



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD

Decision of the Authority Pursuant to Court Order 13th April, 2021 Passed in W.P No. 41651/2020 titled Muhammad Muneeb Sarwar etc Vs FoP etc.

File No: PTA/Enforcement/Enforcement Wireless/Complaints/60/2021/S30

Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 26th April, 2021

Authority present in hearing

Maj. Gen. Amir Azeem Bajwa (R)	Chairman
Dr. Khawar Siddique Khokhar	Member (Compliance & Enforcement)
Muhammad Naveed	Member (Finance)

The Issue

“Sale of SIMs/ Door to Door/ Kiosk Activities”

DECISION OF THE AUTHORITY

1. Facts of the Case:

1.1 Brief facts of the case are that Mr. Muhammad Muneeb Sarwar, Owner and operator of Mustafa Telecom, Zong Franchise, Town Ship, Lahore and Mr. Babar Firdous Gondal, owner of Zong Franchise, main Walton Road, Lahore (the “Franchisees”) filed a Writ Petition No. 41651 of 2020 before the Lahore High Court, Lahore, impugning therein: i.) *letter dated 25th June, 2020 (the impugned letter)* and ii.) *clause 5(q) of the Standard Operating Procedure on SIM Sale and Activation through Biometric Verification dated 2nd April, 2019* (hereinafter referred as “SOP”).

1.2 The Honorable Lahore High Court vide its consolidated order dated 13th April, 2021 disposed of the above writ petition in the following manner:

“Para 3..... these petitions stand disposed of in the terms that actions / order impugned therein are quashed and the matter will deem to be pending before respondent No.2, who after consultation of record as well as providing right of audience to all the concerned will resolve the ongoing issue at his end in either way through well-reasoned speaking order under the mandate of relevant law within the sixty days positively. Till then no adverse action will be initiated against the petitioner. However, any of the party aggrieved thereby will definitely have each & every independent right to assail the same as well as to reiterate the prayers extended herein before the appropriate forum. The parties will appear before respondent No. 2 on 26.04.2021”

1.3 In respectful compliance of the Court Order dated 13th April, 2021, the matter was fixed for hearing before the Authority on 26th April, 2021. Mr. Taimur Khan, Legal Counsel for the Petitioners, appeared on the said date and made arguments at length on the subject matter. Legal counsel reiterated the same as asserted in the writ petitions. The Crux of the arguments was that blanket ban imposed vide impugned letter dated 25th June, 2020 lacks just and legal reasoning. Thus, the same may be set aside.

2. Findings of the Authority:

With regard to the arguments and submissions made by legal counsel appeared on behalf of franchisees pertaining to legality and justification and reasons to pass instructions as mentioned in the impugned letter. Findings of the Authority are as under:

2.1 Pakistan Telecommunication Authority (PTA) issued SOP dated 2nd April, 2019 for sale of SIM and activation through Biometric Verification. As per clause 5(q) of the SOP, concession was granted to CMOs to carry out door to door/ kiosk activities only after approval of PTA. However, it has been observed that the CMOs started blatantly misusing the permission for the purposes of conducting Kiosk/door to door sale activities. On account of persistent violation of the clause 5(q) of the SOP, a letter dated 25th June, 2020 was issued wherein it was stated that **“all non-compliant operators are, therefore, directed to stop stall activities with immediate effect”**.

2.2 Clause 5(q) of the SOP provides that door to door/kiosk activity shall be carried only after approval from PTA on case to case basis. The permission may be obtained wherever there is need for Kiosk/door to door sale/ activities.

2.3 With regard to PTA's letter dated 25th June, 2020 it was clarified that in the said letter only legal position was intimated and conveyed to all CMOs and it has no adverse impact on the business of the Franchisees. Therefore, Franchisees must follow and abide by the regulatory frame work while selling of SIMs.

2.4 The legal counsel appearing on behalf of Franchisee was also intimated that the fundamental reason behind the stopping of Kiosk/stall/ door to door sale/activities was that the CMOs indulged in misusing/abusing the said concession and continued to conduct Kiosk/ Door to Door activities illegally and as a result the number of grey SIMs in the market arose to an alarmingly high level. Thus PTA's letter dated 25th June, 2020 was issued with regard to those who are non-compliant and not for those licensee who were carrying out Kiosk as per applicable regulatory laws. It was further clarified that imposition of such instruction by any means whatsoever does not adversely impact on the lawful business activities of the Franchisees.

2.5 The regulatory framework in place sufficiently empowers the Authority to impose requirement of prior approval for carrying out Kiosk/ stall/ door to door sale/ activities. It is completely unnecessary to have sale of SIMs carried out at every road and corner since that leads to serious issues of non-compliance and has grave repercussions for national security and law and order. It is pertinent to mention here that the Authority has not completely banned the Kiosk activities, permission has been granted for the same even after issuance of the letter dated 25th June, 2020.

2.6 After clarifying the issue during hearing, legal counsel appearing on behalf of Franchisees showed his satisfaction on the ground that if the PTA's letter dated 25th June, 2020 has no adverse impact as clarified then he has no case before the Authority. Legal counsel further asserted that his client is already in compliance of regulatory framework as conveyed to it from time to time.

3. Order:

In view of the above findings of the Authority and clarification made during the hearing in response to contention of legal counsel in the instant matter, since all actions of the Authority are within the regulatory framework, the instant case is disposed of.

Maj. Gen. Amir Azeem Bajwa (R)
Chairman

Muhammad Naveed
Member (Finance)

Dr. Khawar Siddique Khokhar
Member (Compliance & Enforcement)

Signed on 31st day of August, 2021 and comprises of (3) pages only.