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Ms. Vinod Kotwal,
Advisor (F&EA), Telecom regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
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New Delhi: 110 002

Consultation Paper on Differential Pricing for Data Services

Dear Ms Kotwal,

The GSMA welcomes the opportunity to submit its views on the consultation paper on differential pricing for data services. Price differentiation is a widely used commercial practice that benefits consumers and competition and therefore operators should have continued tariff flexibility. Differential pricing facilitates greater market participation by consumers and content providers supporting competition, innovation and consumer choice and there is no need to restrict these beneficial outcomes.

The following paragraphs outline our views in relation to the Authority's questions on (1) flexibility to offer differential pricing for data usage, (2) associated policy measures and (3) alternative policy levers to encourage broadband adoption.

1. Operators (TSPs) should have continued flexibility to offer differential pricing as such practices benefit consumers and competition

Operators should be permitted continued tariff flexibility for the following reasons:

- **Widely adopted commercial practice**

Differential pricing is a commercial pricing strategy widely used in many industries. Discounted tickets for senior citizens at leisure venues and higher fares for last-minute business travellers are everyday examples of differential pricing. Economic literature suggests that differential pricing in competitive markets can benefit consumers and businesses by allowing firms to tailor their products and services to the preferences of consumers and thereby increase the total welfare.

The Internet ecosystem is a dynamic, complex and multi-sided system with complicated pricing dynamics. Multi-sided markets support broader forms of differential prices matched to the heterogeneity of consumers and content providers on the different sides of the market. Accordingly, firms participating in the Internet ecosystem deploy a variety of business models and



pricing strategies, including freemium models, free-of-monetary charge services in return for collection of consumer behavioural data, ad-funded services, etc., to attract the optimal mix of customers and suppliers. Multi-sided commercial models, including differential pricing, are also widely used in other industries. For example, some television services are advertising-funded, some are subscription-funded and other services are public-funded. The mobile industry should not be an exception to this widely accepted commercial practice.

- **Benefits consumers**

Differential pricing practices increase consumer choice, incentivise consumer and supplier participation widening the size of the market and support investment in broadband networks. This is important as mobile broadband is a key pillar of the *Digital India* initiative and in building digital economies. The availability of a variety of service packages – that combine different prices, attributes and bundled content – increases the choices available to consumers and allows them to choose the package that best suits them. Pricing flexibility allows operators to reflect the willingness to pay for consumers who will otherwise be priced out of the market if the firm was constrained to charge a uniform price.

- **Encourages investment and innovation**

Differential pricing supports investment and innovation in networks and content services by widening the subscriber base for content services and for the network operator. Industries, such as mobile, with large fixed costs and low marginal costs require differential pricing to make it economically viable to invest and innovate in new technologies and services. In two-sided markets, each side can be expected to contribute to the recovery of costs and the provider (e.g. the operator) should have the flexibility to determine the appropriate balance between the sides. Where content providers contribute financially to support discounted mobile tariffs through sponsored data models, they do so in recognition of the increased value of reaching more consumers. Operators should continue to have this freedom to agree commercial arrangements with content and application providers to develop innovative services and sustainable business models.

- **Supports competitive markets**

Mobile operators compete along many dimensions such as pricing of service tariffs, minutes and data allowance, bundled content and applications, network quality and coverage. Operators take into account a number of cost, competition and commercial considerations in determining their product mix and prices to compete against other operators. Differential pricing should be viewed as another axis of competition rather than as hindering competition.

- **No proven harm to consumers or small content providers**

In the consultation paper, TRAI raises (at paragraph 14 of the paper) the possibility of discrimination between consumers and impact on small content providers. Differential pricing, for example application-specific tariff plans, are available to all consumers and the choice of tariff is

left to the consumer according to his service demands and willingness to pay. This is in the interest of all consumers and economically efficient over uniform pricing models. Differential pricing plans which allow content providers to subsidise the consumers' cost of accessing specific sites, supports competition in the content and application domain by offering new entrants with the opportunity to compete with established content providers by using the marketing, distribution and billing platform of the network operators. This could benefit smaller providers to compete with established players and therefore support competition and innovation in the broader ecosystem.

Concerns on potential harm to consumers or smaller content providers seems highly speculative and not substantiated by any market evidence. Moreover, data growth is the new revenue opportunity for operators. As a proportion of recurring revenues, average data service revenues in India are slightly below 15% of total revenues, compared to more than 30% in advanced markets. There is no incentive for operators to either restrict or favour consumer access to specific sites or content in the competitive mobile market in India as they invest for data growth. In competitive markets, the offer of differentiated products and associated differential tariffs does not result in prohibitive prices for products with enhanced feature sets. Any potential anti-competitive conduct, if any in the future, can be dealt under existing competition law framework.

2. No additional measures are necessary in relation to policy on differential pricing

We hope that policy makers recognise the level of competition that has been achieved in India in the mobile services market, and thus avoid regulating commercial offers on the basis of presumed future harm to consumers. The TRAI currently follows a policy of forbearance of tariff regulation for telecommunication services in competitive markets and this principle should also continue to be applied to data tariffs including the offer of differentially priced products (e.g., application specific packs).

The current practice of operators reporting their tariff plans to the TRAI without seeking prior approval supports dynamic competition and tariff innovation and should be preferred over ex-ante determination of tariff plans. Ex-post case-by-case assessment under general competition law is a sufficient safeguard against any anti-competitive conduct and the GSMA believes there is no need for any ex-ante regulatory assessment of such plans in the presence of ex-post safeguards.

The GSMA is supportive of the general objective of enhancing meaningful transparency of products and services offered to consumers. This objective should be applied equally across the Internet ecosystem. There should be consideration of the types of information that would actually empower consumers to make informed choices without adding complexity and confusion to their decision making. The TRAI may wish to set, in consultation with industry, general transparency objectives without mandating particular requirements.

3. Other policy levers to encourage broadband investment and adoption

There is broad consensus among operators, government, policymakers and other stakeholders that expanding broadband connectivity is a top priority for India. The proportion of broadband subscribers are significantly less than the proportion of consumers that have access to broadband coverage illustrating the need for demand-side measures to increase broadband adoption.



One policy approach is for governments to intervene directly by providing subsidies to either consumers or businesses. Direct subsidies have been used by governments in different sectors with mixed success. This may not be an appropriate model for mobile services. A more effective and efficient indirect approach is to allow operators to have the flexibility to recover the total costs of service provision through both product and pricing differentiation. This commercial flexibility has allowed mobile operators to rapidly expand mobile coverage and mobile voice services to Indian consumers making it a success story. Such product and pricing flexibility should continue to be permitted for data services.

Of course, differential pricing is only one lever to promote broadband growth. The government can also help by facilitating right of way and planning process for rolling out network infrastructure, providing the right policy environment for operators to invest and innovate, stimulating demand for local content services (e.g., mGovernment services) and raising consumer awareness of broadband.

In summary, as the consultation paper states, tariff forbearance and flexibility for operators are core principles of the tariff framework and there is no reason to change this policy. There can be no presumptive assumption that differential prices are anti-competitive or harm consumers, when the several examples from mobile and other industries point to the beneficial outcomes of such practices. Competitive markets and competition law provide sufficient safeguards to prevent any anti-competitive behaviour and therefore a case-by-case ex post approach should be preferred over regulatory intervention. The policy focus should be on efficient competitive markets and transparency instead of unnecessary restrictions that may hinder the benefits of differential pricing.

The GSMA looks forward to continued dialogue with the government and the regulator on this topic. Please do not hesitate to contact us if you have any questions on the above issues.

For further information, please contact:

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Sandeep Karanwal, Director, GSMA India

Yours Sincerely,

A handwritten signature in blue ink, appearing to read "Sandeep Karanwal".

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