



U.S. Chamber of Commerce

**U.S.-India
Business Council**

August 16, 2024

Shri Akhilesh Kumar Trivedi
Advisor (Networks, Spectrum and Licensing)
Telecom Regulatory Authority of India (TRAI)
Tower-F, World Trade Centre
Nauroji Nagar, New Delhi, 110029

Dear Shri Trivedi,

Since our inception in 1975, the U.S.-India Business Council (USIBC) has tirelessly promoted an inclusive bilateral trade environment between India and the United States, and consistently advocates for a strong, strategic relationship in support of entrepreneurship, job creation, and economic growth. USIBC directly represents some 200 companies based in India, the United States, and like-minded nations in support of U.S.-India commerce, investment, and innovation. Importantly, USIBC is one of several dozen international program within the U.S. Chamber of Commerce, which provides us an unparalleled vantage to understand international regulatory trends, best practice, market insights, and a global perspective on innovation.

We appreciate the opportunity to provide counter comments following our submission dated August 1, 2024, on the Telecom Regulatory Authority of India's (TRAI) consultation paper on the licensing framework and regulatory mechanism for service authorizations under the Telecom Act 2023. **In the Annexure, we take the opportunity to respond to stakeholder views in support of mandatory registration for content delivery networks (CDNs) and share our expertise about the benefits to innovation, competition, and investment of regulatory forbearance for diverse and dynamic CDNs.**

USIBC thanks you for considering our position, and we look forward to participating in the Open House Discussion next week. Should your office have any questions, my colleague, USIBC Senior Director of Digital Economy Aditya K. Kaushik, akaushik@usibc.com would be happy to address them.

Sincerely,

Jay Gullish
Executive Director
U.S.-India Business Council

cc: Dr. Ajay Kumar, Minister (Commerce), Embassy of India, Washington, DC.
Ms. Madhu Arora, Member (Technology), Digital Communications Commission



ANNEXURE

USIBC counter comments on TRAI Consultation Paper on the Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023

Content delivery networks (CDNs), sometimes referred to as content distribution networks, enhance the entire digital economy by offering access to geographically distributed networks of proxy servers, data centers, and underlying content, applications, and services. This architecture significantly enhances availability, performance, and speed to end users. Yet CDNs are not monolithic; rather, they represent a broad, diverse, and changing set of services ranging from video streaming, software downloads, web and mobile content acceleration, caching, etc., and many vendors cross over from other sectors such as telecommunications, cybersecurity, web applications, and data storage industries. This diversity drives innovation, investment, and dynamism in a highly competitive international environment, allowing for India's businesses and consumers to benefit from low cost, best-in-class, and cutting-edge cybersecurity.

Globally, CDNs have produced a vibrant and growing digital ecosystem, which TRAI notes India's CDN market is expected to grow over 700% between 2018 – 2027, from \$435.2 million to \$2.8 billion. **Adding onerous regulations to the CDN market, whether in the form of new license requirements, quality of service (QoS) standards, investment mandates, or public disclosure of private commercial contracts will inhibit innovation, decrease investment, impede market growth, negatively impact India's economic competitiveness, and reduce consumer benefits of these technologies via higher prices and reduced access.**

We believe that during the consultation process, stakeholder comments submitted to TRAI were inaccurate, counter-intuitive, and wrongly suggested that regulation of CDNs would benefit competition, access, and consumer welfare. Here, we directly address and rebut those points.

Registration for CDNs represent an unnecessary cost and barrier to entry and would limit the availability of services and access in India. Cutting-edge companies not based in India would be deterred from investing. Some CDNs would refrain from entering the Indian market due to legal costs, perceived risks, and other related compliance costs. With fewer players, there may be an impact on costs to end users and reduced access to best-in-class services. **USIBC suggests that in the absence of specific regulatory concerns, CDN growth in India should not be stifled by introducing excessive regulations and creating market entry barriers.**

Moreover, internet exchange points (IXPs) utilize CDNs to manage local traffic exchange effectively. If interconnection in India is restricted to only registered networks, it would impede the ability to serve traffic locally resulting in a shift in traffic internationally. **Considering this, USIBC believes that CDN registration could cause delays in launching new services and expanding existing ones, thereby adversely impacting the ability of CDN providers to respond to evolving market needs.**



With respect to international best practices, CDNs do not require a licence to operate, and TRAI will set a precedent by introducing mandatory licensing. International best practices for CDNs focus on regulatory forbearance, leveraging other oversight mechanism such as competition, consumer protection, and legal recourse to address market gaps or specific commercial problems. The internet has thrived, including in India, by allowing "innovation without permission" and efficient, localized exchange of traffic through the growth of CDNs. Introducing a mandatory registration would stifle this process. Additionally, conditioning internet interconnection (peering) on an authorization or registration should not be introduced as it goes against the commonly accepted and global practice of unregulated peering. ***In the interest of innovation, investment, and market development, USIBC suggests not to mandate CDN registration or require other regulatory requirements or mandates.***

CDNs also play a critical role in development of the internet via improved performance, enhanced ability to manage traffic loads, localized traffic delivery and reduced bandwidth, load balancing, and security. Excessive regulation of commercial services would undermine India's growing digital economy. Mandates constrain innovation and interfere with commercial relationships and market forces. CDN registration and mandates, simply put, are unneeded, and regulators have other tools available should there be specific issues or concerns.

Investment mandates would also reduce overall investment in India's CDN ecosystem, and the government should focus on incentives. Some business cases would not materialize, so rather than increasing investment and access, such a policy would undermine those goals. The government has other tools to incentivize investment in Tier 2 and Tier 3 cities, including taxes and universal service funding. In fact, TRAI notes (Recommendation 2.45 on page 30) that improving data centre infrastructure in such cities will facilitate setting up CDN networks in Tier 2 and Tier 3 cities.

Finally, contracts between CDNs and TSPs/ISPs are, and should remain, confidential business-to-business (B2B) contracts. In many cases, these contracts include highly competitive information, trade secrets, and other forms of privileged information. ***In this regard, USIBC submits that, the contracts should be governed by market forces and relevant contracts law and should not be subject to any mandatory disclosure requirements.***
