



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1, ISLAMABAD

**Enforcement order under sub-section 3 of section 23 of the Pakistan
Telecommunication (Re-organization) Act, 1996 against Nayatel (Pvt.) Ltd.**

PTA/Lic-Wrl/Naya Tel/562/2014

Date of Issuance of Show Cause Notice: 14th September, 2018
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 26th November, 2018

The Issue

“Non-commencement of license services in KTR, LTR, MTR AND STR-I regions”

DECISION OF THE AUTHORITY

1. Brief facts of the case are that Naya Tel (Pvt.) Ltd (the “licensee”) was awarded Local Loop licenses No. LL/46-2015 dated 28th July, 2015 by Pakistan Telecommunication Authority (the “Authority”) to provide the licensed services in the licensed regions (KTR, LTR, MTR & STR-I) and to establish, maintain and operate a telecommunication system, subject to the terms and conditions contained in the license. As a licensee of the Authority, the licensee is required to comply with the provisions of the prevailing regulatory laws comprising of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”), the Pakistan Telecommunication Rules, 2000 (the “Rules”), Pakistan Telecommunication Authority (Functions & Powers) Regulation, 2006 (the "Regulation”), and the terms and conditions of the license.
2. The licensee under 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 is under an obligation to observe the provisions of the Act, the Rules and the Regulations. Accordingly, the license as per license conditions No. 3.2 and 6.11 of the license was obtain a commencement certificate from the Authority and to commence at least one Network Connection Point within eighteen (18) months from the date of issuance of license.
3. On the request of the licensee, the Authority vide PTA's letter dated 18th July, 2017 extended time period for commencement of services whereby the licensee was required to obtain a commencement certificate by 27th January, 2018. However, despite extension of time the licensee failed to comply with the mandatory requirement of obtaining commencement certificate.
4. Due to failure on the part of the licensee with regard to commencement of licensed services as per license terms and condition, a Show Cause Notice (SCN) under section 23 of the Act was issued whereby the licensee was required to remedy the aforementioned contravention

by obtaining commencement certificate within seven (07) days of the issuance of the notice and also to explain in writing, within thirty (30) days of the issuance of the notice as to why the license should not be suspended, terminated or any other enforcement order should not be passed against the licensee under section 23 of the Act for the aforesaid contraventions.

5. The licensee vide letter No.2(3)/2018-NTL dated 10th October, 2018 replied to SCN and stated that the licensee obtained local loop licenses for KTR, LTR, MTR and STR-I regions to expand its network. It offered bundled broadband and cable TV services on its fiber to the home (FTTH) network for which a separate license from Pakistan Electronic Media Regulatory Authority (PEMRA) is required. The licensee has applied for IPTV license from PEMRA for the aforesaid regions on 28th November, 2016 and to date, IPTV licenses have not been granted by PEMRA. Therefore, in absence of a PEMRA license for the aforesaid regions, the licensee cannot launch service and the licensee's business model is based on bundle telecom and entertainment services and offering standalone telecom services do not make a viable business case. Accordingly, the licensee requested for an extension of eighteen (18) months in the commencement date so that it can start installing network after grant of IPTV license from PEMRA and then proceed further for launching services.

6. In order to proceed further in the matter, the case was fixed for hearing on 26th November, 2018 before the Authority. Mr. Muhammad Ahmed, Company Secretary on behalf of the licensee attended the hearing on the said date and reiterated the same as stated in the reply.

7. After hearing the licensee and careful examination of record, it is found that the as per license terms and condition, the licensee was under an obligation to obtain a commencement certificate within 18 months from the date of issuance of license. As per record, on 28th July, 2015 licenses were issued. On the request of the licensee, time was extended up to 27th January, 2018 however despite extension of time the licensee could not obtain and launch the licensed services. Initially the time for obtaining commencement certificate was eighteen (18) months which was extended upto thirty (30) months. Another eleven (11) months have passed after lapse of extended period.

8. The licensee's contentions for further seeking time is on the ground of non-issuance of license(s) by PEMRA which cannot be considered as reasonable justification for further extension of roll out obligation under the local loop licenses. Purpose and scope of the LL licenses is the establishment of telecommunication system and provision of telecommunication services in licensed region, whereas provision of IPTV is not covered under the local loop licenses issued by PTA. The licensee's reliance for obtaining commencement certificate on the issuance of IPTV license from PEMRA is not relevant as the license condition No. 3.2.1 of local loop licenses for obtaining commencement certificate / roll out obligation provides that the licensee shall has to establish at least one Network Connection Point in each licensed region and commence mandatory services in each licensed region within eighteen (18) months of issuance of the license.

8. The said license condition provides two requisite for roll out obligations i.e., i.) establishment of network connection point; and ii.) mandatory services i.e., Basic Public Telephone Access Service including (a.) access to emergence services, (b.) access to director enquiry services, (c)access to operator assistance services, and (e.) access to Long Distance and International Public Voice Telephone Services. There is no requirement for obtaining a IPTV license for establishment of telecommunication system or provision of telecommunication licensed services under Local Loop licenses.

9. In view of the above factual and legal position of the case, the licensee's request with regard to further extension of time i.e., 18 months more is not approved on the ground that already sufficient time for more than three (03) years have been provided. The licensee has failed to comply with the license condition and direction of the Authority with regard to extension of time. Therefore, in such circumstances, the Authority taking lenient view hereby grants further six (06) months, from the date of issuance of this enforcement order, as last and final opportunity for obtaining commencement of licensed services.

10. In case of non-compliance of time line as mentioned at para 9 above, local loop licenses No.LL.46-2015 dated 28th July, 2015 for the licensed regions i.e., KTR, LTR, MTR & STR-I shall stand terminated without any further notice.

Muhammad Naveed
Chairman

This enforcement order is signed on _____ and comprises of three (03) pages only.