



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. Crestar International
(PVT.) Ltd**

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

Date of Issuance of Show Cause Notice: 21st July, 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 submission of Annual Audited Accounts and non payment of PTA dues on account annual license fee”

EX-PARTE DECISION OF THE OFFICERS OF THE AUTHORITY

BRIEF FACTS:

M/s. Crestar international (Pvt.) limited (the “licensee”) is a private limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of Non-Voice Communication Network Services (NVCNS) in Pakistan vide non-exclusive licenses No. DIR(C)/L/PTA/4/97 dated 16th September, 2002 (the “license”) issued by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate NVCNS Services on the terms & conditions contained in the license.

2. The licensee defaulted in payment of PTA dues on account of annual license fee of Rs. 71,661/- for the year ended 2003-04 as well as not provided annual audited accounts duly certified from Chartered Accountant. In this regard PTA made various requests to the licensee but in vain. Hence, a Show Cause Notice (the “Notice”) dated

21st July, 2006 under section 23 of the Act was issued to it 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. The licensee failed to respond the show cause notice within statutory period of thirty days, therefore, Hearing Notice dated 29th August, 2006 was issued at the addresses of the company whereby informed the licensee to attend the hearing dated 12th September, 2006. The licensee replied the hearing notice vide its letter dated 11th September, 2006 and requested for adjournment of the hearing till next year. As the hearing cannot be postponed till next year, therefore, the case was fixed on 16th November, 2006 and communicated vide PTA letter dated 6th November, 2006. The licensee did not attend the hearing dated 16th November, 2006.

3. Therefore, the Panel has no option but to decide the matter *ex-parte* on the basis of available record.

(a). M/s Crestar International (Pvt.) Ltd. was previously awarded two licenses No. DIR (C)/L/PTA/4/97 dated 1st January, 1998 and No. DIR(C)/L/PTA/4/97 dated 27th August, 1998 to establish, maintain and operate Electronic Information Services and DCNS Services respectively in Pakistan. Whereas later on as per policy of the Authority, EIS and DCNS licenses were amalgamated/upgraded into NVCNS license dated 16th September, 2002 without any obligation.

(b). The licensee was obliged under conditions 3.11 and 3.12 of the NVCNS license and sub-regulation (2), (3), (4) and (5) of Regulation 4 of Non Voice Communication Network Services Regulations, 2004 to pay annual license fee to the Authority within 120 days from the close of financial year and submit annual audited accounts which the licensee failed to comply.

(c). It has been taken notice of by the Authority that the licensee has neither deposited its Annual License Fee for the year ended on 30th June, 2003-2004 nor submitted its Annual Audit Account duly certified by Chartered Accountant for the year ended on June, 30, 2003-04, 2004-05. PTA vide numerous letters including letters dated 13th September, 2005 and 7th June, 2006 directed the licensee to pay its Annual License Fee for the year ended June 30, 2003-2004, amounting to Rs.71,661/- (this amount is provisional and subject to revision in the light of AAAs) and to provide its Annual Audited Account for the year ended on June 30, 2003-04, 2004-05, but despite repeated requests/directions the licensee failed to deposit the Annual License Fee and also failed to submit its Annual Audit Account for the year ended on June 30, 2003-04, 2004-05.

(d). The licensee vide its letter dated 16th June, 2001, 28th June, 2002 PTA vide letter dated 6th August, 2002 informed that DCNS license stands cancelled under sunset clause and amount paid in terms of initial license fee cannot be adjusted. PTA further informed that M/s. Crestar international now holds EIS license which can be upgraded into NVCNS license by payment of Rs. 500,000/- and

Rs.19518/- in terms of royalty fee. Furthermore as per PTA policy nation wide license can be downgraded into single city without an obligation. The licensee vide letters dated 20th August, 2002 and 27th August, 2002 requested for restoration of DNOP license and also requested to merge EIS and DCNS licenses into one so that all IP services are streamlined in one license. the Authority vide letter dated 7th September, 2002 informed that request of licensee regarding merging of EIS and DCNS licenses into NVCNS license has been approved without obligation and licensee is requested to surrender both licenses for issuance of NVCNS license. The licensee again vide its letter dated 10th September, 2002 requested for amalgamation of licenses and adjustment and refund of excess amount which was replied vide PTA letter dated 13th September, 2002. Thereafter the license of NVCNS was issued on 16th September, 2002 by amalgamating its EIS and DCNS licences into NVCNS license without obligation. The licensee again reiterated the same stance vide various letters which was denied vide letter dated 6th January, 2003 and 7th January, 2003. Irrespective of repeated clarifications on the issue, the licensee kept on demanding adjustment of initial license fee and for refund. The Authority responded through a series of letters intimating PTA uniform stance that initial license fee cannot be adjusted or refunded vide PTA letters dated 16th September, 2002, 7th January, 2003, 23rd June, 2003, 28th August, 2003, 10th August, 2004, 2nd September, 2004, 18th April, 2005, with request to deposit PTA dues accrued annually and submission of annual audited accounts, but the Licensee miserably failed to provide annual audited accounts as well as did not deposit PTA dues till date.

(e) In this regard PTA also arranged meeting on 29th December, 2005 vide letter dated 21st December, 2005 but the licensee did not attended the said meeting rather requested vide letter dated 9th January, 2006 that meeting may be arranged at Zonal office, Karachi. This request of licensee was also accepted and Zonal Director Karachi was advised vide letter dated 25th January, 2006 to conduct meeting with the licensee. The Zonal Director Karachi conducted meeting on 28th February, 2006. During the meeting the licensee claimed that fee was refunded to other licensees after amalgamation of their previous licenses into one (NVCNS) license but failed to produce any evidence or name of such companies, however, promised to provide such names within few days. The licensee was requested vide letter dated 1st March, 2006 to provide evidences in support of its aforesaid claim, but the licensee, instead, replied vide its letter dated 10th March, 2006 that names and details of such parties may be checked from your record. PTA again checked/confirmed it from Finance department and it informed that no such refund was given to any company.

(f). The licensee further informed vide its letters dated 7th November, 2005 and 7th November, 2006 that it has ceased its ISP operations temporarily from 1st April, 2004 and communicated to the Authority vide its letter dated 4th March, 2004. The licensee has provided annual audited accounts vide its letters dated 8th March, 2004 and 11th September, 2006 but these audited accounts are not duly

certified by Chartered Accountant as per requirements of PTA and cannot be treated for calculation of annual license fee. The licensee also requested for adjustment of Rs.71,661/- from amount of Rs. 1,000,000/- and refund balance of Rs.928,339/-to it. The licensee has no lawful claim as initial license fee cannot be adjusted, and its license was upgraded without any obligation and this fact has been repeatedly clarified to the licensee.

4. ORDER

4.1. Keeping in view the above mentioned facts coupled with the available record, the Panel hereby decides to proceed *ex-parte* against the licensee by issuing the following enforcement order:

- (a) License of M/s. Crestar International (Pvt) Ltd is hereby SUSPENDED and PTCL is directed to terminate forthwith all telecom facilities extended to the licensee till further orders.
- (b). M/s. Crestar International (Pvt) Ltd is directed to deposit all PTA payable dues including Rs. 71,661/- ALF for 2003-04 and submit AAAs within one month, at which its license will be restored.
- (c). In case of failure of the licensee to deposit PTA dues as provided in Para 4.1 (b) above, license No. DIR(C)/L/PTA/4/97 dated 16th September, 2002 of the company shall stand TERMINATED 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 with cost of the litigation.

Director (Licensing)

Director (Litigation & Adjudication)

Director General (Finance)

5. This determination is passed on 6th December, 2006 and comprises 04 pages.