



Society for

Knowledge Commons

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Civil Society Statement on Network Neutrality Regulation in India, January 2, 2015

Airtel India, one of the leading mobile and Internet providers in the country [recently announced](#) that it will charge pre paid mobile customers more for using certain over the top services – starting off with VoIP services (such as Skype and Viber). The costs are in the range of Rs. 16 per minute of Skype, a huge cost to those users who access the Internet through the mobile route.

While Airtel has [backed down](#) and reversed its aforesaid plans following a public outcry, the implications of the original announcement are clear – Airtel has indicated that it is willing to act as a gate-keeper of the Internet: restricting access to certain content / applications / services based on how much you can pay. It is only a step away from your service provider deciding which website or application you can access, which to speed up or slow down, based on payments. The provision of preferential access to content, applications and/or services, will lead to an environment where the big companies – Google, Facebook and so on – are able to ensure growth in their customer base while freezing out competition including by discriminating against competing services. The increasing instances of cross platform ownership, when combined with the prevalence of such practices, also raise significant concerns.

Such uncompetitive and unethical practices are made permissible due to the lack of regulation protecting network neutrality in India. TRAI, despite noting the importance of the issue, notably in its Consultation Paper dated December 2006, on “Review of Internet Services” as well as in its Recommendations on Application Services dated May 14, 2012, has yet to take any action.

The principle of network neutrality generally speaking, implies that service providers must treat all data packets on the Internet equitably. The principle prevents discrimination by a service provider based on the type of content / service / application accessed by a user and is essential to ensure plurality of content in the online space and to maintain competition in the online market.

Failure to give effect to this principle is against the interest of the user, ensures that only rich content / service providers will survive (because they can pay to have their content / service delivered to the consumer) and will limit the uses to which the Internet can be put to based on the ability of the user to pay – a situation which can be disastrous for content creation / service provision and increasing Internet access / penetration in India. Without protecting net neutrality, small and medium business interests in India who want to use the Internet for their business will simply be frozen out by the existing big players.



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In addition, it is critical to ensure appropriate quality of service including transparency in the provision of Internet services, without compromising on consumer choice or privacy. Deep packet inspection, often used for purposes of segregating data packets by ISPs (in order to provide preferential treatment to certain content) is a violation of privacy rights of the citizen and must be strictly prohibited.

Given the growing importance of the Internet and the e-commerce sector the Government must act with urgency to promote net neutrality and the public Internet. Implementation of the principle of network neutrality will also crucially, ensure greater emphasis on creation of infrastructure rather than implementation of unwarranted traffic management practices that could hinder the efforts of the Government in ensuring high speed Internet access in India.

In this regard, it may be noted that various countries around the world including the Netherlands, Brazil, Chile all have legislation protecting network neutrality, with many others putting in place other regulatory measures in this respect.

We, the undersigned, call on

- (a) The Department of Telecommunications and / or TRAI (who are both empowered to issue regulations on the issue) to initiate, at the earliest, a public consultation process on the issue of regulating violations of network neutrality;
- (b) The Department of Telecommunications and / or TRAI to issue appropriate notifications, orders or guidelines prohibiting service providers from implementing anti-competitive practices such as service providers providing preferential access to content / applications / services.

Signatories:

Sd/-

- 1) Centre for Internet and Society (<http://cis-india.org/>)
- 2) Foundation for Media Professionals (<http://www.fmp.org.in/>)
- 3) Free Software Movement of India (<http://www.fsmi.in>)
- 4) Internet Democracy Project (<http://internetdemocracy.in/>)
- 5) IT For Change (<http://www.itforchange.net/>)
- 6) Medianama (<http://www.medianama.com/>)
- 7) Society for Knowledge Commons (www.knowledgecommons.in)
- 8) Software Freedom Law Centre (<http://sflc.in>)