



Government of Pakistan
PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1, ISLAMABAD

Enforcement order under section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 against Pakistan Mobile Communication Limited

Date of Show Cause Notice: 27th April, 2022
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 5th July, 2022

PTA/Enforcement/Enforcement Wireless/Mobile QoS/3-50(Comp-61)/132/2022/206.

The Issue:

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

Decision of The Authority

1. Facts of the case:

1.1 Pakistan Mobile Communication Limited (the "**licensee**") is engaged in the business of cellular mobile services in Pakistan pursuant to non-exclusive license No. MCT-05/WLL&M/PTA/2007 dated 6th July 2007, license No. NGMS-04/WLL&M/PTA/2014 dated 21st May, 2014, license No. NGMS-06/WLL&M/PTA/2017 dated 29th June 2017 and license No. MCT/02/Wireless/PTA/2021 dated 18th October 2021 (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 The licensee is required to comply with the provisions of the prevailing regulatory laws comprising Pakistan Telecommunication (Re-organization) Act, 1996 (the "**Act**"), the Pakistan Telecommunication Rules, 2000 (the "**Rules**") the Pakistan Telecommunication Authority (the "**Function & Powers**") Regulations, 2006 (the "**Regulations**"), the Cellular Mobile Networks Quality of Service Regulations, 2021 (the "**QoS Regulations**") and the terms and conditions of the license.

1.3 Under clause (d) of section 4 of the Act, one of the functions of the Authority is to promote the availability of wide range of high quality, efficient, cost effective and competitive telecommunication services throughout Pakistan. In accordance with clause (g) of sub-section (4) of section 21 of the Act, the licensee is also under an obligation to provide telecommunication services to particular persons or areas to meet the minimum standards for quality and grade of service requirements.

1.4 As per clause 23.7 of Part 6 of the Rules read with regulation 10 of the Regulations and sub-regulation (1) of regulation 6 of the QoS Regulations, the Authority is empowered 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 as to ensure that users of telecommunication services get such quality of service as laid down in the license and regulations.

1.5 In accordance with 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 No. 3.1 of the license, the licensee under obligation to observe the provisions of the Act, the Rules, the Regulations, orders, determinations, directions and decisions of the Authority.

1.6 License condition No. 6.5.1 of the license obliges the licensee at all times to meet or exceed the quality of service standards described in Appendix-3 and such other quality or service standards as the Authority may by regulations, require. In addition, Appendix 3 of the license prescribes the quality of service standards and requires the licensee to take all reasonable and prudent measures to ensure that the Licensed System and Licensed Services are available as per the network roll out obligations and operate as QoS Key Performance Indicators. It is also relevant to point out that as per license condition No.6.5.1 of the license issued in 2014 and another license renewed in 2021, provides that failing to comply with the QoS, the licensee shall be subject to the penalties determined by the Authority in accordance with the Act, Rules or Regulations. Furthermore, the licensee is also required to maintain records of its performance in meeting the quality of service standards, and shall submit them to the Authority on quarterly basis in such format as the Authority may require. The licensee shall maintain supporting records for inspection and technical audit as and when required by the Authority. The licensee shall maintain such records for a period of three years.

1.7 In addition, clause No. A1.3 of the Appendix-3 of the license (2014 and 2021) provides that PTA's Regulation on QoS and 3GPP latest Version/ Release of Cellular Mobile (3G/4G/LTE) shall be followed. The Authority may carry out test on the quality of the licensed services and licensed system and the licensee shall extend full co-operation and assistance for the purpose including provision of test instruments and equipment. Clause A 1.5 of Appendix -3 of the license provides that during each calendar month, license shall meet or exceed the quality of service standards.

1.8 In order to measure the QoS performance of the licensee, an independent QoS survey was carried out from 6th to 9th December, 2021 at Costal Highway, Gwadar City and Surbandar Port Area. Survey results revealed degraded QoS KPIs. Accordingly, the survey results were shared with the licensee with the instructions for taking remedial measures including optimization as well as expansion of the network in the surveyed areas. Resultantly, the licensee vide letter dated 28th January, 2022 informed that network has been optimized to improve the services. In light of response received from the licensee, PTA carried out a reverification survey during 7th to 10th March, 2022 in the said areas. After the survey, it has been found that certain QoS KPIs were still non-compliant.

1.9 Since, the QoS results were not within the parameters of the license conditions and QoS Regulations, therefore, a Show Cause Notice (SCN) under section 23 of the Act on 27th April, 2022 was issued whereby the licensee was required to remedy the contravention by bringing and maintaining the required standards of quality of service at par with clause 1.3 of Appendix-3 of the license and the QoS Regulations within fifteen (15) days and also to explain in writing within thirty days (30) of the issuance of the SCN.

1.10 In response to SCN, the licensee filed compliance report vide letter dated 11th May, 2022. The licensee stated that the survey conducted by PTA displays improvement in all relevant KPIs. In addition, the licensee informed that its network at Gwadar is operational on VSAT media which has inherent delays in communication. Apart from above, the licensee intimated that network has been optimized within the claimed coverage area wherever feasible.

1.11 Subsequent to compliance report, the licensee filed reply to SCN vide letter dated 26th May, 2022. Crux of relevant contentions of the licensee made in reply to SCN is as under:

- i. PTA vide its letter dated 27th December, 2021 highlighted few QoS issues observed during the first survey and advised the licensee for taking remedial measures. In this regard, the licensee vide letter dated 28th January, 2022 claimed that the test conducted along the costal high way is out of Jazz claimed coverage area.
- ii. Licensee's network at Surbandar and Gwadar is operational on VSAT, which has inherent issues of delays in connectivity and packet loss which has also been brought into the notice of the Authority vide various meetings.
- iii. The licensee submitted that PTCL, a monopoly holder in the territory is not offering reasonable terms nor offering capacity on Indefeasible Right to Use (IRU) basis in line with best regulatory practices. Additionally, the capacity PTCL is offering is of lower value as compared to VSAT Media. They offered 95% availability which is way below our operational requirement.
- iv. The licensee objected on the testing tool, survey methodology including sample size and independent survey.
- v. The licensee apprised that it conducted Drive tests of the surveyed areas from 11th May to 14th May, 2022 and found that it remained complaint in all aspect except for a slight delay in Call Setup Time. The licensee claimed that this delay is inherent due to use of VSAT media of third party.
- vi. The licensee contented that the analysis of logs revealed that PTA logs SPR includes idle time failure i.e. when mobiles were in idle mode (waiting time) these failures should not had been included. In this regard, the licensee submitted that there were total 13 calls which are wrongly included in failed category (10 calls were no call initiate and 03 calls where normal clearing happened).

1.12 In order to proceed further, the matter was fixed for hearing on 5th July, 2022 before the Authority. Mr. Mudassar Hussain (VP Jazz), Mr. Momin Ali Khan (Legal Counsel), Mr. Zulfiqar Ali (Stream Head Regulatory Operations), Mr. M. Asif Hameed (Expert QoS), Ms. Fariha Khan

(Senior Legal Counsel) attended the hearing on the behalf of licensee. The learned legal counsel of the licensee reiterated the same as submitted in reply to the SCN.

2. Findings of the Authority:

2.1 Matter heard and record perused. After careful examination of record, followings are the findings of the Authority:

2.1.1. The Authority under the Act is mandated to regulate the establishment, maintenance and operation of telecommunication system and provision of telecommunication services in Pakistan. In addition, the Authority under section 5(2)(b) of the Act is also empowered to enforce and monitor the licenses. Pursuant to the license granted by the Authority, the licensee is required to meet the requirement of quality of service standards as provided in the license and regulations.

2.1.2 For the purpose of enforcing and monitoring the license, the Authority is empowered to carry out QoS survey so as to ascertain the compliance of KPIs for QoS standard as provided in the license and applicable regulation. In accordance with clause 23.7 of part 6 of the Rules, regulation 10 and sub-regulation (1) of regulation 6 of the QoS Regulations, the Authority with or without notice conduct its own surveys and test or makes surprise checks through its designated officers or conducts performance audit of quality of service of the licensee from time to time as to ensure that the user(s) of telecommunication services get such quality of services as laid down in the license, regulations and/or KPIs. For ready reference regulation 6(1) of the QoS Regulation is reproduced below:

“The Authority shall conduct inspection, surveys, test or carry out surprise check as specified in Annex A through its designated officers or conduct performance audit for Quality of Service of the Licensee from time to time to ensure that users of telecommunication service get such Quality of Service Standards as laid down in these Regulations and the license.”

2.1.3 In accordance with applicable regulatory framework, the Authority is empowered to carry out survey for QoS for the purpose of verification of compliance of quality of service standards as provided in the license and applicable regulations. For ready reference regulations 6(5) and 6(6) of the QoS Regulations are reproduced below:

“6(5) The inspecting officer shall prepare an inspection report of the quality of service inspection, also comprising the shortfalls, observed during such inspection”.

6(6) This report shall be provided to the licensee in the format as specified in these regulations as Annex B”.

2.1.4 In the instant matter, after carrying out survey, results were shared with the licensee with the direction to take all remedial measure to remove the shortfalls identified in the inspection report. More so, after carrying out an independent survey by the Authority, the results were also shared with the licensee through SCN. 11

2.1.5 It would not be out of context to mention here that as per license terms and conditions, the licensee is under an obligation to abide by the regulations pertaining the QoS. The license condition No. 6.5.1 of the license expressly provides that the licensee is bound to comply with regulation. The license condition states as under:

“6.5.1 The license requires that the licensee at all times to meet or exceed the quality of service standards described in Appendix-3 and such other quality or service standards as the Authority may by regulations, require. The license shall maintain records of its performance in meeting these quality of service standards, and shall submit them to the Authority on a quarterly basis in such format as the Authority may require. The license shall maintain supporting records for inspection and technical audit as and when required by the Authority. The licensee shall maintain all such records for a period of three years.”

2.1.6 It is also relevant to point out that as per license condition No.6.5.1 of the license issued in 2014 and another license renewed in 2021, it has been also been provided that failing to comply with the QoS, the licensee shall be subject to the penalties determined by the Authority in accordance with the Act, Rules or Regulations. Furthermore, the licensee is also required to maintain records of its performance in meeting the quality of service standards, and shall submit them to the Authority on quarterly basis in such format as the Authority may require. The licensee shall maintain supporting records for inspection and technical audit as and when required by the Authority. The licensee shall maintain such records for a period of three years.

2.1.7 In addition, clause No. A1.3 of the Appendix-3 of the license (2014 and 2021) provides that PTA's Regulation on QoS and 3GPP latest Version/ Release of Cellular Mobile (3G/4G/LTE) shall be followed. The Authority may carry out test on the quality of the licensed services and licensed system and the licensee shall extend full co-operation and assistance for the purpose of including provision of test instruments and equipment. Clause A 1.5 of Appendix -3 of the license provides that during each calendar month, licensee shall meet or exceed the quality of service standards. The said license conditions expressly provide that the licensee at all the time is required to meet the quality of service standards.

2.1.8 With regard to observation of the licensee on selection of areas of survey and quantum / sample of calls/ SMSs / Data used / made, it is clarified that the licensee is erred in understanding with regard to meet the requirement of QoS on the premise that as per terms and condition of the license, where the licensee is providing the licensed services, it is an obligation upon the licensee to meet the standard of QoS at all the times. Since the licensee is providing the licensed service in the survey areas and also charging consumer against services, therefore, the licensee has to meet the QoS for provision of licensed services. The licensee acknowledged that its network is available in the survey areas therefore, the licensee's contention pertaining to selection of areas as well as sample size to ascertain the QoS requirement is untenable. The licensee in accordance with terms and condition of licensee is required to meet at all the time QoS standard as provided in the license and applicable regulations.

2.1.9 The assertion of the licensee that its network at Gwadar is operational on VSAT media which has inherent delays in communication does not discharges the licensee from its obligation

from the provision of the services as per applicable laws insofar as no regulatory provision enables the licensee exception/ relaxation in the threshold in case of using a different media. Rather, the licensee is under obligation to meet or exceed the licensed thresholds against all defined KPIs throughout the year and at all times as per applicable regulatory framework.

2.1.10 With regard to contention of the licensee with regard to carrying out an independent survey, it is relevant to point out here that regulation 6 of the QoS regulations empowers the Authority to conduct either independent or joint QoS surveys, therefore, the licensee's contentions are not consistent with applicable regulatory laws. As per Annex-A of the QoS regulations, the main aspects for Drive Test/ Survey Measurement Methodology are Voice Calls, SMS percentage of ON-Net, Off-Net Calls/ SMS, B party (terminating number) moving, Call Size/ Window, Conduct of Survey and City Coverage which have been followed.

3. Order

3.1 Forgoing in view of the above legal and factual position of the case, it is concluded that as per applicable regime the licensee is under an obligation to meet the requirement(s) of Quality of Services parameters as laid down in the license conditions and other enabling statutory provisions. Considering the efforts on the part of licensee with regard to making arrangements for alternative bandwidth through Optic Fiber Cable (OFC) Connectivity and other steps, the Authority taking a lenient view hereby grants six (6) months, commencing from the date of receipt of this order, for improving and maintaining quality of service standards as per applicable KPIs. After expiry of the said time, an on-ground survey will be carried out to measure services quality and in case of non-compliant further action will be taken accordingly.

Maj. Gen. Amir Azeem Bajwa (R)
Chairman

Dr. Khawar Siddique Khokhar
Member (Compliance & Enforcement)

Signed on 16th day of Aug, 2022 and comprises of (06) pages only.