

San José, 13 de marzo de 2026

02529-SUTEL-DGM-2026

Señores

Miembros del Consejo

Superintendencia de Telecomunicaciones

ATENCIÓN AL ACUERDO 016-012-2026 EN RELACIÓN CON LA ATENCIÓN DE PREGUNTAS FORMULADAS POR LA OFICINA DE DESARROLLO DE LAS TELECOMUNICACIONES (BDT) DE LA UNIÓN INTERNACIONAL DE TELECOMUNICACIONES EN EL MARCO DEL SIMPOSIO GLOBAL PARA REGULADORES (GSR-26)

Estimados señores:

En atención a lo dispuesto por el Consejo de la Superintendencia de Telecomunicaciones (SUTEL) mediante el acuerdo 016-012-2026, para que, el señor asesor Jorge Brealey Zamora, en conjunto con la Dirección General de Mercados de manera conjunta, formulen las respuestas a las preguntas planteadas por la oficina de Desarrollo de las Telecomunicaciones (BDT) de la Unión Internacional de Telecomunicaciones (UIT) en el marco del Simposio Global para Reguladores (GSR-26) a través de la Circular BDT/DKS/RME/009, y de conformidad con las competencias de la Dirección General de Mercados establecidas en los artículos 43 y 44 del Reglamento Interno de Organización y Funciones de la ARESEP y su órgano desconcentrado (RIOF) se procede a brindar propuesta de atención a la encuesta remitida por la UIT. -----

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A. PROPUESTA DE ATENCIÓN

Question 1: What is the baseline toolkit for digital governance – beyond rules? What core set of instruments should regulators have in place as ‘governance essentials’: core duties and outcome-based obligations, incentive levers, oversight and assurance mechanisms; adaptive and experimentation tools; and engagement and coordination practices? -----

The current digital ecosystem demands that the regulators evolve from command-and-control approaches toward adaptive, user-centric and responsive regulatory models. For SUTEL, the reference toolkit for digital governance should integrate:

- **Results-based obligations¹:** Replacing prescriptive rules with measurable outcomes (quality, affordability). This must be supported by Regulatory Impact Analysis (RIA) and Cost-Benefit assessments as essential tools to ensure that interventions are proportionate, technically efficient, and do not impose unnecessary burdens on the ecosystem. -----
- **User-Centricity & Behavioral Insights:** Placing the user at the core of governance by utilizing behavioral economics as a tool to mitigate cognitive biases, ensuring that transparency and digital rights translate into effective consumer empowerment and informed decision-making.

¹ The Organization for Economic Co-operation and Development (OECD), in its recommendations on Agile Governance, states that the core toolkit for digital governance should prioritize Performance-Based Regulation. This involves replacing prescriptive rules with results-based obligations, enabling the regulator to act as a facilitator that fosters technical efficiency and innovation. OECD, Recommendation of the Council for Agile Regulatory Governance to Harness Innovation, OECD/LEGAL/0464 -----

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- **Proactive Oversight & Data-Drive Assurance:** A shift towards G5 collaborative regulation, implementing automated monitoring and incentive mechanisms that prioritize real market impact and transparency over mere procedural compliance. --
- **Experimentation & Adaptive Facilitation:** Utilizing regulatory sandboxes to develop institutional knowledge at the pace of technological change. This allows the regulator to act as a facilitator, modulating intervention based on risk and fostering innovation without compromising safety.-----
- **Multi-sectorial Coordination:** Fostering agile engagement among stakeholders and alignment with other agencies to ensure consistency across the disappearing boundaries of the digital economy.-----

Question 2: How can governance essentials be made measurable and enforceable across sectors? What outcome metrics and evidence standards should anchor these essentials (e.g., meaningful connectivity, affordability, accessibility, reliability, consumer harm reduction, market contestability), and how can reporting and observability models provide effective oversight proportionately and without excessive burden, across sectors? -----

Measuring and implementing digital governance across sectors requires a shift from static reporting to dynamic observability. For SUTEL, this transition should be based on:

- **Agile & Outcome-Based Metrics:** Beyond traditional network availability, metrics must evolve toward Meaningful Connectivity (security, speed, and affordability). The governance framework must allow for the agile incorporation of new metrics as

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technology evolves (e.g., AI latency or IoT density), ensuring that the regulatory focus remains relevant to the current digital experience.

- **Proportionality & Balanced Oversight:** To avoid excessive burdens on regulated entities, oversight must shift toward automated data collection (APIs) and digital observability models. This ensures a "reporting-once" approach, where sufficient data is gathered for effective supervision while maintaining an optimal balance that prevents high compliance costs from being transferred to end-users. -----
- **Evidence-Based Compliance:** Utilizing "dynamic evidence"² (OECD) allows the regulator to adjust interventions iteratively. Standards of evidence should include market contestability and consumer harm reduction, supported by Regulatory Impact Assessments (RIA) to justify the necessity of each data requirement.
- **Regional Harmonization & Mutual Recognition³:** The cross-border nature of digital markets demands shared metrics and joint supervision. International cooperation is vital to reduce fragmentation, allowing for mutual recognition of compliance standards among regulators, which further reduces the administrative load for regional players.-----

Question 3: What should a predictable, graduated supervisory and enforcement pathway look like when risks rise or harm occur? How should regulators move from guidance and targeted remedies to more directive interventions, and how should the

² The OECD Going Digital Toolkit highlights the importance of "dynamic evidence" to adjust regulation iteratively based on current data and not historical assumptions. <https://goingdigital.oecd.org/>-----

³ <https://digitalregulation.org/wp-content/uploads/d-pref-them.34-2024-pdf-e.pdf> -----

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pathway be designed to ensure due process, cross-agency consistency, and clear criteria for scaling back measures when conditions improve?-----

SUTEL considers that responsive regulation must be a bidirectional mechanism that allows graduated enforcement, moving from guidance and dialogue to remedies and sanctions, and vice versa. To achieve this, we emphasize the following:

- **RIA as a Full-Cycle Tool:** The Regulatory Impact Analysis (RIA) must be implemented not just as an entry barrier for new rules, but as a continuous effort to ensure a two-way regulatory pathway. This involves formalizing ex-post evaluations as a standard requirement to assess whether the original justifications for an intervention persist or if the measure has achieved its intended outcomes.
- **Evidence-Based De-escalation:** Most frameworks define when to impose obligations but remain silent on how to remove them. This omission distorts investment and erodes credibility. We recommend incorporating explicit de-escalation criteria grounded in outcome metrics. When market conditions improve or competition is verified, the AIR framework should provide technical justification to scale down or withdraw the intervention.
- **Institutional Agility vs. Inertia:** A predictable, bidirectional route prevents regulation from becoming "politically static." By applying a rigorous regulatory cycle, the oversight process remains technically proportionate, allowing the regulator to shift from a directive role back to a monitoring role as risks decrease.

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- **Due Process & Transparency:** Any de-escalation process must be as rigorous as the imposition of rules. Transparent and participatory procedures are essential to protect the regulator from capture allegations and ensure that the removal of obligations is based on objective evidence.

B. RECOMENDACIÓN

Autorizar la remisión a la Unión Internacional de Telecomunicaciones (UIT) de las respuestas elaboradas por la Dirección General de Mercados y asesor Jorge Brealey Zamora en atención a la Circular BDT/DKS/RME/009, emitida por la Oficina de Desarrollo de las Telecomunicaciones (BDT), en el marco del Simposio Global para Reguladores (GSR-26). -----

Atentamente,

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