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Ministry of Information and Broadcasting
Shastri Bhawan
New Delhi
By email: digital-mediamb@gov.in

RE: Accessibility of Content on platforms of publishers of Online Curated Content (OTT Platforms) for Persons with Hearing and Visual Impairment

The Asia Video Industry Association (AVIA) is the trade association for the video industry and ecosystem in the Asia Pacific. It serves to make the video industry stronger and healthier through promoting the common interests of its members. AVIA is the interlocutor for the industry with governments across the region, leading the fight against video piracy, as well as publishing reports and hosting industry conferences. It aims to support a vibrant video industry for the benefit of all stakeholders. Our membership consists of a combination of local, regional and multi-national companies, many of which are substantial cross-border investors, creating and purchasing video content to meet rapidly-expanding consumer demands and investing in India's communications and creative industries.

We welcome the Ministry of Information and Broadcasting (MIB)'s consultation on Guidelines for Accessibility of Content on platforms of publishers of Online Curated Content (OTT Platforms) for Persons with Hearing and Visual Impairment. AVIA notes that this is an important issue. Making programming available to all, regardless of age, ability, and ethnicity, is one which our members' support. Indeed, the majority of online curated content platforms are already working to offer at least one form of accessibility feature on their OTT services, such as closed captioning/open captioning, dubbing or signing, on all new content, excluding live and deferred live content. Subtitling, while not formally an accessibility feature, is also a powerful tool for inclusion as it enables viewers to understand, appreciate and enjoy content.

However, updating all programming to include at least one accessibility feature is not a simple or quick task. With individual catalogues for online curated content services often consisting of thousands of titles, which are constantly changing, the ability of an online curated content provider to provide at least one accessibility measure in the timelines specified is unreasonable. Specifically, the requirement in phase II to have 100% of a platform's total content library to offer at least one accessibility feature within twenty-four months of publication of these Guidelines is unachievable. We are unaware of any other regulator globally that has mandated such specific requirements and implementation within such a short time period for Online Curated Content Platforms (OCCPs). Even for linear broadcasting, where targets do exist, for example in the UK, broadcasters have been given a period of ten years to meet them, indicating the scale of the challenge.

On top of the scale, most content libraries often have multiple audio language tracks for each content (for local and foreign language content alike), further complicating the challenge to deliver 100% of content offering at least one accessibility feature. Additionally, large portions of content are often licensed from third parties, and the rights to modify such licensed content do not typically lie with the OCCP, and it would not be possible for OCCPs to provide accessibility features to such content. We suggest that such content should be excluded from the Guidelines. In all, the costs, technology investment and operational workflows required to meet these requirements are extensive. Compounded by the unrealistic timeline for implementation, this adversely impacts OCCPs and, in particular, disproportionately impacts smaller platforms.

AVIA also notes that when creating content, producers not only bear the cost but also take ownership of creating separate files with accessibility features for OCCPs which, as part of the content deal with OCCPs, they share with the OCCPs in order to enable the accessibility feature. We would therefore request that consideration be given to placing responsibility onto content producers to ensure that the content is delivered with the relevant files. This would ensure shared responsibility and cost between OCCPs and content producers, as well as enable OCCPs to more realistically work towards the targets outlined.

Furthermore, AVIA would suggest that not all content, across all streaming services, is popular enough to warrant immediate accessibility upgrades. It would therefore be more practical for OCCPs to be given the flexibility to identify content, using reasonably objective metrics and a collaborative approach with consumers to enable accessibility features on, for example, the most viewed content and/or titles specifically requested by people with disabilities. This strikes a balance between the public policy goal of ensuring access for persons with disabilities and commercial realities. OCCPs can additionally ensure transparency by voluntarily reporting on implementation progress based on specific viewing metrics and user requests on an annual basis.

AVIA takes note of the Guidelines' standards for accessibility features as outlined in 3.2. However, we are aware that different publishers already include closed/open captions in a large volume of content which may be to different standards. We would therefore recommend that the Guidelines avoid prescribing exact specifications, allowing publishers flexibility to meet accessibility needs without an undue and onerous burden being placed on them to change the existing closed/open captions.

OTT platforms operate within a technology stack that involves hardware manufacturers, operating system developers, and assistive technology providers. The Draft Guidelines' blanket obligation for OCCPs to ensure full compatibility with assistive technologies overlooks these dependencies. For instance, accessibility features depend on Application Programming Interfaces (APIs) and compatibility standards managed by device and OS manufacturers, which OTT platforms do not control. Therefore, responsibility for compatibility should be distributed across the ecosystem. OCCPs can commit to adhering to recognised accessibility standards such as EN 301 549 or WCAG 2.1 for their own applications. Meanwhile, device manufacturers and OS developers should be encouraged to ensure cross-compatibility. MIB could consider inter-

ministerial consultation with the Ministry of Electronics and Information Technology (MeitY) to promote standardisation across hardware and software interfaces before finalising these rules.

In addition, the preamble notes the powers of the MIB to issue these OCCP Guidelines under both the Rights of Persons with Disabilities (RPwD) Act and the IT Rules. Given that MIB is the nodal ministry for OCCPs, AVIA suggests that a non-obstante clause should be included in the OCCP Guidelines. This will help the industry streamline compliance with this sector-specific guidance published by MIB and avoid overlap with ICT Guidelines / RwPD Rules. This is essential to avoid overregulation, multiple regulators and onerous compliance burdens for the streaming sector.

In conclusion, we urge the MIB to adopt principles-based, instead of prescriptive guidelines. The industry supports the policy intent of creating a more inclusive media ecosystem for all. We stand ready to work with the MIB to develop a framework that is meaningful for viewers and sustainable for the industry.