mozilla

8/20/2015

TO:
Shri Ravi Shankar Prasad
Minister of Communications and Information Technology

Subject: Comments on the Department of Telecommunications Committee Report on Net Neutrality

Dear Sir,

Thank you for the opportunity to provide comment on the recent Department of Telecommunications Committee Report on Net Neutrality.

The Mozilla Corporation produces the Firefox web browser and Firefox OS mobile ecosystem, together adopted by half a billion individual Internet users around the world. Mozilla is also a foundation that educates and empowers Internet users to be the Web's makers, not just its consumers. Finally, Mozilla is a global community of technologists, thinkers, and builders, including thousands of contributors and developers in India, who work together to keep the Internet alive and accessible.

Our mission is to promote openness, innovation, and opportunity on the Web. The open Internet relies on many technological and legal assumptions for its continued vitality. One of those assumptions is net neutrality: the idea that Internet Service Providers and governments should treat all data on the Internet equally, not discriminating or charging differentially by user, content, site, platform, application, type of attached equipment, or mode of communication.

As our Executive Chairwoman Mitchell Baker noted in a May 5th letter[1] to Prime Minister Modi:

"We stand firm in the belief that all users should be able to experience the full diversity of the Web… At a time when users are increasingly being pushed into private, walled gardens and Internet malls providing access to only a limited number of sites, action is needed to protect the free and open Web."

We commend the DoT's recognition that protecting net neutrality is a policy imperative for India. In line with the findings of your report, and noting the extensive public debate around net neutrality in India, the importance of net neutrality to fostering innovation and competition, and

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[1] http://bit.ly/1TWvtBu

the calls of more than a million Indians[2] and more than 450 startups speaking out[3] for real protections for the open Internet, we respectfully urge you and your government to propose strong, enforceable rules against blocking, discrimination, and paid prioritization.

We share the Committee's concern that it may take considerable time to draft, enact, and bring into force a comprehensive set of legislative rules protecting net neutrality and the open Internet. As such, we encourage your government to explore the use of existing regulatory powers to ensure the adequate protection of Indian innovators and the open Internet in the interim.

We also share the Committee's belief that bringing all Indians online should be a national public policy priority. However, we would encourage your government to explicitly pursue a policy of connecting all people to the entire Internet, rather than just a handful of websites chosen by new and/or existing gatekeepers. We respectfully suggest that greater clarity from your government on this point may usefully serve to send a strong signal that Indian innovators and citizens are not to be discriminated against.

To this end, we appreciate the Committee's discussion of the issue of zero-rating. As Mitchell noted in her letter to the Prime Minister: "We believe zero-rating is not the right solution to connect the world's unconnected billions, but we do recognize the need for new and alternative market solutions to bring people online to the open Web. We know this is no simple task, but we are committed to doing our part alongside other actors in the Internet community to address these challenges."

While zero-rating does not at first pass invoke the prototypical harms of throttling, blocking, or paid prioritization, all of which involve technical differentiation in traffic management, it does raise many of the same anticompetitive and anti-innovation concerns. Giving one company (or a handful) the ability to reach users at no cost to them, zero-rating could limit rather than expand a user's access to the Internet and ultimately chill competition and innovation. The promise of the Internet as a driver of innovation is that anyone can make anything and share it with anyone, whether they be a tech giant in Silicon Valley or three developers in an apartment in Bangalore.

We suggest a policy of "equal-rating." Equal-rating is a service that provides free or low-cost access to the entire Internet for people around the world who otherwise can't afford it. Equal-rating users would see the same open and free Internet as anyone paying full-price.

We understand the temptation to say "some content is better than no content," choosing a lesser degree of inclusion over openness and equality of opportunity. But it shouldn't be a binary choice; technology and innovation can create a better way, even though these new models may take some time to develop. Furthermore, choosing limited inclusion today, even though it offers short-term benefits, poses significant risk to the emergence of an open, competitive platform that will ultimately stifle inclusion and economic development.

In a blog post introducing the concept of equal-rating[4] we note two ways that we are already exploring alternative approaches to the challenges that zero-rating seeks to address. "For example, Mozilla has sought to create such an alternative within the Firefox OS ecosystem. Our

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[2] http://blog.savetheinternet.in/
[3] http://www.savetheinternet.in/startups/Startups-to-PM-Open-Internet.pdf
[4] https://blog.mozilla.org/netpolicy/2015/05/05/mozilla-view-on-zero-rating/

partnership with Grameenphone[5] (owned by Telenor Group) in Bangladesh allows users to receive 20 MB of data usage for free each day, in exchange for viewing an advertisement. Our partnership with Orange[6] will allow residents of multiple African countries to purchase $40 Firefox OS smartphones that come packaged with 3-6 free months of voice, text, and up to 500 MB per month of data. Scaling up arrangements like these could represent a long-term solution to the key underlying problems of digital inclusion and equality."

Finally, we wish to express concern around proposals that would require a license to operate an online service. As the Committee's report discusses, a central pillar of net neutrality and a major contributing force to the Internet's success has been the concept of "innovation without permission." This concept allowing anyone to develop a new technology, to write code and test in the public, and to control the code running on their machines is the lifeblood of the open Internet and the ethos of open source. As Mitchell wrote in regards to a similar proposal by the Telecom Regulatory Authority of India, any mandatory licensing scheme would prove onerous and "increase the costs of creating on the Web, thereby discouraging Indian entrepreneurs from building the next Internet giant. What's more, establishing an enabling environment for development on the Web creates a virtuous cycle that provides more value to existing users and incentivizes new users to come online." To this end, we respectfully caution you from proposing any licensing regimes on Internet services or Over-The-Top (OTT) applications, as doing so would only serve to create legal uncertainty, chill innovation, and hurt the promise of Digital India.

Even as some countries are already moving forward to enshrine net neutrality into law, India has an opportunity to be a leader on the world stage by enacting protections to ensure that India's countless innovators and entrepreneurs have the level playing field needed to develop the next Google, Facebook, or Firefox. Many countries already look to India for leadership on Internet policy issues, and we believe that net neutrality is no exception.

Respectfully yours,

Denelle Dixon-Thayer
General Counsel and Senior Vice President Business Affairs

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[5] https://blog.mozilla.org/blog/2014/09/15/expanding-reach-in-asia-telenor-group-brings-firefox-os-smartphones-to-bangladesh/
[6] https://blog.mozilla.org/blog/2015/03/01/firefox-os-proves-flexibility-of-web-ecosystem/