To,

Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg (Old Minto Road)
New Delhi (110002)

Date: January 6, 2018

Ma'am/ Sir

Subject: *Response to the Consultation paper on Regulatory Framework for Over the Top (OTT) Communication Services*

We are an inter-disciplinary policy think tank based out of Gurgaon. We are submitting our response to the Consultation paper on Regulatory Framework for Over the Top (OTT) Communication Services issued by TRAI on 12th November 2018. Our scholar-members associated with this assignment have substantial experience working in telecom and technology sector on the legal side. They have had the opportunity to closely interface with telecom service providers (TSP) as well as OTT service providers through various assignments and thus, have a deep understanding and keen observation of the issue at hand.

Please find our responses and comments to the nine questions raised in the Consultation Paper below. We suggest a practical transition to a simple and effective legal framework for regulated functioning of OTT service providers that will take care of two main concerns of the government – data security and loss of (TSP) revenue, without stifling innovations in the OTT space – crucial for a vibrant digital communication industry.

Yours sincerely

Scholars in the Mountains

Address:

Blue One Square,

Udyog Vihar, Phase IV Road

Gurgaon (122016)

Phone no.: 9971002367, 9599704280

Email: scholarsinthemountains@gmail.com

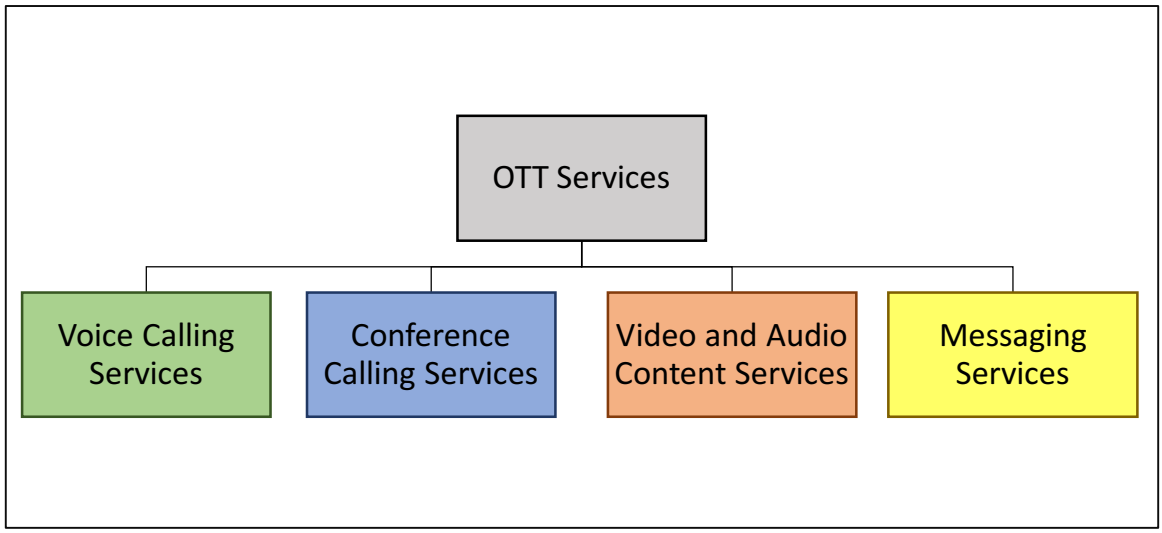
RESPONSES TO ISSUES FOR CONSULTATION SET FORTH BY THE CONSULTATION PAPER ON REGULATORY FRAMEWORK FOR OVER-THE-TOP (OTT) COMMUNICATION SERVICES

Q.1 Which service(s) when provided by the OTT service provider(s) should be regarded as the same or similar to service(s) being provided by the TSPs. Please list all such OTT services with descriptions comparing it with services being provided by TSPs.

Response by Scholars in the Mountains:

If any OTT service provider/ OTT platform provides communication services similar to legacy services provided by a licensed telecommunication service provider (TSP) which act as "functional substitutes" to TSP's legacy services, then such OTT platforms must be regarded as 'same or similar to service(s) being provided by the TSPs'.

Following categories of services offered by OTT service providers/OTT platforms can be considered as 'functional substitutes' of legacy services of TSPs:



(i) Voice Calling Services: Some OTT service providers provide voice calling services and internet telephony, where voice is transported over the public internet as packet switched traffic. Examples of such OTT players are Skype, Facetime, Google Hangouts, Viber and WhatsApp. These OTT services are functional substitutes for the legacy voice calling services provided by licensed TSPs like Reliance, Airtel, Vodafone.

(ii) Conference Calling Services: Voice calling OTT service providers such as Skype, Facetime, Google Hangouts, and WhatsApp often also provide conference calling services where the consumer can add more than two persons on the voice call. Such a service is also provided by licensed TSPs like Reliance, Airtel, Vodafone.

(iii) Messaging Services: Some OTT service providers provide instant messaging services through public internet using the Internet Protocol (IP) technology. Examples of OTT messaging services include WhatsApp and Facebook Messenger. These instant messaging OTT services are functional substitutes for the legacy short service messaging (SMS) and multi media messaging (MMS) services provided by licensed TSPs like Reliance, Airtel, Vodafone.

(iv) Video and Audio Content Services: Certain OTT service providers/platforms engage in broadband delivery of video and audio content over the internet, without a cable or satellite service operators being involved in the control or distribution of the video and audio content itself. In this OTT service delivery model, the licensed TSP is responsible for providing the transport medium i.e., its network for travelling of IP packets. The OTT audio content providers are 'functional substitutes' of licensed radio channels (which is also a telecommunication service) such as Akashwani, Red FM, Radio Mirchi etc.. Likewise, OTT audio-video content providers are 'functional substitutes' of cable and direct-to-home (DTH) (which literally is also a telecommunication service) and channels like Sony, Star and Zee as well as DTH services such as TataSky, Airtel DTH, who operate with requisite statutory registrations/licenses/approvals. Examples of audio-video content OTT service providers include Netflix, Amazon Prime, Spotify, Gaana.com etc.

Q.2 Should substitutability be treated as the primary criterion for comparison of regulatory or licensing norms applicable to TSPs and OTT service providers? Please suggest factors or aspects, with justification, which should be considered to identify and discover the extent of substitutability.

Response by Scholars in the Mountains:

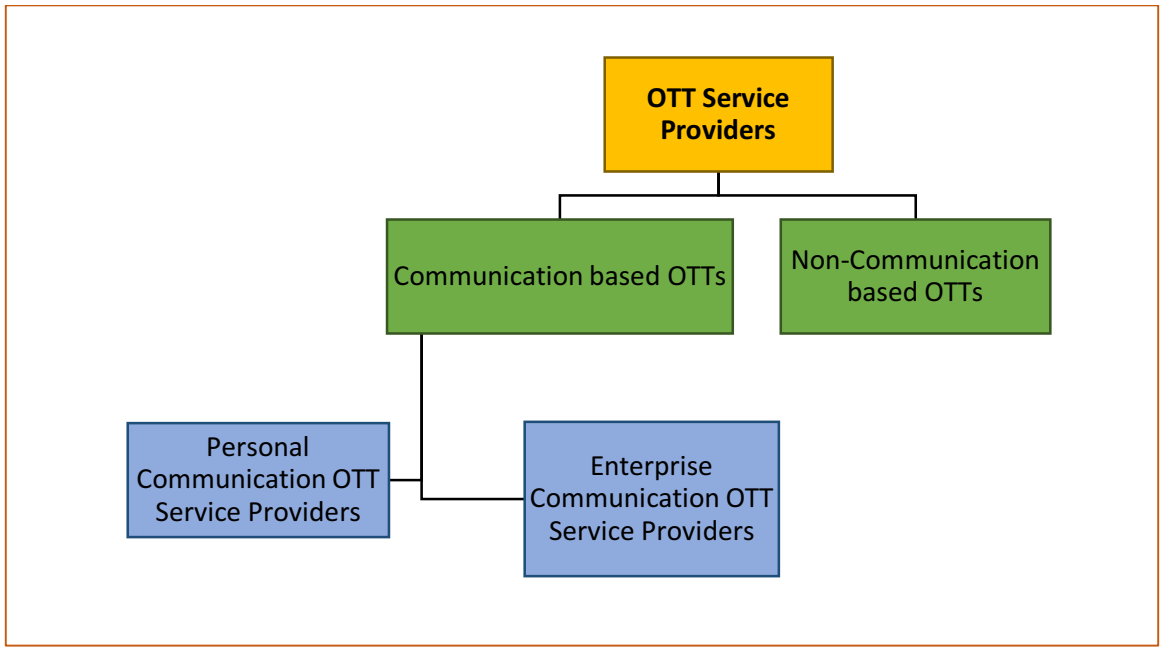
The category of OTTs that provide services that are wholly or substantially 'functional substitutes' of TSPs' legacy services are referred to as Communication based OTTs. OTTs other than Communication based OTTs , are referred to as Non-Communication based OTTs. We advocate minimal regulation for Non-Communication based OTT service providers. These categories have been elaborated further in the paragraphs below.

In our view, to build a regulatory framework for Communication based OTTs, regulatory comparison with regulatory framework applicable to TSPs should be a starting point. Obligations similar to certain types of regulatory obligations applicable to TSPs, such as maintaining confidentiality of customer data, privacy and data protection obligations and customer redressal mechanisms, should also be made applicable to Communication based OTTs.

Further, on a review of the existing licensing framework applicable to TSPs we note that OTT communication service providers such as WhatsApp, Facebook, Hike messenger that provide 'restricted internet telephony services' (IP to IP calling) are already required to obtain at the least an ISP Authorization. Therefore, we are of the view that this requirement be either implemented once and for all, or be done away with through requisite notifications. Should the authority decide to exempt such OTT communication service providers from licensing requirement, they should in the least be regulated through the Intermediary Guidelines issued under the IT Act 2000 (with suitable amendments to the Intermediary Guidelines expressly mentioning specific security related compliances for OTTs). Also, if OTT communication service providers such as Whatsapp, Facebook etc. are exempted from obtaining the UL (ISP Authorization), even the requirement to obtain an Audiotex License and the OSP registration should be done away with.

Alternatively, we are also suggesting creation of OTT rules (with or without the licensing requirement) that could govern the OTTs. These have been discussed in response to Question 7.

Categorisation of OTT services



OTT service providers can be divided into two broad categories:

(i) **Communication based OTTs:** OTT service providers that are wholly or substantially 'functional substitutes' of legacy services provided by licensed TSPs are referred to as "**Communication based OTTs**". These include voice calling, messaging and conference calling OTT service providers.

In our view, Communication based OTTs can be further divided into 2 categories.

The *first category* is that of personal communication technology solution providers. These provide voice calling, internet telephony and messaging services to individual consumers (typically free of cost in India). They are referred to as '**Personal Communication OTTs'. Example of such OTTs are** WhatsApp, Viber, Facebook etc. According to us, services provided by the Personal Communication OTT service provider(s) should be squarely regarded as same or similar to service(s) being provided by the licensed TSPs as the services are 'functional substitutes' of the TSPs' legacy services.

The *second category* is that of enterprise communication technology solution providers. These provide optimized communication technology solutions to businesses such as conferencing, IVR etc.. They are referred to as **Enterprise Communication OTTs.** Currently, most Enterprise Communication OTTs provide communication services by obtaining an Audiotex and Voicemail License ("**Audiotex License**"), or a Unified License (Virtual Network Operator) ("**UL (VNO)**") or an Other Service Provider ("**OSP**") registration. These licenses/registrations regulate the Enterprise Communication OTTs. Arguably all Enterprise Communication OTTs provide services with the help of interconnection agreements with licensed network service operators ("**NSOs**") or TSPs. Services are provided by the Enterprise Communication OTTs service provider(s) in tandem with resources obtained from such TSPs Therefore, even though such services can be regarded as similar to service(s) being provided by the licensed TSPs, however their regulatory treatment must be slightly different from that to the Personal Communication OTTs. Our suggestion for an OTT Regulatory Framework have been expressed as a response to Question 7.

Extent of Substitutability: OTT service providers whose main service or a substantial part/essential part of the service is a functional substitute of TSP legacy services, must be considered as 'functional substitutes' and therefore be required to comply with regulatory framework for Communication OTTs (that is proposed to be developed). To identify and discover whether a part of the OTT service that is 'functionally substitutable service', actually is enough to categorize an OTT as a Communication OTT and should thus be required to comply with regulations governing such Communication OTT services (OTTs providing services that are functional substitutes of the TSP legacy services such as Communication OTTs), the following questions may be asked: *Is the 'functionally substitutable service' core to OTT's main service? Can a consumer use the core service without using the 'functionally substitutable service' at all and still get the same user experience?*

Does the consumer get automatic access to the 'functionally substitutable' service while using the core service of the OTT service provider?

For eg: categorising WhatsApp is easy as its main service is a literal 'functional substitute' of TSP's legacy services such as voice calling, SMS and MMS. On the other hand, although Facebook's main service may be a social media platform however it's Facebook messenger is an essential part of its social media service. The nomenclature or description of the business activity of the OTT service provider must not be relied upon; the regulators must understand the nature of the services provided by the OTT in question.

(ii) **Non-Communication OTTs:** OTT platforms that provide all other types of OTT services (other than providing "functionally substitutable" communication services) are referred to as **Non-Communication OTTs**. They include e-commerce websites, blogs etc. The regulatory framework for the Non-Communication OTTs should be minimal.

The government should issue rules for regulation of OTTs (read more in response to Question 7) and these Non-Communication OTTs should also be required to comply with the OTT rules. This would be sufficient to regulate the OTT industry without stifling the spirit of innovation.

Further, all the above OTTs (Communication based OTTs and Non- Communication based OTTs) should also be required to comply with data protection, encryption and cybersecurity related regulatory and legal standards and reference to existing provisions should be clearly expressed in the OTT rules for clarity. Having said that, it is important to note that law cannot predict the direction commercial technology will take and therefore it must be kept in mind that the regulatory framework for the OTT industry is minimal so that technological innovation, use case innovation and business model innovations are supported by the legal system and are not stifled by regulations.

Q.3 Whether regulatory or licensing imbalance is impacting infusion of investments in the telecom networks especially required from time to time for network capacity expansions and technology upgradations? If yes, how OTT service providers may participate in infusing investment in the telecom networks? Please justify your answer with reasons.

Response by Scholars in the Mountains:

The OTT services have changed the face of digital communication. Stark example is the revolution in the communication and entertainment landscape in last decade. Enabled by internet protocol (IP) (a technology that has facilitated the separation of carriage from content), OTT service providers have been using existing networks rolled out by TSPs to deliver content or services to consumers, without any involvement of the network owners i.e., the TSPs in the transaction. Consumers of telecommunications services have adopted

OTT services (accessed through public internet) as their preferred mode of communication and source of entertainment. Especially because the OTT services are generally accessible at little to no monetary cost.

Therefore, there is no doubt that growth of the OTT services has been beneficial to economy, business as well as the consumers. However, the lack of clarity in the regulatory framework has been a challenge to both the TSPs as well as the OTTs, which is elaborated below.

A. Gap in OTT regulatory space is a challenge to TSPs network expanding and upgrading capabilities:

After analysing the Consultation Paper, it is apparent that the core concern of TSPs is that OTT service providers use infrastructure of TSPs for which they do not pay, and that they are therefore "free-riding" on expensive assets built by the TSPs (network operators). Change in service usage pattern in the communication space has left TSPs faced with two core challenges:

(i) **Revenue and Regulatory related Challenges**: TSPs face tough competitive pressure from Communication based OTT services (those "functionally similar" to the TSP's legacy services such as voice calling, SMS and MMS). Most Communication based OTTs provide similar services at little to no monetary cost and therefore the telecommunication consumers prefer using OTT communication services over paying for the legacy services of the TSPs. The OTT services use the networks of the TSPs without any cost. In addition to this, Also, unlike OTTs, TSPs have to comply with the regulatory and statutory obligations such as maintaining confidentiality of consumer data, restrictions on interception of data and use of consumer data for any purposes other than that of providing the services to the consumer. Therefore, TSPs don't have the option to use consumers' data to develop OTT products and make up for their lost revenue. Further, as India has adopted a pro-net-neutrality approach (and in our view, rightly so),this restricts TSPs from charging the OTT service providers for preferential treatment of their services riding on the TSPs networks.

This has obviously chipped away the revenues generated by TSPs through legacy services and further, the regulatory environment limits the opportunity for generation of revenues by other means (that OTTs can use at present). Not only this, the TSPs are faced with challenges such as innovating their traditional business models or risk losing market share or, in the more extreme cases, being driven out of the industry.

(ii) **Carriage Capacity related Challenges**: OTTs, and in particular OTTs providing audio-video content (such as Netflix, Amazon Prime, Youtube etc.) have

stimulated an insatiable hunger for high internet speeds in the consumers which TSPs strive to satisfy. In order to cater to the demand for data services/internet (which has been growing at unprecedented speeds enhanced by mobile/smartphone penetration, which the Consultation Paper has also taken note of), the TSPs are required to - **expand their network capacities and upgrade network technologies** – in order to increase their data carriage capacities and avoid losing consumers to the competitors.

From the observations made above, it is clear that there is a valid and urgent need to infuse investments in the telecom networks of our country for network capacity expansions and technology upgradations, especially to make India ready for next generation technologies (such as 5G and Internet of Things).

The telecommunications sector comprises of the following stakeholders: network service operators ("**NSOs**") such as access service providers/TSPs; OTT service providers; and consumers/subscribers. All stakeholders should have the obligation to make financial contributions so that re-investments can be made into network capacity expansions. Even though Communication based OTT service providers may be providing services functionally substitutable to TSP legacy services, or OTT services may be riding on the TSP networks, it is neither fair nor practical to impose network rollout obligations on the OTT service providers.

We have proposed a simple and practical OTT Regulatory Framework in response to Question 7 which states that in the first phase, OTTs should be required to obtain an authorisation/registration and eventually, in the second phase the authorisations/licenses/registrations should be done away and OTT services should continue to be regulated by specific OTT rules (which the government should develop).

In the course of the first phase (*discussed above and discussed further in response to question 7 below*), OTTs should take requisite approvals and be required to pay fees to the government and the government should use the OTT contributions and invest it into enhancing network capacities by giving subsidies or incentives to TSPs. Alternatively, OTTs should also have the option (and be encouraged by law) to work out a commercial arrangement with the TSPs for using their networks, which will provide TSPs with some direct revenue from the OTTs. It should also be mentioned that these interconnection agreements/commercial arrangements between OTTs and TSPs should be regulated. TSPs should not act unreasonably and unfairly during negotiation of such agreements with OTTs and execute them in a time bound manner. This contribution by the OTT industry (either directly to the government or to the TSPs) should be mandatorily re-invested back into enhancing India's network carrying capacities.

B. Gap in OTT regulatory space poses challenge to investment in OTT players:

Due to ambiguous regulatory framework, OTT service providers have to face difficulties of building a business in India in an environment that does not grant them clear legal recognition and regulatory clarity.

Amidst this ubiquitous problem, the home-grown OTT industry in general which primarily comprises of start-ups, finds obtaining investments a challenge and has to spend a lot of time, energy and money on handling concerns around regulatory issues. The inconvenience caused by - an incomplete regulatory environment coupled with unresponsiveness of the concerned authorities to give the necessary clarity on gaps in regulations in writing - is also a considerable factor that dissuades investment in the communication sector. The solution to this has been provided in response to Question 6 (establishment of e-space) Question 7.

Regulations are meant to be used as a means to foster growth, innovation and remove unnecessary impediments. In this light, while we move closer to defining the way forward for the communications industry in India through a new OTT Regulatory Framework, we strongly feel that it is essential that a specific regulatory regime be developed for Communication based OTTs. We believe that such a regime will help maintain a harmonious balance in the communication sector which will add to its growth and development. It is also submitted that the time is ripe for such a regulatory intervention, failing which the spirit of innovation and industriousness in India will diminish, whereas externally funded initiatives will survive and thrive.

Q.4 Would inter-operability among OTT services and also inter-operability of their services with TSPs services promote competition and benefit the users? What measures may be taken, if any, to promote such competition? Please justify your answer with reasons.

Response by Scholars in the Mountains:

It can be noted that Communication based OTTs have brought a revolution in the communication space. Due to the advancement in technology in this space, the communication within domestic boundaries and in international network have become extremely affordable, accessible, quick and convenient. It has contributed not only to individuals connecting to their families but provided a boost to the startup and medium sized businesses, enabling them to do business globally.

Communication based OTTs in general, have vastly benefited the consumers of the communications industry. This development in the communication space has led to a healthy competition between OTTs as well as amongst TSPs – both in terms of technological innovations that use existing networks smartly) and business models. Therefore, in our view, no additional efforts are required in this aspect.

Q.5 Are there issues related to lawful interception of OTT communication that are required to be resolved in the interest of national security or any other safeguards that need to be

instituted? Should the responsibilities of OTT service providers and TSPs be separated? Please provide suggestions with justifications.

Response by Scholars in the Mountains:

Security requirements - National security in the context of OTT players: We are of the view that the Communication based OTTs (including Personal Communication and Enterprise Communication OTTs) should be brought within the ambit of the unified license regime through an authorization, or they should be required to register with the Telecom Regulatory Authority of India. Such OTTs should be mandated to provide the regulator access to their applicable systems (upon lawful orders) and be subject to the same security obligations as the NSOs/TSPs. Currently, Personal Communication OTTs like WhatsApp and similar communication solution providers continue to operate freely over the internet without any security obligations. Notifying specific rules that govern the security obligations of OTTs will help address the prevailing security concerns over the use of such services.

Encryption related Regulations: India does not have encryption laws in place. We are of the view that India must notify rules governing standards of encryption which are world-class. India should require its OTT businesses to comply with best global encryption standards. This will help Indian industry to easily expand and grow its business in the developed world like Europe and United States of America.

Q.6 Should there be provisions for emergency services to be made accessible via OTT platforms at par with the requirements prescribed for telecom service providers? Please provide suggestions with justification.

Response by Scholars in the Mountains:

All Communication based OTT services should make provisions on their platforms for connection to emergency service numbers. This should include all Communication based OTT services that "uses or connects to" national numbering plans to provide OTT services. Example: WhatsApp services, which function by using the consumer's Mobile Station International Subscriber Directory Number (MSISDN) (mobile number) as the consumer's address.

For public good, TSPs were mandatorily required to support access to emergency numbers. But, the legacy services provided by the TSPs have limitations and cannot connect to emergency services if the subscriber doesn't have access to a mobile network. For the same reasons (public good), OTT service providers should also be mandated to support access to emergency numbers - through the mobile network and where network access is lacking, then through internet (such as Wi-Fi and broadband). One of the ways in which Communication OTT services could support access to emergency numbers when there is access to TSP network is, by redirecting a customer trying to access emergency numbers, from the OTT application dialer to the phone's dialer. This will enable the call to go through to the TSP's networks. Today, as technology is available to do so, OTT service providers should make changes in their product codes to allow their customers in distress to reach out to/send

distress messages/distress signals to emergency services using public internet especially in situations where TSPs network may not be accessible.

Q.7 Is there an issue of non-level playing field between OTT providers and TSPs providing same or similar services? In case the answer is yes, should any regulatory or licensing norms be made applicable to OTT service providers to make it a level playing field? List all such regulation(s) and license(s), with justifications.

Response by Scholars in the Mountains:

There is a need to put in place a regulatory framework governing OTTs which also puts to rest TSPs concerns. Our inputs on the OTT Regulatory Framework (including the proposed licensing norms and current key regulatory obligations) and other concerns have been discussed in detail below.

I. Building a Regulatory Regime for OTTs

1. OTT Rules under the IT Act

The ideal scenario would be recognizing the OTT services industry/ application services through specific rules/regulations ("OTT rules") that will clearly state that such OTT service providers will not require any license/ authorization for providing the services in India. We recognize that there may be concerns around national security and data protection. We, therefore propose that the OTT rules should impose security obligations on the OTTs which are similar to those imposed on network service operators (NSOs)/ TSPs. We will be happy to help in the drafting of these OTT rules.

The Information Technology Act ("IT Act") currently provides for specific rules that regulate intermediaries ("Intermediary Guidelines"). These also regulate the OTT industry to some extent. Therefore, in our view notifying specific OTT rules under the IT Act would help create a clear and complete regulatory framework for OTTs in India.

Further, the government is also in the process of issuing a Data Protection Act. The OTT rules should also mandate all OTTs to comply with the Data Protection Act and rules (when finally issued). Such a regulatory framework will help address the concerns of all the stakeholders and national security.

The OTT rules must also expressly recognise the various categories of OTTs (as discussed in response to Question 2). Where required, OTT rules must make specific provisions according to the nature and extent of services of each category of the OTT service providers.

2. Communication based OTT registration or authorization under the license regime

While standalone OTT rules would be the best alternative to regulate OTTs. However, we as a country continue to cope with the aftermath of the license raj. The general mindset in our country continues to remain that if a business model/ technology service is not licensed or authorized or registered by the government, it is illegal.

Therefore, due to such a perception, the government should also chart out a two- phase road map for the Communication based OTTs.

In the *first phase*, the Communication based OTTs could be brought under the umbrella of the Unified License regime through a specific authorization (this will also resonate with the idea of one nation and one license for all services) or the Communication based OTTs could be subject to a specific registration requirement under the proposed OTT rules; and, in the second phase such a requirement (license/ registration) should be done away with, thereby not requiring the OTTs to obtain any license or registration (The proposed OTT rules should be drafted in a manner that they are able to address all reasonably foreseeable concerns of the businesses).

The *second phase* will also help add to the 'ease of doing business in India' objective.

Scope of services under the OTT Authorization or Registration

Convergence of voice, video and text etc. - Communication based OTTs should be allowed to use any technology to provide any kind of communication service (voice, video, text), internet telephony, messaging, data services, digital streaming, broadcasting (IPTV) or any new age communication based service which may be developed in the times to come.

All the Communication based OTTs should be required to submit a service description at the time of obtaining the authorization/ registration, and as and when such an OTT intends to expand the scope of its services it should be required to intimate DoT with the same.

In the event a Communication based OTT plans to introduce a new technology service (which is not listed in the OTT authorization/ registration guidelines) it should be required to obtain the consent of DoT which should not be unreasonably withheld. In the event the regulator decides to withhold such a permission; it should be required to give a well - reasoned order based on principles of natural justice in a time bound manner. TEC (along with a committee of leading technology and telecom academicians in India) should act as a facilitator in the decision making process of DoT with respect to any new technology service that a communication based OTT proposes to introduce in India.

II. Doing away with the OSP registration

The scope and purpose of the OSP registration should be objectively evaluated under the new OTT Regulatory Framework. As per our understanding, such an objective evaluation will lead to the removal of the requirement of obtaining an OSP registration.

However, if after such an evaluation, a decision is taken to continue the OSP registration, it is absolutely pertinent that the scope of services that fall within the ambit of the registration requirement should be stated clearly. Currently the OSP registration terms and conditions define an OSP as an Application Service Provider. Further, the OSP terms and conditions define Application Services as "tele-banking, tele-medicine, tele-education, tele-trading, e-commerce, call centre, network operation center and other IT Enabled Services, by using Telecom Resources provided by Authorised Telecom Service Providers". However, the terms and conditions do not define IT Enabled Services. This results in a lot of uncertainly in terms

of the scope and applicability of the OSP registration requirement. Also, the structure of the OSP terms and conditions is not conducive to innovation in the enterprise communication space and is standing in the way of building future ready use cases for the enterprises that are being unnecessarily subjected to the requirement of obtaining the OSP registration.

III. Strategy to take India to the world stage - Encouraging Start Ups in the Telecom and Technology Space by creating a specific zone - "e-space"

In order to ensure that India remains relevant and in-step in the digital communication space, it is important that the regulations should provide for a special telecom and technology innovation space ("e-space"). Start-ups and other current players in the space that register in the e-space should be permitted to experiment and create network technologies and services in a licensing free environment. The proposed e-space will especially benefit start-ups by creating a level playing field for them and give them an environment that is conducive for discovery, innovation and growth. The e-space will also address concerns around security and transparency. While all the start- ups may not turn into profitable business ventures. However, each start – up's experience will contribute towards making India a thought leader in the technology and telecom space. The residents of the e-space could also be asked to contribute towards development projects for India.

As stated earlier, this e-space will help India to enter the global telecom and technology space. The e-space will also help provide data and information that will help India develop a future ready regulatory framework. Given the extent of talent that India has, the e-spaces would become the most sought-after destination for foreign investment and foreign collaboration on research and development. This will also help fix the brain drain problem. The regulations around creation of e-spaces could also provide for a e-space fund which will receive grants from the government and could be used to help the start-ups sustain themselves.

Q.8 In case, any regulation or licensing condition is suggested to made applicable to OTT service providers in response to Q.7 then whether such regulations or licensing conditions are required to be reviewed or redefined in context of OTT services or these may be applicable in the present form itself? If review or redefinition is suggested then propose or suggest the changes needed with justifications.

Response by Scholars in the Mountains:

The OTT rules should include consumer grievance response and redressal mechanisms equivalent to those to which the licensed TSPs are subjected to under the license. This will be in line with the objective of the Department of Telecommunication (DOT) i.e., to protect the interests of the consumers.

Q.9 Are there any other issues that you would like to bring to the attention of the Authority?

Response by Scholars in the Mountains:

In our view, following points are required to create a business-friendly environment in the communication space:

(i) **Constitution of committee to clarify and respond: *:*** We accept that given the pace at which we witness technological evolution, it is understandable that the rules, regulations and the license/ authorization/ registration terms and conditions that govern, and will govern the OTT communication will remain work in progress. In the telecommunication regulatory space, over the years we have observed that the new rules and regulations go through several rounds of amendments. Further, experience with several new acts, rules and regulations across different sectors has shown repeatedly that between the letters of law there will be unanswered questions and the need for timely clarifications. Further, one of the greatest hurdles in the communication space has been the lack of regulatory clarity.

Therefore, we suggest that it is critical that the decision-making authorities such as DoT and TRAI create a committee which provides clear written clarifications and responses on regulatory issues and concerns impacting businesses in a time bound manner. Such written clarifications and responses should be straight forward and clear. The creation of such a committee will help India become a thought leader in the digital space.

(ii) **Updation of principal acts, rules and regulations:**

For a business to be compliant, it is essential that they should have easy access to the laws that govern their space. Unfortunately, we see that in the communication space, access is not easy. Something as critical as the telegraph rules are not available in the public domain. Further, we observed that the principal regulations, terms and conditions and rules available on the Department of Telecommunication (DoT) and TRAI website do not reflect the amendments that are made through subsequent notifications.

Therefore, we note that the businesses will be benefitted greatly if all amendments are transposed into the principal regulations, rules and license terms and conditions. The requirement for updating the amendments into a single document is critical. This will help the businesses become more compliant. The consolidated FDI circular can be considered as an example for creating such culture of keeping updated regulations, rules and acts available to the public.

(iii) **Provision of a downloadable consolidated handbook of laws:**

Further, in this digital era it is also reasonable to expect that a consolidated handbook of the laws governing the digital space should also be available for download free of cost on the website of DOT/TRAI. This handbook will include all specifications, annexures and other documents referred to in the acts, rules, regulations, license terms and conditions etc. (such as the TEC specifications) for the players in the communication space.