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To: "Akhilesh Kumar Trivedi" <advmn@trai.gov.in>
Sent: Friday, August 4, 2023 2:43:22 PM
Subject: Response to the TRAI of Consultation Paper No. 10/2023

Consultation Paper No. 10/2023

To,
The Secretary,
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawaharlal Nehru Marg, New Delhi-110002

Sub- Responses to the questions list provided by Telecom Regulatory Authority of India (TRAI)

Sir,
In response to the question list provided by the TRAI, myself Smt. Sathi Das, proprietor of Sathi Cable Network, office address is Pullya Das para, P.O.- Unsani , PS-Jagacha,Dist- Howrah - 711302 West Bengal, is pleased to submit the requested responses. Kindly find the attached document containing the comprehensive answers to each question. If you have any further inquiries or require additional information, please feel free to reach out to me. I remain at your disposal for any clarification needed.

Thank you for your attention to this matter, and I look forward to your review of the provided responses.

Thanks & Regards
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Issues for consultation:

1) What should be the definition of over-the-top (OTT) services? Kindly provide a detailed response with justification.

Ans:-

Over-the-top (OTT) services or applications that use existing networks such as the Internet and cellular networks to provide a viewer access to video or streaming media, voice or messages, or other types of content. OTT services are delivered “over the top” of the Internet, in most cases without a network operator being involved. Some examples of OTT services are Netflix, Amazon Prime, Disney+ Hotstar, Zee5, SonyLiv, Jio Cinema, Skype, WhatsApp, and Spotify.

OTT services can be categorised into two groups: **multichannel video programming distributors (MVPDs)** and **online video distributors (OVDs)**. MVPDs are services that offer access to live streams of linear specialty channels, such as DirecTV Stream, IPTv & Other companies are available across the world like FuboTV, Sling TV, Hulu + Live TV, and YouTube TV. OVDs are services that offer video programming by means of the Internet or other IP-based transmission path, such as Netflix, Amazon Prime Video, Disney+ Hotstar, Zee5, SonyLiv, Jio Cinema etc.

The definition of OTT services is based on the following features:

- They use existing networks such as the Internet and cellular networks to deliver content.
- They bypass cable, broadcast, and satellite television platforms that have traditionally acted as controllers or distributors of such content.
- They offer a variety of content types, such as video, voice, messages, music, etc.
- They may or may not require a subscription or payment to access the content.
- They may or may not have exclusive rights to the content they offer.

OTT services have become popular because they offer more choice, convenience, and affordability to consumers.

Now the time requirement for regulators and policymakers from TRAI & MIB, DoT.

Some of the issues related to OTT services include:

- Policy require between network infrastructure and bandwidth demand.
- Policy require between competition and cooperation between OTT providers and LCOs.
- Policy require between of intellectual property rights and content licensing agreements.
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2) 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

Ans:-

One possible way to classify OTT services is based on the type of content they offer and the mode of delivery they use. Based on this criterion, we can identify the following categories of OTT services:

- **OTT video services:** These are services that offer access to film and television content, either on demand or live, via the Internet. They may be subscription-based, ad-supported, or transactional. Some examples of OTT video services are Netflix, Amazon Prime Video, Disney+, Hotstar, Zee5, SonyLIV, etc but the same contents are different price structure for CATV TV subscriber, TRAI need to confirm unified price structure for all the platform either it's from OTT or CATV.
- **OTT audio services:** These are services that offer access to music, podcasts, radio, or other audio content, either on demand or live, via the Internet. They may be subscription-based, ad-supported, or transactional. Some examples of OTT audio services are Spotify, Apple Music, Gaana, JioSaavn, etc. TRAI need to confirm unified price structure for all the platform either it's from OTT or CATV.

This classification is based on an intelligible differentia because it distinguishes OTT services based on the nature and format of the content they offer and the way they deliver it to the users. It also helps to identify the different market segments and consumer preferences for OTT services. It also reflects the different regulatory challenges and opportunities for OTT services in terms of quality of service, content licensing, data protection, taxation, etc.

3) What should be the definition of OTT communication services? Please provide a list of features which may comprehensively characterize OTT communication services. Kindly provide a detailed response with justification.

Ans:-

OTT communication services are services that provide **real time person-to-person telecommunication services** over the internet, bypassing the traditional network operators. Some popular examples of these include messaging platforms like Whatsapp, Telegram, Duo, Google Meet etc. Some features that may comprehensively characterise OTT communication services are:

They use the **internet protocol (IP)** to transmit data packets, instead of dedicated phone lines or cellular networks.

They are **independent** of the underlying network service provider, and do not require any contractual or regulatory relationship with them.

They offer **value-added** services such as voice and video calls, text and multimedia messages, group chats, file sharing, social media integration, etc. at lower or no cost to the users.

They are **accessible** via various devices such as smartphones, tablets, computers, smart TVs, etc. that have internet connectivity and compatible applications.

They are requiring **regulate** differently from the traditional network operators, depending on the jurisdiction and the type of service they provide.

For example, in the European Union, OTT communication services are classified as number-independent interpersonal communications services under the European Electronic Communications Code (EECC), and are subject to some obligations such as ensuring security and privacy of users, providing access to emergency services, etc.

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

Ans:-

According to the European Electronic Communications Code (EECC), OTT communications services are defined as so-called number-independent interpersonal communications services which in turn represent a subgroup of interpersonal and, thus, also electronic communications services. The United States Federal Communications Commission (FCC) categorizes the OTT services into two groups: multichannel video programming distributors (MVPDs); and online video distributors (OVDs). OTT communication services must be distinguished from content-related services. They are characterised by: Data transmission via the Internet, Number-independence, Interactive and interpersonal communication, and Communication between a finite numbers of people.

5) Please provide your views on the following aspects of OTT communication services vis-à-vis licensed telecommunication services in India:

(a) regulatory aspects;

(b) economic aspects;

- (c) security aspects;
 - (d) privacy aspects;
 - (e) safety aspects;
 - (f) quality of service aspects;
 - (g) consumer grievance redressal aspects; and
 - (h) any other aspects (please specify).
- Kindly provide a detailed response with justification.

Ans:-

The fundamental difference between the OTT service providers and the TSPs is in the ownership of the network, and the concomitant responsibilities for maintaining and upgrading that network to meet quality of service (QoS) standards. The Department of Telecommunications (DoT), vide a reference letter dated 3rd March 2016, sought the recommendations of the Telecom Regulatory Authority of India (the Authority) on Net Neutrality and other related aspects such as economic, security and privacy issues, and regulatory framework for OTT services similar to services provided by Telecom Service Providers (TSPs), etc. COAI has said that OTTs providing telecom services similar to Telcos such as voice/video calling and messaging within the meaning of telecom bill should be defined clearly, and the same regulatory and security obligations to be met by them as done by TSPs for providing similar services.

a) The Telecom Regulatory Authority of India (TRAI) has released a Consultation Paper on the Regulatory Framework for Over-the-Top (OTT) Communication Services (OTT-CP). The OTT-CP is the latest in a series of pre-regulatory initiatives of TRAI pertaining to OTT services since 2015. The Cellular Operators Association of India (COAI) has urged the government to bring over-the-top (OTT) service providers such as WhatsApp under the licensing regime and defer net neutrality rules on telecom operators till the time same service, same rules are applied on the applications. COAI has also made a strong pitch for OTT communication services to directly compensate Telcos for data traffic they are driving onto the networks, as it advocated a licensing and light-touch regulation framework for such services. The proposal suggests that OTT communication services in India should acquire a license and comply with the same set of rules governing telecom players. These rules encompass various aspects such as quality of service and security measures. Accordingly TRAI should regulate OTT services like Disney Hotstar, Zee5, Sony Liv, Jio Cinema for liner channel to be telecast under the DAS regime and OTT provider should follow the same rules as like DAS for CATV system.

b) OTT communication services are not presently regulated by the Ministry of Communications in India and do not contribute to the exchequer in the form of taxes, levies, license fees etc., as they are not presently regulated by the Ministry of Communications. The Cellular Operators Association of India (COAI) has urged the government to bring over-the-top (OTT) service providers such as WhatsApp, Disney Hotstar, Zee5, Sony Liv, Jio Cinema under the licensing regime and defer net neutrality rules on telecom operators till the time 'same service, same rules' are applied on the applications. COAI has also made a strong pitch for OTT communication services to directly compensate Telcos for data traffic they are driving onto the networks. Accordingly TRAI should regulate OTT services like Disney Hotstar, Zee5, Sony Liv, Jio Cinema for liner channel to be telecast under the DAS regime and OTT provider should follow the same rules as like DAS for CATV system.

c) The Cellular Operators Association of India (COAI) has urged the government to bring over-the-top (OTT) service providers such as WhatsApp under the licensing regime and defer net neutrality rules on telecom operators till the time 'same service, same rules' are applied on the applications. However, as per BIF, OTT services, including OTT communication services, are clearly differentiated and can be distinguished from the definition of telegraph as provided in the Telegraph Act. "Thus, licensing under Indian Telegraph Act or its replacement, does not apply to OTTs.

d) The Telecom Regulatory Authority of India (TRAI) has sought recommendations on Net Neutrality and other related aspects such as economic, security and privacy issues, and regulatory framework for OTT services similar to services provided by Telecom Service Providers (TSPs), etc. According to the TRAI, OTT services, including OTT communication services, are clearly differentiated and can be distinguished from the definition of telegraph as provided in the Telegraph Act. "Thus, licensing under Indian Telegraph Act or its replacement, does not apply to OTTs, We need it should be implemented as per CATV Act under the DAS regime and should be common pricing for all available platforms. However, the Cellular Operators Association of India (COAI) has urged the government to bring over-the-top (OTT) service providers such as WhatsApp Disney Hotstar, Zee5, Sony Liv, Jio Cinema for liner channel to be telecast under the DAS regime and OTT provider should follow the same rules as like DAS for CATV system under the licensing regime and defer net neutrality rules on telecom operators till the time 'same service, same rules' are applied on the applications

e) OTT communication services are not considered as telecom services in India and are clearly differentiated from the definition of telegraph as provided in the Telegraph Act. The fundamental difference between the OTT service providers and the TSPs is in the ownership of the network, and the concomitant responsibilities for maintaining and upgrading that network to meet quality of service (QoS) standards. The Cellular Operators Association of India (COAI) has urged the government to bring over-the-top (OTT) service providers such as WhatsApp, Disney Hotstar, Zee5, Sony Liv, Jio Cinema under the licensing regime and defer net neutrality rules on telecom operators till the time 'same service, same rules' are applied on the applications and similarly we also demanding the same policy to be applicable for OTT along with unified pricing for all platforms for liner TV channels.

f) OTT communication services are not licensed telecommunication services in India. According to the Telecom Regulatory Authority of India (TRAI), OTT services are defined as applications and services that are accessible over the internet and deliver audio, video, and other media content. They are not licensed under the Indian Telegraph Act or its replacement but we are demanding to TRAI to regulate it under the Indian Telegraph Act. The quality of service (QoS) for OTT communication services is not regulated by TRAI. However, TRAI has issued recommendations on net neutrality and other related aspects such as economic, security and privacy issues, and regulatory framework for OTT services similar to services provided by Telecom Service Providers (TSPs). We are agreed with TRAI recommendation.

g) The new guidelines issued by the government of India require OTT platforms to have a self-regulating body, headed by retired Supreme Court or High Court judge or very eminent person in this category. The guidelines also mandate that there should be a grievance redressal system in OTT platforms and digital portals. OTT platforms are required to appoint a Grievance Redressal Officer based in India who shall be responsible for the redressal of grievances received by it. The officer shall take a decision on every grievance received by it within 15 days which we are also recommended the same.

6) 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

Ans:-

The Telecom Regulatory Authority of India (TRAI) has issued a consultation paper on whether there is a need to bring OTT communication services under any licensing or regulatory framework to promote a competitive landscape for the benefit of consumers and service innovation. The telecom service providers, under the aegis of COAI, have been pushing for OTT communication services to be brought under regulation. COAI has been proposing 'same service same rules' for OTT communication services and Telcos, to ensure a level playing field. We also suggesting Disney Hotstar, Zee5, Sony Liv, Jio Cinema 3rd party OTT services for liner channel to be telecast under the DAS regime and OTT provider should follow the same rules as for CATV system, Live Tv should be same price for OTT platform as well as Cable Tv platform.

7) In case it is decided to bring OTT communication services under a licensing/ regulatory framework, what licensing/ regulatory framework(s) would be appropriate for the various classes of OTT communication services as envisaged in the question number 4 above? Specifically, what should be the provisions in the licensing/ regulatory framework(s) for OTT Communication services in respect of the following aspects:

- (a) lawful interception;
- (b) privacy and security;
- (c) emergency services;
- (d) unsolicited commercial communication;
- (e) customer verification;
- (f) quality of service;
- (g) consumer grievance redressal;
- (h) eligibility conditions;
- (i) financial conditions (such as application processing fee, entry fee, license fee, bank guarantees etc.); and
- (j) any other aspects (please specify).

Ans:-

a) OTT communication services are those services which are used or delivered over the Internet. The Telecom Regulatory Authority of India (TRAI) had published a consultation paper on 12 November 2018 for the creation of a regulatory framework for over-the-top (OTT) communication services. The paper raised various issues for comments and counter-comments from stakeholders. Licensing OTT service providers as communications service providers (CSPs) enabling them to have proper interconnection with other service providers and at the same time ensure QoS to the end customer was

one of the recommendations, we also recommending all OTTs Disney Hotstar, Zee5, Sony Liv, Jio Cinema etc. should be under the TRAI DAS regime regulation and liner TV channel pricing should be unified for all platforms.

b) As of now, there is no specific regulatory framework for OTT communication services in India. The Telecom Regulatory Authority of India (TRAI) has issued several consultation papers on this issue since 2015, but has not made any final recommendations or regulations. However, one of the recommendations made by TRAI is to license OTT service providers as communications service providers (CSPs) enabling them to have proper interconnection with other service providers and at the same time ensure QoS to the end customer. We strongly recommended regarding privacy and security suggestive rules in India, the licensing/regulatory framework(s) for OTT Communication services should have provisions for the following aspects:

- Data protection and privacy
- Security of networks and systems
- Interception and monitoring of communications
- Lawful interception and access to data
- Consumer protection

C) OTT stands for Over-The-Top. It refers to digital service providers that bypass the traditional operator's network to deliver audio, video, and other media over the Internet. They do not have any technology affiliations with network operators for providing such services. As per the TRAI consultation paper on "Regulatory Framework for Over-the-top (OTT) communication Services" dated 12th November 2018, the following are the various classes of OTT communication services:

- Messaging Services
- Voice Call Services
- Video Call Services
- Audio Streaming Services
- Video Streaming Services

The consultation paper also mentions that the regulatory framework for OTT communication services should be designed in such a way that it does not hamper innovation and growth of the sector. It should also ensure that there is no discrimination between TSPs and OTT service providers, Regarding emergency services, OTT communication services should be required to provide access to emergency services. The regulatory framework should also ensure that OTT communication services are interoperable with emergency services provided by TSPs.

d) As of now, there is no specific regulatory framework for OTT communication services in India. The Telecom Regulatory Authority of India (TRAI) has issued several consultation papers on this issue since 2015, but has not made any final recommendations or regulations. However, TRAI has considered two possibilities: Licensing OTT service providers as communications service providers (CSPs) enabling them to have proper interconnection with other service providers and at the same time ensure QoS to the end customer. We are not sure about the provisions in the licensing/ regulatory framework(s) for OTT Communication services in respect of the following aspects for unsolicited commercial communication recommended policy proposal in India. We strongly urge to the TRAI to implement "unsolicited commercial communication recommended policy proposal in India"

e) The Telecom Regulatory Authority of India (TRAI) has considered two possibilities for regulating OTT services in India. One is licensing OTT service providers as communications service providers (CSPs) enabling them to have proper interconnection with other service providers and at the same time ensure QoS to the end customer but we recommended is to create a regulatory framework that is distinct from the existing licensing regime for telecom service providers (TSPs) but still provides for some form of regulation.

f) OTT communication services are not licensed telecommunication services in India. According to the Telecom Regulatory Authority of India (TRAI), OTT services are defined as applications and services that are accessible over the internet and deliver audio, video, and other media content. They are not licensed under the Indian Telegraph Act or its replacement but we are demanding to TRAI to regulate it under the Indian Telegraph Act. The quality of service (QoS) for OTT communication services is not regulated by TRAI. However, TRAI has issued recommendations on net neutrality and other related aspects such as economic, security and privacy issues, and regulatory framework for OTT services similar to services provided by Telecom Service Providers (TSPs). We are agreed with TRAI recommendation

g) The new guidelines issued by the government of India require OTT platforms to have a self-regulating body, headed by retired Supreme Court or High Court judge or very eminent person in this category. The guidelines also mandate that there should be a grievance redressal system in OTT platforms and digital portals. OTT platforms are required to appoint a Grievance Redressal Officer based in India who shall be responsible for the redressal of grievances received by it. The officer shall take a decision on every grievance received by it within 15 days which we are also recommended the same.

h) The Telecom Regulatory Authority of India (TRAI) has considered two possibilities for regulating OTT services in India. One is licensing OTT service providers as communications service providers (CSPs) enabling them to have proper interconnection with other service providers and at the same time ensure QoS to the end customer. The other is to regulate OTT services through a self-regulatory framework. The draft Telecommunication Bill, 2022 proposes that OTT telecommunication services may be subject to the same licensing conditions as TSPs. Under the extant framework, TSPs have to be issued the Unified Access Service Licence (UASL) for them to be able to provide telecom services in India. We also recommended the same unified regulation for Disney Hotstar, Zee5, Sony Liv, Jio Cinema 3rd party OTT services for liner channel to be telecast under the DAS regime and OTT provider should follow the same rules as for CATV system, Live Tv should be same price for OTT platform as well as Cable Tv platform.

i) The Telecom Regulatory Authority of India (TRAI) has been considering the regulation of OTT services in India since 2015. According to TRAI, the aim of OTT regulation should be to restore regulatory balance. TRAI considered two possibilities: Licensing OTT service providers as communications service providers (CSPs) enabling them to have proper interconnection with other service providers and at the same time ensure QoS to the end customer. In 2018, TRAI issued a consultation paper on the residual issue, i.e., Regulatory Framework for Over-the-top (OTT) communication services, and raised various issues for comments and counter-comments from stakeholders. The draft Telecommunication Bill, 2022 proposes that OTT telecommunication services may be subject to the same licensing conditions as TSPs. Under the extant framework, TSPs have to be issued the Unified Access Service Licence (UASL) for them to be able to provide telecom services in India. We strongly recommend the draft Telecommunication Bill, 2022 to be implement as soon as possible.

8) Whether there is a need for a collaborative framework between OTT communication service providers and the licensed telecommunication service providers? If yes, what should be the provisions of such a collaborative framework? Kindly provide a detailed response with justification.

Ans:-

The Telecom Regulatory Authority of India (TRAI) has released a consultation paper on regulatory mechanism for OTT communication services. The paper seeks comments on whether there is a need for a collaborative framework between OTT communication service providers and licensed telecommunication service providers (TSPs), and challenges arising out of the collaborative framework and its impact on net neutrality, consumer access and consumer choice. The TRAI has also sought comments on the challenges arising out of the collaborative framework and its impact on net neutrality, consumer access and consumer choice. We strongly recommended policy should be unified for all platforms and as per DAS regime and CATV present policy manner.

9) What could be the potential challenges arising out of the collaborative framework between OTT communication service providers and the licensed telecommunication service providers? How will it impact the aspects of net neutrality, consumer access and consumer choice etc.? What measures can be taken to address such challenges? Kindly provide a detailed response with justification

Ans:-

The TRAI consultation paper on regulatory mechanism for OTT communication services has sought comments on the challenges arising out of the collaborative framework between OTT communication service providers and licensed telecommunication service providers (TSPs), and its impact on net neutrality, consumer access and consumer choice. The practical challenge in applying the test is that there are several instances where OTTs are providing multiple services, thereby resulting in multiple functionalities which may or may not be substitutable to a service provided by a TSP, making it difficult to identify or isolate the core functionality and ancillary functions of OTTs. The Broadband India Forum has said that concerns raised over lack of a level-playing field for telecom service providers and over-the-top communication services overlook the fact that OTTs cannot acquire spectrum, own network, control infrastructure access and interconnect using public network. We recommended OTTs like Disney Hotstar, Zee5, Sony Liv, Jio Cinema etc. contents pricing should be common for all platforms and unified policy in terms of piracy and customer pricing.

10) What are the technical challenges in selective banning of specific OTT services and websites in specific regions of the country for a specific period? Please elaborate your response and suggest technical solutions to mitigate the challenges

Ans:-

According to a consultation paper by the Indian government, there are several technical challenges in selectively banning specific OTT services and websites for a specific period. The paper has asked stakeholders about possible technical challenges in the selective banning of specific OTT services. The need to develop a regulatory framework for selective banning of OTT services under the Suspension Rules is one of the challenges. The classes of OTT services that would be covered under selective banning is another challenge. The need to ban any specific websites apart from the OTT services is also a challenge. We recommended DAS regime policy should be implemented in OTT services.

11) Whether there is a need to put in place a regulatory framework for selective banning of OTT services under the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 or any other law, in force? Please provide a detailed response with justification.

Ans:-

The Telecom Regulatory Authority of India (TRAI) has released a consultation paper on whether to regulate WhatsApp, OTT (over-the-top) communication services and selective banning of OTT services. The regulator has sought views on the requirement of a framework for OTTs encompassing lawful interception, privacy and security, customer verification, pesky calls and messages, technical challenges in banning specific service etc.. The consultation paper states that the need for a regulatory framework for selective banning of OTT services under the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 or any other law, in force is required to be examined. It also asks which categories of OTT services should be covered under selective banning and what should be the provisions and mechanism for such a regulatory framework.

**12) In case it is decided to put in place a regulatory framework for selective banning of OTT services in the country, -
(a) Which class(es) of OTT services should be covered under selective banning of OTT services? Please provide a detailed response with justification and illustrations.
(b) What should be the provisions and mechanism for such a regulatory framework? Kindly provide a detailed response with justification.**

Ans:-

The Telecom Regulatory Authority of India (TRAI) has released a consultation paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services. We recommended on the issue of selective banning of OTT services in the country. The classes of OTT services that would be covered under selective banning are yet to be determined. The need to ban any specific websites apart from the OTT services is also being examined. The regulatory framework for selective banning of OTT services under the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 or any other law, in force is required to be examined.

13) Whether there is a need to selectively ban specific websites apart from OTT services to meet the purposes? If yes, which class(es) of websites should be included for this purpose? Kindly provide a detailed response with justification.

Ans:-

The Telecom Regulatory Authority of India (TRAI) has released a consultative paper on whether to regulate WhatsApp, OTT services and other communication apps. The paper has asked what would be the technical challenges in selective banning of specific OTT services and websites in specific regions of the country for a specific period. We recommended on which classes of OTT services can be covered under the selective banning of OTT services. The TRAI has essentially argued that while telecom operators and OTT platforms such as WhatsApp offer similar services, they are not bound by the same requirements – as a result, there is a need for regulatory parity. Telecom operators need a service license for offering voice and SMS services. We are recommending focusing on the licensing and regulatory aspect of the matter.

14) 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

Ans:-

As of now, there is no specific regulatory framework for OTT communication services in India. TRAI has issued several consultation papers on this issue since 2015, but has not made any final recommendations or regulations. The regulator

has commenced the process to check out a regulatory mechanism for over-the-top (OTT) apps such as WhatsApp, Telegram, Disney Hotstar, Zee5, Sony Liv, Jio Cinema etc. The regulator will also deliberate on selective banning of OTT services.