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Subject: Counter Comments on the Consultation Paper : Regulatory Mechanism for Over-The-Top (OTT) Communication Services...

Dear Sir

PFA.

Regards

Sridhar

Rohit

Mansi

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

Counter Comments on the Consultation Paper

**Prepared by V Sridhar, IIIT-Bangalore, Rohit Prasad, Management Development Institute, and
Mansi Kedia, ICRIER**

We would like to thank respondents who have pointed out that our statement on the Netflix law in South Korea imposes a charge on certain large traffic generators as incorrect.

The relevant section of the telecommunications business act dated June 9, 2020, is as follows:

Article 22-7 (Securing Service Stability by Value-Added Telecommunications Business Operators)

“A value-added telecommunications business operator who meets the standards prescribed by Presidential Decree, such as the number of users and the volume of traffic, shall take necessary measures prescribed by Presidential Decree, such as securing the means of service stability and dealing with user requests, in order to provide users with convenient and stable telecommunications services.”

See: https://elaw.klri.re.kr/eng_service/lawView.do?hseq=55920&lang=ENG

We believe that this new insertion into the Korean law would lead to greater infrastructure spending by large traffic generators, perhaps through market negotiated contracts with telcos.

Our comments however, were not predicated on the 'Netflix' law but on economic arguments of static versus dynamic efficiency and net neutrality. In fact, our recommendation is qualitatively different from the Netflix law in that it does not include the possibility of direct

contracts between OTTs and telcos, a scenario that would violate net neutrality. The law was referenced only because South Korea is a jurisdiction where OTTs are being held responsible for infrastructure quality, a broad principle with which our recommendation is in alignment.

Finally, we would like to mention the submission is not from ICRIER but from three independent research scholars, one of whom is affiliated with ICRIER.