

Singapore  
8 February 2022

Shri Sanjeev Kumar Sharma  
Advisor, Broadband and Policy Analysis  
Telecom Regulatory Authority of India

By email: [advbbpa@traf.gov.in](mailto:advbbpa@traf.gov.in)  
with copies to:  
[jtadvbbpa-1@traf.gov.in](mailto:jtadvbbpa-1@traf.gov.in)  
[jtadvbbpa-3@traf.gov.in](mailto:jtadvbbpa-3@traf.gov.in)

## **Consultation Paper on 'Regulatory Framework for Promoting Data Economy Through Establishment of Data Centres, Content Delivery Networks, and Interconnect Exchanges in India'**

AVIA welcomes the opportunity to comment on the Telecom Regulatory Authority (TRAI) of India's consultation on the **'Regulatory Framework for Promoting Data Economy Through Establishment of Data Centres, Content Delivery Networks (CDN's), and Interconnect Exchanges (IXP's) in India'**. AVIA is the trade association for the video industry and ecosystem in Asia Pacific. It serves to make the video industry stronger and healthier through promoting the common interests of its members.

Our membership consists of a combination of local, regional and multi-national companies, many of which are substantial cross-border investors; creating and purchasing video content to meet rapidly-expanding consumer demands and investing in India's communications and creative industries.

As demand for audio-visual content increases, the infrastructure which forms the subject of this consultation paper, has become a crucial vehicle to ensure that our members are able to fulfil their commitment to deliver content to end users anywhere, via any device and at a time of their choosing. Decreasing the distance which that content is required to travel, offers lower latency, greater security and a much higher-quality consumer experience.

AVIA agrees with TRAI that the promotion of greater contemporary infrastructure like data centres, content delivery networks and internet exchange points, will boost the digital ecosystem and contribute to building a stronger economy. This approach echoes India's National Digital Communication Policy (NDCP-201) which seeks to unlock the transformative power of digital communications for the empowerment and well-being of the people in India.

Our members are deeply appreciative of TRAI's continued efforts, both through this and other recent consultation papers, to consult with the wider public and industry on how to promote ease of doing business in India as part of its overall objective to grow the digital economy. While efforts such as these may initially attract potential investment into India, we would however caution TRAI not to rush into regulating the relationships between participants within these infrastructure markets. Such regulation may inadvertently stifle innovation and competition through the creation of barriers to market entry and business expansion.

It is AVIA's view that safeguarding the principle of freedom of contract should always be the preferred starting position with light-touch regulation only being employed in circumstances where a sound and comprehensive assessment of economic and local factors determines that regulatory intervention is imperative. This is particularly crucial for markets in their growth phase, including those that are the subject of this consultation. To the best of our knowledge and that of our members, there is no evidence to suggest that day-to-day contractual negotiation is currently being hampered in any way by anti-competitive practices on the ground. In fact, it is our understanding that the pricing for CDN's has, with the arrival of new market entries, witnessed a drop in cost suggesting that competition in the sector remains healthy - by localizing content delivery, CDNs help ISPs in India improve performance and reduce their dependence on long-distance backhaul networks. This may help make offering broadband services more attractive and more affordable, helping grow broadband penetration and digital readiness in India. More generally, technologies like CDN's and IXP's offer great value for the customer, as TRAI recognises in its

consultation paper. We therefore strongly urge TRAI that since there is neither market failure nor a regulatory need, we should allow the market to take its course, in line with global practice.

While we agree that interconnection and access should always be fair and just, it is evident from the consultation paper that the scenarios, about which the Ministry has expressed concerns and seeks to regulate, are merely potential scenarios, not ones which already exist in practice. We would humbly suggest that it may be premature to impose regulation until the markets have had the opportunity to evolve and mature. As we have already seen with the CDN's, as the market evolves and new service providers come on board, consumers are often presented with greater choice, higher quality experiences and ultimately, lower prices.

At a meeting in June 2011, OECD governments and other stakeholders in Paris, agreed to promote an open internet. The communiqué, which was released post the event, stated:

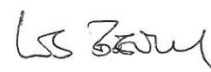
*“The Internet has achieved global interconnection without the development of any international regulatory regime. The development of such a formal regulatory regime could risk undermining its growth”.*

In addition, in 2012, the OECD found that *“the Internet has developed an efficient market for connectivity based on voluntary contractual agreements. Operating in a highly competitive environment, largely without regulation or central organisation, the Internet model of traffic exchange has produced low prices, promoted efficiency and innovation, and attracted the investment necessary to keep pace with demand”.*

We urge the Ministry to adopt a “wait-and-see” approach and to undertake the necessary regulatory impact assessment to determine if regulation is necessary. Given the dynamics of digital transformation, regulation enacted now to suit a particular business model, might not be fit for purpose in the near future and could even impede the emergence of newer business models better suited to the maintenance of an open internet. On the contrary, the imposition of pre-emptive

legislation may instead be counterproductive and have the more long-term effect of obstructing the potential growth of the digital ecosystem and the overall economy in India, the polar opposite result to that which this consultation paper seeks to achieve.

Sincerely yours,



Louis Boswell  
Chief Executive Officer  
Asia Video Industry Association

#### **About the Asia Video Industry Association (AVIA)**

AVIA is the non-profit trade association for the video industry and ecosystem in Asia-Pacific. It serves to make the video industry stronger and healthier through promoting the common interests of its members. AVIA is the interlocutor for the industry with governments across the region, leads the fight against video piracy and provides insight into the video industry to support a vibrant industry ecosystem. AVIA evolved from CASBAA in 2018.

AVIA's leading members include: Amazon, AsiaSat, Astro, BBC Studios, Discovery Networks, The Walt Disney Company, WarnerMedia/HBO Asia, NBCUniversal, Netflix, now TV, Star India/Hotstar, TrueVisions, TV5MONDE, ViacomCBS Networks International, A&E Networks, Akamai, Baker McKenzie, BARC, beIN Asia Pacific, Bloomberg Television, Brightcove, Canal +, Cignal, Converge ICT, Dolby, Eutelsat, France 24, Globecast, Globe Telecom, Invidi, iQiyi, Irdeto, Intelsat, KC Global, La Liga, Limelight, Magnite, Mayer Brown, Measat, MediaKind, Motion Picture Association, NAGRA, NBA, NHK World, Nielsen, Planetcast, Premier League, Singtel, Skyperfect JSAT, Sony Pictures Television, SES, Synamedia, TMNet, TV18, TVBI, The Trade Desk, Vidio, Viaccess, Viacom18, White Bullet and Zee TV