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To

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**Sub:** Response to TRAI consultation paper dated 19<sup>th</sup> May 2016 on “Free Data” – Reg.

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Atria Convergence Technologies Private Limited (ACT) is a licensed Class – A, Internet Service Provider (ISP) and have been providing internet broadband services in the cities of Bangalore, Hyderabad, Chennai and few other cities in the state of Andhra Pradesh.

At the outset, we thank the Authority for providing us an opportunity to respond to this consultation paper. We are of the view that business models should be allowed based on market opportunity rather than legislating it. However, while doing so care should be taken to ensure level playing field to all stakeholders including service providers, subscribers, platforms and content providers.

In response to the consultation paper, we request the Authority to take note of our reply against each of the questions raised by the Authority.

Yours Sincerely

For Atria Convergence Technologies Private Limited

  
Authorised Signatory

**Atria Convergence Technologies Pvt. Ltd.**

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### 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?**

Before we discuss the issues it would be important to define the scope of free data. There are two types of websites or content providers. One which provides free access to content and the second type which charges for the content eg. Portals from where songs can be downloaded by paying for it. When we talk of free data it is with respect to the websites/content providers which does not charge for accessing the contents. The concept of free data is not applicable or relevant in case of paid websites.

We submit that Free data should not be permitted in any form as the same would provide unintended benefit to one or the other TSP/ISP. If the website/content provider is not able to tie up with all the TSP/ISP, then any such attempt to provide free data would violate the basic principles of Tariff orders. We submit that neither Free Data nor in terms of reimbursement / incentives in the name of Free data should be allowed as the same would give a way/mode to either to TSP, ISP or to the content providers to discriminate the usage of the data by the consumers.

We submit that any transaction or service provided shall be on the basis of commercial consideration and there is nothing called free and any such attempt to provide free data will leave way to one party to take advantage over the other party by one or the other means and methods.

It is also important to note that global examples cannot be adopted directly to the Indian scenario as internet penetration is in a very nascent stage in India and the regulatory frame work will have to be devised taking this into consideration.

We submit that any arrangement for accessing websites/portals which charge for the contents should be left to market forces. ***We suggest that the Authority may prescribe regulations that Service Provider will be allowed to charge additionally, such as Top-up over and above the Tariff plan subscribed by the subscriber, for accessing certain/particular website/content at a subsidized price.***

**For example:** The consumer has subscribed a tariff plan with 10 GB download and/or upload on a monthly/term based tariff charges, the consumer shall be offered with an additional data of another 2GB on a prescribed charges over and above the said subscribed tariff charges to download / upload / access the content from such content providers/website service providers. We believe this arrangement will not fall under the purview of discrimination.

The other option would be to enable service providers to introduce tariff plans bundled with VAS or content from OTT players. These tariff plans may not be viewed as amounting to discriminatory tariffs as the service provider will have to charge extra and provide extra download and upload limit to enable the customer to use various content bundled with the plan.

### Option II

If the Authority still of the opinion that Free data to be provided, we suggest that not only TSP Agnostic platform but also TSPs/ISPs should be allowed to provide Free Data. We suggest that such platforms/models may be regulated by TRAI in a way by mandating the negative list that a service provider shall not adopt. The negative list may include the followings as the Authority may deem fit:



1. ISPs/TSPs shall not be permitted to throttle the speeds of few web sites or platforms which is against the principles of internet freedom.
2. ISPs/TSPs shall not provide additional data only for to specific websites/content providers to be downloaded by the customers.

The framing of different models/incentive schemes should be left to the market forces which in turn would lead to better internet penetration and innovation. If required, we further suggest that such kind of incentive/promotional models may be rolled out after taking prior approval of TRAI before launching those plans/packages.

**We submit our comments with respect to Option II suggested by us above based on the significance and limitation of the three models discussed in the consultation paper as follows:**

#### **Model 1: The Incentives/rewards-to-Consumer Model**

The first model consists of rewarding the users of a particular application or website with a recharge for data or voice usage, irrespective of the TSP they get their internet services from. The consultation paper quotes some examples of such Incentives-to-Consumer models in India as mCent, Gigato, Taskbucks, Ladoo, EarnTalktime, and Pokkt.

#### **Limitations of Model 1:**

- I. Under the first model it is not clear as to how a fixed wired broadband service provider who provides internet broadband services with a stand-alone ISP license would be able to provide through a TSP agnostic platform. As per the Telecom subscription data released by TRAI for the month ending March 2016, there are 16.98 million of fixed/wired Broadband service subscribers and this particular segment of Broadband has been constantly growing at the rate of 1.4% month on month in spite of the capital intensive roll out. Therefore bringing in a model suggested under model 1 will not serve the purpose of Broadband penetration for these segment of users.
- II. The issue with an Incentives-to-Consumer Model, however, is that it enhances internet accessibility for only those subscribers who already have at least some access to the internet. That's because to avail themselves of the "rewards" of free data under this model, consumer-citizens first need access to the relevant apps or websites, viz. internet. The paper itself recognizes this limitation when it says that the Incentives-to-Consumer model "requires an action before the reward..." However it does not cater to approx. 60% of the Indian population who does not at all have internet access either due to reasons of affordability or because of the lack of infrastructure altogether. The larger internet accessibility issue in the country thus still remains unaddressed under this model.
- III. In short, this model adversely affects public interest and creates a non-level playing field between a TSP and a stand-alone ISP license holder and hence the same shall not be encouraged.


## Model 2: The Toll-Free API Model

The second model suggested in the Consultation Paper is that of a “toll-free” API (Application Programme Interface). The paper seems to suggest that this would operate on similar lines to the Incentives-to-Consumer model, except instead of “rewarding” the user of the app/website, the model would enable no charging for data while the consumer is using the website in question. It also outlines that such an arrangement would be functional irrespective of the TSP service the internet subscriber chooses to use to access the app/website.

### Significance of Model 2:

- I. It is to be noted that Toll-Free API model allows the smaller entrepreneurs, home grown start-ups and content providers the requisite freedom to add competitive advantage features to their services and offers. If a no-data-charge feature for a content/website/app works as an incentive for subscribers to use that website/content, then it is a clear win for the said enterprise and also the ISPs.
- II. The Toll-Free API model has the added advantage that it has the ability to reach the consumer-citizen without impacting the broadband bill of the consumers, which means that it can also enable the relevant content/website to reach the citizen who cannot afford to pay for huge internet or data charges in the first place.

### Limitations of Model 2:

- I. It is unclear as to how payments might be figured under this model. Even if the so-called “true cost” of the data is calculated, the question as to what kind of arrangement that needs to exist between a content/website provider/OTT and an ISP or between several ISPs to settle this “true cost” . Given this, it is unclear how Model 2 hopes to address this core issue.
- II. On the other hand, in the absence of clarity on how the Toll-Free API model proposes to process payments between ISPs and content providers/OTTs, the most obvious market solution is to enable an ISP to enter into an agreement with the content providers. It is important here to ensure that this is not seen as a violation of Section 3(2) of the Prohibition of Discriminatory tariffs for data services regulation 2016 issued by TRAI which states: *“No service provider shall enter into any arrangement, agreement or contract, by whatever name called, with any person, natural or legal, that has the effect of discriminatory tariffs for data services being offered or charged to the consumer on the basis of content.”*
- III. Further, it is difficult to see how Model 2 will enable the coverage of the cost of the toll-free or concessional data used by the subscriber without resorting to scrutinizing and separating what a subscriber is browsing on the internet on the basis of “content,” and then charging for it to the relevant OTT/content provider.
  - a. For example, if consumer C browses a proposed toll-free content ‘P’ for 10 minutes and toll-free content ‘Q’ for 20 minutes on his ISP network R, with the true cost of data he uses in each case being “Rs x and Rs y” respectively, then R would need to be compensated by someone (most obviously, as noted in the previous point, by P and Q) to the tune of Rs x and Rs y each.

### Model 3: The Consumer-Subsidies Model

The third model discussed by TRAI in the Consultation Paper lays out a scenario where a citizen pays for getting a basic internet connection, and then he/she is offered subsidies for data through relevant sources for his browsing needs. This is envisioned as similar to the subsidies provided for domestic LPG connections currently to eligible citizens: *“The direct money transfer approach could be similar to the subsidy payment, for the domestic LPG connections, wherein the user pays for the connection like any other normal connection, and then the Oil Company/Government pays the subsidy directly into his/her bank account”* (para 14 of the consultation paper) In other words, this Model 3 seeks to offer reimbursements to citizen-internet users for data already consumed by them.

#### Significance of Model 3:

- I. Like Model 2, the Consumer-Subsidies Model has the advantage that it allows the calculation of “true cost” of the data used by a citizen-consumer, while also seeking to be TSP-agnostic. As TRAI states, *“However, just like in Toll Free Model, the Platform owner not only measures the real time data consumption but also the tariff that is being applied to each individual user and reimburse/recharge actual amount incurred by the user in the form of a recharge for data usage or for voice usage to the user”* (para 14 of the consultation paper)
- II. It is also encouraging to note that the Authority is envisioning access to the internet almost as a basic necessity, or a public good for citizens, on the lines of domestic cooking gas.

#### Limitations of Model 3:

- I. When discussing any subsidies model, the immediate question which jumps to one’s mind is who should bear the burden of such subsidies? This same question also becomes relevant for this Model 3. Should it be the State which should reimburse citizen-consumers for their internet data charges? Or should such subsidies be achieved through some sort of free-market mechanism and the development of innovative business models thereby giving a free hand to the Service providers? These questions remain unanswered.
- II. The Consumer-Subsidies Model additionally, like Model 1, only benefits those who can already afford a basic internet connection, or access, as it focuses around reimbursements, rather than “no charge” or providing “concessional data” by service providers. Therefore, for citizens who have no access to internet infrastructure, or who just cannot afford to pay for the internet even the first time, Model 3 holds an empty promise.


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

Even if such platforms are to be regulated by TRAI it is not clear as to which category of service provider would such platforms belong.

So, the framing of different models/incentive schemes should be left to the market forces which in turn would lead to better internet penetration and innovation.

**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?**

No privilege should be restricted only to the mobile users. This should be allowed to all service providers to ensure the level playing field. There is necessity to increase the fixed Broadband connectivity in the Country which is in a nascent stage. Any such regulation that promotes only mobile data users shall be against the principles of level playing field. Further TRAI should focus on enabling last mile growth of fixed line broadband so that it can be channelized to provide public Wi-Fi hotspots and other such services that will enable the yet un-connected and under-connected to access the possibilities of the internet without TSPs playing gatekeepers to their aspirations.


**Question 4:**

**Any other issue related to the matter of Consultation.**

No comments.

Thanks & Regards

For Atria Convergence Technologies Pvt. Ltd.

  
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