

**Subject: Consultation on GSR-19 Best Practice Guidelines on
"Fast forward digital connectivity for all"**

The Federal Telecommunications Institute, in its capacity as regulator and authority in matters of economic competition in the broadcasting and telecommunication sector in Mexico, presents the contribution below.

1 Core design principles for collaborative regulation

Collaborative regulation, like regulation applied to any economic and market activity, should address a specific problem or risk, be appropriate for achieving the objective established, and to the extent possible avoid generating barriers or unnecessary requirements liable to impede competition, growth and innovation. Thus, the principles of good regulation for the traditional economy generally remain valid for services requiring a collaborative approach.

In this regard, it should be highlighted that, in implementing the Regulatory Governance Cycle, the Organization for Economic Cooperation and Development (OECD) maintains that any regulatory organ, before issuing a regulation, should complete various successive actions (OECD, 2015) as indicated below.

Accordingly, and taking OECD's precepts into account, we consider that in order to elaborate, draw up and apply appropriate regulations for services with a collaborative approach, it is essential that the regulations:

- Serve and achieve clearly defined policy objectives;
- Have a solid legal and empirical basis;
- Be efficient, in terms of producing benefits that justify the costs of their application;
- Minimize market distortions and generate incentives for innovation;
- Be clear, simple and practical for users, and consistent with other standards and policies, including to the extent possible those relating to competition, trade and facilitation of investment.

In this regard, the Institute has taken up the challenges peculiar to the sectors for which it is responsible, actively putting into practice, with transparency and citizen participation, the collaborative regulatory principles taken up primarily in the provisions of:

- The Federal Telecommunications and Broadcasting Law (Article 51, which provides that the Institute should carry out public consultations based on the principles of transparency and citizen participation);
- The Federal Economic Competition Law (Article 12, §XXII), which provides that in the process of issuing regulatory provisions, directives, manuals, guidelines and technical criteria, public consultations shall be held;
- Guidelines on Public Consultations and Regulatory Impact Analyses – legislation designed to ensure transparency and encourage citizen participation in the process of elaborating or modifying the Institute's regulations;

- Regulatory Impact Analyses: ex ante assessments of the possible impacts (costs and benefits) of a regulatory proposal; these accompany each consultation when the Institute considers the adoption of a new or modified regulation;
- The Annual Schedule of Public Consultations: this is a planning tool ensuring regulatory transparency used to disseminate and update the Institute’s consultative processes;
- The Institutional Internet Portal: this contains a section on Public Consultations, with a repository of all the consultations carried out by the Institute, both present and past, freely accessible to the public.

2 Benchmarks for regulatory excellence and market performance that can form the basis for digital infrastructure regulation

As indicated above, OECD, in implementing the Regulatory Governance Cycle, maintains that various successive actions should be carried out in the elaboration of effective and efficient public policies, in order to dispose of key elements for regulatory quality (OECD, 2015):

- a) At the planning stage, identify strategies for government action – objectives, resources, capacities and tools justifying the need to issue, modify or suppress a regulation.
- b) Develop a strategy on government transparency and consultation, in order to gather the opinions of the different players involved, define policy tools and promote intragovernmental coordination.
- c) Review existing regulations, devise their modification or the issue of a new regulation along with an *ex ante* regulatory impact analysis, with the aim of simplifying or reducing administrative charges, and establish measurable regulatory objectives.
- d) Implement the regulation for a set period.
- e) Monitor the costs and benefits of the regulation applied, and periodically assess its results comparing them with the objectives initially set using *ex post* regulatory impact analysis.
- f) Lastly, assess the risks involved in continuing with or discarding the regulation and thus, successively, initiate the Regulatory Governance Cycle.

In order to boost the performance of the digital market, it is useful to understand the Internet and telecommunication infrastructures as a single, essential tool for the digital economy, and be aware of the economic impact of its use on the different value chains of digital and other related markets. There should then be reflection on the importance of the Internet to the emergence, development and economic consolidation of different enterprises dealing with technology and thence on the rational behaviour of users. In such a context, the function of the State and in particular that of its regulatory organs in the telecommunication sector would not find itself isolated, and it is rational for the digital infrastructure to be endowed with a transparent regulatory framework capable of ensuring benefits that outweigh its costs, maximum social benefit, and the guarantee of consistent market performance.

3 New regulatory tools and approaches for enabling digital experimentation

The new regulatory approaches for enabling digital experimentation include the following:

- The role of the regulator should promote innovation and the uptake of new technologies;
- Regulation should embody a global approach;

- Use of the spectrum should be efficient, with the capacity readily available for experimentation;
- Energy efficiency should be a priority and where appropriate regulated in regard to both mobile equipment and base radio stations;
- Dialogue between regulators and those regulated, and other interested parties, should be the basis for establishing legislation enabling experimentation.

Accordingly, the Institute is committed to developing quality regulations efficiently and transparently with the basic objective of generating maximum benefits in Mexico's telecommunication and broadcasting sectors. To that end, it employs two types of *ex ante* assessment, designed to systematically identify the possible impacts (costs and benefits) of a proposed regulation, as well as the greatest possible amount of information allowing it to take the best possible public policy decision, producing an analysis based on empirical information and evidence, namely:

- **Regulatory impact analysis (RIA):** Assessment for the elaboration or modification of a regulation issued by the Institute, whose entry into force implies new costs in terms of compliance for those regulated.
- **Zero regulatory impact analysis (ZRIA):** Assessment for the elaboration or modification of a regulation issued by the Institute, whose entry into force implies no new costs in terms of compliance for those regulated.

In its constant pursuit of regulatory quality, the Institute recognizes the dynamic technical advance occurring in the sectors its supervises, and therefore subscribes to what is set forth in the document entitled OECD Digital Economy Outlook 2017 (OECD 2017), according to which the increasing progress made with new business models, technology and innovation make cooperation and coordination essential between public and private (multisectoral) players intending to implement regulatory policies, whose point of departure should be to ensure the widespread diffusion of the digital economy as a matter of priority. In this regard, OECD describes the "key measurement building blocks for the digital transformation" as follows:

- a) Building the foundations for the digital transformation, with the right framework conditions and accessible digital infrastructures and services;
- b) Making the digital transformation work for the economy and society, with the effective use of technology;
- c) Innovation and effects of digital technologies in specific sectors;
- d) Trust and acceptance;
- e) Societal adjustment to the digital transformation.

For OECD, uptake of the above indicators provides the bedrock for the digital convergence of the economy and society.
