IAMAI Response to
CWG-Internet: Online Open Consultation on
Public Policy considerations for OTTs

The Internet & Mobile Association of India, in response to the Open Consultation for 'Public Policy Considerations for OTTs' would like to make the following submission on behalf of the Indian Internet Industry.

IAMAI is a young and vibrant association representing the entire gamut of digital businesses in India. It was established in 2004 by leading online publishers and, since then has effectively addressed the challenges facing the digital and online industry, including mobile content and services, online publishing, mobile advertising, online advertising, ecommerce and mobile and digital payments, among others.

Thirteen years after its establishment, the association is still the only professional industry body representing the online and mobile VAS industry in India with a membership of over 275 Indian and MNC companies, and is well placed to work towards charting a growth path for the digital industry in India.

The Indian Context in brief

While India is the second largest internet user base with 432 million internet users; the main growth sector of penetration, the Urban India, has started witnessing slowdown with around 60% internet penetration already achieved. The next wave of growth is to come from Rural India (presently with 17% internet penetration), and the dominant driver of future internet penetration is mobile internet.

The telecom sector has witnessed a sea-change in India over the last decade: 90% of internet access is through mobile phones; the ratio of voice-data traffic/revenue have shifted in favour of the latter; Mobile VAS, which was operator controlled, has given way for third-party app based services; Social media/VOIP/ internet based messaging app have emerged as the preferred mode of communication rather than conventional PSTN calls; services like digital payments and related mobile based e-wallets have transformed the mobile from a mere communication device to a more ubiquitous tool for daily needs; e-governance services have been replicated as m-governance to ensure greater out-reach and organic connect.

These changes have transformed telecom for a primary service category to a mode of access to other service categories. Telecom today is the base on which the entire internet/digital service is delivered and is a critical infrastructure for the realisation of the Digital India envisioned for the nation. What the telecom sector refers to as OTT is actually the mobile internet sector, which is an industry in its own rights, governed by the Information Technology Act of the country. Thus, the whole discourse of telecom sector regulating OTTs is misplaced in the Indian context as the 2 sectors are mutually exclusive though they share a symbiotic mutually-reinforcing relationship.

However, for the sake of clarity, we refer to the mobile internet sector as 'OTT' in the following discussion:

Detailed Submission to Consultation

1. **What are the opportunities and implications associated with OTT?**

'OTT's have a big role to play in the Indian digital ecosystem. In a recent report produced by ICRIER (2017) titled "Estimating the Value of new Generation Internet based Application in India" it states:

- *During the period 2015-16, OTTs contributed a minimum of USD 20.4 billion (Rs. 1357.6 billion) to India's GDP.*
- *Going by the current pace of growth, by 2020 OTTs well could contribute a minimum of USD 270.9 billion (Rs.18275.9 billion) to India's GDP.*
- ***10% increase in India's total Internet traffic, delivers on average a 3.3% increase in India's GDP, and a 10% increase in India's mobile Internet traffic, delivers on average a 1.3% increase in India's GDP**.*

OTTs are the drivers for internet penetration in India, which is borne by the fact that volume of wireless broadband data consumed by Indians has risen sharply, from less than 200 million gigabytes (GB) a month in June 2016, to around 1.3 billion GB a month in March 2017 [Source: Internet Trends 2017, Kleiner Perkins Caufield Byers (KPCB)].

India is a digital hotbed presently with numerous indigenous tech start-ups in the fields of e-commerce, fintech, healthtech, edutech, etc driving innovation and entrepreneurship in the country. Given the predominance of mobile internet in the country, all tech providers/businesses adopt the mobile platform for greater outreach in India. Consequently, *'OTT's are the driving force of the digital sector of India.*

The growth of 'OTT's in India has great socio-economic benefits and is a prime driver of growth for all stakeholders at all levels in the supply chain;

- telecom service providers who are able to invest into improved services and infrastructure;
- governments and businesses that use OTTs and the underlying network connectivity needed for these services,
- and ultimately end-user consumers.

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

Mobile internet services or 'OTT's are part of the internet services in India and are therefore governed by the Information Technology Act of the country.

OTTs do not come under telecom regulations because there are inherent differences between OTTs and traditional telecoms services providers:

- Telecoms operators as ISPs are *access providers* who control the underlying broadband access infrastructure, with few market players due to high barriers to market entry.
- By contrast, OTTs as *content providers* do not control the underlying broadband access point, have significantly lower barriers to market entry and are faced with many competing services. Consumers can add or stop using OTTs at will and are typically not subject to long term contracts.

- OTTs did not derive from traditional telephony and SMS, but have evolved separately around software applications with feature rich functionality, able to benefit from the growing internet phenomenon and related uptake in broadband services.

To suggest that there is a natural parity or similarity between OTT players and Telecom Service Providers (TSPs) is also erroneous. The latter enjoy several exclusive rights conferred on them through their licenses that are not enjoyed by online services. ***In India, these include (i) the right to acquire spectrum, (ii) the right to obtain numbering resources, (iii) the right to interconnect with the PSTN, and (iv) the right of way to set up infrastructure.***

Regulation of 'OTT's would involve issues such as Data Privacy, Encryption Policy, Intermediary Rights/liabilities and Safe harbor provisions, etc. which are beyond the purview of traditional telecom regulations.

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

Some of the OTTs offer innovative service related to security and safety for individuals that were only possible under advancements of digital technology. Location based services based on GPS tracking have offered services like safe transport, distress and emergency response management, faster response for LEAs and other such service providers. Today, all major services in India like the Police, Hospital and ambulance services, railways, public transport departments, etc. offer a 'mobile app' for instant reach-out. Mobile based Digital payments is currently being promoted by the Government as the most secure, fast, and efficient mode of transaction.

With the growth of digital age, more and more personal information of consumers/citizens find its way into massive databases held by the private sector, and the government. Access to such data drives the issue of privacy. These include individuals' concerns about (a) how personal information is used and/or shared; (a) how it is protected; and (c) who is accountable.

Consumer security, safety, and privacy cannot be guaranteed by any one party. Multi-stakeholder and multiparty cooperation between OTTs, telecommunications service providers, governments, and civil society organizations is critical to building confidence in the use of Internet services. Rights and Responsibilities of Data Controllers, suitable encryption policies for data security etc are some of the issues that are being discussed in this context. The entire exercise is best suited under the 'Information Technology Act' to cover the entire digital sector in its ambit.

It must also be kept in mind that ultimately it is the prerogative of the consumer which services to avail, based on clear terms and conditions shared by the service providers. The costs for switching from one OTT service provider to another are extremely low. Additionally, there is extremely high competition in the OTT services space. OTTs have to follow strict guidelines for consumers' privacy, security to be able to get space on given platforms. Additionally, any OTT service failing to provide the security, safety and privacy as per customer expectations risks inevitable customer drop-out in favour of an alternate service provider. The internet is known for punishing companies that do not continuously innovate and meet expectations. This has pushed OTT service providers to adopt best practices to improve services and enhance security, privacy and safety through consultation and consumer surveys.

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

Presently, OTTs are the drivers of internet services in India which in turn creates growth opportunities for all stakeholders. Internet content providers are the end-point destination for customers and all other services engaged in enabling this access are mere conduits. Thus it is in the best interest of all such access providers/ enablers to make sure that the mobile internet service sector in the form of OTTs thrive and prosper so as to ensure their own growth and development.

Traditional telecom service providers often take a myopic view of 'revenue loss' because of lower importance of conventional 'calling' and 'messaging' services for customers today. This may be an erroneous perspective because:

- Comparison of 'revenue' stream is often erroneous as the metrics are different. In the traditional telecom services, the product is voice and the relevant pricing metric is minutes; in a new OTT environment, the product is connectivity (e.g., connecting users) and the relevant pricing metric is bandwidth / throughput, where the incremental cost of sending information over the underlying IP network is typically close to zero.
- With the advancements in technology, incumbent telecom service providers need to find a way to navigate this transition from business models built around voice/minutes to compete in a new IP environment and data led business model. In the Indian context, the advent of new TSP/ISP like Reliance Jio which made voice calling free / as part of bundled data pack shows that innovative product pricing can solve the perceived 'conflict' of interest between TSP/ISPs and 'OTT's. Today, many other operators too are shifting to 'data only' models with voice calls bundled in the service.

The rise of 'OTT's is an opportunity of growth for all stakeholders in the digital ecosystem and failure to innovate/ adapt by any incumbent should not lead to regulatory 'albatross' for OTTs.

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

While business development between operators and OTTs is being explored in various forms across the world, in the Indian context in recent times the debate of 'Net Neutrality' gained great importance around some business tie-ups offered which violated the neutral access of the internet for consumers. The debate of net neutrality is still in progress as stakeholders meet regularly under the aegis of the regulator to frame the guidelines on net neutrality in India.

It is in the best interest of Indian start-ups and emerging digital sector to have access to a 'neutral' access not hogged by bigger players who can collude with operators to 'throttle' or 'block' access.

Moreover, in the Indian context, one must keep in mind that while there are no restrictions of TSP/ISPs to get into the 'OTT' business, there is numerous restrictions on 'OTT's and internet service providers to get into the business of telecom operators. This then creates risks of conflict of interest of operators who have commercial interests in certain 'OTT's to create 'walled gardens' for their access pipes.

Going forward, any 'cooperation' between operators and OTTs must stand the test of Net Neutrality as and when the competent regulators come up with its guidelines.