# Consultation for GSR-19: contribution from Switzerland

**What are the core design principles for collaborative regulation?**

The digital ecosystem is characterized by increasing complexity, giving rise to uncertainty and a host of challenges. The breathtaking pace of technological (r)evolutions, the emergence of new players and novel business models and changes in patterns of consumption of services all exert a disruptive effect which makes "good" regulation more and more difficult to achieve. In this context, recourse to collaborative regulation may inject the necessary flexibility and agility to manage the public domain. The traditional regulator has an important role to play in implementing such an approach, as the entity that will have to launch the initiative and allow and facilitate dialogue and collaboration among all the communities of interest, be they political players, operators, providers of related services or indeed representatives of other sectors concerned.

For collaborative regulation to be beneficial, a number of conditions have to be in place. Once the process leader has been identified, there is a need to formulate a strategy and then lay down clear objectives, set measurable targets, allocate the requisite resources (time and money), carefully monitor progress achieved and regularly assess practices. The roles and responsibilities of the different stakeholders must also be clearly defined, as well as the rules governing collaboration and decision-making. The guiding principles might be the following:

- focusing action on the public good (e.g. satisfaction of users' needs) and primacy of the market;
- balance between the parties involved and determination to ensure inclusive cooperation;
- transparency of responsibilities and process;
- decision-making by consensus;
- instilling a culture of dialogue founded on trust;
- holding the stakeholders responsible and requiring them to be accountable to society.

**What benchmarks for regulatory excellence and market performance can form the basis for digital infrastructure regulation?**

Since, in the case at issue, the end goal of regulatory texts, and of regulation itself, is to ensure that everyone is connected, the criteria for assessing regulatory success are fairly obvious: they are all the criteria that serve to demonstrate efficient and competitive delivery of a variety of innovative, high-quality and attractively priced communication services, and hence optimal satisfaction of the needs of all users, irrespective of their status (individuals or businesses, …) and their geographical location. It is thus a matter of identifying statistical indicators (e.g. network coverage, service penetration, number of providers, price, quality, etc.) and then organizing the systematic collection of representative data in order to track in detail what is happening in the market. As a second phase, it might be useful to introduce a systematic approach with the aim of evaluating the outputs, outcomes and broader impact of regulation, and thereby gauge its effectiveness. Where appropriate, the body of available data for analysis should be expanded.

**What new regulatory tools and approaches are at hand for enabling digital experimentation?**

Since liberalization, Switzerland has relied primarily on **market forces** for the deployment of its telecommunication networks and the provision of services that cater adequately for the needs of individuals and businesses. The regulatory texts adopted and the regulation put in place seek to create **overall conditions conducive to competition**, investment and innovation while protecting the legitimate interests of consumers. This regulatory framework is not set in stone, and has been adjusted on two occasions to take account of major developments observed in practice. For instance, in the last revision of the telecommunication act, adopted in 2019, **administrative simplifications** were introduced (e.g. removal of the obligation for telecommunication service providers to register and of the blanket obligation to obtain a licence for the right to use frequencies) and **deregulation measures** were taken (e.g. allowing the establishment of a secondary market for frequencies

or freedom to share radiocommunication infrastructures). Moreover, the Parliament further decided to oblige the Federal Council (i.e. Switzerland's executive authority) to provide it every three years with a comprehensive status report as well as, when manifestly required, proposals for corrective measures, which will help to **make regulation more flexible**.

Alongside the market, a safety net has been established in order to guarantee the provision of a minimum service offering, at a specified level of quality and affordable prices, for anyone who is not served by the market or is served under unsatisfactory conditions. The set of provisions governing this safety net constitute **universal service**. Universal service is not frozen in time since its content (i.e. the scope of the services that must be offered) and modalities (i.e. price and quality) have undergone regular adjustment in line with changes in needs and technology. For instance, since 1 January 2008 the universal service licence-holder has been under the obligation to provide, to anyone requesting it, and at a capped price, an Internet access service guaranteeing a speed of 600/100 kbit/s; after a series of amendments, this speed will rise to 10/1 Mbit/s at the beginning of 2020.

In Switzerland, we apply several approaches that help to make the regulatory framework more adaptable, open and inclusive. These include, *inter alia*, organizing public consultations, holding roundtables and publishing an atlas of broadband.

Public consultations

The federal administration is under the obligation to consult widely when drawing up or amending texts forming part of the regulatory framework. The stakeholders are thus invited to comment on all draft legislative texts and on the principal draft regulatory texts through online public consultations lasting at least 12 weeks. The stakeholders are associated in determining the nature of the problem and seeking possible solutions at an early stage.

Roundtables

In the second half of the 2000s, several enterprises began investing in the construction of FTTH networks. Lacking legal authority to intervene, but nonetheless keen to ensure smooth development of the networks, the Federal Commission for Communication took the initiative to organize a first roundtable during the summer of 2008, bringing together the leaders of the main enterprises concerned with the aim of discussing the various options for cooperation and standardization. In its wake, four working groups with industry were set up and a further eight roundtables were organized. This initiative paved the way for better coordination in the deployment of optical fibre networks in Switzerland.

Atlas of broadband (www.atlaslargebande.ch)

Since 2012, The Federal Office for Communication has been publishing an online interactive atlas providing information on broadband coverage in Switzerland. The maps it contains give information on both fixed-network connections and the availability of mobile networks. This tool was designed to inform users and give them greater power in exercising their freedom of choice in the market. It is the first milestone towards so-called data-driven regulation.

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