



CONSULTATION FOR THE GLOBAL SYMPOSIUM FOR REGULATORS (GSR-19) BEST PRACTICE GUIDELINES

THEME: FAST FORWARD DIGITAL CONNECTIVITY FOR ALL

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Background

Information Communication Technologies (ICTs) are key enablers to achievement of Sustainable Development Goals (SDGs). Therefore, creating inclusive digital connectivity for all is paramount to achieving most SDGs. As a consequence, the rush to connect the unconnected One Third (1/3) of the world population has given rise to a plethora of initiatives globally. Current technologies and business models developed to close the connectivity gap inadvertently bring about new challenges to the existing regulatory practices. Hence, there is a need for existing regulatory patterns to converge towards collaborative regulation. Collaborative regulation is key in today's rapidly changing markets. For instance, the link between the ICT Sector and the Financial Sector around the concept of mobile money payments and online banking solutions has necessitated regulators for the two sectors to depend on each other for resources and information in a collaborative effort to develop their separate markets.

What are the core design principles for collaborative regulation?

The core design principle for collaborative regulation mandates the adoption of the principle-based regulation as opposed to the rule-based regulation. Collaborative regulation requires regulators to avoid defining the objective of any regulatory action in isolation. Collaborative regulation brings about information sharing inclusive of challenges, experience, and future developmental plans. It is therefore imperative for regulators to engage widely with stakeholders such as; sector regulators, industry players, policy makers, non-governmental organizations etc. It also requires engagement at regional and international forums to inform development of fit for purpose regulatory tools and processes.

The case of Botswana

Botswana, through the sector regulator, the Botswana Communications Regulatory Authority (BOCRA), has leveraged on collaborative regulation to gain meaningful achievements. BOCRA has collaborated with the Financial Sector Regulators such as the Central Bank (Bank of Botswana) and Non-Bank Financial Institutions Regulatory Authority (NBFIRA) in developing regulations for electronic payment system. As an example, BOCRA and Bank of Botswana collaborated in developing regulations for mobile money services. The cooperation clearly defines the role of the Bank thereby

reducing BOCRA's involvement in disputes relating to electronic payments. Recently the Financial Intelligence (Amendment) Act, 2018 which amended the Financial Intelligence Act, 2009 introduced BOCRA in the list of Supervisory Authorities and mandated the BOCRA with a number of responsibilities resulting in collaborative regulation of financial transactions.

BOCRA has had other notable collaborations with the Botswana Innovation Hub on trials for the use of Television White Space (TVWS) where BOCRA gained valuable information for later use in the development of the TVWS spectrum strategy.

BOCRA engages with service providers through workshops, consultative papers, and meetings in its development of required regulatory tools and processes. Research and Consultation, sharing of strategic plans, Tariff filing, Reports on roll-out obligation are some of the collaboration information that are invaluable to BOCRA's development of regulatory processes.

Be that as it may, it is becoming topical to ask about the relevance of national regulatory authorities in an era where technology has disregarded geographical borders, time differences, cultural diversity and norms and consequently created one large global digital community. Cross border collaborative regulation founded on principle based approach is a consideration in a global digital community

What benchmarks for regulatory excellence and market performance can form the basis for digital infrastructure regulation?

It is without doubt that benchmarks for regulatory excellence and market performance can form the basis for digital Infrastructure. However, benchmarking should be conducted with clear objectives and with the appropriate market to ensure maximum benefit. The challenges faced by developing countries in providing the much-needed connectivity to their citizenry are totally different from those experienced by developed countries. As an example, most developed countries have good fiber and copper infrastructure from the legacy landline networks which is not the case with developing countries. Therefore, benchmarking objectives need to clearly identify what can be learnt from the developed countries that reached their level of network development under existence of a different set of technologies and what can be learnt from similarly placed developing countries that are faced with a myriad of technologies to choose from and constantly changing consumer expectations.

In improving its regulatory processes for Quality of Service and Quality of Experiences, BOCRA benchmarked with Tanzania Communications Regulatory Authority (TCRA) for many reasons. Among them, was the fact that both Botswana and Tanzania are developing countries with relatively the same infrastructure development yet Tanzania has advanced QoS regulatory processes.

What new regulatory tools and approaches are at hand for enabling digital experimentation?

There exist many regulatory tools in the communications sector for enabling digital experimentation. To expedite connectivity for all, a shift from rule-based regulation as

a norm towards principle-based regulation with emphasis on trust, adaptivity and social benefits is required. As a start, regulators need to consider technology-neutral licensing frameworks which allow for provision of multiple services. In promoting innovation, regulators need to increase availability of license-free spectrum and introduce temporary assignments for start-ups or any targeted initiatives. In 2014, BOCRA supported TVWS trials by a consortium of companies to provide telemedicine in rural to semi-urban villages. The regulation of TVWS was discussed later in a Spectrum Strategy Review paper in 2019.

Conclusion

Connectivity for all is possible. However, the speed at which it is achieved is dependent on the extent to which regulation of the ICT is aligned to the intended goals. The dynamic changes in the communications sector call for regulatory reforms which are objective driven rather than focusing on compliance processes.

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