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Economic and Development Aspects of Internet Governance: Africa and Nigeria as Case Studies



How can Nigeria maximize its potential?

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Tapping into the opportunities in Internet Governance to unlock Africa's economic growth potential

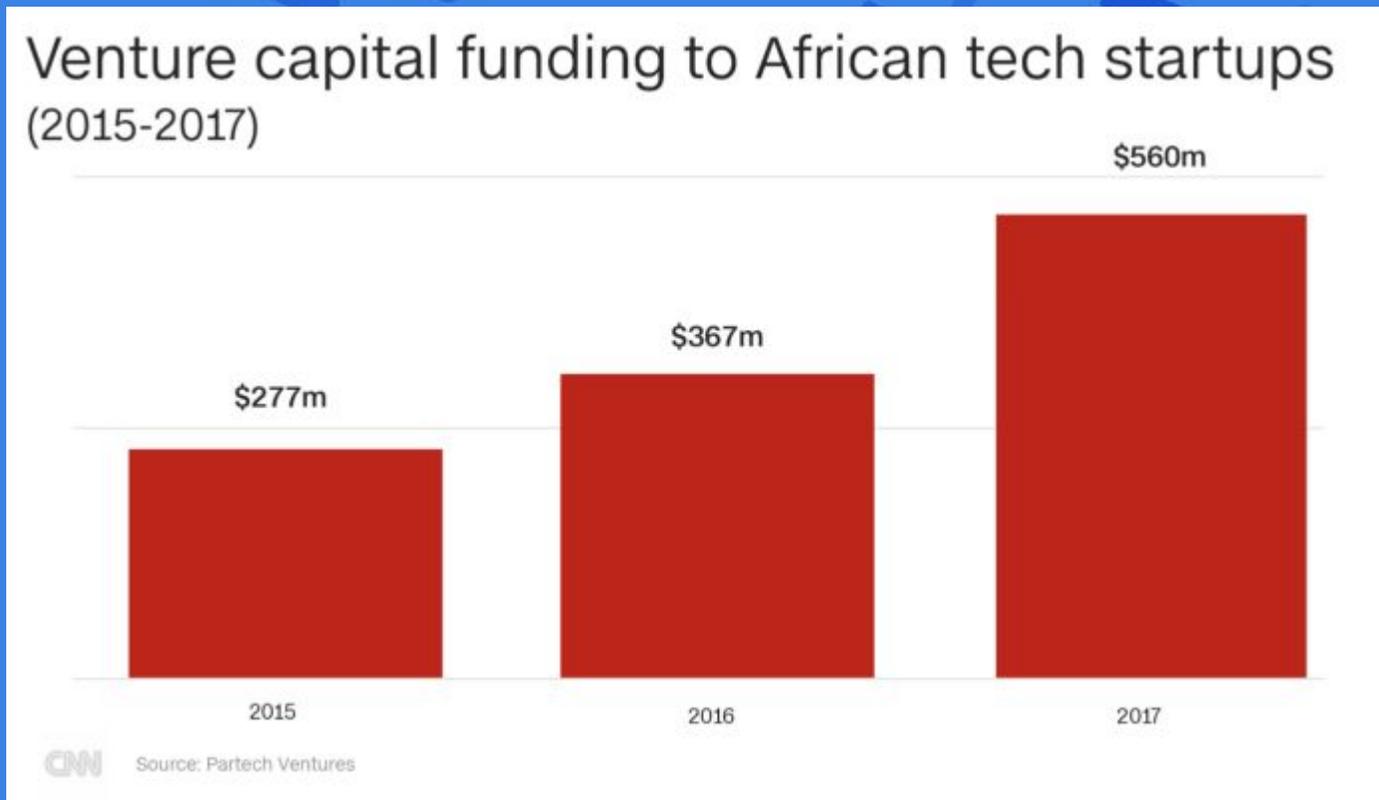
- ❑ Primer – Investment outlay in African Startups
- ❑ Understanding the intersection of Internet Governance, African/Nigerian Economy and Development
- ❑ The use of Internet in the African Economy
- ❑ Potential and Opportunities for Africa and Nigeria

“Data is the new oil and we are in the midst of the fourth industrial revolution that is driven by the internet of things. The old fossil fuelled industrial revolutions are in their dying days and we are seeing the birth of a new era that will reshape everything that we know.”

– Kate Carruthers

Tapping into the opportunities in Internet Governance to unlock Africa's economic growth potential

Like a beautiful bride, African start-ups have caught the attention of the world through their innovative product definition and growth potential. Many of them have successfully raised funds through various rounds.



Tapping into the opportunities in Internet Governance to unlock Africa's economic growth potential

Start-ups	Countries of Operation (Offices)	Funding (million US\$)
Andela	Egypt, Ghana, Kenya, Nigeria, Rwanda, Uganda, and the USA	\$91
Flutterwave	Nigeria	\$20
WaystoCap	Morocco	\$3.1
Sokowatch	Tanzania and Kenya	\$2
The Sun Exchange	South Africa	\$2.1
Lidya	Nigeria	\$8.2
Mawingu	Kenya	\$4.1
Konga	Nigeria	\$108

Source: Alex M, 'Top 10 African Startups to Watch in 2019', Noteworthy – The Journal Blog, <https://blog.usejournal.com/top-10-african-startups-to-watch-in-2019-362ccec3075a> (accessed 3/7/2019)



Understanding the intersection of Internet Governance and the African/Nigerian Economy

What is Internet Governance?

“Internet governance refers to the rules, policies, standards and practices that coordinate and shape global cyberspace.”

Internetgovernance.org

Internet Governance is important as it promotes innovation (invention + commercialisation) in the digital space.



Understanding the intersection of Internet Governance and the African/Nigerian Economy

African economy has witnessed increased growth spurred by access to the Internet which has led to the development of new products, services, etc. to meet the continent's growing population and needs. These include;

1. Democratise access to information (social media);
2. Provide superstructure upon which other infrastructures are built (broadband);
3. Increase connection between domestic and international markets (e-commerce);
4. Development of innovative products and services to meet market demand (e-learning, e-conference, etc.);
5. Ensure ease of doing business/conducting transactions (mobile money, e-transfers, etc.); and
6. Development of tailored services using users' preferences and patterns (machine learning, deep learning, artificial intelligence, etc.)



Understanding the Intersection of Internet Governance and the African/Nigerian Economy and Development

Why is Internet Governance important?

Internet Governance plays a key role in attracting investment in an Internet driven (digital) economy.

Keynote: Nigeria's Digital Economy is projected to generate US\$88 billion by 2027.

N.O Ugoeze, 'Digital Economy to Generate \$88b through Financial Services', The Guardian 11 August, 2017
<<https://guardian.ng/technology/digital-economy-to-generate-88b-through-financial-services/>> accessed 14 May 2018



Understanding the Intersection of Internet Governance and the African/Nigerian Economy and Development

Key Considerations

Will African/Nigerian Internet Governance regime reduce or broaden the existing divide between the developed and developing worlds?

How and when will developing nations be able to reach the digital levels of more industrially developed countries?

Are we merely consumers in African or active contributor to Internet Governance debate?

“In Europe, data protection is a rights issue. In the US it is trade and commerce question. In China it is a security challenge. What is in Africa? Just a “producer and consumer” issue?...”

Nnenna Nwakanma, Former Interim Policy Director Web Foundation



Understanding the Intersection of Internet Governance and the African/Nigerian Economy and Development

Challenges

- ❑ Inadequate legal and enforcement framework for Internet Governance;
 - ❑ Lack of access and inclusion;
 - ❑ Illiteracy and inadequate skillset;
- ❑ Poorly dispersed digital infrastructure; and
 - ❑ Digital risk – privacy and security

The use of Internet in the African/Nigeria Economy

African economy has witnessed immense growth through the development of new industries, sectors and sub-sectors:

- ❑ E-commerce: commercial activities conducted over the Internet – Jumia, Konga, etc.
- ❑ Data mining: deriving value through analytics using users' preferences and patterns – Factual Analytics, MSY Analytics, etc.
- ❑ Internet access: provided by Internet Service Providers (ISPs) – MTN, MainOne, Cyberspace, etc.
- ❑ Shared economy: A model which uses peer-to-peer based activity of acquiring, providing or sharing access to goods and services facilitated by a community-based on-line platform – Uber, Bolt, Airbnb, etc.
- ❑ E-banking, e-money and virtual currencies: mobile money, mobile wallets, cryptocurrency (Bitcoin, Ethereum, Facebook's Libra (to be launched in 2020)), etc.



E-commerce

E-commerce is the process of buying and selling produce by electronic means (online retail and electronic transactions) such as by mobile applications and the Internet.

Players in the e-commerce industry – consumers, businesses, government.

- ❑ Upsides for Consumers: convenience, flexibility, ease-of-access to different markets, etc.
- ❑ Downsides for Consumers: electronic fraud, product mismatch, etc.
- ❑ Upsides for Businesses: access to more potential consumers (high visibility), reduced cost of doing business, quick reaction to market trends, etc.
- ❑ Downsides for Businesses: customer reliability (pay on delivery model), trust etc.

Question: Are there any upsides/downsides for governments in the e-commerce industry? How does this trend affect jobs, planning and taxes?

Business models for e-commerce

E-commerce has evolved various models for different transactions. These include:

- ❑ Business-to-Consumer (B2C) – electronic stores which transacts directly with consumers e.g. Jumia, Konga, etc.
- ❑ Business-to-Business (B2B) – transactions between two businesses e.g. Paystack,
- ❑ Business-to-Government (B2G) – service providers that deal directly with government in the area of public procurement.
- ❑ Consumer-to-Consumer (C2C) – transaction between consumers e.g. online auction platform.

Internet Governance Issues in e-commerce Transactions in Nigeria

Legal and policy issues in e-commerce includes the following:

- Identity Management;
- Privacy and Data Protection;
- Taxation;
- Intellectual Property Rights;
- Online Advertisement;
- Consumer Protection and Competition;
- Digital Assets Transfer; etc.

Internet Governance Issues in e-commerce, cont.

❑ Identity management

Identity management is germane in e-commerce transactions. Usually, platforms require that users sign up by filing a form which elicit personalized responses. These responses often serve as security checks to prevent third party unauthorised access. Some often utilise two-factor authentication to ensure that only the owner of the account has access. However, issues of fraud, identity theft, fictitious identity, etc. are still some of the challenges faced by e-commerce operators.

IG Regulations

- ❖ Recognition of e-signature: Sec. 93(2) Evidence Act recognizes e-signature proof of execution of documents. Provisions on electronic signatures were also made in the Electronic Transaction Bill.
- ❖ Verification of Identity: Sec. 37 Cybercrimes Act – Financial Institutions are to verify the identity of their customers before issuance of ATM cards, credit cards, etc. Also to apply know your customer in documentations of customers preceding execution of customers electronic transfer, payment, debit and issuance orders. Central Bank of Nigeria's Guidelines on Electronic Payment Channels in Nigeria also contains provisions on ensuring that the identity of users are reviewed before processing large ticket transactions.
- ❖ Counter fraud measures: Central Bank of Nigeria's Guidelines on Electronic Banking in Nigeria

Internet Governance Issues in e-commerce, cont.

❑ Privacy and Data Protection

Privacy and data protection remain a germane concern in e-commerce due largely to incessant data breach. In 2017, the Nigerian Senate had alerted the National Security Adviser (NSA) on the state of cyber-attacks in Nigeria wherein it was stated that over 3,500 attacks had been carried out resulting in the loss of over \$450 million. Recently, Arik Airline's was also enmeshed in a data breach scandal which saw the hacking of it's customers' information collected between December 31, 2017 and March, 2018.

IG Regulations

- ❖ Constitutional safeguards: Sec. 37 Nigerian 1999 Constitution guarantees right to privacy of citizens.
- ❖ Credit data: Sec. 9(1) Credit Reporting Act protects the privacy rights of data subjects including their confidentiality and credit information.
- ❖ African Union Convention on Cyber Security and Personal Data Protection (signed by 14 and ratified by only 5 countries – Ghana, Guinea, Mauritius, Namibia and Senegal)
- ❖ Extra-territoriality of the European Union General Data Protection Regulation in processing the personal data of data subjects resident within the EU.

Internet Governance Issues in e-commerce, cont.

❑ Taxation

Digitization is transforming global economy and challenging established tax principles. Today, companies establish global presence without maintaining any physical contact with the jurisdictions where they operate and generate revenue. This puts to question the continued relevance of the fixed based/permanent establishment rule (which requires that companies can only be liable to income taxes only when they are present in a country where they do business/generate revenue) in taxing the income of non-resident companies as well as transactions with non-resident entities.

IG Regulations

- ❖ Applicable taxes to e-commerce transactions: Value Added Tax (VAT), Companies Income Tax (CIT), Capital Gains Tax (CGT), Withholding Tax (WHT) and Personal Income Tax (PIT).
- ❖ Domestic transactions: The Federal Inland Revenue Service (FIRS) in the enforcement of taxes on in-country digital transactions introduced e-Registration – registration of new taxpayers with FIRS for the various taxes; e-Stamp Duty – payment of stamp duties on qualifying documents; e-Tax Payment – payment of all Federal Government taxes and levies through the Nigeria Inter-Bank Settlement System (NIBSS), Remita and Interswitch; e-Receipt – receiving and verifying e-receipts generated for taxes paid through the new 3-TaxPayment; e-Filing – enables taxpayers file their tax returns through the FIRS Integrated Tax Administration System (ITAS); e-TCC – enables taxpayers apply for, receive and verify authenticity of their electronic tax clearance certificate (e-TCC).
- ❖ Cross-border digital transactions: The Federal High Court using the OECD Reverse Charge Mechanism held that cross-border transaction in digital services is liable to VAT in *Vodacom Business Nigeria Limited v. FIRS* (2018) 35 TLRN 1 (upheld by the Court of Appeal) and *FIRS v Gazprom Oil & Gas Nigeria Limited* (2018) 39 TLRN 38.

Internet Governance Issues in e-commerce, cont.

❑ Intellectual Property Rights

Intellectual Property Rights are protection the law affords to manifestation of human achievement in terms of literary and artistic works (copyright), goodwill attached to a product (trademark), inventions (patent) and design of industrial products (designs). Due to the flexibility of online transactions, these rights tend to be grossly infringed upon. e.g. digital photos, movies, songs, etc. online.

IG Regulations

- ❖ Copyrights Act: Grants proprietary rights – which include exclusive right to control the doing of certain specified acts in respect of the whole or substantial part of the work with in its original form or in any form recognisably derived from the original subject to certain statutory exceptions – given to artists, literary men, musicians and performers to exclude others from substantially copying of the material form of their works.
- ❖ Patent and Designs Act: Sec. 2(1) provides “...the right to a patent in respect of an invention is vested in the statutory investor, that is to say, **the person who whether or not he is the true inventor is the first to file, or validly to claim a foreign priority for, a patent application in respect of an invention.**”
- ❖ Trademarks Act: This protects the proprietor of a registered mark and gives such proprietor the right to exclusively use the mark in relation to goods.

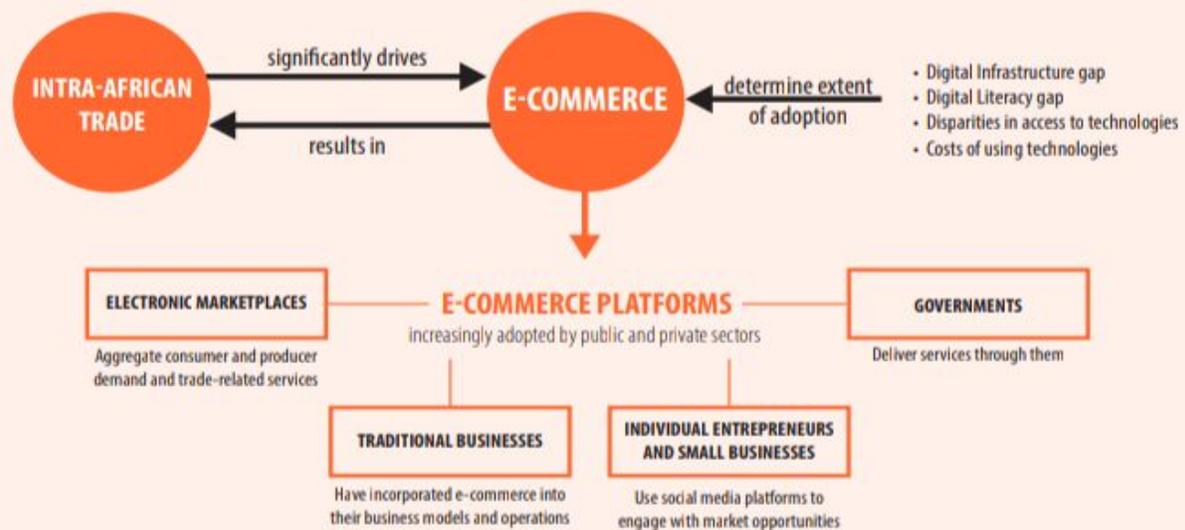
Internet Governance Issues in e-commerce, cont.

❑ Consumer Protection and Competition

Consumer is central to any given economy. Hence a known indicator of inflation is the Consumer Price Index (CPI) - which measures the percentage change in the price of a basket of goods and services consumed by households. There is therefore the need to ensure consumer satisfaction and protection from unfair and predatory market practices.

IG Regulations

- ❖ Sale of Goods Act: The 1893 Statute of General Application made provision for implied terms of conditions and warranties into every contract of sale which include; title (right to sell), correspondence with description, compliance with description and fitness for purpose. This is essentially to protect the buyers, who may be regarded as the weaker parties in commercial negotiation.
- ❖ Federal Competition and Consumer Protection Act: This law was recently enacted in 2018. Its main purport is to prevent unhealthy market practices by eliminating monopolies, prohibit abuse of dominant market position and penalise restrictive trade and business practices as well as provide consumers' rights protection (sections 114 – 133).



E-COMMERCE POLICY LANDSCAPE evolving with policies and strategies at regional and national levels

- **Cooperation between African countries:** can prevent barriers in digital space from being erected through varied regulatory approaches and can inhibit the fracturing of African countries by technology giants.
- **Consistent rules across the African continent:** can create an environment of fair competition for digital and non-digital firms, and can simplify cross-border and national e-commerce.

E-COMMERCE CHALLENGES & OPPORTUNITIES

- **BOOSTING INTRA-AFRICAN TRADE ACTION PLAN**
- **DIGITAL READINESS**
- **POLICY ISSUES**
 - Data
 - Gender
 - Inclusion
 - Cybercrime
 - Taxation
 - Informal trade
 - Consumer protection
 - The digital divide
 - Digital identity
 - E-transaction laws

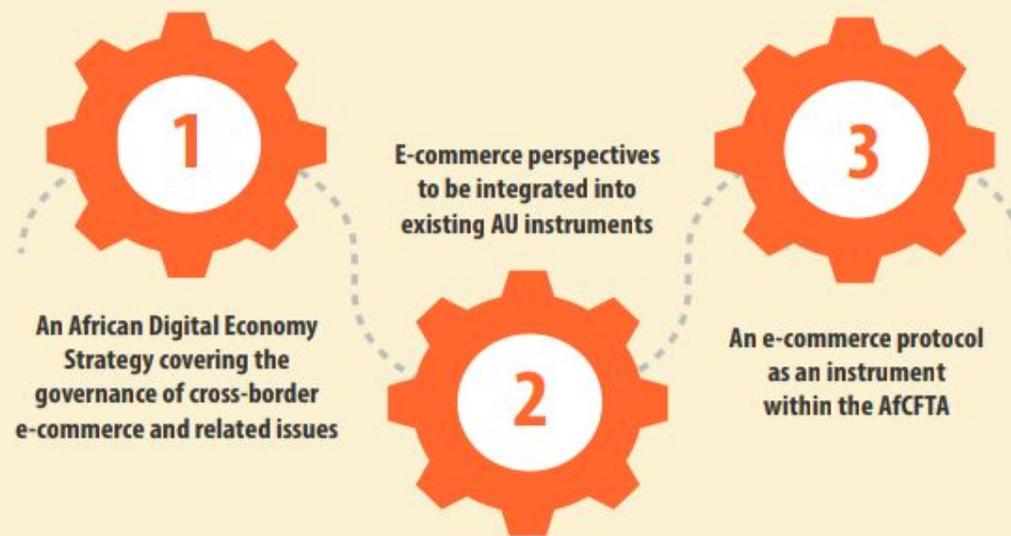
Important first step for e-commerce development in Africa: AFRICAN DIGITAL TRADE AND DIGITAL ECONOMY STRATEGY

- Seeks to enable AU member States to fully benefit from the fourth industrial revolution
- Facilitates the implementation of the African Continental Free Trade Area

Jan 2019: mandated by the AU Executive Council
Feb 2020: will be presented to the AU Assembly for adoption

POLICY RECOMMENDATIONS

Three policy options are identified for e-commerce in the AfCFTA:



Regardless of the approach taken for e-commerce in the AfCFTA



Data Mining

According to Statista (2019), Nigeria currently has more than 113.3 million Internet users up from 72.4 million users in 2017 and projected to reach 187.3 million users in 2023. This provides invaluable data for research to determinate consumer behaviour and patterns. Data mining has provided an avenue for companies in analytics to monetize the insights derived from Internet users' data. These insights are sold to advertisers (for target ads) and companies for product optimisation.

IG concerns

- ❖ Privacy issues – Data Protection Regulation, 2019
- ❖ Consent
- ❖ Data Use
- ❖ Right to be forgotten (data erasure)
- ❖ Data portability

Internet Access

Internet Service Providers (ISPs) are licensed by the Nigerian Telecommunication Commission (NCC) to users in Nigeria. However, with the entrant of Big Tech companies such as Google and Facebook in the space providing free or subsidised internet access, the issues of net-neutrality and competition have become rife.

IG concerns, policies and laws

- ❖ Competition and Net-neutrality: Sec.4(1)(b) and (d) Nigerian Communications Act (NCA) – The NCC is to promote fair competition in the communications industry; NCA Competition Practice Regulation; Draft Internet Industry Code of Practice; etc.
- ❖ Right of way - licencing fees – for laying fibre optic cables in the provision of broadband Internet service.
- ❖ Loss of call service market share to VoIP (Voice Over Internet Protocol) service providers.

Internet Governance – Potential and Opportunities for Africa and Nigeria

With the right IG policy framework and implementation, the potential in Nigeria's cyberspace will be unleashed including:

- ❑ Trust between Internet users and Governments;
- ❑ Innovation (Invention + Commercialisation);
- ❑ Investor confidence in internet-enabled businesses;
- ❑ Investment promotion and protection;
- ❑ Employment opportunities; etc.

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Thank you.

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