

10 guiding principles on net neutrality in India

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The recent uproar on net neutrality has demonstrated in no uncertain terms, the voice and power of the netizen community. On 27th March 2015, the Telecom Regulatory Authority of India (TRAI) put up on its website a consultation paper in a quiet unannounced manner. The said consultation paper is titled "Consultation Paper On Regulatory Framework for Over-the-top (OTT) services". The said consultation paper was drafted in a manner wherein lot of questions was sought to be asked from specific perspectives. The said paper has since now been known in the public domain as Net Neutrality Consultation Paper of TRAI.

At the time of writing, the said paper had generated immense amount of debate. Seen from another angle, the paper has brought up certain proposals, which if implemented could have an ultimate impact upon curtailment of online freedoms of Indian citizens and netizen community.

The entire issue of net neutrality has certainly become very important. Net neutrality is a principle that is dedicated to making the Internet a neutral platform for the proliferation of all kinds of services offered by all stakeholders.

While there is lot of discussion and debate about net neutrality in India, I believe that there must be some common Guiding principles, which should show the way forward on net neutrality in India.



In my opinion, the following 10 Guiding principles concerning net neutrality in India can enable stakeholders to have a holistic approach to net neutrality:

1. Internet is a global heritage of mankind as a whole. We need the Internet to further contribute to the growth of human mankind in society and not leading to divisions within society.
2. Internet needs to be protected as Internet is the common paradigm platform which allows the hosting of creative, innovative

applications of communication, dissemination and transmission of thought processes as also data and information in the electronic form whether in the form of audio, video, image or text.

3. A initiative on net neutrality should not have impact, to the detriment of the ultimate consumers/netizens of the Internet. Consumer protection issues become critical and most significant in the context of Net neutrality.

4. Initiatives violating Net neutrality should not create an ecosystem of digital haves and digital have-nots, where the digital haves, by might of their money power can access better quality of services on the Internet at the expense of the digital have-nots who stand disenfranchised by differential payments for various services and schemes.

5. People's lives are dependent on the Internet. People today have a fundamental right to access the Internet. I personally believe that the right to access the Internet is part of the fundamental right to life under Article 21 of the Constitution of India and is sacrosanct in nature and can only be curtailed, in accordance with the procedure established by law. This intrinsically means that any kind of net neutrality has to only come through the legal route in the form of legislation not otherwise.

6. The complicated legal, policy and regulatory issues concerning net neutrality need to be examined in great detail, more so given the fact that the Information Technology Act, 2000 and rules and regulations made thereunder are completely silent on the issue of net neutrality.

7. Net neutrality violative schemes should not become a tool of service providers to legitimately deny or violate the people's online freedom including their freedom of speech and expression.

8. Net Neutrality, if not handled properly, could prejudicially impact the Digital India Programme of the Indian Government.

9. We need to be consciously careful that the victories obtained for Internet freedom of speech and expression by the Supreme Court in the Section 66A case should not given up on the table in net neutrality debates.

10. Net neutrality needs to be understood in the context of the lay's user of the Internet in India. Any enhancement of billing for a lay Internet or mobile's user is not only going to intrinsically harm the financial interests of the Indian consumer but could also impact the further penetration of Internet apart from prejudicially impacting the confidence and trust that users have in the Internet regulation regime.

The aforesaid are some important guiding principles that could guide stakeholders when they proceed forward in the direction of addressing net neutrality issues.

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While a practicing Advocate, Supreme Court of India, Pavan Duggal has made an immense impact as an expert on cyber laws.

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