



**ECOWAS COMMISSION  
COMMISSION DE LA CEDEAO  
COMISSÃO DA CEDEAO**

**DEPARTMENT OF INFRASTRUCTURE,  
ENERGY AND DIGITALISATION**

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**Directorate of Digital Economy and Post**

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**TERMS OF REFERENCE (TOR)  
TO DEVELOP A REGIONAL OPEN DATA INSTRUMENT**

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## 1. BACKGROUND AND RATIONALE

Established in 1975 by the Treaty of Lagos and subsequently revised in 1993, the Economic Community of West African States (ECOWAS) comprises of fifteen (15) Member States and covers an area of 5.2 million km<sup>2</sup> with around 300 million citizens. The main objectives of ECOWAS are to promote cooperation and integration among its Member States, ensure economic and political stability, and enhance economic opportunities and welfare of its nations.

ECOWAS's regional strategic framework is reflected by the Vision 2050, which envisages: "A fully integrated Community of peoples, living in a peaceful and prosperous region, with strong institutions and respect for fundamental rights and freedoms, working for inclusive and sustainable development". This vision is anchored on five main pillars, namely;

- (i) Peace, security, and stability.
- (ii) Governance and rule of law.
- (iii) Economic integration and interconnectivity.
- (iv) Transformation, inclusive and sustainable development.
- (v) Social inclusion.

ECOWAS's vision for 2050 is translated into concrete actions through its first Community Strategic Framework (CSF) for 2023-2027. Digitalisation is considered a pivotal cross-cutting issue, underpinning all socio-economic activities with its versatile applications, including e-commerce, e-administration, e-health, e-agriculture, and e-education. To support this vision, there is a strong focus on intensifying infrastructural development and enhancing interconnectivity, which includes improving telecommunications infrastructure and services to foster economic integration. In addition, the framework also aims to improve access to basic social services including ICT, stimulate entrepreneurs and start-ups, promote research and development (R&D), all of which are expected to yield as positive results.

Recognising the immense potential of a robust digital economy, the ECOWAS Commission has initiated a regional coordination process for digital transformation to take advantage of the irreversible trend of digitalisation. This transformation is seen as a driver of socio-economic activities through the use of information and communication technology (ICT) for sustainable growth and financial and social inclusion.

As part of the coordinated effort to accelerate development of e-applications in the region, the principle of open data has been identified as a key catalyst for government initiatives. Open public data represents a valuable but underutilised resource within the region, yet its application has the potential to significantly accelerate innovations that address regional challenges.

In June 2023, the ECOWAS regional open data workshop recommended that a regional open data instrument be developed. This regional instrument aims to empower Member States governments to take a central role in the utilising open data for value creation. It serves the purpose of promoting better decision making, stimulating the development of new products and services, increasing transparency, improving accountability, managing risks, and engaging stakeholders. This approach aligns with the principles of interoperability, data sharing, and adhering to standards of anonymity, privacy, and security.

This regional initiative is consistent with the broader continental context, which is characterized by sustained data growth in African countries that have recognised the potential of digital economy. In line with this trend, the African Union Commission developed and endorsed in the Data Policy Framework 2022.

This framework recommends the promotion of interoperability and data sharing, along with responsiveness to data demand through the setting of open data standards for data creation conforming to general principles and sector-specific considerations, to facilitate access to non-personal data and certain categories of personal data for African researchers, innovators, and entrepreneurs.

## **2. OBJECTIVES & EXPECTED OUTPUTS**

The vision drafted for the region during the 2023 open data workshop is ‘Making open data the essence of policymaking and decision-making across a data centric government for sustainable development and digital innovation’.

To realise this vision, it is vital to ensure that Member States governments play a central role in the utilisation of Open data, so as to:

- Enable value creation: this can be achieved by promoting better decision making, stimulating the development of new products and services, increasing transparency, and improving accountability.
- Manage risks: open data initiatives should safeguard the privacy, security, and personal safety of individuals. They also help organizations mitigate risks related to confidentiality, liability, and intellectual property.
- Engage stakeholders in open data: an inclusive approach is crucial, involving citizens, businesses, the media, non-governmental organizations, the private sector, civil society, universities and libraries in open-data efforts.

### **2.1. Overall objective**

The overall objective is to develop a normative act that establishes common goals for ECOWAS member states. These goals aim to increase the availability of public sector data available by promoting and stimulating the use of open data, and to facilitate the implementation of specific measures at the national level. These measures are designed to accelerate the development of e-applications and foster innovation.

### **2.2. Specific objective(s)**

The specific objectives are as follows:

- Establish a general framework: this framework should define the conditions for the availability and re-use of public sector data, ensuring fairness, proportionality, and non-discrimination. It includes:
  - define the purpose and scope;

- establish general principles;
- set the terms of data re-use, licencing, exclusivity, transparency, restrictions;
- identify the legal acts governing the publication of public data to be considered;
- identify the thematic categories of data sets to be considered;
- establish orientations for practical implementation arrangements;

To achieve these objectives, it is essential to consider various factors, including:

- the treaty referred to in the context section.
- the evolution of ICTs,
- The impact of digital technology particularly e-government,
- challenges related to the increasing volume “massification” of public data,
- Issues related to data sovereignty, location, and flow,
- the international environment,
- considerations of the right to information and data protection,
- the objective of establishing a unified digital market for the region,
- the approach for creating a data-driven society,
- the importance of digital content,
- the rules and practices for exploiting public sector information, and
- the existing policies at the national and regional level.

### **2.3. Expected outputs.**

The expected outputs are as follows:

- Establishing an enabling framework for the promotion and development of open data;
- Enhancing the region’s readiness to initiate and utilise open data for socio-economic development of the region;
- Ensuring the availability of high value datasets;
- Enabling the re-use of data associated with important benefits for society and the economy;
- Facilitating access to and utilisation of data by consumers and businesses;
- Fostering the creation of value and the development of new products and services;
- Ensuring privacy, security, confidentiality, liability, and protection of intellectual property.
- Engaging various stakeholders who have an interest in open data.

## **3. SCOPE OF THE WORK**

### **3.1. General**

The scope of this assignment includes initiation, elaboration, and validation of the regional instrument. The regional instrument must be consistent with other texts in force and must take into account any notes or administrative decisions that may impact the subject matter. In this regard, the Legal Directorate, responsible for ensuring the consistency of the Commission’s standards will play a crucial role in providing its opinion.

#### **3.1.1. Description of the assignment**

The main tasks are listed below:

## **Initialization**

- A comprehensive study of the context and the challenges related to open data;
- Identification of the requirements of Member States, taking into account their specific characteristics and challenges;
- Identification of the necessary regulatory and the normative requirements;
- Analysis of the impact of promoting open data in terms of privacy, security, confidentiality, liability, and intellectual property;
- Lead the kick off meeting with the working group to be established and that will involve expert representatives from member countries and the legal resources of ECOWAS Commission to prepare the text.

## **Preparing the text**

- Lead a consultation process with Member States to incorporate the required key provisions.
- Conduct a thorough analysis of the environment (including legal and regulatory) relating to open data;
- Elaborate in collaboration with directorate of legal directorate the text according to the structure of ECOWAS required for a normative document including at least preliminary dispositions, key provisions, and final dispositions:
  - introduction setting out the context and references to other texts applicable;
  - description of the subject of the directive, including the challenges and the desired impact;
  - description of the directive's scope of application;
  - brief description of the roles and responsibilities of the main players involved in implementing the directive;
  - description of the actions, processes, procedures, controls, decisions, etc., that facilitates understanding and the effective application of the measures described;
  - description of amendment or repeal process of the directive.

## **Validation**

- Lead the meeting validation with the working consultation group;
- Write a presentation note succinctly describing the purpose of the regional instrument, its scope and application procedures, to be use for endorsement.

## **3.2. Mission management**

### **3.2.1. Responsible body**

The Client is ECOWAS, and the Department of Infrastructure, Energy and Digitalisation is responsible for the contract, through the directorate of Digital Economy and Post.

### **3.2.2. Management structure**

For the coordination of the assignment, a minimum of one committee of coordination, led by a project manager is required. The composition and the role of each member (ECOWAS Commission team and Consultancy team) should be clearly outlined.

The Committee will be responsible for steering the mission within the framework of contractual obligations. As such, the committee is responsible for policy choices and decisions.

The role of the Coordination Committee is to:

- Define the key orientations of the mission;
- Define the actions required to achieve the mission;
- Monitor the overall action plan of the mission;
- Validate the implementation of planned actions;
- Validate proposed modifications;
- Monitor mission risks.

### **3.2.3. Facilities to be provided by the client and/or other parties.**

The practical arrangements required to organize a virtual meeting and a hybrid physical meeting with the Member States will be the responsibility of the client (ECOWAS). **All other arrangements are the responsibility of the consultant.**

## **4. LOGISTICS AND TIMING**

### **4.1. Location**

The development of the regional open data instrument will involve a site mission to one of the ECOWAS countries to be defined, for validation.

### **4.2. Period of implementation of tasks**

The maximum duration of the consulting period shall be four man-months. The applicants will propose the timetable.

## **5. REQUIREMENTS**

Applicants shall include a detailed and signed CV with all supporting documents (certificate of completion, contracts, copy of degree(s), work certificate...). Applications that fail to submit supporting documents as requested will be rejected.

### **5.1. Staff**

#### **5.1.1. Expert Profile**

This involves recruiting one (01) individual consultant whose profile is indicated in these TOR. The following qualifications and skills are required:

#### **Qualifications and skills**

- Must hold at least a Master's degree in law (public law or international law);
- Must have wide-ranging knowledge of digital economy legislation and in particular the legal framework relating to data governance (support with evidence);
- Must have wide knowledge of digital economy in the countries of the ECOWAS region (support with evidence);
- Must have organisational skills;
- Must have excellent capacity for analysis and synthesis and reports writing skills;

- Must have mastery of one out of the three official ECOWAS languages (English, French and Portuguese) and speak one of the other two languages.



### **General professional experience**

- Must have at least ten (10) years' work experience including five (05) year in digital matters (support with evidence);
- Experience in data will be valued (support with evidence)

### **Specific professional experience**

- Must have experience in drafting normative texts;
- Must participate in the last (5) years in one (1) similar directive development assignment relating to digital affairs in a similar structure as ECOWAS as team leader (support with evidence).

## **6. REPORTS**

### **6.1. Reporting requirements**

The consultant will submit the following reports in English and French in one physical original and electronic versions:

- **Inception Report** of maximum 12 pages to be produced after three (03) weeks from the start of implementation. In the report the consultant shall describe e.g., initial findings, progress in collecting data, any difficulties encountered or expected in addition to the work programme. The consultant should proceed with his/her work unless the client (ECOWAS) sends comments on the inception report.
- **Draft final report (Draft directive)** of maximum 20 pages (main text, excluding annexes). This report shall include preliminary dispositions, key provisions and final dispositions and shall be submitted no later than two months after the inception report.
- **Final report (Directive)** with the same specifications as the draft final report, incorporating any comments received from the parties on the draft report. The deadline for sending the final report is five (05) days after receipt of last comments on the draft final report.

### **6.2. Submission and approval of reports**

The report referred to above must be submitted to the working consultative group identified including ECOWAS team that is responsible for approving the reports.