**IAMAI Submission on TRAI Consultation
Paper on Definition of International Traffic**

Established in 2004, the Internet and Mobile Association of India (IAMAI) is a not-for-profit industry body representing the digital services industry with over 500 Indian and multinational corporations as its members, which include established companies in diverse sectors of the digital ecosystem as well as start-ups. We firmly believe that India's digital industry is going to be a major driving force in the economic and social development of the country which includes job creation, innovation, contribution to the GDP, inclusion and empowerment of our citizens, etc.

In 2022, the Department of Telecommunications (DoT) requested the Telecom Regulatory Authority of India (TRAI) to provide its recommendations under Section 11(1)(a) of the TRAI Act, 1997 (as amended) on the Definition of 'International SMS' and 'Domestic SMS'. In response to the same, TRAI noted that the term 'international traffic' has also not been defined in the Unified License (UL) Agreement for telecommunication services. As 'international SMS' is a type of 'international traffic', TRAI is of the view that instead of defining international SMS in the UL Agreement, it would be appropriate to define the term 'international traffic'. In lieu of the same, TRAI has released the 'Consultation Paper on Definition of International Traffic' for soliciting comments of stakeholders on the definition of international traffic, for inclusion in the license agreements.

At the outset, we would like to thank TRAI for giving us the opportunity to submit our comments on the consultation paper. We believe it is imperative that the relevant regulations provide a clear and unambiguous definition of the terms "International Traffic", "International SMS", and "Domestic Traffic" to ensure a widespread adoption of SMS technologies for businesses to reach their customers. Even in the larger context of e-governance, payments and banking infrastructure, where messages sent via SMS communicate OTPs, transaction details, etc., SMS play an important role. We note that our members Airtel and Reliance Jio have divergent views from those expressed in this document.

IAMAI Submission

Question 1. Whether it would be appropriate to define the term 'international traffic' in the telecommunication service license agreements as 'the international long-distance traffic originating in one country and terminating in another country, where one of the countries is India'? Kindly provide your response with a detailed justification.

IAMAI Response

As per TRAI's Telecommunication Interconnection Usage Charges (IUC) Regulations, termination charges on domestic SMS are regulated while termination charges on International SMS are under forbearance. However, the definitions of domestic SMS and International SMS are not provided in TRAI regulations also.[1]

The ambiguities surrounding "international SMS" and "domestic SMS" allows TSPs to adopt their own interpretation and categorise a message generated by a computer resource / server located outside India as "international SMS", in spite of the origination and termination of the SMS being limited to the

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[1] Department of Telecommunications, 2002.

network of TSPs in India, to bring it under the scope of forbearance. This has also led to expansive interpretation by the TSPs in India, which has resulted in difficulty in carrying out digital businesses. Entities sending SMS to their customers, for better business practices and for regulatory compliance are often subject to higher tariff rates as determined by the TSPs.

While defining "international traffic" is a step in the right direction, the scope of the word "originating" remains unclear as it does not clarify where the origination happens. "Originating" should be clarified to mean originating over a network of the TSP, either in India or outside India. In the absence of this clarification, the definition lends itself to arbitrary interpretation.

Data packets generated by the services in the application layer use the network layer provided by TSPs, for the purposes of application to application (A2A) messaging, emails, VoIP calls, etc. The definition proposed by TRAI in the consultation paper may be incorrectly interpreted to potentially include all traffic originating through computer servers and delivered to another computer server, where either of the computer servers is located in India. Further, there is scope of automated messages originating as data packets outside India to be classified as international SMS, despite such message originating and terminating as SMS on the network of a TSP in India.

Question 2. In case your response to the Q1 is in the negative, kindly provide an alternative definition along with a detailed justification.

IAMAI Response

The definitions for international and domestic traffic should not allow for the misclassification of A2A messages/A2P messages originating as data prompts outside India, as international SMS. Keeping this in mind, we would like to like to provide the following alternative definition of "international traffic":

> *"Traffic originating/terminating from the telecommunication network(s) of a TSP of one country and terminating/originating in the telecommunication network(s) of a TSP in another country, where one of the countries is India."*

Question 3. Since the terms 'Inter circle traffic' and 'Intra circle traffic' are already defined in the telecommunication service license agreements, whether there is still a need to define the term 'domestic traffic' in the telecommunication service license agreements? If yes, what should be the definition of the term 'domestic traffic'? Kindly provide your response with a detailed justification.

IAMAI Response

Defining domestic traffic will help establish a framework for differentiating domestic traffic from international traffic. Therefore, we suggest that domestic traffic should be defined as:

> *"Domestic traffic shall mean traffic originating and terminating on the telecommunication network(s) of TSPs within India."*