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07 January, 2016

**Smt. Vinod Kotwal,**  
**Advisor (F&EA)**  
**Telecom Regulatory Authority of India**  
**Mahanagar Doosanchar Bhawan**  
**Jawahar Lal Nehru Marg**  
**New Delhi 110002**

**Subject: Consultation Paper on Differential Pricing for Data Services**

Dear Madam,

This is with reference to the above referred TRAI consultation paper No.8/2015 dated 9<sup>th</sup> December 2015. In this regard, please find enclosed herewith our response to the consultation paper as an Annexure.

We hope that the TRAI will find our response useful and consider our inputs while formulating the regulation on the subject.

Thanking you,

Yours sincerely,  
For **Telenor (India) Communications Pvt. Limited**

**(Pankaj Sharma)**  
Sr. Vice President and  
Head Corporate Affairs

Encl: a.a

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**Telenor (India) Response**  
**on**  
**TRAI Consultation paper - “Differential Pricing for Data Services” (No. 8/2015)**

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## **Preamble**

TRAI in this consultation paper wishes to clarify the existing regulatory framework for tariff in the context of data services. The paper has explained the impact on the data tariff structures due to dynamics of market, changing consumer behaviour, advancement of technology, increasing role of content providers and also raised concern on transparency towards end customers. This consultation is a positive step towards better clarity and applicability of existing tariff regulations for data services.

Under the present regime of tariff forbearance, existing regulatory framework provides the **freedom and flexibility to telecom service providers (TSPs) to design various tariff packages and bundling of services** as per the prevailing market demand and to meet the varied needs of their customers. These tariff plans (voice and data) are *self-checked by TSPs to ensure that the tariff plan(s) is/are consistent with the regulatory principles in all respects which inter-alia include IUC Compliance, Non-discrimination & Non-predation*. These are also subjected to *consistency checks by the Authority on these regulatory principles and other regulations around publication, transparency, non-misleading and consumer protection*. This existing practice is robust and ensures that TSPs do not offer any misleading or non-compliant tariffs in the market place.

We recommend continuing with the existing approach of regulatory principles and oversight to ensure that Tariff plans (both voice and data) are:

- *Published in a transparent manner that are **easily understandable and comparable***
- *Publication/advertisement of **tariffs in prescribed format** as prescribed by the Authority*
- *Such tariff **plans are available** for the subscribers at the Customer Care Centres, the points of sale, retail outlets and also on the website*
- *Every time there is a **change in any of the tariff plans**, same should be updated at all customer touch points (point of sale, retails outlets, website)*
- ***Publish tariff in local and national newspapers** as per frequency prescribed by the Authority*
- And various other instructions from time to time.

The above principles are being followed by all and in case the Authority has found a deviation in a particular case, then it should be made consistent without any delay.

A mere perusal of the above would abundantly clarify that the existing regulations governing tariff and consumer protection are comprehensive/ exhaustive. **They do not need any modification, at best some clarification/ re-iteration in the context of data.**

At the same time this provides flexibility to TSPs to offer a.) a combination of services bundled for various segments of the customers, b.) a combination of products bundled for various segments of the customers. In principle, any policy should not restrict innovation and flexibility of TSPs to offer packaging/ bundling of services/products, as market segmentation is elementary to marketing practice. Such classification should not be arbitrary as enshrined in the TTO.

Therefore, to ensure that customers will be able to get the tariff offerings and bundling schemes as per his/ her usage and content/ applications requirements, TSPs should continue to have the flexibility to develop and offer bundled services based on the market segmentation in order to enhance users' options and increase choice at affordable price.

It is a well known fact that Internet adoption and broadband usage is critical for the success of Digital India as well as important for the achievement of broadband targets as envisaged in NTP 2012. Thus, this has to be accorded highest priority for expanding internet access to include unconnected masses and low usage customers. India being a developing country, there is a **need to educate un-served / under-served customers for the relevance of Internet services**, which can be achieved by offering relevant data services bundling with relevant content/ application free or with minimal charging for a limited trial validity period to encourage usage adoption which is **within the ambit of existing regulations**.

There should be no element of compulsion in such differential offerings nor any blocking or throttling. Even the US Regulator “Federal Communications Commission” (FCC) vide its Internet Order dated 26.02.15 has noted that data sponsored schemes in some instances provide benefits to consumers, increases their choice and lower the costs. Considering this, **FCC has decided to look at and assess such practices** under the no-unreasonable interference/ disadvantage standard, based on **the facts of each individual case, and take action** as necessary.

## Issue wise Response

Q1: Should the TSPs be allowed to have differential pricing for data usage for accessing different websites, applications or platforms?

### Telenor (India) Response:

The term differential pricing can be quite subjective based on the context in which it is used. Charging a premium or providing free can be one interpretation, while packaging / bundling or market segmentation can be another such interpretation. All such future scenarios cannot be envisaged at this stage in a two-sided market as the business models and market place is ever evolving.

We should not be averse to words and phrases as this approach has its likely pitfalls; hence the principled approach taken by FCC as explained in the Preamble. Hence, we recommend a **principle based case to case approach towards differential pricing** which does not restrict the flexibility of market oriented pricing.

For example one operator may decide to provide free weather updates (application), another example can be free access to annual matriculation Board results on a specific day (website), yet another example can be night data packs for chatting designed specifically for student community (platform / market segmentation).

In view of the reasons explained above, differential pricing for data usage should be allowed, as market segmentation is an essential marketing tool. TSPs should have the flexibility to design products, these plans/ offers should continue to be self-checked for compliance to all tariff regulations prescribed by the Authority. The Authority should also continue to check for consistency and compliance.

We at Telenor (India) don't differentiate any customer basis price, quality of service and usage pattern and maintain same service level for all applications / platforms / websites. All the data tariff offers and bundled data schemes are available for all our customers without any pre-condition and discrimination. None of these bundled data schemes are on auto-renewal, customers availing such schemes need to subscribe again after expiry of the validity / committed usage. Further, **we are not doing any content filtering or controlling i.e. no restriction on content for any user subscribing any of the available bundled data schemes at all times**. This ensures protection of customer interest and availability of all content without any restriction and / or additional charge. Even the customer complaints related to all data charging issues in all our operational circles together constitute on an average only ~ 5% of total complaints out of which complaints for service data packs are miniscule (<1%).

Differential pricing has varied connotations; hence all such plans should be checked by Authority on case to case basis as being followed by FCC.

Following are the reasons in support of our response:

- The flexibility of pricing, packaging and bundling of services with data usage provide benefits to consumers, increases their choice and lower the cost.
- Freedom and flexibility to telecom service providers (TSPs) to design various tariff offerings and bundling schemes as per the prevailing market demand and to meet the varied needs of their customers.
- Allowing the TSPs to compete freely along many dimensions such as pricing of service tariffs and devices, minutes and data allowance, bundled content and applications, network quality and coverage will provide a wealth of choices and innovative services for customers. This will also be instrumental in faster proliferation of Broadband services.
- TRAI's current "light-touch" regulatory approach gives TSPs incentive to innovate and at the same time provides sufficient safeguards to deal with any potential anti-competitive or discriminatory behavior.
- For example, applying the existing Telenor(India)'s bundled data offering ensures compliance to key principles of tariff regulations specified in para 9 of the consultation paper as follows:
  - **Non-discriminatory** – all the packaged / bundled data services with application/services/ websites currently on offer in the market are available to all the customers. There is no restriction / artificial entry barrier been put for any of these packs.
  - **Transparency** – The terms and conditions are transparently informed to the customers subscribed to any of such data packs via printed material, SMS, POS, USSD and website.
  - **Non anti-competitive** - Consumers are free to use the same application/ service with / without the special pack.
  - **Non-ambiguous pricing** – We have very simple pricing schemes and none of the packs are on auto-renewal.
  - **Not-misleading** – While promoting any of our packs, we never use terms / words which entice / mislead the customers. Due to this practice, we have very low percentage of complaints on service packs pricing.

- **Non-predatory** – found no adverse evidence in market till date

Q2: If differential pricing for data usage is permitted, what measures should be adopted to ensure that the principles of non discrimination, transparency, affordable internet access, competition and market entry and innovation are addressed?

**Telenor (India) Response:**

As per the response to Question1, Telenor (India) strongly believes that there are already sufficient safeguards to deal with any potential anti-competitive or discriminatory behaviour, so we do not foresee the need for TRAI to adopt any additional measures.

At best, the regulatory principles in force may be reiterated in the context of data. In case, if any such scheme / bundled offer is found non compliant to the principles of tariff regulations by TRAI, same should be disallowed with immediate effect.

Q3: Are there alternative methods/technologies/business models, other than differentiated tariff plans, available to achieve the objective of providing free internet access to the consumers? If yes, please suggest/describe these methods/technologies/ business models. Also, describe the potential benefits and disadvantages associated with such methods/technologies/business models?

**Telenor (India) Response:**

The alternative methods as suggested by TRAI in the paper are not required as existing practice is working well within the existing tariff framework. However, alternatives can emerge in future in line with the consumer requirements and evolving business models which are the domain of marketing.

A principle based approach is the essence of forbearance.

Q4: Is there any other issue that should be considered in the present consultation on differential pricing for data services?

**Telenor (India) Response:**

None

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