



Telecom Regulatory Authority of India



Recommendations

On

Encouraging Data usage in Rural Areas through Provisioning of Free Data

(Response to reference received from Department of
Telecommunications on recommendations dated
25th September 2017)

29th November, 2017

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CHAPTER-I: INTRODUCTION

1. Following a consultation process, TRAI submitted its recommendations on "Encouraging Data usage in Rural Areas through Provisioning of Free Data" to Department of Telecommunications (DoT) on 19.12.2016.
2. Some of the recommendations have been referred back to the Authority by the DoT through its letter dated 25th September, 2017 for clarification/reconsideration. The Authority's earlier recommendations, the views of the DoT thereon, and the response of the Authority are given in Chapter II.

CHAPTER-II: PARAWISE RESPONSE

1. Para No. 1

Government Incentivised Models:

The recommendations of TRAI are:

i) “In order to bridge the affordability gap for the persons residing in rural areas and to support Governments efforts towards cashless economy by incentivising digital means, the Authority recommends that a scheme under which a reasonable amount of data say 100 MB per month may be made available to rural subscribers for free.”

ii) “The cost of implementation of the scheme may be met from USOF.”

DOT’s View

1.1 It has been noted that USO Fund was established with the fundamental objective of providing telecom service to people in the rural and remote areas which are unserved and under-served at affordable and reasonable prices. Its aim is to create general infrastructure in rural and remote areas for development of telecommunication facilities. In order to achieve the set objectives, USOF is continuously providing funding from the available resources for projects like Bharat Net, Wi-Fi hotspots, Comprehensive Telecom Development Plan of North East Region (NER), Comprehensive Telecom Develop Plan of Islands, Mobile connectivity to LWE affected areas, OFC augmentation of Assam, NE-I and NE-II etc. which are infrastructure in nature. The total estimated cost of above USOF schemes currently under pipeline is around Rs 53,717 crores.

1.2 It has been opined that for holistic development of internet ecosystem in the country all the prerequisites for universal access to Internet viz. Connectivity, Content availability in local language, Digital literacy and Affordability should be given equal weightage. As far as the affordability of Internet is concerned, the cost of an Internet enabled mobile handset

is a major obstacle rather than the tariff of Internet access. The tariff of Internet access has already been taken care of to a great extent through competition in the market; therefore, the thrust areas to focus on at present are Connectivity, Content availability in local language and Digital literacy. It has been noted that the Government has already initiated number of measures to address issues of connectivity, content availability in local language and Digital literacy. Once the infrastructure is in place, required content in local language is available and digital literacy improves in rural areas, the demand of internet usage in rural areas will automatically pick up and will empower rural citizens to reap the benefits of knowledge economy.

- 1.3 It has been observed that the goal of the scheme is to provide Internet access to only those rural consumers who currently have access to Internet-enabled devices. In this context, the para 2.28 of TRAI's recommendations is reproduced as under: *'This scheme will provide free data benefits to these smart phone subscribers in rural areas'*

This naturally gives rise to the question whether it would be worthwhile to provide a subsidy of Rs 10 per month to a rural subscriber who already owns a smart phone which in general costs around a few thousand rupees. Given the fact that there is a high probability of such rural subscribers already using the Internet on their smartphones, the proposed scheme of TRAI may end up targeting the relatively better off rural subscribers instead of truly deserving ones.

- 1.4 The proposed scheme of TRAI does not target the poor users who live in urban areas but do not have access to Internet services. This makes the applicability of this scheme very limited in scope thereby severely undermining its reasonability and tenability. Moreover, the scheme is not required by all rural subscribers as there is variation in income among rural masses. The implementation of this scheme may widen the disparity between those who have access to Internet enabled devices and those who do not. If implemented, it may weaken the focus on telecom infrastructure projects – which are a key priority area for DoT.

- 1.5 It is felt that the cost of the scheme as Rs 10 per subscriber per month is a bit underestimated as a result of oversimplification of the method used by TRAI. TRAI has arrived at a cost of Rs 0.10 per MB of data based on bulk data packs of some service providers who are offering a 15GB pack for Rs 1499. The cost of a data pack is dependent on many factors with the total amount of data and the validity period being the main issues. On comparison with monthly data packs of about 100MB being offered by service providers at present, it has been found that the actual cost per MB is on higher side. In addition, the delivery and management costs and the fact that the number of subscribers keep on increasing have also not been taken into account while projecting the total cost (approx. 600 crore) of the scheme.
- 1.6 In view of the above and the fact that availability of funds in USOF is limited and committed, DoT is of the view that the recommendations no 1 & 2 of TRAI are not feasible to be implemented through USOF. Therefore, TRAI is requested to reconsider its recommendations.

Response of TRAI

The stated objectives of Universal Service Obligation Fund(USOF) are:

- (i) Economic: Network extension & stimulate uptake of the ICT services**
- (ii) Social: Mainstreaming the underserved & un-served areas/groups by bridging the Access Gap**
- (iii) Political: to enable citizens exercise their political rights in an informed way and**
- (iv) Constitutional: Equitable distribution of the fruits of the telecom/digital revolution and fair allocation of national resource (pooled USO levy) via targeted subsidies**

DoT has stated that the aim of USO is to create general infrastructure in rural and remote areas for development of telecommunication facilities. However, as is evident from the stated objectives the mandate is much beyond creation of infrastructure. While recommending free data services to rural subscribers to be funded from USO, the Authority had in mind such broad objectives as enshrined in

the USO scheme. Therefore, the Authority is of the view that the recommendations are in tune with the Social and Constitutional objectives of the USOF.

As regards the scheme not targeting the poor users who live in urban areas but do not have access to Internet services, it is stated that keeping in mind the objectives of USO and the obligation to utilize USOF exclusively for USO, the free data recommendations issued by TRAI aim to encourage data usage in rural areas through provisioning of free data thereby fulfilling the inherent purpose of USO.

As per the State of Broadband, 2017¹ report India has the highest unconnected population in the world as shown below :

Top Ten Largest Unconnected Markets in Mobile, end 2016

Top Ten Markets	Unconnected (millions)	Total Population (millions)	% of Population Unconnected (per capita penetration)
1. India	660.19	1,334.66	49.5%
2. China	362.28	1,385.28	23.6%
3. Nigeria	101.68	189.41	53.7%
4. Pakistan	101.12	194.79	51.9%
5. Brazil	85.35	210.41	40.6%
6. Bangladesh	75.73	163.87	46.2%
7. Ethiopia	68.45	103.10	66.4%
8. Indonesia	64.45	262.05	24.7%
9. United States	61.88	325.30	19.0%
10. Congo, D.R.	59.93	80.98	74.0%

Further, as per the report, only 29.5% of the individuals in India use internet. The situation therefore calls for public policies to actively promote affordable access to the Internet by establishing the right enabling environment.

The recommendations have been made against the above backdrop. It is worth mentioning that the Authority had based its' recommendations on the data prices existing in September 2016. However, the Authority takes cognisance of the fact that after entry of a new player with focus on data services, the competition in the data market segment has become more intense and, consequently, there has

¹ State of Broadband 2017, Broadband Commission

been a steep decline in data prices during the last one year. To this extent, the concern with regard to availability of affordable data services has been mitigated.

Under the circumstances, the Authority tends to agree with the views of DoT that a larger focus is required on connectivity, content availability in local language and Digital literacy. The resources could therefore be effectively utilised to address the said issues.

2. Para No. 2

The recommendations of TRAI are:

- iii) “To increase participation of other entities for incentivizing free data, there is a need to introduce third party (Aggregator) to facilitate schemes which are TSPs agnostic and non-discriminatory in their implementation.*
- iv) “Scheme for free data must be TSP-agnostic, must not involve any arrangement between the TSP and the aggregator/content provider and should not be designed to circumvent the “The Prohibition of Discriminatory Tariffs for Data Services Regulations,” notified on 8th February, 2016.”*
- v) “The following mechanism is recommended*
 - The Aggregators will need to register with DoT.*
 - The registrant must be a company registered under Indian Companies Act, 1956.*
 - The validity of registration shall be 5 years.*
 - The registrant shall not either directly or indirectly, assign or transfer the Registration in any manner whatsoever to a third party either in whole or in part.”*

DOT’s View

2.1 Clarity on the business model of the aggregator for rewarding consumers is required. There appears to be a valid ground for apprehension that the financial relationship of aggregator with

- content providers may lead to discrimination of content resulting in fragmentation of Internet.
- 2.2 Such mechanism (aggregator model) may result in companies/people with deep pockets exercising control over content leading to creation of a non-level playing field. The clarity on this issue is essential to ensure that the open and non-discriminatory nature of Internet is not threatened by the aggregator.
- 2.3 There is a need to clarify whether the proposed 'Reward Model' by aggregator is possible without any agreement with a TSP. Since the aggregator is required to acquire data packs in bulk from TSPs cannot be entirely ruled out.
- 2.4 As a result, will the proposed aggregator model not violate clause 3(2) of "The Prohibition of Discriminatory Tariffs for Data Services Regulations, 2016" of TRAI, which is reproduced below:
- '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 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.'*
- 2.5 The mechanism for consumer grievance redressal in case of aggregator related complaints is also not outlined. The issue, therefore, needs elucidation.

Response of TRAI

Paragraph 2.7 of the recommendations lays down certain requirements to be followed by the aggregators:

- a) No unfair discrimination against any person who may wish to sponsor mobile data.**
- b) Absolute transparency of costs of providing free data to consumers.**
- c) Dealing in a TSP-agnostic manner so as to ensure that the benefits on offer are available to the largest possible number of consumers in the market.**

The concern of content players with deep pockets creating a non-level playing field is addressed by point (a) and (b) mentioned above. Point (a) specifies that any aggregator cannot discriminate against any person who would like to sponsor mobile data through aggregator's platform. This implies that a sponsor of data, if it agrees to comply with the minimum basic requirements of the aggregator, cannot be denied from sponsoring free data. This rules out any possibility of discrimination of content by the aggregator. Further, point (b) makes sure that aggregator discloses all the costs for providing free data to the consumers. This requirement will reveal any financial arrangements between the aggregator and the content providers.

A situation may arise where a bigger content provider, for similar category of content, sponsors higher amount of data than a smaller player. This may lead to competition concerns. It should be noted that this is a typical market transaction where a user essentially gets higher discount on a product compared to another similar product, available in the market. For example, a large content provider 'A' offers 10 MB of free data for watching an advertisement on his platform. Another content provider 'B', similar but smaller than A, provides 2 MB data for watching advertisements on his platform. However, a user who gets 10 MB of data from A and 2 MB data from B can avail this data on any of the TSPs he has subscription to. This is essentially a market practice where A is providing more discount to customers for using his platform as compared to B. Notably, a similar practice is prevalent in the digital wallets market where one player gives a higher cash back than the other, on the same product. Therefore, this should not be considered as an instance pertaining to discrimination of content.

Paragraph 2.12 of the recommendations states:

"As per the UASL terms, a person who is a licensee is authorized to provide "data services". Some may therefore argue that the reward in form of data could be considered as a form of data reselling by a non-

licensed body. However, on a closer examination of this issue, it is found that a distinction can be drawn between situations where a provider is offering data services and one in which a data is offered to consumers as a stand-alone product to be serviced by a licensed TSP. For instance, the prepaid recharge coupons of all TSPs are available for purchase by any person. An aggregator that acquires such data packs in bulk with the intention of distributing them to consumers as rewards, without any arrangement with any individual TSP and allowing the users for accessing any content of their choice should therefore not be regarded as offering 'data services'."

The above paragraph clearly brings out that as long as there is no arrangement between the TSP and the aggregator and users are allowed to access any content of their choice on own TSP/ISP network, the reward model poses no issues of discrimination. It is highlighted that an aggregator cannot buy the bulk data of a TSP's network from the TSP itself as it will require an arrangement/agreement/contract between the TSP and the aggregator. This will violate the aforementioned clause 3(2) of the Discriminatory Tariff regulation. Therefore, aggregators are only allowed to buy bulk data from third-party bulk dealers of the TSPs data.

In addition, points (b) and (c) of paragraph 2.7 of the recommendations also ensure that there cannot be discriminatory behaviour by the aggregator in favour of, or against, a TSP. Point (c) highlights that aggregator is under an obligation to provide its services in a TSP network in an agnostic manner, meaning that no TSP can be denied the services of an aggregator. Further, point (b) mandates that there should be complete transparency by the aggregator in terms of the costs of providing free data to consumers.