Counter Comments to submissions made by Stakeholders on TRAI Consultation Paper on “Tariff Issues of Telecom Services” released on December 17, 2019

At the outset, we are thankful to TRAI for providing the opportunity to submit counter comments on the comments submitted by various stakeholders.

We welcome the views expressed by several stakeholders in their submissions wherein they have recognised the fact that the telecom sector is going through a phase of financial crisis and their support in affirming the need for a floor price to tide over the crisis. Substantial reduction in revenues, high level of levies on the sector and the ballooning debt are hurting the investments in telecommunication infrastructure, networks and technologies.

The situation warrants that immediate measures be taken to improve the financial health of the sector so that the industry can stand back on its feet, regain the trust and confidence of both consumers and investors, alike which is critical for its next phase of growth.

Since telecom sector is a capital intensive sector and introduction of new technologies, such as 5G, IoT is on the cards, the economic health of the sector should be good so that consumers benefit in future with early introduction of new technologies, innovations and better quality of services.

It is beyond debate that the mobile networks provided by the industry now constitute “essential infrastructure” – akin to roads, water, electricity and the like. It is further established that a 10% increase in broadband penetration provides rich dividends to the overall economy and citizens – around 2% increase in GDP for every 10% increase in broadband penetration. Further, as per ICRIER report 10% increase in internet subscribers results in a 3.2 percent increase in rate of growth of state per capita GDP. It is unlikely that any other infrastructure category provides this type of immediate lift to the economy.

The obverse of this theorem is also true – a failure to improve and sustain broadband penetration and network connectivity to citizens is to hamper their progress, opportunities and development! It is therefore incomprehensible why suitable attention would not be paid to address the woes of the industry expeditiously. To focus only on long term solutions while ignoring the imperatives of the present need, is to prove Lord Keynes right, when he said, “In the long term, we are all dead”!

We highlight below certain submissions made by NITI Aayog vide their letter dated 4th March 2020.

“ We would like to strongly emphasise that floor prices are the need of the hour to enable continuation of a multiplicity of firms that is critical for healthy competition.

… in the extraordinary circumstances that the sector is going through at present, we believe that floor prices are absolutely necessary to avert lasting damage to India's digital agenda and economic growth.

We firmly believe that a strong, healthy, competitive telecom sector is the key to job creation and India's growth, progress and prosperity."

We whole heartedly support the above statements made by NITI Aayog. Fixation of Floor Price is imperative to ensure that the current market structure is maintained i.e. the present four TSPs continue to exist in the market.

In fact, if no floor tariff is fixed, the crisis in the telecom sector will deepen so much that, in addition to severe impact on TSPs, it may leave a lasting impact on the economy as described below:

a) **Loss to the Government Exchequer:** It is estimated that in case one of the TSPs exits there will be an immediate and future loss of around **Rs. 6 Lakh Crore**[1] to the Government Exchequer in terms of Spectrum EMI payments, future spectrum auctions, L.F & SUC, GST and AGR dues. In such a scenario, not only the investment in telecom will dry up, but the planned spectrum auction for 5G may also struggle to succeed.

b) **No future Investments:** It is estimated that around **Rs. 3 lakh Crore**[2] investments is required in the next three years to meet the capacity, coverage and QoS requirements. It will be next to impossible to get this investment in the sector and the Digital India vison of the Government will be in jeopardy.

c) **NPAs for the Banks:** The spill-over effects on the Banking sector will cause the greatest harm. There will be a new round of NPAs for the Banks. It is estimated that the total bank exposure of some of the TSPs is as high as **Rs. 35,000 Crore**[3]**.**

d) **Impact on the Consumers:** Further exits of the TSPs from the Indian Market may result in higher tariffs/consumer spends. Consumers may no longer be able to enjoy the benefits of affordable digital communication services due to the absence of an appropriate number of operators to ensure a competitive market.

e) **Job losses:** Any further exits will have a negative impact on job creation. It is estimated that if there are further exits, it may lead to a loss of about **15,000 direct Jobs**[4] and around **1 lakh indirect ones**[5].

f) **Impact on the Telecom Vendors:** Further exits of the TSPs from the market will severely impact Telecom equipment suppliers (OEMs) and the Tower companies. It is estimated that

[1] COAI estimates
[2] COAI estimates
[3] https://www.businesstoday.in/sectors/telecom/vodafone-idea-agr-dues-banks-take-beating-telco-collapses/story/394078.html , estimates, Annual reports of TSPs
[4] https://www.thehindu.com/opinion/editorial/a-royal-mess/article30844777.ece
[5] https://www.theweek.in/news/biz-tech/2020/02/15/vodafone-idea-stares-at-uncertainty-after-dot-agr-order.html

around **Rs. 8,000 Crore**[6] of the OEMs might get held up in such a scenario. Also, as a result of a reduction in business, some OEMs might also exit the Indian market and further add on to job losses.

The Return of Investments (ROI) of the tower companies will drop significantly and some of the Tower companies might also shut shop. The loss for tower companies could be around **Rs. 8,000 Crore**[7] per annum, according to estimates. Higher costs resulting from lower tenancies will certainly be passed on to the remaining operators thus exacerbating the dire financial situation that exists.

g) **Impact on the Digital India Program:** The Government of India has been aggressively pursuing a strategy of digitization of the Indian economy through initiatives such as providing digital connectivity across the country, encouraging digital payments, promoting future technologies such as 5G, etc. All these are dependent on a well-developed, competitive and financially sustainable telecom services sector. Any setback to the telecom service sector will jeopardize the Digital India program of the Government.

Moreover, it is pertinent to note that the intervention from TRAI is being sought as an interim measure to provide the much-needed immediate relief to the sector. Once financial viability in the sector is restored and the market returns to a well-functioning level, say in the next two years' time, this intervention of the Regulator on the data tariffs can be reviewed

Considering our submissions above, we are constrained to address certain issues in the comments made by some of the stakeholders which are highlighted below:

1. One of the Respondents has made the following submission in its response:

"…A free market works on the interplay of demand and supply. Price determination by market forces of demand and supply encourages players to innovate and provide better services to their customers in order to retain their existing customers and add new ones. Fixing a minimum floor price would ensure a minimum amount of profit/return to the telecom service providers. It may as well dis-incentivise the competitors from making improvements in their services…."

The above submission is not completely accurate, as **we believe that at present, there is a limited free market in the telecom sector.** Because of lack of business viability, due to steep revenue reduction, several operators have exited leaving only 4 players in the market.

It has been rightly observed that any tax or levy imposed by government is a distortion of the free market and is justifiable principally due to the overriding concern of public policy. The telecom sector is highly regulated with the tax burden being in the range of 29-31%. Moreover, the spectrum price in India is one of the highest in the world. While spectrum is being allocated to the TSPs through auction, past auctions were structured less than optimally – high reserve prices with constrained supply and coercive terms (bid back for your own business; presently spectrum

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[6] https://telecom.economictimes.indiatimes.com/news/gear-vendors-panic-over-vodafone-idea-situation-huawei-zte-nokia-exposure-goes-up-with-new-wireline-contracts/72043320

[7] https://www.business-standard.com/article/companies/tower-firms-stare-at-rs-8-000-cr-loss-if-voda-idea-shuts-business-120030301563_1.html

is not “liberalized” and hence the need to re-auction spectrum presently held, etc.). Such a scenario, led to exorbitantly high bidding prices for the spectrum, which does not conform to the concept of a free market.

Further, the TSPs have to comply with the licence conditions and various stringent regulatory norms which lead to a substantial cost burden on the operators. Though Regulatory intervention through price control may not be the most desirable approach, viewing the current sorry state of the telecom sector, **it may be prudent to introduce a tariff floor for a temporary period of 2 years on data only, till the time the sector recovers and there is a complete overhaul of the current licencing regime.**

2. One of the Respondents has made the following submission in its response:

“…It is imperative to note that the objective of competition law is to promote economic efficiency using competition as one of the means to make market responsive to consumer preference. The advantages of perfect competition are three-fold. Allocative efficiency, which ensures effective allocation of resources; productive efficiency, which ensure that cost of production is kept at minimum; and dynamic efficiency, which promote innovative practices over a period of time…”

As stated, we agree that the objective of Tariff setting in the context of telecom should be to promote economic efficiency, that is, it should benefit the consumers, the industry and the economy. Within economic efficiency the following principles of productive, allocative and distributive efficiency need to be considered while setting tariffs.

a) We agree that Allocative efficiency requires efficient allocation of resources such as spectrum which is key to the provision of service. However, in the Indian context allocative efficiency was not achieved as TSPs were forced to bid for spectrum as their license came for renewal after 20 years’ time. The TSPs had to bid exorbitant amount to get back their existing spectrum to ensure continuity of service to their subscribers.

b) Productive efficiency requires that that market participants use scarce resources as effectively as possible so that the cost of service is kept at the minimum. However, in the Indian context, because of licensing requirements, incumbent operators were required to operate under a specified technology – 2G for the previous 20 plus years. Subsequent spectrum allocations allowed for the introduction of newer technologies where the government became agnostic to the technology used on acquired spectrum. However, such a change cannot ignore the presence of around 500 million subscribers who may still choose to rely on their existing technology, i.e. 2G for affordability and other reasons. Consumer choice is of the essence of a free market and so this should have been taken into account by the Regulator by providing for an orderly transition in the market when a new technology with purported lower costs commenced operations.

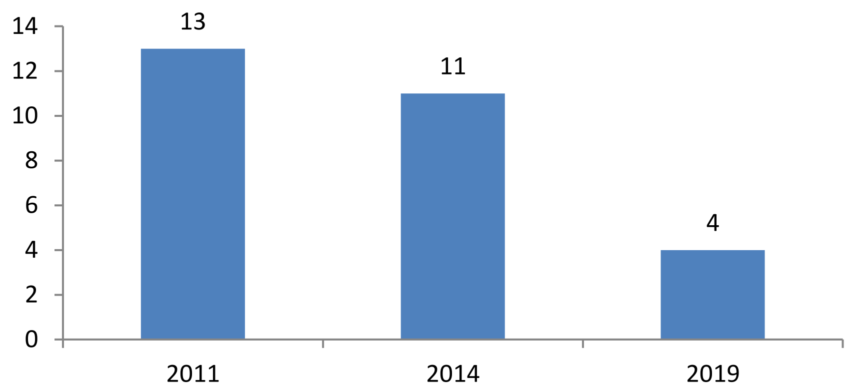
c) We agree that Dynamic efficiency requires that all the players, whether new or existing, should have proper incentives to invest in new technologies and for expansion of service. We believe, in the present situation in India, a floor price serves this interest best, while the longer term distortions caused by policy and regulation are fixed.

3. One of the Respondents has made the following submission in its response:

"…Any floor price fixed by TRAI for telecom services would create entry barriers for entrants who may want to enter the market by offering their services at a lower price in order to gain and retain customer base in their initial period. The aforementioned fixation of floor price would compel the potential entrants to maintain minimum floor price, thus softening incentives of such players….".

While setting of floor price may create an entry barrier, this does not always have to hold true. Lack of a floor price could actually stifle new entrants and innovators as the pricing of the service can be kept artificially low by an incumbent TSP so as to undercut competition and force competitors/new entrants out of the market. Thus, floor price could actually act as a safeguard for new entrants. Lack of floor price can also lead to exits by several players as their business become unviable due to unsustainable pricing.

Number of Telecom Service Providers



Source: COAI Note: BSNL/MTNL has been counted as One TSP (PSU).

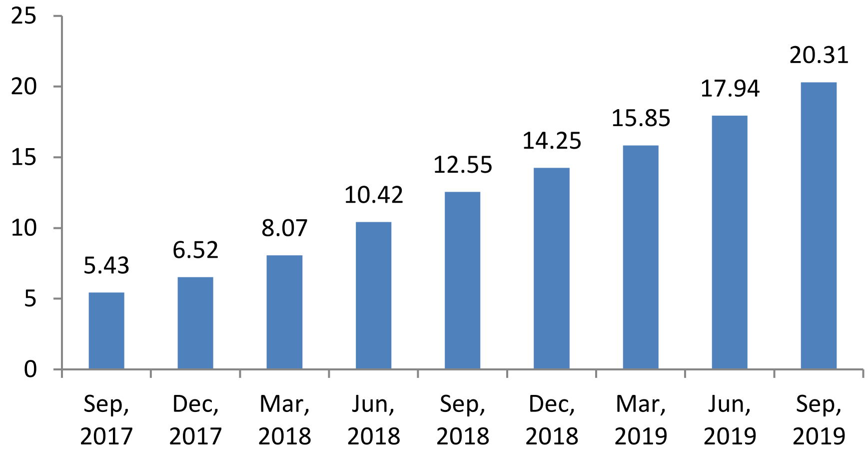
Thus, a price floor could be a tool for protecting industry from unsustainable pricing rather than an entry barrier for new players. In the present situation, the issue at hand is whether the consumers and stakeholders can afford any further exits and the consequences if there are any further exits. These questions have not been considered by the respondent. For example, Nigeria introduced the floor pricing as a means of controlling anti-competitive behaviours by operators considered to have attained the dominant status in the industry. Whenever there has been intense competition, the world over, the concept of floor prices has been used as a tool to regulate the market. Some of the examples of the countries wherein the floor has been set by the Regulator are Siri Lanka, Bangladesh, Zimbabwe, Nigeria and Turkey.

4. One of the Respondents has made the following submission in its response:

"…*Along with creating inefficiency, price floor would also transfer some consumer surplus to producers. Such a situation will lead to further market distortions…."*

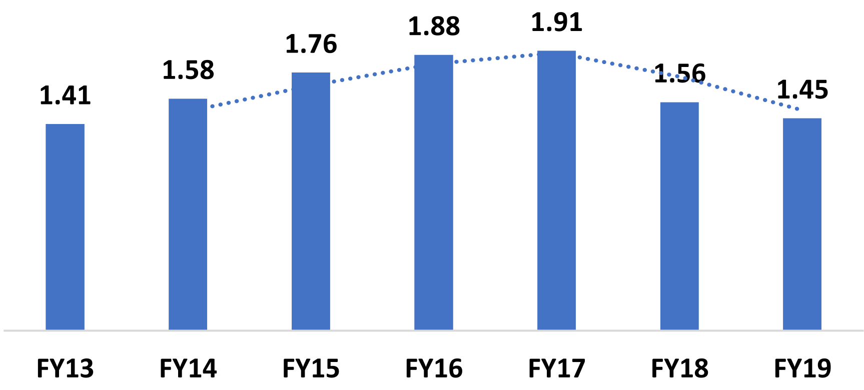
At present it is clearly evident that market is far from equilibrium price and quantity; and given the surge in data usage, there seems to be a case of huge consumer surplus at the cost of the business viability of TSPs. As is evident below, there has been a dip in the revenue of the sector in spite of a surge in data usage.

Total Wireless Data Consumption (in Mn TB)



Source: TRAI, Company data

AGR of the Industry to fall



Source: TRAI, Company data

Thus, contrary to what has been stated, fixing a floor price will not lead to market distortion, but will resolve the distortion which already exists; and will make the business viable for attracting investment for long term growth of the sector. This is a fact pointed out by NITI Aayog also, in its cited submission dated 4th March 2020.

5. One of the Respondents has made the following submission in its response:

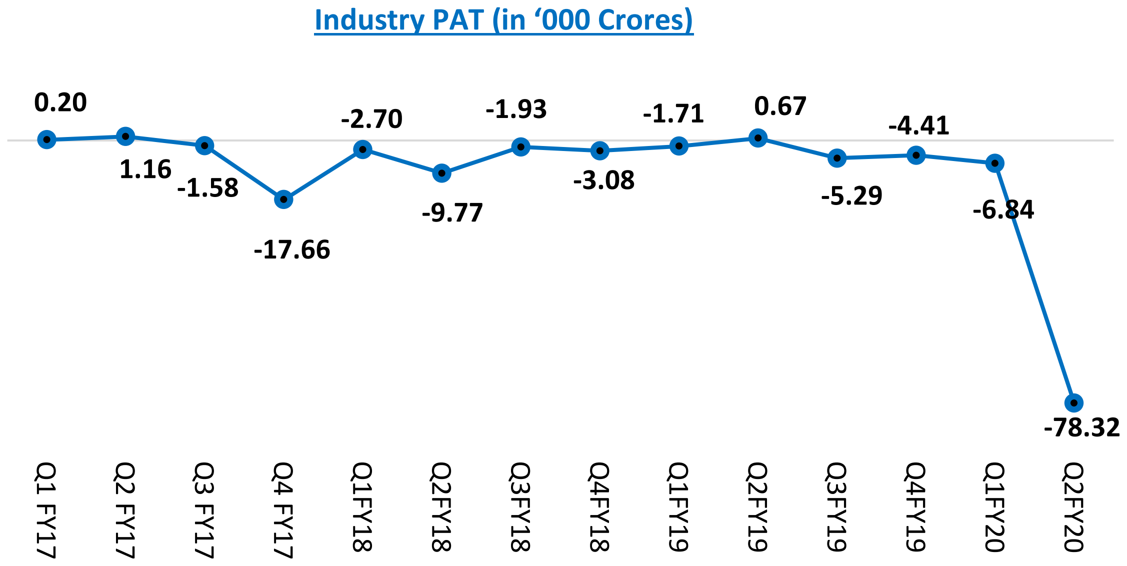
"… The commission believes that setting floor price for mobile services is a regressive step that may have detrimental effect on market competition. No mature jurisdictions have imposed price floor on crucial sector like telecom…."

Contrary to the observations made, in the present context, the Floor price must be seen as an important and relevant tool for correcting market failure. We believe that at present there has been market failure in the telecom sector with several TSPs exiting the market and the existing TSPs finding it hard to sustain themselves. The industry is facing a huge existential crisis caused by hyper competition leading to unsustainable pricing as is evident from the exit of several experienced and competent Operators in the past years. Below table shows that even after significant consolidation in the sector, the revenues are lower than the costs, as is evident from the negative PBIT.

In Rs. Crores for FY 2019	Gross Revenue	PBIT
Industry	**1,51,343**	**(18,687)**

Source: Operator's Websites / MCA

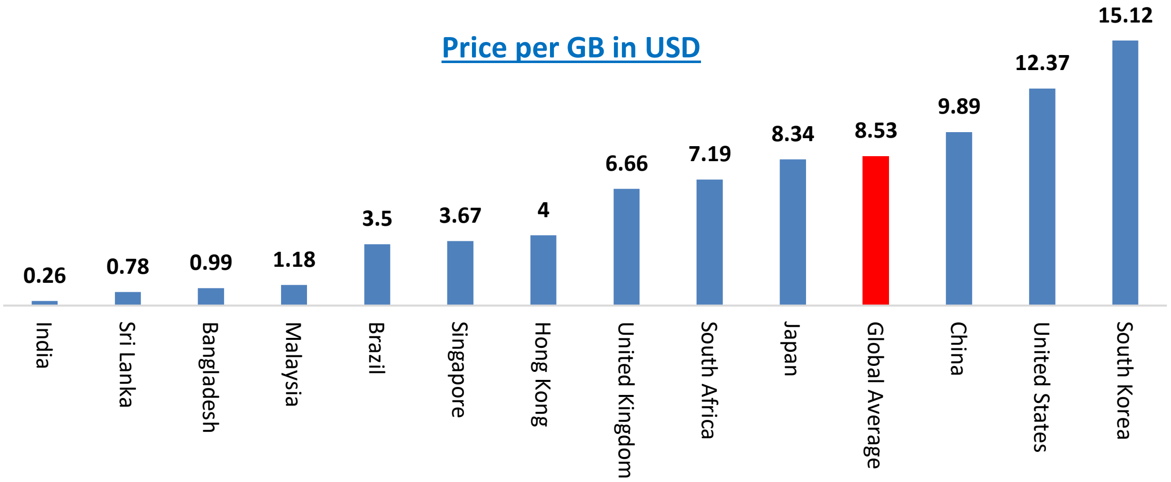
The financial stress of the sector has worsened after the recent AGR judgement of the Supreme Court. The TSPs have reported record losses and the sector needs a healthy stream of revenues to sustain it.



Source: TSP website/ MCA

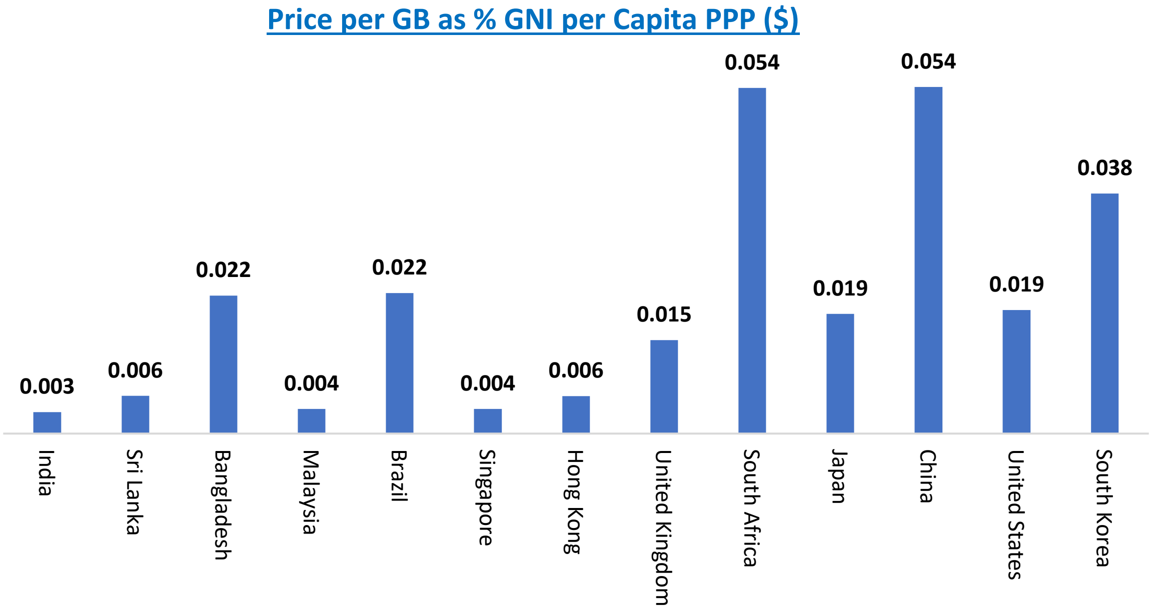
6. Issue of present data tariffs in India compared to Global Purchasing Power Parity

We like to submit that in India, TSPs have been offering the data services at a rate that is one of the lowest in the world. Price per GB in India is 33 times lower than the Global average. Figures below show the price per GB in USD in major countries:



Source: [Cable.co.uk]

Further, as is evident from the figure below, India has one of the lowest data price per GB as % GNI per Capita PPP.



Source: Cable.co.uk, World Bank, COAI estimates

In the figure above the Prices per GB are expressed as a percentage of GNI per capita to show data price relative to the size of the economy of each country, thus pointing to the affordability of data tariffs in each country.[8]

.7. One of the Respondents has made the following submission in its response:

"…Setting of the floor prices, in some of the customer segments, may be highly detrimental to their usage of services e.g. in case of 2G services large segment of consumers are highly dependent on the lower pre-paid plans and are highly sensitive to the prices. Therefore, in case of introduction of floor price in this segment, there is a possibility that a large chunk of customers may exit the telecom ecosystem and that new accretion may not happen at a desired rate. This will not only lead to market distortions but will also slow down the pace of 'Digital India' initiative. Also, such a move may impact the level of tele-density of India…."

In this regard, we would like to submit that the above asserted views are erroneous and do not hold true in the Indian scenario. Most of the 2G users are voice only subscribers and separate low tariff plans already exist for such subscribers. Further, the operators are advocating for floor tariff only in case of data services, which will have no correlation with most of the 2G subscribers, who are non-data users.

Today, most of the tariff plans of the operators offer free or very low tariff in case of voice calls. Prescribing floor price for data services will have no impact on such tariff plans of the operators and hence the assumption that the introduction of floor price would make large chunk of

[8] GNI considers all production in the domestic economy (i.e. gross domestic product) plus the net flows of factor income (such as rents, profits and labour income) from abroad.

customers exit the telecom ecosystem is erroneous. It is pertinent to mention that the sector has witnessed substantial growth in 2G subscribers (before launch of 4G) where the tariffs for data and voice were relatively high in comparison to the current data and voice tariffs. Hence, stating that prescribing a floor price will be detrimental to 2G subscribers, is merely a misapprehension.

In fact, setting of the floor tariff for data services for a certain time period, would help in the improvement of the current financial situation of the operators. This will lead to the expansion of the services (4G) and introduction of new technology (5G). These steps would eventually result in the ultimate goal of benefitting all the subscribers irrespective of their segments. To fulfil the "Digital India" initiative of the Government, it is essential for the telecom sector to remain business viable, which is only possible through correct regulatory and policy interventions. Thus, we are of the view that setting of data floor price will neither distort the market nor slow down the pace of Digital India initiative.

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