A Telco Double Dip: Threatens Net neutrality

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Context:

In July this year, the Telecom Regulatory Authority of India (TRAI), at the request of the government, invited a comprehensive consultation on the need and possible mechanisms for regulation of 'OTT services', which became controversial.

Over The Top (OTT) services:

1. For more than a decade now, telecom companies have seen revenue from traditional streams such as voice calls and SMS come under pressure, as competing OTT services are often free. At the same time, they have had to invest heavily in upgrading their infrastructure to handle increased data traffic, without necessarily seeing an equivalent rise in revenue.
2. They also complain that OTT services are not subject to the same level of taxation and licensing fees, leading to an uneven playing field. On the flip side, the use of OTT services has led to a surge in data consumption, which is a growing revenue stream for telecom companies.

Flawed argument that affects net neutrality:

1. The OTT consultation has renewed the clamour from the telecom companies that OTT platforms/ content providers be asked to share in the costs of bandwidth. They argue that streaming platforms are free riders, benefiting from the infrastructure built and maintained by the telecom companies.
2. However, this argument is fundamentally flawed and sets a dangerous precedent that undermines the principle of net neutrality. Telecom companies do not own the Internet; rather, they provide access to it.
3. Consumers pay the telcos for access services by purchasing data plans. By offering services that consumers desire, OTT platforms generate demand for Internet access. They also pay for the content delivery networks (CDNs) to create pathways that substantially augment the capacity of the internet to deliver their content.
4. Telecom companies capitalise on this demand (and the availability of OTT content) by providing connectivity to the Internet and charging subscribers for it.
5. If they fail to cover costs, telecom companies are at liberty to increase their prices, which should go towards maintaining and upgrading their infrastructure. One of the requirements for the operation of a fair market is that the costs and benefits of a transaction are fully accounted for in the exchange price.
6. Therefore, any attempt to seek cross subsidise instead of fully accounting for the costs could warrant scrutiny from the Competition Commission of India (CCI).
7. In the marketplace for Internet access, the consumers are free to choose the provider that offers them the highest bandwidth, data volume, and reliability at an affordable price. These

are distinct markets because services from one are not substitutable for services in the other.

8. Therefore, it is logical to maintain a separation of costs between these two markets. The attempt of telcos to double dip by charging both consumers and content providers is not only avaricious but also undermines net neutrality.
9. If OTT platforms were to acquiesce to the demands of the telcos, the incurred costs would trickle down to subscribers, either through increased subscription fees or degraded service quality for those platforms unwilling or unable to pay the toll. This outcome can only be detrimental to consumers who have come to rely on OTT services for entertainment, education, and professional pursuits.

Net neutrality principle:

1. It says that Internet access providers (ISPs) must treat all traffic originating from and terminating to the Internet in the same way. Professor Tim Wu, who coined the term "net neutrality" in a 2003 paper, proposed the purpose of net neutrality is to promote an even playing field on the Internet, ensuring that all data is treated equally without discrimination by ISPs.
2. Net neutrality draws from earlier notions and principles concerning common carriage, which posit that service to all customers must be provided on a nondiscriminatory basis.

Basis of TRAI regulation:

1. Net neutrality formed the basis of TRAI's regulation on prohibition of discriminatory tariffs for data services brought out in 2016. The regulator's action forced the withdrawal of Facebook's Free Basics platform and some other offerings in India.
2. In 2017, TRAI released its comprehensive recommendations, which have largely guided the adoption of this principle in India. These steps taken by TRAI were noted elsewhere in the world.
3. Body of European Regulators for Electronic Communications (BEREC) and TRAI adopted a Joint Statement for an Open Internet in 2018. The two organisations agreed through this memorandum of understanding to cooperate in developing technological and policy initiatives for net neutrality. Many other countries have also adopted net neutrality, thereafter.

Conclusion:

It is imperative for all stakeholders, including policymakers, to recognise the long term ramifications of acquiescing to the shortsighted demands of telecom companies. Upholding the principles of net neutrality is not merely about preserving the ethos of an open Internet but is also intrinsic to fostering a conducive environment for innovation, competition, and consumer welfare, especially countries such as India where the Internet is going to be the carrier of all Digital Public Infrastructure (DPI).