

SPEAKING NOTES
IIC Roundtable on Emergency Powers in Times of Disaster

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One of the effects of the Covid-19 disaster is that the shift to school, work and many other activities online has focused attention on the consequences of lack of connectivity or unreliable connectivity. Thousands of children have been deprived of an education and workers have been excluded from the workforce because they have no connectivity to the Internet and /or digital devices. Covid-19 has therefore exposed a bifurcated society of digital elites and commoners. It has also reinforced the very important role which free to air broadcast media play in the disaster risk resilience framework, particularly in emerging economies, where radio and television are the default media for many people.

But the media are also susceptible to disasters and none more than the current pandemic. So, it is of great concern that Covid-19 has been catalytic in many traditional media entities becoming unviable, a trend which was long underway but is now hand in hand with the spread of disinformation, conspiracy theories, info-wars, and competing narratives and ‘truths’ about the pandemic, coupled with other abuses of social media.

These challenges make it necessary for regulators to double down on the promotion of digital literacy, as one of the tools in the disaster response regulatory toolbox. The problem is that in jurisdictions where the legislation is not modern, there is no mandate for the regulator to have oversight for

digital literacy. That is the situation in Jamaica - but we have given a liberal interpretation to the spirit of our legislation - and treat digital literacy as a natural progression in the protection against harmful use of media.

We had the problem of a number of bogus 'cures' for the Covid-19 virus being circulated; this was extremely damaging as some people believed them and so did not follow the guidelines from the Ministry of Health and Wellness. The Broadcasting Commission, as part of its digital literacy work, launched a campaign to alert people to the dangers of fake news, and to develop their capacity to detect and trace deliberately harmful fake news items.

We are also hosting a webinar series which look at the opportunities and challenges in the digital space as people have been forcibly shifted online to work and do business.

If it was ever in doubt, Covid-19 has made it pellucid that regulators must work with policy makers to build knowledge societies, which is also about the building of disaster risk resilient societies.

Finally, in Jamaica, the regulator has a responsibility to ensure that broadcasters operate in compliance with their content standards obligations, particularly truthfulness in news reporting.

The broadcaster is also under a licensing obligation to transmit emergency messages, as requested by the Jamaica Information Service or such other Government Agency as may be designated by the Office of Disaster

Preparedness and Emergency Management. There is also provision in law which empowers the government to take control of broadcasting facilities during a state of national disaster, with provision for compensation.

We should bear in mind that a force majeure event can excuse a licensee's non-performance of obligations, if the non-performance is by reasons beyond the reasonable control of the licensee, such as acts of God including floods, earthquakes, hurricanes, other severe weather conditions or a pandemic such as Covid-19. Regulatory forbearance is therefore one of the most important regulatory tools to be used during times of disaster.

NOTES

1. We need to think about disinformation in wholistic terms. It is not only a communication challenge in social media policy and regulation. It is also a disaster mitigation and security issue.
2. This pandemic has created a bit of an inflection point for the global economy and community. We are asking ourselves important questions about the lessons learnt and what changes we need to make. Five important lessons have been learnt:
 - I. Good information systems and communications networks are vitally important. The countries that appear to have done best at

controlling the virus without damaging their economies are those that best understood the importance of information systems, such as Taiwan and South Korea which linked their health and travel databases, which meant that they could immediately see who was at risk and do the necessary contact tracing.

- II. The opportunity must be taken to migrate to an all-digital economy, which is an increasingly essential component of competitiveness in the modern world. Shortly after the pandemic began the Government of Jamaica expressed its resolve to proceed with the Digital Television Switch-Over process, This is an example of the type of industry clarity about the way forward which is necessary. Countries must decide on the kinds of investments that are required to modernize their telecommunications and media infrastructure.
- III. The pandemic demonstrated the vital importance of a trusted, free-to-air, public broadcasting system. In many countries, people turned to the established broadcast media for reliable, authoritative information and advice, and also out of a sense of national unity; a gap that social media could not fill adequately or at all.
- IV. The pandemic made it clear that it is essential to deal with the enormous damage caused by fake news. Digital literacy needs to be included in the regulatory toolbox.

- V. It is necessary that the government should have its own capacity to deliver public service broadcasting, education and health services in a public health, natural disaster or security crisis. These services should not be dependent on the goodwill of private enterprise.