**ITU COUNCIL WORKING GROUP
ON INTERNATIONAL INTERNET-RELATED PUBLIC POLICY ISSUES
(CWG-INTERNET)**

# **Online Open Consultations on**

**"Public Policy considerations for OTTs”**

*(June- September 2017)*

The Botswana Communications Regulatory Authority wishes to submit the below response to the Online Open Consultations on Public Policy Considerations for OTTs.

## **Question 1:**

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

**OPPORTUNITIES TO THE INDUSTRY & INTERNATIONAL DEVELOPMENTS**

* It is without doubt that the advent of OTTs has brought about enormous drive of positive e-initiatives such as e-commerce, e-education, e-health services as well as e-government platforms.
* OTTs have transformed the world into one global village for both personal and business purposes, making communication faster, easier and closer than ever, especially with the introductions of moving pictures.
* OTTs have thus transformed economies of both developed and developing countries, helping organisations and individuals to reach international markets, moreover, this effect has trickled down to small businesses as well as individuals.
* Because a global village exists, the public is exposed to otherwise far to reach business, education and employments opportunities.
* OTTs, as disruptive innovations, have provided a platform for advancements in the industry; i.e, the adoption of OTTs has forced MNO’s find new ways to realize profit and shift their focus from traditional voice revenue. This in turn has sparked a new level of innovation and creativity.
* OTTs have provided space for creation and nurturing of artificial intelligence that provides opportunities for better, faster and cheaper business models as well as governmental and socio-economic solutions.

**OPPORTUNITIES TO MNOs**

* MNOs enjoy revenue gains from charging tariffs for access to internet. Thus as much as OTT Service providers stimulate demand for network access, they also stimulate demand for internet usage which brings in revenue from data bundles charged to the end user.
* Operators should view OTT service providers as potential partners as opposed to competitors. As the OTT market becomes more competitive, there is interest for OTT providers to gain competitive advantage through differentiation and added value to end users, this is an opportunity for operators to explore other revenue streams beyond traditional voice services.
* The evolving industry gives the operators the chance to examine their network strategy to ensure that they have the right infrastructure to support the increased demand for broadband internet making sure to create revenue.
* As the technical people with the relevant know-how and an existing customer base and infrastructure, OTTs presents opportunities for the MNOs to innovate and develop own localised OTT services, for instance, in vernacular language or using indigenous content, to offer to their consumers using their network, thus offering favourable and/or comparative prices in order to promote their own OTTs as well as sustaining its market base and revenue.

**OPPOTUNITIES TO THE CONSUMERS/ END USERS**

* OTTs has opened up a lot of space for competition, allowing the communication space to be occupied by numerous and diverse players as opposed to monopolistic or oligopolistic markets**.** The increased competition in the communication space has benefitted the consumer in many ways.
* With an opened-up market, the consumer enjoys comparable and favourable communication prices.
* As OTT applications are a form of substitute for traditional telephony and broadcasting, they offer many faster and varied capabilities that are better than traditional services.
* OTT proliferation has led to a lot of great high-quality programming and communications for consumers. For example, whenever a new OTT service launches a compelling new content, consumers have an inclination to streamline their choice by sun-setting some old standbys that they do not use as much to make room in their viewing schedule. This helps consumers surface and discover the most current and relevant choices away from their usual interests.
* Because there are varied suppliers of both broadcasting content and communication modes, the consumer enjoys the freedom to choose the quality of service they want at the price of their choosing.
* OTTs presents opportunities for consumers to access international markets and space, with access to a lot of e-initiatives such as e-commerce and e-education.

 **IMPLICATIONS TO THE INDUSTRY**

* The development and technological advancement of OTTs changes at rapid speed, leaving the industry regulators and policy makers failing to catch up.
* The laws that are meant to regulate OTTs are often found lacking or in some instances obsolete at the time of implementation, mainly because the development of any law vis-à-vis the technological advancement and development of OTTs are at huge variances.
* As stated above, with the varied OTTs players in the market, the cyber space is open to anyone, those with noble initiatives and intentions and some with hidden agendas. OTTs have in recent times been blamed as the recruiting and planning space of international rebel groups and terrorism groups.
* OTTs have also in recent times been blamed for the lawlessness of the citizenry in certain countries and have been placed at the center of government overthrows and coups.
* Much as the OTTs opens ups international markets for business and individuals alike, this easy availability of market space tends to shrink and sometimes kill off the existing businesses that relied on connecting the world via communications, such as traditional postal market, journalism and advertising agencies.
* Many of the OTTs service providers are based in developed countries, while providing much of its service to the developing countries. This lack of presence of the service providers in developing countries especially with low populations like Botswana, have led not only to stifling the traditional communication providers revenues, but adversely affect the country’s revenue as the OTT service providers pay no taxes to the local jurisdiction.
* As the OTT service providers are internationally based, many at times the communications regulators have no jurisdiction to deal with them or reign over them should the need arise, thus exposing consumers vulnerability.
* The cyber space opened up by OTTs presents good opportunities for anonymous cyber-attacks.
* With the introduction of artificial intelligence, the human resource capacities and capabilities are rendered obsolete, giving space for reduced revenue collection through taxes by governments and a pool of unemployed citizens who turn to unpleasant money generation ways.

**IMPLICATIONS TO THE MNOs**

* OTT services consume a lot of bandwidth hence force network operators to incur high costs of upgrading their infrastructure without cost sharing from the OTT service providers.
* Concerns over the impact of OTT services on the revenues of network operators have been noted in both developed and developing countries due to a decline of SMS and traditional voice traffic.
* OTTs have seen increased and unfair competition for the operators as OTT providers face little or no regulations yet the two compete for the same space.
* The introduction of the 5G speeds and subsequent move towards “the Internet of things” will drive the bandwidth demand significantly higher, MNO’s will need to take proactive measures in preparation for this.
* There is a likelihood of a fall in Quality of Service attributable to the exponential growth of the OTT service usage vis-à-vis slow infrastructure development; and so, MNO’s will need to find more reliable methods of delivering large data as fast as the market demands.
* In order to maintain revenues, MNO’s must be innovative, this has both advantages, such as advancements in the area of research and the development of think-tanks in the industry, and disadvantages, such as the high cost of innovations.

### **Question 2:**

**IMPLICATIONS TO THE CONSUMERS/END USERS**

* Like most technological developments, OTTs tend to encroach into the consumers’ personal space, bridging their privacy and security with little or no limitations**.** Consumers are more vulnerable to such acts as cyber-attacks, cyber harassment, identity thefts and cyber bullying.
* Because OTTs have made space for global village, negative influence tends to be rampant and trending very quickly. OTTs have in recent times been a major negative influence on the consumers social life.
* Many of the OTT service providers would be foreign based and so the consumers are often left vulnerable and without remedies as these foreign based OTTs are unregulated an outside reach of the communications regulators.
* OTTs have provided an international market to consumers, however have also exposed consumers to such thing as dark web, which may expose them vulnerabilities.

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

* Though level playing field is central to regulation, it is important to ensure that the social benefits of regulation are proportional to the costs entailed (difficulty) in regulating services.
* As already stated above, it is a major challenge to regulate OTT service providers that are based outside one’s jurisdiction, of which many are. This poses a central challenge to licensing of such a provider or service and especially enforcement of any action that a regulator may want to take against such service provider.
* There is also a challenge to trying to ensure that policy and regulatory instruments keep up to date with technological advancement of OTTs.

**The Policy and Regulation Approaches taken in other jurisdictions:**

* Outright blocking of VoIP and certain OTTs Opting to only regulate VoIP services that interconnect with licensed networks such as PSTN or mobile networks
* Complete net neutrality which mandates parity in the treatment of traffic related to all content and services accessed via the Internet.

### **Question 3:**

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

* Some OTT’s have setup measures to ensure the privacy and security of their users by adopting the use of end to end encryption of data, which essentially means only the device sending and the device receiving are able to decrypt any data shared.
* Some OTTs have put in passwords and identity mechanisms to their sites and apps as a measure to ensure that only the assigned users access such.
* Some OTTs make provisions for reporting mechanisms for such things that may infringe on other users security, safety or privacy and thus provided penalties such as blocking or banning users or periodic suspensions.
* Although OTTs providers have put in some measures to safeguard security, safety and privacy of consumers, more still needs to be done especially where we see that OTTs continue to be used to as critical aides in national security and individual safety and privacy issues.
* OTTs creates a conducive international anonymous criminal hub, breeding international cybercrimes that are many at times at the core of international and national security breaches. Because OTTs are not confined to a certain geographical location, criminals often commit crimes whilst in varied jurisdictions, making investigations, prosecutions and any penalty enforcement a great challenge.

### **Question 4:**

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

* Regional member states should work together to encourage regional integration and initiatives that will benefit all affected parties.
* Member states should monitor, measure and evaluate the effects of OTTs on both international and domestic markets.
* Limiting OTTs in an effort to give operators time to diversify and depend less on traditional voice services
* Encourage investments in innovation and technology
* Creating favorable conditions (legal and tax) for all players
* OTTs are an international phenomenon which may need international efforts in order to ensure that the OTT service providers act lawfully and prevent exploitation of consumers. One global voice needs to be made in order to be able to allow regulators to better regulate the OTT service provide and thus provide a level playing field for all communications sector players.
* Encouraging the OTT players to develop locally suited OTTs for the specific local market that can benefit the local operators and enhance local content.
* OTTs providers need to invest in infrastructure together with the telecom operators to enable the latter to better carry the OTT providers traffic and service delivery, thus ensuring a thriving environment for both market players, including the consumer. This will also go a long way to achieving universal access and service of communication.
* There has been a growing trend by some governments to block OTTs within their jurisdictions, especially during election periods. Elections are mostly sensitive and volatile sometimes bringing with them tensions and uprisings which threaten the national security and stability of the country. Realizing this, the government decides on outright blocking of OTTs. OTTs in these examples need to make efforts to engage the concerned areas and make collaborative efforts to allay the government fears as well as retaining good customer base and reputation.

### **Question 5:**

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

* It is important to keep in mind that differences on how and whom the partnership is with will always persist because of the difference in markets, competition and demand.
* Partnerships could be forged in spaces of infrastructure development cost sharing in order to ensure seamless and fast delivery of broadband internet enough to carry traffic of both OTTs and traditional modes of communications.
* At international level, operators need to have one effort and voice to tackle their concerns about the high rising OTT players and share ideas on how best to compete with the in the market space.
* OTT players and operators should work closely with the regulators to establish best forms of co-existence in the communication space.
* OTTs have provided a conducive environment for new breeds of international crimes on the cyberspace, which is itself international. Domestic and jurisdictional legislations are then rendered inoperable. Collaboration of OTTs providers with national regulators and policymakers is key to combating such, thus also ensuring a healthy thriving customer retention and attraction.

## CONTACT DETAILS

* First/Last Name: **Keamogetswe Sefakwe**
* Title: **Officer Legal**
* Country: **Botswana**
* Organization you are representing: **Botswana Communications Regulatory Authority**