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To: "Akhilesh Kumar Trivedi" <advmn@traf.gov.in>

Sent: Friday, August 18, 2023 1:36:55 PM

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

Respected Shri Akhilesh Kumar Trivedi ,

Please note that i request TRAI to keep my email and any other personal details if any, confidential and not published on the site.

Please find my comments to the consultation paper as below:-

To,

Shri Akhilesh Kumar Trivedi,

Advisor (Networks, Spectrum and Licensing),

TRAI

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

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

As submitted in previous consultations to TRAI I would like to again stress that OTT is a misnomer or a wrong term to use. All the applications that use the internet are internet applications and the wrong nomenclature of clubbing it as “**Over The Top**” has been coined by TSPs to push the usual trope that these are applications piggybacking albeit having a free ride over their networks which is far from true.

Many applications on the internet have enabled chat for various purposes and hence classifying apps is a very slippery proposition as then how would say Netflix be classified if it is providing a chat/voice over the internet service to its customers? LinkedIn allows me to chat with other linkedin members similar to whatsapp. So what should LinkedIn be classified as? The list is long and this shows how a very thin line exists between what is communication and what is not and if TRAI plans to regulate based on, if its communication app or not, then how and what all apps and sites will it regulate. Will a linkedin need to take a license from TRAI to provide chat on its platform? Will a Netflix need a license from TRAI to allow call or chat over the internet on its platform?

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.

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.

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.

It's difficult to classify internet applications into communication or non-communication services as mentioned in the answer to Question 1. If hypothetically TRAI plans to classify apps then there will arise the following questions

- a. If LinkedIn has a chat or voice over internet to talk among its subscribers or members will LinkedIn be classified as a communications app?
- b. If Facebook has videos playing can it be classified as a media app?

TRAI had in its previous consultations posed this question many times and time and again we have answered that it should maintain a hands-off approach on the internet applications so that it can prosper in an open market. It will be a very thin line to decide what category to put an application in as the internet is really vibrant and it will take a lot of resources

for TRAI to each time decide which app is what and most of the time the decision will be arbitrary and quite often to the detriment of the consumers in india.

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

- (a) regulatory aspects;
- (b) economic aspects;
- (c) security aspects;
- (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.

Regulatory Aspect: Internet Applications(OTTs) are not same or similar as TSPs. OTTs are in the application layer while TSPs are in the network layer. TSPs have access to the infrastructure,Numbering resources and interconnects and that is why the regulations come into play for them which is not relevant in the case of OTTS functioning on the application layer.Apart from this OTT apps are already being regulated under the IT act which will be replaced by the digital India act.So why does TRAI want to introduce an extra layer of regulation for something that is already being regulated under the laws of the land? Regulation is usually used by incumbents to prevent competition from new entrants. Regulation is an exclusionary approach and it reduces market competition from that perspective. It might reduce competition to a few significant players. The open competition environment that we have in case of the internet, will clearly get impacted if there is licensing that comes in. And larger players like WhatsApp or Skype will probably be able to sign up, but not others. If Sharechat, a very successful messaging and social media business from India, had to get a license to enter the market before they got funding, they wouldn't have been able to even launch. So there is an impact on innovation that licensing brings in at least in an open market scenario.

Economic aspects:This can be looked at from the economics for the TSPs and to the end subscriber.First of all from the side of the telcos its very well known that these apps are the single reason for the heavy data consumption by consumers due to which they are paying more for data and this is profitable to the telcos.For quite some time the business has been shifting from voice to data as is evident from the fact that calls are now free across all providers in india.The TSPs that complain to the regulator about cannibilization have a different story to tell in their shareholder meetings where they say that the heavy data consumption is indeed driving up profits for them.Some losses at TSPs have been happening not due to migration of services from voice to data but due to cut throat competition brought to the market by the introduction of JIO and this already will cease the way ahead as the telecom market in india now has just Airtel and JIO as the big 2 with Vodafone trailing behind due to issues unrelated to cannabilization.The apps also aren't having a free ride.The indian telecom user is paying for the data which enables him/her to use these apps over the internet.Also these OTTs are also investing in CDNs etc and is infact complementing to the whole ecosystem.

Now looking at it from the consumer side,had TRAI not brought in strict network neutrality regulation for which it was lauded internationally as well,Jio would instead have priced its apps at lesser cost than the rest and that wouldn't have brought in the competition thereby lowering prices for the general indian consumer.1GB data which was being sold for an average 250Rs is now down to around Rs5/Gb.Due to this the indian society has leapfrogged from 2G to 4G and now 5G bypassing the wired internet connections.We are perhaps the only country in the world to boast of more wireless internet users than wired subscribers.All this was only possible due to the strict net neutrality regulations that made TSPs to introduce cheaper internet rather than pricing their own in house apps competitively over other apps thereby driving consumers into a walled garden.Strong net neutrality regulation has thus ensured that an average indian consumer pays less for data then what his counterpart in other countries pay and this infact is contributing to the Digital india vision of the current government.

Security And Privacy And Safety aspects: On the security front there are many variables to consider.First of all the OTTs are already being governed under the IT act and hence introducing new regulations over and above that is just plain duplication and wastage of resources at TRAI that can be put to better uses.

Secondly the users who are using TSPs to access these apps are already validated using KYC to get the connection. Does TRAI want to introduce KYC for apps again to just ensure that they too have more regulatory burden to pull them down to the level of the TSPs for just the sake of pleasing them?

Thirdly if lawful interception is the need then it can already be done under existing laws. However if TRAI wants to introduce regulation in order to break encryption then this makes communication over these apps riskier for Indian citizens as no app can introduce a backdoor that only works for agencies and not for criminals. If there is a backdoor and encryption is removed then everyone who knows can read the communication and it's risky. The ability to remain anonymous on the internet has its pros and cons like any other service/product. However, this anonymity ensures protection and privacy on the internet to less privileged people and/or women by safeguarding their privacy. In trying to weed out the bad faith actors the govt and regulator is going overboard by broadly classifying that the identity of every person should be verified. This in turn is a breach of privacy and works on the assumption that everyone's a criminal on the Indian internet space.

Quality of service aspects: The quality of online apps depends mainly on the quality of the internet it's being used on. TRAI already has regulation to determine the QoS for TSPs and that takes care of this.

If an app in itself has low quality then competition on the internet ensures that the user can very easily switch and move over to other competing apps and hence market forces take care of this.

Consumer grievance redressal aspects: As mentioned in the above point, if quality decreases then the abundance of competing apps on the internet ensures that the customer is not on the weaker end of the deal. He/she can always switch apps and this competition has ensured that apps consistently update their offerings to the consumers in terms of security and features.

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.

- Internet applications whether it be media or communication based has only grown over the years exponentially and has provided a lot of options to the average Indian telecom user over the years without any licensing or regulatory intervention.
- Introducing licensing thereby making it mandatory for each and every internet app to get a license to operate in India would not only splinter the internet but introduce "license raj" on the internet similar to the ones imposed on private businesses in India pre 1991. The license raj of yesteryears had negatively affected the growth of business, competition and innovation in this country as it increased market entry costs and increased red tape resulting in delays. The license raj instead of boosting native businesses killed the variety/richness of products in the market due to lack of competition and the inability of fresh/new ideas to enter the market due to stringent license conditions whereas at the same time other economies/countries were getting better and quality products at competitive prices.
- The richness of internet is because anyone with a new or great idea can very quickly make it available to the general public. If each such person has to figure out the licenses and pay heed to various regulatory compliances then this will prove as a detriment, thereby discouraging him/her from introducing this application/website. This will only make the Indian internet poorer and prove as a spanner in the ambition of the prime minister's Digital India project. Hence the old license raj would introduce the same issues on the Indian internet like the previous one did to our pre 1991 economy.
- TRAI should clearly differentiate between content and carriage and only license the carriage which in this case are the TSPs and ISPs who are gatekeepers of the network and spectrum.

Conclusion: It's better to reduce the regulatory burden on telcos which will further help them to use money and resources effectively to bolster the telecommunication scenario in India rather than introducing more regulations on OTTs thereby introducing costs (which will inevitably be passed on to the Indian consumer) and stifle competition.

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.

Lawful interception and privacy and security: OTTs are already being governed under the IT act and hence introducing new regulations over and above that is just plain duplication and wastage of resources at TRAI that can be put to better uses. However if TRAI wants to introduce regulation in order to break encryption then this makes communication over these apps riskier for indian citizens as no app can introduce a backdoor that only works for agencies and not for criminals. If there is a backdoor and encryption is removed then everyone who knows can read the communication and it is risky. The ability to remain anonymous on the internet has its pros and cons like any other service/product. However, this anonymity ensures protection and privacy on the internet to less privileged people and/or women by safeguarding their privacy. In trying to weed out the bad faith actors the govt and regulator is going overboard by broadly classifying that the identity of every person should be verified. This in turn is a breach of privacy and works on the assumption that everyone is a criminal on the Indian internet space. Also no app will agree to totally revamp their whole architecture that in turn impacts the privacy and security of users just for the Indian market but find it more easier to quit the Indian market overall than lose its reputation in overseas markets. This will in turn ensure that Indians have only access to some less innovative questionable apps that will not only be worse but also put its users at privacy and security risks due to the backdoors available. **TRAI is trying to use a hammer to kill a fly.**

Emergency services: I don't see the relevance of TRAI trying to bring in licensing to ensure usage of these apps in emergency. I think in time of emergency I would rather make a quick phone call than send an sms or try to do a whatsapp call. If the mobile service itself isn't available due to network issues etc then even the internet will be unusable and hence doesn't make any sense at all.

However as seen during COVID we know that what these OTTs can do is just compliment the mobile services by allowing groups of people to manage and divert resources in times of need but it nowhere replaces the TSPs in this case.

Unsolicited commercial communication: Though this is a pain area but it should be noted that repeated efforts from TRAI over the years to even ban these on mobile networks hasn't been successful due to many reasons and hence its success in this case is really questionable. Apart from this I have received more such calls on my mobile with full DND enabled than on whatsapp. Also even if such message come over whatsapp I have the option to block them.

The rest of the questions posed here have already been answered in the previous ones.

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.

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.

I would like to answer both of these together as they seem to have an overlap. A collaborative framework means that the OTTs need to pay network usage fee or enter some sort of agreement with the TSPs to use their pipes. This is a blatant violation of the Net Neutrality principles that TRAI itself had upheld over the years and in subsequent consultations related to Net Neutrality.

There is a business, political and consumer side to any such collaborative framework as the scales are heavily tipped towards and in favour of the TSPs that own the internet pipes and hence are in effect the gatekeepers to the internet.

Business Aspect: As part of Digital India ambitions India wants to project itself as the leader in innovation in the digital space. If any kind of revenue sharing mechanism as touted by telcos is brought then bigger internet application say a WhatsApp, Facebook etc will have the money and power to enter into agreements with the telcos thereby getting preferential treatment by the telcos. However smaller budding apps which could become the next Facebook or WhatsApp will not be able to enter the market before they get funding for licensing and other regulatory issues. This in turn will make them not enter the Indian market thereby making the Indian internet less competitive and obsolete like the license raj did pre 1991 where new innovations and better technology didn't reach the Indian consumers due to cumbersome licenses thereby driving up prices for substandard products in the Indian market. Any local grown entrepreneur who has a good idea will find it difficult to navigate the licensing and regulatory hurdle to get to the market in time thereby making his product dead before arrival. This will only in the long term kill competition and make it harder for new business to come into the Indian market. We will no more be an innovator and fall back in the international digital market.

Political aspect: TSPs own the network and hence they function as the sole gatekeepers to the internet. The powers they hold over this pipe is enormous and providing them the means to strike deals will also ensure that the govt in power will be able to stifle political opponents by putting forward its views only by ensuring that the telcos tow their line. The telcos will oblige as they need the govt for their business and would in turn not to antagonise the govt of the day will enter into deals due to prejudice towards a particular app or the company behind the app. This would not bode well for a democratic country like India in the long run.

Consumer Aspect: The consumer will have less choice on what apps he sees on the Indian version of internet because lesser known apps which may be exponentially better than the incumbent ones will not be able to enter the Indian market as it won't have the money power at the beginning to strike deals with telcos. This will make the Indian internet less rich whereas our counterparts in countries with no such regulation will leapfrog ahead. Take for example, if Facebook in its initial days needed license or had to pay telcos to enter India then Orkut would still have stayed by in India and Facebook would have been a late comer by at least a decade. Added to this the money that the OTTs pay to the telcos will be eventually passed on to the consumer. Hence the telco which serves as the gatekeeper has the power to drive consumers to its lesser priced apps which may be lesser in quality to the competing apps on the market. This not only kills innovation in the long run but competition as well and drag India backwards in Digital innovation by many years.

Any kind of revenue sharing is also a net neutrality issue as the bigger apps who have the money and power will get preferential treatment over the other lesser influential or new apps thereby creating a two tiered internet in India.

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.

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.

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.

The whole idea of banning internet is flawed as has been seen very recently and selective banning just makes it worse. Take for example the Manipur situation that occurred recently. The banning of internet didn't help much to quell

the riots but it effectively helped stop the flow of information thereby allowing miscreants to cause more injustices. In effect the ban instead of helping the citizens allowed the govt machinery to cover up the flaws and injustices that happened during the internet blackout. We must understand that the 1984 sikh riots, the Mumbai riots, the Gujarat riots etc didn't happen due to misinformation via whatsapp or facebook or even the internet. This should help us to understand that there is no substitute for effective law and order and that banning apps only helps the oppressor to control and black out information that doesn't work in favour of the victims. Banning internet across the world has been the chosen weapon of repressive regimes and not of democratic ones. Democracies rather use the same medium effectively to dispel the misinformation campaign rather than blacking out information flow. The advent of internet though with its flaws has acted as a great leveller and has helped communities in terms of need across the world.

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.

TRAI has in the past come up with multiple consultations time and again asking almost the same questions albeit in a different way and it begs the question as to what it tries to achieve by asking the same questions over and over again. TRAI and DOT for which it received accolades worldwide for its strict and progressive net neutrality regulations but however every two to three years it seems to ask the same questions based on pressure from the TSPs.

If the TSPs revenues were indeed getting cannibalized then why do they say otherwise in their earnings call to their shareholders? Also if their revenues are getting hit then what stops them from increasing prices for their plans or data packs?

The same service same rules trope by telcos has been raised since 2015 and each time justifications have been provided by citizens to tell TRAI how false it is. The reasons are as mentioned below: -

1. A user on WhatsApp cannot call a user on Telegram or Google chat as there is no interconnection unlike normal telecom calls where a BSNL user can call and Airtel or any such operator.
2. In case of an internet outage or an internet shutdown at a particular place any user can make a call/SMS over the telecom network but he/she cannot use WhatsApp or any such internet applications to connect.
3. The internet apps being used are the main reason for driving up the insane data usage in India which is set to grow further and in current scenario where customers are paying for a combined package, he/she is already paying for the internet usage on the telco network and hence the apps are not being used for free unlike the usual trope of the telcos.

Internet applications such as WhatsApp, telegram, signal etc do not own spectrum or telecom infrastructure, cannot interconnect and need a telco network to communicate and hence aren't similar in anyway.

TRAI should instead define net neutrality unambiguously and provide recommendations for a framework for setting up a multi stakeholder body with appropriate powers to prevent violations and ensure consumer protection from throttling and or differential pricing.

I would like to close my submission by borrowing from the TRAI chiefs words that "No regulation is the best regulation" in the OTT space

Regards,

Sandeep Pillai

To,

Shri Akhilesh Kumar Trivedi,

Advisor (Networks, Spectrum and Licensing),

TRAI

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Many applications on the internet have enabled chat for various purposes and hence classifying apps is a very slippery proposition as then how would say Netflix be classified if it is providing a chat/voice over the internet service to its customers? LinkedIn allows me to chat with other LinkedIn members similar to WhatsApp. So what should LinkedIn be classified as? The list is long and this shows how a very thin line exists between what is communication and what is not and if TRAI plans to regulate based on, if its communication app or not, then how and what all apps and sites will it regulate. Will a LinkedIn need to take a license from TRAI to provide chat on its platform? Will a Netflix need a license from TRAI to allow call or chat over the internet on its platform?

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TRAI had in its previous consultations posed this question many times and time and again we have answered that it should maintain a hands off approach on the internet applications so that it can prosper in an open market. It will be a very thin line to decide what category to put an application in as the internet is really vibrant and it will take a lot of resources for TRAI to each time decide which app is what and most of the time the decision will be arbitrary and quite often to the detriment of the consumers in india.

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

(a) regulatory aspects;

(b) economic aspects;

(c) security aspects;

(d) privacy aspects;

(e) safety aspects;

(f) quality of service aspects;

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Kindly provide a detailed response with justification.

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Conclusion: Its better to reduce the regulatory burden on telcos which will further help them to use money and resources effectively to bolster the telecommunication scenario in india rather than introducing more regulations on OTTS thereby introducing costs(which will inevitably be passed on to the indian consumer) and stifle competition.

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

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

Lawful interception and privacy and security: OTTs are already being governed under the IT act and hence introducing new regulations over and above that is just plain duplication and wastage of resources at TRAI that can be put to better uses. However if TRAI wants to introduce regulation in order to break encryption then this makes communication over these apps riskier for indian citizens as no app can introduce a backdoor that only works for agencies and not for criminals. If there's a backdoor and encryption is removed then everyone who knows can read the communication and it's risky. The ability to remain anonymous on the internet has its pros and cons like any other service/product. However, this anonymity ensures protection and privacy on the internet to less privileged people and/or women by safeguarding their privacy. In trying to weed out the bad faith actors the govt and regulator is going overboard by broadly classifying that the identity of every person should be verified. This in turn is a breach of privacy and works on the assumption that everyone's a criminal on the Indian internet space. Also no app will agree to totally revamp their whole architecture that in turn impacts the privacy and security of users just for the Indian market but find it more easier to quit the Indian market overall than lose its reputation in overseas markets. This will in turn ensure that Indians have only access to some less innovative questionable apps that will not only be worse but also put its users at privacy and security risks due to the backdoors available. **TRAI is trying to use a hammer to kill a fly.**

Emergency services: I don't see the relevance of TRAI trying to bring in licensing to ensure usage of these apps in emergency. I think in time of emergency I would rather make a quick phone call than send an sms or try to do a whatsapp call. If the mobile service itself isn't available due to network issues etc then even the internet will be unusable and hence doesn't make any sense at all.

However as seen during COVID we know that what these OTTs can do is just compliment the mobile services by allowing groups of people to manage and divert resources in times of need but it nowhere replaces the TSPs in this case.

Unsolicited commercial communication: Though this is a pain area but it should be noted that repeated efforts from TRAI over the years to even ban these on mobile networks hasn't been successful due to many reasons and hence its success in this case is really questionable. Apart from this I have received more such calls on my mobile with full DND enabled than on whatsapp. Also even if such message come over whatsapp I have the option to block them.

The rest of the questions posed here have already been answered in the previous ones.

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.

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.

I would like to answer both of these together as they seem to have an overlap. A collaborative framework means that the OTTs need to pay network usage fee or enter some sort of agreement with the TSPs to use their pipes. This is a blatant violation of the Net Neutrality principles that TRAI itself had upheld over the years and in subsequent consultations related to Net Neutrality.

There is a business, political and consumer side to any such collaborative framework as the scales are heavily tipped towards and in favour of the TSPs that own the internet pipes and hence are in effect the gatekeepers to the internet.

Business Aspect: As part of Digital India ambitions India wants to project itself as the leader in innovation in the digital space. If any kind of revenue sharing mechanism as touted by telcos is brought then bigger internet application say a whatsapp, Facebook etc will have the money and power to enter into agreements with the telcos thereby getting preferential treatment by the telcos. However smaller budding apps which could become the next facebook or whatsapp will not be able to enter the market before they get funding for licensing and other regulatory issues. This in turn will make them not enter the Indian market thereby making the Indian internet less competitive and obsolete like the license raj did pre 1991 where new innovations and better technology didn't reach the Indian consumers due to

cumbersome licenses thereby driving up prices for substandard products in the Indian market. Any local entrepreneur who has a good idea will find it difficult to navigate the licensing and regulatory hurdle to get to the market in time thereby making his product dead before arrival. This will only in the long term kill competition and make it harder for new business to come into the Indian market. We will no longer be an innovator and fall back in the international digital market.

Political aspect: TSPs own the network and hence they function as the sole gatekeepers to the internet. The powers they hold over this pipe is enormous and providing them the means to strike deals will also ensure that the govt in power will be able to stifle political opponents by putting forward its views only by ensuring that the telcos tow their line. The telcos will oblige as they need the govt for their business and would in turn not antagonise the govt of the day will enter into deals due to prejudice towards a particular app or the company behind the app. This would not bode well for a democratic country like India in the long run.

Consumer Aspect: The consumer will have less choice on what apps he sees on the Indian version of internet because lesser known apps which may be exponentially better than the incumbent ones will not be able to enter the Indian market as it won't have the money power at the beginning to strike deals with telcos. This will make the Indian internet less rich whereas our counterparts in countries with no such regulation will leapfrog ahead. Take for example, if Facebook in its initial days needed license or had to pay telcos to enter India then Orkut would still have stayed by in India and Facebook would have been a late comer by at least a decade. Added to this the money that the OTTs pay to the telcos will be eventually passed on to the consumer. Hence the telco which serves as the gatekeeper has the power to drive consumers to its lesser priced apps which may be lesser in quality to the competing apps on the market. This not only kills innovation in the long run but competition as well and drag India backwards in Digital innovation by many years.

Any kind of revenue sharing is also a net neutrality issue as the bigger apps who have the money and power will get preferential treatment over the other lesser influential or new apps thereby creating a two tiered internet in India.

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.

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.

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.

The whole idea of banning internet is flawed as has been seen very recently and selective banning just makes it worse. Take for example the Manipur situation that occurred recently. The banning of internet didn't help much to quell the riots but it effectively helped stop the flow of information thereby allowing miscreants to cause more injustices. In effect the ban instead of helping the citizens allowed the govt machinery to cover up the flaws and injustices that happened during the internet blackout. We must understand that the 1984 Sikh riots, the Mumbai riots, the Gujarat riots etc didn't happen due to misinformation via WhatsApp or Facebook or even the internet. This should help us to understand that there is no substitute for effective law and order and that banning apps only helps the oppressor to control and black out information that doesn't work in favour of the victims. Banning internet across the world has been the chosen weapon of repressive regimes and not of democratic ones. Democracies rather use the same medium effectively to dispel the misinformation campaign rather than blacking out information flow. The advent of internet though with its flaws has acted as a great leveller and has helped communities in terms of need across the world.

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.

TRAI has in the past come up with multiple consultations time and again asking almost the same questions albeit in a different way and it begs the question as to what it tries to achieve by asking the same questions over and over again. TRAI and DOT for which it received accolades worldwide for its strict and progressive net neutrality regulations but however every two to three years it seems to ask the same questions based on pressure from the TSPs.

If the TSPs revenues were indeed getting cannibalized then why do they say otherwise in their earnings call to their shareholders? Also if their revenues are getting hit then what stops them from increasing prices for their plans or data packs?

The same service same rules trope by telcos has been raised since 2015 and each time justifications have been provided by citizens to tell TRAI how false it is. The reasons are as mentioned below: -

1. A user on WhatsApp cannot call a user on Telegram or Google chat as there is no interconnection unlike normal telecom calls where a BSNL user can call and Airtel or any such operator.
2. In case of an internet outage or an internet shutdown at a particular place any user can make a call/SMS over the telecom network but he/she cannot use WhatsApp or any such internet applications to connect.

3. The internet apps being used are the main reason for driving up the insane data usage in India which is set to grow further and in current scenario where customers are paying for a combined package, he/she is already paying for the internet usage on the telco network and hence the apps are not being used for free unlike the usual trope of the telcos.

Internet applications such as WhatsApp, telegram, signal etc do not own spectrum or telecom infrastructure, cannot interconnect and need a telco network to communicate and hence aren't similar in anyway.

TRAI should instead define net neutrality unambiguously and provide recommendations for a framework for setting up a multi stakeholder body with appropriate powers to prevent violations and ensure consumer protection from throttling and or differential pricing.

I would like to close my submission by borrowing from the TRAI chiefs words that “No regulation is the best regulation” in the OTT space