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AGNSI/TRAI/QOS/CP No.2/2015/2015-16
April 24, 2015

Shri A. Robert J. Ravi
Advisor (QOS)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi - 110 002

Subject: Consultation Paper [No. 2/2015 dated March 27, 2015] on 'Regulatory Framework for Over-the-top (OTT) services'

Dear Sir,

This is with reference to the captioned Consultation Paper [No. 2/2015] released by Hon'ble Authority on March 27, 2015.

AT&T Global Network Services India Private Limited ("AT&T") would like to respectfully submit its comments in support of the captioned consultation (enclosed as Annexure – I).

AT&T in India is licensed to provide National Long Distance (NLD), International Long Distance (ILD) and Internet Service Provider (ISP) services in India and began providing these services in 2007 and 2009 respectively.

We trust you will find our submissions in order.

Thanking you,

Respectfully submitted,
for **AT&T Global Network Services India Private Limited**

Naveen Tandon
Authorised Signatory

Encl.: As above

Comments of AT&T: TRAI Consultation Paper on Regulatory Framework for Over-the-Top (OTT) Services, Consultation Paper No. 2/2015, March 27, 2015

Introduction and Summary

AT&T Global Network Services India Private Limited (“AT&T”) respectfully submits these comments on the TRAI Consultation Paper on the Regulatory Framework for Over-the-top (OTT) Services, issued on March 27, 2015 (the “Consultation Paper”).

AT&T is a subsidiary of AT&T Inc., which, through its affiliates, operates one of the world’s most advanced global backbone networks, provides services to virtually every country and territory in the world, and is a leading U.S. provider of international business and consumer communications services on the U.S.-India route. AT&T is licensed to provide National Long Distance (NLD), International Long Distance (ILD) and Internet Service Provider (ISP) services in India, and began providing these services in 2007 and 2009 respectively.

AT&T appreciates the opportunity to express its views in this consultation. AT&T hopes that its responses will be helpful to the Authority in formulating a comprehensive strategy for the sustainable development of the Internet in India, and among India and the globally interconnected Internet networks, allowing market participants to fully invest and innovate in the infrastructures and services which will benefit both consumers and businesses.

Information and communications technology (ICT) is already a critical driver of economic growth in both developed and developing countries. The further deployment of broadband technologies promises to multiply these benefits by leading to the creation of innovative services that are key economic drivers in themselves, and also enhance the benefits of investments in other industries and institutions – such as by carrying the cross-border data flows that fuel India’s business-process outsourcing sector, enabling transportation systems to run more smoothly, delivering new efficiencies to electric grids, expanding access to health care, providing new work options that allow reduced travel and emissions, connecting students to expanded educational resources, and bringing increased effectiveness to government.

To deliver these results, governments and regulators should continue the investment-friendly policies that have brought the vast expansion of network facilities and new services throughout the world, and allowed this critically important global communications medium to flourish and benefit the global community in ways that would have been unimaginable twenty years ago. Prominent among these beneficial policies that should be maintained to achieve this

goal is the policy objective to refrain from intrusive regulation of the Internet and associated service arrangements.

For several years now, AT&T has endorsed the policy and principles of an open Internet, which to us means an entire Internet ecosystem that enables users to exchange ideas and communicate freely, gives them freedom to access the lawful applications and content they wish to use, and affords them the ability to choose and assemble packages of services and equipment that meet their needs. To create an open Internet, AT&T Inc. has invested over \$140 billion over the past six years in our fixed and mobile broadband network and services when capital and spectrum-driven acquisitions are combined, and we have innovated in the intelligent network design to enable the growth of over 100,000% in data traffic on the AT&T network from January 2007 through December 2014, while improving network quality of service. This fundamental commitment to investment and network improvement has been replicated by carriers all over the world. When supporting an open Internet, AT&T is guided by the following core standards in addressing the needs of our customers in approaching new Internet-related business opportunities, designing new services, and managing our network:

- **Freedom** – Consumers should be able to openly exchange ideas, content, and information across the Internet.
- **Innovation** – Consumers are entitled to a robust and secure network that enables new services, applications, and devices.
- **Competition** – Consumers have the power to choose the best possible services and innovations.
- **Transparency** – Consumers should have clear and concise information about speed, cost, and traffic management

In less than two decades, the Internet has evolved dramatically from being a network that provided only file downloads and remote access to distant academic or government computers, to being a vibrant global commercial network that now provides countless different services to millions of content and applications providers and billions of users. During the past decade alone, during a time when proponents of strict net neutrality regulation have raised dire warnings about the risk of broadband Internet access providers limiting choice and access, such Internet access providers instead have poured more than a trillion dollars into next-generation networks capable of providing advanced services. In just the last decade alone, that network investment has paved the way for an entire Internet ecosystem that successfully a previously unimaginable

diversity and volume of content, applications, and services delivered over these advanced networks. Further dynamic advances will continue to occur in response to future technological change and consumer demand, spurred on by new developments, including the Internet of Things, Software Defined Networks, and Big Data Analytics.

The Internet also has become the most powerful communications medium and engine for economic growth ever, and has achieved this unprecedented growth without prescriptive regulation of the Internet that would have locked in place certain specific technologies or business models. In considering any Internet regulation to be adopted in the future, policy-makers should optimize not only the policy of Internet openness, but also the need to maintain incentives for Internet service providers to continue investing and innovating in the rapidly evolving advanced networks that must keep pace with the diversity and volume of new services. To the extent that any regulatory intervention is found to be necessary to protect the open Internet, it can be effective if appropriately targeted and limited to the adoption of meaningful transparency requirements, and the prohibition of blocking, degrading or otherwise unreasonably disfavoring some Internet traffic over other Internet traffic. Such open Internet guidelines are precisely tailored to prohibit any practices that could pose a threat to the “virtuous circle” of investment and innovation that has enabled the Internet to thrive. AT&T also does not oppose rules that restrict non-user-directed paid prioritization. However, there should be no restriction on user-driven prioritization, which can enhance consumer welfare and should be permissible. Beyond these core priorities to preserve an open Internet, any more invasive and prescriptive open Internet regulation is unnecessary and would reduce investment incentives for all operators that build and maintain the Internet networks.

More invasive regulation of commercial and operational practices also would cause significant difficulties if it was applied to mobile broadband access services, which comprise the large majority of Internet access services in many countries, including India. The rapid growth in mobile broadband usage and the fact that mobile subscribers move means that providers must grapple with variable and unpredictable network demand, requiring them to make difficult judgments about how to manage their networks in response to complex and fast-changing congestion problems. These issues have forced providers to develop innovative approaches to network management that must evolve quickly as new challenges arise. Subjecting those decisions to the full range of open Internet regulations, subject to an exception for “reasonable

network management,” would result in significant regulatory uncertainty that would slow down network-management decisions and inhibit investment. In light of the massive growth and evolution of the entire mobile Internet ecosystem, and given the absence of credible argument that there is an Open Internet market failure that must be remedied, there is no reason for any intrusive regulation of mobile networks to protect the Open Internet. In addition, just as other jurisdictions have recognized the merit for keeping enterprise service offerings and specialized services such as virtual private networks outside the scope of open Internet rules, India also should not prescriptively regulate these services.

1. Extensive Internet Regulation Is Unnecessary and Would Likely Harm Investment and Innovation

For at least a decade, advocates of applying strong net neutrality regulation solely upon broadband Internet access providers have raised concerns about the incentives and abilities of the broadband Internet access providers to stifle the “open Internet.”¹ The facts have not supported the claims or predictions of a marketplace failure. Today’s Internet is open, dynamic and thriving, and the goal of regulators should be preserving the balanced policy environment that has enabled this dynamic investment and innovation by all parties. Evidence that the Internet ecosystem is flourishing is abundant. Broadband access and speeds continue to increase, edge providers are flourishing – for example, the number of global over-the-top mobile VoIP subscribers increased by 550 percent in 2012² – and the use of social media applications has continued to explode. The Internet is also flourishing in India. India has the third largest number of Internet users after the United States and China, is reportedly the fastest growing major market for Google,³ and has the second-largest number of Facebook users after the United

¹ See, e.g., Lawrence Lessig, *The Future of Ideas: The Fate of the Commons in a Connected World* 176 (2001).

² Press Release, Infonetics Research, *Infonetics Research Raises VoLTE Forecast; Over-the-top Mobile VoIP Subscribers Nearing 1 Billion Mark*, July 8, 2013, <http://www.infonetics.com/pr/2013/Mobile-VoIP-Services-and-Subscribers-Market-Highlights.asp>.

³ See <http://forbesindia.com/article/real-issue/is-google-gobbling-up-the-indian-internet-space/35641/0>

States.⁴ Additionally, millions of people in India are now accessing the Internet through the zero-rating program of Internet.org.⁵ Importantly, the Internet has remained open, and the “virtuous circle” of investment and innovation throughout the Internet ecosystem has flourished, without the overly intrusive, top-down rules that many advocates of strong net neutrality regulation claim are essential. Indeed, for most of the Internet’s existence, including the recent years when claims of imminent risk have been the loudest, openness has been achieved without any regulatory intervention at all.

Without compelling evidence of net neutrality violations or meaningful harm to the open Internet, there is no justification for extensive Internet regulation. There is, however, a significant risk that prescriptive government regulation entails significant social costs. Those well-documented costs, moreover, increase exponentially when the government attempts to regulate a technologically evolving field like the Internet, including the costs arising from a reduction in network investment or innovative network management efforts. Indeed, the risk that regulatory controls will be unable to keep up with dynamic and fast-moving changes is substantial. Given the well-understood costs of excessive regulation, as a general rule regulatory intervention is appropriate when—and only when—there is a concrete need for such intervention and regulators have enough information to appropriately balance the costs against the benefits.

Those who seek extensive new regulation of Internet access providers purport to justify these proposals, not with real-world evidence of a marketplace failure or a regulatory deficiency, but with speculation about purely theoretical incentives and abilities that broadband Internet access providers supposedly could have to engage in practices that might threaten the open Internet. Such speculation ignores the countervailing incentives that broadband Internet access providers have to maximize the value of their service to both end users and edge providers by offering end users what they want—namely, unfettered access to all safe and lawful Internet content, applications, and services, while being protected from cybersecurity risks. Indeed,

⁴ See <http://www.statista.com/statistics/268136/top-15-countries-based-on-number-of-facebook-users/> (showing India with 108.9 million users and the United States with 151.8 million users in May 2014);

⁵ <http://www.hindustantimes.com/technology-topstories/facebook-ceo-mark-zuckerberg-to-ht-net-neutrality-and-universal-connectivity-must-co-exist/article1-1337766.aspx>

