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Ms Vinod Kotwal
Advisor (F&EA)
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan
Jawahar Lal Nehru Marg
New Delhi - 110002

Subject: Counter Comments on Consultation Paper on 'Differential Pricing for Data Services'

Dear Mam,

1. This has reference to the Consultation Paper issued by TRAI on 9th December, 2015 on the subject of 'Differential Pricing for Data Services'.
2. In this regard, please find enclosed Joint Industry counter comments to the said Consultation Paper for your kind perusal.

We hope that our views and submissions will merit the kind consideration and support of the Authority.

Kind regards,

Ashok Sud
Secretary General
AUSPI

Rajan S. Mathews
Director General
COAI

CC: Shri R S Sharma, Chairman, TRAI
Dr. Vijayalakshmy K Gupta, Member, TRAI
Shri Anil Kaushal, Member, TRAI
Shri Sudhir Gupta, Secretary, TRAI



Joint Industry Submission

Counter Comments - TRAI Consultation Paper On Differential Pricing for Data Services

Released on December 09, 2015

1. **We support principle based differential pricing for Data Services.** Some stakeholders have suggested that differential pricing may violate the principle of non-discrimination. We would like to highlight that as per the provisions of the TTO, 1999 and its amendments, the tariff for data services (Internet) is under forbearance. However, all TSPs have to comply with regulatory principles of inter-alia, non-discrimination and non-predation. We support a principle based robust approach {Fair, Reasonable and Non-Discriminatory (FRAND)}. Price differentiation should be based on the following principles:
 - i. FRAND
 - ii. Focus on priority of connecting the unconnected
 - iii. Transparency
 - iv. Non-exclusivity
 - v. No anti-competitive behaviour and no discrimination
 - vi. Non-predatory, non-ambiguous and not misleading
 - vii. Regular reporting

2. **Differential pricing is a widely adopted commercial practice and brings benefits both to investment and customers.** Some stakeholders have suggested that differential pricing will lead to fragmentation of the internet into multiple smaller parts and non tech-savvy and first-time users would only get access to certain restricted portions and not the broader open internet. We would like to highlight that differentiation is the essence of a market based approach and is in consumer interest as it meets customer requirements and also grows the market. The immediate priority in India is to ensure that the affordable broadband services are adopted and utilized by a vast mass of unconnected and low net usage citizens and differential pricing is a

tool that will help achieve this objective. Ability to offer differential tariffs (subject of course to compliance with core regulatory principles outlined above) will be absolutely critical for the success of Digital India and for a speedier and inclusive economic development. Price differentiation will allow TSPs to cater to specific consumer requirements including facilitation of access to those segments that are currently unconnected or poorly connected. Price differentiation is a widely adopted business practice used in many industries

3. **Differential pricing encourages more participation on the internet, not less.** Some stakeholders believe that allowing differential pricing will allow TSPs/ISPs to serve as gatekeepers and choose which content are to be differentially priced. This is a completely incorrect view as considering differential pricing as a method for 'gate keeping' is totally incorrect. Differential tariffs are meant to attract more consumers and promote higher usage rather than exclude consumers as is being wrongly apprehended. A TSP has no reason to preclude a set of subscribers from its subscriber base or from accessing the content of his/her choice on the internet and hence, will certainly not indulge in any practices that create hurdles for access to a certain portion of the internet. Moreover, TSPs are in no position to dictate their will on the consumers, rather differential tariffs are designed based on the preferences of the consumers. Hence, differential pricing cannot be construed as a tool for 'gate keeping' rather it is a tool for promoting access and usage. We believe that the customer should have the choice and should be free to decide what he wants and the way he wants and thereby opt for the tariff that best meets his requirements. Our commitment is to offer that content without discrimination.
4. **Differential pricing creates new opportunities for start ups.** Some stakeholders have suggested that differential pricing will cause harm to India's start-up ecosystem. By allowing such tariffs, large companies will strike deals with TSPs/ISPs to make access to their services cheaper or to block access to their competitors. It is believed that this will distort competition in favour of these players and harm start-ups / smaller players and create obstacles to market entry. We would like that highlight that price differentiation in facts helps in promoting innovation and entrepreneurship 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. The increase in demand for local content spurs local businesses and entrepreneurs to create new online products and services—for example, information on disease outbreaks, typhoon warnings, or even wait times at local stores and government offices. Moreover, the higher share of population online justifies efforts of government agencies to go digital, which in turn encourages more business and individuals to join the internet ecosystem. Taken together, price differentiation can effectively jump start a virtuous feedback loop that moves the local economy into a high-connectivity equilibrium.
5. **Differential pricing benefits consumers, both in terms of choice and encouraging investment and innovation.** It incentivises consumer and supplier participation widening the size of the

market and supports investment in broadband networks. Granting network providers pricing flexibility with respect to content and application providers reduces the costs of internet access borne by consumers. Also, differentiated data pricing drives higher data usage as consumers get accustomed to the Internet, especially in relation to essential services (including banking, utility bill payments, e-governance services etc.). This is important as in order to achieve the Digital India initiative and in building digital economies. It may be noted that in no situation is a differential plan thrust upon the consumer, the same is availed by customer as per his choice. Thus, such price differentiation not only benefits consumers but also increases competition and is backed by regulatory precedents across various sectors of the market.