

Aircel response to TRAI Consultation Paper on Net Neutrality

Preamble

Aircel welcomes the opportunity provided by TRAI's to share our response with regards to the consultation paper on Net Neutrality. At the onset we would like to place on record that the scope of this consultation paper should be expanded to include other inter-related aspects such as same-service-same-rules, OTT, free data, pricing of data traffic, security, and economic issues.

Our broad level submissions are as follows:

- i) Operators need to be left to deal with Traffic Management Practices (TMP) as different services / traffic types need different treatment on different networks.
- ii) Operators do not act as gatekeepers on Internet and it is in their best interest to keep access to the internet unrestricted.
- iii) Net Neutrality should not just be applicable to the TSP. It should encompass all stakeholders in the digital domain value system that includes websites, content providers, OTT players, device manufacturers, et al.
- iv) Specialized services such as enterprise solutions, VPN, Internet of Things, etc., may be excluded from the scope of Net Neutrality.

Hoping that the Authority considers our view to widen the scope of consultation on net neutrality, we share our question-wise response.

Q1. What could be the principles for ensuring nondiscriminatory access to content on the Internet, in the Indian context?

It needs to be understood that there is a clear distinction between customization/ segmentation and discrimination. The former is to cater to the specific needs of a group of users/ services, while the latter is used to suppress competition or to create an unfair playing field. The ability of a TSP to maximize its data revenue is to provide unrestricted access to the Internet. However, tie up with some content/ app providers for the benefit of customers should not construe as being discriminatory. Therefore the principle of non-discriminatory access to the content on the Internet should be based just on the access and not on the price/cost to access it. Providing an analogy, there are different price slabs for ISD calls to different countries. These are primarily based on the business models of the operators. Discriminatory access will be when the operator blocks ISD calls to a particular destination, while the same should not be referred to as discriminatory if the rates to that destination are exorbitant.

Q2. How should "Internet traffic" and providers of "Internet services" be understood in the NN context?

(a) Should certain types of specialized services, enterprise solutions, Internet of Things, etc be excluded from its scope? How should such terms be defined?

(b) How should services provided by content delivery networks and direct interconnection arrangements be treated?

Please provide reasons.

Internet traffic or Internet service should be clearly defined as the data flowing over Internet and accessing services/ application hosted on the Internet.

However, certain specialized services such as enterprise solutions, VPN, IoT etc need to be excluded from the purview of Internet traffic and Internet services as these require specific service quality requirements and are governed by commercial agreements between a service provider and its enterprise customer.

CDN and direct interconnection should also be kept outside the purview of net neutrality.

Q3. In the Indian context, which of the following regulatory approaches would be preferable:

(a) Defining what constitutes reasonable TMPs (the broad approach), or

(b) Identifying a negative list of non-reasonable TMPs (the narrow approach).

Please provide reasons.

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Q4. If a broad regulatory approach, as suggested in Q3, is to be followed:

- (a) What should be regarded as reasonable TMPs and how should different categories of traffic be objectively defined from a technical point of view for this purpose?
- (b) Should application-specific discrimination within a category of traffic be viewed more strictly than discrimination between categories?
- (c) How should preferential treatment of particular content, activated by a user's choice and without any arrangement between a TSP and content provider, be treated?

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Q5. If a narrow approach, as suggested in Q3, is to be followed what should be regarded as non-reasonable TMPs?

Traffic Management is an integral part of any network activity catering to specific QoS needs. In today's scenario TMP is used to not only to effectively manage limited network resources, but also ensure customer experience. The traffic management practices should be left with the operator to manage as each network type will need different TMP and that one size does not fit all.

In case the Authority still finds merit in regulating the TMP of TSPs, then a light touch regulation based on broad principles may be adopted.

Q6. Should the following be treated as exceptions to any regulation on TMPs?

- (a) Emergency situations and services;
- (b) Restrictions on unlawful content;
- (c) Maintaining security and integrity of the network;
- (d) Services that may be notified in public interest by the Government/ Authority, based on certain criteria; or
- (e) Any other services.

Please elaborate.

Yes, the above mentioned services should be treated as exception to any TMP regulation.

Q7. How should the following practices be defined and what are the tests, thresholds and technical tools that can be adopted to detect their deployment:

- (a) Blocking;
- (b) Throttling (for example, how can it be established that a particular application is being throttled?); and
- (c) Preferential treatment (for example, how can it be established that preferential treatment is being provided to a particular application?).

The grow of Internet is at the early stage and there should be unrestricted environment to grow broadband penetration. Once the development has been reached then such restrictions/ regulations may be considered.

The following are suggested definitions of:

- i) Blocking: restricting access to a legally permitted content/ application / service.
- ii) Throttling: any willful activity of the operator that results in the degradation in the quality of a specific service/ application. However, FUP based throttling should be kept out of the preview of this definition.
- iii) Preferential treatment: any willful activity of the operator that favors one application over the rest for any commercial gains.

Q8. Which of the following models of transparency would be preferred in the Indian context:

- (a) Disclosures provided directly by a TSP to its consumers;
- (b) Disclosures to the regulator;
- (c) Disclosures to the general public; or
- (d) A combination of the above.

Please provide reasons. What should be the mode, trigger and frequency to publish such information?

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- Q9. Please provide comments or suggestions on the Information Disclosure Template at Table 5.1? Should this vary for each category of stakeholders identified above? Please provide reasons for any suggested changes.**

We believe that the disclosures made to the regulator are best suited in the Indian context as most of the customers would not be able to comprehend the technical details of operator's TMP. The operators may also consider proactively educating the subscribers on such TMPs if its requirement is felt.

- Q10. What would be the most effective legal/policy instrument for implementing a NN framework in India?**

- (a) Which body should be responsible for monitoring and supervision?
- (b) What actions should such body be empowered to take in case of any detected violation?
- (c) If the Authority opts for QoS regulation on this subject, what should be the scope of such regulations?

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- Q11. What could be the challenges in monitoring for violations of any NN framework? Please comment on the following or any other suggested mechanisms that may be used for such monitoring:**

- (a) Disclosures and information from TSPs;
- (b) Collection of information from users (complaints, user-experience apps, surveys, questionnaires); or
- (c) Collection of information from third parties and public domain (research studies, news articles, consumer advocacy reports).

The concept of Net Neutrality is nascent and complex and it requires a nurturing approach rather than a punitive approach towards violations. Hence, the 'cautious observation' approach suggested by the Authority, in dealing with net neutrality should be adopted.

- Q12. Can we consider adopting a collaborative mechanism, with representation from TSPs, content providers, consumer groups and other stakeholders, for managing the operational aspects of any NN framework?**

- (a) What should be its design and functions?
- (b) What role should the Authority play in its functioning?

The approach should be collaborative, but the design and functions for managing the operational aspects may be dealt with after finalizing the principles of net neutrality.

- Q13. What mechanisms could be deployed so that the NN policy/regulatory framework may be updated on account of evolution of technology and use cases?**

The evolution of traditional fixed line to VoIP has changed the face of telecom in India. It is therefore imperative to consider evolving technologies and update them regularly. It is therefore of highest importance that the same-service-same-rules are applied and all other digital platforms/ applications/ OTT players are brought on the same playing field as the licensed telecom operators.

- Q14. The quality of Internet experienced by a user may also be impacted by factors such as the type of device, browser, and operating system being used. How should these aspects be considered in the NN context? Please explain with reasons.**

The quality of Internet experience depends on many factors and hence it is important to define standards each entity of the digital ecosystem value chain and not just focus on the telecom service providers. Standards/ certification may be prescribed for each of the stakeholder in the ecosystem. However, considering the practical difficulties in controlling applications, websites, browsers, operating systems, etc., it is recommended to define standards for at least the devices accessing the Internet.

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