

Press Release

People in Glass Houses Cannot Throw Stones On Others: BIF Opposes Stakeholders Who Have Suggested Bringing OTTs Under DoCA's Unsolicited Business Communication Guidelines

New Delhi, December 12, 2024: In response to claims made by certain industry stakeholders, the Broadband India Forum strongly objects to the contention of bringing OTTs/social media intermediaries (SMIs) under the purview of the Guidelines for the Prevention and Regulation of Unsolicited and Unwarranted Business Communication, 2024 (**UBC Draft Guidelines**).

BIF recognizes and supports the importance of consumer protection from all forms of unsolicited communication, we believe that this proposal is driven by vested interests and could lead to unintended consequences. Imposing these guidelines on OTTs and SMIs would create regulatory confusion and ultimately harm the interests of consumers. At this stage, it is important to note that studies have [indicated](#) that over 95% of mobile user receive spam calls every day with over 77% receiving more than 3 calls a day through telecom networks of the TSPs. Given the escalating nature of the problem, BIF is of the view that the proposed UBC Draft Guidelines maybe be misdirected to target OTT platforms. A few concerns are highlighted as follows:

- **Committee constituted by DoCA to issue Draft Guidelines did not include social media platforms, industry associations or think tanks (including BIF), and civil society stakeholders**
 - The Committee constituted by DoCA members comprised industry representatives only from the telecom service providers who, while providing valuable inputs and suggestions, were inherently limited in scope to the telecom sector. An important segment of the industry which includes representatives of the Apps/OTTs or even think tanks (including BIF) and other industry associations were not part of the said Committee, nor were they consulted before issuing the said Draft Guidelines.
 - A transparent process involving views of all relevant stakeholders is essential for comprehensive, inclusive, and equitable guidelines.
 - Since subsequent to the issue of these Draft Guidelines, views of the stakeholders from the Apps/OTTs/SMI community (including those submitted by BIF) have yet to be considered, we recommend that a Revised Draft Guidelines after duly incorporating these inputs be considered before finalising the current draft.
 - Furthermore, the proposed Guidelines should only be limited solely to traditional calls and SMSs delivered through the TSPs' own network, excluding instant messaging, OTT services, from the scope of business communication, and a clarification be issued in that regard.
 - BIF also argues that regulations targeting unsolicited and misleading communications should be restricted to businesses and not extended to OTT platforms
- **Multiple laws already govern commercial and business communication through Apps/OTTs and Social Media.**
 - The Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 thereunder already provide for

- detailed due diligence guidelines which require intermediaries to not display/upload/publish/transmit/store/update certain categories of content; as well as provide for a grievance redressal mechanism to be established by intermediaries
- Various regulations and policies by the Telecom Regulatory Authority of India (TRAI) including [Telecom Commercial Communications Customer Preference Regulations 2018](#) **do not include** business communication through Apps/OTTs within their purview. Moreover, [TRAI's recent consultation paper on review of Telecom Commercial Communication Customer Preference Regulation \(TCCPR\), 2018](#) is limited to communications sent through the networks of the Telecom Service Providers and does not include communication through Apps/OTTs. consumers of the 'telecom sector'.
 - Existing laws already exist for sending transactional messages to consumers including renewal of subscriptions, auto-pay deductions, OTPs etc.:
 - RBI's [notification](#) requires issuers to send pre-transaction messages to customers at least 24 hours prior to the actual charge.
 - [Guidelines for Prevention and Regulation of Dark Patterns](#) issued in 2023 by the Department of Consumer Affairs prohibits deceptive practices by establishments as a result of which establishments are now, required to notify consumers before auto-renewal of monthly subscriptions.
 - **OTTs are distinct services warranting distinct regulatory treatment**
 - There is a conscious decision of the regulatory authorities to keep OTTs out of the purview of certain regulations/guidelines/laws that govern business communication.
 - The Telecommunications Act, 2023 which provides for obligations to protected telecommunication users also does not regulate OTTs as has been [publicly confirmed by the former Minister of Communications in the media](#).
 - It is also important to note that TRAI has already [asked MeitY](#) to control spam communications (including unsolicited business communications), thereby bringing unsolicited business communications under the regulatory ambit of MeitY.
 - There are significant differences in the technical and operational aspects of the services offered by Telecom Service Providers and OTT applications providers. OTTs/Apps and Telecom Service Providers (TSPs) are not in the same level playing field:
 - OTTs operate on the application layer while TSPs operate on the network layer.
 - TSP licenses also confer several exclusive rights that OTT players do not enjoy. These include, for example: (i) the right to acquire spectrum, (ii) the right to obtain numbering resources, (iii) the right to interconnect with the PSTN, and (iv) the right of way to set up infrastructure.
 - OTTs often offer diverse functionalities that do not easily fall into straitjacketed categories. They may use messaging or calling merely to augment unrelated services and improve the consumer experience.
 - **Impact on Innovation and Development**
 - A BIF Paper [titled](#) 'The Economic Value of App Economy in India' concluded that app (essentially OTTs) spending is likely to reach a staggering USD 800 billion by 2030, constituting approximately 12% of India's anticipated GDP.

- OTT services belong to the 'sunrise sector' and are dynamic and innovative in nature. These services continuously develop cutting-edge technologies and drive the evolution of digital communication, offering personalized content
- Hence, given the potential for growth of OTTs in India, additional regulations over and above what already exists, could negatively impact the innovation and growth of the sector.

For the reasons stated above, BIF has requested the reconsideration of UBC Draft guidelines especially the non-inclusion of Apps/OTTs and Social Media.

TV Ramachandran, President, BIF said- "People in glass houses should not throw stones at others. Unsolicited business communications is an age old problem, and we condemn certain vested interests targeting OTT platforms and bringing them under the same regulation given that traditional telecom networks and OTTs operate differently. Moreover, existing regulations under the IT Act already govern OTT platforms, and bringing them under the same guidelines as telcos is not only incorrect but also an agenda furthered by certain vested interests. We strongly suggest that a separate Committee be set up to review the UGC Draft Guidelines by DoCA"

About Broadband India Forum: Broadband India Forum (BIF) is an independent policy forum and knowledge-based think-tank that works for the development and enhancement of the entire broadband & broadcasting ecosystem in a holistic, technology - neutral and service-neutral manner. BIF has established itself as a thought leader and a credible and effective voice, to help propel the nation to achieve the country's ambitious vision of creating a Digital India. To achieve this, BIF works to promote the rapid development of policies, to facilitate affordable and high-speed ubiquitous broadband throughout the country.