

ITU GSR-21 BEST PRACTICE GUIDELINES
CONTRIBUTIONS FROM THE NATIONAL COMMUNICATIONS
AUTHORITY (NCA), GHANA

REGULATORY UPLIFT FOR FINANCING DIGITAL INFRASTRUCTURE, ACCESS AND USE

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1.0 Inducing new, effective and agile financing mechanisms to digital infrastructure, access and use

Investment in digital infrastructure and Access:

In an increasingly digital world, there is an urgent need for regulators and governments to adopt innovative ways to induce new, effective and agile financing mechanisms to digital infrastructure as they are the bedrock of modern economies.

Governments and citizens should embrace and recognize ICTs as enablers and fundamental for driving or achieving socio-economic development. Ease of access to government services, remote education, Digital Financial Services including Mobile Money Services, Financial Technology Services (FINTECH), etc. have materialized due to digital infrastructure, and as such, they qualify as essential in every economy.

Governments should be entreated to invest in Electronic Communications Infrastructures such as terrestrial fibre infrastructure deployment to complement that of the private sector; that will enhance nationwide connectivity to make the deployment of digital services possible.

Also, Governments should create funds (such as infrastructure funds that prioritise telecommunications infrastructure) to support the development and/or subsidise digital infrastructure deployment in their countries; just as it is done for roads and buildings.

Again, Governments should ensure the efficient and responsible use of the Universal Service and Access Fund (USAF) to extend and support digital connectivity to deprived and underserved communities.

For instance, Ghana through the Ghana Investment Fund for Electronic Communications (GIFEC) has built tower infrastructure at rural sites and communities. This has contributed to extending electronic communications and digital services to rural and underserved communities, by using the USAF to support and collaborate with Mobile Network Operators.

2.0 Transformational Leadership to unleash the power of emerging technologies and business models

Data localization requirements (which is usually country specific), patchwork of data privacy and cybersecurity laws and standards, anticompetitive behaviours of digital platforms and lack of dialogue between regulators/competition authorities in different sectors etc. are but a few of the challenges that impede cross-border collaboration and coordination on data flows and digital trade.

Given the borderless nature of the digital economy, introducing international/regional cooperation mechanisms with a focus on addressing the thorny issues related to digital trade, data protection, Internet of things and taxation will allow 5th generation regulation (G5) span geographies and markets to facilitate cross-border collaboration. Such mechanisms may include:

a. Common understanding on competition in the digital economy:

States should collaborate and cooperate and come to a common understanding on issues surrounding anti-competitive behaviours in the digital economy: Digital platforms and services have improved the socio economic development of many nations. Consumers have better goods and

services however, some digital markets have significant network effects and such markets may have the potential of stifling innovation and act as barriers to entry.

Accordingly, it is important that Regulatory/Competition Authorities stay vigilant to detect anticompetitive behaviours by dominant firms. Adoption of and enforcement of flexible competition rules/laws that would enhance and adapt to challenges posed by the digital economy is necessary. Laws should not always prevent possible killer acquisitions of startups companies by giant digital platforms thereby stifling innovation. Laws that encourage the development of the digital economy but at the same time prevent anticompetitive behaviours need to be adopted; there should be a balance between allowing dominant firms to acquire startups and competition laws which may end up impeding innovation.

Ghana would soon join the community of African Countries that have passed laws that address anti-competitive behaviours of significant market powers/networks. A Bill has been laid before Ghana Parliament waiting to be passed. The law will cater for the SMP challenge ongoing in the Ghanaian mobile network industry and future dominant firms that may indulge in anti-competitive conducts.

Additionally, considering that digital economy is borderless, it is important that African Countries (AU) and other regions of the world cooperate and harmonize competition laws and policies to arrive at a common understanding of competition in the digital economy. When this is done, it will facilitate innovation which will spawn new home grown digital technologies and services; while at the same time addressing consumer interests. *(Taking a cue from the Agreement which establishes the African continental free trade area and advocates for cooperation on competition policies among other objectives as well as the Common understanding of G7 Competition Authorities on competition and the digital economy signed in Paris, on the 5th of June, 2019).*

b. Encourage Regional and International Cooperation on data privacy and cybersecurity Initiatives:

Patchwork of data privacy and cybersecurity standards and laws in a particular region does not allow free flow of data and hampers digital trade. The African Union Convention on cybersecurity and data privacy (Malabo Convention) was ratified by Ghana in 2018. This convention seeks to harmonize procedures on cybersecurity, data protection and fight cybercrime in Africa. It is important that countries encourage regional common data privacy and cybersecurity standards and initiatives to enhance data flows and improve digital trade.

c. International Cooperation on cross-border data flows:

There is the need to intensify International cooperation to ensure that Data Localisation requirements and other restrictions on cross-border data flow should only be applied when they are absolutely essential and implemented in a way that is minimally trade-restrictive while guaranteeing the privacy of data subjects.