

Consultation Paper on Cloud Services

Issues for Consultation

Q.1 Whether there should be single industry body or multiple industry bodies of cloud service providers which may be registered with DoT? If multiple industry bodies, whether there should be any cap on their number? Should the industry bodies be registered based on the category or type of CSPs? Can a CSP be a member of multiple industry bodies? Please suggest with justification.

Multiple Industry bodies of CSP should be allowed and there should be a temporary cap on their number of 3 industry bodies in each sector.

The justification for the above approach is that,

1. The Industry is at a nascent and evolving stage, with no clear defined path forward. To allow flexibility to the CSPs to adapt to future landscape, it is necessary to allow for many industry bodies .
2. TRAI itself had rightly suggested in its recommendations on cloud services released on 16th August for a light touch regulatory approach. This should also be followed for the industry bodies allowing for multiple bodies with the number being increased if the need arises.
3. The cap should be there to ensure there is adequate options available for the CSPs but the same time also multiple ways of CSPs organising themselves. The Cap should be reviewed periodically, may be every 5 years.

The Industry bodies should be registered based on the Sector to which the CSPs is catering to like health, education, banking etc.. as each sector customer needs are different and unique.

A CSP should be allowed to be a member of multiple industry bodies with certain conditions like market share, revenues. The reasons for this are

1. A CSP should be allowed the strategic flexibility to move to different sectors for scale or resources utilization. This would enable competencies and innovations to move across sectors.
2. With the Industry evolving it would not be prudent to confine CSPs to silos leading to fragmentation.

Q.2 What should be the eligibility criteria for an Industry body of CSPs to register with DoT? What is the list of documents that should be required to be submitted as proof of eligibility? What obligations should be cast upon the Industry Bod(y)(ies) after registration with DoT? Please suggest with justification.

Yes, there should be eligibility criteria for an Industry body of CSPs to register with DOT.

This is necessary to ensure that the industry bodies function with accepted governance principles and are mission driven.

To ensure this broad criteria can be laid down.

1. The formation and registration of the Industry body as an NGO according to an act. The Companies Act 2013 (section 8 company) or Societies Registration Act, 1860 could be the basis.
2. The Governance Structure of the Industry Body as prescribed by the regulations.
3. A membership base that is representative of the Industry and market having all relevant stakeholders.

4. The objectives and mission of the organisation that is consonance with the development of the Industry with transparency and fairness.

To ensure these eligibility criteria are met the industry body should submit the following documents for registration,

1. The Registration certificate issued by the competent authority under the above mentioned act.
2. The Memorandum and Articles of Association or Bye-laws as relevant to the Industry body.
3. The list of members indicating the different class and number under each class. The details of members could include information of the name, address, nature of operations, CEO, etc.
4. Operating plan for the first 3 years

There is need for continuous monitoring of the Industry body and hence the following documents should be submitted annually.

1. The annual report of the Industry body.
2. The audited report of the Industry body.
3. The audited report of the membership.
4. A self declared compliance report by the board on following the principles of Governance as stipulated by the registering authority in Manual of Procedures (MOP).

Q.3 What may be the threshold value of parameters such as the volume of business, revenue, number of customers etc. or combination of these for a CSP to mandatorily become member of a registered Industry body? Please suggest with justification.

The eligibility norms or threshold value of parameters to become a member of a registered Industry body should be left to the Industry body. All CSP who have completed one year of operations should mandatorily become a member of a registered Industry body.

Our suggestion is for the following reasons,

1. Prescribing norms for these would be cast onerous responsibilities on the regulatory authority, increasing regulatory burden.
2. Also this would lead to market distortion as the market is evolving.
3. To ensure that the all the CSP are in compliance with code of conduct, it is necessary there is mandatory membership as soon as follows.

As suggested in comments to another question (5), the regulatory authority should focus on ensure the broad parameters of functioning like adherence to a Manual of Procedures (MOP) and the Governance structure.

Q.4 Whether entry fee, recurring fee etc, need to be uniform for all members or these may be on the basis of type or category of members? How such type or category can be defined? Should such fee be prescribed by DoT or be left to be decided by the Industry body ? Please suggest with justification.

These operational issues should be left to the discretion of the Industry body. In case these are not in tune with the needs of the CSPs then a new Industry body may evolve. This is necessary to enable the Industry body to function effectively based on their objectives and the regulatory authorities rules.

The Industry body should be however be representative of the market to have all the stakeholders and transparent in its governance and hence the Manual of Procedure should be developed to ensure these Governance principles are adhered.

Q.5 What should be the guiding principles for governance by an industry body? How would these principles/ organisation structure ensure fair, reasonable and non-discriminatory functioning of body? Should structure of Governance be prescribed by DoT or should it left for the industry body to decide? How can the industry body achieve the desired deliverables efficiently and effectively? Please suggest with justification.

The Guiding principles for governance of the Industry body are,

1. Independence
2. Mission or purpose driven
3. Democratic
4. Representative
5. Accountable
6. Transparent
7. Compliance
8. Ethical

To ensure fair, reasonable and non-discriminatory functioning, we suggest;

1. A Manual of Procedure (MOP) should be prepared by a separate committee to constituted.
2. This MOP would have to adhered to by the Industry body in its operations and day to day functioning.
3. A self-declaration by the Industry body on its adherence to the MOP should be filed annually.

4. In the event of any complaint or suo moto DOT may request for a third party audit of the Industry body for its compliance with the MOP.

The Structure of Governance SHOULD be prescribed by DOT as this determines the effectiveness of the industry body.

Our suggestion on the Governance structure is as follows,

1. Board - That is elected by the general body of members on the basis of one vote per member. The total number of membership should be divided into different types of CSP reflecting the different types of services in the market. The number of membership for each type of service should be representative of the market. The composition of the board should be reviewed periodically. The details could be incorporated into the MOP.
2. Management - This would be headed by a full time professional suitably titled with a complement of directors. The group would be responsible for the operations of the industry body.

Q.6 What policy may be adopted for initial formation of industry body for cloud services? Please suggest with justification.

The initial formation of the Industry body is beset with problems and constraints as outlined in the consultation paper.

We believe that option (iv) with Government (DOT) hand holding would be offer a quick and cleaner start for an Industry body, with these changes.

Government (DoT) may establish an adhoc industry body calling for representative from difficult categories of membership. On enrolling these representatives, founding members from each category of membership is elected/selected by the members themselves with DOT supervising the process. This elected/selected body of members would develop the

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necessary structure and will be responsible for the formation and registration of the body. DOT and other government representatives would initially provide the necessary grant and monitor the process by being part of the initial committee.

Q.7 Any other issue which is relevant to this subject? Please suggest with justification.

We have suggested multiple representatives of Industry bodies for each sector like health, banking etc. **The first body could be formed with the DOT monitoring the process, but subsequent Industry bodies should be left to the initiative of industry players and dynamics of the market.**

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