



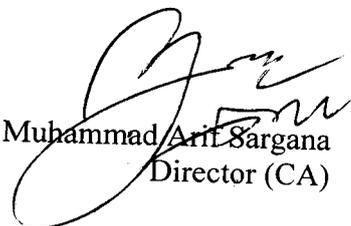
F. No. 15-46/14(CA)/PTA

March 5, 2014

Subject: Consultation Paper on 'Identification of Relevant Markets and Significant Market Power (SMP) Operators'

This is with reference to the captioned subject.

2. The Authority is pleased to issue the Consultation Paper on 'Identification of Relevant Markets and Significant Market Power (SMP) Operators' for the purpose of identifying relevant markets and to declare SMP operators in these markets. In order to enable the Authority to calculate total market size and individual operator's share in each relevant market, all operators are required to provide relevant data to this office latest within three weeks of issuance of this letter in the formats given in Annexures to the said Paper.
3. This issues with approval of the Authority.


Muhammad Arif Sargana
Director (CA)

To:

- PTCL
- NTC
- SCO
- All Local Loop Licenses
- All Long Distance & International Licenses
- All Mobile Licenses
- All Broadband Service Providers
- All Leased Lines Service Providers

Cc:

- DG (CA), PTA
- SO to Chairman, PTA
- SO to Member (Com.& Enf.), PTA
- PS to Member (Finance), PTA



**CONSULTATION PAPER ON
IDENTIFICATION OF RELEVANT MARKETS AND
SIGNIFICANT MARKET POWER OPERATORS**

This Paper intends to seek opinion of all stakeholders including telecom operators and general public. The stakeholders are requested to provide their comments, preferably through e-mail, within three weeks of issuance of this Consultation Paper. This Paper does not convey, in any sense, any decision of the Authority in respect of the issues discussed in this Paper. Your comments may be addressed to Mr. Muhammad Arif Sargana, Director (Commercial Affairs), PTA Building, F-5/1, Islamabad. Fax: 051-2878133, Email: arif@pta.gov.pk

1. INTRODUCTION

(1) Pakistan Telecommunication Authority (PTA) was established under section 3 of the Pakistan Telecommunication (Re-organization) Act, 1996 (Amended in 2006), 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 of competitive telecommunication services throughout Pakistan and to encourage fair competition in the telecommunication sector.

(2) In order to promote fair competition in the sector, it is essential that operators with Significant Market Power (SMP) status should be identified with respect to each relevant market in order to prohibit them from abusing their dominant positions through anti-competitive practices.

(3) Pakistan Telecommunication Rules, 2000 have laid down the criteria for determination of SMP operators in the relevant markets. Rule 17 of these Rules states as follows:

“17.—(1) An operator shall be presumed to have significant market power when it has a share of more than twenty-five per cent of a particular telecommunication market. The relevant market for these purposes shall be based on sectoral revenues.

(2) The Authority may, notwithstanding sub-rule (1), determine that an operator with a market share of less than twenty-five per cent of the relevant market has significant market power. It may also determine that an operator with a market share of more than twenty-five per cent 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.”

(4) In this regard, PTA declared the following relevant markets along with the operators who have SMP status in these markets, vide its Determination No. 15-46/01(Tariff)/PTA dated 25th August 2004:

S. No.	Relevant Markets		SMP Operators
	Product / Service Market	Geographical Market	
1.	Local Loop Fixed Line Telecommunications	All Telecom Regions	PTCL
2.	Local Loop Fixed Line Telecommunications	AJK & GB	SCO
3.	LDI Fixed-Line Telecommunications	Pakistan	PTCL
4.	LDI Fixed-Line Telecommunications	AJK & GB	SCO
5.	Leased Lines	Pakistan	PTCL
6.	Mobile Cellular Telecommunications	Pakistan	PMCL
7.	Mobile Cellular Telecommunication	AJK & GB	SCO
8.	National Interconnection	Pakistan	PTCL & PMCL

(5) In 2009, the Authority issued a consultation paper on the subject and requested the stakeholders to furnish comments / reply on the paper along with data, for the period from 1st July 2008 to 30th June 2009, in the prescribed formats given in the paper, so that the total market size and total market share of individual operators could be known for identification of relevant markets.

(6) After detailed review and consultation with stakeholders, PTA vide letter No. 15-46/10(CA)/PTA dated 14th July 2010 issued Determination on Relevant Markets and Significant Market Power (SMP) Operators in Pakistan, Azad Jammu and Kashmir (AJ&K) and Gilgit Baltistan (GB). In the said Determination, following retail as well as wholesale relevant markets were introduced:

Sr. No.	Relevant Markets		SMP Operators
	Product / Service Market	Geographical Market	
Retail Level Markets			
1.	Fixed Local Loop (LL) Telecommunication Market	14 Regions of Pakistan 3 Regions of AJK & GB	PTCL SCO
2.	Fixed Long Distance & International (LDI) Market	Pakistan AJK & GB	PTCL SCO
3.	Retail Broadband Market	Pakistan AJK & GB	PTCL SCO
Wholesale Level Markets			
4.	Domestic Leased Lines Market	Pakistan AJK & GB	PTCL SCO
5.	International Leased Lines Market	Pakistan	PTCL
6.	IP Bandwidth Market	Pakistan AJK & GB	PTCL SCO
7.	Individual Fixed Interconnect Market	Pakistan AJK & GB	All LL Operators All LL Operators
8.	Individual Mobile Interconnect Market	Pakistan AJK & GB	All Mobile Operators All Mobile Operators
9.	Call Transit Services Market	Pakistan AJK & GB	PTCL SCO
10.	Wholesale Broadband Access Market	Pakistan AJK & GB	PTCL SCO

(7) The said Determination on SMP was challenged by PTCL in Islamabad High Court and the case has been remanded back to PTA for fresh review vide order No. 3125/Civil-I dated February 1, 2013 against F.A.O No. 144/2010 dated 31st January, 2013.

(8) In order to assess the recent market conditions and in compliance of Islamabad High Court order, PTA considers it appropriate to review the existing and other possible relevant markets in consultation with all stakeholders. This Paper is intended to seek opinion of stakeholders on the existing and new possible relevant markets along with the criteria to be used by PTA for determination of SMP operators in these markets.

2. ASSESSMENT OF POSSIBLE PROPOSED MARKETS FOR SMP

(i) The telecom market of Pakistan including AJK & GB can be divided into different relevant markets on the basis of (i) geographical area and (ii) products / services offered in that particular market segment. Geographic market may continue to be based on the area where an operator is authorized to operate under its respective license. Regarding product/service markets, PTA has kept the markets same in this Paper as was determined in the Determination of 14th July 2010 and will assess as to whether these markets should be considered as relevant markets for the purpose of determining SMP operators. Below is the list of product/service markets which shall be discussed as potential relevant markets for the purpose of declaring SMP operators along with the justification.

S. No.	Product / Service Market
Retail Level Markets:	
1.	Local Loop Fixed Line Telecommunications Market
2.	LDI Fixed-Line Telecommunications Market
3.	Mobile Cellular Telecommunications Market
4.	Retail Broadband Market
Wholesale Level Markets:	
1.	Domestic Leased Lines Market

2.	International Leased Lines Market
3.	Call Transit Services Market
4.	Wholesale Broadband Access Market

2.1 Retail Level Markets

(1) Local Loop Fixed-line Telecommunications Market

(i) Local Loop Fixed-line Telecommunications Market includes provision of access and call services to end-users (whether through PSTN or WLL) in the region for which the Local Loop licenses have been granted by PTA. Geographically, this product/service market can be further sub-divided into fourteen (14) Regions in Pakistan and three (3) Regions in AJK & GB.

(ii) PTA vide its Determination of 14th July, 2010 declared PTCL and SCO as SMP operators in all telecom regions of Pakistan and AJK & GB respectively. PTA observed that although new entrants have emerged in this segment, especially in WLL, however, there is still lack of competition in this area as business volume of new entrants is very low as compared to incumbent operators(s). Keeping this in consideration, PTA is of the view that this market should continue to be identified as relevant market for the purpose of declaring SMP operators.

(iii) For the purpose of determining the total market size and the market share of a particular operator in Local Loop Fixed-line Telecommunication Market, only the revenues from the provisioning of licensed Local Loop (including WLL) telecommunications services to the subscribers shall be taken into account. Such revenues may include installation/shifting charges, line rental, call charges, etc. for the avoidance of doubt, interconnection revenues from call termination services shall not be included in the total revenue base.

(2) LDI Fixed-line Telecommunications Market

(i) LDI Fixed-line Telecommunications Market includes provision of long distance and international call services on national basis to end-users. Geographically, this product/services market can be further sub-divided into two (2) markets; Pakistan and AJK & GB markets.

(ii) PTA declared PTCL and SCO as SMP operators in LDI fixed-line telecommunications market of Pakistan and AJK & GB respectively. With the entrance of new LDI operators in the market, the monopoly of incumbent(s) has ended. However, keeping in view the criteria for measuring the market size for determining SMP, it is expected that still more than 25% of market share belongs to already declared SMP operators. PTA, therefore, intends to identify this market as relevant market for the purpose of declaring SMP operators.

(iii) For the purpose of determining the total market size and the market share of a particular operator in LDI Fixed-line Telecommunications Market, only the revenues from licensed LDI Telecommunications services shall be taken into account. Such revenues may include call charges for long distance and international outgoing calls, whether collected from the customers directly or from other operators (excluding call transit charges). Revenues generated from calling cards shall also be considered while assessing the market share. However, revenues from international incoming calls shall not be included in the total revenue base.

(3) Mobile Cellular Telecommunications Market

(i) Mobile Cellular Telecommunications Market includes provision of wireless-based telecommunication services (other than WLL) on national basis. This product/service market can be further sub-divided into two (2) geographic markets; Pakistan and AJK & GB markets.

(ii) PTA in its determination dated 14th July 2010 declared Mobile Cellular Telecommunications Market (of both Pakistan and AJK & GB) as fairly competitive with no operator as SMP. However, PTA intends to seek fresh data from all mobile operators of both Pakistan and AJK & GB to determine the latest position of market shares and declare SMP operator, if need arises.

(iii) For the purpose of determining the total market size and the market share of a particular operator in Mobile Cellular Telecommunications Market, only the revenues from the licensed mobile telecommunication services to subscribers shall be taken into account. Such revenues may include connection charges, line rent, outgoing airtime, roaming charges, revenue from data services, etc.

4. Retail Broadband Market

(i) Broadband services involve the provision of always-on internet connection with a download speed of at least 128 kbps connectivity. The broadband services are provided to end-users by means of various technologies like DSL, Cable, Fiber, Wireless etc. However, the most common technology in Pakistan is DSL, which makes use of the fixed telephone network.

(ii) PTA in its Determination No. 15-46/10(CA)/PTA dated 15th July 2010 declared PTCL as SMP operator in the retail broadband market. However, it was challenged by PTCL in the court of law. The honorable court has remanded back the said Determination for fresh review. PTA intends to seek data on this relevant market to assess whether retail broadband market should be declared as relevant market for the purpose of determining SMP operators.

(iii) For the purpose of determining the total market size and the market share of a particular operator in Broadband Market, the monthly rental revenues from the licensed services to

subscribers, bandwidth capacity charges etc shall be taken into account. For clarification purpose, revenues from sales of consumer premises equipment and installation charges (if applicable) shall not be included in the total revenue base.

2.2 Wholesale Level Markets

(1) Domestic Leased Lines Market

(i) Domestic Leased Lines Market means the telecommunication facilities which provide for transparent transmission capacity between network termination points for interconnecting mobile switches, other telecom switches, building etc within the national boundaries. This product/service market can be further sub-divided into two (2) geographic markets; Pakistan and AJK & GB markets.

(ii) PTA is of the view that this market is not fully competitive at this stage and only few operators such as PTCL, Wateen, Link Direct, Multinet, etc are offering domestic leased lines circuits. Hence, in our view it should be identified as a relevant market for the purpose of declaring SMP operators.

(iii) For the purpose of determining the total market size and the market share of a particular operator in domestic leased lines market, only the revenues from the provisions of domestic leased lines services shall be taken into account. For the purpose of clarification, only the revenues from the original rental or sale by the operator, and not the revenues from reselling of domestic leased lines shall be considered.

(2) International Leased Lines Market

(i) International Private Leased Circuits (IPLC) means the telecommunications facilities which provide for transparent transmission capacity between network termination points through submarine as well as terrestrial cable systems and by other means. IPLC is used by an organization to communicate from one area to another that are geographically dispersed throughout the world. IPLCs can be used for Internet access, business data exchange, video conferencing, and any other form of telecommunication.

(ii) PTA is of the view that as this market is not fully competitive at this stage and only few operators such as PTCL, TWA, Multinet etc are offering international leased lines circuits so the market should be identified as a relevant market for the purpose of declaring SMP operators.

(iii) For the purpose of determining the total market size and the market share of a particular operator in international leased lines market, only the revenues earned by the operators from the international leased lines services shall be taken into account. For the purpose of clarification, only the revenues from the original rental or sale by the operator, and not the revenues from reselling of international leased lines shall be considered.

(3) Call Transit Services Market

(i) Interconnection always comprises of call origination and call termination as well as transit traffic, when traffic is carried through the network of third party. Call transit service means 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.

(ii) In Pakistan, there are several LDI operators throughout all Telecom Regions and in most cases they have direct interconnection with other operators. However, if an operator wants to provide voice transmission services within a Telecom Region or between Telecom Regions by means of transit services, then LDI operators in some cases and LL operators in most of the cases are required to acquire the transit services from the incumbent operator. Keeping this into consideration, PTA is of the view that this market should be declared as relevant market for the purpose of declaring SMP operators.

(iii) 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.

(4) Wholesale Broadband Access Market

(i) Wholesale broadband access is composed of the wholesale broadband service provided by the network operator to the broadband service operator. Wholesale broadband access service (also known as local loop transmission capacity) means provision of network access service to broadband service providers, through technical equipment (e.g. splitter and DSLAM), that enable them to provide broadband services. Alternatively, Optical Fiber Access Networks (OFAN) may also be used for the enhanced transmission capacity.

(ii) PTA in its Determination No. 15-46/10(CA)/PTA dated 15th July 2010 observed that PTCL and SCO owned 100% of market share of Wholesale Broadband Access Market in Pakistan and AJK & GB respectively and declared them as SMP operator in the wholesale broadband market. However, the same was challenged by PTCL in the court of law. The

honorable court has remanded back the said Determination for fresh review. Keeping this in view, PTA intends to identify this market for the purpose of declaring the SMP operators.

(iii) For the purpose of determining the total market size and the market share, revenues generated from the provision of access services to broadband service providers shall be taken into consideration.

3. Proposed Markets for the purpose of determining SMP Operators

(i) In view of the above, PTA intends to identify the following markets for the purpose of declaring SMP operators:

S. No.	Relevant Markets	
	Product/ Service Market	Geographical Market
Retail Level Markets:		
1.	Local Loop Fixed-line Telecommunications Market	(i) 14 Regions of Pakistan (ii) AJK & GB
2.	LDI Fixed-line Telecommunications Market	(i) Pakistan (ii) AJK & GB
3.	Mobile Telecommunications Market	(i) Pakistan (ii) AJK & GB
4.	Retail Broadband Market	(i) Pakistan (ii) AJK & GB
Wholesale Level Markets:		
5.	Domestic Leased Lines Market	(i) Pakistan (ii) AJK & GB
6.	International Leased Lines Market	(i) Pakistan (ii) AJK & GB
7.	Call Transit Service Market	(i) Pakistan (ii) AJK & GB
8.	Wholesale Broadband Access Market	(i) Pakistan (ii) AJK & GB

4. **CRITERIA FOR DETERMINING SMP OPERATORS**

(1) Regarding the criteria used for determining SMP operators, the Rules have given the primary criteria i.e. share of more than twenty-five per cent (25%) of a particular telecommunications market in terms of revenues. The Rules have also provided other measures, on the basis of which PTA may determine that an operator with a market share of less than twenty-five per cent (25%) of the relevant market has significant market power, or the operator with a market share of more than twenty-five per cent (25%) of the relevant market does not have SMP status.

(2) PTA intends to use the primary criteria for the purpose of determining SMP operators. However, if the market share of any operator is close to the threshold value of 25% then PTA may consider other factors, as given in the Rules, for the determination of SMP operators.

5. **PROVISION OF INFORMATION**

(1) PTA is empowered under the Act to collect information from the licensees for the purpose of carrying out its functions. In order to calculate the total market size and individual market share of each operator in the identified relevant markets, all telecom operators are required to provide information to PTA in the format, as set out in Annexures to this Paper.

(2) PTA is of the view that for the purpose of comparability and objectivity, the reports from all operators should cover the same period and operators should send requisite data duly audited by their auditors for the period of **January 1, 2013 to December 31, 2013**. However, as the year-end of all the operators is not the same, PTA understands that it might not be possible to send the audited information to PTA. In case it is not possible for an operator to send the audited information, in that case, the concerned operator is required to send interim report for the above

mentioned period to PTA (*with the undertaking for the correctness of the data sent*) along with latest audited information (Yearly / Half yearly, as the case maybe). This will help PTA in considering the latest market conditions while determining the SMP operators.

(3) The information shall be provided to PTA within three weeks of the issuance of this consultation paper.

**DATA FOR DETERMINATION OF SMP OPERATORS
IN
FIXED LOCAL LOOP TELECOMMUNICATIONS MARKET
(Telecom Region: -----)**

(For the period 1st January 2013 to 31st December 2013)

Revenue	Rs.
Installation/Shifting	
Line Rent	
Local Calls	
Intra-Region Calls	
Total	

Note: The data shall be provided for each Telecom Region (e.g. ITR, KTR etc.) separately, irrespective of number of LL licensees held by an operator. PTCL and SCO shall provide data for each of their fourteen (14) Regions and three (3) Regions respectively.

**DATA FOR DETERMINATION OF SMP OPERATORS
IN
LDI FIXED-LINE TELECOMMUNICATIONS MARKET
(Licensed Territory: -----)**

(For the period 1st January 2013 to 31st December 2013)

Revenue Head	Revenue Rs.
Long Distance Calls (Intra-Region)	
Long Distance Calls (Intra-Regions)	
International Outgoing Calls	
Others (if any)	
Total	

**DATA FOR DETERMINATION OF SMP OPERATORS
IN
MOBILE TELECOMMUNICATIONS MARKET
(Licensed Territory: -----)**

(For the period 1st January 2013 to 31st December 2013)

Revenue Head	Revenue (Rs.)
Connection Charges	
Line Rent	
Domestic Calls	
International Outgoing Calls	
Roaming Charges	
Revenue from Data Services (SMS, MMS etc.)	
Total	

**DATA FOR DETERMINATION OF SMP OPERATORS
IN
RETAIL BROADBAND MARKET
(Licensed Territory: -----)**

(For the period 1st January 2013 to 31st December 2013)

Revenue Head	Revenue (Rs.)
Installation Charges	
Monthly Line Rental	
Capacity Based Charges	
Others (if any)	
Total	

**DATA FOR DETERMINATION OF SMP OPERATORS
IN
DOMESTIC LEASED LINES MARKET
(Licensed Territory: -----)**

(For the period 1st January 2013 to 31st December 2013)

Revenue Head	Revenue (Rs.)
Connection Charges	
Rentals	
Others (if any)	
Total	

**DATA FOR DETERMINATION OF SMP OPERATORS
IN
INTERNATIONAL LEASED LINES MARKET
(Licensed Territory: -----)**

(For the period 1st January 2013 to 31st December 2013)

Revenue Head	Revenue (Rs.)
Connection Charges	
Rentals	
Others (if any)	
Total	

**DATA FOR DETERMINATION OF SMP OPERATORS
IN
CALL TRANSIT SERVICES MARKET
(Licensed Territory: -----)**

(For the period 1st January 2013 to 31st December 2013)

Revenue Head	Revenue (Rs.)
Metropolitan Transit	
Long Distance Transit	
Total	

**DATA FOR DETERMINATION OF SMP OPERATORS
IN
WHOLESALE BROADBAND ACCESS MARKET
(Licensed Territory: -----)**

(For the period 1st January 2013 to 31st December 2013)

Revenue Head	Revenue (Rs.)
Monthly Rentals	
Others (if any)	
Total	