

INTRODUCTION

On June 23, 2021, the Department of Telecom (“DoT”) released revised regulations relating to Other Service Providers (“OSP”) replacing the previous OSP regulations that were issued last year. This client update provides a summary of key issues that have been addressed by the new regulations.

SUMMARY OF NEW OSP REGULATIONS

1. Effective Date. The regulations are stated to come into force immediately.
2. Who is an OSP – The regulations make it clearer as to who is an OSP. An OSP is one that provides “Voice based BPO services” to its customers. “Voice based BPO services” is defined to mean “call centre services”. This narrows the scope further and largely excludes non voice based services that may involve some element of voice calls (as is the case with almost any service), In many cases however, whether or not one is an OSP would still be based on multiple factors, especially whether there is extensive PSTN and private network inter-connectivity.
3. Type of connectivity. The regulations state that incoming traffic or aggregated switched voice traffic between the PoP and the OSP centre can be over “any wide area networking technology”. This includes IPLC/NPLC/MPLS or SD Wan (over IPLC/NPLC/MPLS). Though the clause refers to any WAN technology, the reference to only leased lines and MPLS gives the impression that only these two forms of connectivity are allowed.
4. No distinction between international and domestic. The regulations do away with the distinction between international and domestic call centres. Subject to other regulations and meeting toll bypass rules, a single call centre can handle both domestic and international calls seamlessly.
5. Definition of toll bypass. For the first time, the regulations actually set out what is the toll bypass that is not permitted. It essentially covers (a) connecting a private network with PSTN at the domestic end; (b) connecting long distance PSTN calls within India through a private network.
6. PBX outside India. Perhaps the biggest change in the new regulations is the flexibility given to for an OSP (including domestic OSP) to use an “EPABX” outside India. In the previous regulations, this was permitted only for international OSP’s.. This benefits multinationals who have both a domestic business and an offshore centre and may want to use the same ACD. It also opens the doors to cloud PBX providers to service the Indian market from outside India. Issues relating to legality of termination of Indian PSTN calls outside India would however still remain.
7. Distributed architecture – Another significant clarification is that an OSP can place its EPABX (owned by it) at a third party data centre. It can also avail of EPABX services from a telecom service provider. However, it does not clarify what license a telecom service provider must hold. The suggestion of TRAI to create a new category – hosted contact solution provider has not been accepted.
8. Work from Home Another important clarification is that an employee working from home can directly connect with the EPABX of the customer. This means that for work from home, an employee can connect directly through internet with the EPABX of the customer located overseas and does not need to first connect with a VPN in India or use the international MPLS connectivity of the OSP.
9. Data retention. There are more extensive provisions on data retention. By and large, the OSP’s must maintain call data records, usage data records and system logs for a period of one year. Where the EPABX is not located at the OSP site, remote access should be provided. However, remote access would also need to cover the configuration of the EPABX and routing tables.

CONCLUSION

The new regulations are an improvement over the previous regulations. Several issues have been clarified and the regime has been further liberalized. The key change is the flexibility for a domestic OSP to use a call distribution solution located outside India. However, the regulations do not appear to allow connectivity through the internet.

ABOUT KOCHHAR & Co

Kochhar & Co is a leading full service commercial law firm with the best national presence among all law firms in India. The firm mostly represents international companies doing business in India and offers a high quality, business oriented service to its clients. The firm takes great pride in its client servicing approach which is focused on clarity, accessibility and providing business solutions. The firm has the largest national presence in India with offices at Delhi, Gurgaon, Mumbai, Bangalore, Chennai and Hyderabad.

TECHNOLOGY LAW PRACTICE

Kochhar & Co set up India's first Technology Law Practice, which has been the leading tech practice in the country ever since. The practice covers areas such as licensing, outsourcing, e-commerce, telecom, data privacy, intellectual property, regulation of STP/s and SEZ's, social media, etc. The firm has the largest clientele of international technology companies doing business in India. Legal 500 rates Kochhar & Co as a Tier 1 law firm in India for TMT work.

CONTACT DETAILS

Stephen Mathias stephen.mathias@bgl.kochhar.com
Suhas Srinivasiah suhas.srinivasiah@bgl.kochhar.com
Lynn Lazaro lynn.lazaro@bgl.kochhar.com
Naqeeb Ahmed Kazia naqeeb.ahmed@bgl.kochhar.com
Arun Babu arun.babu@bgl.kochhar.com