PAKISTAN TELECOM SECTOR OVERVIEW

BRIEF OVERVIEW OF THE TELECOM SECTOR

The telecom sector is one of the fastest growing segments of Pakistan’s economy and is a key driver for growth. There are an estimated more than 100 Million cellular users and the sector directly or indirectly employs approximately 1.36 Million people.

This note captures a summary of the recent developments in the regulatory framework for the telecommunication sector.

We need not mention that the telecom sector is complex, extensively regulated and rapidly evolving to keep up with the global markets and initiatives. As such, the following is only intended to provide a high level summary and should not be construed as an exhaustive analysis of all regulatory/legal issues that will be affect a potential investor. Accordingly, specific financial, legal and regulatory advice should be sought to ascertain and understand the applicable legal and fiscal regime before any investment decision is considered.

RECENT DEVELOPMENT OF THE TELECOM REGULATORY REGIME

Establishment of the Pakistan Telecommunication Authority

The principal legislation governing the telecom sector in Pakistan is the Pakistan Telecommunication (Re-organization) Act, 1996 (the Act). Some of the main features of the Act include:

- Creation of the Pakistan Telecommunication Authority (PTA) to regulate the telecom sector;
- Creation of the Frequency Allocation Board (FAB) with the responsibility of allocating and assigning frequency spectrum to the Government of Pakistan (GOP), telecom system/service providers, broadcasting operators and private users of wireless systems. The FAB replaced the Pakistan Wireless Board established under The Wireless Telegraphy Act, 1933;
- Creation of National Telecommunication Corporation to provide telecom services (on a non-exclusive basis) to armed forces, defense projects, the GOP, Provincial Governments and such other Governmental institutions as the GOP may determine;
- Transfer of telecommunication services to the private sector;
- Power of the GOP to issue policy directives to the PTA; and
- Establishment of the Pakistan Telecommunication Company Limited (PTCL)\(^1\) under the Companies Ordinance, 1984\(^2\) with a limited exclusivity period to provide basic telephone services under the Act.

The PTA is the primary regulatory for the telecom sector in Pakistan and is responsible to:

- regulate the establishment, operation and maintenance of telecommunication systems and the provisions of telecommunication services;
- grant, renew, modify, transfer, monitor and enforce licenses for operating telecommunications systems and networks;
- regulate tariffs;

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\(^1\) The exclusivity of PTCL to provide basic telephone services (local, long distance, international and leased line services), under the Act expired on December 31, 2002.

\(^2\) The Companies Ordinance, 1984 is the primary legislation in Pakistan relating to incorporation and governance of companies and certain other associations.
• promote and protect the interest of users of telecommunication systems and services;
• investigate and adjudicate on complaints in the telecommunication sector;
• authorize the type approval and use of telecommunication equipments; and
• provide guidelines and to determine the terms of interconnect arrangements.

Rules and Regulations of the PTA

PTA has issued various rules, regulations and guidelines to regulate the different services provided by telecom companies operating in Pakistan. These include:

• Pakistan Telecommunications Rules, 2000;
• Access Promotion Contribution Rules, 2004;
• Universal Service Fund Rules, 2006
• Research and Development Fund Rules, 2006;
• Type Approval Regulations, 2004 (as amended from time to time);
• Class Value Added Services Licensing and Registration Regulations, 2007 (as amended from time to time);
• Pakistan Telecommunication Authority (Functions & Power) Regulations, 2006 (as amended from time to time);
• Telecom Consumer Protection Regulations 2009 (as amended from time to time); and
• Mobile Number Portability Regulations, 2005.

Deregulation of the Telecom Sector

In July 2003 the GOP announced the Deregulation Policy for the Telecommunication Sector to achieve the following objectives:

• to increase service choice for customers of telecommunication services at competitive and affordable rates;
• to promote infrastructure development, especially infrastructure that will increase teledensity and the spread of telecommunication services in all market segments;
• to increase private investment in the telecommunication sector and encourage local telecom manufacturing / service industry;
• to minimize exposure to the GOP’s revenue base in the short term;
• to liberalize the telecommunication sector by encouraging fair competition amongst service providers;
• to accelerate expansion of telecommunication infrastructure to extend telecommunication services to un-served and under-served areas;
• to maintain an effective and well defined regulatory regime that is consistent with international best practices;
• to establish two categories of basic services licenses: local loop licenses for fixed line telecommunication and long-distance and international licenses for connectivity between regions;
• to maintain consistency with Pakistan’s IT and Internet promotion policy of low prices for bandwidth to make Internet access affordable; and
• to safeguard Pakistan’s national and security interests.

Launch of Mobile Cellular Policy

On January 28, 2004, the GOP announced the Mobile Cellular Policy with the following objectives:
- promotion of efficient use of radio spectrum;
- increased choices for customers of cellular mobile services at competitive and affordable prices;
- private investment in the cellular mobile sector;
- recognition of the rights and obligations of mobile cellular operators;
- fair competition amongst mobile and fixed line operators; and
- to develop an effective and well defined regulatory regime that is consistent with international best practices.

In 2004, the GOP also formulated the *Broadband Policy* with the objectives to:

- develop an affordable, ‘always on,’ broadband high speed internet service\(^3\) in corporate/commercial and residential sectors across Pakistan;
- encourage the entry and growth of new service providers while stimulating the growth of existing service providers; and
- encourage private sector investment in local content generation and broadband service provision.

The Deregulation Policy for the Telecommunication Sector and the Mobile Cellular Policy encouraged foreign companies to invest in Pakistan’s telecoms market.

**Foreign Investment in the Telecom Sector**

Following the development of liberalizing policies to deregulate the telecoms sector in Pakistan, foreign investment in the sector has rapidly expanded. The Pakistan Board of Investment (BOI) currently offers the following incentives to foreign companies investing in the information technology & telecom sectors:

- special GOP permission (other than regulatory requirements) is not required;
- 100% foreign equity is allowed;
- remittance of capital, profits and dividends is allowed;
- 0-5% custom duty on imports of plant, machinery and equipment;
- initial depreciation allowance is 50% of plant, machinery and equipment Cost; and
- payments of royalty / technical fees are allowed up to current State Bank of Pakistan foreign exchange limits.

**Universal Service Fund (USF) and Research and Development Fund (R&D Fund)**

The PTA is required under section 4(e) of the Act to “promote the availability of wide range of high quality, efficient, effective and competitive telecommunication services throughout Pakistan”. In furtherance of this policy objective, the GOP amended the Act and promulgated accompanying rules to establish a USF with the purpose of ensuring un-served or relatively under-served designated populations and geographic areas receive adequate telecoms and electronic services in a sustainable manner as resources permit.

The USF is predominantly financed by revenues collected from telecommunication licensees through a universal service fund charge, as determined by the GOP from time to time, subject to a cap of 1.5% of gross revenue less inter-operator and related PTA / FAB mandated payments.

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\(^3\) With a minimum download speed of a broadband connection ranging from 128 Kb ps to 2 Mbps or higher.
Telecommunication licensees also contribute 0.5% of gross revenue less inter-operator and related PTA / FAB mandated payments to the R&D Fund. The purpose of the R&D Fund is to focus and allocate funds to, *inter alia*, the capacity building of human resources, national productivity enhancement and information and communication technology market and product development.

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