

From: "hari nath" <hari_nath@zohomail.in>

To: "Akhilesh Kumar Trivedi" <advmn@traf.gov.in>

Sent: Thursday, July 27, 2023 3:40:55 PM

Subject: Re: Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services

Respected sir,

I am really sorry for the second mail.

Please find the new response attached that has fixed some drafting errors, etc.

Thanking you for understanding.

Warm Regards,
Harish

----- On Thu, 27 Jul 2023 13:02:06 +0530 hari <hari_nath@zohomail.in> wrote ---

Respected sir,

I hope this message find you in good health and good spirits.

Attached below is my response to the consultation paper posted in https://traf.gov.in/sites/default/files/CP_07072023.pdf (titled "Regulatory Mechanism for Over-The-Top (OTT) Communication Services and Selective Banning of OTT Services")

The actual response is attached to this email as an attachment.

Wishing you a lovely day,
Harish

To,

Shri Akhilesh Kumar Trivedi,

Advisor (Networks, Spectrum and Licensing),

Telecom Regulatory Authority of India,

New Delhi – India.

Respected sir,

I hope this message find you in good health and good spirits.

Attached below is my response to the consultation paper posted in https://tra.gov.in/sites/default/files/CP_07072023.pdf (titled “Regulatory Mechanism for Over-The-Top (OTT) Communication Services and Selective Banning of OTT Services”)

The actual response is attached below from the next page.

Wishing you a lovely day,

Harish

**Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services,
and Selective Banning of OTT Services**

Consultation Paper No.10/2023,

Dated 07.07.2023

Posted at URL : https://tra.gov.in/sites/default/files/CP_07072023.pdf

Q2: What could be the reasonable classification of OTT services based on an intelligible differentia? Please provide a list of the categories of OTT services based on such classification. Kindly provide a detailed response with justification.

- Section D. OTT Services 2.26 - 2.32 deals with various definitions of OTT (both hyper scale and subscale) ,mostly focussing on content and communication, while certain definitions deviate from the norm, thankfully (while section 2.31 states that [t]he definition of OTT is a matter of national sovereignty and may vary among Member States
- While section 2.34 cites The DoT Committee Report on Net Neutrality (May 2015) and classifies OTT into two groups as below OTT communications services and OTT application services
- Figure 2.5: Classification of online services, Figure 2.4: Internet Value Chain Valuation, Figure 2.3: Internet Value Chain (GSMA, 2022)

The most concerning aspect of the cited points above is that only,

- January 2016, Body of European Regulators for Electronic Communications (BEREC) in its 'Report on OTT Services'³⁷ defined OTT service
- Year 2020 Commonwealth Telecommunication Organization (CTO) in its report on 'Over The Top (OTT) Applications & Internet Value Chain'³⁸ definition of OTT

Seem to even hint at considering things other than information processing services or more rarely information consumption devices as worthy of regulation. While it is true that anything can be collapsed into a purely electronic information problem, different types of processing can have different effects on society. Considering/presuming everything as a purely electronic information problem/information processing/information consumption sink use case could be a costly assumption/presumption.

Q6. Whether there is a need to bring OTT communication services under any licensing/regulatory framework to promote a competitive landscape for the benefit of consumers and service innovation? Kindly provide a detailed response with justification

Q14. Are there any other relevant issues or suggestions related to regulatory mechanism for OTT communication services, and selective banning of OTT services? Please provide a detailed explanation and justification for any such concerns or suggestions

Both the questions can have similar answers and are hence batched and answered below, for brevity.

Glancing through the various sections detailed below

- Figure 2.6: The virtuous cycle of OTT (Over-The-Top) adoption and growth of TSP (telecom service provider) networks
- Section 2.57 talks about the explosive growth of the internet turning into something much healthier.
- Section 2.60 graphs the Average spectral efficiencies in various mobile network technologies and their impact on telecom service provider's revenue.
- While section 2.63 talks about the economics of OTT (Over-The-Top).
- While section 2.69, subsection (ii) talks about Universal Service Obligation, where the government of india is obligated to provide a bare minimum of service
- Section 2.77, BEREC (Body of European Regulators for Electronic
- Communications) preliminary assessment of the underlying assumptions of payments from large CAPs to ISPs (2022) talks about the benefits of not adopting sending party network pays charging mechanism that could in theory allow ISPs to exploit their termination monopoly in a similar manner to the traditional telephony termination monopoly
- While Section 2.78 subsection 10 mentions that content and application providers (CAPs) and internet service providers (ISPs) are mutually dependent on each other.
- Section 3.9 talks about 3.9 Clause 2.1(i) of Chapter IX of Unified License (Internet Service) states,inter-alia, as below: "The subscriber shall have unrestricted access to all the content available on Internet except for such content which is restricted by the Licensor/ designated authority under Law."
- Section 3.14 talks about Shutdown of telecommunications or the internet can have significant ramifications for a country's economy
- Section 3.16 Prima facie, the websites that use dynamic IP addresses and are hosted on cloud servers can pose a challenge to conventional methods of blocking

There is no mention of OTT (Over-The-Top) providers having some obligation to provide their OTT services, (even on a best effort basis) through traditional voice services/ voice telephony and Short Message Service or Radio Paging services.

There is no mention if software/computer source code/algorithms and/or underlying maths should be treated as merely information or categorized as something different thereby helping reduce/reinforce the virtuous economic cycle of the ecosystem that India allows to operate.

OTT consumers having little to no legally regulated access to high uptime/permanent/perennial automated or autonomous information processing systems being made the norm, rather than temporary/seasonal/limited uptime OTT systems being the one, while low power small range radio consumers need operators with very different licensing terms for almost any limited time bound or small region bound deployment scheme for their services, could be addressed too.

Most of the literature cited in the literature survey also seems to make no mention of the same.

Thanking you,

Yours faithfully,

Harish