



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
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Re:
M/s. Call 2 Phone (Pvt.) LIMITED

Enforcement Order under Section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 read with sub-rule (4) of Rule 9 of the Telecom Rules, 2000

File No.PTA/Wireline Licensing/Call 2 Phone (Pvt.) Ltd/515/2006

Date of Issuance of Show-cause Notice:	3 rd March, 2009
Date of Hearing:	16 th July, 2009
Venue of Hearing:	PTA HQs, Islamabad

The Authority Present:

Dr. Mohammed Yaseen:	Chairman
S. Nasrul Karim A. Ghaznavi:	Member (Finance)
Dr. Khawar Siddique Khokhar:	Member (Technical)

The Issue:

“Failure to complete Fixed Local Loop roll-out obligation under the license”

Decision of the Authority

1. Brief Facts:

1.1 M/s. Call 2 Phone (Pvt.) Limited (the “licencee”) was awarded non-exclusive Fixed Local Loop (FLL) Licence No.LL-18-2004 dated 19th July, 2004 (the “licence”) by the Pakistan Telecommunication Authority (the “Authority”) to provide the licenced services in the Licenced Region of **LTR, RTR and GTR** and to establish, maintain and operate a Telecommunication System on the terms and conditions contained in the licence. As a licencee of the Authority, M/s. Call 2 Phone (Pvt.) Limited was required to comply with the provisions of prevailing regulatory laws comprising the Pakistan Telecommunication Authority (Re-organization) Act, 1996 (the “Act”), the Pakistan Telecommunication Rules, 2000 (the “Rules”), the Pakistan Telecom Authority (Functions & Powers) Regulations, 2006 (the “Regulations”) and the terms and conditions of the licence.

1.2 Under clause 3.2.1 read with clause 1.1.2 of the licence conditions, the licencee was obliged to establish at least one Network Connection Point in each Licenced Region and commence the provision of Mandatory Services, within eighteen (18) months from the effective

date, i.e. the date of issuance of the licence. In addition, clause 5.4 of Appendix–B of the Rules also provides that the licence shall terminate on the first anniversary of the effective date if the licensee has not before that date commercially provided licensed services or commercially operated the licensed system. However, the Authority, keeping in view the difficulties being faced by the Local Loop licensees, extended the operation of the aforesaid clauses of roll-out twice, *firstly*, vide its letter No.PTA/Wireline Licensing/Misc/618/2006 dated 24th July, 2006 for a period of twelve (12) months, i.e. from eighteen (18) months to thirty (30) months from the date of issuance of licence and *secondly*, vide No.PTA/Wireline/Licensing/Status of LL industry/758/2007 dated 23rd May, 2007 for a further period of twelve months, which expired on 19th January, 2008. The licensee completed roll-out obligation in LTR Region but failed to complete roll-out obligations in GTR and RTR regions despite the extended periods.

1.3 Failure to roll-out in the licensed regions of GTR and RTR in compliance with the aforesaid license conditions and directions of the Authority resulted into issuance of the Show-cause notice (the “notice”) dated 3rd March, 2009 under section 23 of the Act, which the licensee replied vide its letter dated 31st March, 2009. The reply is reproduced in verbatim as under:

***Reply to
Show Cause Notice under Section 23 of the Pakistan Telecommunication (Re-
organization) Act (the “Act”)***

“The respondent is a private limited company registered under the companies act 1984 and holder of local loop operator license # LL-18-2004 dated 19th July, 2004. Respectfully Submits as under:

The Company established its Office in the GTR region and installed its exchanges at Gujraiwalla and Gujrat and the company is regularly paying rent, for the premises for the past two years. In addition the company is bearing the wage expense of twelve member team of technical and other staff apart from overhead expenses. The company has invested a huge amount of money and willing to invest more in this project unfortunately the company is suffering from unwarranted loss for the sole reason of non availability of DUIs on time in spite of the fact the company's exchanges are located at a stone's throw distance from the PTCL exchanges in both the said cities. The issue was raised in the All LD1 and LLO meeting held in May 2005. Emails regarding the issue were also sent to the Mr. Gul Ahmad and the general manager interconnect of PTCL legal affairs Mr. Rasool Khan informing them the reasons of delay in completing the roll-out in the RTR and GTR region. In the nut shell, the company was allowed re-inspection on 26th March, 2009 by PTA staff all parameters were met to the entire satisfaction of PTA staff and the company is waiting for the commencement letter from PTA to start its commercial operation. It will not be out of place to mention here that the El at Gujrat was cut by someone in side the PTCL exchange premises on the day of inspection which was witnessed by Mr. Kashif Ali Qureshi and Mr. Shafique of PTA Lahore personally. They also noticed El being punched out from DIU rack at PTCL Gujrat exchange. The company has now requested for the re-inspection date as everything has been put in order now.

The company established its office in RTR region and installed its telephone exchange at Jehlum and Gujar Khan has requested for re-inspection by PTA staff as the EI was not patched by PTCL previously. The company is ready to start its operation after issuance of commencement letter from PTA. The company has met, on its part all roll out obligations in RTR region.

The company started its operation in the LTR region soon after acquiring the license and is fully functional in Lahore and is serving in the most commercially populated areas thus earning revenue for Government authorities as well as for itself.

Keeping in view the proliferation of the telecom industry under perfect competitive conditions and the difficulties being faced by the local loop operators due to political turmoil in the country. It is earnestly requested that show cause notice may graciously be withdrawn enabling the company to start its operation on commercial basis as soon as it receives letter of commencement from PTA in both the RTR and GTR regions respectively.

If any further explanation is required the company is always pleased to provide it.

Looking forward to a favorable action from your side we remain.”

1.4 Since the aforementioned reply necessitated further clarifications and the opportunity of personal hearing to the licensee, therefore, the licensee was required through a hearing notice dated 2nd July, 2009 to appear before the Authority on 16th July, 2009 for hearing in the matter and also to submit its arguments in advance. The licensee vide its letter dated 11th July, 2009 submitted its points of arguments on: (i) factors causing delay in allocation of EIs and provision of media from PTCL, (ii) production of relevant record of correspondence since 2006 which was not entertained by PTCL, (iii) Installation of exchanges at Jhelum and Gujar Khan (RTR region), (iv) Procurement of Numbering series, NSPC codes EIs also payment of charges thereof, (v) Details of difficulties faced by local loop operator in general and with PTCL staff in particular, (vi) Roll-out obligation progress including any other point with the permission of PTA

1.5 Dr. Muhammad Kamran ul Haq (CEO), appeared on behalf of the licensee and reiterated the same position which the licensee had taken in its reply to the notice and points of arguments and further informed that it has already completed roll-out obligation in GTR region for which commencement certificate was issued. Regarding RTR region it informed that it has already established the POP/exchange and entered into interconnect agreement with PTCL, however, inspection is awaited.

1.6 The licensee was asked vide PTA letter dated 21st July, 2009 to intimate by which date it wants PTA to carry out inspection of its POP established in RTR region for issuance of commencement certificate. The licensee on the same date responded vide its letter No.PTA/ISB/2009/18 and stated that National Signaling Point Code No.5606 and numbering series 878-0000 to 878-4999 has already been awarded for its recently installed exchange at Gujjar Khan (RTR region), which is ready for inspection by PTA and requested to inspect the said exchange located at 1st Floor Chaudhry Plaza near PTCL exchange G.T Road Gujjar Khan

on 30 and 31st July, 2009. Zonal Office Rawalpindi vide email dated 27th July, 2009 informed the schedule of inspection, but the licensee requested to delay it for one week on the ground that heavy rains in Gujjar Khan has affected the normal functioning of its newly installed exchange. The licensee was again contacted on 11th August, 2009 but it informed that it will be ready for inspection after two weeks, hence, due to frequent requests of delay from the licensee for one reason or the other no inspection of the said exchange/POP could be carried out, therefore, no commencement certificate has yet been issued for RTR region.

2. Order of the Authority:

2.1 The Authority, while keeping in view the foregoing facts disposes of the aforesaid notice in the following terms:

(a). Under sub-rule 4 of rule 9 of the Telecom Rules, 2000, the licensee is directed to remedy the contravention by completing roll out obligation and establishing its network as per clause 3.2.1 of the license and to start providing mandatory services in RTR region **within twenty five days** of the issuance of this “Enforcement Order” and submit compliance report within the aforesaid period of twenty-five days;

(b). In case of the licensee’s failure to comply with Para 2.1 (a), above, “Final Enforcement Order” under sub-rule 5 of Rule 9 of the Telecom Rules, 2000 shall be issued against the licensee.

(S. Nasrul Karim A. Ghaznavi)
Member (Finance)

(Dr. Khawar Siddique Khokhar)
Member (Technical)

(Dr. Mohammed Yaseen)
Chairman

Signed on 6th October, 2009 and comprises 04 pages.