



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 in the matter of M/s. Dancom Pakistan (Pvt.) Limited

File No. 15-26/CPPS-232/Fin/PTA

Date of Issuance of Show Cause Notice: 6th June, 2007
Reply of Show Cause Notice: 11th June, 2007
Date of Hearing: 27th June, 2007
Venue of Hearing: PTA HQs, Islamabad

The Authority present:

S. Nasrul Karim Ghaznavi: Member (Finance)
Dr. Muhammad Yaseen: Member (Technical)

The Issues:

- “(i) Non payment of PTA dues on account of Annual License Fee for the year ended 31st December 2005. and
(ii) Non submission of Annual Audit Accounts for the year ended 31st December 2006.

DECISION OF THE AUTHORITY

BRIEF FACTS:

1. M/s. Dancom Pakistan (Pvt.) Limited (the “licensee”) is a private limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of Voice Class Value Added Services License and Long Distance and International services in Pakistan pursuant to the non-exclusive licenses No. DIR (L)/CVAS-94/PTA/2006 dated 8th June 2006 (expired on 7th July, 2007), and license number LDI-05 (01)-2004 dated 3rd April, 2004, respectively, issued by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Telecommunication system and provide services, on the terms & conditions contained in the license.

2. The licensee defaulted in payment of the Authority’s dues on account of annual license fee for the years ended 31st December 2005, amounting to Rs.5,841,812 /-and also failed in providing its annual audited accounts for the year ended on 31st December 2006. In this regard the Authority made various requests to the licensee but in vain. Hence, the Authority issued

Show Cause Notice dated 6th June, 2006 (the "Notice") under section 23 of the Act. The licensee replied to the Notice vide letter dated 11th June, 2007. In the reply the licensee took the stance that the issue of outstanding annual license fee of Rs.5,841,812/- uptill 31st December, 2005 is still unresolved between the Authority and the licensee for which meeting was scheduled on 26th May, 2006 which was postponed due to the busy schedule of the then DG(Finance) and the licensee had requested for new meeting on 4th June, 2006 which is pending. In addition, it stated that as per its calculations it had already paid annual license fee up to the year 2005. Regarding submission of annual audited accounts for the year 2006, it stated that these were under audit and they just received the draft accounts and forwarded the same to the board for signature. However, the licensee provided copy of its draft accounts and requested to drop the proceedings and allow the licensee to resolve the outstanding matters with the Finance Division of the Authority.

3. Therefore, before passing an enforcement order a Hearing Notice dated 19th June 2007 was issued and served on the licensee requiring the licensee to attend the hearing dated 27th June, 2007. The licensee attended the hearing on 27th June, 2007 through Mr. Muhammad Luqman Kamil, (CEO) and Mr Asif Raza (CFO) and stated that there are two issues for which the licensee has not yet paid Annual License Fee. Firstly, the issue of sales tax refund and secondly the issue of franchise receipts. Regarding issue number one the licensee's representative stated that their case relating to sale tax refund has been reopened and is still under review before the concerned authorities and if it is decided in their favour then they will be in a better position to make all the payments. Regarding the second issue the company's representative stated it must not be included in our income for the purpose of calculating the Annual License Fee.

4. The Finance Division of the Authority, in rebuttal, assisted the Authority by stating that the issue of sales tax refund is a *sub-judice* matter and has got nothing to do with payment of Annual License Fee, hence these two separate issues must not be inter linked. Furthermore, the benefit that the company forsee in future if they win the case, can be claimed by them at any point of time after the final disposal of the pending matter. Secondly to the extent of franchise receipts the department was of the view that non-refundable security is always treated as income for the purpose of calculating the Annual License Fee.

5. During the hearing the Authority directed the licensee to reconcile their accounts with Finance Division of the Authority and also to send written proposal for payment of payable dues. In this context the licensee submitted the detail of payable dues vide its letter dated 3rd July 2007 with request to grant permission for making payment in three equal installments within a period of six months.

6. In this regard Finance Division also arranged a meeting with the licensee on 30th July, 2007 to settle the issue of calculation of annual license fee. During the meeting it was agreed that the licensee shall pay the outstanding amount of Rs.5,453,410/- in four equal monthly installments with first installment to be paid upfront on 1st August, 2007 and for the remaining payable amount of Rs.4,090,056/-, three post-dated cheques dated 1st September, 2007, 1st October, 2007 and 1st November, 2007 shall be submitted on 1st August, 2007. The licensee deposited the first installment in the amount of Rs.1,363,354/- vide DD No.0683399 dated 3rd August, 2007 and regarding the post dated cheques it undertook to provide the same after

necessary approval from their Malaysian Principal office vide its letter dated 2nd August, 2007. However, Finance Division vide its letter dated 7th August, 2007 requested the licensee to provide the said cheques by 10th August, 2007, but the licensee failed to provide the same by the deadline.

7. ORDER

7.1. Keeping in view the above mentioned facts in light of the available record and recommendations of Finance Department, the Authority hereby decides to proceed against the licensee by passing the following enforcement order:

(a). The licensee, i.e., M/s. Dancom Pakistan (Pvt) Ltd, is hereby directed to pay the balance outstanding dues Rs.4,090,056/- (ALF upto 31st December, 2006) as per the mode and schedule agreed between the licensee and Finance Division of the Authority during meeting dated 30th July, 2007 and communicated to the licensee vide letter dated 31st July, 2007 and 7th August, 2007, respectively (i.e., in three monthly installments each of Rs.1,363,352/- by 1st September, 2007, 1st October, 2007 and 1st November, 2007) and directed to provide annual audited accounts for the year 2006 by 30th September, 2007.

(b). However, in case of failure of the licensee to deposit PTA dues and to provide annual audited accounts as provided in Para 7.1 (a) above, the total outstanding amount on the date of violation shall be recovered in lump sum and recovery proceedings under section 30 of the Act shall be initiated by the Authority against the company for recovery of dues as arrears of land revenue.

(S. Nasrul Karim Ghaznavi)
Member (Finance)

(Dr. Muhammad Yaseen)
Member (Technical)

Signed on 29th August, 2007 and comprises 03 pages.