

VTL/Reg/TRAI/1504/4558  
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**Sh. Robert Ravi**  
Advisor (TD & QoS),  
Telecom Regulatory Authority of India  
Mahanagar Doorsanchar Bhawan,  
Jawahar Lal Nehru Marg (Old Minto Road)  
New Delhi — 110 002

**Subject: VTL Response on Consultation Paper on “Regulatory Framework for Over-the-top(OTT) Services”**

**Ref: TRAI Consultation Paper No. 2/2015 dated 27<sup>th</sup> March, 2015**

Respected Sir:

Videocon Telecommunications Limited welcomes the opportunity to give our comments to TRAI's consultation Paper on “Regulatory Framework for Over-the-top (OTT) Services” Please find attached herewith our response on the same.

This is for your information and kind consideration please.

Kind Regards



**Meena Bisht**  
Sr. Manager  
Regulatory Affairs  
Mobile #: 9310225538

*Encl.: as above*

VTL Response to Consultation Paper  
on  
'Over-the-top (OTT) service'

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Question 1: Is it too early to establish a regulatory framework for OTT services, since internet penetration is still evolving, access speeds are generally low and there is limited coverage of high-speed broadband in the country? Or, should some beginning be made now with a regulatory framework that could be adapted to changes in the future? Please comment with justifications.

Response: A beginning should be made now with a regulatory framework that could be adapted to changes in future. It may take some time to finalize the recommendations and a lot of time may be taken in obtaining the approval of the Ministry to bring policy changes in the matter. This stretch in time would give a clear direction and visibility to the TSP and OTT players on the way ahead.

Question 2: Should the OTT players offering communication services (voice, messaging and video call services) through applications (resident either in the country or outside) be brought under the licensing regime? Please comment with justifications.

Response: Aim should be to provide Regulatory Neutrality. It may be possible to enforce it without bringing them under licensing regime. Govt. should bring uniform rules and regulations for similar services. Quality of service & Security conditions should be applicable equally to services provided through OTT.

Question 3: Is the growth of OTT impacting the traditional revenue stream of TSPs? If so, is the increase in data revenues of the TSPs sufficient to compensate for this impact? Please comment with reasons.

Response : Yes, without any doubt it is. All telcos are experiencing drop in SMS and Voice usage, and this drop cannot be possibly made up with the increase in Data revenues. It is also important to mention here that, on an average more than 50% of the mobile internet usage of customers is on OTT based apps, which clearly indicates the dent TSP are taking on their Revenue streams.

In short, for a Telco, Data is becoming more of a dump pipe for OTT players (offering Text, Voice and Video calling) to ride on.

Question 4: Should the OTT players pay for use of the TSPs network over and above data charges paid by consumers? If yes, what pricing options can be adopted? Could such options include prices based on bandwidth consumption? Can prices be used as a means of product/service differentiation? Please comment with justifications.

Response : Ideally yes. There is a big rationale behind this. The TSP make huge investments on Spectrum, infrastructure and Sales & distribution to provide mobile services to the customers, while the OTT players ride on the infra created by telcos and offer services, which cannibalize the TSP's revenue itself.

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Owing to the popularity of the OTT apps, and fast growing smart phone penetration, the TSP's revenue streams are getting threatened, The increase in Data revenue is nowhere making up for the potential Revenue loss.

In order to ensure a WIN WIN situation for both TSP and OTT, its important that some kind of arrangement be worked out, for e.g

1. The OTT pays some part of their Revenue proceeds to the TSPs in form of Revenue share
2. On top of it, the TSP can charge premium price for few of the OTT services to the customers by means of differential charging for data usage. Given the HUGE price difference in conventional Voice/Text and OTT Voice/Text.

Enforcement of regulatory Neutrality ( QOS and security conditions) for voice, message and video services provided by OTT players will result into mutual agreements among TSPs and OTT players. It may, then, be left to the market forces

Question 5: Do you agree that imbalances exist in the regulatory environment in the operation of OTT players? If so, what should be the framework to address these issues? How can the prevailing laws and regulations be applied to OTT players (who operate in the virtual world) and compliance enforced? What could be the impact on the economy? Please comment with justifications.

Response: Yes, imbalances exist in the regulatory environment in the operation of OTT players. A reasonable time can be given to OTT players to enforce compliance to security and QOS conditions for the services provided through their apps. It will result into agreements among TSPs and OTT players complying to all security and QOS requirements and may also enable access to the servers of OTT players.

Question 6: How should the security concerns be addressed with regard to OTT players providing communication services? What security conditions such as maintaining data records, logs etc. Need to be mandated for such OTT players? And, how can compliance with these conditions be ensured if the applications of such OTT players reside outside the country? Please comment with justifications.

Response : All Security conditions applicable to TSP, should be applicable for the OTT players as well.

Question 7: How should the OTT players offering app services ensure security, safety and privacy of the consumer? How should they ensure protection of consumer interest? Please comment with justifications.

Response: OTT application should access the user information which is relevant to their application only and T&C should also come in regional languages. Also OTT shall ensure that the user information should not be pulled outside the mobile/device of user, it should be used in the mobile/device itself. In case it is required to take user information outside the mobile then User should be prompted to take his consent.

Question 8: In what manner can the proposals for a regulatory framework for OTTs in India draw from those of ETNO, referred to in para 4.23 or the best practices summarised in para 4.29? And, what practices should be proscribed by regulatory fiat? Please comment with justifications.

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Response: Regulatory framework can be drawn from the International best practices emerging on this issue. The regulatory framework, so adopted will take care of all aspects of security, safety and privacy as well as consumer interest.

Question 9: What are your views on net-neutrality in the Indian context? How should the various principles discussed in para 5.47 be dealt with? Please comment with justifications.

Response: We fully support the net-neutrality but are of the opinion that this is not the right time to take up this subject keeping in mind the lack of infrastructure, spectrum etc. available at present. Hence we are of the view that a separate consultation paper should be released in this regard at a later stage when initiative of Government e.g. NOFN, digital India etc. are fully operational.

Question 10: What forms of discrimination or traffic management practices are reasonable and consistent with a pragmatic approach? What should or can be permitted? Please comment with justifications.

- 1) Response: Over the last few years, the amount of data traffic flowing across communications networks has increased dramatically. In addition to increased traffic volumes, network operators have to cope with an increased complexity in the composition of data traffic. While internet traffic was earlier dominated by email and web browsing, we now see a broader range of traffic types including video/music streaming, file transfer protocols, encrypted packets, online gaming, instant messaging and VOIP etc. Some of these services have a high degree of sensitivity to packet delay, error and loss- undesirable consequence of higher levels of network congestion that follow from increasing traffic volumes.
- 2) TSPs use traffic management to minimize the incidence and impacts of congestion, ensuring that as many users as possible get the best online experience possible. Examples of current and anticipated network management practices include:
  - a. Management of congestion
  - b. Providing an optimal service to the customer – e.g. by compressing data, encrypting information for security purposes, delivering video on a “just in time” basis to reduce cost/improve quality
  - c. Blocking spam, malware, denial of service attacks and other security threats to the network or to user devices
  - d. Ensuring that time sensitive services such as voice, video, online gaming and enterprise services can be delivered in a way which ensures optimal performance of those applications (without calls dropping, buffering videos and time lags in games)

Question 11: Should the TSPs be mandated to publish various traffic management techniques used for different OTT applications? Is this a sufficient condition to ensure transparency and a fair regulatory regime?

Response: Yes, we are of the opinion that to maintain transparency traffic management techniques used for different OTT applications should be published.



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Question 12: How should the conducive and balanced environment be created such that TSPs are able to invest in network infrastructure and CAPs are able to innovate and grow? Who should bear the network up-gradation costs? Please comment with justifications.

Response: OTTs should reach to their customers through TSPs after having commercial agreements with TSPs so that TSPs can invest in network up gradation costs like toll is paid on roads built by private companies or carrier charges are paid to ILD/NLD carriers.

Question 13: Should TSPs be allowed to implement non-price based discrimination of services? If so, under what circumstances are such practices acceptable? What restrictions, if any, need to be placed so that such measures are not abused? What measures should be adopted to ensure transparency to consumers? Please comment with justifications.

Response:Yes, TSP should be allowed to implement non-price based discrimination of services. This will help TSPs to provide services to more customers as optimized use of resources can accommodate more users. Restrictions will un-necessary make it difficult to optimize the resources and in turn less customers will get benefits of services.

Question 14: Is there a justification for allowing differential pricing for data access and OTT communication services? If so, what changes need to be brought about in the present tariff and regulatory framework for telecommunication services in the country? Please comment with justifications.

Response:The TSP make huge investments on Spectrum, infrastructure and Sales & distribution to provide mobile services to the customers, while the OTT players ride on the infra created by telcos and offer services, which cannibalise the TSP's revenue itself.

Hence, we suggest that differential pricing should be allowed under the principle of forbearance, but, complying with the regulatory principle of non-discrimination and non-predation. Access should be made available to all and TSP should not discriminate between subscribers of the same class. Also the classification of the subscribers should not be arbitrary.

Question 15: Should OTT communication service players be treated as Bulk User of Telecom Services (BuTS)? How should the framework be structured to prevent any discrimination and protect stakeholder interest? Please comment with justification.

Response: No, we are opinion that OTT Communication service players not to be treated as Bulk User of Telecom Services (BuTS).

Question 16: What framework should be adopted to encourage India specific OTT apps? Please comment with justifications.

Response: To promote the India specific OTT applications, we believe that it can be achieved on the basis of a mutually agreed arrangement.



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Question 17: If the OTT communication service players are to be licensed, should they be categorized as ASP or CSP? If so, what should be the framework? Please comment with justifications.

Response: OTT players are providing applications only which are used by users for sharing information. Suitable/light touch regulation should be applied to enable mutual commercial agreements among TSPs and OTT players.

Question 18: Is there a need to regulate subscription charges for OTT communication services? Please comment with justifications.

Response: Mutual agreement basis.

Question 19: What steps should be taken by the Government for regulation of non-communication OTT players? Please comment with justifications.

Response: It should be dealt by the concerned Government departments.

Question 20: Are there any other issues that have a bearing on the subject discussed?