



Counter-comments to “Draft Direction on Delivering Broadband Services in a Transparent Manner” from SaveTheInternet.in

SavetheInternet.in coalition would like to thank TRAI for the opportunity to submit counter-comments in response to the comments by various stakeholder submissions on the “Draft direction on delivering broadband services in a transparent manner” issued January 20, 2016. We discuss issues specific to the text of the draft direction first, followed by some important ancillary issues which we would like to highlight.

1. Uniform definition for minimum broadband speeds

Broadband internet must be defined based on the speed of service and must not differentiate between the medium used to achieve last mile connectivity for the delivery of service. In particular, we support the recommendation made by a number of other stakeholders (including the industry associations and internet service providers) that the minimum speed for both fixed and wireless broadband services should be equal.

Data plans that do not meet the minimum speed, as defined by TRAI, must not be allowed to advertise as ‘Broadband’ plans.

In light of the above observations we would like to see section 4(c) of the draft order revised as follows:

(c) ensure that download and upload speed of broadband service provided to the fixed or wireless broadband subscriber is not reduced below 4 Mbps Upload and 4 Mbps Download¹ in any broadband tariff plan.

2. Connectivity technology

Telecommunication companies and their Industry associations have argued that it is not possible to specify connection technology as below:

“We wish to highlight the fact that the customer is capable of seamlessly moving into various technologies viz., 2G/3G/4G and it is very much possible that:

¹ 4Mbps Upload and Download Speed is based on the proposed definition of broadband submitted by SavetheInternet.in in our comments submission on February 10, 2016



- a. the customer may in a particular area where the network is not configured to be able to cater to the customer's choice of technology and therefore the customer would be latched on to the available data technology.
- b. the customer may have opted for a technology preference on his CPE/ mobile device, which will have an overriding effect irrespective of the choice of technology of the data tariff plan."

However, even with these restrictions it is very much possible for service providers to ensure that consumers receive internet speeds that they have been promised. Therefore, it is proposed:

1. If the speed of internet connection, either in upload or download, falls below the speed specified in the plan then the consumer should be compensated for the reduced speed.
2. For Broadband plans, if the speed falls below the defined broadband speed for either downloads or uploads, the user must not be charged for that data or time. In case the customer lives in an area where broadband is not technically possible, the customer should be refunded fully.
3. The mobile broadband provider must additionally specify all mediums of last mile connectivity (2G/3G/4G/LTE etc) that the provider may use to connect to the user.

3. Fair usage plans

A few telecom companies and other stakeholders have argued for throttling to undefined speed and/or to 64 kbps post the exhaustion of fair use quota using the following rationale.

"In fact it has been observed that some customers misuse the minimum broadband speed provision and tend to overuse the data limit in their quota. Thus, the cost increases for all customers due to higher usage at 512 kbps. As a result, we are forced to keep the price at a higher threshold for every customer. Therefore, if broadband has to become affordable in the country, ideally, the Authority should not mandate any broadband speed after exhaustion of quota."

We reject this argument as it completely dilutes the concept of a Fair Usage plan for the following reasons.

1. Multiple other studies have shown that data caps are not related to the congestion² and don't pose an engineering challenge³ thus invalidating the TSP's claims for lack of infrastructure to support 'unlimited' plans

²<https://www.techdirt.com/articles/20130118/17425221736/cable-industry-finally-admits-that-data-caps-have-nothing-to-do-with-congestion.shtml>

³<https://www.techdirt.com/articles/20150814/12144431948/comcast-admits-broadband-usage-caps-are-cash-grab-not-engineering-necessity.shtml>



2. Also, the tariff comparison of unlimited plans in the India and the US indicate that an average user already pays more for consuming the same data⁴.

Other stakeholders including the industry associations and internet service providers have also recommended that broadband plan must meet speed requirements according to the TRAI definition even after Fair-Usage limit has been exhausted. Internet service providers and Telecom operators may continue to offer entry-level data plans (as is the case currently) for the cost conscious users that may not conform to the speed but these plans must not be marketed as 'Broadband'.

In light of the above argument offered under the headings 'Connectivity Technology' and 'Fair usage plans' above, section 4(a)(B) should become:

(B) for Mobile broadband service:

- i. data usage limit and time limit with specified minimum speed and technologies (3G/4G) offered;*
- ii. minimum speed of broadband connection and technologies in order of connection preference (3G/4G) offered for providing broadband services up to specified data usage limit;*
- iii. minimum speed of broadband connection and technologies in order of connection preference (2G/3G/4G) offered for providing broadband services beyond data usage limit;*

Further, to prevent the mobile industry from killing the Fair-Usage plan and Unlimited Data plans, we request TRAI has to stipulate that service providers offer at least a minimum number of unlimited plans and fair usage plans in proportion to the number of limited plans.

Customer notifications

Telecom industry associations and telecom service providers have argued that choice may be given to the operator either to provide information on subscriber's registered email address or through SMS on the mobile number registered with the service provider.

Whilst we understand that the consumer experience must come first, it is also important that user remains well informed at all times. A consumer may be allowed to opt-out from receiving notifications via a particular channel provided that they are receiving information from at least one communication channel.

Hence, the clause 4(b) should read as below:

⁴ See for example:

Time Warner: <https://purchase.timewarnercable.com/nyc/twclnternetUpgrades>

Google: <https://fiber.google.com/cities/austin/>



“provide information specified in para (a) above to both new and existing subscribers on their registered email address and through SMS on their mobile number registered with the service providers. Consumer may choose to opt-out to receive information using one of the above methods; provided they continue to receive information via at least one method”

Telecom industry associations and telecom service providers have argued against ensuring that fixed broadband subscribers receive an alert at each login after data usage crosses the limit of eighty percent. They believe that such information may be intrusive and might irritate a customer. They cite the misleading example of using pop-up to convey usage information. We believe that such information must always be provide to the consumer and can be done so in a non-intrusive manner- such as on a login confirmation page. Surprisingly, fixed line internet providers have not expressed any objections.

We also made three other suggestions in our comments, especially relevant to mobile broadband providers which together with cognizance of TCPR (8th Amendment) Regulatory requirements lead to following modification to clause 4(d).

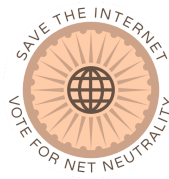
(d) provide alert to the subscriber via SMS/E-mail/USSD when his data usage reaches 50%, 75%, 90% and 100% of the data limit under his plan or when the quantum of data available in account of the customer reaches 500 MB, 100 MB, 50MB or 10 MB; and ensure that such alert contains last date of current bill cycle (postpaid) or expiry of active internet pack (prepaid). Further, prepaid users be notified of their data plan expiry at 75% and 90% of plan duration along with the data remaining in currently active pack via such alerts. Also, fixed broadband subscriber should be notified at each login after their data usage crosses the said limit of eighty percent.

Further to our submitted comment we request TRAI to engage in regular monitoring to ensure that the communication to the user from TSP's is correct, unambiguous and occurs on a regular basis. In case TSP's are found not conforming to the TRAI guidelines, there should be a provision of monetary penalty.

Additional comments

Higher broadband speed

In order to meet the aspirations of Indian society and economy it is imperative that every citizen has access to high speed and quality internet access. Hence the redefinition of broadband required to ensure timely rollout of broadband in rural areas and give a minimum speed benefit to them.



National Telecom Policy – 2012 recommended minimum broadband speed to be increased to 2 mbps by the year 2015. However, the definition has remained unchanged at 512 kbps since 2013.

A number of stakeholder have argued in their comments during this consultation process that we have reached a stage where 2 Mbps (target set for 2015) is not enough to handle basic internet services at optimal performance. And also the definition cannot be defined based on existing or legacy technology. For example, technologies such as DSL is nearing the end of its life cycle and thus, cannot be relied on to define the speed of the broadband. So, we would strongly urge TRAI to consider the definition of broadband from the comments that we had submitted and also revise it every 2 years:

Broadband is a data connection that is able to support interactive services including Internet access and has the capability of the minimum download speed of 4 Mbps and upload speed of 4 Mbps to an individual subscriber from the point of presence (PoP) of the service provider intending to provide broadband service.”

Fair usage plans marketed as ‘unlimited’ plans

‘Fair-usage’ plans (that serve limited data at specified speed and then throttle the speed down) are being presently marketed as ‘Unlimited’ plans. There exists evidence of this tactic being misused by service providers, for example, in the UK where the Advertising Standards Authority concluded that the claim by Virgin Media to offer ‘unlimited plans’ was misleading the users⁵.

There is no need for service providers to conflate the two under the guise of infrastructure constraints. It must be noted that multiple studies have shown that data caps are not related to the congestion⁶ and don’t pose an engineering challenge⁷ thus invalidating the TSP’s claims for lack of infrastructure to support ‘unlimited’ plans.

⁵https://www.asa.org.uk/Rulings/Adjudications/2015/4/Virgin-Media-Ltd/SHP_ADJ_282566.aspx

⁶<https://www.techdirt.com/articles/20130118/17425221736/cable-industry-finally-admits-that-data-caps-have-nothing-to-do-with-congestion.shtml>

⁷<https://www.techdirt.com/articles/20150814/12144431948/comcast-admits-broadband-usage-caps-are-cash-grab-not-engineering-necessity.shtml>