



# *Presentation to DoT Regarding*

## *TRAI Recommendations on Cloud Services (14<sup>th</sup> September 2020)*

*January 7, 2021*

# BACKGROUND

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1. TRAI issued Consultation Paper in October 2019 and OHD was held in February 2020.
2. TRAI made it a stakeholder driven process by allowing stakeholders to submit comments to the 2019 Consultation Paper.
3. During **OHD** in February 2020-multiple concerns were expressed by a large number of stakeholders. Joint letter to TRAI on April 16, 2020.
4. TRAI issued Recommendations on September 14, 2020:  
**Formation of registered Industry-led Body in conjunction with DoT/TRAI and its Governance Structure**

# INDUSTRY OBSERVATIONS ON TRAI RECOMMENDATIONS

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**TRAI Assumption:** Cloud services are part of telecom

**Industry Submission:**

1. TSPs and CSPs are technologically different from one another. TSP networks are designed to provide telecom services as encapsulated in the License conditions.
2. CSPs are not telecom/ internet service providers. They are customers of TSPs/ ISPs who offer cloud services using their infrastructure.
3. TSPs may provide Cloud Services

**CSPs cannot be regulated under telecom laws**

# INDUSTRY OBSERVATIONS ON TRAI RECOMMENDATIONS

**TRAI Assumption:** Cloud services fall under the purview of the TRAI & CSPs are Similar to other entities regulated by TRAI

## **Industry Submission:**

1. MeitY is responsible for developing policies for information technology and internet.
2. MeitY has already framed criteria for empanelment of cloud service offering of CSPs for Government purposes, viz. Meghraj, which require CSPs to comply with various standards on security, interoperability, data portability, service level agreements and contractual terms and conditions.
3. As OSPs, ITES/ Business Process Management (BPM) industry is faced with onerous regulation which has led DOT to substantially abolish the OSP regime. Therefore, OSP is not a good example to make a case for regulating the CSPs.

**Having multiple bodies defining the policies would only hamper the growth of the CSPs and consequently the tech ecosystem in India.**

# INDUSTRY OBSERVATIONS ON TRAI RECOMMENDATIONS

**TRAI Assumption: CSPs are not sufficiently regulated under existing laws to address end customers' concerns.**

**Industry Submission:**

1. CSPs are already governed by IT Act, 2000 (including its various rules), the Indian Contract Act, 1872, the Consumer Protection Act, 2019 and the proposed Personal Data Protection Bill, 2019 (PDPB 2019). The PDPB 2019 would further strengthen the regulation on data processors which would apply to the CSPs.
2. The applicable laws cover various issues highlighted in the recommendations, such as grievance redressal, portability/ interoperability, billing-related issues and quality of service.
3. Issues highlighted in the recommendations are in general terms as there is no study/ data which might indicate that there is a market failure requiring an additional regulatory mechanism.

**CSPs are sufficiently regulated.**

# INDUSTRY OBSERVATIONS ON TRAI RECOMMENDATIONS

**TRAI Assumption:** A registered industry body strikes the potentially appropriate balance between the extremes of having a statutory regulation and a completely free market driven mechanism.

## **Industry Submission:**

1. Following requirements posed by TRAI are antithetical to a 'light touch' or 'self-regulatory' approach.
  - a. Mandatory membership requirement
  - b. Government officials as members of the ad-hoc body
  - c. Apex body to frame a code of conduct to be followed by CSPs
  - d. Review mechanism' for the DoT to monitor the functioning of the industry body and assist it when required
2. Recommendations cited the example of TSDSI as an industry body formed by the DoT. However, TSDSI is a voluntary membership-driven organization - no stakeholder is compulsorily required to become its member.
3. Moreover, the purpose, scope, mandate and working of TSDSI is entirely different from the kind of an industry body proposed in the recommendations.

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**There is need for the industry to understand the Impetus for Creation of this Regulated Body**

**Already, there are multiple Associations that serve as an effective interface between the Government and the industry, as is evident in this meeting.**

# INDUSTRY SUBMISSIONS

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1. NDCP 2018 acknowledged that light touch regulation is essential for CSPs and has called out various measures to enable the industry to grow.

*“2.2(f) Establishing India as a global hub for cloud computing, content hosting and delivery, and data communication systems and services; Evolving enabling regulatory frameworks and incentives for promoting the establishment of International Data Centres, Content Delivery Networks and independent interconnect exchanges in India; Enabling a light touch regulation for the proliferation of cloud based systems; and Facilitating Cloud Service Providers to establish captive fibre networks.”*

2. However, the proposal of creating an additional regulatory regime through a ‘registered industry body’ for CSPs, will be contrary to the policy of light touch regulation.
3. This potentially will be detrimental to attracting investment in this important industry sector as also undermine the Governments policy for facilitating policies for enabling Ease of Doing Business.

**No need to create a Registered Industry Body for CSPs**



# INDUSTRY REQUEST TO DoT

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- 1. DoT to consider industry concerns before accepting TRAI recommendations and defining any policy.**
- 2. There is no need for any such Association/ body to regulate the CSPs.**
- 3. It should be left to the industry to decide upon a suitable process/mechanism for self-regulation.**
- 4. If there are any regulatory concerns, industry will work closely with the Government to address them.**