



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
Ph: 051-9225328 Fax: 051-9225334

**Enforcement order under sub-section 3 of section 23 of the Pakistan
Telecommunication (Re-organization) Act, 1996 against M/s. Al Hamad
Communication (PVT.) Ltd**

File No. 15-26/CPPS-108/Fin/PTA

Date of Issuance of Show Cause Notice: 17th July, 2006

Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 4th October, 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 and failure in submission of annual audited accounts”

EX-PARTE DECISION OF THE OFFICERS OF THE AUTHORITY

BRIEF FACTS:

M/s. Al Hamad Communication (Pvt.) Limited (the “licensee”) is a private limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of Card Payphone services pursuant to the non-exclusive license No. DIR(C)/L/PTA/424/2002 dated 1st June, 2002 (the “license”) issued by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Card Payphone services in the province of Punjab on the terms & conditions contained in the license.

2. The licensee has defaulted in payment of PTA dues for the years ended 2003, 2004 and 2005 as well as in provision of its annual audited accounts for the said years. In this regard PTA made various requests to the licensee but licensee failed to comply

with the same. As the licensee has neither submitted its annual audited accounts nor deposited its Annual License Fee for the years 2003-04 and 2004-05 amounting to Rs. 500,000/-, a Show Cause Notice (the "Notice") dated 17th July, 2006 under section 23 of the Act was issued to it requiring it to comply with the same within seven days 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 passed under section 23 of the Act against the licensee.

3. The aforesaid Notice was received back undelivered. Again the said Show Cause Notice was sent at another address available in record, which also received back undelivered. As the Notices were sent at the addresses available in record but both the Notices received back undelivered, therefore, Hearing Notice dated 22nd September, 2006 was issued at the addresses of the company and also to all Directors of the company for requiring them to attend the hearing dated 4th October, 2006. This time notices were not received back undelivered, hence, presumed that these notices have been served on the company and its Directors. However, neither the licensee nor any of its Directors attended the aforementioned hearing on the fixed date.

4. Therefore, the Panel has no option but to proceed with the hearing ex-parte on the basis of available record.

(a). The licensee was obliged under conditions 3.1(b) and 3.2 of the license and sub-regulation (2), (3), (4) and (5) of Regulation 7 of Card payphone Regulations, 2004 to pay annual license fee to the Authority. The said condition of license and regulations are reproduced as under:

License

3.1 *The licensee shall pay the following fees to the Pakistan Telecommunication Authority:*

- a) *A sum of Rs. 300,000/-initial license fee for obtaining this license, and*
- b) *An annual license fee @ 2% of gross revenue, from the licensed services, during the preceding financial year of the licensee, or 50% of initial license fee whichever is higher, payable within 120 days of the close of financial year of the licensee. The fee shall be calculated after deducting from the gross revenue, the corresponding call charges paid to the fixed line operator and duties / taxes paid to the government, during the preceding financial year. The audited accounts of the licensee shall contain the figures and information for the calculation.*

3.2 *The licensee shall be liable to pay penalty of 10% on the amounts outstanding, if dues are not paid within 120 days of the close of financial year with effect from the issuance date of this license.*

Card Payphone Regulations, 2004

((2) *The licensee shall make payment of the annual license fee to the Authority in arrears but not later than 120 days of the close of financial year of the licensee.*

(3) *The licensee shall be liable to pay a penalty @10% per month on the outstanding amounts if the dues are not paid within due date.*

(4) *All payments to the Authority shall be made through bank draft or pay order or credited to the Bank Account of the Authority as specified by the Authority.*

(5) *The Annual License Fee shall be paid not later than ninety (90) days after the closing date of the fiscal year of the licensee, according to its audited annual account. The licensee shall be responsible for the submission of annual financial statements indicating all business conducted in Pakistan during the preceding fiscal year and this statement shall be submitted to the Authority by the last day of the first quarter of the following fiscal year.*

(b) The Authority has been making repeated requests to the licensee vide various letters including letters dated 5th July, 2003, 29th November, 2004, 29th December, 2004 15th April, 2005, 9th May, 2005 15th June, 2005, 2005, 23rd August, 2005, 12th September, 2005 whereby required the licensee to make the payments, but the licensee never responded to these letters nor deposited PTA dues which constitute sheer disregard to the writ of the Authority. Even Regional Director Lahore also requested the licensee vide letter dated 10th September, 2003 and 9th April, 2004 to clear PTA dues, but licensee did not bother to reply positively. There are also reports against the licensee that it has failed to redress complaints forwarded to it. PTA has made its reasonable efforts to contact the licensee, but failed to contact.

(c). Foregoing factors led the panel to believe that the Licensee is not traceable who has either closed its operations or offices without informing the Authority. The Notices issued to Licensee have been received back undelivered, whereas hearing notices have been served on the Directors of the company but neither the licensee nor any of its Directors attended the hearing establishing an irresponsible attitude of the licensee towards the writ of the Authority.

5. ORDER

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

- (a) License of M/s. Al Hamad Communication (Pvt) Ltd is hereby suspended and PTCL is directed to terminate forthwith all telecom facilities extended to the licensee.
- (b). M/s. Al Hamad Communication (Pvt) Ltd is directed to deposit all payable dues including Rs. 500,000/- ALF upto 2003-2004 and submit AAAs within three months, at which its license will be restored.

- (c). In case of failure of the licensee to deposit PTA dues as provided in Para 5.1 (b) above, license No. DIR(C)/L/PTA/424/2002 dated 1st June, 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.

Director (Licensing)

Director (Litigation & Adjudication)

Director General (Finance)

6. This determination is passed on 4th October, 2006 and comprises 04 pages.