




**Policy Overview**

# **Towards Inclusive Platformization in Nigeria**



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IT for Change | March 2020



This report was produced as part of the research project 'Policy frameworks for digital platforms - Moving from openness to inclusion'. The project seeks to explore and articulate institutional-legal arrangements that are adequate to a future economy that best serves the ideas of development justice. This initiative is led by IT for Change, India, and supported by the International Development Research Centre (IDRC), Canada.

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**Nigeria's Platform Economy: A State of Play Report**

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## 1. Introduction: Historical and current political-economic context

The rapid growth of platforms has significant implications for all economic actors as it changes the structure of markets and the ensuing economic and social exchanges between them. The history of Nigeria is very significant for understanding how this has played out for the country, since legacy challenges in institutional development have contributed to impeding the growth of the ICT sector and reducing the country's ability to capitalize on the new opportunities of the digital economy.

During the 19th century, Nigeria was colonized by Britain. After World War II, the situation gradually changed, and the country eventually gained its independence from Britain in 1960 followed by years of military rule, with a peaceful transition to civilian government which commenced in 1999 (CIA Factbook, ND). Nigeria was originally an agrarian economy with a small but promising manufacturing sector. However, following the oil boom of the 1970s, governments, over time, gave less importance to the agricultural sector. At the same time, the country's manufacturing sector was and still is, plagued by lack of adequate infrastructure and power supply (Olufemi et al, 2013).

Despite these challenges, in recent years, Nigeria has earned a reputation as one of the fastest-growing markets in Africa and has seen an increase in literacy levels, and "a rapidly expanding middle class have driven demand for new newspapers, magazines, radio and television programs, music, film, and more recently, digital media of all sorts (*Digital reality and the future of business in Nigeria*, 2016). Economic growth, spurred by the telecommunications, wholesale and retail trade and construction sectors, has resulted in growing demand for more sophisticated financial services, internet-enabled transactions, increasing demand for media and advert spaces, social media marketing, amongst others. A vibrant youth population has also increased demand for ICT-driven products and services particularly in education, commerce, transport, hospitality, tourism, and entertainment, thus stimulating huge inflows of Foreign Direct Investment (Ezigo, 2018; Soper et al, 2012).

However, pre-existing systemic inefficiencies particular to the country, such as irregular power supply, unskilled labor, political instability and corruption, amongst others, have impeded full-scale economic development and poverty reduction. Problems such as human rights infringements, property disputes, deficiencies in policy and regulatory support and insecurity persist. Vulnerable groups (especially young people and women) largely remain unable to benefit from the growth and to attain a higher standard of living, as reported in Oxfam research suggesting that millions of young people today bear the burden of multiple inequalities, particularly in developing countries (*Youth and Inequality: Time to support youth as agents of their own future*, Oxfam, 2016). The research also reports that Nigerian women are disadvantaged in diverse areas as a result of numerous discriminatory traditional, political and socio-cultural practices (Oxfam, 2017). The Nigerian youth are another group that face the consequence of the mismanagement of the nation's resources, which is evident in the high rate of unemployment (Oxfam, 2017).

Despite reporting growth in absolute terms, Nigeria ranks behind several countries with regard to per capita income. The World Economic Forum's Global Competitiveness Report (Schwab, 2017) observes that Nigeria's macroeconomic conditions are worsening (At 122<sup>nd</sup> position, down 14 for microeconomic environment which includes Government budget balance, Gross national savings, Inflation, Government debt and country credit rating). Nigeria's inflation (131st) is high at 15.7 percent, its budget deficit (99th) has reached 4.4% percent, and institutions appear more fragile (125th, down 7), adding uncertainty to the business environment (Schwab, 2017). This means that the economic factors that influence the competitiveness of the Nigerian economy are not improving appreciably and this may hinder productivity and growth. An understanding of these contextual nuances can help to properly ground a discussion of the state of play of the digital economy as well as provide a backdrop against which current policy efforts can be reviewed and new policy interventions recommended.

Below, we look at the indices and indicators of the country's platform economy and then go on to assess its digital policy landscape. Following this, we map platformization in policy and praxis and then conclude with policy recommendations to enhance governance and inclusion. This report draws extensively on information from non-academic sources because of their ability to provide deep and practical insights on the real situation and partially because of the paucity of academic literature related to platformization in Nigeria.

## 1.1 International Indices and Indicators on Digital Economy and Society

In general, despite a favorable growth outlook, according to the International Monetary Fund (2018), Nigeria's economy remains vulnerable to oil price shocks, and it needs to improve its competitiveness and encourage greater diversification if it is to place the economy on a more sustainable growth path. One major diversification opportunity is the ICT sector (Isaac, 2017). Specifically, institutional support is required to enable competitiveness and ICT-driven growth. The issues, already touched on above, surrounding property ownership, human rights protection, corruption, policy support, and cybersecurity need to be addressed (World Bank Group, 2018). The following indices can give an idea of the current level of digitization of the country's economy (Farhan et al, D'Agostino and Worthington, 2012).

As Africa's largest economy, Nigeria ranked 62<sup>nd</sup> out of the 86 countries under review in the 2014 Web Index (the latest edition); ranking below par on all indices and sub-indices including universal access, relevant content, freedom and openness, and empowerment. At the regional level, it ranks 9th out of the 23 African countries reviewed, trailing behind Tunisia, South Africa, Kenya and Ghana among others. A look at Nigeria's ratings across the various components of the Index reveals that the country definitely has a long way to go to fully harness the potential of the digital economy to spur inclusive growth. For example, while its rating over time for communications infrastructure has risen dramatically, institutional infrastructure has remained flat. The communications infrastructure focuses majorly on the physical and communications base (such as mobile phone subscriptions, international bandwidth per internet user, broadband subscribers, and the cost of access) that allows web access. Institutional infrastructure, on the other hand, considers the extent to which organizations, institutions and government facilitate access to the web, as well as the extent to which information about them is made available on the web. (World Wide Web Foundation, 2012 p. 23). This implies that while individuals are ready to put the means to increase their web access and use, they do not get as much help as they could from the country's institutions.

Nigeria's adoption of mobile money services is very low, at 2 percent. However, there is an increase in awareness of mobile money as reported in a survey conducted by Phillips Consulting in 2013 (Orisakwe & Okeke, 2016). In addition, EFINA (Enhancing Financial Innovation and Access) reports in its 2016 survey that though mobile money usage is low in Nigeria, awareness rose to 16 percent from 13 percent in 2014 (CEFINA, 2016; Central Bank of Nigeria, 2016).

Although the country's indicators did not move overall in the Networked Readiness Index rankings for 2016 from 2015, remaining in the 119th position (World Economic Forum, 2016, p. 29), actual networked readiness improved in different dimensions. Increased mobile coverage and a slight reduction in the price of broadband helped boost the figures (World Economic Forum, 2016, p. 30). Government usage was found to have significantly declined over the course of the year 2014, and has not improved despite a new government being elected in 2015 (World Economic Forum, 2016).

Beyond the numbers, Nigerians are embracing the web in a variety of ways (Okunola, 2015). A rise in internet connectivity is being driven by the growth in sheer number of mobile phones and the increasing ability of people to use them to access the Web. For example, about 71 percent of website visitors on the leading e-commerce website, Jumia, use their mobile phones. This is in comparison to 53 percent of Jumia

African customers using their mobile phones to access the site (Chima, 2017). More people have smartphones now since the price has reduced from \$216 in 2014 to \$117 (Oloyede, 2017); with a growing 'used phone market' and the advent of cheaper smartphones due to the 2016 'Chinese mobile brands dominance' of the mobile phone market (Oloyede, 2017).

These indices are derived from broad-based analytical systems that tend to mask certain ground realities including significant policy instability and a culture of multiple mobile phone and SIM cards ownership. Even then, they aid our understanding of the areas in which the Nigerian ICT space needs a boost.

Platformization for the country presents immense growth possibilities. Yet the inadequacy of existing governance structures and a multifaceted digital divide need to be taken into account. For instance, in their paper discussing digital inclusion, Ifijeh, Iwu-James and Adebayo (2016) found that the gaps in inclusion in Nigeria are caused by unaffordability, illiteracy, digital illiteracy, rural urban infrastructural disparities and fear of internet crime and that over 98% percent of internet users in Nigeria access it through mobile phones. A 2010 country-wide literacy survey conducted by the National Bureau of Statistics estimated that of 56.9% percent of the population was illiterate; and that there was a huge variation between the urban and rural segments (urban 74.6% percent and rural 48.7% percent) (Ifijeh et al, Iwu-James and Adebayo, 2016). Access does not necessarily mean for many, however, especially if the mobile phone owner is in fact illiterate (Ifijeh, Iwu-James and Adebayo et al, 2016). According to the International Telecommunications Union Statistics, Nigeria's ICT Data between 2000 – 2017 for Mobile-cellular telephone subscription increased from 30,000 to 144'920'170 subscribers (International Telecommunications Union (ITU), 2017).

The percentage of individuals using internet increased from 0.06 in year 2000 to 25.67 as at year 2016 (ITU, 2017). Despite the constant increase, providing more insight, Orimobi (2018) asserts that less than 60% percent of Nigerians are active internet users. Nigeria needs to acknowledge this reality and seek to promote inclusion while reducing governance gaps. This requires a shift in the perception of the ICT market and the approach to policy formulation.

## 2. The Digital Policy Landscape – An Overview

The emergence of the platform economy has brought with it new forms of work, business models and market structures that are radically different from the traditional forms. However, platforms in Nigeria –as in many countries– still rely on existing policy frameworks governing the various sectors of traditional economy. These frameworks are ill equipped to deal with the novel challenges of the platform economy and of digitalization in general (De Groen et al, 2017).

While Nigeria does have a number of Acts, regulatory agencies such as Central Bank of Nigeria and Nigerian Communications Commission, and regulations concerning digital ecosystems and consumer welfare, most of these are framed outside the logic of the platform ecosystem in Nigeria because they preceded it and yet to be adapted to fit it. For example, for a platform business to have physical presence in Nigeria, it must be registered with the Corporate Affairs Commission (CAC) under the Company and Allied Matters Act (CAMA). However, this does not yet apply to platform businesses that do not have physical presences in Nigeria, such as Amazon and Twitter. This means that Nigerian regulators may not have jurisdiction over many of their operations even when they affect Nigerians and Nigeria's economy.

Besides this, there are also gaps due to obsolete legal provisions and or policy directives. For instance, existing laws do not adequately cover consumer protection, data rights, management of security and privacy tensions in the rapidly evolving forms of digital transactions. There are also unresolved questions with regard to employment and tax for platformized enterprises.

**Employment:** The Nigerian Labor Act governs employers and their contractual employees (Lawpadi, n.d.). One of the provisions mandates a written contract for employment relationships but does not cover the informal sector, which includes a good number of transportation businesses. Into this already precarious mix come ride-hailing platforms – seemingly part of the formal sector, but escaping regulation like the informal sector insofar as relationships with drivers are concerned. It is still unclear what exactly the relationship between the businesses and the drivers is. Uber and Taxify drivers in Nigeria have been known to claim that drivers are partners, perhaps because they sign on for a variety of platforms and therefore act as independent agents rather than as employees, to a large extent.

**Taxation:** Taxes are charged annually on company profits for registered companies in Nigeria. Platform businesses registered in Nigeria must pay these taxes as long as they receive money in Nigeria. However, this does not apply to platform businesses not registered in Nigeria whose products and services can be accessed in Nigeria via the internet. This distorts the competitiveness of the two channels since one has costs that the other does not have. Besides annual taxation, businesses registered in Nigeria also have to pay value-added tax based on their locations in the chain of production and/or distribution of specific goods and services. Platform businesses that are not registered in the country escape this tax net. Also, businesses in Nigeria can register as companies or as business names. Platform businesses that are registered as business names rather than as companies have to pay personal income tax. Those not registered at all avoid this as well. Yet another tax escaped by platform companies not registered in the country but operating in it is the Information Technology (IT) Tax, used to fund IT development. Under Nigerian law, ICT sector companies, amongst others, “who have an annual turnover of One Hundred Million Naira (N100, 000,000) are to pay this tax. The companies are to pay a levy of one percent (1 percent) of their annual profit before tax to the National Information Technology Development Fund (“NITD Fund”)” (National Information Technology Development Agency Act, 2007).

### 3. The Digital Policy Landscape – A Critical Assessment

The digitalization of the communications sector and the attendant legal implications have created structural and technological changes in many sectors of the global economy – communication, transportation, banking and commerce, amongst others – giving rise to the emergence and development of the platform ecosystem (Evans and Gawer, 2016; Kenney and Zysman, 2016). According to the International Telecommunications Union ICT Facts and Figures for 2017, Nigeria ranks high among the developing countries that have adopted some form of ICT development policies and regulation (ITU, 2017). However, the current legal provisions for the governance of the internet and by extension the platform ecosystem are very broad in scope, and have not always kept up with the rapidly evolving web landscape.

Since the internet and broadband infrastructures are recognized as enablers offer economic and social growth in the digital economy, basic telephony telephones with access to Internet and broadband connections are the forerunners of the platform ecosystem. Consequently, for the consumer, they often constitute the basic condition for accessibility and inclusion as well as a space for governance. Efforts to drive up inclusion are already in place. The National ICT policy of Nigeria (2012) acknowledges that broadband is an enabler of economic and social growth in the Nigerian economy and has included universal broadband coverage as the new target for universal ICT Service Provision.

To improve access, the National Communications Commission uses its operational fund- which is derived from the 2.5 percent Annual Operating Levy (AOL) the Commission imposes on some service providers- to facilitate numerous projects in the telecommunications sector. It also contributes 40% percent to the Universal Service Provision Fund (USPF) projects - a mechanism for extending telecommunication services to the unserved and underserved areas of the country (GSMA, 2014). Under section 114 of the Nigerian



Communications Act 2003, the contribution for the USP fund is sourced from monies appropriated by the National Assembly, contributions from the Commission based on a portion of the annual levies paid to Commission by the licensees and gifts, loans, aids and other assets that may specifically accrue to the fund (Nigerian Communications Act, 2003).

According to the NCC, broadband penetration was 22 percent in March and is expected to reach 30% percent by the end of 2018 (Aliogo, 2018). There is still a long way to go. Not only is this far below the 60% percent target set for 2018 in the approved national targets for broadband penetration (NCC strategic plan, 2014-2018), but also, network operators have reiterated that they will not be able to deploy sufficient infrastructure to meet the 30% percent mark (Onwegbuch, 2018). There are no reports about underutilisation of USPF, rather, there are reports from BudgetIT, a non-governmental organization, that information on the accurate figures and sources of funding are not readily available and that the USPF secretariat had a deficit of about N4.42bn in 2013 (BudgetIT, 2018). USPF had more deficit in 2013 than 2012 with more than N3bn. As at the time of the release of the BudgetIT report on *Universal Service Provision Fund: Operational and Fund Management Analysis (2018)*, the 2014 Annual reports have not been approved nor published, and the Federal Government has not appointed a Governing Board for the fund since 2015 (BudgetIT, 2018).

Meanwhile, it is reported that there are only about 90 million internet users in Nigeria, meaning that 53% percent of Nigerians lack Internet access (Adepetun, 2017). It is presumed that the unique subscription rate is in fact lower than reported, as often each subscriber owns an average of two SIM cards and, a significant portion of these users include individuals that use more than one Internet enabled device (including multiple smartphones, tablets, laptops and desktop computers etc. per individual). Even so, Nigeria's Internet penetration is much higher even at 47% percent when compared to the continental average of 18% percent.

Various challenges have made it difficult for Nigeria to achieve its targeted internet penetration levels and attain full inclusion. One major challenge is the deployment of a national fiber-optic-based network. Another remains optimizing the utilization of the approximately ten terabytes of capacity already delivered to landing points in Nigeria, to actualize the developmental goals of vision 20:2020 (ICT policy, 2012: section 7.3.3). Power cuts also often disrupt service quality and access. Some cybercafés have had to close down due to the high cost of generating power combined with the fact of people having Internet access on their phones and other devices (Freedom House, 2017). The country also experiences a digital gender divide – research has shown that poor women in Lagos were found to be less likely to have internet access than their male peers (Freedom House, 2017).

There are also major exclusions triggered by linguistic barriers (Freedom House, 2017). Nigeria has about 500 local languages (Ayeomoni, 2012) but the internet largely functions in English. Also, even on the sites where translation is available as an option, the process of translating content into local languages uses more of the user's time and data than if they/she/he could relate directly to the language of access (Freedom House, 2017).

When it comes to governance of the Internet and digital services, there are also multiple challenges including the challenge of cybercrime and the underutilization of ICTs for strengthening overall national security. For example, many cybercafés operate without a license, though it is a legal requirement (Freedom House, 2017).

The issue of cybercrime is even more prevalent in financial services using online platforms; there are recurring incidences of swindling (popularly called "yahoo yahoo") (Tade & Aliyu, 2011) and fraud. Besides

these out-and-out frauds, the recession in 2016 witnessed several schemes that promised incredible financial returns on investment and ultimately failed to deliver. These schemes tend to be addictive in nature as they feed on the greed of the victim (Aladenusi, 2017). Since the enterprises that operated the schemes were not regulated; it was difficult to establish and enforce accountability when things went wrong. For instance, in the MMM (Mavrodi Mundial Moneybox) Ponzi scheme case, the Central Bank of Nigeria (CBN) could only send out an advisory to warn Nigerians about the dangers of the Ponzi scheme which was launched in 2015 and crashed one year later in 2016 (NeFF, 2016). By virtue of being on a platform (website) without an official physical address in Nigeria, the CBN could not effectively regulate the activities of the platform. In the CBN Financial Markets Department half-year report for 2017, an interdepartmental ad-hoc committee was setup to investigate activities of MMM and other Ponzi schemes to find out ways to prevent future occurrence of such fraudulent activities. One of the recommendation made by the committee was an immediate shutdown of the websites of illegal fund managers (IFM) which is being implemented by CBN (CBN FMD, 2017). As such schemes evolve and perpetrators begin to use crypto currencies that are also as yet unregulated and partially untraceable with regard to identity, they (the schemes) could become fraudulent (Houben and & Snyers, 2018). At times, people are lured to booby-trap websites that can be used to steal or destroy the user's data.

Issues surrounding governance of the internet and digital services, especially those related to security, also limit inclusion. Fissures in cybersecurity and the prevalence of cybercrime militate against trust, which remains the bedrock of most Internet exchanges. When trust is lacking, it affects the extent to which certain services can be extended to, and accepted by, people. This is evident in the low adoption rate of mobile money services, even among the urban 'elites', and has restricted the use of e-commerce platforms as mere catalogues due to distrust of web-based electronic payment platforms and merchant authentication systems, "mobile money operations need to create a clear and trustworthy value proposition" (Donovan, 2012).

Despite these challenges and the institutional issues discussed in the first section of this report, Nigeria can count on its immense human capital potential to spur ICT driven growth and inclusive development, particularly in rural areas where brick-and-mortar infrastructure is relatively undeveloped. The country's large population means that the growing number of people trying to serve the sector keep finding people whose needs they can cater to. Yet, it must be kept in mind that, given that progress that is concentrated in the cities could have the negative effect of further widening the existing socio-economic divide (GSMA, 2015). Many rural inhabitants are also computer illiterate and there are some 87.38 million rural dwellers (at 51.4 percent in 2016, according to the World Bank development indicators) who lack adequate access to mobile communication and Internet facilities. Educational initiatives are urgently needed to help rural inhabitants acquire technology skills and literacies. Incentives and the provision of basic infrastructure from the government can also encourage both big and small online businesses to invest in serving the rural communities.

Other ways in which government and some platforms in Nigeria contribute to addressing inclusion are through digital advocacy programs and interventions (NITDA, n.d. (a)). For example, provision of affordable and accessible internet connectivity by telecommunication companies reducing price of data services, provision of computer hardware through establishment of IT Hubs, training and technical support via capacity building, e-learning facilities, indigenous web content, etc. (NITDA, n.d. (b)). Further, on the regulatory front, the Digital Rights and Freedom Bill is gradually being forged – its second reading at the National Assembly already took place in June 2016 (Ujam et al, 2016).

Another means of effecting digital inclusion is through using popular social media platforms such as Twitter and Facebook and other electronic media channels, for campaigns on matters affecting various spheres of societal life. For example, BudgIT (a civil society organization) organised/organized a campaign to increase

the National Assembly's budgetary transparency, by 'using technology to generate and sustain public interest' (BudgIT, 2016).

### 3.1 The Grounding of the Regulatory Architecture

There are different types of platforms – transaction, investment, innovation or integrated platforms depending on whether the market is two-sided or multi-sided and on the extent to which there is technology push and customer monopoly rather than a market pull and free competition for the customer (Parker et al and Choudary, 2016). Most platforms in Nigeria are transaction platforms with e-commerce taking the lead in the form of online marketplaces such as Konga, Jumia, DealDey, etc. Major innovation platforms with large third-party developer networks – e.g., Microsoft, Oracle, Intel, SAP and Salesforce, – also operate directly, or through affiliations within the Nigerian space. The third type of platform - the investment platform - is less common in Nigeria. One example is the Africa Internet Group. Three of the big players in the integrated platform category, Apple, Google, Facebook, also have a presence in the Nigerian consumer market. In an attempt to promote fairness among all players, the NCC continuously monitors competition rules, evaluates and enforces compliance by all licensees and other telecommunications services providers as well as platform providers and other stakeholders who use the services/facilities of telecommunications licensees. All licensees are prohibited from engaging in any conduct that can substantially lessen competition (Freedom House, 2017). This effort by NCC is however limited to whatever is connected with telecommunications.

Typical sources of finance for platform startups include access to local funding (loans, family and friends, personal savings, as angel investors for early idea conversion) for the very small fringe players, e.g., Yudala. Other players are funded by tech giants like Google, Facebook, Microsoft, Naspers. Yet others have access to grants and low single digit interest loans from local and international NGOs and the government. Early seed funding for startups is through venture capitalists. As far as we know, there have been no reported case of startups receiving funding through crowdfunding platforms.

While there are significant domestic players in certain sectors such as e-commerce and financial services (e.g., Konga, pagatech, MTN mobile money), there is also significant market capture by global players in ride-sharing (e.g.e.g., Uber & Taxify), information (e.g., Google) and e-commerce services (e.g., Amazon). There are of course traditional pipeline business (Stafford, 2016) alternatives in some sectors e.g., ride-hailing; but the number of alternatives in others is fast dwindling, e.g., financial services; while there are few or no alternatives in yet others, e.g., Google. Digital platform services have thus successfully provided alternatives to their brick-and-mortar equivalents as the ecosystem continues to provide ample opportunity for tech SMEs to develop innovative and disruptive solutions which could be transformed into profitable businesses. Although there seem to be some domination by global players, the SMEs are gradually developing and carving a niche for themselves. In Nigeria, there is now a 'technology hub' wave that started in Yaba, Lagos State, as the "Yabacon Valley" and gradually expanded to other parts of the country.

In the Northern part of Nigeria, the Enspire Hub, the initiative of a government agency, Abuja Technology Village Free Zone Company, started in 2009 and has its base in Abuja. Its value proposition centers on promotion of business growth and making comprehensive business services support accessible to innovative companies and individuals who subscribe to its incubation program. Enspire Hub is seen as one of the drivers for the rising number of platform companies in the Federal Capital today (Ndiomewese, 2017). There are a host of similar technology hubs across the country. Outside of the tech space, the platform model for business has also proven to be relevant for startups and MSMEs. They create opportunity for these businesses to capture a share of established markets (local, regional and international) and expand rapidly. This is especially the case with e-commerce platforms.

Nigeria's e-commerce space operates like a group of companies with similar systems and business models but within a much larger economic and social context and with supporting industries (with both platform and pipe business models) also adding to the value ecosystem. The rate at which e-commerce businesses are integrating e-payment solutions, telecommunications, logistics and courier services into their systems is prolific. They are using these to constantly improve their systems to provide an easier, safer, and faster online shopping experience; at sometimes cheaper rates than the offline equivalents. However, this question of competition and pressure on price exchanges, ironically, also makes the platform ecosystem in Nigeria a far cry from a level playing field. The benefits that come to users from participating within the platform ecosystem are impaired by the challenges to equity and fairness such as can be exercised by platform companies either to marginalize some groups or take advantage of others.

Still, many e-commerce, transportation, real estate and financial services (fintech) platforms have appeared and new entrants continue surfacing in different sectors, such as Farmcrowdy.ng and Releaf in agriculture as well as Safer Mum and Life Bank in health. The population of Nigeria provides a large enough market for everyone to find a space. Over time, a study of the survival rate of new startups could yield more insights into their market performance.

There is no specific framework to establish the regulatory approach of the policy landscape that governs platforms in Nigeria. Still, one could infer a liberal outlook in practice (which seems to be at odds with Nigeria's historically protectionist tendencies) mainly due to the inability of policy to keep pace with the rapidly changing digital landscape, given the peculiar economic and structural inefficiencies of the country. For example, the National Information Technology Development Agency (NITDA) appears to be the supervisory agency that develops the framework and rules for monitoring developmental practices of e-commerce platforms (for example, Konga, Jumia, DealDey etc.). However, NITDA is yet to gazette a single regulation for e-commerce or issue an operating license to any platform enterprise.

The current policy landscape that governs Nigeria's traditional business economy is *prima facie* what is extended to its emerging digital platform businesses. For example, the Company and Allied Matters Act and the Labour Act apply to all businesses, whether traditional or digital. The grounding frameworks for these policies rest, to a large extent, on colonial/western influence and globalization, market evolution and political considerations, and are partially oriented towards consumer protection, public interest, citizens' rights, trade and national development, etc. Unfortunately, even for the traditional economy, there are some existing gaps due to obsolete policy directives and or legal provisions.

Meanwhile, the new policy provisions that aim to promote the digital ecosystem in Nigeria are yet to fully capture the pace and trajectory of the developments in the IT sector and their implications and the associated opportunities and challenges. Current legal instruments also do not capture the risks and potential harms to citizens. This points to the critical need for greater governance while striving for inclusion.

There has been a tendency, perhaps understandable, to focus on threats from platforms to established ways of doing business. There is a growing discontent in some economic sectors, such as transport and logistics, where pressure on wages has spilled over to the offline economy. While these are valid anxieties (Kenney & Zysman, 2016), these concerns could amplify resistance to digitalization, dampening the drive for inclusiveness and heightening the development challenges associated with the evolution of digitalization in Nigeria. Further delays in inclusion carry the already-mentioned risks of "increased polarization and widening income inequalities if productivity gains accrue mainly to a few, already wealthy and skilled individuals" (UNCTAD Information Economy Report 2017) and could make it difficult for Nigeria to reap the benefits that should accrue from its platform economy.

This has a direct implication on rulemaking to create the enabling environment for the platform ecosystem in Nigeria to boom. One fundamental element of platform design must be the creation of mechanisms that establish trust between buyers and sellers. Regulation and policy could help to consolidate the efforts of the private sector in this direction.

### 3.2 Critical Gaps in the Regulatory Framework

Before the enactment of the National ICT Policy 2012, there were various uncoordinated policies and laws regulating different aspects of the Nigerian information and communications sector. The objectives of these policies and laws did not envisage and therefore failed to adequately address the emerging technological advancements and transformation of global marketplaces. Apart from the fact that these policies and laws that developed over the years in a more or less piecemeal manner are “uncoordinated and fractious in nature” (National ICT Policy, 2012, section 7.1), they have a “lack of cohesiveness and incomprehensiveness” (National ICT Policy, 2012, section 7.1.1). Consequently, they could not be relied upon to effectively underpin a level playing field for the converging ICT sector and the fast-evolving platform-driven global markets.

According to an article in [techtrendsng.com](http://techtrendsng.com)- a leading technology blog in Nigeria, “the key policy thrusts contained in the policy document are integrative reformation, enhancement of infrastructure growth as well as stimulation of the culture of ICT adoption and usage in both public and private sector. The policy views the ICT sector holistically and prescribes three government organs to handle each of the following functions respectively: Policy Administration, Regulation and Development” (Johnson, 2015).

The ICT policy gave directives regarding a new institutional structure for the communication sector and also dealt with two crucial issues: a framework for consumer protection and the role of civil society organizations. It describes the consumer as “the ultimate reason for the provision of ICT services and products” and proposed to ‘strengthen the powers of the regulator to protect consumers through a well-defined and effective consumer protection framework.’ The ICT 2012 also recognized the crucial role of civil society organizations in the ICT project and directed that government should create policies and strategies that address the challenges of civil society organizations which include funding constraints and skill acquisition. Despite these steps in the right direction, there are still some lacunae.

For instance, policy directives do not adequately address the issue of protection of consumer rights in online transactions, to ensure that the consumer has control over their personal data and privacy preferences in order to minimize detrimental impact on consumers due to loss of privacy, breaches of security, unsolicited/offensive marketing and discriminatory practices.

The digital policy framework also reflects an absence of net neutrality laws as evidenced by a move by local telecommunications providers to enforce a potential ban on over-the-top (OTT) services (The Punch, 2017). Since telecoms subscribers preferred using data services (e.g., WhatsApp Calls and Skype calls) rather than voice services to make international calls, the operators were considering restricting the services in a bid to avert their revenue drop caused by consumers using data services for calls instead of voice services. Also, at times, operators tie services together in a way that also contradicts net neutrality by favoring one app over the other and thus distorting the competitive landscape. This was the case with Airtel’s WhatsApp, Facebook and Twitter bundle in 2013 (Jackson, 2017).

Similarly, while the Nigerian Consumer Protection Act anticipates the discretionary powers of the commission over rulemaking, which it curbs by providing for public inquiry, there are no provisions in the NCA for any framework for independent consumer advocacy groups, which is a requirement for consumers’

effective participation in public inquiries<sup>1</sup>. Thus, citizens find it difficult to make any significant contribution to public inquiries of interest to them and so, such public consultations tend to be dominated by powerful services providers.

Besides, while it is within the National Information Technology Development Agency (NITDA) mandate to establish regulatory standards, guidelines and regulatory framework for IT development, monitor the use of electronic data interchange and electronic communication transactions in government, commerce in both the public, private and other sectors in Nigeria: it is yet to gazette a single regulation for e-commerce or issue operating license to any platform enterprise. This means that they have the power to regulate the platforms but have not yet fully deployed it.

On the bright side, NITDA has set up the National Information Technology Development Fund mentioned earlier, which attracts a levy of one percent of the profit before tax for companies with annual turnover of over 100,000,000 who are listed under Schedule 3 in the Act. NITDA uses the fund to execute its universal service tasks such as: to accelerate internet and intranet penetration in Nigeria and promote sound Internet governance. It is important to note that none of the e-commerce platform companies was included in the list of companies to be levied under the NITDA Act. This is because the Act was provisioned in 2007, few years before e-commerce platform companies began foraying into the Nigerian business environment, and has not been revised since then.

The Act also provides for an arbitration process that is to rely on international best practices. However, it did not expound on the proposed process nor give any indication on how its goals would be achieved. It is important to ensure that redress systems are accessible and affordable to everyone concerned; that it works efficiently and in a timely manner; and that its operators are accountable, independent and fair (CFA Institute, 2014). This is one additional way to work towards resolving the trust gaps referred to at the end of the preceding section of this report.

### 3.3 Mapping Platformization in Policy and Praxis

The main legal instruments governing the digital landscape in Nigeria have been discussed here – the National Telecommunication Policy (NTP), National Information and Communication Technology (ICT) Policy (June, 2012), the National Information Technology Development Act (NITDA), the Nigerian Communications Act (NCA). As has been established, the existing frameworks are inadequate to deal with the fast-evolving challenges of the platform economy (De Groen et al., 2017). We have pointed out that most of the laws that govern existing platform businesses were crafted outside the actual development of the platform ecosystem. The new environment renders some existing legal provisions obsolete or impracticable.

The National ICT Policy (2012) aims to give the ICT sector an enabling framework and to facilitate the country's transformation into a knowledge-based economy. It would be a basis for developing action plans, sub-sectoral policies and specific implementation guidelines as appropriate. To achieve this, the government of Nigeria set up the NITDA and the NIRA. The NITDA has the responsibility for planning, researching, developing, standardizing, applying, coordinating, monitoring, evaluating and regulating Information Technology practices, activities and systems in Nigeria. NITDA is vested with the responsibility of making policies and guidelines for IT practices, while the NIRA is a self-regulating body that manages the .ng national resource and the ccTLD (country code top level domain) name space in the public interest of Nigeria and global internet communities. NIRA is the registry for .ng internet domain names.

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<sup>1</sup> The Nigerian Consumer Protection Act has provisions encouraging formation of voluntary consumer advocacy groups under section 2. Also in the CPC report the CPC has been greatly involved in assisting aggrieved consumers in the telecoms and e-commerce sector. However, the CPC still has its inadequacies and bottlenecks.

The Nigerian Communication Act (NCA), on the other hand, regulates the communications industry by – promoting policy implementation and service delivery, encouraging investment (local and FDI), ensuring fair competition, fostering the supply chain, protecting the rights of all parties (providers and consumers); protecting the interests of vulnerable persons (disabled and elderly); and regulating the resource distribution, management, and safety for the industry (Nigerian Communication Act, 2003).

The platform economy in Nigeria is a free entry and exit system with no concrete framework that addresses the ownership structure of platforms and issues of intermediary liabilities. Nigerian laws do not explicitly address intermediary liability; however, the Nigerian Communications Act, NITDA Act and the Nigerian Copyright Act are relevant when considering intermediary liability, operations of ISPs, internet governance, data exchange and IT related issues.

The emergence of platform businesses has given policymakers and regulators reason to develop guidelines and procedures that serve consumer interest, provide a level playing ground for businesses as well as encourage investment in infrastructure and service. To guarantee open internet access, the NCC has developed an Internet code of practice. Although still in the proposal phase, the code intends to increase protection of rights and interests of providers and consumers, resolve discriminatory practices, guard against abuses, deal with offensive and harmful content, promote responsible Internet use, increase governance and keep it up to date, enhance consumer experience and provide rules for content. Protection of consumer rights is overseen by the Consumer Protection Council who is vested with authority to redress general consumer complaints through negotiations, mediations and conciliations. However, where the platform is connected or integrated to a digital payment company like quickteller, interswitch, the Central Bank of Nigeria (CBN) regulates the financial relationship aspect of the platform operators and the digital payment companies. The CBN is the main regulator for digital payment operators.

As far as labor aspects are concerned, the policy and framework in existence is the Nigerian Labour Act, LFN (2004). The same labor rules bind platform owners under the received English common law and the Nigerian Labour Act. According to Adeleke (2017), currently, in Nigeria, labour laws are relatively weak in application because it is not easy to successfully sue one's employer even if the laws are contravened. Hence, full employees are not adequately protected by regulations; and so the platform economy, which is the employment model of the future, could easily exacerbate an already deep problem. For example, some companies keep employees on contract rather than give them permanent roles so that they do not have to provide certain benefits. When the business is online, such things can more easily occur. However, not all platform businesses are expected to have employer-employee relationships. For example, as already mentioned above, many drivers in the ride hailing space consider themselves partners to the e-transport platforms rather than employees. Yet, there was an instance where two Uber drivers in Lagos, purportedly representing other drivers on the platform, started a class action suit arguing that they should receive employee benefits from Uber. If considered as employees, such drivers would appear to belong to a vulnerable group that would be subject to harsh labor laws since no law is tailored specifically to their situation. In this instance, the Nigeria Labour Act supports Uber's position (Eweniyi, 2017); as the Act states that:

*“ ‘Worker’ means any person who has entered into or works under a contract with an employer [...] but does not include [...] (d) representatives, agents and commercial travelers in so far as their work is carried on outside the permanent workplace of the employer's establishment” – Section 91.*

Nigeria has various tax laws as discussed above, for different types of businesses and has different tax agencies regulating the various revenue collection services/activities. The FIRS (Federal Inland Revenue Service) regulates limited liability companies, while the State tax revenue agency regulates the non-limited liability companies, non-governmental organizations, business names, enterprise, and personal income tax

amongst other tax activities. Thus, taxation within the platform economy in Nigeria is dependent on the nature of business activities and whether the online platform is registered as a limited liability company or unlimited liability company.

Similarly, there is no special regulation relating to digital commerce. Generic Nigerian laws of contract govern obligations under commerce or trade and an appropriate legal framework is yet to be designed and implemented to regulate trade under platforms, as stakeholders in the IT sector are in the process of discussing ways to protect consumers and legitimate online marketing companies (Consumer Protection Council, 2018). Most online platform owners have resorted to designing terms and conditions of service to protect themselves and their businesses. Competition or anti-trust law existent in Nigeria are sector specific, however, the government through the legislature is in the process of passing a holistic anti-competitive act that will be wider in scope and apply to all commercial activities including platforms/online marketplaces (Fawole, 2017).

Consequently, the emerging platform enterprises are growing under inappropriate regulation in some sectors and a lack of regulation in others. For example, the introduction of mobile money, enabling users to pay for goods and services with their mobile phones, is at a developing stage in Nigeria. While the Central Bank of Nigeria regulates the activities of all financial institutions, mobile money services which now cut across different sectors including financial services and telecommunications pose a challenge regarding the extent to which they fall under the regulatory jurisdiction of the CBN or the NCC as the mobile GSM operators were initially excluded from the scheme by the Central Bank.

As the global digital economy is growing on the basis of platform-based models, disparities in approach and or in regulation raise uncertainties and obstacles to international trade, and increase the risks in electronic commerce transactions. These can negatively affect the flourishing of new business models. Barriers to full international flow include the digital divide – 30 percent access in the developing world versus 80 percent elsewhere; variation in legal frameworks; issues surrounding data ownership, rights and cross-border data flows; costs of and limitations to international trade; and impediments to timely and cost-efficient delivery of goods (Meltzer, 2014).

The Economic Community of West African States (ECOWAS) gives importance to the issue of trust and security in platformization and sees both as essential enablers for the ICT sector to contribute to achieving the vision of ECOWAS. Hence it has come up with Community Acts, the first legislation (UNCTAD, 2016) with continental coverage for this sector, on privacy rights and freedoms as well as data protection rights. The legal framework includes Supplementary Act A/SA.1/01/10 on personal data protection, Supplementary Act A/SA.2/01/10 on electronic transactions, and Directive C/DIR/1/08/11 of 19 August 2011 on cybercrime (UNCTAD, 2017a).

This Act could prove useful for many of its Member States that do not yet have data protection laws. To start with, it has helped the African Union to craft a convention on this issue. Gradually, Nigeria and other African countries should be able to work out ways to synchronize their related laws in a way that facilitates transactions across borders.

Putting trade restrictions in place in order to protect individual privacy is allowed by the World Trade Organization's General Agreement on Trade in Services (GATS), so that integrity and confidentiality of individuals' personal data can be preserved. The agreement however cautions that this should not be used arbitrarily to cause injustice or inequity or constitute a trade barrier in disguise. Thus, the many important and positive benefits of data protection regulation are acknowledged but the danger of undermining innovation and competitiveness (and perhaps security) in the bid to assure privacy (UNCTAD Data Protection Regulations and International Data Flows 2016) is not ignored. In order to protect its developing



ICT sector, government agencies and local businesses, Nigerian government has issued a guideline (NITDA, n.d. (c)) through NITDA on content development in ICT. Thus, government has been encouraging private businesses on the need for data localization. However, some sectors in the economy still lag behind in local hosting of data (Adegbi, 2018).

The United Nations (UN) also acknowledges that information and communications technologies (ICT), electronic commerce and other digital applications are helping a growing number of small businesses and entrepreneurs in developing countries to connect with global markets and open up new ways of generating income, it also suggests that the 'winner-takes-all' dynamics in the digital economy creates a risk of widening income inequalities. The UN encourages the effective national and international policies are needed to make sure the gains are spread evenly across as well as within countries (United Nations Report, 2017).

The 'Action 1' of the OECD's 'Base Erosion and Profit Shifting (BEPS) Action plan' was an attempt (by the OECD) to identify and resolve the challenges faced by governments in establishing taxation rules for digital businesses (Adu, n.d.).

The EUs General Data Protection Regulation (GDPR) has already been adopted by some other countries – African countries should also consider this so as not to be disadvantaged when there are opportunities that require international data transfer (Dalberg, 2018). So far, a number of Nigerian private enterprises have adopted the GDPR on their own initiative. What is lacking is that the government should assess the country's need for it or for a similar regulation and go ahead to adopt/adapt as may be found appropriate.

## 4. Some Sector-Specific Issues

### 4.1 Fintech

Digital business in the financial services space have Consumer Protection Framework, Mobile Payment Systems and Credit Enhancement Schemes, Know your Customers Framework, Agent Banking Guidelines as policies and framework considerations (Ojekunle, 2018).

Also, the Consumer Protection Framework for banks and other financial institutions regulated by the Central Bank has the broad objective of enhancing consumer confidence in the financial services industry and promoting financial stability, growth and innovation. Specifically, the consumer protection framework for banks;

- Protect consumers' assets
- Ensure timely complaints handling and dispute resolution
- Ensure financial services operators put in place effective consumer risk management framework
- Empower consumers to make informed decisions
- Promote professionalism and ethics; and
- Outline the rights and responsibilities of consumers

### 4.2 E-commerce

Several policies and regulatory considerations exist in the e-commerce landscape. Some of these policies relate to data privacy, credit card transactions, advertising and taxation. As with traditional business advertising, the Advertising Practice and Sales Promotions Guideline of Advertising Practitioners Council of Nigeria (APCON) also regulates online advertising. With respect to taxation, they are meant to get

treatment equivalent to non-platform businesses. When this does not happen, it would mean that non-platform businesses bear a higher cost than platform businesses and this would cause some unfairness in their competitiveness.

Since business transactions would require that customers disclose certain sensitive information about themselves over the internet, it is important to protect them from potential hackers through careful data management. The Nigerian Cyber Crime Act, 2015 and the NITDA Draft Guideline on Data Protection contain guidelines that would help e-commerce companies manage consumer data as well as draft privacy policy and terms and conditions.

A business that accepts payments online usually would need to integrate payment gateways through their websites either through getting a merchant account or using third-party providers. Merchants and third-party payment processors are required to comply with the Payment Card Industry Security Standard Council guidelines. Created by the major card companies, including Visa and MasterCard, it is a widely accepted set of policy and procedures with the intention of securing card transactions and protects cardholders against misuse of private information.

Also, trademark regulations provide online businesses that register their trademarks with the right to institute legal action in cases of infringement, which has become easier with the surge of e-commerce business. Current policies and guidelines cover issues around tools and processes for cryptography, data management, vulnerability management, and continuous compliance and configuration management. Overall, frameworks for laws, policies and guidelines exist to protect public interest and Nigeria is gradually comprehending the gaps in the platform regulation and taking steps to bridge them across and within the various sectors of the economy.

## 5. Conclusion

In conclusion, the digital economy is affecting an increasing number of people and is a growing part of people's lives. In depth policy and legal reforms are necessary for Nigeria to successfully accomplish its ICT policy objectives and address the evolving dynamic needs in the platform economy. A lot of work is already being done in this direction but there is still more to be done.

As pointed out in this report, the dynamism in the platform economy has led to changes in business models, market structures, emergence of new forms of job creation, work responsibilities and risks (both business and security). The policy and legal reforms should be designed to regulate issues relating to registration of platform businesses with no physical presence; reform of labor and contract laws to take care of evolving contractual work relationships; protection of platform users; mass education on terms and conditions policies; continuous aggressive mass education/literacy programs for protection of data/data privacy to avoid phishing, SIM swaps and scams.

In order to build more inclusive platformization, issues like the digital gender divide and social infrastructure deficits (example power/electricity outages) can be addressed through educational and social investment programs that are grassroots-based/grassroots-oriented via massive literacy programs on benefits of platform sharing, convenience of platforms and advantages of network and distribution channels on platforms.

Consumer confidence, satisfaction and trust in platforms can be enhanced by educating users on the responsibilities required from them while using the platforms. The World Investment Report (WIR) 2017 Investment and the Digital Economy made a strong argument for comprehensive investment policy

framework for digital economy that could strategically boost inclusiveness and sustainability in the global platform economy (UNCTAD, 2017).

Although the Nigerian platform economy can be described to be at the emerging stage, the rate of expansion of the platform economy is accelerating in both public and private sectors. In the near future, platformization will become a way of life as it permeates into every sector of people's social, economic and political lives. Therefore, there is an urgent need for greater and more impactful investment by the Nigerian government and private sector into cyber security to fight back cybercrime.

Nigeria is also already gradually developing its IT hubs and innovations in ICT through private innovation companies and startups. The Nigerian government, in conjunction with NITDA, has taken the development of the Nigeria platform economy further by establishing the Office for ICT Innovation and Entrepreneurship (OIIE) amongst other sponsorship and funding programs, to promote and encourage even more entrants into the ICT space. Government has also embarked on establishment of IoT innovation centers in schools. In summary, although the platform economy system comes with its own complicated nexus of challenges and opportunities, Nigeria and the world can derive enormous social and economic benefits from an all-inclusive platform economy if adequate governance mechanisms to ensure a safe, trusted and enabling environment can be created for the platform economy to thrive.

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