



Government of Pakistan
PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
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Enforcement Order under section 23 of Pakistan Telecommunication (Re-organization) Act, 1996 against Pakistan Telecom Mobile Limited

File No: PTA/Enf-Wireless/Mobile/Independent QoS Survey Plan/6/2020/499

Show Cause Notice: 29th June, 2020
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 23rd September, 2020

Panel of Hearing:

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

The Issue:

"Failure to meet or exceed QoS standards as laid down in the license and KPIs"

DECISION OF THE AUTHORITY

1. BRIEF FACTS:

1.1 Brief fact of the case are that Pakistan Telecom Mobile Limited (U-fone) (the "licensee") is a public limited company incorporated under the Companies Ordinance, 1984 and is engaged in the business of cellular mobile services in Pakistan pursuant to non-exclusive license No. MCT- 06/WLL&M/PTA/2014 dated 8th April, 2014, license NO.NGMS-03/WLL&M/PTA/2014 dated 21st May, 2014 (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 & conditions contained in the license.

1.2 Being a license holder, the licensee is required to comply with the provisions of the prevailing regulatory laws comprising of the Pakistan Telecommunication Authority (Re-organization) Act (the "Act"), the Pakistan Telecommunication Rules, 2000 (the "Rules"), the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 and the terms and conditions of the license.

1.3 Due to non-compliance of the obligation with regard to observing the KPIs of Quality of Services, the Authority in exercise of its powers conferred under section 23 of the Act, issued Show Cause Notices (the "SCN") on 29th June, 2020. As per SCN, the licensee was required to remedy the contravention by bringing and maintaining the required standards of the quality of services at par with license clause 1.3 of the Appendix -3 of the license within fifteen days. More so the licensee was also required to explain in writing, within thirty (30) days of the issuance of this 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.

1.4 In response, the licensee vide letter dated 1st July, 2020 sought log files which were provide by PTA. In addition, the licensee vide its interim reply dated 14th July, 2020 has raised the following concerned:

- a. *The time available for analysis of the log files/data, identification of the exact action required and implementation of the same is inadequate to complete the requirement and submit the required conformance report.*
- b. *While PTA was processing the PTML's request dated 01 July 2020 to provide the log files (which might have been prepared 6 to 9 months ago), PTML proactively engaged its teams/resources to investigate the alleged contravention by looking into the existing QoS KPIs in the eleven (11) cities overall i.e. Annexure-A to SCN.*
- c. *As per field investigation conducted by PTML, PTML is pleased to confirm that it is fully compliant with QoS KPIs and it meets rather exceeds in compliance of QoS obligations under its license. However, 3G coverage in Thatta is not applicable to PTML since PTML does not claim 3G coverage in this city.*
- d. *PTML has tested and corroborated the relevant network KPIs via OSS platforms and drive test data as applicable and subsequently it is pleased to submit that it is **fully compliant** to the QoS KPIs as per its licensed obligations.*
- e. *Nevertheless, PTML is also working/analyzing the log files provided by PTA on 07 July 2020. Once the log file analysis is completed, a detailed technical response on the alleged non-conformance will be, submitted along-with the detailed response on the SCN.*

1.5 Later on, the licensee vide its letter dated 27th July, 2020 submitted detailed reply. For a matter of record crux of SCN's reply is given below:

- i. *PTA has deviated from the established practice for conducting joint surveys to authenticate network performance which in turn is not only a counter-productive exercise but tantamount creating barriers in the doing of telecommunication business Pakistan and jeopardizing economic efficiency,*

consumer welfare, and national interests in terms of innovation in the sector and limiting foreign direct investment.

- ii. *The licensee submits that the Authority may conduct isolated surveys as it deems appropriate. However, when it conducts an ex-party survey in the absence of the licensee then the onus and burden shift squarely on to the Authority to produce complete data of the survey to support any allegation of failure to comply with QoS KPIs.*
- iii. *Evidently, in a recent QoS: survey conducted from January to March of 2020, Ufone was the only operator declared meeting all QoS KPIs comprising User Data Throughputs, Signal Strength,; Call Connection Time, Call Completion Ratio, Inter System Handover, SMS Reliability and Voice Quality.*
- iv. *In its Interim Reply/Compliance report submitted vide PTML Letter No. 10-69/ PTML/RA dated 14 July 2020, PTML has confirmed the required QoS KPIs are at par in all eleven (11) cities i.e. Abbottabad, Charsadda, Swabi, Sukkar, Tando Allah Yar, Gujranwala, Sargodha, Murree, Taxila and Sibbi except Thatta as 3G standards are not applicable in Thatta since PTML has never claimed 3G coverage in this city. Hence, PTML is fully compliant with bringing and maintaining, the required standard of QoS at par with Clause 1.3 of Appendix-3 of the license.*
- v. *PTA's recent approach to measuring QoS cannot be corroborated in any manner and is wanting technical authenticity in terms of the methodology and analytical techniques adopted by PTA and its reliance on the test reports forming the basis of the SCN.*
- vi. *In light of submission made in reply, the licensee prayed that SCN may be withdrawn as the licensee is not delinquent of any of the alleged decline in QoS KPIs.*

2. HEARING BEFORE THE AUTHORITY:

2.1 The matter was fixed for hearing on 23rd September, 2020 before the Authority. Mr. Naveed K. Butt (GCRO), M. Rizwan GM (Legal), Arshad Javed Manager Legal, Mr. Hamid Bashir Ali, RA, Mr. Ali Raza (Advocate Supreme Court of Pakistan) and Maryum Ali (Advocate High Court) attended the hearing on the said date. Legal counsel reiterated that same as submitted in SCN and additional reply. During hearing the licensee has made further written submission wherein in addition to various provision of relevant regulations it was also pointed out that no methodology has been formulated this will essentially therefore, always continue to pose a contentious issue while quality surveys are being

conducted by the Authority achieving results indicating non-compliance while juxtaposed against the CMOs having conducted the same survey against the same threshold not identifying similar non-compliance thereby creating disparity. In addition, the licensee has also filed application for production of record pertaining to methodology and criteria for running Quality of Services Test and Surveys.

3. FINDING OF THE AUTHORITY:

3.1 Matter heard and record perused. After careful examination of record and hearing the arguments advanced by the licensee, following are the findings of the Authority:

3.1.1 Admittedly, there is no dispute with regard to provision of telecommunication services in accordance with licensee terms and condition. The licensee is under obligation to meet all requirements of QoS as provided in the license. By virtue of provision of the Act, the Authority in accordance with section clause (f) of section 6 of the Act provides that the Authority shall ensure that the interest of users of telecommunication services are duly safeguarded and protected. In this regard it is the responsibility of the Authority to ensure the licensee are meeting the requirements of QoS.

3.1.2 In accordance with 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 obligation to observe the provisions of the Act, the Rules, the Regulations, orders, determinations, directions and decisions of the Authority. By virtue of clause (d) of section 4 of the Act, the Authority is under obligation to promote the availability of a wide range of high quality, efficient, cost effective and competitive telecommunication services throughout Pakistan.

3.1.3 The license granted by the Authority under the Act contains clause (g) of sub-section (4) of section 21 of the Act regarding obligations to provide telecommunication service to particular persons or areas to meet minimum standards for quality and grade of services requirements.

3.1.4 As far as carrying out independent survey is concerned, it pointed out that as per para 23.7 of Part 6 of the Rules and regulation 10 of the Regulations empowers the Authority to conduct, with or without notice, its own surveys and tests or make surprise checks through its designated officers or conduct performance audit of the quality of service of the licensee from time to time to ensure that users of telecommunication services get such quality of service as laid down in the license, regulations, and/or KPIs. The license condition 6.5.1 of the license obliged the licensee at all times to meet or exceed the Quality of Service (QoS) standards described in Appendix-3 and such other quality of service standards as the Authority may by regulation, require. The term "all the time" required the licensee to ensure that its network and provision of telecommunication services must be met with the KPIs

irrespective of any methodology applied or time at which the survey was conducted to check the parameters or threshold prescribed in Appendix 3 of the license.

3.1.5 The licensee also expressed that the survey methodology in Annex-A has not been followed, in particular, the coverage area ignored by making test calls beyond the claimed coverage area. The licensee also objected on Urban/rural disaggregation of the survey results adopted as not warranted by Annexes. It is relevant to mention here that the main aspect of Annex-A is Voice Calls, SMS, Percentage of ON-Net, Off-Net Calls/SMS, B-Party (terminating number) moving, Call Window including pause between Calls, conduct of survey within coverage boundaries and the same has been followed.

3.1.6 The "Drive Test/Survey Measurement Methodology" i.e. annex-A of Cellular Mobile Quality of Service (QoS) Regulations 2011 was followed. The drive test samples were collected both in Urban and Rural/Sub-urban areas, in order to assess the quality of service provided by the operator to its subscribers in surveyed cities.

3.1.7 The licensee has submitted incomplete compliance report relying only on "Overall QoS KPIs Results" without analyzing "Urban QoS KPIs Results" and "Rural QoS KPIs Results" separately.

3.1.8 Furthermore, the licensee has also not provided any detail of corrective measures / technical steps undertaken i.e. installation/up-gradation of sites, enhancement in transmission media, changes in network etc., which may result in improvement of services in the surveyed cities.

4. ORDER:

4.1 Keeping in view the above-mentioned facts coupled with the available record, the Authority has reached to the conclusion that the licensee i.e. Pakistan Telecommunications Mobile Limited (PTML) has failed to meet the requirement of KPIs as provided in the license. As a consequence of non-observing KPIs for Quality of Services, consumers are suffering with low grade telecommunication services. It is the responsibility of the licensee to ensure provision of licensed services in accordance with parameters as laid down in the license conditions, applicable regulations, Standing Operating Procedure and directions issued by the Authority from time to time. Having gone through the survey report and perusal of record, it is found that despite providing opportunity to remedy the contravention within certain time lines the licensee has failed to remedy the contravention with regard to maintaining the quality of licensed services in the manner as provided in the license.

4.2 Considering the nature of contravention and violation on the part of licensee, a fine to the tune of Rs. 850,000/- (Rupees eight hundred fifty thousand only) is hereby imposed with the direction to pay the same within thirty (30) days from the date of receipt of this order and submit a compliance report.

Dated: 29th June, 2021

4.3 In case of failure to comply with the same further legal proceeding as per applicable law will be initiated without any further notice.

Maj. Gen. Amir Azeem Bajwa (R)
Chairman

Muhammad Naveed
Member (Finance)

Dr. Khawar Siddique Khokhar
Member (Compliance & Enforcement)

Signed on 29th day of June, 2021 and comprises of (6) pages only.