Relatório de participação

Reunião: CWG-WSIS e CWG-Internet

Data e local: Genebra, 18 a 22 de setembro de 2017

Participante: Ministro Carlos da Fonseca, Ministério das Relações Exteriores (convidado)

Realizaram-se, entre 18 e 22 de setembro, na sede da UIT, as reuniões do Grupo de Trabalho do Conselho da UIT sobre a Cúpula Mundial da Sociedade da Informação (CWG-WSIS) e do GT sobre Políticas para Internet (CWG Internet). A delegação brasileira foi integrada pelo Ministro Carlos da Fonseca, Chefe da DI, e pelo senhor Mário Canazza, da Assessoria Internacional da ANATEL. Participou, igualmente, a senhora Ana Paula Bialer, em representação da BRASSCOM.

CONSULTAS ABERTAS SOBRE OTTs

2. O primeiro dia de reunião foi dedicado ao processo de consultas abertas sobre serviços "over the top" (OTT). Na parte da manhã, foi organizada mesa redonda, com a participação de representantes do Digitel Group (Kieran Meskell), do Public Knowledge (Gene Kimmelman), da consultora McKinsey (Rolando Balsinde) e da ANATEL (Mário Canazza). Por via remota, participou igualmente professor do Center for Communications Governance, da National Law University de Nova Deli.

3. Como se sabe, o processo de consultas abertas do CWG Internet Policy foi definido durante a Conferência Plenipotenciária de 2014 (PP14), com termo de referência revisto em 2015 (Resolução 1344). Desde 2013, foram realizadas nove consultas, sendo quatro reuniões presenciais, com participação aberta a todas as partes interessadas. No período, mais de 250 contribuições foram apresentadas. O tema selecionado para a consulta deste semestre foi objeto de acalorado debate por ocasião da última reunião do GT, em fevereiro. Definição final só ocorreu durante a reunião do Conselho da UIT, em maio último.

4. O tema suscitou enorme interesse de todos os setores, tendo merecido 71 contribuições, número inédito até agora (na anterior edição, foram 48). Esse

interesse refletiu-se igualmente nas solicitações de apresentação oral durante a reunião presencial, que somaram trinta, ocupando toda a tarde do dia 18. Merece registro o fato de que o Brasil foi o país que apresentou maior número de documentos de contribuição para o debate (9), de diferentes setores: ANATEL/Governo brasileiro; IDEC; ABO20; Câmara Brasileira de Comércio Eletrônico; ABRINT; ABRANET; Claro Brasil; Sinditelebrasil; e BRASSCOM.

5. Em linhas gerais, as posições defendidas nas contribuições deixam clara clivagem a separar provedores de internet e de serviços de aplicativos, por um lado, e empresas de telecomunicações, por outro. No âmbito governamental, ficou igualmente clara a polarização entre países que defendem regulamentação nula ou mínima ("light touch regulation") e aqueles que enfatizam a necessidade de participação mais ativa dos governos na regulamentação dos provedores de aplicativos (OTTs). Da mesma forma, o debate em torno do papel da UIT nessas discussões dividiu atores para os quais a entidade não teria mandato ou careceria de legitimidade, por ser intergovernamental; e outros para os quais a UIT seria o foro por excelência para debater a regulamentação dos novos serviços, o que já viria fazendo no âmbito de alguns de seus Grupos de Estudo (SG). Resumo, para registro, algumas das principais posições apresentadas.

6. As opiniões dividiram-se entre, por um lado, a necessidade de regulamentar os serviços OTT em seus aspectos econômicos (concentração de mercados, tributação) e de conteúdo (bullying, fake news, apologia à violência, etc.); e, por outro, a ameaça de tais regras representariam ao ecossistema digital, especialmente por inibirem a inovação.

7. Países como EUA, Canadá, Japão, Austrália, Reino Unido, República Tcheca, entre outros, alinharam-se contra qualquer regulamentação, ou admitiram, no máximo, o que chamaram de "light touch regulation". Do outro lado do espectro, Rússia, China, Arábia Saudita, Irã, para citar alguns, defenderam posição maximalista, com atuação dos estados em regulamentação tanto de conteúdo como econômica. A China, em posição isolada, defendeu regras de conteúdo e de controle de usuários, abstendo-se de mencionar a regulamentação econômica. Entre os países europeus, França, Espanha, Portugal e Itália mostraram preocupação especial com questões relativas à tributação ("tax erosion"), o que reflete debates no âmbito da União Europeia sobre a imposição de impostos às grandes empresas da Internet calculados com base no "valor gerado localmente" por

seus serviços (vale mencionar que o Congresso Nacional francês aprovou, em maior último imposto dessa natureza, batizado "imposto Google"). A delegação brasileira manteve sua postura tradicional de apoiar a dinâmica e os mecanismos de natureza multissetorial, sem furtar-se a reconhecer o papel relevante dos governos como reguladores e "policy makers".

8. No que diz respeito à relação entre provedores de aplicativos (OTTs) e empresas de telecomunicações ("telcos"), os debates foram polarizados pelos representantes de provedores de aplicativos, das próprias telcos e de organizações da sociedade civil.

9. Os representantes das telcos queixaram-se de que provedores de OTT praticam "concorrência desleal", de vez que não são submetidos às mesmas regulamentações e não pagam impostos sobre o consumo dos serviços que oferecem. Tradicionalmente, os termos contratuais de concessões, licenciamento e/ou autorizações para funcionamento das Telcos preveem sua responsabilidade por 100% dos investimentos em conectividade. Com o advento das provedoras de OTT, as Telcos já não teriam acesso a 100% das receitas de comunicações. Com isso, diminuiriam as receitas líquidas das próprias Telcos, afetando diretamente sua capacidade de cumprir compromissos em matéria de conectividade, em especial a extensão da cobertura de banda larga, que depende de fundos advindos do faturamento de serviços de roaming e pacotes de voz. Como consequência, tenderia a agravar-se, segundo as Telcos, o hiato digital em conectividade, especialmente em países em desenvolvimento, onde a infraestrutura ainda é incipiente. Algumas soluções aventadas seriam a adaptação das Telcos aos novos modelos de negócio dos OTTs, o que não se tem mostrado fácil; ou a participação das provedoras de aplicativos nos investimentos em infraestrutura de comunicações. Há que se salientar que empresas como o Facebook e a Alphabet já investem em esquemas alternativos de conectividade (drones e balões), cujo uso, no entanto, é dedicado exclusivamente a seus próprios serviços.

10. Como pano de fundo desse debate, estaria a questão da aplicação do conceito de "monopólios naturais" aos serviços de aplicativos e/ou provedores de conteúdo da Internet. O conceito é aplicado tradicionalmente tanto às Telcos como a empresas de provimento de energia, água, etc. No entanto, não pareceria haver razão óbvia, segundo as Telcos, para que tal conceito se aplicasse aos serviços digitais, como ferramentas de pesquisa, redes sociais ou plataformas de distribuição de vídeos ou música. A

crescente concentração de mercados no ecossistema digital, no entanto, estaria criando situação em que esse monopólio *de facto* já seria uma realidade.

11. Representantes de provedoras de aplicativos, por sua vez, argumentaram que as Telcos ainda detinham grande poder, com a prerrogativa de escolher ou discriminar serviços OTT, pelos quais poderiam cobrar tarifas adicionais, na medida em que não estejam em vigor políticas de "zero rating" nos mercados em que atuam. A competição entre serviços OTT e telecomunicações não seria "canibalismo", mas "concorrência saudável". As Telcos precisariam adaptar-se à nova situação, estabelecendo parcerias com empresas de Internet, como já vem acontecendo, no caso da Vodafone e do Google Play em países europeus (pagamento de aplicativos da fatura mensal do celular); ou da MTN e da Microsoft em países africanos (estabelecimento de uma plataforma de armazenamento em nuvem conjunta em mais de 40 países africanos). Segundo o "Analysis Mason Group", haveria previsão de ganhos potenciais da ordem de 15 bilhões de Euros, na União Europeia, até 2021, com parcerias entre Telcos e empresas de Internet.

12. Por outro lado, entidades como o Public Knowledge defendem que, mesmo se algum nível de regulamentação é indispensável, especialmente no que tange ao uso dos serviços (privacidade, "fake News", apologia ao ódio, etc.), não se deve pensar o ecossistema exclusivamente tendo em mente os interesses das grandes empresas do setor de Internet ou a queda dos lucros das Telcos. Seria necessário levar em conta os pequenos provedores e as redes locais, mais sensíveis a um ambiente excessivamente regulamentado, que inibiria a pesquisa em soluções inovadoras e a sustentabilidade de seus modelos de negócio.

13. Representantes da sociedade civil e de governos como a Rússia/Arábia Saudita/China opinaram que a UIT já estaria envolvida com os problemas de regulação dos OTT, de vez que os "ICT regulatory toolkits" elaborados em Grupos de Estudo (SG-1 da UIT-D e SGs-3 e 17 da UIT-T) influenciam a maneira como essa regulamentação vem sendo conduzida em muitos países, especialmente em desenvolvimento. De resto, a UIT disporia de mandato para deliberação em matéria de segurança digital, infraestrutura de rede e alocação de espectro, que constituem a base sobre a qual são oferecidos os serviços de Internet.

14. Por outro lado, representantes das empresas de Internet (Microsoft e Facebook, presentes), assim como

de governos como EUA/Canadá/Reino Unido/Japão opinaram que a UIT carecia tanto de mandato específico para tratamento dos OTTs como de legitimidade, dada a sua condição de foro exclusivamente intergovernamental. Para esses atores, as questões regulatórias relativas aos serviços de aplicativos devem decidir-se exclusivamente nos planos nacionais, sendo que os debates internacionais deveriam dar-se em formato multissetorial.

15. Durante a mesa redonda organizada na manhã do dia 18, sobre o tema em pauta, Mário Canazza, em representação da ANATEL, fez apresentação em que salientou os seguintes principais pontos:

i) Já estaria hoje superada a visão segundo a qual os serviços de Internet e aplicativos prescindem de quaisquer regulamentações. Embora o nível e a natureza dessa regulação dependa dos países e suas circunstâncias, fato é que algum papel dos governos é necessária;

ii) A Internet hoje é um bem público de natureza econômica. Trata-se de um habilitador econômico, essencial para o estímulo à inovação tecnológica, mas também à educação, ao "empoderamento" social e à participação cidadã. O acesso à Internet é hoje praticamente um Direito Humano. Daí a necessidade de intervenção governamental;

iii) A Internet e os serviços de aplicativos geram externalidades positivas e negativas. Há que se atentar para a necessidade de estimular uns e mitigar outros. Do lado negativo, os principais problemas hoje dizem respeito à segurança e privacidade de dados; direitos do consumidor; impacto na geração/destruição de empregos; concentração de mercados; erosão tributária; e impacto em termos de investimentos em infraestrutura de conectividade, com a diminuição das receitas das Telcos; e

iv) Considerando a disparidade entre grandes e pequenas empresas de Internet e provedores de rede, deveria ser considerada a aplicação de regulamentação assimétrica, por oposição à "legacy regulation".

CWG-WSIS

16. A reunião do CWG-WSIS, realizada em 19/09, serviu para informar acerca do WSIS Forum 2017 e da próxima edição do evento. O WSIS Forum 2017 reuniu mais de 200 eventos e distribuiu 18 prêmios (WSIS Prizes). O evento teve lugar em Genebra, na sede da UIT, entre 12 e 16 de junho e atraiu mais de 2000 participantes presenciais e 500 remotos, de 150 países. Entre as 500

autoridades governamentais presentes, contaram-se 85 ministros ou vice-ministros. O WSIS Forum 2017 foi presidido pelo Ministro de TICs de Ruanda Jean Philbert Nsengimana.

17. Ao final da reunião, a delegação russa apresentou proposta de atualização da Resolução PP 140, que estabelece os termos de referência do Grupo, de forma a adequá-la aos "acontecimentos, documentos e metas" registrados no campo dos Objetivos de Desenvolvimento do Milênio desde 2014. A proposta deverá ser avaliada até próxima reunião CWG-WSIS, para posterior apresentação na Reunião Plenipotenciária de 2018. A delegação brasileira agradeceu a iniciativa russa, declarando que examinará a linguagem do documento com vistas a uma manifestação futura.

CWG-INTERNET (INTERGOVERNAMENTAL)

18. A reunião intergovernamental do GT iniciou-se, como previsto, na manhã de quarta-feira, 20/09. Como o tema da próxima consulta pública ("TICs e hiato de gênero") já havia sido definido no último encontro do Conselho da UIT, a agenda centrou-se na continuação dos debates em torno da necessidade/conveniência de regulamentação dos serviços OTT e na apresentação, pela Rússia, de duas propostas de Resolução, que geraram intensa polêmica. A negociação da ata das reuniões ocupou dia e meio de trabalho.

19. No início da reunião, a delegação brasileira fez apresentação oral de sua contribuição sobre o tema das consultas abertas. O documento, que será incorporado como anexo à ata do GT, resumiu as principais atividades, coordenadas pela ANATEL, para debate com *stakeholders* sobre os aspectos regulatórios dos serviços OTT, que redundaram na produção das nove contribuições brasileiras, oito das quais não-governamentais. Reproduzo, a seguir, o resumo da apresentação, em sua versão em inglês:

"Brazil's preparation to the ITU Council Working Group on international Internet-related public policy issues (CWG-Internet) is an open process aligned with the multi-stakeholder Internet Governance principles established by the World Summit on the Information Society (WSIS). The process undertaken by ANATEL involved all segments of society in debates surrounding Internet-related topics, including government agencies and ministries, the private sector, civil society, the technical and academic community, and the press. Three meetings were held in July and August to respond to the ITU public consultation. There were 77 participants in total

representing ANATEL; other government agencies and ministries; telecommunication providers; national and international associations of telecommunications and Internet service providers; global providers of OTT services and applications; global ICT equipment and software developers and vendors; the ICT industry association; the broadcast industry association; the Brazilian chamber of e-commerce; universities; research centers; civil society organizations, and the press".

20. Após a apresentação, várias das delegações presentes pediram a palavra para elogiar a iniciativa brasileira de conduzir processo interno de consultas multissetoriais. O Canadá declarou que o Brasil apresentava "um exemplo para outros países"; os EUA salientaram a "relevância dos processos multissetoriais, evidenciada pela iniciativa do Brasil"; a Rússia preferiu destacar "a importância de que os governos ouçam a todas as partes envolvidas, mas assumam suas responsabilidades como '*policy makers*'"; a China identificou no aporte do Brasil a "evidência de que a UIT deveria desempenhar papel relevante em quaisquer circunstâncias"; a Arábia Saudita acompanhou a opinião chinesa, realçando que a iniciativa brasileira mostrava que "os mecanismos internacionais deveriam ajudar a encontrar soluções para os serviços OTT, especialmente em vista de seu papel para o desenvolvimento"; a Índia enalteceu o papel do Brasil nos debates da UIT e solicitou cooperação no tema dos serviços OTT, especialmente no âmbito da UIT-T; finalmente, o Zimbabwe declarou que "o Brasil está liderando o debate, dando o exemplo".

21. A segunda metade da reunião foi ocupada pela apresentação russa de duas propostas de revisão e aprovação de Resoluções visando a fortalecer o papel do CWG-Internet e ampliando o escopo de suas atividades.

22. No primeiro caso, a delegação da Rússia sugeriu a aprovação de Resolução específica, a ser apresentada durante a PP18, sobre o trabalho futuro da UIT em matéria de políticas públicas relacionadas aos serviços OTT. O documento propõe, especificamente, que os grupos de estudo 1 (UIT-D) , 3 e 17 (UIT-T) encaminhem ao CWG-Internet "suas considerações relativas a serviços OTT que requeiram regulamentação". Sugere, igualmente, que o CWG-Internet "analise práticas regulatórias relacionadas a OTTs e prepare recomendações na matéria, a serem encaminhadas ao Conselho da UIT de 2019"

23. No segundo caso, a proposta russa seria no sentido de que a PP18 instrua o Conselho a atualizar as Resoluções relativas aos termos de referência do CWG-Internet (especialmente as Resoluções 1305 e 1344), de forma a lhe dar autoridade e competência para "preparar propostas relacionadas a políticas públicas sobre Internet e submete-las ao Conselho da UIT e a Conferência Plenipotenciária, se necessário".

24. A reação à iniciativa russa deu-se de acordo com as clivagens já conhecidas entre países membros da UIT. A delegação brasileira limitou-se a declarar que: "apoia os estudos conduzidos tanto pela UIT-D como pela UIT-T sobre aspectos econômicos, técnicos e de desenvolvimento dos serviços OTT. Ao mesmo tempo, reconhece a importância do processo de consultas públicas em OTT, cujos resultados oferecem valiosa perspectiva sobre as contribuições e os problemas suscitados por tais serviços, tais como percebidos pelos diversos setores interessados. O número inédito de contribuições obtido nas consultas sugere tratar-se de tema que merece maior atenção do Grupo. Nesse sentido, o Brasil toma nota das propostas russas, cujo teor examinará com atenção até a próxima reunião do Grupo".

25. As próximas reuniões do CWG-WSIS e do CWG-Internet deverão ter lugar em Genebra, em janeiro de 2018.

ANEXO: OPEN CONSULTATION – APRESENTACOES ORAIS

Richard Hill, APIG

The time has come to recognize that OTTs are a global phenomenon and that they can be appropriately governed only by concerted global action. There is a need for global rules, which should take the form of an international legal framework. The time has come to start creating that framework, which should include a Digital Geneva Convention.

OTTs bring benefits, but they bring benefits only if people are connected. Thus, as stated in our previous contributions, there is an urgent need to reduce the cost of connectivity in developing countries. This can be achieved by fostering competition (which may include functional separation), funding infrastructure, taking steps to reduce the cost of international connectivity, supporting the development of local content, capacity building, and a proper governance system.

In order to foster the continuing use of OTTs, it is necessary to improve trust and security. It is urgent to recognize that market failures are partly the cause of the current lack of security of OTTs. Steps must be taken to address the externalities arising from lack of security (entities that do not secure their systems sufficiently do not bear all the costs of security breaches), and to address information asymmetries (consumers have no way of knowing which services are sufficiently secure). At the same time, it is imperative to protect human rights, protect data privacy, protect consumers and workers (in particular against abuse by dominant platforms), curtail unnecessary and disproportionate mass surveillance, address the issue of job destruction and wealth concentration engendered by OTTs, address the ethical issues arising from automation and artificial intelligence, and deal with OTT platform dominance.

Sobre “free flow of data” e tratamento do tema pela OMC, sob presumption de que deveria haver free flow of data. Se data é uma commodity, the new oil, não há razão para que países não imponham limites, apliquem taxas ou levies, etc., sobretudo considerando que se ganha huge amounts de $ com data, que é um raw material produzido por pessoas que não são compensadas por isso.

The principle that data should be borderless and that it should flow freely is a policy decision that has profound effects. Some base that principle on the idea that data is a commodity that should be freely traded.

But the idea that data should flow freely does not actually flow logically from the idea that data is a commodity: commodities are taxed and the producers of raw material are compensated for providing that material to the industries that transform it and add value to it.

Further, the idea that data is a commodity to be freely traded contradicts fundamental human rights.

And the benefits of free flow of data have been overstated: indeed free flow of data likely increases income inequality.

There is no obvious justification for policies favouring the free flow of data other than to allow OTTs to continue to accumulate huge profits (often monopoly profits) by extracting and refining data, without paying taxes and without compensating the users

who produce the data in the first place.

As a consequence, there should be a moratorium on negotiations regarding the free flow of data.

US Council for Intl Business

The U.S. Council for International Business (USCIB) appreciates the opportunity to participate in the open consultation convened by the ITU Council Working Group on International Internet-related Public Policy Issues (CWG-Internet) on the topic of "Public Policy considerations for OTTs." USCIB is a U.S.-based trade association composed of more than 300 multinational companies, law firms, and business associations from every sector of the U.S. economy, with operations in every region of the world. In particular, USCIB Members include a broad cross-section of the leading global companies in the information and communications technology (ICT) sectors.

We take this opportunity to offer a *multi-sectoral perspective* on:

1. The importance of staying true to the ITU's primarily technical mission in developing international telecommunication standards and allocating spectrum, and not expanding the ITU's work program to include Internet-related issues that are well beyond its remit, core competencies, and budgetary resources. Such issues are most effectively addressed in multistakeholder forums, where policy is holistically and expertly informed by consultations among business, civil society, the technical community, and government;

2. The promise of innovative online services and applications for economic, developmental, and societal benefits goals set forth in the U.N. Sustainable Development Goals; and

3. The related need to ensure an enabling environment for continued innovation and investment in these services. In this regard, market-driven solutions and voluntary, industry-led standards best ensure a healthy digital ecosystem.

Russia, Radio Research and Development Institute

Global cross-border nature of OTT services leads to a situation when services are provided in a certain country or region, but the legislation of this country is not necessarily fulfilled. Thus, a secure and efficient environment for OTT services cannot be formed exclusively by OTT providers or by regulatory authorities governed by jurisdiction of one country. Such environment should be established via a coordinated approach of all stakeholders internationally. At the same time, provision of OTT services shall meet the regulations of country where they are provided. The Internet governance in general and OTT services in particular should not be conditioned by unilateral political restrictions or solely commercial interest.

Lack of efficient regulation and self-regulation of OTTs demands settlement of a discussion platform where all these issues could be put forward and solved. States and civil society should take the responsibility to stimulate creation of a competitive environment and possibility for consumers to choose both the OTT service and the

terms of its use. The set of such policies should also include requirements against possible anticompetitive behavior and abuse of market dominance.

Attached is the information on the proposed theme related to activities of OTT providers and other players and to the questions put forward in this open consultation.

Office of Electronic Communications, Poland

Consumers worldwide benefit from OTT (over the top) services, as they can enjoy access to a variety of mostly free of charge innovative services. At the same time OTT service providers (OTTs) impact telecommunications industry and telecom operators, because OTT services may substitute or compete with traditional telecommunications and broadcasting services. OTT services create a demand for data transfer in the telecommunication networks but OTTs do not contribute to the development of infrastructure which is the fundament for providing their services in high quality.

There is a disparity and imbalance in the obligations stemming from various legal provisions imposed on telecom operators and OTT service providers. This situation makes them often compete in one market but under completely different rules.

A new regulatory approach should be developed – new competences should be given to the National Regulatory Authorities (NRAs), e.g. power to collect data also from OTTs. Access to data gives a regulator an opportunity for adequate market assessment, as well as a tool to assess level of substitution.

Important matter is how to foster entrepreneurship and innovation in OTT and other online services, while at the same time encouraging sustainable infrastructure investments (which are made by telecom operators) - bearing in mind that both innovation and modern infrastructure development are to the benefit of all consumers. NRAs could encourage cooperative and collaborative approach between OTTs and network operators and develop measures to strike an effective balance between these two types of players on the market.

Global Partners Digital, UK

In this consultation response, we set out how new and/or cheaper OTT services, as well as the increased range of relevant media and content that they provide, present a multitude of opportunities, particularly with respect to their potential to promote sustainable development and enhance the enjoyment of human rights. However we also highlight that there are potential adverse implications resulting from OTT services, particularly with respect to privacy and data protection, that need to be considered.

With respect to policy and regulatory responses to OTT services, we note the importance of ensuring that the privacy and data protection rights of OTT service users are sufficiently protected. We also recommend that consideration be given to ensuring that responses do not adversely impact upon freedom of expression. We caution against simple replication of existing responses to traditional services, which may not be relevant or appropriate.

Finally, we set out a range of principles that should guide the development of any policy or regulatory responses to OTT: (i) responses should be developed in an open, inclusive and transparent manner; (ii) relevant regional economic unions should play a role in developing common responses, alongside national level responses; (iii) responses should be consistent with international human rights law and standards; and (iv) responses should not undermine or inhibit the benefits and opportunities presented by OTT services. We believe that the best way for OTT players and operators to cooperate, whether at the local or international level, is through dialogue and, where possible, the agreement on common principles and standards to ensure that the rights of users are protected. We do not believe that model partnership agreements would be effective or appropriate tools to leverage the opportunities and benefits of OTT services.

The App Association (US)

The App Association (www.actonline.org) in response to the ITU CWG-Internet open consultation request for input regarding public policy considerations for "over-the-top" (OTT) services. The App Association represents more than 5,000 small business app makers and high tech companies throughout the global digital economy. Our members use mobile technologies to produce innovative solutions that drive the dynamic $143 billion app ecosystem. While the global digital economy holds great promise for small app developers, our members face an array of challenges when entering new markets. These challenges may take the shape of laws, regulations, or policies that exclude goods and services from foreign markets and seek to artificially stimulate domestic industries. While these trade barriers use different means, they have the same end: impeding the availability of the global digital economy to internet end-users. We call on the ITU and CWG-Internet to seek consensus across stakeholder groups to reduce these barriers for the benefit of the billions of internet users around the globe. While larger corporations may be more equipped to absorb the costs associated with unnecessary regulations and trade barriers to market access, small businesses that cannot afford these expenses are effectively excluded from these markets. As we discuss in our detailed filing (attached), the App Association believes the ITU's expansion into OTT would represent an unprecedented overreach that does not align with its mandate or the expectations of its members. We strongly urge the ITU to continue focusing on its core issues, which have generated a robust and diverse body of work. I urge ITU to contact the undersigned with any comments or questions if we may be of assistance.

Digicel, Jamaica

The OTTs and Internet Giants believe they wear a 'Cloak of Regulatory Invisibility': they should be exempted from the laws and rules that apply to everyone else in order to maintain what they refer to as their 'current business model' which consists of taking the revenues out of countries without paying any tax, making any local investment or obeying local laws or developing any human capital. However, it is increasingly accepted among policy makers around the world that law and regulation does – and must - apply to the online world and that OTTs should be made subject to existing regulation in the economy and also that new rules may be required to properly regulate the emerging digital economy.

The shape of what a future framework that addresses the challenge of OTTs might look like is now coming together around the globe and this includes:

• The question as to how OTTs and the Internet Giants pay their fair share of taxation to local economies;

• How is the investment required to build the broadband networks of developing nations and bridge the digital divide? Equitable commercial arrangements and revenue sharing between OTTs and network providers is an imperative for developing regions and developed regions and it is important that legal and regulatory frameworks permit and promote these outcomes;

• A level playing field where local service providers are not subject to rules that do not apply to online competitors and the application of the same rules to local and online providers – including the licensing of service providers ("Same service same rules").

Laws and regulations exist for good public policy reasons which are valid irrespective of whether the delivery method is online or offline. It is imperative that regulators and governments close the loopholes that allow the new global corporations to use the Internet to avoid regulation.

Departamento de Estado (EUA)

The United States is pleased to participate in the Open Consultation on Over the Top (OTT) offerings. Although OTTs are being addressed in ITU-T and ITU-D, we believe this open consultation will shed further light on OTTs' promise in promoting a digital economy that is beneficial to all. We welcome the opportunity provided by this open consultation to hear from a range of interested stakeholders and to learn from their experiences, either in providing or using such offerings. From the U.S. perspective, the CWG-Internet Open Consultations are a critical and indispensable opportunity within the context of CWG-I for obtaining the views of all stakeholders, including those with hands-on operational expertise. Evidence to date suggests that OTTs benefit consumers, help create and grow domestic digital economies, and produce an overall beneficial effect on national economies as a whole.

OTTs are both a consequence and an illustration of the digital transformation of the telecommunications industry. OTTs have proven especially valuable in bringing new business opportunities to small and medium sized enterprises and providing ways to connect and help address health and disaster crises, thereby providing considerable benefits to consumers and governments. Traditional telecommunications operators and OTT offerings have a symbiotic relationship – OTTs create demand for telecommunications services and increased demand for telecommunications services means increased revenues for providers.

Crucially, OTTs have flourished where innovation is encouraged and regulation – if it exists at all – is lightly tailored. Moreover, traditional telecommunication operators are increasingly embracing OTT offerings. The 2017 White Paper on Digital Transformation Initiative by the World Economic Forum includes case studies from South Korea, France, and Spain, where traditional telecommunication operators have benefitted from OTT offerings, including mobile banking and digital streaming. Similarly, operators in Namibia, South Africa, and Kenya are offering OTTs in ways that boost those countries' overall GDP.

Conclusion

While the introduction of innovative services and applications, including OTTs, has enabled telecommunications service providers to move beyond voice and data services, creating new opportunities, others have pointed to increased competition from OTTs and declining revenues. To address declining revenues, some have proposed "leveling the playing field" between different providers of similar offerings by imposing legacy telecommunications regulations on OTT offerings. The United States strongly believes that the imposition of legacy telecommunications regulations on OTT and other innovative offerings would not only be detrimental to creating a robust digital economy but would also lead to a decline in societal benefit.

The United States has practiced a light-touch regulatory approach, which we believe has led to the phenomenal growth of OTT offerings in our territory. We have largely refrained from promulgating regulations for specific services or applications because we believe our existing consumer protection, privacy, intellectual property rights protection and enforcement, and competition law remains applicable and effective

The speed at which OTT offerings are being created by talented developers in every part of the world indicates that innovation can flourish in the right policy environment. Considering the importance of OTTs in the digital economy, we believe policy makers

should concentrate on creating an enabling environment that provides regulatory certainty, resulting in investment, innovation, and competition.

Google

The Internet has been transformative to humanity. Regarded by the World Bank as a "general purpose technology" as transformative as the steam engine, the services provided by Content and Application Providers (CAPs) have democratized knowledge, transformed the ability of people and communities to communicate with one another, accelerated global business, and contributed to worldwide economic growth. CAPs create demand from users for Internet access services, which leads to greater revenues for telecoms operators; invest in infrastructure to reduce the cost of delivering their services; and develop innovative telecommunications technologies to help reduce the cost of building and expanding telecommunications networks for the entire industry. Google believes that CAPs are critical enablers of global economic growth and are key enablers of community efforts to meet the Sustainable Development Goals, but that questions regarding them ultimately fall outside the scope of the ITU's mandate. We encourage the ITU to remain focused on its vitally important work relating to radio spectrum allocation, telecommunications network standards, and appropriate capacity-building activities, rather than seek to address issues already being capably addressed by other organizations. Please see attachment for our complete response to this open consultation.

Access Now (India)

We thank the ITU for this opportunity to provide comments to this open consultation. Our inputs here are derived from a longer policy paper entitled "Proposals for regulating internet apps and services: Understanding the digital rights impact of the 'Over-the-Top; debate" soon to be published by Access Now.

We submit that the term "OTT" must be used cautiously, since it can serve to understate the impact that some regulatory proposals can have on the internet applications or services that we use every day. Overbroad, telecom-style regulation and licensing can harm the open internet and the principles that sustain our enjoyment of digital rights, impacting in particular permissionless innovation, Net Neutrality (including the end-to-end principle), and low barriers of entry.

Policymakers and other stakeholders should act to counter the trend towards the commoditization of the internet, where applications are licensed separately and offered in "bundles" with internet connection packs – the trend we are seeing with "zero rating" and Internet.org-style connectivity solutions. We must safeguard the basic principles and narratives of the free, open, neutral, and interoperable internet. It is those features that enabled the growth and development of this technology in the first place.

We do not assume a universally libertarian, anti-regulation position. We are most concerned by proposals that would require individuals or organisations that offer "OTT" internet applications or services to get a license or register with the government before they can make their services available in a country, mandating that they be deployed in

the same highly controlled way that legacy telecommunications access services are deployed. Instead, we should push for context appropriate, fact-based regulatory models that defend and extend the rights of users, without jeopardizing the core principles that keep the internet free and open for innovation. In order to avoid regulatory outcomes that harm the open internet and the human rights of users, policymakers should follow two principles:

1. Avoid applying one-size-fits-all telecom-style licensing frameworks onto internet applications or services.

2. Shape regulatory intervention of internet applications or services on a foundation that considers the public interest and human rights.

Public Knowledge/IDEC

Public Knowledge & IDEC: Over the past years, several national telecommunications regulators and international telecommunications bodies such as the International Telecommunication Union (ITU) and the Inter-American Telecommunications Commission (CITEL), have been discussing new ways to (re)regulate Internet services and applications, sometimes called "Over-The-Top" (OTT) applications. The results of these discussions will have serious consequences for consumers and Internet users worldwide, since OTTs are for the vast majority of consumers and users the identifiable layer of the Internet –having become in practical terms "the" Internet for the average user. The governance of OTTs is a very close proxy to the governance of the Internet.

In OTT governance debates, there are three questions that dominate conversations: The "level playing field" question, the "free rider" question, and the "same service same rules" question. The first, whether there is a "level playing field" between OTTs and the legacy voice, SMS, and video services provided by network operators and broadcasters is the most often asked in the OTT governance debates. We believe that is a fundamentally misguided question: there cannot be, and there should not be, a "level playing field" between OTTs and network operators simply because OTTs and network operators are in two fundamentally separate markets that ought to be regulated in very different ways. The truism that like services should be regulated in like ways does not mean that all services are, in fact, alike. On the one hand, network operators are often a monopoly (natural or not) that owns the network, or are granted exclusive control of a scarce public resource (through spectrum licensing, access to public rights-of-way, and so on). Regulation should guarantee those network operators are not allowed to unfairly abuse their privileged position, for example, by restricting the ability of consumers to use the OTTs of their choice. On the other hand, OTTs operate in what can be a more competitive environment, and rely on the network access to expand the opportunities and offers for consumers. Consumers freely access their choice of OTTs through the access they purchase from network operators. Here is the "level playing field" fallacy: the legacy services that network operators provide have the advantage of policies and economic conditions that produce monopolies and promote monopoly dominance over all services that are accessed through their network – OTTs are successful not because of existing market conditions but despite them, thanks to the innovation allowed by the end-to-end principle that governs the Internet. OTT markets can become concentrated and may pose regulatory and competition challenges of their own, but these challenges cannot be answered through facile comparisons to last-mile network operators.

The second question, the "free rider" question, refers to the idea that edge providers – the OTTs- should be contributing to sustaining the infrastructure of the network –in essence, allowing network operators to charge OTTs to reach consumers, establishing a paid prioritization of internet traffic. This is also a misguided question. First, it omits the role of users, who pay network operators specifically to access OTT applications. It likewise ignores the positive externalities created by open networks--the "virtuous cycle" created by "new uses of the network—including new content, applications, services, and devices—lead to increased end-user demand for broadband, which drives network improvements, which in turn lead to further innovative network uses." This cycle depends on edge providers being able to easily enter the market, driving end-user demand and increasing innovation. Absent a ban on paid prioritization and other harmful behaviors from network operators, edge providers will not be able to freely enter the market in the same way - instead, they will have to use their scarce resources

simply to have access to the "fast lanes" to remain competitive against incumbent businesses. The best way to guarantee that all stakeholders prosper and thrive is to dismiss the "free-riding" fallacy, ban paid-prioritization, and encourage an environment in which consumer choice and innovation drive up the demand for Internet services. In addition, as explained in the following pages, OTT providers such as Amazon, Microsoft, or Google among others are contributing to the physical internet infrastructure by financing the layout of submarine internet cables, inter alia. In matters of infrastructure investment, the last mile is important but not the only aspect of internet infrastructure.

Regarding the "same service same rules" proposition, we warn against false equivalences. Most OTTs remain complementary rather than substitutes of legacy services. For example, the most successful VoD OTT do not offer linear programming – and therefore should not subject to the same identical rules than cable or air TV channels. (In the US, the relationship legacy pay-TV services and broadcasters is highly regulated; bringing OTT video providers under the "same rules" would require, among other things, granting them compulsory video copyright licenses.) In addition, OTTs do not benefit from the structural advantages of vertical integration that the services provided by network operators enjoy. Take for example the Public Switched Telephone Network (PTSN). Right now, PSTN service is part of the mobile phone plan that most subscribers purchase, which is itself a distinct advantage. PSTN traffic, too, is treated differently than data traffic on mobile carriers' networks. But even if one day the PTSN might transform into an application that runs over the Internet, that does not mean it would become "just another" application like Viber, FaceTime, or Skype. The PSTN has its own numbering system, phone numbers, that requires international cooperation between governments and many private entities. Emergency calling depends on the PSTN. Business can give out phone numbers without worrying whether their customers have some special app or particular level of expertise. The PSTN is useful, and it is useful because it is a decentralized, international, nonproprietary, universal means to establish voice calls between any two places on Earth. So, while instant messaging, email, video streaming, non-PSTN voice communication, and so on are all important applications, none of them are as clearly "affected with the public interest" as the PSTN, and this is true whether or not the PSTN corresponds to a separate physical network. Network operators have the structural advantage of offering services that users can usually not choose to have in the telecommunications packages they use. These services, in addition, are offered in a vertically integrated fashion. In contrast, OTTs are simply not universal, are not automatically integrated into the network, are not by default available in the devices that connect to the network, and are not encouraged, supported, and mandated by public policies and regulations. And some network operators are offering their own OTT services: in Mexico, Televisa lunched its new over-the-top service Blim, focusing on streaming of original and archival video content to Mexico and the rest of Spanish-speaking Latin America. Claro (America Movil) provides both music streaming and video through Claro Música and Claro Video. Hence, there is no need to try to impose a false equivalence among services that are not equivalent.

The discussion over the regulation of OTTs is, therefore, fundamentally a discussion of how to regulate the Internet, with direct implications for Net Neutrality, freedom of expression, consumer rights and innovators. Furthermore, we believe that there are public interest reasons to consider obligations on OTT providers: for example, accessibility, help assure free expression, and help services to be more affordable to all.

But we don't think that OTTs should be regulated as network operators, as they are different actors in very different market. We support the Open Internet values that have allowed OTTs to thrive and consumer choice to be multiplied. We believe that policy makers should seek to guarantee an enabling framework that perpetuates that the Internet remains as an open-space for innovation and entrepreneurship, for which advancing the values of net-neutrality and permissionless innovation is fundamental.

The following pages explain why the current state of affairs and the dominance of OTTs is not an accident but an intended and foreseeable consequence of the development of the Internet. The Internet as we know it is and has been purposely designed as a decentralized system where Internet subscribers can use their service to send and receive their choice of "[e]very single form of content ever conveyed over any electronic communications system--voice (telephony), audio (radio), video (television), documents (faxes), and so forth." OTTs are a clear intended consequence of the Internet architecture.

The paper structure follows the questions presented by CWG in the consultation: "1. What are the opportunities and implications associated with OTT?"; "2. What are the policy and regulatory matters associated with OTT?"; "3. How do the OTT players and other stakeholders offering app services contribute in aspects related to security, safety and privacy of the consumer?"; "4. What approaches might be considered regarding OTT to help the creation of environment in which all stakeholders are able to prosper and thrive?"; "5. How can OTT players and operators best cooperate at local and international level? Are there model partnership agreements that could be developed?

Information Technology Industry Council (United States)

The global Internet provides a platform for the development and deployment of a great variety of innovations, including "over-the-top" applications and related services. Commonly referred to as OTTs, they are an increasingly important element of the Internet value chain, providing users across the world with access to local and global information and content, generating increasing demand and local added value that is helping to amplify government investments in broadband infrastructure and Internet access. Perhaps most significantly to developing countries, OTTs are providing SMEs, digital entrepreneurs and students with a "low-barrier-to-entry" into the digital economy, fueling the formation of startup communities and tech clusters that increase citizen access to jobs, education, news, trading platforms, productivity tools, enterprise services, and entertainment choices that were unheard of just a decade ago. Unfortunately, in many markets where OTTs have been welcomed by consumers and businesses, they are increasingly facing resistance from some traditional telecom and mobile carriers and other industry sectors, as well as from regulators and policymakers Some governments are seeking to impose ill-fitting or duplicative regulations onto these technologies in the name of "fairness," ignoring the meaningful differences between Internet-based applications and traditional telecommunications services. We believe such an approach is short-sighted and will prove detrimental to many governments' plans to modernize their economies and help spur the creation of new technology-based jobs and businesses. Further, such regulations will hamper national progress versus other regional and international competitors that choose instead to align their policies to maximize opportunities created by OTTs and related services. Rather than seeking to incorporate OTTs into a legacy regulatory framework, governments should explore

ways to reduce the number and impact of existing regulations, which may have been relevant in the past but are no longer appropriate or effective in an era of expanding mobile and digital communications. By giving network providers greater freedom and flexibility to respond to market trends and consumer demand for increased data allowances, speed and quality of service, providers will be able to offer new data packages and incentives that empower rather than impede consumer access to local and global social networking, educational and medical services, file sharing, and video and audio streaming. New businesses and opportunities will be created, further increasing demand for access, quality of service and data, helping governments achieve digital transformation and sustainable development.

Article 19

ARTICLE 19 is pleased to respond to this Open Consultation held by the CWG-Internet on the Public Policy Considerations of OTT Services. This submission focuses on addressing the second question of the Consultation, on the the policy and regulatory matters associated with OTT. However, the Introduction of the submission begins by highlighting ARTICLE 19's general concerns regarding the scope and implications of the term "OTT". The submission then focuses on two major considerations for addressing the policy and regulatory dimensions of OTTs: the conflation of OTT and telecom services and the role of public interest and the human rights framework. The submission concludes by assessing the extent to which the ITU should address the policy or regulatory dimensions of OTTs, given its mandate and capacity.

Association for Proper Internet Governance (Switzerland) - Hill

This contribution presents a summary analysis of the responses published on the ITU web site as of 27 August 2017. Those responses can be clustered in three categories: OTT providers and one Member State appear to be of view that OTTs are different from other technologies, and that regulation similar to regulation of telecommunications services would not be appropriate; some advocate little or no regulation; and some state that there is no role for ITU in discussion of OTT matters. Telecommunication providers, some Member States, some academic and civil society organizations appear to be of the view there is a need for a level playing field: any regulations that apply to non-OTT providers should also apply to OTT providers, to the extent that they provide similar services (e.g. voice communications); some state that security and data protection issues need increased attention; and some state that any regulation should be evidence-based. Some civil society and academic organizations appear to take the view that privacy, data protection, and security issues need increased attention; some state that network neutrality regulation is needed; and some state that measures to prevent anti-competitive actions may be needed in some cases.

The divergence in responses is easily explained by the conflicting interests of the stakeholders: OTT providers wish to continue to operate as they do at present, with little or no regulation. Telecommunications providers, supported by some Member States (for example because they do not obtain tax revenues from OTT providers), wish to limit the

impact of OTT on their business. Civil society is concerned with human rights, including privacy, data protection, and access (network neutrality).

The result of this open consultation well illustrates the limitations of multi-stakeholder approaches. In essence, multi-stakeholder approaches work well when the stakeholders desire a shared, negotiated agreement. In other words, if all stakeholders share common goals, and hence there is a win-win situation. They do not work well when the interests of the stakeholders diverge, as is the case for OTT.

Microsoft

The internet is more than just the physical data networks that provide broadband access. The internet also includes all the providers, hardware, networks, and technology resources of the applications, content, and services that are accessed by means of those physical networks. Only by adopting a policy mindset that appreciates the value of the entire internet ecosystem, including online content, applications, and services, will the internet remain a platform for innovation and sustainable economic growth. To that end, policymakers must reject any notion of a tension between network operators and online providers of content, applications and services or that online content, applications, and services somehow "free ride" on broadband internet access networks. The availability of content, applications, and services drives demand for more and better broadband access services as well as the overall digital economy. In order to ensure an environment in which the internet continues to fuel growth of the digital economy, it is critical that policymakers refrain from reflexively extending legacy telecommunications regulation to the world of online content, applications and services.

Sobre UIT: deveria evitar envolver-se em regulacao de Internet, em decidir que setores deveriam ser regulados e como. Deveria tb limitar seu envolvimento em regulacao de Telcos. Espaço de regulação deveria ser o nacl, agências nacionais deveriam ter competência para interpretar leis nacls.

Reacao Hill: deixar regulação exclusivamente para o espaço nacl, sem debate intl, etc, pode levar ao risco de países determinados aplicarem regras que seriam consideradas inaceitáveis.

SAMENA Telecommunications Council (United Arab Emirates)

SAMENA Telecommunications Council welcomes the opportunity to respond to ITU's Public Consultation on Public Policy Considerations for OTTs.

Global OTTs have clearly brought and are continuing to bring benefits to the digital ecosystem and the economy. They also raise important questions in relation to their compatibility with current national regulatory and economic frameworks. These incompatibilities have created an uneven playing field and local market distortions (local profit and value shifting and base erosion), have exposed significant gaps in relation to national privacy and security policy and have highlighted the need for a coordinated cross-border approach to data movement and data protection.

The key concern raised by network operators is one of competition between partners within the same ecosystem on an uneven playing field. This is negatively impacting

operators' incentives to invest and operators' revenues, with some sources suggesting OTTs are responsible for a loss of around 12% of mobile operator revenues in 2017. If national legacy regulatory frameworks that typically do not apply to OTTs persist, they could increase an uneven playing field in a 5G environment. This risks not fostering the balanced convergence of OTTs and network operators. It is therefore essential that policies and regulations consider the increasing convergence between telecom and OTT services, i.e. the substitution between telecom and OTT services on the demand-side, and the blurring boundaries between telecom and OTT services in a 5G / cloud environment on the supply-side.

Policies need to be reviewed with a forward-looking perspective, rather than playing catch-up with technology innovation which would deter the development of, and investment in 5G. A situation should be prevented where OTTs are the sole innovators going forward, not only in services but also in network technologies (e.g. network virtualization, which allows networks to be hosted on standard IT server equipment and thereby enables the separation of hardware from the intelligence). National governments and regulators are therefore urged to define new clear forward-looking policies and regulatory frameworks that support innovation, investment, competition, new business models and local value creation. These new policies and frameworks must establish a level playing field based on the principle of "same service same rules" to aid balanced transition. New regulations should be light-touch, outdated regulations should be removed, and key principles should be transferred to the entire digital ecosystem, including principles of pluralism, proportionality, openness, non-discrimination, neutrality, public interest, standardization, security and consumer protection.

Association for Progressive Communications (South Africa)

With the steady expansion of affordable broadband services, OTTs are beginning to have a significant impact on some of the revenue streams of many traditional telecommunication infrastructure operators, especially those which have based their business models on bundling the provision of physical infrastructure with high-margin voice and messaging services, and then simply 'bolting on' the provision of internet access1. Similarly, national authorities that have continued to only focus on the regulation of traditional telecom infrastructure operators are now finding that these regulations are becoming less and less effective in achieving their goals.

While the precise definition of OTTs requires further clarity and agreement from all stakeholders, the rapid growth of internet-based communication and information services, particularly those that provide a more attractive alternative to the traditional voice and messaging services of telecom infrastructure operators, highlights the fact that business models for infrastructure provision, as well as national policies and regulations, need updating. In particular, the international/distance independent nature of OTTs and other internet services creates a new dynamic that underlines the need for international multistakeholder and multilateral public interest-driven co-operation.

Ministry of Industry and Information Technology of P.R.China

1. What are the opportunities and implications associated with OTT?

Compared to the traditional fixed and mobile services, OTT services are more flexible and easy to implement. OTT services can be used in many forms. For example, communication services, which can be used as a substitute of traditional telephone and SMS; audio and video services, which can be used as a TV substitute; e-commerce services, which can achieve online shopping, financial services and a series of integrated services.

OTT brings opportunities and challenges to terminal, network and content. OTT services drive the rapid development of smartphones with large screens and higher computing power. OTT services make the rapid development of network technology; also promote the operators' business and technical innovation. For content, on one hand, from the original text and picture-based, turned to video-based. On the other hand, OTT services enable content to be personalized and customized. For example, taking into account privacy and convenience, users are willing to put more personal information set in the mobile phone, including account information, personal preferences, OTT service providers can provide better services through customized way.

2. What are the policy and regulatory matters associated with OTT?

The development of OTT services brings big challenges to operators. OTT business has greatly eroded the original share of the traditional operators, to a certain extent, weakened users' dependence on operators. We need to find the balance between OTT players and operators.

OTT services have occupied a large number of stable users, and more and more user information are collected,stored,analysed and used from OTT services. OTT players play an increasingly important role in security and user privacy protection. How to protect user data , especially prevent data abuse is a key issue we need to care about. We also need to pay more attention to the security of OTT business network, and ensure the security and stable operation.

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

In order to contribute in aspects related to security, safety and privacy of the consumer, there' re some principles that OTT players could refer to. For example, data minimization, pseudonymisation for data processing, integrity and confidentiality protection for data transferring and storage, processing data based on consumer's consent and so on.

OTT service providers should constantly strengthen technical research and establish a comprehensive security protection mechanism, so as to build safe and reliable OTT services. In addition, OTT service providers needs to improve user awareness of privacy protection.

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

First, we should bulid a healthy ecosystem. Integrity and fairness are very important to every kind of business. OTT should establish a long-term mechanism of integrity and fairness. Integrity and fairness can be achieved through technical means and management means. For example, through big data analysis, some security risks can be detected timely.

Secondly, We should encourage cooperation between OTT players and operators to achieve a win-win situation. We also should regulate the conduct of both sides to avoid vicious competition.

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

For OTT players and operators, user is the core value, and providing best and suitable services to users are the common goal of both. On one hand, OTT players and operators can implement specific services together based on local habits or big data analysis. For example, people like playing online games in some area, and then OTT players can implement large variety of online games, operators can provide billing discount for targeted service traffic to users. On the other hand, operators can make full use of some OTT services, and OTT players can use operators' specific data to develop new services. For example, operators can use OTT online authentication

Ministry of Communications and Informatization of the Republic of Belarus

1. What are the opportunities and implications associated with OTT?

Development and wide distribution of both fixed and wireless broadband Internet access allowed expanding the range of services provided to Internet users. This is the main cause of OTT. As with any process occurring in any environment, the use of OTT has both positive and negative consequences.

The positive consequences of using OTT are most noticeable for OTT service users, since these services copy the functionality of traditional services (mobile and fixed telephony, television, etc.) and allow communication and receiving of content with less material costs.

Using OTT, in fact, the user pays only data services. This makes the services provided by OTT much cheaper than traditional telecommunications services. This is the most significant negative consequence of OTT, as traditional telecommunications services are migrating to the OTT market. In this situation, the mobile operator or data transfer operator acts purely as an operator, providing its infrastructure for the operation of OTT services and applications. As a result of using OTT services that provide voice communication services (Skype, Viber, etc.), traditional telephony traffic has significantly decreased, which has led to a decrease in revenues of telecommunication operators.

Availability of demanded content of OTT services is one of the factors causing the growth of demand for data services of telecommunication operators, however, revenues from traffic consumed by OTT services are insignificant in comparison with the costs of operators for construction and support of the functioning of telecommunications infrastructure.

To date, the lack of any statistics in this area is a major obstacle to identifying and concretizing the consequences associated with the use and development of OTT.

The development of a unified methodology for statistical research would be a powerful foundation for the identification and analysis of the consequences associated with the use of OTT.

2. What are the policy and regulatory matters associated with OTT?

The functioning of OTT services in the territory of the Republic of Belarus contains elements of both telecommunication services (activities aimed at the transmission of telecommunications messages) and services whose legal qualification is not available in the legislation (creating conditions for the transmission of telecommunication messages free of charge in the absence of its own telecommunication network). There is no clear definition of OTT services in the legislation of the Republic of Belarus, which inevitably leads to a situation in which the activities of legal entities and individual entrepreneurs providing the services listed above are not regulated in any way, unlike residents of the republic who fulfill the requirements, including tax legislation.An important aspect that can be a key in regulating the scope of OTT services is the monetization by the service provider of the services rendered to the users of the service. Practice shows that monetization, in most cases, is carried out through electronic payments to the address of the service provider.

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

At the moment, there is a practice of demanding from users of OTT-services (for example, for services Google, etc.) detailed personal data, the purposes of further use of which are not known. Attention of operators of OTT services, which in requesting services request personal data, focuses on the need for awareness-raising among Internet users about the cases and purposes of using this data. Therefore, we believe it is correct to establish, at the international level, the criteria for the desirability of presenting personal data in the amounts required by OTT service operators.

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

It is necessary to create a regulatory environment in which all participants in the OTT market would be interested in preventing the misuse of OTT services without authentication. In this process, the state should become an intermediary between the providers of OTT services and telecommunication operators, the infrastructure of which is used to provide OTT services.

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

In the Republic of Belarus there is no example of partnership agreements between OTT market participants that could be developed.