

RCOM Response to TRAI Consultation Paper on
“Regulatory Framework for Over-The-Top
(OTT) communication Services”

R-COM welcomes the opportunity to comment on the TRAI consultation paper on Regulatory Framework for Over-the-Top (OTT) communication Services

Question No1: 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.

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

Our Response

All online services which have substituted traditional telecommunications services such as voice telephony and messaging (SMS) services should be regarded as the same or similar to service(s) being provided by the TSPs. OTT services can be grouped into three broad groups namely:

- Voice over IP (VoIP) for voice calling and video chatting services;
- Instant Messaging services- chat application; and
- Video and Audio conferencing services.

Though OTT services available in the market have certainly captured significant market share. Prime examples are SMS and International voice. Significant amount of international voice traffic has been shifted to Voice calling and video chatting service despite their poor quality services.

Substitutability should be treated as the primary criterion for comparison of regulatory or licensing norms applicable to TSPs and OTT service providers. Any OTT applications providing above services within or using the same platform should be considered to identify and discover the extent of suitability.

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.

Our Response

The Regulatory imbalance between TSP and OTT communications provider is impacting the sustainability of the TSP's particularly ILD operators. Significant amount of international traffic has been shifted to OTT communications providers. ILDO/TSP's revenue is subject to entry fee and License fee where as OTT communications providers do not come under any obligation. Because of this regulatory or Licensing imbalance ILD operations have reduced the infusion of investment in infrastructure.

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.

Our Response

Inter-operability among OTT services and also inter-operability of their services with TSPs services should be mandated in order to promote competition and benefit the users. This can be done by mandating light touch licensing regime for OTT services providers.

DOT has already clarified that Voice over Internet services being offered by the Access licensees is un-tethered from the underlying network. Thus Voice calling services provided by OTT players are similar to the Voice over Internet offered by the licensee.

Question 5: Are there issues related to lawful interception of OTT communication that is 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.

Our Response

A major condition of the telecom services license is the requirement to provide adequate mechanisms for Legal Interception and Monitoring (LIM) of services in national interest. OTT services provide the same telecom services capability to one and all but without any LIM responsibilities, they are liable to be used (or misused) for circumventing the established LIM processes and procedures by elements inimical to India and its citizens. France, a politically highly stable region, has mandated licensing of the Skype services with mandated obligations for legal interception. Given the volatile political situation within India and on its borders, LIM responsibilities need to be accorded the highest priority for ensuring country's integrity and security of the citizens. It is for this reason only that the Gol has been able to persuaded BlackBerry to provide decryption capability. Similarly, other communication OTT service providers too should be asked to deposit their decryption keys with the CMS (Central Monitoring System) deployed by the Government to facilitate the real time monitoring by LEA's. Advocating a uniform policy for all OTT players, DoT has passed explicit orders for blocking of content for which decryption capability is not available with the TSPs. **Therefore, there is a need to**

establish a well defined LIM process and procedure for the OTT services as well, for which these services are required to be regulated. In number of OTT communication services ,the encryption happens at the server/device end point , therefore the interception and decryption should also be done at OTT service provider level as decryption of the content based on interception at the network level is not be possible.

Any OTT communication service for which the OTT service provider does not provide the LIM capability may not allowed in the country considering the important aspect of security.

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.

Our Response

1. With the possibility of OTT service providing servers being hosted anywhere in the globe, exercising control over their activities shall be a challenge for the Authority. Given the fact that India offers a promising market for these services and it has emerged as the largest subscriber base for some of the world's most popular OTT services, it is imperative that national interests, especially for security, be considered paramount and local registration and hosting of the services infrastructure of OTT service providers be mandated. **The OTT service providers should be mandated for peering with the local TSPs, irrespective of the place of their infrastructure hosting and should be mandated to provision for emergency services to be made accessible via OTT platforms at par with the requirements prescribed for telecom service provider.**

Question 7: Is there an issue of the 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.

&

Question 8: In case, any regulation or licensing condition is suggested to make 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 the 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

Our Response

Some of the services that are offered by the OTT players such as messaging/instant messaging and VOIP telephony are perfect substitutes of the services that are being offered by the telcos . There are several aspects of regulatory treatment of the telcos vis-

à-vis the OTT players, which create a non-level playing field and hamper the former's ability to compete fairly in the marketplace. These regulatory imbalances are listed below:

- Quality of Service Parameters
- Obligations under various Telegraph Acts, including various audits
- Customer Care setup
- UCC compliance
- Emergency and Public utility services
- Monitoring services i.e. Lawful interception and monitoring
- Payments to exchequer including GST