



No. 15-70/07(CA)/PTA

August 3, 2007

**DETERMINATION ON BROADBAND ISSUES AND COMPLAINT OF ISPs ON  
PTCL's DSL LAUNCH**

Date of Hearing: 12<sup>th</sup> July 2007  
Venue of Hearing: PTA H/Qs, Islamabad

**The Authority Present:**

Maj. Gen. (R) Shahzada Alam Malik: Chairman  
Dr. Muhammad Yaseen: Member

**The Issues:**

- a) Crow flying versus distance based charging mechanism of bandwidth by PTCL;
- b) Charging of line rent to Digital Subscriber Line (DSL) operators by PTCL;
- c) Access to Optic Fibre Access Network (OFAN) of PTCL to DSL operators;
- d) Provision of adequate collocation space by PTCL to DSL operators;
- e) Provision of Ethernet connectivity between PTCL exchanges;
- f) Improvements in DSL operators' complaint handling mechanism by PTCL;
- g) Simplification of SOPs for activation of PTCL lines for access to DSL operators;
- h) Provision of broadband services by Cable TV service providers;
- i) PTCL retail DSL package;
- j) Forceful un-jumpering of DSL customers without clearance from DSL operators;  
and
- k) Shifting of PSTN customers to Optical Fiber Network by PTCL without customers' consent.

**Determination of the Authority**

**1. Background of the case:**

1.1 In 2002 broadband services were started in Pakistan. Due to various factors including high retail tariffs, less consumer awareness and limited numbers of service provider growth in telecom sector remained stagnated. Considering the significance of the issue, the Pakistan Telecommunication Authority (the "Authority") took the initiative in 2004 by allowing all Internet Service Providers (ISPs) to provide broadband services in addition to the dial up services already provided by them. Later on, in December 2004 Broadband Policy (the "Policy") was announced by Government of Pakistan (GoP) with primary objective to spread an affordable high-speed internet service and encourage private sector investment in local content and broadband services.

1.2 The Policy set a target of 200,000 broadband users within first two years, and anticipated broadband users to reach 500,000 by 2009. The growth nevertheless remained low due to lack of competition between broadband service providers and higher bandwidth tariffs charged by PTCL.

1.3 As compared to the regional countries broadband penetration as well as its growth rate in Pakistan is very low. Currently, there are approximately 65,000 broadband users in Pakistan with a growth rate of 15% while in India growth rate is of 40%.

1.4 In order to attain the strategic objectives of GoP to enhance penetration of broadband services in Pakistan, the Authority issued a consultation paper on March 6<sup>th</sup>, 2007 on **“Broadband Proliferation in Pakistan”** wherein following issues were raised for telecom industry’s consultation:

- a) Crow flying vs. distance based charging of bandwidth by PTCL;
- b) Charging of line rent to DSL operators by PTCL;
- c) Access to Optic Fibre Access Network (OFAN) of PTCL to DSL operators;
- d) Provision of adequate collocation space by PTCL to DSL operators;
- e) Provision of Ethernet connectivity between PTCL exchanges;
- f) Improvements in DSL operators’ complaint handling mechanism by PTCL;
- g) Simplification of Standing Operating Procedures(SOPs) for activation of PTCL lines for access to DSL operators; and
- h) Provision of broadband services by Cable TV service providers.

1.5 Special Communication Organization (SCO), National Telecom Corporation (NTC), Mobilink, PTCL, Habib Rafique, WOL and ISPAK submitted their comments on consultation paper within the stipulated time given by the Authority.

1.6 During consultation process, PTCL launched DSL services as **“Broadband Pakistan”** on May 17, 2007. Initially, these services were offered in Rawalpindi and Islamabad and later on in June 2007 extended to Lahore and Karachi. PTCL introduced three packages having data speeds of 256K, 512K & 1024K bandwidth. It also offered, upon signing up of one year’s contract, three (3) months of unlimited data transfer, free DSL modem and installation. After the expiry of three months the first two packages were proposed to become volumetric but 1024K package would continue to provide unlimited data transfer till the end of one year’s subscription.

1.7 Upon launching of PTCL’s DSL services, Internet Service Providers Association of Pakistan (ISPAK) approached the Authority alleging PTCL’s predatory pricing and anti-competitive practices and requested the Authority to retain PTCL to offer DSL services.

1.8 Moreover, M/s Micronet Broadband (Pvt.) Ltd., M/s World on line Telecom Limited, M/s Brain Telecommunication Limited and M/s Nexlinx also filed a writ petition No.5730 of 2007 in Lahore High Court against PTCL on launching of DSL services. The Honorable High court vide its order dated June 25, 2007 disposed off the writ petition and referred it to the Authority to decide the issue. The allegations leveled in the complaint as well as in writ petition were as under:

- a) PTCL retail DSL package prices are anti-competitive;
- b) PTCL retail DSL tariffs have not been approved by the Authority;
- c) Three (3) months promo offered by PTCL should be limited;
- d) Forceful un-jumpering of DSL customers without clearance from DSL operators;
- e) Shifting of PSTN customers to Optical Fiber Network are being done by PTCL without customers' consent;
- f) PTCL is charging line rent from both retail customers and DSL operators (*Point already covered in Broadband Paper*); and
- g) PTCL takes more time to activate line to DSL operators as compared to its own retail customers (*Point already covered in Broadband Paper*).

1.9 The complaint was duly forwarded to PTCL for comments and reply. After receiving reply from PTCL, meetings on May 30, 2007 and June 25, 2007 with PTCL and on June 20, 2007 with ISPs were convened. Meanwhile, PTCL slashed bandwidth prices for its Internet Protocol (IP) connectivity on July 6, 2007. The reduction was in the range of 25% to 50% depending upon the bandwidth capacity. This positive change was welcomed by the telecom industry. PTCL also reduced the long awaited DSL line rental from the existing rate of Rs.217 (excluding taxes) to Rs.150 (excluding taxes) with effect from 1<sup>st</sup> July 2007.

## **2. Hearing on consultation paper and compliant alongwith industry, PTCL's views and Authority's Findings**

In order to conclude the consultation process and to dispose off the ISPs complaint a hearing was convened on July 12, 2007. Mr. Gul Ahmed, Mr. Iftikhar Ahmed Bashir, Mr. Tariq Naveed Qureshi and Mr. Abdul Rehman from PTCL, Brig (r) F.R. Adhami, Mr. Tariq Sultan and Mr. Niaz Brohi from Mobilink, Mr.Mr. Imran Shahzad from Multinet Pakistan (Pvt) Ltd., Mr. Ali Maskatiya from Maxcom, Mr. Azfar Manzor and Mr Faisal Naqvi from ISPAK, Mr. Shahid Ahmed Khan and Mr. Sanaullah Bhutta from Cyber Net, Mr. Naveed Ahmed and Mr. Kashif Amin from NTC, Lt. Col Anjum from SCO, Mr. Muhammad Akram Mughal from PSEB, Mr. S. Zaidi from Saztel, Mr. Wahaj us Siraj from MicroNet Broadband, Mr. Muhammad Kamil Khan from Diallog, Mr. Umar Durrani from World Call Telecom and Mr. Sohail Chaudhry from HRI attended the hearing on the said date.

During the hearing, ISPs welcomed the recent reduction of IP bandwidth tariffs and DSL line rental by PTCL and withdrew their complaint against PTCL's DSL tariffs issue.

All participants representing telecom industry and PTCL extended their views, observation on the, *inter-alia*, following issues:

## **2.1 Crow flying vs. distance based charging mechanism of bandwidth by PTCL**

PTCL laid broadband metro rings in Karachi, Lahore and Islamabad. Charges for this facility are based on actual ring distance by incorporating the redundancy availability, instead of crow flying distance-based. This results in increased bandwidth cost to the users of broadband metro rings.

**2.1.1 Operators' Viewpoint:** Over the last few years, the cost of fiber optic cable has reduced substantially and the induction of newer technologies such as DWDM has multiplied the network capacity substantially thereby lowering the cost per mile per megabit but the same reduction has not been made by PTCL. PTCL should be asked to submit the detailed costing of media, and the charges be derived on a cost basis for broadband access. PTCL charges bandwidth based on the redundant media, it should provide a comprehensive Service Level Agreement (SLA) to the service providers to cover the quality of service of bandwidth and to compensate the providers for any downtimes. Till provision of SLA to the providers, the chargeable distance should be equivalent to the crow flight distance by multiplying the chargeable distance with a factor of maximum 1.2.

**2.1.2 PTCL's Viewpoint:** Wire line network is land/road based, whose cost depends on the right of way in kilometers, cable is required as per actual length, digging and laying is as per actual length and security/ground rent is on the basis of a rate per kilometer. A land/road-based network is not amenable to crow flying distance based tariffs. If PTCL has to adopt a crow flying charging mechanism then it should be allowed to spread its total cost over the anticipated number of crow flight kilometer.

Since, the media is configured in ring format, therefore the redundant resources are allocated in the entire ring for each customer to provide automatic route diversity in case the cable is cut in one direction. Tariff should ensure commercial viability with a fair return on investment to promote new investment and proper maintenance and expansion of the existing network.

**2.1.3 Authority's Findings:** The Authority observed that in India, TRAI allows converting radial distance into chargeable distance by multiplying it with a factor not exceeding 1.25. While in Taiwan crow flying charging is applicable where as in Malaysia charging is based on actual distances.

The Authority concurs with the ISPs' view that PTCL may charge bandwidth on actual ring distance provided it prepares and submits its SLA to the Authority, which will then be circulated to the industry for consultation.

## **2.2 Charging of line rent to DSL operators by PTCL**

PTCL is charging line rent from the DSL operators in addition to the line rental from its own retail PSTN customers. This was perceived as double charging for the same service.

**2.2.1 Operators' Viewpoint:** DSL line rent may be based on revenue sharing or it should be reduced reasonable for level playing field with PTCL's own DSL services. Though PTCL has recently reduced said charges to Rs.150 per month, yet the charges are still on the higher side. PTCL should either reduce it to Rs.50 per month or sign SLA with ISPs. This would improve quality of service to the customers and reduce the burden of maintenance costs on the ISPs.

**2.2.2 PTCL's Viewpoint:** Fixed local loop charges are appropriate as the operators are offering different packages to customers and it becomes difficult to verify and implement revenue sharing mechanism. The approximate cost of copper loop per month is more than Rs.500 per month, whereas PTCL is recovering Rs.174 per month on account of line rent from its customers, so PTCL is justified in recovering the deficit from the DSL operators.

**2.2.3 Authority's Findings:** The Authority studied international practice regarding charging of DSL line rent from other operators. It was observed that in Australia, the Australian Competition and Consumer Commission (ACCC) while issuing Interim determinations on Line Sharing directed Telstra to reduce line sharing services (LSS) charges from AUD 9.00 to AUD 3.22 per LSS per month. In Germany, the Federal Network Agency (FNA) (responsible for all utilities regulation) adopted phased / gradual approach in reducing line sharing charges and reduced monthly rental from Euro 2.43 to Euro 2.31 for access to higher bit rate portion of the loop. In USA, Public Utilities Commission have the ultimate authority to determine how much competing providers will have to Incumbent Local Exchange Carriers (ILECs) for sharing local loops located within respective states. In this regard, Minnesota Public Utilities Commission directed US West (incumbent operator) to lower line sharing service charges from USD 18.00 to USD 6.05 per month for shared local loops. However, the operators were of the opinion that the real cost based price of shared local loops should be zero.

2.2.3.1 However, in Singapore, Infocomm Development Authority (IDA), the regulator, did not allow the incumbent to recover line-sharing charges as in their opinion it will construe to double recovering of costs for the incumbent. Thus, in Singapore, the line sharing service does not have any recurrent charge. However, one-time processing and connection charges are applicable. It was observed that the retail tariff charged by their incumbent operator (Singtel) are significantly higher than the prevailing charges in Pakistan. Singtel is charging Pak Rs.334 and Rs.500 respectively from residential and business users whereas in Pakistan, PTCL is only charging Rs.174 from its retail customers.

2.2.3.2 The Authority finds that the operators, in general, and PTCL, in particular, agreed to have fixed charges for DSL line rent. However, it is important to determine the level of charges for DSL line rent. The Authority is of the view that the argument of PTCL regarding high cost of local loop cannot be acceded to, as PTCL has never submitted cost details of its local loop to the Authority. The recent reduction in DSL line rent by PTCL is a positive step and the Authority will continue to oversee the charges to ensure level playing field in the sector.

### **2.3. Access to Optic Fibre Access Network (OFAN) of PTCL to DSL operators**

PTCL is not allowing access of its OFAN to operators wishing to provide DSL services on PTCL's access network. This discourages the DSL operators to provide broadband services to PTCL customers shifted on OFAN as only PTCL can provide DSL services to such customers.

**2.3.1 Operators' Viewpoint:** PTCL must open up its OFAN to DSL operators in places where such a network has become operational. Moreover, due to non-maintenance of primary copper network, PTCL is shifting its customers to OFAN network, which makes it impossible to provide DSL services. Furthermore E1, E3, STM-1 interfaces can be provided through the OFAN network and PTCL should be asked to open its access to DSL operators so that they can place their DSLAM's in such buildings and backhaul to their POP over the OFAN and provide broadband services to the customers.

**2.3.2 PTCL's Viewpoint:** PTCL has copper infrastructure of more than 6 million access lines and 0.3 million OFAN lines as of December 2006 in the same areas where copper infrastructure is already available. Therefore, as far as proliferation of broadband is concerned the operators are not constrained by access to PTCL's local loop. Moreover, opening the OFAN access for competitors would risk its return on investment. There are several other infrastructure providers that have laid fibre network in major cities, which is more extensive than the PTCL's OFAN. The cable network operators are the largest investors in broadband infrastructure and by offering adequate regulatory incentives that infrastructure can be used for converged services.

**2.3.3 Authority's Findings:** The Authority noted that most developed nations, including USA, Australia, and the European Union member states, have introduced regulatory frameworks for LLU. It took several years for the EU legislation to implement unbundling and then in individual EU countries the process took further time to mature to become practical and economic rather than simply being a legal possibility. Similarly FCC mandated LLU by the Telecommunications Act in 1996. In November 1999, the regulator FCC issued rules on unbundling of network elements including sub-loops and dark fiber. In February 2003, the FCC concluded a review of its unbundling policies. Among other things, the FCC continued to require incumbents to provide unbundled access to copper local loops, but declined to unbundled broadband capacity over fiber-to-the-home and hybrid copper-fiber loops, and also declined to require line sharing. International experience shows that DSL succeeds in its true sense only when the local loop service providers follow the policy of providing the service to its competitors in an aggressive manner as evidenced in Pakistan the incumbent has ownership of upwards of 90% of the local loop.

2.3.4 In this regard, the Authority also referred to TRAI's recommendations towards LLU according to which the TRAI has made it clear that it would not insist on unbundling of new infrastructure, which is less than five years old.

2.3.5 It was also observed that as per provisions of the Policy (clause 5.2.5), PTCL is only obliged to offer shared access to its last mile copper and not the OFAN. Therefore, for PTCL to make further investment in OFAN, it would be appropriate that unbundling obligation should not be placed for initial few years.

## **2.4 Provision of adequate collocation space by PTCL to DSL operators**

The collocation space is not readily available at various exchanges of PTCL to the requesting operators. Even where it is available, the space provided with prescribed dimensions by PTCL (in most cases just a 2' x 3' rack space is provided) is not enough to accommodate moderately sized interconnection equipment.

**2.4.1 Operators' Viewpoint:** PTCL can provide stable 48V DC power to the providers and it is available in almost all exchanges but PTCL always refuses to provide it on one pretext or another. If PTCL can deploy high density POTS splitting equipment at their MDFs it would substantially reduce the over all requirements for MDF space as well as at the co-location. By just doing these two things many issues can be resolved as far as space limitation in MDF and co-locations are concerned. Furthermore, the procedure for getting co-location / streams / tag blocks needs to be simplified.

PTCL has placed many restrictions on the operators such as not permitting interconnect with any other operator/third party at PTCL collocation sites, forced procurement of bandwidth from PTCL only, etc.

**2.4.2 PTCL's Viewpoint:** Currently, it provides co-location facilities based on availability and on first come first serve basis. Moreover facilities required for broadband service are being provided to the operators who were already offering this service. In the interest of the telcos and the collocated providers, regulated and managed access is the best practice. In case of non availability of space inside PTCL exchanges, the operator may rent alternative space and lay copper cable connecting with PTCL's MDF and can install DSL service related equipment in the rented space. Third party interconnection at PTCL collocation sites is not allowed under the terms of PTCL's Reference Interconnect Offer, which has been approved by the Authority. As far as leasing of bandwidth from other operators is concerned, this may result in illegal voice termination and would have adverse effect on PTCL voice business.

**2.4.3 Authority's Findings:** The Authority observed that with respect to the provision of co-location regulations, (procedures/ framework) the requirements imposed on incumbents vary across countries. While collocation space is normally allocated on a "first come, first served" basis in most countries, some countries promote certain types of collocation. In the UK, for example, the regulator concluded that the incumbent BT should meet any request for co-mingling unless there were objective criteria on the grounds of technical feasibility or the need to maintain network security. In Japan, the regulator has made it compulsory to implement co-mingling collocation in buildings of the incumbents NTT East and West. In Australia, the regulator ACCC has no role in collocation such as number, price or timing of collocation space provisioning.

The Authority noted that PTCL has already been directed vide PTA's Determination dated 6<sup>th</sup> March 2007 to provide enough collocation space to operators providing FTTx, The same principle should also be applicable for DSL operators on non-discriminatory basis. However, the operators may also build their own co-location space or rent an alternative space from any third party. In case, ISPs establish their own PoPs near PTCL exchanges, PTCL may allow them to bring their copper cables inside PTCL's MDF for interconnect to PTCL's copper loop for delivering DSL services.

## **2.5 Provision of Ethernet connectivity between PTCL exchanges**

Currently, PTCL provides only E1 interfaces between exchanges, which limits the scope of broadband operations as a DSL operator can provide limited bandwidth, whereas provision of other multimedia services would be seriously affected. Fast Ethernet (FE) and Giga Ethernet (GE), therefore, need to be made available to private operators also.

**2.5.1 Operators' Viewpoint:** At present PTCL is not providing E3 / STM-1 interfaces. If PTCL provides ATM OC3, DS3, E3 and 100 BaseT Ethernet interfaces to broadband providers, it would facilitate better quality of service for the end users and also simplify provisioning issues. Moreover, DSL operators should be allowed to either lay down their own fibre from PTCL exchanges/collocations to their aggregation points or hire/lease it from other private operators/infrastructure providers.

**2.5.2 PTCL's Viewpoint:** PTCL is allowing access and connectivity based on available network resources. For any new arrangement PTCL would have to make additional investment for the use of other DSL operators. Such an arrangement may only be done when sufficient long-term commitment and commercially viable tariffs are agreed.

**2.5.3 Authority's Findings:** The Authority noted that PTCL is allowing connectivity between its exchanges as per the available network resources. However, in order to provide Ethernet connectivity by PTCL, it primarily needs to place Ethernet routers / interfaces in the exchanges. The Authority considers that it is not appropriate to enforce PTCL to deploy a technology, it has not implemented for its own network. However, in future if such technology is launched by PTCL then other operators should have access to such facility.

## **2.6 Improvements in DSL operators' complaint handling mechanism by PTCL**

DSL operators are not allowed by PTCL to resolve technical complaints of DSL customers after 5 pm, as entry in PTCL collocation sites is not permitted after said time. In order to ensure provisioning of high quality services, the said time limit needs to be extended for authorized technical staff of the DSL operators to provide round the clock support to the subscribers.

**2.6.1 Operators' Viewpoint:** PTCL must provide extended hour or round the clock support in every exchange where there is DSL provisioning and all this requires proper and dedicated staffing and SOPs. Access to collocation facilities should be

provided to an authorize representatives of every DSL operator for any rectification at DSLAM/equipment level. Another suggestion was to sublet the maintenance of OSP system to a private company.

**2.6.2 PTCL's Viewpoint:** PTCL agrees to the level of support which it is currently providing for its own services.

**2.6.3 Authority's Findings:** The operators and PTCL should mutually work to improve the SOP for complaint handling. The Authority is of the view that PTCL should at least provide the level of services to other operators as it provides to its own retails customer.

## **2.7 Simplification of SOPs for activation of PTCL lines for access to DSL operators**

A number of operational hurdles are reported in signing up various forms and affidavits for the activation of a DSL connection by DSL operators. The process should be simplified to increase the DSL deployment to a healthy number.

**2.7.1 Operators' Viewpoint:** The current SOP for activation is extremely cumbersome and needs revision. There is a lot of paperwork and permission involved which wastes operators and PTCL's time and resources. ISPs are facing problems on the issue of time taken by PTCL for DSL provisioning for a new line, which varies from five to fifteen days. PTCL on the other hand is providing DSL to its own customers with in three (3) days from the date of order. DSL customer of ISPs should be provisioned in the same manner and time as for PTCL's own DSL services.

**2.7.2 PTCL's Viewpoint:** Simplification of existing procedures for activation of DSL is in general a positive step. However, PTCL's position with respect to its resource utilization, operational capabilities and commercial interests should be kept in mind Furthermore, even in case if its own retail and corporate customers PTCL requires paper work to initiate services. DSL activation through phone call is not possible under present regulatory requirements. PTCL despite all this agree to work with ISPs in redoing the SOP for DSL provision.

**2.7.3 Authority's Findings:** The Authority observed through different customer complaints to the Authority that PTCL is taking as long as one month's time for installation of DSL to its own customers. However, since PTCL is willing to work with ISPs in revision of SOP and time it takes for provision of DSL, the Authority may let them resolve the issue at their own end, under intimation to the Authority.

## **2.8 Provision of broadband services by Cable TV service providers**

In Pakistan cable television network is one of the sources identified for broadband connectivity, particularly in the case of residential users. The cable TV operators do business under a license from PEMRA (historically issued by the Authority). One view is that cable TV operators should be brought under the net of the Authority through registration or a similar process since these operators have now also started offering a

telecom service and the rules, regulations etc applicable to ISPs should also be applicable to cable TV operators.

**2.8.1 Operators’ and PTCL’s Viewpoint:** In general the regulator issues licenses based on types of service offered, with a neutral approach towards the underlying technology platform. Therefore if a cable operator provides internet access, ISP license should be obtained from the Authority along with cable TV license from PEMRA. Moreover internet services are clearly under the domain of the Authority and thus need to be duly licensed from PTA.

**2.8.2 Authority’s Findings:** The Authority is of the view that the cable operators that are interested in providing broadband services should get necessary license from the Authority before provision of broadband services.

**2.9 PTCL retail DSL package prices are anti-competitive**

**2.9.1 ISPs Complaint:** DSL service launched by PTCL is a negative and anti-competitive move by the incumbent. Although prices for their first two packages 256K and 512K are comparable with other DSL operators but the price for the 1024K package is far lower than the industry prices. A quick comparison of the package prices as given by ISPAK is as under:

PTCL’s DSL Retail Tariffs	PTCL IP Bandwidth Rates for ISPs
<b>Unlimited Volume Usage for 3 months</b> <ul style="list-style-type: none"> <li>• DSL-256 @ Rs.1,199 per month</li> <li>• DSL-512 @ Rs.1,999 per month</li> </ul>	<ul style="list-style-type: none"> <li>• 256 kbps @ Rs.19,800 per month</li> <li>• 512 kbps @ Rs.33,600 per month</li> </ul>
<b>Unlimited forever</b> <ul style="list-style-type: none"> <li>• DSL-1024 @ 4,999</li> </ul>	<ul style="list-style-type: none"> <li>• 1024 kbps @ 57,600 per month</li> </ul>

Such a huge difference in pricing is a clear indication that PTCL has subtle intentions to wipe out all other DSL operators out of competition. The Authority must direct PTCL to charge ISPs for IP bandwidth at the rates offered to its own DSL customers.

**2.9.2 PTCL’s Response:** PTCL has always supported private sector participation and growth with respect to DSL services and it dates back to 2002 when PTCL took the initiative and entered into O&M agreements with private DSL operators. PTCL did not start the service itself and left the market open to DSL operators for five (5) years and through out this time and till today access to its copper loops for provision of DSL is provided on non-discriminatory basis. Despite all these efforts roll out in broadband has been insignificant.

Around the globe, increased broadband proliferation has resulted due to incumbent’s entry into this market. PTCL has followed world practices and has taken this step for broadband proliferation in light of broadband policy of the Government of Pakistan. The figures given by ISPs are misleading and this is not an apple-to-apple

comparison. ISPs has compared PTCL's retail offering having contention ratio with PTCL's wholesale offering to ISPs for dedicated pipes. They mentioned that their volumetric packages of 256K & 512K are comparable with the market offerings and the 1024K package is a shared bandwidth with contention ratio of 1:25. Thus, PTCL tariffs are not anti-competitive.

**2.9.3 Authority's Findings:** The Authority studied different countries in which it has observed that incumbents of India, Canada, Korea, Australia and other countries provide DSL services and have acted as catalysts in broadband proliferation.

The argument of ISPs that PTCL should provide wholesale services at the same price as it is offering to its retail customers cannot be acceded to because ISPs have compared PTCL's wholesale tariffs with their retail tariffs without considering the contention ratio. PTCL has applied contention of 1:25 for its retail customers, as is the case around the world. Almost all DSL operators in UK and Europe have contention ratio of 1:50 for home users and 1:20 for business users. Korea has contention of 1:25, Japan has 1:15, France has 1:20 and in India contention ratio varies from as low as 1:50 to as high as 1:130. Another objection of ISPs that PTCL is SMP in DSL is void as PTCL has been declared as SMP in LL for voice services only vide PTA Determination dated 25<sup>th</sup> August 2004. It may also be noted that ISPs has also welcomed the recent reduction of IP bandwidth tariffs and DSL line rental by PTCL and has withdrawn their complaint against PTCL's DSL tariffs issue.

## **2.10 PTCL retail DSL tariffs have not been approved by the Authority**

**2.10. ISPs' Complaint:** PTCL has not sought approval of DSL tariff from the Authority, which it is bound to do so under the relevant rules and regulations.

**2.10.1 PTCL's Response:** No such regulatory requirements exist and retail broadband tariffs are not regulated by the Authority.

**2.10.2 Authority's Findings:** The retail broadband market is not yet developed as compared to neighboring countries and European markets. Hence, the declaration of SMP operator in retail broadband market may hamper on-going investment and penetration of broadband in the country. Therefore, the Authority may not regulate the retail broadband tariffs.

## **2.11 Three (3) months promo offered by PTCL should be limited**

**2.11.1 ISPs' Complaint:** PTCL has made special offer of unlimited download on all its DSL packages for three months from service activation date. PTCL has a history of offering such clandestine packages which continue perpetually as happened previously with its calling card and LDI packages.

**2.11.2 PTCL's Response:** PTCL has introduced a new product and like all other service providers it has exercised its rights to launch promotional packages. ISPs

allegations are vehemently denied. The apprehension that PTCL promo continues beyond the declared period is unfounded as PTCL has never done so in the past and PTCL will restrict its city based current unlimited download promo to three (3) months.

**2.11.3 Authority's Findings:** The Authority noted that PTCL has assured that they will not extend their city based promotions for unlimited data download on 256K and 512K packages beyond three months. This shall be overseen by the Authority to ensure that such offer do not extend beyond the given time limit.

## **2.12 Forceful un-jumpering of DSL customers without clearance from DSL operators**

**2.12.1 ISPs' Complaint:** PTCL forcefully un-jumper active DSL customers of other ISPs without obtaining clearance from existing operators. Thus there is no way for them to recover the receivables, if any, from the clients who are moving to PTCL.

**2.12.2 PTCL's Response:** Although PTCL is giving notices to the DSL operators, yet it is ready to sit with ISPs and develop an SOP on this issue.

**2.12.3 Authority's Findings:** Forceful un-jumpering of DSL customers of other operators with out clearance of dues is not appropriate. PTCL and ISPs should mutually work in developing an SOP on this issue.

## **2.13 Shifting of PSTN customers to Optical Fiber Network by PTCL without customers' consent**

**2.13.1 ISPs' Complaint:** PTCL is shifting its PSTN customer numbers from copper network to Optical Fiber Access Network (OFAN) without the consent of the customers. PTCL is not allowing access to its OFAN network to ISPs for DSL provision. ISPs suggested that customers to be shifted to OFAN must clearly be informed in writing by PTCL, prior to shifting, that this would limit the customers only to PTCL's own DSL services. If customer opts not to go for OFAN, PTCL will be obliged to keep the previous PSTN connection of the customer without shifting him/her to OFAN.

**2.13.2 PTCL's Response:** PTCL assured that such switchovers are backed by customer's consent. PTCL promises to look in to any complaint being brought in notice by ISPs.

**2.13.3 Authority's Findings:** The Authority is of the view that PTCL should not shift its customers to OFAN network without customer's consent. PTCL should also inform such customers prior to shifting that they will no longer be able to access other operators DSL services.

### 3. Decision of the Authority:

The Authority, after analyzing views extended by the industry and PTCL on consultation paper and complaint, mandate given under section 4(d), section 26 of Pakistan Telecommunication (Re-organization) Act, 1996, clause 4.1.1, 4.2.1, 5.2.5, 5.6.1 and 5.2.8 of the Policy, and in compliance with the order of the Honorable Lahore High Court dated June 25, 2007, hereby determines and decides that:

- (i) PTCL's recent reduction in wholesale DSL line rent from Rs.217 per month per loop (excl. taxes) to Rs.150 per month per loop (excl. taxes) is hereby approved. However, PTCL, in future, shall take prior approval from the Authority before announcing any changes in wholesale DSL line rent;
- (ii) PTCL may continue to charge its bandwidth for metro rings on actual ring distance. However, PTCL shall provide comprehensive Service Level Agreements (SLAs) to the Authority, within sixty (60) days from the date of this decision. SLAs shall at least cover the quality of service of bandwidth facilities for data and voice services, along with penalties for not complying with the given quality parameters;
- (iii) The Authority, at this stage, shall forebear the obligation of unbundling of PTCL OFAN, and shall only intervene when market condition so requires;
- (iv) ISPs shall be allowed to bring their own fiber network adjacent to PTCL's cabinets and install their own Optical Network Units (ONU) along side PTCL's cabinets. PTCL shall provide access of its secondary network to ISPs fiber network for delivering ISP's DSL services. The standard local loop sharing charges of PTCL shall apply;
- (v) Telecom operators are encouraged to build their own collocation space or rent an alternative space from any third party. In case, ISPs establish their own PoPs near PTCL exchanges, PTCL shall allow them to bring their copper cables inside PTCL's MDF for interconnect to PTCL's copper loop for delivering DSL services;
- (vi) PTCL and ISPAK are directed to mutually revise the SOP for activation of DSL services and complaint handling within forty-five (45) days from the date of this determination under intimation to the Authority;
- (vii) PTCL shall offer Ethernet connectivity between its exchanges to DSL operators in case PTCL launches such technology. PTCL is also encouraged to work along with ISPs in considering deployment of this technology for the benefit of industry;

- (viii) The cable operators that are interested in providing broadband services shall get necessary license from the Authority before provision of broadband services;
- (ix) PTCL shall allow ISPs/DNoPs to provide IP VPN services for data only. Regarding video conferencing, PTCL's existing SOP to open video conferencing ports of a customer connected to ISP's network through PTCL's IP backbone on a four (4) hours notice will be included in PTCL DSL agreements with ISPs;
- (x) PTCL shall not extend its three months promo for unlimited data download for 256K and 512K packages. However, PTCL is allowed to offer the same three months promotion for every new city it covers, from the date of start of services in that particular city. The customer that subscribe for such package may get three months promotional facility from the date of such subscription;
- (xi) The Authority, at this stage, shall not regulate retail broadband tariffs. However, complaints regarding anti-competitive practices will be duly reviewed and investigated by the Authority in accordance with the current legislative and regulatory provisions;
- (xii) PTCL is directed to develop a procedure in collaboration with ISPs for shifting of DSL customers of other operators on PTCL's network and submit to DG (CA) of the Authority within 30 days of the issuance of this order/determination. PTCL shall not un-jumper the existing nodes without written notice to the DSL operators; and
- (xiii) PTCL shall not shift its customers from copper network to OFAN without their prior consent. PTCL, prior to shifting, shall clearly inform in writing to the customers that after the shifting, the customer will not be able to avail DSL services of any other operator, except PTCL.

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Maj. Gen. (R) Shahzada Alam Malik  
(Chairman)

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Dr. Muhammad Yaseen  
Member (Technical)

This determination is signed on this \_\_\_\_\_ day of \_\_\_\_\_ 2007.