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PROHIBITION OF DISCRIMINATORY TARIFFS FOR DATA SERVICES REGULATIONS, 2016

(No. 2 of 2016)

In exercise of the powers conferred upon it under sub-section (1) of section 36, read with sub-clause (i) of clause (b) of sub-section (1) and sub-section (2) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997), the Telecom Regulatory Authority of India hereby makes the following regulations, namely:-

CHAPTER I
PRELIMINARY

1. Short title and commencement. - (1) These regulations may be called the Prohibition of Discriminatory Tariffs for Data Services Regulations, 2016 (2 of 2016).

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. - (1) In these regulations, unless the context otherwise requires, -

(a) "Act" means the Telecom Regulatory Authority of India Act, 1997 (24 of 1997);

(b) "Authority" means the Telecom Regulatory Authority of India established under sub-section (1) of section 3 of the Act;

(c) "closed electronic communications network" means a communications network where data is neither received nor transmitted over the internet;

(d) "consumer" means a consumer of a service provider and includes its customers and subscribers;

(e) "content" includes all content, applications, services and any other data, including its end-point information, that can be accessed or transmitted over the internet;

- (f) "data services" means services offered or provided to a consumer using any equipment, technology or medium, including wireless and wireline technologies, to access or transmit data over the internet;
- (g) "discriminatory tariffs for data services" means charging of different tariffs by a service provider for data services based on the content accessed, transmitted or received by the consumer;
- (h) "internet" means a global information system that is:
- (i) logically linked together by a globally unique address, based on Internet Protocol (IP) or its subsequent enhancements or upgradations;
 - (ii) able to support communications using the Transmission Control Protocol/Internet Protocol (TCP/IP) suite or its subsequent enhancements or upgradations, or other IP compatible protocols;
- (i) "licence" means a licence granted or having effect as if granted under section 4 of the Indian Telegraph Act, 1885 (13 of 1885);
- (j) "licensee" means any person licensed under sub-section (1) of section 4 of the Indian Telegraph Act, 1885 (13 of 1885) for providing specified public telecommunication services;
- (k) "regulations" means the Prohibition of Discriminatory Tariffs for Data Services Regulations, 2016;
- (l) "service provider" means the Government as a service provider and includes a licensee;
- (m) "tariff" means the rates and related conditions at which data services are offered or provided by the service provider, including free data, usage charges, refunds, installation fees, deposits, rentals, and any other related fees or service charges.

(2) All other words and expressions used in these regulations but not defined, and defined in the Act or rules, regulations and orders made thereunder, shall have the meanings respectively assigned to them in the Act or such rules, regulations or orders, as the case may be.

CHAPTER II

PROHIBITION OF DISCRIMINATORY TARIFFS FOR DATA SERVICES

3. Prohibition of discriminatory tariffs.— (1) No service provider shall offer or charge discriminatory tariffs for data services on the basis of content.

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(2) No service provider shall enter into any arrangement, agreement or contract, by whatever name called, with any person, natural or legal, that has the effect of discriminatory tariffs for data services being offered or charged to the consumer on the basis of content:

Provided that this regulation shall not apply to tariffs for data services over closed electronic communications networks, unless such tariffs are offered or charged by the service provider for the purpose of evading the prohibition in this regulation.

(3) The decision of the Authority as to whether a service provider is in contravention of this regulation shall be final and binding.

4. Exemption for certain content. –Notwithstanding anything contained in regulation 3, a service provider may reduce tariff for accessing or providing emergency services, or at times of grave public emergency:

Provided that such tariff shall be reported to the Authority within seven working days from the date of implementation of the reduced tariff and the decision of the Authority as to whether such reduced tariff qualifies under this regulation shall be final and binding.

CHAPTER III MISCELLANEOUS

5. Consequences of contravention of these regulations.–(1) If a service provider is in contravention of these regulations, the Authority may, without prejudice to the terms and conditions of licence, or the Act or rules or regulations or orders made, or directions issued, thereunder, direct the service provider to withdraw such tariff and also order such service provider to pay, by way of financial disincentive, an amount of rupees fifty thousand for each day of contravention, subject to a maximum of rupees fifty lakh:

Provided that no order for payment of any amount by way of financial disincentive shall be made by the Authority unless the service provider has been given a reasonable opportunity of representing against the contravention of the regulation.

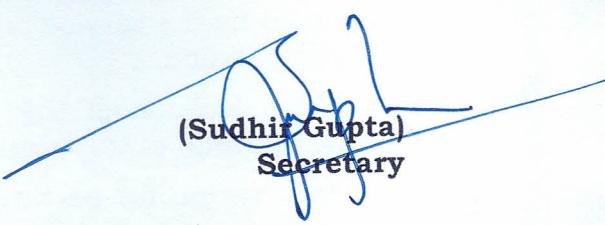
(2) The amount payable by way of financial disincentive under these regulations shall be remitted to such head of account as may be specified by the Authority.

6. Review.–The Authority may review these regulations after the expiry of a period of two years from the date on which these regulations come into effect, or on any earlier date as it may deem fit.

7. Interpretation.–In case of any doubt regarding interpretation of any of the provisions of these regulations, the decision of the Authority shall be final and binding.

8. Savings. – Nothing contained in these regulations shall affect any packs, plans or vouchers with unexpired validity subscribed by a consumer before the date of commencement of these regulations:

Provided that no such pack, plan or voucher shall be valid beyond a period of six months from the date of commencement of these regulations.



(Sudhir Gupta)
Secretary

Note: The Explanatory Memorandum explains the object and the reasons of the Prohibition of Discriminatory Tariffs for Data Services Regulations, 2016 (2 of 2016).

EXPLANATORY MEMORANDUM

A. Introduction and Background

1. Section 11(1)(b)(i) of the Act as amended by the Telecom Regulatory Authority of India (Amendment) Act, 2000 empowers the Authority to ensure compliance of terms and conditions of the licence issued to the licensee under the Indian Telegraph Act, 1885. Section 11(2) of the Act also empowers the Authority to notify rates at which telecommunication services shall be provided. While the tariff regime has generally been left to forbearance, regulatory oversight is required so that the tariff framework follows the broad regulatory principles of non-discrimination, transparency, non-predatory, non-ambiguous, not anti-competitive and not misleading. The terms of the licences for providing telecommunication services also require access to be provided to subscribers to all lawful content available on the internet without restriction.
2. Some practices have come to the notice of the Authority wherein differential tariffs were offered based on the content/websites/applications/platforms. Primarily, two key principles of tariff regulation - non-discrimination and transparency were getting impacted from such practices and required consultation. Taking note of these, the Authority on 9.12.2015 released a Consultation Paper (CP) on Differential Pricing for Data Services inviting comments from stakeholders on whether service providers should be allowed to have "differential pricing for data usage for accessing different websites, applications or platforms" and other related issues.
3. Stakeholders were requested to provide their written comments by 30.12.2015 (later extended to 07.01.2016) followed by a period of one week for filing counter comments (14.01.2016). In this process, the Authority received a large number of responses. Majority of the individual comments received did not address the specific questions that were raised in the consultation paper. Other responses received included 15 service providers, 8 service provider associations and 42 organisations/institutions. A total of 25 counter-comments were also received. The comments and the counter-comments received from the stakeholders were placed on the TRAI's website- www.trai.gov.in. The Authority then conducted an Open House Discussion (OHD) on 21.01.2016 wherein several stakeholders expressed their views on the issues posed for consultation. Further, post OHD time upto 25th January 2016 was given to furnish additional comments. The key issues raised in the CP and the views of the stakeholders thereupon are examined in the succeeding paragraphs.

B. Issues raised in the Consultation Paper and stakeholder response

4. Different tariff schemes of the Telecom Service Providers (TSPs/service providers) offer zero or discounted tariffs to certain contents of certain websites/applications/platforms. There are a number of variations of these schemes. Under one design, an entity creates a platform wherein content providers and TSPs can register. Subject to the approval of the platform provider, the customers of the TSPs, registered on the platform, will be able to access those websites (either in full or only certain content of those websites) which are listed on this platform. Another method is to provide discounted data offers by the TSPs for some identified websites/apps. It enables the TSPs to select certain content providers (either through the platforms or directly) and offer discounted access schemes to these websites/applications/platforms.

5. These differential tariff offerings have positive as well as negative impact. On the one hand, it may appear to make overall internet access more affordable by reducing costs of certain types of content and enabling people who have so far not been able to use internet services and content, to access at least part of the internet. This could have the benefit of expanding and accelerating internet access, as first-time users of the free internet could experience its benefits and start paying for full access. On the other hand, differential tariffs result in classification of subscribers based on the content they want to access (those who want to access non-participating content will be charged at a higher rate than those who want to access participating content). This may potentially go against the principle of non-discriminatory tariff. Secondly, differential tariffs arguably disadvantage small content providers who may not be able to participate in such schemes. This may thus, create entry barriers and non-level playing field for these players stifling innovation. In addition, TSPs may start promoting their own websites / apps/ services platforms by giving lower rates for accessing them. The CP also touched upon the subject of offering alternate models for accessing the internet without resorting to differential tariffs.

6. With this background, there were specific questions raised in the CP that touched upon following issues:

- Whether the TSPs should be allowed to have differential pricing for data usage for accessing different websites, applications or platforms? If yes, then what measures should be adopted to ensure that the principles of nondiscrimination, transparency, affordable internet access, competition and market entry and innovation are addressed?



- Suggest alternative methods/technologies/business models, if any, other than differentiated tariff plans, available to achieve the objective of providing free internet access to the consumers.

7. The range of responses received from the stakeholders on the first issue of allowing TSPs to charge differential tariffs for data services for accessing different websites, applications or platforms varied widely. On the one hand, the TSPs and their associations, some organisations/institutions and individuals have strongly supported the practice of allowing differential tariffs on the ground that it is allowed in other industries/segments, it helps in product innovation, competition and brings more customers on the internet, thus enhancing consumer welfare. In addition, there is no evidence of harm to the stakeholders and it also helps in garnering investment to build networks. Some stakeholders have suggested that differential pricing should be allowed only in specific cases for example, for accessing essential services.

8. On the other hand, certain service providers, their associations, organisations/institutions and individuals have vehemently opposed the practice of differential pricing by the TSPs. It has been argued that differential pricing for data services is anti-competitive, non-transparent, discriminatory and against content innovation. The TSPs are custodians of public resource infrastructure that should be made available without discrimination. With differential pricing, the basic principle of internet as a neutral end-to-end carrier of information is violated and make the TSPs as gatekeepers. Such practices restrict consumer choice and is against the freedom of speech/expression and media pluralism. Some stakeholders have also raised privacy concerns.

9. Taking a middle ground, certain stakeholders have suggested that differential pricing should be allowed on a case to case basis; and for services to be in public interest. Charging lower prices for locally-peered content, providing web-access for free, in exchange for advertisements should be allowed. Some have suggested that differential pricing along dimensions of time, locally dependent pricing and application dependent pricing should be allowed. Some others have suggested that instead of zero-rating there should be equal-rating wherein certain amount of free data is provided with unrestricted access to any content.

10. Regarding measures to be adopted for ensuring non-discrimination, transparency, affordable internet access, competition and market entry and innovation in the case of differential pricing for data usage, it has been suggested by the TSPs and some organisations that ex-ante case by case examination of tariff plans should be undertaken by the regulator. Others

have suggested that there should be focus on consumer consent before services are accessed and better disclosure of terms and conditions of the differential plans. It has been suggested by some stakeholders that there should be independent oversight mechanisms over TSPs undertaking differential pricing.

11. On the question of suggesting alternate models other than differential tariff plans with the objective of providing free internet access to the consumers, most of the TSPs and some organisations have opined that there is no other (or better) business model. While others have suggested that providing free/open data on agreement with content providers can be an alternate model. Suggestions on providing data from USO sponsored fund/as subsidy/ as Direct Benefit Transfer/through National Optic Fiber Network/ through multiple data centers/ allowing differential pricing for rural/non-commercial/educational users etc. have been suggested. It has also been proposed that free/open data can be made available to the users via the TSPs under the TRAI monitoring (via advertisements/surveys/direct coupons). It can also be a general Corporate Social Responsibility approach or a donation driven approach.

12. On the general question of any other issue to be considered in the present consultation, a number of responses have been received that touch upon points already enumerated above. TSPs are of the view that regulatory oversight and reporting to TRAI is enough and have opined that differential pricing is recognized and applied across utilities like water, electricity, gas etc. It has also been opined that the scope of the consultation should be broadened to include internet usage at all levels. It has further been suggested that Government should invest in infrastructure and rollout mobile broadband networks. There must be increased Government focus in improving internet penetration.

C. Analysis of the issues

13. The Authority has considered all the comments received during the consultation process, international practices and various research studies on the subject. Taking these inputs into account, the Authority has formed the following views on this issue, that deal with the social, technological, economic and legal implications of content-based price differentiation. The regulatory approach taken on the basis of these views has also been outlined in this memorandum.

14. The general economic concept of 'price differentiation' covers all practices where a seller of goods or provider of service charges different prices from

different consumers, either for exactly the same good or service or for slightly different versions of the same good or service. The ‘service’ being referred to in the context of differential pricing of data services is the *units of data or bits* that a person consumes in order to access the internet. This understanding is also qualified by the fact that the current regulation refers to a particular category of price differentiation – that is content-specific.

15. The appropriate regulatory response on the issue of differential pricing must necessarily be grounded in a sound understanding of the basic architecture of the internet. Any proposed changes in business models and commercial practices must also be seen in the context of the need to preserve the unique architecture of the Internet as a global communication network. The following are some of the key relevant features that form its structural underpinnings:

(a) *End-to-end design principle (minimum intervention principle)* :As per this principle the “intelligence” in a network should be located at the ends of the system. The communications protocols themselves (the “pipes” through which the information flows) should be as simple and general as possible. This design feature enables content providers to undertake permission-less innovation and facilitates free choice by consumers. The application of this principle, together with the minimum intervention results in a network that is transparent to the host application communication and provides for a general, application agnostic transport service

(b) *Adoption of universal network protocols*: The use of open protocols developed collaboratively by users has enabled private networks to communicate with each other through standard packets and flow rate. This is what led to the creation of the decentralised architecture of the Internet that we see today.

(c) *Transit and peering arrangements*: The physical infrastructure that enables the transmission of data packets through the Internet involves a large number of actors and processes, of which a service provider and its consumers represent only one edge. Service providers are connected with each other and with Internet backbone systems through a web of transit and peering arrangements.

(d) *Other governing principles*: include Heterogeneity support principle; Robustness and adaptability principle; Unambiguous addressing principle; Loose Coupling principle; Simplicity principle; Connectionless packet switching and distributed adaptive routing; Network of collaborating networks - interconnection via gateways which focused at the connectivity functionality.

16. In the light of the above principles, following two specific aspects require emphasis:

(a) First, unlike traditional markets where there are, for the most part, distinct producers and consumers, on the internet, users are also content producers. Social media websites, for example, are built largely based on user content. Regulation will thus have to be cognizant of this fluidity.

(b) Second, the design and architecture of the internet underlines the fact that the global internet comprises an amalgamation of networks that share a common addressing and routing system, which allows all networks to interconnect with each other directly or indirectly. Every service provider is dependent on other networks, through a series of peering and transit arrangements, to deliver and receive data from an end-point to a user. Every packet of data, regardless of its nature, is routed through multiple networks.

17. A particular TSP which is offering data services to the consumer does not control the internet infrastructure in its entirety. It is dependent on several other networks to facilitate this task. Thus, allowing a TSP which is at one edge of the internet to charge differentially for data that it does not alone process, could compromise the entire architecture of the internet itself. Were other TSPs across multiple tiers allowed to do this, then the openness of internet as we know, would be altered. Allowing price differentiation based on the type of content being accessed on the internet, would militate against the very basis on which the internet has developed and transformed the way we connect with one another.

18. One of the key arguments forwarded for differential pricing is that it will serve as an effective tool for increasing internet penetration and providing affordable access to new users and thus benefitting the consumers. Users who learn of the benefits of the internet would then proceed to the paid version of the "full" internet. Further, it has also been argued that differential pricing of data services will enable TSPs to develop innovative packages to suit the requirements of different categories of users and hence foster growth in the usage of internet services.

19. In India, given that a majority of the population are yet to be connected to the internet, allowing service providers to define the nature of access would be equivalent of letting TSPs shape the users' internet experience. This can prove to be risky in the medium to long term as the knowledge and outlook of those users would be shaped only by the information made available through those select offerings. Further, to the extent that affordability of access is noted to be a cause for exclusion, it is not clear as to how the same users will be in a position to migrate to the open internet if they do not have the resources to do so in the first place.

20. Several stakeholders have highlighted the potential anti-competitive effects of allowing differential pricing. It is argued that this will create an

uneven playing field among content providers and service providers – large, well-established content providers and service providers or those that have the benefit of large networks will find themselves in a much stronger bargaining position as compared to new or smaller businesses. This may create significant entry barriers and thus harm competition and innovation. This poses an even greater concern in cases where there might be a conflict of interest in the service provider's role as a service provider as well as a participant in a vertical market where it acts in competition with other content providers. New and smaller service providers will face crucial challenges in view of the significant market power enjoyed by bigger service providers and content providers.

21. It has also been stated by some stakeholders that users will benefit from the provision of free services. It will also allow service providers to offer volume-based discounts on popular applications through content-specific data packs and enhance user choice through the freedom to choose suitable data services. These assertions need to be tested in light of the market failures existing in the internet services sector. Firstly, the 'information asymmetry' between service providers and users leaves users with inadequate information to make an informed choice. Secondly, internet access is not a 'search good' but rather an 'experience good' which can be understood properly only after being used. Thus, the 'information asymmetry' problem cannot be adequately solved through disclosure or transparency requirements, as many consumers may not be in a position to understand the information being presented to them.

22. Economic theory tells us that the value of a network, of which the internet is the biggest example, is an increasing function of the number of persons on it. Differential pricing may reduce the network effects associated with the internet, as usage of the broad internet as it exists may go down, and thus impose negative externalities upon society at large. This concern has been voiced in several comments made by the stakeholders.

23. Similarly, allowing the keepers of the infrastructure to differentiate on the basis of content, would impose negative externalities on the rest of the network as internet serves as infrastructure for many other markets. This is especially so since the internet is a fluid and dynamic space where a user could be a simple subscriber at one moment (when she accesses the internet through a data pack), and become a content provider (when she writes a blog post) at the next.

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24. In formulating a regulatory approach towards differential pricing on the basis of content, the following license conditions and legal principles are relevant:

24.1 Clause 2.2(i) of the ISP Licence Agreement, while defining Internet access, provides for access to the Internet and all content available without any access restriction. Similarly, Clause 2.1 of Chapter IX of the Unified Licence Agreement provides that "The subscriber shall have unrestricted access to all the content available on Internet except for such content which is restricted by the Licensor/designated authority under Law." Restrictions on accessing all content on the Internet could take several forms one of them being price based differentiation. Price-based differentiation would make certain content more attractive to consumers resulting in altering a consumer's online behaviour. While this might not be a major concern in a country where the majority already has Internet access, in a nation like India which is seeking to spread Internet access to the masses, this could result in severe distortion of consumer choice and the way in which users view the Internet. While not a direct restriction on a subscriber's access to the Internet, such practice acts as an indirect restriction by affecting the way consumers view content online.

24.2 As per Clause 10 of the Telecommunication Tariff Order, 1999 (TTO), service providers are prohibited from discriminating between subscribers of the same class, and any classification of subscribers should not be arbitrary. While all differential tariffs for telecommunication services are not prohibited, certain differential tariffs have been held to be discriminatory. A subscriber accessing content that is differentially priced, at reduced or nil rates, would be paying lesser or no charges for such content while another subscriber (or the same subscriber) would be paying regular charges for accessing similar content that is not offered at a reduced or nil rate. This kind of differentiation in tariff amounts to discrimination.

24.3 Several responses have drawn a critical link between the internet and its role in preserving the constitutional guarantees of right to free speech and expression under Article 19(1)(a) of the Constitution. As observed by the Supreme Court, in the *Secretary, Ministry of Information and Broadcasting v. Cricket Association of Bengal*, (1995) 2 SCC 161, para 201(3)(b) allowing citizens the benefit of plurality of views and a range of opinions on all public issues is an essential component of the right to free speech. This includes the right to express oneself as well as the right to receive information as observed by the Supreme Court in the *Indian Express Newspapers (Bombay) Pvt. Ltd. v. Union of India*, (1985) 1 SCC 641 (para 68) case. Both of these components viz., right to express oneself as well as the right to receive

information are critical elements in the use of the internet. The Authority is of the view that use of internet should be in such a manner that it advances the free speech rights of the citizens, by ensuring plurality and diversity of views, opinions, and ideas.

D. An Appropriate Regulatory Response

25. Those supporting differential tariffs have submitted that the existing legal framework contains sufficient safeguards to check against any potential market abuse. They accordingly suggest that the Authority should continue its practice of forbearance and intervene only when required, on a case-by-case basis. The contrary view, however, is that differential tariff for data services goes against the basic features of the internet and it needs to be restricted upfront on account of the far reaching consequences that it is bound to have on the structure of the Internet and the rights of stakeholders. Once such practices are allowed it may not be possible to quantify, measure or remedy the consequences in the short to medium term.

26. On the basis of the views expressed by stakeholders and relevant international experience, the Authority has two options—imposing an *ex ante* bar on differential tariffs or barring such tariffs on a case-by-case basis.

27. Intuitively, the case-by-case approach may seem reasonable. However, this approach creates substantial social costs as noted by Barbara Van Schewick in “Network Neutrality and Quality of Service: What a Non-Discrimination Rule Should Look Like,” *Stanford Law Review*, 2015. First, a case-by-case regime will fail to provide much-needed certainty to industry participants. In the absence of a clear rule setting out the permissible and impermissible business practices, service providers may refrain from deploying network technology. This would be due to the fear that their conduct may subsequently be construed as being discriminatory as per the case-by-case analysis. Second, it will create high costs of regulation on account of the time and resources that will be required for investigating each case. It will also lead to further uncertainty as service providers undergoing the investigation would logically try to differentiate their case from earlier precedents. Third, there is also the concern that this approach provides a relative advantage to well-financed actors and will tilt the playing field against those who do not have the resources to pursue regulatory or legal actions. This may include end users, low-cost innovators, start-ups, non-profit organisations, etc. The Authority believes that these concerns are significant.

28. While certain jurisdictions such as the United States and the European Union have adopted variations of the case-by-case approach, several others such as the Netherlands and Chile have barred differential pricing outright. A study of the international experience is no doubt useful in formulating an informed strategy. However, each country has devised its own suitable regulatory strategy on the subject. A suitable regulatory framework for India therefore, must necessarily be based on our country-specific factors, the need to equitably increase internet usage and penetration, foster competition, allow start-ups to flourish and uphold the law of the land, the substantive arguments regarding which have been dealt with above.

29. Taking into account responses in the consultation, relevant international experience, expert opinion, research studies and all other inputs, the Authority has concluded that a clear rule should be formulated—the practice of offering or charging discriminatory tariffs for data services based on content, is to be prohibited. Therefore, TSPs are prohibited from offering different tariffs based on the content, service, application or other data that a user is accessing or transmitting on the internet. Tariff for data services cannot vary on the basis of the website/application/platform/or type of content being accessed. For example, a consumer cannot be charged differently based on whether she is browsing social media site A or B, or on whether she is watching streaming videos or shopping on the internet.

30. Further, applying the principle that what cannot be done directly, cannot also be done indirectly, TSPs are also prohibited from entering into arrangements that have the same effect as charging discriminatory tariffs on the basis of content. Thus, an arrangement by which, instead of a service provider differentially charging tariffs to the consumer, other arrangements are made by the TSPs which in effect make accessing some content cheaper, for example through a refund to the consumer or other methods, are likewise barred.

31. Differential tariffs being offered for data transmitted over closed electronic communications networks, such as intranets are not prohibited by these regulations. Though the prohibition on discriminatory pricing of data services does not apply to such networks, which are not accessing the internet, if such a closed network is used for the purpose of evading these regulations, the prohibition will nonetheless apply.

32. At the same time, to strike a balance and in view of the need to bring more users on the internet, this prohibition shall not apply to other forms of tariff differentiation that are entirely independent of content. For instance, providing limited free data that enables a user to access the entire internet is not prohibited. Further, for one set of services, the benefits of reduced or nil

tariffs outweigh its costs— in emergency situations, whether it be that faced by an individual, or where a grave public emergency occurs as a result of natural or man-made disasters, free or inexpensive access to services becomes critical. An exception has therefore been introduced in these regulations to allow for price differentiation under such circumstances.

33. These Regulations will come into effect immediately. From the date these regulations come into effect, no new launches of prohibited packs, plans or vouchers shall be permitted. Presently, different types of vouchers as specified in TCPR, 2012 are offered to pre-paid consumers. In addition, data tariffs are offered to post-paid consumers either as part of a plan or by way of add-on packs. The Authority is aware that there would be some such packs, plans and vouchers already subscribed and paid for by the consumer, the validity of which is specified and at present unexpired. The rationale for the savings provided in the regulations is to protect consumers who have spent money and bought these offerings. It is clarified that no new offerings of this nature shall come within the purview of such savings. Further, no plan, pack or voucher already subscribed by a pre-paid or post-paid consumer providing differential data tariff based on content, shall be in operation beyond a period of six months from the date of these regulations coming into effect. This provision has been made in the light of the tariff protection available to the existing consumers as per TTO.

34. Keeping in view India's large number of internet users and content producers, both of which are rising exponentially, the Authority has taken a view that prohibition of discriminatory tariff for data services is necessary to ensure that service providers continue to fulfil their obligations in keeping the internet open and non-discriminatory.

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