

## IAMAI Counter Comments | TRAI Consultation Paper on 'Formulation of a Regulatory Framework for Application-based Linear Television distribution Services (ALTD) Services (including Free-Ad Supported Streaming Television (FAST) Services)'

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Established in 2004, the Internet and Mobile Association of India (IAMAI) is a not-for-profit industry body representing the digital services industry with more than 750 Indian and multinational corporations as its members, which include established companies in diverse sectors of the digital ecosystem as well as start-ups. We firmly believe that India's digital industry is going to be a major driving force in the economic and social development of the country which includes job creation, innovation, contribution to the GDP, inclusion and empowerment of our citizens.

At the outset, we would like to thank the Telecom Regulatory Authority of India ("TRAI") for providing us with the opportunity to submit our counter comments on the Consultation Paper on 'Formulation of a Regulatory Framework for Application-based Linear Television distribution Services (ALTD) Services (including Free-Ad Supported Streaming Television (FAST) Services)'

We have reviewed the representations made by certain other industry stakeholders to the TRAI on its CP and have provided our counter comments below. IAMAI has had the opportunity to review the submissions filed by various stakeholders, and files the present counter comments in response to certain arguments that, in IAMAI's respectful submission, are legally untenable and factually misconceived that would cause serious harm to India's digital media ecosystem, consumer welfare, and the broader digital economy.

### IAMAI Counter Comments

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On behalf of its members, IAMAI would like to put forth counter comments in response to arguments made in certain representations to TRAI on the consultation paper.

#### 1. TRAI does not have jurisdiction to regulate application-layer internet services

**Argument Advanced:** *Some submissions argue that ALTD/FAST services constitute 'broadcasting services' within TRAI's regulatory remit on the basis that TRAI's own definition, covering 'dissemination by transmission of electro-magnetic waves through space or through cables' encompasses internet-delivered content. On this basis, they propose that TRAI introduce a full authorisation and licensing regime for ALTD/FAST platforms.*

**IAMAI's Counter-Comment:**

**The argument misreads TRAI's own definition of 'broadcasting services'**<sup>1</sup>: The definition's reference to 'electro-magnetic waves through space or through cables' is a description of spectrum-dependent, physical transmission infrastructure, the technology underlying terrestrial, satellite, and cable broadcasting. ALTD/FAST services do not engage in the "transmission, emission or reception" of signals via electro-magnetic systems. ALTD including FAST service operate by

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<sup>1</sup> Our member, Bharti Airtel, has divergent views from the views expressed under this point

packaging audio-visual content into data packets on cloud servers and provide a software interface for end-users to request / pull that content. For clarity, they do not own, operate, lay, or manage the “*wire, radio, optical or other electro-magnetic systems*” that transport these packets to the end-user’s device. The fact that the underlying telecom infrastructure used by internet service providers may rely on spectrum does not mean the application-layer content service itself constitutes a broadcasting service. This conflation of infrastructure layer with application layer is a fundamental technical and legal error.

**Parliament's deliberate exclusion of OTT services must be respected<sup>2</sup>:** The Telecommunications Act, 2023, India's most recent and comprehensive legislation governing the telecommunications sector conspicuously and deliberately excludes OTT and application-layer internet services from its scope. This was a conscious legislative choice made after extensive consultation. Any attempt by TRAI to bring ALTD/FAST services within its regulatory ambit through a recommendations exercise, rather than through legislative prescription, would amount to circumventing Parliament's intent.

**ALTD/FAST providers are users of networks, not providers of telecommunications services<sup>3</sup>:** TRAI's regulatory mandate under the TRAI Act, 1997 extends to entities that provide telecommunication services, not to entities that use those services to deliver content over the internet. ALTD/FAST platforms are users of broadband connectivity, just as any website, application, or over-the-top service is a user of the internet. Equating users with service providers - or, more broadly, treating creators or aggregators of messages as equivalent to entities that facilitate their electromagnetic transmission is not contemplated under either the Telecommunications Act or the TRAI Act.

Regulating them as telecommunications or broadcasting service providers would have no legal foundation and would open the door to regulating every website and application as a broadcast service.

**The absence of spectrum use removes the foundational basis for broadcasting-style regulation<sup>4</sup>:** Broadcasting regulation in India as globally is premised on the scarcity of spectrum, a finite and rivalrous public resource. This scarcity justifies licensing, authorisation, and carriage obligations for entities that use spectrum to reach audiences. ALTD/FAST services use no spectrum. They operate over the open internet, which is non-rivalrous and scalable. The foundational rationale for broadcasting regulation is therefore entirely absent, and regulatory intervention in the absence of that rationale cannot be justified on grounds of public interest.

## **2. The proposed definitions are overbroad and would capture already-regulated services**

**Argument Advanced:** *Certain submissions propose expansive definitions of ALTD and FAST services that would effectively capture all online content services, including Publishers of Online Curated Content (OCCPs) delivering on-demand content, social media platforms, and UGC services, within the proposed regulatory framework.*

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<sup>2</sup> Our member, Bharti Airtel, has divergent views from the views expressed under this point

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***IAMAI's Counter-Comment:***

**OCCPs are already comprehensively regulated, double regulation must be avoided<sup>5</sup>:** OCCPs are regulated under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (IT Rules 2021), which provides a comprehensive framework covering content standards, a three-tier grievance redressal mechanism, self-regulatory bodies, and government oversight. There is no regulatory vacuum. Bringing OCCPs additionally within an ALTD framework administered by TRAI would create overlapping, conflicting, and duplicative regulatory obligations, causing legal uncertainty and significant compliance burdens for an industry that is a key driver of India's digital economy.

**The definitional overreach will lead to unintended consequences<sup>6</sup>:** Definitions that capture any platform distributing curated audio-visual content over the internet would ensure every OTT service, every social media video platform, and every news website with a video section within the proposed licensing framework. This cannot be the intent of any rational regulatory design. A definition this broad would expose hundreds of digital services to sudden and unexpected licensing obligations, create prohibitive barriers to entry for new entrants, and undermine the diversity and dynamism of India's online content ecosystem.

**Ministry of Information and Broadcasting (MIB) is the appropriate and sole regulator for content services<sup>7</sup>:** Under the Government of India's Allocation of Business Rules, MIB is empowered to regulate matters relating to online content. Any regulatory framework for ALTD/FAST services that touches on content, programme standards, advertising codes, content accountability must be the preserve of MIB, not TRAI. This content-carriage separation, affirmed by the Hon'ble Supreme Court in *Star India Private Limited v. Department of Industrial Policy and Promotion & Ors.*, is a cornerstone of India's broadcasting regulatory architecture and must not be eroded.

### **3. Proposed authorisation and fee framework fails the test of proportionality**

**Argument Advanced:** *Several submissions propose that ALTD/FAST platforms be subject to a full DPO-equivalent authorisation framework, including substantial entry fees, AGR-based annual fees, minimum net worth requirements, bank guarantees, and security deposits. Some submissions go further, arguing that because ALTD platforms have lower infrastructure costs than traditional DPOs, they should in fact be charged higher entry fees.*

***IAMAI's Counter-Comment:***

**Competitive asymmetry is best addressed through rationalising DPO regulation, not burdening digital services:** If regulatory parity is the objective, TRAI should pursue regulatory forbearance for traditional broadcasting and DPOs by systematically removing the tariff, regulatory and licensing burdens that currently restrict them.

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The appropriate remedy is not to extend legacy regulatory burdens upward to digital services, instead there is a need to examine whether the regulatory obligations on traditional DPOs continue to serve their original purpose and how it could be rationalised to restore competitive balance. The broadcasting sector requires recalibration focused on ease of doing business, rather than layering additional prescriptive obligations onto a framework that no longer reflects technological convergence. Levelling up internet services to the regulatory burden of cable and DTH would eliminate the competitive dynamism that has driven consumer benefit in the digital content sector. Thus, distributor style obligations that are meant for carriage services must not be imposed on online content providers that operate on the application layer.

#### 4. No Jurisdiction Has Treated FAST or ALTD Services as Distribution Platforms Requiring Licensing or Authorisation<sup>8</sup>

**Argument Advanced:** *Few submissions rely on international frameworks, to argue that there is a global trend toward bringing internet-based streaming services within broadcasting regulation, and that India should follow suit with a comprehensive authorisation and licensing regime.*

This characterisation misreads both the intent and the scope of the frameworks invoked.

A review of international regulatory approaches reveals a consistent pattern: non-intervention. Jurisdictions have chosen not to subject FAST and ALTD services to sector-specific licensing, authorisation, or distribution platform regulation. No jurisdiction has treated FAST or ALTD services as equivalent to spectrum-based cable or satellite distribution platforms for the purposes of licensing, entry fees, net worth requirements, or carriage obligations.

The United States, which the Consultation Paper itself acknowledges as the world's largest FAST market is perhaps the most telling example. In the United States, OTT internet video services, including FAST platforms, are not licensed by any federal or state regulator.<sup>9</sup> The Federal Communications Commission's regulatory jurisdiction extends to broadcast, cable, and satellite services, all of which rely on licensed spectrum or franchised infrastructure. FAST platforms collectively reaching hundreds of millions of users operate without any federal licensing requirement, entry fee, net worth condition, or DPO-equivalent obligation. The world's largest and most mature FAST market has deliberately chosen not to regulate these services as distribution platforms. If the foundational case for regulation were as compelling as certain submissions suggest, it would not have gone unrecognised in the jurisdiction that knows this market best.

Even where jurisdictions have chosen to intervene, they have done so narrowly, prospectively, and with clearly defined policy objectives, focused on areas such as content prominence or public service broadcasting obligations, and not through the imposition of DPO-equivalent authorisation frameworks, entry fees, net worth requirements, or infrastructure obligations on internet-based services. Globally, ALTD are treated as a digital software service, and no jurisdiction has treated FAST or ALTD services as equivalent to spectrum-based cable or satellite distribution platforms for the purposes of licensing and carriage regulation. In the United Kingdom, for instance, regulation of FAST channels is limited to linear content and will be implemented in a phased

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<sup>8</sup> Our member, Bharti Airtel, has divergent views from the views expressed under this point

<sup>9</sup> Congressional Research Service, *Regulating Streaming Services: Issues for Congress*, R46545 (2021), <https://crsreports.congress.gov/product/pdf/R/R46545>

manner, starting from content made available via television sets, a targeted, evidence-based approach that bears no resemblance to the prescriptive authorisation regime proposed in certain submissions before TRAI.<sup>10</sup>

The global value chain dimension of this issue deserves particular emphasis. Many online content providers offering FAST channels are global companies that operate across multiple jurisdictions through standardised products and content pipelines. An India-specific licensing mandate, unique among major economies would fragment these global value chains, deter international content investment, and undermine India's growing ambition to position itself as a global content hub. India's regulatory approach should emphasise on reducing regulations for overregulated sectors rather than enhancing regulations for other sectors.

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<sup>10</sup> Department for Culture, Media and Sport, United Kingdom Government, *Government Statement on the Future Regulation of Television Electronic Programme Guides* (February 24, 2026) <https://www.gov.uk/guidance/government-statement-on-the-future-regulation-of-television-electronic-programme-guides>