



COMMENTS OF MICROSOFT CORPORATION

To The Telecom Regulatory Authority of India On the Consultation Paper on Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India

10 February 2023

INTRODUCTION

Microsoft Corporation (“Microsoft”) respectfully submits these comments on the Consultation Paper (“CP”) of the Telecom Regulatory Authority of India (“TRAI”) on the Licensing Framework and Regulatory Mechanism for Submarine Cable Landing in India. Submarine cables are an essential component of today’s global digital marketplace, and their significance will only continue to increase as the world’s need for computing power grows.

TRAI’s CP asks a series of important questions that create the opportunity to ensure India’s role in the global computing economy, further enabling it to achieve its aim to be a trillion-dollar digital economy by 2025. Microsoft applauds the TRAI and the Department of Telecommunications (“DoT”) for recognizing the need to update India’s submarine cable licensing regime and offers below its views on how to design a licensing regime that achieves the Government of India’s (“GoI’s”) objectives while creating the greatest opportunity for India’s participation in the global digital economy. We respond primarily to Question 1.

DISCUSSION

The current licensing regime is premised on the assumption that a licensed India International Long Distance Operator (“ILDO”) not only operate the Cable Landing Station (“CLS”) but also own at least a portion of the subsea cable system itself. While this may have been a reasonable assumption and approach when the submarine cable licensing regime was first established, it is no longer the only model of deploying subsea cables. Indeed, it is not a sustainable approach in light of the substantial need for more subsea cables – and, perhaps even more importantly, the types of companies that are making the significant capital expenditures to deploy those undersea cables across the globe. As the TRAI noted in the CP, the number of undersea cable systems increased dramatically from 2017-2021. Microsoft expects the growth to continue. As TRAI recognizes in para. 1.10, much of that growth was driven by cloud service providers - companies outside the traditional telecom industry - who have invested significantly as their global traffic demands grew exponentially. Thus, a decades-long, relatively stable industry made up of traditional players has changed, quite dramatically, in just the last few years. Moreover, as India’s digital ecosystem and data center



infrastructure continues to expand to meet its digital economy goals, we expect continued need for growth in the infrastructure required to carry more data into and out of India.

A licensing regime that forces a licensed operator to be a partner in the cable system itself will impose financial burdens on those operators, and it will unnecessarily limit the amount of cable capacity serving India. Operators in India should have the flexibility to make their investments in ventures such as India's 5G deployments or other efforts to expand broadband throughout India. In addition, forcing them to join the ownership and operation of the cable system could subject them to oversight by governments in other countries where the cable system lands, or require them to be bound to a variety of contractual obligations to meet other countries' landing requirements.

These are unnecessary burdens to place on Indian telecom operators. There is a less burdensome approach that will simultaneously ensure the GoI can protect the public interest and its national security. Microsoft recommends that the DoT licensing regime explicitly enable the flexibility whereby only the subsea cable landing station need be operated by a licensed operator, without requiring that licensed operator also to participate in the ownership of the cable itself.

Through its licensing authority over the CLS entity, the GoI can accomplish its legitimate objectives such as lawful access to traffic flowing through the CLS, ensuring repairs are made to cables in a timely fashion to the extent that is within the control of the CLS or the cable consortia, and taking other steps that are useful to preserve their utility and to protect national security. Rather than imposing these obligations directly on the consortium members of the subsea cable system, the licensing regime could require the CLS licensee to bind subsea cable consortia via contractual obligations. Much as India telecom licensees are required to ensure that their customers do not use telecom services in a way that violates the licensee's obligations, the license for a CLS could require that the licensee hold its connecting cable systems responsible – contractually – for supporting its fulfillment of necessary regulatory requirements to the extent they are not readily achievable on the CLS. This approach would accomplish GoI's objectives and maximize opportunities for more subsea cable landings in India, all without burdening Indian operators with financial ownership obligations. In turn, it will facilitate the more intensive data flows into and out of India consistent with achievement of the digital economy objectives.

CONCLUSION

As noted above, Microsoft thanks the TRAI and DoT for raising these questions about improvements and clarifications that could be made to the current licensing regime for undersea cables. With only limited clarifications and explicit changes to the current system, as described above, the TRAI and DoT can create new opportunities for India's digital growth, particularly as new Artificial Intelligence applications and capabilities demand even more computing power and data flows across the globe. Time is of the essence for

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a more flexible undersea cable licensing regime, and Microsoft looks forward to working with the GoI to ensure its digital goals are achieved and Indian businesses and innovation thrive.

Thanks and regards,

A handwritten signature in black ink, appearing to read "Ashutosh Chadha".

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