

TABULAR MAPPING OF STAKEHOLDERS’ RESPONSES TO THE TRAI PRIVACY CONSULTATION PAPER: PARITY IN THE DATA PROTECTION NORMS APPLICABLE TO TSPs AND OTHER COMMUNICATION SERVICE PROVIDERS

The following table was prepared after an analysis of all fifty-three (53) responses to question 10 of the Consultation Paper: “Is there a need for bringing about greater parity in the data protection norms applicable to TSPs and other communication service providers offering comparable services (such as Internet based voice and messaging services). What are the various options that may be considered in this regard?” The table identifies the stances of the stakeholders and their response to the question. It also states the suggestions they have made to the TRAI in view of the question posed.

S. No.	Stakeholder	Suggestions/ Recommendations	Issues	
			Need for bringing about greater parity in the data protection norms applicable to TSPs and other communication service providers offering comparable services.	The various options that may be considered in this regard
1	IAMAI	TRAI may evaluate the existing provisions in the Indian Telegraph Act and licensing conditions to recommend changes to the existing regime to prevent duplication after the formation of a common law.	-	-
2	ACTO	The Data protection norms should be horizontal rather than sector specific to reflect market dynamics and recognition of need for a flexible, technology neutral, and future proof Data privacy framework.	No need for introduction of additional Data Protection requirements to bring parity as the Data Protection requirements as incorporated in the IT act applies to all the stakeholders in the internet ecosystem.	-

3	ASSOCHA M	TSPs must be regulated more closely given their exclusivity over resources while internet-based services must be regulated only where there is clear evidence of market failure.	There is no need to ensure parity as the internet-based services and TSP-services operate are completely different market segments with unique regulatory and economic concerns.	-
4	COAI	-	Yes, national security and privacy issues are of paramount importance and hence a parity is required.	No exception should be made for any service provider in the ecosystem, OTT communication service providers subjecting them to the rules to meet national security and privacy norms.
5	GSMA	-	Need to bring about greater parity in the treatment of TSPs and their competitors.	This parity should be achieved through a comprehensive review of the data protection framework across all sectors
6	ISPAI	Recommends the rules should be uniformly applicable to all the entities who operate in Internet ecosystem and such rules should be aligned with international best practices.	The principle of 'Same Service, Same Rule' should be made applicable to all these entities to effectively deal with the privacy and data protection issues.	-

7	NLUD	<p>The TRAI's powers are limited to making recommendations and regulating telecom services and service providers. Resulting regulations on data protection implemented may not be applicable to many of the other stakeholders and hence recommended that the TRAI and MEITY consider the nature of businesses and service providers before moving towards implementation of suitable and comprehensive laws and regulations.</p> <p>A horizontal data protection law should take into cognizance the data protection principles and is applicable to all stakeholders should be put in place.</p>	Yes, parity needs to be there.	
8	SPAN	-	-	-
9	TRA	<p>Issues of data protection, and data privacy principles for redressal of those issues, are not contingent on the means of communication.</p>	<p>There is no need to distinguish between data protection norms applicable to TSPs and other communication service providers</p>	-

10	NASSCOM-DSCI	Recommended that data protection standards framed under the aegis of the Data protection committee must be technology and platform agnostic. Should be mandated equally for each Data controller and reasonably for data processor across domain to control the breach and misuse of PII/SPI.	Differentiation should be made between 'telco subscribers,' and the users of unlicensed services including apps delivered over the telecom/Internet infrastructure that would be customers of non-telco entities.	-
11	ACT	-	-	-
12	Zeotap	-	Yes, there is an urgent need to have parity on personal data collection for different communication service providers	Consideration must be given to how intrusive data collection practices are and the nature of data (its sensitivities). Businesses that do not have access to sensitive personal information should have a more lenient treatment.
13	Takshashila	-	Data protection norms would be decided by a data protection law. The question of greater parity in data protection norms is outside the jurisdiction of TRAI and it would be unnecessary for TRAI to explore the options to bring out greater parity in	-

			data protection norms in the country.	
14	ISACA	-	-	-
15	IBM	-	In terms of pure Data protection perspective, there should be complete parity because the type of Data collected by OTT are similar to what is being collected by TSPs.	-
16	MMT	-	-	-
17	Accessnow	There should be horizontally applicable privacy and data protection law by the Union Government.	-	-

18	USISPF	<p>Important to take into account the socio-economic impact of Internet-enabled services and apps and data driven innovation while drafting data protection law.</p> <p>TRAI should review the existing provisions in the Indian Telegraph Act and licensing conditions to recommend changes to the DoT to align with the new requirements.</p> <p>DoT/TRAI could also issue guidelines for the telcos to comply with these new requirements after the law is drafted.</p> <p>Having a technology/platform neutral data protection law which applies horizontally across the ecosystem should be the path forward.</p>		-
19	ITI	<p>Data protection regime must protect all players in the ecosystem and hence applicable to all of them.</p> <p>An independent regulatory body will be critical to the successful implementation and enforcement of the privacy framework India develops.</p>	<p>No single approach is inherently superior or better at protecting privacy than another and total parity will not be a guaranteed success.</p>	-

20	Sigfox	Level of data protection should depend on the applications, the technologies and the roles played by the different stakeholders involved in the value chain.	-	-
21	Exotel	-	-	-
22	KOAN	The proposed data protection law should typically govern the communications and digital sector under the same basic principles in a <i>technologically neutral</i> manner.	There should be a parity of data protection norms between TSPs and other communication service providers.	-
23	IFF	Parity in principles of data protection and privacy should be maintained horizontally between state and private entities.	The extension of the present regulations to “comparable services” such as internet-based voice and messaging services would undermine user privacy and data protection and they must be avoided.	-
24	Mozilla	Any mandatory licensing scheme would likely prove onerous and would increase the costs of creating online.	Data protection requirements should apply to all actors. However, this does not mean that TSPs and OTTs should be treated in the same way from a licensing perspective.	-

25	IDP	<p>Users' rights can be elevated ensuring better control over their data.</p> <p>Sector-specific regulation is not out of place. Data protection by Internet-based businesses should be tackled by a different authority and not TRAI.</p>	No, there is no need to bring about parity.	-
26	Citibank	-	<p>Yes. The greater parity is essential since the services provided by other stakeholders/communication service providers are not independent of the TSPs and other stakeholders acts as intermediary between the consumers and the TSPs.</p>	-
27	iSPIRT	-	<p>Yes - it is important that there is no regulatory arbitrage with regard to data protection in favor of OTT services which are not regulated</p>	<p>This is best achieved by ensuring that the data protection laws are in a legal framework laid down by the parliament.</p> <p>The framework must lay emphasis on the function being regulated, and not its medium.</p>

28	CIS	Recommended that the Unified License is harmonized with the data protection legislation. It is further recommended that any data protection norms applicable to communication service providers such as telecom companies, and OTT service providers must be privacy preserving and enhancing but not limiting in any way.	Yes, the data protection law in India should be neutral to technology and platform, and must apply equally to all data controllers including telecom companies, and OTT content and application service providers.	-
29	USIBC	The data protection law needs to be technology neutral. India needs to keep its approach to data protection dynamic.	No need for introduction of additional data protection requirements to bring parity as the data protection requirements as incorporated in the IT act apply to all the stakeholders in the internet ecosystem.	-
30	Disney	-	-	-
31	BSA	-	-	-
32	ITfC	-	All actors that come in this ambit need to be treated similarly and hence there should be a parity.	-
33	SFLC	Since OTT applications are unlicensed, they do not have to comply with TRAI and DOT regulations. They however have to abide by the provisions of the IT Act and the complementing Rules.	There should be greater parity in the data protection norms applicable to TSPs and other communications service providers offering comparable services.	A comprehensive data protection framework to protect user data from misuse is the need of the hour.

34	EBGF	<p>Having a technology/platform neutral data protection law which applies horizontally across the ecosystem should be the path forward.</p> <p>Emphasis on formation of data protection law in works.</p>	<p>From a data protection perspective, there already is parity between OTT providers and other TSPs.</p>	<p>Data protection, security and privacy norms should be treated equally on par for all stakeholders of the Digital ecosystem viz. content & application service providers, device manufacturers, browsers, Operating Systems, etc.</p>
35	AT&T	<p>Technology/platform neutral data protection law which applies horizontally across the ecosystem should be the path forward.</p>	-	-
36	BIF	<p>Having a technology/platform neutral data protection law which applies horizontally across the ecosystem should be the path forward. Emphasis on the formation of the data protection framework by the ministry.</p>	<p>OTT services being fundamentally different from traditional telecommunications, demanding regulatory parity between the two is incorrect legally, conceptually, and practically.</p>	

37	Sangeet Sindan	-	Yes, data protection norms should be applicable equally to the TSPs and other communication service providers who are providing the services based on the VoIP/internet telephony or web-based/interest-based messengers.	<p>1. TRAI should be conferred upon the power to for registration of service providers providing the services of internet telephony or VoIP on B2B or B2C basis.</p> <p>2. Imposing guidelines, regulations or directions on the said providers with respect to standards of quality, security, data retention, and compliances.</p> <p>3. The network-architecture of VoIP should be arranged in such a way the key elements should remain and localized in India.</p>
38	Redmorph	-	-	-
39	Baijayant Panda	-	-	-

40	Apurv Jain	-	<p>There is a need to ensure that the protection measures imposed on these service providers are at par with comparable services.</p>	<p>Providing a legal framework which provides a clear limitation of the ownership and use-rights of data generated through the use of telecom services, such as location and other meta-data.</p> <p>Over-arching privacy bill, which would ostensibly govern the use and ownership of all personal data that has been generated through the use of any commercial or government service.</p> <p>Erasure of data after a set time and use limitations.</p>
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41	RJIL	Recommended an Authority that may consider evolving a suitable regulatory oversight for the OTT communication service providers for the rules pertaining to data privacy and data security.	-	-
42	Airtel	A Principle-based Horizontal Rule on data privacy and protection that applies to all the entities and individuals.	Data protection should be uniform.	-
43	Idea	-	OTT players offering comparable communication services brought under a suitable Regulatory framework imposing the same obligations that apply to TSPs in respect of data and results in regulatory parity.	-
44	MTNL	-	Yes, a parity needs to be created	-
45	RCOM	-	Yes, there is a need for bringing about greater parity in the data protection norms applicable to TSPs and other communication service providers offering comparable services	The licensed operators too should be permitted to exploit their users' data base for commercial purposes, albeit in an anonymized form.

46	TTL	-	Yes, there is a need to bring parity.	Rules to ensure confidentiality of electronic communication. The data should be anonymized and deleted based on the user's consent.
47	BSNL	-	Yes, there should be parity.	-
48	Telenor	-	All data controllers should be subject to the same obligations related to collection and use of consumer data.	All privacy, security and storage of user data should be governed by single national privacy legislation.
49	Vodafone	-	Yes, there is a need for parity	The IT Act, with further amendments, if required and by way of a separate Privacy, Security and Data Protection law.
50	FCSO	The norms may be strengthened.	-	-

51	CUTS		Yes, there should be parity in data protection norms applicable to TSPs and other communication service providers offering comparable services.	
52	CGS	-	There is definitely a need to bring about greater parity in the data protection norms applicable to TSPs and other communication service providers offering comparable services. Data privacy norms and procedures and practices should be made uniform except in such situations warranting heterogeneity.	-
53	CPA	-	Yes.	-