

Consultation Paper on Reselling of IP Bandwidth by LDI Operators in Pakistan

This paper intends to seek comments of telecom operators on reselling of IP Bandwidth by LDI operators in Pakistan without obstruction or imposition of any conditions. Comments on the consultation paper are requested to be provided, preferably through email, at the following address within two weeks of the publication of this paper.

Director (Commercial Affairs)

PTA HQs F-5/1, Islamabad.

Email: comaff@pta.gov.pk

Pakistan Telecommunication Authority

www.pta.gov.pk

1. Introduction:

1.1. Pakistan Telecommunication Authority (PTA) was established under section 3 of the Pakistan Telecommunication (Re-organization) Act, 1996 with the objective to regulate the establishment, operation and maintenance of telecommunication systems and the provision of telecommunication services in Pakistan. Under section 4(d) and 6(e) of the Act, the Authority is required to promote and ensure competitive telecommunication services throughout Pakistan and to encourage fair competition in the telecommunication sector.

2. Background:

2.1 In wholesale IP bandwidth market of Pakistan presently there are four (04) major overseas cable operators i.e. PTCL, Transworld Associates (TWA), Cybernet and SCO who are providing services to other operators. Downstream providers e.g. fixed line, cellular mobile operators buy international bandwidth from PTCL, Cybernet, SCO and TWA in wholesale and sell in retail to home and corporate customers.

2.2 PTA vide Determination dated 23rd July 2021 has declared PTCL and TWA as Significant Market Power (SMP) operators in wholesale IP bandwidth market of Pakistan. Recently, PTA received complaints from downstream providers wherein it is alleged that reselling of IP bandwidth is being restricted by wholesale bandwidth providers through imposing certain commercial conditions on reselling.

3. Meetings with the Operators:

3.1 In order to analyze the issue at length, individual meetings have been conducted with the concerned operators. Issue has been discussed in detail and input/feedback of the operators has been received. Analysis of operators' input reveals that there are some instances wherein wholesale IP bandwidth providers are obstructing IP bandwidth reselling by other operators in Pakistan through imposing certain conditions.

4. Legal Framework:

- 4.1 It is pertinent to highlight that there is no provision in legal framework and respective license(s) of the operators which restrict downstream providers to resell IP bandwidth to their retail customers. Therefore, imposing of any condition on IP bandwidth reselling including but not limited to recovery of default amount (if any), dictating price floor for reselling, other subjective considerations like protecting business interest etc. by wholesale providers on downstream providers/operators is against the principle of fair competition in the telecom sector and should not be allowed.

5. International practices:

- 5.1 It is pertinent to highlight that such type of bandwidth trade is allowed internationally and there has not been found any restrictions, imposed by whole sellers, on reselling of IP bandwidth by downstream operators.

6. Consultation on IP Bandwidth Reselling in Pakistan:

- 6.1 PTA considers that agreements for bulk sale are creating restraint in trade which should not be promoted. Keeping this in view, all operators are advised to share input/comments on following questions along with detailed legal provisions in support and quoting relevant copy of excerpts, to proceed further in the matter:

Q.1: Whether it is justified that downstream providers i.e. fixed line and cellular mobile operators should be allowed to resell IP bandwidth in retail to their corporate and home customers at any price, terms and conditions, as per their business decision?

Q.2: Whether wholesale IP bandwidth providers should be allowed to impose any commercial condition(s) i.e price floor/ceiling, recovery of default amount, protecting business interest etc on downstream providers for IP bandwidth reselling or not?

Q.3: Whether in case of any dispute among the wholesale and retail providers/operators on terms and conditions of the agreement(s), formal dispute should be lodged to PTA as per provisions of the legal framework?

6.2 All operators are advised to share their input/comments on above consultation within two (02) weeks of issuance of this consultation paper.