

Counter Response by IT for Change, Bengaluru,
to Stakeholder Comments on Telecommunication Regulatory Authority of India's (TRAI)
Consultation Paper on 'Differential Pricing for Data Services '

Having gone through the responses of various stakeholders to the consultations on 'Differential Pricing For Data Services', we note that those supporting 'differential pricing' are citing two main arguments. We find both these arguments difficult to sustain, *especially if we focus on what the nature of the phenomenon of the Internet is*, whose power and socially transformational role is the reason behind such a hot debate on this issue. The prime responsibility of TRAI is to protect this basic nature of the Internet which alone is responsible for its huge positive social impact.

The main arguments forwarded by those who want 'differential pricing' to be allowed can be clubbed under two categories;

1. the need to allow innovation in the telecom and Internet sectors, which sectors also require adequate funding to flow into these sectors.
2. the need for universalizing access to the Internet, in a situation where a vast majority do not have adequate resources to buy connectivity at 'normal prices'.

We will briefly respond to both these arguments.

Need for innovation and resources for laying infrastructure

In making this argument, the case of 'differential pricing' as a normal practice in other sectors is often quoted. But let us first fully understand, what is it that we are pricing, meaning the Internet. Internet's unique, explosive, value comes from its one feature; every node on the network is treated equally as any other. *It was as if suddenly, somehow, every human being was put in equal proximity to everyone else! This is the basic transformational feature behind whatever the Internet has done to our social systems*, which in fact is ushering what is considered as a new kind of society, the digital network society.

There is an interesting definition of the Internet, which we find very instructive for the present context;

“What scholarly and popular writing alike denominate as a thing ("the Internet") is actually the name of a social condition: the fact that everyone in the network society is connected directly, without intermediation, to everyone else.” (Cited by Eben Moglen in firstmonday.org/ojs/index.php/fm/article/view/684/594)

We cannot speak of innovations around the Internet, or with regard to increasing its reach, without being clear about 'what the Internet basically is'. An innovation which destroys the basic principle of the Internet can hardly be called an innovation. In this regard, when people speak about accessing a 'part of the Internet' they do not understand that the Internet is either all of it, or it is not the Internet. It is like one cannot be a little pregnant! *If everyone cannot participate equally on the Internet, it is not the*



IT for CHANGE

NGO in Special Consultative Status with United Nations' Economic and Social Council

Internet. Period. Yes, access is needed to be able to participate, but what kind of improved access would it be that changes the very nature of that which is sought to be accessed. That is not access. It is a trap.

There is no problem about 'differential pricing' on the access side, with regard to keeping intact the phenomenon of the Internet. Such pricing should be determined by normal telecommunication regulation concerns, and can allow pricing innovations, as do exist. The issue is very different on the 'participation' side or aspect of the Internet, where not just 'differential pricing' but any pricing at all makes it some different then the Internet.

It should be clear, in this regard, that *'differential pricing of data services' which prima facie looks like some kind of differential pricing on the access side, is really about pricing 'participation' on the Internet* from the content/ application side. At least, it is being set up for that, for it to become an acceptable model. *There is simply no reason why a telco will provide cheaper access to some content/ application if it does not obtain some benefit from the content/ application provider.* This is as clear as daylight! Current models where there is seemingly no gain made by the telco is just a deliberately misleading front presented by the telcos and big content/ application providers, in collusion, both standing to benefit from a deformed and unequal Internet around which they expect to build long term highly remunerative rent seeking models.

It is like, it may require resources to access a playing field, but once there, it is a game only if everyone can participate equally. Internet is that new social playing field where everyone should be able to participate equally. *That is the principal job of the law and regulation to ensure – the Internet as a level playing field.* Ensuring universal access to it only comes after that, and cannot be at the cost this basic feature of the Internet.

The examples from other sectors about 'differential pricing' as a necessary allowance for innovation do not hold true for the Internet, on the 'participation', or the content/ application provision side. It may have some relevance on the 'access' side, meaning of course access to the whole Internet being priced differentially.

Interesting, both the innovation/ resource-requirement argument and the 'need to universalize the Internet' argument', are strongly based on the proposition of the far-reaching social-transformational role of the Internet. This is a paradox. Because, 'differential pricing' by hitting at the very heart of the techno-logical basis of the Internet's transformational capability aims at killing the goose whose golden eggs are being extolled. Such throttling of the source of the biggest value of the Internet may not get immediately evident, but it will spread like a relatively slow poison that will reverse the egalitarian role and potential of the Internet, across all sectors on which we see its growing impact.

Need to universalize the Internet

Perhaps the most unfortunate aspect of this whole debate has been how the so called interests of impoverished people have been made as a key basis of arguments in favour of 'differential pricing'. It is these people who stand to benefit most from a more egalitarian social paradigm that a net neutral Internet can possibly ensure, and 'differential pricing' will definitely kill.

Basically, impoverished people are being told that access to the Internet will be free but participation will be priced. Just don't think of participating, get access. So that various exploitative economic models can suck out resources even from the bottom of the pyramid. (As unregulated global trade would do, about which India has been very active at the global level in staving off the dangers, for the sake of its farmers and workers.)

Participation is about the content/ application side of the Internet, access is about the user/ consumer side. Pricing participation and making access free is what fully destroys the basic Internet model. And that is what differential pricing basically does. The improvised can access the Internet free or cheap, but for that, the 'Internet' that they get will be determined by those who hold superior economic power. That is the deal. It is not difficult to see who benefits and who loses in this arrangement.

This issue of content-side 'differential pricing' is a structural question. It cannot be framed in individual choice frameworks, as many supporters of 'differential pricing' have done in their comments. It is the regulator's responsibility to address such structural issues, and not just go by free-market and individual choice logic. **It is quite like some media organization offering to provide cheap or free media in exchange for being released from regulatory obligations like ban on 'paid news'** and the requirement to maintain a minimum editorial content to advertisements ratio. As that would clearly be not just an issue of individual users choice, but a structural issue, so is differential pricing and net neutrality.

Universal data allowance – The need of the hour

Perhaps the most heartening feature of the current consultation has been the wide acceptability of the idea of some kind of universal data allowance for every citizen. This would be key to the hopes of a truly 'digital India' and could trigger the unfolding of new powerful social forces. Such allowance will in fact also greatly benefit the telco/ Internet sector, as people's appetite is whetted and they will like to go for higher levels of paid connectivity and services, as best suit their digital lives. This has been the main logic provided by the supporter of zero rated services, and if harnessed in this way, it indeed has great potential.

TRAI must formulate recommendations on such a free data allowance for every citizen and forward them to the government. This thinking should also inform the recommendations that TRAI is developing on the implementation of BharatNet. **BharatNet must also ensure such a few data quote for all citizens,** and this provision should be built in the design of its last-mile implementation.