

# DIGITALEUROPE Response to ITU Consultation on OTTs<sup>1</sup>

Brussels, 18 August 2017

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

### OTT as an overtly broad category:

- The term “OTT” has been used expansively over the last few years. However, it tends to encompass an overtly broad category of services. Any service delivered over IP can fall in that category, despite having very different characteristics.
- In regulatory terms, this category is unnecessarily wide and can lead to confusion. Few useful insights can be drawn from a discussion that could cover everything from streaming video to mobile banking, cloud computing, or cybersecurity services. Any regulatory move in this space should be assessed carefully as overreach could have wide implications, particularly when more and more services are digitised.

### Opportunities associated with OTT:

- OTT services have been an important driver of innovation and economic growth around the world. To provide a few examples, they:
  - lower barriers to entry to culture, through information repositories, free forums, a wide array of platforms and distribution channels and innovative content delivery services.
  - support the exercise of human rights around the world. A competitive environment for communications platforms supports open and uninhibited free expression – regardless of frontiers. Internet services are also providing innovation solutions that support the attainment of other rights, such as freedom of movement or full participation in the cultural life of the community.
  - provide platforms linking businesses big and small to consumers globally, enabling them to market their products and services like never before.
- Due to their role as drivers of economic growth, OTTs are moving the needle towards the achievement of Sustainable Development Goals. New services provided over the Internet support innovation, economic development, and better paying jobs, crucial to attaining SDG8: Decent Work and Economic Growth.
- As cross-cutting enabler, they allow entrepreneurs to devise new solutions to address issues as diverse as efficiently managing energy consumption, revolutionizing education and learning, and improving the effectiveness of government services and institutions.

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1 <http://www.itu.int/en/council/cwg-internet/Pages/consultation-june2017.aspx>

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

**Regulating OTTs is effectively regulating the Internet:**

- The explosive growth of the Internet and services over the Internet has been due in large part to a light-touch regulatory treatment. Considering that most IP-based services could fit in the OTT category, regulating OTTs essentially means regulating the internet, and thereby impacting the innovation that has led to such growth in the first place.
- Regulating OTTs would reduce the likelihood of achieving various SDGs such as increasing accessibility to communications and technologies, as well as stifling innovation. Regulation of OTTs will also stifle the usage of the internet and investment in broadband deployment.

**The goal of regulation should be the welfare of the end-user and consumer, not the specific business model used to deliver services:**

- Discussing ICT-based services, policy should focus on the welfare of the consumer, not the business models that deliver those services. Regulating specific types of services based solely on how they are delivered will fundamentally harm the consumer. By arbitrarily putting barriers before some types of services but not others, consumers will face cost increases and have fewer choices of innovative solutions, while at the macroeconomic level decreases in investment, reduction in healthy competitiveness, and a reduction in local content production.
- OTTs, including the personal communication space, are characterised by a highly competitive market and truly cross-border approach to service provision. Consumers hold the power and can switch service providers if they are not satisfied. In order to compete for consumers, OTT communication services are therefore often combined with value added services to enrich consumer experience, or are integrated in broader software and hardware ecosystems. Any policy discussion must take these dimensions carefully into consideration, including the fact that a market that is competitive empowers consumers, while regulation may limit their choices.
- To the extent this policy area should be addressed, it is clearly the domain of individual states, not of the ITU. Every country is free to regulate Internet content and services in the manner that they feel is appropriate for them. Discussions in Council Working Group on OTTs are largely unhelpful, since it is not the ITU's prerogative to make recommendations in this space.

**Promote a global regulatory environment that will help ensure that OTT services continue to deliver their transformational potential:**

- Here the ITU has a role to play in promoting the development of OTT services, notably by encouraging and enabling increased investment in networks, and by promoting the up-take of international/global standards standardisation at global level, in order to avoid duplicating infrastructure and localisation of data.
- Significant investments will be needed to ensure we continue to have the infrastructure in place that meets future connectivity needs. ITU and its member regulators should focus efforts on creating an enabling regulatory environment for network investment that fosters sustainable infrastructure-based competition and that ensures investors are able to get a return on investment through the ability to develop and innovate in new business models and added value services, including in collaboration with OTT providers (see below).

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

OTT app services positively contribute to safety, privacy and security issues, greatly benefiting the consumer:

- Innovation in the digital economy has led to the development of new products and services that compete on issues of privacy, safety and security. For example, services like personal password managers empower users to securely manage the constellation of different online accounts, without resulting to passwords that are easier to remember but insecure. Many digital communication services offer robust security through encryption, giving consumers in developing areas high levels of security and privacy compared to traditional operators.
- In the field of privacy, various international standards and principles are applicable (i.e. as developed by the Council of Europe, APEC OECD), helping ensure a good basis for a global digital ecosystem. Beyond this, privacy is a delicate issue, embedded in social and cultural norms that differ from country to country, and it therefore better dealt with at national level. ITU's interest to these issues would lead to a broadening of its scope beyond the organisation's area of expertise.

### 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?

The Digital Economy already provides an environment in which all stakeholders are able to prosper and thrive:

- There is no evidence today that demonstrate whether OTTs prevent the development of an environment that allows all stakeholders to prosper and thrive. Quite the contrary, The Internet has been the most powerful platform for innovation in human history. Continued innovation depends on an internet that is fair, open, and friendly to experimentation. Broad regulatory approaches that limit the abilities of entrepreneurs and innovators to develop new products and services online stifle this are limit the benefits of the Internet.
- Regulating OTTs could lead to the contrary. It could result in pushing potential developers/companies out of the growing market, reducing competitiveness, reducing market efficiencies created by OTT services, and reducing consumer choice. This will hurt both the development of the market and ultimately the welfare of consumers.
- Efforts should instead be focussed on removing any potential regulatory barriers that may exist, subject to the very differing regulatory frameworks of ITU countries, for network operators to reap the benefits of technological developments that could enable them to develop new business models and added value services for their customers.
- In general, the technological developments that have led to the rapid increase of OTT services available have also rendered traditional telecommunication markets significantly more competitive. Depending on the country and existing regulation, there could therefore be scope to deregulate certain aspects of telecommunication regulation and where such regulation is no longer necessary to ensure a high level of consumer protection and choice.
- With evolved networks and 5G (SDN, virtualisation and slicing) it will become even more important that countries have regulatory frameworks in place that foster and encourage the development of collaborations and partnerships between network operators and other industries, including OTTs. As mentioned below, the market and players should retain the freedom to develop such partnerships with any potential regulatory

effort being focussed on identifying possible barriers for the development hereof in existing telecommunication regulation.

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

Cooperation already exists between OTT players and operators:

- Many OTT players and operators already cooperate extensively through many commercial relationships and partnerships. Indeed, OTT services require functioning devices and good quality networks access to develop innovative services, while operators rely on high-consumption of digital services to satisfy their consumers.
- How these relationships and partnerships are developed is better left to the private sector, which is fully aware of each market's specificities and each company's specific needs.

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## ABOUT DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE's members include in total 25,000 ICT Companies in Europe represented by 61 corporate members and 37 national trade associations from across Europe. Our website provides further information on our recent news and activities: <http://www.digitaleurope.org>

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