

## **MX Player Comments - Consultation Paper on Review of Terms and Conditions for registration of Other Service Providers (OSPs)**

We note that the Consultation Paper on 'Review of Terms and Conditions for registration of Other Service Providers (OSPs)' ("**Consultation Paper**") proposes to analyse the present regulatory framework with a view to review the existing terms and conditions applicable to other service providers ("**OSPs**").

We have provided below our comments on one of the key questions (*specified below*) in the Consultation Paper i.e. the definition of 'Application Services'.

***Please provide your views on the definition of the Application Service in connect of OSP. Whether, the Application Services which are purely based on data/ internet should be covered under Application Service for the purpose of defining OSP.***

The term 'application services' is defined under the 'Terms and Conditions - Other Service Provider (OSP) Category' dated August 5, 2008 ("**OSP Terms**") as follows:

*"'Applications Services' means providing services like tele-banking, tele-medicine, tele-education, tele-trading, e-commerce, call centre, network operation centre and other IT Enabled Services, by using Telecom Resources provided by Authorised Telecom Service Providers"*

From a reading of the above definition, it is clear that "application services" refer to only those services which use telecom resources provided by authorized telecom service providers. However, we understand that the present discussion under the Consultation Paper is to consider if the ambit of 'application services' should be broadened to include services which are based on data/internet.

At the outset, the term 'other IT Enabled services' has not been defined under the OSP Terms. If the intent is to include all types of information technology enabled services within the ambit of the OSP Terms, the term should be separately defined so as to ensure that there is no ambiguity in the services which will be deemed to be 'application services' and consequently require registration under the OSP Terms.

It is also crucial that the term 'other IT Enabled services' is defined to include only those services which are specifically sought to be covered within the ambit of the OSP Terms. Further, the services that are specifically defined as IT enabled services for the purpose of the OSP Terms should be included based on an in-depth analysis and understanding of the various kinds of digital services and the nature of such services provided by service providers across different sectors. As enumerated under the Consultation Paper, registration of OSP was initially required for the purpose of (a) statistical information, (b) ensuring that their activities do not infringe upon the jurisdiction of other access providers, and (c) providing special dispensation to boost the BPO sector. Also, the category of 'other service providers' was introduced to regulate those service providers who used the infrastructure of authorized service providers to provide non-telecom services. However, similar parameters or objectives cannot be directly applied in the case of IT enabled services. Accordingly, only those IT enabled services (if any) that are aligned with this objective should be included within the ambit of the OSP Terms.

We believe that as a blanket rule, a service which is primarily provided through the internet/data should not be brought under the ambit of 'application services' for the purpose of defining OSP, merely on the grounds that it is an IT enabled service. For instance, entities providing services digitally such as social media platforms, content - oriented platforms/websites, search engines etc. should not be required to obtain an OSP registration since the services provided by them are not aligned with the objectives of the OSP Terms as mentioned above.

We believe that entities having call centres, who directly communicate with consumers on a one-to-one basis for conducting their business (such as the business of tele-banking, tele-medicine, tele-education and tele-trading) should be required to obtain OSP registration. However, the same should not be

required of a service provider whose business is not intrinsically based on or dependent on direct or one-to-one communication with consumers or customers; and is only a means to provide the service itself to a consumer through digital or internet means. Therefore, if communication with consumers is through data or internet and is undertaken by a service provider only for providing or completing the service to the consumer, such service provider should not be brought under the ambit of 'application services'.

Basis the above, we have summarised below our position:

- (a) Application services purely based on data and internet and not using telecom resources should not be covered under the definition of 'application services'.
- (b) The term 'other IT enabled services' should be defined to avoid any ambiguity on the scope and applicability of the OSP Terms.
- (c) Services that are not intrinsically communication based and use data/internet as the means of completing/providing a service should not be brought under the ambit of 'application services'.