

Date: July 14, 2016

To,

Shri Arvind Kumar,  
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**Re: COUNTER COMMENTS OF TIMES INTERNET LIMITED TO THE CONSULTATION PAPER ON FREE DATA.**

Dear Sir/Madam,

Please find attached the counter comments of Times Internet Limited, pursuant to Consultation Paper on Free Data.

We request you to kindly take our comments, on your records.

Yours Sincerely

Miten Sampat,

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and

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**COUNTER COMMENTS OF TIMES INTERNET LIMITED (“TIL”) ON  
CONSULTATION PAPER ON FREE DATA**

At the outset TIL would like to state that we thank TRAI for giving us the opportunity to give our counter comments on the over-all comments received by TRAI from various stakeholders. We would like to submit our counter comments on the below points raised by other stakeholders:

1. *To the contention that TSPs should be permitted to offer Free Data:*

**OUR VIEW:** We would like to counter the above and submit that TSP may be allowed to give data as long as that data is not tied to any specific endpoint. In addition, TSP should not be allowed to promote their own OTT platforms (whether majority or minority owned) in the form of free-data-rewards. TSPs run various content applications/website either directly or through their subsidiaries, which may stifle the competing applications/websites. TSPs are at no loss as they are owners of data and have the power/means to grant unlimited free data to their user (self owned applications/websites). Such practices may have anti-competitive elements and also against the principle of net neutrality.

2. *To the contention that it should be left to TSPs to decide whether they want to enter into arrangements with the content providers or not basis their business case and requirement of technical development.*

**OUR VIEW:** We would like to counter the above and submit that such arrangements should not be in violation of Discriminatory Data Tariff regulation and Net neutrality principles. Such arrangements are opaque and away from public knowledge as they are private arrangements between parties. The TRAI should come out with mechanism to check that such arrangements are not in violation of the current tariff regulation and the net neutrality principles.

3. *To the contention that no ex-ante regulation is required since the market is vibrant enough. On ex- post basis, TRAI can examine tariff plans on a case by case basis after giving a reasonable opportunity to the operators of being heard.*

**OUR VIEW:** We would like to counter the above and submit that there is strong requirement of regulation and guideline by TRAI to avoid any misuse/ abuse by Dominant

players of market/ industry and protect the open internet, start up, innovations and preserve the principles of net neutrality.

4. *To the contention that Regulation on Discriminatory pricing should be revisited.*

**OUR VIEW:** We would like to **very strongly** counter the above and submit that the existing Regulation is appropriately placed to handle discriminatory tariff related issues. It is our submission that TRAI should not succumb to such unreasonable demands which may harm the growth of internet and have chilling effect on growth. It is the vested interest of some stakeholders and dominant players to stifle competition from new entrants/ start ups. Rather TRAI should clarify that CECN should not be misused to violate the net neutrality principles.

5. *To the contention that free data rewards by TSP agnostic platform is against Discriminatory Tariff Regulation.*

**OUR VIEW:** We would like to counter the above and submit that TSP agnostic platform are not in violation of discriminatory tariff regulation for the following reasons:

- Such platforms are not offering any data services nor charging any fees for data.
- TSP agnostic platforms reward the users for using the applications, compensating for consumption of data for advertisements on the app which the advertisers compensate.
- The free data or reward points that are given to the users are usable on any app/ website without any restrictions or limitation.

6. *To the contention that a TSP agnostic platform can become gatekeeper.*

**OUR VIEW:** We would like to counter the above and submit that since there is no restriction on number of TSP agnostic platform providers or application to become part of such platform

Agnostic platform does not have any capability to restrict the access of any application/ website on the internet available through TSP/ISP pipe. Therefore, TSP agnostic platforms cannot act as gatekeeper and these contentions are only misleading.

7. *To the contention that Privacy & Security, the model of aggregation platform carries high inherent risk of misuse of user information.*

**OUR VIEW:** We would like to counter the above and submit that TSP agnostic platforms will not become “proxy servers or gateways”, therefore the specifics of user’s communication and transaction history will not be visible to TSP agnostic platforms.

**OUR VIEW:** Moreover, the Information Technology Act and Reasonable Security Practices and Procedures and Sensitive Personal Data Rules (Security & privacy rules) has stringent provisions with respect to collection, usage and sharing of personal information about the users and to comply with the security procedures. Further, Government has authority to check any breach of this user privacy. Therefore, in our view, the submission does not hold much merit.

8. *To the contention that TSP agnostic platform could monetize the user data and jeopardize the privacy and security of individuals.*

**OUR VIEW:** We would like to counter the above and want to reiterate our submission made in point 7 as above.

9. *Stakeholders have pointed out that a few TSPs are zero rating their owned/ affiliated/ Partners websites/applications in violation of the discriminatory tariff regulation --which TRAI should be investigating.*

**TRAI did yeoman's service in bringing out the Prohibition of Discriminatory Tariff for Data Services Regulation, 2016. However, there were some extremely critical loopholes that allow for the violation of Net Neutrality, hence we would like to take this opportunity to reiterate that: -**

Although the Regulation prohibit the discriminatory tariffs by TSP for data services on the basis of content, however such the purpose may not be met unless TRAI ensures that TSPs do not misuse the closed electronic communication networks (CECNs) to offer differential pricing to its user for content.

This Regulation governs the Internet, however there is ambiguity with respect to the provisions of CECN/ intranet. Therefore, the extant application or implication of the Regulation is poised to raise concerns regarding distribution of content over CECN/Intranet and threatens to defeat the entire net neutrality principles.

Consumers don't understand the difference between Internet and Intranet/CECN. In fact, the average consumer would think they are the same word. For instance, if a consumer has two apps, and one is on the 'Internet' and one is on the 'CECN/Intranet', he/she doesn't understand any difference, except that one has free access and one has paid access.

Therefore, CECN/Intranet will defeat the very purpose of the newly introduced Prohibition of Discriminatory Tariffs for Data Services Regulation, 2016 and Net Neutrality Principles. It is also pertinent to note that the CECN/ Intranet of the top 3 TSPs would hold close to 75% of the total users over the entire Internet. Given the huge number of users, if similar content and services are available over the CECN/Intranet network, CECN/Intranet shall easily substitute the Internet, in no matter of time. Therefore, the CECN/Intranet platform should be allowed only to provide consumption and

product related informative services like network coverage or services related to connectivity, check my balance etc. but any third party content or service that compete with the open internet (media, content, payments, storage, chat, etc.) shouldn't be allowed through CECN/ Intranet.

In this context, TRAI must ensure and clarify that -

- CECN should not be used to create large public intranets to serve content and evade the regulations.
- No repackaging of internet content to create different look and feel for public CECN/ intranet.
- No hyper-linking/ deep-linking of internet content on TSP's intranet content.
- No advertisements linked to internet content.
- No integration of TSP's social networking services with internet/ cellular network based social networking websites or SMSes. For e.g. TSP's chat service should not be integrated with FB messenger or Whatsapp or google chat, etc.
- No news services on CECNs.
- TSP's must not be allowed to offer third parties content on their CECNs.

Should you wish to seek information on the above or require further clarification, please feel free to contact us.

Thank you.

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