**CONSULTA PÚBLICA UIT SOBRE OTT’S**

**1. Quais são as oportunidades e implicações associadas as OTT?**

R- Sinditelebrasil is a private entity which represents the majors Telecommunication Brazilian companies.

We would like to emphasize that this public consultation should differentiate two types of online Internet services that are currently being offered to users. They should be treated differently in terms of regulation, tax and consumers rights.

On one side stand those that can be confused with the telecommunication services that supports them. In this context, it is important to recognize that one service merges with another when: (i) providing equal or similar utilities to the consumer or (ii) the perception of the consumer is the same about both services or (iii) there is a demand replacement for each other and (iv) there is a competitive pressure between the services, from the perspective of the user. This category refers to applications and services delivered over telecommunications networks that may supplement or potentially compete with or substitute for traditional telecommunications services.

On the other hand, are those that can’t be confused with the telecommunications services that supports them and that depends on the public Internet for its delivery, at least in part.

For the purpose of this contribution we are going to consider OTT providers those who offers on-line applications and services delivered over telecommunications networks (but neither operates a network nor leases network capacity from a network operator) that may supplement or potentially compete with or substitute for traditional telecommunications services.

We strongly recommend that ITU continues to promote the debate on the relationship between OTTs and telecommunications services in order to achieve fair competition, consumer protection, dynamic innovation, sustainable investment and infrastructure development.

We advocate that ITU should:

* Encourage Administrations to ensure regulatory equality of the traditional services and OTT in order to maintain conducive competitive environment in keeping with the principle that similar services shall be subject to similar regulation regardless of their provision method;
* An OTT provider should operate in compliance with the law of the country in whose territory such services are provided, including provisions ensuring personal data protection, preventing distribution of illegal information and spam, and similar tax legislation applied to telecommunications services;
* In the spirit of service availability and affordability, ITU should encourage Administrations to reduce the regulations obligations on the telecommunications services;
* In the spirit of service availability and affordability, ITU should encourage Administrations to implement tax reforms aimed at lowering tax burdens to levels compatible with the essentiality of telecommunications services.

**Opportunities:** The digital revolution that is taking place all over the world, sustained by the modernization of telecommunications networks and by the innovation and development of ICT solutions, intends to change the way of conventional services are being provided to societies; the way to control and monitor the production processes of various economic segments; and the optimization of the public resources management, as well as the way of life of each citizen.

The TMT (Technology, Media and Telecommunication) value chain has its tectonic activities in a clear redefinition of borders, from the generation and distribution of contents, passing through connectivity, platforms and devices, reaching applications and services. The behavior of customers has changed, with an irreversible adoption of new consumption habits. The voice was replaced by the data, the fixed by the mobile and the videos and images guide the future prospects. There is a new consumer mindset. But regulation needs to be updated in order to mirror this future and the business models that make it possible. And along with this regulation are legal and tax aspects.

**Implications:**

In this way, different solutions and applications of IoT, intelligent cities will be created and deployed demanding more and more connectivity, coverage and quality from the telecommunications services.

On the other side, the business model of the largest on-line services are based on advertising and propaganda. This advertising consumes the data package of the plans that customers contract from the operators, without choosing to receive this "unwanted" advertisement (without the opt-in of this advertising in data consumption). The more addicted the user is to Internet applications, the greater their consumption of the data package in proportion to undesired (or unwelcome) advertising. This volume reaches two-digit percentages of an ordinary user's data packet.

This publicity and the distribution of content in an intense way, in large volumes and for longer periods of time, inevitably require a revision of the statistics of network usage for the purpose of investment projects by the operators. All this has been rethought, but the financial economic equation has a natural balance that need to be preserved, in favor of the growth of coverage, quality services and technological evolution.

Therefore, there is a need to foster actions that stimulate the development, modernization and expansion of telecommunications networks and ITU should encourage Administrations to promote a fair balancing between agents that play key roles in the Internet value chain, in order to ensure and promote the sustainability of Telecommunication service providers investments.

It’s necessary to accommodate new business models in this ecosystem, with proper regulation, right incentives and, above all, balancing the economic-financial equation between “free riders” and telcos.

Sinditelebrasil supports the need to revise the current model with adjustments in the commercial relationship border between On Line Service Providers x Telcos and Clients. This revision should take in consideration the following assumptions:

(i) to stimulate the conscious consumption of the data package by customers through opt in for advertising and web advertising (conscious consumption); (ii) This opt-in may occur in the zero-rating mode for the client; (iii) Incentives through public policies for the development of infrastructure in datacenters, network, devices and applications. There are upsides for all stakeholders - customers, operators and government.