

Collective Representation by Consumer Organisations to the Telecom Regulatory Authority of India regarding the proposed regulation of Over-the-top Services

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Shri Dr. P. D. Vaghela,
Chairman,
Telecom Regulatory Authority of India (TRAI)
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg (Old Minto Road)
New Delhi, 110 002

Subject: Collective consumer representation on proposed regulatory framework for Over-the-top (OTT) Services

Dear Sir,

We are writing this joint letter with regard to the proposed regulatory framework for Over-the-top (OTT) Services as laid out by Telecom Regulatory Authority of India (TRAI) in the Consultation Paper on “*Regulatory Mechanism for Over-The-Top (OTT) Communication Services, and Selective Banning of OTT Services*”.

Any regulatory change, if proposed or implemented, must be beneficial to the public at large. In the sense that it must foster competition, innovation, economic growth and increase consumer choice, accessibility, and quality of services. We are concerned that there are several potentially adverse implications, affecting the consumers, of the proposed regulation of OTT services, which need to be examined, explored and understood. To understand these potential implications, we have looked at other jurisdictions, which adopted or considered such regulatory framework, have had inter-se discussions, and drawn upon our experiences of similar approaches across sectors. These potential adverse effects are presented below:

1. Impact on end consumers: There is significant penetration and wide usage of OTT communication services in India. Of the userbase, a large share has come from rural areas and smaller towns. Consequently, any regulation must cater to nurturing this vibrant sector, acknowledging its vast potential to benefit the public.

Among the many risks of the proposed regulation and the mandated network fees/cost-sharing framework between OTT players and telcos, one significant risk is differential pricing for different sets of consumers, which can impair consumer choice for the desired service. Moreover, there is significant risk of increased cost for consumers. The consumers will face double whammy as they might need to pay the TSPs for the broadband access and to the OTT providers for access to content. Moreover, international example shows that there is possibility of lower quality of services from the OTT providers and increased latency of telecom services. There is also well anticipated risk of increased data prices, which are currently one of the lowest

in India. Concerns of internet fragmentation and threat to net-neutrality due to such regulation also exist.

2. Impact on Small Businesses and start-ups: There is a multitude of local and regional OTT content, which are provided by small and medium sized service providers. The small OTT providers will be disadvantaged if the TSPs will receive a network fee proportional to the internet traffic generated by OTT players. This is because TSPs will not have an incentive to make the network available to the small OTT service providers.

These have a significant presence, in terms of users, in certain regions of India. Burdensome regulations and mandatory revenue-sharing mechanism will hinder smaller OTT providers, income generation and employment opportunities they create, and have an indirect adverse impact on the consumers. This could lead to denial or services for consumers, deterioration in quality of services, unavailability of customised/ local content, and challenges with grievance redress.

3. Impact on the Telecom ecosystem: The proposed regulations will stifle innovations in India's telecom sector and creator economy. These additional regulations over the OTT services through proposed means like licensing, would hinder economic growth, and could also have implications for privacy and data protection of consumers. Similarly regulating carriage and content would lead to overregulation and would create regulatory uncertainty in the Indian market. Moreover, TRAI in the paper also proposes selective banning of OTT apps. Herein, it will be important to ensure that there are procedural safeguards, so that principles of natural justice are not violated and due process is followed. If the process, including the appropriate authority to monitor such selective banning is not clearly laid down, it will result in regulatory uncertainty and further overregulation.

In a country like India, the impact of potential regulatory changes could be considerable due to the existing digital divide and the less-than-optimal quality of services. Considering that only 3.74% of the country total internet subscribers are wired internet users, any additional increase in tariffs could substantially undermine India's digital potential.

Having regard to the above, we urge the TRAI to take the concerns of direct and indirect impact upon consumers, into account. Towards this we request TRAI to reconsider the proposed regulations and provide an opportunity to consumer representatives to present their concerns.

This submission is endorsed by the following consumer organisations from India:

S. No.	Name	Location
1.	Consumer Unity & Trust Society	Jaipur, Rajasthan
2.	Bhartiya Manav Kalyan Samiti	Noida, Uttar Pradesh
3.	Consumer Guidance Society	Mumbai, Maharashtra
4.	Consumers & Telephone Subscribers Forum	Patiala, Punjab
5.	Himachal Upbhogkta Sanrakshan Parishad	Shimla, Himanchal Pradesh
6.	Avadh Upbhokta Hit Sanrakshan Samiti	Lucknow, Uttar Pradesh

S. No.	Name	Location
7.	Consumer Research, Education, Action, Training & Empowerment	Paramakudi, Tamil Nadu
8.	Consumer Guild	Lucknow, Uttar Pradesh
9.	Bharat Jyoti	Lucknow, Uttar Pradesh
10.	Consumer Care Society	Bengaluru, Karnataka
11.	Islampur Ramkrishnapally Rural Welfare Society	Islampur, West Bengal

Copy to: - Shri Akhilesh Kumar Trivedi, Advisor (Network, Spectrum & Licensing), TRAI