

To,
RS Sharma,
Chairman, TRAI

CC:
Vinod Kotwal, Advisor (F and EA), TRAI

Dear Sir,

I thank you for the Consultation Paper on Differential Pricing for Data Services. I would request you not to publish my email address on the TRAI website.

According to me, both internet access and net neutrality are important and they are not antagonistic to increasing connectivity. Some questions on price discrimination were raised in the consultation on regulation of OTT services, to which over 12 lakh Indians had sent responses. Those answers should be considered by the TRAI in this consultation paper too. I hope the TRAI that the TRAI ensures that until a clear policy is finalized no violations of net neutrality or free access to net are permitted.

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

NO.

*unrestricted access to the websites has been the force behind the internet's growth. Price discrimination will break the internet into multiple smaller parts and will unfairly benefit some applications and services which could be accessed at a cheaper price (or for free). If telecom operators are allowed to have differential pricing for data usage, it will significantly limit the universe of applications and services that can be accessed by users and strip the internet of diversity.

* Freedom of choice in information seeking is central to the value of the internet and contributes significantly to knowledge creation for citizens. Differential pricing will encourage users to gravitate towards cheaper offerings which will adversely impact the educational and other benefits of "exploring" the internet. Differential pricing may result in opaque billing practices among telecom operators.

* Discriminatory pricing will grievously hurt India's vibrant startup ecosystem. Internet provides a level playing field for all. And the best product find customers. By allowing differential pricing, companies, flushed with money, can strike deals with ISPs to make access to their services cheap or they can even block access to their competitors. This will eventually lead most small startups to shut down.

* Telecom operators have seen tremendous growth in data usage on their networks in recent years. The top four telecom operators in the country together registered an annual increase of 65% and 10% for the quarter ending September 2015 in their data usage, as per a report by MediaNama. This rapid growth in usage is resulting in higher revenues and profits for telecom operators. Therefore, differential pricing has no commercial justification as there is no evidence that the increase in data usage is hurting the financial position of the TSPs in the country. Spectrum is a public utility and telecom operators should not be allowed use it to advance their business interests.

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?

Differential pricing for data usage should not be permitted in principle, given that it will allow TSPs to act as gatekeepers on how Indians experience the Internet.

*Differential pricing on a case to case basis will result in unclear non-discrimination standards, increasing the likelihood of litigation. Small players will find it hard to negotiate and will be excluded. Evaluation on case by case basis will entail considerable costs and delay. Therefore, discriminatory pricing for data should be prohibited through firm and clear, rules.

*Differential pricing won't permit transparency in the system. Even if rate plans are published publicly or after prior regulatory approval, the harm is done as such plans will be devised by TSPs. Given that large TSPs, in practice, often face limited competition working in specific geographical areas in India with respect to data services, transparency will not aid consumer choice. when it comes to data services and broadband. Transparency will also not mitigate the harm caused to smaller content- providers and startups that will be excluded from such plans. It may be noted that Reliance Communications and Facebook are yet to publish a complete list of services that form a part of Free Basics (Internet.org).

* Zero rated services such as Internet.org/Free Basics and Airtel Zero are a form of positive discrimination, making some sites free versus others, and ending up making some sites more expensive. Affordable internet access can be furthered in several ways which are consistent with net neutrality. See answers to Question. 3.

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?

Yes, several alternatives exist other than differentiated tariff plans or zero rated services that are practical to implement and will provide access to the Internet to millions of Indians who cannot afford it due the costs of data.

* Improving access is public priority It can't be left to some global private corporations. Private corporations cannot guarantee the neutrality and impartiality in exercising such a core government function and will only cite interests of access for furthering their own commercial profits. This will come at the cost of accountability which is at the core of any government process. Many experts have highlighted that access can be improved by the government through, "equal rated" plans that are deployed by the Government. This may be through deployment of the USO fund and creation of a national fiber optic network.

* The World Wide Web foundation has suggested several alternatives for furthering access without compromising network neutrality which include a free allowance of mobile data for each citizen funded through an universal service fund. Further, TSPs can also offer 2G data services which are capped at 10/20 MB a month which would not violate any forms of network neutrality. Further models exist and have been highlighted by entities such as the Mozilla Corporation and others. These are in the forms of, "equal rated" plans and are even being deployed in some countries.

"Could the private sector organize itself to provide a baseline "equal rating" for some amount of data necessary for modern life at discounted or no charge? Such a program would integrate the "version 1" private solution of limited access with the citizen demands for the opportunity and full inclusion of the full Open Internet. Perhaps those companies paying for the equal rating might get a "brought to you by" attribution that could bring brand value and network effects.

Orange and Mozilla are experimenting with this sort of model in multiple African and Middle Eastern markets, where users purchasing a \$40 (USD) Klif phone receive unlimited talk, text, and 500 MB a month for 6 months.

Another possible way of “equal-rating” content so it is free-of-charge to the user is a model where people watch ads in order to access other sites. Mozilla has been exploring this model in a partnership with Grameenphone (owned by Telenor) in Bangladesh, where users can receive 20MB of unrestricted data per day after watching a short ad in the phone’s marketplace.”

Q 4: Is there any other issue that should be considered in the present consultation on differential pricing for data services?

As stated before some TSPs and Facebook have rolled out services and extended them during the midst of the present consultations, backed by large marketing and advertising budgets. Facebook has even used its own platform to push Facebook users to market their lobbying response to the present consultation with ambiguous phrasing. Some users who are using this form have been misled into believing they are supporting net neutrality. This is different from a person independently going on a website, filling in their name and email address and sending a response. The key difference here is user choice. This is the same user choice which is absent in Free Basics or any other zero rated service.

The aggressive push by several TSPs and Facebook in launching and expanding zero rated services is undermining the present consultation. I request that the TRAI look into this urgently and exercise its jurisdiction to issue a moratorium on violations of network neutrality till the conclusion of the consultation process;

.V B Lal