Comments on TRAI Consultation paper on differential pricing for data services

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

The answer is a clear '**no**'. If one were to look at the history, origin and evolution of internet, it differentiated itself from telephone networks and telephony is a number of ways:

- First is the flat, non-discriminating, egalitarian design of the network with only DNS or name servers having a hierarchy; this helped viral growth based on enterprise and innovation. Yet, there was no vendor lock-in. Otherwise, all end systems (servers and clients) were connected to each other in a random maze of routers and switches with the routing and switching of IP packets handled only by considerations of efficiency, low latency, robustness and resilience, quality of service and the like. Every aspect of the relevant technical detail was documented in terms of concepts and protocols made open in RFCs (Request for Comment) which were prepared on an open basis. Small and large companies, developers and users of all hues and colours and from all nationalities could contribute and decisions were driven by consensus, technical merit and demonstration of feasibility through codes. Vendor lock-in issues were clearly avoided in the process without any roadblock to innovation. That's how internet has grown so fast, so well and has become the life blood of every sphere of life – economic and social and for all users all over the world.
- It is pertinent to remember that internet came against in the backdrop of opposing telephony operators, even is USA. Progress took place despite their resistance because their monopoly was broken by courts (for instance, Judge Green verdict in Ma Bell divestiture case in USA) and packet switching made data communication and data networks far more affordable and robust through the progress of internet. In India too, people know how much the telecom service provider resisted the offering of internet in the early days. So, incumbent players resisting new technologies, services and new players by building road blocks and other clever mechanisms has not been uncommon all over the world, as the regulated telephony faced the deregulated and vibrant internet world. It is only the alert governments, regulatory agencies and courts that have often protected the interests of new technology/industry creators to the advantage of users or consumers – not incumbents.
- In the current instance, the players who are offering or talking of offering free or subsidized internet bundled with their chosen set of contents/ applications providers are becoming arbitrators of use behaviors – which amounts to blatant hoodwinking of innocent or robbing aware consumers of fair competition, innovation and choice. Such providers claim to increase internet penetration, especially amoung those 'who can't afford internet' or 'are not aware of the benefit of internet' and claim that once such users begin to use the 'opium' of such a bundled and free internet, they will see the benefit and switch over to paid and '*level playing field oriented paid internet'.* Such a claim exposes the real truth behind the intentions of such offerings. It's clearly a model where they know a sizeable percentage will stay back to free

internet and based on survey, the provider can discriminate and bargain with other providers of their choice from a position of strength to include them in the bundle.

- In short, free or discriminatory pricing is a non-transparent mechanism operated by a private provider to gate-keep (license) using his deep pockets – ostensibly in the name of increasing the penetration of internet (amoung those who cannot afford it).
- Regulatory agency, TRAI, should reject the idea with the contempt it deserves. This is not an innovation, but one that will destroy the level playing field and block other entrants. It is a clever business ploy that should be seen through for what it is.
- Universal internet is not the responsibility of one private player. Those are the responsibilities and opportunities of governments and technology & innovation driven competitive market place where rules are set by government and regulatory agencies to uphold level playing field, competition, innovation and consumer interests. These are very well captured in this TRAI consultation paper and hence I reaffirm that the answer to this question is a big no.

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?

Measures to be adopted include:

- Each such case must be put to test as to the basis of such differential pricing
- Deep pocket based inclusion or exclusion of content or applications by a private market player must be rejected forthwith. Only those offered by a provider with level playing field based inclusion of various contents/applications providers, the terms of which are made open and verifiable can be considered.
- Carriage and content must be delinked and each offered on an open, competitive and level playing field basis. In the current instance, TSPs and ISPs are to be seen as carriage providers and other content and application providers fall in the second category. The former cannot decide to discriminate from amoung the latter, while the former can always offer a free or differentiated service to the user as long as that is applicable to all the content or service providers and the terms of such an offering are open.

Q3: Are there alternate 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.

As mentioned above, carriage providers can all or through a consortium or under the coordination of government contribute to increase of internet penetration in the form of free or subsidized rate internet as a promotional scheme, but without bias to any content or application providers. Second approach could be for DOT to initiate a scheme of Universal Service Obligation fund dedicated to internet and use it to subsidize any TSP/ISP who is ready to offer internet services on a non-discriminatory basis to

targeted groups as in respect of population below a certain income levels or those in rural areas serviced by NOFN or women or mobile users for a certain period etc. As in respect of Jan Dhan Yojana, such initiatives will have the power of triggering a virtuous cycle of demand. Targeted segment of users can, for instance, be extended certain amount of prepaid charge data services free – say Rs.50 to 100 per month arrived at on the basis of reverse auction.

USO or suitable government or multi-stakeholder agency can drive such a drive so that acceleration can take place in internet penetration in general and mobile internet penetration in particular. Applications and contents providers thereof will be part of the fair ecosystem that gets created and help accelerated growth without harmful market distortions, as is being attempted by some players at present.

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

The current impasse has arisen partly as a result of too much of reliance on laissez faire approach to internet penetration and lack of appreciation of internet value by government itself. For instance, USO has been focusing only on telephony, not internet. Government had fallen short of proactive measures to accelerated growth of internet (see the contrast with S.Korea), except through initiatives such as NOFN. So, this exercise must be converted into proactive and creative engagement with all stakeholders including government, citizens and market players, including contents/applications providers and TSPs/ISPs to see how internet penetration can be accelerated with the efforts of all. For instance, it might be worthwhile targeting for 'internet for all' (full internet penetration) by 2020/2022 and working backward to build synergies amoung the efforts of all players with intermediate milestones, reviews and course correction based on assessment.

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