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LDIs fail to deposit Rs300m withholding tax

By Jawwad Rizvi

LAHORE: The long distance and international (LDI) telecom operators have not deposited the withholding tax of over Rs300 million since the inception of International Clearing House (ICH) in October 2012 to national exchequer, said the chief of the pioneer of broadband service in Pakistan on Thursday.

In a letter to the Chairman Federal Board of Revenue (FBR) Tariq Bajwa, the Chief Executive Officer NayaTel Wahajus Siraj said that the LDI carriers had created a cartel ICH in collaboration with the Pakistan Telecommunication Company Limited (PTCL) as the only company to receive international incoming calls. He said the Competition Commission of Pakistan had already declared the ICH agreement as illegal.

Besides the monopoly of PTCL over international traffic, the ICH agreement led to an exponential surge in grey traffic.

"It is a bizarre example set by the government where LDI operators are allowed to make money without physically conducting any business," Siraj said.

PTCL collects all the revenues pertaining to international incoming calls on behalf of LDIs. Later, the telecom operator distributes the revenue to LDI carriers. The FBR, vide its letter dated November 23, 2011, had clarified that the share retained by PTCL out of LDI revenue would constitute the revenue receipt for the telecom operator and would fall under the definition of income as contained in Section 2(29) of the Income Tax Ordinance 2001.

The LDIs share collected and distributed by the PTCL as per the sharing ratio given in ICH agreement shall constitute the revenue receipts of other LDIs. Thus, the payments made to other LDIs shall not attract the provision of section 153 of the Income Tax ordinance 2001.

On the other hand the principals of withholding as described in Section 153 of the ITO 2001 read every prescribed person making a payment in full or part, including a payment by way of advance to a resident person for the sale of goods and for the rendering of or providing of services and on the execution of a contract, other than a contract for the sale of goods or the rendering of or providing services, shall, at the time of making the payment, deduct tax from the gross amount payable (including sales tax, if any) at the rate specified in Division III of Part III of the First Schedule.

According to FBR's clarification, PTCL is passing on LDIs share without deduction of withholding tax. The financial impact of this on FBR has been around Rs294 million till January 2014, which would increase to Rs300 million.

PTCL officials, however, said the operator is not responsible to deduct and deposit withholding tax on behalf of LDI carriers as they should do so on their own.

The telecom officials said that since the inception of the ICH, the grey traffic of international calls has increased in Pakistan, which could be gauged with the volumes of minutes of international incoming calls.