



PAKISTAN TELECOMMUNICATION AUTHORITY
Headquarters, F-5/1 Islamabad
www.pta.gov.pk

No. 15-18/07(CA)/PTA

September 20, 2007

The Authority's Determination in the matter of the Show Cause Notice dated 12th September, 2006 issued under section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 (the "Act") to Callmate for Overcharging its Customers

Date of Hearing:	11 th May 2007
Venue of Hearing:	PTA H/Qs, Islamabad
Date of issuance of the instant Determination	September 12, 2007

The Authority Present:

Maj. Gen. (R) Shahzada Alam Malik:	Chairman
S. Nasrul Karim A. Ghaznavi:	Member
Dr. Muhammad Yaseen:	Member

The Issue:

"Overcharging by Callmate"

Determination of the Authority

1. Brief Prelude:

The Government of Pakistan issued Telecom Deregulation Policy (the "Policy") in 2003 to liberalize telecom sector of Pakistan. Keeping in view the provisions of the Policy, the Pakistan Telecommunication Authority (the "Authority") has so far given 14 Long Distance International (LDI) licenses to provide long distance and international public voice telephone services. Callmate is one among such licensees of the Authority engaged in the business of providing long distance and international public voice telephone services pursuant to its license No. LDI-01 (05)-2004 dated 16-06-2004.

2. Background of the issue:

2.1 Prepaid calling cards are a form of indirect access and offer consumers an alternative way of making national and international long distance calls to a variety of destinations. The prepaid calling cards can be purchased from local retail outlets, grocers and over the internet. National and international long distance calls are usually made from PTCL's (or in some cases NTC's) wire-line network or from some of the cellular mobile operators' network by the consumers.

2.2 As prepaid calling cards are more popular among the general public, majority of complaints received by the Authority are against prepaid calling card services. Taking cognizance of the issue, the Authority initiated tariff verification exercise of various calling cards of different operators. In this regard, Enforcement Division (Quetta and Lahore Directorates) of the Authority were assigned the task of checking calling card tariffs of LDI Operators including M/s Callmate Telips Telecom Ltd.

3. Tariff Verification by Quetta Office

3.1 Director (Enforcement) Quetta carried out tariff verification exercise of Callmate Calling Card on March 10, 2006 in which overcharging was observed (Annex-I). The details are summarized as following:

Call Type	Actual Call Duration		Tariffs per min as per PTA Record	Tariff Charges as per PTA	Actual Charging as per QTA Off	Over Charging
		a	B	c = (b*a)	D	e = (d-c)
UAE Mob	2.54	3.00	18.00	54.00	78.11	24.11
Local Mob	3.10	4.00	5.56	22.24	27.50	5.26
NWD Mob	3.16	4.00	7.89	31.56	36.30	4.74
Local Mob.	1.00	1.00	5.56	5.56	5.56	0.00
Local Mob	2.36	3.00	5.56	16.68	16.68	0.00
NWD Fix	2.57	3.00	2.00	6.00	8.92	2.92
UK Mob	0.13	1.00	16.67	16.67	16.67	0.00

3.2 The tariffs which were submitted by Callmate for information of the Authority are attached as Annex – II.

Analysis on Tariff Verification by Quetta Office:

UAE Mobile

3.3 An international long distance call was made on UAE mobile for three minutes. As per tariffs submitted to the Authority, Callmate was supposed to deduct Rs. 54.00 for three minutes. However, an amount of Rs. 78.11 was deducted. Thus, overcharging of Rs.24.11 was noticed.

Local Mobile

3.4 A local mobile call of 3.10 minutes duration was made by using Callmate Calling Card. Callmate was required to charge Rs. 22.24 (for four minutes), as per their tariff

plan submitted to the Authority. However, deduction of Rs. 27.50 was made. In this case, overcharging of Rs. 5.26 was observed.

NWD Mobile

3.5 In order to check and verify NWD mobile tariffs, a call was made for four minutes. Callmate deducted Rs. 36.30 for the said call. As per tariffs submitted to the Authority, Callmate was supposed to charge Rs. 31.56. Hence, an overcharging of Rs. 4.74 was noticed for NWD mobile call.

NWD Fixed

3.6 A national long distance call was made for three minutes and Rs. 8.92 was deducted from the calling card. Although Callmate was required to deduct Rs. 6.00 for three minutes as per their tariffs submitted to PTA but an overcharging of Rs.2.92 was observed for this call.

Callmate Viewpoint

3.7 The findings/observations were sent to Callmate on April 27, 2006 for explanation (Annex-III). In response, Callmate informed that since they were providing 50% extra balance therefore the tariff should also be multiplied by 1.50 (Annex-IV). In addition, they submitted that 30 second pulse was applicable on said tariffs and the callers were not charged on per minute basis.

4. Tariff Survey carried out by Lahore Office

4.1 Another survey was carried out by Lahore office in which national and international long distance calls to different destinations were made on Callmate calling card (Annex-V). During the survey, it was observed that tariffs charged by Callmate were neither in accordance with the submissions made to the Authority (Annex-VI) nor displayed on Callmate website (Annex-VII).

Analysis on Charging of Callmate Telips by Lahore Office

Call Type	Actual Call Duration/ Rounded Up Minutes		Tariffs (/ min) as per PTA Record	Charges as per PTA	Actual Charging as per LHR Off	Over Charging	CDR Charging	Comp. of Actual Charging with CDR
	CDR	a	B	c = (b*a)	D	e = (d-c)	f	g = (d-f)
Local Mob	1.35	2.00	4.00	8.00	18.00	10.00	12.00	6.00
Local Mob	1.24	2.00	4.00	8.00	18.00	10.00	12.00	6.00
NWD Mob	0.39	1.00	5.88	5.88	8.82	2.94	5.88	2.94
Local Mob	2.49	3.00	4.00	12.00	18.00	6.00	12.00	6.00
Local Mob	2.09	3.00	4.00	12.00	18.00	6.00	12.00	6.00
NWD Fix	1.32	2.00	0.67	1.34	6.00	4.66	1.33	4.67

NWD Mob	1.17	2.00	5.88	11.76	25.46	13.70	17.64	7.82
Afghanistan	0.39	1.00	12.00	12.00	26.04	14.04	26.04	14.04
USA Mob	0.02	-	-	-	-	-	-	-

Local Mobile Call

4.2 A local mobile call of 1.35 minutes duration was made on Callmate Calling Card. It may be noted that Callmate has displayed tariff of Rs.4.00 per min on its website and the same was also submitted to the Authority for the period under review. Keeping this in view, Callmate was required to deduct Rs. 8.00 for two minutes from the said calling card. However, Rs. 18 were deducted thus the local mobile call was overcharged by Rs. 10. It is also pertinent to mention that tariffs charged by Callmate were inconsistent with the CDR tariffs as it recorded Rs. 12 for two minute call duration.

NWD Mobile Call

4.3 For NWD Mobile call, Callmate has displayed tariff of Rs. 5.88 which was also submitted to the Authority. However, an amount of Rs. 8.82 was charged for one minute. As a result, Rs. 2.94 was overcharged by Callmate. It may be noted that tariff of Rs. 5.88 was recorded by CDR which was in accordance with the display and submission made to the Authority.

Local Mobile Call

4.4 A local mobile call of 2.49 minutes duration was made again on Callmate Calling Card in order to check and verify local mobile tariffs. As per information displayed on its website and submitted to the Authority, Callmate was required to deduct Rs. 12.00 for three minutes but an amount of Rs. 18 was charged. Thus, an overcharging of Rs. 6.00 was noticed. Nevertheless, tariffs recorded by CDR were in accordance with the display and submission made to the Authority.

4.5 It may also be noted that for local mobile call, Callmate has deducted same amount of Rs. 18 for two minute as well as for three minute call duration which concurs with Authority's observation that Callmate billing systems are inconsistent and the operator is involved in overcharging.

NWD Fixed

4.6 A national long distance call was made by using Callmate calling card. An amount of Rs. 6.00 was deducted for two minutes. As per tariffs submitted to the Authority and displayed at its website, the operator was supposed to charge Rs. 1.34 for two minutes but the call was overcharged by Rs. 4.66. The tariffs calculated / recorded by CDR (i.e. Rs. 1.33) were in accordance with the tariffs hosted on its website and submission made to the Authority.

NWD Mobile

4.7 For NWD mobile call, an amount of Rs. 25.46 was deducted for two minutes whereas Rs. 11.76 should have been deducted from the said calling card (as per display and submission to the Authority). Thus, overcharging of Rs. 13.70 was observed. It may be noted that retail tariffs charged by Callmate were inconsistent with the tariffs recorded by CDR as it showed / revealed that Rs. 17.64 has been deducted for the said call.

Afghanistan

4.8 An international long distance call was also made to Afghanistan. Callmate deducted Rs.26.00 for one minute whereas Rs. 12.00 was displayed at their website and the same was submitted to the Authority. In this case, Overcharging of Rs.14.00 was noticed.

Callmate Viewpoint

4.9 After compiling results of tariff verification exercise, Enforcement Division vide its letter dated June 1, 2006 asked Callmate to submit its response on account of overcharging (Annex-VIII). Callmate submitted that they were charging tariffs on per minute basis (Annex-IX). In case, a call was made for a fraction of a pulse, a customer would be charged for the whole pulse.

5. Show Cause Notice to M/s Callmate Telips:

5.1 On the basis of the aforementioned information provided by the Enforcement division, a Show Cause Notice was served on Callmate on September 12, 2006 (Annex-X) under section 23 of the Act. Callmate was conveyed that the charged tariffs were not in conformity with the tariffs submitted to the Authority and the act of overcharging the subscribers amounted to serious violation and contravention of laws which attracted provision of Section 23 of the Act and was required to show cause as to why any of the enforcement orders mentioned in section 23 of the Act may not be issued against it.

5.2 Callmate replied to the Show Cause notice, however, on evaluation of the reply, the same was found not satisfactory. Before proceeding further against the Callmate pursuant to the Show Cause notice under section 23 of the Act, an opportunity of personal hearing was given to the Callmate and was required to appear before the Authority to present its stance and show cause and explain as to why an enforcement order may not be passed against it.

6. The Hearing:

6.1 As per the instructions given to it, M/s Callmate appeared before the Authority on May 11, 2007. On behalf of the Callmate M/s Ajmal Ansari, Shahid Bhutto, Arshad Fawad and Muhammad Aamir attended the hearing while the Authority was assisted by Mr. Tariq Sultan, Mr. Imran Ahmed Zubairy, Mr. Aasif Inam, Mr. Aadil Umar, Mr. Zulqarnain Bhatti, and Mr. Shafqat Ullah. Mr. Abdul Batin, Director (Enforcement) Quetta also attended the hearing through video-conferencing.

6.2 During the hearing, a presentation was given by Mr. Aasif Inam on the survey carried out by Lahore and Quetta Offices. Callmate reiterated its stance it had taken in

reply to the show-cause notice by maintaining that the officers of the Authority have not taken into account the effect of 50% extra balance which was available to Callmate subscribers. In addition, it informed that different pulse durations were applicable on national and international long distance calls (including calls terminated on mobile network) that were duly advertised in their advertisements.

Callmate's submissions and the Authority's findings:

6.3 For brevity's sake and to have a better understanding of the issue, Callmate's submissions made before the Authority and the Authority's findings thereon are given below:

6.4 **Callmate:** It argued that it has always charged its subscribers on the basis of tariff which was always submitted to the Authority as and when changed. In addition, the learned officers of the Authority have completely failed to appreciate the tariff on the basis of net effective rate.

The Authority's findings: The claim of Callmate that it has charged its subscribers on the basis of tariff which was always submitted to the Authority cannot be acceded to for the following reasons:

- i. Callmate has charged local mobile call @ Rs.6/minute whereas tariffs as per PTA record was Rs.4/minute vide email dated May 3, 2006;
- ii. Similarly, Callmate has submitted tariff of Rs.5.88/minute for NWD mobile. The same was also displayed / hosted on Callmate website. To the contrary, Callmate was found charging Rs.8.82 for NWD mobile;
- iii. Callmate has doubled the tariff of second minute and the details of the same were neither submitted to the Authority nor hosted on Callmate website;
- iv. For national long distance calls, Callmate has provided tariff of Rs.0.67 per minute whereas Rs.3.00 was deducted from the card;
- v. For international long distance calls such as Afghanistan and UAE Mobile, Callmate has deducted Rs.26.04 and Rs.78.11 respectively instead of Rs.12.00 and Rs.54.00.

6.5 **Callmate:** Callmate submitted that the tariff used by Lahore Office was not the then applicable effective tariff of Callmate. The then applicable effective tariff was submitted to the Authority.

The Authority's findings: The tariffs used by Lahore office for the purpose of observing Callmate tariffs were submitted to the Authority by Callmate for information and the same was also available on Callmate website. Therefore, the argument of Callmate that the tariff used by Lahore office is not the then applicable tariff is not based on facts.

6.6 **Callmate:** Callmate prayed that the officers of the Authority has failed to analyze that Callmate subscribers were given the 1.5 times value of the cards, the standard tariff should also be multiplied by 1.5 in order to arrive at the effective tariff of Callmate conforming with the tariff submitted to the Authority.

6.7 Callmate submitted that due to intense competition among the operators, tariffs of calling cards were changed abruptly. It prayed that it has always submitted the applicable tariff for its calling card services to the Authority. Although tariffs were subject to change as and when necessitated, the tariffs were submitted to the Authority in order to discharge their obligation.

The Authority's findings: The stance of Callmate that since the subscribers were given 1.5 times value of the card therefore the tariff should also be multiplied and tariffs were changed abruptly (due to intense competition) cannot be accepted for the reason that the subscriber has purchased the card on the belief that it would get extra talk time. Advertising extra talk-time by simultaneously increasing the tariff is deceiving subscribers as they would not get any additional talk-time. In addition, Callmate has also violated provisions of Standard Contract of Service which require that "in case of increase in tariff, CTTL shall give thirty (30) days prior notice to the customers" (Annex-XI). It is pertinent to mention that no advertisement regarding increase in tariffs for information of the general public was published either in print or on electronic media. Instead, Callmate has only advertised talk-time available in the card. Callmate has also violated clause 14 (2) of the Regulation which require Callmate to explicitly show the tariff of each individual service, along with peak and off-peak timings. Tariffs submitted to the Authority were not applied by Callmate for charging of local, national and international long distance calls.

6.8 **Callmate:** Regarding pulse duration, Callmate submitted that even though a caller calls for a fraction of a pulse he is charged for the whole pulse duration. A subscriber may be disconnecting the calls in short durations and may assume that he has not utilized the entire talk-time but the whole pulse is dropped even though a fraction of it has been benefited by the caller.

The Authority's findings: The argument of Callmate regarding pulse duration is not valid as Callmate has never submitted any details pertaining to pulse duration and other terms and conditions to the Authority. In addition, the details pertaining to pulse duration were also not available on its website and in its advertisements. Callmate has violated clause 14 (1) of the Regulations which mandated the operator to publish their tariffs in their tariff manual, tariff brochures as well as on their websites.

It is pertinent to mention that Callmate vide its advertisement dated March 5, 2006 (Annex-XII) and March 12, 2006 (Annex-XIII) announced 50 minutes for major destinations such as America, UK fixed, Canada, Australia fixed, China, Hong Kong and Singapore as Pakistan Day's celebration. However, no pulse duration for the said calls was announced/advertised by Callmate. In another instance, Callmate vide its advertisement dated April 09, 2006 (Annex-XIV) and April 11, 2006 (Annex-XV) announced 150 NWD minutes on 100 rupees card but the pulse duration and other terms and conditions were neither advertised nor hosted on Callmate website. Similarly Callmate introduced another promotional scheme on April 30, 2006 (Annex-XVI) and

May 7, 2006 (Annex-XVII) which offered 150 minutes and 60 minutes for NWD and USA / UK (fixed) respectively but no pulse duration / other terms and conditions were mentioned in their advisement.

6.9 Callmate Objection Callmate submitted that detailed computation showing that Callmate has charged its subscribers according to the applicable tariffs is attached and the computations showed that the concerns raised by the learned officers were baseless and not supported by proper calculations.

6.10 Callmate informed that erroneous tariff analysis has been carried out by the officers of the Authority. The tariff used by the officers of the Authority as “Tariff claimed per minute” was not the then applicable effective tariff of Callmate. The then applicable effective tariff was already submitted to the Authority. Callmate has charged its subscribers according to the then applicable effective tariff.

The Authority’s findings: The viewpoint of Callmate that computation clearly depicted calculations made by Callmate and erroneous tariff analysis has been carried out by the officers of the Authority is not based on facts. During the hearing, Callmate failed to explain / justify its own computations that were submitted in response to the Show Cause. In their computation, Callmate has doubled tariff of second minute for some call durations whereas the same was not done for national long distance calls. In another instance, Callmate has deducted same amount of Rs. 18 for local mobile call that was made for two minutes as well as for three minutes. The basis provided for computation purposes do not substantiate the charging done by Callmate. One of the significant observations is that the tariffs charged by Callmate are inconsistent with the tariffs recorded by CDR.

No pulse duration or other terms and conditions were submitted to authority, hosted on its website or advertised in the print / electronic media for information of the consumers. Although Callmate was asked to explain / give details about the basis of charging for calls made to different destinations but no plausible response was received from Callmate. In addition, it has also failed to explain the charging differences between actual charged tariffs and CDR tariffs.

6.11 Callmate submitted that appropriate replies were submitted to the Authority regarding the concerns raised by its officers.

The argument of Callmate regarding submission of appropriate replies cannot be acceded to as these replies did not include detailed calculations for charging of calls.

Relevant Statutory provisions:

6.12 Section 23 of the Act provides that where a licensee contravenes any provisions of the Act or the rules made thereunder or any terms and condition of the license, the Authority may by a written notice require the licensee to show-cause within thirty days as to why an enforcement order may not be issued against it.

6.13 Through our findings on the submissions made by Callmate, it has become clear that Callmate has been overcharging its customers. The statutory provisions and clauses of the terms and conditions of the license where have been violated by Callmate through its aforesaid act of overcharging its customers, justifying the Authority to initiate action against it under section 23 of the Act are given below:

Section 4(1) (c) of the Act provides that the Authority shall “*promote and protect the interests of users of telecommunication services in Pakistan*”. [Emphasis added]

Section 6(f) of the Act says that “*the interest of users of telecommunication services are duly safeguarded and protected*”. [Emphasis added]

Clause 8.3.1 of Long Distance International license require “*The licensee shall comply will all requirements regarding publication of prices, terms and conditions, notifications and display of information, as established by the Authority from time to time*”.

As per clause 10.1.1 of LDI license, “*in addition to the sanctions available under the Act, if the Authority determines the Licensee has violated a provision of this License or the Act, Rules or Regulations, the Authority may by order impose one or more of the following sanctions, which the Licensee shall promptly comply with:*

- a. *The Authority may issue an order to the Licensee requiring the licensee to cease any continuation of the violation,*
- b. *The Authority may require the Licensee to remedy the effects of the violation, in a manner determined by the Authority*
- c. *The Licensee shall issue a public apology for its violation, in wording acceptable to the Authority, that the Licensee arranges to have prominently published, at its cost, in a newspaper of general circulation for two (2) consecutive days,*
- d. *The Authority may suspend one or more of the rights granted to the Licensee under the License, for so long as the Authority considers appropriate in the circumstance ”.*

As per section 3 (1) of Fixed-line Tariff Regulations 2004 “the Regulations”, “*the Non-SMP operators are free to set and revise their tariffs at any time and in any manner they like provided that they shall inform the Authority about their proposed tariffs thirty days before the applicability of new tariffs*”.

Section 3(2) of the Regulations empowers the Authority “*to make amendments to the tariffs of Non-SMP operators where the tariffs are considered to be unfair and burdensome*”.

As per section 14 (1) of the Regulations, “*the operators shall publish their tariffs in their tariff manual, tariff brochures as well as on their websites*”.

Section 14 (2) of the Regulations state “*there shall be no hidden charges and the information provided should explicitly show the tariff of each individual service, along with peak and off-peak timings*”.

As per provision of Callmate’s Standard Contract of Service, “*Incase of increase in tariff, CTTL shall give thirty (30) days prior notice to the customers*”

7. The Authority's Decision:

- 7.1 Based on the foregoing analysis of the issue in light of the relevant statutory provisions and terms and conditions of the license and our aforementioned findings arrived at after hearing Callmate at length, it is hereby determined that Callmate has failed to comply with the provisions of the Act, the Fixed-line Tariff Regulations, its License Conditions and its Standard Contract of Service and has been overcharging its customers.
- 7.2 Invoking our powers vested in us under section 23 of the Act, we hereby direct M/s Callmate to pay Rupees Five Million (Rs.5,000,000) as "Penalty". The penalty shall be submitted in PTA's account within 30 days of issuance of this determination.
- 7.3 This Determination shall be effective with immediate effect.

Dr. Muhammad Yaseen
Member (Technical)

S. Nasrul Karim A. Ghaznavi
Member (Finance)

Maj Gen. (R) Shahzada Alam Malik
Chairman

Signed on this ____ day of _____, 2007 and comprised 10 pages.