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ITU GSR

PORT VILA 2019

Global Symposium for Regulators (GSR) 2019

Best Practice Guidelines

fast forward digital connectivity for all



Looking back over nearly 20 years of GSR, the role of the ICT regulator has never been more important. ICTs are at the heart of efforts to attain the 17 UN Sustainable Development Goals, and accessible, affordable ICT infrastructure is the pre-condition of every nation's ongoing socio-economic development. Based on the contributions of regulators from all regions and adopted by consensus, the new guidelines will lit the way towards achieving inclusive digital connectivity globally.

Mrs Doreen Bogdan-Martin,

*Director, Telecommunication Development Bureau (BDT),
International Telecommunication Union*



The regulatory landscape of digital markets is fast-moving and extremely complex. There is still much work to be done and regulators across all sectors must rise to the challenge of connecting the other half of world's population. The GSR-19 Best Practice Guidelines we adopted are an invaluable tool that enables regulators to address the challenges ahead and navigate through rapidly evolving technologies, business models and market structures that are affecting economies, society and people around the world.

Mr Brian Winji,

*Regulator, Office of the Telecommunication, Radiocommunications
and Broadcasting Regulator (TRBR) of Vanuatu and GSR-19 Chair*



If we are set to achieve the UN Sustainable Development Goals (SDGs) in our societies by 2030, we need to be open to new regulatory tools and solutions and act now.

Digital connectivity can provide the canvas for achieving SDGs across the board and the transformative impact of digitalization will underpin progress on various development paths. The opportunities are within reach; however, they cannot be taken for granted.

Technology paradigms and business models challenge existing regulatory patterns and frameworks. From the imminent entry in markets of 5G and the Internet of Things, to the profusion of cloud services and artificial intelligence, regulatory response requires a new perspective. Unleashing the full potential of digital will require an actionable, agile, collaborative, innovative, and outcome-based approach to regulation. In the increasingly complex and dynamic digital transformation, it is important to agree on common principles and put forward clear and simple rules – and follow them forward.

We, the regulators participating in the 2019 Global Symposium for Regulators, recognize that there is no single, comprehensive blueprint for best practice and that regulatory patterns for the digital transformation will be rooted in local circumstances while addressing regional and global challenges. We, nevertheless, agree that country experiences can be enlightening and guide us towards regulatory excellence for the benefit of all.

We have identified and endorsed these regulatory best practice guidelines to fast forward digital connectivity for all to allow all to participate in the digital economy and benefit from digital transformation. Recalling the series of GSR Best Practice Guidelines since 2003 that capture established regulatory wisdom and tried-and-tested practices, our focus is on new and innovative approaches, tools and mechanisms for achieving inclusive digital infrastructure and services.

1. Core design principles for collaborative regulation

Policy design principles are at hand for regulators to help develop an understanding of new technology paradigms and guide them towards appropriate regulation. Led by these principles, regulators can fine-tune their regulatory response, ensuring optimal impact on the market.

We therefore identified seven design principles to respond to new technology paradigms and business models stemming from collaborative regulation:

- i. **To achieve digital transformation, policy and regulation should be more holistic.** Cross-sectoral collaboration along with revisited regulatory approaches such as co-regulation and self-regulation, can lead to new forms of collaborative regulation based on common goals such as social and economic good, and innovation.
- ii. **Policy and regulation should be consultation and collaboration based.** In the same way digital cuts across economic sectors, markets and geographies, regulatory decision making should include the expectations, ideas and expertise of all market stakeholders, market players, academia, civil society, consumer associations, data scientists, end-users, and relevant government agencies from different sectors.
- iii. **Policy and regulation should be evidence-based:** Evidence matters for creating a sound understanding of the issues at stake and identifying the options going forward, as well as their impact. Appropriate authoritative benchmarks and metrics can guide regulators in rule-making and enforcement, enhancing the quality of regulatory decisions.
- iv. **Policy and regulation should be outcome-based:** Regulators need to address the most pressing issues, for example market barriers and enabling synergies. The rationale for any regulatory response to new technologies should be grounded in the impact on consumers, societies, market players and investment flows as well as on national development as a whole.
- v. **Policy and regulation should be incentive-based:** Collaborative regulation is driven by leadership, incentive and reward. Regulators

should keep a wide array of investment incentives at hand to provide impetus for markets to innovate and transform while maximizing benefits to consumers.

vi. **Policy and regulation should be adaptive, balanced and fit for purpose:**

Regulation-making is about flexibility – continually improving, refining, and adjusting regulatory practices. The balance in regulatory treatment of new services is more delicate than ever. A close, continuous link to markets and consumers is important to get digital on the right glide path to achieving social and economic goals.

vii. **Policy and regulation should focus on building trust and engagement:**

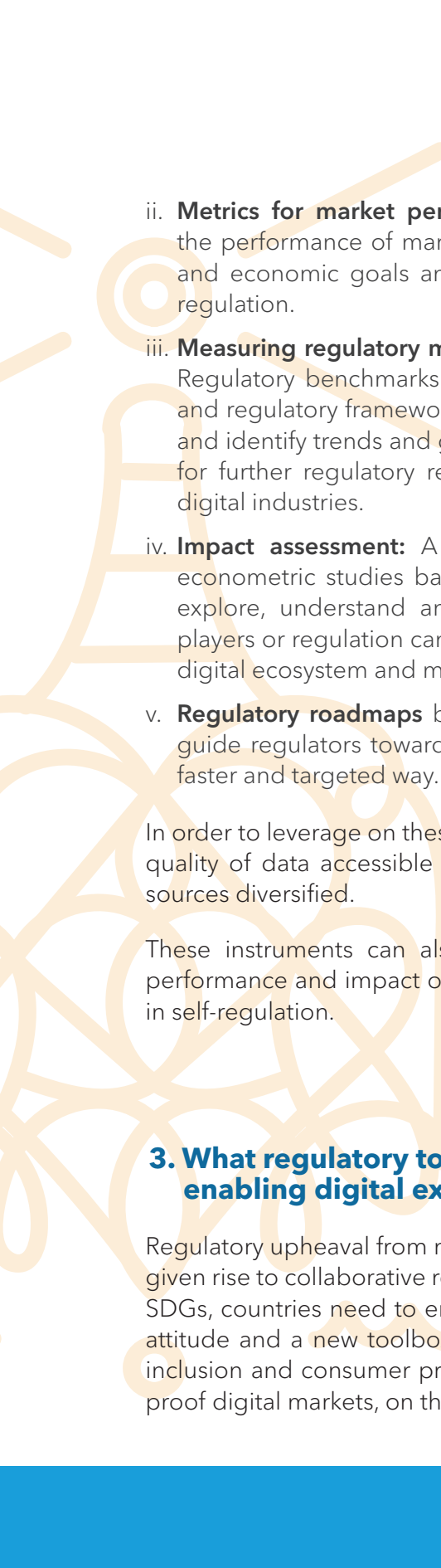
Collaborative regulation provides the space for co-creating win-win propositions, working towards regulatory objectives while increasing the engagement of industry. Trust becomes the foundation of the regulatory process, underpinning the growth of digital.

2. Benchmarks for regulatory excellence and market performance

Substantial research and evidence suggest that best-practice regulation does matter and both the design and the effective enforcement of regulatory frameworks are essential for digital markets to thrive. The digital transformation brings about challenges to regulators and grounding regulatory decisions in robust, multifaceted and thoughtfully interpreted evidence can prove instrumental in generating positive market dynamics in the short and long term. From informing consumer choices to inducing market efficiency to improving return on investment, evidence-based decision-making can serve a myriad of regulatory goals and amplify the regulators' capacity to lead markets.

We recommend five main clusters of benchmarks for regulators:

- i. **Connectivity mapping:** Tracking the deployment of the various kinds of digital infrastructure can inform the regulatory process and allow regulators to identify market gaps and market stakeholders – to turn them into opportunities for investment and growth.

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- ii. **Metrics for market performance:** Metrics allow regulators to assess the performance of market segments for digital services against social and economic goals and identify priority action areas for policy and regulation.
 - iii. **Measuring regulatory maturity and levels of collaborative regulation:** Regulatory benchmarks pinpoint the status of advancement of policy and regulatory frameworks for digital markets. They help track progress and identify trends and gaps in regulatory frameworks, making the case for further regulatory reform towards achieving vibrant and inclusive digital industries.
 - iv. **Impact assessment:** A combination of quantitative and qualitative econometric studies based on reliable data can enable regulators to explore, understand and quantify how digital technologies, market players or regulation can contribute economically to growing the larger digital ecosystem and making it more inclusive.
 - v. **Regulatory roadmaps** based on established authoritative metrics can guide regulators towards achieving digital connectivity objectives in a faster and targeted way.

In order to leverage on these evidence-based instruments, the volume and quality of data accessible to regulators need to be increased, and their sources diversified.

These instruments can also enable market players to reflect on their performance and impact on the economy and development, and engage in self-regulation.

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

Regulatory upheaval from new technologies and new business models has given rise to collaborative regulation. To fast forward development towards SDGs, countries need to embrace the next level of regulation, with a new attitude and a new toolbox. The dual role of regulators as guarantors of inclusion and consumer protection, on one hand, and stewards of future-proof digital markets, on the other hand, cannot be overemphasized.

We recognize that, among the many tools that can improve digital market outcome, the following form the core of collaborative regulation best practice:

- **Space for digital experimentation:** From temporary licences to new technologies' pilots to regulatory sandboxes, a range of tools and techniques can be used to create a dynamic regulatory environment in which digital market failures and opportunities have space and flexibility to address present and future challenges. Such methodologies can also be employed to design strategies to enhance digital applications and skills.
- **A Pro-competition frameworks for the digital transformation** should consider longer value chains, more diverse market players, services and devices, stakeholder partnerships and digital infrastructure layers, and ultimately, their impact on markets and consumers and Internet neutrality. Nonetheless, excessive and unwieldy regulation must be avoided.
- **Regulatory incentives** can create a positive market dynamic and improve market outcomes with less regulatory effort.
- **Stakeholder engagement vehicles**, such as public hearings, high-level roundtables and expert workshops, hackathons, can allow pooling resources and expertise to inform major regulatory decisions.
- **Robust and enforceable mechanisms for consumer protection** including a set of rules on data protection, privacy and data portability as well as accessible mechanisms for consumer redress are essential to support the digital transformation in economic sectors across the board and ensure consumers' interests are safeguarded.
- **Market-based and dynamic mechanisms for spectrum management** can allow for flexible, simplified and transparent use of scarce radio frequencies, also promoting technology neutrality.
- **Regulatory Impact Assessment (RIA):** Enhanced with new benchmarks and data analysis, RIA allow for better decision making and should be introduced as a regular practice before major regulatory decisions are made as well as throughout the lifecycle of regulation.

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- **Agile data-driven monitoring solutions**, based on standards for the interoperability of data systems and tools among regulators and market players, can facilitate market oversight in areas such as quality of service and experience, and regulatory compliance.
 - **Diversified mechanisms for consumer engagement and feedback** multiply the regulatory inputs and allow for fine-tuning regulatory policies and their implementation.
 - **Effective channels for dynamic collaboration among regulatory authorities**, such as the ICT, financial and competition authorities as well law enforcement agencies and the judiciary, are necessary to ensure coherent and reasonable regulations across economic sectors. Regulatory sandboxes involving multiple regulators can incubate key cross-sector regulations, such as for digital financial inclusion.
 - **Regional and international cooperation** in defining regulatory rules on cross-border issues can ensure consistency, predictability and fluidity of digital markets and will catalyze the deployment of region-wide and global digital infrastructure, from fiber backbones to submarine cables to mobile networks and satellite connectivity.
 - **Regulatory expertise** needs to be developed continuously to integrate new technologies, competencies and skills and allow for data and evidence-based decision-making.

We commit to start putting in practice and building upon these guidelines now and believe they will lead us towards achieving SDGs in our societies by 2030.

