



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
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**Enforcement order under sub-section 3 of section 23 of the Pakistan
Telecommunication (Re-organization) Act, 1996 against M/s. Trunk Net (PVT.) Ltd**

File No. 15-26/CPPS-45/Fin/PTA

Date of Issuance of Show Cause Notice: 10th May, 2006

Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 16th November, 2006

The Panel of Hearing Present:

Director General (Finance):	Head
Director (Litigation & Adjudication):	Member
Director (Wireline Licensing):	Member

The Issue:

“Non payment of PTA dues on account of annual license fee and
annual spectrum charges”

DECISION OF THE OFFICERS OF THE AUTHORITY

BRIEF FACTS:

M/s. Trunk Net (Pvt.) limited (the “licensee”) is a private limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of Trunk Radio Services in Pakistan vide non-exclusive licenses No. PTA/M (T)-008 dated 18th February, 1996 issued by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Trunk Radio Services on the terms & conditions contained in the license.

2. The licensee defaulted in payment of PTA dues on account of annual license fee amounting to Rs. 646,690/for Trunk Radio Service license for the years 1996-97 to 30th

June, 2005 and annual spectrum fee amounting to Rs.10, 000,00/- for the years from 1997 till 30th June, 2005. In this regard PTA made various requests to the licensee but in vain. Hence, a Show Cause Notice (the "Notice") dated 10th May, 2006 under section 23 of the Act was issued requiring it to comply with the same by remedying the contravention and also submit written reply to the Notice within thirty (30) days of the issuance of the Notice and explain as to why the license should not be suspended, terminated or any other enforcement order should not be issued against it under section 23 of the Act.

3. The licensee submitted its reply dated 6th June, 2006 to the Notice and took the stance that it has already explained its position vide its letter dated 4th February, 2006 regarding payment of license fee and that it has been given assurance vide PTA letter dated 15th April, 1996 that annual renewal fee/royalty for the said license will become due on grant of permission by PTA for start of services, on fulfillment of license condition. PTA issued the said permission vide its letter dated 3rd August, 2000 to operate wireless trunk company in Karachi while started charging annual renewal fee/royalty from 1996-1997.

4. In the aforementioned reply of the licensee the licensee, regarding spectrum charges, stated that it has been using 4 frequencies ever since it has installed its system and has paid Rs. 120,000/- for four channels w.e.f. 3rd August, 2000 to 2005. Now its system has capability to accept 8 pairs therefore as special case and to settle the long standing issue the licensee accepted to pay for additional four pairs of frequencies. But to ask to pay for entire 20 frequencies despite of its lengthy correspondence in which it has informed that it does not require these frequencies is unfair and against all norms of justice. The licensee also enquired whether or not the licensee could surrender frequencies from the pairs of frequencies allotted at the time of issuance of license. As the reply to the Notice was not satisfactory, therefore, Hearing Notice dated 6th November, 2006 was served on the licensee requiring it to attend today's hearing. The licensee informed vide its letter dated 14th November, 2006 that Mr. Shahmir Khan, chairman, Mr. Muhammad Rizwan, Sales Executive and Mr. Tanveer Awan Advocate will attend the hearing on behalf of the licensee.

5. Mr. Shahmir Khan (Chairman), Mr. Muhammad Rizwan, (Sales Executive) and Mr. Tanveer Awan Advocate the representative of the company/the licensee/attended the hearing. The licensee argued that the terms and conditions of the license dated 18th February, 1996 are in favour of the Authority and are silent regarding frequency interference and surrendering of such frequencies. The licensee stated that it has been granted license in the year 1996, as no frequencies were assigned to the licensee, therefore, licensee was unable to start its services. However, keeping in view the terms and conditions of the license regarding payment of license renewal fee/royalty the licensee requested the Authority vide its letter dated 8th April, 1996. The contents of the letter are:

LICENSE AGREEMENT NO. PTA/M (T) -008
DATED 18-2-96 CLAUSE 2.1 (b) (c) And 2.4

Most respectfully approach your good self to seek kind assistance regarding the above Clauses.

As you are aware that Frequencies allocation is still in the process, which is the main basis for starting of the Service, where as the above clauses demands Annual Renewal Fee/Royalty and other charges from the date of issue of License Agreement (18.02.96).

You would appreciate that Annual Renewal Fee etc. should be liable for payment, the day, Service starts and we cannot predict the day due to non availability of Frequencies (application was submitted in Oct.- 95).

We would therefore, request you to reconsider the above clauses, save us from further loss, for no fault of ours, help us to offer best services in accordance with your instructions.

Thanking you, in the meantime we remain, respected sir.

The Authority responded to the licensee vide its letter dated 15th April, 1996 whereby informed that annual renewal fee will become due on grant of approval by PTA for start of services, on fulfillment of license conditions. The contents of the letter are:

LICENSE TO OPERATE TRUNK RADIO SERVICE IN PAKISTAN

Please refer to your letter no-Nil-, dated 8th April, 1996.

I am directed to inform you that your request regarding payment of annual renewal fee / royalty has been sympathetically considered by the Pakistan Telecommunication Authority.

Then payment of dues mentioned in Para 2 will become due on grant of approval by the Pakistan Telecommunication Authority for starts of service, on fulfillment of license conditions.

Whereas the Authority has granted no objection certificate vide its letter dated 3rd August, 2000. The contents of the letter are:

PROVISIONALLY PERMISSION TO OPERATE RADIO TRUNK SYSTEM, M/S
TRUNK NET (PVT) LTD KARACHI.

Reference is invited to your confirmation /undertaking letter No SAK/977003/Ttunknet, dated 4.8.2000, on the above cited subject.

It is intimated that the Pakistan Telecommunication Authority is pleased to grant no objection certificate to your firm namely M/s Trunk net (pvt) Ltd Karachi to operate Trunk Radio System and continue their services.

Contrary to above the Authority started charging annual renewal fee/royalty from the day of issuance of license, i.e., 18th February, 1996 and the licensee is requesting that it should be charged from the issuance of permission dated 3rd August, 2000.

6. Regarding spectrum charges the licensee stated that it has been using four frequencies only whereas it has been billed for twenty frequencies, which is illegal and unlawful. Moreover, it started using frequencies from the year 2000, therefore, spectrum charges should be calculated from the year 2000. The licensee also pointed out that it has already surrendered seven frequencies due to interference but PTA is also charging for these frequencies as well.

Findings of the officers of the Authority:

7. **(Letter dated 1st January, 1999)**

**INFORMATION OF TRUNKNET RADIO SERVICE USERS LICENSE
NUMBER PTA/M(T)-008**

Reference is made to your letter No. F-114/97(Engg.) PTA dated July 15, 98. We are pleased to submit information of December month for your kind record.

- A) *Our TNL service started in December 98 as previously our customers were testing the equipment and services.*
- B) *Please advise in which account the fee as per clause 2.4 of the above agreement fees should be deposited.*

We are pleased to submit the information of Trunk Radio Service users as follows:

- | | |
|---|---|
| 1. <i>Total number of service users upto last day of Dec, 98.</i> | <i>Two organizations</i> |
| 2. <i>Areas/Cities in which service has been started</i> | <i>Karachi including Hub & Port Qasim</i> |
| 3. <i>Area/Citywise breakup of service users for said months</i> | <i>Hub & Karachi</i> |

This is for your kind information and record.

(Letter dated 16th December, 1999)

LICENSE TO OPERATE TRUNK RADIO SERVICE IN PAKISTAN

Reference is made to your letter No DIR (C) /PTA/89/99 dated December, 8th 1999, please find the following information as desired:

- a. We had complete our system installation in January' 98 and we have started marketing from the same which was also informed to PTA vide letter No .Nil February 21st 1999.(Copy attached)
- b. We have started our commercial operating from December 1998 which was informed to PTA. (Copy attached)
- c. Monitoring system finally tested in October 12th 1999 which was informed to PTA vide our letter No.ISA /977004/ Trunk net /Khi dated: November 2nd 1999 with the request to issue to security clearance certificate, (Copy attached), which is still awaited.
- d. At present we have four working channels in our system with the following frequencies.

CH NO	RX Frequency	TX Frequency
1	499.30000	489.30000
2	495.77500	485.77500
3	496.30000	486.30000
4	496.72500	486.72500

- d. our Network and business plan has also been submitted to P.T.A. vide our letter No. SAK/977002/TNL/KHI/99 dated Oct 29th 1997 (copy enclosed).

(Letter dated 10th February, 1999)

PAYMENT OF ROYALTY/LICENSE FEE

Thank you for your letter No.F-13/98/Dir. (F) PTA dated January 18, 1999

Since the delay in allocation of frequencies & resolving other issues the mentioned service could not be started in time. Therefore a letter was sent to PTA, the copy of the same is attached which is self Exploratory .In response of this letter PTA has issued a letter on April 15th, 1996 .Copy of the same is also attached.

It was agreed that license fee period shall be started from the Date of the operation of the service. Therefore the mentioned license fee etc .Shall become payable in December 1999.As the service has been started in Dec, 1998, copy of the letter is attached for information

8. The licensee has been assigned twenty frequencies vide PTA letter No.PTA/FAB/R-22/96 dated 22nd February, 1997 for operation of Trunk Radio Services in Pakistan. The content of the letter are:

Subject: **ALLOCATION OF FREQUENCIES FOR THE OPERATION OF TRUNK NET (PVT.) LTD**

The undersigned is directed to convey that the following twenty frequency pairs have been allocated for the operation of Trunk Radio System of M/s Trunk Net (Pvt.) d in Pakistan in response to the request for the change in the already allocated frequencies. The frequency allocation to M/s Trunk Net wide letter no PTA/FAB/R-22/96 dated October 22, 1996 is hereby cancelled.

CHANEL #	TRANSMIT F.MHZ	RECEIVE F.MHZ
1.	485.200	495.200
2	485.275	495.275
3	485.775	495.775
4	485.800	495.800
5	485.875	495.875
6	486.300	496.300
7	486.725	496.725
8	486.800	496.800
9	487.000	497.000
10	487.300	497.300
11	487.975	497.975
12	488.300	498.300
13	489.300	499.300
14	489.625	499.625
15	489.650	499.650
16	489.775	499.775
17	489.800	499.800
18	489.825	499.825
19	489.850	499.850
20	489.875	499.875

2. *The above frequncy allocation is subject to the following two conditions: -*
- Pairs No. 1 to 5 on all Pakistan basis on NIB.*
 - Pairs No 6 to 20 on all Pakistan basis on NIB except in Quetta, Hayderabad Sind and areas around Sakessar.*

The licensee surrendered seven frequencies vide its letter dated 13th May, 1997 and balance frequencies were acceptable to the licensee. The contents of the letter are:

REALLOCATION OF FREQUENCIES

Reference is made to your letter PTA/FAB/R22/96 dated 22-2-97 under which frequencies were allocated to us on non interference basis. Our Foreign Associates have checked and found that the following frequencies are not on non interference basis. So we would like to surrender only these frequencies, balance frequencies are acceptable to us and equipment has been ordered on those.

CHANNEL NO.	TRANSMIT OF MHZ	RECEIVE OF MHZ
1.	485.875	495.875
2.	487.000	497.000
3.	489.775	499.775
4.	489.800	499.800
5.	489.825	499.825
6.	489.850	499.850
7.	489.875	499.875

We request to allocate 7 pairs of frequencies on non interference basis in other band. Therefore please advise what other bands are available for trunking project.

Yours immediate response shall help us to expedite the matter.

The licensee has not been informed the status of its request for surrendering the frequencies since long. In addition, the licensee has not surrendered the rest thirteen frequencies, therefore, it should be charged for thirteen frequencies from the date of allocation, i.e., 22nd February, 1997. However, regarding these both issues, i.e., payment of annual license fee and annual spectrum charges, a meeting has also been arranged with the licensee on 14th July, 2005 which concluded:

DG (Licensing) pointed out that Trunk Radio Service license was issued to M/s Trunk Net on February 18, 1996. Subsequent to award of license, M/s Trunk Net requested PTA that they have submitted application for allocation of frequency in October 1995 and due to non availability of frequency they can not predict the day on which service will start therefore, the annual renewal fee etc should be levied after start of service, The Pakistan Telecommunication Authority agreed to the said request. However, it was pointed out that frequencies on all Pakistan basis were assigned to M/s Trunk net on February 22,1997. Furthermore, it was noted that M/s Trunk Net had been submitted application for sites at Islamabad, Quetta, Lahore, Karachi Peshawar and Faisalabad for which frequencies were allocated in February 1997, therefore, fee became applicable from February 1997.

It was noticed that despite repeated reminders/s Trunk Net has not yet paid spectrum charges nor annual license fee since allocation of frequency in 1997. Further to this the

Managing Director of M/s Trunk Net ignored the request of PTA to attend the meeting and seems reluctant to pay annual license fee and annual spectrum charges.

9. ORDER

9.1. Keeping in view the above mentioned facts and circumstances mentioned during the hearing and perusal of the documents, the Panel hereby dispose of the Notice by passing the following enforcement order:

9.2. As the licensee has already started commercial services since December, 1998 even without obtaining the necessary permission required in accordance with the direction of the Authority dated 15th April, 1996 which was granted on 3rd August, 2000, and also admitted by the licensee vide its letters dated 10th February, 1999 and 13th November, 1999 that annual renewal fee is payable from December, 1999 because the licensee started commercial services in December, 1998, therefore, license renewal fee/royalty is applicable from December, 1998.

9.3. Regarding payment of annual frequency spectrum charges, the licensee is obliged under condition 6.2 of the license to pay annual spectrum charges. Twenty frequencies (40 spots) have been allocated to the licensee vide letter dated 22nd February, 1997 whereas the licensee has surrendered seven frequencies (14 spots) vide its letter dated 13th May, 1997 and rest of the thirteen frequencies (26 spots) are with the licensee and licensee is obliged under the license to make payment of these thirteen frequencies (26 spots) from the date of allocation, i.e., 22nd February, 1997 and charges for seven frequencies (14 spots) only upto 13th May, 1997(i.e., from 22-2-1997 to 13-05-1997) thereafter no charges shall be levied for these seven (14 spots) frequencies.

- (a). Finance Department of PTA has revised the bill on account of annual license fee/annual renewal fee/royalty in accordance with Para 9.2 above, which arrived at Rs.843,750/-. The licensee has previously deposited Rs.710,999/- and balance amount of Rs.146,025/-(including late payment charges @10%) stood payable for which demand note dated 7th December, 2006 was issued and licensee has deposited the same amount,i.e., Rs.146,025/- vide its letter dated 12th December, 2006.
- (b). RBS Department of PTA has revised the bill on account of annual frequency spectrum charges in accordance with Para 9.3 above, which arrived at Rs.1,621,000/-. The licensee has already deposited Rs.120,000/- on account of annual frequency spectrum charges and balance amount of Rs.1,501,000/- stands payable by the licensee,i.e, M/s. Trunk Net (Pvt) Ltd on this account.

- (c) The licensee, i.e., M/s. Tunk Net (Pvt) Ltd is hereby directed to pay the annual frequency spectrum charges as mentioned in Para 9.3 (b) above of Rs.1,501,000/- within thirty (30) days of this order, i.e., 19th February, 2007.
- (d). Seven frequencies surrendered by licensee vide its letter dated 13th May, 1997 may be allocated by Frequency Allocation Board to any other interested licensee as per its own requirements and suitability.

<i>CHANNEL NO.</i>	<i>TRANSMIT OF MHZ</i>	<i>RECEIVE OF MHZ</i>
1.	485.875	495.875
2.	487.000	497.000
3.	489.775	499.775
4.	489.800	499.800
5.	489.825	499.825
6.	489.850	499.850
7.	489.875	499.875

- (e). In case of failure of the licensee, i.e., M/s. Trunknet (Pvt) Ltd to deposit PTA dues on account of annual frequency spectrum charges as provided in Para 9.3 (c) above, license No. PTA/M (T)-008 dated 18th February, 1996 of the company shall stand SUSPENDED w.e.f. 20th February, 2007 and recovery proceedings under section 30 of the Act shall be initiated by the Authority against the company for recovery of dues as land revenue.

Director (Licensing)

Director RBS

Director (Litigation & Adjudication)

Director General (Finance)

10. This determination is passed on 19th January, 2007 and comprises 09 pages.