

Overview of enabling legislation

Briefing

How do legislators initiate the best possible markets at the bottom of their economy? If taxpayers are not to fund the new platform, an official [concession](#) must balance:

- a) **Creating an attractive commercial opportunity for operators if they succeed in generating extensive new economic activity.**
- b) **The best possible protections and functionality, plus lowest charges, for users.**



WORK IN PROGRESS

This briefing offers a high-level starting point. It is for anyone structuring a first draft of legislation to create independent infrastructure for the full range of micro-economic activity in their jurisdiction. It aims at predictability; for operators, users and the wider economy.

This is not an attempt to create “cookie cutter” legislation. There will be wide regional differences in the rules of concessions. We aim only to list points meriting enumeration in each jurisdiction. Many of the possibilities listed should simply be clarified with a “No”. For example, there should be no market sectors universally prioritized or constrained relative to others. (Sections 2d, I + ii.)

A further level of detail to be considered: To what extent are commitments from government, and obligations on operators, to be phased? For example; the concession could stipulate “*only when X% of GDP flows through the platform must government do Y*”. Phasing hedges risk for both officials and the concession’s bidders. But the lack of conviction risks putting off users.

This overview covers legislation in a stable democracy. Possibilities for other jurisdictions are outlined in [a separate briefing](#).

Suggested sections in the legislation:

- 1) Intentions of the legislation.
- 2) Intended scope of the platform.
- 3) What will government offer winners of the concession?
- 4) What obligations will be placed on platform operators?
- 5) How will the concession be awarded?

1) Intentions of the legislation

- a) Shape a legally binding official concession that initiates a technology platform facilitating all legitimate forms of economic activity involving small transactions across our jurisdiction.
- b) Ensure said platform is robustly funded, designed and operated independently of government.
- c) Ensure funding to modernize government processes at all levels with the platform used as “connective tissue” between official processes and citizens or businesses.
- d) Spawn an open eco-system of innovators around the platform.
- e) Build the jurisdiction’s capacity, leadership, profile and attractiveness to investors as well as further other legitimate policy aimsⁱ.

2) Intended scope of the platform

- a) What geographic area is to be served?
- b) Channels through which the platform will be accessible.
- c) Which entities are permitted to access the platformⁱⁱ?
 - i. What must the registration process establish?
- d) What goods or services can be traded on the platform?
 - i. Are any sectors to be prioritized by the platform?
 - ii. Are any sectors to be banned, or constrained, on the platform even though legal off-platformⁱⁱⁱ?
- e) Is a [Maximum Average Transaction Size](#) to be maintained?
 - i. What rules ensure against artificial atomization of transactions (structuring the market to unnecessarily turn big purchases into multiple small ones)?
 - ii. How is any surplus generated by commission on oversized transactions to be allocated^{iv}?
- f) What [range](#) of trading mechanisms are expected?:
 - i. How will mechanisms be allocated to transactions?
 - ii. Additional specific functionality for shaping transactions:
 - Journey/delivery construction.
 - Storage and distribution hubs.
 - Insurance on transactions.
 - Purchased holds: buying the right to purchase or rent a specific resource in a given timeframe.

- g) What is the scope of functions to support transactions:
- i. Identity validation.
 - ii. User accounts.
 - iii. Standardized contracts.
 - iv. Payments transfers and secure escrow.
 - v. Dispute resolution.
 - vi. Tracking and rewarding of user reliability.
 - vii. Facilities for intermediaries:
 - “Employers of record”
 - Educators
 - Unions
 - Trade bodies
 - viii. Support for interventions.
 - ix. Assurance of seamless interoperability of all sectors on the platform.
 - x. Catalogues of products/services.
- h) What is the scope of data to be output by the platform:
- i. Granularity and anonymization^v.
 - ii. Who can access system data?
 - iii. Analytics capability.
- i) What official functions are to be enabled by the platform:
- i. Tax calculation and collection.
 - Within transactions on the platform.
 - Outside the platform’s own transactions.
 - ii. Welfare/stimulus disbursements.
 - iii. Emergency readiness.
 - Everyday emergencies (handling 911/999 issues).
 - Officially declared states of emergency.
 - iv. Economic stabilizers.
- j) Are any additional financial facilities mandated:
- i. Mainstream currencies to be handled.
 - ii. Alternative currencies or parallel economies.

- Can the platform run its own parallel economy and, if so, on what terms^{vi}?
- k) Are any non-revenue generating functions are mandated for the platform:
- i. Voting.
 - Official elections.
 - User-generated petitions.
 - ii. Social and professional introductions or networks.
 - iii. Volunteering/timebanking.
 - iv. Protected markets: sub-markets for vulnerable communities.
 - v. Formation and dissolution of partnerships between users.
- l) Rules covering display to users by the platform:
- i. What languages must the platform interact in?
 - How sophisticated must its translation capabilities be?
 - ii. Accessibility functions for users with a range of impairments or limitations.
 - iii. Compatibility with which browsers, devices, screen sizes and distribution channels is required?
- m) What outputs are required to ensure platform accountability^{vii}:
- i. Publication of system code / code inspection^{viii}.
 - ii. System performance / capacity analytics.
 - iii. Reports to users^{ix}.
 - iv. Whistleblower pages^x.
- n) To what extent are external applications drawing on all - or part - of the platform's data or functionality to be supported:
- i. How much of the platform's functionality is available to external Apps?
 - ii. Maintaining user control of their data.
 - iii. Operators' rights to set standards for Apps reliant on the platform.
 - iv. On what terms can functionality developed by external providers be replicated in the main platform^{xi}?
- o) Must the platform interface with any other platform:
- i. Platforms existing at the time of the concession's award?
 - ii. Platforms yet to exist^{xii}?
 - iii. Platforms outside the jurisdiction, particularly in neighbouring territories?
- p) Is any extraneous use of the platform's core functionality to be permitted^{xiii}?

3) What will government offer winners of the concession?

- a) Public spending that will be channelled through the platform.
 - i. Terms on which that spending will be allocated to go through the platform^{xiv}.
- b) Which official databases will the platform be permitted to interface into:
 - i. Identity validation.
 - ii. Licencing and certification of individual, organizations and resources.
 - How will the platform be updated in changes of status to a licence or certification?
 - Access to “negative records”^{xv}?
 - iii. On what terms can the platform look up a user’s records on an official database?
 - iv. What must the platform do to preserve integrity of those databases?
- c) Courts and arbitrators: to what extent can the system hand disputes between users off for official rulings?
- d) Is any prime placing in distribution channels assured:
 - i. On the web^{xvi}.
 - ii. Mobile devices.
 - iii. Interactive TV.
- e) What promotion budgets and channels are assured for the platform through official channels to target groups:
 - i. Businesses.
 - ii. Citizens.
 - iii. Tourists.
 - iv. Government employees.
 - v. Investors.
- f) Legal clarity:
 - i. Operators’ right to make decisions about platform structure, displays, navigation and wording^{xvii}.
 - ii. The platform’s status as a counterparty in trades it enables.
 - iii. Operators’ responsibility for content posted by users.
 - iv. Operators obligations regarding off-platform interactions with individual users^{xviii}.
 - v. Operators’ rights to assert their independence:
 - Protecting user data^{xix}.

- Freedom from off-the-record government or military attempts at control.
 - Obligations to report any attempts at improper influence over the platform by any outside body^{xx}.
- vi. Circumstances in which any citizen or business might be compelled to use the platform^{xxi}.
 - vii. Ownership of the platform^{xxii}.
 - viii. Is there any cap on operators' income or profitability^{xxiii}?
 - ix. Specific offenses against the platform^{xxiv}.
 - x. Operators' right to refuse to disclose details of system security, emergency planning or other details that might undermine the platform's ability to protect its users.
- g) Recognition of the official importance of the platform:
- i. The platform is granted priority status in official emergency planning^{xxv}.
 - ii. Government agencies class the platform as vital infrastructure in dealing with cyber attacks and other threats to the jurisdiction.
 - iii. Right to trademark a platform name highlighting its official status.
 - iv. Access to government logo's.
- h) Are there any specific initiatives government will fund that boost the platform^{xxvi}?
- i) Are there any additional benchmark payments to operators that might be triggered^{xxvii}?
- j) Uniqueness of these facilities: Could they be extended to any other channels in any circumstances?
- k) Phasing of these facilities: Are they all available immediately or are some subject to usage targets being reached?

4) What obligations will be placed on platform operators?

- a) Funding obligations: What must the successful consortium pay for:
- i. The platform
 - ii. Non-platform costs:
 - General digital infrastructure for the jurisdiction^{xxviii}:
 - Cabling/internet transmission
 - Devices or kiosks for public access to the platform.
 - Validation or training of potential users.
 - Support for strugglers in the market.

- Marketing / advertising for the platform.
- Any sum deposited with new users to kickstart their buying.
- Support / subsidy for non-users^{xxix}.

b) What public service obligations are place on operators:

- i. Operating businesses and their employees cannot buy, sell, set prices or take any position in markets run by the consortium.
 - Individual executives and their households cannot personally trade in markets they oversee.
- ii. Mandating of a [franchise model](#) to dilute power of the winning consortium: Is the winning consortium permitted to run individual market sectors on the platform? Or must they recruit independently financed franchisees to do this?
 - Any reference to “Operators” in the legislation encompasses the core consortium and their franchisees.
 - Who is eligible to be a franchisee?
 - Structure of franchising contracts and remuneration.
 - Permitted support for franchisees.
 - The winning consortium’s rights in respect of franchisees it deems underperforming.
- iii. Independence of operators: Aside from relationships with suppliers paid in cash or equity, must operators be structurally and financially free of any contractual ties or other obligations to any external person or body^{xxx}?
- iv. Transparency mandate: Are all significant purchases, salaries and commitments relating to the operators to be published openly?
- v. Must changes of ownership by any part of the operating consortium be published?
 - What changes are banned?
 - In the event of a banned change of ownership, or other exclusionary action, by a member of the consortium what rules govern possible replacement of that member?
- vi. Resilience obligations: Are operators obligated to be part of government’s emergency preparation planning and drills?

c) Constraints on revenue sources:

- i. What sources of regular income are permitted to operators within the jurisdiction in which the platform operates^{xxxi}?
- ii. What additional sources of income are permitted to operators outside the jurisdiction in which the platform operates^{xxxii}?

d) Protection of users:

- i. Equality of users: Are all users are to be treated equally except if eligibility or reliability is used for ranking, or sanctions are being applied after a transparent dispute resolution process?
 - ii. Do users own their data on the platform:
 - The platform can exploit users' data within its permitted aims, but only with each user's permission and ongoing control.
 - Any user can exit the platform and wipe their data at any time^{xxxiii}.
- e) What protections are mandated for non-users of the platform^{xxxiv}:
- i. Constraints on other channels: will any other channel for trade be constrained except by not having access to the benefits bestowed by the concession^{xxxv}?
- f) Platform standards:
- i. Within what geography must platform servers and data be physically located?
 - ii. What percentage of uptime must the platform maintain?
 - In what circumstances are downtime permitted?
 - iii. What penalties are applied if there is a security breach on the platform?
 - iv. What precautions against system failure are to be made public^{xxxvi}?
 - v. What percentage of spare capacity must operators maintain in readiness for surges in usage?
- g) Interaction with regulators: which authorities are entitled to inspect the platform to ensure compliance with the concession^{xxxvii}?
- i. What must operators do to facilitate those inspections?
- h) Phasing of these obligations: Are they all mandated immediately or are some dependant on usage or operator revenues reaching defined benchmarks?

5) How will the concession be awarded?

- a) What rights are the initiating authority assuming to award the concession^{xxxviii}?
 - i. Operators' rights in the event of a change of status by the initiating authority^{xxxix}.
- b) For how many years does the concession run?
 - i. Is there a start date specified for the platform or is it at operators' discretion?
 - If a date is set, what penalties are to be applied for non-compliance?
- c) Criteria for consideration as an operating consortium:
 - i. Are solo bids permissible?
 - ii. Is there payment for consideration^{xl}?

- iii. Will a consortium's financial capability be a criteria for eligibility:
 - Is payment of a bond to fund re-assignment in case of breach of concession demanded from a winning consortium?
 - iv. Must technological / operational capability be proven to a certain benchmark?
 - v. Permitted nationality of members^{xli}.
- d) Help given to eligible bidders:
- i. Access to costing information^{xlii}.
- e) Criteria for selection of the winning consortium from all eligible contenders:
- i. Mark-up charged on each transaction^{xliii}.
- f) Who decides the winner^{xliiv}?
- g) The process of awarding the concession:
- i. Process for filing a bid.
 - ii. Timetable for award.
 - iii. Handling of any tiebreaker.
- h) To what extent will details of bids be made public?
- i. Winning bid.
 - ii. Unsuccessful bids.
- i) Notification of a winner.
- j) Rights to appeal for a non-winner.
- k) Circumstances in which the concession could be withdrawn from a winning consortium and re-awarded:
- i. Public warnings preceding termination.
 - ii. Announcement of potential termination.
 - iii. Obligations of the outgoing concession holders in the event of a re-award^{xliiv}.

ⁱ Explicitly stating the new markets are to be structured to minimize emissions caused by transactions (in markets for journeys for example) or address any ethnicity-based inequalities could be possibilities here.

ⁱⁱ Can convicted felons use it? Companies in receivership? Organizations on a register of hate groups? Broadly, we recommend the platform is universally accessible but any organization registering must prove official recognition as a charity, company or other body that could be pursued in law by a buyer in case of breach of contract.

ⁱⁱⁱ This section should clarify tension between the Principle of Maximum Usefulness (operators must offer every possible service of which a sophisticated platform is capable) versus policymakers' desire to protect established institutions (e.g. banks, fintech start-ups, labor platforms, charities, big employers, public agencies) from alternatives for customers.

^{iv} Options are covered in our Maximum Average Transaction Size [briefing](#).

^v A crude rule on the need to balance detail with user privacy might be: "Any search of historical transaction data in which more than 25% of the returns relate to one buyer or seller is to be blocked." This should stop enumeration of one user's activity by forcing wider searches. If triangulation (entering overlapping multiple searches) could be used to deduce a user's activity, that must be blocked.

^{vi} This clause could stipulate, for example, any parallel economy within the system must be restricted to localized purchases from individual sellers – not companies. Policymakers' aim might be to ensure a system currency doesn't undermine the jurisdiction's main money supply.

^{vii} These are system screens designed for anyone wanting to verify the platform is complying with its obligations. The pages are also used to ensure operators have no preferential access to data generated within the system.

^{viii} This is technologically challenging. The ideal is that anyone believing the platform is distorting search results, listing options with bias, or otherwise straying from its ideals can (a) read the code the operators claim is running the platform (b) match the claimed code to the code in use, perhaps by running test transactions.

^{ix} This could include operators' recommendations to any body (official or otherwise) on how to further exploit the system. For example: operators could file a twice-yearly report of policy recommendations listing taxes they would like to see minimized, or tapered, to increase platform usage. The key point is there can be no hidden back channel to policymakers, all lobbying by operators is reported on these screens.

^x These could be public pages within the system on which only staff working for operators can post. Posts are anonymized but visible to anyone looking at the pages. Operators can post a response to each post, but not remove or edit it. The idea is to allow staff to alert users of any breach of system integrity while allowing managers to respond with rebuttal so users can make up their own minds about the accuracy of any assertions.

^{xi} This clause will be a hot button issue for the software community. If platform operators are tardy about developing functions that drive transactions within the permitted [Maximum Average Transaction Size](#), they may find App developers doing it and charging users a premium. That could complicate transactions and deter usage. So developers of the main system will seek to replicate what has been built. What is the balance between fostering external innovation and maintaining a fully-featured, cohesive, platform? One option: set a formula by which operators are entitled to buy functionality from external developers using the platform as their foundations. The formula could cover costs of development, trajectory of uptake, and potential commercial value for both parties. Final prices to be paid may need setting by a judge. There seems no way round this. But the right formula would (a) encourage outside-the-system inventions (b) penalize operators slow to develop their platform's full potential.

^{xii} A key protection for users here is a stipulation the platform must interface fully into any other platform launched for the jurisdiction also with official backing. This could be an issue if an alternative authority initiated another platform with the same aims for example one launched by the European Union when a member state already has their own domestic markets platform. By ensuring they could be seamless for users, the two would function as one.

^{xiii} The system will have functions that serve the wider economy outside its focus on creating transactions. For example, it will have a standard contract for creating a business partnership between two users. Should that also

be available for extraction by anyone wanting to form such a partnership outside the platform? It would cost operators nothing but diminishes the system's value relative to off-platform options.

^{xiv} An obvious pair of stipulations might be: (a) wherever possible, public purchasing will use the platform's ability to atomize requirements, so – for example – government offices stop buying annual cleaning contracts which can only be fulfilled by corporate outsourcers and start buying 50 cleaners each day using the platform's tools to ensure reliability and compliance (b) once this is done, any government department can justify not purchasing through the platform if better value is demonstrably available elsewhere. Some government purchasing can't be atomized, to the point where a market for small transactions could meaningfully provide them; submarine components for example.

^{xv} A "negative record" is one the user to which it pertains would rather the platform not know about. For example, if an individual wants to list in the babysitter market, can the platform check they do not have a criminal conviction relating to children? Assume the over-arching rule is; the platform can only look up a user's record in an official database with the user's permission. How does it handle a putative babysitter who won't allow a check for negative records? How does the software handle the user's record if it is allowed to look up and finds a conviction? The easiest way round this is to adopt positive certification, for instance the UK's [Disclosure and Barring Service](#) which issues certificates of worthiness to engage in regulated activities. It means employers – or a platform – does not need to look for criminal records and handle the results of that search.

^{xvi} This could be as simple as offering the platform a .gov URL. Or it could encompass front page placing on all official websites.

^{xvii} It is important operators are free of legal challenges about the way the markets present to users. They can experiment, refine, even make mistakes; as long as they have no other motivation than increasing usage or increasing consortium revenue within the terms allowed by the concession. (An action against them can succeed if any aspect of platform design is shown to be motivated by ideology, allegiances outside the operating consortium or prospects for an executive's personal gain.)

^{xviii} It is strongly suggested operators are freed from the need to respond to approaches by individual users. Engaging in individual correspondence could become costly and prejudicial to neutrality. Franchisees can take public feedback in the platform's own open chat forums, legitimate bodies in any sector can be consulted, with any resulting decisions published. But operators should have no commitment to take up individual issues in closed correspondence.

^{xix} The concession could make clear law enforcement can, in no circumstances, access a user's transaction history. But this might be deemed too purist. A man who has booked an overnight stay may want his whereabouts revealed if there is a family accident. A reasonable compromise would seem to mirror rules for authorities forcibly accessing a private home in most democracies: a warrant must be obtained from a judge and the person affected must be informed the warrant exists. The platform can enforce this.

^{xx} This section aims to keep operators free of any gray area in dealings with government or any body attempting to curtail their neutrality. It compels them to list even the perception of any improper approach on their Platform Accountability pages.

^{xxi} Operators will want to ensure users never feel they are forced to use the platform which could undermine usage by the majority. So, government should undertake to continue paper voting and other non-platform channels to vital civic functions. (It should be permissible to make collection of public assistance conditional on using the platform. Most governments now insist on some online system being used to collect welfare. The relationship is akin to an employer mandating their staff use a favored IT system.) It is core democratic functions that must not be abrogated to the system alone.

^{xxii} This will be key to attracting bidders to the concession, particularly in the initial territories. If it is clear the operators own the software they create and can sell it in other jurisdictions, they will have a stronger business case for investing. That rule needs to be subject to the "orderly handover" clause in section 4 if terms of the concession are breached.

^{xxiii} This section could explicitly state "No", operators do not have to fear windfall taxes or other countermeasures if they are able to unlock more economic activity than anticipated.

^{xxiv} When domestic color printers reached new levels of sophistication, governments compelled manufacturers to build in [software](#) making it hard to use them to counterfeit currency notes. Thus, legislation recognized banknotes as official and to be exceptionally protected. Comparable legislation for an official markets platform could include specific offences around mimicking designs, URLs or devices associated with such a platform. But the international element of this likely fraud would make enforcement challenging.

^{xxv} This ensures, for instance, if the national electricity grid fails, operators along with hospitals and other vital infrastructure are prioritized for supply of what electricity there is.

^{xxvi} There will be already commissioned projects that government will continue funding for example around departmental modernization. These should be listed to help bidders budget the costs of winning the concession.

^{xxvii} There will be outcomes from the platform deemed desirable that aren't reflected in its income from transaction charges. Job creation for example, or savings from government efficiency. These outcomes could be incentivized with additional payments; for example, for everyone who transitions out of the platform into a full time job. These payments are not advised, they could push operators to focus on out-of-market outcomes to the detriment of market users.

^{xxviii} This might be as basic as funding universal broadband (which would add significantly to operator costs and therefore system charges). It would be difficult for operators to fund internet infrastructure that could only be used to access their platform. The platform would be a low user of internet transmission capacity compared to say, movie streaming.

^{xxix} When Uber began its dominance of mini-cabbing, commentators pointed out taxi drivers in some cities had paid thousands for medallions allowing them to operate. As value of those medallions crashed, it was suggested rideshare companies compensate taxi operators for loss of what was the primary economic asset in many cases. An official e-markets platform will likewise, damage some assets relating to a previous era. This section outlines anyone who should be compensated by the operators.

^{xxx} To tap the resources of global corporations likely required, the members of the consortium are simply suppliers to the consortium. So, for example, Microsoft could provide the software running the platform and receive an equity stake in the consortium. But they can't have preferential rights in helping platform users interface into Microsoft's products. Nor can they see the platform reflects Microsoft designs or conventions.

^{xxxi} It is strongly suggested this is limited to a fixed percentage mark-up on each transaction within the boundaries of a [Maximum Average Transaction Size](#). Charging for market entry or preferential display, selling data, adding charges at checkout, volume discounts and other routine aspects of current business models will generate skewed markets, or at least the impression that the platform could be operating distorted markets.

^{xxxii} Any exploitation of user's data or access to official facilities in the jurisdiction are obviously off limits. But the consortium should be free to sell its expertise and software to other territories.

^{xxxiii} Counterparties in their transactions would retain a record of who they traded with. But system operators would have no centralized record.

^{xxxiv} Operators have to minimize their impact on individuals and businesses who chose not to use the platform. A key provision – for example – might be that they must publish plans for upgrading markets sectors three months in advance. That would allow, for example, concert ticket re-sellers to know when the platform was going to launch new features allowing buyers and sellers to trade with more sophistication without using offline intermediaries.

^{xxxv} This should definitely be a No. Operators need to constantly ensure users trust their platform. That's best enforced by ensuring alternatives could spring up very quickly if they failed.

^{xxxvi} Examples might include failover sites and their power-up times. All of this could be checked by any user.

^{xxxvii} This could obviously be an existing or new authority within the jurisdiction and/or, because government intervention needs to be guarded against as much as operator malfeasance, international body could be stipulated.

^{xxxviii} The Initiating Authority is the body that establishes the concession. Typically, it would be a government. But in [some cases](#) it could be a supra-national body. It needs to spell out to bidders the legal basis on which it is issuing the concession.

^{xxxix} How does a winning consortium know their concession will survive change of government or hostile takeover of the jurisdiction? Specifying a (willing) international body to whom concession enforcement would pass in case of collapse of democratic rule would be one possibility here.

^{xl} If policymakers are determined to avoid any taxpayer funds being spent on setting up the platform, they could mandate a charge for bidding consortia, or recoup the costs of concession award from a winning group of companies.

^{xli} A jurisdiction may specify only corporates based within its – or allies’ – boundaries are eligible to bid. It’s a play off between maximizing the regional advantage generated and getting the widest competition for the concession.

^{xlii} Any consortium bidding for the concession will need to cost the obligations they would be taking on, for example making government databases interoperable with their proposed platform. Allowing rival teams of experts to probe these systems – for example – will facilitate informed bids.

^{xliii} The aim of the concession is obviously to create the most stable, capable, consortium and ensure they deliver the best value service throughout the jurisdiction’s economy. Bidders could be invited to set benchmarks for usage or turnover but both would be inherent in the percentage mark-up they need to charge within a [Maximum Average Transaction Size](#). Qualifying bidders might specify what they would charge if successful, the lowest wins the concession.

^{xliv} A panel of experts who publish the bids and their deliberations seem obvious. But there could be an element of public voting between rival bidders, perhaps during a one-off broadcast? This would drive excitement and legitimacy of the process, but could add considerable costs to bidders who would almost certainly seek to out-advertise each other.

^{xlv} An obvious demand is that a constantly updated copy of the system code and data be held in escrow on secure servers inaccessible to operators or government. In case of re-award of the concession, government could obtain judicial permission to hand control of this back-up facility to a new awardee.