Global Symposium for Regulators (GSR) 2020
Best Practice Guidelines
The gold standard for digital regulation

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Over the past 20 years, GSR has led us through the evolution from telecom to ICT to digital regulation and provided a forum to help our industry to develop and respond to major world crises like the 2008 financial crash and COVID-19, along with national challenges and adversity of all kinds.

The GSR-20 Best Practice Guidelines build on the collective wisdom of the previous editions to shed light on digital transformation and help regulators and policy-makers chart the course through the uncharted territory ahead of us, and to respond to the unprecedented disruption caused by COVID-19. The Guidelines lay down the key features of regulatory regimes for ICT markets to remain 'switched on' in the digital transformation, accelerate market take-up, and deliver more access to more people, more quickly.

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As the pace of digital transformation accelerates, developing an effective regulatory approach is more vital than ever. In the face of new global emergencies, governments and regulators need to consider holistic, cross-sectoral, and, to the extent possible, multi-national regulatory and policy approaches.

The GSR-20 Best Practice Guidelines cast a framework for progressive regulatory patterns and policy while charting the way ahead for industry and regulators. The Guidelines offer a big-picture, strategic perspective while identifying concrete steps towards enabling regulators to pursue regulatory reform towards achieving thriving, inclusive digital markets.

Supporting the digital economy to grow sustainably and ensure service and business continuity, including in times of crisis, requires regulators and policy makers to find an appropriate balance between facilitative actions to promote digital transformation and affordable connectivity while ensuring long-term social policy objectives are met. An adaptive, resilient, collaborative and fit-for-purpose regulatory ecosystem is hence necessary for open and competitive digital markets to thrive along with delivering positive consumer outcomes and provide the foundation for Digital Transformation.

The COVID-19 pandemic has shown us that connectivity for all is essential for economic activity and citizen welfare, and key digital challenges cannot be overcome by one stakeholder group alone. As highlighted by the UN Secretary General António Guterres, in his launch of the Roadmap for Digital Cooperation, "Effective digital cooperation is instrumental in achieving the future we want and the ambitious goals of the 2030 Agenda for Sustainable Development".

We, the regulators participating in the 20th anniversary edition of the Global Symposium for Regulators, recognize that there is no single, comprehensive blueprint for best practice and that regulatory patterns for the connected digital economy will be rooted in local circumstances while addressing regional and global challenges, especially now while we strive to building back better with digital technologies across the board.

We 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 set the gold standard for digital regulation. Recalling the series of GSR Best Practice Guidelines since 2003 that capture established regulatory principles, expertise and tried-and-tested practices, our focus is on novel, bold, innovative, and ground-breaking approaches and tools for digital regulation.

Demonstrating regulatory thought leadership for digital transformation

While recognizing that digital regulation will be led by the core policy design principles outlined in the GSR-19 Best Practice Guidelines to fast forward digital connectivity for all, we identified the following fundamentals for sound, future-proof regulatory frameworks to respond to the challenges of digital transformation in the aftermath of global crises and beyond.

- **Regulatory strategies for digital:** Regulators should articulate a clear rationale for how and why decisions are made, their goals, time-bound targets and monitoring mechanisms for effective implementation. Strategic priorities should address short-to-medium term outlooks of national and global markets, with long-term strategies which takes account of appropriate government policy and a coordinated approach among all stakeholders while advancing regional development strategies where appropriate.

- **Integrating sustainability into regulatory frameworks:** The policy approach to technology needs to be revisited and its scope expanded to cover the full cycle of digital technologies and services, from ideation to dissemination to recycling of digital products. Environmental aspects should be taken into account at every stage of an integrated, consistent regulatory framework covering issues from the carbon footprint of cloud to e-waste management to digitization of economic sectors' operations. Regulatory collaboration with regulators of other economic sectors should therefore become the norm.

- **Maximizing benefits while minimizing harms of digital technologies:** policy makers and regulators should design regulatory frameworks to enable innovation while controlling harms, use data and digital technologies to improve the efficiency and effectiveness of government services, work together to develop and promote regional and global standards that enable greater use of technologies.

- **Open, inclusive and transparent regulatory process:** we assert that digital regulation needs to be oriented towards enhancing transparency, ethics and trust throughout the regulatory process. Regulatory decision-making processes should encourage broad participation of stakeholders, including those from industry, civil society and local governments, through formal and informal channels. Throughout the process, the

regulated entities and the regulator should share responsibility for the development, monitoring and implementation of rules and guidelines.

- **Multiple formats and modes of regulation:** Formal regulation should leave sufficient space for self-regulation, hybrid and collaborative regulatory models and oversight mechanisms for law enforcement. From incentives and rewards through forbearance to targeted obligations, the range of tools and remedies at hand for regulators to explore is wide. New issues call for novel approaches and the regulatory canvas has expanded to cover regulatory sandboxes, ethical frameworks, technology roadmaps, regulatory impact assessment, multi-varied research and big data simulation in exploring the most balanced, proportionate and fair regulatory response. Artificial intelligence, Internet of Things, and online disinformation are some of the complex issues waiting to be addressed.

- **Good governance and effective institutions with appropriate mechanisms in place for collaborative regulatory approaches:** Institutional design is key and regulatory authorities should hold appropriate powers and strong independence from market players as well as from national decision-makers and political influences. They should act with integrity and be able to make objective, future-proof decisions and to collaborate across sectors to foster digital transformation. This will pave the way for principled engagement of all market stakeholders and for collaboration across the sectors. Effective institutions need to have appropriate mandates, be adequately funded and well capacitated in terms of staff. Staff competences should be continuously upgraded while being in adherence with good governance principles including accountability and transparency.

- **Evidence-based approach:** evidence and data inform regulatory decisions and help identify emerging regulatory issues. Data and analysis also allow regulators to determine if specific regulatory interventions and decisions are justified by market failures and guide them in defining the desired regulatory outcomes as well as the public policy options to achieve them. Strengthening the monitoring and evaluation function of regulators and integrating in collaboration with other competent agencies can facilitate effort towards improving regulation and ensuring that the regulation achieves its objectives in the most effective and efficient manner, in particular network resilience

and enhancing both the capacity and coverage of networks without imposing disproportionate, redundant or overlapping burden on the market.

- **No rule is set in stone:** Regulatory frameworks should be regularly reviewed to ensure they remain fit for purpose. Regulatory frameworks may need to adapt to ensure they are continuing to meet public policy objectives in an evolving digital environment. Revoking the rules that are no longer justified is just as important as adopting forward-looking ones.

Vectors of regulatory action: Inclusiveness, agility, and resilience

The increasing reliance on digital infrastructure by national economies and citizens combined with the probability of new global emergencies means regulators will need to switch focus beyond regulating within traditional sectoral frameworks to regulatory frameworks which are adaptive, collaborative, outcomes-based and technology neutral.

We recommend that digital regulation be rooted in the following vectors so the digital transformation can unfold its full potential.

- **Consumers are citizens, patients, students and our families:** consumer interest and fairness are central to digital regulation and all regulatory decisions should be taken with consumers in mind, from incremental interventions to providing smooth online experience to effective channels for redress, including through consumer advocacy bodies, to consumer education to legal reform.

- **Focus on business:** digital regulation should be used as a lever for the development of business opportunities geared toward the digital economy for all kinds and sizes of market players, including small and medium-sized enterprises (SMEs). The policy approaches need to integrate digital technology at the center of the local, national and, whenever possible, regional development strategies to stimulate the economy, do business and create value in high-potential sectors while fostering cross-sectoral synergies as well as **connectivity and digitalization of SMEs**.

- Regulation is only needed where there is a **public policy justification for regulating** a service, whether through an expansion of existing rules and regulatory regimes or the development of new ones. In the absence of a public policy rationale, regulators and policymakers should allow competition to proceed unfettered.

- **Data shielding:** Clear, strong and enforceable rules related to data governance can provide adequate shield for digital consumer protection while creating a predictable, structured framework for doing digital business. State-of-the-art regulatory protocols and mechanisms can go a long way towards enhancing trust in the digital ecosystem, such as the commitment to comply with requirements related to the access to non-personal data retained by digital platforms, transparency of certain essential algorithms used by digital services, portability of essential data of structuring platforms, interoperability and maintenance of APIs (application programming interfaces).

- **Resetting market definitions:** regulators may identify new governance challenges and objectives, given that services provided on a global scale are also provided locally. The emergence of global digital platforms can lead to extending the scope of markets beyond the electronic communications sector. New models of ex-ante regulation for such platforms can be designed to preserve the open internet at all levels, from access to services to user devices to content generation. In doing so, due attention should be given to only use regulation where and when needed, and prefer preventive measures, to the extent possible.

- **Meaningful connectivity for all:** targeted and innovative strategies to increase universal broadband access and lower the costs of communication will narrow national market gaps, while also addressing trust, security and safety of infrastructure and services. Regulatory initiatives can contribute to realizing SDGs by bridging digital divides more quickly, not only in terms of inequality of access to infrastructure but also digital literacy and meaningful content and opportunities. Meaningful digital connectivity is an equalizer that bridges social and economic divides, such as in education, health, finance, but only if it is recognized as a universal right.

- **As good as gold:** Mechanisms for making markets easier to navigate and the simplification of regulatory rules and standards increase the trust in regulatory governance and facilitate the entry of fresh investment

flows and new players across industries and borders and the buildout of sufficient, resilient and open infrastructure. General authorization regimes, efficient and effective market mechanisms for spectrum management, infrastructure sharing, and general competition laws have proved as catalysts of digital transformation and remain the basis for future regulations.

In the aftermath of the COVID-19 global crisis, public and social policy realignment and regulatory repatterning may need to take place.

We believe that digital regulation can boost the readiness of digital markets to face unexpected events and emergencies and deliver up to the expectations despite the odds, notably through the following targeted reforms.

- **Agile framework for competition in digital markets:** to ensure competition, innovation and consumers' freedom of choice for global digital platforms services, a new agile regulatory approach can be based on the real-time monitoring of activity as well as targeted, proportionate, ex-ante and timely remedies, as appropriate. Regulators should support innovation and new business and licensing models that facilitate affordable access to and investment in health, enterprise, and educational services over digital platforms, especially as the world adapts to, and recovers from, the current health pandemic.

- **Codes of conduct (voluntary or enforceable):** in important areas such as online content moderation over digital platforms, addressing misinformation and online news quality, and child online protection, digital platforms are encouraged to adopt an outcomes-based approach and regulators should guide and support them throughout the process of creating the codes, their implementation and enforcement. Media and digital literacy and awareness efforts should likewise be central to navigating the challenges around services that are enabled by the digital transformation.

- **Upgrading national emergency plans:** Creation and implementation of effective emergency plans provides for better preparedness for and decision-making during crises. Such plans are key to anticipating future unexpected events and their negative impacts and should focus on both urban and rural areas through a multi-technology approach. Bilateral, regional and international cooperation is required to ensure business

and public service continuity and underpin national recovery efforts. Policymakers should ensure that these plans, if they do not already do so, address health emergencies as well as physical disasters.

- **Spectrum reform:** spectrum managers need to be able to respond timely, making spectrum available for wireless applications when and where it is needed as easily as possible, giving spectrum users and innovators flexibility to provide services that will deliver the greatest benefits. An agile and flexible authorization framework, using technology- and service-neutral approaches may enable spectrum users to deploy equipment quickly and smoothly and evolve their networks. Ensuring sufficient unlicensed spectrum is available drives innovation and investment in a range of technologies that can complement and support networks and expand broadband access at low cost. While regulatory reform for the purpose of bringing new radio systems and services to market is a laudable objective, spectrum reform should also be focused on ensuring that access to broadband service is provided affordably to those areas and populations that have been traditionally unserved or underserved.

Collaboration across sectors, cooperation across borders, and engagement across the board

Increasing globalization of markets and blurring of traditional sectoral boundaries will mean that international and inter-governmental cooperation and collaboration are integral in ensuring our regulatory frameworks can adapt and respond to new and emerging regulatory challenges.

Public policies have started to change focus from a single sector to the economy and society, underpinned by digital transformation. ICT regulators and policy-makers are under increasing pressure to connect with peers and players across all economic sectors to leverage digital transformation as an engine for sustainable development and achieving SDGs.

5th generation collaborative regulation underpinned by solid regulatory principles will promote certainty which is key if regulation is to continue to attract investment and foster the innovation that has hitherto defined the digital economy.

We therefore consider the following areas essential to the success of regulatory collaboration and response.

- **Legal capacity for joint action** - The outcomes resulting from collaborative regulation are likely to be meaningful, effective and well considered with fewer unintended negative consequences when they are based on sound legal processes and institutional frameworks and mandates. Memoranda of Understanding or similar binding acts are particularly useful in formalizing the grounds for collaboration, defining roles, mechanisms, and outcomes of collaboration. These frameworks could address not only domestic collaboration between sectors, but regional and international collaboration to more effectively address cross-border issues.

- **Uniting fragmented efforts around a common cause, aligning actions and multiplying consumer and business outcomes:** the ICT regulator has a central role in facilitating access to resources for emergencies (such as frequency spectrum, Internet bandwidth, equipment deployment and sharing of infrastructure) but also in the continuing coordination with sectors such as health, government, education and finance to take charge of the needs of citizens and support whole-of-government approaches to digital transformation.

- **Incorporating modern methods for diagnosing the regulatory and institutional capacities of agencies** will enable them to refine their objectives in a flexible and agile manner to respond both to predictable instances of technological change and new services as well as to extraordinary emergency situations such as a pandemic. Risk management, planning, monitoring the implementation of regulations as well as reviewing and assessing the impact of those regulations on digital markets and the economy and on how public policy is carried out must form an institutional mechanism that goes beyond short-term political considerations, so that regulatory frameworks enjoy predictability and sustainability over time as well as a solid base from which to consolidate and better use public resources.

- **Creating platforms for dialogue on key topics:** while designing viable regulatory support frameworks for industry-led technological solutions, regulators need to engage in information sharing across the industry and between the industry and government agencies as well as others such as data protection and consumer protection agencies. Strategic coordination along with domestic and international engagement between regulators and law enforcement agencies would lead to improved regulatory enforcement and increase consumer benefits.

- **The new roles of regulatory associations** (RAs) should leverage their capacity to boost the development of digital markets at the national and regional level while building scenarios for future emergency response of all kinds. The collaboration, information sharing and cross-fertilization among regulators as well as among RAs should be further enhanced and geared towards regional harmonization and coordination, including in the area of spectrum management, international mobile roaming and digital platform regulation.

- **International cooperation:** Effective international dialogue is essential to enable cross-country learning as well as to explore common policy solutions at both regional and global levels. International organizations must redouble their efforts to meet their commitment to rendering equitable service to an international community with differing yet interdependent interests and realities. Instruments for international cooperation must be employed transparently and efficiently and become levelers that enable national digital markets to thrive.