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**To:** "Akhilesh Kumar Trivedi" <[advmn@traigov.in](mailto:advmn@traigov.in)>

**Sent:** Friday, August 4, 2023 10:53:08 PM

**Subject:** IndiaTech recommendations on Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services

**Shri Akhilesh Kumar Trivedi**  
**Advisor (Networks, Spectrum and Licensing),**  
**TRAI**

Respected Sir,

Please find our comments on Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services as per letter attached.

**Yours Sincerely,**  
**Rameesh Kailasam**  
**CEO, IndiaTech.org**

**Shri Akhilesh Kumar Trivedi**  
**Advisor (Networks, Spectrum and Licensing),**  
**TRAI**

**04<sup>th</sup> August, 2023**

**Sub: Comments on Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services**

**Respected Sir,**

***Greetings from IndiaTech.org!***

By way of introduction, I represent IndiaTech.Org, an industry association set-up by Founders and Investors of Indian start-ups and unicorns, with an objective of building India as the world's largest and most successful internet startup commerce ecosystem in India.

As an industry association, our suggested approach as sought by the industry seeks to establish a distinct category or class for ancillary communications. Either these communications should not be considered as part of the OTT Communication Services, or if they are included, a defined class should be created to differentiate them from large OTT Communication players like WhatsApp and Facebook. This differentiation will enable regulators to implement proportionate measures based on the communication capabilities of the applications.

Issues for Consultation	Comments
<p>Q1: What should be the definition of over-the-top (OTT) services? Kindly provide a detailed response with justification.</p>	<p>Definition: Body of European Regulators for Electronic Communications (BEREC) and Commonwealth Telecommunication Organization (CTO) can be considered while defining OTT Services because of their broad scope. A possible version of the definition could be as follows "Any type of content, service, or application that is delivered via the public internet to or accessed by the end user."</p> <p>Justification: The main objective while suggesting a definition for OTT services was to keep it broad to ensure inclusivity and coverage of all existing and future forms of services delivered over the public internet. As technology and services continue to evolve rapidly, new and innovative ways of delivering content and services may emerge. By adopting a broad definition, regulators can effectively address any emerging risks, or regulatory concerns related to the evolving landscape of OTT services, without the need for frequent amendments.</p> <p>However, while maintaining a comprehensive definition, careful classification of different OTT services becomes crucial, as regulations should be tailored to specific classes and the imminent risks they pose. This approach allows for a more targeted and efficient regulatory framework.</p>
<p>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</p>	<p>Classification: Commonwealth Telecommunication Organization (CTO) and Body of European Regulators for Electronic Communications (BEREC) have outlined 3-4 classifications of OTT services which may be considered by TRAI while classifying OTT Services. A classification considering India's context inspired from both the versions is as follows. OTTs can be classified into three groups as following:</p> <p>1) (OTT-Communication) an OTT service that qualifies as telecommunication services as defined under the Telecom Regulatory Authority of India Act, 1997, or the services which potentially competes with telecommunication services. E.g: Whatsapp, Facebook, Twitter,</p>

<p>justification.</p>	<p>Instagram, Discord, Skype, Google Meet, Telegram, etc. Examples include services/applications that primarily provide communication services over the internet, similar to traditional telecommunication providers, as well as those that may overlap with telecommunication services but have additional non-communication-focused functionalities.</p> <p>2) (OTT-Broadcast) an OTT service that potentially compete with broadcasting services E.g: Hotstar, Netflix, Amazon Prime, Hulu, Youtube, etc. These are the services that potentially compete with broadcasting services</p> <p>3) (OTT-Others) OTT services that neither compete with electronic communication services nor broadcasting services. E.g: Music streaming, Gaming, E-Commerce, Cloud related services, etc. These are the services that neither compete with communication services nor broadcasting services.</p> <p>Justification: A comprehensive classification of OTT services enables more effective regulation by allowing regulators to tailor specific rules and guidelines for different classes of services. This flexibility ensures that regulations are well-suited to the unique characteristics and functions of each OTT category. Additionally, the detailed classification facilitates selective banning when required, empowering regulators to ban selectively or place potential restrictions on specific classes of OTT services based on the prevailing circumstances.</p> <p>OTT-Others typically may provide communication facilities however, those are ancillary to the core product and hence, should not be governed by the same norms as that of OTT-Communication, OTT Broadcast.</p>
<p>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.</p>	<p>Definition: OTT communication services fall under the classification of OTT-Communication Services (as mentioned in previous response), which includes services that qualify as telecommunication services as defined under the Telecom Regulatory Authority of India Act, 1997, or services that potentially compete with telecommunication services.</p> <p>List of Features: The following two main types of features can be considered while classifying any service as OTT Communication service:</p> <p>1) Core Functionalities: OTT Communication services should encompass the functionalities defined under the "Telecommunication Service" definition under the TRAI Act, 1997, including, Electronic mail, Voice mail, Data services, Audio text services, Video text services, Radio paging, and Cellular mobile telephone services.</p> <p>2) Value-Added Features: OTT Communication services may offer additional value-added features that complement, compete with, or enhance the core functionalities. Examples of such features include Instant messaging, Group messaging, Group voice/video calls, and Virtual meeting rooms.</p> <p>It's worth noting that the features mentioned above are not mutually exclusive, and certain platforms/OTT Services may incorporate more than one feature.</p>
<p>Q4: What could be the reasonable classification of OTT</p>	<p>Reasonable Classification of OTT Communication Services: OTT communication services can be classified based on their primary functionalities, core product and scope of service offerings, with products</p>

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.

providing ancillary OTT Communication Services being excluded from its ambit. The following categories can be used for such classification:

**Messaging Services:** These OTT services primarily focus on providing instant messaging capabilities to users. They facilitate text-based communication between individuals and groups. Examples include WhatsApp, Telegram, Signal, and Facebook Messenger.

**Voice and Video Calling Services:** This category includes OTT services that offer voice and video calling features, enabling real-time audio and video communication. Examples include Skype, Google Meet, Zoom, and FaceTime. **Collaboration and Virtual Meetings:** OTT services falling under this category focus on virtual meetings, webinars, and collaboration tools. They allow users to conduct video conferencing, share screens, and collaborate on documents. Examples include Microsoft Teams, Cisco Webex, and GoToMeeting.

**Social Media and Networking:** These OTT services primarily revolve around social networking and communication. While they may offer messaging and voice/video calling features, their core function is to facilitate social interactions. Examples include Facebook, Twitter, Instagram, Discord and LinkedIn.

The above-mentioned categories of OTT communication services vary in their scope and functionalities, with some offering similar or competitive services to traditional telecommunication providers, such as messaging and social media. It is essential to regulate each category in proportion to its relevance and impact on telecommunication service providers.

We sincerely hope you will be able to accommodate our request and thank you in advance for your consideration.

Yours Sincerely,

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