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

Over the top services represent significant technological innovation that have brought innumerous business opportunities along with many benefits for society. New markets and services have been created, more agility and access simplicity and, often, cost reduction and a higher competitive market in many sectors such as private transport services.

The building of these new markets and services contributes for the sector´s economic and productive growth, considering that many business opportunities arise extremely fast over the internet, promoting access to products and services for a greater amount of people that would not have had access otherwise since those would not be available for a less economically fortunate population.

Acknowledging the positive effects of the OTT services scenario, becomes essential to implement public guidelines in favor and as an incentive for constant development of this service.

It is therefore desirable for the opportunities to keep appearing, based and supported by public guidelines and policies that may:

1. Promote digital inclusion , assuring the population access to telecommunications networks, systems and services based on information technology and communications, as well as reducing social and regional differences;
2. Incentive necessary investments on broadband infrastructure, provided by telecommunications networks, development and support sustainable usage of these networks;
3. Promote development and usage of innovative products and services.

The adoption of those public policies and guidelines mentioned above is extremely important in order to promote development and usage of innovative solutions offered through Internet of Things, Machine to Machine communications systems and big data.

In spite of all the benefits, it has been noticeable that this market´s growth has occurred in an unstructured way. Along with the development of OTT services, that occurred very fast, there was the increase on the demand for access, higher network capacity and as a result the need for infrastructure development and broadband access.

There have been chain effects and all internet structure participants were impacted by the OTT services growth. In order to assure the continuity of this growth it is urgent and necessary to accommodate all actors and services involved, to make sure that new markets´ development is continuous, sustainable and balanced.

Currently the unbalance between the actors is very intense, and easily noticeable when considering legal and regulatory obligations applicable to infrastructure and connection providers and OTT service providers, even though some OTT services might be easily mistaken with telecommunication services, such as Whatsapp and Viber using instant messaging and voice calling through data networks.

Considering the examples pointed before, the unbalance may be noticed since:

1. The connection and infrastructure provider is under quality obligations that OTT service providers have not to obey. Therefore only the infrastructure provider will face possible penalties;
2. The tax legislation, which determines the amount of tax collection based on the number of users connected to the networks, the services provided and even the licensing of the infrastructure used, apply to the infrastructure and connection providers. OTT service providers are exempt from such an obligation;
3. The provider responsible for the infrastructure and data connection is subject to strict Consumer Protection Legislation standards and is often monitored for compliance. Although the OTT service providers are in thesis subject to the same rules, it is not possible to attest compliance, nor the occurrence of supervision
4. The internet legislation called “Marco Civil da Internet” imposes limitations to connection providers that do not impact OTT providers.

The difference presented above are examples of situations that contribute to the current unbalanced scenario, interfering on fair competition and eventually slows down the sector´s development.

When one of the agents in the chain is excessively burdened to the point of provoking an imbalance between the agents, the results can be compromised in the long term, since the tendency is that the excessively burdened part has slower speed in the performance of its functions than other parties that may have frustrated their evolution expectations

In this context, the crucial role of infrastructure providers, which contribute significantly to accelerating the possibility of new products and services, promoting digital inclusion and satisfying the desires of society, must be reinforced. And, no less decisive, would be the adoption of governmental guidelines and public policies that stimulate the necessary investments to expand the broadband infrastructure and encourage the sustainable use of telecommunications networks

Another important implication concerns network security, user privacy and intellectual property. All actors must also be committed to the adoption of good practices and development and compliance with existing or emerging laws and regulations. Considering that the improvement of the adopted practices is in the evolution phase, it is highly recommended that there be international cooperation between countries in order to contribute to the consolidation of a more secure model.

It is also worth inserting in this context the fulfillment of the demands related to public security, especially the requests for breach of confidentiality, based on the law and the Federal Constitution, in the case of Brazil.

Finally, considering the above, Claro understands that new opportunities are present in the continuity of service and product innovations, but in a more structured way, that favors digital inclusion and reduction of the indicated imbalance.

Thus, Claro understands that the timing is appropriate to (i) revise the current regulations in order to eliminate obligations that are excessive and inadequate to the current scenario; and (ii) revision current legislation, especially tax legislation, in order to better adjust, balance and equalize obligations between agents in the internet chain.

What are the policy and regulatory matters associated with OTT?

As previously stated, it is important to find support in public policies and guidelines that can:

1) Promote digital inclusion, guaranteeing people access to telecommunications networks, systems and services based on information and communication technologies (ICT), as well as reducing social and regional inequalities;

2) Stimulate investments necessary to expand broadband infrastructure provided by telecommunications networks and encourage the sustainable use of networks;

3) Encourage the use and development of innovative products and services.

The adoption of these public policies are necessary to foster development and adoption of other new innovative solutions offered through Internet of Things, Communication Systems M2M (machine-to-machine) and / or Big Data.

Also in the political environment, other measures may contribute to the achievement of the above objectives in a shorter period, such as the revision of the tax legislation applicable to connection providers and OTT service providers. While the connection providers suffer from the high tax burden, OTT providers are exempt from this obligation, which causes a great imbalance on the relationship between the internet actors, in the competitive scenario and lack of infrastructure expansion stimulation, which serves as a basis for the growth and expansion of OTT services.

On the regulatory side, it is important that Regulatory Agencies consider in their Regulatory Impact Analyzes the existence, growth and market penetration of OTT services, in order to obtain more realistic conclusions about the competitive scenario and users perception regarding the expectation and quality of the services of regulated service providers.

In order to grow along with OTT services, regulated service providers need to be exempted from part of their obligations, especially when it comes to quality and consumer relation regulations, situations in which the amount of excessive obligations can be observed and/or misplaced to the current scenario, that result in the diversion of resources that could be invested in broadband and, in the way they are applied, do not bring benefits that are notorious to the user.

When dealing with the General Plan of Competition (PGMC), the situation is no different. The market power of OTT service providers needs to be considered in the analyzes so that the asymmetric measures resulting from the plan are assertive and correct market failures in their actual measures and needs.

It is of utmost importance that Regulatory Agencies consider the current scenario very clearly in order to adopt measures that favor competition, offer of new services and better quality of service.

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

No contribution.

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

Actions that promote balance among internet actors, such as (1) balance of obligations and investment initiatives on the expansion of internet infrastructure in unattended locations, (2) adequacy of the obligations and taxes attributed to the actors, and (3) adoption of best practices in record keeping, client handling and privacy.

The above actions would certainly contribute to structured and balanced growth, with a more capped access network, more people connected and more digital services and products

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

Through agreements and partnerships that contribute to the sustainability of the network and to the expansion of broadband infrastructure, especially in less developed localities, where Internet access is not available mainly due to economic unfeasibility.

One of the possibilities would be the increase of agreements currently established between access providers and content providers with the objective of content providers (OTT) to better contribute to the fulfillment of the public policies of expansion of the infrastructure and digital inclusion