



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

Enforcement Order under Section 23 of the Pakistan Telecommunications (Re-Organization) Act, 1996 ("Act") against Pakistan Telecommunication Company Limited

No: PTA/04-01/11/(CA)/155/2006/4/617

Date of Show Cause Notice: 6th August 2021
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 20th September 2021

Panel of Hearing

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

The Issue:

"Provision of incorrect data"

Decision of the Authority

1. Precisely stated facts of the case are that Pakistan Telecommunication Company Limited (PTCL) (the "**licensee**") pursuant to non-exclusive license No. PTA/M(T)-014/A dated 13th January 2021 (the "**license**") issued by Pakistan Telecommunication Authority (the "**Authority**") is authorized to establish, maintain & operate telecommunication system and to provide telecommunication services in Pakistan on the terms and conditions contained in the license.
2. By virtue of clause 23.1 of the license read with clause 8.1 and 19 of Appendix-B of the Pakistan Telecommunication Rules, 2000 (the "**Rules**"), the licensee is under obligation to observe the provisions of the license, the Pakistan Telecommunication (Re-organization) Act, 1996 (the "**Act**"), the Rules, the regulations, orders, determinations, directions and decisions of the Authority.
3. Regulation 47 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 (the "**Regulations**") provides that without prejudice to any other requirements under the license or the Act or any applicable Rules or Regulations under which the licensee may be required to provide any information to the Authority, the Licensee shall submit to the Authority or officer of the Authority, any information, data, statistics etc., in the manner, format and/or at the times, the Authority or officer of the Authority, as the case may be, required either service wise or geographic wise, i.e., country wise, province wise, district wise or city wise, quality of service, consumer base, performance, roll-out and operations in the prescribed format in the licensed

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territory or part of such licensed territory which the Authority or officer of the Authority may reasonably require for the purposes of carrying out its functions.

4. More so, regulation 48 of the Regulations provides that the licensee shall co-operate with the Authority in organizing public hearings, investigation, adjudication, study, consultation or enquiry or any other matter as the Authority may like to conduct, and shall comply with any directive of the Authority to furnish any relevant record, data or information under its control, and to produce any of their officer(s) and employee(s) before the Authority or its officers, as the Authority may summon for evidence or consultation.

5. The Authority in 2019, *in exercise of its powers as provided under rule 17 of Rules*, initiated the process of consultation to determine the Significant Market Power (SMP) in telecom market. In this regard, revenue data of different markets including International Private Leased Line was sought from all the relevant stake holders including the licensee. The licensee provided revenue data vide email dated 10th January 2020. Accordingly, based upon the revenue data / information provided by the licensee, a draft determination was prepared and circulated to all stake-holders for input/ comments.

6. On the other hand, Transworld Associate Private Limited (TWA) vide letter No. AFF/TWA/PTA-SMP/021 dated 7th April 2021 stated that there seemed to be an error in the computation of market share in wholesale international private leased line market. In order to verify the same, the licensee vide email dated 8th April, 2021 was required to confirm the authenticity of data submitted for the years 2017 to 2019. The licensee, *vide email dated 15th April 2021*, provided revised data and submitted that the earlier revenue data provided by the licensee was incomplete. In addition, the licensee admitted that it was an un-intended mistake on its part.

7. It is relevant to point out that declaration of SMP based upon incorrect revenue data provided by the licensee is considered and treated as misleading factor for the Authority to reach a conclusion as unjustified declaration of SMP in telecom market, which may have led to adversely affecting the rights of the other licenses in the telecom market. As a result thereof, a Show Cause Notice (SCN) under section 23 of the Act was issued to the licensee requiring therein to explain in writing within thirty (30) days of the issuance of this notice as to why enforcement order should not be passed against the licensee under section 23 of the Act.

8. The licensee vide letter dated 16th August 2021 replied to the SCN. In response, the licensee intimated that it has already taken remedial measure through its email dated 15th April 2021 while submitting the correct information and also tendered apology to the Authority. In order to proceed further, the case was fixed for hearing before the Authority on 20th September, 2021. M. Amer Shafique (EVP Regulatory Affairs), Mr. Arif Ishtiaq Khan (GM Regulatory Affairs) and Mr. Aziz Ur Rehman (SM Regulatory Affairs) attended the hearing on behalf of the licensee. During the hearing, representative(s) of the licensee apprised that some checks and balance have been introduced to verify the data and assured that no such discrepancies will be made in future.

9. Matter heard and record perused. After careful examination of the case and available record, it is concluded that the licensee has not provided any cogent reason(s) and justification(s) for provision of incorrect data. Mere on the plea of human error does not exonerate the licensee

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from its regulatory compliances, knowing the fact that revenue data was the substantial pre-requisite to determine SMP in telecom market as required under Rule 17 (2) of Pakistan Telecommunication Rules, 2000.

10. Foregoing in view, it is an admitted position that licensee has provided incorrect data which leads to conclude that the licensee has failed to fulfill its obligation as per applicable regulatory requirement. Thus, the Authority hereby imposes a token fine to the tune of Rupees One Million to be deposited within fifteen days from the date of receipt of this enforcement order.

11. In case of non-submission of fine mentioned at para 10 above within the stipulated time, further legal action shall be initiated without any further notice.

Maj. Gen. Amir Azeem Bajwa (R)
Chairman

Muhammad Naveed
Member (Finance)

Dr. Khawar Siddique Khokhar
Member (Compliance & Enforcement)

This order signed on **8th** day of **November**, 2021 and comprises of (03) pages only.