



Contribution to the ITU CWG-Internet Open Consultation: Public Policy Considerations for OTT

Contemporary advances in science and technology and the global evolution of the Internet have given rise to two parallel systems aimed at meeting end users' requirements for telecommunication services both in traditional telecommunication networks and in data networks. While provision of telecommunication services in traditional networks is currently subject to regulation, provision of such services in data networks remains virtually unregulated, posing a number of problems for telecommunication operators, regulatory and tax authorities, and service providers at both the national and international levels.

In general, a number of notional sets of telecommunication services for end users in data networks can be identified:

- telecommunication services (voice and video calls, messaging including image and video transmissions);
- applications (social networks, e-commerce);
- video-on-demand, streaming, and multimedia.

At the same time a lively discussion is continuing in the global ICT community on the role and place of OTT-based services. Special attention is being focused on identifying clear rules for providing such services and whether regulation of such services is possible and worthwhile. Such proposals emerge as a result of the discrimination against traditional telecommunication services in the regulatory environment with regard to OTT-based services. As a consequence, there is growing support among those involved for regulatory equality of traditional and OTT-based telecommunication services. This approach will lead to improved service quality, more effective personal data protection, better security, help to prevent spam and the dissemination of unlawful information, and establish conducive conditions for a healthier economic environment for the activities of network operators and service providers, including in the area of compliance with tax legislation.

During SG3 ITU-T and SG1 ITU-D meetings held in the past study period, a number of contributions have been considered on a broad range of issues related both to new opportunities and to problems for regulatory authorities, telecom operators and OTT service providers. SG3 ITU-T has identified a clear need for an OTT-related Recommendation in the interests of streamlining the provision of modern and convenient telecom services for users. A clear definition of OTT will be an essential element of the future Recommendation, as will a definition of the basic principles of providing telecom services based on that approach.

For this SG3 established a Rapporteur group. OTT Rapporteur group held its last meeting in Geneva in February 2017 and reviewed the ITU-T draft Recommendation on OTTs. After discussions and drafting exercises, a baseline document was agreed to

submission to ITU-T SG3. Before this meeting OTT Rapporteur group has received several contributions supporting the draft recommendation text and/or provide additional edits. Many other contributions have been received that support the motivation and rationale for this recommendation. Other contributions point to the need for a new draft Recommendation on Operators-OTT partnerships. SG3 ITU-T agreed on the publication of the technical paper on The Economic impact of OTTs (5-13 April 2017).

The «Rostelecom» has examined a number of approaches to defining OTT adopted in various countries and regions, and noted that OTT refers rather to a specific method of service provision than to a specific type of services. This conclusion is in particular based on the fact that services provided in such a manner may be defined as telecommunication services (for instance, PSTN voice calls) or may not be.

In this context, provision of OTT-based services to users can be viewed as a particular case of providing services on data networks different from the Internet access service.

Based on the outcomes of SG3 ITU-T and SG1 ITU-D activities to develop a new Recommendation on the definition of OTT, operating terms and conditions, and basic regulatory principles, we believe that Study Group 3 should:

- a) adopt new Recommendation on OTT's as soon possible.
- b) focus SG3 ITU-T and SG 1 ITU-D work above all on services that are offered on the basis of the OTT model and come under the definition of telecommunication services, or are alternatives to traditional telecommunication services in data networks.
- c) deem methods of telecommunication service provision to end users to come under the definition of OTT if the following criteria are met:
 - three parties are involved in the service provision process: a user of telecommunication services in data networks; an Internet access operator providing Internet access services for users; and a provider that provides users with telecommunication services on data networks distinct from Internet access services, independently of the Internet access operator but using the latter's network;
 - data network telecommunication services other than Internet access services are offered to the user “over-the-top” by the provider, i.e., on the application layer of the open Internet (the term “open Internet” implicitly excludes corporate services such as virtual private networks which, despite available technological capabilities, cannot be treated as an alternative to Internet access services).

If the Internet access operator also provides data network telecommunication services, such services do not come under the definition of OTT.

- d) develop clear rules/recommendations on the provision of OTT-based telecommunication services guided by the following principles:
 - “uniform rules”: regulatory equality of traditional telecommunication services and OTT-based services provided over data networks, with a view to maintaining a conducive competitive environment: like services should be subject to like regulation irrespective of the method of service provision;
 - “partnership”: the synergy obtained from the commercial partnership between telecom operators and OTT-based service providers with a view to optimal satisfaction of

users' requirements and improved quality of service, including services with a guaranteed level of quality;

– “open access”: telecommunication services are to be provided, subject to availability of Internet access, to the user as an essential basis for the service, while the services per se are provided by third party service providers regardless of the Internet access operator. At the same time, the Internet access operator provides its service to the user in accordance with the selected tariff plan, but not on the basis of the required quality enabling provision of services by the OTT provider;

– “legality: a provider of OTT-based telecommunication services must operate in compliance with applicable legislation of the country where the services are offered, including provisions on protection of personal data, prevention of spam and dissemination of unlawful information, and compliance with tax law;

– "Identification": every telecommunication service user must be assigned a unique identifier, for example based on ABC or DEF numbering resources.

Rostelecom expects the results of the studies of SG3 ITU-T and contributes to this work.
