

TARIFF PETITION

PETITION UNDER SECTION 7(3)(a) AND 7(3)(d) OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 READ WITH RULE 3(1) OF THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (TARIFF STANDARDS AND PROCEDURE) RULES, 1998 AND ALL OTHER ENABLING PROVISIONS OF LAW FOR APPLICABILITY OF "INDUSTRIAL TARIFF"

Telenor Pakistan (Private) Limited, 345, Plot No.55, River View Avenue, Block-B, Gulberg Greens, Islamabad

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①

BEFORE THE HONOURABLE BENCH OF REGISTRAR, NEPRA

TARIFF PETITION

Telenor Pakistan (Private) Limited, 345, Plot No.55, River View Avenue, Block-B, Gulberg Greens,
Islamabad

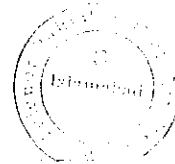
... Petitioner

SUBJECT: PETITION UNDER SECTION 7(3)(A) AND 7(3)(F) OF THE REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 READ WITH RULE 3(1) FOR THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY (TARIFF STANDARDS AND PROCEDURE) RULES, 1998 AND ALL OTHER ENABLING PROVISIONS OF LAW FOR APPLICABILITY OF "INDUSTRIAL TARIFF" ON BEHALF OF TELENOR PAKISTAN (PRIVATE) LIMITED

Dear Sir,

I, Syed Ali Yasir Rizvi, Senior Manager Legal Affairs of Telenor Pakistan (Private) Limited, 345, Plot No.55, River View Avenue, Block-B, Gulberg Greens, Islamabad, being duly authorized representative, do hereby solemnly affirm and declare that the contents of the accompanying tariff petition including all supporting documents are true and correct to the best of my knowledge and belief and nothing has been concealed. I also affirm that all further documentation and information to be provided by me in connection with the accompanying tariff petition shall be true and correct to the best of my knowledge and belief.

I hereby humbly requested that the instant petition may kindly be accepted and the tariff category for the Petitioner (including the Telecom Sector) may graciously be changed from commercial to industrial as the Government of Pakistan vide Notification No.1(11)/2004-InvIII, dated 20.04.2004 had classified the Telecom Sector, including Cellular Operators as an "Industry".



Syed Ali Yasir Rizvi
Senior Manager Legal
Telenor Pakistan (Private) Limited

BEFORE THE HONOURABLE BENCH OF REGISTRAR, NEPRA

TARIFF PETITION

**Telenor Pakistan (Private) Limited, 345, Plot No.55, River View Avenue, Block-B, Gulberg Greens,
Islamabad**

... Petitioner

**PETITION UNDER SECTION 7(3)(a) AND 7(3)(f) OF THE REGULATION OF GENERATION, TRANSMISSION
AND DISTRIBUTION OF ELECTRIC POWER ACT, 1997 READ WITH RULE 3(1) OF THE NATIONAL ELECTRIC
POWER REGULATORY AUTHORITY (TARIFF STANDARDS AND PROCEDURE) RULES, 1998 AND ALL
OTHER ENABLING PROVISIONS OF LAW FOR APPLICABILITY OF "INDUSTRIAL TARIFF"**

Background and Facts:

1. The Petitioner is a foreign investor doing business under license granted by the Pakistan Telecommunication Authority (PTA) as one of the leading cellular mobile operators (CMO) in the Telecom Sector of Pakistan. In line with the Telecom Policy of 2004, the Federal Government was pleased to declare Telecom sector including Cellular Operators as an "Industry" with immediate effect vide Gazette Notification dated 20.04.2004 issued by the Ministry of Industries and Production, Government of Pakistan.
2. Thereafter vide U.O No. 2-7/2003-DT dated 18.06.2014 the Ministry of Information Technology, Government of Pakistan also endorsed the request of the Telecom Sector including Cellular Mobile Operators to be classified as an "Industrial Undertaking" under clause (b) of Section 2 (29C) of the Income Tax Ordinance, 2001.
3. Subsequently, numerous communications were jointly addressed by the Cellular Mobile Operators (CMO's) to the Honourable Prime Minister of Pakistan, Honourable Federal Minister for Finance, Secretary, Ministry of Information Technology, Special Assistant to the Prime Minister for Revenue Division including the Honourable Chairman NEPRA seeking implementation of Gazette Notification dated 20.04.2004, so that CMO's who

are currently categorized as Commercial Users of electricity and charged "Commercial Tariff" by DISCO's should be recognized as an "Industrial Undertaking" and charged "Industrial Tariff".

4. Since the past two years, NEPRA was in the process of determining Uniform Tariff of DISCO's throughout Pakistan, therefore, the Petitioner along with other Industry stakeholders had been filing Intervention Applications in numerous Tariff Petitions filed by the DISCOs to highlight the issue and to persuade the Authority in this behalf so that "Industrial Tariff" is applied across the board to the Telecom Sector companies in Pakistan instead of "Commercial Tariff".
5. The Telecom Sector has become one of the biggest consumers of WAPDA. Furthermore, the Telecom Industry is expanding at a rapid pace and so is its infrastructure, which has further resulted in an increase in its operating costs due to use of higher electricity load being charged at "Commercial Tariff".
6. In line with the decision of the Federal Government and endorsed by numerous Ministries, all telecommunication companies operating under the license of Pakistan Telecommunication Authority (PTA) have been specifically included in the definition of an **"industrial Undertaking"** by addition of clause (c) to section 2 (29C) of the Income Tax Ordinance, 2001 through the Finance Act, 2021.
7. The issue of applicability of "Industrial Tariff" on Telecom Sector has already been considered by the Authority, while determining the Uniform Tariff for DISCOs throughout Pakistan but the decision is still reserved.
8. Historically, the Authority was created for ameliorating the existing generation and supply of electricity and has been given vast powers in this connection. As per decision of the Hon'ble Lahore High Court reported as "PLD 2001 Lahore 501", "It is for

Government agencies like NEPRA to have clear-cut policies and an apparatus for attending to such disputes so that disputes were quickly resolved and the economic activity is saved from suffering”.

9. Despite the filing of above mentioned Intervention Applications, the Petitioner is filing its Tariff Petition (as a consumer) to further augment and fortify its stance as the Authority has exclusive power to determine rates, charges and other terms and conditions for electric power services under section 45 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (the “Act”). The functions of the Authority are detailed in Section 7 of the Act and it is empowered under section 7(3)(a) of the Act to determine tariff, rates, charges and other terms and conditions for supply of electric power services by the generation, transmission and distribution companies and recommend to the Federal Government for notification. Furthermore, the Authority is also empowered under section 7(3)(f) of the Act to perform any other function which is incidental or consequential to any of the functions mentioned in section 7(3)(a) to 7(3)(e).
10. On the basis of the above background and facts, it is in the interests of justice and fairness that the plea of the Telecom Sector for applicability of “Industrial Tariff” instead of “Commercial Tariff” be accepted. The consistent policy of the Federal Government to grant the status of ‘Industry’ and ‘Industrial Undertaking’ to the Telecom Sector is being reiterated, inter alia, on the following:

GROUND

- A) The Federal Government has consistently given its policy decision regarding grant of ‘Industry’ status to the Telecom Sector as perceived in the Telecom Policies issued on behalf of the Federal Government by the Ministry of Information Technology and Telecommunication in 2004 (amended in 2013) and the Telecom Policy of 2015.

- 5
- B) The Legislature has also amended clause 29C of the Income Tax Ordinance, 2001 through Finance Act, 2021 and all telecommunication companies licensed by the Pakistan Telecommunication Authority (PTA) have been included in the definition of an "Industrial Undertaking".
- C) The superior courts of Pakistan have also considered the policy of the Federal Government and have interpreted that telecommunication companies are covered under the definition of "Industrial Undertaking". Reliance is placed upon cases reported as 2017 PTD 1181 and Judgment dated 10.4.2009 in Writ Petition No.42/2009 titled PTCL Vs. Govt. of Pakistan etc., in which PTCL was declared as an "Industrial Unit" for the sake of assessing property under the Excise Tax regime.
- D) The Authority has been established as a "Regulator" and is obliged to follow policy directives of the Federal Government like all the other Regulators, i.e., PTA, SECP, CCP.
- E) In case of any Policy of the Government, even the superior courts of our country exercise "Judicial Restraint" except where fundamental rights are violated. In its Constitutional Jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, even a High Court cannot sit as a court of appeal over the policy decisions and substitute its own decision with the decision of the Government. Reliance is placed on cases reported as PLD 2021 Balochistan 84, 2022 CLC 532, PLD 2014 SC 1 and 2014 SCMR 220.
- F) Any further ground/document required by the Authority maybe addressed/ provided by the Petitioner at the time of hearing of the petition with the permission of the Authority.

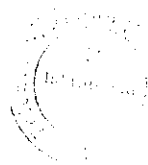
PRAYER:

In view of the above, it is very humbly prayed that the learned Authority may graciously accept this Petition and the DISCOs throughout Pakistan be directed to charge "Industrial Tariff"

instead of the existing "Commercial Tariff" from the Petitioner (including the Telecom Sector) inline with the policy of the Federal Government.

5A

Any other relief deemed appropriate may also be granted to the Petitioner.



[Signature]

PETITIONER

Through:

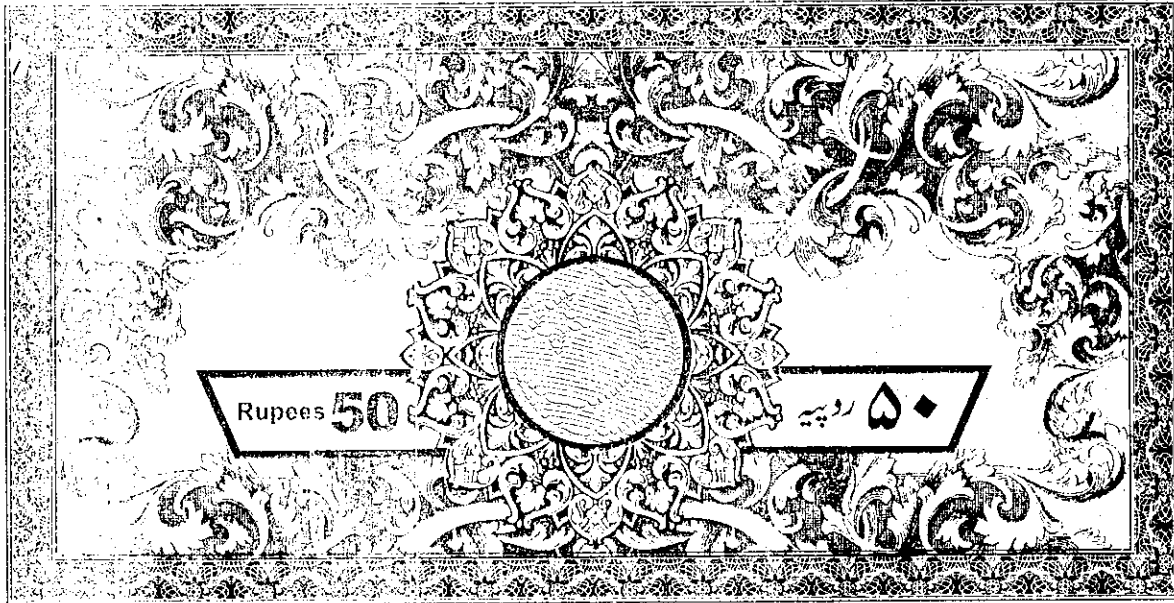
[Signature]
(Rashid Hanif)

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5.4.2022



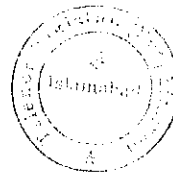
SB



NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

AFFIDAVIT

I, Syed Ali Yasir Rizvi son of Syed Ali Abid Rizvi, Senior Manager Legal Affairs, Telenor Pakistan (Private) Limited, 345, Plot No.55, River View Avenue, Block-B, Gulberg Greens, Islamabad, being duly authorized representative, do hereby solemnly affirm and declare that the contents of the accompanying Tariff Petition including all supporting documents are true and correct to the best of my knowledge and belief and nothing has been concealed. I also affirm that all further documentation and information to be provided by me in connection with the accompanying Tariff Petition shall be true and correct to the best of my knowledge and belief.



Yasir

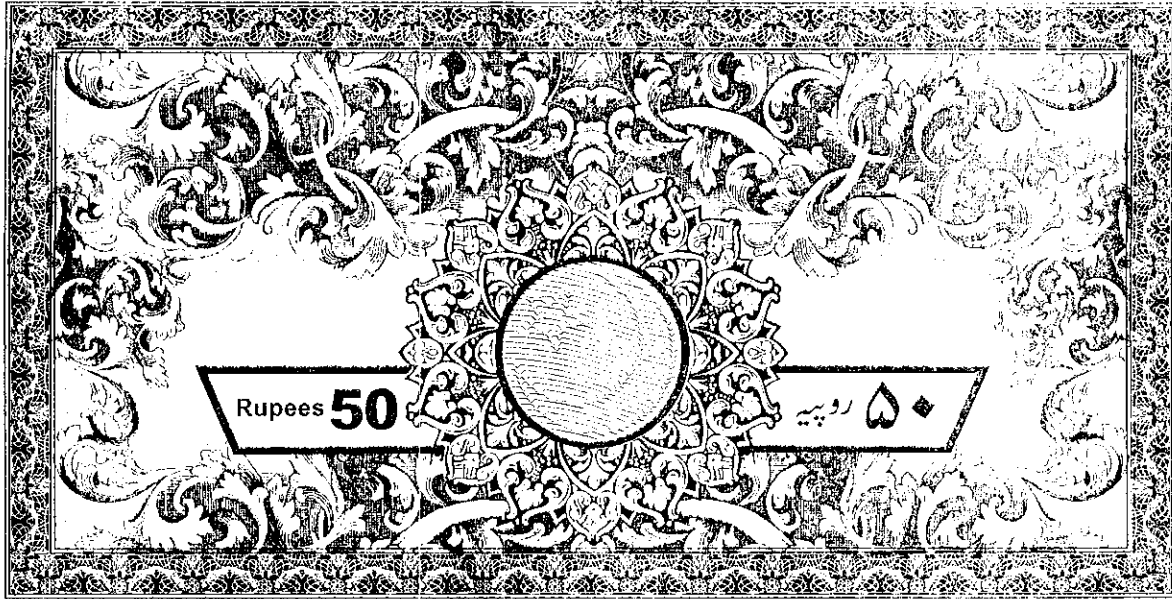
Deponent

Syed yasir Ali Rizvi
Rashid Harif Aze

5/4/2022

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TO BE PUBLISHED IN THE GAZETTE OF PAKISTAN PART-III

GOVERNMENT OF PAKISTAN
MINISTRY OF INDUSTRIES & PRODUCTION

Islamabad, dated the 20th April 2004.

NOTIFICATION

NO.1(11)/2004-InvIII. In pursuance of the Cabinet's decision in Case No. 29/02/2004 dated 28-01-2004, the Federal Government of Pakistan is pleased to classify the Telecom sector, including cellular operations as an "industry," with immediate effect.

(MUHAMMAD HAFIZ)
DEPUTY SECRETARY

The Manager,
Printing Corporation of Pakistan Press,
KARACHI.

Copy for information to: -

- (1) President's Secretariat, Islamabad.
- (2) Prime Minister's Secretariat, Islamabad.
- (3) Cabinet Division, Islamabad.
- (4) Ministry of Information and Technology, Islamabad.
- (5) Ministry of Petroleum and Natural Resources, Islamabad.
- (6) Ministry of Water and Power, Islamabad.
- (7) Ministry of Finance Islamabad.
- (8) Ministry of Commerce Islamabad.
- (9) State Bank of Pakistan, Karachi.
- (10) Federation of Pakistan Chamber of Commerce & Industry, Islamabad.
- (11) All Banks/DIFs.
- (12) All Provincial Chamber of Commerce and Industry.

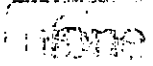
(MUHAMMAD HAFIZ)
DEPUTY SECRETARY



Mobilink



telenor



No. 1 & Only 3G+4G Network



ptcl

Dated: 11th January, 2016

Mr. Haroon Akhtar Khan
Special Assistant to the PM,
Revenue Division,
Government of Pakistan
Islamabad

Subject: **Telecom Industry Taxation Issues**

Respected Sir,

Kindly refer to our earlier joint letter on the subject matter dated December 28, 2015 addressed to your good self (followed up by our meetings with yourself and Member IR Policy FBR), the joint industry letters sent to the Federal Minister for Finance & Economic Affairs dated 2nd and 5th June as well as 4th July, 2014 and the joint letter of our Shareholders addressed to the Honorable Prime Minister of Pakistan dated 30th April, 2015 (copies enclosed along with for ready reference); we hereby yet again solicit your support for the resolution of subject mentioned issues being faced by the Telecom Industry ("Telcos").

The telecom sector continues to offer unprecedented growth opportunities in both developing and developed countries and communication services have become an important part of how economies work and function. A recent Deloitte Study suggests that a 10% increase in mobile penetration increases the total factor productivity in the long run by 4.2 percentage points, a doubling of mobile data use leads to an increase in GDP per capita growth of 0.5 percentage points, for a given level of mobile penetration, a 10 percent substitution from 2G to 3G services increases the GDP per capita growth by 0.15 percentage points.

Telecom sector in Pakistan is a significant source of revenue generation for the national exchequer. Telecom Industry revenues as reported in PTA Annual Report for the FY2014 were around PKR 465 billion while the industry made an all-time high contribution of PKR 243.84 billion to the National Exchequer in terms of taxes, regulatory fees, initial and annual license fees, activation tax, and other charges. At the same time the sector contributed with PTA PKR. 105 billion as fees from all licensees. Telecom investment reached US\$ 1.8 billion during FY2014 out of which telecom FDI was US\$ 903 million as a result of auction of NGMS licenses and network up gradation by the operators.

In the last two decades the mobile sector in Pakistan has enabled more than 60 million Pakistanis to gain access to transformative technologies, including mobile broadband. This increase in access is bringing wide-ranging benefits to the Pakistani economy and society, is boosting productivity and is supporting increased economic growth. Despite substantial growth recently, 120 million Pakistanis remain without access to mobile services, particularly in rural areas. This places Pakistan behind its neighboring countries in terms of subscriber penetration, which remains below global and regional averages.

There are some serious challenges faced by the telecommunication sector which is hampering the growth of telecom services in the country and demand immediate attention by the Government of Pakistan. A short brief is as under please;



vide its SRO number 1(II)/2004-InvIII dated April 20, 2004 had already classified the Telecom sector, including "Cellular Operators" as "Industry". In addition the Mobile Cellular Policy issued by the Ministry of Information Technology ("MoIT") dated January 23, 2004 also referred to CMOs as "Industry" (please refer to clauses 1 and 3.2 of the said Policy).

Ministry of IT ("MoIT") not only clearly admitted CMOs status as an "Industry" but also endorsed the request of CMOs to declare industry under clause (b) of section 2(29C) of the Income Tax Ordinance 2001 through MoIT letter addressed to the Chairman FBR dated June 18, 2014. However till date the CMOs have not been declared industry by the FBR under section 2(29C) of the Income Tax Ordinance 2001.

The issue was discussed in the meetings held during May 2014 with Honorable Federal Minister for Finance Senator Muhammad Ishaq Dar during the negotiations for finalizing the way forward for the payment of 10% Withholding Tax (levied under section 236-A of the IT Ordinance 2001) on the proceeds of the NGMS auction by the CMOs. The CMOs were assured by the Federal Minister for Finance on behalf of the Government of Pakistan ("GoP") about the grant of Industrial Undertaking for them by FBR through the next Finance Bill (Federal Budget for 2014-15). Based on the assurances by the GoP, NGMS licensees have paid more than Rs. 11 billion as Advance Income Tax (Withholding Tax) on the amount paid for the acquisition of 3G and 4G licenses, which is much more than their current or even next few years' liability under the ITO. However much to the despair of us all the status of Industrial Undertaking was not granted to the cellular mobile industry through the Finance Bill 2014-15 despite our reminders sent to Ministry of Finance based on the assurance of GoP conveyed to us through Federal Minister for Finance.

Therefore it is imperative that the GoP stands by its commitments regarding the grant of industrial undertaking for the telecommunication sector. This would reduce the cost of importing essential network equipment thereby improving the business case for infrastructure investment especially in remote areas and could have a particularly strong impact on increasing 3G/4G mobile broadband coverage. By granting mobile operators equivalent tax treatment to that enjoyed by industrial undertakings, Telcos could benefit from the exemption to the income tax paid on imported network equipment that is already enjoyed by other industries that use imported goods for their core operations.

Analysis by GSMA/Deloitte suggests that this has the potential to generate the following impacts:

- Investment could potentially increase by up to US\$102 million and mobile revenues by US\$2.8 million in 2020.
- By 2020, increased demand for mobile broadband could add an extra 900,000 connections, including 300,000 3G connections.
- This uptake in broadband penetration has the potential to increase the productivity of Pakistani workers and businesses, leading to the Pakistani economy being up to 0.14% more productive.
- Through the direct impacts of the mobile operators and the indirect impacts generated by the activities enabled by mobile operators, increased mobile usage could lead to additional GDP growth, potentially delivering up to an additional US\$480 million in 2020 and providing employment for up to an additional 7,000 Pakistanis.
- Moreover, despite an initial fall in tax revenues after the reduction in tax, the government could potentially achieve tax neutrality within three years, and by 2020 the increase in GDP growth could enable up to an additional US\$38 million in tax revenues to be collected through more broad-based taxation.



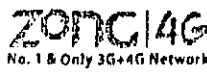
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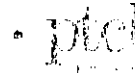
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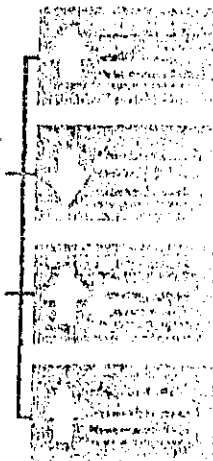
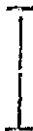


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REMOVING THE
INCOME TAX ON
IMPORTS



Elimination of Reduced Rate Benefit of Custom Duty:

Through the Finance Act 2014 applicable from June 26 and July 1, 2014 as the case may be; SRO 575 (I)/2006 dated 5th June 2006 has been rescinded and entries relating thereto have been made part of Fifth Schedule of the Customs Act 1969. However to our surprise, while incorporating SRO 575 in the Customs Act certain entries at serial no 16 related to the "telecommunication sector" had been deleted. The purpose of this SRO was to promote foreign investment in the country by allowing import of machinery and equipment at reduced rate of customs duty. Under this SRO, the benefit in case of telecom sector was through sales tax exemption and maximum of 5% custom duty on import of equipment. After the withdrawal of this benefit of reduced rate of custom duty, we have been constrained to import whole of our machinery and equipment at higher rate of custom duty ranging from 10% to 25% depending upon the nature of items being imported (average coming around 20% i.e. an increase of almost 400%). Moreover in addition to that, huge amount of sales tax will be rotated every month to and fro from CMOs to the Government treasury and back to CMOs being output and input without any financial benefit to the Government.

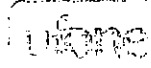
The accumulated projected investment figure of all CMOs for the import of telecom equipment in the next 5 years is almost USD 1,300 Million. Due to increased rate of custom duty, CMOs will not be able to import USD 200 Million (1,300M x 15%) worth of telecom equipment; as this delta will now be paid in shape of additional customs duty. Hence, it will badly hamper the growth and penetration of 3G/4G services for the masses of Pakistan and almost 15-20% of its population will be deprived of the benefits of the latest technologies resulting in lesser mobile broadband proliferation in the country. Moreover in the long run, the Government exchequer will actually face a huge loss in terms of yields from Income tax under section 236 of ITO 2001 and Sales Tax/FED as the case may be, due to non-availability of services to the un-addressed population to whom we will be unable to provide services as almost 15% of the budget will be ploughed in the shape of this additional spend on payment of customs duty. We thus request that in a bid to promote investment in telecommunication network infrastructure we seek your support to reinstate the import duty concessions on telecommunication equipment setting the rate at 5%.



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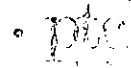
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WorldNet



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PTCL

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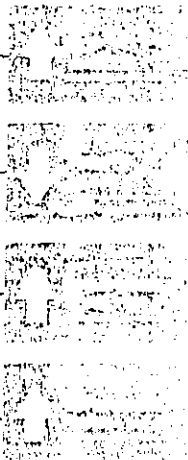
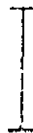
Imposition of Sales Tax on Supply of SIMs:

Through the Finance Act 2014, Ninth Schedule has been inserted in the Sales Tax Act 1990. Sales tax @ 250 for every supply of SIM has been imposed through this schedule, whether it is a new supply or replacement of a SIM. Although, it is an internationally recognized phenomenon that SIM is an equipment which is the property of CMOs and it never fulfills the definition of supply. This is being issued in the name of respective subscribers for provision of telecom services and its control completely lies with the CMO. In case of termination of services, it is of no use for the subscribers as well. The same was explained by us to the Chief Sales Tax Policy (FBR) during our pre-budget discussion that sales tax, if imposed on SIM supply will perhaps be an illegal levy and of no use as well.

Analysis by GSMA/Deloitte shows that eliminating the tax on SIM card sales and replacement could drive the following impacts;

- By 2020, increased demand for mobile broadband has the potential to add an extra 500,000 connections, including 170,000 3G connections, and increase usage of mobile services by 0.28%.
- This uptake in mobile penetration could increase mobile revenues by up to an additional US\$25 million in 2020 and the productivity of Pakistani workers and businesses, potentially leading to the Pakistani economy being 0.08% more productive.
- Through the direct impacts of the mobile operators and the indirect impacts generated by the activities enabled by mobile operators, increased mobile usage could lead to additional GDP growth, delivering up to an additional US\$270 million in 2020 and potentially providing employment for an additional 4,000 Pakistanis.
- Moreover, despite an initial fall in tax revenues after the reduction in tax, the government could potentially achieve tax neutrality within three years and by 2020 the increase in GDP growth has the potential to enable up to an additional US\$13 million in tax revenues to be collected through more broad-based taxation.

REMOVING THE SIM
CARD SALES TAX



In the light of above we request that the sales tax applicable on supply of SIMs may please be withdrawn.



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ZONG 4G
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FED

Discriminatory Taxation on Telecommunication Services

• Higher GST/FED on telecom services

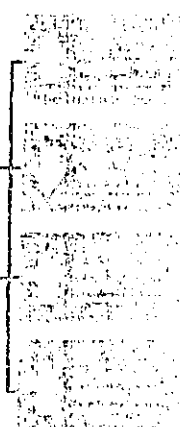
Usage of mobile services such as calls, SMS, broadband and m-Money are subject to *ad valorem* taxes, the GST or the FED, depending on the province. Under both of these tax policies, mobile services are subject to higher rates compared to other sectors of the Pakistani economy. The standard rate of FED and GST varies by province and is set at between 15% and 17%. For services such as m-Money the banking sector pays between 15-16% GST. However, mobile and other telecoms services are taxed at 18% to 19.5%.

The budget for fiscal year 2014/15 has reduced the FED rate to 18.5% from 19.5%, while the GST remains at 18 - 19.5% in different provinces. Reducing both these taxes to 17% on mobile services would bring them in line with taxes on other goods and services and has the potential to provide a positive impact on affordability, digital inclusion and economic growth.

Analysis by GSMA/Deloitte suggests that this has the potential to generate the following impacts:

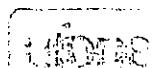
- By 2020, increased demand for mobile broadband could add an extra 2 million connections, including 670,000 3G connections, and increase usage of mobile services by 1.12%.
- This uptake in broadband penetration could increase the productivity of Pakistani workers and businesses, leading to the Pakistani economy being up to 0.31% more productive.
- Through the direct impacts of the mobile operators and the indirect impacts generated by the activities enabled by mobile operators, increased mobile usage could lead to additional GDP growth, potentially delivering an additional US\$1.1 billion in 2020 and providing employment for an additional 23,000 Pakistanis.
- Moreover, despite an initial fall in tax revenues after the reduction in tax, the government could potentially achieve tax neutrality within three years and by 2020 the increase in GDP growth could enable up to an additional US\$69 million in tax revenues to be collected through more broad-based taxation.

REDUCING THE GST/
FED ON MOBILE
SERVICES TO 17%

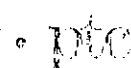




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- *Higher Advance Income Tax (AIT)*

While all services in Pakistan are subject to 10 % Advance Income Tax, the telecommunication services are subject to Advance Income Tax @ 14%. The withholding tax is higher for telecoms than for most other sectors, for which it varies between 1% and 12%. Since more than 70% population lives below poverty line and only 2 Million people submit their tax returns the implementation of Advance Income Tax to entire 125 Million subscriber base mostly living below the poverty line is not logical since the majority of them are either not liable for personal income tax or simply do not claim the tax in their annual return. Therefore, the tax is effectively equivalent to an airtime excise.

Reducing the Withholding Tax on the usage of mobile services could promote affordability of services and reduce the tax burden on the poorest consumers. We thus request that the Advance Income Tax applicable on telecommunication services may either be withdrawn all together or should at least be applicable @ 10% at par with the other sectors of the society.

- *Imposition of minimum tax*

Telecommunication companies, along with other service providers, have been subjected to a charge of 8% minimum tax on turnover regardless of their actual income or loss. This tax has thus changed the character of income tax from a direct tax to an indirect tax as the amount of charge would no longer be applicable on the quantum of income actually earned even under the standard income tax rules. As such the levy of such a fixed tax through the device of the Income Tax Ordinance is unconstitutional. Furthermore, the exorbitant rate of 8% will seriously erode the profitability, or further increase the losses, of the telecommunication industry which according to independent reports is in shackles and is already the victim of discriminatory taxation.

Non-issuance of exemption certificates under Section 153 of the Ordinance in view of the imposition of the minimum tax has also increased the administrative burden of both the telecommunication companies and the withholding tax monitoring units of FBR as the tax that was previously deposited lump-sum as advance tax is now being collected by thousands of corporate customers across Pakistan.

In view of the above submissions it is requested that the 8% minimum tax regime may be withdrawn.

Conclusion:

It is therefore very important to realize that the telecommunication industry is at crossroads at the moment and it demands immediate attention by the Government of Pakistan. With one of the lowest calling rates (due to extremely competitive market) and the 2nd highest taxation rates in the world; the industry margins have been eroding continuously. The situation is now resulting in the possible elimination of a few telecom operators through the recently announced mergers/acquisitions as well as a few expected very soon and therefore the telecom landscape is shrinking rather than expanding (based on the potential of telecom services in the country) which is not a healthy sign for the economy.

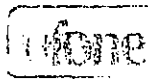
The foreign investors (our shareholders; mainly representing the largest telecom groups in the world) are hesitant to commit any further investment in the Pakistan telecom market which is evident from refusal of the cellular mobile operators to participate in the unsold spectrum auction recently announced by PTA (expected to fetch 550-600M USD) despite the fact that there exists clear appetite for the additional spectrum



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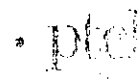
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being the lifeline of cellular mobile operations in the broadband era. This therefore also means lesser CAPEX investment which could have otherwise happened to roll out the 4G networks through the said spectrum auction to the tune of 250-300M USD approx.

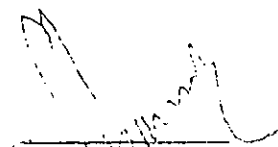
The overall CAPEX investments in terms of expansion of the existing 3G/4G networks roll out have also reduced significantly during the last one year where we witnessed a decline of around 206M USD Foreign Direct Investment in terms of telecom infrastructure. Unfortunately a few of these foreign investors are therefore now constrained to look for exit strategies from the Pakistan Telecom market or are diverting their available investment sources to other telecom markets they are operating in.

It is hereby once again humbly submitted to your honor to kindly extend your personal efforts and support to CMOs for the resolution of these issues at the earliest, so that Cellular Industry in the country may flourish and the investor confidence in one of the most vibrant sectors of our economy is not dented at this critical juncture of their 3G/4G networks roll out as the Telcos are acting as the vehicle for broadband proliferation and digitization of the society in Pakistan. An amicable resolution of the above mentioned issues will certainly help in the expansion and growth of 3G/4G services in the country; resultantly in the long run will certainly help in the increase of FDI, overall economic growth of the country and the growth of tax revenues for the Government of Pakistan.

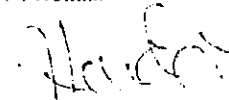
When we all met you last month, you had kindly consented to formulate a committee under Member IR Policy (FBR) having representation from Telcos for finalizing the way forward to resolve these key issues. We had a detailed meeting with him and his team last week but the general consensus evolved thereby was escalation of these strategic level issues back to your level for appropriate engagement with concerned quarters of the GoP. We would therefore yet again like to meet your good self at a time of your convenience in the early future (along with both Chairman PTA and the Secretary MoIT) and present our case (as described above) as an industry for your help to resolve these issues of the Telecom Sector accordingly.


Yours faithfully,



Agha Qasim
VP Mobilink


Muhammad Aslam Hiyat
VP Telenor


Naveed Ishaq
VP Ufone


Omar Abbas Haider
Dir, Warid Telecom


Kamran Ali
CRO, CM Pak


Sikandar Naqvi
CBDO, PTCL

cc:

1. Mrs. Anusha Rahman Ahmad Khan, Minister of State, Ministry of IT, Govt. of Pakistan, Islamabad.
2. Dr. Waqar Masood Khan, Secretary, Ministry of Finance, Govt. of Pakistan, Islamabad.
3. Mr. Azmat Ali Raza, Secretary, Ministry of IT, Government of Pakistan, Islamabad.
4. Mr. Nisar Muhammad Khan, Chairman, Federal Board of Revenue (FBR), Islamabad.
5. Mr. Rahmatullah Khan Wazir, Member IR Policy, Federal Board of Revenue (FBR), Islamabad.
6. Dr. Syed Ismail Shah, Chairman, Pakistan Telecom Authority (PTA), Islamabad.
7. Mr. Mudassar Hussain, Member Telecom, Ministry of IT, Govt. of Pakistan, Islamabad.
8. Mrs. Ameena Sohail, Member Legal, Ministry of IT, Govt. of Pakistan, Islamabad.

14

Date: 30th April 2015

Mian Mohammad Nawaz Sharif
Prime Minister
Government of Pakistan
Islamabad

Subject: Pakistan Telecoms sector Taxation

Honorable Prime Minister

We, the undersigned, represent the international shareholder groups of the telecommunications investors in Pakistan. Collectively we write to you to express our escalating concerns over the development of the sector and the longer term viability of the Pakistan communications markets.

Despite the challenging underlying business environment that is presented for foreign direct investments in Pakistan, we remain committed to our customers and to providing accessible and affordable mobile and internet services to Pakistan, this being evidenced by the in excess of US\$10Bn already invested and the further US\$4Bn of investment anticipated supporting the 3G/4G networks following last April's auction process. However, this commitment is being challenged by ongoing uncertainty and volatility.

During the time leading up to the Next Generation Mobile Services (NGMS) auction in April 2014, following intensive negotiations with regards to the unexpected adjustment of Advance Income Tax levied on the proceeds of the NGMS auction, it was agreed with the Honorable Minister for Finance that the sector would be reclassified as an "Industrial Undertaking". Yet the Finance Bill passed in June 2014 failed to address this. Today, almost 10 months later, this issue remains unresolved. Furthermore, other tax arrangements were also altered to the detriment of the sector. Consequently, the tax burden on the licensed cellular mobile operators (CMOs) has risen dramatically cementing Pakistan as one of the world's highest taxed communications sectors.

The business plans approved by the shareholders that underpinned the NGMS auction bids of the CMOs did not presume any new taxes or changes to the existing applicable tax regime. Under the current framework, the industry will be faced with a funding shortfall that will need to be compensated for either through reduced coverage and quality of service obligations or through increases to the retail prices offered, both of which will have the effect of reducing the socio-economic impact anticipated through the proliferation of affordable advanced mobile broadband services. By way of example, the removal of the import duty concession will cost the mobile industry an additional US\$260m over the coming 5 years. This is the equivalent of 2,600 base stations that will not be built in order to accommodate the loss of concession.

An important precondition for our continued belief in long term future investments is that Pakistan will have sustainable, predictable and non-discriminating tax legislation, where double tax levies are not applied.

With respect to the Bio-Metric Verification System that is being implemented throughout the country, the cellular mobile operators have invested significantly (approximately US\$25m) in support of this initiative and in the wider context of the fight against terror. To date a total in excess of 20 million SIMs (out of 90 days active base) have been disconnected as a consequence of failure to register bio-metric information. This represents a potential drop of 12-15% of the cellular companies' revenues with the corollary effect of reduced digital inclusion with lower revenues resulting in reduced tax receivables. While there is a likelihood of another 10 million active SIMs (earlier classified as Spill Over from BVV

Re-verification exercise) getting blocked in the next month, which may have a potential impact of another 8-10% drop in the overall cellular revenues accordingly.

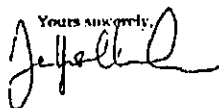
The compounding damage caused by the increase in tax levy and imposition of bio-metric verification should not be underestimated.

Hence, there are a number of issues specifically related to the question of tax where we seek your urgent attention.

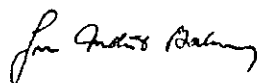
- ❖ To classify the telecommunications sector as "Industrial Undertaking" - this has been promised since 2004;
- ❖ To remove the new SIM supply tax at the rate of PKR 250/SIM;
- ❖ To remove the new IMEI tax to be collected through the cellular mobile operators;
- ❖ To re-instate the import duty concession on telecommunication equipment setting the rate at 5%;
- ❖ To eliminate all sector specific taxes including SIM Activation Tax.

Currently there are also a number of existing tax related litigations relating to disputes between various Provincial and Federal Government bodies. Mainly these relate to double taxation and sales/withholding tax.

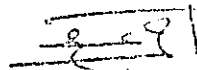
Whilst we look forward to a positive outcome to the resolution of the above mentioned issues and disputes, we remain available, at your convenience, to discuss a beneficial solution which will ensure the future growth and development of the communications sector.

Yours sincerely,


Group CEO
Vimpaccom



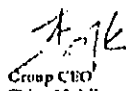
Group CEO
Telenor



Group CEO
Etihad



Chairman: Board Executive Committee
Abu Dhabi Group



Group CEO
China Mobile

Copy to:

1. Senator Mohammad Ishaq Dar, Minister for Finance, Revenue, Economic Affairs, Statistics & Privatization, Government of Pakistan, Islamabad.
2. Mrs. Anusha Rahman Ahmad Khan, Minister of State, Ministry of Information Technology, Government of Pakistan, Islamabad.
3. Dr. Waqar Masood Khan, Secretary, Ministry of Finance, Government of Pakistan, Islamabad.
4. Mr. Azmat Ali Ranjha, Secretary, Ministry of IT, Government of Pakistan, Islamabad.
5. Mr. Tariq Bajwa, Chairman, Federal Board of Revenue, Government of Pakistan, Islamabad.
6. Dr. Syed Iqbal Shah, Chairman, Pakistan Telecommunication Authority, Islamabad.

16



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July 04, 2014

Senator Muhammad Inshaq Dar
Federal Minister for Finance
Ministry of Finance,
Government of Pakistan
Islamabad.

Subject: Reminder - Industrial status for Cellular Mobile Industry

Honorable Minister Sahib,

Kindly refer to our meetings with your good self during May 2014 and our earlier joint industry letters on the same subject dated 2nd and 5th June, 2014 (copies enclosed along with);

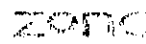
The same was discussed in the meetings held during May 2014 with your good self during the negotiations for finalizing the way forward for the payment of 10% Withholding Tax (levied under section 236-A of the IT Ordinance 2001) on the proceeds of the NGMs auction by the CMOs. The CMOs were assured by you on behalf of the Government of Pakistan ("GoP") about the grant of Industrial Undertaking for them by FBR through the next Finance Bill (Federal Budget for 2014-15).

Based on these assurances by the GoP, NGMS licensees have paid more than Rs. 11 billion as Advance Income Tax (Withholding Tax) on the amount paid for the acquisition of 3G and 4G licenses, which is much more than their current or even next few years' liability under the ITO.

However much to the despair of us all, Industrial Undertaking was not granted to the cellular mobile industry through the Finance Bill 2014-15 despite our reminders sent to your office based on the assurance of GoP conveyed to us through your kind self.

Consequent to the approval by the Federal Cabinet in year 2004, the Ministry of Industries & Production vide its SRO number 1(II)/2004-InvIII dated April 29, 2004 had already classified the Telecom sector, including "Cellular Operators" as "Industry". In addition the Mobile Cellular Policy issued by the Ministry of Information Technology ("MoIT") dated January 28, 2004 also referred to CMOs as "Industry" (please refer to clauses 1 and 3.2 of the said Policy).

However the Federal Board of Revenue ("FBR") had indicated that since MoIT has not declared the CMOs as "Industry" therefore it is not willing to grant such a status to the CMOs. Please find enclosed the letter of the Secretary, Ministry of IT addressed to the Chairman FBR (dated 18th June, 2014; copy enclosed for reference along with as well) which not only clearly admits the stance of the Cellular Industry in this regard but clearly conveys about the classification of the CMOs as "Industrial Undertaking" under clause (b) of section 2(29C) of the Income Tax Ordinance 2001.



Therefore it's imperative that GoP stands to its commitments with the CMOs with regards to provision of status of an "Industry" for the tax relief at the import stage by FBR thereby reducing the period of the adjustment of this Advance Income Tax paid thereof.

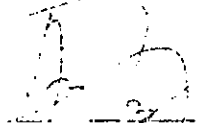
The industry, would therefore respectfully request you once again to please extend your usual support to honor the commitment extended by your good self, in order to process this matter through FBR. This will have far reaching impact on the confidence of our foreign shareholders for strengthening their commitment for continued investment in the cellular sector in Pakistan fulfilling the objectives of all stakeholders involved therein including the GoP.

Thanking you in anticipation.

Yours Sincerely,


Rashid Khan
CEO Mobilink


Micheal Foley
CEO Telenor


Abdul Aziz
CEO Ufone


Fan Yun Jun
CEO CMPak

Copy to:

1. Mrs. Anusha Rehman Khan, Minister of State for IT & Telecom, Ministry of IT, Government of Pakistan, Islamabad.
2. Dr. Waqar Masood, Secretary, Ministry of Finance, Government of Pakistan, Islamabad.
3. Mr. Rana Asad Amin, Advisor to the Ministry of Finance, Government of Pakistan, Islamabad.
4. Mr. Azmat Ali Ranjha, Secretary, Ministry of IT, Government of Pakistan, Islamabad.
5. Mr. Tariq Bajwa, Chairman, Federal Board of Revenue, Government of Pakistan, Islamabad.
6. Dr. Syed Ismail Shah, Chairman, Pakistan Telecommunication Authority, Islamabad.

18

GOVERNMENT OF PAKISTAN
MINISTRY OF INFORMATION TECHNOLOGY
(IT & TELCOM DIVISION)

Subject: INDUSTRIAL STATUS FOR CELLULAR MOBILE INDUSTRY

The Cabinet approved Mobile Cellular Policy, 2004, issued by Ministry of Information Technology, as an incentive for investors in the sector, has classified the Telecom Sector as an "Industry" (Annex-I). Clause 9 of the Mobile Cellular Policy clearly stipulates that:

"The Telecom sector, including mobile cellular operations, will be classified as an Industry."

2. The Ministry of Industries & Production vide notification # 1(11)/2004-InvIII, dated 20th April 2004 while notifying the Cabinet's decision, has also classified the Telecom Sector including cellular operations as an "Industry" (Annex-II).

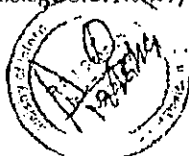
3. In view of the foregoing, Ministry of Information Technology endorses the request of the Telecom Industry, including Mobile Cellular Operators (CMOs) to be classified as "Industrial Undertaking" under clause (b) of section 2(29C) of the Income Tax Ordinance 2001.

4. We will appreciate if the issue is examined and finalized in light of the aforementioned Cabinet decision and the subsequent notification issued in this regard by the Ministry of Industries & Production.

C. Farid
(Azmat Ali Farid) (ha)
Secretary II

Encl: As above

Mr. Tariq Bajwa, Chairman, Federal Board of Revenue, Islamabad.
Ministry of Information Technology U.O. No. 2-7/2003-DT dated 18th June, 2014





Mobile Cellular Policy



January 28, 2004

IT and Telecommunication Division
Ministry of Information Technology
Government of Pakistan



9 Incentives for Investors

The Telecom sector, including mobile cellular operations, will be classified as an industry.

The Mobile operators have to date been classed as a Service and not as an industry. Reclassification of mobile operators to the Industrial Sector will reduce operational costs.

10 Legal and Regulatory Framework

Appropriate changes in the legal and regulatory framework will be made expeditiously to support the Mobile Cellular Sector Policy. Changes may result in amendments in Telecom Reorganisation Act of 1990 and corresponding rules and regulations. Such changes shall be effected expeditiously after the notification of the policy.

11 Review of Policy

This policy will not be reviewed before five years of notification date.



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June 2, 2014

Senator Muhammad Ishaq Dar
Federal Minister for Finance
Ministry of Finance,
Government of Pakistan
Islamabad.

Subject: Industrial status for Cellular Mobile Industry

Honorable Minister Sahib,

We would like to congratulate the Government of Pakistan ("GoP") and yourself once again, on the successful and timely completion of a fair and transparent spectrum auction process for Next Generation Mobile Services ("NGMS") leading to the award of 3G & 4G licenses under your sagacious leadership. We are grateful to you for giving the Cellular Industry the opportunity to present its submissions and proposals to make the NGMS auction an unprecedented success for the GoP, our Industry and most importantly the people of Pakistan, for which you will be remembered always. We hereby look forward to your continued leadership to steer these investment initiatives as the catalysts for the growth of country's economy.

Cellular Mobile Industry can be termed as the harbinger of the telecom revolution in Pakistan, which has increased the tele-density from mere 4% to more than 75% (of this mobile cellular penetration is 71.7%) within a short span of 7-8 years. This has been possible because of the sustained policies of the Government of Pakistan ("GoP") and billions of dollars invested by the Cellular Mobile Operators ("CMOs"). In 2014 alone, the Government has generated US\$ 1.2 billion from CMOs through the auction of Next Generation Mobile Systems ("NGMS") spectrum auction for 3G and 4G licenses which will serve as a catalyst for ignition of many business opportunities across the Country.

It is however respectfully submitted that despite all the above and the recent success of the NGMS auction in Pakistan; the Cellular Mobile Industry has not been given the recognition it deserves. Many incentives otherwise available to other sector are being denied for CMOs. Manufacturers and in the services sector Hotels are given the status of "Industry". The Income Tax Ordinance 2001 ("ITO") section 148 entitles the Industrial Undertaking to claim adjustment of the Advance Income Tax paid at import stage from its final tax liability.

However, the Federal Board of Revenue on the other hand has indicated that since MoIT has not declared the CMOs as "Industry" therefore it is not willing to grant such a status to the CMOs. Though the same was discussed in the meetings held last month with your good self during the negotiations held last month for finalizing the way forward for the payment of 10% Withholding Tax (levied under section 236-A of the IT Ordinance 2001) on the proceeds of the NGMS auction by the CMOs. The CMOs there were assured by you about the grant of Industrial Undertaking for them by FBR through the next Finance Bill (Federal Budget for 2014-15).

Based on these assurances by the GoP, NGMS licensees have paid more than Rs. 11 billion as Advance Income Tax (Withholding Tax) on the amount paid for the acquisition of 3G and 4G licenses, which is much more than their current or even next few years' liability under the ITO.



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Consequent to the approval by the Federal Cabinet in year 2004; the Ministry of Industries & Production vide its SRO number 1(II)/2004-InvIII dated April 20, 2004 had classified the Telecom sector, including "Cellular Operators" as "Industry" (copy of the said SRO is enclosed for ready reference as well). In addition the Mobile Cellular Policy issued by the Ministry of Information Technology ("MoIT") dated January 28, 2004 also referred to CMOs as "Industry" (please refer to clauses 1 and 3.2 of the said Policy).

Therefore it's imperative that Govt stands to its commitments with the CMOs with regards to provision of status of an "Industry" for the tax relief at the import stage by FDR thereby reducing the period of the adjustment of this Advance Income Tax paid thereof.

The industry, would respectfully request you to please extend your usual support to honor the commitment extended by your good self, in order to process this matter considering the fact that the next Federal Budget (Finance Bill) is being tabled with the Parliament for approval now. This will have far reaching impact on the confidence of our foreign shareholders for strengthening their commitment for continued investment in the cellular sector in Pakistan fulfilling the objectives of all stakeholders involved therein including the Govt.

Thanking you in anticipation,

Yours Sincerely,

Rashed Khan
CEO Mobilink

Fan Yun Jan
CEO Zong

Lars Christian Just
CEO Telenor

Abdul Aziz
CEO Ufone

Copy to:

1. Mrs. Anusha Rehman Khan, Minister of State for IT & Telecom, Ministry of IT, Government of Pakistan, Islamabad.
2. Dr. Waqar Masood, Secretary, Ministry of Finance, Government of Pakistan, Islamabad.
3. Mr. Rana Asad Amin, Advisor to the Ministry of Finance, Government of Pakistan, Islamabad.
4. Mr. Akhlaq Ahmad Tatar, Secretary, Ministry of IT, Government of Pakistan, Islamabad.
5. Dr. Syed Ismail Shah, Chairman, Pakistan Telecommunication Authority, Islamabad.



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June 5, 2014

Senator Muhammad Ishaq Dar
Federal Minister for Finance
Ministry of Finance,
Government of Pakistan
Islamabad.

Subject: Federal Budget 2014-15 Proposals Impacting the Growth of Cellular Mobile Industry

Honorable Minister Sahib,

This is in continuation of our joint industry letter dated 2nd June 2014 addressed to your good self for the grant of Industrial Undertaking for the Cellular Industry through the Finance Bill 2014-15;

Cellular Mobile Industry can be termed as the harbinger of the telecom revolution in Pakistan on one side, which has increased the tele-density from mere 4% to more than 75% (of this mobile cellular penetration is 71.7%) within a short span of 7-8 years; on the other side it has resulted as a catalyst for associated economic activities like establishment of mobile banking, handset manufacturing, software development, construction etc. in addition to millions of jobs created for indirect channels of sales and distribution. This has been possible because of the sustained policies of the Government of Pakistan ("GoP") and billions of dollars invested by the Cellular Mobile Operators ("CMOs").

In May 2014 alone, the Government has generated US\$ 1.2 billion from CMOs through the auction of Next Generation Mobile Systems ("NGMS") spectrum auction for 3G and 4G licenses which will serve as a catalyst for economic growth and ignition of many business opportunities across the Country. We would like to thank GoP for considering a couple of our tax proposals in the Finance Bill 2014-15 with regards to one percent reduction each in terms of the FED/GST and Advance Income Tax being charged which though are very small yet indicate the resolve of the GoP to address high taxation in this sector. However we would like to strongly reiterate our earlier stance for the required rationalization of these taxes at par with the other sectors of the economy (to remove the disparity w.r.t. Telecom sector taxation). At the same time, we seek the help of GoP through your good office to convince the respective Provincial Governments to reduce GST through their Finance Bills as well (as it is a provincial issue after the 18th Amendment).

The CMOs would respectfully submit that there are several other Budget proposals briefly mentioned herein which potentially have a huge financial impact on the health of this industry, which actually needs a lot of support from GoP at this stage for the required foreign investment specially in rolling out the latest 3G/4G technologies in Pakistan.

A few of these proposals have been tabulated below for your kind consideration ;

• Income Tax Ordinance 2001

S. No.	Section Ref	Current Position	Proposed Position
1	3	This rate of initial depreciation on building is 25%	This rate of initial depreciation being reduced to 10%. This will result in reduction in allowable depreciation allowances.
2	113C	There is no clause on Alternate Corporate Tax	Alternate Corp tax means tax @ 17% of accounting income less exempt income, capital gain on securities, income subject to final tax u/s 148; dividend; income subject to final tax u/s 153 (contracts and goods); income from export u/s 154; prizes and winning and final tax u/s 233 (Commission); income on which tax credit is available u/s 65. This will result additional burden for the CMOs. Upfront payments of tax will increase and may lapse even after expiry of 10 years in addition process of calculation of tax liability will become more complicated. At the LTU level another process of assessment of accounting income apart from assessment of taxable income shall be conducted.
3	148	Advance Tax at Import stage is currently 5% of the assessed value	The tax is proposed to be increased to 5.5%. This will result in payment of higher amount of taxes at Import stage which the FBR is adamant is treatment as final tax liability.

• Sales Tax Act 1990

S. No.	Section Ref	Current Position	Proposed Position
1	3B	Currently tax at the rate of Rs.250 is collected on sale of handsets	Tax at rate of Rs. 250 shall have to be paid at the time of registration of new IMEI.

We sincerely feel that due deliberations haven't been held on the mechanism of implementing the sales tax of Rs 250 for each new IMEI registration in the cellular mobile networks. Though there are certain technical platforms/solutions available for the standardization of IMEIs but they are not meant for maintaining white lists of the same in order to block such IMEIs which haven't paid the sales tax.

Moreover there is a huge concern about the treatment of a large number of non-standard IMEIs based handsets already imported in country in last few years, purchased by customers and operational in different networks. Last but not the least, the said tax should be collected at the level of Customs while the handsets are being imported into the country and not after they have been sold to the end user (customer) and activated in the cellular networks.



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The CMOs therefore are not in a position to take this responsibility of tax collection for IMEI registration in their networks owing to practical problems, technical issues and cost of the infrastructure involved therein.

In addition to these, SRO 575(I)/2006 has been amended such that duty exemption on non-locally manufactured telecom equipment has been removed i.e. Customs Duty would have to be paid at the rate of 10% instead of 5%. Withdrawal of exemption at this stage when the cellular industry has recently acquired 3G/4G licenses and CMOs are gearing up for huge foreign investment for rolling out the latest network infrastructure is not justified, more so after being given assurances of support by the GoP.


Finally please refer to the frequent interactions of the CMOs last month with your good self especially during negotiations held for finalizing the way forward for payment of 10% Withholding Tax (levied under section 236-A of the IT Ordinance 2001) on the proceeds of the NGMS auction by us all. The CMOs were assured by your honor about the grant of Industrial Undertaking for them by FBR through the next Finance Bill (Federal Budget for 2014-15) which somehow hasn't by far been formalized as well.


We hereby look forward to your kind intervention for the required corrections through the Finance Bill 2014-15, in the areas mentioned above and your continued leadership to steer the cellular industry investment initiatives to act as the catalysts for the growth of country's economy.

Thanking you in anticipation.


Yours Sincerely,


Rashid Khan
CEO Mobilink


Lars Christian Iuel
CEO Telenor


Abdul Aziz
CEO Ufone


Munir Farooqui
CEO Warid


Fan Yan Jia
CEO Zong

Copy to:

1. Mrs. Anusha Rehman Khan, Minister of State for IT & Telecom, Ministry of IT, Government of Pakistan, Islamabad.
2. Dr. Waqar Masood Khan, Secretary, Ministry of Finance, Government of Pakistan, Islamabad.
3. Mr. Akhlaq Ahmad Tarar, Secretary, Ministry of IT, Government of Pakistan, Islamabad.
4. Mr. Rana Asad Aun, Advisor to Ministry of Finance, Government of Pakistan, Islamabad.
5. Dr. Syed Ismail Shah, Chairman, Pakistan Telecommunication Authority, Islamabad.



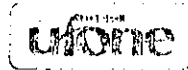
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1st June, 2014

Mr. Akhlaq Ahmad Tarar
Secretary
Ministry of IT
Government of Pakistan
Islamabad.

Subject: Industrial status for Cellular Mobile Industry

Dear Sir

Cellular Mobile Industry can be termed as the harbinger of the telecom revolution in Pakistan, which has increased the tele-density from mere 4% to more than 75% (of this mobile cellular penetration is 71.7%) within a short span of 7-8 years. This has been possible because of the sustained policies of the Government of Pakistan ("GoP") and billions of dollars invested by the Cellular Mobile Operators ("CMOs").

In 2014 alone, the Government has generated US\$ 1.1 billion from CMOs through the auction of Next Generation Mobile Systems ("NGMS") spectrum auction for 3G and 4G licenses which will serve as a catalyst for ignition of many business opportunities across the Country.

Respectfully submitted that despite all the above and the recent success of the NGMS auction in Pakistan; the Cellular Industry has not been given the recognition it deserves. Many incentives otherwise available to other sector are being denied for CMOs. Manufacturers and in the services sector Hotels are given the status of "Industry". The Income Tax Ordinance 2001 (ITO) allows the Federal Board of Revenue to grant exemption from payment of advance Income Tax at import stage in case the relevant organization is not liable to pay tax or already paid more than its annual liability, which is case for all of the Cellular Mobile Operators (CMOs).

The Ministry of Industries & Production vide its SRO number 1(II)/2004-Inv/III dated April 20, 2004 had classified Telecom sector, including "Cellular Operators" as "Industry" (copy enclosed for ready reference as well). In addition the Mobile Cellular Policy issued by the Ministry of Information Technology ("MoIT") dated January 28, 2004 also referred to CMOs as "Industry" (please refer to clauses 1 and 3.2 of the said Policy).

The Federal Board of Revenue ("FBR") on the other hand has indicated that since MoIT has not declared the CMOs as "Industry" therefore it is not willing to grant such a status to the CMOs. Though the same was discussed in the meetings held last month with the Federal Finance Minister during the negotiations held with him for finalizing the way forward for the payment of 10% Withholding Tax (levied under section 236-A of the IT Ordinance 2001) on the proceeds of the NGMS auction by the CMOs. The CMOs were assured by the Honorable Minister about



Mobilink



telenor



warid



ufone

ZONG

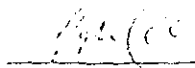
the grant of Industrial Undertaking for them by FBR through the next Finance Bill (Federal Budget for 2014-15).

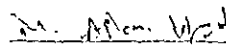
The CMOs based on these assurances by the GoP have paid more than Rs. 1.1 billion as Advance Income Tax (Withholding Tax) on the amount paid for the acquisition of 3G and 4G licenses, which is much, much more than their current or even next few years' liability under the ITO. Therefore it's imperative that GoP stands to its commitments with the CMOs with regards to provision of status of an "Industry" for the tax relief at the import stage by FBR thereby shortening the period of the adjustment of this Advance Income Tax paid thereof.

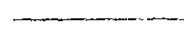
The industry, therefore, would request you to please extend your usual support and issue a clarification on the "Industrial" status for the CMOs through the MoIT at the earliest, in order to process this matter through FBR considering the fact that the next Federal Budget is being announced in the next couple of days.


We yet again request for your considerate and early response in this regard.

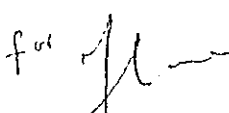
Yours sincerely,


Agha Qasim
VP Mobilink


M. Aslam Hayat
VP Telenor

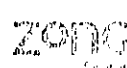
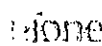
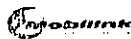

Naveed Khalid Butt
VP Ufone


Omar Abbas Haidar
Director Warid Telecom


Sikanter Naqi
Advisor to CEO CM Pak

CC:

- 1) Mrs. Anusha Rehman Khan, Minister of State for IT & Telecom, Government of Pakistan, Islamabad.
- 2) Dr. Syed Ismail Shah, Chairman, Pakistan Telecommunication Authority, Islamabad.
- 3) Mr. Mudassar Hussain, Member Telecom, Ministry of IT, Government of Pakistan, Islamabad.
- 4) The CEOs of Mobilink, Telenor, Ufone, CMPak and Warid



February 20, 2012

Mr. Mumtaz Haider Rizvi
Chairman,
Federal Board of Revenue,
Islamabad.

Dear Sir,

**'INDUSTRIAL UNDERTAKING' UNDER SECTION 2(29C) OF THE INCOME TAX
ORDINANCE, 2001 (ORDINANCE)**

Through this letter we wish to apprise your Honour of the definition of "Industrial undertaking" given in section 2(29C) of the Ordinance that was inserted through Finance Act 2005 and only "Editorial nature of changes" were made through Finance Act 2010 as clarified by the Federal Board of Revenue (FBR) in paragraph 21 of Circular No 10 of 2010 dated July 10, 2010. Accordingly, the Departmental practice in the past of treating the telecom sector as "industry" as compared to the FBR's above referred Circular dated July 10, 2010 and Circular letter No 1(9)/WHT/2006-Pt dated February 2, 2011 has resulted in an ambiguous situation. Resultantly, one of the largest contributing sector to collection of taxes and growth in Pakistan (i.e telecom sector taxpayers) are now being asked to pay nonadjustable tax on purchase / import of capital goods which are to be used in rendering of services and at the same time said services are equated with services on which "minimum tax" is levied.

2. In this respect, we wish to state that it has always been an accepted position that only commercial imports are subject to final tax regime of section 148(7) read with section 169 of the Ordinance and not imports of raw material / capital goods for own use which is also evident from sub-section (5)(a)(ii) of section 153 of the Ordinance.

3. Our above contention is supported by a recent judgment of the Honourable Appellate Tribunal in a case reported as 2011 PTD 967, relevant extracts of which are reproduced below for ease of reference.

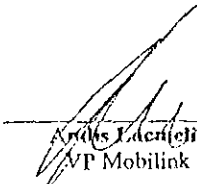
"..... --- Word "commercial import" did not figure in law and to this extent the contention of the Department was correct, however, when the provision of S. 148(7) of the Income Tax Ordinance, 2001 were minutely examined it transpired that legislature had used the words "...income of the importer arising from...."---Such words, particularly the word 'arising', made the intention of the legislature manifestly clear---By reference to these words, what was brought within the ambit of final tax regime was a transaction which involved an import to make a profit i.e. a commercial import or import undertaken for resale with the intention of making profit--- Definition of expression 'income' itself includes the amount subject to collection of tax under S.148 of the Income Tax Ordinance, 2001 but had the intention


been to treat all types of transaction as 'income' the legislature would have not used the words "income of the importer arising from" rather the wording would have been "....the tax collected under this section shall be a final tax"---Said cautions and discreet choice of words made it amply clear that within the scope of final tax regime only those goods fell which were imported for resale to make a profit-- (emphasis ours)

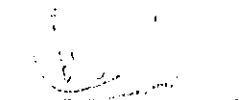
4. In view of above, we wish to state that in terms of clause (b) of section 2(29C) of the Ordinance, FBR has the power to notify "any other industrial undertaking" for the purposes of said section. Accordingly, based on the Federal Government's policy of treating "telecom sector" as an industry as notified vide SRO No 1(11)/2004-InvIII dated April 20, 2004 issued by the Ministry of Industries & Production, Government of Pakistan and the incentive offered to foreign investors in terms of Mobile Cellular Policy 2004. (Copies enclosed for ease of reference), we request your Honour to kindly consider issuing a notification in this respect awarding "industrial undertaking" status to the telecom operators and thereby removing the ambiguity in this respect.


5. We trust your Honour is in agreement with the above and shall appreciate your Honour's early action in issuing necessary clarifications to the field formations under intimation to us.


Yours truly,

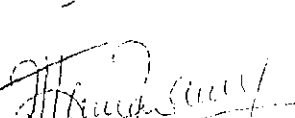

Aamer Izhar ul Haq
VP Mobilink


Navsed Khalid Butt
VP CA Telcelor


Naser Hamdani
VP Ufone


Qaiser Abbas Haider
GMWarid

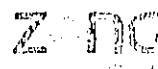
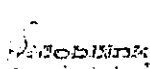

Zakir Hussain Sattar
GM-Revenue PTCL


Naser Hamdani
Director Zong

Encl: a. a.

Copy to: Member Inland Revenue
Federal Board of Revenue
Islamabad

Member Legal
Federal Board of Revenue
Islamabad



Dated: 18th January, 2010

Mr. Khalid Saeed
Chairman NEPRA
Government of Pakistan
Islamabad

Subject: Provisioning of Industrial Power Tariffs for the Cellular Industry

Dear Sir,

With reference to earlier submissions regarding the subject in the last few years, the Cellular Industry once again would like to emphasize on the provision of Industrial Power Tariff to the Cellular Industry. It is our understanding that the Cellular Industry stands equally justified for the said provision as the other Industries in Pakistan are.

The following relevant correspondence is hereby being enclosed with this letter for required references in this regard:

- 1) Declaration of Telecom sector including Cellular Operations as an Industry, Letter No.1 (11)/2004) from Ministry of Industries and Production, Dated April 20, 2004.
- 2) Letter (No. 1(9)/2007-JIC-BOI) from Investment Division & Board of Investment Government of Pakistan, Dated December 14, 2007 recommending provision of Industrial Power Tariff to the Cellular Operators.
- 3) Letter (No. 3-9/2007-D(W) from Ministry of IT (IT & Telecom Division) to the Secretary Ministry of Water and Power, Dated December 15, 2007 recommending provision of Industrial Power Tariff to the Cellular Operators.
- 4) Mobile Cellular Policy 2004 issued by the Ministry of IT, Government of Pakistan.
- 5) Letter (No. 2446-49 DG(C)/Tariffs/T-136 Vol-22) from PEPCO to NEPRA, Dated February 19, 2008.

It should be noted that the cellular Industry has been actively contributing in the economic development of the country and for the past few years it has emerged as the biggest Tax payer to the Government of Pakistan. Similarly, it has contributed a lot in bringing a huge sum of around US\$ 1,230M as Foreign Direct Investment in Pakistan over the past three years.

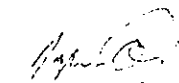
On the other hand, the overall revenue growth of the Cellular Industry for the past one year has been affected due to drastic changes in the local and international economic scenario. Imposition of certain Taxes has also contributed towards decreased revenues for the Cellular Operators.

Please note that the Cellular Industry has become one of the biggest consumers of WAPDA. Furthermore, the Industry is expanding at a rapid pace and so is our infrastructure, which has further resulted in increase in our operating costs. There are approximately 26,000 cell sites nationwide and the approximate load for each of these cell sites is 16KW. Similarly, there would be around 50 sites of all cellular operators across Pakistan having their MSCs, Data Centers and Call Centers with an approximate power load of 1300-1500KW for each MSC and 600-800KW for the Data Centers and Call Centers respectively.

In light of the above mentioned facts and the attached relevant correspondence, the Cellular Industry would strongly recommend for having the Industrial Power Tariff provision and be highly grateful for such support. It is believed that such provision will assist to a great extent in achieving smooth operations of Cellular Operators, lessening of the operating expense and increase in further investment possibilities for more expansion in our infrastructure in Pakistan.

Thanking you in anticipation.

Yours sincerely,



Agha M Qasim
VP Mobilink

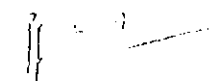


Aamir Ibrahim
CSO Telcel

Naveed Khalid Butt
VP Ufone



Omer Abbas Haider
GM Warid



Zafar Usmani
COO Zong

Cc:

- 1) Mr. Shahid Rafi, Secretary, Ministry of Water & Power, Government of Pakistan
- 2) Mr. Nageeb Ullah Malik, Ministry of Information Technology, Government of Pakistan

Tariffs Comparison

Consumer Type	Fixed Charges (PKR/KW)	Peak Hour Rate (PKR/Unit)	Off-Peak Rate (PKR/Unit)	AVG. AVERAGE	MAX. RATE (PKR/Unit)
Commercial	400 PKR/KW	21.60 + 1.80	15.63 + 1.80	18.43	20.5
Industrial	-	18.84 + 1.80	13.28 + 1.80	16.01	18.1



Difference:

Advantage of Tariff change from commercial to industrial is exclusion of fixed charges (MDI), which we have to pay 400-PKR/KW (maximum Demand indicator)

e.g.

Max hit_KW at sites is 10 KW, MDI will be
 $400 \times 10 = 4000 \text{ PKR}$



Per Unit Rate:

Peak & Off-Peak per unit rate for both Tariffs have a minor difference, except PM relief subsidy to Industry.



Financial Impact:

15-16 M PKR savings expected per month.

280-300 MPKR per Annum on RAN sites.



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Block B, Gulberg Greens
Islamabad-44000
www.telenor.com.pk
Tel: +92(51)111-345-700

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AUTHORITY LETTER

By virtue of Resolution dated May 3, 2021 issued by the Board of Telenor Pakistan (Pvt.) Limited, I, Irfan Wahab Khan, Chief Executive Officer of Telenor Pakistan (Pvt.) Limited (the "Company") acting for and on behalf of the Company hereby ORDAIN, APPOINT, AUTHORISE AND CONSTITUTE Mr. Haider Latif Sandhu (CNIC No: 61101-1835090-1) and Mr. Syed Ali Yasir Rizvi (CNIC No. 37405-1250549-5) severally and individually as being authorized to act on behalf of and in the name of the Company for the following:

1. To sign, verify and file the pleadings, complaints, written statements, rejoinders, affidavits, petitions/applications, address letters, to act and appear for and on behalf of the Company and to take all steps which are required for the lawful conduct of the suit/proceedings.
2. To engage counsel, file/institute and conduct and defend suits, applications, petitions, affidavits, Appeal(s), Revision(s), Reviews, compromises and other proceedings including making statements on oath to give oral or documentary evidence in any court. To further delegate any of his powers by way of fully executed power of attorney, letters of authority or otherwise generally, to persons including but not limited to officers of the Company or the Company's Group Companies or affiliated or associated entities as he may deem fit.
3. To do, take, and perform each and every act or thing whatsoever necessary or proper to be done, in the exercise of the authority granted in this letter.

Irfan Wahab Khan
Chief Executive Officer
Telenor Pakistan (Pvt.) Limited
Date: 06-08-2021



345 Telenor Pakistan
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Islamabad-44000
www.telenor.com.pk
Tel: +92(51)111-345-700

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CERTIFIED EXTRACT OF BOARD RESOLUTION

I Haider Latif Sandhu, Company Secretary, Telenor Pakistan (Pvt.) Ltd. ("The Company") hereby certify that the following resolution was passed by the Board of Directors of the Company on 3rd May 2021:

FURTHER RESOLVED that effective 22nd April 2021, Mr. Irfan Wahab Khan be and is hereby appointed as Chief Executive Officer of Telenor Pakistan (Pvt.) Limited. As CEO of the Company he shall be authorized to exercise all such powers conferred upon him by the Board and the Law from time to time.

FURTHER RESOLVED that the Chief Executive Officer, Mr. Irfan Wahab Khan, shall with effect from 22nd April 2021 exercise any and all powers and authorizations on behalf of the Company as set out hereunder:

To open, operate and maintain one or more bank accounts with one or more banks in Islamabad and other places in Pakistan and to sign operate & maintain bank accounts on behalf of the Company in the same capacity as the previous Chief Executive as and when required. He is further authorized to nominate in writing under his hand one or more Directors or Officers of the Company to act as signatories in order to open, operate & maintain such bank account or accounts.

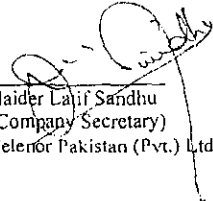
To exercise all powers in relation to the day-to-day management of the Company as are specifically provided for on the Companies Act, 2017, the Memorandum and Articles of Association of the Company, any Instructions to the Chief Executive Officer by the Board, any revised authority matrix, or otherwise as are generally required to be exercised by the Chief Executive.

To exercise all powers conferred under the authority matrix approved by the Board as amended/revised from time to time.

To sign, verify and file the pleadings, plaints, written statements, rejoinders, affidavits, petitions/applications, address letters, to act and appear for and on behalf of the Company and to take all steps which are required for the lawful conduct of the representations/petitions/suits/proceedings. The Chief Executive may engage counsel, file/institute and conduct and defend suits, applications, petitions affidavits, Appeal(s), Revision(s), Review(s), Compromises and other proceedings including making statements on Oath to give oral and documentary evidence in any Court/Tribunal/Authority or Forum.

To delegate any of his powers mentioned above or otherwise granted to him as CEO from time to time, by way of fully executed power of attorney, letters of authority or otherwise generally, to persons including but not limited to officers of the Company or the Company's Group Companies or Affiliated or Associated entities as the Chief Executive may Deem fit.

FURTHER RESOLVED that the Company Secretary be and is hereby authorized to file the requisite documents as prescribed under the Companies Act, 2017 for the appointment of the Chairperson & Chief Executive Officer with Registrar of Companies.


Haider Latif Sandhu
(Company Secretary)
Telenor Pakistan (Pvt.) Ltd.



Company Secretary
Telenor Pakistan (Pvt.) Ltd.

GOVERNMENT OF PAKISTAN
FEDERAL BOARD OF REVENUE
(REVENUE DIVISION)

INCOME TAX MANUAL

PART I

INCOME TAX ORDINANCE, 2001

AMENDED UPTO 30th JUNE, 2021

F.No.2(1)/2001—Pub.— The following Ordinance promulgated by the President is hereby published for general information:—

AN

ORDINANCE

To consolidate and amend the law relating to income tax

WHEREAS it is expedient to consolidate and amend the law relating to income tax and to provide for matters ancillary thereto or connected therewith;

WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with Provisional Constitutional Amendment Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.—(1) This Ordinance may be called the Income Tax Ordinance, 2001.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may, by notification in official Gazette, appoint*.

2. Definitions. — In this Ordinance, unless there is anything repugnant in the subject or context —

(1) "accumulated profits" in relation to ¹[distribution or payment of] a dividend, ²[include] —

* Vide notification S.R.O.381(I)/2002 dated 15.06.2002 the Federal Government appointed the first day of July, 2002 on which the Ordinance shall come into force.

¹ Inserted by the Finance Act, 2003.

² The word "includes" substituted by the Finance Act, 2005.

- (a) any reserve made up wholly or partly of any allowance, deduction, or exemption admissible under this Ordinance;¹
- (b) for the purposes of ²[sub-clauses (a), (b) and (e) of clause (19)] all profits of the company including income and gains of a trust up to the date of such distribution or such payment, as the case may be; and
- (c) for the purposes of ³[sub-clause (c) of clause (19)], includes all profits of the company including income and gains of a trust up to the date of its liquidation;

⁴[(1A) "active taxpayer" list" means the list instituted by the Board under Section 181A and includes such list issued by the Azad Jammu and Kashmir Central Board of Revenue or Gilgit-Baltistan Council Board of Revenue;]

⁵[(1B) "amalgamation" means the merger of one or more banking companies or non-banking financial institutions, ⁶[or insurance companies,] ⁷[or companies owning and managing industrial undertakings] ⁸[or companies engaged in providing services and not being a trading company or companies] in either case ⁹[at least one of them] being a public company, or a company incorporated under any law, other than ¹⁰[Companies Act, 2017 (XIX of 2017)], for the time being in force, (the company or companies which so merge being referred to as the "amalgamating company" or companies and the company with which they merge or which is formed as a result of merger, as the "amalgamated company") in such manner that –

- (a) the assets of the amalgamating company or companies immediately before the amalgamation become the assets of the amalgamated company by virtue of the amalgamation, otherwise than by purchase of such assets by the amalgamated

¹ Clauses (a), (d) and (e) of sub-section (20) substituted by the Finance Act, 2002.

² Clause (c) of sub-section (20) substituted by the Finance Act, 2002.

³ Clause 1A inserted through Finance Act, 2019.

⁴ Inserted by the Finance Act, 2002.

⁵ 1A renumbered by 1B by the Finance Act, 2019.

⁶ Inserted by the Finance Act, 2004.

⁷ Inserted by the Finance Act, 2005.

⁸ Inserted by the Finance Act, 2007.

⁹ Inserted by the Finance Act, 2005.

¹⁰ The expression "Companies Ordinance, 1984 (XLVII of 1984)" substituted by the Finance Act, 2021.

company or as a result of distribution of such assets to the amalgamated company after the winding up of the amalgamating company or companies; ¹[and]

- (b) the liabilities of the amalgamating company or companies immediately before the amalgamation become the liabilities of the amalgamated company by virtue of the amalgamation ²[.]

³[]

⁴[(2) "Appellate Tribunal" means the Appellate Tribunal Inland Revenue established under section 130;]

(3) "approved gratuity fund" means a gratuity fund approved by the Commissioner in accordance with Part III of the Sixth Schedule;

⁵[(3A) "Approved Annuity Plan" means an Annuity Plan approved by Securities and Exchange Commission of Pakistan (SECP) under Voluntary Pension System Rules, 2005 and offered by a Life Insurance Company registered with the SECP under Insurance Ordinance, 2000 (XXXIX of 2000);]

⁶[(3B) "Approved Income Payment Plan" means an Income Payment Plan approved by Securities and Exchange Commission of Pakistan (SECP) under Voluntary Pension System Rules, 2005 and offered by a Pension Fund Manager registered with the SECP under Voluntary Pension System Rules, 2005;]

⁷[(3C) "Approved Pension Fund" means Pension Fund approved by Securities and Exchange Commission of Pakistan (SECP) under Voluntary Pension System Rules, 2005, and managed by a Pension

¹ Added by the Finance Act, 2005.

² The semi-colon and word "and" substituted by the Finance Act, 2005.

³ Clause (c) omitted by the Finance Act, 2005. The omitted clause (c) read as follows: -
"(c) the scheme of amalgamation is approved by the State Bank of Pakistan or by the Securities and Exchange Commission of Pakistan on or before thirtieth day of June, 2006;"

⁴ Substituted by the Finance Act, 2010. The substituted provision has been made effective from 05.06.2010 by sub-clause (77) of clause 8 of the Finance Act, 2010. Earlier the substitution was made through Finance (Amendment) Ordinance, 2009 which was re-promulgated as Finance (Amendment) Ordinance, 2010 and remained effective till 05.06.2010. Clause (2) before substitution by the Finance (Amendment) Ordinance, 2009 read as follows:
"(2) "Appellate Tribunal" means the Appellate Tribunal Inland Revenue established under section 130;"

⁵ Inserted by the Finance Act, 2005.

⁶ Inserted by the Finance Act, 2005.

⁷ Inserted by the Finance Act, 2005.

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Fund Manager registered with the SECP under Voluntary Pension System Rules, 2005;]

- ¹[(3D) "Approved Employment Pension or Annuity Scheme" means any employment related retirement scheme approved under this Ordinance, which makes periodical payment to a beneficiary i.e. pension or annuity such as approved superannuation fund, public sector pension scheme and Employees Old-Age Benefit Scheme;]
- ²[(3E) "Approved Occupational Savings Scheme" means any approved gratuity fund or recognized provident fund;]
- (4) "approved superannuation fund" means a superannuation fund, or any part of a superannuation fund, approved by the Commissioner in accordance with Part II of the Sixth Schedule;
- ³[(5) "assessment" includes ⁴[provisional assessment,] re-assessment and amended assessment and the cognate expressions shall be construed accordingly;]
- ⁵[(5A) "assessment year" means assessment year as defined in the repealed Ordinance;]
- ⁶[(5B) "asset management company" means an asset management company as defined in the Non-Banking Finance Companies and Notified Entities Regulations, 2007;]
- ⁷[(5C) "assets move" means the transfer of an offshore asset to an unspecified jurisdiction by or on behalf of a person who owns,

¹Inserted by the Finance Act, 2006.

²Inserted by the Finance Act, 2006

³Clause (5) substituted by the Finance Act, 2002. The substituted clause read as follows:

- "(5) "assessment" means –
- (a) an assessment referred to in section 120;
 - (b) an assessment raised under section 121;
 - (c) an amended assessment under section 122;
 - (d) a demand for an amount due under sections 141, 142, 143 and 144; or
 - (e) an assessment of penalty under section 190;".

⁴Inserted by the Finance Act, 2011.

⁵Inserted by the Finance Act, 2002

⁶Clause (5B) substituted by the Finance Act, 2008. The substituted clause (5B) read as follows:

"(5B) "asset management company" means a company registered under the Assets Management companies Rules, 1995."

⁷ Clause (5C) inserted by Finance Act, 2019

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possesses, controls or is the beneficial owner of such offshore assets for the purpose of tax evasion;]

- (6) "association of persons" means an association of persons as defined in section 80;
- (7) "banking company" means a banking company as defined in the Banking Companies Ordinance, 1962 (LVII of 1962) and includes anybody corporate which transacts the business of banking in Pakistan;
- ¹[(8) "Board" means the Central Board of Revenue established under the Central Board of Revenue Act, 1924 (IV of 1924), and on the commencement of Federal Board of Revenue Act, 2007, the Federal Board of Revenue established under section 3 thereof;
- (9) "bonus shares" includes bonus units in a unit trust;
- (10) "business" includes any trade, commerce, manufacture, profession, vocation or adventure or concern in the nature of trade, commerce, manufacture, profession or vocation, but does not include employment;
- ²[(10A) "business bank account" means a bank account utilized by the taxpayer for business transaction declared to the Commissioner through original or modified registration form prescribed under section 181;]
- (11) "capital asset" means a capital asset as defined in section 37;
- ³[(11A) "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility;]
- ⁴[(11B) "Chief Commissioner" means a person appointed as Chief Commissioner Inland Revenue under section 208 and includes a Regional Commissioner of Income Tax and a Director-General of Income Tax and Sales Tax;]

¹ Clauses (8), (9), (10) and (11) re-numbered as clauses (9), (10), (11) and (8) respectively by the Finance Act, 2014.

² Clause (10A) inserted by the Finance Act, 2021.

³ Inserted by the Finance Act, 2002.

⁴ Substituted by the Finance Act, 2010. The substituted provision has been made effective from 05.06.2010 by sub-clause (77) of clause 8 of the Finance Act, 2010. Earlier the substitution was made through Finance (Amendment) Ordinance, 2009 which was re-promulgated as Finance (Amendment) Ordinance, 2010 and remained effective till 05.06.2010. The substituted clause (11B) read as follows:

"(11B) "Chief Commissioner" means a person appointed as Chief Commissioner Inland Revenue under section 208 and includes a Regional Commissioner of Income Tax and a Director-General of Income Tax and Sales Tax."

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- ¹[(11C) "Collective Investment Scheme" shall have the same meanings as are assigned under the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003;]
- (12) "company" means a company as defined in section 80;
- ²[(13) "Commissioner" means a person appointed as Commissioner Inland Revenue under section 208 and includes any other authority vested with all or any of the powers and functions of the Commissioner;]
- ³[(13A) "Commissioner (Appeals)" means a person appointed as Commissioner Inland Revenue (Appeals) under section 208;]
- ⁴[(13AA) concealment of income includes –
- (a) the suppression of any item of receipt liable to tax in whole or in part, or failure to disclose income chargeable to tax;
 - (b) claiming any deduction or any expenditure not actually incurred;
 - (c) any act referred to in sub-section (1) of section 111; and
 - (d) claiming of any income or receipt as exempt which is otherwise taxable.
- Explanation.* - For removal of doubt it is clarified that none of the aforementioned acts would constitute concealment of income unless it is proved that taxpayer has knowingly and willfully committed these acts;]
- ⁵[(13AB) "consumer goods" means goods that are consumed by the end consumer rather than used in the production of another good;]

¹Inserted by the Finance Act, 2011.

²Substituted by the Finance Act, 2010. The substituted provision has been made effective from 05.06.2010 by sub-clause (77) of clause 8 of the Finance Act, 2010. Earlier the substitution was made through Finance (Amendment) Ordinance, 2009 which was re-promulgated as Finance (Amendment) Ordinance, 2010 and remained effective till 05.06.2010. The substituted Clause (13) read as follows:

"(13) Commissioner" means a person appointed as Commissioner Inland Revenue under section 208, and includes any other authority vested with all or any of the powers and functions of the Commissioner;".

³Substituted by the Finance Act, 2010. The substituted provision has been made effective from 05.06.2010 by sub-clause (77) of clause 8 of the Finance Act, 2010. Earlier the substitution was made through Finance (Amendment) Ordinance, 2009 which was re-promulgated as Finance (Amendment) Ordinance, 2010 and remained effective till 05.06.2010. The substituted Clause (13A) read as follows:

"(13A) "Commissioner (Appeals)" means a person appointed as Commissioner Inland Revenue (Appeals) under section 208;

⁴ New clause (13AA) inserted by the Finance Act, 2021

⁵Inserted by the Finance Act, 2015

⁶ Clause (13AA) re-numbered as clause (13AB) by the Finance Act, 2021.

- ¹[(13B) "Contribution to an Approved Pension Fund" means contribution as defined in rule 2(j) of the Voluntary Pension System Rules, 2005²[];]
- (14) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1925 (VII of 1925) or under any other law for the time being in force in Pakistan for the registration of co-operative societies;
- (15) "debt" means any amount owing, including accounts payable and the amounts owing under promissory notes, bills of exchange, debentures, securities, bonds or other financial instruments;
- (16) "deductible allowance" means an allowance that is deductible from total income under Part IX of Chapter III;
- (17) "depreciable asset" means a depreciable asset as defined in section 22;
- ³[17A. "Developmental REIT Scheme" means Developmental REIT Scheme as defined under the Real Estate Investment Trust Regulations, 2015;]
- (18) "disposal" in relation to an asset, means a disposal as defined in section 75;
- (19) "dividend" includes —
- (a) any distribution by a company of accumulated profits to its shareholders, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets including money of the company;
 - (b) any distribution by a company, to its shareholders of debentures, debenture-stock or deposit certificate in any form, whether with or without profit, ⁴[] to the extent to which the company possesses accumulated profits whether capitalised or not;
 - (c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not;

¹ Inserted by the Finance Act, 2005.

² The comma and words ", but not exceeding five hundred thousand rupees in a tax year" omitted by the Finance Act, 2006.

³ Inserted by the Finance Act, 2015

⁴ The words "and any distribution to its shareholders of shares by way of bonus or bonus shares", omitted by the Finance Act, 2002

- (d) any distribution by a company to its shareholders on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether such accumulated profits have been capitalised or not; ¹[]
- (e) any payment by a private company ²[as defined in the ³[Companies Act, 2017 (XIX of 2017)]] or trust of any sum (whether as representing a part of the assets of the company or trust, or otherwise) by way of advance or loan to a shareholder or any payment by any such company or trust on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company or trust, in either case, possesses accumulated profits; ⁴[or]
- ⁵[(f) "[remittance of] after tax profit of a branch of a foreign company operating in Pakistan;]

but does not include —

- (i) a distribution made in accordance with ⁷[sub-clause] (c) or (d) in respect of any share for full cash consideration, or redemption of debentures or debenture stock, where the holder of the share or debenture is not entitled in the event of liquidation to participate in the surplus assets;
- (ii) any advance or loan made to a shareholder by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company; ⁸[]
- (iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the

¹The word 'or' omitted by Finance Act, 2008.

²Inserted by the Finance Act, 2003.

³The expression "Companies Ordinance, 1984 (XLVII of 1984)" substituted by the Finance Act, 2021.

⁴The word 'or' added by the Finance Act, 2008.

⁵Inserted by the Finance Act, 2008.

⁶The word "any" substituted by the Finance Act, 2009.

⁷Substituted for "clause" by the Finance Act, 2002.

⁸The word "and" omitted by the Finance Act, 2009.

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meaning of '[sub-clause] (e) to the extent to which it is so set off;²and]

³(iv) remittance of after tax profit by a branch of Petroleum Exploration and Production (E&P) foreign company, operating in Pakistan.]

⁴[(19A) "Eligible Person", for the purpose of Voluntary Pension System Rules, 2005, means an individual Pakistani who ⁵[holds] a valid National Tax Number⁶[or Computerized National Identity Card⁷[or National Identity Card for Overseas Pakistanis] issued by the National Database and Registration Authority] ⁸[]⁹;

¹⁰[Provided that the total tax credit available for the contribution made to approved employment pension or annuity scheme and approved pension fund under Voluntary Pension System Rules, 2005, should not exceed the limit prescribed or specified in section 63.]

¹¹[(19B) The expressions "addressee", "automated", "electronic", "electronic signature", "information", "information system", "originator" and "transaction", shall have the same meanings as are assigned to them in the Electronic Transactions Ordinance, 2002 (LI of 2002);]

¹²[(19C) "electronic record" includes the contents of communications, transactions and procedures under this Ordinance, including attachments, annexes, enclosures, accounts, returns, statements, certificates, applications, forms, receipts, acknowledgements, notices, orders, judgments, approvals, notifications, circulars, rulings, documents and any other information associated with such communications, transactions and procedures, created, sent, forwarded, replied to, transmitted, distributed, broadcast, stored, held,

¹ The word "clause" substituted by the Finance Act, 2002

² The word "and" inserted by the Finance Act, 2009.

³ Added by the Finance Act, 2009.

⁴ Inserted by the Finance Act, 2005.

⁵ The words "has obtained" substituted by the Finance Act, 2007.

⁶ Inserted by the Finance Act, 2007.

⁷ Inserted by the Finance Act, 2008.

⁸ The words "but does not include an individual who is entitled to benefit under any other approved employment pension or annuity scheme" omitted by the Finance Act, 2006.

⁹ The semicolon substituted by the Finance Act, 2006.

¹⁰ Inserted by the Finance Act, 2006.

¹¹ Inserted by the Finance Act, 2008.

¹² New clause (19C) inserted by Finance Act, 2008.

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copied, downloaded, displayed, viewed, read, or printed, by one or several electronic resources and any other information in electronic form;]

¹[(19D) "electronic resource" includes telecommunication systems, transmission devices, electronic video or audio equipment, encoding or decoding equipment, input, output or connecting devices, data processing or storage systems, computer systems, servers, networks and related computer programs, applications and software including databases, data warehouses and web portals as may be prescribed by the Board from time to time, for the purpose of creating electronic record;]

²[(19E) "telecommunication system" includes a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of speech, music and other sounds, visual images and signals serving for the impartation of any matter otherwise than in the form of sounds or visual images and also includes real time online sharing of any matter in manner and mode as may be prescribed by the Board from time to time.]

(20) "employee" means any individual engaged in employment;

(21) "employer" means any person who engages and remunerates an employee;

(22) "employment" includes --

- (a) a directorship or any other office involved in the management of a company;
- (b) a position entitling the holder to a fixed or ascertainable remuneration; or
- (c) the holding or acting in any public office;

³[(22A) "fast moving consumer goods" means consumer goods which are supplied in retail marketing as per daily demand of a consumer⁴{excluding durable goods}.

⁵[(22B) "fee for offshore digital services" means any consideration for providing or rendering services by a non-resident person for online advertising

¹Inserted by the Finance Act, 2008.

²Inserted by the Finance Act, 2008.

³Inserted by the Finance Act 2015

⁴Inserted by the Finance Act 2017

⁵Inserted by the Finance Act 2018

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including digital advertising space, designing, creating, hosting or maintenance of websites, digital or cyber space for websites, advertising, e-mails, online computing, blogs, online content and online data, providing any facility or service for uploading, storing or distribution of digital content including digital text, digital audio or digital video, online collection or processing of data related to users in Pakistan, any facility for online sale of goods or services or any other online facility.]

¹[(22C) "FBR Refund Settlement Company Limited" means the company with this name as incorporated under the Companies Act, 2017 (XIX of 2017), for the purposes of settlement of income tax refund claims including payment by way of issuing refund bonds under section 171A;]

(23) "fee for technical services" means any consideration, whether periodical or lump sum, for the rendering of any managerial, technical or consultancy services including the services of technical or other personnel, but does not include —

- (a) consideration for services rendered in relation to a construction, assembly or like project undertaken by the recipient; or
- (b) consideration which would be income of the recipient chargeable under the head "Salary";

²[]

(24) "financial institution" means an institution ³[as defined] under the ⁴[Companies Act, 2017 (XIX of 2017)] ⁵[];

(25) "finance society" includes a co-operative society which accepts money on deposit or otherwise for the purposes of advancing loans or making investments in the ordinary course of business;

(26) "firm" means a firm as defined in section 80;

¹Clause (22C) Inserted by the Finance Act 2019

²Omitted by Finance Act 2019. The Omitted clause read as follow:

(23A) "filer" means a taxpayer whose name appears in the active taxpayers' list issued by the Board ²[or Azad Jammu and Kashmir Council Board of Revenue or Gilgit-Baltistan Council Board of Revenue] from time to time or is holder of a taxpayer's card;

³The word "notified" substituted by the Finance Act, 2005.

⁴The expression "Companies Ordinance, 1984 (XLVII of 1984)" substituted by the Finance Act, 2021.

⁵The words "by the Federal Government in the official Gazette as a financial institution" omitted by the Finance Act, 2003.

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(27) "foreign-source income" means foreign-source income as defined in sub-section (16) of section 101.

¹[(27A) "greenfield industrial undertaking" means –

(a) a new industrial undertaking which is –

- (i) setup on land which has not previously been utilized for any commercial, industrial or manufacturing activity and is free from constraints imposed by any prior work;
- (ii) built without demolishing, revamping, renovating, upgrading, remodeling or modifying any existing structure, facility or plant;
- (iii) not formed by the splitting up or reconstitution of an undertaking already in existence or by transfer of machinery, plant or building from an undertaking established in Pakistan prior to commencement of the new business and is not part of an expansion project;
- (iv) using any process or technology that has not earlier been used in Pakistan and is so approved by the Engineering Development Board; and

(b) is approved by the Commissioner on an application made in the prescribed form and manner, accompanied by the prescribed documents and, such other documents as may be required by the Commissioner;

Provided that this definition shall be applicable from the 1st July, 2019 and onwards.]

(28) "House Building Finance Corporation" means the Corporation constituted under the House Building Finance Corporation Act, 1952 (XVIII of 1952);

²[(28A) "imputable income" in relation to an amount subject to final tax means the income which would have resulted in the same tax, had this amount not been subject to final tax;"]

¹ New clause (27A) inserted through Tax Laws (Second Amendment) Ordinance 2019 dated 26th December, 2019

² Inserted by the Finance Act, 2015

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¹[(29) "income" includes any amount chargeable to tax under this Ordinance, any amount subject to collection ²[or deduction] of tax under section 148, ³[150, 152(1), 153, 154, 156, 156A, 233, ⁴[]] ⁵[.] sub-section (5) of section 234 ⁶[] ⁷[and] ⁸[any amount treated as income under any provision of this Ordinance] and any loss of income⁹[];

¹⁰[(29A) "income year" means income year as defined in the repealed Ordinance;]

¹¹[(29B) "Individual Pension Account" means an account maintained by an eligible person with a Pension Fund Manager approved under the Voluntary Pension System Rules, 2005;]

¹²[(29C) "Industrial undertaking" means —

¹ Clause (29) substituted by the Finance Act, 2002. The substituted clause read as follows:

"(29) "income" includes any amount chargeable to tax under this Ordinance, any amount subject to collection of tax under Division II of Part V of Chapter X, sub-section (5) of 234 Division III of Chapter XII, and any loss of income;"

² Inserted by the Finance Act, 2003.

³ The figures, commas and word "153, 154 and 156," substituted by the Finance Act, 2005.

⁴ The expression "233A," omitted by the Finance Act, 2021.

⁵ The word "and" substituted by a comma by the Finance Act, 2014.

⁶ The word and figure "and-236M" substituted by a comma by the Finance Act, 2015

⁷ The expression ", 236M and 236N," substituted by the Finance Act, 2018

⁸ Inserted by the Finance Act, 2003.

⁹ Omitted by the Finance Act, 2014. The omitted text read as follows:

"but does not include, in case of a shareholder of a company, the amount representing the face value of any bonus share or the amount of any bonus declared, issued or paid by the company to the shareholders with a view to increasing its paid up share capital."

¹⁰ Inserted by the Finance Act, 2002.

¹¹ Inserted by the Finance Act, 2005.

¹² Clause (29C) substituted by the Finance Act, 2010. The substituted clause (29C) read as follows:-

"(29C) "Industrial undertaking" means —

(a) an undertaking which is set up in Pakistan and which employs, (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy; or (ii) twenty or more persons in Pakistan and does not involve the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy and which is engaged in,-

(i) the manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition;

(ii) ship-building;

(iii) generation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power; or

(iv) the working of any mine, oil-well or any other source of mineral deposits; and

(b) any other industrial undertaking which the Board may by notification in the official Gazette, specify;"

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(a) an undertaking which is set up in Pakistan and which employs,—

- (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy; or
- (ii) twenty or more persons in Pakistan and does not involve the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal energy;

and which is engaged in,—

- (i) the manufacture of goods or materials or the subjection of goods or materials to any process which substantially changes their original condition; or
- (ii) ship-building; or
- (iii) generation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power; or
- (iv) the working of any mine, oil-well or any other source of mineral deposits; ¹[]

²[(aa) from the 1st day of May, 2020, a person directly involved in the construction of buildings, roads, bridges and other such structures or the development of land, to the extent and for the purpose of import of plant and machinery to be utilized in such activity, subject to such conditions as may be notified by the Board;

(ab) from the first day of July, 2020 a resident company engaged in the hotel business in Pakistan;] ³[and]

⁴[]] .

⁵[(c) telecommunication companies operating under the license of Pakistan Telecommunication Authority (PTA).:]

¹ The word "and" omitted through Finance Act, 2020 dated 30.06.2020.

² New sub-clauses inserted through Finance Act, 2020 dated 30th June, 2020.

³ The word "and" added by the Finance Act, 2021.

⁴ Sub-clause (b) omitted by the Finance Act, 2021. Earlier this sub-clause was omitted through Tax Laws (Second Amendment) Ordinance, 2021. The omitted sub-clause read as follows:

"(b) any other industrial undertaking which the Board may by notification in the official gazette, specify."

⁵ Clause (c) added by the Finance Act, 2021.

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(30) "intangible" means an intangible as defined in section 24;

¹[(30A) "integrated enterprises" means a person integrated with the Board through approved fiscal electronic device and software, and who fulfills obligations and requirements for integration as may be prescribed;]

²[(30AA)] "investment company" means an investment company as defined in the Non-Banking Finance Companies (Establishment and Regulation) Rules, 2003;]

⁴[(30AB)] KIBOR means Karachi Inter Bank Offered Rate prevalent on the first day of each quarter of the financial year;]

⁶[(30AC) "Iris" means a web based computer programme for operation and management of Inland Revenue taxes and laws administered by the Board;]

⁷[(30AD) Information Technology (IT) services include software development, software maintenance, system integration, web design, web development, web hosting and network design; and

(30AE) IT enabled services include inbound or outbound call centres, medical transcription, remote monitoring, graphics design, accounting services, Human Resource (HR) services, telemedicine centers, data entry operations, cloud computing services, data storage services, locally produced television programs and insurance claims processing;]

⁸[(30B) "leasing company" means a leasing company as defined in the Non-Banking Finance Companies and Notified Entities Regulation, 2007;]

¹ New sub-clause (30A) inserted through Finance Act, 2020 dated 30th June, 2020

² Clause (30A) substituted by the Finance Act, 2008. The substituted clause (30A) read as follows:
" (30A) "investment company" means a company registered under the Investment Companies and Investment Advisors Rules, 1971;"

³ Clause (30A) renumbered as clause (30AA) through Finance Act, 2020 dated 30th June, 2020

⁴ Inserted by the Finance Act, 2009.

⁵ Clause (30AA) renumbered as (30AB) through Finance Act, 2020 dated 30th June, 2020

⁶ New clause (30AC) inserted through Finance Act, 2020 dated 30th June, 2020

⁷ Clauses (30AD) and (30AE) inserted by the Finance Act, 2021.

⁸ Clause (30B) substituted by the Finance Act, 2008. The substituted clause (30B) read as follows:

" (30B) "leasing company" means a company licensed under the Leasing Companies (Establishment and Regulation) Rules, 2000;

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POWER OF ATTORNEY / WAKALATNAMA

KNOW ALL TO WHOM THESE presents shall come that I / we, the undersigned, appoint Mr. **Rashid Hanif** Advocate Supreme Court and Mr. **Muhammad Bilal**, Advocate High Court, House No.64, Nazimuddin Road, Sector F-8/4, Islamabad, to be my / our Counsel in the Petition titled:

Petition under Section 7(3)(a) and 7(3)(f) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 read with Rule 3(1) for the National Electric Power Regulatory Authority (Tariff Standards and Procedure) Rules, 1998 and all other enabling provisions of law for Applicability of "Industrial Tariff" on behalf of Telenor Pakistan (Private) Limited

Before the Honorable Bench of Registrar, NEPRA, Islamabad to do all the following acts, deeds and things or any of them, that is to say:

1. To act, appear and plead in the above mentioned case before this Court / Forum or any other court, tribunal, forum or authority in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or in any other stage of its progress until its final decision.
2. To present pleadings, applications, appeals, cross-objections or petitions for execution, review, revision, applications, withdrawal, compromise, bail or other petitions or affidavits or other documents as shall be deemed necessary or advisable for the conduct of the said case in all its stages.
3. To withdraw or compromise the said case or submit to arbitration any difference or dispute that shall arise touching or in any manner relating to the said case.
4. To receive money and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the conduct of the said case.
5. To employ any other legal practitioner authorizing him to exercise the power and authorities hereby conferred on the Counsel whenever he / they may think fit to do so. And I/We hereby agree to ratify whatever the Counsel or his / their substitute(s) shall do.

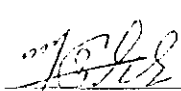
And I/We hereby agree that in the event the whole or any part of the fee agreed by me / us to be paid to the Counsel remains unpaid he shall be entitled to withdraw from the conduct of the said case until the fee is paid in full.


IN WITNESS WHEREOF I / We hereunto set my / our hand(s) to these presents the contents of which have been explained to and understood by me / us on this 5th day of April 2022 at Islamabad.

ACCEPTED BY

EXECUTED BY


Rashid Hanif
Advocate Supreme Court


Muhammad Bilal
Advocate High Court


Syed Ali Yasir Rizvi
Senior Manager Legal Affairs
Telenor Pakistan (Private) Limited
Petitioner

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