

TO WHOM IT MAY CONCERN

This letter is in response as a counter-comment to many of the responses made by the Industry/Industry Associations regarding the consultation paper titled *Draft Direction under section 13, read with clause (b) of sub-section (1) of section 11, of the Telecom Regulatory Authority of India Act, 1997 (24 of 1997) to service providers for delivering broadband services in a transparent manner by providing adequate information to broadband consumers.*

However, before I begin countering the responses, I feel that it is important for TRAI to take note of the following points:

- 10 • In the previous consultation regarding differential pricing of data, TRAI took some very welcome and positive steps to curb the rather dangerous moves made by the many in the industry and other associated companies that depend on the internet for their income.
 - However I do feel it is important to note that one major step was missing in TRAI's verdict. While TSPs are barred from charging differently for different data services, there was no mention of the prohibition of bandwidth throttling.
- 20 • Many of the responses to this consultation paper from the major players in the Industry/Industry associations are in a shockingly similar anti-consumer vein regarding FUP and bandwidth throttling.
- 20 • It is equally appalling that a number of responses have the exact same paragraphs copied and pasted on each other. Most notably, the responses by the Broadband India Forum and COAI&AUSPI contain paragraphs that are identical to the paragraphs in the response submitted by Bharti Airtel.
 - As a consumer who has experienced first hand Airtel's poor service quality and customer support, I cannot help but wonder if Industry Associations are merely agents of large TSPs like Airtel or if they actually represent all the members of these associations.
 - If the latter is indeed the case, then as a consumer I cannot help but feel that the industry does not care about its customers, and simply wants to extract money from those that can afford it while throwing everyone else under the bus.
 - 30 ○ With that in mind, I cannot help but wonder how increased internet penetration can be achieved as mandated by the Digital India initiative if these companies are seriously uninterested pro-consumer practices.
- 30 • As noted in the previous consultation paper, the internet is an important resource today. It is not some mere novelty Veblen good. Had that been the case the honourable Prime Minister would not have so aggressively pushed for Digital India. The prime minister has realized what the industry has either not recognized or has chosen to selfishly ignore for corporate greed.

40 Having said all that, I do hope that TRAI keeps us customers and future customers in mind as the first priority when taking a decision on this consultation paper, as it did in the previous consultation.

Thank you.

COUNTER-COMMENTS

Let me begin by stating that I largely endorse www.savetheinternet.in's response to this consultation paper.

- Their proposal to revise the definition of broadband is *critical*. The points that they raise are extremely valid. With the kinds of services commonplace on the internet today, it is next to impossible to do any consumer activity with a speed of 512Kbps.
 - However, I disagree with their choice of 4Mbps down and 4Mbps up. The internet being a global shared commodity, services cannot and will not wait for India's telecommunications networks to catch up, and will instead cater to markets with higher available bandwidths. Therefore I propose that our minimum download and upload definition for broadband should be in line with the definition used by the FCC, which is 25Mbps down and 3Mbps up. If the Indian TSPs and ISPs feel that they're incapable of handling the demand, then it is their fault, because internet has been available in India for almost two decades now, and there is no conceivable reason as to why TSPs and ISPs did not upgrade their infrastructure to meet the demand.
 - If necessary, TRAI should encourage entry of new players by making licensing more affordable for such players. This could be an interesting area to explore entrepreneurship opportunities in.
 - It even makes important tasks like online banking difficult, simply because of the extremely slow bandwidth. Watching a video on YouTube or Vimeo at even 360p without buffering is next to impossible, which is ironic since the market is saturated by relatively inexpensive high definition displays. Even many budget smartphones today come with 720p displays.
 - It has been almost a decade since the introduction of full HD technology, and while the world is transitioning to 4K and will see it become relatively commonplace by 2020, we are still twiddling our thumbs on whether Indian consumers should be able to watch 720p videos without losing their sanity.
 - Even the argument that it is “just entertainment” is null and void, as educational resources like Khan Academy are impossible to access with such low bandwidth. It should be noted here that the Prime Minister himself was very enthusiastic about digital education and Khan Academy very recently launched localised content for India.¹ Only 144p and 240p YouTube videos run somewhat smoothly. Educational videos rely a lot on text, and at such low resolutions it is often impossible to make out what is being written. Especially on smaller high-resolution displays.
 - As they note, broadband needs to be defined in terms of both upload and download. The internet is not a one-way street. I believe that they explain that fairly well. Without a well-defined minimum upload speed, doing such things such as uploading videos on youtube, sharing pictures over a distance with family etc is impossible.
 - Poor upload speeds can also affect important tasks such as online transactions and banking. Due to the critical nature of such services, utmost security often means timeouts due to slow speeds which makes it impossible to complete transactions online.
- I am in full agreement with their other statements.

¹ <http://indianexpress.com/article/technology/tech-news-technology/khan-academy-launches-hindi-version-of-e-learning-website/>

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As usual, many TSPs and ISPs have chosen to shamelessly display their anti-consumer stance under the thin veil of flowery words.

I will counter Airtel's responses as their responses are nearly identical to the Industry Association responses. As India's largest private TSP and ISP, it has done much to earn the ire of the consumer. It makes the American Comcast look like a good company in comparison even though Comcast is often rated as one of the worst companies in the United States. However, I cannot stress enough that although I am responding specifically to Airtel's comments, these counter-comments should be taken in a more general light for any telecommunications provider that has similar statements or actions.

On clause 4(a)(B)(i) & (ii), they say:

100 *There may be cases when there is a fall back on lower technology and therefore, even though technology offered may primarily be offered as 3G/4G and the pack may be labelled as a 3G/4G pack, the fall back may be there on 3G/ 2G depending upon availability of the technology. Hence, there should be a provision in this clause that in case of non-availability of specified technology at any location, there can be a fall back on lower technology.*

Then why are they offering services that they cannot guarantee? Recently, soon after TRAI's verdict on differential pricing, Airtel made the dishonest step of separating their 3G and 4G data packs.² Airtel is unable to provide consistent 4G service in the cities it offers 4G data packs, yet it charges extra for inferior 3G services. I do not understand how this is tenable and not anti-consumer.

On 4(a)(B)(iii) they say:

110 *It is submitted that beyond the data usage limit, we can specify the maximum speed to be provided to the customer and not the technology. Since, promised data quota is being offered on promised technology; once, the quota is expired, a service provider should be allowed to throttle the speed. Hence, specifying technology may not be a tenable requirement.*

I do not understand how any person of sound mind can make such an absurd response. Either the higher management at Airtel is being intellectually dishonest with us, or they are incapable of managing an important resource like telecommunications and should leave the market immediately and let more competent players fill the void.

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- I fail to understand how they are able to specify a maximum speed without specifying a technology. Different technologies have different transmission protocols and therefore different maximum possible bandwidths. Are they suggesting that they will put everyone on the 2G network post-FUP?
 - As an important resource provider, is it not Airtel's responsibility to speedily increase the density of 4G and 3G towers in their licensed service region? Why are they hiding behind the veil of technological limitations? Why are they not surveying the cities they are rolling out 4G in and making an adequate infrastructural backbone to provide good quality service?
 - Is it not criminal negligence and cheating to roll out services without having the infrastructure to manage it?

2 https://www.reddit.com/r/india/comments/45v5jx/airtel_separates_3g_and_4g_packs/

On clause 4(b) they say:

130 *It is submitted 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. Also, this information would be provided in line with the revised clause 4 (a) part B suggested by us.*

I find the idea of "leaving it up to the operator" untenable. There can be instances when the email exchange server is down, or when a user is not able to access his registered mobile phone number. TSPs should by regulation be forced to notify using both forms of communication as the likelihood of both services being down at the same time is extremely unlikely. It should be up to the customer whether he/she wishes to opt out of one (but not both) of the notification systems.

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- It is also important to highlight Airtel's use of redirection pages here which causes nothing but problems for consumers. Once a user reaches a certain percentage of his data cap, usually 80%, Airtel negligently redirects the user to their SmartBytes advertisements. This has many serious consequences.
 - For instance, it can and has caused large downloads to fail because halfway between the download the request from the user's computer to the download server is redirected elsewhere which by the very nature of TCP/IP is seen as an error in the transmission, which is then seen as a failed download.
 - A user downloading a video game purchased on Steam or the Playstation Store, for instance, would be severely affected, as games today can be as large as 10-20 gigabytes. Equally affected are students downloading Khan Academy videos.
 - Security can also be compromised. Microsoft releases large updates known as Service Packs from time to time. These updates often contain a plethora of security fixes apart from a number of bugfixes. A failed download here can result in a user's computer being left vulnerable to cyber-attacks due to software vulnerabilities that the user is not being allowed to rectify. Is Airtel or any other TSP that redirects user communications like this willing to take responsibility for such victims?
 - Shockingly, they also redirect HTTPS-SSL traffic in such situations. For example when I am purchasing something online, I am sending encrypted packets that contain sensitive information like my Credit Card details. So this means that Airtel suddenly has the encrypted copy of my banking information. Not only is this an unauthorised interception, even if unintentional, but if Airtel's DNS gets attacked, then any other third party is able to access these details. Which means provided enough time and increased computing power over time, any unauthorized person can decrypt that information and create a significant security nightmare. It isn't as if credit card theft is not a major cyber-crime even today.
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On clause 4(c) their response is untenable:

170 *There can be two types of Broadband plans – (i) Fair Usage Plans (ii) Limited data plans.*

Why can there only be two types of Broadband plans? Why can there not be unlimited plans? There is no technological limitation, as I will show below and their claims in the

paragraphs that follow are completely dishonest, and I will counter them below paragraph by paragraph.

In case of fair usage plans, the subscriber remains a broadband subscriber till the expiry of his assigned quota. Beyond the assigned quota, it cannot be the prerogative of the customer to keep on accessing data at the defined broadband speed. Hence, a service provider should be free to throttle the speed to 64kbps after the expiry of assigned data limit to the customer.

- 180 • This is tantamount to changing the subscriber agreement terms. When a consumer subscribes to an Airtel (or any other provider's) broadband plan, they subscribe with the expectation that they will get *broadband* speed for the entire month, and until the FUP limit they will get a speed higher than what is defined as the minimum for broadband.
- What Airtel really wants to do is push their *SmartBytes* packages onto those who can afford to pay, and deny a internet access to those who cannot or choose not to pay for SmartBytes.
- To say that 512Kbps is an inadequate download speed is grossly understating the problem. With 64Kbps post-FUP bandwidth, Airtel and other TSPs that are, to put it bluntly, in cahoots with them with such opinions, can effectively control who has the right to access the internet and who does not.
- 190 ◦ I think it is easy to understand in light of the above that low bandwidth will result in poor productivity as well. This will be completely against entrepreneurship, and thwart the Prime Minister's efforts to encourage a growth in the entrepreneurial spirit of the Indian youth.
- This is completely out of line with the TRAI and the Government of India's intent of providing affordable internet access for all citizens and completely against what the Digital India and Make in India initiatives stand for.

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. However, if the Authority wants to fix a speed limit is after the expiry of quota, it may be fixed at 64kbps.

Thanks to Airtel, I am reminded of a myth regarding the Taj Mahal. When the Taj Mahal was completed, Shah Jahan ordered that the hands of the artisans and labourers who worked on it to be cut off so that they could never build another monument as grand. While the story is certainly a myth, it seems to me that Airtel is trying to make its internet equivalent come true. Airtel (Shah Jahan) wishes to prevent everyone from accessing the internet after they finish their quota (cutting off hands) so that certain “misusers” (some of the artisans) cannot do anything, even though it is statistically unlikely that every single of those artisans would have worked on another monument as grand as the Taj Mahal, even if their hands had not been cut off. The only twist is that the artisans can pay Shah Jahan to keep their hands thanks to Smartbytes.

Has Airtel really lost its sense of shame? How do they have the audacity of calling heavy internet use misuse? Is watching high resolution videos misuse? Is playing games with your friends misuse? Is talking to your family on the internet every day because you live in

220 different parts of the country misuse? Is creating videos and sharing them with the world
misuse? Is educating children online misuse? I have seen many barefaced liars, but this
takes it to a whole new level. I am unable to comprehend how exactly they are able to offer
SmartBytes if their infrastructure is unable to cope with the number of users at 512kbps. It
is clearly a lie aimed at maximising profits while making consumers helpless through anti-
consumer legislation. At the expense of politically correct language, I claim that Airtel
seems to have worked very hard to earn its nickname of “Chortel”.

So in light of all of the above, either Airtel

- Has the infrastructure necessary to provide unlimited bandwidth to all customers, and should therefore stop with FUP and Smartbytes immediately; or,
 - Does not have the infrastructure necessary and should stop providing the Smartbytes service since they clearly cannot cope with even post-FUP speeds, let alone Smartbytes
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Knowing that FUP was implemented because TSPs like Airtel, Reliance and Tata Teleservices aggressively lobbied for it in the late-2000s (around 2008 if memory serves), I am inclined to believe that the former is true and that all these anti-consumer steps were taken to simply maximize profits as much as possible. If in 8 years Airtel and other TSPs have not taken the appropriate steps to make FUP a thing of the dark past in a country with rapidly increasing numbers of internet subscribers, I believe that they should leave the sector with the last shreds of honour they have left on their brands and TRAI should make it easier for very small service providers to provide inexpensive regional services while the government should accelerate the process of setting up backbone infrastructure at the national level. The large private sector companies clearly cannot be trusted to fulfil the Digital India mandate that the Ministry of Communications and Information Technology has been tasked with.

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I am in agreement with Airtel on clause 4(d), except that I must state that Airtel has to practice what it preaches, in light of my comments on their FUP-related redirects above. Pop-ups in the form of script or packet injection should also be prohibited.³⁴

On clause 4(e) I do not have any counter-comments to airtel except as in 4(b), their notifications should be sent by both email and SMS to all customers, with the customer being allowed to opt out of one (but not both).

250 I sincerely hope that like in the previous consultation paper, TRAI sees through the anti-consumer designs of Airtel and other ISPs with similar comments and takes decisions in the best interest of the current and future consumers.

Thank you.

3 <https://www.techdirt.com/articles/20150609/06505631281/guy-reveals-airtel-secretly-inserting-javascript-gets-threatened-with-jail-criminal-copyright-infringement.shtml>

4 <http://gizmodo.com/sketchy-israeli-company-uses-copyright-laws-as-an-intim-1710145789>