



COAI Response on the Consultation Paper on Definition of International Traffic

We thank the Authority for providing us with the opportunity to share the response to this Consultation Paper on the Definition of International Traffic.

1. At the outset, we submit that the para 37 and 38 of Annexure I of the UL agreement provide the definition of ILD network and ILD service. These definitions are sufficient and hence there is no need to define international traffic.
2. With regard to International SMSs, TSPs have already defined the same under the Code of Practices (COP) and this definition is already submitted with TRAI and is deemed acceptable and should be persisted with.
3. We understand that there have been some deliberations on this subject among some Entities (referred to in the Consultation Paper) who are sending messages from outside India, our member TSPs and TRAI. It is pertinent to note that these Entities have not shared the complete details of their Call flow diagram for routing of the SMS. Based on these previous discussions, it was determined that these messages originated from servers outside of India and as a result, they do not fall under the category of domestic telecommunication traffic under the current regulatory framework.
4. These A2P SMSs (sent by the abovementioned entities) are delivered to users in India through SMS aggregators and telemarketers without revealing the origin of the SMS. The application or server located outside of India is the one actually sending the SMSs, which has the complete authority over recipients, timing and content of each message. However, to disguise this SMS as domestic SMS, these entities use the mediation server/media gateway installed in India. The Indian mirror/mediation server/media gateway serves only as a conduit and not as the source of SMS. **In such a method, the message is originated from the server located outside India and is transmitted to the mediation server/media gateway located in India in some form such as IP through the Public Internet or Private leased line. The mediation server/media gateway then just acts as a media converter and pushes these SMSs to the PSTN users in India (through domestic Pols) by using the links provided to telemarketers/SMS aggregators for routing domestic A2P SMSs.**
5. Since the actual transmission of messages takes place between the SMS server located outside India to the user located in India, such SMSs continue to be international messages and cannot be considered as domestic SMSs. The mirroring/mediation (media gateway) setup's **sole purpose is to prevent having to pay the international SMS termination charge and the mediation server is deliberately inserted in the call flow with the purpose of avoiding the payment of the international termination charge.**
6. Such routing is illegitimate and bypasses the license route i.e. ILDO, to deliver an international SMS to an end-subscriber (PSTN break-out). It is also one among a few other illegitimate routes exploited by a handful of entities, and this also pose serious security risks as such traffic bypasses any lawful monitoring mechanism.



7. It is thus clear that there is absolutely no need for an intervention that seeks to redefine an accepted telecom service/traffic type that is both well-functioning as well as efficient and relevant.
8. It must be clearly understood that any SMS/traffic whose (source) point of origination (whether through server/cloud/aggregating point) is from outside India, and which ultimately breaks out on the Indian PSTN (subscriber), can only be delivered through the legitimate route i.e. via the ILDO route and the similar licensing condition that ILDO route is legitimate applies to any SMS to be sent outside India. **The underlying principle is that the brain and intelligence (i.e. originating server/application etc.) sit out of India and hence it cannot be in any way considered as domestic traffic even if this traffic is said to be mirrored in India or delivered to Indian aggregators.**
9. We submit that the above method is the same as the Grey calling route in which the calls originated by users outside India are routed to India through Public Internet and an illegal exchange (media gateway) in India is used to route these calls to PSTN users by using the SIM Boxes. This is exactly what happens in the SMS routing method used by the abovementioned entities.
10. Since the grey route for voice was considered a threat to national security as well as leakage of TSPs and Government revenues, similarly, the grey route for SMS also deserves to be seen from the same prism, for both scenarios i.e. SMS originated from international servers and terminating on Indian customer as well as SMS originated from Indian server and terminating on International customers.
11. **Thus, SMSs from such entities, if treated as domestic SMSs, will create an SMS Grey route and will result in situations similar to Grey ILD calls with zero traceability and violations of the Indian regulatory framework. Additionally, it also poses a significant security threat to the country. It will also lead to a loss of revenue for the terminating access service providers as well as the National Exchequer.**
12. We reiterate that the SMS method employed using a mediation server by these organisations facilitates the transmission of information between two users located in different countries. It is pertinent to note that the information is transmitted from the application server (first user) located outside of India to the recipient (second user) located within India. Thus, this particular service is deemed as an international telecommunication service. It is imperative to reiterate that categorising this SMS traffic as domestic solely based on its transmission through an Indian mediation server/media gateway, which is deliberately inserted in the call flow to circumvent licensing regime, is highly inadmissible and erroneous in nature. It is essential to categorise these SMS as international traffic since these SMS originated from servers located outside of India.
13. Further, due to advancements in technologies, economic activities being more and more digital and the proliferation of applications over mobile, consumer usage is becoming digital wherein SMS on an MSISDN becomes a prominent and trusted way of authentication and information/communication. Certain entities may not have any interest in bringing their platforms/servers to India and would attempt to bypass local licensing requirements of routing International SMS through ILDO by wrongly raising issues of



ambiguities or consumer concerns, till such licensing requirements are clearly upheld and amply clarified leaving no chances of ambiguities.

14. **With such advancement in technologies and further evolutions expected sooner than later, any attempt to hard code the definition of international SMS (or traffic) in license, will always be limited and generic in nature and will not serve the purpose. It will still give way to certain entities for using proxy servers to bypass the robust ILD route and claim International SMS as Domestic SMS.**
15. **We believe that the actual need is not to define what international traffic but, it is to clarify that SMS originated from International servers/entities and masqueraded as domestic SMS by introducing a proxy server in India (just like it was the case of grey voice calls), would classify as International message as per existing licensing norms. There is no ambiguity regarding the treatment of international traffic or what constitutes international traffic and a robust licensing and regulatory framework exists in India for decades, and the basis on which grey voice calls have been dealt with legally for years now.**
16. Domestic traffic is also clearly defined, and TRAI in para 1.15 of the consultation paper rightly acknowledges the same. There are also no examples that we could understand wherein Regulators or licensors have explicitly defined, domestic and international SMS traffic, and/or where India's licensing and regulatory regime and TSP practices have deviated from internationally accepted ways of working.
17. Lastly, there is absolutely no consumer concern or harm, nor any competition concern w.r.t this market. If at all there is an issue, it is about such entities using a non-licensed route to access and deliver international SMSs to Indian end-users. Therefore, after taking all this into account, it would be fair to say that industry-accepted definitions be allowed to continue and even the commercial aspect for international SMSs should continue to be left to market forces as also adopted in International markets.

It is with this background in mind that we provide our response to questions raised by the TRAI in the paper.

Q.1. Whether it would be appropriate to define the term 'international traffic' in the telecommunication service license agreements as 'the international long-distance traffic originating in one country and terminating in another country, where one of the countries is India'? Kindly provide your response with a detailed justification.

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Q.2. In case your response to the Q1 is in the negative, kindly provide an alternative definition along with a detailed justification.

COAI response:

- a. No. There is no need to introduce any other definition for "International Traffic" since all the TSPs in the industry are already following an agreed, logical, evolved, mature and license-compliant definition.



- b. Further, para 37 and 38 of Annexure I of the UL agreement provide the definition of ILD network and ILD service. These definitions are sufficient and hence there is no need to define international traffic.
- c. In contrast, the term "international" in nomenclature and common parlance denotes participation in, engagement with, or coverage of more than one nation, as well as transcending national boundaries.
- d. With regard to SMS, it is also pertinent to note that, in order to define any message (SMS) as domestic or international, the location of the person initiating the message becomes the prime source for classifying the same. Similarly, for A2P messages, the origin or location of the application server should be considered for classifying such SMS as whether 'domestic' or 'international'.
- e. Over the years, TSPs have been able to identify international and domestic traffic, based on the regulatory and licensing framework, without any ambiguity. Furthermore, kindly refer to the detailed explanation given by us in the preamble, the SMSs sent by the entities, whose concerns have led to the issuance of this CP, are actually originated from their servers outside India and thus, are international SMSs/traffic.
- f. In light of the above, we believe that **there is no need to define International SMSs or traffic and the current definitions should be continued with.**
- g. We reiterate that there is absolutely no need for an intervention that seeks to redefine an accepted telecom service/traffic type that is both well-functioning as well as efficient and relevant. It must be clearly understood that any SMS/traffic whose (source) point of origination (whether through server/cloud/aggregating point) is from outside India, and which ultimately breaks out on the Indian PSTN (subscriber), can only be delivered through the legitimate route i.e. via the ILDO route and the similar licensing condition that ILDO route is legitimate applies to any SMS to be sent outside India.
- h. The underlying principle is **that the brain and intelligence (i.e. originating server/application etc.) sit out of India and hence it cannot be in any way considered as domestic traffic even if this traffic is said to be mirrored in India or delivered to Indian aggregators.**
- i. While we do not agree on defining international SMS/ traffic, nevertheless, if TRAI recommends defining International SMS/traffic, then the proposed definition **should consider the location of the users between whom communication takes place and should address the primary issue of routing of SMS originated outside India through mediation servers in India, used by some entities to evade/circumvent the licencing and regulatory framework.**
- j. Considering the above, we submit that **International SMS needs to be specified as per TSP CoPs (which has been agreed and accepted industry-wide) or alternatively as below:**

"International SMS is a short message service enabling text message to be transferred and/or originated by any data, application, system, servers, handset device or terminal



device etc. which influences, generates, control, facilitate or enable the generation, dissemination, transmission or transition of messages through a communication network process, including partial process, from a location outside the territory of India or a text message originated by handset device or terminal device located in India to such application, system, servers etc. located outside India prompted in response to a short message by such data, application, system, servers etc. Any mediation server solution in India shall not impact and/or change the nature of such International SMS to national/domestic SMS”.

- k. This definition is all-encompassing and compliant with the licensing and regulatory framework duly adopted by the industry. It addresses the issues of grey routes exploited by certain entities to route their international SMSs via the domestic route.
- l. Further, due to advancements in technologies, economic activities being more and more digital and the proliferation of applications over mobile, consumer usage is becoming digital wherein SMS on an MSISDN becomes a prominent and trusted way of authentication and information/communication. Certain entities may not have any interest in bringing their platforms/servers to India and would attempt to bypass local licensing requirements of routing International SMS through ILDO by wrongly raising issues of ambiguities or consumer concerns, till such licensing requirements are clearly upheld and amply clarified leaving no chances of ambiguities.
- m. With such advancement in technologies and further evolutions expected sooner than later, any attempt to hard code the definition of international SMS (or traffic) in license, will always be limited and generic in nature and will not serve the purpose. It will still give way to certain entities for using proxy servers to bypass the robust ILD route and claim International SMS as Domestic SMS.
- n. If such actions /flow of international SMSs are held as domestic, then such entities will be prompted to trigger even more of their SMSs from outside the country and make them look like domestic SMSs. All of this will, in turn, encourage the grey market for SMSs in the country and could lead to security concerns, even a loss to the exchequer. It is thus important that such practices are prohibited for the reasons that Unsolicited SMSs via international routes remain under check and charged appropriately, and, licensing compliance for routing of such SMSs via ILDO keeps a check on all security aspects.
- o. Accordingly, we recommend:
 - i. There is no need to reinvent the wheel by reintroducing a definition for ‘International SMS’ when there is already a perfectly acceptable, all-encompassing one followed and agreed upon definition within the industry.
 - ii. **We believe that the actual need is not to define what international traffic but, it is to declare that, SMS being originated by International servers/entities and masqueraded as domestic SMS by introducing a proxy server in India (just like it was the case of grey voice calls), classifies as International message as per existing licensing norms.**



- iii. The definition of “International SMSs” as agreed upon and followed by the TSPs should be the one that is endorsed. There is no ambiguity regarding the treatment of international traffic or what constitutes international traffic and a robust licensing and regulatory framework exists in India for decades, and the basis on which grey voice calls have been dealt with legally for years now
- iv. Instead of defining the term “International traffic”, the Authority should clarify that SMS originating outside India (P2P or A2P through servers) and terminating on Indian consumers, would have to be treated as international incoming traffic and has to be brought inside India through ILD authorization only. Similarly, SMS originating from India (P2P or A2P through servers) and terminating on International numbers, would have to be treated as international outgoing traffic and has to be carried outside India through ILD authorization only. Compliance should be enforced, and all entities must be made to route their international messages including A2P via an ILDO -both for termination in India and outside India. Such messages that do not come via the ILDO route should be declared violative of the License condition and be mandated to be routed via an ILDO only.
- v. The determination of prices of international SMS should continue to be under forbearance within the prerogative of the Telecom operator as per the global practice.
- vi. However, if TRAI considers defining it to be important, we suggest that the definition of International SMS as defined by TSPs in their Code of Practice can be used to build a similar definition for International traffic.

Q.3. Since the terms ‘Inter circle traffic’ and ‘Intra circle traffic’ are already defined in the telecommunication service license agreements, whether there is still a need to define the term ‘domestic traffic’ in the telecommunication service license agreements? If yes, what should be the definition of the term ‘domestic traffic’? Kindly provide your response with a detailed justification.

COAI response:

- a. No, there is no need to define ‘domestic traffic’ either. It is already well settled in the telecom industry within India and licensing T&Cs are clear about it.
- b. COAI agrees with the Authority’s assertion in para 1.15 of the extant CP that the term ‘Domestic SMS’, which is a type of ‘domestic traffic’, requires no specific definition as both the components of domestic traffic (viz. ‘inter-circle traffic’, and ‘intra-circle traffic’) are already defined in the Unified License.
- c. The terminologies “Inter circle traffic” and Intra circle traffic” would jointly constitute domestic traffic. The current telecom network architecture in India has been well established by all service providers based on the terminologies defined in the respective license and authorizations.
- d. Service Providers use the current terminologies in establishing their network and customer servicing. Any such new definition if created in a way that is at variance from what is



understood and practiced at present, will unnecessarily confuse the market and lead to interpretational challenges not only from internally within the industry but also in a market with a one billion customer base, who are otherwise very clear about these aspects.

- e. We don't see any new/ additional benefit that would arise from defining (an already clear) "domestic traffic" hence there is no requirement to just define the said term.

Q.4. Whether there are any other issues/ suggestions relevant to the subject? If yes, the same may kindly be furnished with proper justification.

COAI response:

No Comments.
