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**Consultation Paper on  
The Terms and Conditions of Network Authorisations  
to be Granted Under the Telecommunications Act, 2023**

AVIA welcomes the opportunity to submit counter-comments on the Telecom Regulatory Authority of India's (TRAI's) Consultation Paper (CP) on the 'The Terms and Conditions of Network Authorisations to be Granted Under the Telecommunications Act, 2023'. AVIA is the trade association for the video industry and ecosystem in Asia Pacific. It serves to make the video industry stronger and healthier through promoting the common interests of its members.

Our membership consists of a combination of local, regional and multi-national companies, many of which are substantial cross-border investors; creating and purchasing video content to meet rapidly-expanding consumer demands and investing in India's communications and creative industries.

TRAI may recall that AVIA made a similar submission in February 2022, on the CP on 'Regulatory Framework for Promoting Data Economy Through Establishment of Data Centres, Content Delivery Networks, and Interconnect Exchanges in India'. The views posited in this submission remain aligned with the comments made in the earlier submission.

As demand for audio-visual content increases, the infrastructure which delivers that content, or Content Delivery Networks (CDNs), have become a crucial vehicle to ensure that our members are able to fulfil their commitment to deliver content to end users anywhere, via any device and at a time of their choosing. Decreasing the distance which that content is required to travel, offers lower latency, greater security and a much higher-quality consumer experience.

We note that this CP was commissioned as a result of the Department of Telecom (DoT) request to consider issuing recommendations in respect of network authorisations under the Telecommunications Act, 2023. Although TRAI issued recommendations on CDNs in 2022, prompted by the DoT request, the issue is being revisited. Given the comments received by stakeholders in this new consultation, AVIA felt it is important for AVIA to re-state our position vis-à-vis CDNs.

AVIA believes that the promotion of greater contemporary infrastructure like data centres, content delivery networks and internet exchange points, will boost the digital ecosystem and contribute to building a stronger economy. This approach echoes India's National Digital Communication Policy (NDCP-2018) which seeks to unlock the transformative power of digital communications for the empowerment and well-being of the people in India.

CDNs are not telecommunication networks. They are auxiliary services that enhance the quality of service of existing telecommunication networks. CDNs are fundamentally different from telecommunication providers as they require: (i) appliances for computing and storage; and (ii) connectivity. Depending on whether they build their own connectivity or not, CDNs are either a customer of telecommunications providers (for internet access) or a private network interconnecting with telecommunications providers (through transit and peering).

CDNs contribute to the development of the internet, indeed by localising content delivery CDN's help ISPs in India improve performance giving the ability to better handle traffic loads, localized traffic delivery and reduced bandwidth, load balancing and security. This may help make offering broadband services more attractive and more affordable, helping grow broadband penetration and digital readiness in India. More generally, technologies like CDN's offer great value for the customer.

The CDN market is competitive and there is no evidence of market failure. We therefore strongly urge that since there is neither market failure nor a regulatory need, CDNs should be kept outside the scope of registration as they are fundamentally different from telecommunication providers. We should allow the market to take its course, in line with global practice.

Safeguarding the principle of freedom of contract should always be the preferred starting position. This is particularly crucial for markets in their growth phase, including those that are the subject of this consultation. To the best of our knowledge and that of our members, there is no evidence to suggest that day-to-day contractual negotiation is currently being hampered in any way by anti-competitive practices on the ground.

In fact, it is our understanding that the pricing for CDN's has, with the arrival of new market entries, witnessed a drop in cost suggesting that competition in the sector remains healthy. Several companies offer commercial CDN services, and some companies have successfully implemented their own CDN solutions, which has benefited local content delivery to global audiences.

In the absence of any market failure, the introduction of regulations for CDNs will not only stifle CDN growth, but also create barriers to entry. In the 2022 TRAI Consultation Paper on the Regulatory Framework for Promoting Data Economy through Establishment of Data Centres, Content Delivery Networks, and Interconnect Exchanges in India, TRAI recognised that India's CDN market will witness a growth of over 700 % between 2018 – 2027 (i.e., from USD 435.2 million in the year 2018 to USD 2846.8 million by 2027).

In conclusion, AVIA would therefore suggest that CDNs should not be subject to any registration, authorisation, or regulation. Such regulation may inadvertently stifle innovation and competition through the creation of barriers to market entry and business expansion. CDNs do not require a license to operate in other countries and TRAI should not set this precedent.

The internet has thrived, including in India, by allowing "innovation without permission" and efficient, localised exchange of traffic through the growth of CDNs. Introducing a mandatory registration regime could potentially stifle this.

Given the dynamics of digital transformation, regulation enacted now to suit a particular business model, might not be fit for purpose in the near future and could even impede the emergence of newer business models better suited to the maintenance of an open internet. On the contrary, the imposition of pre-

emptive legislation may instead be counterproductive and have the more long-term effect of obstructing the potential growth of the digital ecosystem and the overall economy in India, the polar opposite result to that which the Government seeks to achieve.