

FRAMEWORK FOR PUBLIC CONSULTATION  
ON REGULATORY MATTERS - PTA

## FRAMEWORK FOR PUBLIC CONSULTATIONS/REGULATORY ISSUES

### **1. Introduction:**

1.1 Pakistan Telecommunication Authority (**PTA**) being a telecom regulator in Pakistan has been mandated to regulate the establishment, maintenance, operation of telecommunication system and provision of telecommunication services. For the purpose of carrying out regulatory functions, PTA issues licenses, regulations and pass decision on the matter related to telecommunication system and services.

1.2 For carrying out the purpose of the mandate provided under the Pakistan Telecommunication (Re-organization) Act, 1996 (the “**Act**”), PTA has issued various regulations and passed orders for telecom industry. In order to frame regulation or passing order which have impact on the industry as a whole carrying out consultation with stake holders. For examples all draft regulations are circulated to telecom industry for comments before promulgation / gazette notifications, comments are sought before determining Significant Market Powers (**SMP**) in telecom sector. More so, consultation on the issue of Mobile Termination Rate is also made with all the concerned telecom operators before issuing determination.

1.3 In addition, it is also relevant to highlight, PTA also carried out consultation with all the concerned stakeholders while giving recommendation of various telecom policy to be issued under section 8 of the Act. For example at the time of renewal of cellular mobile licensees a consultation process was initiated and all the stakeholders were invited for consultation. Further for issuance / allocation of new radio frequency spectrum PTA also carried out consultation and comments were sought from the cellular mobile operators. Similarly, at the time of modification or setting out license condition consultation was carried with licensees. In addition, almost in all matter having its regulatory impact, PTA invite consultation / comments of the all the concerned stakeholders for the purpose of finalizing / concluding the regulatory issues.

### **2. Current Regulatory regime for consultation:**

2.1 For the purpose of enforcing and monitoring regulatory regime, the regulator has been equipped with certain mandate to carry out consultation process while making decisions. In this regard PTA, in exercise of its powers conferred under section 5 of the Act, has framed / promulgated the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 (the “**Regulations**”). For ready reference relevant regulation addressing the issue of consultation are given below:

“4. **Public Notice.** \_\_\_ The Authority may give public notice of any matter in the national press and the PTA official website. For giving such public notice, it shall be sufficient to mention the subject of the matter and to advise the interested parties to collect full text of the document from the office of the Authority.”

5. **Public hearing by the Authority.** \_\_\_ (1) The Authority may, by giving a public notice hold a public hearing on any matter that it may deem necessary.

(2) Any person having interest in the subject matter of the hearing may on submission of an application to the Authority, join a public hearing as a party.

(3) Subject to the condition of providing adequate opportunity of hearing to the parties, the Authority may restrict the proceedings of a public hearing within practical limits.

(4) The Authority shall give all parties to the public hearing opportunity to present their case and thereafter give a decision in the matter on the merits of the case.

6. **Determination.** \_\_\_ (1) For exercising its functions under clause (a), (c), (d), (e), (i), (j), (k), (l) and (m) of section 4 of the Act, the Authority may, where it deems necessary, initiate studies, seek advices of consultants, conduct surveys, analysis or initiate consultation process and pass Determination(s) accordingly.

(2) In the case of consultation process, stakeholders shall be contacted for their comments and, if deemed necessary, hearing may also be arranged prior to issuing of any Determination. The Determination passed after the consultation process or the hearing, as the case may be, shall be order of the Authority and shall be final and having binding effect on the licensees.

2.2 In light of applicable regime all necessary steps for carrying out consultation with the industry are initiated and taken. More so, for the purpose of seeking comments on various regulations to be issued by the Authority a standing operating procedure has also been available with time lines. Considering the nature of issue, consultation with stakeholder are made. It would not be out of context to mention here that as per sub-regulation (1) of regulation 51 of the Regulations, PTA may set up Advisory Committees and may nominate on the said Committees such members, including representatives of users of telecommunication services, chambers of Commerce and industry, telecommunications carriers, other interested groups, and officers of the Authority as it may deem appropriate. In addition, as per sub-regulation (6) of regulation 51 of the Regulation, the Authority may, on any matter relating to its functions, elicit opinion by inviting public comments on the subject through a public notice.

2.3 Consultation/ Regulatory Assessment on telecom matter(s) is an on-going process and requires deliberations, discussions and comprehensive legal as well as technical expertise. It has been observed that Consultation/ Regulatory Assessment for telecom regulators is one of the fundamental and necessary task so that issues related to the provision of telecom services would be addressed in a comprehensive and fruitful manner. In order to meet the criteria of transparency on telecom issues and to address the same under the relevant regulations, Consultations/Regulatory Assessment are used to be as tools for reviewing existing regulations as well as analyzing other options.

### **3. Consultation Process on regulatory issues:**

3.1 The need for development or review of any legal instrument, such as regulations, rules, regulatory/licensing framework, guideline etc., is triggered by one or combination of following aspects:

- a) **Policy Driven:** This type of regulatory intervention is driven in the light of any prior policy issued by the Government.

- b) **Market Driven:** This type of regulatory intervention is driven to cater fast changing market demands.
- c) **Preemption:** This type of regulatory intervention is based on anticipation of the Government or Regulatory Authority, which may sometimes is not anticipated by market forces, based on the latest trends and technology evolution that is foreseen as having impact on existing Business, Political, Economic, Social, Technological, Environmental factors and/or Legal/Regulatory environment.

The process of Consultation/ Regulatory Assessment should begin with the identification of the issue to be addressed. It is then important to define:

- i. The objectives of consultation process and regulatory instrument to be developed/reviewed (i.e. for compliance, to streamline processes, to standardize, etc.); and
- ii. To identify a range of options.

3.2 For the said purpose, PTA’s concerned Division(s)/Directorate(s) should draw up a list of the different groups of stakeholders likely to be affected by any of the options identified. Examining how other regulators have approached similar issues may be worthwhile in some circumstances.

3.3 The information needed to develop consultation draft will then be gathered, often through informal contact with stakeholders, desktop research etc. A possible consequence of this engagement is that additional options will need to be considered or existing options will need to be revisited.

3.4 By the time the formal consultation stage is reached, a more detailed analysis should have been produced. At this stage through Consultation/ Regulatory Assessment will generally identify a preferred option and would normally expect to show how PTA concerned Division/Directorate have developed their initial assessment of the possible options, the stakeholders affected and the depth of analysis required. Stakeholders will then be asked for their comments and for any further information which might help complete the concerned Division/Directorate assessment.

**3.5 The Stages involved in Consultation Process with expected timelines are detailed in below table.**

Stages	Description of Consultation	Timeline
Initial Stage	Concerned Division/Department at first will mainly initiate/substantiate the subject Consultation Draft including but not limited to the following: <ul style="list-style-type: none"> <li>a. Define the issue;</li> <li>b. Identify the stakeholders / consumer interest;</li> <li>c. Defining the objectives which should be linked to applicable regulatory framework;</li> <li>d. Identify the impacts on different types of stakeholders;</li> <li>e. Determine the depth of analysis that will have a significant and/or wide-ranging impact on stakeholders</li> </ul>	T0

<b>Analysis</b>	<p>Developing of an analysis of the above options under consideration. This is likely to involve, among other things:</p> <ol style="list-style-type: none"> <li>a. Reviewing the options which we initially selected and, where appropriate, narrowing them down;</li> <li>b. Identifying the impacts of the different options on different types of stakeholders;</li> <li>c. Identifying any impacts, the different options would have on competition;</li> <li>d. Analyzing the costs and benefits that would flow from those impacts;</li> <li>e. Assessing the risks attached to the options and the possible unintended consequences;</li> <li>f. Analyzing the distributional effects that would flow from the different options;</li> </ol> <p>2. Generally, selecting the preferred option – in doing so, PTA will be selecting the option which will best suit to fulfil its statutory duties.</p>	T0 + 15 Working Days
<b>Formal Consultation</b>	<ol style="list-style-type: none"> <li>i. Where appropriate, consult informally with stakeholders to gather information about the options under consideration, including information needed to quantify costs and benefits.</li> <li>ii. Consult stakeholders formally on PTA’s proposed decision, including the analysis contained in the Consultation/ Regulatory Assessment.</li> </ol>	T0 + 45 Working Days
<b>Summary</b>	Summary of main points raised in consultation responses.	T0 + 60 Working Days
<b>Final decision</b>	<p>Following the consultation stages, PTA concerned Division/Department will generally publish a decision or policy statement in a separate section or annex, and PTA will:</p> <ol style="list-style-type: none"> <li>a. Summarize the analysis set out in the earlier Consultation draft;</li> <li>b. Set out PTA’s response to the comments made about the Consultation;</li> <li>c. Show how the comments have affected PTA’s concerned Division/Directorate and assessment of the impact of the options considered;</li> <li>d. Set out the option PTA’s concerned Division/Directorate chosen along with reasons;</li> <li>e. For development of any legal instrument such as regulations, regulatory/licensing framework, guideline etc., the lead division/directorate or committee shall record/capture comments of stakeholders and provide PTA’s response against all or significant points. The stakeholder’s response shall be posted on PTA website once the</li> </ol>	T0 + 90 Working Days

	<p>regulatory instrument is finalized/approved for facilitation and/or implementation;</p> <p>f. To evaluate PTA’s decision(s) in the future, it is useful to set out clearly what is/are expected outcome(s) and by when PTA expect them to occur.</p>	
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**4. Post Consultation/issuance of regulatory instrument**

4.1 The concerned Division/Directorate will continue to receive and aggregate comments/suggestions from the stakeholders even after issuance of the instrument. Such suggestions may be evaluated/analyzed and reviewed in the light of international best practices market dynamics and applicable/relevant laws etc. The Authority, may issue revisions of the regulatory instrument and may do consultation, if deemed necessary.