



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD

Enforcement Order under Sub-section 3 of Section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 Against Zain Business Empire (Pvt.) Ltd

Date of Issuance of Show Cause Notice: 14th April, 2011
Venue of Hearing: PTA HQs, Islamabad
Date of Hearing: 23rd June, 2011

The Authority present:

Dr. Mohammed Yaseen: Chairman
Mr. Shabbir Ahmed: Member (Finance)
Dr. Khawar Siddique Khokhar: Member (Technical)

The Issue:

“Non-submission of Annual Audited Accounts and non-payment of Annual Regulatory dues including late payment additional fee for the year ended 30th June, 2009 to 2010”

DECISION OF THE AUTHORITY

1. Brief facts of the case:

1.1 Zain Business Empire (Pvt.) Ltd (the “licensee”) was awarded non-exclusive license No.Dir(L)/CVAS-277/PTA/2008 dated 13th November, 2008 (the “license”) by Pakistan Telecommunication Authority (the “Authority”), to establish, maintain and operate Data Class Value Added Services in province of Punjab, subject to the terms and conditions contained in the license.

1.2 The licensee, under license condition No.3 of the license, was obliged to submit annual audited financial statement and summary of accounts within three months. As per sub-regulation 1 of regulation 11 of the Class Licensing and Registration Regulations, 2007 the licensee is required to pay annual license fee to the Authority calculated on the basis of percentage of the Licensee’s annual gross revenue from Licensed Services for the most recently completed Financial Year minus Inter-operator payments from the effective date of the license as decided by the Authority from time to time provided that the annual charges

shall be payable for subsequent years. In case of late payment of any fee, the licensee within time is obliged to pay an additional fee at the rate of 2% per month on the outstanding amount for each month or part thereof under sub-regulation 7 of the regulation 23 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006.

1.3 The licensee vide PTA's letter dated 26th October, 2009, 16th November, 2009 and 18th February, 2011 was required to submit Annual Audited Accounts (AAAs) along with the payment of related Annual License Fee (ALF) for the years ended 30th June, 2009 to 2010 but the same was not complied with. Resultantly, due to contravention of the said license condition read with applicable regulations, the Authority under section 23 of the Pakistan Telecommunication Authority issued a Show Cause Notice (SCN) on 14th April, 2011 to the licensee.

1.4 The licensee under SCN was required to remedy the said contravention by submitting AAAs along with the payment of related ALF including late payment additional fee for the year ended 30th June, 2009 to 2010 within seven days and was also directed to explain in writing within 30 days of the issuance of SCN 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. The licensee neither remedied the contravention nor replied the SCN within the stipulated time as given in SCN.

1.5 Before passing an enforcement order under sub-section 3 of section 23, the matter was fixed for hearing on 23rd June, 2011. It would be pertinent to mention here that SCN and hearing notice were served on the address as provided and maintained by the licensee with the Authority and not received back undelivered. Therefore, in accordance with regulation 46 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 the notices are deemed to have been delivered and communicated to the licensee. In such circumstances the Authority has no option except to proceed *ex-parte* against the licensee as per available record.

1.6 The record perused and examined, it is concluded that the licensee did not pay any heed to observe and comply with the terms and conditions of license, letters issued to the licensee with respect to submission of AAAs and ALF as well as SCN issued to the licensee. The conduct of the licensee in terms of accomplishment of obligations contained in the license is non-serious and non-compliant which falls within the ambit of sub-section (3) of section 23 of the Act.

2. ORDER

2.1. Keeping in view the above mentioned facts coupled with the available record, the Authority hereby decides as under that:

- (a) The license of Zain Business Empire (Pvt.) Ltd. is hereby suspended for a period of one month or till submission of annual audited accounts along with the payment of annual license fee for the year ended on 30th June, 2009 to 2010 including late payment additional fee @ 2% per month on the outstanding amount for each month or part thereof for the years ended on 30th June, 2009 to 2010, whichever is earlier.
- (b). In case of non-compliance of Para 2.1 (a) above, license No.Dir(L)/CVAS-277/PTA/2008 dated 13th November, 2008 of the licensee shall stand terminated upon expiration of one month after the date of issuance of this order without any further notice and recovery proceedings under section 30 of the Act shall be initiated by the Authority against the company i.e., M/s Zain Business Empire (Pvt.) Ltd. for recovery of all payable dues as arrears of land revenue. While in case of submission of Annual Audit Accounts along with payments as per para 2.1 (a) the license shall be restored.
- (c). All LDI, LL and Mobile licensees are directed to suspend immediately all telecommunication facilities extended to the licensee pursuant to the license till further orders of the Authority.

Dr. Khawar Siddique Khokhar
Member (Technical)

Shabbir Ahmed
Member (Finance)

Dr. Mohammed Yaseen
(Chairman)

This enforcement order is signed on _____ and comprises of 03 pages only.