



To

The Advisor (QoS)

Telecom Regulatory Authority of India,
MahanagarDoorsanchar Bhawan,
Jawahar Lal Nehru Marg,
(Old Minto Road), New Delhi-02

No: Regln/1-35/2015/

Dated: Jan, 2019

{Kind Attn: Shri. AsitKadayan}

Sub: Comments on Consultation paper on “Regulatory Framework for Over-the-top (OTT) Communication services”.

Kindly refer to your office press release dated 12-11-2018 vide which a Consultation paper on “Regulatory Framework for Over-the-top (OTT) communication services” was released and sought inputs/ comments from the stakeholders. In this context, kindly find herewith the BSNL comments on the above mentioned consultation paper:

Question 1: Which service(s) when provided by the OTT service provider(s) should be regarded as the same or similar to service(s) being provided by the TSPs. Please list all such OTT services with descriptions comparing it with services being provided by TSPs.

BSNL Reply: OTT services providing Voice calls, Video calls, SMS, MMS, any messaging service and Audio/Video Conferencing services may be regarded as similar services being provided by traditional TSPs in India.

OTT players have developed internet applications/Apps having various features through which such services are provided. Such OTT services use the existing infrastructure of traditional TSPs, they don't have their own extensive infrastructure to reach to their customers.

Question 2: Should substitutability be treated as the primary criterion for comparison of regulatory or licensing norms applicable to TSPs and OTT service providers? Please suggest factors or aspects, with justification, which should be considered to identify and discover the extent of substitutability.

BSNL Reply: Yes. Indian telcos broadly offers the Voice calls, SMS and Internet services to its customers. OTT communication services are rapidly substituting the traditional telecom services by offering low cost (or no cost) alternatives. This is resulting in decline of demand for traditional services causing revenue loss in voice and messaging services. There has been significant decline in traffic for domestic SMS, international SMS and international calling because of OTT services being provided at almost no cost.

Because of rising popularity of OTT services, the data traffic of TSPs network is continuously increasing and TSPs are forced to invest in upgradation of their networks disproportionate to the revenue being earned from data traffic, as in India, the charges for data services are dirt cheap and tariffs are not being regulated. The prices are not fixed near to equilibrium point due to maintain competition.

It can be argued that there has been an increase in data revenue of the TSP, however, the same is far from sufficient to compensate for the corresponding decrease in revenue

because of decline in the traffic due to substitution of conventional services like voice & SMS.

Question 3: Whether regulatory or licensing imbalance is impacting infusion of investments in the telecom networks especially required from time to time for network capacity expansions and technology up gradations? If yes, how OTT service providers may participate in infusing investment in the telecom networks? Please justify your answer with reasons.

BSNL Reply: Yes. In addition to economic impacts and competitive effects as discussed in response to question 2 above, several other mandatory expenses due to regulatory and licensing regime give OTT services an unjustified advantage over the traditional TSPs. Such as:

- TSPs need to bear the cost burden of spectrum allotment charges, spectrum usage charges and taxes.
- They also need to adhere to rules and regulations of the licensor and the regulator for the compliance.
- The OTT service providers are not governed by any regulatory or licencing regime, these entities are free to work without such control.
- TSPs have to bear the burden of various regulatory and QoS compliance and they are heavily penalised for not meeting bench marks.
- TSPs have to invest in customer acquisition and maintain several records and data to comply with government directions.

This is creating problem of regulatory imbalance. The OTT players are giving direct competition to TSPs without having level playing field. This will impact the investment plans of TSPs. It will further impede the efforts being made by TSPs to upgrade their networks to next level.

This regulatory and licensing imbalances can be fulfilled by bringing OTT service providers under the regulatory framework. Moreover, OTT players may be asked to compensate TSPs for use of their network over and above the data charges paid by the customers. The pricing mechanism may be evolved for URL based charging or bandwidth/ data volume consumption based charging.

Question 4: Would inter-operability among OTT services and also inter-operability of their services with TSPs services promote competition and benefit the users? What measures may be taken, if any, to promote such competition? Please justify your answer with reasons.

BSNL Reply: The inter-operability of OTT services with TSPs services will promote healthy competition and benefit the users.

The terms of interoperability between OTT players and TSPs should be transparent and non-discriminatory. Interoperability is strength of TSPs. Interoperability is achieved between peers through standards and agreements. Concerning OTTs, their level of openness depends on their competitive advantages and on their strategies.

The inter-operability among OTT providers may also be beneficial to users, however, it may again create imbalance in ecosystem with TSPs. Moreover, there may be technical challenges in interoperability among OTT service providers.

Question 5: Are there issues related to lawful interception of OTT communication that are required to be resolved in the interest of national security or any other safeguards that need to be instituted? Should the responsibilities of OTT service providers and TSPs be separated? Please provide suggestions with justifications.

BSNL Reply: Yes, the issues related to lawful interception of OTT communication are required to be resolved and safeguards should be instituted in the interest of national security and to mitigate any other serious economic and criminal offences. The responsibilities of OTT service providers and TSPs should be separated as both the entities have separate control layers in respective systems. The TSPs in India are mandated under license to comply various security conditions involving providing interception and various data as requested by LEAs (Law Enforcement Agencies). There is no such mandate for OTT service providers. OTT players are separate/ independent entities and are merely riding over TSPs networks. TSPs network has no role except carrying and delivering data packets from end to end users. Without mandating security safeguard for OTT players, the crucial information's would be untraceable. However, TSP's services are always traceable. To ensure security compliance by OTT service providers, they may be mandated to install their application servers in India and provide the data/ logs/records etc. similar to as already being provided by TSPs to LEAs. From past experiences the LEAs have faced difficulties in getting the required inputs from the entities as their servers providing services were installed outside Indian jurisdiction in contrary to Indian TSPs whose network is completely accessible in the country and fully compliant to regulatory and license conditions.

However, the comprehensive views of Government of India may be obtained on this issue.

Question 6: Should there be provisions for emergency services to be made accessible via OTT platforms at par with the requirements prescribed for telecom service providers? Please provide suggestions with justification.

BSNL Reply: Yes, it shall be mandatorily to provide the emergency services to be made accessible via OTT platforms at par with the requirements prescribed for telecom service providers. As in case of distress whatever service is accessible to general public may be helpful in getting relief, it should be fundamentally accessible on OTT platform as well.

Question 7: Is there an issue of non-level playing field between OTT providers and TSPs providing same or similar services? In case the answer is yes, should any regulatory or licensing norms be made applicable to OTT service providers to make it a level playing field? List all such regulation(s) and license(s), with justifications.

BSNL Reply: Yes. Presently, TSPs in India are highly regulated whereas the OTT players are free from any regulatory/ licensing regime. They are left to play freely without any security, licensing, regulatory and QoS compliances contrary to the TSPs thereby creating an imbalance which can be fulfilled by bringing these OTT players under same regulatory framework in line with the TSPs so as to have a level playing field.

If OTT players are not brought under licensing regime and level playing field is not provided to TSPs, this will impede the efforts being made by TSPs to upgrade their networks hampering the telecom penetration in country. Additionally, TSPs have to bear several expenditures due to regulatory, licensing and QoS compliances.

Question 8: In case, any regulation or licensing condition is suggested to made applicable to OTT service providers in response to Q.7 then whether such regulations or licensing conditions are required to be reviewed or redefined in context of OTT services or these may be applicable in the present form itself? If review or redefinition is suggested then propose or suggest the changes needed with justifications.

BSNL Reply: TRAI needs to examine it in details.

Question 9: Are there any other issues that you would like to bring to the attention of the Authority?

BSNL Reply: No Comments

The Hon'ble Authority is requested to kindly consider the BSNL's views/ comments on above mentioned Consultation paper.

Yours sincerely

(Ved Prakash Verma)

AGM (RegIn-II)