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Subject: COAI Response to TRAI Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services.

Dear Sir,

This is with reference to the TRAI's CP on "Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services" issued on 07th July 2023.

In this regard, please find enclosed herewith COAI's response to the Consultation Paper.

We hope that our submission will merit your kind consideration and support.

With Regards,

Yours faithfully,

Digitally signed by
Lt. Gen Dr. SP
Kochhar
Date: 2023.09.01
14:25:14 +05'30'

Lt. Gen. Dr. SP Kocchar
Director General

Cc:

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Response to TRAI CP on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services

We thank the Authority for providing us with the opportunity to submit our response to the very relevant Consultation Paper on "Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services."

A. Impact of the OTT services on Telecom Industry:

1. In a short span of time, Over-the-Top (OTT) services have risen rapidly, transforming the digital landscape as well as altering how individuals consume content and communicate with each other. As a result, the telecom companies find themselves grappling with a seismic shift in their revenue streams and an urgent need for escalated capital investments to cope with the ever-increasing traffic.

2. The highly taxed Telecom industry, which has incurred heavy costs in terms of license fee, spectrum, telecom equipment and security apparatus, is on an unequal footing with Over-the-Top Operators (OTTs) that are offering similar communications services without incurring any Regulatory cost, in the form of License or Spectrum charges; without having their own network infrastructure and that too when the existing TSPs have paid a high price for spectrum acquisition.

3. OTT Communications services **have led to Erosion of Revenues** for the telcos. OTT platforms offer users an array of services, sending of Multimedia Messaging Services (MMS), instant messaging to voice and video calls, delivered over the internet. This circumvents the need for traditional telecom services, particularly voice calls and text messages, leading to a significant reduction in the revenue streams of telecom companies.

4. As the consumption of data-intensive content surges, telecom companies face the daunting challenge of providing the requisite infrastructure to handle the escalating traffic demands. Sending large files which include videos and other documents, engaging in video calls, and downloading large files necessitate substantial bandwidth and robust network capabilities. Consequently, telecom companies are compelled to undertake **higher capital investments** to fortify their networks and keep pace with the growing data traffic.

5. Fiber-optic networks, 5G technology, and upgraded data centres are some of the investments that telecom companies must pursue to accommodate the burgeoning OTT-driven data traffic. Deploying 5G networks is a capital-intensive endeavour due to the need for new infrastructure, including small cells and high-frequency spectrum allocation. These investments are vital to ensure low latency and seamless user experience.

6. Thus, the impact of OTT on telecom companies **is a double-edged sword, causing erosion of traditional revenue sources while necessitating higher capital investments** to accommodate surging data traffic.

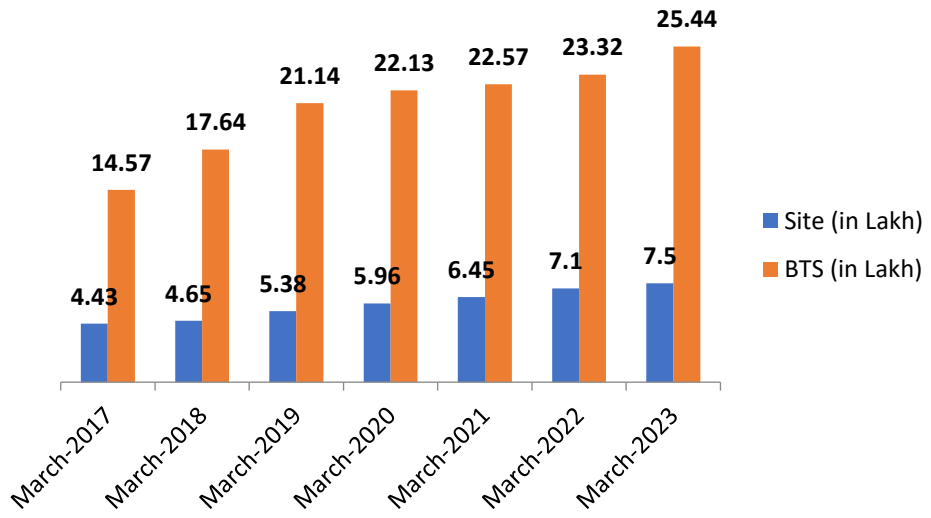
B. Contribution of the Telecom Sector:

1. With more than 1.172 billion subscribers as of March 2023, the Indian Telecom Sector has become a fundamental contributor to the Indian Economy with respect to consumer benefit, employment, revenue generation as well as GDP.

2. By providing essential communication services, the industry facilitates business activities, connectivity, and digital inclusion across various sectors. Additionally, the telecom industry plays a pivotal role in supporting technological advancements, innovation, and productivity gains in the economy.

3. Despite its contribution to the economic growth, the Telecommunication industry in India is subject to heavy taxation, with TSPs incurring significant costs on levies such as license fees and spectrum usage charges. In FY 2022, Telecom Service Providers (TSPs) collectively paid approximately Rs. 17.5 thousand crores for Spectrum Usage Charges (SUC) and License Fees (LF). This highlights the sector's significant contribution to the Government exchequer.

4. Besides contributing to the exchequer, the Telecom sector in the country has also invested extensively for the expansion of Digital Infrastructure in the country. The increase in investment is evident with the substantial increase of BTSs (Base Transceiver Stations) from 14.5 lakh in March 2017 to 25.5 lakh in March 2023.



Source: COAI Annual Report

5. The sector is now investing heavily in the field of 5G technology with a staggering rise in 5G BTSs, soaring from 53,590 on 5th January 2023 to 2,75,256 as on 2nd July 2023.[1] Further, JP Morgan's report predicts that at this pace, the annual deployment of 5G BTSs will rival that of China. Such a significant increase in 5G investments reflects a positive and promising

[1] DoT Website: https://dot.gov.in/5g-bts-deployed

future for the industry. According to a GSMA report, Indian Telecom Giants are projected to invest approximately $19.5 billion by 2025 in 5G technology, fueling further growth in the economy.

6. On the other hand, OTT communication service providers neither contribute to the exchequer nor make investments like the TSPs in spread of digital telecom access network infrastructure in the country. The OTT communication service providers take a free ride on TSP funded networks without contributing to the setting up and maintaining digital infrastructure for access networks.

7. Since digital infrastructure creation is critical for economic and social development of the country, we are of the view that the OTT service providers should contribute to the network cost borne by the licensed TSPs.

C. <u>Revenue growth from OTT has been more than offset by the need to invest:</u>

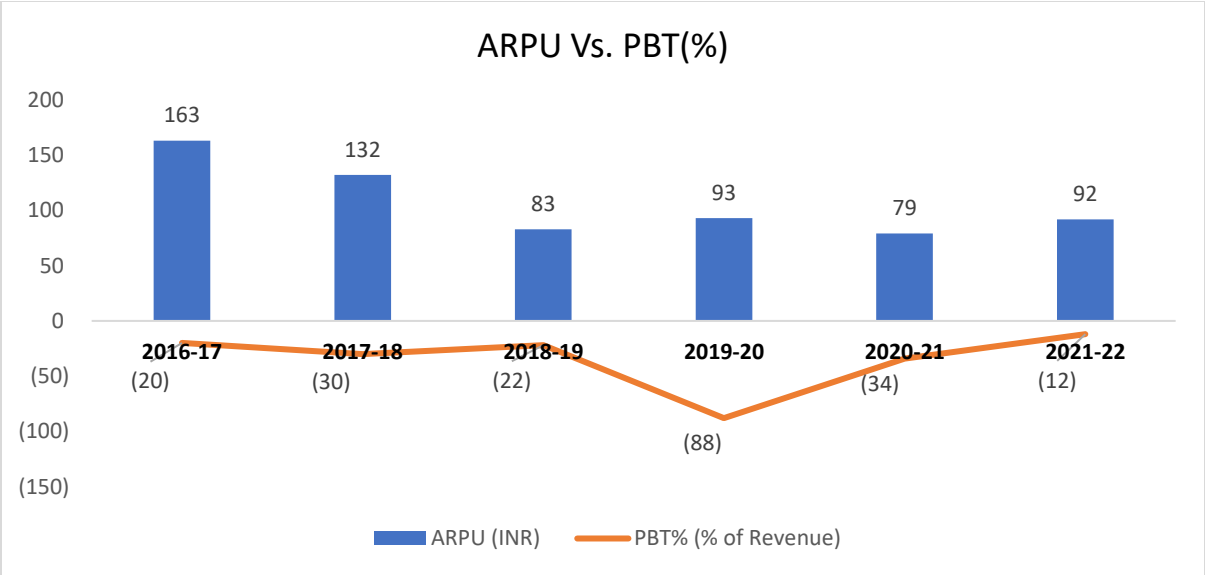
1. While OTT services have revolutionized the way people consume media and communicate, this comes with its share of significant challenges, mainly the pressing need for substantial capital investment by TSPs in infrastructure to support the escalating data requirements.

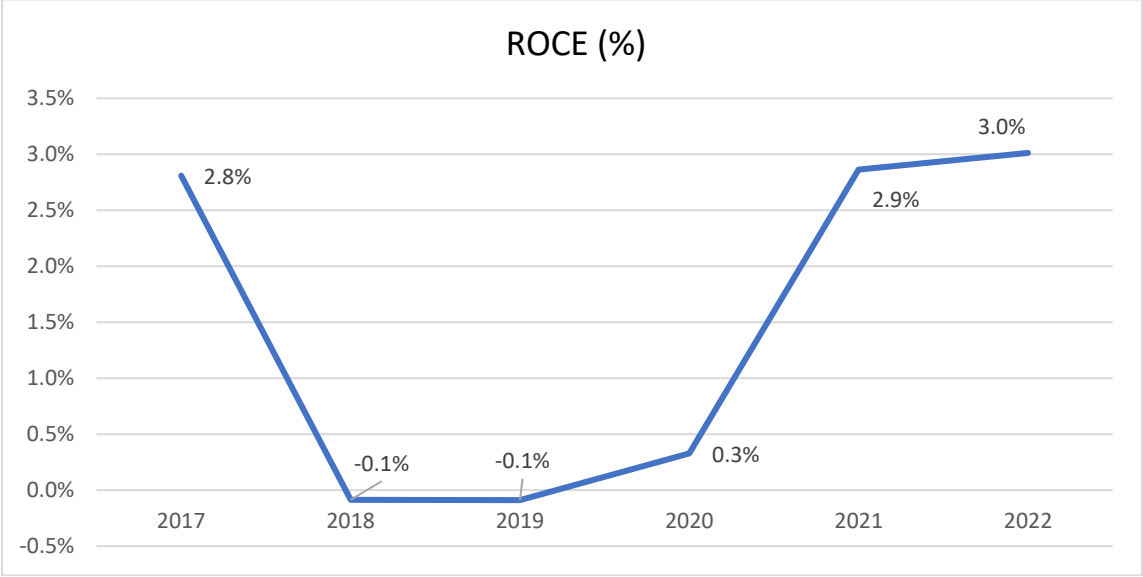
2. To meet the growing demand the TSPs have been heavily investing in expanding as well as upgrading their network infrastructure, which includes fibre optic cables, 4G and 5G towers, data centres, and backend systems.

3. The capital expenditure (CAPEX) which is required to enhance infrastructure is substantial, but its magnitude often surpasses the additional revenue generated by OTT services. TSPs have been facing the dilemma of striking a balance between capital investment and revenues from OTT usage.

4. Moreover, the OTT landscape is dynamic, with new players entering the market regularly. Each new service brings a unique set of requirements, further adding to the complexity and cost of infrastructure.

5. The financial health of industry has not been keeping pace with the need for sustainable investment and sustainable networks in long run.





(Source: TRAI, Company Annual Reports)

6. The rise in ARPU presents only a partial picture. It's imperative to examine this viewpoint from a broader angle, considering intricate details before drawing any definitive conclusions. Additionally, the Return on Capital Employed (ROCE) by TSPs over the past few years has also been marginal. The provided graphs distinctly illustrate that the profitability of Telecom Service Providers (TSPs) has been modest subsequent to investing in infrastructure deployment expenses.

D. Need to Define OTT Services:

1. In the past decade, there has been an exponential rise in the number of internet subscribers both at the national and international levels. The increase in broadband subscribers and data consumption has both fuelled and been fuelled by the increased penetration of OTT services and applications in the country.

2. Since there are no barriers to entry and have instant access to a global audience through the broadband connectivity powered internet, the OTT services and applications have thrived and multiplied, a fact noted by the Authority, as well. **As a result of this unfettered access, they have become significant players** in the global as well as Indian economy.

3. Therefore, the OTT services have evolved considerably and in the absence of any definition, they have continued to expand and compete with licensed TSPs' licensed services i.e. Voice/Video/ SMS services.

4. The voice/video calling and messaging services have traditionally been provided only by licensed TSPs – being governed by the licenses granted under the Indian Telegraph Act, 1885. However, the market has undergone a paradigm shift with the IP-fication of network and services layers and OTTs are now significant players in this service market.

5. Hence, there is a need to accurately and comprehensively define the OTT services which would further enunciate and bring about the required clarity.

6. "OTT services can be described as content, services or applications that are provided to end users over the Internet independently of the access network service provider. This means that the term OTT does not refer to a particular type of service but to a method of provision, namely provision over the public Internet. We further note that services provided via the internet are delivered without control over the underlying network and they are therefore referred to as OTT services." It is based on an earlier submission[2] made by GSMA to TRAI.

7. This definition provides clarity and a comprehensive understanding of the nature and scope of OTT services. By adopting this definition, regulatory authorities and policymakers in India can effectively address the regulatory challenges and formulate policies that align with the unique characteristics of OTT services. This ensures a balanced approach to regulation, fostering innovation, competition, and consumer protection within the evolving landscape of the Indian market.

8. Regarding the definition of OTT Communication Services, we have provided three options with COAI's submission to the Draft Telecommunication Bill, 2022.

E. Need to Regulate the OTT Communication Services:

1. OTT Communication Services have evolved into a significant segment that has become a perfect substitute to the traditional telecommunication services. Ever since the emergence of

[2] https://www.trai.gov.in/sites/default/files/GSMA08012019.pdf

OTT services, the need for regulating them has remained a burning issue the world over which has now reached a crescendo with many regulatory authorities looking at ways and means to regulate them and assess a framework to establish a fair share charge for network creation.

2. Worthwhile to note that many other sectoral regulators in India have been proactively keeping track of and modifying the regulatory framework to include any OTT players that may be offering services similar to those being offered by the traditional players under their jurisdiction.

3. For example, regulators like RBI, SEBI, IRDAI etc. have created a virtuous framework in their respective sectors, that allows innovation and the growth of OTTs/online players while simultaneously ensuring legal & regulatory oversight without disrupting the level playing field of their main players.

4. On the other hand, in the Telecom , the OTTs have no regulatory oversight, whatsoever. The OTT Communication Service providers have neither fulfilled any of the Monetary Obligations that TSPs have paid nor complied with any of the regulatory/license conditions as mentioned below:

5. Telecom Service Providers (TSPs) are required to pay various levies including License fees Spectrum Usage Charges and taxes to the Government. In contrast, OTT Communication Service Providers do not have to pay any such levies.

6. Apart from not paying any of the levies, the OTT Communication Service Providers do not have any regulation to abide by unlike the TSPs who are required to comply with regulations mandating Quality of Service Parameters, Security, and lawful interception, TCCCPR to curb UCC etc.

7. The absence of any requisite charges and regulations for OTT Communication Services creates an uneven playing field for Telecom Service Providers (TSPs). To address this imbalance, a regulatory framework is necessary to have a level playing field, promoting fair conditions for both TSPs and OTTs.

8. Given the regulatory disparities between Telecom Service Providers (TSPs) and Over-The-Top (OTT) Communication Service Providers, there is an urgent necessity to implement an equivalent regulatory framework for OTT communication services, by bringing these services under the Unified License framework. A new authorization in the Unified License for OTT communication services would ensure fair competition, address potential biases, and foster a level playing field within the telecommunication industry.

F. Fair Share Charge and Net Neutrality

1. OTT communication services depend heavily on the infrastructure provided by TSPs to reach their subscriber base. In order to deliver and sustain digital connectivity, there is a critical need for a collaborative framework amongst all market players benefiting from the digital transformation.

2. There should be a policy framework to enable fair share contribution from large OTT service providers to telecommunication network operators based on assessable criteria like no. of subscribers or data usage. Since this is an issue of critical importance for the sustainability of the sector in the long run, to ensure fairness and compensate for the increased data demands, it is justifiable for OTTs to pay a fair and reasonable fair share charge to TSPs.

3. Similar to entities charging the users for the commercial use of their property or infrastructure, TSPs who invest in nationwide telecom infrastructure, should get a fair and reasonable share charges from the users utilizing their network infrastructure.

4. It must be kept in mind that, the funds received by TSPs from OTTs will support the expansion of networks and enhance contribution to the exchequer since these revenues will be a part of TSPs' AGR calculations which contribute directly to the national treasury.

5. To cater to innovation and support start-ups or smaller OTT providers, we suggest exempting them from the " fair share charge," thus ensuring that innovation and entrepreneurship remain unaffected.

6. Certain entities have been misleading the debate on the necessity for a regulatory framework for communication OTTs as well as on the requirement for OTTs to pay fair share charges to TSPs by conflating it with the concept of Net Neutrality.

7. It is necessary to recognize that Net Neutrality concerns unbiased treatment of content and is completely unrelated to the fair share charge to be paid by OTTs to TSPs. It is worthwhile to emphasize here that our member TSPs are committed to follow the Net Neutrality principle as per their licencing conditions.

With respect to the questions asked in the Consultation Paper, our issue-wise response is as follows:

Q.1 What should be the definition of over-the-top (OTT) services? Kindly provide a detailed response with justification.

COAI Response:

a) The OTT services have had a huge impact on licensed Telecommunications services. We agree that to create an effective regulatory framework, the entities to whom such a framework would apply are identified or determined. This means drawing up a clear and specific definition of 'OTT Services'.

b) OTT services, over the years have been drastically increasing their ambit and there are a wide range of services that are available for subscribers such as Content, Communications, E-Retail, Social Media, Gaming and Payment services etc. Hence OTT services need a comprehensive and clear definition that ensures the removal of any ambiguity. One can define the OTT services based on the previous emphasis which has been laid down by various international institutions in accordance with the suitability and understanding of the term "OTT-services".

c) "OTT services can be described as content, services or applications that are provided to end users over the Internet independently of the access network service provider. This means that the term OTT does not refer to a particular type of service but to a method of provision, namely provision over the public Internet. We further note that services provided via the internet are delivered without control over the underlying network and they are therefore referred to as OTT services." It is based on an earlier submission[3] made by GSMA to TRAI.

d) Alternatively, the definition of over-the-top (OTT) services as suggested by OFCOM can be adopted in India as well:

"***Over-the-top or OTT services*** *refers to a type of service provided "over the top" of an existing data network connection such as a fixed or wireless broadband connection.*"[4] ***[Annex 20 of the Mobile Call Termination Market Review 2015-18]***

We believe that the above definition adequately captures the wide variety of services that run "over-the-top" of data/traditional telecom services and can be suitably considered.

Q2: What could be the reasonable classification of OTT services based on an intelligible differentia? Please provide a list of the categories of OTT services based on such classification. Kindly provide a detailed response with justification.

COAI Response:

a) As stated in response to Q1, the types of OTT services have increased significantly over a period of time and touch various aspects such as Content, Communication, Retail, Payments, Gaming etc.

b) For the purpose of reasonable classification of OTT services, the categorisation laid down by DoT's Committee Report on Net Neutrality in May 2015 can be one of the guidance parameters in the context of India, which states :

i. OTT Communication Services: These services (e.g. VoIP) provide real-time person-to-person telecommunication services. These services are similar to the telecommunication services provided by the licensed telecom service providers (TSPs) but are provided to the users as applications carried over the internet using the network infrastructure of TSPs. Essentially OTT communications services compete with the services provided by TSPs riding on the infrastructure created by TSPs.

ii. OTT Application Services: All other OTT services such as media services (broadcasting, gaming), trade and commerce services (e-commerce, radio taxi, financial services), cloud services (data hosting & data management platforms/applications), social media (Internet-based intermediary applications like Facebook, YouTube) offer services to end-

[3] https://www.trai.gov.in/sites/default/files/GSMA08012019.pdf
[4] https://www.ofcom.org.uk/__data/assets/pdf_file/0025/74383/annex_20.pdf

users using the network infrastructure created by TSPs but do not directly compete with the service offerings for which the TSPs have obtained a licence under the applicable law i.e. the Indian Telegraph Act, 1885.

Q.3 What should be the definition of OTT communication services? Please provide a list of features which may comprehensively characterize OTT communication services. Kindly provide a detailed response with justification.

COAI Response:

a) Today, voice and SMS communications services can be delivered using traditional text messaging and CS voice or packet switched (IP) voice / SMS over a Telco network. They can also be delivered via a standalone, untethered application as a packet-switched VoIP /messenger. This transformation has come about because of the significant IP-ification of network and service layers. The regulatory regime should be future fit to accommodate all such changes impacting service delivery in the telecommunications market and regulate them appropriately.

b) COAI believes that functional similarity and/or substitutability, especially demand-side substitutability, should be the main parameters for classifying any service as an OTT communication service.

c) OTT communication services which are similar to access services (such as collection, carriage, transmission and delivery of voice and/or non-voice messages), internet telephony, services including IPTV, triple play, i.e., voice, video and data, voice mail, unified messaging services, video conferencing, cell broadcast, value-added services and supplementary services, provided by traditional licensed TSPs, should be considered under this definition. Same/similar services should also cover services that will potentially be provided by TSPs in the future, as permissible under their licenses.

d) Therefore, the definition of OTT communication services needs to be clear and comprehensive. The twin features laid down by DoTs Committee Report on Net Neutrality,2015 may be the guiding principles for defining OTT Communication services:

   i. It is accessed and delivered through an application over the public Internet, using the network infrastructure of the Telecom Service Provider (TSP).

   ii. It is a direct technical/ function substitute for traditional telecommunication services provided by the TSPs.

e) COAI has submitted the following three definitions of OTT Communication services, during the deliberations on the Draft Telecom Bill:

Option 1: *"OTT communication services are the services that provide real-time app to person or person-to-person telecommunication services. These services are similar to the telecommunication services provided by the licensed telecom service providers (TSPs) but*

are provided to the users as applications carried over the internet using the network infrastructure of TSPs. Essentially, OTT communications services compete with the services provided by TSPs riding on the infrastructure created by TSPs." ***[DoT committee report on Net Neutrality May 2015]***

Or

Option 2: "Over-the-top or OTT communication services" means Internet Protocol (IP) enabled communications services carried over underlying telecommunication/broadband network infrastructure such as IP-based instant messages or voice or video calls.

Or

Option 3: "OTT communication services mean services providing real-time person-to-person telecommunication services using the network infrastructure of the telecommunication service providers and competing with them." ***[TRAI Consultation Paper on Regulatory Framework for Over-the-Top (OTT) Communication Services dt. 12th November 2018]***

In these options, 'person' should mean both human and applications/machine and 'real time' would also include 'near real-time'.

In our view, the definition given under the DoT committee report on Net Neutrality is most closely placed and hence, should be considered.

Q4: What could be the reasonable classification of OTT communication services based on an intelligible differentia? Please provide a list of the categories of OTT communication services based on such classification. Kindly provide a detailed response with justification.

COAI Response:

a) OTT- Communication Services: OTT Communication Services rapidly underwent transformation since they were introduced. With the rapid advancement and growth of these services, we find there is a need to classify the OTT- Communication Services within the context of present-day scenarios to remove any ambiguities. For the same, we find the below-mentioned classification to be suitable for the purpose of classification:

i. **Direct- OTT Communication Services:** These OTT services utilise the network infrastructure provided by the TSPs to carry out Traditional Communication Services such as Text messaging, voice calls, video calls, instant messaging, etc. on a regular basis. OTT communication services where inter-personal communication is the principal or independent offering, are capable of acting as a functional substitute for the services provided by traditional licensed TSPs. Applications such as WhatsApp, Telegram, Zoom, Duo, Viber, Discord, and Signal are some examples of Direct OTT-Communication Services.

Further, OTT services whose core offering is something else but they also offer instant messaging/voice/video calling features independent of the core offering should be treated as Direct OTT communication services. For example, Instagram, principally a social media platform, also offers instant messaging, and one does not need to

mandatorily create a social media post in order to be able to communicate with other users. Similarly, on Paytm, although the principal offering is financial services, an instant messaging feature that is independent of the financial services is also offered, i.e., one does not need to mandatorily carry out a financial transaction in order to be able to chat with other users or users unrelated to the financial transaction. Such OTT communications services may also be classified under the OTT Communications services as described above.

The principle of 'same service – same rules' needs to be applied in case of such OTT communication services vis-à-vis traditional licensed telecom services.

ii. **Incidental- OTT Communication Services:** OTT communication services where inter-personal communication is only an incidental or ancillary feature to the principal offering and does not act as a functional substitute or independent of the services provided by traditional licensed TSPs. In these services, the inter-personal communication feature is so intrinsically linked to the principal service that it cannot technically be used without that principal service. The users cannot choose to communicate with a person of their choice – the users are assigned to each other for a particular task and once the same is completed, it is usually not possible to communicate with the same person again.

The Incidental- OTT Communication Service providers, connect with their customers via Traditional Communication Services by utilizing the network infrastructure of the TSPs on a requirement basis. Applications such as Uber, Ola, Rapido, BluSmart, Swiggy, Zomato, Blinkit etc. are some of the examples for OTT- Incidental Communication Services. These services include Taxi Services, Food Delivery, and Online grocery delivery provided by these applications which are their main businesses. For example, in the case of an application such as Uber, the App allows the driver to connect with the customer via online call as well as text messaging to get a better understanding of the location of the customer. In this situation, the Communication service carried out is incidental in nature and the cab service is the main business.

Q5: Please provide your views on the following aspects of OTT communication services vis-à-vis licensed telecommunication services in India:
(a) regulatory aspects;
(b) economic aspects;
(c) security aspects;
(d) privacy aspects;
(e) safety aspects;
(f) quality of service aspects;
(g) consumer grievance redressal aspects;
(h) any other aspects (please specify).

Kindly provide a detailed response with justification.

COAI Response:

a) We believe that OTT communication services should be brought under the appropriate regulatory framework. The functionality of the service and the utility and/or substitutability of services from a customer's standpoint – irrespective of the underlying technology/resources being used by the operator for the provision of such services – is what should govern the remit of the regulatory and licensing framework between TSPs and OTT communication service providers.

b) Therefore, the principle of 'same service, same rules' needs to be applied so as to address the glaring licensing, regulatory and security asymmetries between two sets of services to ensure a level playing field and to protect competition.

c) As per the Indian Telegraph Act, various national telecom policies and the present licensing regime, the privilege to offer interpersonal communication services is to be given by entities holding the license granted under section 4 of the Indian Telegraph Act. These licenses impose numerous conditions on the licensees – **lawful interception, subscriber verification, protection of customer privacy, network security, maintenance of CDR, emergency services, etc.**

d) As for OTT communication services, they are real time, inter-personal telecommunications services. They are almost the same or, at any rate, very similar to the telecommunications services provided by licensed TSPs except that instead of providing these services through their own networks, OTT communication service providers provide these services over the internet using Telco connectivity.

e) While the layer being used by the two kinds of operators may be different, the services offered by the OTT communication service providers are substitutes – from a customer's standpoint – for the services offered by licensed TSPs. Even the TSPs' voice service today is carried over IP protocols though not necessarily as a separate app.

f) The important point here is that, unlike the traditional licensed TSPs, OTT communication service providers are being allowed to offer these services even though they do not hold a telecom license in India. What is more, they are not being made subject to any of the rules and regulations the TSPs have had to abide by.

g) Some of the services that are offered by the OTT players such as messaging/instant messaging and VOIP telephony are perfect substitutes of the services that are being offered by the TSPs.

h) However, in case of such services which are similar, there are several aspects of regulatory treatment of the TSPs vis-à-vis the OTT players, which create a non-level playing field and hamper the former's ability to compete fairly in the marketplace. These regulatory imbalances are listed below.

i) **Security conditions:** Clause 39.2 of the Unified license states that "The LICENSEE shall make available on demand to the person authorized by the Licensor, full access to the

switching centers, transmission centers, routers and other network elements including equipment installed in subscriber premises etc. for technical scrutiny and for inspection, which can be visual inspection or an operational inspection".

Clause 39.4 states that "The LICENSEE shall ensure protection of privacy of communication and ensure that unauthorized interception of messages does not take place".

Clause 39.7 states that "The LICENSEE shall induct only those network elements into its telecom network, which have been got tested as per relevant contemporary Indian or International Security Standards e.g. IT and IT related elements against ISO/IEC 15408 standards, for Information Security Management System against ISO 27000 series Standards, Telecom and Telecom related elements against 3GPP security standards, 3GPP2 security standards etc. The certification shall be got done only from authorized and certified agencies/ labs in India or as may be specified by the Licensor. The copies of test results and test certificates shall be kept by the LICENSEE for a period of 10 years from the date of procurement of equipment".

Clause 39.7.1. states that "the licensee, shall only connect Trusted Products in its network and also seek permission from Designated Authority for upgradation or expansion of existing Network utilizing the Telecommunication Equipment not designated as Trusted Products. However, these directions will not affect ongoing Annual Maintenance Contracts (AMC) or updates to existing equipment already inducted in the network as on date of effect".

Further, as per the Amendment (Ref. No.: 20-271/2010 AS-I (Vol.-III) to Unified License issued by DoT on 21st December 2021**,** TSPs are mandated to store CDR/IPDRs for a period of 2 years whereas OTT players do not have any such obligation.

While the TSPs are subjected to ensure compliance with all the security requirements as laid down in the Unified License, the OTT players, who ride over the TSP's network, have no such security obligations to fulfil. This gives them an added advantage over the compliance mechanism which the TSPs have to follow.

j) **Monitoring services i.e. Lawful interception and monitoring:** Clause 8.2 of Chapter VIII of the Unified License states that "The designated person of the Central/ State Government as conveyed to the Licensor from time to time in addition to the Licensor or its nominee shall have the right to monitor the telecommunication traffic in every MSC/ Exchange/ MGC/ MG/ Routers or any other technically feasible point in the network set up by the Licensee. The Licensee should make arrangement for monitoring simultaneous calls by Government security agencies".

Further, Clause 8.3 states that "The Licensee shall be required to provide the call data records of all the specified calls handled by the system at specified periodicity, as and when required by the security agencies in the format prescribed from time to time".

TSPs have invested heavily in setting up the infrastructure for Lawful interception and monitoring. Designated Nodal officer have been appointed to ensure compliance with the requirement of lawful interception and monitoring.

However, OTT Players do not have such huge network infrastructure required by the TSPs nor are they subjected to the conditions as laid down in the unified License for lawful interception and monitoring for TSPs. This is a big security threat to the nation as all communications made over the OTT network does not get intercepted or monitored.

k) **Quality of Service:** TSPs are regulated by the Telecom Regulatory Authority of India (TRAI), which sets various QoS standards and regulations to ensure a certain level of service for consumers. Some of the QoS requirements for TSPs include parameters such as Network Availability, Connection Maintenance, Metering and Billing Accuracy, Customer Care, Complaint Redressal,. etc… Reporting as well as compliance to these is a must for TSPs. The QoS reports published by TRAI are available in Public Domain. The TSPs are subject to penalties for not meeting benchmarks.

   OTT players provide content and services over the internet, bypassing traditional communication channels are not regulated in any manner and hence are not subject to any of the QoS regulations.

l) **Consumer Grievance Redressal aspect:** TRAI, vide Telecom Consumers Complaint Redressal Regulations, 2012, has prescribed the establishment of Complaint Centre by the TSPs for redressal of complaints and for addressing the service requests of its consumers. The complaint centre for a service area shall provide the service in local language of that service area in addition to Hindi and English. There are various other provisions that have been laid down by the Authority which the TSPs have to comply like setting up toll-free Consumer Care Number, mechanism for Interactive Voice Response System (IVRS), etc. TRAI has also prescribed the benchmarks for monitoring of the complaint redressal parameters and provisions of penal action for not meeting the same.

   For OTT players, there is no such provision of setting up of Complaint Centre nor are they governed by any Regulatory framework for redressing their consumer complaints.

m) **TCCCPR for the purpose of curbing UCC:** TSPs are obligated to follow the TCCCP Regulation issued by TRAI wherein every access provider shall ensure that any commercial communication using its network only takes place using registered header(s) assigned to the sender(s) for the purpose of commercial communication. Further, no subscriber who is not registered with any access provider for the purpose of commercial communication under these regulations shall make any commercial communication and in case any subscriber is sending commercial communication, telecom resources of the sender may be put under usage cap. Every access provider shall develop an ecosystem to regulate the delivery of commercial communications as provided in the regulations. TSPs have to go through a process of scrubbing before sending any commercial communication to the subscriber thereby eliminating any spam or unsolicited commercial communications get delivered.

   TSPs have invested substantially in setting up their systems to prevent unsolicited communications as required by the TRAI Regulations. Further, there exists a mechanism wherein customers can lodge complaints. Further, the consumers are provided with the resolution timelines for their complaints. Necessary tracking mechanism is available for the customers to check the progress of their complaints.

While there are strict procedures laid down by the Regulator on the TSPs for sending any commercial communication by the subscribers, the subscribers of OTT Players enjoy an uninterrupted and unregulated environment for sending all communications including commercial communications. This has not only paved the way for a non-level playing field but is also a serious security issue where there is no control mechanism over the increasing frauds/cybercrimes.

n) **Spectrum allotment and use:** TSPs acquire spectrum through auctions held by DoT, which is the backbone for all telecommunication services. They are obligated to pay the auctioned amount and utilize the spectrum as per the terms and conditions outline during the auction process. TSPs invest heavily on Spectrum through such auctions to enhance their services, upgrade their network and to deploy new technologies for better customer experience and for generating revenues from such investments. For example, the contribution by TSPs in the last auction held in 2022 was Rs. 1.50 Lakh crores.

There is no such investment obligation on the OTT players who provide similar services as those being provided by the licensed TSPs and therefore contradicts the criteria of a level playing field in the telecommunications industry as far as investments in spectrum auctions are concerned.

o) **Licensing:** The licensed Telecom Service Providers (TSPs) are subjected to specific licensing and regulatory frameworks set by DoT/TRAI. TSPs are subjected to a high payment of License fee, which at present constitutes 8% of their Adjusted Gross Revenues (AGR) and are also subjected to other fees and levies as prescribed by the Government from time to time. They are also subjected to frameworks including adhering to the various conditions and compliances viz. Security compliances, Quality of Service parameters, Customer service parameters, Roll-out obligations, consumer protection, etc. Any non-compliance attracts penal actions by the licensor or regulatory for the shortfall in any of the parameters as laid down in the license.

However, the OTT players are not subjected to high levy of fees and other levies which are borne by the TSPs. They operate in a non-regulated environment compared to TSPs thus creating a non-level playing field amongst TSPs and OTT players.

p) **Data Protection:** TSPs have to take necessary steps to ensure the confidentiality of customer information. Carriage of objectionable, obscene, unauthorized or any other content, messages or communications infringing copyright and intellectual property right etc., in any form, in their network is not permitted as per established laws of the country.

Further, TSPs are required to obtain explicit and informed consent from their customers before collecting and processing their personal data. Consent should be obtained for specific purposes, and customers have the right to withdraw consent at any time. They are expected to implement appropriate technical and organizational measures to protect the personal data they collect and process. This includes safeguarding data against unauthorized access, disclosure, or destruction.

However, OTT players are not regulated through any such obligations and possess a high risk on the privacy and data protection of the customers.

q) **Bank Guarantees:** TSPs have to provide Performance Bank Guarantee (PBG) and Financial Bank Guarantee (FBG) to DoT as a financial backstop to meet its obligation. These obligations arises primarily for the license conditions w.r.t. roll-outs and due payment of License Fees and Spectrum related dues. Thus, PBGs are being provided to DoT by TSPs to cover violation of license conditions and to ensure due performance under the license agreement and FBGs are being provided to securitize License Fees and Spectrum related payments. These guarantees can also be encashed by DoT in case of non-compliance.

However, there is no such requirement of furnishing Bank Guarantees by the OTT players to DoT or any other statutory body. This again results in a non-level playing field as OTT Players are exempted from such obligations.

r) **Proper record keeping including methodology:** TSPs are required to Compile and maintain accounting records, sufficient to show and explain its transactions in respect of each completed quarter of the License period or of such lesser periods as the Licensor may specify. TSPs are also required to furnish the Auditors report stating inter-alia whether in his opinion the statement is adequate for the purpose of this condition and thereafter deliver to the Licensor a copy of each of the accounting statements not later than three months at the end of the accounting period to which they relate.

TSPs, in compliance to the Licensing conditions, are required to submit a certificate containing full account of Revenue as defined in the license for each quarter separately along with the payment for the quarter.

Further, TSPs are required to furnish to the DoT full detail of inter-operator settlement of accounts e.g. pass through charges, usage of network and facilities, domestic and international roaming including details of the settlement regime through accounting rate or any other mechanism, etc. All bilateral settlements including those between the ILD service provider and other foreign partners (carriers) shall be through normal banking channel in a transparent manner.

However, OTT players are not subjected to such maintenance of their Financial records nor are they subjected to its verification/scrutiny by the DoT.

s) **Payment of LF, SUC and USOF levy:** It is widely acknowledged that despite being a crucial contributor to the economy's growth, the Telecom sector continues to bear the heaviest tax burden among Asian countries. Currently, the total License Fee (LF) having rate of 8% of AGR is uniformly applicable to all licensees, of which 5% goes to the USO fund and the remaining 3% is levied as License Fee (LF). Further they have to pay a SUC to the Government @ around 3% of the AGR.

Despite the fact that OTT Players provide similar services as that of TSPs, they are not obligated for such levies thus clearly violating the principles of a level-playing field.

t) **Other Tax Payment:** TSPs have been indebted to pay various Government taxes apart from the License Fee such as corporate tax, VAT, GST, etc. applicable to various license services. The current regime of over 26% of revenue outgo as taxes and levies is being contributed by the TSPs.

However, despite the fact that OTT players provide similar services to that being provided by the TSPs, they do not fall under the ambit of such taxes.

Governments around the world have been considering and implementing changes to tax digital services, including those provided by OTT platforms. In some countries, governments have been exploring ways to impose value-added tax (VAT) or goods and services tax (GST) on digital services provided by OTT platforms. These taxes might be applicable to both domestic and foreign OTT players, depending on the country's laws.

To ensure a level playing field amongst TSPs and OTT players, it is prudent that there should be same tax liability on similar services being provided by the TSPs and OTT players.

u) Further, we submit that OTT service providers need to contribute towards creation of network infrastructure in India. TSPs invest heavily in infrastructure and make significant contributions to the exchequer. OTT communication service providers neither contribute to the exchequer nor make substantive investments. Since digital infrastructure creation is critical for economic and social development of the country, we are of the view that the OTT service providers, should contribute directly to the network expenses under bilateral arrangements with TSPs.

Q6. Whether there is a need to bring OTT communication services under any licensing/regulatory framework to promote a competitive landscape for the benefit of consumers and service innovation? Kindly provide a detailed response with justification.
&
Q7. In case it is decided to bring OTT communication services under a licensing/ regulatory framework, what licensing/ regulatory framework(s) would be appropriate for the various classes of OTT communication services as envisaged in the question number 4 above? Specifically, what should be the provisions in the licensing/ regulatory framework(s) for OTT Communication services in respect of the following aspects:

a. lawful interception;
b. privacy and security;
c. emergency services;
d. unsolicited commercial communication;
e. customer verification;
f. quality of service;
g. consumer grievance redressal;
h. eligibility conditions;
i. financial conditions (such as application processing fee, entry fee, license fee, bank guarantees etc.); and
j. any other aspects (please specify).

Kindly provide a detailed response in respect of each class of OTT communication services with justification

COAI Response:

a) The OTT Communication Services over a period of time have drastically increased their scope to become the perfect substitution of voice and video calls carrier which has been the bread and butter of the TSPs. Furthermore, the OTT Communication Services utilize network infrastructures provided by the TSPs. Unlike TSPs, OTTs lack their own established infrastructure and instead rely on the investments made by the TSPs.

b) Despite being a perfect substitute for TSP services, OTTs do not bear the burden of fees, such as Entry Fee, License Fees, Spectrum Usage Charge (SUC), Bank Guarantees, etc. which creates an unfair and biased competitive landscape.

c) While the industry is in favour of adoption of new technologies and services by various players, it is important to ensure that the level playing field amongst the players in not skewed. To address this, it is necessary to bring OTTs providing communication services under the regulatory framework of the Unified License Agreement guidelines laid down by the Department of Telecommunications (DoT).

d) We are of the view that the players providing OTT communications services can be licenced by introducing the OTT Communication Authorization under the Unified License and be subject to the following Regulatory compliances:

   i. Lawful Interception and Monitoring & maintaining CDRs as per the terms and conditions stipulated in the UL.

   ii. Data Privacy and Protection laws of the land should be equally applicable.

   iii. Data Localization: OTT communication service providers should be required to host their data (data centers and data servers) in India.

   iv. UCC Regulations of TRAI should be equally applicable to entities providing similar services.

   v. Quality of Service Regulation of TRAI should be applicable on OTT Communication Service providers for ensuring a level playing field amongst similar services being provided by TSPs and OTT service providers.

   vi. Financial conditions (such as application processing fee, entry fee, license fee, and bank guarantees etc.) should be imposed on OTT communication service providers as is applicable on the licensed TSPs.

International Precedence

e) In the context of a regulatory framework for OTTs, the EU implemented the European Electronic Communications Code on 11th of December 2018. The EECC introduced two new regimes for OTT providers: one for number-independent services like instant messaging, and another for number-based services such as VoIP. When OTT services grant access to publicly assigned numbers, they are governed by rules akin to traditional telecom operators. Conversely, those providing "number-independent interpersonal communications services" fall under a new and less stringent regulatory regime. This update ensures clearer and appropriate regulations for OTT services in the EU. Such regulatory regimes are tuned to requirements specific to a country/group of countries. In the case of India, where the security needs of the country have to be considered in all such scenarios, it is important that the OTT-CS players are put through a licensing and regulatory framework akin to the one applicable on licensed TSPs.

f) Further in July 2021, the European Union Agency for Cybersecurity (ENISA) published its 'Guideline on Security Measures Under the EECC' (4th Edition), which affirms that security provisions in the EECC for number-independent interpersonal communication services (NI-ICS) are similar for the number-based services.

g) Germany has gone one step further, by proposing for a new regulatory framework to monitor content on online platforms. It introduced Telecommunications Act (Telekommunikationsgesetz, TKG) which came into force on 1st December 2021. Under this Act OTT-I providers are regulated under telecommunications law for the first time. OTT-I services facilitate individual and group communication in the form of language, images, videos, or other data using the internet protocol only over the open internet, without offering content.

Q8. Whether there is a need for a collaborative framework between OTT communication service providers and the licensed telecommunication service providers? If yes, what should be the provisions of such a collaborative framework? Kindly provide a detailed response with justification.

COAI Response:

a) **Yes, there is a need for a collaborative framework between OTT communication service providers and licensed telecommunication service providers**.

b) It is pertinent to mention that largest traffic originators (LTOs) are a handful of companies – the various OTT Communication services provided by them contribute to 81% of the global internet traffic today. They generate disproportionate network costs and do not contribute towards the sustainability of networks.

c) **A regulatory intervention is required to ensure that these LTOs contribute towards the costs of network creation and upgradation in proportion to the internet traffic**

generated by them – in the form of a 'fair share charge'. There are further elaborations in the response to Q8 below on the need for such a framework.

d) Unabated growth of OTT services' traffic is leading to a growing underlying concern for the telecommunications sector in terms of its ability to maintain the pace of investment over the long term and thus the sustainability of the Indian digital ecosystem. If the ambitions of Digital India are to be realised, it is important to reflect on how to secure a resilient connectivity architecture based on a sustainable business model.

e) Discussions along these lines are already taking place around the world – the European Union and Brazil being the most recent examples. It is high time that the regulator and the licensor in India also appreciate the criticality of this issue and take measures to ensure sustainability in the telecom sector.

f) For communication OTTs which provide similar services (voice/video calls and messaging) to the same set of customers over the same applications layer of the 7-layer OSI model, the collaborative approach must comprise of a the "fair share charge" to be paid to the TSPs/ network providers, based on the actual data traffic carried over their networks.

g) As OTT communication services heavily exploit the TSPs infrastructure created solely by the TSPs to reach their users, it is only justified that a fair share charge be paid to TSPs to compensate for the traffic generated by OTT services and further develop the infrastructure required to cater to rapidly rising data demands of the customers.

h) It is also pertinent to note that any entity which creates a property or infrastructure by investing funds, is entitled to take a fair share charge (rent /lease charges, etc.) from someone who uses the same for commercial purposes. Hence, a legal framework enabling TSPs (who invest in establishing nation-wide telecom infrastructure) to charge any user that uses its service/infrastructure is fair and reasonable.

i) Moreover, this fair share charge will contribute towards the development, maintenance, and upgradation of the network infrastructure. It is also pertinent to highlight the **European Commission's recent commitment in the Digital Decade Declaration to develop adequate frameworks so that "*all market players benefiting from the digital transformation… make a fair and proportionate contribution to the costs of public goods, services and infrastructures…*".**

j) Further, the revenue collected by TSPs from the OTTs will help the TSPs rollout and expand networks to meet the infrastructure requirements for OTT services. It may also be noted that the revenues thus collected will count towards the TSPs AGR calculations. Hence, the OTTs will effectively be contributing to the national exchequer through the TSPs.

k) To encourage innovation and nurture start-ups/ smaller OTT players, we propose that such players should not be required to pay the "fair share charge". In this way innovation and entrepreneurship will not get impacted.

l) While the fair share charge needs to be an integral aspect of the collaborative framework, other elements of the framework could cover aspects such as co-location of equipment, QoS, data privacy etc.

International Precedence

m) To enhance digital infrastructure and employment, the South Korean government announced the "Digital New Deal" on July 14, 2020. The South Korean New Deal aims to transform the economy to make it greener, with more digital services and stronger safety nets, implemented through fiscal support and improved regulations to promote the private sector.

n) As a part of these initiatives for creation of digital infrastructure in South Korea, a number of bills have been introduced since 2021 which seek to mandate local and foreign content providers to enter into contracts with ISPs in South Korea to be able to use their networks. A contract would need to specify the ISPs' share charges to be paid by content providers to ISPs, the period of use, and their available capacity, among other terms. Another Bill prohibits content providers from using ISP's network without paying "fair consideration" for use of the network, whereby the non-complying content provider's service can be shut down by the authorities. This bill implicitly allows ISPs to refuse to carry traffic from content providers who fail to pay the "network share charges."

Q9. What could be the potential challenges arising out of the collaborative framework between OTT communication service providers and the licensed telecommunication service providers? How will it impact the aspects of net neutrality, consumer access and consumer choice etc.? What measures can be taken to address such challenges? Kindly provide a detailed response with justification.

COAI Response:

a) Our member Telecom Service Providers (TSPs) have been delivering seamless and cost-effective telecom services transparently and without any discrimination for over two decades. The industry has gained maturity in effectively addressing concerns related to consumer access, and consumer choice, ensuring a fair and inclusive digital ecosystem for all stakeholders.

b) Further, our member TSPs are committed to follow the Net Neutrality principle as per their licencing conditions.

c) Some entities have been misdirecting the issue of need for a regulatory framework for the communication OTTs and the need of fair share charge to be paid by OTTs to the TSPs, by bringing in the aspect of Net Neutrality.

d) There seems to be lack of appreciation of the fact that net neutrality pertains to non-discriminatory treatment of content which has no nexus to the "fair share charge" issue. We submit that all provisions of Net Neutrality as enunciated in the license conditions shall be followed by our member TSPs.

e) Thus, Telecom Service Providers (TSPs) are committed to follow the Net Neutrality Principles, as per their license conditions, as also all other regulatory and security compliances which the TSPs undertake to safeguard consumer interest and security - which OTTs presently do not. The large OTT-CS providers required to pay fair share charge to TSPs, can be determined on the basis of an objective criteria i.e. number of active subscribers (let' say 50 lakhs, which is also mentioned as Significant in the Social media Intermediary rules). Therefore, there will not be any impact to Net Neutrality.

f) There will not be any adverse impact on consumer access and choice since the fair share charge paid by OTTs to TSPs will be used to create more capacities in networks at access and other levels, thereby giving the customers better QoS.

Q10. What are the technical challenges in selective banning of specific OTT services and websites in specific regions of the country for a specific period? Please elaborate your response and suggest technical solutions to mitigate the challenges.

COAI Response:

a) Addressing the Technical challenges of selective banning requires a comprehensive approach. To selectively ban OTT services, the TSPs face challenges which are required to be dealt with.

b) Proper identification (i.e. domain name and list of IPs that need to be blocked) is to be done by a Competent Authority (of course, the State Government would need support from the Central Government i.e. MHA), as TSPs would have no control over the OTT communication service providers to get such information. Once the domain name and list of IP-I are made available by the Competent Authority, the TSP has to segregate the data traffic originating or terminating towards them, from the entire internet traffic of that particular telecom circle and get the blocking done. The barring through TSPs can only be implemented at network levels and selective and geographical barring has many difficulties, like overriding using a VPN, changing URLs, dynamically changing IPs etc.

c) A better solution of selective barring is available through OTTs themselves. The OTTs obtain the location of the customers and can easily bar access for selective barring. Once the OTT communication services are under license this barring will be much easier to implement.

d) The TSP's networks are capable of selectively blocking the OTT-CS/websites subject to proper identification details (list of IPs) being provided by the Competent Authority. Thus, the onus of giving proper identification (i.e. list of IP addresses, domain names) should be with the competent Authorities. For getting the list of IP addresses, suitable instructions should be issued by the competent authorities to OTT-CS/websites.

e) Further, the Government should consider source-level blocking, i.e., it should directly engage with the concerned OTT service provider or website or hosting server /operator or with the OS providers so that the desired outcome may be achieved without any significant difficulties.

Q11. Whether there is a need to put in place a regulatory framework for selective banning of OTT services under the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 or any other law, in force? Please provide a detailed response with justification.
&
Q12. In case it is decided to put in place a regulatory framework for selective banning of OTT services in the country, -
(a) Which class(es) of OTT services should be covered under selective banning of OTT services? Please provide a detailed response with justification and illustrations.
(b) What should be the provisions and mechanism for such a regulatory framework? Kindly provide a detailed response with justification.

COAI Response:

a) Yes. There is a need to put in place a regulatory framework that is effectively implementable and one that involves the right stakeholders in the process.

b) The TSPs support and abide by the rules and regulation when there is a need for the enforcement of law and order in the country.

c) However, we wish to submit that when Internet services suddenly become unavailable at a time when so many aspects of our lives are dependent on it, the impact can be felt not just economically but also psychologically.

d) Today about 90% of the services are dependent on the internet. These include internet based services like booking of cabs, food delivery, maps, online medicine, online payments of utility/ other bills, etc.; internet shutdown completely crumbles their lives.

e) Banking, financial transactions and e-commerce emerge as the largest affected businesses. Important services like money transfers, Aadhaar-based subsidy transfers etc. are most commonly affected.

f) Further, one of the biggest inadvertent fallout of internet shutdown is that **people are not able to recharge to ensure continuity of their telecom service**. This leads to a major service disruption to the customers, who would want to at least remain connected with their families. These customers are greatly inconvenienced.

g) Therefore, the Government has to realize that most of its own schemes and initiatives are based on Digital India and they are all adversely impacted in the event of an internet shutdown.

h) However, we submit that including Over-The-Top (OTT) players within the regulatory framework is critical to facilitating selective banning or blocking of services as needed. To that end**, we further submit that OTT providers should implement IT solutions that would allow them to swiftly suspend their services in the case of an internet outage. This will ensure that only select services are suspended.** This proactive strategy not only

assures regulatory compliance but also indicates responsible participation in sustaining a stable digital environment in the country.

i) In this regard, the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 or any other law which is in force needs to be made applicable for OTT services in the interest of national security. Thus, the OTT players may be directed to abide by the same to ensure the cooperation from them to strengthen the position for the purpose of securing law and order of the region.

j) All OTT service providers are in possession of enormous amounts of data, and each one of them can give rise to cyber security and other threats. In order to avoid gaps in security measures, the regulatory framework should be equipped to deal with all kinds of OTT services.

k) The *Standing Committee of the Parliament on Communications and Information Technology in its Thirty-Seventh Report dated February 2023* on Selective Banning of the Services stated that keeping in view the fact that complete shutdown of telecom services/internet affects the people in many ways, the Committee desired to know if it was technically possible to shut down only those services in areas likely to be used by terrorist/anti-social elements rather than shutting down internet as a whole.

l) The Committee felt that it will be of great relief if the Department can explore the option of banning of selective services, such as Facebook, WhatsApp, Telegram, etc. instead of banning the internet as a whole. This will allow financial services, health, education and various other services to continue to operate for business as usual thereby minimizing inconvenience and suffering to the general public and also help in controlling spreading of misinformation during unrest. Adoption of such less restrictive mechanisms will be a welcome initiative.

m) We support the observations made by the Standing Committee of the Parliament on Communications and IT. Accordingly we submit that the options for selective banning of OTT services should be explored and implemented. We reiterate that that OTT providers should implement IT solutions that would allow them to swiftly suspend their services in the case of an internet outage. **This will ensure that only select services are suspended and other services like booking of cabs, food delivery, maps, online medicine, online payments of utility/ other bills, Banking, financial transactions, e-commerce and Aadhaar based subsidy transfer is available to the consumers.**

n) We believe that selective banning of OTT services and websites is a desirable alternative, however, it has to be done at the source level. Direct involvement of the concerned OTT services and websites, OS-providers in the process will also ensure that the normal data continues to run without having any negative impact on the economy or other digital services.

o) Therefore, the three requirements which should be covered in the regulatory framework, are given as follows:

i. Blanket shutdown of Internet not to be ordered. As many of these orders are issued by competent authorities under the State Government, there could be a potential gap unless the law specifically disallows blanket shutdowns. Therefore, The Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 should explicitly disallow blanket shutdown of the internet.

ii. For selective banning of OTT services/websites by TSPs, there should be a regulatory framework enabling Competent Authorities to have access to proper identification details of domain name and list of IPs of selective OTT services/websites, which they can provide to TSPs under shutdown orders.

iii. Suitable empowerment under Information Technology Act and related Rules, for ordering OTT services/websites and/or OS providers to provide alternate solutions and comply with. There should be regulatory provisions for auditing implementation of such solutions, and if any overreach thereof.

Q13. Whether there is a need to selectively ban specific websites apart from OTT services to meet the purposes? If yes, which class(es) of websites should be included for this purpose? Kindly provide a detailed response with justification.

COAI Response:

a) Yes, similar to the selective banning of OTT services, there is a need to selectively ban specific websites as per Government Orders/ Directive.

b) As in the case of OTT services, all classes of websites should be included under the regulatory framework for selective/complete banning, in order to enable the Government to issue blocking orders to requisite websites as and when necessary.

c) That said, it is again re-iterated that there are multiple technical challenges involved in selectively banning websites from a TSP's end. Therefore, the Authority should consider the option of source-level blocking and look at ways of involving the entities hosting the specific websites for effectively achieving the desired objective.

Q14. Are there any other relevant issues or suggestions related to regulatory mechanism for OTT communication services, and selective banning of OTT services? Please provide a detailed explanation and justification for any such concerns or suggestions.

COAI Response:

No Comments

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