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Nasscom's Counter Comments on Telecom Regulatory Authority of India Consultation Paper on the Review of the Telecom Commercial Communications Customer Preference Regulations, 2018

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We note that some stakeholders in their response to TRAI's Consultation Paper on the Review of the Telecom Commercial Communications Customer Preference Regulations (**TCCCPR**), 2018 (**Consultation Paper**) have stated that Over the Top (**OTT**) services - particularly OTT communication platforms, be brought within the purview of the TCCCPR. Hence, we are making this counter-comment to clarify that *first*, TCCCPR is not applicable to OTTs and *second*, OTTs have strong in-built technical measures to address spam, many of which do not feature in traditional telecom-based voice calls and SMS.

We appreciate that TRAI is reviewing the TCCCPR to further strengthen the framework, given unsolicited commercial communication (**UCC**) i.e., **voice calls and SMS** using telecommunications services is a serious concern and needs to be addressed on a high priority. And therefore, we emphasise that it would be useful to remain focused on the main concern i.e., how to curb UCCs.

Below is our justification for the above-mentioned response.

1. TCCCPR is not applicable to OTTs

The term **Commercial Communication** has been defined in TCCCPR as, "*means any voice call or message using telecommunication services*..........". Here the expression used is **telecommunication services** which is defined in the Telecommunications Act, 2023 (**Telecom Act**) as "*service for telecommunication"* and clearly excludes OTTs.[1] The finalisation of the Telecom Act 2023 was a detailed process incorporating public consultation, deliberations and subsequent revisions and it is clear that OTT services are not covered within the scope of Telecom Act.[2] Therefore, TCCPRs regulations are inapplicable to OTTs.

2. OTTs have in-built measures to address spams

OTTs have voluntarily established various user-friendly mechanisms for consent and preference of end-users to assist users with deciding if and how long they want to receive spams. Some of these measures are:

• If users receive spam, OTT platforms allow them to delete, block, report, or opt out of further communication from a business at any point of time.

• If users have opted for a communication but do not want to be disturbed by such messages, they have the option to mute all such notifications.

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[1] See, definition of commercial communication in Regulation 2(i) of Telecom Commercial Communications Customer Preference Regulations (TCCCPR), 2018. Also see, definition of telecommunication services in section 2(t) of the Telecommunications Act, 2023.
[2] See, ET Bureau, OTT not under ambit of Telecom Bill: Ashwini Vaishnaw, Also see, News Clipping.

- Most OTT platforms have mandated businesses to obtain customers /end-users' opt-in preference before contacting them on the platform.

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