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Sub: Submission in response to TRAI's consultation paper on Definition of International Traffic

Submission through email

10th July, 2023

Dear Sir,

We would like to extend our sincere appreciation to the Telecom Regulatory Authority of India (TRAI) for initiating the consultation on defining international traffic in the telecommunications sector. We commend TRAI for its proactive approach in addressing the ambiguity surrounding the definition of international traffic. By undertaking this crucial consultation, TRAI has taken a significant step towards ensuring fairness, transparency, and a level playing field for entities operating within the telecommunications ecosystem.

We firmly believe that the definition of international traffic, along with the inclusion of a well-defined concept of domestic traffic, will bring substantial benefits to the industry. Clear definitions not only enable ease of doing business but also provide regulatory clarity, efficient resource management, international interoperability, and foster innovation and market growth. Truecaller has a user base of over 350 million active users globally, around 250 million in India and it recognizes the importance of these benefits. We are confident that the outcome of this consultation will help in developing transparency, benefiting both service providers and end-users alike.

Ease of Doing Business

The clarity in defining international and domestic traffic within the telecommunications sector is crucial for accurately determining traffic nature and charges. Regulatory authorities play a vital role in providing a transparent framework that fosters predictability and fairness. This clarity promotes confidence among service providers, enabling accurate billing, cost management, and reducing disputes caused by ambiguous interpretations. Consequently, businesses can prioritize core operations and innovation, leading to an overall improvement in the ease of doing business in the telecommunications industry. SMS play a very important role in our digitized world for various functions, such as for delivering (i) OTPs for logins, bank transactions, e-Governance, etc., (ii) order updates, (iii) transaction details etc. in a fast and reliable manner. Moreover, communication over SMS has a crucial role to play in the advancement of the government's scheme of Digital India.

Regulatory Clarity

Clear and well-defined terms enable regulatory authorities and telecom bodies to establish consistent guidelines, rules, and policies for the industry. By providing a common understanding of these terms, regulatory frameworks can be developed more effectively, ensuring compliance and creating a level playing field for all stakeholders. This clarity reduces ambiguity, enhances regulatory transparency, and fosters a more stable and predictable business environment.

Q1. Whether it would be appropriate to define the term 'international traffic' in the telecommunication service license agreements as 'the international long-distance traffic originating in one country and terminating in another country, where one of the countries is India'? Kindly provide your response with a detailed justification.

The proposed definition of ‘international traffic’ by TRAI could benefit from further clarification to enhance comprehension and compliance.

Presently, in the absence of a definition of international traffic, telecommunication service providers (TSPs) have the flexibility to interpret terms such as ‘international SMS’. Accordingly, certain TSPs have defined the term ‘international SMS’ in their Code of Practice for Entities (CoP) (as mandated by the Telecom Commercial Communications Customer Preference Regulations, 2018 (TCCCPR)) as:

“Any data/application/system/servers etc. that influences, generates, control, facilitate or enables the generation, dissemination/ transmission of messages from a location outside the territory of India will constitute as International messages. Any mirroring solution in India shall not impact and/or change the nature of such International SMS to national SMS.”¹

Levying of higher termination charges

The Short Message Services (SMS) Termination Charges Regulations, 2013 (SMS Termination Regulations) issued by TRAI regulate the termination charges that can be levied on SMS in India. In the context of international SMS, it sets out that "termination charges for international incoming Short Message Service (SMS) shall be under forbearance". International Incoming SMS is not defined which allows TSPs to classify messages which originate and terminate in India as international SMS. This results in higher tariffs for such messages, even though they fall within the definitions of “inter-circle traffic” or “intra-circle traffic”, as defined in the existing telecommunication service license agreements.

Therefore, the definition proposed by TRAI must clarify the scope of the terms used so that there is no room for any interpretation not intended by the regulator.

Q2. In case your response to the Q1 is in the negative, kindly provide an alternative definition along with a detailed justification.

We would suggest the following definition for International Traffic:

‘International Traffic’ refers to the transmission of international long-distance traffic that satisfies either of the following conditions:

- a. Traffic that originates on the telecommunication network of a telecommunication service provider within the geographical boundaries of India, and terminates on the telecommunication network of a telecommunication service provider outside the geographical boundaries of India, or*
- b. Traffic that originates on the telecommunication network of a telecommunication service provider outside the geographical boundaries of India, and terminates on the telecommunication network of a telecommunication service provider within the geographical boundaries of India.*

As the aforesaid definition will still include within its ambit all types of voice, SMS, and data packet carried by international long distance operators (ILDOS), we also suggest introducing the definition of ‘international SMS’, as set out in our response to Q.4. For easy reference, the said definition as proposed under our response to Q.4 is reproduced hereinbelow:

‘International SMS’ refers to international traffic transmitted and received using SMS.

¹See

https://www.airtel.in/business/commercial-communication/assets/documents/Help_Modules/Cop_docs/CoP_Entities_08_11_2018.pdf; https://jep-asset.akamaized.net/jio/regulatory/RJIL_CoP_Entities_May2022.pdf.

Q3. Since the terms ‘Inter circle traffic’ and ‘Intra circle traffic’ are already defined in the telecommunication service license agreements, whether there is still a need to define the term ‘domestic traffic’ in the telecommunication service license agreements? If yes, what should be the definition of the term ‘domestic traffic’? Kindly provide your response with a detailed justification.

We feel that the term ‘Domestic Traffic’ must be explicitly defined as well. Such definitions exist in jurisdictions around the world and promote the ease of doing business by preventing arbitrary levying of tariffs on companies.

In our opinion, the following definition of Domestic Traffic may be considered:

‘Domestic Traffic’ refers to the transmission of telecommunication traffic that originates and terminates on the telecommunication network of a telecommunication service provider within the geographical boundaries of India.

By implementing these clear and comprehensive definitions, India's telecommunications sector can experience a positive impact on the ease of doing business, allowing entities to navigate regulatory requirements more effectively while fostering an environment of flexibility and adaptability.

Q4. Whether there are any other issues/ suggestions relevant to the subject? If yes, the same may kindly be furnished with proper justification.

Yes. The definition of the term ‘international traffic’ can be used to define the term ‘international SMS’ as well. Such definition of ‘international SMS’ would cover all types of international SMS, including without limitation international A2P SMS, and to this extent, TRAI may consider the following definition:

‘International SMS’ refers to international traffic transmitted and received using SMS.

This definition can be introduced in either the telecommunication service license agreements or issued as a direction under the SMS Termination Regulations.

Further, to ensure that subscribers are given the benefit of these new definitions, TRAI must direct access providers under Regulation 17 of the TCCCPR to align their CoPs with the definitions under the telecommunication service license agreements.

India's Business Potential and Truecaller's Role in Digital Revolution

India has emerged as one of the most attractive destinations for investments and for doing business, thanks to the Central Government’s ambitious regulatory reform programme to make it easier to do business in the country. According to the ‘World Bank’s Ease of Doing Business Ranking 2020,’ India has risen 79 places since then, from 142 in 2014 to 63 in 2019. As a result, India has emerged as a key player in the global economy and as one of the most attractive destinations for investments and for doing business. Truecaller, which has already attracted a user base of 250+ million in India, envisions playing a pivotal role in facilitating the country’s ongoing digital revolution as more people gain internet access through their smartphones. In March this year, Truecaller opened its largest office outside of Sweden in Bengaluru, in the presence of Rajeev Chandrasekhar, Union Minister of State for Electronics and Information Technology, marking a significant milestone in Truecaller’s journey in India. Through our services, we have already been able to create a profoundly positive impact on society by providing users with tools to combat spam and fraudulent communication over calls and SMSes, and we look forward to investing more here in India to create a safe digital communication ecosystem.

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According to the 2021 NCRB records, there were 52,974 reported incidents of cyber crimes in India, with 32,500 of them being motivated by fraud. The nature of the scam and spam problem in India is constantly evolving, and in an effort to help users distinguish between fraudulent, spam, and genuine SMSes. Truecaller plays an important role in alerting users about these kinds of messages and calls.

Truecaller sends about 4.5 to 6 million messages per month in India from its data centres and servers that are located in India over the network of Access Service Providers. India's resolve to improve the ease of doing business is a positive step towards attracting more investments, and the Central Government's efforts to simplify regulations are commendable. However, there is a need to ensure that businesses are not subject to arbitrary charges, which could hinder their operations and increase their operational costs. Currently, Truecaller is facing higher operational costs in the country as TSPs wrongfully charge Truecaller SMSes at international traffic rates under the ILDO regime. Therefore, given India's resolve to improve the ease of doing business, we request TRAI to clarify the definition of international traffic, domestic traffic, and international SMS to TSPs. We are keen on increasing our investments in India and look forward to reduced operational costs with a fair and clear application of TCCCPR.

Truecaller's efforts in driving cyber safety and digital empowerment in India

Truecaller's commitment to building trust in digital communication includes a range of safety partnerships and campaigns to ensure a safe and secure digital environment for all. Recently, Truecaller collaborated with the MyGov-StaySafeCampaign which was launched during India's Presidency of the G20. Through this partnership, Truecaller is supporting MyGov and the Ministry of Electronics & Information Technology (MeitY), in promoting safe internet practices and disseminating information through the Truecaller Cyber Safety Handbook to colleges and vulnerable first-time internet users like women and senior citizens. Truecaller also offers a cyber safety capacity-building program that equips users with the knowledge and skills to navigate the internet safely. Through partnerships with key government stakeholders, Truecaller has conducted training in various states and reached over 1.61 million people through online and offline training and social media. In collaboration with the Delhi and Assam Police, Truecaller is also conducting CyberWise training sessions in local languages for college students, police officers, and others to promote cyber safety and empower individuals with tools to prevent cyber crimes.

In addition to promoting cyber safety, Truecaller has been leading the #ItsNotOk campaign since 2017 to fight against harassment of women in the world of digital communications. Through town halls, partnerships with civil society organisations and government officials, and integration of national emergency helplines such as 112 and 181 within the Truecaller app, the campaign has had a reach of 1.8 billion around the world. Truecaller is also committed to supporting India's start-up ecosystem and has recently partnered with WE HUB, Telangana to assist women-led start-ups with enterprise solutions and ad credits. Therefore, with the help of the fair application of TCCCPR, Truecaller hopes to redirect those savings towards expanding and scaling its digital safety initiatives in India. Truecaller is committed to supporting causes that align with its values and have a positive impact on the community, and reducing operational costs is crucial in achieving this goal. You can read about all our initiatives at <https://www.truecaller.com/safety>.

Yours sincerely,

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