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Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi-110002

Subject: Counter comments on the response to Consultation Paper (CP)No. 08/2015 dated 8th December 2015 on “Differential Pricing for Data Services”

Dear Madam,

Association of Competitive Telecom Operators (ACTO), had submitted its comments to Consultation paper No. 08/2015 dated 9th December 2015 on Differential Pricing for Data Services on 7th January, 2016.

As noticed some responses are in opposition to have differential pricing for Data Services. ACTO would like to file its counter comments as enclosed in annexure-I.

We trust that the Hon'ble Authority would find our counter comments in order and will duly consider the same including our response filed on 7th January, 2016.

Thanking you,

Respectfully submitted

Yours sincerely,
for **Association of Competitive Telecom Operators**

Tapan K. Patra
Director

Encl: As above

Annexure-I

ACTO's counter comments on the response to TRAI's Consultation Paper (CP) on Differential Pricing for Data Services

We note that few stakeholders have expressed concerns on having Differential Pricing for Data Services under the present regulatory framework i.e. TTD-1999 by highlighting the concerns around anti-competitiveness, detrimental for startup innovations etc.

Support “No one size fits all” Approach:

Largely, it has been noticed that there has been no support or demand for the principle of “One Size Fits all” approach. The same should continue to be discouraged and underscores the need to continue differentiating between individual and enterprise users from a regulation perspective.

Need to continue distinction amongst user profiles from a Regulation perspective:

Keeping the above approach in mind, it is evident that Enterprise data services (for large businesses, corporate and organizations), having specific demands from service providers, should continue to be outside the ambit of current consultation and any subsequent regulation.

Therefore, there is need to have a distinction between B2C (Business-to-Consumer) and B2B (Business-to-Business) or B2G (Business-to-Government) consumption of data services and their respective pricing, will be taken into adequate consideration.

It is important to highlight that the specialized data and Enterprise Service users (corporate, governments and large organizations) demand services and data packages which are driven by their specific & unique needs. Therefore, the pricing of these enterprise services are tailor made to suit their requirements.

The specificities of enterprise service providers and retail mass customers (e.g., differing contract provisions and business needs) in the Internet and communications space means that a one size fit regulatory approach is likely to create the substantial risk of disproportionately impacting innovation and investment if applied to business service providers.

Enterprise services are typically sold to enterprise/business customers and are often widely negotiated / contracted for on an individual case basis; consumer services are not individualized (other than through common differentiated service offerings) and are not offered through customized or individually negotiated agreements.

Existing Soft touch regulatory measure to continue:

The existing framework of regulatory oversight in the form of tariff reporting is sufficient and should continue. Based on the tariffs filed, any incidence of non-discrimination and transparency which is against public interest should be taken note of and suitable measures be taken to correct the same. Such an exercise should be conducted on case to case basis.

Tariffs are clear indicator of competition and maturity level in the market. Forbearance of tariffs has in fact enhanced the competition level as against caused harm. There is ample evidence to show that the actual growth in the telecom sector happened when tariffs forbearance was introduced.

Differential pricing enhances the competition:

Diversity in access options will increase competition and allow consumers to select more open options for themselves. It is also well established fact that differential pricing will enhance the competition and thereby make more affordable to the targeted customers by optimizing the cost of service/product by balancing to charge more to those willing to pay and less to those who are not. Differential pricing in turn helps the customer having less purchasing power to have limited service and at the same time increases customer base from overall business perspective.

Innovation should be for all:

Innovation should not be seen as monopoly of startup entrepreneurs only. It should be for all and including the users who are not yet connected. In the larger interest of our society, the fruits of innovation should also reach to all and not to be restricted to some, so as to follow non-discrimination in letter and spirit.

Competition and adversity leads to innovation than reservation/restriction through law/regulation. Knowing the adversity of connecting more than 2/3rd of population through internet and leveraging competition among all stake holders will enable to have more innovation in all aspects of the society.

In general ACTO members believes that policymakers should take a flexible approach to regulation that enables providers to experiment with new business models that could benefit consumers by lowering the cost of Internet access, sustainable growth enabling edge providers to reach more users, and stimulating investment in broadband infrastructure. Regulators should address any alleged harms on a case-by-case basis.

ACTO supports the differential pricing for data services, subject to generally accepted best regulatory practices and above stated principles. We expect TRAI to continue to have tariffs for data services under forbearance following the policy of light touch of regulation of filing tariffs and leave it to TSPs to design the tariffs according to the prevailing market conditions as long as there is no demonstrable failure of market and competition.
