"Technology Neutral" Regulation: Letting Technology Take the Lead

The regulatory concept of 'technology neutrality' has gained significance in an African context in the last decade. It exists, ironically, in a field that is driven by technology and technological innovation and characterised by buzzwords such as WiMAX, LTE and UMTS . Regulators have been adopting a technology neutral approach to their activities in the main through the adoption of new ICT legislation which recognises convergence – at a network, services and application level. Similar services can now be supplied on different technology platforms, and in response to this phenomenon 'best practice' dictates that regulators should not back any particular technology, but should seek to promote competition between different technology solutions.

The concept urges regulators and policy makers to approach the regulation of the information and communications technologies (ICT) sector in a manner that does not recognise or advantage any particular technology. Regulators are encouraged to make decisions that are driven by socio-economic impact and public interest imperatives, as opposed to technological preferences. However, in many ways, technology creates the very opportunities that facilitate the bridging of the digital divide and the attainment of broader socio-economic objectives. On one hand, the competition that emerges between technologies as a result of a technology neutral approach can lead to innovative approaches to solving broader socio-economic objectives; on the other the temptation exists from a regulatory and industry perspective to "back" a particular technology in the interest economies of scale and scope, and lowering costs to achieve universal service and access.

This paper will explore the way in which regulators, policy makers and industry stakeholders interpret the requirement to approach regulation in a 'technology neutral' manner. It will take a practical approach to the exploration of technology neutrality in light of 'convergence' and the regional response to this phenomenon in terms of spectrum and service licensing, universal service and access and standardisation.