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May 3, 2013

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Petition for Protection from Anticompetitive Behavior and Stop Settlement Payment Order on the U.S.-Pakistan Route, IB Docket 12-324

Dear Ms. Dortch:

On May 3, 2013, I provided a copy of the attached article, "CCP fines LDI operators, annuls ICH accord" (accessed at <http://dawn.com/2013/05/02/ccp-fines-ldi-operators-annuls-ich-accord/>), to James Ball and David Krech of the International Bureau's Policy Division.

One electronic copy of this Notice is being submitted in the above-referenced proceeding in accordance with Section 1.1206 of the Commission's rules.

Sincerely,
A handwritten signature in black ink that reads "Amy L. Alvarez".

cc: James Ball
David Krech

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CCP fines LDI operators, annuls ICH accord

May 2, 2013 by Kalbe Ali

ISLAMABAD, May 1: The Competition Commission of Pakistan (CCP) has annulled the International Clearing House (ICH) Agreement among all 14 LDI (load data immediate) operators.

It has also imposed a penalty of 7.5pc of the annual turnover of each LDI for violation of the Competition Act, 2010.

The commission also imposed huge penalties on the three main stake-holders — Rs8.30bn on PTCL, Rs534m on Worldcall and Rs189m on Telearcard.

A CCP bench, comprising CCP Chairperson Rahat Kaunain Hassan and members Dr Joseph Wilson and Shehzad Ansar, observed that despite reduction in the incoming traffic by 70pc after the establishment of ICH, the revenue of LDI operators increased by 308pc in the post-ICH period.

The bench referred to the data furnished by the Pakistan Telecommunication Authority (PTA) which shows that the volume of incoming calls in September 2012 before the ICH agreement was 1.9bn minutes, which decreased to 579m minutes in February 2013 after the establishment of ICH.

The estimated revenue of LDI operators for September 2012 before the ICH arrangement was \$8.37m, and after the ICH, the revenues of LDI operators jacked to \$59m in October 2012 and currently it stands at \$34m as in February 2013.

The main reason behind the increase in revenue of LDI operators is that charges by operators increase to 8.8 cents per minute, which were around 2 cents per minute prior to the ICH.

On the other hand, monthly receivable by PTA, decreased from \$24.33m to \$16.78m in February 2013, a drop of 31pc, the CCP order said.

The bench noted that the facts and figures available highlight the pernicious nature of the ICH arrangement, its harmful effects on telecom sector, the consumers and the economy which must be condemned and cannot be condoned at any cost.

The order states that the ICH Arrangement reduces choice, forecloses market, removes incentives for better quality of service, removes incentives for investments in improvement of infrastructure, reduces size of the market and market players, confers anti-competitive advantages and becomes a clear threat to consumer welfare in total negation of spirit of Telecom De-regulation Policy, 2003 apart from the provisions of the Competition Act.

LDI operators have been directed to cease and desist from carrying such prohibited practices and not to enter into any other agreement of similar nature having effect of restricting competition.

It advised the PTA to ensure restoration of competition among LDI operators as it existed prior to the implementation of the ICH agreement.

For failure to comply with the earlier order passed by the commission requiring the LDI operators to seek clearance if at any point of time they intend to enter into ICH arrangement, a penalty of Rs1m has been imposed on all the LDI operators. The order also provides that for any loss resulting from illegal gains received by LDI operations under the ICH agreement, the aggrieved parties can claim compensation from the LDI operators before the court of competent jurisdiction.

According to the order, the LDI operators by entering into the ICH agreement have colluded to fix prices of international incoming telephony, closed down competing networks and divided revenues among themselves without any competition.

“This behaviour amounts to hard core cartelisation which is strictly prohibited and through this cartelisation, the LDI operators have not only eliminated competition in the market for international incoming telephony, but have also made it impossible for new entrants to enter the market and pose any competitive pressure,” said the CCP order.

An official of the CCP said that during the proceedings the LDI operators pleaded before the CCP that they entered into the ICH Agreement on the directives of the Ministry of Information Technology (MOIT) and the PTA, but the bench held that no protection or immunity can be sought from the competition laws of Pakistan by the undertakings on the grounds that they have such a policy directive.

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