Dear Sirs,

I write in relation to the Cloud Computing Consultation Paper posted on the TRAI website.

I am the CEO of Manx Technology Group (MTG), an international technology company head quartered in the Isle of Man, British Isles.

My comments primarily related to the section entitled to **Regulatory and Legal Framework for Cloud Computing**.

The Isle of Man has a world renowned reputation for effective and appropriate regulation, a burgeoning technology sector and the Isle of Man is home to leaders in biomed, financial services, gaming and ICT. Tynwald, the Isle of Man's parliament, was founded more than 1,000 years ago and is recognised as the oldest continuous parliament in the world. Given the size of the Isle of Man, the Government is known to be agile, adaptive and willing to embrace economic opportunities. The Isle of Man has a pedigree in regulation and regulatory oversight, an area of increasing importance when it comes to cloud computing.

I will stress, my comments represent the views of MTG and I am not a representative of the Isle of Man Government. MTG do work closely with the Isle of Man Government and like many Isle of Man businesses, we strive to ensure the continued success and prosperity of the Island.

As part of my role at MTG, I am active in many sectors such as life sciences, cyber-security, IoT, financial services and telecoms – all of which expose me to the topics discussed in your consultation. As you would imagine, many of the customers we work with are truly international, but who face many of the issues touched upon in your document, especially where they operate in several international markets (including India).

I must commend the TRAI for engaging its citizens and the wider industry for feedback, this is a sure-fire way of developing appropriate, fit-for-purpose and measured controls that meet the needs of industry, and provide the GoI with the right balance of control and oversight.

With over 15 years' experience spent in the software, telecoms, service provider, cloud and datacentre markets, I am only too aware of the issues raised in your paper, in part – driven by the cloud computing paradigm. These issues are not just confined to India and they very much a global phenomenon. Globalisation and global value chains (GVC) are one such driving force, leading to genuine uncertainty, particularly where data, cross-border data flows, data protection, privacy and ethics are concerned. Ill-fitting and dated legislation, designed in an era where the internet didn't exist, only compounds the issue. I am a strong believer that uncertainty and challenges lead to opportunity – that is the premise of my response.

My comments are relatively brief – but it is my intention to promote discussion and pose a question that I hope the TRAI will consider when developing their recommendations, solutions or regulations.

Chapter 5 – Regulatory and Legal Framework for Cloud Computing

I will address the following questions simultaneously below.

Question 14
The law of the user's country may restrict cross-border transfer/disclosure of certain information. How can the client be protected in case the Cloud service provider moves data from one jurisdiction to another and a violation takes place? What disclosure guidelines need to be prescribed to avoid such incidents?

Question 15.
What polices, systems and processes are required to be defined for information governance framework in Cloud, from lawful interception point of view and particularly if it is **hosted in a different country**?

Question 16.

What shall be the scope of cloud computing services in law? What is your view on providing license or registration to Cloud service providers so as to subject them to the obligations thereunder? Please comment with justification.

Question 17.
What should be the protocol for cloud service providers to submit to the territorial jurisdiction of India for the purpose of lawful access of information? What should be the effective guidelines for and actions against those CSPs that are identified to be in possession of information related to the commission of a breach of National security of India?

Given the disparity between legal constitutions, the multitude of legitimate avenues for cross-border data flows and the lack of alignment between laws, regulation and frameworks in different countries – it would prove both difficult and complex (if not impossible) to develop fit-for-purpose policies, systems and processes that would cater for the sheer number of variations - without inadvertently impeding innovation and business success. When you also consider the rate at which *cloud* is evolving; new platforms, new technologies and new applications – the ability to encapsulate these in regulation would necessitate a broad and far-reaching set of legislation, that may actually hinder industry and innovation, rather than deliver prosperity and control to India and its citizens.

I stress, this is a challenge faced by all major governments but I feel there is a solution for the cross-jurisdictional issue, but rather that promote data localisation or over-arching laws, it should take the form of cooperation and country-level partnerships, underpinned by appropriate regulation and trust.

If the GoI believes there is a need to define policies, systems and processes for information governance in relation to the Cloud, but it is concerned about lawful interception, cross-border data flows and lawful access – I feel there is an option that was not expressed in the paper.

International "Cloud Treaty"

My comments really emanate from one key question.

If another jurisdiction, such as the Isle of Man or its businesses, entered into an undertaking with the GoI, that afforded Indian Citizens, Businesses and the Government of India, the same level of protection, privacy, oversight, lawful access, control and regulation of "Indian" cloud data housed in the Isle of Man, as would be afforded to it in India – would that be an acceptable solution? The same levels of control, mirrored or aligned protections in law, data privacy and data protection honoured, accountability and transparency – but hosted elsewhere. A digital representation of India if you will, but located outside of its borders.

This could take the form of a defined framework for approved CSPs, some form of license or permit, a robust information governance framework, a regulatory regime and a demonstrable recourse in Isle of Man law. Cloud platforms and data, attributed to India under this agreement, would be classified and identified as such, throughout its whole life-cycle – so there would always be an inventory of "Indian" cloud platforms, data assets and the beneficial owner/operator. One could foresee license fees, duties, data levies or taxation structures that ensure the respective countries are fairly recompensed for earnings or activities outside of their borders.

This approach could deliver the desired level of control and importantly, an alignment of interests – yet it would allow Indian businesses (or businesses looking to operate in India) to do so in a safe, compliant manner, without the geographical or localisation restrictions that go against the cloud paradigm.

This could be described as a "cloud treaty" that would deliver an environment where Indian businesses who use cloud, could flourish outside of India, but still be subject to the balanced, well-thought out policies, processes and regulations that the GoI feels appropriate for its businesses and citizens.

As I am sure the TRAI are aware, data localisation can actually hinder access to foreign markets, negatively impact GDP, reduce domestic investment and lead to a counterproductive economic strategy. These topics are thoroughly described in a paper entitled **The costs of data localisation : Friendly fire on economic recovery.** What I am suggesting will avoid the pitfalls of data localisation. What I propose is a framework that *extends* an appropriate level of reach **and** control of GoI outside of India, where cloud platforms are

involved, rather than force the use of "Indian Clouds" (e.g. data localisation).

If the TRAI and GoI felt the concept of a "cloud treaty" was worthy of exploration, and I believe it is a consideration, I would whole heartedly recommend the Isle of Man as a worthy jurisdictional partner.

Whilst the Isle of Man is not a member of the EU, our data protection laws are robust and compliant with the EU, the foundation of our legal system is based on English Law, and our diverse and successful business community has unrestricted access to international markets. The Isle of Man Government is agile, and as a jurisdiction - we are open to business. I feel the Isle of Man would prove a worthy partner to India and serve as a catalyst for Indian businesses looking to grow outside of India, or those businesses looking to operate within India.

Some form of agreement or *Cloud Treaty*, would side-step the negative impacts foreseen with data localisation, and it would actually to lead to greater control, mutual economic success and accelerate the growth of Indian businesses into new markets. Against this backdrop of business success, the agreement would ensure the GoI retains the appropriate level of control and oversight it desires.

If the TRAI or indeed the GoI would like to discuss the concept of a "cloud treaty" or some form of international cooperation, I would welcome a discussion. I feel this represents an exciting, untapped market opportunity – and it would send out a message of international collaboration and one that embraces the technological challenge, rather than supresses it.

Once again, I commend you on your consultative approach to regulation, and the thorough analysis of the issues facing Indian businesses, citizens and its government.

Regards

Joe

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