

Response to “**Consultation Paper on Differential Pricing for Data Services**” by the **Telecom Regulatory Authority of India**.

Ref: Consultation Paper No. 8/2015

Submitted by: Saurabh Biswas

PhD Student, School of Sustainability, Arizona State University, AZ (USA)

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

When evaluating differential pricing privileges to TSP’s, the following points should be considered

- a. The strategy is a potent market entry vehicle for any TSP and may lead to dominance of the market due to its advantageous position. However, as the revenue model creates selective preference of certain websites over others, established web content owners (websites) shall benefit due to market position. This situation can potentially be challenged under the **The Monopolies and restrictive Trade practices Act, 1969** by aggrieved parties.
- b. It can safely be stated that the social groups impacted by such a service would be either first time users or relative novices on the functional aspects of internet. Their understanding about the intricacies of navigating webpages, data security, online scams etc. cannot be expected to be developed. Another fact is the prevalent modus operandi of websites/services that require sharing of multiple user detail eg. Location, e-mail or phone number, passwords etc. In this background, two major concerns arise:
 - i. The accumulation of user information by service provider or preferred websites and the potential use of this data with malafide intent. The vulnerability of the users become higher due to relatively low proficiency and understanding.

(Several thousands in the US fall prey to online lottery scams despite higher user maturity and exposure to the internet !!)
 - ii. In the absence of a definition of what constitutes basic and unbiased content, a sizeable population of the country is at risk of being exposed to content that will be selective and possibly designed to be ideologically monopolistic. This makes users vulnerable to being coached or conditioned in their socio-economic-political choices.
- c. Also, it is not explicit how the cost burden caused to the TSP due to offering of bandwidth at zero or low cost is being offset.

Thus, considering the above points, it is recommended that differential pricing of web-services by TSP's within the current regulatory & social scenario, may not be permitted.

The chief concern that arises from a scenario, if such a practice is permitted, is that there would be undeclared content piggybacking the stated service, which can potentially mislead consumers into sharing sensitive information or pay for unsolicited services. Thus, in effect, the service being offered is no more the *internet* or the *World Wide Web*, instead is a **bundled service** that should explicitly be called so and advertised as such.

Question 2: If differential pricing for data usage is permitted, what measures should be adopted to ensure that the principles of nondiscrimination, transparency, affordable internet access, competition and market entry and innovation are addressed?

A differentially priced service can only be allowed under the current legal framework [**The Monopolies and restrictive Trade practices Act, 1969; Sec 32(b)(ii) &(iii)**] if the services are deemed necessary by the Central government AND the Central government is party to the terms of the agreement.

Interestingly, the scenario in which the Central government is a key stakeholder in the entire process of co-developing and implementing the access to internet is borne out by the findings of **The Alliance For Affordable Internet's 2014 Affordability Report**. It finds the top 10 countries progressing towards affordable access of internet has been powered largely by state funding solely or in large proportion. Reportedly, the same publication has been cited by certain content developers as justification for the current predicament of differential pricing.

Thus, for a service to be priced differentially, it is proposed here that the content to be offered by the service in question should be developed under the directives of the Central government or an agency authorized by it. The key characteristics of the content and mechanism to offer the same are outlined below:-

1. A. Content Characteristics (Don'ts):

- a. Non-predatory – Should not seek user information.
- b. Non-Personalized – Contemporary web services are highly personalized wherein user preferences are recorded and future offering tailors itself to suit user experience. This feature might be a desirable for an advanced user who can distinguish the pattern, but for a user with limited or no exposure, can seriously alter their worldview. Moreover, this feature inadvertently becomes a vehicle for unsolicited promotion of products or services.
- c. Non-promotion of commercial/vested interests – Direct or indirect promotion of commercial interests, conditioning user choices and aspirations in favor or against social-political ideology and economic choices to be avoided.

B. Content Characteristics (Do's):

The content offered should be designed with explicit goals instead of a blanket presumption that internet access in any form is a social good and helps in uplifting the underprivileged.

Hence, it is strongly recommended that a study be undertaken by competent agency of public standing that involves experts from fields of technology, social sciences and development studies along with adequate representation from civil society.

This study should be broadly able to result in the following –

- i. A framework for defining the ambit of basic web services for the Urban & Rural broadband user - Economic and Social development indicators may be used as testable benchmarks for a model framework of internet access, identifying the extent & limits of impact carried through. Substantial concurrency and relevance of content can be achieved by differentiating basic connectivity impacts on urban & rural users. It will also lend flexibility to content development and bandwidth usage in regions of high/low network density.
- j. Address role of service limiting factors- Data Upload, Device dependency (Smart Vs dumb phones paradigm) and socio-economic goals of a basic internet service.

The outcomes should be able to inform decisions on the content of a **Single Platform Service** to be offered at a differential price that is:

- a. Public owned
- b. Non-profit
- c. Carrier Agnostic

Question 3. 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?

Herein are listed two alternative mechanism that possibly address the question of compensation for the carrier. This should be perceived as a “Business Model” in the strictest sense of the phrase. However, it may be a starting point to develop one.

Mechanism A:- The Philanthropist or Corporate Social Responsibility (CSR) path.

- i. Uniform content to be made available to all service providers who voluntarily participate by allocating bandwidth at no or low cost for basic web access.

- ii. The cost burden on account of committing bandwidth may be adjusted against the CSR commitment of the service provider under Section 135 and Schedule VII of the Companies Act as well as the provisions of the Companies (Corporate Social Responsibility Policy) Rules, 2014 (CRS Rules) .
- iii. Additionally, these firms may be granted preferential points proportionate to their commitment, as and when bidding for projects under the Digital India mission.

Mechanism B:- Revenue or Indirect benefit seeking path.

1. Partial recuperation of costs may be permitted in lieu of providing basic internet access at no cost by :
 - a. Service provider can advertise promote services/plans/offers of relevance *only* to its own realm of services offered. Promotions can happen within the earmarked bandwidth for basic internet access, thus not paying for additional bandwidth to operate equivalent services.
 - b. Service provider can charge external content accessed by user in the form of SMS or call tariff. This will require the web platform to be designed suitably, such that the user can only upload data, if & when desired, only through the above mentioned modes.
2. The regulator can earmark bandwidth exclusively to be used for basic internet access, which may be distributed to participating service providers at reduced prices, as deemed appropriate. This shall bridge the remaining cost gap incurred by the service provider.

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

Refer response to Q2.