

Pages)

**COMMENTS ON TRAI CONSULTATION PAPER**  
**FOR REGULATORY FRAME WORK FOR**  
**OVER THE TOP (OTT) COMMUNICATION SERVICES**

**Lt Col VC Khare (Retd), Cable TV Industry Observer**

**Introduction**

1. TSPs offer voice calling and text messaging directly. Internet works on top layer of network, as standalone. TSPs have exclusive licence in the form of spectrum and Right of Way (RoW) implying scarcity. They have to pay licence fee, spectrum charges and taxes, besides hardware, which affect their profits. TSPs do not undertake any responsibility for content; they only accept and facilitate transmission of content for delivery. Internet implies abundance and open characteristics. Subscriber is charged for all the services used directly by the TSP. Their business is sure to undergo changes with TSPs attempting FTTH to deliver 3Play (video, data and voice). And hence current set of acts, rules and regulations have a tinge of broadcaster's security which can be distinctly sensed.

2. At present, video access, in residential segment, is through Cable TV or DTH. Both comprise a distribution medium from turnaround to home of viewer. Both deliver FREE to VIEWER and PAV TV content to viewers primarily on their domestic television receivers through a digitally addressable Set Top Box (STB) sourced from real time broadcasts. PAY TV content in this service sought integration of piracy prevention by the content providers. If one is delivering video to a STB that the Headend can control and manage, then that's a controlled environment with a known output - a singular DRM and singular video requirement like 4K. It's simple to adhere to.

3. But what happens if one operates a global service, with servers in multiple territories, where you are sourcing 'Time deferred TV'? The limited ability to collect information about how and when content is being consumed, or about how consumers find or navigate through that content, are all challenges of today's ecosystem. There is no standard communication of the viewing data from the operator back to the content owner. The ability for content providers and operators to receive real-time, meaningful data about consumer interaction with content is "absolutely essential" for any PAY TV content facilitating business, that wants to survive in the future

4. OTT is permissionless, popularly used as a term for providing film and television content, via internet, without requiring users to subscribe to a traditional cable or satellite 'PAY CONTENT' viewing and its protection. Such content could be bought anywhere in the world. Since delivered over internet, the viewer will require a broadband connection, fixed

Pages)

**COMMENTS ON TRAI CONSULTATION PAPER**  
**FOR REGULATORY FRAME WORK FOR**  
**OVER THE TOP (OTT) COMMUNICATION SERVICES**

**Lt Col VC Khare (Retd), Cable TV Industry Observer**

line or mobile, including mobile telephones. OTT services are enabled by de-layering of communication networks using IP (Internet Protocol) permitting the application layer independent of media layers (gaming, trade and commerce, cloud service and interactive social media). OTT operators do not operate any network themselves. Consumers availing OTT use fixed or mobile TSP networks, which enhances volume of traffic on network. When large number of users congest the traffic capacity of network, it will suffer from latency but can eliminate buffering. OTT services remain free for customer, and are believed to be funded from advertisements carried upon them. TSPs, therefore, earn more from data usage on their networks. As OTT gains popularity, network capacity will have to be enhanced by investments as well as technology of a higher generation, say 4G or 5G.

5. Thus OTT can at best be regarded as recorded replayed access tantamounting to time deferred viewing at viewer's convenience and WITHOUT a cable TV or DTH subscription. To that extent it is hostile to those services.

6. Many users might feel that OTT is free to them not realizing that it will be included in subscription plans. Customer acquisition and Care services will constitute the essence of success in the business. Viewership details will be crucial for Advertising Revenue.

7. TRAI consultation paper has not brought out the above in as many words.

8. Answers to issues for consultation :

**Q1. Which service(s) when provided by OTT service provider(s) should be regarded as the same or similar to services being provided by TSPs ? Please list all such OTT services with descriptions comparing it with services provided by TSPs**

OTT communication services (VoIP) providing real-time person to person telecommunication services using the network infrastructure of the TSP, and application services such as media services (gaming), trade and commerce services (e-commerce, radio taxi, financial services), cloud services (data hosting and data management platforms or applications), social media etc, using the network infrastructure of the TSP.

**Q2. Should substitutability be treated as the primary criteria for comparison of regulatory or licensing norms applicable to TSPs and OTT Service providers? Please**

**suggest factors or aspects, with jurisdiction, which should be considered to identify and discover the extent of substitutability.**

(Page 3

of 5 Pages)

**COMMENTS ON TRAI CONSULTATION PAPER**  
**FOR REGULATORY FRAME WORK FOR**  
**OVER THE TOP (OTT) COMMUNICATION SERVICES**

**Lt Col VC Khare (Retd), Cable TV Industry Observer**

The writeup has not defined 'substitutability' or its connotation. If OTT Service Provider undertakes to provide any service which TELCO is providing i.e. ME TOO, then all such services should be brought under the same licensing and regulatory norms as applicable to TSPs.

**Q3. Whether regulatory or licensing imbalance is impacting infusion of investments in telecom networks especially required from time to time for network capacity expansions and technology upgradations ? If yes, how OTT service providers may participate in infusing investment in telecom networks? Please justify your answers with reasons.**

Apparently 'NO'. OTT is internet based. Subscriber seeks an internet connection from fixed line or wireless networks operated by TSPs, including but not limited to mobile telephony. So the TSP earns by increase in data usage by the subscriber. TSPs to remain in business dynamically have to foresee the capacity enhancements and provide for the same.

**Q4. Would inter-operability among OTT services and interoperability of their services with TSPs promote competition and benefit the users ? What measures may be taken, if any, to promote such competition? Please justify your answers with reasons.**

'NO'. OTT is enshrined in internet, which is accessed through TSP networks, irrespective of TSP and is application based. Hence it is deemed interoperability.

**Q5. Are there issues related to lawful interception of OTT communication that are required to be resolved in the interest of national security or any other safeguards that need to be instituted ? Should the responsibilities of OTT service providers and TSPs be separated? Please provide suggestions with justifications.**

OTT, so far, has impacted availability of video content, PAY in particular, and other in general, enabling viewing without involvement/payment to Distribution Service provider. As long as it is confined to entertainment, it does not attract harmful security safeguards. But supposing it starts displaying tutorials on destruction/demolition of property (by way of fictionalised drama) or how to watch and address sensitive information regarding country's security, then it will attract the concerns. Since OTT is a service implying enabling video

principally through internet, which is in TSP domain, at present, these services should be brought under TSP regulations.

(Page 4 of

5 Pages)

**COMMENTS ON TRAI CONSULTATION PAPER**  
**FOR REGULATORY FRAME WORK FOR**  
**OVER THE TOP (OTT) COMMUNICATION SERVICES**

**Lt Col VC Khare (Retd), Cable TV Industry Observer**

**Q6. Should there be provisions for emergency services to be made accessible via OTT platforms at par with requirements prescribed for telecom service providers ? Please provide suggestions with justifications.**

Yes !

**.Q7. Is there an issue of non-level playing field between OTT providers and TSPs providing same or similar services ? In case the answer is yes, should any regulatory or licensing norms be made applicable to OTT service providers to make it a level playing field ? List all such regulation(s) and license (s) with justifications .**

Yes ! video content to residential segment is primarily delivered by Cable TV operators or by DTH operators. This content comprises of FTA(free to Air/Viewer) and PAY. In both cases the content is accessible through a cable operator or DTH operator against a payment. OTT operators seem to be exploiting the variety in viewing devices, mainly mobile phones and/or tablets, to view the content delivered by PTT players on the internet and pay at data rates which may be lesser as compared to cable TV or DTH. That constitutes NON-LEVEL playing field (at present messaging over OTT is not popular in India). Payment for content norms applicable to video delivery over Cable TV and DTH should be made applicable to OTT though they may not be real time broadcasts. OTT players too should register themselves with MIB for video content and with DoT for voice data and messaging.

**Q8. In case any regulation or licensing condition is suggested to made applicable to OTT service providers in response to Q.7 then whether such regulations or licensing conditions are required to be reviewed or redefined in context of OTT services or these may be applicable in the present form itself ? If review or redefinitiuon is suggested then propose or suggest the changes needed with justifications.**

Since nothing exists in the form of licensing or regulations for OTT at present, the question for review or definition does not arise at present. First the regulations should be drafted and imposed and then reviewed after some time. Till then everything should be left to market forces to generate a need for formal regulation.

As and when need arises, issues of Licensing obligations, Taxation (jurisdiction), QoS/QoE, Data protection and privacy, Net neutrality, Inter-connection and Universal Service Fund (USF) may have to be addressed

(Page 5 of 5

Pages)

**COMMENTS ON TRAI CONSULTATION PAPER**  
**FOR REGULATORY FRAME WORK FOR**  
**OVER THE TOP (OTT) COMMUNICATION SERVICES**

**Lt Col VC Khare (Retd), Cable TV Industry Observer**

**Q9. Are there any other issues that you would like to bring to the attention of the Authority ?**

A general impression exists that TRAI indulges in consultation purely as a formality in participative file noting procedures and having completed them recommends what they want because it is seen in the past that regulations become non-implementable. DAS implementation is a glaring example of this impression. This needs to be convincingly dispelled.