

Reliance Jio Infocomm Limited's Comments on TRAI's Consultation Paper Dated 23rd October 2019 on "Cloud Services"

1. At the outset we welcome Authority's initiative to solicit feedback and comments on Consultation Paper on "Cloud Services" ('CP'). India is undergoing a significant digital transformation and cloud services are playing a key role in the same. We believe that this CP comes at opportune time to develop an appropriate balanced regulatory framework for cloud services in India which is not just supportive of the ongoing growth in the sector; but also protects the interest of cloud service users, whether big or small.
2. We are supportive of a light touch regulation for cloud services and the implementation of the same through industry bodies, as envisaged by the Authority. Although we would like to stress that there should not be any overlapping regulatory oversight from multiple ministries and associated regulatory bodies. It should also be ensured that the regulatory framework implemented by the Government through appropriate ministry, after enough consultation with industry players, should be uniformly accepted by all the Government departments and there not should any separate requirement of adherence to additional regulations for supply of services by the Cloud Service Providers ('CSPs').
3. Please find below our response to specific queries raised in the CP:

Q1. Whether there should be single industry body or multiple industry bodies of cloud service providers which may be registered with DoT? If multiple industry bodies, whether there should be any cap on their number? Should the industry bodies be registered based on the category or type of CSPs? Can a CSP be a member of multiple industry bodies? Please suggest with justification.

1. We recommend that multiple industry bodies of CSPs should be allowed to be registered with DoT but there should be a cap on the number of such industry bodies. There should also be a minimum number of members required for any industry body to get itself registered with DoT. These dual conditions will ensure that the sector is represented by a limited number of bodies and each such body represents a sizeable number of players.
2. In addition, we suggest that certain minimum criteria should also be defined for the CSPs, viz. user base, revenue, etc. and only upon meeting those conditions should they be allowed to become member of any registered industry body. This will ensure that the registered industry bodies represent CSPs which are active and significant in size. Smaller CSPs may also be allowed to become member of the industry bodies but their

membership should not be counted for meeting the eligibility criteria for registration of the industry bodies with DoT.

3. Industry bodies should be allowed to form Special Interest Groups ('SIGs') so that they can focus on any specific category/type of cloud service, if required, to serve consumers better in the segment. This will allow such industry bodies to pay enough attention to diverse areas while pursuing the broader collective vision of the members. For instance, SIG may be created for CSPs operating in Financial Services domain to focus on high security requirements of this sector. We suggest that there is no need to create/register industry bodies based on the category/type of the CSPs and the required goal can be achieved through formation of SIGs instead.
4. Multiple industry bodies will serve the consumers better as these industry bodies may have differentiated interest areas depending on the mix of type of member companies (based on deployment model, service model, end use scenario, etc.). But with this diversity, it also becomes important to ensure that the industry bodies have broadly the same underlying principles and are not conflicting with each other while serving the same consumer interest. To implement the same, Authority should prescribe a model Code of Conduct ('CoC') with provisions which should be mandatorily included in the respective CoC of every industry body (as already provided for in earlier recommendations of Authority on Cloud Services).
5. A CSP should be allowed to be member of multiple industry bodies if it complies with CoC of the respective industry bodies. Although it should be ensured that all such memberships of the concerned CSP is mentioned together on its own website as well as website of respective industry bodies for the convenience of consumer. This will create awareness and help the consumers select a CSP suitable as per their requirement.

Q2. What should be the eligibility criteria for an Industry body of CSPs to register with DoT? What is the list of documents that should be required to be submitted as proof of eligibility? What obligations should be cast upon the Industry Bod(y)(ies) after registration with DoT? Please suggest with justification.

1. We suggest that following should comprise the eligibility criteria for an industry body, among others:
 - a. Industry body should be a not for profit body that assists end users (businesses and individuals) in selecting an appropriate CSP, through enough information disclosure (transparency) by the member CSPs while also protecting consumer interest by ensuring that member CSPs abide by the directions issued by DoT or Authority from time to time.

- b. Industry body should have a non-discriminatory policy for its members to create an environment which supports growth of all the CSPs, independent of their size.
 - c. Vision and Mission statement of the industry body should be aligned with the requirement of self-regulation of member CSPs. It will set the roadmap for the industry body and its members.
 - d. Industry body should have a threshold number of members and each member should meet the above defined minimum criteria before the industry body can get itself registered with DoT.
2. Before the industry body gets registered with the DoT, it should present the relevant documents which establish it as a non-profit body having a governance structure which adopts a non-discriminatory policy towards its members along with the details of its members, among others. Hence the documents should include at least the following:
 - a. Proof of registration under Companies Act or Societies Registration Act, classifying it as a non-profit body.
 - b. Details of the governing structure of the industry body along with list of members of the governing body. For the benefit of member CSPs and end users and to maintain uniformity while interacting with multiple industry members, DoT/Authority should prescribe a minimum governance structure which should be mandatorily adopted by all the industry bodies.
 - c. Contact details of the industry body to which all the communication may be addressed.
 - d. Name, contact and other eligibility parameter details of the member CSPs.
 - e. Vision and mission statement of the industry body; duly accepted by all the member CSPs.
 - f. Resolution of the governing body confirming the core policy principles for handling members; non-discrimination being one of them.
 - g. CoC containing all the mandatory provisions as prescribed by Authority in its earlier recommendation on Cloud Services.
3. Industry bodies should maintain and submit a periodic report on developments during the period including update on details confirming its compliance with the registration requirement, as defined by DoT from time to time. This will eliminate any need for renewal after shorter periods and registration done by industry bodies can be valid for longer period, eg: twenty year as in case of license for telecom service providers. Additionally, Authority may audit records being maintained by the industry body anytime during the year to validate compliance with registration requirements. If industry body is found to be non-compliant with the registration requirements as mentioned above, DoT/Authority should develop a suitable penalty provision. Any action should be undertaken only after the industry body has been given enough opportunity to explain its action.

4. Industry bodies, upon registration, should abide by the policies, directions and rules as prescribed by DoT from time to time for such registered bodies. It should also ensure that its members comply with the CoC adopted by the body. Report on such monitoring and compliance should be submitted to DoT/Authority on regular basis. Industry body should also ensure that the member CSPs should provide DoT/Authority with required information as and when asked for. Policies of industry body should include provisions to penalize any CSP member found to be non-compliant with the CoC or any of the directions issued by DoT/Authority. Such penalty should be proportional to the level of non-compliance.
5. We suggest and support development of Code of Practice (CoP) by the industry bodies; member CSPs upon meeting all the conditions of CoP can be described as certified CSPs by the industry bodies. The purpose of the CoP for CSPs is to improve customer experience by enhancing transparency and developing trust while doing business with the CSPs. It will also help CSPs in trying and achieving operational best practices. CoP certified CSPs will provide better quality service by adherence to the guidelines and best practices set out in the CoP. The CoP will be a comprehensive framework that enables CSPs to benchmark their operations against standards developed by their peers and will act as a checklist for best practices while providing cloud services.
6. Industry bodies, upon registration, should be required to maintain updated list of its registered and certified members on its website. It should also ensure a minimum and consistent level of transparency from its members about their businesses and operational practices; all of which should be available on its website. Such steps will enable end users to make an informed choice while selecting suitable CSP.
7. We recommend that industry bodies should also be promoted to seamless framework for migration across platforms to ensure customer ease of migration.

Q3. What may be the threshold value of parameters such as the volume of business, revenue, number of customers etc. or combination of these for a CSP to mandatorily become member of a registered Industry body? Please suggest with justification.

1. We recommend that certain minimum criteria should be defined, exceeding which the CSP should be defined as a significant CSP. It should be mandatory for any significant CSP to be member of at least one registered industry body. This will protect consumer interest by ensuring that all the significant CSPs in the country abide by the CoC of the industry body of which it is the member. It will also allow DoT/Authority to continue with the light touch approach for the sector.

2. Smaller CSPs, which do not meet the criteria to be defined as significant CSP, may also be allowed to become member of registered industry body, in case they intend to benefit from the industry body certification and acquire more end users. Although in that case, they should be required to abide by the CoC of the industry body applicable for the members.
3. Threshold criteria can include volume of business and revenue of the CSP; exceeding either of which should classify the CSP as significant CSP. Volume of business can be defined by volume of data processed or any other relevant parameter as defined by the Authority. We recommend that while calculating the volume of business or revenue of the CSP, respective values of its subsidiary CSP companies, franchise and service partners should also be aggregated to arrive at the parameter value for the CSP.

Q4. Whether entry fee, recurring fee etc, need to be uniform for all members or these may be on the basis of type or category of members? How such type or category can be defined? Should such fee be prescribed by DoT or be left to be decided by the Industry body? Please suggest with justification.

1. Being not for profit body, the industry body should collect fees (entry and recurring) from its members to meet only its operational expenses. Maintaining the light touch approach, Authority should leave the determination of fees to the governing body of the industry body. The fees should cover the actual expense of the industry body and it's annual accounts can be used for determination of the same. To ensure that the fees remain within a reasonable range and doesn't keep on increasing based on increase in scope of activities of the industry body, DoT/Authority may consider putting a cap on such membership fee which should be uniformly applicable to all the industry bodies registered or planning to get registered with DoT.
2. We suggest that the fee structure should be tiered allowing for lower fee for smaller companies when compared with significant CSP members. Industry body should also provide required guidance and support to smaller companies in their effort to abide by obligations in CoC. We suggest that within the significant CSPs, there should not be membership category allowing differential authority/power to CSPs based on their revenue, type, category, etc. Also, there should not be any fee structure based on any such membership category.
3. Industry bodies may also earn revenue from the certification process whenever a member CSP applies to abide by the CoP to become a certified member. These revenues may be used to support the smaller companies and eventually reduce the membership fee requirement from other members as well.

Q5. What should be the guiding principles for governance by an industry body? How would these principles/ organization structure ensure fair, reasonable and non-discriminatory functioning of body? Should structure of Governance be prescribed by DoT or should it left for the industry body to decide? How can the industry body achieve the desired deliverables efficiently and effectively? Please suggest with justification.

1. The governance structure of the industry body should ensure that the CSP members adhere to DoT/Authority guidelines/directions and CoC provisions while ensuring that the industry body has a transparent and non-discriminatory policy towards its members.
2. Additionally, a minimum required level of uniformity in governance structure across industry bodies registered with DoT will ensure convenience and ease of doing business for both, the CSP members and end consumers, while dealing with multiple such industry bodies. Hence, we suggest that DoT/Authority may prescribe a minimum governance structure which should be mandatorily adopted by all the registered industry bodies. Such minimum governance structure may be in line with the governance requirement for a non-profit organization as per Companies Act and Societies Registration Act.
3. Industry body can have a dual governance structure; a Governing Board and an Executive Committee. Governing Board should be an elected body and function as apex committee for the industry board. It should be responsible for administration and management of the industry body with its members holding key portfolios related to the same, viz. President/Chairman, Secretary, Treasurer, etc. Governing Board will be responsible for reviewing and approving any change in CoC and CoP. Any SIG formed by the industry body should be chaired by member of Governing Board with a cap on number of SIGs which can be headed by an individual member.
4. Executive Committee should be the team responsible for day to day execution of strategy/guidelines formed by the Governing Board. It can have a larger membership than the Governing Body to ensure execution related to various working groups formed as per strategy/guideline of Governing Board. Executive Committee will be responsible for continuous monitoring that the CSP members are compliant with CoC, CoP and other guidelines/directions issued by DoT/Authority.
5. Governing Board can have a varied representation mix from members, end user forum/organization, independent sector advisor and sectoral legal experts; to help develop wider perspective while developing CoC, CoP and consider interest of various stakeholders in the cloud services sector. Executive Committee can have representation only from the industry body.

Q6. What policy may be adopted for initial formation of industry body for cloud services? Please suggest with justification.

1. To kickstart the process of formation of an industry body with the objective of self-regulation of the CSPs, Government may identify and recognize an existing not for profit industry body and approve its memorandum and bye-laws. Such recognized industry body should invite major CSPs, including those identified by DoT/Authority, to become founding members of the industry body. The industry body should be given a defined period to develop a CoC, CoP and other processes/documents required for registration with DoT and carrying out its day to day operations. Continuing with the light touch approach, DoT/Authority should let the industry players become the members and manage the governance of the concerned industry body. Funding of the administrative and monitoring expenditure for the industry body may be managed by the founding members themselves till additional members join and a membership structure is put in place.
2. In parallel, DoT/Authority should also allow formation of new industry bodies by independent CSPs, in line with principle of existence of multiple industry bodies. It would be up to industry body and its members to develop a suitable CoC as well as develop a framework for membership. The onus of meeting the registration requirement including the policy of non-discrimination towards its members will lie with the founding members of such an industry body in the initial stage.

Q7. Any other issue which is relevant to this subject? Please suggest with justification.

None