



BHUTAN INFOCOMM AND MEDIA AUTHORITY
ROYAL GOVERNMENT OF BHUTAN

Guidelines for Licensing of OTT Services

July, 2022

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1.Introduction

1.1 Information and communication technology is developing at a faster rate with rapid penetration of mobile broadband internet and smartphones across the world. With such trends, numerous digital platforms have been created where digital services and contents nowadays are being delivered to the people using the public internet as a medium. One such popular digital platform is OTTs (Over-the-Top) services which have supplemented the traditional telecommunication services. The additional features and functionality of OTT over traditional telecommunication services has attracted millions of OTT consumers around the world. With the emergence of OTT applications and services, the transformation and widening of the communication ecosystem has taken place to greater extent where OTTs have played a vital role in strengthening global digital connectivity and providing social and economic benefits to its consumers.

2.Legal context

The guideline for licensing of OTT service is issued as per the provision of :

- a. section 51(1) of the Information, Communication and Media Act of Bhutan, 2018 and ;
- b. Section 58 of the Information, Communication and Media Act of Bhutan, 2018.

3. Objective

The objective of this guideline is to :

- 3.1 Provide clarity on licensing requirements of OTT services and guide the applicant while applying for the license(ICT service license).
- 3.2 facilitate the quality of OTT services through licensing requirements and enhance the data protection of consumers and the content.

4. Definition

4.1 OTT (Over-the-Top) means any application or service which is capable of delivering digital contents to the public over an internet access network.

5. Eligibility

5.1 Any Bhutanese citizens having attained the age of 18 years /Organization/Agency shall be eligible to obtain a license for OTT services.

5.2 An individual/entity having a valid start up license shall be allowed to set up and operate OTT platforms upto 5 years(incubation period) without the license for OTT service from the Authority.

6. Licensing conditions

6.1 A soft licensing approach will be adopted in licensing OTT platforms in Bhutan where an individual or entity having a valid start-up license can set up and operate the OTT platform as upto 5 years as a start up entity.

6.2 OTT service providers shall apply for the ICT service license to the Authority within the 5 years after the start of operation as start-up. This is for smooth operation of his/her OTT services and for proper monitoring of data privacy and data protection of the customers/consumers.

6.3 OTT services in Bhutan will be granted an ICT service license with a validity period of 5 years.

6.4 For the issuance of a license, the license terms and conditions have to be signed by the applicant upon mutual agreement to the terms and conditions. The Authority may vary or amend any of the terms of this license by giving the licensee the notice in writing.

6.5 The licensed telecom or internet service provider having a valid license with the Authority may not require a separate license for operation of OTT services. However, a licensed telecom or internet service provider shall abide by the provisions of this guideline and seek prior approval from the Authority for the operation of OTT services.

7. ICT Infrastructure requirement

7.1 The OTT service providers shall;

- a) lease the ICT infrastructure or services only from the licensed ICT service providers.
- b) maintain proper interconnection between the servers (cloud or local) and the Content Delivery Networks (CDN) so that quality of service is maintained.
- c) establish the required infrastructures such as dedicated servers (local or cloud) and have the sufficient capacity for the storage of the contents, and the required ISO certified security features for security of the content and payment gateway.
- d) to draw a legal agreement between the foreign data server providers if the content and data are hosted in the cloud, especially outside Bhutan to ensure the data privacy of the customers and the contents.

8. Content of OTT services

8.1 The OTT service provider shall ensure that at least 60 percent of content is reserved for local content to preserve and promote locally produced, and culturally and socially relevant local content.

8.2 The OTT service providers providing video or audio streaming services shall ensure that the streaming of :

- films rated and certified by the relevant Authority.
- films, all music and video clips, serials and documentaries reviewed as per the Memorandum of Understanding (MoU) signed with the relevant Authority.
- television contents including BBS Channels authorized by the broadcasters.
- or local international content which will not impact on national security, social harmony and community vitality.

8.3 OTT media (video and audio content) service providers will be facilitated to provide Video on Demand (VoD) services with the prior approval from the Authority. The contents of video on demand should also be in line with section 4(b) of the guidelines.

9. Transparency in service delivery:

9.1 The service provider shall ;

- publish information about the services it provides, descriptions and pricing of the Services available and the terms and conditions thereof and any other commercial and technical services.
- not show undue preference towards, or exercise undue discrimination against any person or class of persons in, inter alia, the price and performance characteristics of the services provided or the terms and conditions under which the services are provided.
- comply with the in-house code of practice on privacy developed for such services and any additional or supplemental codes and guidelines that the Authority may issue from time to time.

10. Security and Data Protection

10.1 The service provider shall ;

- be responsible and accountable for the security and proper use of its infrastructure and systems used in provisioning its services.
- not intentionally or unintentionally make cyber attack or threat to other ICT systems which may lead to weakening or destruction of third parties cyber systems.
- take all necessary steps and precautions to ensure that the information (data) are kept confidential, secured and used properly without disclosing or making access to any unauthorized persons.
- host/store the OTT's customers information detail only on a local server/ computer. The personal information of consumers shall be only used for OTT services and not for any other purposes.
- facilitate the law enforcement agencies in carrying out their duties in connection with the services rendered by the service provider.

11. Copyright issue associated with OTT services.

11.1 A service provider shall operate the OTT services and consumers shall use OTT services in accordance with the prevailing copyright laws and rules for the appropriate use of OTT services.

11.2 A service provider shall put in place appropriate systems to minimize the misuse of copyright of the content by the consumers.

12. Consumer complaint handling

12.1 The service provider shall put in place appropriate systems to resolve consumers' complaints on OTT services without undue cost or burden to the consumers.

12.2 In case of disputes, the aggrieved party may approach the Authority or office of consumer protection for grievance redressal.

13. Compliance to relevant laws and regulations

13.1 The service providers are required to ;

- maintain self regulation of the service based on the relevant policies, law, regulations, directives etc.
- cooperate with the relevant agencies during the enforcement of relevant laws and regulations.