

Digital Regulatory Convergence Reforms

Terms of Reference

1. SUMMARY

Programme	Digital Access Programme (Models & Enablers for Digital Inclusion - Pillar 1)	Estimated Budget	£80-100k
Expected Project Start Date	November 2021	Expected Project Duration	Approx. 2-3 months
expected Project End Date	March 31, 2022		

2. THE GLOBAL DIGITAL ACCESS PROGRAMME (DAP)

The Global Digital Access Programme (DAP) is a UK Government flagship initiative led by the Foreign Commonwealth and Development Office (FCDO) and the Department for Digital, Culture, Media & Sport (DCMS).

DAP supports responsible, sustainable digital inclusion and transformation in five partner countries (Kenya, Nigeria, South Africa, Brazil, and Indonesia) and seeks to build relevant digital capacity in collaboration with a range of partners and stakeholders in the public, private, non-profit, and research sectors.

Since 2019, the Digital Access Programme in Nigeria has been supporting key stakeholders and partners to advance inclusive digital growth and development, build digital skills and increase access to locally relevant digital content and services, through enhancing the relevant policy and regulatory framework, strengthening the capacity of relevant institutions and organization, and testing and validating sustainable and scalable technology and business models that are key to digital development. Within this context, the FCDO will support a new DAP project to further build sustainable digital inclusion in Nigeria.

3. PROJECT BACKGROUND

The digital/tech sector is one of the fastest growing in Nigeria. Despite the COVID-19 pandemic, in 2020, the sector contributed over 15 percent to the country's gross domestic product (GDP), second only to agriculture. This continued a trend seen over the last five years, with the sector growing at 18

percent between 2016 and 2019. Jobberman [estimates](#) that the sector is on track to add US\$88 billion to the economy by 2027. So far in 2021, at least nine Nigerian digital/tech businesses have announced capital injections ranging from USD 1m to USD 170m. There is also an ongoing scramble among global technology firms and investors seeking to capture market share in Nigeria's underdeveloped but rapidly growing digital infrastructure market. Meanwhile, significant investments are being made in data center infrastructure, as well as terrestrial and subsea cable networks to improve connectivity.

This growth has also ushered in regulatory challenges with industry operators in Nigeria anecdotally reporting regulatory risk as being on par with operational challenges. The ban on Twitter in June is one of the latest examples of the recent wave of regulatory interventions that are both unpredictable and often implemented suddenly. The ban has also exposed the challenge arising from multiple regulatory bodies – NBC announces a ban for an OTT platform that is to be regulated by the NCC and where the Federal Ministry of Communications and Digital Economy now leads discussions to lift a ban placed by an agency outside its ministry. Experts say the divergent regulatory environment has limited the growth and inclusive development of the sector with policymakers recently admitting that the numerous regulators overseeing the tech sector are hampering the sector. The telecom regulators, NCC, and leading services providers have admitted to the enormous challenge posed by the current regulatory governance structure in the country. For example, the challenge of the current regulatory governance system has also hindered the expansion of connectivity and the adoption of alternative connectivity solutions like the TVWS due to the lack of/or limited regulatory collaborations between the NCC and the NBC. NCC regulates broadband but needs efficient spectrum management before it can adopt TVWS for connectivity expansion but spectrum management seats with NBC. Also, NBC must implement the analog-digital switch-over before an innovative connectivity solution like TVWS can be adopted. These two are completely outside the control of NCC. This has caused an interminable delay in implementation. The multiple digital regulatory bodies in the space have brought unprecedented challenges to the inclusive growth and development of the digital/tech sector. The United States, FCC, and the UK, OFCOM operates singular regulatory governance structures that have enhanced efficient regulatory environment.

3.1. Project Description

Digital regulatory governance is changing to accommodate digital developments and transformation. With digital transformation affecting every aspect of our lives, this also poses new challenges for

regulatory structures that have traditionally been organized on a sectoral or domain basis as is the case with Nigeria.

The project will assess the impacts, benefits and shortcomings of Nigeria's multiple regulatory bodies as opposed to single regulatory system.

The project will also focus on dynamic regulatory regime– where you have multiple players in the sector yet emphasizing the importance of inclusive and effective decision-making. Hence, it will address the critical issue of regulatory collaboration – which involves coordination among various sectoral agencies and government institutions in the digital on regulatory matters.

The project will look to develop a stable pro-investment and pro-competitive agile regulatory governance framework for Nigeria, that when adopted, will help the government to articulate digital agendas designed to include, in a collaborative and coordinated fashion, all the different issues related to the digital economy.

3.2. Project Outcomes

Within the context of the above, the FCDO will support a new DAP project on National Digital Policy Environment and Regulatory Governance Reforms. The project will aim to deliver two major outcomes: Work to recommend adoptable reforms for national digital governance that will work towards regulatory convergence and build a sustainable regulatory environment to support digital development.

3.3. Project Output / Key Deliverables

The key deliverables/output of the project shall include:

- **Research and Diagnostics on Nigeria's current regulatory governance structure in the digital sector.** This will aim to answer the key question of whether the multiple digital regulatory governance structure in Nigeria delivers best benefits for the sector in the country as opposed to singularity.
 - This research/diagnostic will assess the role and institutional design of the digital regulators in Nigeria, addressing common regulatory structures found and traditional areas of regulation identified.
 - This will also focus on individual regulator's mandate and how it can shift in a dynamic regulatory environment where you have multiple players in the sector. This research work will look at how individual entities can co-interact and co-exist with each other within such a regulatory environment, emphasizing the importance of inclusive and effective decision-making. This will also include an assessment of the 'less discussed' role of the central bank in Nigeria's digital regulatory space.

- It will also address regulatory collaboration – which involves coordination among various sectoral agencies and government institutions on regulatory issues.
- **Development of recommendations and strategy for reforms** in partnership with stakeholders with full consideration to international best practices and country-specific peculiarities.
- Facilitation of the setup of a cross Ministry-Department & Agencies (MDA) stakeholder working group to identify and proffer solutions to identified bottlenecks in the regulatory process.
- Forster inter/ cross-agency collaboration on digital regulation through workshops.

Key activities under this project may be, but are not restricted to, collaboration and co-creation workshops, learning and facilitation experiences, ecosystem meetups and capacity building activities.

3.4. Timeframe

Contract will run till March 31, 2021. Dates of deliverables will be decided at the kick-off meeting.

Key Dates / Milestones :

The FCDO are keen that this be a collaborative process so the key dates will be discussed and agreed at the kick off call at the start of the project.

Project Kick-Off.	TBC
Technical Report: Research and Diagnostics on Nigeria's current regulatory governance structure in the digital sector. Report should include technical recommendations and strategy for reforms	TBC
Facilitation of the setup of a cross MDA stakeholder working group to identify and proffer solutions to identified bottlenecks in the regulatory process	TBC
Facilitate capacity building, cross-learning with model international regulatory institutions to foster inter/ cross-agency collaboration on digital regulation	TBC
Project Closure –project completion report and lessons learnt documents	March 31, 2020

4. Project Beneficiaries

The primary beneficiaries of the project will be:

- A. **The federal ministry of communications and digital economy**
- B. The multiple digital regulatory agencies in Nigeria, particularly,
 - i. The Nigerian Communications Commission (NCC)

- ii. The National Information Technology Development Agency (NITDA)
- iii. The National Broadcasting Commission (NBC)
- iv. Central Bank of Nigeria (CBN)

5. Project Risk

There is a political economy risk around how much reforms the current administration can take up before it ends in mid-2023. However, this project has been designed to provide a foundation and a substantive input to any immediate and future work the current or a succeeding administration will want to do in this area.

6. Duty of Care to Suppliers

The ToR must include a Duty of Care section along with a completed summary risk matrix in line with the detailed requirements and approvals under the Duty of Care to Supplier Policy.

7. Safeguarding

All organisations that work with or come into contact with children should have safeguarding policies and procedures to ensure that every child, regardless of location, race, age, gender, religion, culture or ethnicity, sexuality or disability can be protected from harm. There must be protection from violence, exploitation, and abuse through involvement, directly or indirectly, in place for FCDO programmes. This includes sexual exploitation and abuse but should also be understood as all forms of physical or emotional violence or abuse and financial exploitation. Does the organisation have appropriate policies and robust procedures in place to expressly prohibit sexual exploitation and abuse and to receive, investigate and address reports of such acts?

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8. Modern Slavery

FCDO is already taking action against modern slavery through current programming, and we are working to expand our reach and scale-up successful country office and centrally managed programmes. A large number of our programmes operating through country offices look at addressing the underlying vulnerabilities of people at risk of modern slavery, with a particular focus on those within indirect supply chains.

- Strengthening evidence base of effects of laws, policies, practices on workers in high-risk industries including migrant garment and domestic workers
- Advocacy and common understanding of corrective legal, policy and procedural measures
- Information campaigns among employers
- Training and awareness programmes for direct employees and supply chain employees
- Organising workers to protect themselves and access services
- Sensitising labour recruiters on accountability for fair recruitment

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9. Disability

For FCDO disability inclusive development means that people with disabilities are systematically and consistently included in and benefit from international development. Civil Society and Private Sector partners should outline their approach to disability inclusion and how people with disabilities will be consulted and engaged throughout the project.

10. Social Value considerations

The UK Government has proposed new measures to ensure that money spent by Government on buying goods and services benefits society more widely as well as delivering value for money. The Social Value Act requires contracting authorities to evaluate how the services being procured will improve the economic, social and/ or environmental well-being of the relevant area. PROs can best achieve this through identifying suitable evaluation measures as part of programme design. In the FCDO context, social value is delivered to overseas beneficiaries through the programmes we deliver and also in the sustainable legacy that we aim to leave behind.

11. Transparency

FCDO requires suppliers receiving and managing funds, to release open data on how this money is spent, in a common, standard, re-usable format and to require this level of information from immediate sub-contractors, sub-agencies and partners. It is a contractual requirement for all Suppliers to comply with this, and to ensure they have the appropriate tools to enable routine financial reporting, publishing of accurate data and providing evidence of this – further IATI information at <http://www.aidtransparency.net/>