

ASSOCHAM Suggestions

TRAI Consultation Paper on Differential Pricing for Data Services

Executive Summary

The Indian consumer is highly price sensitive. The availability of affordable and innovative data services will be key to driving the take up and growth of data and help deliver on the Digital India vision.

Competition and choice is now also possible with respect to the content that is available on the Internet and consumers can equally benefit from innovative and customized data offerings that can be offered by its service providers either independently or through various innovative new services and business models based on mutual commercial arrangements with the content providers.

Such arrangements will be a win-win for the customers, the telecom operators and content/app developers as it will help defray the costs of infrastructure build-out, ensure affordable services and high quality experience to end users, which in turn will fuel development and growth of the market.

As long as such arrangements are not anti-competitive and transparency is ensured for informed consumer choice, they will encourage consumers to explore and experience the internet as much as possible and promote Internet growth.

The competitive intensity in the telecom industry in India is one of the highest in the world and has led to offering of services to the customers at very reasonable tariffs. The increasing adoption of data services is now encouraging the operators to compete with each other and innovate with their data product offerings, as per their consumers' usage pattern to create more value for their money for them.

Recognising the existence of adequate competition in the Indian Telecom industry, TRAI, initiated its 33rd amendment to telecommunication Tariff Order, dated 8th December, 2004, thus,

“...Evidence on trends in retail tariff published by the Authority suggests that there is intense competition in the mobile service segment. Further, with the unified access regime already in place and with unified licensing regime on the anvil and the Authority having forborne the retail tariff in general, the concerns relating to inadequate competition have substantially abated....”

We believe that given the intense competition in the market and the presence of strong regulatory and legal safeguards in the form of the Authority and the Competition Commission of India, there should not be any concerns around discriminatory or anti-competitive behaviour.

The faith that TRAI has reposed in the Indian Telecom Industry by allowing differential pricing for telecom services has been proven to be in the best interest of

the consumers as the industry has lived up to its responsibility of pricing its services as per the principles of being reasonable, transparent, non-discriminatory, non-ambiguous, not anti-competition, not predatory and not misleading, defined by TRAI. Persevering with its earlier decision, TRAI should continue permitting differential pricing in data services and not take the regressive step of regulating the tariff for the data services.

We therefore submit that differential data pricing should be permitted and the existing regime of forbearance should continue. The regulatory principles of non-discrimination and transparency should be equally applicable to voice, data and content.

Following are the key points to be considered:

- A. Data tariffs to be kept under forbearance permitting the TSPs to price their data services as per the market dynamics.
- B. The Authority to allow the offering of differential pricing within the scope of the existing regulations itself.
- C. Imposition of any further regulations on data services will only distort the market and could be to the detriment of the end users.
- D. It is imperative that TRAI takes a balanced approach towards differential pricing regime and ensures that the TSPs' innovations for serving the multifarious needs of consumers are not ignored.
- E. At no point is a TSP in a position to impose its will on the consumer and hence, the contention that the TSPs will indulge in selective dis-incentivized access is unfounded.
- F. Pay for use principle actually leads to more value for money for the consumer, whereas in the absence of discounted rates all subscribers pay at standard rate despite accessing only a limited set of websites / applications.
- G. 'Differential Pricing' cannot be construed as 'Gate Keeping'; these two are totally different and the apprehension about TSPs employing differential pricing as a 'gatekeeping tool' is incorrect and unfounded and the same should not be considered even as 'Theoretical'.
- H. TRAI is empowered to examine the reported tariffs and take suitable action if the tariffs are against the principles of non-discrimination, transparency, predatory, vertical squeeze etc.
- I. TRAI therefore may persevere with its existing policy of forbearance which affords the flexibility of introducing innovative methods of aiding proliferation of data services.
- J. There are already available mechanisms in the existing regulations of the Authority by which the principles of transparency, non-discrimination etc. can be

taken care of. Imposing further regulations will not only hamper the growth of the data services but also put the subscribers in loss. Hence, we request the Authority to allow the TSPs to continue with their data tariff offerings based on the market dynamics and innovations.

A small subset of members believe that some stakeholders may get help from differential pricing, however given the regulatory set-up of Government, DOT, CCI and the hyper-competition, will ensure checks and balances on any anti-competitive behaviour.

Questions

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

Response:

Yes. The TSPs should be allowed to have differential pricing for data usage for accessing different websites, applications or platforms.

- (a) **Operators should be able to offer consumers the services which best meet their needs, including the services for selfcare and updates etc.**
Allowing differentiated prices will be in consumer interest and is commonplace in the wider economy.
- (b) **Differentiated pricing also has societal benefits, ensuring that communications and internet services are accessible, affordable and available.** Differentiated pricing for data expands participation in online content and applications to the under-served, while also increasing mobile wireless penetration. Increasing internet access has been shown to increase productivity, support enterprise and innovation, increase employment and economic growth.
- (c) **Operators have the incentive to maintain a diverse landscape of content and offers and with transparency.**
- (d) **Differential pricing will also benefit smaller content providers and encourage innovation** as it gives them the opportunity to compete and there is no harm to them. There are many examples of challengers in the market, such as MetroPCS, Sprint and T-Mobile in the US, all of which have used differential pricing in order to compete with larger competitors.

2. 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?

Response:

Existing regulatory framework along with the reporting requirement of tariffs is considered to be adequate for ensuring adherence to the principles of non-discrimination, transparency, affordable internet access, competition and innovation in the market.

The existing regulatory principles enunciated for various voice components, should govern data and content as well. The principles of tariff forbearance and flexibility for operators are the basic principle of a tariff policy and there is no necessity for a change in the regulation.

Differential prices are not anti-competitive and would ensure all the principles of non-discrimination, affordability and innovativeness along with encouraging investments.

3. Are there alternative methods/technologies/business models, other than differentiated data tariff plans, available to achieve the objective of providing free internet access to 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.
4. Is there any other issue that should be considered in the present consultation on differential pricing for data services?

Response to Q3 & Q4

The local ecosystem including hosted services that allow the lower local cost of delivery to consumers should be encouraged.

Also, it is submitted that there are already available mechanisms in the existing regulations of the Authority by which the principles of transparency, non-discrimination etc. can be taken care of.

Imposing further regulations will not only hamper the growth of the data services but also put the subscribers in loss. Hence, we request the Authority to allow the

TSPs to continue with their data tariff offerings based on the market dynamics and innovations.