



COMMENTS ON TRAI'S CONSULTATION PAPER ON FREE DATA

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.

Reimbursement or free data, based on consumer usage, is an alternative way of legalising Zero Rating plans, which TRAI itself had banned earlier. The only difference is, then it was executed between the operator and consumer, and now it is executed between a third-party (usually the content providers) and consumers, with operators still the prominent player, influencing the deal. The whole process proposed shall clearly undo the past good efforts undertaken by TRAI towards net-neutrality in India, in particular the differential pricing verdict. Free data based on visiting specific content, means the internet usage for particular set of “deep pocket” websites becomes cheaper as compared to others (including upcoming startups), and has clear element of anti-competitive practices.

Moreover, it may open also up an array of potential threats looming. Free data based on consumers visiting particular websites and being reimbursed for the usage, shall need the operators to track the consumer usage. It ideally, opens up the opportunity for the operators to act as gatekeepers and play around with usage data and also creating priority lanes. This presents clear privacy and data phishing concerns. It shall also pave way for mal-practitioners to host websites, which would be heavily priced and a number of websites acting as hosts, by directing the traffic to the expensive ones. This shall also complicate the internet packs, which would add such pricing complications to tempt consumers, without actually providing any benefits effectively i.e. mis-selling.

Thus, such features for internet have potential to do more harm than any good for the consumers. There is no free data as there are no free lunches. It is better, not to disintegrate the already “near to perfect internet” in hopes of facilitating free internet or even promoting its usage. Internet is right now in the best possible form, the reason why it is so effective. Yes, it's important to facilitate its access to those who are not aboard, but there are ways to do it without breaking the internet.

As far as the models are concerned, to bring the net-excluded aboard, there is a success story in the free WiFi at railway stations in India¹. Similar examples may be drawn from the free WiFi at Reliance 4G towers and free data for watching advertisement and free data bundled with new handsets. The free should not be mistaken as an obligation for the consumer to lose its choice of services and get the subsidised service. This not only has the potential to deteriorate competition in the market and also stifle innovation by killing the prospects of startups.

¹ <http://tech.economictimes.indiatimes.com/news/internet/commuters-using-google-railtels-wifi-networks-at-railway-stations-for-heavy-downloads/52698027>

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

If such platforms are launched with TRAI aspiring to ensure the integrity of operators and arresting revenue seeking opportunities through its misuse, it would take extremely careful and detailed regulating by TRAI. However, the point is, regulations are required when there exists market failures. However, internet services sector is far from any sort of market failure. It's originally the operator's manifesto of expanding their revenues and if TRAI would draft regulations regarding this, they might be deemed over-regulations.

It's advisable for the operators to work on outreach and thus, working on economies of scale rather than seeking to rupture the near perfect internet. This saves unnecessary regulations rollout and also the complexities which are sure to arise out from the aspects under consideration such as data reimbursements and data differential pricing.

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?

Firstly, free data or suitable reimbursement, based on consumer usage to specific websites or apps should not be permitted at all. This question presents the situation of "what if", a condition which should not even be considered. Secondly, internet is a common resource which is common across all devices. We cannot have two versions of internet, different for mobile and different for desktop. Mobile internet, fixed line broadband and leased line are all internet services, common. They only vary by the speed and modes of access but provide the same services. Thus, the regulator need not consider a question of differentiating the services based on the means of accessing device.

Question 4: Any other issue related to the matter of consultation.

1. This consultation and last few have all been revolving around the issue of net-neutrality. Time has come for TRAI to take a decisive stand and settle the issue.
2. TRAI has spelt out the non-applicability of differential pricing regulations on Closed Electronic Communication Network (CECN), which is actually a local channel for the operators to provide services. This presents a strong option for the operators to create a separate internet for their users, exclusive and non-binding. Thus, the operators would be free to set their own pricing and usage terms and conditions for the consumers as on CECN they do not have the regulations acting. The parallel internet may not necessarily be neutral, may have differential pricing for access and even zero rating plans. Thus, the regulations should be similar for the regular Internet and CECN, without any differentiation.

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