

**Tata Communications Limited Response to TRAI Consultation Paper
on 'Regulatory Mechanism for Over-The-Top (OTT) Communication Services,
and Selective Banning of OTT Services'**

At the outset, we thank TRAI for providing us an opportunity to share our comments/inputs on this important consultation paper on the need of institutionalizing regulatory mechanism for Over-The-Top (OTT) Communication Services and Selective Banning of OTT Services.

OTT services should be defined as a service(s) that deliver audio, video, voice, data and other media or communication content over the internet directly to users/consumers while avoiding the traditional cable, fiber, wireless, satellite or information and broadcasting platforms. In our response, we have proposed that *OTT can be content, or service provided to the end user on demand that may offer audio-video content, instant messaging, voice/ video calling and other media over Public Internet*. Accordingly, classification of OTT services can be made into two categories based on the primary function they serve - communication and application services. OTT communication services primarily facilitate real-time communication and interaction between users, while OTT application services focus on providing various on-demand content and utility services to the end users. Broadly, we have proposed classification of OTT communications services under two categories:

- *OTT Communications services which provide communication services similar and complementary to the services provided by the licensed service provider.*
- *OTT Communications / Application services which are different from the services being offered by the licensed service providers.*

OTT Communications Services have remarkably changed the competitive landscape of the telecom sector. With changing times, social media and related content & messaging applications have gained significant popularity. This technological shift has immensely benefited the retail consumers and Enterprises by way of getting access to better, more interactive & cheaper communication and messaging platforms leading to switching from traditional telecommunication services to OTT Communication Services. With the increasingly use of OTT communication services for messaging and to large extent for voice communication, globally, the general trend is a transition from voice and SMS towards data as a primary service and source of revenue for telecom service providers. Moreover, the process of 'multihoming' has also significantly boosted the development of OTT Communications services and applications in the country.

As rightly depicted in the consultation paper also that in the earlier time of the development of the telecommunication services sector, voice was the main product which has now been substantially replaced by data as main product with the today's Internet Protocol (IP) based telecom networks. The changes in network technology have supported the creation of an ecosystem of online applications including over-the-top (OTT) services that introduce completely new use cases including the Internet of Things (IoT), connected cars, smart education, smart health, smart agriculture, etc. In the entire internet value chain of Internet ecosystem, OTT Applications and messaging services are playing a vital role in proliferation of new and innovative use cases and applications for Enterprises which are helping them immensely in driving operational efficiencies.

However, despite the shift in the competitive landscape with the proliferation and extensive

use of OTT services, the existing regulatory framework is still too focused on the Licensed Telecom Service Providers. Therefore, it is imperative for the Government and Sectoral Regulator to ensure regulatory equality among all licensed telecom service providers and OTT Communication Service Providers by way of implementation of regulatory framework based on the principal of 'Same Service Same Rule' for ensuring level playing field. This will also ensure adequate protection of the huge investments made by the licensed service providers in building and maintaining their networks and obligated to comply with licensing requirements.

In our view, if OTT Communication Services available for users is a replacement service to the services offered by licensed service providers, then such OTT communication services should be considered as the same service offered under the telecom license granted by Government in the regulatory framework. For instance, there are several OTT applications such as Skype, Whatsapp, Telegram which are providing On Net Voice/ Video and conferencing services to their registered users which are substitutable to the Internet Telephony Service which licensed Service providers (TSPs / ISPs) are allowed to provide to their customers under the scope of services of their respective Access Service and Internet Service Authorizations of Unified License.

Although OTT services and applications have proliferated broadband and internet services in the country and also incentivized licensed service providers to invest more in the expansion of their infrastructure and networks, however, there is a need to ensure regulatory equality. We strongly suggest substitutability should be treated as primary criterion for comparison of regulatory and licensing norms equally applicable to licensed service providers and OTT communications service providers. Further, it is also pertinent to mention that the responsibility of national security should also be equal to both licensed service providers and OTT communication service providers providing real time communication services and no compromise should be allowed in the national security. Licensed Service providers in India have rightfully put the national security first in their business however same does not hold true for OTT players especially for OTT Communications service providers providing real time communication services without any regulatory obligations. Therefore, we reiterate as suggested earlier, all the OTT players who are providing real time communication services in India should oblige to the Indian regulations which all licensed service providers are complying under their respective licenses granted by the Government.

We, therefore, recommend that in order to reap the benefits of technological advancements and economies of scale, substitutability of such OTT communication services with licensed services should be treated as primary criterion while determining regulatory mechanism for OTT Communication services. TRAI should recommend a new Service Authorization namely "OTT Communication Services" under the present Unified license regime which should be lighter version of the Access Service Authorization considering the fact that OTT communication service providers are offering communication services akin to traditional voice, video and messaging services offered by UL-Access Service Provider.

We recommend that a broad and light touch regulatory framework based on the principle of "same service, same rule" applicable to all service providers should be promoted for ensuring a level playing field. Such framework will ensure sustainable competition, safeguard network investments and will enable well balanced regulatory environment for all players in the digital ecosystem irrespective of using any technology to deliver content & applications through

internet to the end customers. This kind of environment will benefit the consumers and enterprise in terms of better customer experience, innovative offering and quality of service.

Regarding selective banning of OTT Services, we are of the view that implementing selective bans on OTT services and websites/URLs involves a combination of advanced technical solutions, collaboration with ISPs and other licensed service providers, and careful consideration of legal and ethical implications. It is important to ensure that the proposed regulatory framework for selective banning of OTT services should be balanced and proportionate. The key objective should be to protect public safety and national security. The regulatory framework for selective banning of OTT services should be well-defined, transparent, and subject to legal oversight. The Blanket bans on entire classes of OTT services should be avoided, and measures should be targeted and focused on specific services or platforms.

The network service provider like ISPs/TSPs should not be responsible for blocking of the information and content available on internet particularly which relates to OTT content services, Social Media Intermediaries and OTT content aggregation services including user generated content hosted on YouTube, Instagram, or any other similar OTT applications. It is very difficult for the underlying network service provider to block such content in its network especially in the era of HTTP when most of the sites have become secure. Therefore, as far as blocking of content on internet is concerned in respect of any type of OTT service / application, the responsibility of blocking / banning of such content should be of OTT service/ application provider as these OTT service providers are the aggregators of such content / information which is being produced by their registered Users on their platform. Therefore, OTT service provider should take lead and responsibility in blocking / banning of such content and there is no role in blocking / banning of such OTT content of network service provider who is providing only underlying network for the same.

Tata Communications issue wise comments are as follows:

A. Issues Related to Regulatory Mechanism for OTT Communication Services

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

Tata Communications Response:

OTT Communications Services have significantly changed the competitive landscape of the telecom sector. With changing times, social media and related content & messaging applications have gained significant popularity. This technological shift has immensely benefited the retail consumers and Enterprises by way of getting access to better, more interactive & cheaper communication and messaging platforms leading to switching from traditional telecommunication services to OTT Communication Services. With the increasingly use of OTT communication services for messaging and to large extent for voice communication, globally, the general trend is a transition from voice and SMS towards data as a primary service and source of revenue for telecom service providers. Moreover, the process of 'multihoming' has also significantly boosted the development of OTT Communications services and applications in the country.

As rightly indicated by ITU, there is no single universally agreed definition of an Over the Top (OTT) service, and a variety of definitions are used by different bodies and in different forums. But in essence, an OTT service is a service or application which is provided to a user over the internet, in most cases without a network operator being involved. This covers a wide range of services which are provided “over the top” of the internet, including communication and messaging services (such as Skype, WhatsApp, Viber and Facebook Instant Messenger) and audio and visual broadcasting services (such as Spotify, YouTube TV, Netflix and Amazon Video). Indeed, almost all services delivered using the internet could, in a broad sense, be considered OTT services.

Accordingly, OTT services can be defined as any service provided over the internet that bypasses traditional operators’ distribution channel.

In this regard, in May 2019, ITU-T in its Recommendation D.262 (05/2019) defined OTT as follows:

“an application accessed and delivered over the public Internet that may be a direct technical/ functional substitute for traditional international telecommunication services”.

Similarly, definition of OTT Service given by Commonwealth Telecommunication Organization in its report on ‘Over The Top (OTT) Applications & Internet Value Chain’ defined OTT as follows:

“OTTs can be content, a service or an application that is provided to the end user over the public Internet.”

SATRC (South Asian Telecommunications Regulator’s Council) in its report on ‘Policy, Regulatory and Technical Aspects of OTT Services in SATRC countries’¹ published in 2016 had specified that SATRC member countries while defining OTT services and will be following the ITU or industry definition. The member countries have suggested the following definition for OTT services:

The term OTT refers to applications and services which are accessible over the internet and ride on operators’ networks offering internet access services.

From the above definitions it can be concluded that OTT services should be defined as a service(s) that deliver audio, video, voice, data and other media or communication content over the internet directly to users/consumers while avoiding the traditional cable, fiber, wireless, satellite or information and broadcasting platforms. A globally accepted understanding of OTT services would be services which run on top of Internet provider by ISPs & TSPs in the respective country. Therefore, we are of the view that the above provided definitions are comprehensive definitions of OTT Services and similar definition of OTT service should be adopted by TRAI as suggested below–

OTT can be content, or service provided to the end user on demand that may offer audio-video content, instant messaging, voice/ video calling and other media over Public Internet.

Q2: What could be the reasonable classification of OTT services based on an intelligible

¹ https://www.apr.int/sites/default/files/Upload-files/SATRC/SAPIV/WGSPEC/SATRC_Report_OTT_Services.docx

differentia? Please provide a list of the categories of OTT services based on such classification. Kindly provide a detailed response with justification.

Tata Communications Response:

The classification of OTT services can be made into two categories based on the primary function they serve - communication and application services. OTT communication services primarily facilitate real-time communication and interaction between users, while OTT application services focus on providing various on-demand content and utility services to the end users.

It is also pertinent to mention that DoT Committee Report on Net Neutrality (May 2015), have also classified OTT Services as follows:

- (i) OTT Communications services – OTT communication services focus on providing real-time communication between users over the internet. They enable users to send messages, make voice and video calls, and share multimedia content with each other. These services such as VoIP/Messaging, enable real-time Application/person-to-person telecommunication over the internet, utilizing the network infrastructure of licensed telecom service providers (TSPs).

These services are similar to the telecommunication services provided by the licensed telecom service providers (TSPs) but are provided to the users as applications carried over the internet using the network infrastructure of TSPs. Essentially, OTT communications services compete with TSPs' services by utilizing their existing infrastructure.

Some examples of OTT Communication Services such as (video) telephony services and messengers are as follows:

- WhatsApp: Offers text messaging, voice calls, video calls, and multimedia sharing.
- Skype: Allows voice and video calls, instant messaging, and screen sharing.
- Facebook Messenger: Provides text messaging, voice and video calls, and multimedia sharing.
- Zoom: Primarily used for video conferencing and virtual meetings.

- (ii) OTT Content Application services – OTT application services primarily focus on providing on-demand content, entertainment, and various utility services to users over the internet. Some of the examples of this category of OTT services are media services (Netflix, Zee5, Amazon Prime, HBO, Ullu broadcasting, etc.), trade and commerce services (e-commerce, Radio platform), cloud services (data hosting and management platforms/applications), and social media (intermediary applications like Facebook, YouTube etc), Gaming applications etc. These services utilize the network infrastructure created by TSPs but don't directly compete with the services offered by TSPs under their licensed operations governed by the Indian Telegraph Act, 1885.

Some examples of OTT Application services are as follows:

- Netflix: A video-on-demand platform providing movies, TV shows, and original content.

- Spotify: A music streaming service offering a vast library of songs and personalized playlists.
- Disney+: An on-demand streaming service featuring Disney content, Pixar movies, Marvel series, and more.
- Twitch: A live streaming platform focused on video game content and creative arts.

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.

Tata Communications Response:

OTT communication services refer to digital platforms or applications that enable real-time communication and interaction between users over the internet. These services utilize internet connectivity to facilitate various forms of communication, such as instant messaging, voice calls, video calls, and multimedia content sharing. Unlike traditional communication methods, which may rely on telecom carriers and incur additional charges, OTT communication services leverage existing internet infrastructure, allowing users to connect with others across the globe without incurring extra fees (aside from data charges, if applicable).² With changing times, social media and related content & applications have also gained significant popularity among mobile customers. This technological shift has immensely benefited mobile consumers with better, more interactive & cheaper communication platforms. The mode of the communication has become „social“ (one-to-many) and with the digitization of content, the data consumption has increased exponentially.

TRAI in its earlier Consultation paper on Framework for OTT Services issued in 2015 also defined ‘OTT Provider’ as a service provider which offers Information and Communications Technology (ICT) services, but neither operates a network nor leases network capacity from network operators. In our view, OTT Communications Services are those services which are same and replacement service to the Services offered by licensed service providers under a telecom license issued under section (4) of the Indian Telegraph Act, 1885. For instance, some of the OTT Communications Services (Skype, WhatsApp, Telegram, Viber, Facebook Messenger etc.) are comparable to Internet telephony service provided by Internet Service Provider under its UL-Internet Service Authorization considering the fact that the Internet Telephony Service is also same as OTT Communications service described above.

In fact, TRAI in Para 2.39 of its present consultation paper has concluded that taking into account - (a) the definition of OTT provided by ITU (May 2019), and (b) the classification of OTT services provided in the DoT Committee Report on Net Neutrality (May 2015), as mentioned in the para 2.31 and 2.34 above, an OTT communication service may be characterized by the following twin features:

- (i) It is accessed and delivered through an application (App) over the public Internet, using the network infrastructure of telecom service providers; and
- (ii) It is a direct technical/ functional substitute for traditional telecommunication services provided by the telecom service providers.

² [Why TRAI wants to regulate WhatsApp, similar services - Civildaily](#)

In view of the above submissions, it is clear that OTT communication services are delivered over the internet, allowing users to access them using internet-connected devices. Accordingly, we suggest following definition of OTT communication services—

OTT (Over the Top) Communication services enables the end user to establish communications such as Instant Messaging/ Voice/ Video calling on demand via platforms like digital application or website available on mobile device/ personal computer over public/ private internet network, as independent interpersonal communications service.

Below are some features that may comprehensively characterize OTT communication services:

- Over-the-top delivery: OTT communication services are delivered over the internet, bypassing traditional telecommunications networks. This means that OTT communication services can be accessed from anywhere in the world, as long as there is an internet connection.
- Broad range of features: OTT communication services typically offer a wide range of features, such as voice calling, video calling, messaging, and file sharing. This allows users to communicate with each other in a variety of ways.
- Low cost: OTT communication services are often offered at a low cost, or even for free. This makes them an attractive option for users who are looking for a cost-effective way to communicate.
- Convenience: OTT communication services are typically very convenient to use. They can be accessed from any device with an internet connection, and they do not require any special software or hardware.
- Security: OTT communication services are typically secure. They use encryption to protect user data, and they often offer features to help users stay safe, such as blocking unwanted messages.

The above are some of the features that may comprehensively characterize OTT communication services. The specific features that are offered will vary depending on the specific service.

Further, below are some of the primary services being provided through OTT communication services, based on the applications/ webpages available on the different platforms like mobile, PC, television etc.

- a. Text Messaging: These applications are able to deliver text/ multimedia messages.
Example: WhatsApp, Facebook Messenger, Telegram
- b. Voice Calling: These applications provide voice calling and connects users worldwide.
Example: WhatsApp, Skype, Viber
- c. Video Calling: Similarly, these applications are capable of providing video calling.
Example: Zoom, FaceTime (for Apple devices), Google Meet, WhatsApp
- d. Group Chats: Multiple users can use these applications for the meetings, supporting voice and video calls.
Example: Slack, Discord, GroupMe
- e. Gaming along with chat: This application is mostly used for the gaming purpose; users can chat while playing

- Example: Discord
- f. Media entertainment: Video content on demand at any place
Example: Netflix, Amazon Prime, Hotstar, Youtube
- g. Music streaming: Users can listen to music on the go, capable of saving music on local HDD for offline usage as well.
Example: Spotify, Savan, Wink
- h. Sports: These applications are mostly used to watch live games being played around the world.
Example: Espn+, Fancode
- i. Live TV streaming: Users can watch their favorite TV shows live from any place.
Example: Roku
- j. Healthcare: These applications provide the healthcare services online
Example: MyFitnessPal

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.

Tata Communications Response:

As submitted in response to Q3 above, OTT communication services are delivered over the internet, allowing users to access them using internet-connected devices. OTT communication services are being provided at platform through an application or webpage and it doesn't rely on licensed service provider's network, however, many OTT applications provide similar services as provided by licensed service providers. In case, OTT Communication Service(s) available for the Users is replacement service to the services offered by the licensed service providers, then such OTT communication services should be considered as the same service offered under the telecom license granted by Government in the regulatory framework.

Broadly, we can classify OTT communications services under two categories:

- ***OTT Communications services which provide communication services similar and complementary to the services provided by the licensed service provider.***

Text-Based Communication Services:

OTT messaging is text-based communication on a platform that uses existing internet services to deliver messages. This includes instant messaging applications like Facebook Messenger, WhatsApp, Telegram, LINE, and WeChat.³

Justification: Text-based communication services differentiate themselves from other categories by their emphasis on written communication, making them suitable for quick and convenient exchanges without the need for real-time audio or video. Unlike TSP services, generally it has no text limits while sending the message.

Voice and Video Calling Services:

This category comprises OTT communication services that prioritize voice and video calls,

³ [OTT Messaging for Business | Twilio](#)

enabling users to have real-time audio and video conversations.⁴ The prime examples of these services are Zoom, Facetime, Skype etc.

Justification: Voice and video calling services offer a distinct differentia by providing direct, synchronous communication, fostering more personal and interactive conversations.

- ***OTT Communications / Application services which are different from the services being offered by the licensed service providers.***

Social Media-Integrated Communication Services:

This category encompasses OTT communication services that integrate with social media platforms, allowing users to connect with friends and contacts across different networks. OTT communication services that integrate with social media platforms, allowing users to connect with friends and contacts across different networks.⁵

Justification: Social media integration differentiates these services by offering a seamless experience for users who want to communicate with their social media contacts.

Business and Collaboration Communication Services:

This category includes OTT communication services designed for business use, providing features like video conferencing, file sharing, collaboration tools, and integration with productivity software.⁶

Justification: Business and collaboration services set themselves apart by catering to professional communication needs, promoting efficient teamwork and remote collaboration.

Security-Focused Communication Services:

This category comprises OTT communication services that prioritize end-to-end encryption, data privacy, and security features to ensure secure and private communication.⁷

Justification: Security-focused services distinguish themselves by placing a strong emphasis on protecting user data and communications from unauthorized access, appealing to users who prioritize privacy.

Virtual Assistant-Integrated Communication Services:

This category encompasses OTT communication services that integrate with virtual assistants, enabling users to perform tasks and interact with the service using voice commands such as Amazon Alexa, Google Assistant etc.

Justification: Virtual assistant integration sets these services apart by offering a unique and hands-free user experience, making them suitable for users who prefer voice-driven interactions.

Q5. Please provide your views on the following aspects of OTT communication services

⁴ [Next IAS](#)

⁵ [What is OTT? | OTT Meaning | ironSource](#)

⁶ [Unified Communications Solutions & UCaaS Platform \(tatacommunications.com\)](#)

⁷ [asia-internet-coalition-aic-industry-submission_consultation-paper-on-regulatory-mechanism-for-over-the-top-ott-communication-services_3-aug-2023 \(1\).pdf](#)

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.

Tata Communications Response:

We have following views on various aspects of OTT communication services vis-à-vis licensed telecommunication services in India:

(a) regulatory aspects:

- OTT communication services are presently not regulated in India, while licensed telecommunication services are governed by various regulations, including licensing requirements, spectrum usage charges, and quality of service standards.
- With changing times, social media and related content & applications have gained significant popularity among mobile customers. This technological shift has immensely benefited consumers with better, more interactive & cheaper communication platforms. The mode of the communication has become “social” (one-to-many) and with the digitization of content, the data consumption has increased exponentially in the last two years. However, despite the significant shift in the competitive landscape with the extensive proliferation of OTT communication services, the existing regulatory framework is still too focused on the Licensed service providers.
- TRAI in its paper has also highlighted that in the earlier phase of the telecom sector, voice was the main product which has now been substantially replaced by data as main product with the today’s Internet Protocol (IP) based telecom networks. The changes in network technology have supported the creation of an ecosystem of online applications including over-the-top (OTT) services that introduce completely new use cases including the Internet of Things (IoT), connected cars, smart education, smart health, smart agriculture, etc. In the entire internet value chain of Internet ecosystem, OTT Applications and messaging services are playing a vital role in proliferation of new and innovative use cases and applications for Enterprises which are helping them immensely in driving operational efficiencies.
- Therefore, it is imperative for the Government and Sectoral Regulator to ensure regulatory equality among all licensed telecom service providers and OTT Communication Service Providers by way of implementation of regulatory framework based on the principal of ‘Same Service Same Rule’ for ensuring level playing field. This will also ensure adequate protection of the huge investments made by the licensed service providers in building and maintaining their networks and obligated to comply with licensing requirements.

- In our view, if OTT Communication Services available for users is a replacement service to the services offered by licensed service providers, then such OTT communication services should be considered as the same service offered under the telecom license granted by Government in the regulatory framework. For instance, there are several OTT applications such as Skype, WhatsApp, Telegram which are providing On Net Voice/ Video and conferencing services to their registered users which are substitutable to the Internet Telephony Service which licensed Service providers (TSPs / ISPs) are allowed to provide to their customers under the scope of services of their respective Access Service and Internet Service Authorizations of Unified License.

(b) economic aspects

- OTT communication services have had a significant impact on the economics of the telecommunications industry. OTT communication services have led to a decline in the usage of traditional voice and SMS services, which has reduced the revenue of licensed telecommunication operators from traditional telecom services. However, OTT communication services have also created new revenue opportunities for licensed telecommunication operators due to sharp rise in data consumption.
- Although OTT services and applications have proliferated broadband and internet services in the country and also incentivized licensed service providers to invest more in the expansion of their infrastructure and networks, however, there is a need to ensure regulatory equality.
- In view of the above, we recommend that in order to reap the benefits of technological advancements and economies of scale, substitutability of such OTT communication services with licensed services should be treated as primary criterion while determining regulatory mechanism for OTT Communication services. This kind of environment will benefit the consumers and enterprise in terms of better customer experience, innovative offering and quality of service.

(c) security aspects

- The responsibility of national security should be equal to both Licensed service providers and OTT communication service providers providing real time communication services and no compromise should be allowed in national security.
- Licensed service providers have rightfully put the national security first in their business but that is not true for OTT players having an asset-light business model with no or minimum liabilities and are not obligated under existing regulatory framework. OTT Communication service providers should also be brought under the regulatory framework and should have similar obligations of license compliances especially for security compliances, lawful interception requirements, URL blocking, data privacy and security requirements etc.
- Regarding CAF & KYC requirements, licensed service providers are heavily regulated and ensure traceability of their customers. However, the same does not hold true for the users of OTT Communication services. These OTT players just got registered their users on their application / platform for collecting information meant for their own business purposes. This is also a security threat and therefore OTT communication

service providers should also be obligated to conduct proper KYC of their Users so that traceability can be ensured.

- New age cybercrimes such as cracking, phishing, piracy, identity theft and child pornography and cyber-extortion have been gaining ground in recent years. There are related problems of loss of privacy when confidential information is lost or intercepted, lawfully or otherwise. However, use of these OTT apps for crowdsourcing of information that may impact the security of the country, could be of advantage to the LEAs in curbing and monitoring anti-national elements.
- As suggested earlier also, all the OTTs who wants to provide the real time communication services in India should oblige to the Indian regulations which any licensed service provider complies and best way to bring both on the same page it to consider the Public E-NUM services.

(d) privacy aspects

- OTT communications and OTT media can pose a threat to privacy. The transfer of personal information on the internet is at risk because of the “open” architecture of the internet. It can result in loss of content privacy, compromised cyber security and lead to cybercrime. Such threats can impact the nation’s security and financial health.
- Licensed services providers are subject to privacy regulations and data protection laws in India. They are required to adhere to strict guidelines for the collection, storage, and processing of user data. However, although OTT communication service providers also collecting user data, but the regulatory framework for data privacy for OTT apps is still not exists in India.
- OTT communication providers should also be mandated to collect and store user data strictly as per existing licensing and legal framework. The Existing IT Act including IT Rules should be followed by them.

(e) safety aspects

- OTT communication providers should also be mandated to collect and store user data strictly as per existing licensing and legal framework. The IT Act 2000 as amended from time to time and related IT Rules should be scrupulously followed by them.
- Licensed service providers have measures in place to filter and block malicious or harmful content as they are obligated under licensing requirements. However, similar measures are not applicable for OTT communication services to curb the dissemination of harmful content on their platforms.

(f) quality of service aspects

- There have been global/regional outages in OTT services that are observed, but these are mostly associated with infra or new features compared to basic functionality.
- However, presently, there is no methodology / framework that exists on quality of service applicable for OTT communication service providers providing real time communication services.
- We are of the view that TRAI should address this issue and look at the larger views of

the OTTs app with QoS so that this can bring in a new way of communication while it is used for enterprise applications.

(g) consumer grievance redressal aspects

- Licensed telecommunication services are required to have established grievance redressal mechanisms to address customer complaints and issues. Users can approach telecom operators or regulatory authorities to resolve disputes.
- However, similar redressal mechanisms are not presently available for Users of various OTT Communication service providers. This is a concern because it could lead to a lack of consumer protection.

(h) any other aspects –

- Emergency services are a very essential part of any telecommunications network's obligations across the world. Licensed service providers are obligated to ensure availability of emergency services for their customers under the regulatory and licensing framework.
- The OTT communication service provider offering real time communication services should also be providing emergency services. In fact, OTTs by their nature of service with multi-channel communication like twitter, Facebook, WhatsApp can provide enhance version of the emergency services in compared to traditional licensed service provider.

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.

Tata Communications Response:

Yes, OTT communication services should be brought under the present licensing/regulatory framework to promote a competitive landscape for the benefit of consumers and service innovation and also to have parity with licensed service providers. TRAI in para 2.67 of the paper has mentioned that the telecom service providers in India are regulated by several laws, including the Indian Telegraph Act, 1885, the Wireless Telegraphy Act, 1933 and the Telecom Regulatory Authority of India Act, 1997. The terms and conditions of the Unified License Agreement entered by the telecom service providers with the Central Government are binding upon them. However, presently none of these obligations are applicable to OTT communication service providers.

In our view, if OTT Communication Services available for users is a replacement service to the telecom services offered by licensed service providers, then such type of OTT communication services should be considered as the same service offered under the telecom license granted by Government in the regulatory framework. For instance, there are several OTT applications such as Skype, WhatsApp, Telegram which are providing On Net Voice/ Video and conferencing services to their registered users which are substitutable to the Internet Telephony Service which licensed Service providers (TSPs / ISPs) are allowed to provide to their customers under the scope of services of their respective Access Service and Internet Service Authorizations of Unified License.

Although OTT services and applications have proliferated broadband and internet services in the country and also incentivized licensed service providers to invest more in the expansion of their infrastructure and networks, however, there is a need to ensure regulatory equality. We strongly suggest substitutability should be treated as primary criterion for comparison of regulatory and licensing norms equally applicable to licensed service providers and OTT communications service providers. Further, it is also pertinent to mention that the responsibility of national security should also be equal to both licensed service providers and OTT communication service providers providing real time communication services and no compromise should be allowed in national security. Licensed Service providers in India have rightfully put the national security first in their business however same does not hold true for OTT players especially for OTT Communications service providers providing real time communication services without any regulatory obligations. Therefore, we reiterate as suggested earlier, all the OTT players who are providing real time communication services in India should oblige to the Indian regulations which all licensed service providers are complying under their respective licenses granted by the Government.

Some of the reasons to justify our above position are as follows:

- Law enforcement & national security considerations
- Taxation and revenue generation aspects and impact for the local government
- Emergency services such as Crime helpline, medical helpline, etc. can be provided through OTT applications also.
- Consumer Protection – to ensure fair pricing, service T&Cs, etc. for the end customer.

We, therefore, recommend that in order to reap the benefits of technological advancements and economies of scale, substitutability of such OTT communication services with licensed services should be treated as primary criterion while determining regulatory mechanism for OTT Communication services. Further, we also recommend that a broad regulatory framework based on the principle of “same service, same rule” applicable to all service providers should be promoted for ensuring a level playing field. Such framework will ensure sustainable competition, safeguard network investments and will enable well balanced regulatory environment for all players in the digital ecosystem irrespective of using any technology to deliver content & applications through internet to the end customers. This kind of environment will benefit the consumers and Enterprises in terms of better customer experience, innovative offering and quality of service.

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.

Tata Communications Response:

TRAI in Para 2.45 of the paper has referred to the ITU-D report extract wherein ITU has stated that

“communications-based OTTs typically differ in a number of ways from traditional telecommunication services. For example, OTTs generally do not provide connection to a public network and instead create a type of closed-user group within the application. Thus, OTTs do not require scarce numbering resources, nor do they require interconnection agreements with traditional operators.”

We are also of the view that the OTT communication service providers are using traditional telecom services as underlay services to reach to the user availing OTT communication services and does not require telecom resources incl. numbering series, interconnection with licensed service providers. However, such OTT communication service providers are offering services which are substitutable service to the telecom services offered by licensed service providers.

Therefore, OTT communication services should be brought under a licensing/ regulatory framework due to following reasons:

- To ensure a level playing field among all service providers: OTT communication services have a significant impact on the telecom sector, and they have led to a decline in the use of traditional voice and SMS services. This has reduced the revenue of licensed telecommunication operators substantially, and it has raised concerns about unfair competition. Therefore, bringing OTT communication service providers into the licensing / regulatory framework will help in establishing a level playing field and ensure that all players in the market have a fair chance to compete.
- To protect Users privacy and data protection: OTT communication services have raised privacy and safety concerns about the data of their Users. OTT communication service providers collect and store user data and is used for marketing or other purposes. Therefore, bringing OTT communication service providers into the licensing / regulatory framework will help to protect user privacy and safety by requiring OTT providers to implement strong security measures and to comply with privacy laws of the country.

TRAI should recommend a new Service Authorization namely “OTT Communication Services” under the present Unified license regime which should be lighter version of the Access Service Authorization considering the fact that OTT communication service providers are offering

communication services akin to traditional voice, video and messaging services offered by UL-Access Service Provider.

In this regard, we broadly suggest that the following provisions of Unified licensing framework should be applicable to the OTT communication service providers:

Unified License - PART – I

Chapter I : General Conditions

- Condition 1: Ownership of the Licensee Company
- Condition 2: Scope of the License
- Condition 3: Duration of License
- Condition 4: Renewal of License
- Condition 5: Modifications in the Terms and Conditions of License
- Condition 6: Restrictions on 'Transfer of License'
- Condition 7: Provision of Service
- Condition 8: Delivery of Service
- Condition 9: Requirement to furnish information.
- Condition 10: Penalty, Suspension, Surrender, Termination/Revocation of License
- Condition 11: Actions pursuant to Termination of License
- Condition 12: Force-Majeure
- Condition 13: Set Off
- Condition 14: Way Leave
- Condition 15: Dispute Settlement
- Condition 16: Other Conditions

Chapter II Commercial Conditions

- Condition 17: Tariffs

Chapter III Financial Conditions

- Condition 18: Fees payable
- Condition 19: Definition of 'Adjusted Gross Revenue'
- Condition 20: Schedule of payment of Annual License Fee and other dues
- Condition 21: Bank Guarantees
- Condition 22: Preparation of Accounts

Chapter IV Technical Conditions

- Condition 23: Technical Condition
- ~~Condition 24: Compliance to Directions/Instructions~~
- Condition 25: The Applicable system
- Condition 26: Engineering Details
- ~~Condition 27: Network Interconnection~~
- ~~Condition 28: Interface~~
- Condition 29: Quality of Service

Chapter V Operating Conditions

- Condition 30: Subscriber Registration & Provision of Service
- ~~Condition 31: The Subscriber Terminals~~
- Condition 32: Obligations imposed on the Licensee
- ~~Condition 33: Sharing of infrastructure~~
- Condition 34: Inspection and Testing of Installations
- Condition 35: Right to inspect
- Condition 36: Location of Network Elements

Condition 37: Confidentiality of information
Condition 38: Prohibition of certain Activities by the Licensee

Chapter VI Security Conditions

Condition 39: Security Conditions
Condition 40: Application of Indian Telegraph Act

~~Chapter VII Spectrum Allotment and use~~

~~Condition 41: Right to use the spectrum~~
~~Condition 42: Frequency Assignment~~

PART- II

Proposed Chapter “OTT Communication Service” Authorization (Similar to Chapter VIII for Access Service)

- Condition 1: Service Area – OTT Communication service authorization should only be a national area service authorization.
- Condition 2: Scope of Service – it should cover existing OTT communication services offered by various OTT communication service providers.
- Condition 3: Financial Conditions – Definitions of GR, ApGR, AGR should be prepared based on the definitions provided in the Access Service Authorization. The license fee of 8% should be applicable to the OTT communication service providers.
- ~~Condition 4: Technical & Operating Conditions~~
- ~~Condition 5: Provision of IPTV Service~~
- ~~Condition 6: Network Interconnection~~
- Condition 7: Emergency & Public Utility Service
- Condition 8: Security Conditions – It should cover provisions relating to Lawful Interception, storage of Call related information incl. CDRs, Location details of the User.
- Annexure-A: Proforma for Affidavit regarding Calculation Of ‘Revenue’ and ‘License Fee’
- Appendix-I to Annexure-A: Format of Auditor’s Report on Statement of Revenue’ & ‘License Fee’
- Appendix-II to Annexure-A: Format of ‘Statement of Revenue’ & ‘License Fee’
- Annexure-B: Norms for Preparation of Annual Financial Statement

In view of the above suggested provisions with the aim to have light touch framework under the proposed OTT Communication Service Authorization in Unified License, following are our inputs on various provisions sought by TRAI-

- (a) lawful interception - The OTT communication service provider should be obligated to ensure provision of requisite monitoring/interception facilities incl. equipment for each type of service and monitoring shall be in accordance with rules in this regard under Indian Telegraph Act, 1885. This Obligation will ensure that OTTs offering real time communication services will create necessary infrastructure in India there by protecting the security interest of India.
- (b) privacy and security: These obligations should be applicable to all OTTs as well and accordingly the OTT communication service provider should ensure protection of privacy of communication and obligated to take all necessary steps to safeguard the privacy and confidentiality of its Users. The existing IT Act requires all service providers

to outline a detailed privacy policy that will be applicable to all users, which includes the nature of data collected, stored, purpose and further use. Now with the implementation of newly introduced The Digital Personal Protection Act 2023 will further strengthen the privacy and security requirements.

Further, OTT communication providers should also be mandated to collect and store user data strictly as per existing licensing and legal framework and should also implement necessary systems / solutions to filter and block malicious or harmful content as a part of the licensing requirement.

This obligation will help in preventing OTTs monetizing user data and private data without the consent of the user. This will bring required discipline in OTT behavior benefiting Indian consumer at large.

OTTs indulging in ISP like behavior such as direct interconnect to exchange internet content traffic with ISPs should also be brought under the ambit of ISP/VNO licenses and should enforce same license compliances and obligations, tax compliances, URL blocking, lawful interception, etc. as TSP/ISP.

- (c) emergency services: The OTT communication service provider offering real time communication services should also be providing emergency services and therefore should be obligated to follow the guidelines /directions/ standard operating procedures as may be prescribed for the disaster management/emergency response services or any other instruction issued by DoT in this regard from time to time. The OTT Communication service provider shall also facilitate the priority routing of emergency/public utility or any other type of user calls as per guidelines /directions as may be prescribed by DoT.
- (d) unsolicited commercial communication: The OTT communication service provider should also be mandated to scrupulously comply to TRAI regulations/ directions issued on curbing unsolicited commercial communication as adhered to by the Access Service Providers.
- (e) customer verification: The OTT communication service provider should be obligated to adhere CAF & KYC requirements as envisaged in the Unified License agreement and ensure traceability of their Users. Therefore, OTT communication service providers should also be obligated to conduct proper KYC of their Users so that traceability can be ensured.
- (f) quality of service: As mentioned earlier, presently, there is no methodology / framework/ benchmarks that exist on quality of service applicable for OTT communication service providers providing real time communication services. Therefore, it is suggested that TRAI should undertake suitable consultation process and issue necessary QoS regulation which would exclusively be applicable on OTT communication service providers.
- (g) consumer grievance redressal: The OTT communication service providers should also be required to have established grievance redressal mechanisms in order to address complaints and issues of their registered Users. TRAI should undertake suitable consultation process and issue necessary Consumer grievance redressal regulation

which would exclusively be applicable on OTT communication service providers.

- (h) eligibility conditions: The OTT communication service provider wishes to obtain Unified License with the proposed OTT Communication service authorization must be an Indian Company registered under the Companies Act'2013. The FDI policy should also be made applicable to the composite foreign holding of the applicant entity. The applicant should also have minimum paid-up equity capital and net worth as applicable to the Access Service Authorization.
- (i) financial conditions (such as application processing fee, entry fee, license fee, bank guarantees etc.): The financial conditions as applicable to the Access Service Authorization should be equally applicable to the proposed Communication service authorization. This is due to the fact that the OTT Communication Service providers are offering services which are similar to telecom services irrespective of the domain of operation, i.e. voice, video, internet traffic exchange or any other.
- (j) any other aspects (please specify): no comment.

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.

Tata Communications Response:

Yes, there is a need for a collaborative framework between OTT communication service providers and the licensed telecommunication service providers in order to promote competition, consumer protection, consumer benefits, dynamic innovation, sustainable investment and infrastructure development, accessibility and affordability of premium OTT applications. The collaboration is needed to bring down overall costs, provide better QoS for OTT consumers. Such collaborative framework can be implemented at a broader level within the proposed licensing/ regulatory framework.

As per our understanding to have social & economic benefit and protection of consumer interest, there should be collaborative framework between OTT communication service providers & licensed telecom service providers. OTT should have necessary licenses similar to ISP/TSP and should adhere to all the compliances and rules adhered by all licensed service providers. There should be a defined framework for collaboration between OTT and licensed telecom service providers.

The framework should focus on and cover the following:

- (a) Identify common services – Identify and agree on services that both parties can offer and add value from an end consumer standpoint. This should include enhanced service offerings, better network quality, or better reach.
- (b) Establish revenue sharing model – Revenue sharing models based on subscription fee, percentage based model, etc.
- (c) Quality of Service for end consumer
- (d) New launch of services for end consumer
- (e) User support

- (f) Conflict resolution between the 2 parties
- (g) Such a framework can be the only win-win situation for Licensed Service Providers, OTTs offering Communication services & end consumers.

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.

Tata Communications Response:

There are several challenges for collaboration between OTT communication service providers and the licensed telecommunication Service Providers. These are:

- (a) Competition – Many OTT services directly compete with the services offered by licensed telecom operators in areas concerning voice, data, video conferencing, etc. OTTs provide services that are replacement to telecom services and should be regarded as same to the services offered under license in India in the interest of promoting a fair & level playing field.
- (b) Unfair advantage to OTTs in the current environment - Many OTT providers directly choose to connect with large and small ISPs and MNOs and thereby provide them direct access to the internet-based OTT content. This is equivalent to an OTT operating as an ISP without the mandatory and necessary licenses as per the norms of India. These could be ISP, ILD, NLD licenses of international internet gateway approvals. Further, OTTs also connect to internet exchanges (private) and other such non-ISP entities that are presently operating in an unclear environment and facilitating traffic exchange in an informal manner.
- (c) Revenue Sharing – It is not clear how should the revenue be shared between OTTs and Telecom service providers and there is no defined guideline or mechanism for the same.
- (d) Net Neutrality – In the interest of consumer protection and consumer experience, it is important that all traffic is treated equally on the internet. Collaboration between OTT and TSP may involve preferential treatment of traffic or content and may raise concerns about net neutrality. There has been a precedence of such a collaboration between OTT and TSP in the past in India.
- (e) Compatibility of systems and networks between OTT & TSP – As the 2 parties collaborate, it could be a technical challenge and arduous task to integrate the systems and networks between the 2 parties.
- (f) Privacy and customer data security – OTT apps. have a tremendous trove of customer and end user data as well as communication data which should be subject to the same stringent data protection rules/laws followed by TSPs. Also, ISPs in India have to invest y-o-y in setting up and maintaining multiple security mechanisms such as lawful interception, URL filtering, and other compliances. On the other hand, OTTs use this infrastructure by procuring network infrastructure from TSPs and provide similar

services to end users as well as business entities through public cloud platforms. While OTTs claim they provide many services free to customers, one of their primary revenue streams is the revenue earned from registered users and ad revenue. Communication OTTs are usually global, large firms having deep pockets and large revenues but do not invest in major security infrastructure in India or share any revenue with the govt. from the revenue earned from the India market.

B. Issues Related to Selective Banning of OTT Services

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.

Tata Communications Response:

According to Access Now, in 2022, authorities shut down the internet across 35 countries at least 187 times. India shut down the internet at least 84 times — the highest number of any country in the world for the fifth consecutive year.⁸ As mentioned in the consultation paper, the shutdown of telecommunications or the internet can have significant ramifications for a country's economy and may affect the life and livelihood of the citizens of the country. For these reasons, selective banning of specific OTT applications and websites/ URLs etc. appears to be preferable as compared to complete banning of the OTT communication services.

However, it is believed that banning of internet services is made to maintain the public safety and averting public emergency, but as stated by UN in 2016 that “measures to intentionally prevent or disrupt access to or dissemination of information online (is) in violation of international human rights law.”⁹ Also, the Supreme Court has declared access to internet a fundamental right.¹⁰ Moreover, it is very challenging to selectively ban anything available on the internet. Presently, below are some methods can be considered for the selective banning, some probable challenges are also mentioned alongside:

- **Deep Packet Inspection (DPI) and Content Filtering:**¹¹
Challenge: Identifying and blocking specific OTT services and websites requires deep packet inspection, which can be resource-intensive and may lead to false positives or negatives.

Solution: Implement robust DPI techniques to accurately identify and filter the desired content. Utilize machine learning algorithms to improve accuracy and reduce false positives/negatives. Regularly update the filtering rules to adapt to changing service URLs and content delivery mechanisms.
- **Network traffic analysis (NTA):**¹² Network traffic analysis (NTA) is a technique that monitors and analyzes the flow of data packets across a network. It can help detect and prevent various types of cyberattacks, such as denial-of-service, malware, or data exfiltration.

⁸ [Five years in a row: India is 2022's biggest internet shutdowns offender - Access Now](#)

⁹ [Why Internet Access Needs to Be Considered a Basic Human Right \(globalcitizen.org\)](#)

¹⁰ [Internet access a fundamental right, Supreme Court makes it official: Article 19 explained - India Today](#)

¹¹ [What is Deep Packet Inspection? \(And How it Really Works\) \(digitalguardian.com\)](#)

¹² [What are the main challenges and limitations of network traffic analysis for infrastructure security? \(linkedin.com\)](#)

Challenge: Data volume and complexity, Data privacy and compliance, Data analysis and interpretation

Solution: Invest in SSL/TLS interception solutions that decrypt and inspect encrypted traffic. However, this approach raises privacy concerns and requires careful handling of user data.¹³

- VPNs and Proxies:

Challenge: Users can use virtual private networks (VPNs) and proxies to bypass regional restrictions, making it challenging to enforce bans effectively.

Solution: Implement advanced VPN detection mechanisms that analyze traffic patterns and behavior to identify potential VPN usage. Regularly update the list of known VPN and proxy server IPs.

- Legal and Ethical Considerations:

Challenge: Selective banning may infringe upon free speech and raise concerns about censorship and surveillance.

Solution: Involve legal experts and stakeholders in the process to ensure compliance with laws and regulations. Implement transparent processes and mechanisms for challenging and revising bans based on due process.

Further, we also wish to highlight that there could be multiple technical challenges in selective banning of OTT services, the key ones are listed below:

- **Identify & Classify:** Accurately identifying and classifying OTT services and websites for banning is a challenge and some new websites may use higher encryption or dynamic IP address to avoid getting tracked/detected easily.
- **VPN:** Users can easily circumvent the ban by using proxy servers or VPN to mask their location and identity and continue using the OTT service/accessing the website.
- **Encryption –** If the OTT service/website is using HTTPS connection, then it will be a challenge to inspect the content of traffic.
- **Regular updated list/database to be maintained –** Constant monitoring and co-ordination amongst the different players in the ecosystem (regulators, ISPs, etc.) would be required to ensure the correct OTT services are banned and the ban is accurate and effective.
- **Load on provider networks and network performance impact –** Implementing such bans at the network level can impact overall network performance of the Network service provider which will lead to potential slowness and the service and degradation of end user experience.

In view of the above, it is submitted that implementing selective bans on OTT services and websites involves a combination of advanced technical solutions, and careful consideration of

¹³ [What Is SSL Inspection and How Does It Work? - InfoSec Insights \(sectigostore.com\)](https://sectigostore.com/what-is-ssl-inspection-and-how-does-it-work/)

legal and ethical implications. It also involves budgets (that may need to be increased periodically) to establish and further improve such systems that may deliver the desirable outcomes.

It is also pertinent to highlight that the network service provider should not be responsible for blocking of the information and content available on internet particularly which relates to OTT content services or OTT type of video content services including user generated content hosted on YouTube, Instagram, or any other similar OTT applications. OTT service provider should take lead and responsibility in blocking / banning of such content and there is no role of network service provider who is providing only underlay network for the same in blocking / banning of such OTT content.

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.

Tata Communications Response:

Yes, in the interest of national security, there is a need to put in a 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 relevant law, in force. This will ensure balance between national security, public safety and protection of individual rights and freedoms. However, OTT services being internet-based services, complete ban of same may not be possible as OTT apps bring in new features and functionalities globally.

The network service provider like ISPs/TSPs should not be responsible for blocking of the information and content available on internet particularly which relates to OTT content services, Social Media Intermediaries and OTT content aggregation services including user generated content hosted on YouTube, Instagram, or any other similar OTT applications. It is very difficult for the underlying network service provider to block such content in its network especially in the era of HTTP when most of the sites have become secure. Therefore, as far as blocking of content on internet is concerned in respect of any type of OTT service / application, the responsibility of blocking / banning of such content should be of OTT service/ application provider as these OTT service providers are the aggregators of such content / information which is being produced by their registered Users on their platform. Therefore, OTT service provider should take lead and responsibility in blocking / banning of such content and there is no role in blocking / banning of such OTT content of network service provider who is providing only underlying network for the same.

Following is the justification for such a regulatory framework and potential benefits of selective banning:

- Regulation/Moderation of Content – If content is regulated, it can help control the spread of harmful, illegal, anti-national, divisive and fake content safeguarding users from potential harm. Also, OTT communication services if regulated, there would be control with authorities to control social unrest resulting from the spread of false/fake information through such communication services by suspending them when required.

- Security issues – If regulated, OTT services will help address security concerns related to data protection, encryption, cyber threats and malicious attacks.
- National Security and Public Safety - In certain situations, there may be legitimate reasons to temporarily suspend or ban specific OTT services to address immediate threats to national security or public safety, during public emergencies, riots, or incidents that could lead to widespread violence or law and order challenges.,
- Promote fair competition – Regulation will help to promote fair competition and prevent monopolistic practices.
- Enforcement of laws - Selective banning of OTT services could be used to enforce laws, such as those against copyright infringement or child pornography.
- End consumer protection – Regulation/Control will help to protect users from fraudulent or deceptive practices by OTT providers. This will also support the strongly implementing of the newly introduced 'The Digital Personal Data Protection Bill, 2023'.
- Prevention of harm - Selective banning of OTT services could be used to prevent harm, such as the spread of illegal content or the incitement of violence/damages to property.

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.

Tata Communications Response:

It is important to ensure that the proposed regulatory framework for selective banning of OTT services should be balanced and proportionate. The key objective should be to protect public safety and national security. The Blanket bans on entire classes of OTT services should be avoided, and measures should be targeted and focused on specific services or platforms. Thus, it is important that the regulatory framework for selective banning of OTT services should be well-defined, transparent, and subject to legal oversight.

The following classes of OTT services could be covered under selective banning.

- OTT services that contain harmful or illegal content, contents that are violent, pornographic, or that promotes hate speech.
- OTT services that are used to spread misinformation or disinformation. This could include content that is false or misleading, or that is used to manipulate public opinion.
- OTT services that are used to incite violence or unrest. It may include content that calls for violence against individuals or groups, or that incites civil disobedience.

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.

Tata Communications Response:

Yes, apart from OTT services, if required, specific websites should also be banned. These would typically include websites that engage in the following:

- Illegal Actions – Websites promoting CASM, promoting terrorism, anti-national activities, encouraging or facilitating cybercrime, encouraging or facilitating dangerous or harmful social media trends and societal practices, etc. should be banned and subject to legal actions.
- Harmful content – Websites spreading/promoting hate speech, misinformation/fake news, inciting users to violence, etc. that may pose law and order risk to the society and nation in general.
- Dark Web/Deep Web – Websites that promote/indulge in online sales/trade of narcotics, arms & ammunition, some cryptocurrency, etc. should also be banned.

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.

Tata Communications Response: No Comments.
