



PAKISTAN TELECOMMUNICATION AUTHORITY
Headquarters, F-5/1, Islamabad

**Enforcement Order under Section 23 of the Pakistan Telecommunication
(Re-Organization) Act, 1996 ("Act") against Telenor Pakistan (Pvt.) Limited**

No. PTA/Enforcement/Wireless/Complaints/70/2021 /74

Date of Show Cause Notice : 27th September 2021
Venue of Hearing : PTA HQs, Islamabad
Date of Hearing : 4th January 2022

Issue:

"Illegal Change of ownership of MSISDN 0346-4442720"

DECISION OF THE AUTHORITY

1. **Brief facts of the case:**

1.1 Precisely stated facts of the case are that Telenor Pakistan (Private) Limited (the "licensee") was awarded non-exclusive License No. MCT-01/RBS/PTA/2004 dated 26th May 2004 (renewed on 10th December, 2021), license No. NGMS-02/WLL&M/PTA/2014 dated 21st May 2014 and License No. NGMS-05/WLL&M/PTA/2016 dated 14th July 2016 (the "license") issued by the Pakistan Telecommunication Authority (the "Authority") to establish, maintain and operate licensed system and to provide licensed cellular mobile services in Pakistan on the terms and conditions as contained in the license.

1.2 The licensee is obliged to comply with the provisions of the prevailing regulatory laws comprising the Pakistan Telecommunication (Re-organization) Act, 1996 (the "Act"), the Pakistan Telecommunication Rules, 2000 (the "Rules"), the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 (the "Regulations"), the Subscribers Antecedent Verification Regulations, 2015 (the "Subscriber's Regulations"), the Standard Operating Procedure on SIM sale and Activation through Biometric Verification, 2019 (the "SOP") and the terms and conditions of the license.

1.3 By the virtue of the provisions of clause (a) of sub-section (4) of section 21 of the Act, clause 8.1 of the Appendix B of the Rules and condition 3.1 of the license, the licensee is under obligation to comply with the provisions of the Act, the Rules, the Regulations, orders, determinations, directions and decisions of the Authority.

1.5 Clause 2 of Appendix-C of the SoP provides that in case of change of ownership of SIM where the owner is not alive, the licensee is under obligation to ensure the following:

- i. Only a relative can avail the facility;
- ii. Death certificate shall be obtained/scanned and retained for lite;

- iii. Possession of the SIM must be ensured; and
- iv. Check last recharge/last call history.

1.6 On 3rd May, 2021, PTA through PM Portal received a complaint of Mr. Usman (the “complainant”) alleging therein blocking of MSISDN 0346-4442720 on 27th April 2021. The complainant also claimed that through the said number, he has also suffered financial loss of Rs. 938,000/- as a result of internet banking transaction from the complainant’s bank account.

1.7 The matter was taken up with the licensee. The licensee vide an email dated 9th June 2021 informed that transfer of MSISDN 0346-4442720 was executed on presentation of death certificate and copy of the CNIC of the complainant (actual owner) by Mr. Adnan Ali on 26th April, 2021 at franchise in Chiniot. In addition, the licensee apprised that Mr. Adnan Ali presented himself to be brother of the deceased (the complainant) and provided the last active SIM card as well. The licensee further intimated that the ownership of the said SIM was reverted back on 29th April 2021 to the original owner i.e., the complainant (Mr. Usman), upon receipt of the complaint.

1.8 While examining the record it has been found that death certificate was issued by the Govt. of Punjab whereas the left lower corner of the certificate indicates that as it was issued at Tandu Muhammad Khan which is located in Sindh. Furthermore, as CNIC No. 33100-0579063-5 the complainant’s father’s name is Mr. Ikram Ul Haq, whereas according to the CNIC No. 33201-5494353-7 father’s name is Muhammad Asad Ullah Khan. Moreover, the complainant’s address on the death certificate was Suleman village, Syedpur, Dahi, Tehsil Bhali Shah Kareem, Tando Muhammad Khan whereas as per complainant’s CNIC his temporary and permanent address is House No. 9, Street No. 5, block Usman, Mohalla Haseeb Shaheed Colony, city Faisalabad. All of the discrepancies noted above were to be verified by the licensee as per clause 2 of Appendix-C of the SOP.

1.9 As a consequence thereof, a Show Cause Notice was issued to the licensee requiring therein to ensure best possible efforts for redressing the concerns of the complainant and take all preventive measures to avoid such incidence in future and submit compliance report within 15 days and also explain in writing within 30 days as to why enforcement order should not be passed.

1.10 The licensee, vide letter dated 11.10.2021 submitted a compliance report stating therein that upon receipt of complaint the license took corrective measures by reverting back the SIM in the name of original owner.

4. Reply to the Show Cause Notice.

4.1 The licensee vide letter dated 26th October 2021 replied to SCN. The main contentions are as under:

- (a) That particulars were matched from the death certificate and CNIC presented by the Mr. Adnan Ali and as per SOP procedure prescribed by the Authority for sale of SIM was followed.

- (b) The licensee denied the applicability of Protection from Spam, Unsolicited, Fraudulent and Obnoxious Communication Regulations, 2009 in the instant case.
- (c) With regard to financial loss occurred as result of invalid transfer of SIM as claimed by the complainant, the licensee submitted that the complainant in its complaint made to the licensee did not utter a single word in respect to any financial loss.
- (d) The licensee made suggestions to be incorporated in the SOP, namely (i) copy of CNIC of the deceased also be obtained with the change of ownership process; (ii) Family registration certificate issued by NADRA also be obtained; (iii) An affidavit of the applicant in terms of relation with the deceased; (iv) use of NADRA's short code 7000 to verify, if deceased persons CNIC has been cancelled by NADRA.
- (e) The licensee informed that a request to verify from NADRA for CNIC validation has been made which is expected to be implemented soon

5. Hearing before the Authority:

5.1 To proceed further, the matter was fixed for hearing before the Authority on 4th January 2022. On behalf of the licensee, Mr. Bilal Ahmed (Legal Counsel), Mr. Ali Yasir Rizvi (S.M legal), Mr. Shahid Riaz (External Counsel), Mr. Hassan Niazi (Manager Legal), Mr. Usman Majeed (SDN Manager), Mr. Rashid Ayub Khan (Sr. Manager PRA) and Mr. Ali Aamer (Head of Regulatory) attended the hearing. The licensee reiterated the same contended in reply to SCN.

6. Findings of the Authority:

6.1 Matter heard and record perused. After careful examination of record, hearing arguments and reply to SCN filed by the licensee, followings are the findings of the Authority:

- a. The Authority under section 5 read with section 21 of the Act, grants license for establishment, maintenance operation of telecommunication system and provision of telecommunication services in Pakistan. In addition, under clause (c) & (m) of sub-section (1) of section 4 read with section 6 of the Act, the Authority is mandated to promote and protect the rights and interest of users of telecommunication services.
- b. With regard to issuance of SIMs, the Authority in exercise of its powers conferred under section 5 (2) (o) of the Act has promulgated Subscriber Regulations. The said regulations are applicable on all mobile communication services licenses for the registration and maintenance of accurate data of their subscriber's antecedents

through proper documentation and verification through NADRA database in accordance with procedure specified in the regulations. For ready reference relevant regulation regarding issuance of SIMs are reproduced below:

Regulation 4 (2) of the Subscriber Regulations: All the operator(s) shall ensure verification of Subscribers antecedents at the time of sale of SIM in the manner prescribed by the Authority from time to time.

Regulation 4 (4) of the Subscriber Regulations: Any SIM(s) sold by any means shall be the sole responsibility of the Operators.

- c. With regard to change of ownership regulation 12 of the Subscriber Regulations provides:

Regulation 12 (1) of the Subscriber Regulations: All Operators shall follow the procedure prescribed by the Authority from time to time for processing requests for change of ownership by subscriber(s).

Regulation 12 (2) of the Subscriber Regulations: Change of ownership request shall only be received by the Customer Service Center and franchisees.

- d. Regulation 14 (1) of the Subscriber Regulation states that all directives, notifications, standard operating procedures and orders issued by the Authority from time to time on or before notification of these Regulations shall be binding and applicable on the Operators.
- e. For the purpose of streamline the procedure for issuance of SIMs the Authority issued SOP. As per SOP, in case when the person is not alive, the procedures/ steps for issuance of SIM has also been provided and the licensee was required to ensure the following check list:

Checks	Compliance status
i. Only relative can avail the facility.	Yes
ii. Death Certificate shall be obtained / scanned and retain for life.	Yes
iii. Possession of SIMs must be ensured.	Yes
iv. Check last recharge /last call history.	Yes

6.2. The core issue in the instant matter is to determine whether while processing the case of change of ownership of MSISDN 0346-4442720 the requirement of obtaining death certificate, CNICs, possession of original SIM card by Mr. Adnan Ali and checking last recharge / last call history was observed / ensured in accordance with the applicable regulatory framework, or otherwise.

6.3 As far as compliance of checks as provided in the SOP is concerned, the record reveals that the licensee has not observed and ensured the checks as provided in the said SOP for transfer of SIM. In addition, the hand written request of the complainant as provided by the licensee with reply to SCN expressly states that without consent of the complainant the number was transferred on 26th April, 2022. In addition, it is also relevant to point out that the licensee vide letter dated 11th October, 2021 submitted that a complaint was received on 28th April, 2021 from Mr. Muhammad Usman and the same was thoroughly investigated by the licensee whereby it was revealed that due to fraudulently/ forged documents of the complainant, he lost his SIM ownership. As an appropriate remedy, the ownership of the number was reverted back to the complainant name on 29th April, 2021. In light of above, it is suffice to conclude that licensee did not ensure regulatory compliances at the time of transfer of SIM.

6.4 With regard to suffering financial loss of Rs.9,30,000 by the complainant as a result of unauthorized change of ownership of the SIM by Mr. Adnan Ali, the licensee cannot be exonerated from such liability by stating that the complainant did not seek relief of the same from the licensee in his initial complaint. The licensee through SCN was clearly required to ensure best possible efforts for redressing the concerns of the complainant and one of the grievances of the complainant i.e., loss of Rs.9,30,000 was specifically mentioned in the SCN.

7. Order:

7.1 Keeping in view the above-mentioned factual and legal position, it is concluded that without adhering regulatory compliances, SIM was transferred. Thus, due to non-compliance of mandatory steps / checks required for change of SIMs, a fine to the tune of Rs. 200,000,00/- (Rupees Twenty Millions) is hereby imposed upon the licensee with the direction to deposit the same within fifteen (15) days from the date of receipt of this order.

7.2 In case of non-compliance of order at para 7.1 above, the matter will be processed further as per applicable law without any further notice.

Maj. Gen. Amir Azeem Bajwa (R)
Chairman

Dr. Khawar Siddique Khokhar
Member (Compliance & Enforcement)

This order is signed on 20th day of May, 2022 and comprises (05) pages.