



PAKISTAN TELECOMMUNICATION AUTHORITY

Headquarters F-5/1, Islamabad

Phone: 051-9225315; Fax: 051-2878133; E-mail: arif@pta.gov.pk

<http://www.pta.gov.pk>

F. No. PTA/CA/CA-DTE/155/1/15-46/2021

23rd July 2021

Subject: Determination on Significant Market Power (SMP) Operators in Wholesale Call Transit Service Market in Pakistan

This is with reference to the Authority Hearing held on 23rd February 2021 on the subject matter and subsequent circulation of draft determination with the operators for their comments vide PTA's letter of even number dated 5th April 2021.

2. The Authority is pleased to issue "Determination on SMP Operators in Wholesale Call Transit Service Market in Pakistan". The same is enclosed for information, record and compliance (copy attached).

3. This letter is issued with the approval of the Authority.

Muhammad Arif Sargana
Director General (Commercial Affairs)

To:

Regulatory Heads of all

- a) LL Operators
- b) LDI Operators
- c) CMOs

Copy for information to:

- 1. DG (L&R), PTA
- 2. Director to Chairman, PTA
- 3. SO to Member (C&E), PTA
- 4. PS to Member (Finance), PTA



PAKISTAN TELECOMMUNICATION AUTHORITY

F-5/1, Islamabad, Pakistan

<http://www.pta.gov.pk>

F. No. PTA/CA/CA-DTE/155/15-46/2021

23rd July 2021

Determination on Significant Market Power (SMP) Operators in Wholesale Call Transit Service Market in Pakistan

1. Background

- 1.1. Pakistan Telecommunication Authority (the “Authority”) under section 4 (1)(d), section 4(1)(m) and section 6(e) of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”), is mandated, *inter alia*, to; i) regulate competition in the telecom sector; ii) promote the availability of cost effective and competitive telecommunication services; and iii) encourage fair competition in the telecommunication sector throughout Pakistan.
- 1.2. In order to regulate the matters related to competition, rule 17 (1) of the Pakistan Telecommunication Rules, 2000 (the “Rules”) provides that an operator shall be presumed to have significant market power when it has a share of more than twenty-five percent (25%) of a particular telecommunication market. The relevant market for these purposes shall be based on sectoral revenues.
- 1.3. Rule 17 (2) further provides that the Authority, notwithstanding sub-rule (1) of the Rules, may determine that an operator with a market share of less than twenty-five percent of the relevant market has significant market power. It may also determine that an operator with a market share of more than twenty-five percent of the relevant market does not have significant market power. In each case, the Authority shall take into account the operator’s ability to influence market conditions, its turnover relative to the size of the relevant market, its control of the means of access to customers, its access to financial resources and its experience in providing telecommunication services and products in the relevant market.
- 1.4. In line with the above-referred legal framework, the Authority initiated consultation with stakeholders and after detailed review, PTA vide letter No. 15-46/16(CA)/PTA/155/2006 dated 3rd October 2016 issued Determination on Relevant Markets and declared Significant Market Power (SMP) Operators in Pakistan. In the said Determination, PTCL was declared as SMP operator in wholesale call transit service market in Pakistan.

1.5. The said SMP determination was challenged by Pakistan Mobile Communications Limited (PMCL) (Jazz) and Telenor Pakistan vide F.A.Os No. 111 of 2016 and No. 114 of 2016 respectively at the Honorable Islamabad High Court while PTCL challenged through Miscellaneous Appeal No. 46 of 2016 at Sindh High Court, Karachi. The Honorable Islamabad High Court vide its order dated 26th January 2018 remitted the matter to the Authority with a direction to decide the same after taking into consideration the procedural and statutory irregularities intimated by the appellants vis-à-vis Rules 17 and 26 of Pakistan Telecommunication Rules, 2000.

1.6. The Honorable Sindh High Court vide its order dated 21st February 2020 also disposed of PTCL's appeal in the following manner:

“This Misc. Appeal has become infructuous because a new determination of SMP is in the process....”.

2. Consultation Paper on Market Review:

2.1. PTA issued a Consultation Paper (the “paper”) on identification of Relevant Markets and Significant Market Power (SMP) operators on 16th October 2019 and requested the stakeholders to furnish data, for the period covering from 1st January 2017 to 31st December 2017 and 1st January 2018 to 31st December 2018 in the prescribed formats given in the paper, so that total market size and market share of individual operators could be assessed for identification of relevant markets. Later on, the Authority also sought data for the period starting from 1st January 2019 to 31st December 2019. The paper proposed following products / services as well as geographic markets for the purpose of declaring as relevant markets:

| S. No. | Relevant Markets | |
|---------------------------------|--|------------------------|
| | Product / Service Market | Geographical Market |
| Retail Level Markets: | | |
| 1. | Local Loop Fixed-line Telecom Market | 14 Regions of Pakistan |
| 2. | LDI Fixed-line Telecom Market | Pakistan |
| 3. | Mobile Telecom Market | Pakistan |
| 4. | Fixed Broadband Market | Pakistan |
| Wholesale Level Markets: | | |
| 5. | Domestic Leased Line Market | Pakistan |
| 6. | International Private Leased Line Market | Pakistan |
| 7. | Call Transit Service Market | Pakistan |
| 8. | Broadband Access Market | Pakistan |
| 9. | IP Bandwidth Market | Pakistan |
| 10. | Individual Fixed Interconnection Market | Pakistan |
| 11. | Individual Mobile Interconnection Market | Pakistan |

2.2. Wholesale Call Transit Service Market:

2.2.1. The Authority in its consultation paper proposed wholesale call transit service market as a relevant market and defined as transmission of switched voice service originating from another telecom network. This includes transmission of traffic through the network of a third party both inside a Telecom Region (i.e. Metropolitan Transit) and between Telecom Regions. A third party means a network operator that conveys switched voice services, which does not originate from or terminate on its own network.

2.2.2. It was observed in the paper that most of the LDI operators throughout all Telecom Regions have made interconnection with each other. However, Local Loop operators especially new Local Loop have not directly interconnected their networks with other operators due to practical, technical or economic reasons. On the other hand, the incumbent operator i.e. PTCL is interconnected with almost all telecom operators. In this scenario, if an operator wants to provide voice transmission services within a Telecom Region or between Telecom Regions by means of transit services, it must acquire the transit services from PTCL.

2.2.3. For the purpose of determining the total market size and the market share, revenues generated from call transit services to other operators shall be taken into consideration.

3. Hearing held on 23rd February 2021

3.1. PTA vide its letter No. 15-46/14(CA)/PTA dated 12th February 2021 issued Hearing Notice to all Local Loop (LL), Long Distance and International (LDI), and Cellular Mobile Operators (CMOs) for finalizing "Determination on Relevant Markets and Significant Market Power (SMP) Operators in Pakistan". In order to proceed further, the matter was fixed for hearing before the Authority on 23rd February 2021. The representatives of Local Loop (LL), Long Distance and International (LDI), PTCL, and Cellular Mobile Operators (CMOs) attended the hearing on the said date.

3.2. Based upon receipt of comments/input from the stakeholders/relevant operators on the draft determination, the matter was examined in depth and analysis for declaring/determining relevant markets/SMP operators in Wholesale Call Transit Service Market is provided in the forthcoming paragraphs.

4. The Operators' responses on Wholesale Call Transit Service Market and the Authority's Findings:

4.1. **PTCL Comments:** Call transit service market is already regulated by PTA and tariffs are determined by PTA. CMOs have their own LDI operators squeezing the transit service

market for other LDI operators including PTCL. Therefore, no operator should be determined as SMP in this market.

Authority's findings: The Authority in line with the provisions of the Telecom Rules, 2000 has identified relevant markets including call transit service market for the purpose of determining and declaring SMP operator. Furthermore, PTCL's network is present all across the country and interconnected with all telecom operators. Resultantly, it is convenient for any operator to acquire call transit services from PTCL if an operator intends to provide voice transmission services within a Telecom Region or between Telecom Regions by means of transit services. To date, fixed local loop operators prefer PTCL for availing call transit services. PTCL may lodge complaint (if any) against LDIs of CMOs regarding squeezing the transit service market and the Authority will probe the matter as per provisions of the Act.

5. The Relevant Market and SMP Operator:

5.1. Wholesale Call Transit Service Market:

5.1.1. For the purpose of declaring SMP Operators, the entire telecom market of Pakistan is divided into different relevant markets on the basis of (i) geographical area and (ii) products / services offered in that particular market segment. Geographical market shall be based on the area where an operator is authorized to operate under its respective licenses.

5.1.2. As per the data submitted by the operators, PTCL is still the dominant operator in terms of revenues generated from call transit services. Besides PTCL, Wateen Telecom is providing call transit services to other operators. Market share of PTCL in terms of sectoral revenues is given in the following table:

| Operator | Table-1 Revenue Market Share | | |
|----------|------------------------------|-------|-------|
| | 2017 | 2018 | 2019 |
| PTCL | 67.7% | 90.7% | 78.4% |

5.1.3. As evident from the above table, PTCL has been able to retain market share in the range of 67.7% to 90.7% whereas Rule 17 (1) states that an operator shall be presumed to be an SMP operator if it has more than 25% market share.

5.1.4. Regarding Rule 17(2) Telecom Rules, 2000, it is evident that PTCL being an incumbent operator has the ability to influence market conditions by exploiting new local loop operators in terms of charging higher wholesale call transit tariffs or by denying the service. Furthermore, majority of LL operators have no choice to switch to other LDI operators due to limited network deployment and PTCL has all the means and access to

control and exploit the market. PTCL being an incumbent operator is providing these services since the deregulation of telecommunication market i.e. 2004 and has the highest turnover which has already provided in Table-1.

5.1.5. Keeping in view the foregoing, this market shall be identified as relevant market for the purpose declaring SMP operators.

6. The Authority's Determination of Relevant Markets and SMP Operators:

6.1. After detailed analysis and deliberations, the Authority hereby determines the relevant markets (Product / Services Market and Geographical Market) and declares SMP operators / licensees in the relevant market as under:

| Relevant Markets | | SMP Operator |
|-----------------------------|---------------------|--------------|
| Product / Service Market | Geographical Market | |
| Wholesale Level Market(s): | | |
| Call Transit Service Market | Pakistan | PTCL |

6.2. PTCL is hereby declared as SMP operator in each of the telecom region of Pakistan, *at para 6.1 above*, in call transit service market and directed to comply with the obligations and all other regulatory requirements, notifications, decisions or directions of the Authority issued from time to time.

Muhammad Naveed
Member (Finance)

Dr. Khawar Siddique Khokhar
Member (Compliance & Enforcement)

Maj. Gen. Amir Azeem Bajwa (R)
Chairman

This Determination is signed on 23rd day of July 2021 and comprises of 6 pages.