

To,
Arvind Kumar,
Advisor (Broadband & Policy Analysis)
Telecom Regulatory Authority of India

Subject: Re: Comments on Free data consultation paper

Dear Sir,

As a concerned Indian citizen and Internet user, I'd like to respond to TRAI's consultation paper on Free Data. Please publish my response after removing my email address and last name from the submission. I've made this submission after going through the consultation paper.

I'm happy TRAI wants to know what individual citizens think about its alternatives for giving free data, but I am concerned that certain service providers will use loopholes created by some of these models to violate TRAI's ruling on Prohibition of Discriminatory Tariffs, and use them to push their own services in a way that will alter the competitive and innovative dynamics of India's Internet. The fact that 1.2 million Indians had sent in their responses to TRAI's earlier Consultation Paper on OTT Services earlier this year should be proof of the fact that India deserves a truly open and free Internet, not one controlled by vested interests, whether they are telecom operators or (as they claim) telco-agnostic platforms. Such platforms will give a competitive advantage to companies with lots of funding, and allow these platforms to influence consumer choice through gatekeeping.

I am also concerned about Airtel exploiting a potential loophole in the Prohibition of Discriminatory Tariffs regulation via the CECN, and I don't think TRAI should allow any replication of content or service on the CECN. Content which is on the Internet should not be allowed on the CECN, because that would be circumvention of the CECN. A service on a CECN should not be allowed to have features that allow it to connect to the Internet, and it should only be limited to a closed user group.

Question 1: Is there a need to have TSP agnostic platform to provide free data or suitable reimbursement to users, without violating the principles of Differential Pricing for Data laid down in TRAI Regulation? Please suggest the most suitable model to achieve the objective.

My response: The models mentioned in the present consultation paper appear to violate or circumvent the principles of Differential Pricing for Data laid down in TRAI Regulation. Even if a platform is TSP agnostic, it can become a gatekeeper and allow discriminatory pricing for specific websites by making them free, or effectively free. It doesn't matter whether a Net Neutrality violation in the form of discriminatory pricing is from a telecom operator, or from some other platform: it remains a net neutrality violation. Differential Pricing is discriminatory.

Promotional schemes which give data back to users based on how much data a user spends while using a website or a set of websites does lead to the platform getting the power to choose which websites are free or made available. This gives them the ability to control what users consume, and has the same harmful effects as Discriminatory Pricing. If a newspaper delivery person

started dictating which newspapers are made available in a neighborhood for free, and which are charged, they would end up influencing what is being read. Pricing of access, or giving rewards for access to a particular set of websites is very different from giving rewards for other types of activities. Users can keep accessing a particular set of websites and get sufficient data back to compensate for the usage, which in turn makes that access completely free. This amounts to circumvention. The same model can be used for cash transfers for using specific websites or applications, and would amount to zero rating.

However, I support models which allow users to get a certain amount of data as rewards, which isn't dependent on a limited menu of websites or applications or on amount of data browsed. For the same reasons, I also strongly oppose the toll-free model, which allows a particular website or application to be made free by virtue of paying a platform. This is a gross Net Neutrality violation, because it favors paying websites over independent developers and creators. It will lead to a fragmentation of the Internet into sites which are free to access and sites which are paid. This point had already been covered in the last TRAI consultation on Discriminatory Pricing. In the Direct Money Transfer model, I would submit that if a system which measures real-time data consumption and tariff for a user and compensates them via a recharge is problematic if it is direct money transfer only for accessing specific websites or services, since that would influence user behavior, and advantage specific users. However, free data given to users, which do not circumvent the Discriminatory Pricing regulation should be allowed.

There are other models of providing free data which are already in operation and should be allowed. For example: giving free data as a reward for watching an advertisement, or as a freemium model, where a user gets a certain amount of data for free, and has to pay for additional usage. Another model currently available is for offering free data at a slow speed, and offering higher speeds for a price. In addition to this, handset manufacturers may also give a free data coupon for purchasing a handset.

Question 2: Whether such platforms need to be regulated by the TRAI or market be allowed to develop these platforms?

Our response: Firstly, I hope that Discriminatory Pricing will not be allowed. It isn't possible to offer discriminatory pricing without integration with the telecom operator, and thus instead of the telecom operator, the platform will be performing the role of the gatekeeper. Such platforms cannot be deployed without some agreement with a telecom operator, whether directly or indirectly, through another platform. Telecom operators should be in a position to prevent usage of their networks to offer discriminatory pricing, and regulation should ensure that their agreements and those of their vendors, ensure that there is no discriminatory pricing.

Question 3: Whether free data or suitable reimbursement to users should be limited to mobile data users only or could it be extended through technical means to subscribers of fixed line broadband or leased line?

My response: Discriminatory pricing by giving free data shouldn't be allowed via direct or reimbursement or methods, and should be prevented on mobile, fixed line broadband and leased line. The Internet is the same, whether we access it via the mobile broadband, fixed line or the Internet, and so policy shouldn't be different for different modes of access.

Question 4: Any other issue related to the matter of consultation.

My answer: Usage of CECN to allow evading of TRAI's Prohibition of Discriminatory Pricing Regulation should be prevented. No discriminatory tariffs for data services should be allowed on the basis of the content being served, whether it is on the Internet or a CECN. A movie that is available on the Internet should not be available on a CECN for a discriminatory tariff. An internet telephony service that is available on the Internet should not be available offline. The CECN service should not be allowed to connect to the Internet by any means, and no application should allow features that allow the service to use the CECN and also to the open Internet.

If the TRAI allows this, it will lead to the telecom operator shaping the users Internet experience by providing CECN alternatives to the open Internet services, but at a cost which internet services cannot provide, because telecom operators control pricing. Such tie ups will create pressure on other content providers to have similar deals with telecom operators, and give gatekeeping powers to telecom operators.

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Thanks & Regards,

Sahil Kalloli

"The foot feels the foot when it feels the ground" - Sidharth