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New Delhi, 24 April 2015

To:
The Chairman
Telecom Regulatory Authority of India (TRAI)
New Delhi

Dear Dr. Khullar,

Thank you for the opportunity to comment on TRAI Consultation Paper No. 2/2015, on Regulatory Framework for Over-the-Top (OTT) Services.

Please find in attachment the response from the Internet Democracy Project (**www.internetdemocracy.in**) to this Consultation Paper.

The Internet Democracy Project is a Delhi-based civil society initiative that seeks the unearth the changes that the Internet is causing in democracy, in India and beyond. We strongly hope that TRAI will make recommendations on this issue that serve the public interest and hope that our submission can assist you in this venture.

Please do let us know if you need any further clarifications regarding our submission.

Thank you and yours sincerely,

Dr. Anja Kovacs
Project Director
Internet Democracy Project

Submission by the Internet Democracy Project
(www.internetdemocracy.in)
in response to TRAI Consultation Paper No. 2/2015
Consultation Paper on Regulatory Framework for Over-the-Top (OTT) Services
24 April 2015

The following document contains the response from the Internet Democracy Project (**www.internetdemocracy.in**) to TRAI's Consultation Paper on Regulatory Framework for Over-the-Top (OTT) Services.

Our submission at times draws on that from the savetheinternet.in movement, which we strongly support, and we are grateful to the team behind that movement for making freely available their inputs. However, our submission nevertheless veers from theirs in significant respects throughout the document. We therefore highly recommend that, despite similarities at times, this document will be read and considered in its entirety.

Question 1: Is it too early to establish a regulatory framework for Internet/OTT services, since internet penetration is still evolving, access speeds are generally low and there is limited coverage of high-speed broadband in the country? Or, should some beginning be made now with a regulatory framework that could be adapted to changes in the future? Please comment with justifications.

No new regulatory framework in the telecom sector is required for Internet services and apps - and no such regulation should come into effect in future either.

Many telecom companies have earlier argued in the consultation paper floated by TRAI on mobile value added services (MVAS) that it was not necessary to regulate these value added services. They said MVAS are already governed by general laws under the Indian legal system and comply with the security interests as they operate on the networks of legitimate telecom license holders. In its recommendations following the consultation, TRAI, too, supported this approach, noting that it therefore prefers the 'least intrusive and minimal regulatory approach and thus no separate category of licence for value-added services is envisaged', nor is registration. TRAI also recommended that content regulation would be dealt with as prescribed by existing law. It added explicitly, "There should be consistency in the treatment of content across all kinds of media".

Those are excellent principles, and it is important to now not suddenly move the goal posts. The technical language of "Over-the-Top" applications used in the consultation paper fails to convey that it is truly referring to all of the online services and applications which make today's Internet: Facebook, Ola, Zomato, Paytm, WhatsApp, Wikipedia, Zoho, Skype etc. Like MVAS, the Internet, too, is already regulated and governed by general laws in addition to specialised laws such as the Information Technology Act. Thus, the same treatment that was proposed for MVAS should be extended to the Internet as well. Any extra regulatory or licensing regime will only be detrimental to the customer and to Indian entities (be they commercial or not-for-profit ones) developing online services and apps.

Under the current regulatory framework, users can access the internet-based services and apps either for a low fee or for free where the application owners make money by selling advertisements based on user data. With additional regulations and licenses, it will make it expensive for these services to reach out to their customers eventually leading to higher prices and undesirable levels of advertising - which is against the public interest and counterproductive. Moreover, such regulation will likely pose an even higher barrier for services and apps that are developed by not-for-profit entities that intend to serve the social good, such as apps that support the fight against violence against women. In both cases, regulation will thus foster developments that go against the public interest and are counterproductive. In addition, it will ensure that only commercial players or those backed by big funding can survive on the Internet in India, thus severely altering the character of the Internet by only supporting commercial developments. Where only commercial players with big money will be able to exploit the potential of the Internet, this will severely undermine the Internet's empowering potential for India's people at large.

Imposing a licensing and regulation regime carry significant risks of destroying innovation – both commercial and social. Launching new services and features will take more time and will make it difficult for new start-ups with low cash reserves and for not-for-profits to enter this arena. It will basically ring the death knell for the country's fast-growing digital media sector, as well as undermining much of the empowering potential that makes the Internet so valuable for even the most marginalised people in our country.

Question 2: Should the Internet/OTT players offering communication services (voice, messaging and video call services through applications (resident either in the country or outside) be brought under the licensing regime? Please comment with justifications.

As they both sit on top of the network provided by the telecom operators, Internet-based communication services and non-communication services are fundamentally the same. From a technical perspective, drawing a distinction between them is, thus, false.

Moreover, again pointing to the fundamental similarity between communication services and non-communication services on the Internet, many non-communication services on the Internet also offer real-time chat or video interaction features for the benefit of customers. Such features will be affected by bringing such services under a licensing regime, which will in turn negatively impact consumers' interests.

At the same time, the spectrum that telecom operators utilise to offer this network on pipe is already licensed.

For all these reasons, there is no need for additional licensing of Internet based communication service providers. To suggest such a move merely creates the impression that the TRAI consultation is tilted in favour of telecom operators' commercial interests.

The extent of innovation we have witnessed over the years has been greatly aided by the low cost of entry. Any form of regulation or licensing will increase the entry cost, thereby hindering innovation and equal opportunity to start-ups to establish themselves in the market. Behind every Zoho, WhatsApp and Skype there are numerous failures. Licensing will essentially increase the cost and likelihood of failure - and greatly discourage innovation.

Question 3: Is the growth of Internet/OTT impacting the traditional revenue stream of Telecom operators/Telecom operators? If so, is the increase in data revenues of the Telecom Operators sufficient to compensate for this impact? Please comment with reasons.

There is absolutely no evidence to suggest that VoIP services like Hike or Skype are cannibalising voice revenues of telecom operators. In fact, heads of more than one Indian telecom operator have clearly stated the same over the past few months. For example, Airtel India CEO Gopal Vittal had said during the company's earnings conference call, earlier this year, that there's no evidence of VoIP cannibalisation of voice services. Last year, Idea Cellular MD Himanshu Kapania had also said that OTT apps like Viber have had some impact on their International calling business, but on regular voice calls, there was no impact.

Indeed, it is important to remember that Internet-based services have often led to *new practices and habits* among consumers, rather than merely a shift of old practices and habits to new platforms. The argument that the growth of the Internet/OTT is impacting the traditional revenue stream of telecom operators presumes that all communication-related activities that now take place using the Internet would have taken place using more traditional means of communication instead if the Internet did not exist. There is no evidence to support this contention. On the contrary, it is clear, for example, that if far larger number of private persons now communicate on a regular basis with people who live abroad, they do so because Internet-based communication has made this far more affordable than it was before. If prices go up again significantly, it is likely that many of those calls simply will never be made, severely and negatively impacting on Indians' ability to keep in touch with loved ones and communicate with people around the world.

We also need to remember that data revenues also fall under the traditional revenue streams category as per the Unified Access License Agreement (http://www.dot.gov.in/access-services/introduction-unified-access-servicescellular-mobile-services). So, it is factually incorrect to say that increase in data revenues will affect traditional revenue streams.

A Morgan Stanley report on the Indian telecom industry from last year mentions that data revenues is likely to contribute about 23% of telecom operators' overall revenues over the next two years. A study jointly done by AT Kearney and Google estimated that telecom companies will earn an additional $8 billion in revenues by 2017 due to the proliferation of data and data-based services.

Question 4: Should the Internet/OTT players pay for use of the Telecom Operators network over and above data charges paid by consumers? If yes, what pricing options can be adopted? Could such options include prices based on bandwidth consumption? Can prices be used as a means of product/service differentiation? Please comment with justifications.

As argued above, telecom companies are expected to grow steadily and so is data usage. Public statements made by officials of telecom companies, their earnings report and analysis of independent agencies suggest that telecom companies will continue to grow. There is

thus no need for them to impose additional revenue from Internet/OTT players - and there is especially no justification of creating an extra revenue source supported by government intervention.

As noted above, significant price increases – be it on the side of the supplier, as proposed here, or the user, as proposed elsewhere – will only dissuade people from using such services, hampering their ability to express themselves and communicate or engage in commercial transactions freely. This will ultimately considerably harm the Internet ecosystem in India, not foster it.

Taking an additional fee also breaks the internet. Today, many websites, especially blogs, have hyperlinked content and users can switch from one website to another without having to worry about access or cost. But differential pricing – be it borne by Internet/OTT players or by users – will not provide such a seamless experience. Moreover, it tends to favour the larger firms with deep pockets, essentially not providing a level-playing field.

Imposing such an additional fee for bandwidth, rather than data, is equally inappropriate. It is the users who should be able to decide how much bandwidth they are willing to pay for, depending on their needs, not the Internet/OTT player or the telecom company. This will also further encourage innovation suited to India's conditions, by providing an additional incentive for start-ups and existing businesses to build services specifically targeted at those with limited bandwidth. Where the cost of bandwidth is largely borne by the Internet/OTT players, there is little reason for a user to prefer a service using lower bandwidth over one using higher bandwidth.

Question 5: Do you agree that imbalances exist in the regulatory environment in the operation of Internet/OTT players? If so, what should be the framework to address these issues? How can the prevailing laws and regulations be applied to Internet/OTT players (who operate in the virtual world) and compliance enforced? What could be the impact on the economy? Please comment with justifications.

There is no evidence of a regulatory imbalance in the environment in which the internet services and applications operate. Telecom operators holds licenses to spectrum which is a public resource. Internet services and applications don't have to acquire licenses, as they merely ride on top of telecom operators' networks. There is a clear distinction between services provided by telecom operators and internet platforms, and comparing their businesses is like comparing apples and oranges. No additional regulation is therefore required; existing regulation is sufficient.

It deserves to be noted that Internet services and applications are, indeed, already well-covered under existing laws and regulations. These include the Code of Criminal Procedure, Indian Telegraph Act, Indian Telegraph Rules, and the Information Technology Act and its different rules pertaining to intermediaries and interception.

Where challenges relating to the implementation of Indian law where the Internet is concerned continue to exist, these are generally about jurisdictional issues. Such challenges need to be resolved through negotiations with other states, either by means of bilateral agreements or, preferably, through multilateral ones. The Government of India can also take

enabling (not restrictive) measures to strengthen the start-up ecosystem within the country and to encourage peering arrangements and lower transit costs.

Question 6: How should the security concerns be addressed with regard to OTT players providing communication services? What security conditions such as maintaining data records, logs etc. need to be mandated for such OTT players? And, how can compliance with these conditions be ensured if the applications of such OTT players reside outside the country? Please comment with justifications.

As noted under question 5, the internet services and apps are well-covered under the existing laws and regulations. These include the Code of Criminal Procedure, Indian Telegraph Act, Indian Telegraph Rules, and the Information Technology Act and its different rules pertaining to intermediaries and interception. These different regulations allow the Indian government and law enforcement agencies to access the data stored by internet platforms when deemed legally necessary. Any additional regulations carry grave risk of breaching user privacy – especially since the Government has still not enacted strong horizontal protections of privacy in law – and of harming users' right to freedom of expression, and would require constitutional review.

The government and courts also have the power to block access to websites on the grounds of national security and public order. It has made use of these provisions and has taken such steps accordingly in the past, as has been widely reported by the media. The transparency reports periodically published by major internet companies suggests Indian government routinely requests for user data and blocking of user accounts. Between July 2014 and December 2014, Indian authorities had 5,473 requests for data, covering 7,281 user accounts from Facebook and the company had a compliance rate of 44.69%. Google had a compliance rate of 61% with respect to the requests made by different government agencies across India.

As also pointed out above, where challenges relating to the implementation of Indian law where the Internet is concerned continue to exist, these are generally about jurisdictional issues. Such challenges need to be resolved through negotiations with other states, either by means of bilateral agreements or, preferably, through multilateral ones. The Government of India can also take enabling (not restrictive) measures to strengthen the start-up ecosystem within the country and to encourage peering arrangements and lower transit costs.

Question 7: How should the OTT players offering app services ensure security, safety and privacy of the consumer? How should they ensure protection of consumer interest? Please comment with justifications.

Ensuring that OTT players protect the security, safety and privacy of the consumer should not be done by regulating OTT players. It has to be done by ensuring adequate protections of users' rights in Indian law.

As explained earlier, a wide range of Indian laws apply to the Internet, some of which already address some aspects of users' security and safety. These include the Information Technology Act and the Code of Criminal Procedure. Any criminal act committed using the

Internet can be tried under the relevant provisions of this legislation. Where India is still severely lacking is in a strong, horizontal privacy provision that includes data protection.

Ensuring that this is put into place or that other laws are strengthened where necessary is, however, not the role of TRAI, but of the legislative arm of government. To include it in a discussion on net neutrality and differential pricing is misplaced.

Question 8: In what manner can the proposals for a regulatory framework for OTTs in India draw from those of ETNO, referred to in para 4.23 or the best practices summarised in para 4.29? And, what practices should be proscribed by regulatory fiat? Please comment with justifications.

ETNO is similar to India's COAI which makes it an industry lobby group. Understandably, the suggestions made by ETNO heavily favour the telecom companies and will be detrimental to customers if India refers to their suggestions.

ETNO's stand has been widely criticized in the past. Europe's own group of government regulators, the Body of European Regulators for Electronic Communication (BEREC), has said ETNO's proposals could jeopardize the "continued development of the open, dynamic and global platform that the Internet provides" which will "lead to an overall loss of welfare". (http://bit.ly/berec-etno) Additionally, the international free expression group Article 19 says ETNO's proposal "would seriously undermine net neutrality."

According to Access Now, ETNO's recommendations would have meant higher data charges for customers while from an entrepreneur's standpoint, it will limit their ability to reach out to a wider market. For a small but fast growing start-up and digital media sector in India, this can potentially ring the death knell. As pointed out earlier, social entrepreneurs, too, will see their audience reach diminish in such circumstances, significantly hampering the potential of the Internet to contribute to India's social development.

It deserves to be noted that ETNO's suggestions on this subject so far have failed to have been accepted by any government agency - including the regulators in their own host countries. It is therefore especially troubling that TRAI is choosing to make one of their proposals a pillar of this public consultation here in India, rather than highlighting arguments used in other developing countries, such as Chile and Brazil, in favour of net neutrality.

Question 9: What are your views on net-neutrality in the Indian context? How should the various principles discussed in para 5.47 be dealt with? Please comment with justifications.

'Internet' is a very specific term. When users access the Internet, they expect that they can access any other device/server connected on Internet irrespective of its geographic location, protocol used, type of content, etc. All of these elements are the constituents of net neutrality. These elements are the key contributors of the successful growth of the Internet as a global and public platform. These elements have made the Internet a spectacular success and an achievement of the entire human race. The engineers who designed various parts of the Internet have taken great pains to ensure that all the parts of Internet can

operate with each other irrespective of the manufacturer, location, distances, etc. Discarding net neutrality means undermining all these efforts and regressing back from the success achieved.

Net Neutrality, by definition, means no discrimination of traffic flowing on the internet with respect to access, speed and price. The following principles should be adopted in India to protect net neutrality:

1. No blocking by TSPs and ISPs of specific forms of internet traffic, services and applications.
2. No slowing or "throttling" internet speeds by TSPs and ISPs of specific forms of internet traffic, services and applications.
3. No preferential treatment of services and platforms by TSPs and ISPs.

There are many good reasons to do so. If the economic and social benefits of the Internet are to reach all, it is also imperative that we do not create first-class and second-class citizens online. If users are to pay separately for each service or site, or are encouraged to privilege certain services through zero-rating, this will do only limited harm to the well-to-do, who can continue to explore the Internet in the same ways we do now as they can pay for each new site or service they want to access. It is the already marginalised sections of our society who will once again be most disadvantaged as they remain confined to small, highly commercialised walled gardens which allow only limited access to or awareness of the bounty of benefits that the Internet can provide, including information about job and educational opportunities and new skills.

Moreover, if a pay-per-service or zero-rating system is put into place now, this removes any incentive for two of the most powerful business stakeholder groups in the Internet ecosystem to innovate in such a way that affordable access to "all of the Internet, for all of the people, all of the time" (as demanded by Nnenna Nwakanma at the Global Conference on Cyber Space in the Hague, April 2015) ever becomes a reality. Indeed, such a system would have tremendous benefits for the incumbents, be they telecom companies or content service providers. But as explained above, they would deeply harm the interests of users.

As well as, in fact, the interests of any potential, or less powerful, service or application provider – be they commercial, governmental, or not-for-profit. Internet apps and services are expected to contribute 5% to India's GDP by 2020. That will only happen of entrepreneurs, big and small, have a level playing field that encourages innovation and non-preferential treatment—something that net neutrality ensures. Social development, too, will only benefit from the Internet if net neutrality is ensured. Assuming there is no net neutrality, only the big players will be able to strike deals with telcos, while the smaller players (including not-for-profit ones) remain inaccessible – harming social and economic development alike. India has 1 billion people without internet access, and it is imperative for our democracy to have an open and free internet where users are free to choose the services they want to access—instead of a telecom operator deciding this for them.

Adopting the above mentioned principles rather than the framework proposed in the consultation paper also prevents a concentration of power in telecom companies. Too much power in the hands of one stakeholder or stakeholder group is deeply unhealthy for the Internet ecosystem and its growth.

It deserves to be noted that Chile and Brazil, which are developing countries just like India, have passed laws supporting net neutrality. This is in addition to government commitments to implement net neutrality legislation in the United States and the European Union.

Question 10: What forms of discrimination or traffic management practices are reasonable and consistent with a pragmatic approach? What should or can be permitted? Please comment with justifications.

As outlined by BEUC, the European Consumer Organisation (http://www.beuc.org/publications/2012-00652-01-e.pdf), "any traffic management measure that imposes restrictions or illegitimately discriminates against specific technologies, applications, content or end-users interferes with the neutrality and openness of the Internet and should therefore not be allowed".

Other traffic management practices could, however, be considered. For example, those done to comply with legal obligations such as court orders, for security reasons or for temporary congestion management can be reasonable, provided they adhere to the principles of transparency, proportionality and non-discrimination.

Which traffic management practices should be considered "reasonable" and which should be considered "illegitimately discriminating" deserves, however, far deeper consideration than this space provides. Indeed, the line between the two is, at times, very thin. As the devil is in the detail where this issue is concerned, we recommend that TRAI organises a consultation specifically on this topic.

Question 11: Should the TSPs be mandated to publish various traffic management techniques used for different OTT applications? Is this a sufficient condition to ensure transparency and a fair regulatory regime?

Where TSPs use non-discriminatory traffic management techniques, it is essential that information about such techniques is published by the TSPs in question in a format that makes this information intelligible to general users. Where TSPs draw on technical or security grounds to justify traffic management (rather than legal ones), TSPs should also be obliged to provide conclusive evidence of the need for the measures they have taken. The regulator should scrutinise this evidence for its veracity and truthfulness on a regular basis. Where false information is found to have been provided, severe penalties should apply.

In addition, as noted under question 10, TSPs should be explicitly prohibited from using traffic management techniques that differentiate between traffic from different OTT applications. Violation of this provision should also be punished with penalties.

Question 12: How should a conducive and balanced environment be created such that TSPs are able to invest in network infrastructure and CAPs are able to innovate and grow? Who should bear the network upgradation costs? Please comment with justifications

Since TSPs are private ventures, the cost of developing and upgrading network infrastructure is theirs to carry. While the viability of TSPs is an important question, it would be incorrect to ensure it by regulating OTTs.

Indeed, it deserves to be noted that if there are any questions about the viability of TSPs, its root cause is not the emergence of the Internet but the spectrum auctions in the country. It would be rather incorrect if the larger Internet ecosystem in general and actual and potential Internet users in particular would now have to pay for this malaise created elsewhere. It also deserves to be pointed out that few telcos have carried out their rollout obligations in rural areas of the country even before Internet penetration started to take off in India; they preferred to pay the USOF and focus on lucrative urban markets instead. Even in those markets, however, complaints about low quality of service standards predate growing Internet penetration.

Insofar the viability of TSPs is a valid concern, it is, thus, clear, that the Internet cannot be held responsible for it. What the Internet does do, however, is offer TSPs new opportunities to adapt their own business models in more profitable directions. It is this that TSPs should urgently explore in more detail.

Question 13: Should TSPs be allowed to implement non-price based discrimination of services? If so, under what circumstances are such practices acceptable? What restrictions, if any, need to be placed so that such measures are not abused? What measures should be adopted to ensure transparency to consumers? Please comment with justifications.

As noted above, "any traffic management measure that imposes restrictions or illegitimately discriminates against specific technologies, applications, content or end-users interferes with the neutrality and openness of the Internet and should therefore not be allowed" (http://www.beuc.org/publications/2012-00652-01-e.pdf). Any non-priced discrimination of services that falls within this definition should not be allowed.

For further guidance as to how this issue should be treated, we once again refer to our answers under questions 10 and 11.

Question 14: Is there a justification for allowing differential pricing for data access and OTT communication services? If so, what changes need to be brought about in the present tariff and regulatory framework for telecommunication services in the country? Please comment with justifications.

There is no justification for allowing differential pricing for data access and OTT communication services. On the contrary, as we have argued repeatedly above, there are many reasons not to allow such differential pricing. More specifically:

- Such differential pricing would considerably harm innovation.
- Such differential pricing would break the Internet, and make an end to the seamless experience that the Internet currently provides which, in turn, encourages exploration and discovery on the part of users as well as further innovation on the part of business, the social sector and government.

- Such differential pricing would harm consumer interest as the many communication-related features of non-communication services would be terminated, or users would be charged for them, thus negatively impacting users' ability to communicate with the service provider in question – be it a commercial, non-commercial or governmental one.
- Such differential pricing would allow too much power to be concentrated in the hands of the telecom companies, which would harm the Internet ecosystem as a whole.

Most importantly, however, and as outlined earlier, where OTT communication services in particular are concerned, it is important to remember that Internet-based services have often led to *new practices and habits* among consumers, rather than merely a shift of old practices and habits to new platforms. Where an argument is made to charge extra for OTT communication services, this is based on the assumption that such services impact the traditional revenue stream of telecom operators. This in turn presumes that all communication-related activities that now take place using the Internet would have taken place using more traditional means of communication instead, if only the Internet did not exist. However, there is no evidence to support this contention.

On the contrary, it is clear, for example, that if far larger number of private persons now communicate on a regular basis with people who live abroad, they do so because Internet-based communication has finally made this affordable; for those users, making regular international calls is a new practice. If prices go up again significantly, it is likely, however, that users fall by and large back into their old habits, and many of those calls simply will not be made any more. As in previous decades, high prices will likely severely and negatively impact once again Indians' ability to keep in touch with loved ones and communicate with people around the world – as well as the viability of the companies that provide such communication services.

Question 15: Should OTT communication service players be treated as Bulk User of Telecom Services (BuTS)? How should the framework be structured to prevent any discrimination and protect stakeholder interest? Please comment with justification.

It is not the OTT communication service players who use the internet, it is their users who use the internet. Thus, it would be incorrect to treat OTT communication service players as Bulk Users of Telecom Services, and the question thus stands irrelevant.

The only possible reason to nevertheless create OTT communication service players as BuTS is to ensure generous revenue streams for telecom companies. As explained under question 12, there is, however, no reason why telecom companies specifically should deserve special protection from the changes that the Internet has brought in its wake. Like all other companies, they, too, will need to adapt and innovate where their business models are concerned.

Question 16: What framework should be adopted to encourage India-specific OTT apps? Please comment with justifications.

There should be no additional regulation or licensing. Only strong net neutrality laws should be enacted.

These steps will ensure that India continues to have a diverse app economy where entry barriers are minimal and entrepreneurs can launch their product without having to worry about discriminatory treatment from the telecom operators. In such a case, the best product will win which will be beneficial for the customers and the telecom as well as the Internet industry.

The agnostic nature of internet networks has boosted the growth of India's app economy but we risk destroying this fast growing sector by violating net neutrality.

Question 17: If the OTT communication service players are to be licensed, should they be categorised as ASP or CSP? If so, what should be the framework? Please comment with justifications.

The question of categorising doesn't even arise, because as mentioned earlier any extra regulations or licensing is not required. This principle was recognised by TRAI in its recommendations on MVAS, and should now be similarly applied to the Internet as well.

Requiring licensing of online services and mobile apps under the current telecom framework in India would have enormous negative consequences. The tremendous burdens imposed by such licensing would results in many such globally developed services and apps not being launched in India, while our own start-up efforts to develop local versions of such apps would be killed in their early stages. Licensing for OTT communication services would likely pose an even bigger barrier for social entrepreneurs and not-for-profit organisations who seek to incorporate aspects of communication services in their social development services.

The net results would be decreased user benefit; a massive slowdown in innovation; reduced "Make in India" efforts due to the regulatory cost of doing business becoming very high; and an overall slowing down of economic and social development spurred by the Internet.

Question 18: Is there a need to regulate subscription charges for OTT communication services? Please comment with justifications.

Subscription charges for OTT communication services should not be regulated. Once again, the principle of consumer choice should prevail, with the market determining prices as it does in so many other areas of everyday life. Which service to use and whether and how much to pay is a choice for each consumer to make within this larger context, and not for regulation to decide.

Question 19: What steps should be taken by the Government for regulation of non-communication OTT players? Please comment with justifications.

As mentioned earlier, irrespective of what an OTT app is used for (communication, online shopping, etc) they are all essentially Internet-based services, and hence there is no need to distinguish between them. Regulation of non-communication OTT players is not desirable any more than regulation of communication OTT players, for reasons noted throughout this document and summarised under question 14.

Question 20: Are there any other issues that have a bearing on the subject discussed?

TRAI has discharged its public consultation functions in a commendable manner on numerous occasions. It has been disappointing to see, however, how on this particular occasion, TRAI seems to have allowed itself to be captured by the views of one particular industry stakeholder group, as evidenced by the content of the consultation paper, rather than maintaining a more neutral position or representing the interests of the public at large.

We realise that TRAI has received a very high number of submissions in this consultation process. We hope, however, that TRAI will nevertheless maintain the high standards that it has upheld in other consultation processes and will do everything in its power to make sure that each submission is done justice to this time around as well.

TRAI is unique, and commendable, for the way in which it has been holding public consultation processes on issues within its mandate in a systematic and transparent way, and has gained considerable credibility in the process. We hope that the massive public response to the consultation process encourages TRAI to once again come to a more balanced assessment of various competing interests in its recommendations, keeping the public interest first and foremost in mind.