

Concept Note for National E-Commerce Policy

i. Context and Background – The reason/rationale for proposing a new policy

Like any emerging and developing economy, e-commerce is a relatively new phenomenon in Bhutan and many people have started engaging in providing services and entering into transactions in this sector. While few entrepreneurs are engaged in selling their products online in cross-border transactions, these are largely limited to goods and services of tourist value. Yet it is expanding fast as evidenced by the number of licenses being issued for e-commerce start-ups and related activities. E-commerce presents both opportunities and challenges for the private sector, regulating institutions and consumers. Opportunities in terms of increased access to markets and exports, access to suppliers, access to global value chains, productivity, competition, better consumer choice and jobs, and challenges in terms of fraud, adaptation cost, loss of tax revenue, job and so on have to be considered. Hence, there is a need to have a policy, which will enable the private sector to reap the benefits offered by e-commerce and also to guard against risks posed by it.

There are no existing policy frameworks/regulations stipulating e-commerce regimes. The ICT Industry Development Plan (iDzodrak) and the e-Gov Master Plan recognizes e-commerce as one of the key priorities of the RGoB that would allow Bhutan to take advantage of the opportunities provided by the information technology to overcome the logistical and geographical barriers. The Information, Communication and Media Bill have included a chapter, with general provisions concerning the recognition of data, digital signature, privacy and cyber security. The 12th Five Year Plan places emphasis on promoting business opportunities through e-commerce.

Hence an overall policy is required, to put in place a strategy to optimize the benefits of e-commerce, which includes enhancing competitiveness by improving productivity and service delivery. It would set the necessary stage for having regulatory framework and recommend appropriate law(s) to govern and facilitate e-commerce in the country.

ii. Critique of current policy options and approaches:

As e-commerce is a new phenomenon in the country, there are currently no policies or regulations that will address the shortcomings of unregulated e-commerce. Without an appropriate and holistic government policy, there are many risks that would be difficult to manage such as cyber crime, data protection issues, copy right issues, general consumer protection, electronic payment and security issues, tax erosion issues, dispute resolution issues, exclusion of rural areas and so on. Also the policy intends to take care that it is used as one of the key tools for export promotion and avoid “cheer leading” imports to the extent possible. It will also provide direction and promotion of the ecommerce sector which is currently developing largely unregulated.

With an enabling policy environment for online transactions and commitment from the stakeholders, including the government and private sector, e-commerce can become one of the drivers of economy. Through this project, the RGoB strives to harness the maximum potential of e-commerce for sustainable economic development by making the e-commerce phenomenon more inclusive and beneficial by deriving the maximum benefits offered by the digital economy. At the same time it is also aimed at avoiding possible distortions that could be caused by uncontrolled and unregulated e-commerce.

As e-commerce opportunities expand rapidly and more businesses and consumers are affected, it is imperative to have policies that can harness e-commerce for sustainable development. The policy seeks to create conducive environment in maximizing the benefits of online trade. The policy will seek to ensure that there is inclusivity in the distribution of the benefits of e-commerce especially those living in rural areas.

The Policy will provide strategic direction for having a robust legal and regulatory frameworks and ensure that electronic transactions is regulated, there are provisions for data protection/privacy online, consumers are protected and cybercrime is prevented to the extent possible.

iii. Policy Recommendation

While ushering of e-commerce brings with it numerous advantages and opportunities like boosting entrepreneurship, job creation, productivity, investment attraction and increased trade, increase of exports, diversification, huge market access, streamlining trade liberation and building competitiveness, these advantages /benefits are not automatic. Hence the national e-commerce policy of Bhutan seeks to address the whole ecosystem of e-commerce as comprehensively as possible so that no important sectors is left behind due to lack of government policy. The policy will seek to address the risks associated with digital trade.

The policy will take care that trust for online trade is ensured without stifling innovation. It will also take care the any policy interventions or lack of policy interventions does not “cheer lead” imports into the country while failing to facilitate exports.

The formulation of the policy will be pursued through the Enhanced Integrated Framework budget support as a part of their E4Trade project. It is already part of the annual work plan as approved by the national steering committee where the GNH Commission is a member. It is also part of the Ministry’s APA 2019-2020. There will be no major resource requirements during the policy formulation. Also as the result of the policy, there are no direct financial costs anticipated at the moment. However, much collaboration among the agencies and stakeholders required during the formulation of the policy and implementation phase.

iii. Integration of GNH and cross cutting issues

As per UNCTAD, for women entrepreneurs in particular, the internet improves access to information mobile technology and enables new payment channels and access to finance, and ICT-enabled solutions to help them overcome time and mobility constraints, to become trained, and to network. E-commerce provides women with new business opportunities and can help increase their participation in domestic and international trade. For instance, women weavers in rural areas can get the opportunity to trade directly with national or international consumers without having to rely on male family members, as their own mobility is restrained due issues and obligations of being a women.

Women can be empowered by increased participation in e-commerce, including in the higher value added sectors of the ICT industry and ICT-enabled services. Gender equality can be promoted through digital leadership. Also, more disaggregated data on women's participation in the digital economy and e-commerce will help shape and assess policies to improve their situation.

There will be no direct impact on the environment. The benefits of e-commerce on the environment such as reduced paper works by taking it online, less printing reducing deforestation which contributes to global warming, reduction in overproduction and so on are achieved. However, it may entail increased delivery trips for faster delivery services, such risks can be addressed through encouraging the use of existing facilities and services.

E-commerce provides opportunities to the all sections of society if there is a proper policy intervention to have inclusiveness as an essential strategy to empower the poor in getting access to services.

Further integration of GNH will be ensured during the formulation and also during the Policy screening process.

v. Process and indicative timeline

The Policy and Planning Division, Ministry of Economic Affairs will take the lead in the formulation of the Policy. A multisectoral task force has already been formed to provide inputs into the drafting of the Policy. Since it is a new Policy and the Ministry does not have adequate expertise in this area, international experts will be recruited to draft the Policy. They will be supported by domestic consultants and the multisectoral task force to ensure that e-commerce in Bhutan is cognizant of the local context infused with international standards in all its facets.

Since the Policy is to be drafted under a time bound project, various pre-formulation activities such as formation of taskforce, desk reviews, consultation meetings, identification of consultants among others have already begun.

TIMEFRAME

The indicative timeline to submit the Policy to the Government for adoption will be as follows:

Indicative Timeline	Activity
October 2019	Submission of Policy Concept Note to GNHCS
October 2019(within 2 weeks)	GNHCS reviews concept note and seeks clarifications from MoEA. If no clarifications required, puts up to Cabinet for approval.
October-November 2019	In parallel and in line with APA and the project annual work plan, desk review completed, task force formed, stakeholder consultations initiated.
December, 2019	Final draft report of consultants submitted to Ministry.
Jan-Feb, 2020	Policy tabled for approval and final discussions in the Ministry
Jan-Feb, 2020	GNH Screening of Policy, preparation of action plan and policy protocol report completed
March-April, 2020	Submission of final draft to GNHCS
May 2019	Based on COS and GNHC directives, Policy submitted to Cabinet for approval

Numerous relevant policies/acts and regulations will be reviewed and stakeholders consulted for the formulation of the policy. Currently, few Government documents such as the 11th FYP /12th FYP, E-government Master Plan, Draft e-government Policy, Bhutan ICT Roadmap etc., stipulates the need for national e-commerce policy framework. No conflicts have been seen in current policies and regulations. However, any amendment of policies/acts/regulations to upgrade it to be applicable to electronic trade will be proposed in detail after the formulation of the policy in consultation with the relevant stakeholders. The formulation of e-commerce policy will seek to ensure to the extent possible that traditional form of trade and electronic trade are accorded equivalent form of support and protection by the relevant institutions.

List of stakeholders for consultation

1. Ministry of Economic Affairs (Office of Consumer Protection, Department of Cottage and Small Industries, Department of Industry, Department of Trade, Department of Intellectual Property)
2. Autonomous agencies such as BICMA
3. Ministry of Information and Communications
4. Royal Monetary Authority

5. Financial Institutions
6. Telecommunication Companies
7. Private Sector/BCCI
8. Postal /Courier Service Providers
9. Consumers

vi. Major impediments or risks foreseen in the development of the policy

No major impediments have been foreseen for the development of the e-commerce policy as it is part of the Ministry's 12th Five Year Plan and the Annual Performance Agreement. Further, an eCommerce guideline was already launched this year at the BEFIT 2019 which is a precursor to the Policy and an interim measure until the Policy framework is in place. Funding for the formulation of the Policy has also been secured under the Enhanced Integrated Framework project and thus there are no cost implications to the RGoB.