

Response on the Consultation Paper on
Regulatory Framework for Over-The-Top (OTT)
communication Services Dated November 12,
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By

Rajiv Khattar

9899456795

email : rajivkhattar@gmail.com

Q.1 Which service(s) when provided by the OTT service provider(s) should be regarded as the same or similar to service(s) being provided by the TSPs. Please list all such OTT services with descriptions comparing it with services being provided by TSPs..

Response : The TSP were initially licensed with the objective of providing the voice , SMS and with the advent of the technology the provisioning of the data services came into play. It has been a tight rope walk for the TSP's if they wish to allow the third party applications which provide the voice, messaging , video and other services such as payment gateways etc.

A TSP can also offer the similar services using its own app and offering the same level of services as the third party applications, few of the TSP have tried their hands on in and have not been successful.

The OTT players offer services like voice , messaging, which are similar to the services provided by the TSP . Though a TSP which is only in the domain of the ISP , may not be providing the voice services and the OTT player riding on his network may be offering the customer of the ISP the needed voice services.

Theoretically saying the services similar between a TSP and OTT player is provision of

- 1 Voice Services
- 2 Messaging services

Q.2 Should substitutability be treated as the primary criterion for comparison of regulatory or licensing norms applicable to TSPs and OTT service providers? Please suggest factors or aspects, with justification, which should be considered to identify and discover the extent of substitutability.

Response : There needs to be distinction between the Licensed TSP and OTT operators. The Licensed TSPs get certain rights with their license, one of the biggest being the availability of the non interfering spectrum on payment of the appropriate spectrum charges , the right of way to build the networks of theirs, and provide a high way for their services and other applications which make them earn revenue in the form of the data usage.

The role of the TSP from being a direct service provider is now being supplemented with the role of the carrier of third party services, and for which they are being compensated by way of usage charges. The revenue shift is seen from voice and SMS to the data services, going forward the majority of the revenue of the TSPs will be from the data consumption, thus it is in their interests to promote the usage of the applications, which can be third party application or the one developed by the TSP for themselves.

A few TSP tried to develop the applications to compete with other popular messaging and chatting applications, however a limited success could be seen and the reason

thereof were that the most popular applications being used have a usage beyond India and thus are being preferred then one being used within in the country.

Thus is suggested that we do not put all the things in one basket, we should have categorizations of the services and the thus we should have a category of the services directly provided by the TSP such as voice services, as this has the impact of interconnect with the land lines and other TSP which an OTT provider may not be able to do easily (especially to the geographies where the OTT provider is still not providing its services) , another can be SMS services which cannot be a real time chat services.

Q.3 Whether regulatory or licensing imbalance is impacting infusion of investments in the telecom networks especially required from time to time for network capacity expansions and technology up gradations? If yes, how OTT service providers may participate in infusing investment in the telecom networks? Please justify your answer with reasons.

Response : The role of the Licensor is to provide the license with a environment which gives its rights to the use the assets which are assured under the license. The TSP are assured the provision of the spectrum and right of way to build their networks which is essential to run their services.

The regulator ensures a level playing field for all the service providers and ensure that the interest of the consumer is protected .

The Licensor and Regulator have been doing an excellent work in the years to ensure that industry grows , the number of the users of the Telecom services grows , which enables the growth of all domains in the business.

The infusion of the investments in the business is dependent on the business models, the TSP did not realized that the OTT services will be big business and thus will have an impact on the potential projected revenues. The impact of the OTT services have been that the cost of the voice calls and SMS services are now negligible. The international roaming where the user were charged exorbitantly have become reasonable.

It seems that TSP made an error of judgement where in they had assumed that the rates of the services will remain static and they will continue to hold a dominant position in the service provisioning to the consumers with no alternative technological solutions riding on their pipe to provide a similar services to the consumers.

The applications seized the opportunity of bad network, dropped calls and offered the alternative way to have calls completed without any call being dropped and thus the revenue from the commercial segment which generates 80% of the revenue for any TSP started slipping and it is then the TSP started understanding the impact. The downward trend in the revenue impacted the capability of the TSP to inject more capital into the infra development.

The TSP who built their networks realizing that data consumption will see explosive

growths have not been left behind , however the TSP who believed that voice and messaging services will continue to drive their business and did not saw the data consumption patterns and be with the growth curve have been suffering.

In fact OTT players have contributed fast proliferation of the smart devices which offered the opportunities to the TSP to offset the loss of the voice and messaging from the higher data consumption, so it is a shift of the revenue stream and with more and more data consumption the revenue has found another stream. The TSP should look at their efficiencies on to ensure that they are able to keep on doing their up gradations and expansions and the TSP who do not follow this route may be left behind in the race.

Bringing the OTT under a licensing regime may inhibit the grow of the new applications for the common man, which makes the things easier, banking easier and brings banking to the masses, the e -payments accessible , e-medicine and e-governance on the go. It is an established fact that majority of the consumption of the data is on the smart phones and this has enabled the rural India where the masses of the country reside and were deprived of the fixed wire line structure and needed simple things to interact with. Thus the industry which has grown with entrepreneurship may permitted to be grown in its way.

The principle of the Net Neutrality will foster more competition amongst the OTT service providers and thus we will see more and more applications, more efficient and offering more services. This will draw more people to consumer more data and pay to the TSPs more for the data and thus OTT will be indirect contributors to the earnings of the TSP which may loose the revenues from the traditional offerings of voice and messaging.

The regulator should recommend that OTT service providers have an PE in the country where in the revenues earned from the country contribute to the exchequer in the country, this will be a contribution to the exchequer by the OTT service providers apart from the generating the opportunities for the employment with in the country.

It is not appropriate to think that large multinational OTT players have network lock in for the consumers in their services, today for messaging , chat and voice there are multiple applications available and consumers are free to do so , It is up to the consumers to choose a platform where he gets the maximum utilization of the services offered by the platform. The difference here is the marketing of the services and the facilities the service brings in. If an OTT service provider does not addresses a particular geography or demographics or a section , then in that domain it will not be used and another OTT service provider will get the the opportunity.

Q.4 Would inter-operability among OTT services and also inter-operability of their services with TSPs services promote competition and benefit users? What measures may be taken, if any, to promote such com-petition? Please justify your answer with reasons.

Interoperability among the services and among the TSP and the OTT applications providers will the whole ecosystem, it ensures seamless transition of the consumers from one platform to the another , it also reduced the cost of the implementation,

opportunity to go to market is faster and thus it is in the industry interests to come together and work on the standards and APIs to ensure that the collaboration is achieved amongst all the stake holders of the system.

We have seen various industry forums , organizations and associations coming forward to create the environment for the players to work together for example the DOCSIS standards were one, then the Ultra HD forum, Ultra HD forum etc,

It is essential that such sort of collaboration be encouraged then being forced or mandated , certain group of players can come together to demonstrate the do ability of a proposal and then same is document and the members of the body follow it, this will enable the confidence in the system and will encourage the acceptance at a faster level. Proprietary technologies, algorithms will ultimately stunt the growth of the industry and thus hit all the members of the ecosystem right from the Service provider to the consumer.

Q.5 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.

The lawful interception of the OTT communications need to be addressed in the interest of the nation and society. In the name of free trade the anti national and anti social usage needs to be restricted. It should be the responsibility of the OTT service provider to ensure that systems of his are capable of the providing the information as an when asked without any delay and questions. The OTT service provider should be responsible for his part and the TSP be responsible for his part. A TSP service provider cannot provide the message shared on an OTT platform at the message is encrypted , however a TSP can give the IP address from the message was generated or circulated identifying the user of the service and the OTT service provider can provide the content for which the service was used for . Both the service provider should bear the expenses for such services.

To enable enforce such a requirement it is essential that the service providers are having an permanent establishment in the country and thus are responsible for ensuring that the laid requirements are met.

Q.6 Should there be provisions for emergency services to be made accessible via OTT platforms at par with the requirements prescribed for telecom service providers? Please provide suggestions with justification.

Technologically the provision of the emergency services for the OTT platforms will not be a big task, it will be much important that the providers of such emergency providers are able to interface with the OTT platforms, it can be seen from the pervious experiences in the case of sudden floods, earthquakes etc. disturbs the power infrastructure, the hand held devices (read, smart phones or smart devices) which consumer less power the most approachable devices and thus these services can provide the emergency services and messaging.

Q.7 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.

There does not seem to be a non-level playing field between OTT provider and TSPs as both have their own business models to follow, though the TSP's are free to be as OTT service providers, however conversely the OTT service provider cannot be a TSP.

The OTT service provider which may be a TSP itself or OTT service provider by itself they need to adhere to the rules of the land and for the same they should have an entity in the country which is responsible establishing the process and procedures to follow the rule of the land.

The rules and regulations also need to keep the pace with the technological developments as the OTT services are provided which are not only similar to the service which can be provided by TSP but which can be provided by other service providers such as DTH service provider, Cable Networks, FM networks etc. There is constant debate in all countries how to address this and in context of India there are multiple challenges as each licensed service provider feels threatened by the advent of the newer mechanism of provision of similar or identical service. For example under the Cable Television Act, only the channels which are permitted by Ministry of Information and Broadcasting under its downlinking policy can be carried, however in the OTT domain there are hundreds of channels which can be viewed. Thus a framework which ensures that the OTT service providers are recognized as a service provider and are subjected to the Indian laws in terms of taxation, content code and security be looked at.

Q.8 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 redefinition is suggested then propose or suggest the changes needed with justifications.

The OTT services are different from the Licensing regime in the telco or the broadcasting and cable and thus needs a different set of regulations to be created, keeping the need of the entrepreneurial spirit of the services as many of such services come from start ups. The regulations should ensure that these startup are not stifled, yet they follow the rule of the land in terms of taxation, content code, security, protection of the consumer data and privacy.