

Consultation Paper No. 7/2016



Telecom Regulatory Authority of India



**Consultation Paper
On
Free Data**

New Delhi

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Written Comments on the Consultation Paper are invited from the stakeholders by 16/06/2016 and counter-comments by 30/06/2016. Comments and counter-comments will be posted on TRAI's website www.trai.gov.in. The comments and counter-comments may be sent, preferably in electronic form on the e-mail: broadbandtrai@gmail.com

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Consultation Paper on Free Data

A. Introduction

1. The Internet has evolved dramatically in the past couple of decades. Today's Internet allows a consumer to access almost every possible service required for information, education, entertainment and commerce. Even personalized services—such as booking a taxi ride or operating a bank account—can be accessed through it. It is effectively redefining the conventional marketplace now. These advancements have brought about a fundamental shift in the way businesses gain access to their customers. Business owners today have the ability to more effectively and efficiently reach customers like never before. With time, the Internet is undergoing further improvements and incorporating innovations and defining how businesses access consumers and how consumers choose desired services.
2. The following paragraphs deal with the issues involved in this consultation and seek response from the stakeholders on possible options to facilitate free access to certain websites/ contents or incentivising user to visit certain website/App without violating the existing TRAI Regulation on discriminatory tariff for data services.

B. Background

3. In the recent past, some data services plans of the Telecom Service Providers (TSPs) came to the notice of TRAI which amounted to discriminatory tariff through offering zero or discounted tariffs to certain contents of certain websites/applications/platforms. The objective of offering such plans was claimed to be the desire of various service providers/content providers or platform providers to enable people of this country, especially the poor, to access certain content on the internet free of charge. There were a number of variations of these plans;

however, the intention was the same. Under one design, an entity had created a platform wherein content providers and TSPs could register and subject to the approval of the platform provider, the customers of the TSPs, registered on the platform, were able to access those websites (either in full or only certain content of those websites) which were listed on this platform. Another method was to provide discounted data offers by the TSPs for some identified websites/apps. The idea, as stated before, was to provide free internet service to the users of the TSPs. The net result of these offers was that it empowers/enables the TSPs to select certain content providers (either through the platforms or directly) and offer discounted access plans to these websites/applications/platforms.

4. In order to understand the above said mechanism, supposedly offering free access to the websites, TRAI brought out a Consultation Paper (CP) titled “Consultation Paper on Differential Pricing for Data Services” on 09th December 2015. The two vital questions raised in this CP are as under:

Question 1: Should the TSPs be allowed to have differential pricing for data usage for accessing different websites, applications or platforms?

Question 2: Are there alternative methods/technologies/business models, other than differentiated tariff plans, available to achieve the objective of providing free internet access to the consumers? If yes, please suggest/describe these methods/technologies/business models. Also, describe the potential benefits and disadvantages associated with such methods/technologies/business models?

5. The response of stakeholders brought out an important fact to TRAI’s knowledge. Allowing service providers to perform what effectively amounts to a gate keeping function, might potentially empower TSPs to select certain content providers at the disadvantage of others, thereby adversely affecting public interest and creating non-level playing field. It

was also envisioned that TSPs might start promoting their own websites, apps and services platforms, by giving lower rates for accessing them. They may take advantage of owning the primary access of the consumer by offering better, unlimited connectivity, free or near free, when using their own service or service of their partner, while offering limited or capped connectivity at higher price when a consumer accesses some other website or platform. This was perceived to be an anti-competitive move that stifles innovation and competition, leaving absolute power in the hands of the TSPs. Therefore, the potential benefits and pitfalls of such practices had been analyzed in order to determine the regulatory approach.

6. After following a consultative process, a Regulation¹ was issued on 08.02.2016, which mandates that no service provider shall offer or charge discriminatory tariffs for data services on the basis of content, and also 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.
7. The Regulation issued on 08.02.2016, however, addressed only the first Question referred above. The other Question related to possible alternate solution for addressing the issue of providing free data access to users remains unaddressed.
8. After issuing the Regulation, certain organizations represented to TRAI that though the regulation was necessary to prevent gate keeping function either by TSP, but there is a need to have some TSP agnostic platform which can facilitate app developer to promote their website by providing some incentive to user for making their website popular.

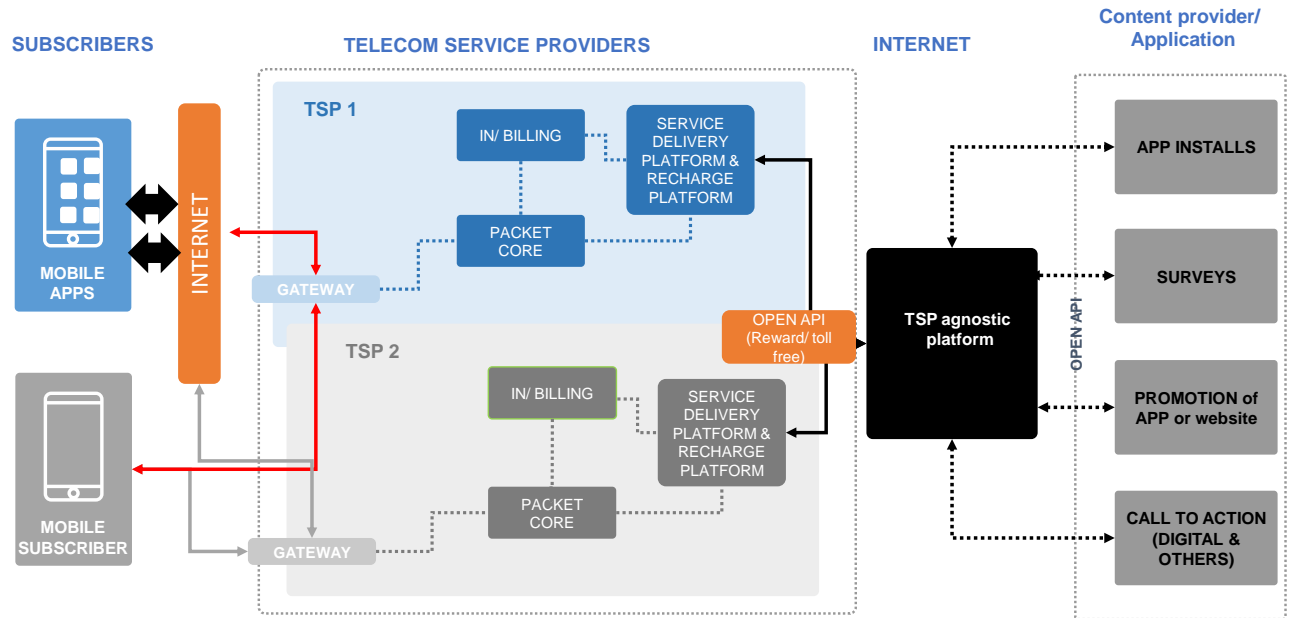
¹ http://www.trai.gov.in/WriteReadData/WhatsNew/Documents/Regulation_Data_Service.pdf

9. Therefore, there is a need to enable smaller entrepreneurs to flourish without permitting gate keeping function in the hands of the TSPs and also to give the consumers more choices for accessing the Internet.
10. The growth of smart phones, along with improvements in mobile infrastructure, has boosted the growth of m Commerce in many parts of the world. The development of m Wallets and m Payment systems is seen as a key development for the m Commerce sector and beyond. New communication and software developments are making it increasingly possible for retailers to offer a seamless shopping experience using the available retail channels, such as mobile internet devices, computers, bricks and mortar stores, television, radio, direct mail, catalogues and so on.

C. Issues for Consultation

11. Accordingly, this Consultation Paper is being issued to explore model(s) that could achieve the benefits of offering free data while avoiding the ingenuity that the Differential Tariff Regulation is meant to prevent. The model should facilitate the un-connected and under-connected consumer to become better connected and should not allow any TSP or large company playing a gatekeeper or biased role. The model should use the principles of open, transparent and equal access to consumer services by all consumers and all businesses. TRAI believes that the proposed model should not hold back innovation and the opportunity to increase Internet penetration and usage. Following figure provides a macro view of the concept.

TSP agnostic Platform



12. One model could be to provide Reward-to consumers through a TSP agnostic platform when they download certain application or have some activity on a particular website. In this reward based model apps may provide rewards in the form of a recharge for data usage or for voice usage to the users. There are some examples of reward based models in India, most notably: (1) Discovery Apps dedicated to providing rewards in return for engagement; such as mCent, Gigato, Taskbucks, Ladoo, EarnTalktime, Pokkt and many more and (2) Rewards platforms that can enable any app/site to offer rewards for desired action or even mobile data rewards for everyday activities like paying electricity bill on time or checking out of the hotel on time etc.

13. The other model, very similar to rewards based model, where instead of a recharge API there could be an equivalent “don’t charge” or toll free API. This model is also prevalent in many developed markets, allowing free access to certain websites and applications. This helps the businesses make their service easily accessible without impacting the mobile bill of

the consumers. In this model, the TSP does not act as a gatekeeper and plays a passive role. The platform owner has a business interest to allow any and every content provider making the model neutral. This model will work for mobile subscribers who have zero-balance as the subscribers are not being charged so they don't need balance vs. a reward model that requires an action before the reward thereby excluding the mobile users who have low or zero balance. In the model, where recharge is happening based on action, it's hard to know the cost of data for a given user. For example, suppose Person A is on 1GB data pack costing Rs. 250, and Person B is on the tariff of 10 paise per 10 Kb. If the data consumed in one session of Internet surfing is 50 MB, Person A incurs Rs. 12.20 whereas Person B incurs Rs. 512. This is nearly 42 times the cost incurred by Person A. In the toll-free model, given the data used is not getting billed to the mobile subscriber, true cost of data is covered without any confusion.

14. 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. This model, deployed through a TSP agnostic platform, offers similar benefits as the first two models. However, just like in Toll Free Model, the Platform owner not only measure 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.
15. There may be a number of other possible solutions to provide free data or suitable reimbursement to users, without violating the principles of Differential Pricing for Data laid down in TRAI Regulation. The objective of this consultation is to explore such models and frame regulations to

facilitate them. In this context, Stakeholders are requested to send their comments on the following questions:

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.

Question 2:

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

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?

Question 4:

Any other issue related to the matter of Consultation.