THE NIGERIAN ECONOMIC SUMMIT GROUP

Policy & Regulatory Inconsistency in Nigeria: A Major Bane of Private Investments

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ABSTRACT

Nigeria's experience with attracting investments for development purpose has shown that the lack of policy coordination is one of the major challenges for little achievements in this respect. Ameliorating the devastating impacts of the COVID-19 pandemic and the need for quick economic recovery have made it essential to change the current trend. This is one of the main reasons achieving policy consistency was highlighted as one of the Nigerian government's key priorities in 2021 in NESG's Macroeconomic Outlook for the year. In pushing this debate further, this report x-rayed how policy and regulatory inconsistency has constituted a significant barrier to boosting domestic and attracting foreign private investments. Four prominent drivers of policy inconsistency were highlighted - lack of central vision, ideology or goal, weak policy framework, assumption of independence of actions by policymaking institutions, and poor stakeholders' consultation. Considering the country's governance system, we recommend the institutionalisation of policy making process as a more practical approach to achieving both horizontal and vertical policy consistency in the short-term and a stable, investment-friendly environment in the medium long-term.

1.0 INTRODUCTION

In the last six decades, Nigeria's experience has shown that having economic potentials or opportunities is not enough to generate economic prosperity and transform the country into a flourishing nation. Many development experts and peer countries opined that the discovery of "Black Gold" – crude oil, in Nigeria would enrich the country's economic development path. Today, the expectations are far from actualisation as the country seems to be stagnated with the disease of "the paradox of plenty."

One missing point in the country's journey is policy coordination as the government strive to provide a stable environment for growth and development. Rather than enacting laws and regulations to promote economic and social welfare of private sector businesses, policies have been noted to introduce unnecessary red-tapism and stifling of the business environment. This is so because economic policy, in today's uncertain world, is the main source of confidence that private enterprises have to support their expectations and investment.

Investment in the current era looks beyond the country's potential and considers the level of risks against possible returns. Attracting and retaining private investments requires a stable environment that is reasonably predictable, or at least policy uncertainties are reduced to the barest minimum. Therefore, Nigeria's somersaulting policies constitute significant regulatory burdens that hinder productivity, a barrier to new investments, deter launching new businesses, and reduce market competition, resulting in lower private investments. After access to finance constraint, government policy inconsistency was identified as the most significant growth constraint to businesses – both MSMEs and large corporations, in Nigeria[1].

As of 2019, Nigeria has experienced a 12.86 percentage point decline in the ratio of investment (gross fixed capital formation) to GDP from 38.3 percent in 1999 to 25.4 percent – representing a considerable burst in real investment over the past two decades. Moreover, as experienced in the 2016 recession, the impact of COVID-19 would further constrain private investments. On the premise that "no economy can do without private investments", the government is trying to compensate for the shortfall in investments through annual budgetary allocation, which is usually inadequate and unfit for a long-term purpose. The supposed crowding-in effects of these government expenditures on private investments are never achieved due to the contradictory signalling posed by some regulatory policies.

A clear example is the reversal of the import tariffs on automobile products to 5-10% from the 30-70% stipulated in Nigeria's Automotive Industry Development Plan (NAIDP). According to PAN Nigeria Limited, the reversal is a policy somersault that may lead to the imminent closure of 54 assembly plants in Nigeria and loss of over US$1 billion investments already made in the industry . The reason for the reversal was to reduce inflation by cutting down cost of transportation. However, contributors to transport inflation are fuel price, weak infrastructure, logistics challenges and activities of non-state actors on major roads. The policy change is not suitable for its intent.

In pushing this debate further, this report x-rayed how policy and regulatory inconsistency has constituted a significant barrier to boosting domestic and attracting foreign private investments. Having this discussion and addressing this issue is pivotal to unlocking the country's economic and investment potentials. Attracting massive private investment is suggested as the overriding theme for Nigeria as she seeks to achieve high economic growth, job creation and poverty reduction.

[1] SMEDAN and NBS, National MSME Survey, 2013, 2017
[2] https://www.vanguardngr.com/2021/01/pan-demands-reversal-of-tariff-review-on-imported-vehicles/

2.0 POLICY INCONSISTENCY AS A SIGNIFICANT CHALLENGE TO INVESTMENTS IN NIGERIA

"One of the things I think we suffer is policy inconsistency. We start policies, and we don't continue it maybe a new government comes in, or a new manager in a government department, all the policies that are in place are questioned so business people don't know what environment to operate in," ***Dr (Mrs) Ngozi Okonju-Iweala, Director General of World Trade Organisation (WTO).***

Nigeria is facing significant challenges that are hindering economic prosperity and inclusive development. Some of these challenges include insecurity, deep-rooted corruption, deepening poverty & inequality, and exacerbating socio-economic conditions. At the core is the issue of policy (regulatory) inconsistency or overlap – a situation where there are conflicts in pronouncements or actions of government or her agencies on an economic activity.

The lack of policy cohesion and sustainability poses a problem for macroeconomic stability and creates hurdles for the Nigerian economy to achieve its full potentials. The situation has resulted in dwindling domestic & foreign investments. Foreign investors have identified the unpredictable behaviours of policymakers in Nigeria as the main reason for limited foreign investments inflows despite potentials[3]. At the same time, local investors are also reluctant due to the long history of somersault in government policy.

Since no economy can do without private investments, the Nigeria government seeks to close the gap in investments through annual budgetary allocation. These government efforts have been inadequate in driving economic growth and unfit for a long-term development purpose. The supposed crowding-in effects of these government expenditures on private investments are never achieved due to the contradictory signalling of economic policies. A Nigerian Investment Promotion Commission (NIPC) report highlighted that investors are concerned about frequent policy changes. Many of these investors, both domestic and foreign, stated that it is difficult to make long-term investment planning in Nigeria due to unexpected policy changes[4].

Figure 1 shows how changes in the overall economic policies of the Nigerian government triggered fluctuations in investments. Domestic investment declined from 53.12% of GDP in 1990 to 34.05% of GDP in 1999 following a drastic reduction in public investments, economic recession and low growth, and a hostile investment environment. In the high growth era (between 2001 and 2014), the investment-GDP ratio averaged 22.17%; it fell continuously throughout the years as the rate of economic growth increased more than domestic investments. The poor performance of domestic investments is considerably influenced by the country's unstable policy environment . By way of illustration, the majority of Public-Private Partnership financed projects such as eexpansion of Lagos-Ibadan Expressway, modernisation of Muritala Muhammed Airport Terminal II (MMA2), and many Independent Power Projects (IPPs), experienced slowdown in execution or cancellation due to change in policy or abandonment of existing agreements by a new administration.

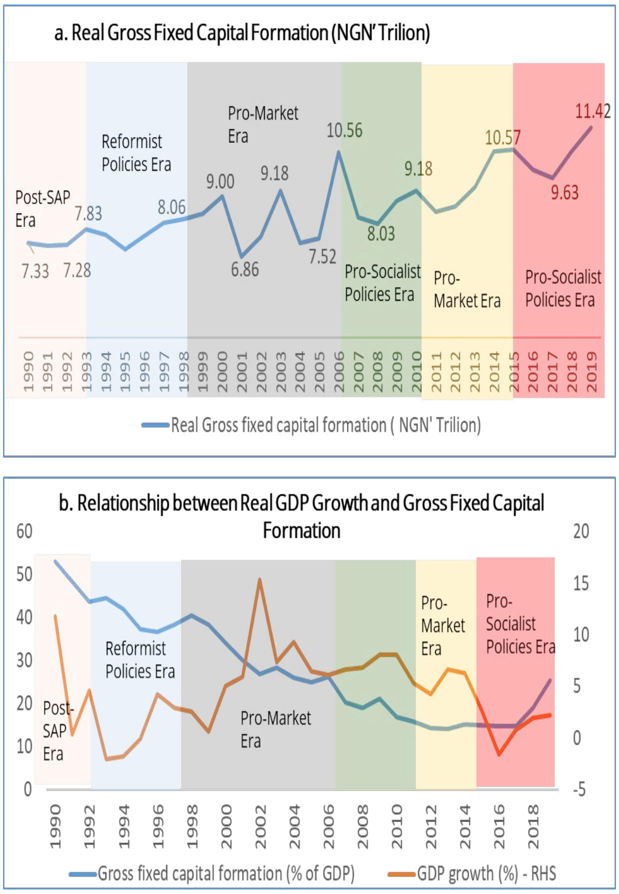
[3] International Finance Corporation (IFC). 2020. Creating Markets in Nigeria - Crowding in the Private Sector: Nigeria's Path to Faster Job Creation and Structural Transformation. https://www.ifc.org/wps/wcm/connect/673c0e3f-3e77-4ddc-923b-903c5db6af15/CPSD-Nigeria.pdf?-MOD=AJPERES&CVID=nkzEpgy

[4] Nigerian Investment Promotion Commision.2020. Understanding the Impact of COVID-19 on Investments in Nigeria. https://nipc.gov.ng/wp-content/uploads/2020/09/20200624-Understanding-the-impact-of-COVID-19-on-investments-in-Nigeria.pdf

[5] World Bank.2020. Wolrd Development Indicator Database

[6] World Bank.2020. Nigeria Development Unit: Rising to the Challenge – Nigeria's COVID-19 Response. http://documents1.worldbank.org/curated/en/152691607607461391/pdf/Rising-to-the-Challenge-Nigerias-COVID-Response.pdf

Figure 1: The Cost of Government Policy Inconsistencies



Cost of Policy Inconsistency		
Areas	Competition, Market-based & Product regulations	Supervisory, Interpretative, Practice
Degree of Impacts	Most material cost on business operations & investments	Most significant on investments and business operations

Specific Cost of Policy inconsistency

- About 5 – 10% of annual turnover on investments are affected by disruptive policy shifts and inconsistency. 58% of large enterprises in Nigeria identified policy inconsistency as growth constraint (NBS, 2017)
- 51% of investors/multinational institutions diverted intended investments away from country or sector due to regulatory inconsistency. 44% of manufacturing firms identified policy inconsistency as a major challenge to the industry and that it is a deterrent to potential international and domestic investments (NOI, 2017)
- A single inconsistency in policy/regulation action by government or relevant agencies create moderate to substantial barrier to private investments;
- The cost arising from regulatory inconsistency is more material to small businesses or domestic investors and new investments.

Source: World Bank, OECD, CBN, NIPC; Chart: NESG Research

In 2015, the change of government and policy stance contributed considerably to the drop in real investments to NGN9.91trilion in 2016 and a further decline to NGN9.63 trilion in 2017. A cursory analysis of the trend of gross fixed capital formation in Nigeria showed a similar pattern when new policy eras emerged with new regimes and administrations (see Figure 1 above). Consequently, the current level of investments in Nigeria is inadequate to spur the needed economic growth.

Lastly, policy inconsistencies amplify the impacts of high cost of business registration, high handedness of regulatory officials, multiple taxation e.t.c. make doing business hard for MSMEs operating in Nigeria. Reports from the National Bureau of Statistics and SMEDAN suggest that policy inconsistency is the main challenge of companies in Nigeria after the constraint of access to finance. For Small and Medium Enterprises (SMEs) and large corporations, the unstable policy environment intensifies the impacts of weak infrastructure and harsh regulatory practices.

2.1 FACTORS CONTRIBUTING TO POLICIES INCONSISTENCIES IN NIGERIA

One distinguishing feature of Nigeria's policy environment is its unstable nature. This condition has resulted in the absence of robust investments and limits the optimisation of the country's development potentials. Below are key drivers of the unstable policy environment in Nigeria;

- **Lack of central vision, ideology or goal.** A central doctrine is key for any country as it directly affects and guides the government on policy preferences. In Nigeria, there is no central philosophy guiding policymaking and implementation. The lack of a fundamental philosophy has largely contributed to policy and regulatory inconsistency in the country. Most policymakers see introducing policies and regulation as a channel for getting re-elected and making a historical mark rather than achieving stability and long-term economic growth. This creates uncertainty for investors and results in economic performance that is below expectations.

Table 1: Development Plans and Focus of Administrations in Nigeria

Year	1999-2007	2007-2011	2011-2015	2015 – till Date	
Administration	Obasanjo Administration	Yar'Adua/Jonathan Administration	Goodluck Jonathan Administration	Buhari Administration	
National Policy Document	National Economic Empowerment Development Strategy (NEEDS)	Seven-Points Agenda	Transformational Agenda	Economic Recovery and Growth Plan (ERGP)	Economic Sustainability Plan (ESP)
Target-Sector for Growth	- Agriculture - Environment - Health - Education - Water, and - Infrastructure	- Transportation: inter-modular & Rail - Power & Energy - Agriculture, and - Education & Human Capital Development	- Agriculture - Power - Oil & Gas – Up & Downstream - Health - Transportation - Education - Manufacturing - Information Technology & Communication (ICT), and - Infrastructure	- Agriculture - Manufacturing - Construction & real estate - Solid Minerals - Oil & Gas – Upstream - Service sector - ICT, tourism, creative industries, and financial services	- Agriculture - Manufacturing - Renewable Energy - Construction - Water, Environment and Health Sectors

Source: Various policy documents of the Nigerian government

As a result, Nigeria's policy thrust frequently changes after the election of a new government. This pattern is also observed with sub-national government and at the local government level. Table 1 above highlights the inconsistency in government policy thrust since 1999. Considering the long-term horizon needed for a policy to generate expected outcomes and impacts, many investments have been truncated and made white elephant projects. In the Asian Tigers – Hong Kong, Taiwan, South Korea and Singapore, it took over five decades of consistent and harmonious industrial policy to achieve "Miraculous Economic Growth".

- **Weak policy framework.** Owing to the absence of central policy vision or philosophy, legal, regulatory, and institutional frameworks for policymaking are fragile in Nigeria. This plays a significant role in policy environment inconsistency as well as weak economic growth and poor development outcomes. Over the years, government policies and programmes to promote domestic investments, attract foreign investments, drive and achieve inclusive economic growth are poorly designed and inadequately executed. In this context, it is difficult to overlook the circumstances of poorly designed and implemented policies.

- **Assumption of independence of actions by policymaking institutions.** The proliferation of policies can also be adduced to many regulatory agencies considering their actions as independent of role(s) of similar or related regulatory agencies. Hence, the interactions and collaborations among policymaking institutions and industry players are often weak.

For instance, there are many voluntary or mandatory corporate governance codes for the financial markets in Nigeria. These are the 2018 Financial Reporting Council of Nigeria Code (FRC Code), the Securities and Exchange Commission code 2011 (the SEC code), the 2009 National Insurance Commission's Code (NAICOM code), the 2008 Pension Commission of Nigeria's Code (PENCOM code), the 2007 SEC Code of Conduct for Shareholders' Associations (SEC code for Shareholders), and the 2006 code of Corporate Governance for Banks in Nigeria Post Consolidation (CBN code) among others. Industry players are, therefore, intertwined among a multiplicity of regulations which results in difficulty in investments process. For banks listed on the Nigerian Stock Exchange (NSE), there is obvious conflicts between provisions of SEC code and other corporate governance codes on exceed of companies disclosure. This is, therefore, confusing to most companies and prospective investors.

BOX 1: CLASSICAL EXAMPLES OF HOW POLICIES ARE MADE IN NIGERIA

Policy, in simple term, is "what government do, why they do it, and what difference does it make in people's lives". In Nigeria, policymaking process has been observed to differ from global best practices. In some cases, a policy or developmental plan is self-conflicting.

For example, the Nigerian government introduced a New Automotive Policy to spur investments in the sector and stimulate local manufacturing and cars assembly. Effective from July 1, 2014, the cited policy introduced a 70% tariff on used cars and buses. In contrast, the same policy approved import duty waivers for Completely Knocked Down (CKD) components and 10% import tariff without any levies for Semi-Knocked Down (SKD) components. After six years of execution, the government reversed the import tariffs on automobile product to 5-10% from 30-70% stipulated in the plan. The import tariff reversal may result in closure of 54 assembly plants in Nigeria and loss of over US$1 billion investments already made in the industry. This move also rendered the whole plan ineffective.

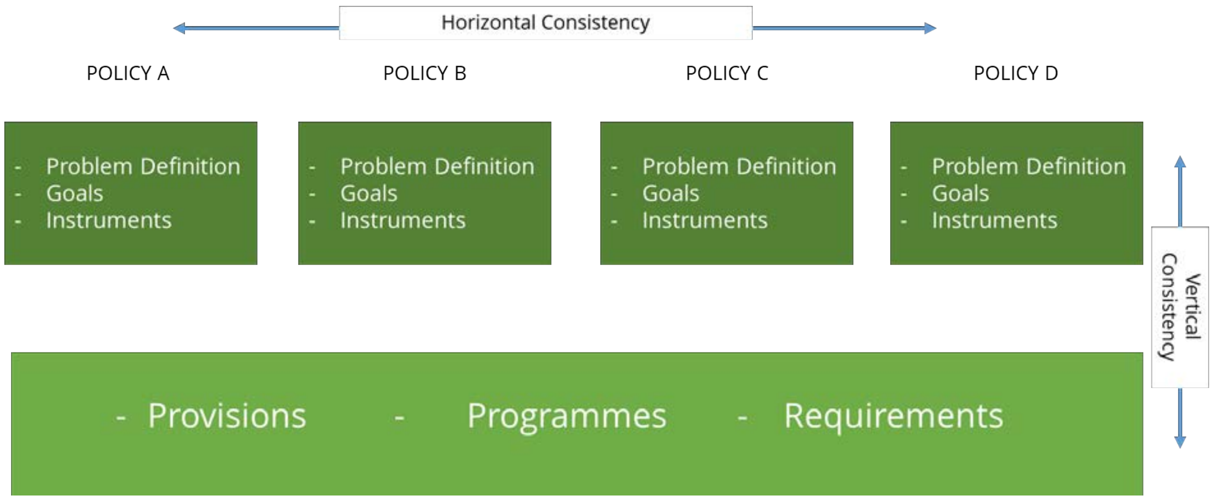
Another key feature of policymaking is the unconditional reversal of actions or policies. In March 2013, the Central Bank of Nigeria (CBN) cancelled fees or bank charges relating to the use of ATM cards. The same agency re-introduced the same changes in September 2018 and made the customers pay for the remuneration of switches, ATM monitoring, and fit notes processing by banks. According to the CBN, the N65 charge per transaction "shall apply as from the fourth remote withdrawal (in a month) by a cardholder, thereby making the first three remote transactions free for the cardholder but to be paid by the issuing bank".

- **Poor consultation of stakeholders.** On numerous occasions, crucial decisions that affect businesses are made without proper consultation of stakeholders and consideration of research-based evidence. Impulse, rather than evidence, is a major factor that drives policymaking in Nigeria. A clear example is the reversal of the import tariffs on used cars or automobile product to 5-10% from 70% stipulated in Nigeria's Automotive Industry Development Plan (NAIDP).
Another example is the closure of the land border, which was swiftly implemented without a clear and documented analysis of the potential winners and losers, the duration of the closure, and the needed reforms to position local industries to take advantage of the closed borders.

3.0 RECOMMENDATION

Given the historical background of Nigeria's policy coordination process, we recommend the **"institutionalisation of the public policy process".** The dynamic and complex policy processes in democratic rule usually involve various actors, institutions, and decision-making procedures. Hence, there is a need for institutionalisation of Nigeria's policy process, which will help institute a centralised policy vision or philosophy. This is key to achieving horizontal and vertical policy consistency in the short-term and a stable, investment-friendly environment in the medium to long-term.

Figure 2: Flow of Policy Consistency



Adapted from Leslie Pal (2014)[7]

[7] Leslie Pal.(2014). Beyond Policy Analysis – Public Issue Management in Turbulent Times, Fifth Edition, Nelson Education, Toronto.

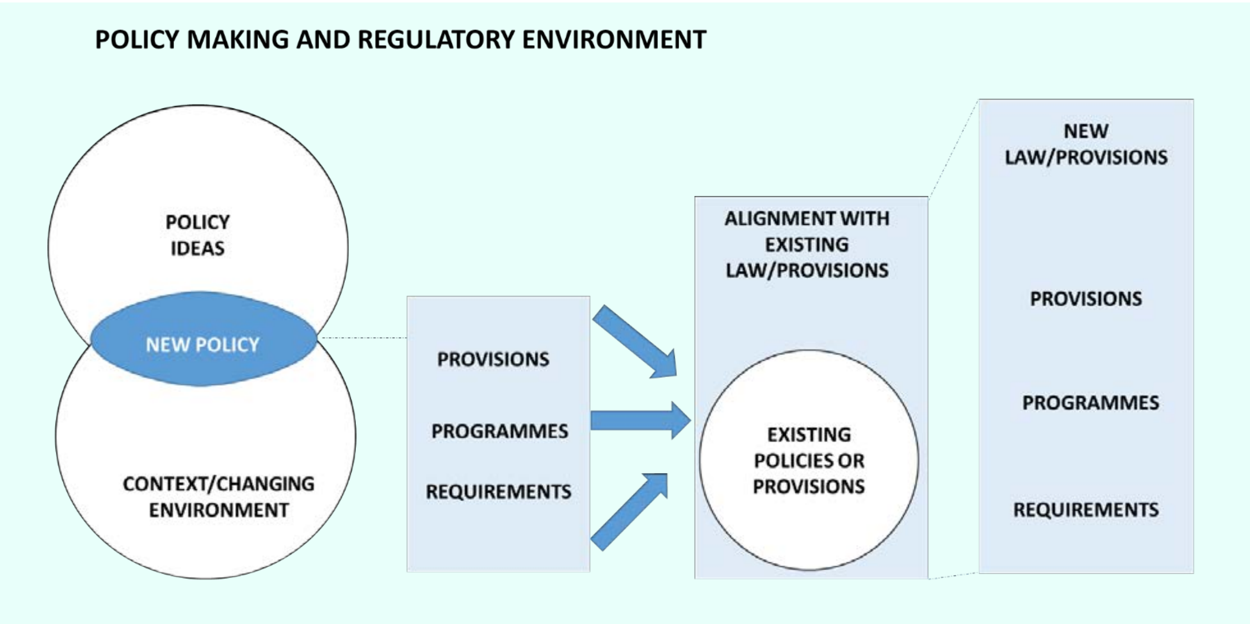
3.1 INSTITUTIONALISATION OF THE VERTICAL POLICY CONSISTENCY

The vertical consistency ensures provisions, programmes and requirements of a new policy align with its goals, instruments and problem it seeks to solve. The goal of vertical policy consistency is to ensure the effective translation of policy statements into actionable steps due to policy statements' abstract nature. This action falls within the power of government ministries, departments and agencies (MDAs) such as the Central Bank of Nigeria (CBN), Nigeria Customs Service (NCS), Federal Inland Revenue Service (FIRS), Corporate Affairs Commission (CAC), among others.

1. **Alignment of new law and provisions with policies.** All new policies or updates should align with existing policies of the government on the specific subject matter. Any policy that fail short of this should be revoked immediately, and the status quo maintained.

2. **Agreed frequency or timeline for an update of policy/provisions on a subject matter.** There is a need for stipulated frequency for policy change by MDAs. Aside from unexpected events like COVID-19 e.t.c, there is a need for policy update timeline for specific government policies, plan and programmes, especially those related to business and investments. This may be supported by an act of parliament. Also, these updates should be based on research and assessment of previous or existing policy.

Figure 3: How to foster Vertical Policy Cohesion in Nigeria



Source: NESG Research

3.2 INSTITUTIONALISATION OF THE HORIZONTAL POLICY CONSISTENCY

On the other hand, horizontal consistency strives to achieve a comprehensive policy and a stable economic environment. The immediate goal is to ensure government policy in one sector does not contradict the policies of another.

1. **Adoption of a national policy philosophy.** The government must ensure there is a generally acceptable policy philosophy for the country. Also, this goal should be long-term and backed by law or an act of parliament. The adoption of a fundamental economic philosophy is critical for a democratic nation like Nigeria, where the government changes every four or eight years

2. **Establishment of Policy Coordination Unit. There is a crucial need to establish** a department or unit as the policy watchdog among Ministries, Departments and Agencies (MDAs) to ensure cohesion and alignment both at the **national and sub-national level.** This unit can be situated in the office of the Head of Service of the Federation or the Secretary to the Federal Government.

3. **Public engagement on any changes or new policies.** The regulatory body needs to present the proposed policy updates or new policy to all critical stakeholders who will be affected by the action. This is to ensure all players understand the implications of the new policies on their business operations and planned investments.

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ABOUT NESG

The NESG is an independent, non-partisan, non-sectarian organization, committed to fostering open and continuous dialogue on Nigeria's economic development. The NESG strives to forge a mutual understanding between leaders of thought so as to explore, discover and support initiatives directed at improving Nigeria's economic policies, institutions, and management.

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