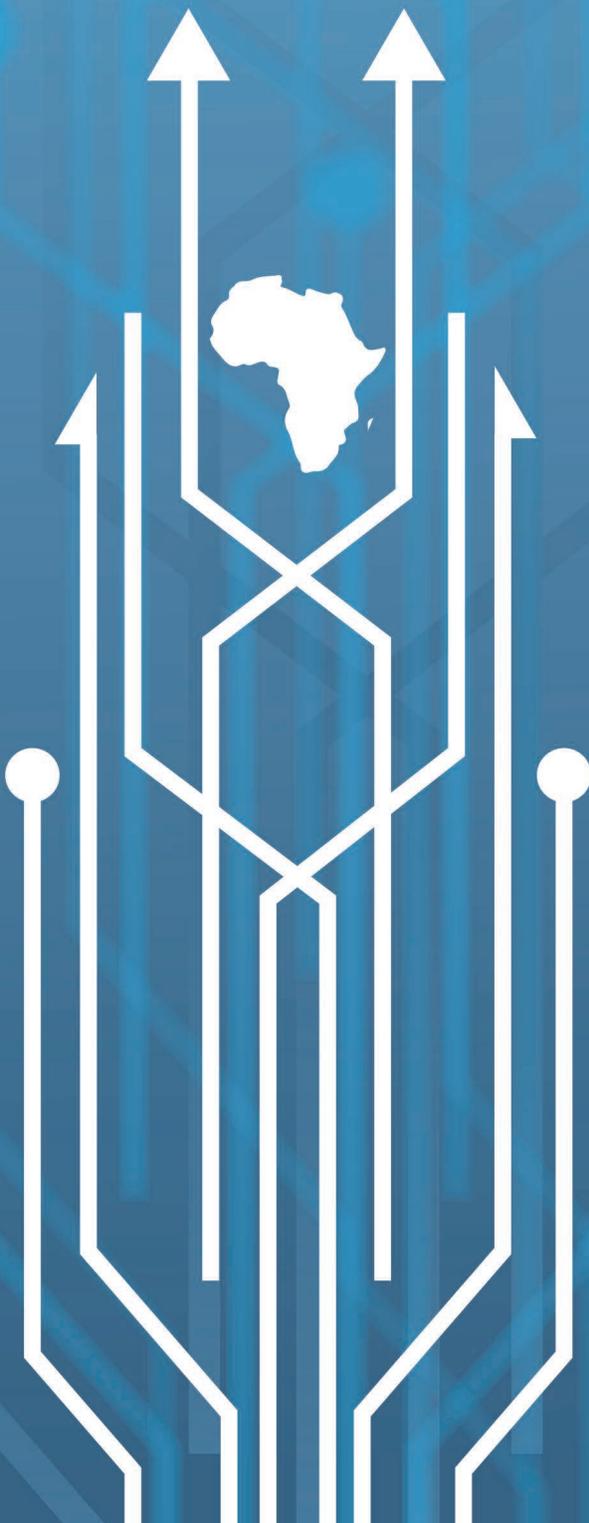


Building an _____
**Environment for Inclusive
Digital Transformation**
_____ in Africa

Roadmap to Reform

February 2021



Executive Summary

The digital economy, including cross-border services, digital trade, and electronic commerce (eCommerce), contributes to democratic and economic development by expanding market access for local businesses, promoting inclusive trade, creating jobs, and increasing tax revenue for governments to provide essential services. As the scope of digital innovation expands around the globe, so must appropriate considerations for harmonized national and regional policies and regulations to facilitate greater economic competitiveness and inclusiveness while respecting human rights and online freedom. Harnessing opportunities and limiting barriers to equitable participation in the digital economy has become even more important since the start of the coronavirus pandemic (COVID-19), which resulted in [online global data traffic rising by 20 percent](#). As people continue to rely on digital platforms and services more than ever before, it is crucial for diverse stakeholders including local business communities, civil society, media organizations, and governments to actively participate in multi-stakeholder discussions on the development and implementation of legislation and frameworks that impact the digital economy, from a national, regional, and Continental perspective.

This Roadmap to Reform of Africa's digital economy is divided into three parts. Part one highlights the findings from engagements held by the Center for International Private Enterprise (CIPE) and the Collaboration on International ICT Policy for East and Southern Africa (CIPESA) on the various opportunities and challenges related to digital transformation in Africa in September 2019 in Addis Ababa, Ethiopia. This dialogue brought together representatives from chambers of commerce, civil society, media organizations, and governments across over ten African countries. Part two explores multi-stakeholder approaches to capitalizing on digital transformation opportunities in Africa. Finally, part three presents a series of case studies that illustrate the ways in which advocacy and multi-stakeholder engagement can advance the digital economy in Africa.

Background

In September 2018, CIPE [previewed](#) its policy guide on the digital economy at the Forum on Internet Freedom in Africa (FIFAfrica18) hosted in Accra, Ghana. An initiative of CIPESA, FIFAfrica18 provided an opportunity to support public-private dialogue efforts throughout the Continent on issues related to digital rights, internet governance, and the digital economy. Following this event, CIPE and legal experts from New Markets Lab (NML) officially launched the [Digital Economy Enabling Environment Guide: Key Areas of Dialogue for Business and Policymakers](#) (the Guidebook). This resource covers four priority topics: Consumer Protection, Data Privacy and Protection, Cybersecurity, and Electronic Transactions (e-payments and e-signatures). These topics constitute much of the enabling environment for the digital economy and affect nearly every aspect of conducting business online in a responsible and secure manner. The Guidebook provides advocacy strategies for business and an overview of existing legal frameworks for regulators and policymakers.

Using the Guidebook, CIPE has supported national and regional policy fora across Africa and Asia on how the digital economy can advance shared prosperity. For instance, to promote dialogue on the governance of technology and the digital space in Kenya, CIPE hosted a forum, [Building Partnerships for Kenya's Digital Transformation](#), on October 8, 2018, in Nairobi. The forum brought together stakeholders to discuss opportunities for Kenya's digital development and expectations for the governance of data privacy. The event facilitated consultative discussions on digital economy themes, including legal frameworks, cybersecurity, entrepreneurship, and data protection and privacy. (See Case Study 2: Responding to Gaps in National Legislation and Continent-wide Frameworks on Data Protection and Privacy).

Beyond national policy fora, regional policy dialogues also provide a unique opportunity for local business communities, civil society, media organizations, and government representatives to identify cross-cutting policy considerations that support an enabling environment for the digital economy. In 2019, CIPE and CIPESA identified the adoption of the Africa Continental Free Trade Agreement (AfCFTA) as an important development that presented an opportune time to advance dialogue and consensus on how to shape and govern the digital economy on the Continent to promote greater regional cohesion, development, and competitiveness. To identify opportunities that can positively shape Africa's digital transformation, CIPE and CIPESA brought together over 35 stakeholders representing the local private sector, civil society, media organizations, and governments at the 2019 edition of the FIFAfrica in Addis Ababa, Ethiopia on September 22, 2019. This regional policy dialogue formed the basis of this Roadmap to Reform (See Case Study 1: Convening Diverse Stakeholders in Regional Policy Discussions on the Digital Economy).

The adoption of the AfCFTA has the potential to expand opportunities for small and medium businesses to enter new markets, bolster regional trade cohesion, and advance opportunities for digitally enabled economic growth. Although this agreement provides a mechanism to scale up electronic trade and commerce, the Continent still faces obstacles to inclusive development, and these barriers have only been exacerbated since the beginning of the COVID-19 pandemic. Examples of such barriers include limited access to ICT infrastructure, services, and capital, as well as inadequate or absent legal and regulatory frameworks.

The protection and promotion of an inclusive digital space requires policymakers to identify, legislate, and enforce policies that enable digital transformation. Policymakers developing such legislation benefit from consulting the local business community, academia, the technical community, civil society, as well as groups that are often excluded, such as women, youth, persons with disabilities, and citizens living in rural areas. By consulting with these groups, policymakers can better identify local priorities, constraints, and opportunities when developing and implementing legislation.

Part 1:

Opportunities and Challenges Affecting Africa's Digital Economy and Transformation

With [over half a billion](#) internet users and the rapid advancement of new digital technologies, the Continent is facing a unique opportunity to harness the power of digital transformation to enable economic growth and development. The need to advance democratic participation and broad-based economic inclusion in the digital space has also been accentuated by the recent coronavirus pandemic, as many citizens across Africa and the globe rely more heavily on uninterrupted internet access to maintain business operations and engage socially and politically. However, in Africa, achieving the full potential of the digital transformation has largely been hindered by gaps within intercontinental trade agreements and a limited array of policies that seek to address internet affordability, cybersecurity, and data governance. Often, such policies have reinforced economic and digital divides rather than offering and promoting more opportunities for diverse and underserved communities to engage in the digital space. At the same time, the adoption of legislation that hinders equal access to the internet remains a key barrier. For example, the introduction of social media taxation laws in countries such as Tanzania, Uganda, and Zambia led to increased costs associated with accessing the internet. (See Case Study 3: Using Strategic Litigation as a Tool in the Face of Internet Shutdowns and Social Media Taxes).

The key themes discussed during the regional policy dialogue in Addis Ababa included: data privacy and protection, e-payments and financial inclusion, policy frameworks for eCommerce, and entrepreneurship in the digital age, as outlined below:

Data Privacy and Protection: The rise of digital technologies and commerce has led to generating an unprecedented volume of data. As businesses, governments, and civil society organizations seek to maximize value of increased data flows, the dangers of cyberthreats, cybercrimes, surveillance, and general data misuse pose threats that require national, regional, and international action to address. At the same time, excessive restrictions on the flow of data between countries can undermine regional economic benefits if no best practices are adopted on how data should flow, be stored, protected, and disposed.

E-Payments and Financial Inclusion: Expanded access and use of mobile phones rapidly connected citizens to one another, new information, products, services, and economic opportunities. This technology has lowered the cost for financial providers to offer instantaneous business-to-consumer and business-to-business solutions such as electronic payments. Because of this digital transformation, Africa has become a global leader in mobile financial services as mobile and e-payments platforms like M-Pesa and Paga have revolutionized financial inclusion.

Policy Frameworks for eCommerce: The AfCFTA lays the foundation for expanding eCommerce by democratizing access to neighboring countries and regional trade hubs. To ensure that businesses, consumers, and African markets are competitive in the global economy, consensus regarding the governance of electronic commerce and trade is essential.

Entrepreneurship in the Digital Age: Increasingly, locally driven, sustainable economic development requires the ability of entrepreneurs and businesses to compete in international markets. The digital economy allows goods and services to be sold more efficiently within and across borders. However, opportunities for African entrepreneurs and small and medium businesses to maximize their growth potential are still emerging.

Part 2: The Importance of the Multi-stakeholder Process

Multi-stakeholder dialogue to advance constructive policy positions for an open and secure internet is key to achieving inclusive digital transformation. Public-private dialogue has been a long-standing approach of CIPE, [as such dialogue](#) “improves the flow of information relating to economic policy, in this case the digital economy, and builds legitimacy into the policy process. It also seeks to overcome impediments to transparency and accommodate greater inclusion of stakeholders in decision-making.” The Internet Society also [applauds](#) this approach as a tool to elevate diverse goals, interests, and concerns. With many African governments focused on accelerating the digital transformation, they should increase efforts to engage stakeholders including the private sector (beyond technology firms), media, and civil society organizations during the development and implementation of policies impacting the digital economy and digital rights. At the same time, local business communities, consumer rights groups, and civil society organizations must be prepared to recommend policy positions and offer comprehensive feedback on government proposals and frameworks that impact the digital space.

According to the 2019 International Telecommunications Union (ITU) [internet usage statistics](#), in Africa, only 28.8% of the population was using the internet in comparison to Europe with 83% of the population online. Within Africa, the internet penetration rates also vary greatly between countries. For instance, Kenya has an internet penetration rate of 87%, whereas countries such as Chad, Burundi, Democratic Republic of Congo, and Madagascar have less than 10% internet penetration rates ([March 2020 data](#)). Even with the low baseline in some countries, there is an increasing state-driven momentum aimed at digital transformation across the Continent. Therefore, a broader understanding of the interplay between users, service providers, and governments, as well as how these actors can work together to advance the digital economy at national and transnational levels, can be achieved through inclusive multi-stakeholder approaches.

Identifying and addressing the diverse needs of stakeholders requires not only willingness of government to solicit feedback when developing new policy and legal frameworks, but also a proactive business community and civil society prepared to advocate on issues that impact broad segments of the society. Establishing policy priorities, recommendations, and alternatives stemming from broad-based engagement can spur constructive dialogue with government and ensure business and civil society are advancing common objectives of inclusive growth mindful of the need to protect individual and commercial rights.

On the regional level, private sector organizations, civil society, and media should engage frequently with governments, international bodies, and other key stakeholder groups on strategies and initiatives to influence the digital policy arena, such as the [African Union Convention on Cyber Security](#) ratified by several countries, and the [African Declaration on Internet Rights](#). This focus on Continental instruments promotes a contextual understanding of key concerns by more actors and presents the opportunity for additional participation in governance processes. Furthermore, it would ensure that agendas for debate are localized to suit African needs and enable improved follow ups on the mandates of relevant stakeholders.

Currently, under the African Union (AU), eight regional economic communities (RECs) have been built to serve the interests of each region across the Continent. It is also upon the RECs that the AfCFTA is built. The RECs represent broader multi-stakeholder ecosystems that collectively have a role in the advancement of digital transformation, inclusion, and economic models at a regional level. They are: the [Arab Maghreb Union \(AMU\)](#), the [Community of Sahel-Saharan States \(CEN-SAD\)](#), the [Common Market for Eastern and Southern Africa \(COMESA\)](#), the [East African Community \(EAC\)](#), the [Economic Community of Central African States \(ECCAS\)](#), the [Economic Community of West African States \(ECOWAS\)](#), the [Intergovernmental Authority on Development \(IGAD\)](#), and the [Southern African Development Community \(SADC\)](#).

The RECs have invested efforts in ensuring that political, economic, and social integration – including in areas such as technological development – is prioritized by member states. For instance, in 2013, SADC adopted a [model law on data protection](#). In 2010, ECOWAS also adopted [the Supplementary Act A/SA.1/01/10 on Personal Data Protection Within ECOWAS](#). With regards to data protection, despite the establishment of the [African Union Convention on Cyber Security and Personal Data Protection](#) (also known as the Malabo Convention) it has only been ratified by five AU member states.

As many states find themselves navigating through shifts in economic landscape and advancements in technology, it is fundamental that collaborative efforts through multi-stakeholder engagements guide the decisions of the AU, the RECs, as well as individual member states on various frameworks related to the development of the digital economy. In addition to the RECs, similar multi-stakeholder groups can be created across the private sector and civil society organizations by including individuals and businesses specializing in areas such as fintech, tech development, education, consumer rights, gender equality, as well as ethical artificial intelligence and big data. (See Case Study 1: Convening Diverse Stakeholders in Regional Policy Discussions on the Digital Economy)

Using the key digital policy topics proposed by CIPE and CIPESA for the regional dialogue at FIFAfrica19 (data privacy and protection, e-payments and financial inclusion, policy frameworks for eCommerce, and entrepreneurship in the digital age), participants identified additional multi-stakeholder opportunities to engage. The following suggestions are also accompanied by case studies that outline how multi-stakeholder processes and coalitions can be used in advocacy aimed at improving digital economy and transformation across Africa.

It is also important to note that any actor/s committed to a shared goal aimed at advancing internet freedom and digital inclusion can initiate a dialogue or participate in conversations in-person or online. For example, the idea of an African Declaration on Internet Rights and Freedoms was discussed and formalized during the 2013 African Internet Governance Forum in Nairobi, Kenya, which was open to all stakeholder groups. As a result, [over 20 organizations](#) contributed to the formalization of the African Declaration on Internet Rights and Freedoms. This document is now a key resource for individuals and organizations interested in shaping the conversations around policies impacting the digital space in Africa.

Data Privacy and Protection

Digital economy and digital transformation rely on the guarantee that data shared by users is secure. This extends to the ease of cross-border data sharing, particularly for improved economic interaction. Currently, country-level and Continent-wide frameworks on data sharing and data privacy remain largely unclear. For instance, although the [agreement](#) establishing the AfCFTA mentions privacy of individuals in relation to personal data, there is room for the agreement to emphasize this priority in greater detail.

Key Recommendations:

Local Business Communities, Civil Society, and Governments

- Establish a network of individuals and organizations that have interest in advancing or improving a Continent-wide framework on data privacy. This framework should encourage cross-border data flows, while restricting the flow of certain types of personal data, such as health data and commercial bank information, without authorized approval from the individual. National governments, business, and civil society organizations should engage with the African Union and RECs to define what parameters should be included in the framework and who should be responsible for its development and implementation. The adoption and localization of Continent-wide frameworks should align with AU's mandate to create a Common Digitalization Agenda.
 - The 2011 ECOWAS cybersecurity framework could serve as a model, adapted to country specifications. The African Union Convention on Cyber Security and Personal Data Protection also provides a useful framework for data privacy and concerted efforts still need to be made by states to ratify the agreement. (See Case Study 2: Responding to Gaps in National Legislation and Continent-wide Frameworks on Data Protection and Privacy)
- Engage with stakeholders to advocate for:
 - Improved cross-border data flows that promote economic growth while also restricting the flow of certain types of personal data, such as health data and commercial bank information, without expressed consent from the individual/data subject.
 - Development and enactment of national frameworks and regulations that support data protection and privacy. Such regulations should not impede the advancement of cross-border and cross-regional development. (See Case Study 2: Responding to Gaps in National Legislation and Continent-wide Frameworks on Data Protection and Privacy)
- Increased awareness among government, business, and civil society actors around data protection best practices and cybersecurity threats to ensure that users remain safe online. An example of this could be the use of secure website protocols, such as "https" on all government and eCommerce websites.

E-Payments and Financial Inclusion

There are numerous opportunities for trade facilitation through the development of interoperability among existing (currently competing) tech-based banking and mobile money services and various blockchain technology platforms. As the informal economy remains the largest share of the economy for many African states, entrepreneurs operating in the informal sector should be a key consideration when developing e-payment and mobile banking platforms. Multi-stakeholder efforts to advance financial inclusion require coordinated advocacy initiatives to develop regional frameworks and harmonize existing platforms, and ways to improve digital and financial skills for citizens across Africa.

Key recommendations:

Government

- Encourage, create, and utilize public-private partnerships to develop regional frameworks for e-payments to allow the interoperability of existing tech-based banking and mobile money services.
- Promote awareness on secure and fair lending practices across diverse actors. This should be accompanied by strong regulatory fintech frameworks that recognize the vulnerability of the informal sector to service fees for electronic banking products and predatory lending practices (e.g., excessive interest rates placed on loans).

Local Business Communities and Civil Society

- Advocate for the harmonization of technical and regulatory policies and transaction platforms. This advocacy initiative should include representatives from mobile banking and e-payment platforms, such as M-Pesa, to inform feasible innovative solutions and to identify technical constraints of the platforms.
- Engage with technology start-ups to facilitate digital financial literacy workshops for entrepreneurs seeking to move business transactions online. Special considerations should be given to include youth, entrepreneurs from rural communities, and women.

Entrepreneurship in the Digital Economy

In an increasingly digital world, entrepreneurs and small businesses are presented with a unique set of barriers to scale operations and compete online both locally and globally. Legacy business models still dominate many industries such as banking, fast moving consumer goods (FMCG), agriculture, and manufacturing. With new technological advancements, local businesses across Africa are struggling to navigate digital opportunities especially in the growing eCommerce environment of business-to-business (B2B) services and goods sectors. Stakeholder groups including civil society, large technology companies, and fintech start-ups can support entrepreneurs and local businesses seeking to take advantage of the digital economy to grow their businesses and remain competitive.

Key recommendations:

Local Private Sector Organizations

- Engage with technology companies, civil society, and non-profit organizations that offer digital skills trainings for local businesses. Business associations and chambers of commerce can connect stakeholder groups with local entrepreneurs and small and medium enterprises (SMEs) that are interested in utilizing digital platforms to advance new business models and compete in an increasingly digital world.
 - There should be a concerted effort to provide digital literacy training workshops that specifically allow youth, women, refugees, persons with disabilities, and other marginalized groups to bring their businesses online and capitalize on new products and services. From fintech to eCommerce, online platforms can help citizens equally compete in the global digital goods and services trade.
- Produce and highlight tools and resources that can support entrepreneurs in the digital economy. Consider engaging with independent media organizations to highlight success stories and lessons learned from entrepreneurs moving business online across the Continent.
- Advocate for strong consumer protection legislation to help enhance trust in eCommerce across business-to-consumer (B2C) transactions and business-to-business (B2B) transactions that can arise in disputes around digital payments. Such advocacy initiatives should highlight the value in businesses contracting with other local companies to expand online operations.

Local Business Communities, Technology Companies, and Civil Society

- Conduct desk research and consult with local community groups to identify specific barriers that entrepreneurs face when seeking to access digital platforms.
- Engage with stakeholders to advocate for specific solutions that will improve access to digital platforms. For instance, an advocacy coalition representing local private sector and civil society organizations can encourage technology companies to dedicate resources to the translation of a specific platform or content into local languages.

Local Business Communities and Civil Society

- Conduct a policy advocacy initiative to encourage the expansion of the number of countries that have e-visas and visas on arrival to further the movement of people, ideas, and resources across borders. Key stakeholders that should be engaged in this initiative include government representatives, civil society groups, and local business communities.

Policy Frameworks for eCommerce

It will take time for eCommerce to gain traction across Africa due to the persisting policy gaps at national, regional, and international levels. This is further exacerbated by internet access and affordability problems, high costs of transportation, complex custom procedures at country borders, competition and consumer protection issues, and insufficient regional interoperability (e.g., mobile banking platforms). There are opportunities to streamline trading systems by improving digital platforms, digitizing supply chains, as well as value chains, while the harmonization of standards such as shipping payments can fast-track orders and reduce delays in business processes. Multi-stakeholder efforts to develop and improve existing policy frameworks include raising awareness on the opportunities to advance economic development through policy frameworks that support eCommerce and supporting various stakeholder groups to engage with policymakers and regional bodies.

Key recommendations:

Local Business Communities and Civil Society

- Engage with lawyers and governments to develop and adapt legal frameworks that support the expansion of eCommerce. They could include intellectual property frameworks that safeguard the ownership of start-ups, fair-trade polices that protect local businesses and producers, single window systems to facilitate trade across borders, cashless payment options, and developing tax agreements between countries and clarifying rules for taxation of eCommerce within countries.
- Advocate within member states of the African Union to ensure that the digital components of the AfCFTA specifically address how countries should work together to advance digitalization and eCommerce across the Continent. [According to the United Nations](#), “the AU will establish an AfCFTA Secretariat, which will consist of an African business council, a trade observatory, and a dispute settlement body.” Once representatives from each working group have been selected, local business communities and civil society organizations can focus advocacy efforts on the AfCFTA towards these individual working groups.
- Encourage governments to organize multi-stakeholder dialogues on how to adapt regional policies on the digital economy that fit the local context. Such discussions should include a diverse array of stakeholders, such as representatives from local private sector organizations, civil society, media, and the technical community.
- Build an advocacy campaign or coalition that focuses on advancing trade facilitation. [The Global Alliance for Trade Facilitation \(GATF\)](#) is a key example of how such initiatives can be done in a multi-stakeholder manner. Advocacy campaigns on advancing trade facilitation could focus on simplifying complex custom procedures by encouraging governments to adopt single-window systems for instance, which permit cross-border traders to submit all regulatory documents at a single location, and can expand the flow of goods purchased within the digital marketplace. In addition, the private sector and government should work together to introduce risk management systems, modernization of customs broker frameworks, and pre-arrival processing and customs bonding systems, which are key to reducing barriers to trade and supporting eCommerce.

Non-Profit Organizations, Policymakers, and Lawyers

- Build capacity among civil society organizations and local business communities to provide feedback on draft digital policy laws, regulations, and frameworks.

Government

- Promote public-private dialogues and partnerships that seek to remove barriers in digital trade.

Part 3: Case Studies

Case Study 1:

Convening Diverse Stakeholders in Regional Policy Discussions on the Digital Economy

According to the International Trade Centre (ITC), while numerous existing trade strategies in Africa identify trade integration and regionalism as crucial policy areas, “only 10% of African strategies have a regional scope” and thus limit the realization of enhanced intra-regional trade. This also impacts the feasibility of implementing strategies that rely on industrialization and access to communication technologies.

Supporting multi-stakeholder dialogues that focus on digital policy issues is essential for ensuring inclusive participation in the digital economy. On September 24, 2019, CIPE hosted a day-zero event focused on building an enabling environment for inclusive digital transformation in Africa at the [Forum on Internet Freedom in Africa \(FIFAfrica\)](#) in Addis Ababa, Ethiopia, organized by the Collaboration on International ICT Policy in East and Southern Africa (CIPESA). The purpose of the event was to facilitate a policy roundtable with public, private, and civil society stakeholders from across the Continent to discuss regional opportunities for inclusive economic and entrepreneurial development in an increasingly digital future.

CIPE and CIPESA decided to convene this event at FIFAfrica since the annual forum brings together civil society and media organizations as well as government representatives and international non-governmental organizations from across Africa and the globe. To complement this network and bring additional diverse voices into the conversation, CIPE invited ten participants representing local private sector organizations from around the region. These participants included representatives from the Common Market for Eastern and Southern Africa (COMESA) Business Council, GSMA, Africa eTrade Group, KICTANet, a trade expert from Zambia and a CIPE consultant involved in the work of the Global Alliance for Trade Facilitation, the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture (NACCIMA), and the Abuja Chamber of Commerce. CIPE also engaged closely with its regional office in Ethiopia and CIPESA to facilitate a formal partnership with the Ministry of Innovation and Technology (MINT) of Ethiopia to cohost the forum.

Approximately 35 participants from ten African countries attended, representing local private sector organizations, civil society, media, and government ministries such as Ethiopia’s MINT. CIPE also collaborated with CIPESA to organize an additional panel during FIFAfrica featuring key insights on policy priorities and initiatives gleaned from the day-zero event. Approximately 40 participants attended the panel discussion, including government representatives, and civil society and private sector organizations from countries such as Kenya, Sudan, Ethiopia, and Zambia. The events during FIFAfrica provided a platform for diverse stakeholder groups to participate in policy conversations on advancing digital transformation across Africa, and network with other organizations working on digital rights and digital economy topics.

Case Study 2:

Responding to Gaps in National Legislation and Continent-wide Frameworks on Data Protection and Privacy

In June 2014, African Union (AU) member states adopted the African Union Convention on Cybersecurity and Personal Data Protection (also referred to as the Malabo Convention), making it the first pan-African instrument on privacy and personal data protection. However, as of June 2020, **only 14** of the AU's member states have signed the convention: Benin, Chad, Comoros, Congo, Ghana, Guinea-Bissau, Mozambique, Mauritania, Rwanda, Sierra Leone, Sao Tome & Principe, Togo, Tunisia, and Zambia. So far, only eight countries have ratified it, meaning the convention is unenforceable since it requires a minimum of 15 ratifications in order to enter into force.

This policy gap on data protection at a regional level persists and could be addressed through cohesive efforts by various stakeholders to advocate for ratification by their respective states. Stakeholders representing the local private sector, civil society, as well as digital rights activists can apply pressure on respective governments to ratify the convention – particularly those states with existing data protection regulations.

In addition to advocating for states to ratify the African Union Convention on Cybersecurity and Personal Data Protection, there is a growing need for diverse stakeholders to host national policy dialogues that focus on developing or enhancing national data protection legislation. To that end, in October 2018, CIPE and Kenya National Chamber of Commerce and Industry (KNCCI) led a public-private dialogue (PPD) forum titled [Building Partnerships for Kenya's Digital Transformation](#) in Nairobi. The forum built upon the framing of the [Ouagadougou Declaration](#). The Ouagadougou Declaration was jointly launched by CIPE, the World Movement for Democracy, the U.S. Chamber of Commerce's Africa Business Center, and the Burkinabe government in an effort to enhance collaboration among business, government, and civil society to promote democratic governance throughout Africa. Using this framework, the Nairobi forum provided an opportunity for Kenyans to identify common constraints and develop solutions to expand opportunities to participate in the digital economy; articulate digital rights and principles; and discuss Kenya's current approach to digital governance. In coordination with KNCCI, CIPE produced a [white paper](#) on the policy recommendations discussed during the event. The paper focused on the two national data protection bills that were being debated in Kenya's legislature at the time. The paper outlined key recommendations for the Kenyan government, its ministries, the private sector, and civil society. It was then shared with participants and published on CIPE's website.

Kenya is at the forefront of discussions on the governance of technology, but the regulations and norms around the governance of online spaces are still in their infancy. The event provided an opportunity for public-private dialogue on establishing technology and digital policies that support inclusive economic growth and development. Moreover, the forum was a catalyst for local private sector organizations to engage with other stakeholders in timely debates on the development of data privacy law that was enacted by the government. Finally, following the event, best practices from the Digital Economy Enabling Environment Guide were incorporated into [Kenya's Digital Economy Blueprint](#).

Case Study 3:

Using Strategic Litigation as a Tool in the Face of Internet Shutdowns and Social Media Taxes

While the outlook for the digital economy in Africa is positive, it remains threatened by disruptions to digital communications in the form of social media shutdowns to partial or complete blockages of access to the internet. The impact of disruption to networks has far-reaching consequences for the digital economy including on the ease of doing business, efficiency, time, risk, and opportunity. (Note: [This resource](#) provides additional information on the economic impacts of internet disruptions in Sub-Saharan Africa).

Strategic litigation has gained recognition as a tool for pushing back against restrictions on rights to privacy, access to information and freedom of expression, assembly and association in the digital sphere in Africa. However, litigation for digital rights remains under-utilized across the Continent due to lack of effective collaboration between actors such as lawyers, activists, academia, civil society organizations and other technical experts.

A useful tool to address this situation comes out of the [Catalysts for Collaboration](#) project that outlines 12 principles in advancing digital rights campaigns using litigation. The catalysts have been used in cases such as one by the Cyber Law Initiative (U) Limited and Five Others, Versus The Attorney General of Uganda and Two Others. On July 2, 2018, Cyber Law Initiative (U) Limited and five individuals – Opio Daniel Bill, Baguma Moses, Okiror Emmanuel, Raymond Mujuni, and Silver Kayondo – sued the Attorney General, the Uganda Communications Commission (UCC), and the Uganda Revenue Authority (URA) in the Constitutional Court over an amendment to the Excise and Duty Act. The amendment introduced a tax of Uganda Shillings (UGX) 200 (USD 0.05) per day in order to access Facebook, WhatsApp, Twitter, and Viber, among other social media platforms. The case relied heavily on print, broadcast, and online [media](#) to raise public awareness and [push back](#) against the tax through encouraging the use of Virtual Private Networks (VPNs). Since the strategic litigation effort, the case was filed, and all relevant submissions have been tabled before court. However, a hearing date has not been fixed, and efforts to have the case hearing date fixed included a petition to the Deputy Chief Justice with received over 400 signatures.

The [Zimbabwean case against the network disruption of January 2019](#) and the Bloggers Association of Kenya's petition, which challenged the [Computer and Misuse Act of 2018](#) stating that it violated fundamental freedoms protected in the Bill of Rights in the Constitution of Kenya, are also examples of successful strategic litigation that can be applied in other contexts throughout Africa.

Call to Action

There has been a fundamental shift in how technology is informing and influencing both micro and macroeconomic trends in Africa and globally. Furthermore, the COVID-19 pandemic has re-emphasized the urgent need to prioritize the development and implementation of legislation that allows for inclusive participation in the digital economy. However, most policy debates that influence the way in which legislation surrounding the digital economy is shaped have not been inclusive. While mechanisms for participating in processes are present to some extent, more deliberate efforts are needed to generate awareness and increased participation by diverse stakeholders. When gaps in participatory dialogues are identified, mechanisms that elevate the inclusion of a wider scope of diverse actors in the policymaking and consultation processes must be developed.

The findings, recommendations, and case studies in this Roadmap to Reform demonstrate the numerous opportunities for a diversity of actors, including the private sector, media, government, academia, and civil society organizations, to engage in multi-stakeholder processes that advance the inclusive digital economy supported by intra-regional trade and secure data flows.

This Roadmap serves as a starting point for diverse stakeholders across Africa to advance policy discussions around the digital economy. We encourage you to reach out to CIPESA and provide feedback, resources, or additional tools that can be added to this document by emailing programmes@cipesa.org. Furthermore, if you or your organization utilize the Roadmap to facilitate multi-stakeholder dialogues, initiate policy advocacy campaigns, or develop new frameworks, please let us know at the email address provided.



About CIPESA

The **Collaboration on International ICT Policy for East and Southern Africa** (CIPESA) (www.cipesa.org) was established in 2004 under the Catalysing Access to Information and Communications Technology in Africa (CATIA) initiative, which was mainly funded by the UK's Department for International Development (DfID). CIPESA works to enable policy makers in the region to understand ICT policy issues, and for various stakeholders to use ICT to improve governance and livelihoods. CIPESA approaches its work through four different but interrelated thematic areas, namely promoting online freedom, ICT for democracy and civic participation, open data and the right to information, and contributing to internet governance debate at national, regional and global levels.



About CIPE

The **Center for International Private Enterprise** (CIPE) (www.cipe.org) strengthens democracy around the globe through private enterprise and market-oriented reform around the world in order to expand access to opportunity for all citizens and create democracies that deliver. By improving the business climate for entrepreneurs and tearing down legal and regulatory barriers through policy advocacy, including the use of technology, CIPE has supported the private sector to be driving force for reform. By working with chambers of commerce and business associations globally, CIPE has helped

businesses find their voice in policymaking on a range of issues, including advocating for democratic and economic freedoms online. CIPE is a core institute of the National Endowment for Democracy and an affiliate of the US Chamber of Commerce.

