

**Asia Internet Coalition (AIC) Feedback on Consultation Paper on The Terms and
Conditions of Network Authorisations to be Granted Under the Telecommunications Act,
2023**

26 November 2024

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Dear Sir,

At the outset, on behalf of [Asia Internet Coalition](#) (“AIC”), we would like to thank the Telecom Regulatory Authority of India (“TRAI”) for providing us with the opportunity to submit our comments on the Consultation Paper on The Terms and Conditions of Network Authorisations to be Granted Under the Telecommunications Act, 2023 dated 22nd October 2024 (“CP”).

AIC extends its appreciation to the TRAI for undertaking an analysis of and seeking stakeholder inputs on the issues related to terms and conditions of network authorisations to be granted under Section 3(1)(b) of the Telecommunications Act, 2023.

We believe that this CP has come at an opportune moment given India’s globally unparalleled digital revolution and the constant and continual endeavor of the Government of India to improve ease of doing business, specially in the telecommunications sector which is the backbone of the technological revolution that India is inspiring across the world. We would like to applaud the TRAI for taking such proactive steps in this regard.

Considering the above, we would like to provide our inputs on the Consultation Paper, in the **Annexure below**. We look forward to engaging in further discussion with the TRAI on the same.

Thank you,

Sincerely,

Secretariat

Asia Internet Coalition

Annexure

<p>QUESTIONS</p>	<p>Q5. <i>Whether there is a need to make any changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the Content Delivery Network (CDN) authorisation, as recommended by TRAI on 18.11.2022? If yes, what changes should be made in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the CDN authorisation? Kindly provide a detailed response with justification.</i></p> <p>Q26. <i>Whether there is a need to change/ modify any of the financial conditions of the IXP and CDN authorisations from those recommended by TRAI on 18.11.2022? If yes, please provide a detailed response with justification(s).</i></p>
<p>COMMENTS ON Q.5 and Q.26</p>	<p>CDNs should be completely kept outside the scope of authorisations or any form of registration as CDNs are fundamentally different from telecommunication providers.</p> <p>CDNs require:</p> <ul style="list-style-type: none"> (i) appliances for computing and storage; and (ii) connectivity. <p>Depending on whether they build their own connectivity or not, CDNs are either a customer of telecommunications providers (for internet access) or a private network interconnecting with telecommunications providers (through transit and peering). As CDNs are not telecommunications providers, they should not be regulated as telecommunications providers or subject to any licensing requirements.</p> <p>CDNs do not require a license to operate in other countries and TRAI should not set this precedent. Conditioning internet interconnection (peering) to an authorization or registration should not be introduced as it goes against the commonly accepted and global practice of unregulated peering. The internet has thrived, including in India, under an "innovation without permission" approach and efficient, localized exchange of traffic through the growth of CDNs. Introducing a mandatory registration regime would stifle this virtuous circle. Moreover, IXPs utilize CDNs to manage local traffic exchange effectively.</p>

	<p>However, if interconnection in India were restricted to only registered networks, it would impede the ability to serve traffic locally resulting in a shift in traffic internationally. Introducing a registration process will also cause delays in both launching new services and expanding existing ones, thereby adversely impacting the ability of CDN providers to respond to evolving market needs.</p> <p>Also, CDNs contribute to the development of the internet by improving performance, enhancing the ability to handle traffic loads and reduced bandwidth, load balancing and security. In the 2022 TRAI Consultation Paper on the 'Regulatory Framework for Promoting Data Economy through Establishment of Data Centres, Content Delivery Networks, and Interconnect Exchanges in India', TRAI recognised that India's CDN market will witness a growth of over 700 % between 2018 – 2027 (i.e., from USD 435.2 million in the year 2018 to USD 2846.8 million by 2027).</p> <p>Lastly, the CDN market is competitive. Many companies offer commercial CDN services: some of them have been established for decades while others are relatively newer companies. Some companies have successfully implemented their own CDN solutions. Evidence of high competition is that the prices for CDN services are constantly dropping. In the absence of any market failure, TRAI should not stifle CDN growth in India by introducing excessive regulations and barriers to entry.</p>
<p>QUESTIONS</p>	<p><i>Q17. Whether there is a need to introduce certain new authorisations (other than the authorisations discussed above) to establish, operate, maintain or expand telecommunication networks under Section 3(1)(b) of the Telecommunications Act, 2023? If yes, - (a) For which type of telecommunication networks, new authorisations should be introduced? (b) What should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of such authorisations? Kindly provide a detailed response with justifications.</i></p> <p><i>Q20. What provisions should be included in the terms and conditions of various network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023 to improve the ease of doing business? Kindly provide a detailed response with justifications.</i></p> <p><i>Q34. In case it is proposed for introducing certain new authorisations to establish, operate, maintain or expand telecommunication networks under Section 3(1)(b) of the Telecommunications Act, 2023, what should be the</i></p>

	<p><i>respective financial conditions for each of such authorisation(s)? Please provide a detailed response with justifications in respect of each network authorisation, separately.</i></p>
<p>COMMENTS ON Q. 17, Q. 20 and Q. 34</p>	<p>Traditionally, licensed telecom service providers (TSPs) have been providing and managing networks for digital enterprises. However, rising consumer demands for 'feature enhancement' and 'real-time service delivery' have now necessitated leading-edge network architecture and quality, uninterrupted availability, control and scalability of networks of these digital enterprises for delivering uniform and world-class digital services to consumers worldwide.</p> <p>As a result, digital enterprises (former customers) are now pursuing ownership, control, and management of these backend systems and private networks. Regulators in major economies such as Singapore, Japan, United States of America (USA) and the European Union (EU) have already recognised the immense potential for industry growth and investments and have accordingly provided a flexible regulatory approach allowing exemptions for digital enterprises to establish and manage their Private Enterprise Networks. This has in turn helped these major economies in competing in the global race of becoming digital hubs.</p> <p>The flexible regulatory approach includes exemptions or relaxed regulations for global enterprises establishing and managing Private Enterprise Networks solely for internal use (not for public end users). Singapore, in particular, exemplifies a flexible regulatory environment that has attracted subsea cable investments. It offers a private use licensing exemption for entities not seeking to operate their infrastructure as TSPs but for their own exclusive use.</p> <p>India's unified licensed framework (now being revamped by the Government of India in light of the 2023 Act) prevents non-licensed Digital Enterprises from owning or managing Private Enterprise Networks. This limitation hinders 'ease of doing business' (EODB) for Digital Enterprises in India, deters foreign direct investment (FDI) into India's digital sector and delays proactive adoption of state-of-the-art technology for consumer services and. There is clear evidence that this is holding India back with investment and innovation:</p> <p style="padding-left: 40px;">India's total data centre capacity in 2024 is estimated at only ~730 MWs. The standard benchmark for proportionate data centre capacity is population per MW. On this basis India has exponentially less data centre</p>

capacity than other destinations competing for data centre investment. India has less than one fifth of the proportionate data centre capacity available in competing destinations for data centre investment across the Asia Pacific, one sixth of the capacity available in rival destinations across EMEA, and only ~3% of the proportionate data centre capacity available in North America:

In addition, there is no separate set of 'eased-out' license conditions applicable for TSPs providing Private Enterprise Networks to Digital Enterprises. On the contrary, the current unified license requires such TSPs to comply with various technical and security conditions and limitations meant for public networks. This is generally argued to indicate that all license conditions apply to TSPs equally for public as well as private networks, even though several technical, security and other conditions in the license may not be commensurate with the 'captive, non-public' nature of Private Enterprise Networks. Moreover, such conditions applicable to 'public networks' are increasingly becoming incongruent with technological advancements and prevent India from benefiting from best-in-class technology, network architecture and business models in the digital sector. Additionally, the costs and operational limitations of such conditions ultimately impact services and end users, and investment, innovation and growth of the Indian digital ecosystem.

Given the challenges above, and in order to promote EODB, making India a digital hub, and promoting exponential infusion of FDI into the IT and telecom sector in India, TRAI may kindly consider recommending an exemption from 'authorization' under the Telecommunications Act 2023, allowing Digital Enterprises incorporated in India to own, establish and manage Private Enterprise Networks.

Importantly, the Telecom Act 2023 clearly anticipates that some services could and should be excluded from the telecom authorisation approach as follows as we therefore recommend that this approach be taken for such services:

s3 (3) provides that "(3) The Central Government, if it determines that it is necessary in the public interest so to do, may provide exemption from the requirement of authorisation under sub-section (1), in such manner as may be prescribed." • and

s56 2 (b) provides that "The Central Government may, by notification, and subject to the condition of previous publication, make rules not inconsistent with the provisions of this Act, to carry out the purposes of this Act... (2) In particular and without prejudice to the generality of the

	<p>foregoing power, such rules may provide for all or any of the following matters, namely... (b) the manner of exemption for providing authorisation under sub-section (3) of section 3."</p>
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