



August 17, 2017

International Telecommunication Union
Place de Nations
1211 Geneva 20
Switzerland

Dear Sir/Madam;

On behalf of the Software & Information Industry Association (SIIA), I am submitting these comments on the ITU's open consultation on public policy considerations for over-the-top (OTT) applications. We very much appreciate the opportunity to comment. Our views on the consultation questions can be summarized as follows.

- 1) OTTs are socially and economically valuable tools.
- 2) OTTs contribute to consumer security, safety, and privacy.
- 3) OTTs are different from broadband providers.
- 4) Traditional telecommunications regulation should not be extended to OTTs.
- 5) OTTs and broadband providers both contribute to essential communications infrastructure.

SIIA considers the ITU's core mission - "We allocate global radio spectrum and satellite orbits, develop the technical standards that ensure networks and technologies seamlessly interconnect, and strive to improve access to ICTs to underserved communities worldwide." – to be very important. We encourage the ITU to maintain focus on these core competencies and not expand its work program to include areas beyond its limited remit and core competence, including questions relating to Internet-based applications and services.

1. What are the opportunities and implications associated with OTTs?

The development of OTTs has been explosive and will continue to provide consumers with innovative capabilities. The May 2017 WiK report, *The Economic and Societal Value of Rich Interaction Applications (RIAs)*, estimates that from 2000 to 2015, a 10% increase in the global use of RIAs led to an increase in global GDP per capita by approximately 0.33%. Over this period, global GDP increased by \$5.6 trillion as a result of RIA use.¹ The report also highlights the societal value of RIAs, which includes helping bridge communication gaps, facilitating the maintenance of close relationships over long distances; the impact on health in both developed

¹ WiK, "The Economic and Societal Value of Rich Interaction Applications (RIAs)," May 2017, pages 31-36. See also pages 67 to 72 for the methodology used in estimating the global economic impact of RIAs.

and developing countries; connecting people without the Internet; and education. RIAs can also be an important tool in reaching the United Nations' Sustainable Development Goals.

2. What are the policy and regulatory matters associated with OTT?

The physical, technological, and legal differences between traditional telco services and OTT applications need to be considered in any communications policy or regulatory framework. Traditional telecom regulations are intended to ensure that incumbent operators – which own underlying access infrastructure with high barriers to entry and face little competition – do not use these privileges to disadvantage consumers. By contrast, providers of online applications do not control underlying network infrastructure bottlenecks and must compete vigorously to retain customers that can easily switch between competing applications. The U.S. Federal Communications Commission (FCC) recently made this point, finding that consumers, “once signed up for a broadband service, simply cannot avoid that network in the same manner as a consumer can instantaneously (and without penalty) switch search engines (including to ones that provide extra privacy protections), surf among competing websites, and select among diverse applications.”² These differences in the nature of the services provided by carriers and OTTs and the size of switching costs mean, at a minimum, that considerations that might motivate policymakers to consider regulations for the telecommunications services provided by telecommunications carriers do not automatically provide reasons to adopt similar regulations for OTT applications.

Further, the “*call termination monopoly*” is specific to traditional telco services with legacy voice and SMS (using numbering resources) which introduced a “*monopoly*” and which end-users need in order to switch providers³. By contrast, end-users can readily download, use, and switch between multiple OTT applications – if a “*same service, same regulatory rule*” approach were applied, then the exclusive access of legacy services that enables them to bundle voice and SMS with broadband access would need to be ‘unbundled’ and these services would need to be offered on a disaggregated basis if provided by a traditional network operator.

In any event, there is no regulatory gap that requires OTT applications and traditional telco services to be treated the same. OTT applications did not derive from traditional telephony and SMS, but evolved separately around feature rich functionality that has provided increasing socioeconomic benefits as Internet access has proliferated around the world. OTTs are not the same as traditional telephony and SMS; they are used in a complementary manner. To take an analogy used by some in the industry, this is similar to recognizing that computers are not direct substitutes for typewriters.

² Federal Communications Commission, Notice of Proposed Rulemaking, Protecting the Privacy of Consumers of Broadband and Other Telecommunications Services (NPRM), March 31, 2016, page 3.

³<http://static1.1.sqspcdn.com/static/f/1321365/27575015/1495793366237/LPFMay24.pdf?token=U9zAqtwKdfsRPCfHcfwPBRXdMI6c%3D>

Essentially, telcos and OTTs now operate in a “data-first” world. Existing voice-era regulatory frameworks therefore should not be extended to new sectors, and in many cases may need to be eliminated or modernized as they apply to existing sectors and market participants. Less regulation and increased competition for both traditional telco providers and OTT application providers provide the best incentive for all market players to innovate and invest.

3. How do the OTT players and other stakeholders offering app services contribute in aspects related to security, safety, and privacy of the consumer?

Because of the interdependent, decentralized nature of the Internet, consumer security, safety, and privacy cannot be guaranteed by any one party alone. Multistakeholder and multiparty cooperation between application providers, telecommunications service providers, hardware makers, governments, the technical community, and civil society organizations is critical to building confidence in the use of Internet services. There are active discussions on these issues in multistakeholder standards-setting bodies like the Internet Engineering Task Force (IETF), and we encourage interested ITU member states to participate in these existing expert-level processes.

4. What approaches might be considered regarding OTT to help the creation of an environment in which all stakeholders are able to prosper and thrive?

OTT applications and traditional telcos have a symbiotic, mutually-reinforcing relationship. Rich applications drive a huge demand for data capacity provided by traditional telco providers' infrastructure whilst the telco provider infrastructure enables end-users to access innovative online services and content. It is not a “zero sum” game. Traditional telco providers and OTT applications are both able to benefit from and support the growth of the other's business model. OTT applications contribute to this rich ecosystem. Forward-looking telecom operators and providers recognize that they benefit from RIAs and have embraced this symbiotic relationship.

The WiK study concluded that consumers, who use online services and OTT applications, are more likely to have purchased new mobile plans with more high-speed data allowances within the last 2 years and that the plans purchased are more likely to be pay monthly rather than pay-as-you-go.⁴ The study concludes that as monthly plans include voice and SMS allowances the telco operator is unlikely to see a decline in revenue based on any further increase in use of online services and OTT applications.

As telecom providers look forward to 2020, a new area of growth in the telecoms sector will be in the capability provided by 5G. 5G innovation will require investment from traditional telco providers and the return on this investment will, in part, be driven by consumer demand for new innovative services. For example, investments in 5G are a priority for Verizon: CFO Mathew Ellis

⁴ http://www.wik.org/fileadmin/Studien/2016/OTT_Study_ENG.pdf

says: “5G wireless technology is a focus for us. We are now launching about 10 precommercial pilots across the country with multiple use cases, including dense urban and suburban neighborhoods.”⁵

It is also important to recall that while network infrastructure is fundamental to the provision of OTT applications, it is not the only infrastructure required. OTT providers invest billions of dollars annually in data centers, submarine cables, and servers for data transport, delivery, and hosting that helps to relieve pressure from broadband and mobile networks by locating data nearer to the consumer, thus providing connectivity benefits both to traditional telco provider(s) and the end-user.

5. How can OTT players and operators best cooperate at local and international level? Are there model partnership agreements that could be developed?

Regulatory authorities should permit interested parties to form pro-competitive partnerships to invest in, build, and operate infrastructure such as wholesale backhaul networks without subjecting the partnership and its partners to traditional telecommunications regulatory requirements. There is potentially a joint OTT/telco operator (as well as societal) interest in investing in these backhaul networks.

SIIA extends its thanks again to the ITU Commission for this opportunity to comment. We would be pleased to provide additional information or participate in ITU-organized events upon request.

Sincerely,



Carl Schonander
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Software & Information Industry Association (SIIA)

⁵ The Motley Fool, “3 Top 5G Stocks to Buy and Hold,” Mathew Cochrane, February 21, 2017.