

1. TRAI should encourage the use and adoption of standards that are global, voluntary, and industry-driven and allow industry-bodies to be created voluntarily

As the cloud services industry continues to evolve and mature in India, the TRAI should refrain from mandating the creation of industry bodies and from imposing any limitations on, or preferences for, specific frameworks these bodies may adopt. Rather, TRAI should encourage the use and adoption of standards that are global, voluntary, and developed through industry-led multi-stakeholder processes which reduce costs and promote innovation.

Providing an enabling environment for such standards to develop will also allow industry bodies to emerge on an organic and voluntary basis. Such industry bodies will formulate and ultimately decide on the functioning rules and processes with active participation of its members through a consensus-based process. Industry bodies highlighted in the Paper such as the Cloud Industry Forum and the Asia Cloud Computing Association are prime examples of this approach. Similarly, codes of conduct developed by those industry bodies do not follow prescriptive requirements. CloudCode, New Zealand's cloud computing code of practice, for instance, was developed voluntarily. The Government of India should rely on voluntary, consensus-based industry bodies, instead of prescribing a framework upon the industry and such bodies.

We recommend that the Government of India:

- a) Support IT industry organizations developing voluntary, industry-led codes and standards;
- b) Recognize and utilize widely adopted international standards and certifications;
- c) Refrain from prescribing a framework for industry bodies.

2. Additional regulatory requirements will only hurt the growth of the cloud industry

Cloud service providers (CSPs) are already subject to existing laws covering different aspects of their operations. Additional prescriptive requirements imposed through government-led industry bodies may result in significant compliance burdens and negatively impact the ability of companies to provide cutting-edge cloud computing services in India. Some of the various regulatory requirements that CSPs are already subject to include:

- As 'intermediaries' under the Information Technology Act (IT Act), CSPs are subject to due diligence requirements.⁶ CSPs also implement reasonable security practices for collection, use, disclosure, and transfer of sensitive personal information or data under the IT Act.

- The Ministry of Electronics and Information Technology (MeitY) is developing a personal data protection framework for collection and use of personal data. This framework may regulate CSPs as 'data processors'.
- The infrastructure layer through which cloud services are made available to customers are regulated by the Department of Telecom or TRAI.
- The Consumer Protection Act 2019 (CPA) already protects consumers against unfair trade practices or deficient services.
- MeitY governs cloud services as the ministry entrusted with developing policies for information technology under the Allocation of Business Rules.⁷ MeitY already governs empanelment of CSPs as government service providers under the 'Meghraj' initiative.

Any additional prescriptive requirements for CSPs, whether directly imposed by government agencies or through a government-led industry body, may run counter to the ease of doing business objectives of the government. Mandating codes of conduct, standards or guidelines that include product or service definitions, Quality of Service (QoS) parameters, billing models, data security, dispute resolution framework, model Service-level agreement (SLA), disclosure framework and other onerous prescriptive requirements as mentioned in 1.1.1. (ii) of the Paper, will only stifle the pace of innovation in India.

India seeks to position itself as an economic powerhouse by 2024. The digital ecosystem is a key pillar of India's vision of a \$5 trillion-dollar economy. Cloud computing services will supplement innovation and emergence of new technologies. As one of the fastest growing cloud services market in Asia-Pacific, India has the opportunity to develop a robust, innovative and transformative base for its digital ecosystem. Measures that slow the growth of cloud computing at this stage could put at risk the growth of this important industry, in addition to the many other costs to the Indian economy.