

21 March 2013

Addl tax on incoming calls to Pakistan

## SC suspends SHC order, issues notices to telecom cos

**LAHORE:** A bench of the Supreme Court (SC) on Wednesday suspended a stay order issued by the Sindh High Court (SHC) wherein Competition Commission of Pakistan (CCP) was restrained from deciding matter of additional tax levied on incoming calls to the country.

The bench also issued notices to different telecom companies for March 27, a contempt of court petition moved by some Local Loop Operators (LLO).

Petitioners' counsel had submitted that the SC had directed the CCP to decide the matter of

the additional tax after hearing point of view of all stakeholders - petitioners and Pakistan Telecommunication Authority (PTA). He said that some telecom companies approached the SHC and got a stay order against proceedings of the CCP by concealing facts.

The counsel pleaded that the SHC was not informed about the order of the SC. He said this action of the telecom companies amounted to contempt of court. The bench after hearing the contention suspended the SHC order and issued notices to the telecom companies. **STAFF REPORT**

# SC admits CCP's contempt application against LDI operators

**By Mansoor Ahmad**

LAHORE: On Wednesday, the Supreme Court of Pakistan Lahore registry admitted a contempt application filed by the Competition Commission of Pakistan (CCP) against the Long Distance International (LDI) operators for hearing. The Supreme Court suspended the order of the Sindh High Court, dated March 9, 2013, of granting stay against the show cause notices issued by the CCP.

Pakistan Telecommunication Company Limited (PTCL), along with 13 other LDI service providers, applied for an exemption under Section 5 of the Act from the application of Section 4 of the Act on September 12, 2011, for the proposed International Clearing House (ICH) agreement that was to be concluded among them.

The application was withdrawn before the CCP could reach a decision. The LDI operators filed a request to withdraw their exemption application as they decided to shelve the ICH agreement.

The CCP allowed the request for withdrawal of the exemption application. However, it stated in its order dated February 8, 2012,

that if the applicants enter such an agreement in future – notwithstanding, any authorisation obtained from any other authority – prior to execution, the agreement would require clearance from the CCP as it has serious competition concerns.

However, the Ministry of Information and Technology issued a policy directive dated August 13, 2012, to the Pakistan Telecommunication Authority (PTA) to establish the proposed ICH through the agreement of the LDI operators.

Brain Telecommunication Limited filed a constitutional writ petition before the Lahore High Court to declare the policy directive and the ICH agreement illegal, unlawful and void ab initio as they are anti-competitive in violation of Section 4 of the Competition Act 2010 and the CCP's order dated February 10, 2012; which granted interim relief on October 25, 2012, and suspended the operation of the policy directive and ICH agreement till the next hearing.

Two of the LDI operators namely ADG (Private) Limited and Circle Net Communications Pakistan (Private) Limited filed an appeal petition before the Supreme Court of Pakistan.

The Supreme Court ordered on February 21, 2013, that a copy of the writ petition be sent to the CCP which should treat it as a representation filed by the respondent and under the Competition Act, 2010 decide the same within 15 days of the receipt of this order.

The Supreme Court also said that the stand taken by the learned counsel for the parties is fair. Consequently, this petition is converted into an appeal and allowed. The court also ordered the chairman of the CCP to issue notices to those concerned and decide the same within 15 days of the receipt of this order.

In compliance with the order of the Supreme Court, and in accordance with the provision of the Act, the CCP issued show cause notices to the LDI operators and hearing notices to PTA and the Ministry of Information and Technology on March 4, 2013.

LDI operators filed a suit in the Sindh High Court against the notices issued by the Commission, inter alia, taking the grounds that they were not party to the order issued by the Supreme Court of Pakistan, and that the CCP does not have the jurisdiction to hear the matter.

Incoming calls petition

# SC suspends stay order

**T OUR CORRESPONDENT**  
 LAHORE

A two-judge bench of the Supreme Court on Wednesday suspended a stay order issued by the Sindh High Court wherein the Competition Commission of Pakistan (CCP) was restrained from deciding the matter of imposition of additional tax on incoming calls to the country.

Hearing a contempt of court petition at the Lahore registry, the bench headed by Justice Tasadduq Hussain Jilani passed the order and issued notices to telecom companies for March 27. Some local loop operators

had filed the contempt petition and submitted that the SC had directed the CCP to decide the matter after hearing the point of view of all stakeholders (petitioners) and the Pakistan Telecommunications Authority (PTA).

The petitioners said that some telecom companies had then approached the SHC and got a stay order against proceedings of the CCP by concealing facts.

They said the SHC was not informed about the order of the apex court.

The bench suspended the SHC order and issued notices to the telecom companies.