

BHUTAN INFO COMM AND MEDIA  
AUTHORITY

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POLICY AND REGULATORY INTERVENTIONS  
FOR SMOOTH DEVELOPMENT OF E-SERVICES  
IN THE COUNTRY

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## List of Acronyms

Government	Royal Government of Bhutan
Act	Bhutan Information, Communications and Media Act 2006.
Authority	Bhutan InfoComm and Media Authority
MoIC	Ministry of Information and Communications
DoIM	Department of Information and Media
MoEA	Ministry of Economic Affairs
BIPS	Bhutan ICT Policy and Strategies
BIMIS	Bhutan Information and Media Impact Study
DITT	Department of Information Technology and Telecom
ICT	Information and Communications Technology
IT	Information Technology
G2C	Government to Citizen
G2B	Government to Business
DG+	Democratic Government Plus
Mbps	Mega bits per second
Gbps	Giga bits per second
PC	Personal Computer
NSB	National Statistics Bureau
SBO	Service Based Operator
FBO	Facility Based Operator
ISP	Internet Service Provider

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## **1. Introduction**

In the past decade, the telecommunications and information technology (IT) sector in Bhutan has experience rapid development. The international Internet bandwidth has increased from 10Mbps in 2005 to 5Gbps in 2015, with a total of over 300,000 Internet users(MoIC Annual Report, 2014). Additionally, the Internet users now use various mediums to access the Internet, from being mainly computer (PC) based to now include various devices such as PCs, tablets, mobile phones etc. (BIMIS, 2013). These various access mediums has not only given the opportunity to access the Internet anywhere and on the go, but also given rise to a different mechanism via which services can be delivered to the public.

In the case of Bhutan, with its dispersed population that is divided by its geographic challenges such as high mountain passes, information and communications technology (ICT) is seen as a powerful tool in assisting the already existing mechanisms to disseminate information and bring about efficiency, transparency and accountability in delivering services.

As is generally the case, the development of new services either complements or replaces already existing services and also questions the sufficiency and competency of the existing regulatory environment. Therefore, the purpose of this study is to investigate and analyse the new Internet based services, known as e-services, and examine whether existing rules and regulations are adequate to govern and regulate these new services. Additionally, it will look at the policy implications not only with respect to the rules and regulations but also the government initiative in advancing ICT innovations. The study will also investigate the relationship between the new e-services and the traditional modes of service delivery and whether the relationship is complementary or a threat and the impact such services would have, particularly on the print and broadcast media.

### **1.1 Methodology**

The methodology involved a mix of quantitative and qualitative methods. Quantitative data was collected through literature research and qualitative data was collected through stakeholder consultations. The stakeholder consultations were met in person to get their views, suggestions and feedbacks.

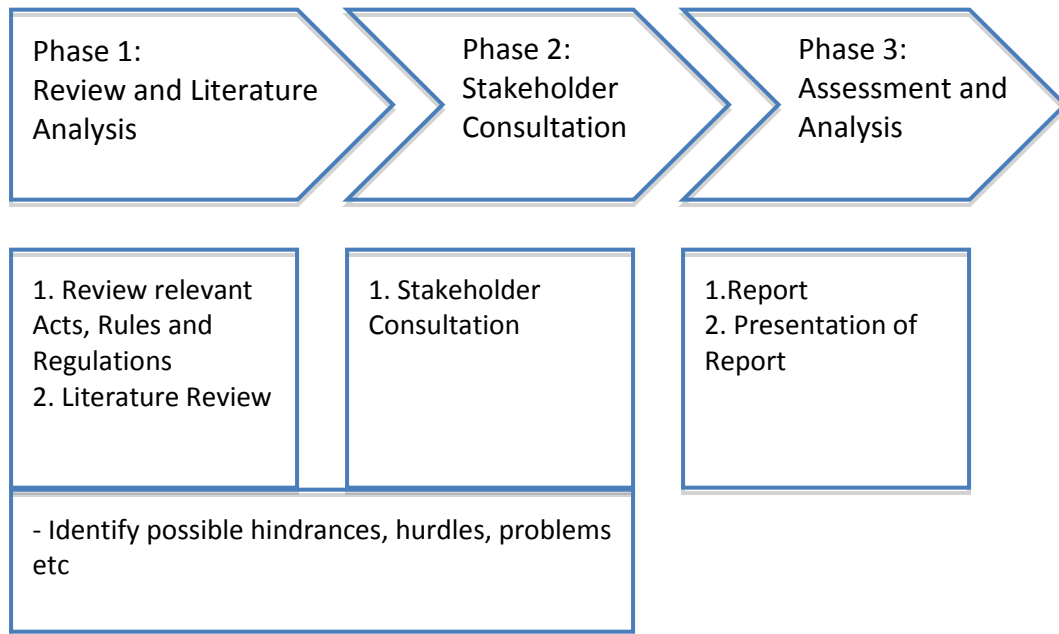


Figure 1: Methodology

## 2. e-services: An Overview

The development of ICT sector and the growing ubiquity of the Internet has not only brought new innovative means of delivering services, but also new words and terminologies both in day-to-day use and in formal use. This section thus goes into the discussion and definition of e-services and its development, growth and its use in the government and private sector.

### 2.1 e-services: Origin and Definition

The rise in the use of ICT services has given rise to the use of “e”, which stands for electronic, and services delivered electronically has come to be referred to as e-services and under the Act, is considered an ICT Service. The two dominant areas of e-services can further be categorized into e-Government or e-Commerce and the Act defines them as follows:

*“Electronic Government” or “e-government” or “e-governance” means giving to citizens with the use of ICT the choice of when and where to access Government information and services.*

*“Electronic Commerce” or “e-commerce” means a commercial activity that involves buying, distribution of products and services, leasing, licensing, marketing, production, publicity, promotion, selling or otherwise providing a product or service online, including over the Internet, and this includes soliciting donations and operating contests and clubs.*

Given that e-services is considered an ICT facility, the briefly defined it as follows:

*“ICT Service” means any or all of the following services: information technology services, like Internet service, web-casting, e-mail and all sorts of e-services, Internet Protocol (IP) telephony, digital library and commercial information services, network-based information and related specialized professional services provided by electronic means*

## **2.2 e-services: Its Development and Growth**

The development and growth of e-services is generally seen to go hand in hand with the development and improvement of ICT facility and technology. However, for the adoption of e-services and other technological innovations, the citizens have to be educated and technologically savvy (SakariTaipale, 2013). In Bhutan, with more than 50% of the population before the age of 35 (NSB, 2005) and the growth of Internet bandwidth and facilities coupled with growth of subscribers, has given to the rise of the growth of e-services in the country. Furthermore, the preamble of the Act also states that the authority will “encourage and facilitate an increased use of ICT for new e-services”.

Given such initiatives within the provisions of the Act, the growth and development of e-services in the country is only set to increase, not only within the government but in the private sector as well. e-services in the government and the private sectors are discussed in the subsequent sections.

## **2.3 e-services in the Government**

e-services delivered by the Government is generally termed as e-government. In the case of Bhutan, with its dispersed population coupled with the geographic challenges of the country faces, e-services is seen as a powerful tool by the government to achieve its aim and objectives

of efficiency, transparency and accountability as well as giving real time access to services to the public.

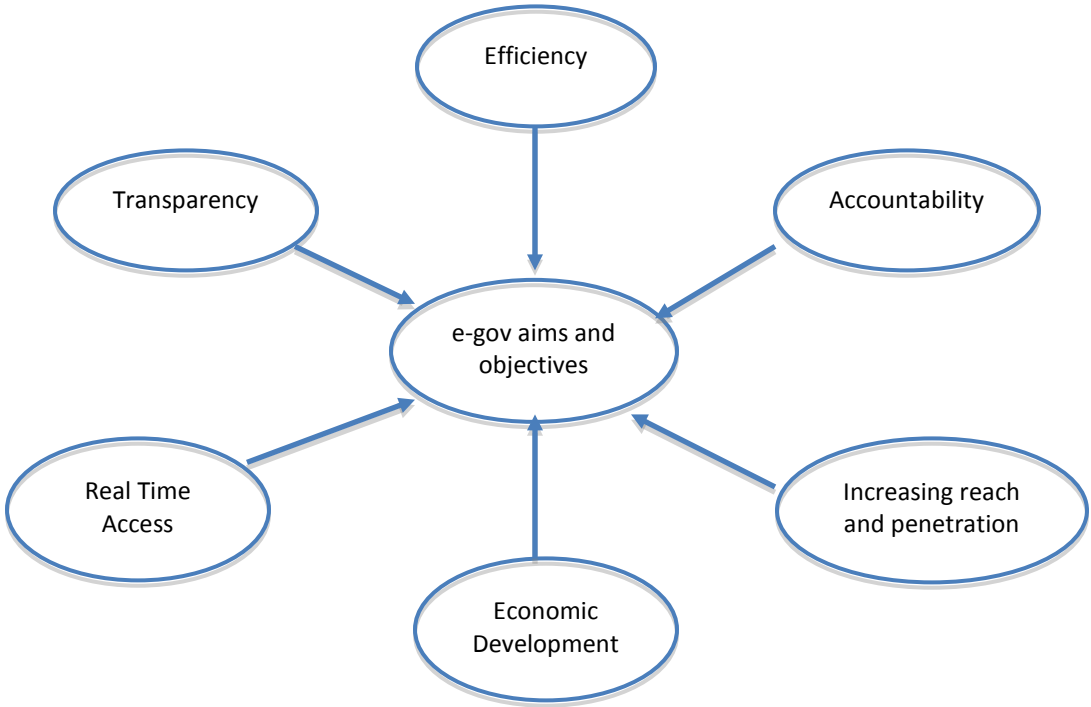


Figure 2: A framework for e-government aims and objectives (adapted from BIPS, 2008 and e-government Master Plan, 2014)

As such, there are more than 100 government organizational websites in operation and includes the Government-to-Citizen (G2C) and Government-to-Business (G2B) services. These websites range from static web pages to full-fledged portals that act as one-stop gateway for government services. Furthermore, through the Democratic Government Plus (DG+) Access to Public Services Project, efforts are being made to strengthen the service delivery and to bring more services online (MoIC Annual Report, 2014). The aim of providing most of the government services online is to “increase productivity, improve service delivery and economic development” (e-Government Master Plan, 2014).

**2.4 e-services in the Private Sector**

The government sees ICT as an opportunity to create business, jobs and support good governance and help in creating a knowledge-based society (BIPS, 2009). Even though the Government is the largest provider of e-services, the private sector has also come to appreciate

the value and its commercial benefit of e-services. Until recently, the private sector websites were mostly static and belonged mainly to the tourism industry. However, better bandwidth and higher Internet penetration rates in urban areas have led to the rise of commercial activities of e-services (termed as e-commerce) such as Bhutan Buying and Selling on Facebook. This technological development is seen by the private sector to gain access to a greater customer base through alternative communication channels to customers. For example, the Facebook group Bhutan- Buying and Selling Second Hand Stuffs has more than 45,000 members.

### **3. e-services and the Regulatory Environment**

The previous section already discussed the growth of e-services and as is generally the case, has policy implications such as whether the existing rules and regulations are adequate and also in advancing other government initiatives and policy goals such as economic development and accountability (Catherine A. Hardy et al, 2007).

The Act states that “given the rapid development of ICT and increasing convergence of technology, telecommunications and media, the Authority shall have a comprehensive mandate in implementing laws, regulations and rules pertaining to ICT and media facilities and services”.

As e-services are ICT service, the Authority is therefore mandated to implement the necessary and adequate rules and regulations to monitor and regulate e-services. Typically the stance taken by governments is that what is illegal and punishable by law will apply equally to online services (Prof. Dr. Thomas Horen). In what follows, the various relevant Acts, Laws, Polices and Regulations will be briefly reviewed along with the possible issues in a qualitative fashion.

#### **3.1 Consumer Protection**

The importance of Customer Protection is to safeguard consumers from any kind of exploitation, especially with online transactions, which is characterized by lack of transparency and legal uncertainty. Section 154 to 156 of the Act has various clauses to ensure the protection of consumers for electronic commerce such as “providing consumers with information to make an informed choice” etc. The provisions within the Act, along with the Consumer Protection Act 2012 which applies to all goods and services, will “provide the protection of the economic interest and safety of consumers”. The consumer protection needs to be enforced to build trust in



the new service and if this is cannot be done,it willhinder the growth of e-commerce and other such e-services.

### **3.2 Privacy and Data Protection**

Privacy and data protection are also fundamental to encourage the use of e-services such as e-commerce, particularly the business-to-consumer transactions. The BIPS 2009 points out that “future opportunities are abound” and e-commerce is one of the mediums through which Bhutan will be able to see its products abroad. But the development of e-commerce will mean the collection and storage of “information” from customers could be give rise to privacy and security concerns. The development of online payment system and the storing of personal data opens up new challenges for regulation such as ensuring that customer and consumer privacy and data protection are implemented.

The clauses in the Act relating to “Online Privacy” states that ICT service providers will have to make their privacy policy easily accessible and that the service provider “shall respect and protect the privacy of personal information they receive from their user or consumers”. With such provisions in the Act, the Regulatory Authority has the mandate to ensure that all e-services the protection of personal and other sensitive information.

### **3.3 Content Regulation**

The Act states, “the authority will take steps to regulate or curtail the harmful and illegal content on the Internet and other ICT services and media services”. Such provisions in the Act ensure that the legitimate concerns to protect the public from objectionable content (e.g. pornography) and to combat unlawful and/or harmful content (e.g. gambling, material promoting hate etc). As such, the Rules on Content were framed in 2010, which protects a consumer from violence, crime, harmful and offence content etc. The scope of the application for the Rules of Content states that the “rules shall apply to all contents made available by the ICT and media industry”. As such, the Rules of Content can be applied to e-services as well.

### **3.4 Security and Cyber law**

Due to the anonymous nature of the Internet, it provides the opportunity for people to engage in a

variety of activities, some of which “are possibly” criminal in nature.

Many countries have implemented cyberlaws addressing issues like authentication (e.g., the role of digital signatures) and certification (e.g., the liability of certification authorities). These issues are addressed in the BIPS, 2009 where it states that the government will try and create a “local and affordable digital signature platform and an appropriate authority”. Only with such security in place will make it possible for the growth of e-commerce and other e-services.

### **3.5 Advertisement**

In order to ensure that all advertisers are liable to the advertisements they publish, the Rules on Content was framed. Section 2.12 of the Rules on Content has guidelines about advertisements, which will be “applicable to all advertisers until the Advertisement Code of Practice” (Rules on Content, 2010). The Rules on Content also have rules and guidelines in ensuring that the content conforms to the local sensitivities and to the social and cultural value of Bhutan and its people. As the scope of application for the Rules on Content is also applicable to ICT, the rules can be used to govern online advertisements.

Summing up, the regulatory framework for e-services is governed by a myriad of rules and regulations established mainly by the Authority.

## **4. Stakeholder Consultations**

The purpose of the stakeholder consultations was to provide authorities, as well as interested and affected parties, with the opportunity to identify issues, concerns and opportunities with regard to e-services.

In consultation with BICMA, the following stakeholders were consulted for this study:

1. Kuensel/ Bhutan Times and other print media
2. BBS
3. MoIC (PPD) / DoIM
4. Ministry of Economic Affairs
5. BICMA

## 4.1 Consultation Design and Process

In consultation with BICMA, the core discussion areas were identified as follows:

1. Is the present policy framework enough to ensure the start of e-services.
2. If not, then what are the policies that need to be improved.
3. The policy directives of the government to ensure the transparency and accountability in the delivery of goods and services
4. What mechanisms are in place to ensure such policy directives are being followed.
5. The streamlining of government advertisements through e-services – thoughts and views.
6. For print media – suggestions and views regarding e-services, including implications if any.

The consultations were carried out on a one-to-one interview basis with the various identified stakeholders, getting their views and thoughts on the various identified issues.

## 4.2 Consultation Views

The consultation views are summarized in Table 1.

Stakeholder	Issues Consulted	Comments/Views
Print Media	<ol style="list-style-type: none"> <li>1. State of the media business</li> <li>2. Views on e-services</li> <li>3. Any e-services plans for the business</li> </ol>	<ol style="list-style-type: none"> <li>1. The print media is precarious situation</li> <li>2. Heavily dependant on government advertisements for sustainability</li> <li>3. e-services is an inevitability given the technological improvement</li> <li>4. Business already has an e-strategy in place for the future</li> </ol>
Manager, Marketing, BBS	<ol style="list-style-type: none"> <li>1. Views on e-services</li> <li>2. Any e-services plans for the business</li> </ol>	<ol style="list-style-type: none"> <li>1. e-service is an inevitable</li> <li>2. e-service is not a threat as broadcast is a audio and visual medium</li> <li>3. e-service is complementary to already existing services</li> <li>4. Business has an e-strategy in place</li> </ol>
Secretary, MoIC DG, DoIM	<ol style="list-style-type: none"> <li>1. The state of the print media</li> <li>2. e-services provided by the government</li> <li>3. e-services in the private sector</li> </ol>	<ol style="list-style-type: none"> <li>1. The print media is precarious situation</li> <li>2. Sustainability of print media is important</li> <li>3. To sustain the print media, the government advertisements will follow the Advertisement Guideline and Policy</li> <li>4. e-service is a complementary service to the already existing services</li> <li>5. e-service will bring accountability, transparency and efficiency</li> <li>6. e-services in the private sector will be encouraged.</li> </ol>

Table 1: Stakeholders Comments and Views

## **5. e-services and the Print Media**

A robust media is critical in ensuring the availability of high quality news, which is seen as essential to a vibrant democracy. A plural media is also essential as it adds multiple perspectives to issues. It is thus important to understand the effect of e-services on the media industry as some e-services are viewed as a competition to the traditional media. Therefore, an e-service policy will have implications with respect to setting rules and standards that promote fairness, equity and transparency in the use of government advertisements. The policy could also possibly change the financial and business models of the print media.

### **5.1 The State of the Media**

The opening up of the media market has seen a substantial increase in the number of newspapers- the number of newspaper rose from 3 in 2006 to 12 in 2013, with Kuensel being the only newspaper to have a daily edition (apart from Sundays) (BIMIS 2013). However, the BIPS states one of its mission as “access to real time media” and given the low circulation rate of the newspapers, real time access can only be achieved either by radio, broadcast television or the Internet. Hence, most media houses maintain a webpage in order to deliver news in a timely and efficient manner.

But delivering news via online services also has its disadvantages- it could affect its circulation as people could read the news online and not buy the papers. Therefore, so as not to affect its circulation, the online-news is not updated real time and done with a slightly differential from the time of circulation of the papers.

In order to overcome these shortcomings, as well as to reap the benefits of the Internet such as wider audience and faster distribution, Kuensel circulates its paper via e-services (vizekuensel) for a subscription fee. Other papers also sees the advantages of such a business model and plan to adopt the e-subscription model.

### **5.2 Media is also a business**

While media is vital for democracy and ensuring institutional accountability and transparency, it is also a business and has to meet its operating costs and generate profits. BIMIS points out that

“a large number of private newspapers are faced with sustainability issues”. This is mainly because that advertising-based media is still the business model for all Bhutanese media (BIMIS, 2013) and hence with the proliferation of the newspaper, the share of the government advertising income source is diminished.

### **5.3 The Rule for Government Advertisements in relation to Print Media and e-services**

As mentioned in the previous section, media is a business and its survival is solely dependent on its profitability – which is heavily dependent on the amount of advertising fund available. With more than 80% of the advertising revenue derived from the government, the distribution of the government advertisements is therefore important. In order for government advertisements to be transparent and accountable, the Advertisement Guideline and Policy will govern the distribution of advertisements to the newspapers.

Although the Advertisement Guideline and Policy is in draft stage, it states that for business entities to avail government advertisements, the business or services will have to have “journalist content” and will have to be licensed and registered with the Authority as a media business. It also states that all government notices and advertisements will have to also be posted on the respective government agency’s webpage.

Though the government is increasingly bringing more services online through various e-government initiatives and services, such services are viewed as either “complementary” or as a “value addition” to the services that is brought about by the media. This is because the penetration and reach of the print media is limited, not only by its distribution but also its publications. Hence, e-government services are seen as a value added service that will ensure that the all government advertisements reach the intended audience, and bring about transparency and accountability to all government advertisements.

### **5.4 Effect of e-services on the Print Media**

E-services is pervasive and the print media has not been immune to its influence. Blogs and other online news services could bring about disruptive influences to the print media and affect the advertising revenue of print media. However, e-services could also bring about benefits to the print media such as the reduction in the cost of printing by providing online news and be able to

reach a wider and larger audience by leveraging the new service. As such, most newspapers already have a website which caters to its online readers and are planning on using the Internet on more innovative ways to reach a larger audience.

**6. Discussion and Analysis**

**6.1 The effect on the Regulatory Environment**

While the introduction or development of new services brings about the examination of the existing rules and regulations, the Act has the relevant and necessary clauses to ensure smooth functioning of e-services. More importantly, as technology is ever evolving, the Act mandates the authority “from time to time to review” and “implement the rules and regulations” relating to services. Having such clauses within the Act recognizes the ever-evolving services ICT environment.

In this respect, the following are some of the considerations that need to be taken into account:

6.1.1 Licensing of e-services

The opening of a retail store, running a restaurant etc. requires licensing, which is generally granted by MoEA. With regard to the licensing of e-services, the Rules on the Provision of ICT Facilities and ICT Services, an e-service is considered as an “Internet Service” and is defined as follows:

*Internet Services: This includes all services provided over Internet system regardless of the scope or type of services*

As such, e-services should be licensed as an Internet Service but it is not in the list of ICT Services that need to be licensed (as shown in Table 2).

Type	Description	Comments
1	Fixed Telephony Services	Whether utilizing fixed wireline or fixed wireless facilities. Refer also paragraph 4(a) above, of these Rules for a description of telephony.
2	Reserved for Future Use	

3	Mobile Telephony Services *	
4	Resale of Telephony	Also includes those services sometime referred to as calling card services and PCOs.
5	Internet Telephony	Includes Voice over Internet and Voice over Internet Protocol
6	Public Service Television Broadcasting **	Sometimes referred to as “on air” broadcasting. Refer also to paragraph (4)(b) above of these Rules
7	Subscription Television Broadcasting	Includes FM services
8	Sound Broadcasting	
9	Internet Service Provider	
10	The provision, by lease or otherwise, of ICT infrastructure by License to a third party	
11	The publication of directories derived from ICT subscriber records	
12	Business Process Outsourcing (BPO)	Data centres, Call Centres, Medical Transcripts etc.

Table 2: List of ICT Services that are subject to fees (Rules for Provision of ICT Facilities-Based and ICT Services)

In the present scenario, most of the websites that are being operated are done so with the issuance of other licenses. The following two examples are used to explain the points:

Example 1: A tour operator license issued to an individual or business entity makes one eligible to operate a website with any one of the Internet Service Providers (ISP) in the country.

Example 2: A business or individual granted a publishing license by the Authority is eligible to operate a websites with an ISP. Additionally, “Publication” is defined in the Rules for Governing Printing Presses, Books and Newspapers:

*“Publication”, unless the context indicates otherwise, means the act of making information or stories available to people in any electronic or print form.*

As such, there seems to be no clear-cut rule or regulation as to what governs the operation of e-services.

The enactment of the Enterprise Registration Bill, however, should bring about a change in the licensing of e-services as stated in clauses 5 and 8 of the Bill.

*5. Every enterprise operated for profit and owned by an individual as sole proprietorship; or two or more individuals jointly as partnership shall be registered under this Act, unless exempted by the Ministry by adoption of regulations.*

*8. Registration under this Act shall be a prerequisite for the issue of any license, sector clearance, permit or authorization necessary for the conduct of the intended business of the enterprise.*

Therefore, e-service operated for profit will be seen as a business entity and would require licensing.

## **6.2 The effect on the Print Media**

The rise of the Internet has brought about new and innovative means of service delivery to the public, particularly those that were initially divided by geographic barriers. This innovation has given rise to various e-services, which has also benefitted the print media in delivering the news online. However, since the newspapers in Bhutan rely on advertisements for its survival, questions as to whether e-services would kill the print media were found to be speculative. This is because the Government Guidelines and Policy for Advertisements states that “media” need to have journalist content so as to be eligible for the advertisements and be licensed by the Authority. Such a stand by the Government would ensure that media licensed by the Authority would be eligible for any government advertisements.

Also important to note is that the newspapers understand that e-services is a powerful tool to reckon with and its impact on the newspapers will be inevitable. As such, most newspapers that were consulted already have an “e-service plan” to use the power of the Internet to enhance and improve their business.

## **6.3 Growth and development of e-services**

The biggest hindrance to the growth of e-services in the private sector is the lack of ICT facilities, particularly a low cost local digital signature and online payment facilities. Though BIPS, 2009 states that DITT would implement a low cost digital signature and an online payment



facility by 2009, there has been no development so far. The lack of these facilities has hindered the development of e-services in the private sector.

Another hindrance to the growth of e-services is the lack of expertise, which has been unable to develop user-friendly platforms to deliver such services. As such, there are no e-services within the private sector worthy of mention when it comes to the delivery of services to the customers. While hotel.bt is self sustainable, it is primarily a business-to-business model. The lack of any worth platform has channeled most of the online entrepreneurs to use already existing platforms such as Facebook and has given rise to many pages such as Bhutan Buying and Selling, B-Bay – Buying and Selling Second Hand Stuffs etc. These Facebook pages are easy to start and commands huge audiences. For instance, B-Bay- Buying and Selling Second Hand Stuffs has more than 46,745 members.

## **7. Recommendations and Suggestions**

Considering the views of the stakeholders and the interest of the nation, it is recommended to regulate e-services by having them to register with the Authority or by licensing them as an ICT Service.

Although BIPS 2009 encourages the development of e-services, there isn't a clear policy about how to achieve it. Therefore, MoIC is recommended to come up with a policy and strategy in promoting the development and regulations of e-services in the country.

### **7.1 A Government Regulatory Approach**

In order to ensure non-intrusive regulatory interventions for the smooth development of e-services, it is recommended to initiate a “*government regulation*” where the legislation, executive orders and administrative rules are issued by the government. As the market develops, this regulatory approach may be migrated to a “co-regulation”.

The adoption of this transitory regulatory approach is strengthened by the fact that the private sector at the present moment lacks the expertise, the required skill set and resources for the adoption of either self or co-regulatory approach. Moreover, a government regulatory approach

will also ensure that there is a fair and competitive market, removing the possibility of monopolies or possible collusions among the incumbent providers.

## **7.2 Licensing / Registration of e-services**

In the following section, how e-services could be licensed or registered is discussed in detail.

### **7.2.1 Licensing of e-services**

As discussed in section 6.1.1, e-services falls under the category of Internet Based Services as defined in the Rules for the Provision of ICT Facilities and ICT Services but e-services are not listed in ICT Services that require licensing.

- i) It is recommended to amend the Rules for the Provision of ICT Facilities and ICT Services by listing e-services, such as e-government, e-commerce etc. under ICT Services.
- ii) If the Authority lists e-services under ICT Service category, an e-services “could” entail an application fee of Nu. 10,000/- and an annual fee that is to be determined by the Authority. Since this may impede in the development of e-services as some e-services are non-commercial in nature, it is recommended to structure a reasonable fee for commercial and non-commercial e-services. Currently, apart from domain and web hosting fee charged by ISPs, no additional fee is being levied on websites that are being run.

### **7.2.2 Registration of e-services**

If the Authority determines not to issue a license for e-services, at least the e-services should require a registration with the Authority for the protection of consumers, operators and all parties involved in the provision of e-services. This would also provide a legally binding registration process for all e-services with “best practices” or “an acceptable user policy” or “dos and don’ts”.

## **7.3 e-service and the Print Media**

As mentioned earlier, the print media is considered vital to democracy and its survival is imperative. But all print houses understand that e-services are inevitable and consider it as one of the various means of delivering news in the future.

Therefore, in order to safe guard the print media and make it more competitive, it is recommended that:

- i) The print media should utilize the power of the Internet to reach wider audiences and deliver news in real time as per the policy of the government.
- ii) The print media, with the resources at their disposal as compared to other business houses, should be the pioneers in the field of e-services and lead the way for the private sector for online business development.
- iii) The print media should change their business model and rather than relying heavily on government advertisements, should try and use the power of the Internet to increase their revenues (by online advertisements, online subscription models etc).

## **8. Conclusion**

The report reviewed the evolving mechanism of service delivery, mainly e-services, to the public and customers. The development of this alternative service delivery mechanism has been seen as inevitable given the rapid development of the telecommunications sector in the country. Thus, the relevant regulatory rules that the emergence of e-services could bring was also explored and discussed. With the variety of polices, rules and regulations already existing and in place, e-services in the private sector should not face much of a hindrance in its development and emergence.

The relationship between e-services and the print media was discussed and while found to be interlinked, they both were also seen as complementary and the government's Advertisement and Guideline Policy in place could mean the existence of both e-services and the print media simultaneously.

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