12/29/15

TO:
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Introduction
Thank you for the opportunity to submit comment on the Telecom Regulatory Authority of India's Consultation Paper on Differential Pricing for Data Services.

The Mozilla Corporation produces the Firefox web browser and Firefox OS, together adopted by half a billion individual Internet users around the world. Mozilla is also a foundation that educates and empowers Internet users to be the Web's makers, not just its consumers. Finally, Mozilla is a global community of technologists, thinkers, and builders, including thousands of contributors and developers in India, who work together to keep the Internet alive and accessible.

Connecting the world's unconnected is one of the great challenges of our time, but in the current global debate on how to accomplish this goal, we believe that the advent of various differential pricing schemes has created harmful normative pressure to interpret "connecting people" to mean connecting them to some parts of the Internet, not all parts of the Internet.

As our Executive Chairwoman Mitchell Baker noted in a May 5th letter to Prime Minister Modi[1]:

> "We stand firm in the belief that all users should be able to experience the full diversity of the Web… At a time when users are increasingly being pushed into private, walled gardens and Internet malls providing access to only a limited number of sites, action is needed to protect the free and open Web."

As TRAI makes reference to in this consultation paper, a variety of business models featuring some form of subsidization and differential pricing have been put forward, many in the name of accelerating the rate at which people are connecting to the Internet. Access is a challenging and still-unsolved problem; yet, we worry about the harm that differential pricing would pose were it to be blessed as part of the solution. While differential pricing does not raise the same prototypical harms associated with net discrimination (i.e., throttling and blocking), we share your concern that many of these models effectively enable unfair prioritization giving rise to anti-competition and anti-innovation effects.

The core principles of net neutrality have created a level playing field that has been critical to the Internet's success to date. The Internet's capacity to be an engine for economic and social development, education, opportunity, and innovation will be diminished if we sacrifice these principles and install new gatekeepers in the name of connecting new users.

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[1] https://blog.mozilla.org/netpolicy/files/2015/05/Letter-from-Mozilla-Executive-Chair-Mitchell-Baker-to-Prime-Minister-Modi.pdf

Harms of differential pricing

The open Internet relies on many technological and legal assumptions for its continued vitality. One of those assumptions is net neutrality: the idea that Internet Service Providers and governments should treat all data on the Internet equally, not discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, or mode of communication. While paid prioritization is frequently invoked as a violation of this principle, subsidization that makes some content available for free, and other content only available at a cost that is prohibitively expensive to some, raises similar concerns. As with blocking, throttling, or paid prioritization, differential pricing can enable gatekeepers who exercise market power to disrupt the Internet's level playing field. Even with platforms that claim to be open to any site or service that meets certain technical specifications, we are concerned with how open they would be to including a new, startup competitor to their established services and those of their partners.

There are some that argue that differential pricing for a short period of time is justified if it leads to users purchasing access to the full Internet in a reasonably short time period. In assessing claims that differential pricing schemes are successful in moving users who were unconnected to paid plans, we encourage TRAI to look carefully at the data. For example, it is worth investigating the connectivity available to these users before they acquired a SIM with a differential pricing scheme. Put another way, users of differential pricing schemes are not necessarily first time Internet users. While genuine successes in accelerating the rate at which people are connecting to the full diversity of the open Internet may in certain cases outweigh the anti-competition and anti-innovation harms, if such claims prove to have little to no merit, then there would be fewer benefits conferred by differential pricing to counterbalance the harms.

In a context of difficult practical questions around promoting access to and adoption of Internet connectivity, we welcome TRAI's investigation into differential pricing schemes, given the potential for significant harm to both the orderly growth of the telecom sector and the consumer interest in the long term. As the TRAI exercises its oversight and regulation of such product offerings, we believe you will be well served by the principles you have previously enumerated: Non-discriminatory, transparency, not anti-competitive, non-predatory, non-ambiguous, and not misleading.

Alternative models

In the belief that there can and must be business models that will serve to connect the unconnected, and connect them to the full diversity of the open Internet without violating the principles of net neutrality, Mozilla is exploring alternatives to this end as part of our work on Equal-Rating[2]. We are conducting research to better understand the complex nexus of Internet openness and Internet access, while at the same time sparking innovation in alternative market solutions.

As the consultation notes, there are already in market a variety of alternative business models that are emerging to help accelerate the rate at which people are connecting to the Internet which do not rely on differential pricing. In a blog post introducing the concept of equal-rating[3] we note two early explorations of such alternative approaches; many more are possible, and will certainly be introduced in years to come.

What is certain is that we should not accept business models that offer access to only a select few chosen websites for free as the only or ultimate solution to connecting the unconnected. If we are to accelerate

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[2] https://blog.mozilla.org/netpolicy/2015/05/05/mozilla-view-on-zero-rating/
[3] https://blog.mozilla.org/netpolicy/2015/05/05/mozilla-view-on-zero-rating/

the rate at which people are connecting to the Internet, some subsidization may very well be needed. However, a market solution that provides access to all of the Internet is preferable in that it allows "consumers [to] pick the content they choose to access based on the quality of that content, not the financial power and business partnerships of the provider," as our Executive Chairwoman Mitchell Baker noted in her blog post introducing Equal-Rating.[4]

Investing in improving capabilities

While much of the global conversation around connecting the unconnected has focused on the challenges of improving affordability and infrastructure, we also encourage serious consideration of the value of investing in improving capabilities, specifically digital literacy and digital skills training.

In a recent paper[5] we co-wrote with the GSMA, we detail a small scale study we conducted in Bangladesh demonstrating the power of digital literacy. As part of this study, a group of participants received basic web literacy training: they learned about device basics, the difference between apps and browsers, and online identity and privacy. A second group of participants received no training. The results? After four weeks, the first group logged 17 percent higher Web usage and expressed increased ability and a greater desire to become content producers. Indeed, participants in the group that received training actually exceeded the 2GB of data we provided to them for free as part of this study at higher rates than those in the control group. This demonstrates that there is increasingly a business case as well an opportunity for positive government intervention in spurring investment in digital capabilities.

Conclusion

We commend the TRAI and the Government of India for your commitment both to connecting the unconnected and to upholding the principles of net neutrality that have served the Internet so well. We understand the temptation to say "some content is better than no content," choosing a lesser degree of inclusion over openness and equality of opportunity. But it shouldn't be a binary choice; technology and innovation can create a better way, even though these new models may take some time to develop. The people of India want net neutrality and want access to the full diversity of the open Internet as reflected by the more than a million submissions that came from users across India in response to TRAI's last consultation paper; we urge you to heed their call.

Sincerely,
Denelle Dixon-Thayer
Chief Business and Legal Officer

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[4] https://blog.lizardwrangler.com/2015/05/06/zero-rating-and-the-open-internet/
[5] https://stuff.webmaker.org/whitepapers/smartphones_content_skills.pdf