



GSR13 Best practice guidelines on the evolving roles of both regulation and the regulators in a digital environment¹

The communications sector is experiencing tremendous changes led by the deployment of converged broadband networks (next-generation networks), convergence of media, Internet and communications services, the arrival of new market players, connectivity of things (Internet of things) in addition to people and changing consumer behaviors that are calling for always-on, immediate and ubiquitous access to ICTs. In addition, new content and application providers, such as over-the-top players, are changing the rules of the game, the market dynamics and the business practices. The sharp increase in data flow led by the ease of access to information and the rapid development of new services and applications, such as cloud services or mobile applications, coupled with the ever increasing complexity of the ICT markets are challenging the traditional role and mandate of the regulator, calling for a rethink of traditional approaches to regulation in a digital ecosystem.

Mindful of the critical role electronic communications play in today's digital society, and recognizing the need to adapt ICT regulation to respond efficiently and timely to changing market expectations, led by the convergence of services and networks, and consumer behaviors while improving social inclusiveness and development, we the regulators participating in the 2013 Global Symposium for Regulators have identified and endorsed these regulatory best practice guidelines to promote innovative and smart regulatory measures to better respond to the changing ICT environment and facilitate inclusion of all in a digital environment.

1. Regulation 4.0: Innovative and smart regulatory approaches fostering equal treatment of market players without putting extra burden on operators and service providers

We recognize that regulators need to be mindful of the transformational and trans-national aspects of regulation in a digital environment. Reviewing existing ICT policy and regulatory frameworks to adapt to the fast-changing environment is an ongoing process requiring coordination with multiple stakeholders. Regulators have a critical role to play in ensuring smooth development of the ICT sector to further sustainable economic and social developments for the benefits of the people. More effective use and implementation of digital technologies, in areas such as healthcare, environment and transport, will ensure better quality of life and will also impact employment and productivity.

In doing so, we acknowledge the importance of conducting market analysis to assess the market situation in a converged environment, in order to identify operators with significant market power (SMP) and stimulate competition in the market. Ensuring that the principles of fair, equal and non-discriminatory treatment of all market players continues to prevail, will foster a level playing field among regulated and unregulated competitors.

We acknowledge that when adopting a regulatory framework that eliminates barriers to new entrants, ensuring the inclusion of competitive provisions that guarantee healthy relationship between all players

¹ The Guidelines are based on contributions from Barbados, Bulgaria, Burkina Faso, Egypt, Jordan, Lebanon, Lithuania, Moldova, Poland, Portugal, Romania, Rwanda, Saint Lucia, Saudi Arabia, Tunisia, Ukraine and Vanuatu.

(operators, Internet providers, OTT providers, etc.), is one of ways to promote the deployment of next-generation broadband networks and access to online applications and services. Empowering consumers to make informed decision through the development of online tools to check speeds, quality of service and price of access is another measure regulators may take to foster competition.

We also recognize that regulators in reviewing their spectrum management policy need to ensure efficient and effective use of the radio frequency spectrum by allowing new generation of auctioning, flexible use of spectrum, and by leveraging on the “digital dividend” spectrum the footprint of mobile broadband access can be extended, while “white spaces” could be available for unlicensed use enabling more powerful broadband services. We believe that adopting administratively simplified and flexible models such as general authorizations or unified licenses will further contribute to facilitating market entry and stimulate competition and innovation.

We believe that regulators and policy makers should seek to implement measures to monitor the use of traffic management techniques to ensure that those do not unfairly discriminate between market players. Regulators also need to review existing competition laws to determine whether measures based on regulation or competition law are already in place and whether they adequately address the issues that tend to impact net neutrality.

We acknowledge the importance for regulators to understand all parameters at play in a digital environment to ensure not only affordability of access but also the need to guarantee a certain level of quality of service (in particular for communications that are sensitive to time delay), the need for interoperability, without putting extra burden on operators and service providers.

We encourage regulators to ensure the highest level of transparency and openness, such as by making relevant market data and regulations publicly available, and to carry out multi-stakeholder consultation on policy and regulatory matters affecting the development of the digital society.

We are mindful on the necessity to adopt a “light touch” regulatory approach, calling for regulatory intervention only when necessary, while ensuring that market forces work without constraints and towards innovation within the prescribed national legal environment taking into consideration traditional and new regulatory concepts. In particular, the regulators should continue to ensure regulatory predictability, and foster co-regulation wherever possible, facilitating the adoption of a regulatory solution collectively administered between the regulator and the industry. We notably recognize that encouraging operators and service providers to propose and implement ways in which they can develop the sector may stimulate innovation and provide for a win-win solution for both the state and the industry. Regulation should ensure the sustainable development of the ICT sector that is essential to attracting the investments needed in a global digital environment.

Stimulating services uptake and access to online services and applications

We recognize that stimulation of service uptake and access to online services and applications requires flexible regulatory approaches.

We acknowledge that understanding people's needs and how they can benefit from using ICTs is key to innovation, as both business and individual consumers are providers of incentives for innovation.

We encourage governments to work collaboratively with all stakeholders and in particular the industry and regulators to facilitate and support the development of infrastructure and provision of services, particularly in rural, unserved and underserved areas. From the supply side, predictable and stable regulations are needed to maintain effective competition and drive the development of innovative services. From the demand side, measures such as deferring heavy or special taxes on ICT equipment and services, encouraging research and development, endorsing special programs to stimulate e-literacy, will result in higher penetration, increased demand, better social inclusion and contribute to national economic growth. Governments and regulators have a key role to play in promoting and increasing awareness on the use and benefits of ICTs.

2. The evolving role of the regulator: the regulator as a partner for development and social inclusion

We acknowledge that the regulator has a critical role to play in advising governments when preparing policies on development and social inclusion. Regulators can also act as a partner for ICT development and social inclusion, by facilitating (and sometimes creating) partnerships, such as private-public-partnerships (PPP), with aid-donors, governments, ministries and other NGOs, in particular to meet universal access goals to ICTs for rural, remote and unserved areas and people with special needs. Regulators can further extend partnerships with schools and local communities through projects for improving the connectivity of schools and communities to enhance use of ICT applications in addition to providing access to technology and promote economic development.

We also encourage partnerships with other public agencies to offer a coordinated approach for the benefit of the government and the community, as a whole. The regulator may further provide advisory and educational assistance to local communities.

We stress the need for the regulator to be autonomous and have clear reporting and communication lines to and with the sector Minister to ensure that national objectives are harmonised and achievable.

We further recognize the importance of working in conjunction with the sector ministry to take a proactive role in promoting, informing, encouraging and raising awareness on the benefits of technology applications and service uptake to stakeholders. To encourage uptake, governments and regulators may facilitate access to low cost hand-held broadband-enabled mobile devices, thus allowing citizens to access web applications to leapfrog barriers (such as remoteness, cost and availability) of computer-enabled Internet access.

3. The need to adapt the structure and institutional design of the regulator to develop future regulation.

We recognize that as technology and service converge, governments may also consider converging the regulatory institutions or adapting their structure to reflect the changes within the electronic communications markets. Furthermore, to respond to the transnational and interconnected nature of

the converged digital ecosystem, there is a need to adapt the structure of the regulator to be more reactive and flexible.

To encourage innovation, future growth and sustainable development, the regulator needs to be granted sufficient flexibility and autonomy in decision making and enforcing legal and regulatory instruments.

We acknowledge the need for regulators and their staff to keep abreast of the latest technical development to address matters such as IP interconnection and charging mechanisms, IPv4 to IPv6 transition.

We believe regulators have a role to play in building consumer trust and protecting security of services by addressing data protection, privacy issues as well as cybersecurity matters. It could be done by strengthening cooperation with other government agencies at the national level and by collaborating with other regulators at the regional and international levels. We are mindful that the exchange of experience, knowledge and ideas is vital in facing the new challenges in an interconnected global borderless digital ecosystem. Furthermore, making available online smart regulatory approaches adopted and sector information is encouraged.
