

**Subject: Response to Consultation Paper on Regulatory Framework for Over-The-Top (OTT) communication Services**

To,  
Shri. Asit Kadayan,  
Advisor (QoS)  
TRAI

Sir,  
Please find my response below on consultation paper

**Q.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.**

TSPs or Telecom Service Provider are defined based on service industry they operate in, i.e. Telecom Services. Traditionally, Telecom services may have started for voice communication but eventually extended and accelerated to data services with fast evolution of technology.

Initial essence of data services was providing internet services over mobile phone which eventually ramped up to innovation through various global start-ups which introduced new set of services provided using data.

So it was not addition of new services competing with TSPs which got created but services which complimented the best use of data services for both TSPs and new age companies

Therefore, suggestive definition of OTTs in consultation paper may not be best definition, looking at some examples where TSPs would not have ever ventured by any wildest business case, ex Taxi, Food , etc

Clear definition of players falling in OTT definition and also proven as direct substitute to TSPs are ones providing voice and telephony services using TSPs network bandwidth, ofcourse as a service. Facebook is one such valid example mentioned in paper wherein it provides chat services , something which was key monetization option for TSPs in early 2000 in Indian market.

Looking at similar services, some of examples are:

1. All OTT players which provided voice telephony (free and paid) over subscribers' TSP network
2. Players which provides services such as chat or any communication channel wherein people can connect for textual based communication
3. Any MVNOs, which provides voice and data services
4. Computer to Computer Telephony which may not use mobile network but rides packets over fibre or wired channel

Easier method for identifying such services is to include any OTT player providing only voice and data services , using TSP network, rest of online application or Mobile Apps, provided supplementary services using mobile data for non-voice and P2P communication should not be seen as services being competed directly with TSPs

**Q.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.**

Substitutability should not be treated as primary criteria for comparison. TSPs and OTTs providing any kind of communication telephony services are main players for regulatory

and licensing norms, wherein other online players need to adhere with regulatory criteria such as data security and other law and order related policies

Discovering the extent of substitutability can be based on overlap in services offered and should be largely restricted to network and voice capability for licencing norms.

Ex. Facebook launching full fledged chat services apps can be seen as substitute to TSPs and hence open for regulatory and licencing norms

**Q.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 upgradations? If yes, how OTT service providers may participate in infusing investment in the telecom networks? Please justify your answer with reasons.**

There is no direct co-relation established which provides dependency of infusion of investments in telecom network to licensing imbalance due to entry of OTTs or data based services.

If an average QoS of voice services be seen over past 15 years from golden days of TSPs till date, it has been more or less same, in terms of coverage or call drops.

When TSPs were earning high ARPU from customer only from voice and also data, there was equal amount of lower QoS, however there was never any major infusion.

Therefore, advent of new age OTTs or online services may not be blamed for capital infusion, rather these players can be key in catalyzing data adoption for TSPs. Before that, data services provided by TSPs were at very nascent growth with limited pocket of innovation and services.

Even if online services are made liable for improving capital infusion, it should be done through partnerships and provide new value add services for customers. Ex. TSPs can even today target high ARPU International roaming market through more competitive rates, which they have been losing fast to OTTs. While gaining hold of such existing market will help in new revenue for capital infusion, strategic alliances can be another way for involving them in investment, one TSPs may partner with these OTT or online services to provide much better services to enterprise customer, with TSPs providing telephony and other one the complementary services(Taxi, or any other enterprise services)

**Q.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.**

Existing market and service landscape is at very nascent stage to introduce inter-operability discussion. TSPs and OTT/Online player are providing different services on very varied platform/marketing and experience level.

Ease of usage of initiating video call even today is extremely varied based on product, customer experience, performance, etc, therefore it is best to leave this innovation space untouched by any regulatory binding.

Innovation is yet to provide more budding options which can help to monetize data services. User benefit is not going to be better through inter-operability but with plethora of new age options being created over data services for customer to explore the possibilities. One OTT platform would want to create various means to retain their base for further innovation rather be open for frequent switch, which today is not key challenge

**Q.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.**

The answer for this is clear Yes.

It is important to define security related regulations for OTT communication in Indian market. Content provider and OTTs need to adhere to policies like one which was told to Blackberry in order to avoid any challenges in case CPs and OTTs are misused during act of terrorism, etc. Second is around customer privacy, wherein customer need to be empowered with optional way to share their data with apps.

Data can also turn as two edge sword which can also negatively impact through misuse by anti-national elements.

As part of the framework, Security and Compliance is something which should be addressed on immediate basis. OTT need to be made accountable for data which should be accessible in India based servers and be analyzed at short notice, if needed. Customer information should be secured with right policies which OTT need to adhere to in case they want to operate in Indian market. Effective censorship by authorities and points around them be formulated to ensure right usage of OTTs

Since data will be key to future of billions of Indians going forward irrespective of ARPU which that subscribers may be contributing to either TSP or OTT, it is best to make them accountable jointly whereas best possible.

Since OTTs are riding on TSPs network, both are responsible for data being carried and interception required

However, some of basic regulatory compliance need to be adhered towards OTT, such as KYC, customer privacy wherever there is financial or any important customer data is involved

**Q.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.**

Any act of emergency or national security is of utmost importance and require dedicated involvement.

Infact looking at much better customer experience being provided over OTTs and Online services than traditional means, it is easier for customer to know how to contact emergency services. User interfaces which are actively used are better places to keep people aware of emergency options or numbers.

For any OTT and Telephony services over TSPs, it may be mandated to include emergency services options

**Q.7 Is there an issue of non-level playing 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? List all such regulation(s) and license(s), with justifications.**

As explained in Q1, basic definition being created in this consultation paper does not define the landscape correctly, hence there are no major non-level playing problems. TSPs are infact much better placed to innovate on their platform and provide much better partnerships to make most of OTTs or online player business model

**Q.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 redefine context of OTT services or these may be applicable in the present form itself? If review or re definition is suggested then propose or suggest the changes needed with justifications.**

Substitutability should not be treated as primary criteria for comparison. TSPs and OTTs providing any kind of communication telephony services are main players for regulatory and licensing norms, wherein other online players need to adhere with regulatory criteria such as data security and other law and order related policies

Discovering the extent of substitutability can be based on overlap in services offered and should be largely restricted to network and voice capability for licencing norms.

Ex. Facebook launching full fledged chat services apps can be seen as substitute to TSPs and hence open for regulatory and licencing norms

**Q.9 Are there any other issues that you would like to bring to the attention of the Authority?**

There is noted pattern , wherein repetitive consultant paper is being bought in from past 2 year on same OTT related discussion.

Regulatory and Licensing authority need to acknowledge that it is important for innovation to foster in data services space, which is only benefiting Indian consumers which was whole idea of opening up telecom sector through NTP in late 90s.

It is too early to introduce any direct licensing regulations for OTT or online space.

Definition of how OTTs are being defined in this paper is major point which need to discussed and debated before even arriving at drafting the stated assumption.

From:

Priyank Chandra

Strategy Consultant with Leading MNC