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**Subject:** FW: Nasscom's Counter Comments on the Consultation Paper - "Encouraging Innovative Technologies, Services, Use cases, and Business Models and through regulatory sandbox in Digital Communication Sector"

To Joint Advisor

Broadband and Policy Analysis  
TRAI

Dear Sir,

Kindly consider our feedback as counter-comments.

Regards,

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**nasscom**

## **Nasscom's Feedback on Telecom Regulatory Authority of India Consultation Paper on Encouraging Innovative Technologies, Services, Use cases, and Business Models and through regulatory sandbox in Digital Communication Sector**

**Shri Sanjeev Kumar Sharma**  
**Advisor (Broadband and Policy Analysis)**  
**Telecom Regulatory Authority of India**  
**August 02, 2023**

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### **SUMMARY OF RECOMMENDATIONS**

#### **Part IV – Essential conditions to be fulfilled by Principal Applicant and Applicant**

- 1. Remove the requirement of offline testing because it can stifle innovation.**
- 2. Provide mechanism/channel of prior consultation to Principal Applicants/Applicants.**
- 3. Bring clarity and specificity in assessment of eligibility criteria through a list of positive and negative indicators.**
- 4. Permit foreign entities to apply to the regulatory sandbox.**

#### **Part VII – Application and Approval Process.**

- 5. Clearly specify that TRAI/DOT “shall” communicate to Principal Applicant/Applicant an opportunity to eliminate shortcomings (like, supply more information) in the application, if any, and specify timeline to eliminate such shortcomings.**

## **INTRODUCTION**

Nasscom welcomes the opportunity to submit our response to the Consultation Paper on “*Encouraging Innovative Technologies, Services, Use cases, and Business Models and through regulatory sandbox in Digital Communication Sector*” (**Consultation Paper/Paper/CP**) released by TRAI in June 2023<sup>i</sup>.

While we broadly align with the Draft Framework, in this feedback, we highlight certain areas of improvement which can further strengthen its functioning and bring more certainty to prospective applicants.

In the next section – Detailed Feedback, we have listed our suggestions on the following parts/provisions of the Draft Framework with the aim to make it more inclusive and clearer:

**Part IV – Essential conditions to be fulfilled by Principal Applicant and Applicant; &**

**Part VII – Application and Approval Process.**

For designing our suggestions, we have studied the Indian regulatory sandbox frameworks (as listed in the Consultation Paper – **RBI and SEBI**) and in other the countries (as listed in the Consultation Paper – **U.K., Singapore, Australia, Saudi Arabia, Bahrain, and Columbia**).

## DETAILED FEEDBACK

### PART IV - ESSENTIAL CONDITIONS TO BE FULFILLED BY PRINCIPAL APPLICANT AND APPLICANT

#### 1. Remove the requirement of offline testing because it can stifle innovation.

Para V (limited prior testing) of the Draft Framework mandates Principal Applicants/Applicants to share the results of limited offline testing before getting admission into sandbox for testing. By virtue of its nature, a regulatory sandbox is supposed to provide a test bed for ideas, some of which will take time to mature and further those final ideas may get tweaked from what the original idea was. Mandating Principal Applicants/Applicants to have results of limited offline testing first could restrict the process of innovation.

#### 2. Provide mechanism/channel of prior consultation to Principal Applicants/Applicants.

The Consultation Paper rightly acknowledges the need for providing a clear guidance and support for the application process and simplifying the documentation requirements.<sup>ii</sup> However, the Draft Framework does not provide a **formal mechanism to address the inquiries of potential Principal Applicants/Applicants or to provide support in filing the application.** This means that any doubts or queries regarding application process, eligibility criteria, evaluation, or any other related process may remain unanswered. Global experiences suggest that market participants frequently contact the regulator to learn about the application process and eligibility for sandbox testing. These interactions can be utilised by the regulator to learn more about the marketplace and perceptions of the regulatory process.<sup>iii</sup>

#### International practice

[Colombia's Communication Regulatory Sandbox](#)<sup>iv</sup> provides advisory and support activities for those interested in applying to the Regulatory Sandbox, to provide tools and capacities so that they can satisfactorily develop the proposals to be presented. Similarly, in [Japan](#) prior consultation with the regulatory sandbox team is available to get advices and hands-on guidance to plan the project.<sup>v</sup> In Rwanda, the [regulatory sandbox](#) for testing emerging technologies provides tailored guidance and support to any applicant interested in applying to the sandbox.<sup>vi</sup> In the U.K., under the [FCA Regulatory Sandbox](#) regular support sessions are designed to help applicants in completing their application forms.

#### 3. Bring clarity and specificity in assessment of eligibility criteria through a list of positive and negative indicators.

In part IV of the Draft Framework, the Consultation Paper lists some essential conditions required for testing under the Draft Framework (Part IV). These are in the form of obligations on Principal Applicants/ Applicants like, demonstrate genuineness of innovation<sup>vii</sup>, genuine need to test<sup>viii</sup> and identifiable benefits (direct or indirect) to the retail or enterprise customers, etc.<sup>ix</sup>.

However, the Consultation Paper does not provide any criterion or specific parameters basis which these eligibility conditions would be assessed at the time of application stage. Since conformity with the prescribed conditions is a precondition for testing under Sandbox regulations, the same should be clearly and transparently defined. The [European Parliament in its study on regulatory sandboxes in fintech](#) emphasised on the need for clearly defining the eligibility criteria so it becomes transparent, clear, consistent and thereby, minimises the scope

of discretion. The study also acknowledges that certain eligibility conditions, by nature would still leave room for interpretation and the use of discretion.<sup>x</sup>

**We thus suggest that there could be a list of broad positive and negative indicators/parameters basis which the eligibility conditions are to be ascertained. Further, scores and weights of each eligibility criteria can be published in the Draft Framework.**

**International practice**

[Colombia’s Regulatory Sandbox provides](#) selection criteria linked with positive and negative indicators (See, Table 1).<sup>xi</sup>

**Table 1**

<b>Criteria</b>	<b>Fundamental Question</b>	<b>Positive Indicator</b>	<b>Negative Indicator</b>
Innovation	Does the project constitute a significantly different innovation?	<p>The proposal implements state-of-the-art technologies.</p> <p>The proposal includes new ways to use available technology.</p> <p>There are currently no similar commercial offers in the market in which the project will be developed.</p>	<p>There is no real differentiation between the proposal and the commercial offers available in the market.</p> <p>The technologies involved are those available in the market in which the project will be developed and will be used in conventional ways.</p>
Benefit for Consumers	Does the proposed innovation have identifiable benefits for citizens?	<p>The innovation would provide access in rural areas or remote or in those municipalities targeted by public policies.</p> <p>Innovation would promote competition in the sector of communications.</p> <p>The proposal could have a positive effect on the prices or quality of communications services.</p>	<p>The proposal has the potential to generate unwanted effects on competition in communications markets.</p> <p>Innovation could have negative effects on the benefit of citizens.</p> <p>The proposal does not allow the identification of benefits for citizens</p>

[Saudia Arabia’s Emerging Technology Regulatory Sandbox](#) provides a list of positive and negative indicators. For instance, please see **Figure 1** for indicators on how an applicant can ensure technological readiness.<sup>xii</sup>

**Figure 1**

POSITIVE INDICATORS	NEGATIVE INDICATORS
Participant successfully proves that full commercial system is readily available for customers	Participant is only able to demonstrate an intermediate prototype or a pilot prototype
Participant has successfully demonstrated a First-Of-A-Kind commercial system that is complete and qualified	Participant is only able to demonstrate small scale system tested in a laboratory
Participant has successfully demonstrated a system operating near commercial scale (advanced prototype)	Participant is only able to demonstrate basic function or formulate the technological concept

Similarly, the [U.K.’s FCA Regulatory Sandbox follows a similar approach where it provides a list of positive and negative indicators to decide the eligibility criteria.](#) (See **Figure 2**)

**Figure 2**

Criteria	Key questions	Positive indicators	Negative indicators
<b>In scope</b> 	<ul style="list-style-type: none"> <li>Are you doing something that is within our remit?</li> <li>Will your customers be in the UK?</li> </ul>	<ul style="list-style-type: none"> <li>✓ Your innovation is intended for the UK market</li> <li>✓ The relevant activity is regulated by us or may be used by firms we regulate</li> </ul>	<ul style="list-style-type: none"> <li>✗ Your innovation doesn't appear to be intended for use in the UK</li> </ul>
<b>Geniune innovation</b> 	<ul style="list-style-type: none"> <li>Are you doing something that's ground-breaking or significantly different? This could be something completely new, or it could be a new market or a new version of an existing model</li> </ul>	<ul style="list-style-type: none"> <li>✓ Desk research produces few or no comparable examples of innovation in the market</li> <li>✓ Your innovation is a clear step-change in scale</li> </ul>	<ul style="list-style-type: none"> <li>✗ There are numerous examples of similar innovations to yours</li> <li>✗ Your innovations appear to be a superficial variation of an existing model</li> </ul>
<b>Consumer benefit</b> 	<ul style="list-style-type: none"> <li>How does your proposal help consumers (either individuals or businesses)?</li> <li>How is it an improvement on existing services?</li> <li>How will you protect them from any risks your model poses?</li> </ul>	<ul style="list-style-type: none"> <li>✓ Your innovation is likely to lead to a better deal for consumers (eg through lower prices, higher quality, better security etc)</li> <li>✓ You have considered possible consumer risks and how to address them</li> <li>✓ Your innovation will make market entry or compliance with FCA rules easier</li> </ul>	<ul style="list-style-type: none"> <li>✗ Potential detrimental impact on consumers, markets or the financial system</li> <li>✗ Facilitates circumvention of regulatory or fiscal obligations</li> </ul>

**4. Allow foreign entities to apply to the regulatory sandbox.**

Para 7 (i) of the Draft Framework provides that **only Indian entities are eligible** i.e., Principal Applicant/Applicant should be a company incorporated and registered in India.

As per the Draft Framework, **other entities must partner with a Principal Applicant** i.e., a licensed service provider. Therefore, the requirement for such entity to have a company incorporated and registered in India could be restrictive for foreign entities who are willing to partner with a Principal Applicant but does not have a company incorporated and registered in

India. We propose that the regulatory sandbox should be envisaged as a platform which is utilised by innovators across the world. This would not only help India in adopting new technologies but also equip India to set global standards and best practices in the communications. For instance, U.K.'s FCA has adopted a similar model and is promoting global regulatory sandbox aimed at solving common cross-border regulatory problems, through tests.

***FCA considers the following factors:<sup>xiii</sup>***

- *Is your innovation intended for the UK market? And which market segment are you targeting and how?*
- *Will your service or product require FCA authorisation before carrying on the business in the UK?*

Therefore, the Draft Framework should allow a foreign entity to apply through a Principal Applicant i.e., a licensed service provider.

## **PART VII - APPLICATION AND APPROVAL PROCESS**

### **5. Clearly specify that TRAI/DOT “SHALL” communicate to Principal Applicant/Applicant an opportunity to eliminate shortcomings (like, supply more information) in the application, if any, and specify timeline to eliminate such shortcomings.**

As per Part VII, Para (10)(v), DOT/TRAI shall review the application and inform of its potential suitability for a sandbox within 30 working days from the submission of the complete application. Further, DoT/TRAI may **issue appropriate instructions** to the Principal Applicant/ Applicant according to the specific characteristics and risks associated with the proposed product/service/application.

However, at present, the Draft Framework does not explicitly state/clarify whether the Principal Applicant/Applicant **shall be provided an opportunity to eliminate shortcomings in the application**. Perhaps, this would be done in practice, but this should be clearly specified in the Draft Framework to avoid any ambiguity in interpretation.

Therefore, **the purpose for issuing these instructions by TRAI/DOT should afford an opportunity to Principal Applicant/Applicant eliminate the shortcomings in the application, or to supplement the application with more information, if any.**

Further, the Draft Framework must **specify the timeline to eliminate the shortcomings in the application.**

#### **International practice**

The [Saudia Arabia's Emerging Technology Regulatory Sandbox](#) framework clearly states that the sandbox team will check the completeness of the application and **follow up with the applicant in case of queries or missing information**. Further, in case of a low score, the sandbox team either disqualifies the application or asks for **additional information** to strengthen the application.

Similarly, the [National Bank of Slovakia, Operating Rules of the Regulatory Sandbox](#) states that the regulator may call on the applicant to eliminate shortcomings or supplement the application within a reasonable time. If the applicant does not eliminate the shortcomings or does not complete the application within the **specified time limit**, the NBS will notify the applicant that

the application has been rejected and the applicant will be entitled to submit another application no earlier than 6 months from the date of delivery of such notification.

**For any queries related to this submission, please contact:**

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**End Notes:**

<sup>i</sup> See, Telecom Regulatory Authority of India, '[Encouraging Innovative Technologies, Services, Use Cases, and Business Models through Regulatory Sandbox in Digital Communication Sector](#)' (June 2023).

<sup>ii</sup> See, Para 3.12(i) – Simplified Application Process.

<sup>iii</sup> See, CGAP, [How to Build A Regulatory Sandbox](#), WORLD BANK, 16 (2020).

<sup>iv</sup> See, [Article 12.1.1.4](#):

*"When the Communications Regulation Commission (CRC) considers it pertinent, it may provide support to those interested in submitting proposals to the Sandbox Regulatory. During this stage, dissemination, training, advisory and support activities will be carried out for those interested in structuring projects and applying to the Regulatory Sandbox, to provide tools and capacities so that they can satisfactorily develop the proposals to be presented."*

<sup>v</sup> Further, Cabinet Secretariat acts as a single point of contact and consults and coordinates with relevant ministries to support preparation of application.

<sup>vi</sup> See, Article 8.

<sup>vii</sup> See, Para 7(iii) of the CP.

<sup>viii</sup> See, Para 7(iv) of the CP.

<sup>ix</sup> See, Para 7(vi) of the CP.

<sup>x</sup> See, *Regulatory Sandboxes and Innovation Hubs for FinTech*, EUROPEAN PARLIAMENT, page 33 (2020), [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652752/IPOL\\_STU\(2020\)652752\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/652752/IPOL_STU(2020)652752_EN.pdf).

<sup>xi</sup> Article 12.1.1.7 of [The Communications Commission Session of the Communications Regulation Commission](#). May 2020. (This is a google translated copy, the original document is in Spanish language.)

<sup>xii</sup> See, section 4.2 of the [CST Emerging Technology Regulatory Sandbox – Application Guidelines](#), May 2022.

<sup>xiii</sup> See, [FCA Regulatory Sandbox Application Guide](#), Meeting our eligibility criteria, page 6.