1984). *Public Enterprise Economics*, (2nd edition), Oxford: Philip Allan Publishers

Redwood, J. Gayle, J., and Goodrich, J. (eds.) (1990). *Privatisation: A Consultant's Perspective*, Pinter Publishers, USA,

Reid, G.C., (1987). 'Applying Field Research Techniques to Business Enterprise,' *International Journal of Social Economics*, Vol.14 (10)

Richardson, J. (ed.) (1990). *Privatization and Deregulation in Canada and Britain.*. Aldershot: Dartford

Richardson, J., Maloney, W., and Rudig, A. (1992). 'The Dynamics of Policy Change: Lobbying and Water Privatization,' *Journal of Public Administration*, Summer, Vol. 70(2), pp.157-75

Rijckeghem, C. Van., and Weder, B. (1997), 'Corruption and the Rate of Temptation: Do Low Wages in the Civil Service Cause Corruption?,' IMF *working Paper*, No.97/73.

Ritter, A. R. (1992). *Development Strategy and Structural Adjustment in Chile: From the Unaided Popular to the Concertación, 1970-1992*, Ottawa: North-South Institute

Roller, L-H., and Waverman, L. (2001). 'Telecoms Infrastructure and Economic Development: A Simultaneous Approach,' *American Economic Review*, Vol.91(4) pp.909-923

Ronald A., and Dubberly, (1998). 'Why Outsourcing is Our Friend,' *American Libraries*, January, Vol.29(1), pp. 72-74.

Rondinelli, D., and Yurkiewicz, J. (1996).'Privatization and Economic Restructuring in Poland: An Assessment of Transition Policies,' *American Journal of Economics & Sociology*, April, Vol. 55(2), p.145.

Rondinelli, D. A., and Kasarda, J. (1991). 'Privatizing Public Services in Developing Countries,' *What Business In the Contemporary World*, Winter, Vol. 3 (2), pp.102-113.

Rondinelli, D. A., (1991). 'Developing Private Enterprise in the Czech and Slovak Federal Republic,' *The Columbia Journal of World Business*, Fall, Vol. 26 (3), Pp.27-35.

Ros, A.J. (1999). 'Does Ownership or Competition Matter? The Effects of Telecommunications Reform on Network Expansion and Efficiency,' *Journal of Regulatory Economics*, Vol. 304 p.8

Rose, L. (1989). 'Privatization as a Problem of Satisfying and Dissatisfying,' *American Review of Public Administration* , June Vol. 104.

Roseman, E. (1999).'Best Practices for Encouraging Private Sector Investment and Competition in the Power Industry: Optional or Necessary?,' *Journal of Project Finance*, Vol.5(3), pp.15-26.

Rossotto, C. M., Wellenius, B., Lewin, A., and Gomez, C.R (2004).Competition in International Voice Communications Washington D.C: World Bank

Roth, G. (1987). *The Private Provision of Public Services in Developing Countries*, New York: Oxford University Press, for the World Bank

Rothchild, D., and Chazan, N. (eds.), (1988).*The Precarious Balance: State and Society in Africa* Boulder: Westview Press

Rothchild, D., (ed) (1991). *Ghana: The Political Economy of Recovery*. Boulder, Lynne Rienner

Ryan, G. (1993). 'Using Styles in WordPerfect as Templates for your Field Notes,' *Cultural Anthropology Methods Journal*, Vol. 5(3), pp.8-9.

Sachs, J.D. (1993). *Poland's Jump to the Market Economy*. Cambridge, MA: MIT Press.

Sachs, J.D. (2001). 'Resolving the Debt Crisis of Low-income Countries,' *Brookings Papers* Economic Act 1,.

Sachs, J. D. (1997).'IMF is a Power on itself,' http://www.nyu.edu/ ~nroubini/asiaCrisisSachsViewFT297.html

Sader, F. (1994). *Privatization Techniques and Foreign Investment in Developing Countries, 1988-93*, Washington DC: World Bank.

Sagie, A., Zaidman, N., Amichai-Hamburger, Y., Dov Te'eni, and Schwartz, D.G. (2002). 'An empirical assessment of the Loose-tight Leadership Model: Quantitative and Qualitative Analyses,' *Journal of Organizational Behaviour*, Vol. 23 (3), p.303,

Sah, R.K., and Stiglitz, J.E. (1992). *Peasants versus City Dwellers: Taxation and The Burden of Economic Development*. New York: Oxford University Press

Samuel, B. (1999). 'A New Look at African Privatization,' New York: *IFC IPNET*, Joint Bank-Fund. JOLIS Library

Samuel, B. (1999). 'The Ten Commandments of African Privatization,' New York: *IFC IPNET*, Joint Bank-Fund. JOLIS Library

Samuelson, P.A. (1981). 'Bergsonian welfare economics,' In Rosefielde, S. (ed.) (1981). *Economic Welfare and the Economics of Soviet Socialism: Essays in Honour of Abraha Bergson,* Cambridge, Pp. 223-266. Reprinted in: Stiglitz, J. E. (ed.), (1986). 'The Collected Scientific Papers of P.A. Samuelson,' Vol.6.

Sanchez, A .,and Corona, R.(eds.) (1993). *Privatization in Latin America*, Washington D.C: Inter-American Development Bank and Johns Hopkins Press.

Satter, A.M., Anderson, R.C., and Reeb, D.M (1993:2002). 'Corporate Governance Policy: Founding Family Ownership and the Agency Cost of Debt,' *Journal of Financial Economics* February, No. 68 (2), pp.263-285

Saunders, R., Warford, J., and Wellenius, B. (1983). *Telecommunications and Development*, The World Bank

Saunders, R. J. (1982). 'Telecommunications in Developing Countries: Constraints on Development,' in Jussawalla, M. and Lamberton, D.M. (eds.), *Communication Economics and Development* pp. 190-210. Honolulu: The East-West Center.

Sclar, E.D. (2000). *You don't Always Get What You Pay For: The Economics of Privatization*, New York: Ithaca, Cornell University press

Scanlon, B. (2001). 'Bellsouth-AT&T Deal Could Spur More Mergers,' *Weekly Enterprise News and Reviews* September 28

Schoepfle, G.M., Werner, O. (1987). *Systematic Fieldwork. Vol.1. Foundations of Ethnography and Interviewing. Vol. 2: Ethnographic Analysis and Data Management*. Newbury Park: Sage.

Schumpeter, J.A. (1991) 'The Crisis of the Tax State (1918),' In Swedberg, R. and Schumpeter, J.A (ed.). *The Economics and Sociology of Capitalism*. New Jersey: Princeton University Press.

Schusselbauer, G. (1999). 'Privatization and Restructuring in Economies in Transition: Theory and Evidence Revisited,' *Europe-Asia Studies*, Vol. 51(1), Pp.65-83

Sechrest, L., Stewart, M., Stickle, T., and Sidani, S. (1996). *Effective and Persuasive Case Studies.*

Seidman, A. (1992). 'Towards a New Vision of Sustainable Development in Africa: Presidential Address to 1990 Annual Meeting of the African Studies Association,' *African Studies Review*, Vol. 35 (1), pp.1-15.

Shafik, N. (1993). 'Making A Market: Mass Privatization In The Czech And Slovak Republics,' Washington D.C: World Bank, *Policy Research Working Paper* No.123 (1)

Shafik, N. (1997). 'Selling Privatization Politically,' *Columbia Journal World Business*, Vol. 31 Pp.20-29

Shaw, T.M (1993).*Reformism and Revisionism in Africa's Political Economy in the 1990s: The Dialectics of Adjustment,* New York: St. Martin's press

Sheetal K., Chand, M., and Jaeger, A. (1999). 'Reform options for pay-as-you-go public pension systems,' Washing D.C: *Working Paper No.* 23067, World Bank

Shirk, S.L. (1993) *The Political Logic of Economic Reform in China.* Berkeley, CA: University of California Press.

Shirley, M., Tusubira, F., Gebeab, F., and Haggarty, L. (2002). 'Telecommunications Reforms in Uganda,' World Bank *Development Economics Research Group Working Paper* N0. 2864

Shirley, M., and Wash P. (2001:2000). 'Public Vs. Private Ownership: The Current State of Debate,' *World Bank Working Paper* No. 2420 January.

Shirley, M. (2001). 'The Effects of Competition and Regulation on Telecommunications in Africa,' *ISNIE, 2001*: Berkeley, California

Shirley, M. (2000). 'Water Reform in Latin America: A Tale of Four Cities,' In Manzetti, L. (ed.) *Post Privatization Environments The Latin American Experience. Miami:* University of Miami Press.

Shirley, M. (1998). 'Why Performance Contracts for State-Owned Enterprises Haven't worked,' *Public Policy for the Private sector*, World Bank, August, p.1

Shirley, M. (1997) 'Privatization in Latin America: Lessons for Transitional Europe,' *World Development* Vol. 22 (9), September.

Shirley, M. (1997). 'The Economics and Politics of Government Ownership,' *Journal of International Development,* Vol. 9, (6).

Shirley, M. (1996). 'Enterprise Contracts: A Route to Reform?,' *Finance and Development*. The World Bank

Shirley, M. (1995).'Getting Bureaucrats Out of Business: Obstacles to State Enterprise Reform,' Economic Reform Today: No. 4, Washington D.C: CIPE

Shirley, M. (1994). 'Privatization in Latin America: Lessons for Transitional Europe,' *World Development,* September.

Shirley, M. (1991) 'Evaluating The Performance Of State-Owned Enterprises In Pakistan,' In Ramamurti, R., and Raymond, V. (eds.) *Privatization and Control of State-Owned Enterprises,* Washington DC: Economic Development Institute of the World Bank, Pp. 234-278

Shirley, M., and Nellis, J. (1991). *Public Enterprise Reform: The Lessons of Experience* Washington DC: Economic Development Institute of the World Bank.

Shirley, M. (1988). 'The Experience with Privatization,' *Finance and Development.* Washington, DC: World Bank, September Pp. 34-35.

Shirley, M., (1988). 'Promoting the Private Sector,' *Finance & Development.* March Vol. 25(1), pp. 40-43

Shleifer, A., and Vishny, R. (1994). 'Politicians and firms,' *Quarterly Journal of Economics*, Nov. Vol.109 p.995.

Shao S., Lu, Z., Noureddine, B., Tenenbaum, B., and Zhao, J. (eds.) (1997). 'China: Power Sector Regulation in a Socialist Market Economy,' Washington D.C: *Working Paper No.* 361, World Bank

Silverman, D. (1993*). Interpreting Qualitative Data.* Sage, London.

Singapore Port Authority, (2000). 'Port Privatisation - The Singapore Case,' *Singapore Maritime & Port Journal*

Singer, H., and Roy, S. (1993).*Economic Progress and Prospects in The Third World: Lessons of Development Experience Since 1945.* Aldershot: Edward Elgar

Slide, D., and Williams, R. (1995). What is Behind the Research: Discovering Hidden Assumptions *The Behavioural Sciences,* University of Iowa?

Smircich, L. (1983). 'Concepts of Culture and Organizational Analysis,' Administrative Science Quarterly Vol.23 pp.339-357

Sohn, J., and Hayes, S. (1999). 'Making Privatization Work,' *Friends of the Earth Review*. Unpublished Report. Washington D.C.

Solinger, D. (1992). 'Urban Entrepreneurs and the State: The merger of State and Society,' In *State and Society in China: the Consequences of Reform*, A.L. Rosenbaum, (ed.). Boulder: Westview Press.

Spicer, A., McDermott, G., and Kogut, B. (2000). 'Entrepreneurship and Privatization in Central Europe: The Tenuous Balance Between Creation and Destruction,' *Academy of Management Review XXV*, July Vol. 25, pp.630-649.

Stake, R.E. (1995). *The Art of Case Study Research,* London: Sage

Stake, R. E. (1994). 'Case Studies,' In N. K. Denzin and Lincoln, Y.S. (eds.), Handbook of Qualitative Research, CA: Thousand Oaks, Sage Pp. 236-247

Stake, R. E. (1994). 'Case Studies,' In Denzin, N.K, and Lincoln, L.S. (eds.). *Handbook of Qualitative Research* (Pp. 236-247). Thousand Oaks, CA: Sage

Stark, D. (1992). 'Path dependence and privatization strategies in Eastern Europe,' *East European Politics and Societies* Vol. 6 Pp.17-54.

Stark, D. (1990). 'Privatization in Hungary: From plan to market or from plan to clan?,' *East European Politics and Societies* 4:351-392.

Starr, P. (1987: 1990). 'The Limits of Privatization,' in Steve Hanke, (ed.), *Prospects for Privatization (Academy of Political Science, 1987).* Reprinted in Gayle, D. J., and Goodrich, J. N. (1990). *Privatization and Deregulation in Global Perspective*, Washington D.C: Quorum Economic Policy Institute

Starr, P. (1988). 'The Meaning of Privatization,' *Yale Law and Policy review* No. 6 Pp. 6-41 Reprinted in Kahn, A., and Kamerman, S. (eds.),(1989). *Privatization and the Welfare State*, Princeton University Press.

Steel, D. and Heald, D. (1982) 'Privatising Public Enterprise' *Political Quarterly* , Vol.53 (3) pp.333-349.

Stephan. E. (1994) 'Lot for Sale,' In Toy, S. et al. 'Europe for Sale; Turkey to Speed Privatizations,' *Wall Street Journal*, February pp. 54-5

Sticker, A. (2001). 'A Gem for shareholders, after all,' *Corporate Legal Times*, September, Vol.11 (118), p.15.

Stiglitz, J. (2003) *Globalization and Its Discontents,* (2nd edition), Norton Inc. New York

Stiglitz, J. E.(2002). *Globalization and Its Discontents,* Norton Inc. New York

Stiglitz, J. E.(2002). 'Globalism's Discontents,' *The American Prospect* Winter

Stiglitz, J. E. (2001). *Financial Liberalization: How Far? How Fast?* Cambridge University

Stiglitz, J.E., (2000). 'Whither Reform? Ten Years of the Transition,' *Proceedings of the Annual Bank Conference on Development Economics 1999*, Washington, D.C: World Bank, pp.27-56.

Stiglitz, J. E. (1999). 'Promoting Competition in Telecommunications,' *Centro de Estudios Economicos de lat Regulation Working Paper Series:* Buenos Aires

Stiglitz, J. (1996): 'Some Lessons from the Asian Miracle,' *WBRO, Vol.* 11 (2), August.

Stiglitz, Joseph E. (1994) 'Rethinking the Economic Role of the State: Publicly Provided Private Goods,' *Paper Delivered at Universitat Pompeu Fabra*, Barcelona.

Stiglitz, J.E., Dasgupta, P., and Habermas, J. (1994). *Whither Socialism*, Cambridge, Mass: MIT Press,

Stiglitz, J. E., (1993). 'Some Theoretical Aspects of the Privatization: Applications to Eastern Europe,' In Baldassarri, M., Paganetto, L., and Edmund, S. P., (eds.) *Privatization Process in Eastern Europe,* New York St Martin's Press

Stiglitz, J.E., and Greenwald, B.C. (1993). 'Financial Market Imperfections and Business Cycles,' *The Quarterly Journal of Economics*, Vol. 108, Pp. 77-114 February

Stiglitz, J.E., and Greenwald, B.C. (1986). 'Externalities in Economics With Imperfect Information and Incomplete Markets,' *The Quarterly Journal of Economics*, Vol. 101, (2) May Pp.229-264

Strauss, A., and Corbin, J. (eds.). (1997). *Grounded Theory in Practice*. Thousand Oaks, CA: Sage.

Strauss, A., and Corbin, J. (1990). *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*. Thousand Oaks, CA: Sage.

Suzuki, H. 1992. 'Lessons Learned from the Guinea Privatization Program: Critical Analysis of the Divestiture Program of Public Enterprises,' *World Bank, Africa Technical Development*, and Washington, D.C.

Swann, D. (1995). *The Economics of the Common Market: Integration in the European Union.* 8th edition. London: Penguin; European Union.

Symon, G., Long, K. and Ellis, J. (1996). 'The Coordination of Work Activities: Cooperation and Conflict in a Hospital Context. Computer Supported Cooperative Work,' *An International Journal,*

Symon, C., Clegg, C. (1991). 'Implementation of a CADCAM System: The management of change at EML,' In Legge, K., Clegg, C., and Kemp, N. J. (eds.). *Case Studies in Information Technology, People and Organizations*. Vol.49 (62) Blackwell, Manchester.

Symon, G., and Clegg, C. (1991). 'Technology led change: A study of the implementation of CADCAM,' *Journal of Occupational Psychology*, Vol. 64 Pp. 273-290.

Szymanski, S., and Haskel, J. (1992) A Bargaining Theory of Privatisation, *Annals of Public and Cooperative Economics,* Vol: 63, pp. 207 – 227

Tanzi, V. and Davoodi, H. (1997). 'Corruption, Public Investment, and Growth,' Washington D.C: IMF working paper No.97/139. IMF

Tanzi, V. (1994). 'Corruption, Governmental Activities, and Markets,' Washington D.C: IMF working paper No.94/99. IMF

Taylor, J. B., (1993a). *Macroeconomic Policy in a World Economy,* New York: W.W. Norton

Taylor, L. (ed.), (2001). *External Liberalization, Economic Performance and Social Policy.* New York: Oxford University Press

Taylor, L., (1993). *The Rocky Road to Reform.* Cambridge, MIT Press

Taylor, L., (ed.). (2001). *External Liberalization, Economic Performance, and Social Policy*, New York: Oxford University Press

Taylor, R., and Blair, S. (2002). 'Public Hospitals: Options for reform through Public-Private Partnerships,' *Viewpoint,* note 241, Washington D.C: World Bank

The Economist (1994). on 'The Government Sector, The Export Sector and Growth,' Article by Alexander R.J February Vol. 142 (2) pp.211-220

The Financial Standard: The Standard Newspapers, (2004). 'Celtel Wins The Race To Buy Kenya's Second Mobile Operator Kencell,' Friday, June 17th Nairobi: *The Standard Limited Publishers*

The Financial Standard: The Standard Newspapers, (2004). 'Jambonet Rival Wins Appeal,' Friday, July 30th Nairobi: *The Standard Limited Publishers*

The Financial Standard: The Standard Newspapers, (2004). 'Telkom Set to Go Wireless,' Friday, July 23rd Nairobi: *The Standard Limited Publishers*

The Nation Newspaper Daily, (2003). 'CEOs Deposit Public Funds in Euro-Bank,' Tuesday March 11th Nairobi: *The Nation Printers*

The Nation Newspaper Daily, (2004). 'Minister Halts Entry of SNO,' Wednesday July 23rd. Nairobi: *The Nation Printers*

The Standard Business News, (2004). 'Minister is taken to Task Over CCK Move,' Friday March 18, Nairobi: *The Standard Limited Publishers*

The Standard Newspaper Daily, (2004). 'Go Slowly on Privatisation, Members Tell Government,' Wednesday April 28th. Nairobi: *The Standard Limited Publishers*

The Standard Newspaper Daily, (2004). 'Special Reports on Corruption and Development,' December 9th and 10th Nairobi: *The Standard Limited Publishers*

The Sugar Campaign for Change (SUCAM) (2001). 'The Sugar Bill Proposed Amendments,' Nairobi: Unpublished

The Sunday Standard Newspaper Daily, (2004). 'Merali, Naushad Takes Over KENCELL,' May 23rd Nairobi: *The Standard Limited Publishers*

Thompson, D. J. (1986). 'Privatisation: A Policy In Search Of A Rationale,' *Economic Journal*, Vol. 96 Pp.18-32.

Tinsley, H. E., and Weiss, D. J. (1975). 'Inter-rater Reliability and Agreement of Subjective Judgments. Journal of Counselling Psychology,' Vol.22 (4) Pp.358-376.

TKL, (2003: 2004). 'Telkom Kenya Progress Reports on Internal Restructuring,' Prepared by TKL Management for Investors and Shareholders – September, May.

TKL, (2003a). 'The Telkom Kenya Privatization Roadmap,' Confidential Cabinet Memo Prepared by TKL Management for Cabinet Consideration and action September. 12.

TKL, (2003). 'Restructuring TKL: A Strategy Report,' Prepared by the Strategic Planning Department and Management for Strategic Investors: An Internal Confidential Report Unpublished

TKL/Safaricom, (2000). 'Telkom Kenya and Safaricom Interconnection Agreement,' Nairobi: Internal Confidential Unpublished Report

TKL, (1999). 'Annual Report,' Nairobi: A TKL Publication

Torre, A., Kelly, D., and Margaret R. (1992). 'Regional Trade Arrangements'. International Monetary Fund,' *Occasional Paper*. Washington DC.

Toy, J., and Flynn. J. (1993). 'Privatisation: Selling the State 'Europe for Sale,' International Business,' July Vol.19 Pp38-39.

Toye, J. (1995). *Structural Adjustment Policies: Issues and Experience*, Geneva: ILO)

Toyle, J. (1992). 'Interest Group Politics and the Implementation of Adjustment Policies in Sub-Saharan Africa. In Mosley, P. (ed.). *Development Finance and Policy Reform.* New York: St. Martin's Press

Triche, T.A. (1990). 'Private Participation in the Delivery of Guinea's Water Supply Services,' Washington, DC: *World Bank, Infrastructure and Urban Development Working Paper* No. 477

Truss, C. (2001). 'Complexities and Controversies in Linking HRM with Organizational outcomes,' *Journal of Management Studies*, December Vol. 38 (8) p.1121

Turner, B. A. (1981). 'Some Practical Aspects Of Qualitative Data Analysis: One-Way Of Organising The Cognitive Processes Associated With The Generation Of Grounded Theory,' *Quality and Quantity*, Vol.15 Pp.225-247.

Tyler B., Moody, G. R., Van Leewen, Jan-H., and White, E. D. (1994). 'Africa Can Compete! Export Opportunities and Challenges for Garments and Home Products in the U.S. Market,' *Discussion Paper* No. 242. Washington, D.C: World Bank.

Tyler, M., and Jonscher, C. (1982). 'The Impact of Telecommunications on the Performance of a Sample of Business Enterprises in Kenya,' Case Study No. 18, January. *ITU-OECD Project* Geneva:ITU.

UN, (1995). *World Investment Report on Transnational Corporations*, New York

UNCTAD (1996).*Comparative Experiences with Privatisation: Policy Insights and Lessons Learned,* New York: United Nations.

UNCTAD, (1995). *Comparative Experiences with Privatization: Policy Insights and need,* Geneva and New York: UN.

UNCTAD (1995) *Comparative Experiences with Privatization: Policy Insights and Lessons Learned,* Geneva and New York: UN.

UNCTAD, (1993). *Trade and Development Report.* New York: United Nations.

UNIDO, (2001). 'Privatization Projects Reports for Projects,' SI/SIL/95/801 and BR/SUD/91/001

UNI – Global Union. (2003). 'UNI writes to Telkom Kenya regarding retrenchments,' General Secretary's Letter, UNI publications

US-Government- Council of Economic Advisers, (1997). 'Promoting Competition in Traditionally Regulated Industries,' *Economic Report of the President.* Washington D.C: U.S. Government Printing

US-Government- Department of Commerce, (1996). *A Guide to Telecommunications Markets in Latin America and the Caribbean.* Washington D.C: U.S. Government Printing

US-House of Representatives, (1997). 'Privatization Reports: Chairman's Main Report to Congress,' *GAO/RCED- March14*

U.S-Council of Economic Advisers, (1996). 'Promoting Competition in Traditionally Regulated Industries: Economic Report of the President,' *U.S. Government Printing Office.*

US-House of Representatives, (1996). 'Privatization Reports: Airport Privatization: Issues Related to the Sale or Lease of U.S. Commercial Airports,' GAO*/RCED- November 7*

US-House of Representatives, (1996). 'Privatization Reports: Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service,' GAO/GGD- *August 16*, pp.96-158.

US-House of Representatives (1995). 'Privatization Reports: District of Columbia: City and State Privatization Initiatives and Impediments,' *GAO/T-GGD June 28*, Pp.95-194, June 28).

US-House of Representatives, (1995). 'Privatization Reports: District of Columbia: Actions Taken in Five Cities to Improve Their Financial Health,' *GAO/T-GGD March 2*, pp.-95-110.

Van-Maanen, J. (1979).Reclaiming Qualitative Methods for Organizational Research: A Preface,' *Administrative Science Quarterly* Vol. 24, pp. 520-526.

Van der Hoeven, R., and Sziraczki, G. (eds.) (1997). *Lessons from Privatization: Labour issues in Developing and Transition economies*, Geneva: ILO publication

Vernikov, A. (1991). 'Foreign Trade Reform and Privatisation in the USSR. Coventry,' *Warwick Economic Research Papers* No. 377

Vernon, R. (1991). 'A Technical Approach to privatization Issues: Coupling Project Analysis with Rules of Thumb,' in Ramamurti, R., and Vernon, R. (eds.) *Privatization and Control of State-Owned Enterprises*. Washington D.C: EDI Development Studies, pp.54-72

Vernon-Wortzel, H., and Wortzel (1989). 'Privatisation: Not the Only Answer,' *World Development*, 17(5), pp. 633-641.

Vickers, J., and Yarrow, G. (1991). Economic Perspectives on Privatization,' *Journal of Economic Perspectives*, spring Vol.5 Pp.111-132

Vickers, J., and Wright, V. (1989). *The Politics of Industrial Privatisation in Western Europe: An Overview,* (eds.). London: Frank Cass.

Vickers, J., and Yarrow, G. (1988) *Privatization: An Economic Analysis*, Cambridge: The MIT Press

Vickers, J., and Yarrow, G. (1985). 'Privatization and the Natural Monopolies,' London: *Public Policy Centre.*

Vinaya, S. (1994). 'The Public Finance of Infrastructure: Issues and Options,' *World Development,* Vol. 22 (12), pp.1909-1919

Vinod, T., and Nash, J. (1991) '*Best Practices in Trade Policy Reform,*' University Press Books

Vodopivec, M., and Orazem, P. (1995). 'Winners and Losers in Transition: Returns to Education, Experience, and Gender in Slovenia,' *World Bank Economic Review.* May

Vuylsteke, C. (1988). 'Techniques of Privatization of State-Owned Enterprises. Vol. I: Methods and Implementation,' *World Bank Technical Paper* No.88. Washington, D.C.

Waddell J. (1997). 'The Privatization of Monopolies,' Washington D.C: *Economic Perspectives* Vol. 2(1), January

Waddell J. (1994). 'Privatization Developments Around the World,' Arlington, VA: *International Privatization Group, Price Waterhouse LLC and* http://munshi.sonoma.edu/intl/developments.html

Wallsten, S. J., Clarke, G., Kaneshiro, R., Noll, R.G., Shirley, M., and Xu, Lixin. C. (2004). 'New Tools for Studying Network Industry Reforms in Developing Countries: The Telecommunications and Electricity Regulation,' *World Bank Working Paper* No. 3286 January.

Wallsten, S. (2002) 'Does Sequencing Matter? Regulation and Privatization in Telecommunications Reforms,' Washington, DC: World Bank February

Wallsten, S. (2001) 'Telecommunications Privatization in Developing Countries: The Real Effects of Exclusivity Periods,' Washington, DC: World Bank October

Wallsten, S. (2000). 'Telecommunications Privatization in Developing Countries: The Real Effects of Exclusivity Periods,' *SIEPR Policy Paper*: Stanford, CA.

Wallsten, S. (2001a). 'An Econometric Analysis of Telecom Competition, Privatization and Regulation in Africa and Latin America.' *Journal of Industrial Economics, Vol.* 49 (1) pp.1-20.

Wallsten, S. (2001b). 'Telecommunications Investment and Traffic in Developing Countries: The Effects of International Settlement Rate Reforms.' *Journal of Regulatory Economics,* Vol.20 (3) Pp. 307-23.

Wallsten, S. (1999). 'An Empirical Analysis of Competition, Privatization, and Regulation in Africa and Latin America,' Washington, DC: World Ban

Weber, R. P. (1990). *Basic Content Analysis*. (second ed.). (Vol. 49). Thousand Oaks, CA: Sage.

Week Enterprise News (2004), September 28, 2004

Weiss, D. (1998). '1935- the Economics and Politics of Transition to An Open Market Economy,' Paris: Development Centre –OECD.

Weitzman, E. A., and Miles, M. B. (1995). *Computer Programs for Qualitative Data Analysis: A Software Sourcebook.* Thousand Oaks, CA: Sage.

Welch, D., and Fremond, O., (1998). 'The case –by- Case Approach to Privatization: Techniques and Examples,' *World Bank Technical Paper* No. 403. May, Washington, DC.

Wellenius, B., and Rossotto, C. (1999). 'Introducing Telecommunications Competition Through A Wireless License: Lessons From Morocco,' Washington D.C: *Public Policy Journal.* No. 199, November

Wellenius, B. (1992). 'Telecommunications: World Bank Experience and Strategy,' *World Bank Discussion Paper* No. 192: Washington, D.C: World Bank

Wellenius, B. (1997). 'Telecommunications Reform—How To Succeed,' *Public Policy for the Private Sector.* No.130. October.

Wellenius, B., Stern, P.A., Nulty. T.E., and Stern, R. (1989). 'Restructuring and Managing the Telecommunications Sector,' *A World Bank Symposium.* Washington D.C: World Bank

Werner, O. and Schoepfle, G., (1987). *Systematic Fieldwork: Foundations of Ethnography and Interviewing*, Newbury Park: Sage

Werner, B. (2003). 'The Privatization Experience in Brazil,' In Parker, D., and Saal, D. (ed.), *International Handbook on Privatization*, Williston: Edward Elgar Publications

Werner, B., and Nazmi, N. (2000). 'Privatization and Restructuring of Banks in Brazil,' *Quarterly Review of Economics and Finance*, Vol. 40

Whetten, D.A. (1989). 'What Constitutes a Theoretical Contribution?' *Academy of Management Review* Vol.14 (4), Pp.490-495.

White, A., and Weissman, R., (2002). 'Obsessed: The Latest Chapter in the World Bank's Privatization Plans' *Multinational Monitor,* September

Whitfield, D. (1992). *The Welfare State: Privatisation, Deregulation, Commercialisation of Public Services: Alternative Strategies For The 1990s*, London: Pluto press

Whitfield, D., (1983). *Making It Public: Evidence and Action Against Privatisation.* London: Pluto Press.

William, A., Hennemeyer, P., and Chapon, J-P. (1990) 'Privatizing Telecommunications systems: Business Opportunities in Developing Countries,' *IFC Discussion Paper* No.10

Williams, T. R., (1967). *Field Methods in the Study of Culture.* New York: Harper, Row, and Winston.

Williamson, J., (ed.), (1994). *The Political Economy of Policy Reform* Washington D.C: Institute of International Economics

Willig, R., (1993). 'Public Versus Regulated Private Enterprise,' Annual Bank Conference on Development Economics, World Bank, Washington, D.C.

Wilson, L., (1 998). 'Privatisations in 1996: Another Record Year,' in Wright, M. Robbie, K. Thompson, K. and Starkey, K. (1993). *Longevity and the Life-Cycle of Management Buy-Outs, Strategic* Management Journal Vol.15, Pp.215-227.

Winston, C., (1993). 'Economic Deregulation: Days of Reckoning for Microeconomists.' *Journal of Economic Literature,* 31:3, Pp. 1263-89.

Wolcolt, H. F., (1990): *Writing Up Qualitative Research: Qualitative Research Methods*, London: Sage

Wolf, C. (1999). 'Markets, Not Architects, Will Solve Economic Crises,' *Wall Street Journal,* July 20.

Wolf, C., (1979). 'A Theory of Non-market Failure' *Journal of Law and Economics*, Vol. 22, (1) pp. 107-139.

Woodward, I., Eilon S., (1966). 'A Field Study of Managerial Control in Manufacturing Industry,' In Lawrence, J.R. *Operational Research and the Social Sciences.* London: Trivastock.

World Bank, (2005). *Limits to Privatization: How to Avoid Too Much of a Good Thing: A Report to the Club of Rome*, Washington D.C World Bank

World Bank, (2005). *Conditionality Revisited Concepts, Experiences and Lessons: A World Bank Publication*, Washington D.C World Bank

World Bank/Privatization Link (2004).http://www.ipanet.net/documents/WorldBank/databases/plink/soceco/2kenya.htm

World Bank/Privatization Link (2000). http://www.worldbank.org/html/fpd/notes/196/196summary.html

World Bank, (2002). *African Development Indicators*, Washington D.C World Bank

World Bank, (2002). 'Public Communications Programs for Privatization: A Toolkit for Task Team Leaders and Clients,' Washington, D.C.

World Bank, (2001). *Adjustment Lending Retrospective,* Washington D.C: World Bank

World Bank, (2000). *Social Dimensions of Adjustment Programmes, A World Bank Report,* and Washington D.C: World Bank

World Bank (1999). 'Private Participation in Infrastructure in Developing Countries: Trends, Impacts, and Policy Lessons (1998-2003),' Washington D.C: World Bank

World Bank, ABB., and UNECA (2000). *'Can Africa Claim the 21st Century?,'* Washington D.C: World Bank

World Bank, (1998). 'Kenya Report,' May 26

World Bank (1997): *Global Economic Perspectives and the Developing Countries* (Washington, World

World Bank, (1996). *Industrial Restructuring: World Bank Experience. Future Challenges.* World Bank Operations Evaluation Study, Washington DC: World Bank.

World Bank. (1996). 'Industrial Restructuring: World Bank Experience. Future Challenges,' World Bank Operations Evaluation Study, Washington DC: *World Bank working Paper* N0. 2420

World Bank (1996): *Social Dimensions of Adjustment World Bank Experience 1980-93* Washington, World Bank).

World Bank, (1996). 'Export Processing Zones,' PremNotes No. 11 Washington D.C: World Bank

World Bank/GOK (1996). 'Kenya Analytical Participatory Poverty/Inequality Assessment Report,' Washington: Confidential *World Bank Publication* August

World Bank (1995). *World Development Report* (Washington, World Bank).

World Bank, (1995). *Bureaucrats in Business: The Economics and Politics of Government Ownership* Washington, DC: Oxford University Press

World Bank, (1994).*World Bank Assistance to Privatization in Developing Countries (Operations Evaluation Study*). Washington, DC: World Bank

Worldd Bank, (1991). *The Transformation of Economies in Central and Europe: Issues, Progress, and Prospects,* Washing D.C: Socialist Economies Unit, Country Economics Department April 3.

World Bank, (1991). World Development Report, Washington D.C. p.131.

World Bank/GOK (1991). 'Country Policy Framework Agreement Report,' April

World Bank, (1990). *Bank Lending for Divestiture: A Review of Experience,* Washington D.C: Policy and Research Working Paper No.338.

World Bank, (1989). 'Public Enterprise Reform in Adjustment Lending,' Washington D.C: Author, *Policy and Research Working Paper* No.233.

World Development Report, (2004). *Making Services Work for Poor People*, Washington D.C: The World Bank and Oxford University Press

World Development Report, (1996). *From Plan to Market.* New York: Oxford University Press.pp.127-138.

World Development Report, (1994): *Infrastructure for Development* Oxford University Press, World Bank Group

World Equity and IFC, (1993). *Privatization in Emerging Markets*, London: Publishing.

World Trade Organization (WTO), (2003). 'World Trade Report,' Geneva,

World Trade Organization (WTO), (2002) 'Progress Report on WTO Services Negotiations National Reports,' *WTO Publication.*

World Trade Organization (WTO), (2000) 'World Trade Report on Seattle,' *WTO publication* November.

World Trade Organization (WTO), (2000) 'Trade Policy Reviews: GATS Kenya National Report,' *WTO Publication.*

World Trade Organization (WTO), (1999). Ministerial Conference –Annual Reports, Geneva, *WTO publication*

Wright V. (1994). 'Industrial Privatization in Western Europe: Pressures, Problem and Paradoxes,' In: Vincent Wright (ed.), *Privatization in Western Europe: Pressures, Problem and Paradoxes.* London:

Wright V., and Perrotti, L., (eds.) (2000). *Privatization and Public Policy Volume 1*, Cheltenham: Edward Elgar, U.K

Wright V., and Perrotti, L., (eds.) (2000). *Privatization and Public Policy Volume II*, Cheltenham: Edward Elgar, U.K

Wright V., (1995). 'Industrial and Banking Privatization in Western Europe: Some Public Policy Paradoxes,' *Jean Monnet and Robert Schumann Centre, European University Institute,* Chair papers No. 29

Wright, M., Robbie, K., Thompson, S. (1998). 'Corporate Restructuring, Buy-outs and Managerial Equity: The European Dimension,' in Stern, J., Chew, D. (ed) *The Revolution in Corporate Finance*, Oxford Blackwell Business.

Wright, M.; Thompson, S.; Robbie, K. (1996). 'Buy-ins, Buy-outs, Active Investors and Corporate Governance,' *Corporate Governance*, Vol.4 (4), pp.222-234.

Wyplosz, C., (2002). 'How Risky is Financial Liberalization in the Developing Countries?' *Comparative Economic Studies*, XLIV, No2 Pp.1-26

Wyplosz, C. (1993). After The Honeymoon: On the Economics and the Politics of Economic Transformation. *European Economic Review*, Vol. 37, (2-3) pp.379-386

Yarrow, G. (1999). 'A Theory of Privatization, or Why Bureaucrats are Still in Business,' *World Development,* Vol. 27, pp.157-168

Yarrow, G., and Jasinski, P. (eds.) (1996). *Privatization: Critical Perspectives on the World Economy* London and New York: Routledge

Yarrow, G. (1994). 'The Economics of Regulation,' In Ramanadham, V.V (ed.) *Privatization and After: Monitoring and Regulation,* London and New York: Routledge

Yarrow, G., and Vickers, J. (1991). *Privatization: An Economic Analysis*. Cambridge, MA: The MIT press

Yarrow, G. (1986). 'Privatization in Theory and Practice,' Economic Policy, Vol.2 pp.324-377

Yeats, C., (1999). 'The Ethics of Privatisation,' Thesis (Ph.D.) University Of Durham, Business school

Yin, R. K., (1994). *Case Study Research: Design and Methods* (2nd ed.), London: Thousand Oaks: Sage

Yin, R. K., (1993). *Applications of Case Study Research*, London: Thousand Oaks, Sage

Yin, R. K., (1989). *Case Study Research: Design and Methods* (revised edition.), London: Sage

Yin, R. K., (1984). *Case Study Research: Design and Methods,* London: Sage, Beverly Hills;

Yin, R. K., and Heald K.A., (1975). 'Using Case Survey Method to Analyse Policy Studies,' *Administrative science quarterly*, Vol. 20, Pp. 371-381

Young, P., (2003). 'Building an Institutional Framework for Privatization: The Importance of Strong Institutions,' *Adams Smith International*, London

Young R. A., (1991). 'Privatization in Africa,' *Review of African Political Economy*. No.51, pp.50-62

Younger, S. (1996). 'Labour Market Consequences of Retrenchment for Civil Servants in Ghana,' in David Sahn, (ed.), *Economic Reform and the Poor in Africa.* Oxford: Clarendon Press.

Zikmund, G. W., (1984). *Business Research Methods*, New York: The Dryden Press

Glossary[2]

African Development Bank- A regional bank started in 1966 to support the development of independent African States though loans and assistance. Its main portfolio is in infrastructure.

Asset Sale or Long-Term Lease. An asset sale is the transfer of ownership of government assets, commercial type enterprises, or functions to the private sector. In general, the government will have no role in the financial support, management, or oversight of a sold asset. However, if the asset is sold to a company in an industry with monopolistic characteristics, the government may regulate certain aspects of the business, such as the regulation of utility and telecom tariff rates.

Leasing Arrangements- are forms of public-private partnership. Under a long-term lease, the government may lease a facility or enterprise to a private-sector entity for a specified period. Maintenance, operation, and payment terms are spelled out in the lease agreement. Under a sale-leaseback arrangement, the government sells an asset to a private-sector entity and then leases it back. Under a sale-service contract or lease-service contract, an asset sale or long-term lease is coupled with an arrangement with the purchaser to furnish services for a specified period. Leases in which the government leases a facility (e.g., a building lease) are considered a form of contracting out, rather than a public-private partnership. In most cases a government enters into long-term leases for assets such as airports, gas utilities or real estate to private firms, thus turning physical capital into financial capital.

Assets- are anything having commercial or exchange value that is owned by a business, government, institution, or individual. Assets are any possessions that have value in an exchange. The primary classifications of assets are: current assets, long-term assets, prepaid and deferred assets, and intangible assets. - Factoring terms / Accounts Receivable

Auctions or open bidding- Auctions are more common and more transparent than negotiated sales. These are done through agents through a preparation of a memorandum containing general information for potential investors. The memorandum is send to potentially interested parties.

Budget Deficit- A situation where government expenditure exceeds government income. Government incomes comes from taxation and other revenue and where this is less than the money the government is spending on defence, education, health, welfare and so on, this is called a budget deficit.

Build-Operate-Transfer (BOT) - arrangements the private sector designs, finances, builds, and operates the facility over the life of the contract. At the end of this period, ownership reverts to the government. A variation of this is the Build-Transfer-Operate (BTO) model, under which title transfers to the government at the time construction is completed.

Build-Own-Operate (BOO)- arrangements the private sector retain permanent ownership and operate the facility on contract. During the implementation of the privatisation programs, the types and forms chosen may differ from government to

[2] Definitions are based on the business dictionary (Pass, C., Lowes, B., Pendleton, A., and Chadwick, L., (1995) and on conventional business usage of terminologies

government and the uniqueness of the sector to be privatised it may differ from region to region.

Commercial Paper - the technical term used to describe domestic short-term promissory notes issued as evidence of debt. The issuer/ seller/ borrower raise the funds for a fairly short period (one to six months) most likely with periodic rollovers. Funds raised this way are usually used for working capital and liquidity. In Australia, promissory notes, commercial bills and non-bank certificates of deposit are types of commercial paper.

Commercialization is an important mechanism in transferring ownership and management from public to private, and in achieving better performance and efficiency gains for the enterprise during partial privatization. Kenya Ports Authority and The Port of Dar-es-Saalam have been divested using this method.

Common Market- A customs union, which permits the free movement of capital and labour between member states, and harmonizes trading policies and tariffs across boarders.

Comparative Advantage- This exists when a country produces a good service at a lower opportunity cost than its trading partner.

Competition- Competition occurs when two or more parties independently attempt to secure the business of a customer by offering the most favourable terms. Competition in relation to government activities is usually categorized in three ways: (1) public versus private, in which public-sector organizations compete with the private sector to conduct public-sector business; (2) public versus public, in which public-sector organizations compete among themselves to conduct public-sector business; and (3) private versus private, in which private-sector organizations compete among themselves to conduct public-sector business.

Concession (method) refers to any arrangement in which a firm obtains from the government the right to provide a particular service under conditions of significant market power. The design of the concession should ensure that guidelines for policymakers on how to define the contracting parties, the purpose and extent of the concession, allocating risks and the appropriate level of certainty versus flexibility are well designed. Kenya Railways is a case for the concessioning.

Contracting Out- Contracting out is the hiring of private-sector firms or non-profit organizations to provide a good or service for the government. Under this approach, the government remains the financier and has management and policy control over the type and quality of services to be provided. Thus, the government can replace contractors that do not perform well.

Corporatization. Government organizations are reorganized along business lines. Typically they are required to pay taxes, raise capital on the market (with no government backing—explicit or implicit), and operate according to commercial principles. This is a common method in the transportation sector especially ports and rails; Kenya and Tanzanian seaports have utilized this method.

Defining the new Oligopoly-The term denotes a situation where there are few sellers for a product or service. The members of an oligopoly change the nature of a free market. While they cannot dictate price and availability like the one a monopoly can,

they often turn into friendly competitors, since it is in all the members' interest to maintain a stable market and profitable prices. It is common in the telecoms sector operating in weak private sector environments, with two or three major players.

Deregulation- This is the loosening of restrictions on the entry or exit from a market and on the setting of prices

Developing Economies (DEs) - This often specifically refers to a developing country's economy and private sector. These are economies that are not considered as industrialised or developed, neither are they economies in transition (like the Eastern \European countries). However, some of these DEs are sometimes referred to as emerging economies (i.e. Egypt, South Africa and Asian countries). However, the emerging economies often have a strong stock market infrastructure and an active and sustainable private sector

Discounted Cash Flow Analysis. (DCF) is a method of evaluating an investment by estimating future cash flows and taking into consideration the time value of money? Also called capitalization of income

Divestiture- Divestiture involves the sale of government-owned assets or commercial-type functions or enterprises. After the divestiture, the government generally has no role concerning financial support, management, regulation, or oversight.

Earnings before interest and taxes (EBIT) - EBIT is calculated by subtracting costs of sales and operating expenses from revenues. EBIT is often used to gauge the financial performance of companies with high levels of debt and interest expenses, like Telkom Kenya.

Employee buyout (EBO)/ Employee Stock Ownership Plans (ESOP)-. Existing public managers and employees take the public unit private, typically purchasing the company through an Employee Stock Ownership Plan (ESOP). Under an employee stock ownership plan (ESOP), employees take over or participate in the management of the organization that employs them by becoming shareholders of stock in that organization. In the public sector, an ESOP can be used in privatizing a service or function. Recently, for example, the Office of Personnel Management established an ESOP for its employees who perform personnel background investigations.

Franchising Of Internal Services- Under the franchising of internal services, government agencies may provide administrative services to other government agencies on a reimbursable basis. Franchising gives agencies the opportunity to obtain administrative services from another governmental entity instead of providing them for themselves.

Franchising-External Service- In the franchise-external service technique, the government grants a concession or privilege to a private-sector entity to conduct business in a particular market or geographical area, such as concession stands, hotels, and other services provided in certain national parks. The government may regulate the service level or price, but users of the service pay the provider directly.

Free Market economy is an idealized form of **market economy** in which most allocations of resources occur as a result of interactions between buyers and sellers of goods and services. They are permitted to carry out transactions based solely on mutual agreement without intervention in the form of taxes, subsidies, regulation, or government provision of goods or services beyond simply the protection of property

rights and enforcement of contracts. This is mainly a theoretical concept as every country, even capitalist ones, places some restrictions on the ownership and exchange of commodities.

Government Corporations/Parastatals- Government corporations are separate legal entities that are created by central government, generally with the intent of conducting revenue-producing commercial-type activities and that are generally free from certain government restrictions related to employees and acquisitions. In the US and U.K these are created by Congress and Parliament respectively, are have much more autonomy than the Parastatals (**also known as SOEs**) created by central government in East and Central Africa.

Government-Sponsored Enterprises- Government-sponsored enterprises (GSE) are privately owned, federally/local government chartered financial institutions with a nationwide scope and limited lending powers that benefit from an implicit federal guarantee that enhances a GSE's ability to borrow money in the private sector. They are not agencies of the national government but serve as a means of accomplishing a public purpose defined by law. These are mainly found in the west, especially in the US.

An ISP, or Internet Service Provider-, is a company which provides Internet access for individuals, organizations, and companies. An Internet Service provider usually has multiple access methods, including dial-up, DSL, cable modem, ISDN, T1, and sometimes T3

Least Developed Countries (LCDs) – Countries who generally characteristics by low levels of GDP and income per head. LDCs usually have a heavy dependence on the primary sector of the economy. In the case of Kenya and Uganda this is true with dependence on the Agriculture and in the case of Zambia heavy dependency on Agriculture, copper and Cobalt mining.

Liberalization- The opening up of Markets to the free market forces of supply and demand. In privatization and restructuring terms, this also refers to introducing competition within the public enterprises earmarked for divestiture by governments

Managed Competition-Under managed competition; a public-sector agency competes with private-sector firms to provide public-sector functions or services under a controlled or managed process. This process clearly defines the steps to be taken by government employees in preparing their own approach to performing an activity. The agency's proposal, which includes a bid proposal for cost-estimate, is useful to compete directly with private-sector bids.

Management and employee Participation- an employee/management share ownership plan can provide shares and often share financing for employees.

Monopoly- A situation in which a single company owns all or nearly all of the market for a given type of product or service. This would happen in case there is a barrier to entry in the industry that allows the single company to operate without competition (for example, vast economies of scale, barriers to entry, or governmental regulation). In such an industry structure, the producer will often produce a Volume that is less than the amount, which would maximize social welfare.

Natural Monopoly –is an enterprise or an industry where the most efficient production is only possible through a monopolistic status.

Negative Externalities- Impacts on 'outsiders' that are disadvantageous to them and for which they receive no compensation. The externalities are occurring where the actions of firms and individuals have an effect on people other than themselves. In case of negative externalities the external effects are costs on other people. They are also known as external costs. There may be external costs from both production and consumption. If these are added to the private costs we get the total social costs. An example of Negative externalities would be the side effects of production processes e.g. the pollution (noise, dust, vibration) endured by people living next to a quarry.

Neo-classical theory- The view that markets operate efficiently and that the way to increase output and employment is to raise aggregate supply.
Non-governmental Organizations (NGOs)- These are international, national and regional institutions privately owned by citizens or charitable/civil society groups, involved in providing financial, social political, economic and technical assistance to governments or citizens directly. They often cover the 'gap' left by international financial institutions and governments.

Outsourcing-Under outsourcing, a government entity remains fully responsible for the provision of affected services and maintains control over management decisions while another entity operates the function or performs the service. This approach includes contracting out, the granting of franchises to private firms, and the use of Volunteers to deliver public services.

Performance Based Organizations- Under a performance based organization (PBO); policymaking is to be separated from service operation functions by moving all policymaking responsibilities to a Presidential appointee. The service operations are moved to an organization to be headed by a chief executive officer (CEO), hired on a competitive contract for a fixed term. The CEO's contract defines expected performance and in exchange for being held accountable for achieving performance, the CEO is granted certain flexibilities for human resource management, procurement, and other administrative functions. As of March 1997, several PBOs had been proposed but no PBO had been authorized in the federal government.

Pricing and Distribution- These are two hardest issues to manage in a share flotation. The government and its brokers should agree early in the sales process on how pricing will be managed. Because pricing is set late in the sale—after other sales processes have been completed and the sale of shares out to begin—officials must be ready to react quickly for approval and the financial advisors or sales agents should be able to provide government with the trade-off costs of changes to the sales structure (i.e. if the government wants to increase the share of retail shares or sell more shares domestically)

Private Infrastructure Development and Operation. The private sector builds finances and operates public infrastructure such as roads and airports, recovering costs through user charges. Several techniques commonly are used for privately building and operating infrastructure.

Privatization (sometimes: **denationalization**, **privatisation** or - especially in India - **disinvestment**) is the economic process of transferring Property, control/management, from public ownership to private ownership. An opposite process is nationalization. In theory, privatization helps establish a 'free market,' as well as fostering capitalist

competition, which its supporters argue will give the public better choices. It is also a term that '*has generally been defined as any process aimed at shifting functions and responsibilities, in whole or in part, from the government to the private sector'.*

Privatization sale transaction Elements include: *Prospectus, Share instrument, and timing*- the success of the issue depends on the choice of the share instrument and the timing of the sale and payment (i.e. investor perception)

Public-Private Partnership/ Joint Ventures- Under a public-private partnership, sometimes referred to as a joint venture, a contractual arrangement is formed between public- and private-sector partners, and can include a variety of activities involving the private sector in the development, financing, ownership, and operation of a public facility or service. It typically includes infrastructure projects and/or facilities. In such a partnership, public and private resources are pooled and their responsibilities divided so that each partner's efforts complement one another. Typically, each partner shares in income resulting from the partnership in direct proportion to the partner's investment. Such a venture, while a contractual arrangement, differs from typical service contracting in that the private-sector partner usually makes a substantial cash, at-risk, equity investment in the project, and the public sector gains access to new revenue or service delivery capacity without having to pay the private-sector partner.

Pure Monopoly –A market in which one company has control over the entire market for a product, usually because of a barrier to entry such as a technology only available to that company. Telecommunications products and components are prone to be pure monopolies, be it for a short time, due to the speed of technological change in the sector.

Regulation- in the context of government and public/private services regulation (as a process), is the control of enterprise activities by rules and **regulations** governing the operations in a given market, as opposed to its prohibition? In economics, it is part of the government relationship with markets, often seen as the opposite of **deregulation.**

Regulatory body- is an independent agency, commission or government department that has responsibility over the legislation (acts and regulations) for a given sector of the public and private sector business operations.

Residual shareholdings- If a public offering leaves the government with a residual shareholding, the market will want to know how it plans to manage (actively or passively), and how and when it plans to divest its remaining holdings. This should be addressed in the prospectus for the share floatation. (For example, the government may decide to hold onto its residual shares as an investment but not exercise its voting rights. As the case in Kenya Airways (KQ)

Secondary Offerings- This is a public offering of shares already traded on domestic or foreign markets

Service Shedding- Divestiture through service shedding occurs when the government reduces the level of service provided or stops providing a service altogether. Private-sector businesses or non-profit organizations may step in to provide the service if there is a market demand.

State owned Enterprises (SOEs) or Public Enterprises (PEs) are those enterprises that operate under the control and management of the government and receive subsidies

from the state. They often have a monopoly of the market with little or no competition. In Developing countries, they are referred to as parastatals and are a big source of finance for the incumbent governments who often need money to pay over- employed Parastatals

Structural Adjustment Programmes- a programme of free market and supply side reforms that multilateral agencies such as IMF use as conditions for lending funds. These often conflict with the quest for industrialization and remaining s primary producers of products for trans-national corporations (operating in more than one country, i.e. Coca cola) who process and re-sale to the developing countries.

Subsidies- The government can encourage private-sector involvement in accomplishing public purposes through tax subsidies or direct subsidies, such as the funding of low-income housing and research and development tax credits.

Sustainable Development – Development where consideration is given to the quality of life of future as well as current generations

Teledensity – is the number of landline telephones in use for every 100 individuals living within an area. A teledensity greater than 100 means there are more telephones than people are. Developing countries may have a teledensity of less than 10. Alternatively, it is a term commonly used to describe the number of telephone lines per some unit of the population (often per 100 people); the density of telephone lines in a community.

The new oligopoly is made up of multinational corporations that have chosen specific product or service categories to dominate. In each category, over time, only two to four major players prosper. Starting a new company in that market segment is difficult, and the few that do succeed are often gobbled up or run out of business by the oligopolies. Few multinationals aspire to be monopolies. Monopolies attract government regulation and consumer anger (i.e. Microsoft). Small oligopolies (such as Coke, Pepsi, and Cadbury-Schweppes) make plenty of money and avoid the constant attention of the regulators.

Trade (Third party) sales- there is two types of trade sales for privatizations: auctions (open bidding) and negotiated sales (table 6-2)

Trade Creation- The increased trade that occurs between member countries of trading blocs usually resulting from economies of scale following the enlargement of the market

Trade Liberalization- The removal of barriers to trade such as import quotas and tariffs.

User Fees- User fees require those who use a government service to pay some or all of the cost of the service rather than having the government pay for it through revenues generated by taxes. Charging entry fees into public parks is an example of a user fee.

Volunteer Activities- An activity in which Volunteers provide all or part of a service and are organized and directed by a government entity can also be considered a form of outsourcing. Volunteer activities are conducted either through a formal agency Volunteer program or through a private non-profit service organization.

Vouchers- Vouchers are government financial subsidies given to individuals for purchasing specific goods or services from the private or public sector. The government gives individuals redeemable certificates or vouchers to purchase the service in the open market. Under this approach, the government relies on the market competition for cost control and individual citizens to seek out quality goods or services. The government's financial obligation to the recipient is limited by the amount of the voucher. Forms of vouchers are grants, which can be given to state and local governments that may use the funds to buy services from the private sector.

Appendix 1: Annex I: Field Questionnaires -for the Survey of Privatization of Public

SURVEY OF PRIVATIZATION OF PUBLIC ENTERPRISES.

Interviewer's introduction: The objective of this empirical survey is to provide a model case for privatising in a developing regional economy, like that of Kenya, by examining the approaches, processes, and implementation of privatizations in Kenya and the COMESA –FTA. The responses to the questions here in will be used for academic research purposes, and will be an important input in contributing to new information that will inform the prescription and approach of privatisation policies. Effectively, this survey in its exploration of the privatisation approaches, methods and strategies, progress and performance of privatized entities, will provide for an 'a regional model case of privatisation. In relation to approach, the survey seeks to record the strategy, methods, profitability, investments, employment, capacity utilization and 'success' rates of Kenya's Program.

The information obtained here will be treated as strictly confidential, and neither the respondent's name, the name of the enterprise on any discussions and information collected will be printed or used in any documents in attribution to the person, unless agreed to. The responses to these questions will be used for academic research purposes.

Background Information

Respondent's position (optional)

_____

Type of enterprise (sector preferred)

_____

What is the nature of your entity? Private sector ☐ Public sector ☐ civil society/Non-governmental

Any other information

_____

For further clarification, discussion for information please contacts the principal researcher at
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Section 1: General Information on Privatisation

1 What is the role of you/your ministry/firm department in the privatization process? How does this differ from the prescribed role in the parastatal reform policy or legal document?

2. What is your main area of activity? ☐ Manufacturing ☐Service ☐ Other----------

-

3. Is your firm a privatised or restructured/commercialist entity? Yes☐ No☐ if yes, what has been the outcome in i.e. revenue and structure.

4. Why privatize? **Give a detailed explanation below**

5 What is the scale (numbers/turnover) of the privatisation program (in terms of sectors, and enterprises)? **Give a detailed explanation below:**

B: Specific information on the process of Privatisation

6. What is the schedule and approach of transactions? Summarize information in the table below detailing dates and what was done.

Enterprise	Kenya Airways	Telkom Kenya	KCB/ NBK	Keny a Re-	Sugar Companies	Kenya Railways	Kenya Ports	Other
Mode of privatisation								
% Of Equity for sale to Strategic investor								
Proposed Timetable								
Appointment of Advisors								
Submission of EOIs from core investors								
Selection process of Core investors								
Was due diligence done by whom and what was the outcome								
Negotiation process Any pitfalls								
Give reasons for major setbacks in the negotiations								
Conclusion of process								

7. What are the major objectives for divesting in the above enterprises? Rate them from highest to lowest **(Rating on a scale of 1 to 5: 1 = extremely important, 2= very important, 3= Important, 4= Not very important, 5= Not important).**

Objectives	**KQ**	**TLK**	**KCB**	**KEN-RE**	**Sugar**	**KR**	**KPA**	**Other**
Revenue to government								
Liberalization and reforms								
Global new Technology								
New management								
Financial Infusion								
Unbundling and restructuring for efficiency & profitability								
Redistribution of Wealthy								
Speed up process								
Fair Wealth distribution								
Private sector development								
Change in socio-econ system								
FDI								
Other (List)								

8. What approach have the Kenyan privatisation taken? State the sectors in ascendancy order ranking the major approaches as; 1= **Most popular** 2= **More popular** 3= **relatively popular** 4=**popular** 5=**less popular** 6= **unpopul**ar with a maximum of six

☐ Commercialization ☐Management contract

- ☐ Unbundling of various entities
- ☐ Comprehensive restructuring
- ☐ Sale through IPO/Strategic Investor
- ☐ Strategic investor
- ☐ Ownership transfer to managers and employees (MBO/EBO)
- ☐ Voucher/coupon
- ☐ Change of management
- ☐ restructuring by downsizing
- ☐ direct sales method
- ☐ Capital (cash infusion)
- ☐ Spontaneous privatisation
- ☐ Mass privatisation

9. What are the criteria and strategy for selection for entities to be privatized?

Give a detailed explanation

10. What is the overall restructuring and privatization outcome of Kenya's divesture program in the last five years (1999-2003)?

Give a detailed explanation

11. Looking at the objectives in question number 7, will the overall privatization program in specific sectors reduce Costs, increase efficiency and create business opportunities? Yes ☐ No☐

Give a detailed explanation

12. Does/has privatisation contributed to new business opportunities, private sector development, and regional trade expansion Yes ☐ No ☐ Not Entirely ☐

Give a detailed explanation

Appendix 2: Annex I

13. Which of the following indicators of privatisation help yield new opportunities and are vital to Kenya's privatisation program? Rank them in order of importance **1= extremely important 2= very important 3= significantly important 4= important 5= less important**

- ☐ Raising Revenue,
- ☐ Reducing subsidies
- ☐ Generating additional employment
- ☐ Raising domestic savings
- ☐ Raising public investment,
- ☐ reducing GOK involvement
- ☐ restructuring public services
- ☐ Distribution of public property
- ☐ restructure and infusion of good practice
- ☐ reducing government deficit

☐ Other.....

Additional detailed Comments

14 "Yet, the strategies and approaches adopted for the privatisation programs have been sporadic, non-committal and slow, focusing on the listing of potential divesture enterprises, rather than development of a solid inclusive strategy for reforms, restructuring and privatisation of the specific sectors and enterprises for the full benefit of the economy". **Do you; ☐ Strongly agree ☐Agree ☐ Strongly disagree ☐Disagree**

15. How would you rate the performance of GOK's objectives and methods in relation to those outlined in Parastatal reform document of 1996 and those in questions 8-13 **on a scale of 1 to ten 9-10 = Excellent 7-8= Good 6-5 = Average 4--=Poor 2-1 very poor and why?**

1. Objectives		**2. Methods**	
A – Private Sector development	☐	J- Direct sales method	☐
B - Efficiency	☐	K-Strategic investor	☐
C - Speed	☐	L- Capital privatisation	☐
D - Privatisation revenue	☐	M- Ownership transfer to Managers and employees	☐
E - fair distribution	☐	N- Spontaneous privatisation	☐
F - Foreign direct investment	☐	O-Voucher/coupon	☐
G -reduce subsidies from the state budget	☐	P- Mass privatisation	☐
H -radical change in socio-economic system.	☐	Q-Small privatisation	☐
I - ensuring fairness or equal opportunities	☐		

Additional detailed Comments

Appendix 2: Annex I

16. The public and developmental goals for efficient, reliable, quality, affordable, and sustainable services or products have been said to elude state enterprises. Can/has privatization achieve (d) the development and public service goals that eluded state enterprises? Yes ☐ No ☐ Why?

Additional detailed Comments

17. In your opinion has/does the various forms of privatisation addressed a fair wealth re-distribution issues, introduced efficiency, reduced costs etc? If yes describe which of the following measures[1] has been applied

Facilitative, ☐

Prescriptive ☐

Empowering ☐

18. Experiences in privatisations all over the world show that a Public information strategy is important towards achieving a successful privatisation program. Does Kenya have a publicity program (i.e. informing the public) on its privatisation program? Yes ☐ No ☐ don't know ☐

Explain

19 Generally, which of the methods/approaches/techniques below would you ranks as most important in making for a "good" privatization? PLEASE TICK ✓ UP TO SIX

Various methods of Mass privatization: Transformation of enterprises into corporations through sale of shares using different techniques:	
1. Public offering,	☐
2. Direct sale to strategic investors (private placement),	☐
3. Management buy-outs etc	☐
4. Liquidation of companies and sale of their assets to private natural or legal entities	☐
5. Restitution of nationalised property (denationalization)	☐
6. Sale to domestic and foreign Investors through different methods	☐
7. Voucher privatisation	☐

20. Does the government have prepared privatisation strategy/analyses for the enterprises in particular sectors of the economy? YES ☐ No ☐

[1] Note: It is facilitative to unbundle a single large company into a number of smaller enterprises. Prescriptive measures may involve governments giving employees or other specified stakeholders a first purchase option. Empowering privatisation could involve boosting the financial capacity of entrepreneurial investors through deferring payments by instalments. In practice, these various forms have often been combined

If yes provide brief details

21. What can you sum up as the major **accomplishments, problems** and **Plans** of the privatization of "strategic enterprises" e.g. that of Telkom Kenya?

Brief details

22. "Everywhere, the initial periods are characterised by great ***optimism*** and strong belief that privatisation would solve most economic problems in these countries and that it could be carried out very quickly. Soon, problems are encountered in formulating the strategy and, even more so, in implementation of the programme and then realistic expectations for example: that privatisation will be a long-lasting process, which will in some cases require restructuring of companies (at a faster pace) prior to privatisation." Does this statement reflect on the privatization of TLK **Do you; ☐ strongly agree ☐Agree ☐ strongly disagree ☐Disagree**

Why?

23. "Many countries are facing a period of the so-called wild ***privatisation***. The absence of legislation and inadequate supervision leads to bad management of the privatisation process, if such situations persist, the public may assume a negative attitude towards ***privatisation*** and then it will be very difficult, in an atmosphere of general lack of trust, to carry out a successful ***privatisation*** programme". **Do you;**
☐ Strongly agree ☐Agree ☐strongly disagree ☐Disagree

Why?

Section 2: PRIVATIZATION OF TELKOM KENYA

A: Information on the process

1. What is the current ownership structure of Telkom Kenya (TLK), and POSTA? What is the proposed ownership structure for privatisation? Outline in the box below

2. What are the major objectives for TLK divesture? Rank the five most important from highest to lowest (**Rank on a scale of 1 to 5: 5 = extremely important, 4= very important, 3= Important, 2 = Not very important, 1= Not important).**

Objectives	Rankings			
Revenue to government				
Liberalization and reforms				
Global new Technology				
New management				
Financial Infusion				
Unbundling and restructuring for efficiency & profitability				
Redistribution of Wealth				
Private sector development				
Create new businesses (wealth creation)				
Increase provincial/national competitiveness by reducing communications costs				
Employment creation				

3. How does this divesture differ from that of KCB or Kenya Airways?

4. The GOK and Telkom Kenya Management, seem to favour restructuring over direct sale of TLK, why? And what is the difference between restructuring before privatizing and after privatization (e.g. the case of Kenya Airways)?

5. What do you hope to accomplish by restructuring Telkom Kenya for an additional one and half years (i.e. December 2002 – June 2004? Before full-scale privatisation? Outline three major reasons below

6. What are the major objectives for divesture programs in Telecoms in general? Rank the five most important in order from highest to lowest **(on a scale of 1 to 5: 5 = extremely important, 4= very important, 3= Important, 2= Not very important, 1= Not important). (Note: more than one objective can be ranked as a 5, 3, etc)**

Objectives	Regional Telecoms Privatisation Programs			
Government divesture from business				
Revenue to government				
Liberalization and reforms				
Global new Technology				
New management				
Financial Infusion				
Unbundling and restructuring for efficiency & profitability				
Redistribution of Wealth				
Private sector development				
Create new businesses (wealth creation)				
Increase regional/national competitiveness by reducing communications costs				
Employment generation				

7. What is the progress of selected indicators in the last five years in Kenya and COMESA? (Rate them in terms of their importance from, **lowest to highest 5= Large improvement, 4= Small improvement, 3= No change, 2= Small deterioration, 1=Large deterioration**

a)	Line growth, change in size of waiting list,	☐
b)	Substantial reduction in line provision and installation waiting time	☐
c)	Change in direct exchange lines per employee	☐
d)	Substantial restructuring & efficiency improvement in main operator,	☐
e)	Number of mobile operators, and customer base	☐
f)	Substantial reduction in cost of mobile phones	☐
g)	Substantial reduction in cost of airtime	☐
i)	Improvement in communication availability and installation	☐
j)	Other	☐

8. What is the progression of telecom activities? Policy ↔ Regulation ↔ legal framework, ↔ liberalization restructuring ↔ privatisation? ↔

9. Has privatisation of TKL contributed to new business opportunities, private sector development, and regional trade expansion Yes ☐ No ☐ Not Entirely ☐

Why and why not

10. If yes what is the level of business opportunities created by the process of privatising Telkom Kenya created so far? 0-5% ☐ 10-30% ☐ 30-50% ☐ 50-70% ☐ 70-100%

11. What is the total number of people employed/re-employed by the company since the process of restructuring/privatisation? Please give reasons for the staff reductions if any

12. What is the company's annual wage bill before and after? What percentage of this is attributed to privatization or/and restructuring?

13. Did the company have to retrain the employees that stayed on after the enterprise was privatized/restructured?
☐ Yes No ☐

If so what skill gaps were targeted by the training programs?

Objective and Focus of Investment	Level of Investments			
	1994-1996	1997-1999	2000-2003	Other
New technology/equipment				
Downsizing/New employees				
Public relations /marketing/image/branding				
New services/products				
Expansion (i.e. Location)				
Other (List)				

14. Has the quality, quantity, and speed of service provision by TLK enterprise changed since restructuring or/ and privatisation? (Rank in order on a scale of 1 to 5) ☐ Yes No ☐ **5= Large improvement, 4= Small improvement, 3= No change, 2= Small deterioration, 1=Large deterioration): Quality of service Provision** ☐ **Quantity of services provided** ☐ **Speed of service provision** ☐

15. The absence of legislation and *inadequate supervision leads to abuses and fraudulent* behaviour by management if such situations persist, the public may assume *a negative attitude towards privatisation and then it will be very difficult, in an atmosphere of general lack of trust*, to carry out a successful privatisation programme. ☐ **Strongly agree** ☐**Agree** ☐**strongly disagree** ☐**Disagree**

Comment on this statement in relation to telecoms

16 Strategies and approaches adopted for the privatisation programs have been sporadic, non-committal and slow, focusing on the listing of potential divesture enterprises, rather than development of a solid inclusive strategy for reforms, restructuring and privatisation of the specific sectors and enterprises for the full benefit of the economy. ☐ **Strongly agree** ☐**Agree** ☐**strongly disagree** ☐**Disagree** What is your comment on the above statement? Does it apply to the case of Telecoms in the FTA?

B: Information of on: Investment, Production, Costs and Sales in Telecoms

17. The table below deals with the firm's investment since it was earmarked for privatisation/or since privatisation? How much have invested since coporatization and restructuring of Telkom Kenya on tabulated items in (Us dollars)?

18. What is the maximum production level/installed capacity for the products/services that you offer?

19. Given an opportunity to privatize Telkom Kenya, (e.g. in relation to objectives set-out in question 6), what approach would take to privatize Telkom Kenya?

20. How important is liberalisation of telecommunications in the region and in particular that of Telkom Kenya to your industry and business in Particular? ☐ **Extremely important** ☐ **Very important** ☐ **Important** ☐ **Not important**

21. Please indicate whether you are satisfied or dissatisfied with each of the following elements of Kenyan Privatization process

PLEASE TICK✓ ONE BOX FOR EACH	Very Satisfied	fairly Satisfied	neither dissat-Isfied	Fairly dissat-isfied	Very dissat-isfied	Don't Know N/A
Restructuring and unbundling.....	☐	☐	☐	☐	☐	☐
Corporatization	☐	☐	☐	☐	☐	☐
Management of the process	☐	☐	☐	☐	☐	☐
Public Information dissemination	☐	☐	☐	☐	☐	☐
Selection (SP) and Due diligence	☐	☐	☐	☐	☐	☐
IPO (stock Option) process	☐	☐	☐	☐	☐	☐
Commercialisation	☐	☐	☐	☐	☐	☐

Give Details

University of Durham
BUSINESS SCHOOL

Appendix 1 Annexe II:

Semi- Structured Questions:

1 What is the role of you/your ministry/firm department in the privatization process? How does this differ from the prescribed role in the parastatal reform policy or legal document?

2. What is your main area of activity? Is your firm a privatised or restructured/commercialist entity? If yes, what has been the outcome in i.e. revenue and structure?
3. What is Privatization? In addition, why privatize? Give a detailed explanation

4. What is the scale (numbers/turnover) of the privatisation program (in terms of sectors, and enterprises)?

Specific information on the process of Privatisation

5. What was/is the schedule and approach of transactions? For safaricom

6. What can you sum up as the major accomplishments, problems and Plans of the unbundling of Kenya Postal Corporation in relation to privatization of a" strategic enterprise" Brief details of specific problems of Safaricom

7. The GOK and Telkom Kenya Management, seem to favour restructuring over direct sale of TLK, why? And what is the difference between restructuring before privatizing and after privatization (e.g. the case of Kenya Airways)?

7. What have you accomplished since the 'unbundling' and formation? What is your current business relation with the restructuring of Telkom Kenya for an additional one and half years (i.e. December 2002 – June 2004? Before full-scale privatisation? Outline three major reasons below

8. Has privatisation of telecommunications (TKL) contributed to new business opportunities, private sector development, and regional trade expansion

9. If yes what is the level of business opportunities created by the process of privatising Telkom Kenya created so far?

10. What is the total number of people employed/re-employed by the company since the process of restructuring/privatisation? Please give reasons for the staff reductions if any

11. What is the company's annual wage bill before and after? What percentage of this is attributed to privatization or/and restructuring?

12. Did the company have to retrain the employees that stayed on after the enterprise was privatized/restructured?
13. How much have invested since coporatization and restructuring of Telkom Kenya on tabulated items in (Us dollars)?

14. Given an opportunity to privatize Telkom Kenya, (e.g. in relation to objectives set-out in question 6), what approach would take to privatize Telkom Kenya?

15. How important is liberalisation of telecommunications in the region and in particular that of Telkom Kenya and Uganda Telecom To your industry and business in Particular?

16. What is the current legal institutional framework for Kenya's privatization program and in particular that of Telkom Kenya?
17. What can you sum up as the major accomplishments, problems and Plans of the privatization of "national jewels"?

18. How Has/does the separation from Telkom Kenya helped the growth of POSTA (diversification, freedom to plan and of make quick decisions)?
19. What is the current status of your organisation/Business, and what are your future plans/strategy
20. Has infusion of new managers helped turn-around the company

Appendix 1: Annex III Sample list of Institutions in that Participated in the Study

1. Africa Telecommunications Union (ATU)
2. African Academy of Sciences- (AAS)
3. Common Market for East and Southern Africa (COMESA)
4. Communication Commission of Kenya (CCK)
5. Export Promotion Zone (EPZ)
6. Industrial and Commercial Development Corporation (ICDC)
7. Internet Access Kenya - Telecom Services
8. Investment Promotion Centre- IPC*
9. Kenya Airways (KQ)
10. Kenya Communications Co. Ltd - Kencell
11. Kenya International Freight Forwarders Association (KIFWA)
12. Kenya Leadership Institute
13. Kenya Private Sector Alliance
14. Ministry of Finance - Investment Secretariat*
15. Ministry of Industry Commerce and Trade
16. Ministry of Planning and Economic Development
17. Ministry of Transport and Communication
18. Nairobi Stock Exchange
19. Postal Corporation of Kenya (POSTA)
20. Parliament – Public Investment Committee (PIC)
21. Power Gen and Power Energy Ltd.
22. Private Sector Foundation
23. Private sector Network
24. REMPAI
25. Safaricom Company Ltd.
26. Telkom Kenya Co Ltd
27. TOEPOK-Access Kenya
28. Transit Transport Coordinating Authority (TTCA

Appendix 1: Annex IV : Sample Field Interview Request Letters

III

Our Ref: ***PRIV/ FIELDRESACH/TLK/25/Sept/03***

September 25, 2003

KITIABI R.M.K
PhD Candidate Durham University Business School,
P.O Box 66752 Nairobi
Tel: 254-2-714-749
Fax: 254-20-2-713788
U.K Cell: +44-7761-719-757
Email: r.m.k.kitiabi@durham.ac.uk or kiti@yahoo.com

John Waweru
The Chief Executive
Telkom Kenya
P.O Box , Nairobi

Dear Eng. Waweru,

RE: REQUEST FOR DISCUSSIONS ON THE PROCESS AND PROGRESS OF THE PRIVATISATION OF TELKOM KENYA

Following several meetings with the immediate Managing director and various officers of Telkom Kenya last year (2002), I am commencing the final phase of PHD research on the case of privatising Telkom Kenya. I would like to inform your esteemed office that I am in the process of collecting empirical data on further developments in privatization of Telecommunications. This field research commences October 28, 2003. In this regard, I kindly request for a discussion opportunity with you in your capacity as the Managing Director Telkom Kenya. I am available between the dates of October 28, 2003 and November 28, 2003.

Kindly let me know the schedule for an appointment between these dates. The discussions may include the use of questionnaires, which I will avail to you in advance by both email and post in the next few weeks. Kindly confirm to me your availability at your earliest convenience (preferably by email) via my telephone, email or fax contacts provided above for Nairobi and The U.K.

Indeed, these discussions will accord me the insight and privilege to advance the course of the process new approaches, strategies and developments for Kenya's privatisation program.

Yours Faithfully,

KITIABI R.M.K
PhD Candidate Durham University Business School

Original Copy by Mail

Our Ref: ***PRIV/ FIELDRESACH/IVESTFIN/25/Sept/03***

September 25, **2003**

KITIABI R.M.K

P.O Box 66752 Nairobi-Kenya
Tel: 254-20-2714-749 Cell: 722-800943
Fax: 254-20-2-713788
U.K Cell: +44-7761-719-757
Email: r.m.k.kitiabi@durham.ac.uk or kiti@yahoo.com

The Investment Secretary
Ministry of Finance and Planning
Treasury Building, Harambee Avenue,
P.O. Box 30007, Nairobi,
Tel. (254-020) 338111
E-mail: ***info@treasury.go.ke***

Dear Mrs ,

RE: REQUEST FOR BRIEF DISCUSSIONS ON THE PROCESS AND PROGRESS OF THE PRIVATISATION OF PUBLIC ENTERPRISES IN KENYA AND IN PARTICULAR THAT OF TELKOM KENYA

Following my last meeting in July 2002 in Nairobi with The investment Economist in your organisation, I would like to inform your esteemed office the commencement of the final phase of my research on Privatization of Public Enterprises: The Case of Telkom Kenya. This will include a process of empirical data collection on the developments in privatization of Telecommunications. This field research commences October 28, 2003. In this regard, I kindly request for a discussion opportunity with you in your capacity as the Investment secretary for Parastatal reform and divesture. I am available between the dates of October 28, and November 28, 2003.

Kindly let me know the schedule for an appointment between these dates. The discussions may include the use of questionnaires, which I will avail to you in advance by both email and post in the next few weeks. Kindly confirm to me your availability at your earliest convenience (preferably by email) via my telephone, email or fax contacts provided above for Nairobi and The U.K.

Indeed, these discussions will accord me the insight and privilege to advance the course of the process new approaches, strategies and developments for Kenya's privatisation program.

Yours Faithfully,

KITIABI R.M.K
PhD Candidate Durham University Business School

Appendix1: Annex V: Sample of Interview Schedule: Field Data Collection Nairobi Kenya: Date: October 2003- January 2004						
	Respondents/ Institution	Sector	Type of interview and/or Questionnaires			
			Date of Interview			Number of Interviews
1	Telkom Kenya	Public/Private	06/11/2003	14:30 AM	Face to face interview	1
2	**Telkom Kenya***	**Public/Private**	**31/10/2003**	**10:30 AM**	**Consultations**	
3	Telkom Kenya	Public/Private	16/01/2004	14:00 PM	Face to Face interview	2
4	Telkom Kenya	Public/Private	16/01/2004	10:00 AM	Document review	
	Telkom Kenya	Public /Private	23/01/2004	14:00 PM	Face to face interview	1
5	**Ministry of Finance - Investment Secretariat***	**Public/private**	**7/11/2003**	**14:30 PM**	**Face to face** interview	**5**
6	Safaricom Company Ltd.	Private	18/11/2003	10:00AM	Face to face interview	1
7	**Ministry of Transport***	**Public**	**18/11/2003**	**17:00 PM**	**Face to face** interview	
8	POSTA	Public/Private	20/11/2003	15:00 PM	Face to face interview	2
9	**POSTA***	**Public/Private**	**25/11/2003**	**14:00 PM**	**Consultation**	
	POSTA	Public/Private	25/11/2003	16:00 PM	Face to face interview	
	POSTA	Public/Private	28/11/2003	11:00 AM	Face to face interview	
10	Communication Commission of Kenya	Public/Private	21/01/2004	15:30 PM	Face to face interview	
11	ICDC	Public/Private	24/11/2003	12:30 PM	Face to face interview	1
12	African Telecommunication Union - ATU	Private	25/11/2003	12:30 PM	Face to face interview	
13	**Investment Promotion Centre- IPC***	Public/Private	11/11/2003	11:00 PM	Face to face interview	3
			01/12/2004	15:30 PM	Face to face interview	
14	COMESA	Public/Private	26/09/2003	13:00 PM	Telephone-Email interview	3
	COMESA	Public/Private	06/11/2003	10:00 AM	Telephone interview	
	COMESA	Public/Private	04/12/2003	14:00 PM	Consultation	
	COMESA	Public/Private	26/01/2004	16:00 PM	Telephone interview	
15	KIFWA	Private	12/11/2003	15:00 PM	Face to face interview	
16	TTCA and Communications Ltd.	Private	03/11/2003	16:30 PM	Face/Telephone interview	
17	Kenya Private Sector Alliance	Private	18/11/2003	08:00 AM	Face to face Interview	1
			18/11/2003	12:00 Noon	Face to face interview	
18	Ministry of Trade	Public	08/01/2004	15:00 PM		
19	African Academy of Sciences	Public	27/11/2003	14:00 PM	Face to face/Consultation	
20	TOEPOK-Access Kenya	Private	-	-	-	
21	Nairobi Stock Exchange	Private	17/11/2003	14:00 PM	Telephone consultation	1
22	Kenya Leadership Institute	Public/private	28/11/2004	16:30 PM	Telephone/face consultation	
23	Kencell	Private	19/01/2004	10:30 AM	-	
24	Internet Access Kenya - Telecom Services	Private	November 2003	Not applicable	Questionnaire	
25	REMPAI	Policy Research	November 2003	Not applicable	Questionnaire	
26	Power Energy Ltd	Public -Power Ind.	November 2003	Not applicable	Questionnaire	
27	Power Energy Ltd	Private -Power Ind.	December 2003	Not applicable	Questionnaire	
28	Private Sector Foundation Member	Telecoms	December 2003	Not applicable	Questionnaire	
29	REMPAI -Trade	Regional Trade	December 2003	Not applicable	Questionnaire	
30	Agriculture Trade Analysis	Regional Policy	December 2003	Not applicable	Questionnaire	
31	Keah and Co. Ltd	Stocks-accounting	January 2004	Not applicable	Questionnaire	
32	Chief Economist Economic Planning a	Government policy	January 2004	Not applicable	Questionnaire	
33	External Trade Department	Exports-Promotion	January 2004	Not applicable	Questionnaire	
34	Kenya Airways	Airlines-Banks	January 2004	Not applicable	Questionnaire	
35	Corporate Governance	Public/Private	November, 2003	Not applicable	Questionnaire	
36	Kenya Power	Public/Private	November 2004	Not applicable	Questionnaire	
37	Kenya Railways	Public/Private	November, 2004	Not applicable	Questionnaire	
38	Power Gen	Public/Private	November03/Jan, 04	Not applicable	Questionnaire	
39	IPC -Parliament	Public/State	November03/Jan, 04	Not applicable	Questionnaire	
40	EPC	Public/Private	November 03/Jan 04	Not applicable	Questionnaire	

Appendix 1: Annex Va: Sample List of strategic Commercially Oriented enterprises to be retained by GOK (1996)

1. Agricultural Development Corporation
2. Agriculture Finance Corporation
3. Development Finance Company of Kenya
4. Development House Ltd. (AFC)
5. East African Development Bank of Kenya Ltd
6. Industrial Development Bank of Kenya Ltd.
7. Industrial &Commercial Development Corporation
8. Jomo Kenyatta Foundation
9. Kenya Broadcasting Corporation
10. Kenya Industrial Estates Ltd.
11. Kenya Literature Bureau.
12. Kenya Petroleum Oil Refineries
13. Kenya Pipeline Co. Ltd.
14. Kenya Ports Authority
15. Kenya Post Office Savings Bank
16. Kenya Posts and Telecommunications Corporation
17. Kenya Power Co. Ltd
18. Kenya Power & Lighting Co. Ltd.
19. Kenya Railways Corporation
20. Kenya Seed Co.Ltd
21. Kenya Tea Development Authority
22. Kenya Tourism Development Corporation
23. Kenya Vetnary Vaccine Production Institute
24. National Cereal & Produce Board
25. National Housing Corporation
26. National Oil Corporation of Kenya
27. Nyayo Tea Zones Development Authority
28. Nyayo Tea Zones Development Authority
29. Post Bank Credit Ltd.
30. Rehabilitation Advisory Services Ltd.
31. School Equipment Production Unit
32. Small Enterprise Finance Co. (SEFCO)
33. Tana River Development Co.

Appendix 1: Annex Vb:

Table 6-23 Levels of investments in Objectives annually in Kenya Shillings

Objectives and target elements	Levels of investment annually In Kenya Shillings						
	1994-1998	1999	2000	2001	2002	2003	other
Total investments			4b		4b	4b	
New technology/equipment							
Downsizing/New employees				20%	35%	15%	
Public relations /marketing/image/branding							
New services/products • Intelligent Network • Prepaid card service • Free phone link- to corporate customers call (similar to 0800 service • Premium rate services call and give opinion (private sector managed)						75%	
Expansion (i.e. Location)- Liberalisation • Telephone exchanges • Line cabling • Installation and repair Response capacity	0%	35%	35%	35%	35%	5% 0% 0%	35%
CCK/Telecom Rollout plans	0%	25%	25%		35%	65%	35%

Appendix 1: Annex VI: Sample List of Public Ownership' (Direct And Indirect) In Non-Strategic "Commercially-Oriented" Enterprises To Be Privatised(Disposed) By GOK

1. African Diatomite Industries Ltd.
2. African Marine General Engineering Co. Ltd
3. African Tours and Hotels Ltd. **(Div)**
4. Agro-Chemical and Food Corporation
5. Ark Ltd
6. Associated Battery Manufacturers Ltd
7. Associated Vehicle Assembly Ltd.
8. Avon Export Ltd.
9. Avon Marketing Ltd.
10. A von Marketing Ltd.
11. A von Rubber Co. Ltd
12. Bamb uri Portland Cement Co. Ltd **(Div))**
13. Booth Manu facturers
14. BAT Develop ment (K) Ltd. **(Div)**
15. Buffalo Springs Lodge Ltd.
16. Busia Hotel Ltd.
17. Bomas Of Kenya Ltd.
18. Chebut Tea Factory Ltd
19. Chemilil Sugar Co. Ltd.
20 Chloride Exide (K) Ltd.
22. Clarkson Notcutt Ltd.
23. Consolidated Bank of Kenya Ltd.
24. C.M.B. Packaging Ltd. (Ex Metal Box)
25. C.M.C. Holdings Ltd.
26. C.P .C. Industrial Products Ltd.
27.Dawa Pharmaceuticals Ltd.
28. East Africa Industries Ltd.)
29. East African Fine Spinners Ltd.
30. East African Oxygen (Kenya) Ltd.
31. East African Portland Cement C.Ltd.
32. East African Sugar 1000stries Ltd.
33. Ernbu Hotel Ltd (Izaak Walton Inn).
34. Eslon Plastics of Kenya Ltd.
35. Everready Batteries Ltd.
36. ESA Bookshop Ltd
37. Firestone (E.A.) Ltd
38. Galana Game Ranching Ltd
39. Game Lodges Ltd.
40. Gathuthi Tea Factory Ltd.
41. Gatunguru Tea Factory Ltd.
42. General Motors (Kenya) Ltd.
43. Githambo Tea Factory Ltd.
44. Githongo Tea Factory Ltd.
45. Gitugi Tea Factory Ltd.
46. Go" Hotel Ltd.
47. Grindlays Bank International (K) Ltd.
48. Highlands Paper Mills Ltd.
49. Hola Ginnery Ltd.
50. Homa Bay Hotel Ltd.
51. Horti Seed Co. Ltd.
52. Hotel Investors Ltd.
53. Hotel Span Ltd.
54. Housing Finance Company of Kenya Ltd.
55. ICDC Investment Co. Ltd
56. Ikumbi Tea Factory Ltd.
57. Imenti Tea Factory Ltd. - t c)
58. Industrial Promotion Services Ltd.
59. Infusion Kenya Ltd.
60. Internation~1 Hotels (Kenya) Ltd.
61. Iriani Tea Factory Ltd.
62. Kabamet Hotel Ltd.
63. Kagwe Tea Factory Ltd. –
64. Kambaa Tea Factory Ltd
65. Kangaita Tea Factory Ltd
66. Kanyenyaini Tea Factory ltd.
67. Kapkoros Tea Factory ltd
68. Kapset Tea Factory
69. Kebirigo Tea Factory Ltd.
70. Kenatco Taxis Ltd.
71. Kenchic Ltd. '
72. Kencom House Ltd.
73. Kenya Airfreight Handling Co. Ltd.
74. Kenya Airways Ltd.
75. Kenya Bixa Ltd. .,.
76. Kenya Bowling Centres Ltd.
77. Kenya Breweries Ltd.
78. Kenya Cashewnuts Co. Ltd.
79. Kenya Chemical & Food Corporation (R)
80. Kenya Coffee Auctions Ltd.
81. Kenya Commercial Bank Ltd.
82. Kenya Commercial Finance Corporation
83. Kenya Cooperatives Creameries Ltd.
84. Kenya Drilling Co. Ltd.
85. Kenya Engineering Industries Ltd.
86. Kenya Fibre Corporation Ltd. (R)
87. Kenya Film Corporation
88. Kenya Fishnet Industries Ltd.
89. Kenya Flamingo Airways Ltd.
90. Kenya Fluorspar Co. Ltd.
91. Kenya Fruit Processors Ltd.
92. Kenya Furfural Ltd. (R)
93. Kenya Grain Grower Cooperative Union.
94. Kenya Horse Studs Ltd. (R)
95. Kenya Hotel Properties Ltd.
96. Kenya Industrial Plastics Ltd.
97. Kenya Meat Commission
98. Kenya National Assurance Co. Ltd.
99. Kenya National Capital Corporation
100. Kenya National Properties Ltd. 101. Kenya
101 National Shipping Lines
102. Kenya National Trading Corporation
103. Kenya Peanut Co. Ltd.
104. Kenya Reinsurance Corporation -"
105. Kenya Re-Properties Ltd.
106. Kenya Safari Lodges & Hotels Ltd.
107. Kenya Seed Driers' Co. Ltd.
108. Kenya Shipping Agency Ltd.
109. Kenya Taitex Mills Ltd.
110. Kenya Tea Packers Co. Ltd. (KETEPA)
111. Kenya Vehicle Manufacturers
112. Kenya Wine Agencies Ltd.
113. Kerio Valley Ginnery Ltd.
114. Kiamokama Tea Factory Ltd. "
115. Kibos Ginnery Ltd.
116. Kiegoi Tea Factory Ltd.
117. KimunyeTea Factory Ltd

118. Kinoro Tea Factory Ltd.
119. Kisii Bottlers Ltd.
120. Kisumu Cotton Mills Ltd. (KICOMI)
121. Lands Limited
122. Lion Hill Camp Ltd. "
123. Litein Tea Factory Ltd
124 LncomLtdc'
125. Makomboki Tea Factory Ltd.
126. Makuem Glnnery Ltd. .
127. Malindi Fruit Processors Ltd. (D
128. Maralal Safari Lodge Ltd
129. Marsabit Lodge Ltd
130. Mataara Tea Factory Ltd.
131. Mepal Plastics Ltd.
132. Meru Ginnery Lt.d.
133. Meru Mulika Lodge Ltd.
134. Milirnani Hotels Ltd.
1'35. Milling Corporation of Kenya Ltd.
136. Minet ICDC Insurance Brokers Ltd.
137. Mogogosiek Tea Factory Ltd. –
138. Motor and Pedal Cycles Ltd.
139. Mountain Lodge Ltd
140. Mt. Eigon Lodge Ltd.
141. Mt. Kenya Bottlers Co. Ltd.
142. Mt. Kenya Textile Mills Ltd (MOUNTEX)
143. Mumias Sugar Co. Ltd.
144. Mungania Tea Factory Ltd.
145. Mutuality Investment Trust Ltd.
146. Mwea Ginnery Ltd.
147. Mwea Rice Mills Ltd.
148. Nairobi Oil Products Ltd. (R)
149. Nak~ru Chrome Tanning C,.,. Ltd. (VL)
150. NAS Airport Services Ltd.
151. Nation Printers and Publishers Ltd.
152--- National Bank of Kenya Ltd.
153. Natational Agricultural & Chem~l Fertilizer Corporation (D)
154. Ndima Tea Factory Ltd. - .2-;
155. Nestle Foods (K) Ltd.
156. Njunu Tea Factory Ltd.
157. Notcutt Longaroni Ltd.
158. Nyamanche Tea Factory Ltd.
159. Nyank9ba Tea Factory Ltd.
160. Nyansiongo Tea Factory Ltd.
161. Nzoia Sugar Co. Ltd.
162. Ogembo Tea Factory Ltd. - '3 <f 163. Pan Vegetable PrDcessors Ltd.
164. Panafric Hotel Ltd.
165. Panafrican Paper Mills (E.A.) Ltd.
166. Pearl Dry Cleaners Ltd.
167. Pollman's Tours and Safari Ltd. .
168. Polysynthetic E.A. Ltd.
169. Ragati Tea Factory Ltd.
170. Raymond Woollen Mills Ltd.
171. Rift Valley Bottlers Ltd.
172. Rift Valley Textile Mills (RIVATEX)
173. Robinson Hotels (Msa) Ltd.
174. Rukuriri Tea Factory Ltd.
175. Safari lodges & Properties (K) Ltd.
176. Salt Manufacturers (K) Ltd.
177. Sanganyi Tea Factory Ltd. - ***D-***
178. Sanyo Armco ltd.
179. Savings and loan (K) Ltd.
180. Seracoatings Kenya Ltd. **(R)**
181. Simpson and Whitelaw Ltd.
182. Sirikwa Hotel (Kenya) Ltd.
183. Sokoro Fibre Boards ltd.
184. Sonatels (K) ltd.
185. South Nyanza Sugar Co. Ltd.
186. Sunset Hotel ltd.
187. Synthetic Fibre (K) Ltd.
188. Tegat Tea Factory Ltd
189. The Tea Hotel, Kericho
190. Theta Tea Factory ltd.
191. Thika Cotton Mills Ltd.
192. Thumaita Tea Factory Ltd.
193. Tiger Shoes Co. ltd.
194. Tombe Tea Factory ltd. –
195. Tourism Promotion Services
196. Town Properties ltd.
197. Transport and Tourism Services Ltd.
198. Uchumi Supermarkets Ltd.
199. United Finance Company of Kenya
200. Uplands Bacon Factory **(R)**
201. Utalii Investment Co. Ltd.
202. Wananchl Saw Mills ltd.
203. Warehouse & Forwarding Co. Ltd. (WAFCO)
204. Wedco ltd.
205. Wire Products ltd.
206. Yuken Textiles ltd. **(R)**
207. Y-Fashk>ns ltd.

(R) - In Receivership
(D) - Dormant company not trading
(Div) - Divested

Appendix 2 : Annex IX: Sample Summary pages of The Postal Act 1998

THE POSTAL CORPORATION ACT, 1998 .I No.3 of 1998 j *Date of Assent: 1st October,* 1998.

Date of Commencement: By Notice

ARRANGEMENT OF SECTIONS

PART I- PRELIMINARY

1.Short title and Commencement
2.Interpretation.

PART II - ESTABLISHMENT AND MANAGEMENT OF THE CORPORATION

3.Establishment of the Corporation.
4.Headquarters.
5.Functions of the Corporation.
6.Establishment of Board of Directors.
7.Powers of the Board.
8.Conduct of business and affairs of the Board.
9. Delegation by the Board.
10. Remuneration of Board members.
11. Postmaster General
12 Secretary to the Board.
13. Staff of the Corporation.
14. The common seal of the Corporation.
15. Protection from personal liability.
16. Liability of the Board for damages.

No.3 *Postal Corporation* 1998

PART III - FINANCIAL PROVISIONS

17. Funds of the Corporation.
18. Financial year.
19. Annual estimates.
20. Accounts and audit.
21. Investment of funds. An *A*
22. Annual Report.

PART IV - MISCELLANEOUS PROVISIONS

23. Exemption of the Corporation from liability.
24. Limitation of actions.
25. Restriction on execution against property of Corporation.
26. Service of notice, etc., on Postmaster General.
27. Service of notice, etc, by Postmaster General.

SCHEDULE (s.8)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

An Act of parliament to provide for an establishment of the postal corporation of Kenya, to provide for its powers and functions, and for connected purposes

ENACTED by the government of Kenya as follows: -

PART I- PRELIMINARY

1. This act may be cited as the postal Corporation of Kenya Act, 1998 and shall come into operation on such a date as the minister may, by notice in the Gazette, appoint

2. In this Act, unless the context otherwise requires-

"Board" means the Board of Directors of the Corporation established under section 6;

"corporation" means the postal Corporation of Kenya Established under section 3;
"minister" means the Minister fro the time being responsible for mattered relating to communications

PART II: ESTABLISHMENT AND MANAGEMENT OF THE = CORPORATION

3. (1) There is established a Corporation to be known as the Postal Corporation of Kenya

(2) The Corporation shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

(a) suing and being sued

(b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property

Communications Commission of Kenya

Form AF 2

Appendix 2: Annex Xa- Sample Summary Of Telecoms Licensing and CCK Forms

APPLICATION FOR LICENSING AS A TELECOMMUNICATION SERVICE PROVIDER/OPERATOR

1. NAME OF COMPANY/PERSON TO BE LICENCED

(The Company or persons name should be stated in full)

2. ADDRESS AND TELEPHONE NUMBER OF THE COMPANY/PERSON TO BE LICENCED

(The physical address, postal address, telephone and fax numbers should be stated)

Physical address: Town.....Street/Road.....LR No.....
Name of Building.....Floor.....Room.....
Postal Address P. O. Box.....Town.....
Telephone.....Fax.....

3. INCOME TAX PERSONAL IDENTIFICATION (PIN)

4. SHORT DESCRIPTION OF THE APPLICANT'S LICENSABLE SERVICE

(A single sentence description of what aspect of telecommunication service the applicant is applying to be licensed in)

5. COMPANY PROFILE

(Give full details of the proprietors or partners owning the business or if the applicant is a Company the names of the directors and shareholders of the Company.)

Where the Applicant is not a company

Name of proprietor	Nationality	Address	Passport/ID No.
1	.....	.....	.....
.....	.....	.....	.....
2.	.....	.....	.....
.....	.....	.....	.....

3	.....	.....	.....
.....	.....	.....	.....
4	.....	.....	.....
.....	.....	.....	.....
5.....	.....	.....	.....
.....	.....	.....	.....
6	.....	.....	.....
.....	.....	.....	.....
7	.....	.....	.....

Where the Applicant is registered under Companies Act (Cap 486)

i)Name of Shareholder	Nationality	No of shares held	Passport/ID No.
1	.....	.....	.....
.....	.....	.....	.....
2.	.....	.....	.....
.....	.....	.....	.....
3	.....	.....	.....
.....	.....	.....	.....
4	.....	.....	.....
.....	.....	.....	.....

ii)Name of Director	Nationality	Address	Passport/ID No.
1	.....	.....	.....
.....	.....	.....	.....
2.	.....	.....	.....
.....	.....	.....	.....
3	.....	.....	.....
.....	.....	.....	.....
4	.....	.....	.....
.....	.....	.....	.....

6. SHARE HOLDING

i) Local .....% Foreign .....%

ii) Authorised Shares.....Issued Shares.....

iii) Is the company listed in the Nairobi Stock Exchange ? If yes state the date when it started trading.

7. REGISTRATION CERTIFICATE

No.....Date.....

8. NAME AND ADDRESS OF THE BANK OR FINANCIAL INSTITUTION WHERE BUSINESS ACCOUNT IS MAINTAINED.

9. PERSONAL DETAILS

i) State whether any of the partners/ directors/ shareholders is undischarged bankrupt. (If so indicate the names)

.....
.....
.....
.....
.....
.....

ii) State whether any of the partners/ directors/ shareholders have a beneficial interest in any other business licensed to provide or operate telecommunication services.

.....
.....
.....
.....
.....
.....
.....

iii) Has any previous application by you been rejected under the Act? (If so give details)

.....
.....
.....
.....
.....
.....
.....

iv) Has any previous license granted to you under the Act been cancelled, suspended or modified ?(If so give details)

.....
.....
.....
.....
.....
.....
.....

10. DETAILS OF THE SERVICES/NETWORK PROPOSED AND MARKET TO BE SERVED.

(Use separate sheet where necessary)

11. SYSTEM CONFIGURATION

(Use separate sheet where necessary)

(The applicant should describe briefly his network configuration, location or site, coverage or service ,area interfacing requirements etc; a black box mode of the network showing all circuits on the network and their capacities. Give details of circuit requirements for interconnection to the public network and also specify points of interconnection) and detailed diagrams showing network layout and components.)

12. TERMINAL EQUIPMENT

(State what terminal equipment or customer premise equipment (CPE) may be connected to the network and to what standards they must conform (if any)

13. INTERNATIONAL GATEWAYS/FACILITIES NETWORK TO BE USED BY APPLICANT.

(Use separate sheet where necessary)

14. MANDATORY REQUIREMENTS

i) Certified copy of proof of shareholding from the Registrar of Companies
ii) Certified copy of proof of registration or incorporation in Kenya
iii) Certified copy of PIN card
iv) Non-refundable license application fee of Kshs. 10,000/=
v) Letter of application with Company seal (where applicable)

(All copies of documents attached to this application should be certified as true copies of the originals)

15. DECLARATION

I/We hereby certify the information we have provided in this application is true and correct to the best of my/ our knowledge. I/We also understand that it is an offence under the Penal Code to give false information in support of any application.

Name.....

Designation.....

Signature.....

Date.....

16. REFEREES

The following details shall be completed by two different and independent referees who would vouch your competence to operate a business as a telecommunication service provider or operator. Persons who may not understand what is involved in running the business cannot be accepted as referees.

(i) 1st Referee

I certify that the information given in this form is true and correct to the best of my knowledge

Full Name.....
(Block letters, Surname first)

Occupation.....

Postal Address.....

Telephone.....Fax.....

Date..... .....
Referee's Signature

(ii) 2nd Referee

I certify that the information given in this form is true and correct to the best of my knowledge

Full Name.....
(Block letters, Surname first)

Occupation.....

Postal Address.....

Telephone.....Fax.....

Date..... .....
Referee's Signature

17. COMPLETED APPLICATION FORMS SHOULD BE RETURNED TO:-

Director-General
Communications Commission of Kenya
Wayaki Way, opposite Kianda School
P. O. Box 14448
Nairobi.
Tel: 254-2-49111
Fax. 254-2-448418

FOR OFFICIAL USE ONLY

The applicant **MEETS/ DOES NOT MEET** the Commission's requirements and is hereby **RECOMMENDED/NOT RECOMMENDED** for approval of licensing as a

.....

The reasons for not recommending the applicant are as follows:-

.....

.....

.....

.....

.....

.....

Name.....Designation.....

Signature.....Date.....

Official stamp

Appendix 2 : Annex Xb: Sample Summary pages of Communications Regulations: Kenya Gazette Supplement No. 33

Kenya Gazette Supplement No. 33 4th May, 2001 (Legislative Supplement No. 21)
LEGAL NOTICE No. 68

THE KENYA COMMUNICATIONS REGULATIONS, 2001

ARRANGEMENT OF REGULATIONS

PART 1 - PRELIMINARY.
I. Citation.
2. Interpretation.
PART II - OPERATING PROCEDURES

3. Protected Information.

PART III - FINANCIAL PROVISIONS

4. Payments to the Commission.
PART IV - FAIR COMPETITION AND EQUALITY OF TREATMENT
5. Acts of unfair competition.
6. Licensees to offer non-preferential service.
7. Complaints of unfair competition.
8. Disputes between Licensees.

PART V - TELECOMMUNICATIONS LICENSES

9. Licenses required. 10. Licensing.
10. International Conventions.
12. Transfer of License.
13. Lapse and renewal of license.

RADIO COMMUNICATIONS
14, Basis and purpose.
15. Definitions of terms.
16. National spectrum management policy.
17. Application criteria for approval..
18. Assignment of frequencies
19. Obligations of the licensee.
20. Ownership of frequencies.
21. Transfer and assignment of station authorization.
22. Temporary authorization.
23. Change in equipment.
24. Station identification.
25. Type approval and inspection.
26. Monitoring and inspection.
27. Inspection and maintenance of towers and control equipment.
28. Misuse of frequencies.
29. Discontinuation of station operation.
30. Measures against violations.
31. Revocation of licenses.

P ART VII - INTERCONNECTION AND PROVISION OF FIX} LINKS
32. Basis and purpose.
33. Power to review.
34. Interpretations.
35. Rights and obligation to interconnect.
36. Contents of interconnection agreements.
37. Basis of Interconnection.
38. Non-discrimination and transparency.
39. Quality of service.
40. Good faith negotiations.
41. Interconnection charges and charging structure.
42. Interconnection procedures.
43. Establishment and location points of interconnection.
44. Calling line identity.
45. Modification, suspension and termination.
46. Confidentiality.
47. Interconnection disputes.
48. Approval of Interconnection agreements.
49. Leased capacity.

225 **PART VIII - TYPE-APPROVAL OF TERMINAL EQUIPMENT**
50. Purpose.
51. Categories of network and terminal equipment requiring type approval.
52. Type approval procedure.
53. Applications for type approval.
54. Language.
55. Submission of samples of equipment for testing.
56. Provisional type approval.
57. Final type approval.
58. Revocation of type approval.
59. Complaint procedures.
60. Import and sales restrictions.
61. Exemptions from type approval.
NUMBERING
62. Management and administration of national numbering plan.
63. Considerations when assigning or publishing numbers.
PART X - POSTAL AND CURRIER SERVICES I
64. Application.
65. Interpretations.

66. International and regional arrangements.
67. Delivery of postal articles.
68. Licensing of postal services operators.
69. Applications for license.
70. Conditions of license.
71. Non-discrimination.
72. License fees.
73. License terms.
74. License modification and renewal.
75. Suspension and cancellation of licenses.
76. Transfer or lease of license.
77. Lapse and renewal of license.
78. Operation of reserved postal services.
79. Tariffs for unreserved postal services.
80. Tariffs for reserved postal services.
81. Unreserved postal services fees and operations.
82. Consumer complaint procedures.
83. Universal service obligation.
84. Issuance of postage Stamps.
85. Reporting Requirements.
86. Production of records and Inspections.
87. Suspensions or Cancellation of Licenses.
88. Interconnection.
Kenya Subsidiary Legislation, 2001 pg. 227

89. Disposal of undeliverable postal articles..

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PART XI - TARIFF REGULATION
90. Scope.
91. Price Cap.
92. Applications for approval of tariffs I
93. Notice on tariffs.
94. Decision on Tariffs
95. Investigation and suspension of tariffs.
96. Tariffs (file and use)

PART XII - REPORTS, INVESTIGATIONS, INSPECTIONS *A* ENFORCEMENT
97. Annual reports.
98. Investigations.
99. Inspection.
100. Enforcement of license conditions.
PART XIII - MISCELLANEOUS PROVISIONS
101. Roaming agreements. I
,102. Registration of telecommunications contractors and vendors. .
103. Fees.

THE KENYA COMMUNICATIONS ACT *(No.2 of* 1998): IN EXERCISE of the powers conferred by sections 27,38,39,40 *and* 66 of the Kenya Communications Act, the minister for Information, Transport and Communications In consultation with the Commission makes the following Regulations -

THE KENYA COMMUNICATIONS REGULATIONS, 2001

PART1-PRELIMINARY

1. These regulations may be cited as the Kenya communications regulations, 2001.
2. In these Regulations, unless the context otherwise requires-

"Act" means the Kenya Communications Act;

" Basic telecommunications service" means a service to subscribers which provides such subscribers with a telephone connection to, and a unique local telephone number address on a licensed local access provider and which enables such subscribers to place calls to, or receive calls from, other telecommunications stations on those systems and shall include residence and business line services

" Basic telephone service" means a service provided to the public which allows end users to transmit and receive real time voice communications, including voice telephony service, public pay telephone service, operator assisted services, local domestic and international long distance telephone services whether by wire or wireless means as well as basic, non-packet switched data communication such as facsimile transmissions but does not include advanced or enhanced telephone services or dedicated data communications services such as paging services;

" Basic telephony " means fixed or mobile communications service in which a two-way connections are established without any deliberate removal or addition to the information content transmitted over that connection or any additional service having been provided thereof;

"Circuit" means the physical connection or path of channels or conductors and equipment between two given points through which an electric current may be established;

"**Contract**" means any agreement, arrangement, bond, commitment, franchise, indemnity, indenture, instrument, lease, concession, license or understanding, whether in writing or not in writing

"communications" shall, where use ion these regulations refer to telecommunications, postal and radio communications services;

"commission" means the communications commission of Kenya established under section 3 of the act

"confidential business information" means a proprietary information for Trade, commercial or financial nature that is-

(a) of a kind that would customarily not be released to the public by the person from whom it is obtained and;

(b) the disclosure of which is likely to impair the Commission's ability to obtain similar necessary information in the future or to cause substantial harm to the competitive position of the person from whom the information is obtained

Appendix 2 : Annex XI: Approved Telecoms Market Structure – Table 5-5b

SERVICE	REQD LICENCE	COMPETITION POLICY	EXCLUSIVITY PERIOD
Local	Yes	Telkom Kenya and Local Network Operators covering geographic service areas based on provincial administrative boundaries except Nairobi which will be exclusively Telkom Kenya	Up to 2004 for Nairobi only
National Long Distance	Yes	Restricted to Telkom Kenya initially and later other long distance operators after period of exclusivity.	Up to 2004
International Gateway and Services	Yes	Restricted to Telkom Kenya initially and later other international gateway operators after exclusivity period.	Up to 2004
Global Mobile Personal Communications by Satellite (GMPCS)	Yes	• Telkom Kenya and other licensed network operators to provide GMPCS service. • Full competition in the provision of GMPCS user terminals under class license.	Up to 2004 Nil
GSM/ETACS	Yes	Initially duopoly between Safaricom and KenCell.	Nil
Other mobile services (e.g. PCS, Trunked Radio System)	Yes	Limited competition based on spectrum availability and demand for mobile services.	None
Paging	Yes	Full competition depending on radio spectrum availability	None
VSAT	Yes	Restricted to private networks and services for intra-corporate data communications. International Commercial VSAT networks and services to be restricted to Telkom Kenya. Other infrastructure providers to be licensed in line with market growth.	Nil Up to 2004
Internet Node and Backbone	Yes	Initially to be provided by Telkom Kenya. Other infrastructure providers to be licensed in line with market growth.	Up to 2004
Value Added Services e.g. • Electronic Mail • Voice Mail • Store and Forward Fax • Internet Service Provision • Video Conferencing • EDI	Generic/Class Licenses	Full competition	Nil
Public Telephone Service Resale	Yes	Full competition	Nil
• Customer Telephone Service Resale • Internal/External Wiring	Certificate and Type Approve of Equipment	Full competition	Nil

Appendix 2: Annex XII: Summary Sample of The Anti-Corruption and Economic Crimes Bill, 2003

A Bill for An Act of Parliament to provide for the prevention, investigation and punishment of corruption, economic crime and related offences and for matters incidental thereto and connected therewith.
ENACTED by the Parliament of Kenya as follows: -
PART I-PRELIMINARY
1. This Act may be cited as the Anti-Corruption and Economic Crimes Act, 2003, and shall come into operation on such day as the Minister may, by notice in the Gazette, appoint.
Short title and commen-cement.
2. (1) In this Act, unless the context otherwise requires: -
"*benefit*" means any gift, loan, fee, reward, appointment, service, favour, forbearance, promise or other consideration or advantage;
"*Investigator*" means a person authorised by the Director under section 19 to conduct an investigation on behalf of the Commission; "*Minister*" means the Minister responsible for integrity issues; "*private body*" means any person or organisation not being a public body and includes a voluntary organisation, charitable organisation, company, partnership, club and any other body or organisation howsoever constituted; (2) Words and expressions used in this act and which are defined in Chapter VIII (a) of the Constitution have the same meaning in this Act as in that Chapter.
(3) For the purposes of this Act, a person shall be deemed to be in possession of any record, property, information or other thing if the possession of it is under his control.
Definitions
3.
(1) For the purposes of paragraph (g) of the definition of "*corruption*" in section 113A (1) of the Constitution, an offence under any of the provisions of sections 31-37, 39 and 40 shall constitute corruption for the purposes of Chapter VIII (A) of the Constitution.
(2) For the purposes of paragraph (b) of the definition of "*economic crime*" in section 113A(1) of the Constitution, an offence under section 38 shall constitute economic crime for the purposes of Chapter VIII (A) of the Constitution.
Corruption and economic crime

Arrangement of Clauses

PART I-PRELIMINARY

1. Short title and commencement.
2. Interpretation.
3. Offences constituting corruption or economic crime.

PART II-KENYA ANTI-CORRUPTION COMMISSION AND ADVISORY BOARD

A-Kenya Anti-Corruption Commission

4. Co-operation with other bodies.
5. Financial arrangements.
6. Accounts and audit.
7. Annual report.

B- Director and staff of the Commission

8. Qualifications for appointment as Director or Assistant Director.
9. Term of office of Director or Assistant Director
10. Vacancies.
11. Resignation of Director of Assistant Director.
12. Removal of Director or Assistant Director.
13. Other provisions relating to staff of the Commission.

C-Kenya Anti-Corruption Advisory Board

14. Constitution of Advisory Board.
15. Committees of the Board.
16. Chairman and Vice-chairman.
17. Secretary.
18. Procedures of the Advisory Board.

PART III-INVESTIGATIONS

19. Investigators.
20. Identification for investigators.
21. Complaint not investigated.
22. Statement of suspect's property.
23. Requirement to provide information.
24. Production of records and property.
25. Search of premises.
26. Admissibility of things produced or found.
27. Surrender of travel documents.
28. Arrest of persons.
29. Disclosure that may affect investigation.
30. Impersonating investigator.

PART IV -OFFENCES

31. Meaning of "agent" and "principal".
32. Bribing agents.
33. Secret inducements for advice.
34. Deceiving principal.
35. Conflicts of interest.
36. Improper benefits to trustees for appointments.
37. Bid rigging, etc.
38. Economic crime.
39. Abuse of office.
40. Dealing with suspect property.
41. Penalty for offence under this Part.
42. Custom not a defence.
43. Impossibility, no intention, etc. not a defence.

PART V-COMPENSATION AND RECOVERY OF IMPROPER BENEFITS

44. Liability for compensation.
45. Liability for improper benefits.
46. Liability – miscellaneous provisions.
47. Compensation orders on conviction.
48. Forfeiture of unexplained assets.
49. Order preserving suspect property, etc.

PART VI-EVIDENCE

50. Unexplained assets, etc. As corroboration.
51. Presumption of corruption if act shown.
52. Certificates to show value of property, etc.
53. Rule, etc. relating to accomplices.
54. Certificates to show office and Compensation.

PART VII -MISCELLANEOUS

55. Suspension, if charged with corruption or economic crime.
56. Suspension, etc. If convicted of corruption or economic crime.
57. Disqualification if convicted of corruption or economic crime.
58. Protection of informers.
59. Obstructing persons under this Act, etc.
60. Conduct outside Kenya-offences.
61. Regulations.

PART VIII-REPEAL, TRANSITION AND AMENDMENTS

62. Interpretation.
63. Repeal of Chapter 65.
64. Offences under repealed Act.
65. Temporary continuation of former Advisory Board.
66. Initial nominees for the Advisory Board.
67. Initial Chairman and Vice-chairman of Advisory Board.
68. Temporary Director, etc.
69. Transfer of assets, etc to Commission.
70. Amendment of section 42 of Chapter 22.
First Schedule:
Provisions relating to the Staff of the Commission

Second Schedule:
Provisions relating to Members of the Advisory Board

Third Schedule: Provisions as to the Conduct of Business and Affairs of the Advisory Board

Appendix 2 : Annex XIV: Common Market for East and Southern Africa (COMESA) – Member States

Appendix 2: Annex XV: Country Breakdown of (Developing Countries) Global Amount Raised from Privatization ($ million)

	1990	1991	1992	1993	1994	1995	1996	1997e
Australia	19	1,267	1,893	2,057	2,046	7,966	9,580	7,100
Austria	32	48	49	142	700	1,035	1,251	1,600
Belgium	-	-	-	956	549	2,681	1,221	900
Canada	1,504	808	1,249	755	490	3,803	1,762	2,000
Czech Republic					1,077	1,205	994	700
Denmark	644			116	2,815	12	382	100
Finland		-	-	229	1,166	363	911	100
France	-	-	-	12,160	5,479	4,136	5,099	5,300
Germany	-	325	-	435	240	-	13,273	2,600
Greece							529	1,500
Hungary	38	470	720	1,842	1,017	3,813	1,880	1,000
Iceland			21	10	2	6	-	-
Ireland	-	515	70	274	-	157	293	-
Italy	-	-	-	1,943	6,493	7,434	6,265	6,600
Japan	-	-	-	10,060	5,762	-	6,379	8,700
Korea	-	-	-	817	2435	480	1,849	1,700
Luxembourg	-	-	-	-	-	-	-	-
Mexico	3,124	10,754	6,866	2,503	766	170	72	1,900
Netherlands	699	179	17	780	3,766	3,993	1,239	600
New Zealand	3895	17	967	630	29	264	1,839	-
Norway	-	-	-	287	118	510	660	200
Portugal	1,092	1,002	2,217	422	1,123	2,343	3,824	3,500
Poland	62	338	240	734	642	1,516	495	3,500
Spain	228	-	1,491	2,561	1,390	2,215	1,877	11,500
Sweden	-	-	378	252	2,313	852	785	1,100
Switzerland	-	-	-	-	-	-	-	-
Turkey	486	224	423	546	412	515	292	4100
United Kingdom	12,906	21,825	604	8,523	1,341	6,691	6,695	3,300
United States	-	-	-	-	250	250	250	700

Source: OECD, (2000)

Appendix 2: ANNEX – C: Status of Privatization Programme: List of Privatized Enterprises

A. LIQUIDATIONS

	Company	Year	Public Share Before (%)	Public Share After (%)	Sector	Buyer	Proceeds (Kshs)
1	Nakuru Chrone Tanning Co. Ltd	1992	20	0	Leather	Volutary woud- Up	800,000
2	Kenya Peanut Co.Ltd	1992	46	0	Agro-processing	-	-
3	Kenya Horse Studs Ltd	1992	50	0	Livestock	-	-
4	Kenacto Transport Ltd	1992	100	0	Transport	-	-
5	Horti Seed Kenya Ltd	1992	100	0	Agriculture	-	-
6	Seed Driers Ltd	1992	100	0	Agriculture	-	-
7	Simpson &Whitelaw Ltd	1992	100	0	Agriculture	-	-
8	BAT Development (K) Ltd	1993	20	0	Poultry	-	-
9	Town Properties Ltd	1994	100	0	Services	-	-
10	Motor & Pedal Ltd	1995	40	0	Transport	F.X.co.Ltd	500,000
11	Uplands Bacon Factory Ltd	1995	100	0	Agro-processing	-	-
12	Kenya Film Corporation	1995	100	0	Entertainment	-	-

B.RECEIVERSHIPS

	Company	Year	Public Share Before(%)	Public share After (%)	Sector	Buyer	Proceeds (Kshs)
1	Nairobi Oil Products Ltd.	1992	29	0	Oil Recycling	Various Indiv	8,750,000
2	Tigers Shoes .Ltd	1993	16.7	0	Leather	Lento Agencies	9,000,000
3	Yuken Textiles Ltd	1993	100	0	Textile	Yuken Mills Ltd	14,000,000
4	Sirikwa Hotel Ltd	1993	21	0	Tourism	Akamba Inves. Ltd	70,000,000
5	Kenya Drilling Co. Ltd	1993	100	0	Services	Kenacto &Various	21,700,000
6	Kisumu Cotton Mills Ltd	1993	80	0	Textiles	Caneland Ltd	174,961,000
7	Seracoating Kenya Ltd	1994	34	0	Plastics	Local shareholders	82,000,000
8	Pan vegetable Processors Ltd	1994	100	0	Agri-processing	Homegrown (K)	95,000,000
9	Kenya Textile Mills Ltd	1995	81	0	Textiles	Kifaru Mills Ltd	81,000,000
10	Kenya Furfural Co. Ltd	1995	51	0	Chemical	V. Shareholders	55,800,000
11	Kenya Engineering Industries Ltd	1995	50	0	Engineering	Ashut Engineers	52,505,555
12	Synthetic Fibres Kenya Ltd	1995	100	0	Textile	Sunrise Textile Ltd	50,000,000
13	East African Fine Spinners Ltd	1995	70	0	Textile	Bedi Inves. Ltd	282,000,000
14	Kenatco Taxis Ltd	1996	100	0	Transport	-	-

C. PRE-EMPTIVE RIGHTS

	Company	Year	Public Share Before (%)	Public Share After (%)	Sector	Buyer	Proceeds (Kshs)
1	Tea Hotel Kericho **	1991	60	0	Hotel & Tourism	Sololo Invest. Ltd	15,000,000
2	Highland Paper mills Ltd	1992	17	0	Pulp & Paper	Shareholders	875,000
3	Y-Fashions Ltd	1993	75	0	Textiles	Shareholders	4,000,000
4	Panafric hotel Ltd	1993	31	0	Hotel & Tourism	Sarova Hotels Ltd	63,855,000
5	Robinson Baobab Hotel Ltd	1993	10	0	Hotel & Tourism	Robinson Hotels Intl	50,234,274
6	Avon Marketing Ltd	1993	18	0	Services	Existing Shareholders	8,078,400
7	Avon Rubber Co. Ltd	1993	20	0	Rubber	Existing Shareholders	11,949,470
8	Avon export Ltd	1993	14	0	Services	Existing Shareholders	55,000
9	Nestle Foods (K) Ltd	1993	13	0	Food & Beverages	Nestle S.A of Swiitzerland	18,347,750
10	Pollman's Tours & Safaris Ltd	1993	49	0	Tourism	Touristik Union Intl	25,024,895

11	Salt Manufacturers Kenya Ltd	1993	56	0	Chemical	Saltec International	43,922,724
12	Kenchick Ltd	1993	12	0	Poultry	NAS Airport Services, Credit Finance Corp. Mawara Investment	4,600,000
13	Firestone (EA) Ltd	1994	20	0	Rubber	Sameer Invest. Ltd	100,000,000
14	Chloride exide (K) Ltd	1994	18	0	Services	NAS Holdings	5,154,125
15	Associated Battery Manuf. Ltd	1994	20	0	Automobiles	NAS Holdings	28,141,200
16	Kenya Fishnet Industries Ltd	1994	43	0	Textiles	Afro Meat Ltd	2,418,750
17	CPC Industries Producers Ltd	1994	18	0	Agri-Processing	CPC International	29,523,530
18	Kenya Cashewnut Ltd	1994	76	0	Agri-Processing	Kilifi District Co-op Union	78,203,446
19	African Marine & Engineering Co. Ltd	1994	33	0	Engineering	First Chartered Securities	30,712,500
20	Sanyo Armco Ltd	1995	34	0	Electronics	Former Employees Sanyo Electric Co. of Japan	2,251,080
21	Booth Manufacturing (A) Ltd	1995	29	0	Engineering	Kenya Aluminum Industries Ltd	9,993,060
22	Wire Products Ltd	1995	30	0	Engineering	Industrial Promotion Services	8,336,250
23	Carnaud Metal Box Ltd	1995	19	0	Packaging	C.M.B of UK	39,188,000
24	Kenya Bixa Ltd	1995	51	0	Food & Beverage	Kenya Plantations & Products	35,598,000
25	Sokoro Fireboard Ltd	1995	26	0	Timber	Other Shareholders	22,007,700
26	Embu hotel Ltd	1995	29	0	Tourism	Other Shareholders	3,117,690
27	Kenya Bowling Centres	1995	26	0	Entertainment	Other Shareholders	3,220,000
28	Lion Hill Camp	1995	30	0	Hotel & Tourism	Sarova Hotels Ltd	14,500,000
29	Kenya Fruit Processors Ltd	1995	35	0	Agri-Processing	Passi Ltd	8,645,000
30	NAS Airport Services Ltd	1995	27	0	Services	Other Shareholders	62,920,000
31	Elson Plastics	1995	17	0	Plastics	Other	

						Shareholders	
32	Associated Vehicle assemblers	1996	51	0	Vehicle Assembly	Kenya Motor Handling Co. Ltd & Marshalls E.A Ltd	154,336,000*
33	Wananchi Sawmills Ltd		45	0	Saw Milling	Other Shareholders	15,444,707*
34	Brollo Kenya Ltd	1996	10	0	Steel Rolling	Zambezi Establishment	35,666,631*
35	Kenya Shipping Agency Ltd	1996	80	0	Transport	Southern Credit Finance Ltd	38,416,000
36	Kenya Industrial Plastics Ltd	1996	33.3	0	Plastic	Caramel Chemicals	4,224,438*
37	Raymond Woolen Mills	1996	11	0	Textile	Other Shareholders	94,023,438
38	Kenya National Properties	1997	34.1	0	Real Estate	ICDC Investment Co.	124,850,000
39	Polysynthetic E.A	1997	30	0	Chemical	Hoechst E. A	50,289,030
40	Dawa Pharmaceuticals	1997	40	0	Pharmaceuticals	Other Shareholders	4,988,382
41	General Motors	1997	51	20	Motor vehicle	Other Shareholders	333,492,750
42	Minet ICDC Insurance Brokers Ltd	1997	47	26	Insurance	Other Shareholders	21,275,880
43	East Africa Industries Ltd (EAI)	1997	29	20		Other Shareholders	200,214,975
44	Eveready Batteries Kenya Ltd	1997	24.87	20.87	Battery	Other Shareholders	23,041,200
45	Milimani Hotel Ltd	1997	49.12	0	Hotel Industry	Other Shareholders	80,010,000
46	Warehousing & Forwarding Company	1997	25	0	Clearing & Forwarding	Other Shareholders	2,437,360
47	Kenya National Shiping Lines Ltd	1997	70	45.12	Shipping	Mediterranen Shipping Company	-
48	Infusion Kenya Ltd	1997	13	0	Pharmaceutical	Ever Investment Co	8,000,000
49	Stanbic Kenya Ltd	1997	40	23	Banking	Sinclair (SBIC)	Share Dilution
50	Maralal Lodge	1997			Tourism	Other Shareholders	-
51	Kenya Vehicle Manufacturers Ltd	1997	35	0	Automobile	Other Shareholders	57,750,000
52	Mount Kenya Bottlers Ltd	1997			Bottling	Other	-

						Shareholders	
53	Kisii Bottlers	1997	26.1		Bottling	Other Shareholders	23,848,470

** Pre-programme transactions
* Price still under negotiations (this is the offer price)

D. PUBLIC FLOATATIONS

	Company	Year	Public Share Before (%)	Public Share After (%)	Sector	Buyer	Proceeds (Kshs)
1	Bamburi Portland Cement Co. Ltd*	1991	26		Mining	NSSF	-
2	E.A. Oxygen Ltd	1993	15	0	Chemical	Various Investors	42,472,080
3	CMC Holdings	1993	20	0	Services /Vehicles Assembly	Various Investors	20,074,810
4	National Bank of Kenya	1994	(1st issue – 100)	42.5	Banking	Individuals & Other Investors	400,000,000
5	Kenya National Capital Corporation#	1996	(2nd issue – 42.5)	22.5	Banking	Individuals & Other Investors	600,000,000
6	Kenya Airways	1996	100 (GoK)	20	Transport	Individuals & Institutional Investors	2,643,750,000 + US$ 26 Million
7	Kenya Airfreight Handling Co. **						
8	Kenya Flamingo Airways#						
9	Mumias Sugar Company#	2001	70.76	38.13	Agriculture	Individuals & Sugar growers	954,936,425

** Pre-programme transactions
# Kenya Airways subsidiaries

E. COMPETITIVE BIDDING

	Company	Year	Public Share Before (%)	Public Share After (%)	Sector	Buyer	Proceeds (Kshs)
1	ESA Bookshop	1993	49	0	Services	Mr. N.M. Rajani	75,000
2	Mutually Investment Trust (Golden	1993	100	0	Hotel & Tourism	-	-

	Beach Hotel)						
3	African Diatomite Industries Ltd	1994	100	0	Mining	Crown Berger Kenya Ltd	45,000,000
4	MEPAL plastics Kenya Ltd	1994	100	0	Plastics	Minolta Ltd	17,000,000
5	Milling Corporation of Kenya Ltd	1994	100	0	Agri-Processing	Premier Flour Mills Ltd	150,000,000
6	Hola Cotton Ginnery	1995	100	0	Textile	Malindi Cotton Ginneries Ltd	10,000,000
7	Salawa Cotton Ginnery	1995	100	0	Textile	Kerio Farms	10,000,000
8	Mwea Cotton Ginnery	1995	100	0	Textile	Rift Valley Products Ltd	15,000,000
9	Homa Bay Hotel Ltd	1995	99	0	Hotel & Tourism	Samvir Management Services Ltd	22,000,000
10	Golf Hotel	1995	80	0	Hotel & Tourism	Buvika Corporation Ltd	70,000,000
11	Meru Ginnery	1995	49	0	Textile	Mugongai Farmers Ltd	30,000,000
12	Kenya Fluospar Co. Ltd	1996	50		Mining	M/s Mineral & Chemicals Manufacturers Ltd (In Formation0	72,500,000
13	Sunset Hotel Ltd	1996	95	0	Hotel & Tourism	Travel Handling services Ltd	115,000,000
14	Kibos Cotton Ginnery	1996			Cotton Ginning	Salome Farmers Group	8,000,000

3

4 **F. MANAGEMENT / EMPLOYEE BUYOUT**

	Company	**Year**	**Public Share Before (%)**	**Public Share After (%)**	**Sector**	**Buyer**	**Proceeds (Kshs)**
1	Ark Ltd	1996				Utalii Staff Investments Co. Ltd	8,500,000

Price being negotiated

F. PARTIAL DIVESTITUTRES

	Company	Year	Method of Privatization	Public Share Before (%)	Public Share After (%)	Sector	Buyer	Proceeds (Kshs)
1	Kenya Commercial Bank Ltd** (a) Kencom House Ltd# (b) Kenya Commercial Finance Corporation# (c) United Finance Company of Kenya# (d) Notcutt Longaroni# (e) Savings & Loans Kenya Ltd# (f) Investment Promotion Services#	1998/90 /97/98 1998 (GoK)	Public	100	35	Banking	Individuals & Other Investors	447,000,000 + 594,000,000 + 1,820,000,000
2	Mt. Kenya Textile Mills	1992	Receivership	100	48.5	Textile	DFCK & DEG	Share Dilution
3	Uchumi Supermarkets Ltd	1992 (ICDC)	Public Floatation	90	44	Retail Trading	Individuals & other investors	232,000,000
	Company	**Year**	**Public Share Before (%)**	**Public Share After (%)**	**Sector**	**Buyer**	**Proceeds**	
4	General Motors (K) Ltd	1992 (IDB)	Pre-emptive rights	51	46.5	Vehicle assembly	ITOH & ICDC Investment	Share Dilution
5	Housing Finance Company of Kenya	1992 (GoK)	Public Floatation	50	30	Housing Finance	Individuals & other investors	126,000,000

** Pre-programme transaction
# Subsidiaries and associated companies

ANNEX 4:

REVISED LIST OF STRATEGIC COMMERCIAL ENTERPRISES TO BE RETAINED UNDER GOK OWNERSHIP

A. Development Finance Institutions *

1. Agricultural Finance Corporation (AFC)

2. Industrial and Commercial Development Corporation

3. Kenya Tourist Development Corporation (KTDC)

4. Kenya Industrial Estate Limited

5. East African Development Bank

B. OTHER COMMERCIAL DEVELOPMENT ORIENED STATE CORPORATIONS

1. National Housing Corporation

2. Agricultural Development Corporation

3. Kenya Post Office Savings Bank

4. Kenya Broadcasting Corporation (KBC)

5. Jomo Kenyatta Foundation

6. Kenya Literature Bureau

7. Kenya Veterinary Vaccine Production Institute (KEVEVAPI)

8. School Equipment Production Unit (SEPU)

9. National Cereals & Produce Board.

Notes: *The Ministry of finance has initiated a comprehensive review of the DFIs. This review has indicated that a strategy for increasing access to credit to support development objectives which relies only on commercial lenders is not adequate to meet Kenya's present need for increasing access to credit. The review recommended, among other things, the need to: reduce the number of government owned DFIs; redirect DFI activities to areas, which are relatively poorly served by commercial lenders (agricultural development loans, small farmer crop loans and small enterprise development loans especially in start up situations); and to improve the DFI's corporate governance. Based on this initial review, the Ministry of Finance is currently developing a DFI strategy. Meanwhile the DFIs (or their functions) will continue to operate under Government ownership and control.

5 ANNEX 5

6 SHAREHOLDING IN COMMERCIAL ENTERPRISES

1. Agro Chemical and Food Corporation – (ADC: 28.2%; ICDC: 28.8%)
2. Chemelil Sugar Company – (GOK thro' ADC: 96.21%; DBK: 1.42%)
3. South Nyanza Sugar Company – (GOK: 98.8%; ICDC:0.7%; IDB:0.3%)
4. Mumias Sugar Company – (GOK: 38.04%)
5. Kenya Coffee Auctions Limited – (Coffee Board of Kenya: 65%)
6. Mwea Rice Mills – (National Irrigation Board: 55%)
7. Nzoia Sugar Company – (GOK: 97.93%)
8. Kenya Seed Company – (ADC: 52% - 1990; 40% -2002)
9. Pyrethrum Board of Kenya (commercial function) - 100% GOK owned.
10. Western Kenya Rice Mills Limited – (National Irrigation Board: 71.9%; Ahero, Bunyila and West Kano irrigation schemes: 14.01%, 6.83% and 7.27%, respectively
11. Kenya Commercial Bank – (GOK: 26.2%) and subsidiaries :Kencom House Limited
12. Development Bank of Kenya - (ICDC: 89.3%)
13. Consolidated Bank – (Deposit Protection Fund: 50.2%; State Corporations: 47.9%;Local Authorities 0.6%)
14. Kenya Reinsurance Corporation – (GOK: 100%)
15. Wananchi Sawmills Limited – (ICDC: 44.4%)
16. Kenya National Trading Corporation – (ICDC: 100%)
17. Funguo Investments Company Limited – (ICDC: 36.5%)
18. Kenya Wine Agencies – (ICDC: 72.66%)
19. Kenya Power and Lighting Company – (GOK:40.41%; NSSF: 10.81%)
20. Kenya Electricity Generating Company – (GOK: 100%)
21. Kenya Railways Corporation – (100% GOK owned)
22. Kenya Petroleum Refineries Limited – (GOK: 50%)
23. Kenya Pipeline Company – (GOK: 100%)
24. National Oil Corporation: (GOK: 100%)
25. Kabarnet Hotel Limited – (KTDC:98%)
26. Mt. Elgon Lodge – (KTDC: 72.92%; Kitale Municipal Council: 13.54%; Transnzoia County Council: 13.54%)
27. Telkom Kenya – (100%)
28. Safaricom Limited – (Telkom Kenya: 60%)
29. Industrial Development Bank – (GOK 58.2%, ICDC 12.1%, State Corporations 29.7%)
30. Golf Hotel limited – (KTDC:80%; Kakamega Municipal Council: 20%)
31. Sunset Hotel Limited – (KTDC: 95.4%; Kisumu City:4.6%)
32. Kenya Safari Lodges and Hotels Limited – (KTDC:63.42%; KWS:0.02%)
33. Kenya National Shipping Line – (KPA: 70% reduced to 44% but shares not issued)
34. East African Portland Cement Company Limited - (NSSF: 27%; GOK: 27%)
35. Eveready Batteries Limited - (ICDC – 24.87%)
36. General Motors (Kenya) Limited - (ICDC – 20%)
37. Housing Finance Corporation of Kenya - (GOK: 7.3%)
38. ICDC Investments Company Limited - (ICDC: 23.5%)
39. Industrial Promotion Services Limited - (GOK: 5 shares only)
40. International Hotels (K) Limited - (Hilton, Nairobi) – (KTDC: 33.1%)

41. Kenya Airways Limited - (23%); and subsidiaries - Kenya Flamingo Airways Limited and Kenya Airfreight Handling Company Limited
42. Kenya Breweries Limited (0.95%)
43. Kenya Grain Growers Cooperatives Union – (2% ADC shareholding)
44. Kenya Hotel Properties Limited (Hotel Intercontinental, Nairobi) – (KTDC:33.8%)
45. Kenya National Assurance (2001) Ltd – (GOK: 100%).
46. Kenya Vehicle Manufactures (ex-layland) – (GOK: 35%)
47. Kisii Bottlers Limited - (ICDC: 29.25)
48. Mountain Lodge Limited - (KTDC: 39.7%)
49. Mt. Kenya Bottlers Limited – (ICDC: 19%; IDB: 2.8%)
50. Nyayo Tea Zones – (GOK: 100%)
51. Panafrican Paper Mills (EA) Limited – (GOK: 34%; ICDC: 6% & DBK: 2%)
52. Rift Valley Bottlers Limited – (ICDC: 29%)
53. Simba Products Limited – (ICDC: 100%)
54. Thika Cloth Mills Limited – (IDB: 5.8%)
55. Uchumi Supermarkets Limited – (ICDC: 32%)
56. Kenya Airports Authority – (GOK: 100%)
57. African Export Import Bank – (IDB: 0.3%)
58. Acacia Fund Limited – (IDB: 0.3%)
59. Aon Minet Company Limited – (ICDC: 20%)

ANNEX 7

LIST OF NON-COMMERCIAL STATE CORPORATIONS

A. Regulatory

1. Betting Control and Licensing Board
2. Capital Markets Authority
3. Central Agricultural Board
4. Coffee Board of Kenya
5. Electricity Regulatory Board
6. Export Processing Zones Authority
7. Cotton Board of Kenya
8. Film Censorship Board
9. Horticultural Crops Development Authority
10. Hotels and Restaurants Authority
11. Kenya Bureau of Standards
12. Kenya Dairy Board
13. Kenya Plant Health Inspectorate Services
14. NGO Coordination Bureau
15. Pests Products Control Board
16. Pharmacy and Poisons Board
17. Pyrethrum Board of Kenya (has some financial functions)
18. Radiation Protection Board
19. Sisal Board of Board (has some financial functions)
20. Tea Board of Kenya
21. Kenya Tea Development Authority
22. Communications Commission of Kenya
23. Presidential Commission on Soil Conservation
24. Kenya Sugar Authority
25. National Environment Management Authority

B. Research institutes

1. Coffee Research Foundation
2. Kenya Agricultural Research Institute
3. Kenya Forestry Research Institute
4. Kenya Industrial & Research Development Institute
5. Kenya Institute for Public Policy Research & Analysis
6. Kenya Marine and Fisheries Research Institute
7. Kenya Medical Research Institute
8. Kenya Trypasonomiasis Research Institute
9. Tea Research foundation
10. Kenya Veterinary vaccines Production Institute

C. Educational/Professional

1. Cooperative College of Kenya
2. Council of Legal Education
3. Egerton University
4. Higher Education Loans Board
5. Jomo Kenyatta University of Agriculture and Technology
6. Kenya Institute of Administration
7. Kenya Medical Training Center
8. Kenya National Examinations Council
9. Kenya Utalii College
10. Kenyatta University

11. Moi University
12. University of Nairobi
13. National Council for Science and Technology
14. Maseno University

D. Development/Promotional agencies

1. Cost Development Authority
2. Ewaso Ng'iro North River Basin Development Authority
3. Ewaso Ng'iro South River Basin Development Authority
4. Kerio Valley Development Authority
5. Lake Basin Development Authority
6. National Irrigation Board
7. Tana Athi Rivers Development Authority
8. Export Promotion Council
9. Investment Promotion Center
10. Kenya Tourism Board
11. Kenya Wildlife Service

E. Culture/Social service

1. Kenya National Library Services
2. Kenyatta National Hospital
3. Local Authorities Provident Fund
4. Moi Referral and Teaching Hospital
5. National Health Insurance Fund
6. National Social Security Fund
7. Presidential Music Commission
8. Bomas of Kenya Ltd.
9. National Museums of Kenya
10. National Aids Control Council

F. Revenue collection

1. Catering Levy Trustees
2. Kenya Revenue Authority