



# CONSULTATION PAPER ON OVER-THE- TOP (OTT) REGULATORY FRAMEWORK

PAKISTAN TELECOMMUNICATION AUTHORITY  
HEADQUARTERS, F-5/1, ISLAMABAD

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## 1 INTRODUCTION

The Pakistan Telecommunication Authority (PTA) here forth called as the “Authority” is mandated, under the Pakistan Telecommunication (Re-organization) Act, 1996 (Amendment 2006) here after referred to as the “Act” and Government Policies; to regulate the telecommunication systems and telecommunication services in the country. Clause 5.5 of Telecommunication Policy 2015 (the “Policy”) mandates PTA to develop appropriate regulatory framework, in consultation with Federal Government and stakeholders, to treat Over-The-Top (OTT) services, considering international best practices and relevant provisions of Clauses 5.2.5 and 5.5 of the Telecom Policy 2015.

The objective of this regulatory framework is to provide regulatory mechanism for the stakeholders to enable the development and facilitation/management of OTT communication (voice/video calling & messaging) based services in Pakistan.

## 2 OTT SERVICES

For the purpose of this framework the OTT service is defined as:

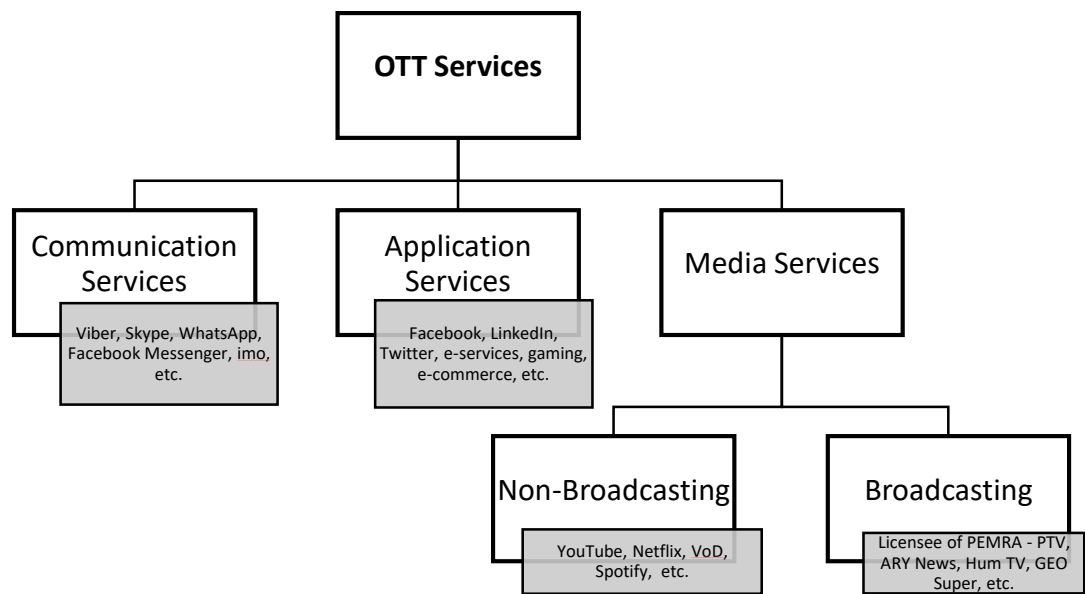
**“A service or an application or a content which is provided to user over the public Internet with or without the control of the network provider”.**

Alternate definition:

**“OTT Service is a service or an application or a content, in digital form or otherwise, conveyed over a general purpose communication path, such as internet, of a Licensed Telecommunication System/Public Telecommunication Network. OTT services may be provided by such entities that are not necessarily the operators of those Licensed Telecommunication System/Public Telecommunication Network”**

### 2.1 CLASSIFICATION OF OTT SERVICES

There is no general agreement on classification of OTT Services. However, OTT Services can broadly be categorized into three main categories, which are shown in *Figure 1: OTT Services Classification* and detailed as under:



*Figure 1: OTT Services Classification*

### **2.1.1 OTT COMMUNICATION SERVICES (OCS)**

OTT Communication Services (Voice, Video & Messaging Services) refers to real time and/or interactive voice, video and messaging services that are primarily concerned with traditional communication services but use internet as the transport medium rather than the legacy telephony infrastructure e.g. Viber, Skype, WhatsApp, WeChat, imo, BOTIM, Google Talk, Line, Facebook Messenger, Zoom, MS Teams, Telegram, Signal etc. This class of services provides functional substitute to existing licensed services delivered by telephony service providers.

### **2.1.2 OTT APPLICATIONS SERVICES (OAS)**

OTT Applications Services comprise of such category of services that do not functionally substitute traditional telecommunication services offered by Telecom Service Providers (TSPs). Social networking (Facebook, LinkedIn, X (formerly known as Twitter), Instagram etc.), e-commerce, e-health, e-education, gaming, location-based/navigation applications like Google Maps, etc. are some of the examples of such type of OTT services.

### 2.1.3 OTT MEDIA SERVICES (OMS)

OTT Media Services (Audio and Video – AV content) refers to voice and video streaming over the Internet which can be further subcategorized into:

#### 2.1.3.1. **Broadcasting OTT Media Services**

This category comprises of Voice and Video services which are provided over the Internet, licensed/regulated by PEMRA as mandated under PEMRA Ordinance, 2002. The examples of such services include PTV, ARY NEWS, Hum TV, GEO Super etc.

#### 2.1.3.2. **Non-Broadcasting OTT Media Services**

This category comprises of Voice and Video Media Services provided over the Internet, excluding those as mentioned in Clause 2.1.3.1. Such services are provided using Internet as a medium e.g. Video Streaming - YouTube, Netflix, Pandora, Video on Demand (VoD), Spotify etc.

## 3 SPLIT OF RESPONSIBILITIES

With the convergence of telecom services, broadcasting, and OTT (Over-The-Top) platforms onto telecom networks, combined with the continuous development of OTT services and applications, the distinction between telecom services and broadcasting media has become increasingly indistinct. As a result, establishing a clear demarcation between telecom and broadcasting services has become a challenging task especially under the ambit of prevailing laws such as Pakistan Telecommunication (Re-organization) Act, 1996, Pakistan Electronic Media Regulatory Authority Ordinance, 2002, Prevention of Electronic Crimes Act, 2016 and the amendments made thereafter, etc. Nevertheless, within the context of this framework, the following matrix depicted in *Figure 2: Responsibility Matrix* outlines proposed areas of responsibility:

- 3.1. OTT services are carried out over Internet provided by licensees of PTA, therefore, task of overseeing the **delivery of OTT services** falls under the jurisdiction of PTA.
- 3.2. The **OTT Registration** (as required under Removal and Blocking of Unlawful Online Content (Procedure, Oversight and Safeguards) Rules, 2021) **or Authorization** (as stipulated by Telecom Policy 2015 and Section 4 of this framework) along with associated **Obligations** (under this Framework and/or applicable laws) of OTT service provider(s) will be facilitated/managed by PTA. However, Broadcasting OTT Media Service(s) as reflected in Clause 2.1.3.1 will be regulated by PEMRA.
- 3.3. The **Monitoring and Evaluation** of OTT content will be conducted by relevant Government Ministries/organizations, as per procedure in vogue.
- 3.4. **OTT Content Removal & Blocking** is PTA's mandate as per PECA 2016 & Rules 2021 and PTA will facilitate in this regard.

Figure 1: OTT Services Classification

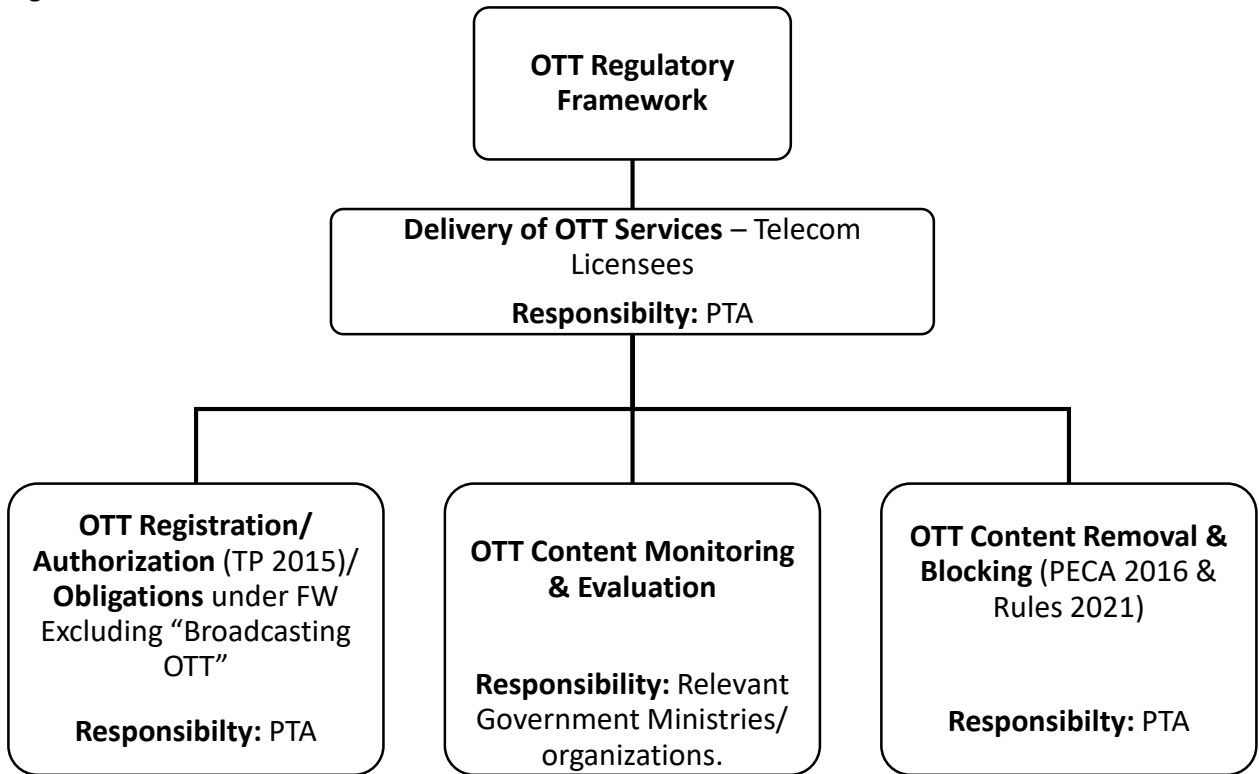


Figure 2: Responsibility Matrix

## 4 LICENSING REGIME OF OTT COMMUNICATION SERVICES (OCS)

Over The Top (OTT) Communication services (OCS) as stipulated in Clause 2.1.1 above, shall be regulated under Class License regime as “OTT Authorization”. The OTT Authorization Framework shall be as follows:

### 4.1 GENERAL CONDITIONS

4.1.1. TSP licensee intending to provide OTT services as stipulated in Clause 2.1.1 of this framework (i.e. OTT Communication Services – OCS ) shall be required to obtain OTT Authorization from PTA.

4.1.1.1. In case of provision of OTT communication services through third party, the TSPs licensees shall have to enter into non-exclusive commercial agreement with OTT Service Providers.

4.1.1.2. This OTT Authorization shall be valid till the validity of the TSP license.

4.1.2. Alternatively, OTT Service Provider can itself also obtain an OTT Authorization for provision of OTT Communication Services in Pakistan.

- 4.1.2.1. This OTT Authorization shall be valid for a period of fifteen (15) years.
  - 4.1.2.2. The Licensed OTT Service Provider shall be required to enter into agreement with the TSPs licensees.
- 4.1.3. A comprehensive Class Licensing OTT Authorization regime will be developed by PTA covering but not limited to following:
  - 4.1.3.1. Application Process
  - 4.1.3.2. Eligibility Criteria
  - 4.1.3.3. Terms and Conditions
  - 4.1.3.4. License/ Authorization Fee

## **4.2 COMPLIANCE**

- 4.2.1. OTT Communication Services being provided over TSPs networks shall be required to comply with OTT Authorization regime within **TWELVE MONTHS** from the date of commencement of this framework.
- 4.2.2. Upon expiry of the timeline referred to in Clause 4.2.1, OTT Communication Services without OTT Authorization shall be deemed as illegal and appropriate action shall be taken by PTA.

## **4.3 CONFIDENTIALITY OF INFORMATION**

Except as permitted in the OTT Authorization, the OTT Licensee shall take all reasonable measures to prevent information about customers of OTT Communication Services from being disclosed to third parties. Any further guidelines may be issued, as deemed appropriate, through regulations or other means (directives/orders/determinations) by the Authority from time to time.

## **4.4 DATA RETENTION**

- 4.4.1. OTT Licensee shall be required to comply with the data retention obligations provided in the “OTT Authorization” or as determined by the Authority from time to time through notification. All OTT Licensees shall ensure the privacy and confidentiality of the retained data.
- 4.4.2. OTT Licensee shall follow the data retention timeframes issued by the Authority. Clarity shall be sought from the Authority for retention timeframe of any data for which a retention timeframe is not mentioned.

- 4.4.3. The retention timeframes shall be strictly followed and the OTT Licensee shall ensure that personal data is destroyed and permanently deleted as per data retention timelines.

#### **4.5 DATA PRIVACY AND SECURITY**

- 4.5.1. OTT Licensee shall be responsible for the privacy of processed personal data and clearly inform the user of the purpose(s) for which personal data is being obtained.
- 4.5.2. In case of a data breach or damage to personal data, OTT Licensee shall duly inform the Authority and the users within 72 hours from the discovery of the incident.
- 4.5.3. OTT Licensee shall also be bound to abide by all relevant data protection Laws, Rules and Regulations issued from time to time and/or as determined by the Authority from time to time.
- 4.5.4. OTT Licensee shall not monitor or disclose the contents of any communication conveyed over its Licensed System except to the extent necessary for the purpose of maintaining or repairing any part of the Licensed System or monitoring the Licensee's quality of service, or except as required by the Act, the Rules, Regulations and conditions of the OTT Authorization.

#### **4.6 DATA LOCALIZATION**

Personal data shall not be stored beyond Pakistan's geographical boundaries without the approval of the Authority.

#### **4.7 INTERCONNECTION**

Interconnection of OTT Licensee with the licensed system of TSPs under OTT Authorization shall be governed under the interconnection/relevant guidelines and/or regulations issued by the Authority from time to time.

#### **4.8 EMERGENCY SERVICES**

OTT Licensee shall provide access to emergency and related location services free of charge to any national emergency resource(s) as and when specified by the Authority.



## **5 REGULATORY REGIME OF OTT APPLICATION SERVICES (OAS)**

Over The Top (OTT) Application Services as stipulated in Clause 2.1.2 shall not be subject to any authorization or licensing. However, such services shall be facilitated/managed in light of Prevention of Electronic Crime Act, 2016 and other applicable laws for the time being in force. Following obligations shall be binding on OTT Application service providers, which are offering OTT Services as referred to in Clause 2.1.2:

### **5.1 DATA RETENTION**

OTT Application Services Providers (OASP) shall be required to comply with all the applicable laws related to data retention obligations and/or as determined by the Authority from time to time.

### **5.2 DATA PRIVACY AND SECURITY**

5.2.1. OASP shall ensure privacy and confidentiality of the retained data.

5.2.2. OASP shall be responsible for the privacy of processed personal data and clearly inform the user of the purpose(s) for which personal data is being obtained.

5.2.3. In case of a data breach or damage to personal data, OASP shall duly inform the Authority and the users within 72 hours from the discovery of the incident.

5.2.4. OASP shall also be bound to abide by all relevant data protection Laws, Rules and Regulations issued from time to time and/or as determined by the Authority from time to time.

### **5.3 CONFIDENTIALITY OF INFORMATION**

OASP shall take all reasonable measures to prevent information about users of such services in Pakistan from being disclosed to third parties without their explicit consent. Any further guidelines may be issued, as deemed appropriate, through regulations or other means (directives/orders/determinations) by the Authority from time to time.

### **5.4 CONTENT MANAGEMENT**

OASP shall be responsible for the blocking of unlawful online content in accordance with Section 37 of the Prevention of Electronic Crimes Act, 2016 and/or as determined by the Authority from time to time.

## **5.5 DATA PROVISIONING**

OASP shall provide the requisite data to the authorized officer of the designated Investigation Agency in accordance with provisions of the Prevention of Electronic Crimes Act, 2016, and/or as determined by the Authority from time to time.

## **5.6 COMPLIANCE AND ENFORCEMENT**

In case of contravention of the provision(s) of this framework, applicable laws and any subsequent legal instruments issued from time to time, the Authority shall have the right to take appropriate action under relevant/applicable law(s).

# **6 REGULATORY REGIME OF OTT MEDIA SERVICES (OMS)**

Over The Top (OTT) Media Services as stipulated in Clause 2.1.3 shall not be subject to any authorization or licensing from PTA. However, such services shall be facilitated/managed in light of Prevention of Electronic Crime Act, 2016 and other applicable laws for the time being in force and/or as determined by the Authority from time to time.

## **6.1 OTT BROADCASTING MEDIA SERVICES**

OTT Broadcasting Media Services (OBMS) referred to in Clause 2.1.3.1 shall be regulated by PEMRA under the provisions Pakistan Electronic Media Regulatory Authority (PEMRA) Ordinance 2002. Whereas, PTA may facilitate PEMRA for management of unlawful online content as per section 37 of PECA 2016.

## **6.2 OTT NON-BROADCASTING MEDIA SERVICES**

Following obligations shall be binding on OTT Non-Broadcasting Media Services Providers, which are offering OTT services as referred to in Clause 2.1.3.2:

### **6.2.1 DATA PRIVACY AND SECURITY**

- 6.2.1.1. OTT Non-Broadcasting Media Services Providers (ONBMSP) shall ensure privacy and confidentiality of the retained data.
- 6.2.1.2. ONBMSP shall be responsible for the privacy of processed personal data and clearly inform the user of the purpose(s) for which personal data is being obtained.

6.2.1.3. In case of a data breach or damage to personal data, ONBMSP shall duly inform the Authority and the users within 72 hours from the discovery of the incident.

6.2.1.4. ONBMSP shall also be bound to abide by all relevant data protection Laws, Rules and Regulations issued from time to time and/or as determined by the Authority from time to time.

## **6.2.2 CONFIDENTIALITY OF INFORMATION**

ONBMSP shall take all reasonable measures to prevent information about users of such services in Pakistan from being disclosed to third parties without their explicit consent. Any further guidelines may be issued, as deemed appropriate, through regulations or other means (directives/orders/determinations) by the Authority from time to time.

## **6.2.3 CONTENT MANAGEMENT**

ONBMSP shall be responsible for the blocking of unlawful online content in accordance with Section 37 of the Prevention of Electronic Crimes Act, 2016 and/or as determined by the Authority from time to time.

## **6.2.4 COMPLIANCE AND ENFORCEMENT**

In case of contravention of the provision(s) of this framework, applicable laws and any subsequent legal instruments issued from time to time, the Authority shall have the right to take appropriate action under relevant/applicable law(s).

# **7 OTT SERVICES REGULATIONS**

PTA may formulate comprehensive “OTT Services Regulations” pursuant to issuance of this regulatory OTT Framework and enabling provisions of the Pakistan Telecom Re-Organization Act, 1996 (Amended 2006) and may review the same as and when required.

# **8 DEFINITIONS**

**“Personal data”** means any information associated with an individual which relates to its private, public and professional identification including data generated as a result of activity by the user through TSP’s service.

**“OTT Authorization”** means the permission/approval/license granted by PTA to enable the provision of OTT Service.

**“OTT Registration”** means the process of formally registering OTT Service Provider with the Authority.

**“OTT Licensee”** means OTT Service Provider or TSP Licensee having OTT Authorization as the case may be.

**“OTT Service Provider”** means the provider of OTT Service.

**“Telecom Service Provider (TSP)”** means Cellular Mobile Operators (CMOs), Long Distance International (LDI), Local Loop (LL), Integrated Licensee, Class Value Added Services (CVAS) or any other category of TSP duly authorized/licensed by the Authority to provide telecom services, from time to time.

## **9 QUESTIONARE FOR CONSULTATION ON OVER-THE-TOP (OTT) REGULATORY FRAMEWORK**

Above in view, all stakeholders are requested to provide feedback on the following questions:

1. Do you agree with the OTT services classification given in clause 2.1 of the draft OTT Regulatory Framework?
  - a) Yes / No
  - b) If No, please provide your suggestion (Provided Categories should be merged / Segregated or any new category to be introduced with list of services / details)
2. Do you agree with the classification of OTT Media Services as given in clause 2.1.3 of the draft OTT Regulatory Framework?
  - a) Yes / No
  - b) If No, please suggest otherwise.
3. Do you think there is a level playing field between Over-the-top (OTT) providers and Telecom Service Providers (TSPs) providing similar services?
  - c) Yes / No
  - d) If No, please suggest measures to address this issue
4. As per clause 4 of the draft OTT Regulatory Framework, should OTT Communication Services be authorized to promote a competitive landscape?
  - a) Yes / No
  - b) Please provide justification
5. Should Telecom Service Provider (TSP) licensees intending to provide OTT services (own service or through third party) in Pakistan (clause 4.1.1 of the draft OTT Regulatory Framework), be required to obtain OTT Authorization from PTA.
  - a) Yes/No
  - b) Please provide supporting arguments / justification
6. Should the validity period of OTT Authorization be 15 years, as proposed in clause 4.1.2.1 of the draft OTT Regulatory Framework?
  - a) Yes/No

- b) If No, should it be shorter/longer?
- 7.** Do you suggest any changes / additions pertaining to Confidentiality of Information, Data Retention, Data Privacy & Security and Data Localization as stipulated in the draft OTT Regulatory Framework?
  - 8.** What is the impact of increased OTT traffic on licensed operators Data & Voice/messaging revenue? Is there any commercial arrangement or revenue sharing agreement between licensed operators and any OTT service provider?
  - 9.** How a conducive and balanced environment be created such that OTT service providers are able to invest in network infrastructure development?
  - 10.** Please suggest if there are any other issues/ aspects that need to be addressed in the draft OTT Regulatory Framework.



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## **CONSULTATION ON Draft OVER-THE-TOP (OTT) REGULATORY FRAMEWORK**

Pakistan Telecommunication Authority (PTA) is undertaking a "Consultation on OVER-THE-TOP (OTT) REGULATORY FRAMEWORK". All stakeholders and general public are requested to submit their written comments/ views regarding subject consultation preferably in soft form to Director (Strategy & Development), PTA Headquarters, F-5/1, Islamabad. email: **[consultationsnd@pta.gov.pk](mailto:consultationsnd@pta.gov.pk)** on or before **10 July 2024 by 4:30 p.m.** Consultation paper is available at PTA's website: **<https://www.pta.gov.pk/en/data-&-research/consultation-papers>**

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