

ISPAI Comments on TRAI Consultation Paper on "Review of terms and conditions for registration of Other Service Providers (OSPs)"

Q1. Please provide your views on the definition of the Application Service in context of OSP. Whether, the Application Services which are purely based on data/ internet should be covered under Application Service for the purpose of defining OSP.

ISPAI Response –

TRAI has recognized in para 4.2 above that the current definition of ‘Application Services’ is subjective and open to divergent interpretations. The current definition framed in ambiguous language leaves entrepreneurs, businesses, ISPs and TSPs confused. This ambiguity exposes businesses and service providers to possible harassment from the enforcement wing.

Businesses are adopting new technologies rapidly and cannot be saddled with archaic and ambiguous regulations. ISPAI believes that there is no need to define ‘Application Services’ and, that in today’s context, attempting to define ‘Application Services’ has lost meaning.

ISPAI is of the view that businesses are users and consumers of telecom services and cannot be classified as Other ‘Service Providers’. We are of the view that ‘Application Service’ providers are no different from ordinary business customers of ISPs and TSPs and hence no need to have a special category for these.

Q2. Whether registration of OSP should be continued or any other regulatory framework should be adopted for OSPs so that the purpose of registration specified by government is met. Please furnish your views with justification.

ISPAI Response -

OSPs are users and consumers of telecom services, and customers of TSPs and ISPs. By no stretch of imagination can end users of telecom services be identified as ‘Other Service Providers’ under regulations that draw powers from the Indian Telegraph Act. ISPAI believes that OSP registration should be ended.

ISPAI is of the view that all businesses using telecom services should be regulated alike, whether running ‘Application Services’ (an ambiguous term) or not. Therefore, no need

for an OSP category.

As stated by TRAI in para 4.5 above, the OSP category was created following the adoption of NTP 99. The reasons for creating this category were stated as:

- a) statistical information
- b) ensuring that their activities do not infringe upon the jurisdiction of other access providers.
- c) providing special dispensation to boost the BPO sector.

ISPAI has the following comments:

- a) We are unaware whether TRAI or DOT have any useful OSP statistics or information over the years and how this has helped in policy making or controls. ISPAI does not believe any useful purpose is served by collecting this information from OSPs. In any case this information is available with the TSPs and ISPs.
- b) As stated above users and consumers of TSP and ISP resources cannot infringe upon the jurisdiction of other access providers. In a historical context, during the 'accounting rate' regime, there was a large grey market for international calls that needed to be prevented. With international and domestic call rates being very low, the grey market has become virtually non-existent and the potential danger of such companies infringing upon the revenue of access providers has almost vanished.
- c) No special dispensation has been provided over the years to the BPO sector. The statement in para 4.6 above is not entirely correct. This is not permissible across circles.

ISPAI believes that the requirement of OSP registration has been counterproductive over the years and has throttled and discouraged innovators and entrepreneurs wanting to start businesses in full compliance with these ambiguous regulations. Also there are thousands upon thousands of businesses that are currently running in ignorance of these requirements.

OTT providers like Google, Whatsapp etc. etc. provide real-time voice services. These services are 'Application Services' using resources from TSPs and ISPs. Will these companies be brought under the regulatory regime? The principal 'same service same

regulation' must apply to all.

ISPAI believes that no other regulation need be introduced. Companies and businesses today use Internet and Voice services in diverse ways, innovating constantly. New technologies will emerge using AI and 5G, and IOT will catalyze new applications and services.

ISPAI's fundamental belief is that OSPs are users and consumers of Internet and Telecom services and not Service Providers. Hence the only regulations applicable should be those applied to other telecom users. There cannot be different sets of rules for telecom services users for one sector or another. We also believe that regulation of OSPs (being users and no service providers) is discriminatory.

Q3. What should be the period of validity of OSP registration? Further, what should be validity period for the renewal of OSP registration?

ISPAI Response - We believe the regulation should be done away with altogether.

Q4. Do you agree that the documents listed above are adequate to meet the information requirements for OSP registration? If not, please state the documents which should be added or removed along with justification for the same.

ISPAI Response –

All the documents listed at (A) and (B) above are available with the Ministry of Corporate Affairs and we see no reason to increase the paperwork. It serves no purpose.

The requirement of all other documents at (C), (D), and (E) above are redundant because again the justification was historically based on the defunct 'accounting rate' regime.

ISPAI reiterates its position that OSPs should be treated like any other customer and the KYC requirements across customers should be the same. We are recommending doing away with the OSP category altogether.

Q5: Do you agree with the fee of Rs. 1000/- for registration of each OSP center. If not, please suggest suitable fee with justification.

ISPAI Response –

We do not agree. The OSP registration should be done away with. We believe OSPs are like any other enterprise or business customer and should be treated the same as any other business customer of ISP and TSPs.

Q6: Do you agree with the existing procedure of OSP registration for single/ multiple OSP centres? If not, please suggest suitable changes with justification.

ISPAI Response - ISPAI recommends doing away with the OSP registration. Therefore the accepted KYC requirements for each location should be the same as for other businesses across all sectors. There are KYC requirements or each location already in place for all customers of TSPs and ISPs.

Q7: Do you agree with the existing provisions of determination of dormant OSPs and cancellation of their registration? If not, please suggest suitable changes with justification.

ISPAI Response - No, we do not agree. Because DOT does not involve itself in determining other dormant businesses, there is no need to determine dormant OSPs. This falls in the portfolio of other Government departments.

Q8. Do you agree with the terms and conditions related to network diagram and network resources in the OSP guidelines? If not, please suggest suitable changes with justification.

ISPAI Response - Para 4.17 says OSPs are mandated to take resources from authorized TSPs only. We underline the fact that this is universally true of all users and consumers of telecom resources within India. We do not think that the network diagram should be required. OSPs use ACDs and Dialers which are sophisticated PBXs. It is mandated that the PSTN should not interconnect with VoIP – to enforce this does not require a network diagram. We see no useful purpose by mandating a network diagram for OSPs.

ISPAI does not agree with the terms and conditions related to network diagram. Regulations regarding network resources are universal for all users and not specific to OSPs.

Q9. Do you agree with the provisions of internet connectivity to OSP mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

ISPAI Response - We do not agree. Newer technologies like SDWAN are already in use providing alternatives to the use of VPNs / MPLS etc., with better cost and performance efficiencies. ISPs should be permitted to use these newer technologies to provide competitive services to customers.

10. Do you agree with the provisions related to Hot Sites for disaster management mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

ISPAI Response - These provisions serve no useful purpose and should be done away with.

Q11. Do you agree with the provisions of logical separation of PSTN and PLMN network resources with that of leased line/ VPN resources for domestic OSP mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

ISPAI Response - Business requirements are changing and many times during high peak

loads or during abnormal situations calls have to be offloaded to other centers, both of the same organization and to others. This should be freely permissible via leased line or VPN resources. This restriction is hampering healthy business growth of the industry.

Q12. Do you agree with the provisions of PSTN connectivity/ interconnection of International OSP mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

ISPAI Response - Yes, we agree.

Q13. Please provide your views as to how the compliance of terms and conditions may be ensured including security compliance in case the OSP centre and other resources (data centre, PABX, telecom resources) of OSP are at different locations.

ISPAI Response - It is our view that centralized shared infrastructure should be allowed. In fact it will be far easier for the enforcement agencies to monitor usage at a centralized location rather than at multiple satellite sites. It is also our view that this brings with it economies of scale, while allowing business to grow and contract rapidly with changing market dynamics. It is also our view that connectivity between the satellite centers and centralized locations should be allowed over the public Internet. This would impart a huge boost to the IT enabled services sector.

Currently even a small business with 5-10 seats is forced to install the entire infrastructure, diverting precious resources from the focus of the primary business. We believe this will be an important reform.

Q14. Please provide your views whether extended OSP of existing registered OSP may be allowed without any additional telecom resource. If yes, then what should be the geographical limitation for the extended OSP centre; same building/ same campus/ same city?

ISPAI Response - As we have stated earlier there should be no geographic restriction. Most large clients insist on having service delivery locations spread across geographies to mitigate risks of disasters like floods, strikes, fires etc.

Q15. Please provide your views as to how the compliance of terms and conditions may be ensured including security compliance in case of the extended OSP centre.

ISPAI Response - We first need to define the security concerns and then address these. ISPAI agrees that security is a top priority and these should be defined and fully addressed.

Q16. Do you agree with the provisions of general conditions for sharing of infrastructure between International OSP and Domestic OSP mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

ISPAI Response - Para 4.34. We question the number of 50 seats. With the Government prioritizing the MSME sector this restriction that has the effect of automatically disqualifying smaller businesses, should be removed. Sharing of infrastructure should be permitted. As mentioned earlier this restriction was put in place over two decades ago during the 'accounting rate' regime which has long been dismantled. Continuing with this serves no purpose.

Q17. Do you agree with the provisions of Technical Conditions under option -1 & 2 for sharing of infrastructure between International OSP and Domestic OSP mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

ISPAI Response - We believe that we must examine the historical context of these regulations to understand why these regulations were introduced and what purpose they served. As stated earlier these regulations were put in place to guard against 'international

bypass' which was encouraged by the huge asymmetry in international calling rates. In today's context this source of revenue leakage is virtually non-existent and these regulations should go.

The requirement of maintaining metadata for a period of one year could continue.

Q18. In case of distributed network of OSP, please comment about the geographical limit i.e. city, LSA, country, if any, should be imposed. In case, no geographical limit is imposed, the provisions required to be ensure compliance of security conditions and avoid infringement to scope of authorized TSPs.

ISPAI Response - Paras 4.38, 4.39. We agree, these can stay 4.40, 4.41 and 4.42 are impractical and serve no purpose.

Q19. Do you agree with the provisions including of logical partitioning mentioned in the OSP guidelines for distributed architecture of EPABX? If not, please suggest suitable changes with justification.

ISPAI Response - As we have indicated above, the Business Process industry needs to be encouraged and these regulations must be discarded.

Q20. Do you agree with the monitoring provisions of mentioned in the OSP guidelines for distributed architecture of EPABX? If not, please suggest suitable changes with justification.

Q21. Please comment on the scope of services under CCSP/HCCSP, checks required / conditions imposed on the CCSP/ HCCSP including regulating under any license/ registration so that the full potential of the technology available could be exploited for both domestic and international OSP, and there is no infringement of the scope of services of authorized TSPs.

ISPAI Response - Cloud technologies have a proven track record of robustness and cost efficacy, while providing flexibility of load demand and geography to customers. We see no reason why cloud technologies should be denied to the Call Center industry. At present many operators are offering cumbersome solutions based entirely on the PSTN/PMLN for

connectivity for both call legs. This forced workaround creates several issues relating to improper caller-ids, inability to make outbound calls etc., and even though these services are limited in features there is a huge unfulfilled demand mainly constrained by the regulatory environment.

The binding regulation that the PSTN/PMLN cannot be interconnected with any data networks (including the Internet) has severely constrained innovation and the growth of Unified Communications, that is now essential for every business whether large or small.

OTT providers have worked around this regulation and are offering services that have escaped the regulatory regime.

Allowing cloud providers to offer such services to end customers does not infringe or impact TSP or ISP revenues. Cloud telephony providers will pay the full cost of telephone and Internet resources.

Q22. Please provide your comments on monitoring of compliance in case interconnection of data and voice path is allowed for domestic operations.

ISPAI Response - Once the interconnection parameters and guidelines are laid down, this can be evolved.

Q23. Do you agree with the provisions for use of CUG for internal communications of OSP as mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

Q24. Do you agree with the monitoring provisions for use of CUG for internal communications of OSP mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

ISPAI Response –

Q.23 and Q.24:

As stated earlier, we believe that the OSP category should altogether go. The same

regulations should apply as for any other business customer of TSPs and ISPs.

Q25. Do you agree with the provisions of 'Work from Home' mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

ISP AI Response - The current OSP guidelines require a deposit of Rs 5 crores from each centre and places very onerous technical conditions. In today's age of technology this regulation must go and mobile agents using cloud infrastructure must be allowed.

Q26. Whether domestic operations by International OSPs for serving their customers in India may be allowed? If yes, please suggest suitable terms and conditions to ensure that the scope of authorized TSP is not infringed and security requirements are met.

ISP AI Response - Yes this should be allowed.

Q27. Whether use of EPABX at foreign location in case of International OSPs may be allowed? If yes, please suggest suitable terms and conditions to ensure that the scope of authorized TSP is not infringed and security requirements are met.

ISP AI Response -

The Government of India has stated objectives to become an international leader in global services. The only way to achieve this is by allowing IT enabled service providers the freedom to use global interconnected networks using the power of the Internet. Internet services have to be provided by the TSPs and ISPs and therefore there is no infringement. VoIP calls between a foreign carrier and India are permissible under the ISP licensing as long as there is no interconnect with the PSTN within India. If the business wishes to interconnect within India then the regulation could provide for such calls being transported from overseas to India using an Indian TSP – this would protect all revenues of TSPs.

Q28. Do you agree with the Security Conditions mentioned in the Chapter V of the OSP guidelines? If not, please suggest suitable changes with justification.

ISP AI Response - ISP AI again reiterates that these are ordinary businesses like any other

business and we are of the view that these businesses should not be regulated under the Telegraph Act. They should be subject to the rules and regulations applicable to any other user of Telecom Services.

Q29. Do you agree with the provisions of penalty mentioned in the OSP guidelines? If not, please suggest suitable changes with justification.

Q30. Whether OSP to OSP interconnectivity (not belonging to same company/ LLP/ group of companies) providing similar services should be allowed? If yes, should it be allowed between domestic OSPs only or between international and domestic OSPs also.

Q31. In case OSP interconnectivity is allowed, what safeguards should be provisioned to prevent infringement upon the scope of licensed TSPs.

Q32. Do you agree with the miscellaneous provisions mentioned in the Chapter VI of the OSP guidelines? If not, please suggest suitable changes with justification.

Q33. What provisions in the terms and conditions of OSP registration may be made to ensure OSPs to adhere to the provisions of the TCCCPR, 2018.

Q34. Stakeholders may also provide their comments on any other issue relevant to the present consultation.

ISPAI Response –

Q29 to Q34

ISPAI recommends that the OSP category should go altogether and OSPs be treated like any other business customer of TSPs and ISPs, and should be subject to the same rules and regulations as for any other business user of telecom and Internet resources.