From: bhupinder@adif.in
To: "Akhilesh Kumar Trivedi" <advmn@trai.gov.in>
Cc: sunakshi@adif.in
Sent: Friday, September 15, 2023 4:05:56 PM
Subject: ADIF Inputs on TRAI CP on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services

Dear Sir,
Greetings of the day!

ADIF expresses its gratitude to the Telecom Regulatory Authority of India (TRAI) for inviting comments on the Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services. Now, we are pleased to submit our comments on it, which have been attached herewith for your kind perusal.

We would be grateful if you could kindly acknowledge receipt of the same. We have engaged with different Indian Digital Startups on key issues arising out of the Consultation Paper. We hope our submission will be useful to understand the Digital Startup's perspective.

We are keen to engage with TRAI on this proposed facility and would be happy to make an in-person submission and presentation to you. Look forward to your kind positive response in this regard.

Thanking you,

Warm regards,
Bhupinder Jit
Executive Director-ADIF

ADIF's Response to TRAI Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services

1. Introduction:

At the outset, we are thankful to TRAI for initiating this consultation paper and according opportunity to all stakeholders to present their views regarding Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services.

We represent ADIF (Alliance of Digital India Foundation), a policy think tank for Indian Digital Startups. Our overarching objective is to position India as the preeminent global hub for startups through the establishment of an equitable and transparent digital ecosystem, ensuring a level playing field for Indian startups, and advocating for their interests within regulatory and policy spheres. Fundamentally, ADIF aims to unite individuals and organizations in making India the leading global startup nation.

ADIF aims to establish an environment that supports and promotes the growth of startups by providing extensive support to startups through mentorship and enhanced visibility, thereby fostering a thriving and prosperous startup ecosystem in India. To achieve our goal, we are fully committed to supporting and advocating for remarkable endeavors within the startup ecosystem. We aim to achieve this by actively voicing against abusive monopolistic practices adopted by a few entities and lending our unwavering support to policies that enhance the ease of doing business for startups.

Prior to addressing the queries within the CP (Consultation Paper), it is important to emphasize that OTT services and the services offered by licensed Telecom Service Providers (TSPs) should not be treated as identical and, consequently, should not be governed by identical regulations. OTT services are presently regulated by rules designed to address the issues raised in the CP. If there is a need for further regulations or the enhancement of existing ones, such actions should be carried out within the framework of the existing Information Technology Act of 2000 (IT Act).

The current Consultation Paper aligns with the calls from a specific group of stakeholders who advocate for heightened regulation of Over-The-Top (OTT) services and the introduction of revenue-sharing mechanisms between OTT providers and telecom service providers (TSPs). Their argument revolves around the premise that "OTT players consume vast amounts of bandwidth, exerting significant pressure on the network infrastructure constructed by TSPs. Concurrently, OTT players reap substantial direct and indirect benefits without incurring supplementary expenses. Consequently, it is deemed appropriate for them to contribute to the costs associated with this infrastructure development, which are presently borne solely by the TSPs."

However, the above argument neglects a crucial aspect: it is not OTT players themselves who "consume vast amounts of bandwidth," but rather the end consumers who independently pay for their data consumption directly to the TSPs. Thus, the volume of data consumed or the bandwidth utilized is intrinsically linked to

the quantity of data purchased by consumers from telecom companies. Nevertheless, calls for revenue-sharing arrangements between TSPs and OTT applications persist, primarily grounded in the misperception that OTTs are benefiting without making any contributions, while TSPs are burdened with infrastructure and licensing costs.

The proposed implementation of the suggested revenue-sharing model carries the potential to discourage the growth of digital enterprises. This model introduces a volume-based revenue-sharing system that could impede their sustained expansion. Additionally, it introduces an additional cost associated with accessing free or affordable content, and a portion of this expenditure may eventually be passed on to consumers, thereby increasing the cost of internet usage. Furthermore, this approach contradicts the principles of net neutrality outlined by the Ministry of Communications in 2018, emphasizing the necessity for the network to remain impartial toward all transmitted data. This impartiality should persist regardless of the nature of the content, application, service, device, sender, or recipient address involved in the communication.

Based on the broad principles outlined above, we submit our response initially to the 03 broad policy concerns stated below and subsequently have responded to some of the questions raised in the present consultation paper hereinbelow:

A. Licensing of OTT Players

	Telecommunications firms' erroneous arguments
i.	**Same Service Same Rules** A substantial incongruity exists between the regulatory obligations imposed upon licensed Telecommunications Service Providers (TSPs) and the relative exemption of Over-The-Top Communication Service (OTT-CS) providers from similar regulatory frameworks despite providing similar services.
ii.	**Lack of Accountability leading to risks to National Security and Consumer Welfare** o OTT communication service providers lack responsibility for advancing national security goals and safeguarding consumer interests by means of transparent grievance mechanisms, privacy protections, and measures against spam. This lack of responsibility presents potential hazards. o The absence of effective monitoring mechanisms for OTT communication services presents heightened risks to national security and consumer protection. To mitigate these risks, it is imperative to uniformly apply robust security and privacy measures across all forms of interpersonal communication, underlining the pressing need to regulate OTT services.

ADIF's Response- Same Services-Same Rules- A Myth

1. **Distinction Between TSPs and OTTs in Their Roles and Dependencies**

   It is imperative to acknowledge that Telecom Service Providers (TSPs) and Over-The-Top (OTT) services are not interchangeable entities. Rather, they coexist in a mutually beneficial relationship, where TSPs provide the fundamental infrastructure upon which OTTs rely for their functionality and reach. Attempting to subject them to identical licensing frameworks is fundamentally flawed, given the distinct nature of their roles and dependencies within the telecommunications ecosystem.

   TSPs provide internet access, while OTT services deliver their offerings to end-users over the internet. Put simply, without internet access provided by TSPs, OTT services would be unable to deliver their services, which go beyond just messaging and calling, to end-users. Consequently, it is unlikely for users to perceive TSPs and OTT service providers as offering the same or similar services. Therefore, the services provided by TSPs and OTT service providers are not interchangeable at a functional level.

2. **Different Operational Layers Managed by TSPs and OTTs**

   Telecom Service Providers (TSPs) manage the network layer, including critical infrastructure and finite resources like spectrum. They must ensure efficient resource allocation and quality of service. In contrast, OTT services operate exclusively in the application layer, offering services over the open internet without relying on spectrum or network access. The need for licensing arises primarily from the management of limited resources, which OTT services simply do not compete for or rely upon.

3. **Diverse Business Models and Functionalities**

   TSPs primarily offer data transmission and internet connectivity services, functioning as gatekeepers of the internet. In contrast, OTT services are oriented towards data generation, content creation, and application development. They are reliant on the foundational infrastructure provided by TSPs for access. Licensing OTT services under the same framework as TSPs would generate regulatory confusion and disregard the fact that they play distinct roles with differing dependencies in the telecommunications ecosystem.

4. **Exclusive Rights and Resource Allocation**

   TSPs hold exclusive rights conferred by their licenses, including spectrum allocation, numbering resources, and rights of way. These exclusive privileges are justified by the substantial investments made in establishing and maintaining network infrastructure. OTT services do not enjoy such privileges and are predominantly confined to the application layer.

ADIF Response- Lack of Accountability

1. **Existing Regulatory Framework for OTT Service Providers**

OTT service providers currently operate within a robust regulatory framework established under the purview of the Information Technology Act, 2000. This framework encompasses a suite of associated rules and regulations, including the

- Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011 (SPDI Rules);
- Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules, 2009 (Interception Rules);
- Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009 (Blocking Rules);
- Information Technology (the Indian Computer Emergency Response Team and Manner of Performing Functions and Duties) Rules, 2013 (CERT-In Rules);
- CERT-In Directions of April 2022 for a Safe and Trust Internet (CERT-In Directions); and
- Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (Intermediary Guidelines).

These regulations comprehensively address critical aspects encompassing data privacy and security practices, interception, monitoring, decryption of information, public access blocking, cybersecurity, intermediary guidelines, and digital media ethics.

Additionally, recent legislative developments, such as the Consumer Protection Act, 2019, and the Consumer Protection (E-commerce) Rules, 2020, have further contributed to the regulatory landscape governing OTT services. The forthcoming enactment of the Digital Personal Data Protection Act, 2023, and the proposed Digital India Act will serve to fortify this regulatory framework.

2. **Rationale for Avoiding Supplementary Regulations**

   Given the comprehensiveness of the existing regulatory framework, there exists minimal justification for the introduction of supplementary or incremental regulations, notably in the form of a telecommunications licensing structure. Such a course of action is poised to result in unwarranted regulatory redundancy, instill ambiguity within the business environment, and potentially curtail innovation and economic progress.

3. **Conventional justification of licensing of limited resources not apply to OTTs**

   It is crucial to recognize that OTTs function as internet-based applications, independent of any dependence on limited resources. The conventional justification for licensing, which revolves around the management of scarce assets, does not apply in this scenario. Concerns related to competition, protecting consumer interests, and ensuring data privacy are best addressed through the existing sector-specific laws and regulatory bodies.

4. **CCI's Perspective on Regulatory Framework for OTTs**

The Competition Commission of India (CCI) has expressed a perspective[1] in alignment with the notion that crafting a distinct regulatory framework for OTTs is redundant and has the potential to impede technological advancement. The CCI, therefore, underscores the wisdom of avoiding excessive regulation within this domain.

To conclude, the extant regulatory framework governing OTT services is both comprehensive and adaptable to evolving needs. The proposal of additional regulations resembling those applicable to telecommunications, in this context, lacks merit and may engender redundancy, obscurity, and impediments to innovation. Instead, existing legislations and regulatory bodies are well-equipped to address pertinent concerns surrounding accountability, competition, consumer protection, and data privacy within the dynamic realm of OTT services.

B. Network Fees and Revenue Sharing Model

	Telecommunications firms' erroneous arguments
i.	**Tax Equality**: TSPs invest heavily in digital infrastructure and pay substantial taxes (over 30%[2]), while OTT players benefit without comparable tax obligations, causing revenue loss for both TSPs and the government
ii.	**Network Strain vs Contribution**: OTT players heavily utilize network bandwidth, straining the infrastructure invested in by TSPs, yet they do not share the costs. To ensure fairness, both communication and other OTT entities should contribute to the expenses of building and sustaining this essential infrastructure
iii.	**Sustainability and Fairness**: Telecom operators struggle to maintain investments, with some facing returns below capital costs. To sustain digital growth, TSPs need equitable contributions from all stakeholders, especially with 5G and data-intensive applications emerging. To ensure digital ecosystem growth, it is essential for large traffic generators to contribute fairly based on parameters like traffic volume, revenue, or consumer base

ADIF's Response

1. **TSP's unfounding concerns regarding decrease in revenue owning to decreased voice calls/SMS.**
   Telecom service providers (TSPs) assert that Over-The-Top (OTT) services may potentially erode their revenues due to decrease in conventional voice and SMS revenues, giving rise to concerns about reduced investments in network infrastructure and service quality. It is noteworthy that the decrease in revenue from voice calls/SMS has been overcompensated by increase in revenue from data. As per TRAI report, share of

[1] https://www.amsshardul.com/wp-content/uploads/2021/01/CCI-Report-on-Market-Study-on-the-Telecom-Sector-in-India.pdf
[2] https://www.trai.gov.in/sites/default/files/Reliance_Jio_Infocomm_04092023.pdf

revenue from data usage per user surged over 10 times between June quarter in 2013 to December quarter in 2022[3].

2. Rising Data Tariffs and Predicted Revenue Increases

Since retail data tariffs are under forbearance[4], the TSPs have the potential to increase their revenues basis increasing their charges marginally, given the broad base of mobile internet users in India (There were 759 million active internet users in Indian in 2022, with potential to increase to 900 million by 2025[5]). The same is visible in the recent increase in data tariffs by all TSPs. With some regions experiencing spikes as high as 57%. For instance, in areas like Haryana and Odisha, Airtel phased out its Rs 99 plan and introduced a Rs 155 plan offering 1 GB of mobile data for 24 days, indicating a broader trend of tariff adjustments[6]. Additionally, CRISIL has projected a 20-25% revenue increase for Reliance Jio, Bharti Airtel, and Vodafone Idea in fiscal year 2023, attributing this growth to the aforementioned tariff adjustments[7].

3. OTT Popularity has positive impact on TSP's Internet Data Consumption and Revenue

Contrary to the decline in TSP revenues, the surge in OTT popularity has contributed significantly to increased data consumption and revenue for telecom companies. OTT platforms account for more than 70%[8] of the growth in data traffic on TSP networks. This has resulted in a rise in data tariffs, consequently bolstering telecom revenues. Furthermore, the industry's transition from traditional services to mobile internet access has broadened revenue opportunities for TSPs, thereby reducing their reliance on voice and messaging services.

4. The potential cap on Average Revenue Per Unit (ARPU) owes to TSP's internal competition

The decline in the average revenue per unit (ARPU)[9] is primarily attributed to intense competition within the telecom sector, driven notably by players like Reliance Jio, rather than the presence of OTT services. As competitive pressures subside, ARPU is anticipated to witness a significant upswing, indicating a positive outlook for the industry.

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[3]https://static1.squarespace.com/static/5bcef7b429f2cc38df3862f5/t/63d8b49179bdf80b02924cc6/1675146395190/Esya_Centre_Report_Communications_OTT_Services.pdf

[4] https://telecom.economictimes.indiatimes.com/news/trai-rejects-floor-price-proposal-says-tariff-forbearance-to-stay/59697495

[5] https://www.moneycontrol.com/news/business/internet-users-in-india-set-to-reach-900-million-by-2025-report-10522311.html

[6] https://indianexpress.com/article/explained/explained-economics/why-airtels-tariff-hike-is-significant-and-what-it-means-for-the-sector-8283182/

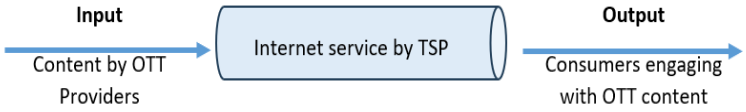
[7] https://telecom.economictimes.indiatimes.com/news/revenue-of-big-3-telcos-may-grow-robustly-by-20-25-in-fiscal-2023-crisil/91912508

[8]https://static1.squarespace.com/static/5bcef7b429f2cc38df3862f5/t/63d8b49179bdf80b02924cc6/1675146395190/Esya_Centre_Report_Communications_OTT_Services.pdf

[9] https://telecom.economictimes.indiatimes.com/news/revenue-of-big-3-telcos-may-grow-robustly-by-20-25-in-fiscal-2023-crisil/91912508

5. **Infrastructure Cost Sharing and Its Potential Implications**

While OTT service providers significantly contribute to data traffic growth (over 70%)[10] and aid TSPs in utilizing infrastructure efficiently, implementing a cost-sharing framework may lead to differential pricing for consumers, potentially raising costs. Revenue sharing by OTT means, TSPs would be charging on both sides of the Internet Conduit.



This scenario could result in both consumers paying for broadband access and OTT providers for content access to TSPs, **thus TSPs practically becoming Gatekeeper for the Internet. This would mean, the TSPs would be 'Rent seekers' and decide the amount to be extracted from OTT players, deciding the 'Winners and Losers in the Internet Ecosystem,'** thus adversely impacting consumer interests, risk net neutrality, and compromise service quality.

6. **The end consumer would loose**

Imposing usage fees on OTTs could result in higher costs for consumers, as these fees might be passed down to end-users. This situation could lead to increased expenses or reduced content quality. This would spill down negatively on the Internet as an industry, as overall internet usage would reduce.

7. **Global Implications and the Challenge of Fair Cost-Sharing**

Additionally, such bilateral agreements between OTTs and TSPs in different countries could fragment the internet, creating multiple disconnected networks and undermining the principles of an open, globally connected internet. Implementing a cost-sharing mandate raises complex questions about infrastructure control, revenue sharing, and cost determination as implementing a fair cost-sharing mechanism is challenging.

8. **Huge Investments by OTT Players negate Free Rider claims of TSPs**

TSPs' claims of reduced profits due to OTT communication providers like WhatsApp and Skype, being perceived as 'free riders,'[11] must be scrutinized. OTT services have invested nearly USD 900 billion from

[10] https://cuts-ccier.org/pdf/dp-analysing-effect-of-regulation-of-over-the-top-ott-services.pdf
[11] https://economictimes.indiatimes.com/industry/telecom/telecom-news/telcos-lash-out-at-otts-call-them-free-riders/articleshow/95921145.cms

2011 to 2022 in critical network infrastructure, including data centers and undersea cables[12]. Companies like Meta, Google, and Amazon[13] have significantly expanded undersea cable networks[14]. OTT providers also offer cache servers to telecom operators, reducing data delivery costs and benefiting TSPs. These substantial investments challenge the notion that OTTs are solely free riders on TSP networks.

In conclusion, the discussion surrounding OTT services and TSPs underscores several critical considerations.

- Firstly, the challenges faced by TSPs in terms of revenue decline are primarily attributed to intense competition within the telecom sector, rather than the impact of OTT services.
- Secondly, the imposition of mandatory infrastructure cost-sharing frameworks may entail adverse outcomes, including potential cost increases for consumers and the risk of fragmenting the internet.
- Lastly, preserving net neutrality is paramount for fostering innovation and safeguarding the interests
- of smaller OTTs.

C. Selective Banning of Apps

ADIF Response

1. In situations characterized by internet shutdowns or content limitations, VPNs have emerged as effective tools for bypassing such constraints. This technological capability makes selective bans largely futile, as users can readily sidestep these restrictions by employing VPNs.
2. Moreover, historical evidence suggests that users tend to migrate to alternative platforms when a specific service is banned, as witnessed when the U.S. Government announced a ban on WeChat, leading users to switch to services like Signal[15].
3. Furthermore, the lack of transparent criteria and procedural frameworks for app selection raises concerns about regulatory ambiguity and unwarranted interventions. It is unclear if the Union Government will consider a hierarchy of apps when imposing bans, distinguishing between platforms providing multiple online services and those offering a single service.
4. In addition to these concerns, the selective banning of OTT services should be contemplated solely in cases where an OTT service explicitly violates Indian laws or legal requirements, in accordance with

[12]https://static1.squarespace.com/static/5bcef7b429f2cc38df3862f5/t/63d8b49179bdf80b02924cc6/1675146395190/Esya_Centre_Report_Communications_OTT_Services.pdf
[13] https://nassaunationalcable.com/blogs/blog/amazon-aws-data-centers-leading-the-way
[14] https://www.businessinsider.in/tech/news/facebook-and-google-are-laying-another-giant-undersea-internet-cable-this-time-stretching-7500-miles-between-6-asian-countries/articleshow/85366511.cms
[15] https://www.livemint.com/technology/apps/china-appears-to-block-signal-one-of-last-popular-encrypted-messaging-apps-11615915217474.html

Section 69A of the IT Act. The government has previously exercised its powers under this provision to block applications with connections to China.

ADIF Responses to the questions raised in the TRAI Consultation Paper

Q1: What should be the definition of over-the-top (OTT) services? Kindly provide a detailed response with justification.

ADIF Response:

It must be noted that OTTs do not operate their own networks or lease network capacity from network operators or TSPs (Telecom Service Providers) to deliver their services.

They should not be considered "free riders" in the sense that they don't solely rely on TSPs' networks, as the term OTT might suggest. In reality, OTT services are transmitted over the infrastructure of TSPs and can only be provided to end-customers by these TSPs. To explain further, OTTs cannot establish a direct connection to TSPs' customers and depend on the TSPs' networks to deliver their content, applications, or services to end-users, who are, in turn, customers of the TSPs.

The definition of 'OTT service' lacks a universally accepted standard and is inherently broad, potentially encompassing any service delivered over the internet. However, to address the specific question, a plausible definition of OTT services is that they encompass content-based or application-based services operating on the application layer of the internet and catering to end-customers. This definition could include a diverse array of services like ride-sharing (e.g., Uber, Ola), accommodation services, ticketing services, and payment / fintech apps, which do not fall within the current telecommunications framework. These businesses should be categorized simply as 'digital businesses' rather than OTT services to account for their innovative nature.

Q2: What could be the reasonable classification of OTT services based on an intelligible differentia? Please provide a list of the categories of OTT services based on such classification. Kindly provide a detailed response with justification.

ADIF Response

Sub-categorizing Over-The-Top (OTT) services is presently unnecessary due to the fact that OTT services offering diverse digital products exhibit overlapping attributes and capabilities. For instance, OTT services such as ride-sharing apps, food delivery platforms, and accommodation services enable users to communicate with drivers, restaurants, hotels, and other entities through messaging or phone calls. Consequently, certain OTT services incorporate communication functionalities to enhance their primary digital service offerings. Consequently, attempting to classify any given OTT application into a specific category becomes challenging due to the multitude of diverse functionalities and features offered by a single

OTT app. Any effort to rigidly classify an OTT service with multifaceted functionalities would be an artificial endeavor and might result in market fragmentation, potentially leading to market failure and harm to consumers. Given the overlapping nature of features across different OTT services, the pursuit of sub-categorization for OTT services is currently unfeasible and should be discouraged.

Q3: What should be the definition of OTT communication services? Please provide a list of features which may comprehensively characterize OTT communication services. Kindly provide a detailed response with justification.

ADIF Response As already indicated in our above response; we believe that delving into sub-categories of OTT services is unnecessary. Therefore, we have abstained from providing our insights on this matter.

Q4: What could be the reasonable classification of OTT communication services based on an intelligible differentia? Please provide a list of the categories of OTT communication services based on such classification. Kindly provide a detailed response with justification.

ADIF Response: NA

Q5. Please provide your views on the following aspects of OTT communication services vis-à-vis licensed telecommunication services in India:

(a) regulatory aspects;

(b) economic aspects;

(c) security aspects;

(d) privacy aspects;

(e) safety aspects;

(f) quality of service aspects;

(g) consumer grievance redressal aspects; and

(h) any other aspects (please specify). Kindly provide a detailed response with justification.

ADIF Response:

While Telecommunications Service Providers (TSPs) function at the network layer to deliver internet connectivity, Over-The-Top (OTT) providers operate at the application layer, utilizing the internet to offer their services. It's crucial to recognize that TSPs operate within a market characterized by a limited number of key players who possess specific privileges. These privileges encompass the use and monetization of critical resources that form the foundation of the application layer, control over the underlying infrastructure, spectrum leasing, PSTN interconnection, and infrastructure development, among other things. By virtue of enjoying these privileges, TSPs are subject to a regulatory and licensing framework that does not apply, and ideally should not apply, to OTT service providers.

OTT service providers, on the other hand, are subject to regulations outlined in laws such as the Information Technology Act (IT Act) and the associated rules and regulations, as shared earlier in the submission.

Q6. Whether there is a need to bring OTT communication services under any licensing/regulatory framework to promote a competitive landscape for the benefit of consumers and service innovation? Kindly provide a detailed response with justification.

ADIF Response:

We firmly believe that it is unnecessary to subject Over-The-Top (OTT) services to any form of licensing or regulatory framework, as they are already subject to extensive regulation through existing laws and regulations. We base our assertions on the following:

- OTT services are effectively governed and regulated by various existing laws, including the IT Act, its accompanying rules, CERT-In Directions, RBI tokenization mandates, and relevant sector-specific legislation. The introduction of additional telecom regulatory measures would constitute overregulation of digital service providers, leading to increased compliance requirements and an undue financial burden. Additionally, such a move might clash with the Ministry of Electronics and Information Technology (MeitY)'s efforts to update the IT Act through the proposed DIA.
- The objective of fostering a competitive landscape that benefits consumers and encourages service innovation is already being achieved in the OTT space. Key elements of competition, low entry barriers, consumer choice, and service innovation are evident in this domain. Further regulatory intervention, driven by specific stakeholders, could undermine market competition, resulting in market fragmentation and failures.
- Significant differences exist between OTT services and Traditional Service Providers (TSP) services, which preclude them from being direct substitutes; instead, they share a symbiotic relationship. For instance, network operators can offer content and application services, while OTTs cannot provide network connectivity. TSPs also derive revenue from OTT service consumption, as users are charged

for the data they use. Moreover, TSP services are interoperable, enabling subscribers from one network operator to communicate with those from another, a functionality not typically seen with OTT apps/services. Consequently, it would be incorrect to assume that OTT services are complete substitutes for traditional TSP services, justifying their regulation.

- Even consumers themselves do not view telecom services and OTT services as interchangeable. OTTs offer various services (such as social media, online shopping, food delivery, and document sharing) not provided by traditional telecom services. Consumers often perceive OTT services as complementary to traditional telecom services, choosing to use both together or relying solely on legacy telecom services.
- Regulations applicable to TSP services arise from exclusive rights granted to them, including spectrum acquisition and numbering resources. Issues raised by TSPs regarding OTT services stem from flaws in the existing licensing framework for TSPs. Addressing these issues at their source, the outdated licensing regime, would be more appropriate than imposing this regime on OTT services. Licensing OTT services lacks justification, particularly when broader concerns like privacy and encryption are already addressed by existing and anticipated legislation.

Q7. In case it is decided to bring OTT communication services under a licensing/ regulatory framework, what licensing/ regulatory framework(s) would be appropriate for the various classes of OTT communication services as envisaged in the question number 4 above? Specifically, what should be the provisions in the licensing/ regulatory framework(s) for OTT Communication services in respect of the following aspects:

(a) lawful interception;

(b) privacy and security;

(c) emergency services;

(d) unsolicited commercial communication;

(e) customer verification;

(f) quality of service;

(g) consumer grievance redressal;

(h) eligibility conditions;

(i) financial conditions (such as application processing fee, entry fee, license fee, bank guarantees etc.); and

(j)any other aspects (please specify).

Kindly provide a detailed response in respect of each class of OTT communication services with justification.

ADIF Response As elaborated above, we believe there is no requirement to bring OTT services under any licensing or regulatory framework.

Q8. Whether there is a need for a collaborative framework between OTT communication service providers and the licensed telecommunication service providers? If yes, what should be the provisions of such a collaborative framework? Kindly provide a detailed response with justification.

ADIF Response There is absolutely no need for a collaborative framework between OTT communication service providers and the licensed telecommunication service providers.

Q9. What could be the potential challenges arising out of the collaborative framework between OTT communication service providers and the licensed telecommunication service providers? How will it impact the aspects of net neutrality, consumer access and consumer choice etc.? What measures can be taken to address such challenges? Kindly provide a detailed response with justification.

ADIF Response: As we have already asserted in our response to Question No.8 above, there is absolutely no need for a collaborative framework between OTT communication service providers and the licensed telecommunication service providers. Therefore, detailed response to this question does not arise.

Question 10 to Question 14:

ADIF has no comments.