

Counter Comments to Facebook's Response to TRAI's consultation paper

- Free Basics is an open and non-discriminatory platform. Any content owner can participate as long as it meets the same technical criteria, which are openly published.
- Free Basics is transparent. All of the technical standards are published and available online.

The technical guidelines being same for everyone doesn't mean they will play out the same for everyone. **Technical Guidelines express the subjective technological opinions of Facebook and have not gone through the open standards process of the W3C.** Same guidelines can intentionally or unintentionally harm one party and advantage others. We carefully read the technical guidelines of Free Basics and noticed that it **doesn't allow**:

- JavaScript/Video/Large and SVG Images/Flash
- Secured connection; HTTPS is allowed only with a "dual certificate", better known as a Man-In-The-Middle attack, where Facebook can read and tamper with Data Passing through the Free Basics platform and has access to private/sensitive data that it can potentially misuse, with no one to regulate the same.

The first requirement imposes that none of the new services on Free Basics can have interactive content(which hold the potential to compete with interactive services of Facebook owned companies). It should also be noted that the technical guidelines do not mention that services owned by Facebook will have the same restrictions.

The second requirement clearly says that secure communication is not possible with Facebook looking through and tampering with it. This means that services like social networks, messaging, email services and even **banking services** either have to share their secure data with Facebook or not participate in the Free Basics Platform. This is both anti-competitive and raises security risks.

Other requirements that we noticed are:

- It may take 8 to 10 weeks to receive a response from a member of the Internet.org team.

- A developer is required to have a Facebook account, and is required to agree to Facebook's Terms of Services in addition to Free Basics terms.

8 to 10 weeks is enough time to render crisis response applications and websites like chennairains.org useless. Moreover, such an approval time is detrimental to innovation as it slows down startups. The second clause excludes developers who refuse to have a Facebook account, some very plausible reasons for the same being that they were/are not comfortable with Facebook's Data Usage and Privacy Policy, or its secret co-operation with the NSA as revealed in the media.

- Facebook does not make money from Free Basics; it is not paid by content providers, carriers, or even advertisers, as there are no advertisements within the Facebook experience on Free Basics.

Free Basics is free for both users and content owners. No user is charged for accessing the content available on Free Basics on a participating network. No content owner is charged for participating in the platform.

With no payments by consumers to the carrier for their access to Free Basics, no payment by Facebook to the carrier for the cost of free access, and no payment to Facebook of any kind, all of Facebook's zero-rated services, worldwide, are truly non-commercial on all sides

It is important to note that directly earning money through access fees or ads is not necessary to give advantage to Facebook. The technical guidelines of Free Basics pointed above, provide clear advantage to Facebook and its services.

[Yochai Benkler](#) has illustrated how networks become more valuable as they gather scale. Hence every new sign up on Free Basics which is heavily tilted towards a signup on Facebook increases the commercial value of Facebook per user as a network.

Facebook already tracks the browsing behavior of both its users and non-users to sell them targeted ads(ref [EFF](#)). The Free Basics platform will give Facebook unprecedented amount of power to collect data about users and their behaviors online. Facebook doesn't claim that it will not monetize on the data or combine it with the navigational data of Free Basics with the data collected through Facebook and its other services. Since its whole business model revolves around data monetization it is unreasonable to assume that Facebook will not use it for its advantage.

Facebook's data collection, retention and monetization policy is controversial from both legal and ethical perspectives. In a recent case a Belgian court barred Facebook from tracking people who don't have Facebook accounts; Facebook continues to do so in other parts of the world. (ref [Ars Technica](#))

Issues of trust also exist with Facebook in which one sided and unilateral terms of service are interpreted, amended and changed at its sole discretion. It often does this to its own benefit with little

transparency. For instance, in 2010 researchers discovered that Facebook is transmitting data about users on 3rd party sites using its “Like” button. WSJ and NYT reported it and Facebook said don’t worry “it doesn’t use data from Like buttons and other widgets to track users or target advertising”. In 2014 when people weren’t looking, it started using browsing behavior for targeted ads. Same thing goes for its data retention policies, now they say they don’t store personally identifiable information but they don’t say will never do it. (ref [ProPublica](#))

Facebook is a for-profit company. FreeBasics or Internet.org have not been started under a non-profit organization but under Facebook itself. Facebook benefits, in real monetary terms, when advertisers are forced to come to Facebook for reaching all those users who are available on Facebook, but not on any other social network. The technical guidelines of Free Basics, for eg by decrypting traffic on Facebook’s proxy servers and allowing Facebook to keep usage data for ALL sites on Free Basics for up to 90 days, seem to disincentivize any other competing social network to make its service available on Free Basics. Therefore, Facebook benefits directly from Free Basics.

Additionally, Facebook themselves have said in their response that they DO indeed make payments to the participating networks for marketing and promotion of Free Basics. Despite repeated queries by the media, Facebook has never clarified the amount and extent of such payments, and how they compare with bandwidth costs of Free Basics borne by the network. Given that Facebook spent about INR 300 crore for public advertising of Free Basics, it is possible that payments of similar magnitude may have been made to participating networks. Even Airtel’s Sunil Mittal, who we disagree with on differential pricing, had said last year: “He (Zuckerberg) is saying that make Internet.org lite version of Facebook free of data charge, so that people will upgrade. People will come to internet for the first time. The point is that it is self-serving for them” (source:

<http://www.medianama.com/2015/03/223-sunil-mittal-calls-it-right-what-zuck-is-doing-with-internet-org-isnt-philanthropy/>)

Finally, Facebook has said that they may choose to enable advertising on FreeBasics in future¹. This is exactly how Facebook started, and there is no reason to assume that FreeBasics would be any different. Therefore, such business plans should definitely be considered commercial in nature.

Facebook has witnessed first hand how zero rating plans can jump start Internet adoption.

More than 15 million people have been able to come online as a result of Facebook zero-rated offerings around the world. As a result, providing people with access to free basic services, new

¹ Facebook’s Chris Daniels indicated that it’s not off the table, https://www.reddit.com/r/india/comments/3ya52q/vp_internetorg/cybra12

users in markets where Free Basics has launched are coming onto mobile networks at an average rate that is 50% faster than they otherwise would.

It is rather the promise of dramatic benefits for Indian consumers, that is speculative. Further, the purported harm is exceedingly real and initial research has backed this claim more than once.

In countries such as Indonesia and Nigeria, a survey has shown that where free Facebook is made available, consumers end up confusing Facebook as the Internet itself. Or even worse, they still assume that Facebook is independent of the Internet. This impacts access to diversity and plurality of content, especially on a platform which is widely believed to have a reputation for controlling the content users get to view in their newsfeed. We cannot let the same happen to the less experienced and under-privileged users in India.

As TRAI has observed first hand in its correspondence with Facebook, it is a master of manipulating and misquoting numbers. The beneficiary statistics that it promises are not independently verifiable. The only source of data for the claim that people convert 50% faster to full data usage is unsubstantiated, since it fails to establish a baseline figure for pace of Internet adoption. Furthermore, it is impossible to verify whether users “coming online through Free Basics” are new users or simply those buying new connections to just take advantage of it, to surf content for free. It is also unclear if these statistics apply to adoption in India, as research seems to indicate otherwise. Furthermore, it quotes opinions expressed in White Papers as “evidence” in support of the above claim.

Facebook even has the audacity to describe a paid-for investigation by NERA Economic Consulting (as admitted by themselves in point 1 in their response to TRAI) as “scholarly research”.

The terms of conditions of Internet.org explicitly used to deny its partners the right to share usage data related to their service on FreeBasics. Services on Free Basics are unable to leave the platform, owing to the competitive advantage that would give services which choose to remain. Thus, given a Prisoners Dilemma situation, Facebook stands to benefit, having gained access to usage data and patterns of other services. This is evidenced in the Times Group statement when it chose to withdraw some of its services from Internet.org, while continuing to keep others on the platform owing to competition:

<http://timesofindia.indiatimes.com/tech/tech-news/Times-Group-commits-to-withdraw-from-internet-org-ap-peals-to-fellow-publishers-to-follow-suit-and-support-net-neutrality/articleshow/46935507.cms>

Also the role of Freebasics in Facebook’s scheme of things is unclear. It was begun as Internet.org, and was supposed to be a seemingly personal, non profit, initiative by Facebook founder Mark Zuckerberg. Later it became to be identified as an initiative from Facebook. Following criticism, it was renamed FreeBasics.com (dropping the .org, seemingly non-profit, name).

Facebook invited people in India to show support for Free Basics, both through Facebook and by running a "missed call" campaign (for those people who are unconnected). The results show that more than 11 million people sent TRAI an email supporting "digital equality" and Free Basics.

Facebook's campaign to gain support for Free Basics has widely been called out as misleading and manipulative.

- Advertising Standards Council of India has acknowledged receiving multiple complains against FreeBasics' misleading advertising and the matter is being investigated (source: <https://twitter.com/ascionline/status/681336527700520960>).
- Anecdotal evidence exists where people with inactive accounts have been shown as supporting Free Basics and people, on clicking on 'Scroll down to read more', or reading, have been shown as supporting Free Basics. (<http://blog.savetheinternet.in/if-youve-been-misled-by-facebook/>).
- TRAI has itself disputed having received 11 million replies as quoted by Facebook.