



**TRANSPARENCY  
INTERNATIONAL-PAKISTAN**

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4<sup>th</sup> May, 2018

TL18/0405/5A

The Registrar,  
Supreme Court of Pakistan,  
Constitution Avenue,  
Islamabad.

**For Attention of the Human Right Cell**

**Sub: Chief Justice takes Suo Motu Notice of Deduction of Rs 40 on Mobile Phone  
Cards of Rs 100 Value & HRC No 28276-S/2012 & HRC No, 1790-S/2013.**

Dear Sir,

Transparency International Pakistan highly appreciates and is encouraged with the hearing of cases of public interest by the Supreme Court of Pakistan, and the recent suo moto notice taken by the Chief Justice of deduction of Rs. 40 on mobile phone cards by cellular companies.

On non deposit of correct revenue with FBR of GST and WHT collected from consumers as FBR Revenue Collector, by 5 Cellular, Transparency International Pakistan took up the matter with FBR and PTA in 2012 and 2013.

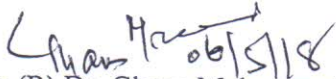
The Honorable Supreme Court of Pakistan, on TI Pakistan letter sent to HRC Cell, took suo moto action, and started two HR cases, HRC No 28276-S/2012 & HRC No, 1790-S/2013.

TI Pakistan two letters dated 21.12.2012, and 18.6.2013 are enclosed for ready reference.

Transparency International Pakistan request the Chief Justice of Pakistan to please take up these two HRC cases also with new SMC on deduction of Rs. 40 on mobile phone each card of Rs 100.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

  
Justice (R) Dr. Ghous Muhammad  
Trustee  
For Chairman



21<sup>st</sup> December 2012

Honorable Justice Iftikhar Muhammad Chaudhry,  
Chief Justice of Pakistan,  
Supreme Court of Pakistan,  
Constitutional Avenue, Islamabad.

**Attn: Human Rights Cell**

**Sub: Prayer for taking SUO MOTO action on leakage of over of Rs 226 billion , GoP revenue on account of GST & WHT for FY 2011-12, on short sale declared by 5 Cellular Companies**

May it please your Lordship,

My Lord, the Transparency International Pakistan has drawn attention of FBR on 13<sup>th</sup> & 27<sup>th</sup> August 2012 about the leakage of over of Rs 226 billion , GoP revenue on account of GST & WHT for FY 2011-12, on short sale declared by 5 Cellular Companies. ( **Annex-A & Annex-B**).

The copies of the letter were also sent to the Supreme Court.

In a press report published on 15<sup>th</sup> September 2012, it was reported that The Federal Board of Revenue (FBR) has started an exercise to check revenue leakage during collection of general sales tax (GST) on sale of pre-paid calling cards by cellular, wireless phone and internet companies. Sources told Business Recorder on Friday that the FBR started its consultations with Pakistan Telecommunication Authority (PTA) to probe the issue on the complaint filed by Transparency International-Pakistan (TIP). The FBR also asked the Chief Executive Officers (CEOs) of all telecom operators to submit their comments on the collection of the GST on sale of pre-paid calling cards. According to an estimate, the FBR can generate around Rs. 8-10 billion in a month from pre-paid calling cards, sources added. ( **Annex-C**).

It was reported in press on 23<sup>rd</sup> September 2011 that FBR is preparing the Federal Board of Revenue (FBR), on the directives of the Supreme Court of Pakistan, is engaged in preparing policy under which, all the pre-paid cards must have GST paid stamp and a serial number and FBR has to be provided record of the total number of cards issued by the companies along-with their serial numbers. ( **Annex-D**).

TIP was contacted by FBR and based on discussions held between TIP & FBR, a proposal was sent to FBR.

**TIP Paper on How to Collect GST and WHT on Pre Paid Card**

Since GST and WHT is a tax/credit on behalf of user, it is not on the supply of a prep paid card, but rather the underlying goods or services to which it carries an entitlement that should be taxed.

The taxable amount for the supply of goods or services should be the sum paid by the final purchaser using the pre paid card.



For certainty and simplicity, the GST is to be collected on face value of the pre paid card, which is in principle the presumptive taxable amount of the services.

The redeemer of the pre paid card whether or not he has issued it, should be the person liable to, pay GST and WHT. However, as all the Cellular Phone Companies and Internet Provider Companies, sell the pre paid card on cash to their authorized dealers/agents and charge GST and withhold tax at this stage.

Thus the FBR Revenue, GST and WHT is collected by the Cellular Phone Companies and the Internet Provider Companies at the time of sale, which needs to be deposited immediately in the FBR accounts.

The procedure of uploading "balance in cell phone account" at present is through (a) Pre paid Cards, (b) payment at the Agents outlets and (c) through internet transfer of money in the cell phone account/interest account.

#### **New Procedure Recommended.**

1. Payment through Pre Paid Cards shall be the only mode to charge an account [ even if dealers get such cards from companies, it should be the responsibility of the Service Provider to collect and deposit tax]
2. All other procedures to charge the account shall be stopped/banned.
3. The Pre Paid Cards shall be printed only at the Pakistan Security Printing Corporation PVT Ltd (PSPC).
4. Cellular Phone Companies and Internet Provider Companies shall place orders, (with payment of the PSPC charges) of printing with PSPC for provide/print/supply of pre paid cards of various denominators, with printed matter to be provided the respective companies.
5. Pakistan Security Printing Corporation PVT Ltd will print the Pre Paid Cards, with " **10% WHT and 19.5% GST Paid**" on each card.
6. Cellular Phone Companies and Internet Provider Companies will deposit the total amount of GST and WTH in FBR account at NBP, and provide the paid voucher, certified by FBR through PRAL System, to PSPC and collect the pre paid cards.
7. As GST on services is a provincial tax, Cards will be printed separately with name of **province/federal territory** for sale in Punjab, Sindh, KPK, Baluchistan and Federal territory. This will enable transferring GST to the respective provinces collected by FBR.

Note: The printing of Pre Paid Cards suggested only at the Pakistan Security Printing Corporation PVT Ltd, due to security reasons, to eliminate fraudulent duplication of Pre Paid Cards. In fact security level provided for Currency notes printing is required to eliminate possibility of duplicate cards.

The increase in the revenue of GoP very essential, and for this purpose, TIP suggestion if implemented, may generate additional revenue of at least Rs 226 billion and there will be no need to provide Tax Amnesty which has been proposed by FBR.



Your Honor TIP again refers to bring to your notice that Tax GDP ratio of Pakistan in 2011 was 9, whereas in 1996 it was 13.70. The fall of Tax GDP ratio started in the dictatorship era from 2000, when it fell drastically from 13.17 (1999) to 10.19, and continued to fall to 9.43 in 2007. The loss to the exchequer due to of one % point in Tax GDP ratio is about Rs 300 billion, and 3.7% means loss of over Rs 1000 billion per year.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

An indulgence of the Honorable Court in the matter is prayed for as this proposal is pending with FBR since last 4 months without any positive action to stop the massive TAX evasion of the cellular companies, as well as the wireless phone and interact providers.

Yours Obediently,

  
Syed Adil Gilani,  
Adviser

Encl: Annex A, Annex B, Annex C *BP*

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Website: www.transparency.org.pk  
**Advisory Committee**

13<sup>th</sup> August 2012

Mr. Ali Arshad Hakeem,  
Chairman,  
Federal Board of Revenue,  
Government of Pakistan,  
Islamabad.

Subject: Collection of GST on sale of pre paid cards by 5 Cellular Companies, PTCL,  
wireless phone and Internet Companies-TIP Suggestion

Dear Sir,

Transparency International Pakistan recommends to the Federal Board of Revenue to make a fool proof system for the transfer of GST collected on sale of pre paid cards by 5 Cellular Companies, PTCL, wireless phone and Internet Companies.


These prepaid cards are sold to outlets/shopkeepers in cash by all these companies, and then the outlets sell them to public.

FBR may make a policy, and direct all Cellular Companies, PTCL, wireless phone and internet providers to get the pre-paid cards stamped as GST collected, and numbered by FBR prior to sale. These companies shall deposit the 19.5% GST when they take the delivery of pre-paid cards duly stamped and numbered by FBR.

Through introduction of this new system the leakage of GST on pre paid cards will be stopped and FBR is expected not only to collect 100% GST on pre paid cards ( in the TIP suggested system estimated to be 8-10 billion monthly).

This will also enable savings on loss of bank interest on the delayed deposit of GST of 30 days as per current procedure, which will add billions of rupees revenue to the exchequer.

With Regards,

  
Syed Adil Gilani  
Advisor

Copies forwarded for the information and action under the authority vested in their respective jurisdictions:

1. Chairman, Public Accounts Committee, Islamabad.
2. Chairman, NAB, Islamabad.
3. Minister Finance, Islamabad
4. Federal Tax Ombudsman, Islamabad
5. Registrar, Supreme Court of Pakistan, Islamabad.
6. Chairman, PTA, Islamabad



**TRANSPARENCY  
INTERNATIONAL-PAKISTAN**

**ANNEXURE-B**

5-C, 2nd Floor, Khayaban-e-Ittehad, Phase VII,  
Defence Housing Authority, Karachi.  
Tel: (92-21)-35390408, 35390409, Fax: 35390410  
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Website: www.transparency.org.pk

27<sup>th</sup> August 2012

Mr. Ali Arshad Hakeem,  
Chairman,  
Federal Board of Revenue,  
Government of Pakistan,  
Islamabad.

Subject Recovery of Rs 226 billion, short GoP revenue on account of GST & WHT for FY 2011-12, on short sale declared by 5 Cellular Companies

Dear Sir,

TI Pakistan refers to its letter dated 13<sup>th</sup> August 2012, recommending the FBR to make a fool proof system for the transfer of GST collected on sale of pre paid cards by 5 Cellular Companies, PTCL, wireless phone and Internet Companies.

Earlier vide another letter to Chairman PTA, dated 2<sup>nd</sup> July 2012, (Annex-A) TI Pakistan has forwarded a complaint that the average monthly collection of revenue of the 5 Cellular Companies reported by the complainant for FY 2010-11 is approx. Rs 42 billion per month, which comes to 504 billion in the FY 2010-11, whereas the 5 cellular companies have reported on PTA website Rs 262.76 billion revenue for FY 2010-11.

Sir, we quote the news report dated 24 August 2012. ( Annex-B)

*Based on the consumer data that telecos have, Karachi, Lahore, Multan and Quetta account for 25% to 30% of their total consumer base; a telecom source told The Express Tribune while requesting not to be quoted. The services remained suspended for about 12 to 15 hours, the source said, at a time when the use of services increase by five times at least.*

*"Based on the information we gathered, the losses are estimated between Rs2.5 billion to Rs3 billion," he said.*

According to this report, Rs 3 billion is the lost revenue of 5 Cellular companies in 18 hrs, only due to closure service in Karachi, Lahore, Multan and Quetta account for 25% to 30% of their total consumer base. The news also declares that it accounts for only 25% of total national consumer base.

The above figures for normal days thus shows that normal daily nationwide revenue for 24 hours is over Rs 3 Billion, and annual revenue is therefore over Rs. 1,100 billion.

Against this revenue of Rs 1,100 billion the Cellular companies have declared Rs 262 billion in FY 2011, which shows hidden revenue is Rs 838 Billion.

Government of Pakistan has 19.5% GST and 10% WHT in this hidden revenue, GoP revenue lost is Rs 226 billion, which is 11.5% to total FBR revenue collection of FY 2011.




The ~~post~~paid services as confirmed by PTA and Mobilink to TIP in their letter dated 2 July 2012 is only 1.56% , and not 10% as stated by Chairman PTA on 24 August 2012 .

TI Pakistan again request FBR to examine the complaint sent to them on 2 July 2012, and recover the lost revenue of GoP amounting to Rs 226 Billion. FBR is also requested make a policy, and direct all Cellular Companies, PTCL, wireless phone and internet providers to get the pre-paid cards stamped as GST collected, and numbered by FBR prior to sale. These companies shall deposit the 19.5% GST and 10% WHT, when they take the delivery of pre-paid cards duly stamped and numbered by FBR.

This is not a new procedure, and is a normal procedure of collection GoP revenue from Cigarette companies and other, and the GoP revenue is collected before the product leaves the factory gates.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

With Regards,

  
Syed Adil Gilani  
Advisor

Copies forwarded for the information and action under the authority vested in their respective jurisdictions:

1. Chairman, Public Accounts Committee, Islamabad.
2. Chairman, NAB, Islamabad.
3. Minister Finance, Islamabad
4. Federal Tax Ombudsman, Islamabad
5. Registrar, Supreme Court of Pakistan, Islamabad.
6. Chairman, PTA, Islamabad



ANNEX-A PTA

PAKISTAN TELECOMMUNICATION AUTHORITY

F-5/1, Islamabad, Pakistan; <http://www.pta.gov.pk>

No. 15-7/12(CA)/PTA

July 2, 2012

**SUBJECT:** Allegation of illegal Monthly Rs. 25 plus 19.5% GST charges on account of Monthly fee for use of SMS Service by Mobilink

This is with reference to Transparency International Pakistan's letter dated 26<sup>th</sup> May 2012 and NAB's letter No. 19(14)/A&P/NAB/PTA/Mobilink dated 04<sup>th</sup> June 2012 on the subject cited above.

2. It has been alleged in the above referred letters that on account of SMS line rent, Mobilink has illegally charged up to Rs. 30 billion from its postpaid customers. PTA has analyzed the matter from all angles and is of the view that provision of mandatory services does not imply that such services are to be provided free of cost. In fact, it is up to the operators to decide the pricing policy for each service and may opt to charge a fixed period charge or usage base charge or combination of both.

3. In the instant case, as Mobilink has clearly mentioned its pricing policy for SMS service in its advertisement i.e. combination of fixed monthly charge as well as usage base charge, hence there is no evidence of illegal charging on the part of Mobilink.

4. Notwithstanding above, in order to ease consumers' understanding and to make tariff publication more transparent, Mobilink has been directed to display line rent charges at a place where the remaining charges are published. The copy of report and direction to Mobilink is attached herewith for your information.

5. It may also be noted that in order to effectively address the consumers complaints, PTA has devised a mechanism in which a consumer should first approach its service provider for redressal of complaints with recourse to PTA in case of non-resolution. The said issue could have been resolved earlier had the said mechanism been adopted by the aggrieved consumer.

6. This issues with approval of the Authority.

Sajjad Latif Awan  
Director General (Govt. & External Affairs) 2/7/12

To:

1. Mr. Syed Adil Gilani  
Advisor, Transparency International Pakistan

2. Director General (A&P), NAB HQ

CC:

1. DG (Services), PTA
2. SO to Chairman, PTA
3. PA to Member (Finance), PTA
4. PA to Member (Technical), PTA





PAKISTAN TELECOMMUNICATION AUTHORITY

F-5/1, Islamabad, Pakistan; <http://www.pta.gov.pk>

No. 15-7/CA/PTA

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SUBJECT: Allegation of illegal Monthly Rs. 25 plus 19.5% GST charges on account of Monthly fee for use of SMS Service by Mobilink

This is with reference to Transparency International Pakistan's letter dated 26<sup>th</sup> May 2012, and NAB's letter 19(14)/A&P/NAB/PTA/Mobilink dated 04<sup>th</sup> June 2012 on the subject cited above.

2. It has been alleged in the above referred letters that on account of SMS line rent, Mobilink has illegally charged up to Rs. 30 billion from its postpaid customers. In this specific case, Mobilink has mentioned the SMS line rent in its advertisement under the heading "Important Information" due to which some consumers may remain unaware of this charge which has resulted in such complaints.

3. In order to facilitate consumers' understanding and to make tariff publication more transparent, Mobilink is hereby directed to display line rent charges at a place where the remaining charges are published. All advertisements be revised accordingly by Mobilink.

4. This issues with approval of the Authority.

  
Zeeshan Gul  
Director (Commercial Affairs)

To:  
Mr. Agha Muhammad Qasim  
Head of Regulatory Affairs, Mobilink

CC:  
1. DG (Services), PTA  
2. SO to Chairman, PTA  
3. PA to Member (Finance), PTA  
4. PA to Member (Technical), PTA

7/10/11 - A

## Report on Cellular Mobile Pricing - Mobilink

### Background

PTA has received complaint from Transparency International Pakistan, alleging that Mobilink has illegally charged Rs. 30 billion from its postpaid customers on account of SMS line rent.

### Mobile Policy

The Government of Pakistan issued 'Mobile Cellular Policy' in January 28, 2004. According to Clause 5.9 of the Policy, the retail price cap on cellular mobile operators will continue till such time the market, in view of PTA, becomes sufficiently competitive. It is pertinent to highlight that when 'Calling Party Pays (CPP)' regime was introduced in Pakistan in November 2000, PTA regulated tariffs of cellular mobile operators in the form of price ceilings. The mobile operators were not allowed to charge tariffs beyond the ceiling fixed by PTA. However, they were allowed to lower their tariffs keeping in view the market conditions.

In July 2010, PTA carried out market review of Pakistan's telecom sector and declared cellular mobile market as competitive. Since, no operator was found having significant market position, hence all cellular mobile operators were allowed to set and revise their tariffs at any time by providing reasonable notice to their subscribers.

It is also worth-highlighting that Pakistan was the first country in South Asia to introduce and implement Mobile Number Portability (MNP). This facility gave convenience to cellular mobile subscriber to port to any other operator while keeping their number and four digit code (03xx) intact. The presence of MNP facility has forced mobile operators not to charge customers over fair value of services otherwise the consumers are likely to switch to other operator.

### Mobilink's Pricing of SMS line rent

As far as the instant case is concerned, the charging of SMS line is being done by Mobilink for the last several years. As of today, postpaid subscribers of Mobilink stand at approximately

560,000 out of 35.79 million subscribers. In percentage terms, Mobilink has only 1.56% postpaid subscribers and charging of SMS line rent cannot accrue revenue of upto PKR 30 billion to Mobilink, as perceived by consumers. On the contrary, total SMS line rental charges collected by Mobilink in the last eight years work out to Rs.1.35 billion only (detailed working is attached at Annexure I).

Furthermore, the SMS line rent has been clearly mentioned in Mobilink's advertisement under the heading 'Important Information' stating that "Rs. 25 per month is the SMS line rent charge" therefore, Mobilink has not infringed consumer rights (advertisement attached as Annexure II). However, it is likely that few consumers may not read the full advertisement while subscribing to the Mobilink package which has resulted in such complaints. Although the operator has fulfilled its obligations by mentioning SMS line rent in its advertisement, yet the transparency can be further enhanced by combining all fixed monthly charges under one head i.e. monthly line rent.

#### *Conclusion and Recommendation*

It can be concluded that Mobilink has not indulged in any wrong doing by charging SMS line rent to its postpaid customers. However, in order to further enhance transparency, and for the ease of consumers' understanding, Mobilink may be advised to use only one heading (i.e. monthly line rent) for all the fixed monthly charges in its advertisements.

THE EXPRESS  
**TRIBUNE**  
 WITH THE International Herald Tribune

Mobile phone curfew: Communication blockade cost telcos Rs3 billion

By Farooq Baloch

Published: August 24, 2012

Govt suspended cellular services after receiving terror alert.

**KARACHI:** The telecom sector, according to industry sources, has lost somewhere between Rs2.5 billion to Rs3 billion in revenues as the telecom regulator blocked all kinds of cellular communication for security reasons in four cities on the eve of Eidul Fitr – a high traffic occasion for telecom operators.

Given that the telecom sector is taxed at a rate of 19.5%, the communication blockade also cost more than half a billion rupees to the national exchequer. Apparently the government was willing to forego the tax revenue for the safety of the people. Telecom companies are silent on the merits of this decision.

Based on the consumer data that telcos have, Karachi, Lahore, Multan and Quetta account for 25% to 30% of their total consumer base; a telecom source told *The Express Tribune* while requesting not to be quoted. The services remained suspended for about 12 to 15 hours, the source said, at a time when the use of services increase by five times at least.

“Based on the information we gathered, the losses are estimated between Rs2.5 billion to Rs3 billion,” he said.

On August 19, Pakistan Telecommunication Authority (PTA), the regulatory body for telecom sector, instructed cellular operators to block their services in the major cities for 15 hours on the eve of Eidul Fitr. Prime minister’s Adviser on Interior, Rehman Malik; according to *The Express Tribune*, justified this decision citing threats against the country. Since militants use remote-controlled bombs detonated by cell phones, this was an unfortunate but necessary step to take, Malik said.

The telecom operators, *The Express Tribune* contacted, sounded upset with the blockade – two operators did not respond at all. One operator said they were still assessing as to how much they had lost during the closure.

The telecom sources expressed discomfort over Malik’s statement, in which he talked about permanently blocking the prepaid services. They, however, refused to speak on record, or come up with any kind of explanation as to how so many prepaid sims were in circulation without proper documentation.

- The media’s coverage has already opposed Malik’s idea to ban prepaid services, a telecom source said. If the government bans prepaid services, he said, the telcos will have no option but to pack up.

If the government – which is already treating the blockade as a successful strategy, as it appears from Malik’s statement – adopts the same strategy for other special events like Eidul Azha, the 9th and 10th day of the Islamic month of Muharram; the losses to the national exchequer will be in excess of Rs1 billion.

The silence on part of the telecom operators is likely to encourage the government for such actions in the future.

*Published in The Express Tribune, August 24<sup>th</sup>, 2012.*



GST collection on pre-paid calling cards: FBR tries to plug revenue leakage

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Published Date: September 15, 2012

RECORDER REPORT

**ISLAMABAD:** The Federal Board of Revenue (FBR) has started an exercise to check revenue leakage during collection of general sales tax (GST) on sale of pre-paid calling cards by cellular, wireless phone and internet companies.

Sources told Business Recorder on Friday that the FBR started its consultations with Pakistan Telecommunication Authority (PTA) to probe the issue on the complaint filed by Transparency International-Pakistan (TIP).

The FBR also asked the Chief Executive Officers (CEOs) of all telecom operators to submit their comments on the collection of the GST on sale of pre-paid calling cards. According to an estimate, the FBR can generate around Rs8-10 billion in a month from pre-paid calling cards, sources added.

According to a TIP letter sent to the FBR Chairman Ali Arshad Hakeem, TIP recommended tax authorities to make a fool-proof system for the transfer of the GST collected on sale of pre-paid cards by telecom operators, wireless phone and internet companies



Published Date: September 23, 2012

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**Pre-paid cards: FBR working out policy on GST paid stamp**

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Federal Board of Revenue (FBR), on the directives of the Supreme Court of Pakistan, is engaged in preparing policy under which, all the pre-paid cards must have GST paid stamp and a serial number and FBR has to be provided record of the total number of cards issued by the companies along-with their serial numbers.

This is indeed a very important reform which would generate additional revenue of at least Rs 300 billion, which is 15 percent of the total revenue collected by FBR in 2011, according to the calculation made by Transparency International Pakistan.

Needless to mention that through a letter on August 13, Transparency International Pakistan had requested FBR to make a policy, and direct all cellular companies, PTCL, wireless phone and internet providers to get the pre-paid cards stamped as GST collected, and numbered by FBR prior to sale.



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Website: www.transparency.org.pk

18<sup>th</sup> June , 2013

Honorable Justice Iftikhar Muhammad Chaudhry,  
Chief Justice of Pakistan,  
Supreme Court of Pakistan,  
Constitutional Avenue, Islamabad.  
Attn: Human Rights Cell

**Human Right Cell- HRC No 1790-S/2013 and HRC No. 28276-S/2012**

Sub: Recovery of Rs 226 billion, short GoP revenue on account of GST & WHT for FY 2011-12, on short sale declared by 5 Cellular Companies

May it please your Lordship,

My Lord, on 13<sup>th</sup> August 2012 , Transparency International Pakistan recommended to the Chairman Federal Board of Revenue to make a fool proof system for the transfer of 19.5% GST collected on sale of pre paid cards by 5 Cellular Companies, PTCL, wireless phone and Internet Companies. Against on 27<sup>th</sup> August 2013, TIP informed FBR that according to a report, Rs 3 billion is the lost revenue of 5 Cellular companies in 18 hrs, only due to closure service in Karachi, Lahore, Multan and Quetta account for 25% to 30% of their total consumer base. The news also declares that it accounts for only 25% of total national consumer base. The above figures for normal days thus shows that normal daily nationwide revenue for 24 hours is over Rs 3 Billion, and annual revenue is therefore over Rs. 1,100 billion. Against this revenue of Rs 1,100 billion the Cellular companies have declared Rs 262 billion in FY 2011, which shows hidden revenue is Rs 838 Billion. Government of Pakistan has 19.5% GST and 10% WHT in this hidden revenue, GoP revenue lost is Rs 226 billion, which is 11.5% to total FBR revenue collection of FY 2011. The postpaid services as confirmed by PTA and Mobilink to TIP in their letter dated 2 July 2012 is only is 1.56% , and not 10% as stated by Chairman PTA on 24 August 2012 .

Chairman FBR sent an expert from FBR Islamabad to TIP, and a joint proposal was made on 16<sup>th</sup> November 2012. **Annex-A.**

However, FBR members have objected on this proposal, vide its two reports submitted in the apex court on 15<sup>th</sup> march 2013, and 28<sup>th</sup> May 2013. **Annex-B and Annex-C.**

My Lord, TIP recommendations are sated below;

*Pakistan Security Printing Corporation Pvt. Limited will print the pre paid cards, with "10% WHT and 19.5% GST paid" on each card. Cellular phone companies and Internet provider companies will deposit the total amount of GST and WHT in FBR account at the NBP, and provide the pre paid voucher, certified by FBR through PRAL system, to PSPC and collect the pre paid cards*

The FBR objections are stated below;



*Freedom and trade and business is one of the fundamental rights guaranteed under the constitution of Pakistan. To restrict the business of cellular companies only to get duly stamped and numbered pre paid cards is against the settled principle that the revenue cannot dictate how to run a business unless any business practice is against the law and manifests loss of revenue.*

*The proposal that the service provider at the time of delivery of pre paid should deposit the total amount of sales tax is against Sales Tax Act, 1990 because it creates a situation where sales tax is leviable/collectable at the time of "sale transaction". If the sales tax under section 3 of Sales Tax Act, 1990 is charged on "purchase transactions" the same is not likely to have the legal assent of the courts.*

*The proposal that the service provider at the time of obtaining printed cards from the printer (PSPC) should deposit the total amount of sales tax and income tax in FBR's account at NBP is against the Sales Tax Act, 1990 because it will create a situation where sales tax will be charged on "purchase transactions" whereas under section 3 of the Sales Tax Act, 1990 and collection under section 236 of the Income Tax Ordinance, 2001 are leviable/collectable at the time of "sale transaction". If the sales tax under section 3 of the Sales Tax Act, 1990 and Income Tax under section 236 of the income Tax Ordinance, 2001 are charged on "purchase transactions" the same is not likely to have the legal assent of the courts.*

My Lord, FBR for last many decades is collecting Sales Tax and Excise Duty from Cigarette Manufacturers, Tea Manufacturers, Soft Drink Manufacturers at gate of the factories, before allowing them to sell the products, which negates its response.

The reasoning of FBR that TIP proposal is against the Freedom and trade and business does not holds good, as FBR is itself doing the same anti freedom and trade business p[practice by collection billions of rupees from Cigarette Manufacturers, Tea Manufacturers, Soft Drink Manufacturers.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

An indulgence of the Honorable Court in the matter is prayed for.

Yours Obediently,

  
Syed Adil Gilani,  
Adviser

Ecnl; Annex A, *BCC*



## TIP Paper on How to Collect GST and WHT on Pre Paid Card

Since GST and WHT is a tax/credit on behalf of user, it is not on the supply of a prep paid card, but rather the underlying goods or services to which it carries an entitlement that should be taxed.

The taxable amount for the supply of goods or services should be the sum paid by the final purchaser using the pre paid card.

For certainty and simplicity, the GST is to be collected on face value of the pre paid card, which is in principle the presumptive taxable amount of the services.

The redeemer of the pre paid card whether or not he has the issued it, should be the person liable to, pay GST and WHT. However, as all the Cellular Phone Companies and Internet Provider Companies, sell the pre paid card on cash to their authorized dealers/agents {at this stage they must charge GST and withhold tax}. It will be much easier to collect tax at this stage.

Thus the FBR Revenue, GST and WHT is collected by the Cellular Phone Companies and the Internet Provider Companies at the time of sale, which needs to be deposited immediately in the FBR Accounts.

The procedure of uploading "balance in cell phone account" at present is through (a) Pre paid Cards, (b) payment at the Agents outlets and (c) through internet transfer of money in the cell phone account/interest account.

### **New Procedure Recommended.**

1. Payment through Pre Paid Cards shall be the only mode [ even if dealers get such cards from companies, it should be the responsibility of the Service Provider to collect and deposit tax]
2. All other procedures to charge the account shall be stopped/banned.
3. The Pre Paid Cards shall be printed only at the Pakistan Security Printing Corporation PVT Ltd (PSPC).
4. Cellular Phone Companies and Internet Provider Companies shall place orders, (with payment of the PSPC charges) of printing with PSPC for provide/print/supply of prep paid cards of various denominators, with printed matter to be provide the respective companies.
5. Pakistan Security Printing Corporation PVT Ltd will print the Pre Paid Cards, with " **10% WHT and 19.5% GST Paid**" on each card.

5. Cellular Phone Companies and Internet Provider Companies will deposit the total amount of GST and WTH in FBR account at NBP, and provide the paid voucher, certified by FBR through PRAL System, to PSPC and collect the pre paid cards.

6. As GST on services is a provincial tax, Cards will be printed separately with name of **province/federal territory** for sale in Punjab, Sindh, KPK, Baluchistan and Federal territory. This will enable transferring GST to the respective provinces collected by FBR.

**Note: The printing of Pre Paid Cards suggested only at the Pakistan Security Printing Corporation PVT Ltd, due to security reasons, to eliminate fraudulent duplication of Pre Paid Cards . In fact security level provided for Currency notes printing is required to eliminate possibility of duplicate cards.**



GOVERNMENT OF PAKISTAN  
REVENUE DIVISION  
FEDERAL BOARD OF REVENUE

C.No.4(7)STJ/2006-Pt

Islamabad the 15<sup>th</sup> March, 2013

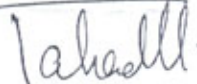
The Director,  
Human Rights Cell,  
Supreme Court of Pakistan,  
Islamabad

Subject: HRC NO. 1790-S/2013

I am directed to refer to Supreme Court of Pakistan's letter dated 12-02-2013 on the subject cited above and to say that the new procedure proposed that M/s Transparency International for collection of sales tax and withholding tax on pre-paid cards has been examined by the Board. The considered opinion of FBR on the issues is as under:

S.No.	Proposal of Transparency International	Comments of FBR
1	Payment through Pre Paid cards shall be the only mode [even if dealers get such cards from companies, it should be the responsibility of the service provider to collect and deposit tax].	Freedom of trade and business is one of the fundamental rights guaranteed under the Constitution of Pakistan. To restrict the business of cellular companies to pre paid card only is against the settled principle that the revenue cannot dictate how to run a business unless any business practice is against the law and manifests loss of revenue.
2	All other procedures to charge the account shall be stopped/banned.	As above.
3	The pre paid cards shall be printed only at the Pakistan Security Printing Corporation.	As Above.
4	Cellular Phone Companies and Internet Provider Companies shall place orders , (with payment of PSPC charges) of printing with PSPC for provide/print/supply of pre paid cards of various denominators, with printed matter to be provide the respective companies.	As Above.
5	Pakistan Security Printing Corporation Pvt. Limited will print the pre paid cards, with "10% WHT and 19.5% GST paid" on each card.	The proposal that the service provider at the time of obtaining printed cards from the printer (PSPC) should deposit the total amount of sales tax and income tax in

		FBR's account at NBP is against the Sales Tax Act, 1990 because it will create a situation where sales tax will be charged on "purchase transactions" whereas under section 3 of the Sales Tax Act, 1990 and collection under section 236 of the Income Tax Ordinance, 2001 are leviable/collectible at the time of "sale transaction". If the sales tax under section 3 of the Sales Tax Act, 1990 and Income Tax under section 236 of the Income Tax Ordinance, 2001 are charged on "purchase transactions" the same is not likely to have the legal assent of the courts.
6	Cellular phone companies and Internet provider companies will deposit the total amount of GST and WHT in FBR account at the NBP, and provide the paid voucher, certified by FBR through PRAL system, to PSPC and collect the pre paid cards.	As Above.
7	As GST on service is a provincial tax, cards will be printed separately with the name of the province/federal territory for sale in Punjab, Sindh, KPK, Baluchistan and Federal Territory. This will enable transferring GST to the respective provinces collected by FBR.	As Above.
8	The Transparency International Pakistan's suggestion if implemented will generate additional revenue of at least Rs. 226 billion.	No working has been provided as to how Transparency International Pakistan has made this estimate without which no comments can be made on its validity or otherwise.

  
 (Fahad Ali Chaudhary)  
 Secretary (ST-L&P)

Copy to:

1. M/s Transparency International.
2. Advisor to the Federal Tax Ombudsman for information.

(Fahad Ali Chaudhary)  
 Secretary (ST-L&P)



GOVERNMENT OF PAKISTAN  
REVENUE DIVISION  
FEDERAL BOARD OF REVENUE

Islamabad the 28<sup>th</sup> May, 2013

C.No.4(7)STJ/2006-Pl-1

The Assistant Registrar,  
Human Rights Cell,  
Supreme Court of Pakistan,  
Islamabad

Subject: HRC NO. 28276-S/2012

I am directed to refer to Supreme Court of Pakistan's letter dated 16-05-2013 on the subject cited above and to say that FBR vide its letter of even number dated 15-03-2013 (copy enclosed) has already furnished its views/comment on an identical letter of Transparency International dated 21-12-2012 (copy enclosed) in HRC No. 1790-S/2013. Comments of the Board in the subject case are as follows:-

S #	Proposal of Transparency International	Comments of FBR
1	FBR may make a policy and direct all cellular companies, PTCL, wireless phone and internet providers to get the pre paid cards stamped as GST collected and numbered by FBR prior to sale. These companies shall deposit 19.5% GST when they make delivery of pre-paid cards duly stamped and numbered by FBR.	Freedom of trade and business is one of the fundamental rights guaranteed under the Constitution of Pakistan. To restrict the business of cellular companies only to get duly stamped and numbered pre paid cards is against the settled principle that the revenue cannot dictate how to run a business unless any business practice is against the law and manifests loss of revenue.  The proposal that the service provider at the time of delivery of pre-paid should deposit the total amount of sales tax is against the Sales Tax Act, 1990 because it creates a situation where sales tax will be charged on "purchase transactions" whereas under section 3 of the Sales Tax Act, 1990, sales tax is leviable/collectible at the time of "sale transaction". If the sales tax under section 3 of the Sales Tax Act, 1990 is charged on "purchase transactions" the same is not likely to have the legal assent of the courts.
2	The above proposal will enable savings on loss of bank interest on the delayed deposit of GST of 30 days as per current procedure, which will add billions of rupees revenue to the exchequer.	No working has been provided as to how Transparency International Pakistan has made this estimate without which no comments can be made on its validity or otherwise.  Furthermore, under the Federal Excise Act, 2005 all registered persons rendering pre-paid services are required to make payment of the taxes/duty by the 21 <sup>st</sup> of the following month. This system is also applicable for all other sales tax/FED registered persons who are required to file sales tax return on the dates of the subsequent months specified under the respective laws.

2. It is requested that the Board's earlier letter dated 15-03-2013 may be treated as views/comments in the subject case as well.

Enclosed: (As Above)

Copy to M/s Transparency International.

-sl-  
(Fahad Ali Chaudhary)  
Secretary (ST-L&P)

*Fahad Ali Chaudhary*  
(Fahad Ali Chaudhary)  
Secretary (ST-L&P)