



No. 15-43/07(CA)/PTA

March 19, 2007

**DETERMINATION ON CARRIER SELECTION ISSUES BETWEEN PTCL AND
LDI OPERATORS**

Date of Hearing:	1 st February 2007
Venue of Hearing:	PTA H/Qs, Islamabad
Date of issuance of the instant Determination	March 19 , 2007

The Authority Present:

Maj. Gen. (R) Shahzada Alam Malik:	Chairman
S. Nasrul Karim A. Ghaznavi:	Member
Dr. Muhammad Yaseen:	Member

The Issues:

- i. “Provision of Local Mobile Calls on PTCL lines through LDI Prepaid Calling Cards, Call-by-Call and Carrier Pre-selection”
- ii. “Provision of access to LDIs on PTCL V-Phone and AASAN Phone Connections through LDI Prepaid Calling Cards, Call-by-Call and Carrier Pre-selection”
- iii. “Provision of Intra-Region Calls on PTCL lines through LDI Prepaid Calling Cards, Call-by-Call and Carrier Pre-selection”

Determination of the Authority

1. BACKGROUND OF THE ISSUES

1.1 The Government of Pakistan issued Telecom Deregulation Policy (the “Policy”) in 2003 to liberalize telecom sector of Pakistan and imposed certain obligations

pertaining to carrier selection on PTCL. Para 4.6.1 sub-clauses (c), (d) & (e) of the Policy provides that:

“In order to facilitate market liberalization, PTCL, within a stipulated timeframe, is obliged to:

- c. Enable subscriber lines on all digital switches to perform Indirect Access (Call-by-call carrier selection) for 22-digit numbers within one year.*
- d. Enable all subscriber lines to perform Indirect Access.*
- e. Enable all subscriber lines to perform carrier pre-selection.”*

1.2 Keeping in view the aforesaid provisions of the Policy and other obligations placed on PTCL, the Authority conducted regular meetings with PTCL and LDI operators to review the status of interconnectivity. During the meetings held on 31st October 2005, 26th December 2005 and 6th June 2006, the LDI operators highlighted their unresolved interconnection issues with PTCL, which included the following issues, amongst others:

- i. Provision of Local Mobile Calls on PTCL lines through LDI Prepaid Calling Cards, Call-by-Call and Carrier Pre-selection;
- ii. Provision of access to LDIs on PTCL V-Phone and AASAN Phone Connections through LDI Prepaid Calling Cards, Call-by-Call and Carrier Pre-selection; and
- iii. Provision of Intra-Region Calls on PTCL lines through LDI Prepaid Calling Cards, Call-by-Call and Carrier Pre-selection.

1.3 In order to resolve the above three issues, the Authority apart from the meetings referred at para 1.2 above, conducted a hearing on 1st February 2007 in which all the parties were provided the opportunity of hearing to present their viewpoints. Representatives from operators, i.e. M/s TeleCard, M/s WorldCall, M/s Wateen Telecom, M/s RED Tone, M/s Callmate Telips, M/s Burraq Telecom, M/s 4BGentle, M/s Circle Net, M/s Link Direct and M/s PTCL, etc attended the hearing and participated in the proceedings while representing their respective entities.

ISSUE NO. 1

2. PROVISION OF LOCAL MOBILE CALLS ON PTCL LINES THROUGH LDI PREPAID CALLING CARDS, CALL-BY-CALL AND CARRIER PRE-SELECTION

2.1 LDI Operators' Viewpoint

2.1.1 The LDI operators informed that PTCL is not allowing its subscribers to make local mobile calls through LDI operators by calling cards, call-by-call carrier selection and/or carrier pre-selection. The LDI operators submitted that in case of roaming, the mobile call is often a Long Distance Call. The LDI operators prayed that with the implementation of MNP regime, the concept of local mobile calling will be changed. In addition, the LDI operators submitted that since PTCL has given access of local mobile service on their calling cards, PTCL should provide carrier pre-selection or call-by-call selection facility to its customers for making local mobile calls through LDI operators.

2.2 PTCL's Viewpoint

2.2.1 PTCL submitted that as per Para 4.4.2 of the Policy, local mobile call is not a long distance call. Thus, it does not fall under the service domain of LDI operators. The responsibility for taking calls to the roaming customers lies with the cellular mobile operators and therefore, such calls in no way can be declared as long distance calls. PTCL also referred to definition of the 'local calling area' given in the Local Loop and Long Distance International License, which states that *"a call constitutes a local call if the two interconnecting switches are lying within 25 km distance in general and 35 km in Karachi and Lahore metropolitan areas"*. PTCL submitted that the Authority's determination dated 5th July 2005 clearly specified that Far-end call handover will continue.

2.3 Authority's Findings

2.3.1 The Authority observed that as per the license granted to LDI operators, the licensee can only provide 'Long Distance and International Public Voice Telephone Services'. The provision of Local Mobile Calls through LDI licensee would be against the scope of LDI license. Although some local mobile customers may be present in other

Regions (due to traveling, shifting etc), thus effectively making calls to them as Long Distance. However, this exception cannot be used to allow LDIs to deviate from their license terms as this traffic is solely the domain of cellular mobile operators who may or may not use other LDI networks to carry this (roaming) traffic.

2.3.2 The Authority considered that although the provision of local mobile calls through LDI networks would benefit the consumers. However, keeping into considerations the license conditions of LDI operators, the service should only be allowed to be provided by LL operators.

ISSUE NO. 2

3. PROVISION OF ACCESS TO LDIs ON PTCL V-PHONE AND AASAN PHONE CONNECTIONS THROUGH LDI PREPAID CALLING CARDS, CALL-BY-CALL AND CARRIER PRE-SELECTION

3.1 LDI Operators' Viewpoint

3.1.1 The LDI operators raised their concerns regarding blocking of access to LDIs on PTCL wireless V-Phone and Aasan Phone Connections through LDI Prepaid Calling Cards, Call-by-Call and Carrier Pre-selection. They have emphasized that the action of PTCL is against the spirit of the Policy. They prayed the Authority to intervene and direct PTCL to open access to PTCL V-Phone and Aasan Phone Connections.

3.2 PTCL's Viewpoint

3.2.1 PTCL was of the view that it should not be obliged to provide access to LDIs on its V-phone and Aasan phone through LDI Prepaid Calling Cards, Call-by-Call and Carrier Pre-selection, on the pretext that:

- a) PTCL Wireless is a prepaid connection wherein subscribers have opted for PTCL as an LDI operator.
- b) PTCL has obtained the spectrum through open auction and therefore would like to recover its investment through binding their Wireless customers to PTCL's LDI services.
- c) The operators laying new infrastructure including that for access have a right to get return on their investment.

- d) The network rollout of PTCL and others is contemporary and PTCL has not been advantaged in anyway.
- e) PTCL should not be obliged to offer carrier selection on its wireless phones at least for 5 years, in accordance with international best practices.

3.2.2 PTCL also provided some documents of India and USA in support of its argument (e) above.

3.3 Authority's Findings

3.3.1 The Authority has noted that as per Para 4.6.1 of the Policy "*PTCL is obliged to:*

- a) *Enable all subscriber lines to perform Indirect Access; and*
- b) *Enable all subscriber lines to perform carrier pre-selection".*

3.3.2 The Authority observed that PTCL is also obliged under condition 14 of its license which states that "*The licensee shall be obligated to fulfill the specific obligations imposed on it under the Telecom De-Regulation Policy 2003, Cellular Mobile Policy 2004, or any other policy directive which the Federal Government may issue from time to time under section 8 of the Act*".

3.3.3 The Authority also noticed that Para 4 (1) of the Policy has provided for only two types of fixed-line licenses:

- Local loop ("LL") fixed line telecommunication within a PTCL region.
- Long-distance and international ("LDI") fixed line telecommunication.

3.3.4 In addition, Tariff Regulations 2004 also define LL Operator as "*Local Loop Operator licensed to establish, maintain and operate telecommunication system & provide local exchange services/limited mobility communication services*".

3.3.5 Keeping in view the above mentioned, the Authority has observed that a "Local Loop Operator" can not be further bifurcated on the basis of wire-line or wireless technology as these are just two means of providing services in accordance with their scope of licenses.

3.3.6 The Authority also studied the documents provided by PTCL and found these irrelevant to the issue at hand. These documents pertain to obligation of local loop unbundling (LLU), which in simpler terms results in sharing of local loop network elements with new entrants. In Pakistan, as PTCL is not obliged to un-bundle its local loop network, therefore, the point of view of PTCL does not hold any merit.

3.3.7 The Authority is also of the view that the mode of license as well as payment for service, i.e. prepaid, as mentioned by PTCL, are not relevant for not providing access to other LDI operators.

3.3.8 Regarding PTCL's argument that it is offering prepaid services where the customer himself opts for PTCL as its LDI operator cannot be acceded to because PTCL has not given any option to its customers to select carriers for long distance calls of their own choice, and they are instead bound to use PTCL as long distance carrier.

3.3.9 The Authority considered that the forced sale of "*long distance and international telephony service*" through PTCL WLL phones puts other WLL operators at a great disadvantageous position who may or may not have an LDI license. This may also allow PTCL to undertake cross-subsidization of services which would have adverse effects on other WLL operators. The Authority also noted that PTCL has never sought clarification from the Authority on this subject and in fact initially allowed LDI access to its V-phone subscribers (Prepaid subscribers included) and suddenly blocked access in beginning of year 2006 without giving any notice to the Authority or the LDI operators.

3.3.10 The Authority further observed that the provision of access to LDI operators will not affect the return on investment of PTCL's WLL phones, as viewed and projected by PTCL. This is due to the fact that provision of long distance and international telephony services are beyond the scope of WLL license. Hence, WLL and LDIs cannot be treated as direct competitors of each others due to different nature and scope of their licenses. This would also be against the level-playing field as other new WLL operators may not have LDI licenses to provide long distance and international telephony services to their customers on their own.

ISSUE NO. 3

4. PROVISION OF INTRA-REGION CALLS ON PTCL LINES THROUGH LDI PREPAID CALLING CARDS, CALL-BY-CALL AND CARRIER PRE-SELECTION

4.1 LDI Operators' Viewpoint

4.1.1 The LDI operators submitted that Para 4.2.2 (d) of the Policy authorizes the local loop operator to carry voice calls between municipalities but only within a single region. However, the Policy and LDI license does not restrict the LDI operators to offer its services in such areas.

4.1.2 In addition, the LDI operators prayed that clause 1.1.7 of the LDI license states that the licensee that implements carrier pre-selection and call-by-call routing with PTCL is authorized under this license to provide Public Voice Telephone Services, if such services were provided by PTCL would constitute NWD calls as specified in PTCL's call routing tables. An NWD call is, in general, a domestic call to a geographic telephone number where origin and the destination of the call are not in the same local calling area.

4.1.3 They informed that PTCL has unilaterally blocked intra-region prepaid calling card traffic without any advance notice and justification.

4.2 PTCL's Viewpoint

4.2.1 PTCL contested this issue by saying that LDI operators are only authorized to carry inter-regional and international calls. PTCL based its argument on the basis of definition of NWD calls, as given in the Fixed-line Tariff Regulations 2004 issued by the Authority which states *"Calls made over the public fixed switched network from Customer Premises Equipment or Public Payphones to Customer Premises Equipment, Public Payphones or to equipment connected to a public mobile switched network between municipalities within the same region"*.

4.3 Authority's Findings

4.3.1 The Authority observed that as per Para 4.2.2 (d) of the Deregulation Policy *"LL licensees will not be permitted to carry voice calls between PTCL Regions (other than*

metro regions) or long distance / international traffic. They may carry voice calls between municipalities, but only within a single region”.

4.3.2 In view of the aforesaid provision, the Policy merely allows LL licensees to provide Intra-Region call services. However, it does not in any manner restrict LDI operators to offer the said call service to its customers.

4.3.3 The Authority also noted that clause 1.1.7 of the LDI license also provides that *“For greater certainty, a Licensee that implements carrier pre-selection or call-by-call routing with PTCL is authorized under this License to provide Public Voice Telephone Services that, if such services were provided by PTCL, would constitute NWD calls as specified in PTCL’s call routing tables. An NWD call is, in general, a domestic call to a geographic telephone number where the origin and the destination of the call are not in the same Local Calling Area”.*

4.3.4 Moreover, the definition for “Long Distance” as given in the PTCL and other LDI Licenses is as under:

“Long Distance” means end to end communication between points (a) that are located in different Regions, (b) that are not in the same Local Calling Area, or (c) between points that are located more than 25 kilometres apart, or such other definition as the Authority may, by Regulation, specify”.

4.3.5 The Authority observed that the right to provide Intra-Region Calls is common to both LL and LDI licensees. The definitions given in Fixed Line Tariff Regulations are for the purpose of regulating the tariffs of LL and LDI services. They shall not be taken for identifying the scope of licensees, which is clearly mentioned in the respective license documents.

4.3.6 The Authority considers that PTCL’s stance is in direct contradiction to the definitions of “Long Distance” and “Local Calling Area” as given in its own license. The Authority also noted the fact that PTCL never sought clarification from the Authority on this subject and in fact it initially allowed LDI operators the access for Intra-Regional calls till the beginning of year 2006.

5. THE AUTHORITY'S DECISION

5.1 After hearing the parties/all concerned i.e. LDI operators and PTCL at length, the Authority hereby decides and determines as under:

- i. PTCL is under no obligation to provide the service of local mobile calls to its customers through LDI prepaid calling cards, call-by-call and carrier pre-selection.
- ii. PTCL shall provide access to LDIs on PTCL V-Phone and Aasan Phone connections through LDI prepaid calling cards, call-by-call and carrier pre-selection.
- iii. PTCL shall allow the provision of Intra-Region calls on all PTCL lines (wire-line as well as wireless) through LDI prepaid calling cards, call-by-call and carrier pre-selection.

5.2 This Determination shall be effective with immediate effect.

Dr. Muhammad Yaseen
Member (Technical)
Pakistan Telecommunication Authority

S. Nasrul Karim A. Ghaznavi
Member (Finance)
Pakistan Telecommunication Authority

Maj Gen. (R) Shahzada Alam Malik
Chairman
Pakistan Telecommunication Authority

Signed on this _____ day of March, 2007.