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Telecom Regulatory Authority of India

Mahanagar Doorsanchar Bhawan

Jawahar Lal Nehru Marg

New Delhi - 110 002

Ref: **ACTO counter comments in response to TRAI's Consultation Paper on Net Neutrality dated 4th January, 2017**

Dear Sir,

We appreciate the opportunity to provide our counter comments to the Hon'ble Authority for on this important consultation paper on Net Neutrality. ACTO is pleased to provide its counter comments to various responses to the issues posed in the captioned Consultation Paper.

Support for the need to keep enterprise out of the purview of NN rules

Based on our review of various responses received by TRAI, an overwhelming majority of the responses have supported the ACTO's view on the need to keep the enterprise to be outside the scope of open internet rules. We fully endorse such responses.

As noted in ACTO's response, its members supports an open Internet and are committed to ensuring that consumers have access to any lawful content, services, and applications, regardless of their source. As stated in the response filed by CISCO, the revenue from enterprise/managed services fosters further investment and creation of infrastructure which is so vital for growth of the sector.

Broad Definition of the specialized services

It has been rightly stated in the various responses that a broad definition of the specialized services should be created to make it future proof and technology neutral.

We also note that some of the responses have stated that it is too premature for India to move to a regulatory framework on the issue of net neutrality, and recommend adoption of light handed approach. As stated in our response any attempts to regulate the sector, will have a direct impact on the innovation and investments. Our country certainly would not want to lag behind digital revolution especially with the speed at which internet; internet technologies, innovations and consumers engage and innovate in the internet eco-system.

Reasonable Traffic Management Practices

We also welcome the responses by various stakeholders including GSMA, that supported traffic management by TSP's to manage large volumes of traffic & that the NN rules should be focused on internet access services and not data services.

However we note that some of the responses filed by SFLC.in, CUTS have not supported the need to keep enterprise out of the purview of NN rules. We don't see this view is correct. Majority of the responses have rightly pointed out that Enterprise users necessarily require that their traffic is managed in a specific way according to their business needs. Telecom operators have been offering managed data services to Enterprise customers for years, over their data connections and private IP infrastructure.

Enterprise users differ from those of a retail consumer mass market

There are other compelling reasons for considering the differing business needs of such consumers and high end enterprise customers and accordingly there can't be a one size fit approach to deal with the specific issues. We need to consider the fundamental underpinnings of Net Neutrality debate and whether there is the same need for those rules in an enterprise setting. The existing legal provisions and arrangement between enterprise customer and TSP are sufficient enough to keep the internet open and also to address the issue in case TSPs or any providers failed to deliver to customers.

The key difference is contractual in nature. High-end business services present various specificities that differentiate them from mass-market services which are significantly more

complex [telecom services provided across multiple locations and across countries, different access technologies, bundle of services, very demanding Service Level Agreements (SLAs), etc.

Further, high-end enterprise users typically have sophisticated knowledge of the technology and economic implications of telecommunications services. From a consumer protection perspective, terms relating to the required quality levels, detailed service transparency, technical characteristics, and penalties for noncompliance, are already addressed in large part under a contract.

Additionally we would also like to highlight that the DoT's Committee on Net Neutrality has very rightly recommended that the framework/ guidelines of Net Neutrality should not be applicable for Enterprise services provided by the TSPs.

We also don't support the views of the stakeholder that the regulator should adopt a narrow definition of the specialized services. The reason is that there shouldn't be any prescriptive definition attributed to emerging technology and services, it needs to be flexible and future proof to foster innovation and growth. Policy makers should recommend adoption of a principles-based framework based on industry best practices focused on consumer choice, competition, innovation and transparency.

Enterprise services should continue to be exempt from any open Internet rules. Enterprise services, are typically offered to larger organizations through customized or individually negotiated arrangements. Various jurisdictions that have reviewed open Internet policies have proposed to exempt such enterprise or specialized services from open Internet rules.

We hope that our comments will merit the kind consideration of the Hon'ble Authority.

Respectfully submitted,

Yours sincerely,

for Association of Competitive Telecom Operator

Tapan K. Patra
Director