



Order of the Pakistan Telecommunication Authority under section 7(2) of the Pakistan Telecommunication (Re-organization) Act, 1996 in appeal filed by Pak Telecom Mobile Limited

No: PTA/Law and Regulation/Litigation/2153/2022/405

Appeal No.3/2022: 26th August, 2022
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 31st October, 2022
27th December, 2022

The Issue:

“Appeal against letter dated 19th April, 2022 regarding Access to Network Performance”

Decision of the Authority

1. This order will dispose of Appeal No. 3/2022 dated 26th August, 2022 filed by Pakistan Telecom Mobile Limited (PTML) (the “**Appellant**”). Precisely stated facts of the case are that the Appellant being aggrieved from the letter dated 19th April, 2022 (“**Impugned Letter**”) pertaining to the access to network performance KPIs issued by Director General (Enforcement) - PTA filed the instant appeal under section 7(2) of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “**Act**”) before the Pakistan Telecommunication Authority (the “**Authority**”). The relevant prayer of the Appellant is reproduced below:

“....., it is most respectfully prayed that the impugned decision dated 19-04-2022 may be set aside and the subsequent SCN issued pursuant to such impugned Decision be withdrawn.”

2. In light of section 7 (2) of the Act, any person aggrieved from decision or order of the officer of the Authority acting under delegated powers of the Authority may file an appeal before the Authority. For ready reference section 7 (2) of the Act is reproduced below:

“Section 7 (2). A person aggrieved by any decision or order of any officer of the Authority acting under the delegated powers of the Authority may, within thirty days of the receipt of the decision or order, appeal to the Authority in prescribed manner and the Authority shall decide such appeal within thirty days.”

3. In order to proceed further, the appeal was fixed for hearing on 31st October, 2022 and 27th December, 2022. Mr. Amer Shafique (VP Regulatory affairs), Mr. Irtaza Afzal (GM legal) and Mr. Mauzam Ali Abbasi (Legal Counsel) attended the hearing on 31st October, 2022 and Mr. Fawad Niazi, Director Reg. Strategy & Compliance, Mr. Irtizaa Afzaal, Director Legal and Ms. Maryam Ali, Legal counsel attended hearing. The representatives of the licensee reiterated the same as contented in the appeal.

4. After hearing the matter and perusal of record, it has been revealed that the Impugned Letter is neither an order nor a decision of the officer of the Authority acting under delegated powers of the Authority. Rather, it was the intimation of decision of the Authority made through Minutes of Meeting (MoM) held on 15th December, 2021 with Chief Executive Officers (CEOs) including the Appellant. For ready reference relevant para of Impugned Letter is reproduced below:

- “3. Foregoing in view and to adhere to the decision of the Authority made with the consent of CEOs, a comprehensive plan in this regard, may be provided, within (01) week from the date of issuance of this letter.
4. This letter is issued with approval of the Authority, please.”

5. It would not be out of context to mention here that as a result of non-compliance of the decision issued with the consent of CEOs of cellular mobile licensees including the Appellant for provision of access to network performance KPIs, a Show Cause Notice (SCN) dated 29th July, 2022 was also issued to the Appellant. The Appellant through Writ Petition No.2993 of 2022 impugned the SCN before the Honorable Islamabad High Court. The Honorable Court vide order dated 15th August, 2022 disposed of the said writ petition in the following manner:

“The learned counsel for the petitioner, after arguing the matter at some length, seeks to withdraw this petition to avail the appropriate remedy of appeal provided under law in relation to the orders passed by the authority that the petitioner believes are in conflict with provisions of the law and seeks to withdraw this petition. Allowed.

2. Dismissed as withdrawn.”

6. What has been discussed above, it is concluded that since the Impugned Letter is neither a decision nor an order of the officer of the Authority, *acting under the delegated powers of the Authority*, rather it is an intimation of the decision / direction of the Authority made vide MoM dated 15th December, 2021 therefore, in light of section 7 (2) of the Act, the instant appeal is not maintainable.

~~Maj. Gen. Amir Azeem Bajwa (R)~~
Chairman

~~Muhammad Naveed~~
Member (Finance)

~~Dr. Khawar Siddique Khokhar~~
Member (Compliance & Enforcement)

This order is signed on 29th day of December of 2022 and comprises (02) pages only.