

I believe that the evidence I have been able to gather shows that:

- Telenor, and in particular its senior executives on the Vimpelcom board, had control over all Vimpelcom acquisitions at least until 2010.
- the payments to front companies associated with Gulnara Karimova in Uzbekistan were ongoing, not isolated, and occurred over a period of six years.
- In light of other serious Vimpelcom corporate governance issues raised by Telenor over many years (and, indeed, resulting in dozens of legal actions), it is highly disingenuous for Telenor now to seek to rely on purported "FCPA valuations" prepared by the same people.
- Uzbekistan does not appear to be an isolated incident, but rather is indicative of Vimpelcom's (and, indeed, Telenor's) modus operandi in their dealings in the former Soviet Union.

In sum, if the November 2014 letter posted by Telenor on its website is an accurate reflection of the totality of what Telenor has told the Norwegian government, it would seem that Telenor has made significant material omissions. The English translation of that letter is available here:

http://www.telenor.com/wp-content/uploads/2014/11/141121_translation-of-meeting-with-MTIF-on-VimpelCom.pdf

Telenor's Modus Operandi

Where to start? I suppose the logical place might be with Telenor's own dealings in Russia and Ukraine before it became involved with Alfa and Vimpelcom. In 1994 (according to Telenor's US prospectus), Telenor became a shareholder in the Russian telecom joint venture, North-West GSM. According to Telenor's website:

Telenor formed a joint venture with Telia, Telecom Finland and local partners, called North-West GSM, where Telenor and Telia held 12.74 %, each, Telecom Finland 23.52 % and the remaining 51 % were held by local Russian partners. The consortium was awarded a GSM mobile license that covered St. Petersburg and the St. Petersburg region, and also the Murmansk-Arkhangelsk region.

As was eventually revealed through years of investigations and legal proceedings, it turns out that Telenor's "local Russian partners" were none other than Leonid Reiman, at the time an executive with the state-owned telecom company and later Vladimir Putin's Minister of Telecommunications. Reiman held his interest in North-West GSM through a company called Telecominvest. The primary documentation required to prove this is quite voluminous, but a simple internet search of "Leonid Reiman" and "Telecominvest" will show his beneficial ownership. If Telenor attempts to deny this, I would be more than happy to supply you with the documentation.

While one might be willing to give Telenor the benefit of the doubt - perhaps Telenor was duped by its "local Russian partners" – this was not an isolated incident.

In 1998, Telenor bought into a Ukrainian joint venture, Kyivstar. Kyivstar, too, had "local partners" - Ukrainian companies known as "Omega" and "Storm". Corporate records and other disclosures strongly suggest that Omega was a front for the interests of the former Ukrainian Prime Minister, Pavlo Lazarenko (who was subsequently convicted in the United States of criminal offenses related to corruption), and that Storm was a front for the interests of Ukrainian President Leonid

Kuchma.

Ukrainian corporate documents shows that Omega's shareholder was Nemuro Industrial Group Limited, an Antigua company that the US prosecution revealed was owned by Lazarenko. Additionally, in the aftermath of Lazarenko's indictment in the United States, Kyivstar - majority-owned by Telenor - was struck by a suspicious case of amnesia regarding their business partner, Omega, stating in a 2002 bond prospectus:

Omega has not disclosed to us the identity of its ultimate beneficial owner or owners, and we have not been able to determine through other means the identity of the ultimate beneficial owner or owners of Omega.

Telenor had been partners with Omega for four years at this point.

Correspondence between Telenor and Alfa, however, strongly suggests that both (and, indeed, the most senior management of both Telenor and Alfa) knew exactly who was behind Omega. Following Lazarenko's indictment in the United States, it seems both were desperate to buy Omega out of Kyivstar before anyone else figured out Lazarenko's interest. As noted in a letter dated 20 May 2002, sent by Alfa Bank's president, Pyotr Aven, to Telenor's Executive Vice President, Henrik Torgersen,

[W]e understand that it is utterly important to finally resolve the Omega issue and are prepared to take all reasonable efforts to do so.

While the "Omega issue", in theory, could refer to myriad possibilities, it is hard to imagine that there was any other issue so "utterly important to finally resolve" than covering up an indicted Prime Minister's partnership with Telenor. Since Telenor filed a copy of this letter in federal court in the United States (in one of their many lawsuits against Alfa), I seriously doubt they will challenge its existence or authenticity. If so, I will gladly provide you with a copy.

In respect of Telenor's other Kyivstar partner, Storm, Kyivstar's 2002 bond prospectus reveals that Kyivstar's chairman and Storm's board representative was Yuri Tumanov, the brother-in-law of President Kuchma. Kyivstar's deputy marketing director was President Kuchma's daughter.

Moreover, while corporate documents contain no admissions that Storm is owned by the Kuchma family, the so-called disclosures of Storm's beneficial ownership in various Kyivstar corporate documents are laughable. In one case, the ostensible "beneficial owner" is a Swiss banker, Andre Walkowitz. It, however, is a near certainty that Mr. Walkowitz is nothing more than a straw man for the true beneficial owner. This is not mere speculation, but Mr. Walkowitz's very own description of his job. Mr. Walkowitz testified in Lazarenko's US criminal proceedings to setting up front companies for Ukrainian interests. Indeed, I can thank Telenor's own executives for pointing out this connection in sworn statements in US federal court proceedings. As you see, much later on it served Telenor's interests to suggest that Alfa was colluding with Storm's owners, who were hiding behind front companies and nominees, conveniently omitting that Telenor had been in partnership with the same front companies and nominees for years before Alfa's arrival.

In respect of another Storm "beneficial owner", the trail goes cold at the end of a string of offshore shell companies. No human being is disclosed. Beneficial ownership, by definition, must lead to a person, but Telenor does not seem to be particularly concerned about such minor details. One can only imagine the

thoroughness of those Vimpelcom “FCPA evaluations” Telenor purportedly insisted upon.

In light of the “beneficial ownership” dead-ends and the important role of President Kuchma’s family in both Storm and Kyivstar, the most logical explanation is that Storm, at least in part, was beneficially owned by the President’s family. Please ask Telenor if they have a credible, alternative explanation.

In sum, it appears that Telenor in the past has had no problem entering into joint ventures in countries with serious governance concerns without bothering to verify the beneficial ownership of their partners (or conveniently forgetting their identity when US prosecutors take interest) or with close relatives of presidents. But, of course, Telenor has asked the Norwegian government in their November 2014, to believe that Vimpelcom's Uzbek "local partner" [NB - the daughter of the Uzbek president] was fully identified and was subject to FCPA analysis" (quoting the English translation posted on Telenor's website).

Telenor’s Control over Vimpelcom

While in its November 2014 letter Telenor seems to downplay its role in Vimpelcom, this is contradicted by the Vimpelcom Shareholders’ Agreement which was in effect when most of the transactions in Uzbekistan and other, similar transactions occurred. Under the 2001 Vimpelcom Shareholders Agreement, Telenor, although a minority shareholder, had veto rights over all Vimpelcom acquisitions (at least until the agreement was amended in 2010¹). Telenor’s representatives held four of the nine Vimpelcom board seats, and acquisitions and dispositions required a super-majority of eight affirmative votes. From Vimpelcom's US filings regarding Vimpelcom's planned expansion from Russia into the rest of former Soviet Union:

The following decisions require the affirmative vote of at least 80.0% of all members of the board of directors:

- approving, amending or terminating our internal documents, except for those documents that must be approved by the shareholders at a shareholder meeting;
- acquiring or selling shareholdings in other enterprises [NB - this would obviously include the sale of the interest to Uzbek "local partner" and its re-acquisition by Vimpelcom];

Although our board has approved an overall strategy for expansion into the CIS, each acquisition is subject to review on a case-by-case basis by our board, and there can be no assurance that our board will approve other acquisitions in Russia, the CIS or other regions. The Telenor Nominees and

¹ In 2010, in order to resolve a five-year dispute between Alfa and Telenor over Kyivstar, “old Vimpelcom” was merged into a “new Vimpelcom” organized in Bermuda, which then issued new shares to the old Vimpelcom shareholders and shares to acquire Kyivstar from Telenor and Alfa. The market value of the new Vimpelcom shares issued to Telenor for its interest in Kyivstar were US\$3.14 billion on the first day of trading of new Vimpelcom. Considering that FCPA fines in part are linked to the benefit one receives from its corrupt bargain, it would be interesting to know if Telenor has performed any analysis of its Kyivstar FCPA financial risk since 54% of that risk is actually coming out of the pockets of the Norwegian government. This, of course, does not include any separate fines to which Telenor may be subject in other jurisdictions like Norway. NB – although the US FCPA has a statute of limitations of five years, this is tolled in the event that a company is engaged in a conspiracy to violate the FCPA, which it seems the evidence overwhelmingly suggests is the case.

the Alfa Group Nominees have the ability to block such decisions to the extent board approval is required for an acquisition. Even if such acquisitions are approved by our board, if shareholder approval is required for the acquisition, either or both of our strategic shareholders may vote against such approval at the relevant shareholders meeting.

It is hard to reconcile the clear Vimpelcom governance provisions set forth in their annual reports with Telenor's statement to the Norwegian government (again, quoting from the English translation):

In conclusion, we would like to reiterate that there is a distinctive difference between TeliaSonera and Telenor in regards to the purchase of licenses in Uzbekistan. TeliaSonera has directly invested in Uzbekistan. Telenor has not. We are a minority owner in a company, VimpelCom, that has made an investment. The investment in Uzbekistan has not been handled by Telenor's management or Board of Directors.

At the time of the acquisition, Telenor not only had the ability to block the deal (as noted in Vimpelcom's own annual reports), Telenor's representatives to the Vimpelcom board included members of Telenor's senior management. From the Vimpelcom 2007 annual report:

Arve Johansen has been a director of our company since June 2003. Mr. Johansen has served as Senior Executive Vice President and Deputy Chief Executive Officer of the Telenor group and head of Telenor Asia since January 2006. Mr. Johansen joined Telenor in 1989 and has held a number of positions in the Telenor group of companies. He served as Senior Executive Vice President from 1999 to 2005 and was Chief Executive Officer of Telenor International AS from 1995 to 1999....

Kjell-Morten Johnsen has been a director of our company since June 2007. He is also a member of our board's compensation committee. Mr. Johnsen currently serves as a Senior Vice President of Telenor Central & Eastern Europe, a position he has held since 2006, and serves as Head of Telenor Russia and a Senior Vice President of Telenor CEE. From 2001 to 2006, Mr. Johnsen worked as Vice President of Telenor Networks with responsibility for Telenor ASA's fixed line activities in Russia and the CIS.

Also, the Russian version of Vimpelcom's 2007 Annual Report makes it clear the deal was approved by Vimpelcom's board at its meeting on 28 March 2007.² Again, per Vimpelcom's own disclosures, this deal would have been blocked had Telenor's senior executives on the Vimpelcom board voted against it.

Furthermore, Telenor's statement to the Norwegian government seems to give the impression that there was only one deal between Vimpelcom and the shell company, Takilant, with whom TeliaSonera also did business. While something might have been lost in the English translation, to be clear, Vimpelcom entered into numerous deals with front companies associated with President Karimov's daughter, Gulnara Karimova, spanning at least six years and using a variety of apparently fraudulent commercial pretexts. A spreadsheet summarizing the payments I have uncovered is attached, and I would be very surprised if I have discovered the full extent of it.

² http://static.beeline.ru/upload/images/Documents/Annual%20Report_2007_rus_CLEAN.pdf
(Search for Takilant within the document)

Pausing there for a moment, it is worth noting the recent record-breaking FCPA settlement of US\$772m between the French company Alstom S.A. and the US government. US commentators have attributed the record quantum of the settlement to several factors³:

Alstom's bribery was a way of doing business. Prosecutors could infer lots of bad intentions from that. And Alstom's bribery must have irked its compliant competitors from America and later from Germany. (Whistleblowers can come in all sizes.) Alstom, like most companies in the top ten, ran long-term bribery schemes in multiple locations across several business lines. It was big, showy bribery now associated more with non-U.S. companies....

[A] company is more likely to land on the top ten list when senior executives are culpable. That's true for U.S. and non-U.S. companies. Siemens was the template for top management knowing about overseas bribery and covering it up. The company eventually fired them all. KBR's CEO ran a large-scale bribery and kickback scheme. He went to prison. In Alstom's case, the DOJ put it this way: "The breadth of the . . . misconduct, which spanned many years, occurred in countries around the globe and in several business lines, and involved sophisticated schemes to bribe high-level government officials." Can "sophisticated schemes" happen across the globe for decades without senior executive involvement or knowledge? Not likely.

Telenor has represented the following to the Norwegian government regarding the US investigation:

As a witness in the case, Telenor cooperate with investigative authorities to the best of its abilities. Telenor has invested substantial resources in bringing forward relevant information. We have continuously received assurances that the investigative authorities are satisfied with Telenor's contributions. This work is still ongoing.

If Telenor's representations to the US government are in line with those made in November 2014 letter to the Norwegian government, it would be reasonable to question whether Telenor is, indeed, cooperating "to the best of its abilities". Has Telenor been frank with the US government regarding the real role played by its senior management in the Uzbekistan deals (not to mention many other similar dealings)?

For instance, Telenor seems to be speaking out of both sides of its mouth. Telenor claims in its November 2014 letter that Vimpelcom's only dealings with Takilant have to do with licenses. Yet, Telenor, seemingly out of the blue, took a sudden interest in Vimpelcom's "procurement" process at the Vimpelcom 2014 annual general meeting.⁴ Notably, as established by the Dutch investigation, Vimpelcom's dealings in Uzbekistan with Takilant include a number of fake services contracts. What does Telenor know about these dealings? Procurement fraud at Vimpelcom, through which bribes are disguised as the payment for legitimate services, could be incredibly

³ <http://www.fcpablog.com/blog/2015/1/5/from-alstom-six-reasons-why-non-us-companies-dominate-the-fc.html>

⁴ <http://www.telenor.com/wp-content/uploads/2014/11/2014-Minutes-from-VimpelCom-AGM.pdf>

significant in terms of scope and quantum.

As one can glean from the accounting "fact books" published by Vimpelcom on its website, Vimpelcom spends billions of US dollars annually on "services" and "marketing". While many of these contracts are very likely legitimate, even if 5% of the contracts are commercial covers for bribery, this amount could be in excess of \$100m annually.

Furthermore, the assurances Telenor claims to have received in 2012 in respect of the purported FCPA compliance of the Uzbek deals lack credibility. As established in the Swedish investigation into TeliaSonera, under Uzbek law, only the Uzbek government could grant telecom licenses. How, then, could Vimpelcom (or the Telenor board members) possibly justify buying licenses from anyone but the government?

The evidence in the TeliaSonera case presents a compelling pattern of how this "purchase" actually worked. TeliaSonera, ostensibly like Vimpelcom, was not actually purchasing a license from Takilant. TeliaSonera was, on its face, purchasing a letter from Takilant to the government, asking the government to re-issue the permits to TeliaSonera. The letters to be sent to the government by Takilant were annexed to the TeliaSonera agreements with Takilant.

Whatever "due diligence" Telenor claims was carried out by Vimpelcom (surely as robust as Telenor's own due diligence into its Ukrainian partner, Omega), who possibly could have thought it was commercially reasonable for a shell company (nominally owned by a woman in her 20s) to simply hold a telecom license, tell the government what to do with it, and reap a massive windfall in the process? Would the members of the Telenor board buy a Rolex from someone on a street corner and want us to believe they had no reason to suspect it was stolen?

There are two possible explanations. First, the Telenor board appointees are absolutely clueless, which on its own should give the Norwegian government little comfort regarding the management of its 54% interest in Telenor. Or, alternatively, the Telenor board members knew exactly what was going on and either chose to look the other way, or worse, actively embraced Vimpelcom's *modus operandi*.

Unfortunately, the long history of litigation between Telenor and Vimpelcom's other major shareholder, Alfa, shows that Telenor was far from clueless regarding how Vimpelcom was run. Telenor and Alfa have sued each other repeatedly in relation to Vimpelcom. By "repeatedly", I mean several dozen legal proceedings (29 related to Ukraine alone) spanning an equally staggering number of jurisdictions. For the avoidance of doubt, these were not ordinary commercial disputes, but various forms of Russian "corporate raiding" directed at Telenor by Alfa.

In case you are not familiar with Russian corporate raiding, the former US legal attache in Moscow describes it as:

The illegal takeover of businesses, commonly known in Russian as "reiderstvo" (raiding), has become a major threat to domestic and foreign investors in Russia. "Reiderstvo" differs greatly from U.S. hostile takeover practice in that it relies on criminal methods such as fraud, blackmail, obstruction of justice, and actual and threatened physical violence. At the same time, though, "reiderstvo" is not just simple thuggery. In contrast to more primitive criminals, Russian "reideri" rely on court orders, resolutions of shareholders and boards of directors, lawsuits, bankruptcy proceedings, and

other ostensibly "legal" means as a cover for their criminal activity. "Reiderstvo" is also more ambitious than classic protection schemes in that it seeks not just a portion of the target business' profits but the entire business itself. Finally, because raiding typically involves the use of documents such as corporate resolutions and judicial orders as covers for threats of physical violence, it is more sophisticated and can be much more difficult to investigate and prosecute than straightforward extortion schemes. In short, it is a new and sophisticated form of organized crime.

While one might be initially inclined to feel sympathy for Telenor, Alfa's history of corporate raiding was well-known before Telenor decided to partner up with Alfa. Alfa was a 50% owner in Tyumen Oil Company (known as TNK), which in 1999 raided, then after patching things up, eventually attempted to re-raid British Petroleum.

As stated in a sworn expert opinion by US legal scholar Bernard Black:

The controllers of TNK (including Leonard Blavatnik, Viktor Vekselberg, German Khan, and Mikhail Fridman [NB - a Vimpelcom board member]) are among the most wealthy and powerful Russian oligarchs. TNK is notorious for its aggressive (even by Russian standards!) takeover tactics. It is understood to largely control the government and courts in Tyumen oblast and the Khanty-Mansiysk region within Tyumen oblast....

The Bankruptcy Service director, Georgi Tal, later described the Tyumen arbitrazh courts as "the legal department of TNK," and called the Chernogorneft bankruptcy proceedings a "fraud." (Mr. Tal was later gunned down in Moscow in 2004; likely "in connection with [his] work at the [Bankruptcy Service]").

I note that Telenor, in the course of these attempted corporate raids, repeatedly has been sued by Alfa and Alfa's apparent straw men in Tyumen oblast and the Khanty-Mansiysk region.

I mention the years-long litigation not only to question the wisdom of Telenor's ongoing partnership with Alfa, but to juxtapose Telenor's actions in these legal proceedings against Alfa with its response to the Uzbek corruption allegations. Namely, Telenor's willingness to leave no stone unturned in the legal proceedings against Alfa, yet, believing a deal with a shell company nominally owned by someone in their mid-twenties was the bona fide seller of a telecom license, which under Uzbek law could only be transferred by the government.

While there are numerous examples of the ferocity with which Telenor fought Alfa, perhaps the clearest for the present purposes in the litigation involving Ukrainian Radio Systems (URS). Vimpelcom, in particular the Alfa board members, wanted to acquire URS. URS was a direct competitor to Telenor's Kyivstar. Since Telenor's own financial interests were at stake, it not only sought to block the deal at the Vimpelcom board, it launched numerous legal proceedings in an attempt to block the deal through the courts. In this litigation and later proceedings, Telenor accused Alfa of self-dealing, corporate raiding, filing misleading disclosures with the SEC, illegally "parking" shares to hide beneficial ownership (which also led to Telenor bringing proceedings in the British Virgin Islands), failing to reveal the beneficial ownership of the sellers of assets, and violations of several US securities laws.

In short, Telenor in sworn statements over many years of legal proceedings, knew

exactly who they were dealing with - a partner who apparently knew no law it was not willing to violate for its own benefit. Yet, Telenor wants us to believe they had a basis for relying upon whatever "FCPA evaluations" were presented to the Vimpelcom board?

Again, I believe the evidence will show that Uzbekistan is the tip of the iceberg. Sparing you the details of the other deals for the moment, might I suggest a leading question to ask Telenor's representatives? Namely, if they would agree that the numerous judgments rendered against Telenor in the Tyumen oblast arbitrazh courts are most likely explained by Alfa's corruption of the local judiciary.

As noted by Professor Black, these Russian-style corporate raids are *prima facie* evidence of corruption:

These takeovers routinely involve the procured assistance of courts, bankruptcy trustees, and often police and prosecutors. One might say that a hostile takeover in Russia fought without corruption is like a war fought without guns.

Then, I would ask a simple follow-up question. How many of Vimpelcom's acquisitions were the result of similar corporate raids? There are several, but here are two that have been well-documented by courts of law: Kazakhstan and Kyrgyzstan. After these "raids", the seized assets were acquired by Vimpelcom, often through a convoluted succession of transfers among recently-formed shell companies, "option" agreements, etc. That is, very similar circumstances to Uzbekistan.

Kazakhstan: <http://italaw.com/documents/Telsimaward.pdf>

Kyrgyzstan: <http://www.bailii.org/uk/cases/UKPC/2011/7.html>

It would be a completely untenable position for Telenor to agree that collusive and vexatious litigation brought by Alfa were most likely explained by corruption, yet claim that equally collusive and vexatious litigation brought by others that ended up benefitting Vimpelcom was somehow distinguishable. In summary, when Alfa sought to benefit at Telenor's expense, Telenor fought relentlessly. When Vimpelcom sought to benefit at someone else's expense, Telenor was as quiet as a church mouse. In summary, the evidence strongly suggests that Telenor, rather than being an innocent bystander, at best, turned a blind eye to Vimpelcom's dealings, and, at worst, was actively colluding with Alfa and Vimpelcom to acquire and retain assets through corrupt means.