

SUBJECT:- Comments of Prasar Bharati over the TRAI Consultation Paper dt 12.11.2018 on “Regulatory Framework for Over-The-Top (OTT) communication Services.

BACKGROUND:- Prasar Bharati is the country’s Public Service Broadcaster and is the dominant service provider for both radio and television services. The consultation paper primarily pertains to Telecom Services providers, however since the definition of Over-The-Top (OTT) suggested in the consultation paper covers various aspects of broadcasting, accordingly, comments on the issues for consultation are provided from a broadcaster’s perspective as follows.

Sl.No.	Questions	Answers
1	Which service(s) when provided by the OTT service provider(s) should be regarded as the same or similar to service(s) being provided by the TSPs. Please list all such OTT services with descriptions comparing it with services being provided by TSPs.	As per definition of OTT mentioned in the consultation paper, OTT Apps providing video/ audio content (Para 2.1.2) and the OTT could be providing video and broadcast services (Para 2.1.3). These include live, delayed, as well as on-demand delivery of radio and television services and are comparable with the services being provided by licenced Broadcasters. TRAI Consultation paper should also include Broadcasters along with TSPs.
2	Should substitutability be treated as the primary criterion for comparison of regulatory or licensing norms applicable to TSPs and OTT service providers? Please suggest factors or aspects, with justification, which should be considered to identify and discover the extent of substitutability.	Definition of substitutability as mentioned in the paper should not only be limited to substituting TSPs but also include Broadcasters. To elaborate, many OTT service providers are offering services as mentioned above, which substitute conventional broadcast services. Secondly, the norm should not only be substitutability, but also should include the type of service provider.
3	Whether regulatory or licensing imbalance is impacting infusion of investments in the telecom networks especially required from time to time for network capacity expansions and technology upgradations? If yes, how OTT service providers may participate in infusing investment in the telecom networks? Please justify your answer with reasons.	No Comments.
4	Would inter-operability among OTT services and also inter-operatbilty of their services with TSPs services promote competition and benefit the users? What measures may be taken, if any, to promote such competition? Please justify your answer with reasons.	No Comments.

5	Are there issues related to lawful interception of OTT communication that are required to be resolved in the interest of national security or any other safeguards that need to be instituted? Should the responsibilities of OTT service providers and TSPs be separated? Please provide suggestions with justifications.	While the Broadcasters are bound by various regulatory and licensing norms, the OTT service providers offering similar broadcast services through internet do not have any responsibility, liability or accountability. Certain broadcasts could also be against national security.
6	Should there be provisions for emergency services to be made accessible via OTT platforms at par with the requirements prescribed for telecom service providers? Please provide suggestions with justification.	While the question pertains to Telecom Services, however in case of emergencies, such as natural disasters, calamities etc., use of OTT platforms for broadcasting and emergency services could be useful. To use the OTT services for broadcasting during emergencies, synergy has to be developed between various stakeholders.
7	Is there an issue of non-level playing field between OTT providers and TSPs providing same or similar services? In case the answer is yes, should any regulatory or licensing norms be made applicable to OTT service providers to make it a level playing field? List all such regulation(s) and license(s), with justifications.	As mentioned in reply to Q.5 above, there certainly is an issue of non-level playing field between OTT providers and licensed Broadcasters, which needs to be addressed. The OTT providers should adhere to certain basic norms e.g. any OTT carrying live TV channels should mandatorily carry all the Doordarshan Channels. Similarly, OTT service providers offering News, should be registered with Ministry of I&B.
8	In case, any regulation or licensing condition is suggested to be made applicable to OTT service providers in response to Q.7 then whether such regulations or licensing conditions are required to be reviewed or redefined in context of OTT services or these may be applicable in the present form itself? If review or redefinition is suggested then propose or suggest the changes needed with justifications.	As mentioned in reply to Q.5 and Q. 7 above, the OTT providers offering broadcast services through internet, such as live, delayed or on-demand streaming of audio or video content, should also comply to some basic regulatory and legal conditions, which may be a subset of the overall conditions applicable on broadcasters, which needs to be addressed.
9	Are there any other issues that you would like to bring to the attention of the Authority?	a. While the consultation paper is specifically focusing on Telecom Services, it is suggested that concerns of broadcasters should also be taken into view and the recommendations may be framed accordingly.

		<p>b. Audience measurement system is established for linear television. When the same TV channels are carried live on OTT platforms through internet, there is a need to devise means for proper audience measurement.</p> <p>c. When some OTT player offer live TV services, then it should be mandated to carry all Doordarshan channels, as in the case of other distribution platforms like DTH/ MSO/Cable Operators.</p> <p>d. Various OTT players are now providing news. This is not regulated. There have been lots of incidents of fake news and mischievous reporting. This needs to be checked, and such News Channels over OTT, should be registered with Ministry of I&B.</p>
--	--	---