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Sent: Friday, August 4, 2023 4:31:43 PM

Subject: VOICE Comments on "Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services"

To,

Shri Akhilesh Kumar Trivedi, Advisor (Networks, Spectrum and Licensing),

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SUBJECT: VOICE Comments on "Consultation Paper on Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services"

Voluntary Organisation in Interest of Consumer Education (VOICE) is a consumer protection group set up by teachers and students of Delhi University in 1983.

We at VOICE as part of our advocacy initiative in Telecommunications continuously raise different issues with Policy makers impacting consumers based on the knowledge through Consumer feedbacks.

As a registered CAG we are in the forefront of providing inputs to the Government, Regulatory authorities, consumers and business community at large related to consumer concerns and interests.

In continuation of this effort on behalf of consumers we at VOICE have following COMMENTS on "Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services"

A. Issues Related to Regulatory Mechanism for OTT Communication Services

Q1: What should be the definition of over-the-top (OTT) services? Kindly provide a detailed response with justification.

"an application accessed and delivered over the public Internet that may be a direct technical/ functional substitute for traditional international telecommunication services" This application or service is created, provided and serviced by an independent entity which can be independent of the public network on which this OTT is riding.

Q2: What could be the reasonable classification of OTT services based on an intelligible differentia? Please provide a list of the categories of OTT services based on such classification. Kindly provide a detailed response with justification.

OTT can be classified as –

a. Interactive OTT services like calling, gaming etc.

Interactive OTT can be further identified as -

- OTT Communication Services directly competing with ISPs like calling, messaging etc.
- Others not competing with ISPs like gaming, surveys etc.

b. Passive OTT services like audios, videos, text

c. Hybrid combining one or more of above aspects.

Q3: What should be the definition of OTT communication services? Please provide a list of features which may comprehensively characterize OTT communication services. Kindly provide a detailed response with justification.

Agree with the definition provided.

Q4: What could be the reasonable classification of OTT communication services based on an intelligible differentia? Please provide a list of the categories of OTT communication services based on such classification. Kindly provide a detailed response with justification.

Any voice or text communication- both passive and interactive and from which commercial benefits are derived by the provider (direct like subscription or indirect like advertisement revenue) should be considered as OTT communication.

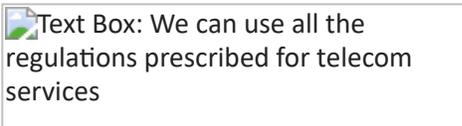
Q5. Please provide your views on the following aspects of OTT communication services vis-à-vis licensed telecommunication services in India:

(a) **regulatory aspects;** *OTT also need to be regulated within the principals of-*

- *similar services should have similar regulations*
- *undue economic regulatory burden should not be imposed with discrimination*
- *in the larger public interest, rampant negativity being spread by unregulated OTT must be controlled thr' suitable regulation*

(b) **economic aspects;** *The economic advantages enjoyed by OTT at the cost of ISPs/TSPs (almost like a parasite) needs to be equitably shared with ISPs/TSPs preferably with mutual understanding between ISPs/TSPs and OTT providers. TRAI or a designated agency needs to draw a framework within which these revenue sharing or licensing agreements can happen.*

(c) **security aspects;**

Text Box: We can use all the regulations prescribed for telecom services

(d) **privacy aspects;**

(e) **safety aspects;**

(f) **quality of service aspects;**

(g) **consumer grievance redressal aspects; and**

(h) **any other aspects (please specify).** Kindly provide a detailed response with justification.

Q6. Whether there is a need to bring OTT communication services under any licensing/regulatory framework to promote a competitive landscape for the benefit of consumers and service innovation? Kindly provide a detailed response with justification.

Yes, OTT communication services should be brought under licensing/regulatory framework to ensure-

- A level playing field between ISPs/TSPs and OTT players
- Consumer protection aspects
- Healthy competitive business environment

Q7. In case it is decided to bring OTT communication services under a licensing/ regulatory framework, what licensing/ regulatory framework(s) would be appropriate for the various classes of OTT communication services as envisaged in the question number 4 above? Specifically, what should be the provisions in the licensing/ regulatory framework(s) for OTT Communication services in respect of the following aspects:

(a) **lawful interception;**

(b) **privacy and security;**

(c) **emergency services;**

(d) **unsolicited commercial communication;**

(e) **customer verification;**

(f) **quality of service;**

(g) **consumer grievance redressal;**

(h) **eligibility conditions;**

(i) **financial conditions (such as application processing fee, entry fee, license fee, bank guarantees etc.); and**

(j) **any other aspects (please specify).**

Kindly provide a detailed response in respect of each class of OTT communication services with justification.

 Text Box:
Generally all the framework applicable to telecom and cable TV which are time-tested and have served the consumers and

Q8. Whether there is a need for a collaborative framework between OTT communication service providers and the licensed telecommunication service providers? If yes, what should be the provisions of such a collaborative framework? Kindly provide a detailed response with justification.

Entirely agree with the ITU recommendations. Only additional requirement is a robust framework to be provided by the Govt./regulator defining obligations/responsibilities of both parties towards prevailing laws, consumers and to each other.

Q9. What could be the potential challenges arising out of the collaborative framework between OTT communication service providers and the licensed telecommunication service providers? How will it impact the aspects of net neutrality, consumer access and consumer choice etc.? What measures can be taken to address such challenges? Kindly provide a detailed response with justification.

Potential challenges may be-

- Divergence of interests of rival parties (similar to what was faced in case of Cable TV)
- Trans-national interests as OTT have global sourcing
- Data security implications as consumer data may be

stored outside national borders

- Clash of national regulation vs trans-national entity's regulations leading to enforcement issues
- Protecting small entities creating OTT vs large corporations

B. Issues Related to Selective Banning of OTT Services

Q10. What are the technical challenges in selective banning of specific OTT services and websites in specific regions of the country for a specific period? Please elaborate your response and suggest technical solutions to mitigate the challenges.

Unable to provide response to technical issues.

Q11. Whether there is a need to put in place a regulatory framework for selective banning of OTT services under the Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017 or any other law, in force? Please provide a detailed response with justification.

Yes, there is always a need for a regulatory framework for selective banning of OTT services to maintain public order and communal harmony (if technically feasible). But if we are unable to find a objective solution (in my view it will be more subjective than objective) it better be avoided.

Q12. In case it is decided to put in place a regulatory framework for selective banning of OTT services in the country, -

(a) Which class(es) of OTT services should be covered under selective banning of OTT services? Please provide a detailed response with justification and illustrations.

(b) What should be the provisions and mechanism for such a regulatory framework? Kindly provide a detailed response with justification.

Q13. Whether there is a need to selectively ban specific websites apart from OTT services to meet the purposes? If yes, which class(es) of websites should be included for this purpose? Kindly provide a detailed response with justification.

Q14. Are there any other relevant issues or suggestions related to regulatory mechanism for OTT communication services, and selective banning of OTT services? Please provide a detailed explanation and justification for any such concerns or suggestions.

Suggestion:

1. We may create a regulation for sub-licensing (or use any other name) of OTT communication services by ISPs/TSPs under strict supervision of say DoT.

This sub-licensing will also take care of all commercial aspects between these entities including revenue sharing etc.

2. All other OTTs to be directly registered with DoT or any other designated authority before publishing their content.

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VOICE / 04/08/2023

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