



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
<http://www.pta.gov.pk>

Re:

Pakistan Mobile Communications Limited (*Mobilink*)

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

Date of Issuance of Show-cause Notice: 25th November, 2008
Date of Hearing: 19th June, 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:

“The Licensee’s Obligations Regarding Mobile Subscribers’ Documentation and Antecedents Verification”

Decision of the Authority

1. Brief Facts:

- 1.1. M/s Pakistan Mobile Communications Limited (Mobilink) (the “licensee”) which is maintaining telecommunication systems and providing telecommunication services in the country under licence No.MCT-05/WLL&M/PTA/2007 dated 7th July, 2007 (the “licence”) issued to it by Pakistan Telecommunication Authority (the “Authority”) was, on 25th November, 2008 issued a show cause notice (the “notice”) under section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”) for contravening the terms and conditions of the licence.
- 1.2. Powers of the Authority to issue Show Cause Notice: Under section 23 of the Act, whenever provisions of the Act, the rules framed thereunder or the terms and conditions of licence are contravened by a licensee, the Authority may proceed against it with the issuance of a show cause notice. For ready reference, the said section is reproduce as under;

Section 23 of the Act:

- 1) *Where a licensee contravenes any provision of this Act or the rules made thereunder or any term or condition of the licence, the Authority[or any of its officers*

not below the rank of director] may by a written notice require the licensee to show cause within thirty days as to why an enforcement order may not be issued.

(2) The notice referred to in sub-section (1) shall specify the nature of the contravention and the steps to be taken by the licensee to remedy the contravention.

(3) Where a licensee fails to—

(a) respond to the notice referred to in sub-section (1); or

(b) satisfy the Authority about the alleged contravention; or

(a) remedy the contravention within the time allowed by the Authority, [or any of its officers not below the rank of director], the Authority[or any of its officers not below the rank of director], may, by an order in writing and giving reasons—

(i) levy fine which may extend to three hundred and fifty million rupees; or

(ii) suspend or terminate the licence, impose additional conditions or appoint an Administrator to manage the affairs of the licensee, but only if the contravention is grave or persistent.

(4) Without prejudice to the provisions of sub-section (1) and sub-section (3), the Authority [or any of its officers not below the rank of director] may, by an order in writing, suspend or terminate a licence or appoint an Administrator, if the licensee—

(a) becomes insolvent or a receiver is appointed in respect of a substantial part of the assets;

(b) being an individual, become insane or dies.

Explanation—For the purpose of this section, the Administrator shall be appointed from amongst the persons having professional knowledge and experience of telecommunication.

1.3. Clauses of the licence contravened: As is clear from the above, contravention of the provisions of the Act, the rules or the terms and conditions of the licence may lead to issuance of a show cause notice by the Authority. In the instant case, it was contravention of clause 3.1.2 and 3.1.3 of the licence by the licensee which constrained the Authority to invoke the provisions of section 23 of the Act. The said two clauses of the terms and conditions of the licence are reproduced below;

Clause 3.1.2

The Licensee shall establish, maintain and operate its Licensed System, and shall provide the Licensed Services, in compliance with the laws of Pakistan.

Clause 3.1.3

The Licensee shall at all times co-operate with the Authority and its authorized representatives in the exercise of the function assigned to the Authority under the Act. The Licensee shall comply with all orders, determinations, directives and decisions of the Authority.

- 1.4. The Contravention in brief: As given above, the licensee is obliged to abide by each and every decision/order/determination/directive of the Authority under clause 3.1.3 of the licence. However, the licensee was found to have persistently ignored the Authority's instructions/orders/directives issued to it on the subject of cleaning of old data and issuance of new connections (SIMs). The facts which constituted the contravention on the part of the licensee were communicated to the licensee in the notice in the following sequence;
- i. Vide determination No.DG(LE)/9(2-24)/Coord/PTA/02V-III dated September 17, 2004 "Verification Procedure for Mobile Subscribers' Antecedents" the licensee was directed and required to issue new connections on the strength of CNICs only and to ensure that the SIM gets activated only after proper verification of the requisite documents and form B alongwith CNIC of one of the parents was made mandatory for issuing connection/SIM to children under 18 years of age;
 - ii. On the reservations shown by the licensee and all other mobile operators, the aforementioned determination was withdrawn vide determination No.DG (LE)/9(2-24)/Coord/PTA/02 Vol-III dated September 29, 2004 and with the consent of all the mobile operators/licensees including licensee the responsibility of authenticity/verification of mobile subscribers' antecedents was placed on the licensee in the case of the licensee's subscribers and on all other operators regarding their subscribers;
 - iii. Vide letter No.9(2-24)/Coord/PTA/02 Vol.III dated 28th June, 2005 an SOP on verification of Mobile/WLL/Fixed line subscribers' antecedents was issued for strict and immediate compliance w.e.f. 1st March, 2005 requiring the licensee to issue new connections/SIMs on the strength of CNICs, NICs, Form-B in case of the applicant below the age of 18 years alongwith CNIC/NIC of one of the parents and in case of foreigners, on the copy of the passport;
 - iv. Vide the aforementioned SOP it was further laid down to verify subscribers data through NADRA within ten days of the sale/issuance of the new number to the subscriber and in case of erroneous data entry, to approach the customer for provision of correct data within 15 days and to verify it from NADRA and on non-compliance by the customer, to bar the outgoing facility in the first instance and after expiry of 30 days to close the connection permanently;
 - v. No action was taken by the licensee on the aforementioned SOP, constraining the Authority to communicate its concern through the letter of its Chairman No.9(2-24)/2007/Enf/PTA dated 26th March, 2007. Vide the said letter the licensee was informed that the licensee's continuous violations of the SOP/directives has given enough reasons to believe that the Authority/PTA has been taken for granted and the licensee was required to submit a detailed report alongwith the strategy evolved to address the issue of verification procedure by 15th April, 2007;

- vi. Since there was no compliance of the Authority's directives on the issue, vide letter No.9(2-24)/2007/Enf/PTA dated 1st June, 2007 Chairman of the Authority again communicated to the licensee the Authority's concern over the issue of verification of antecedents of mobile subscribers and in view of the importance of the matter, the Chairman vide the said letter, sought personal indulgence of the licensee's CEO, in the matter and the CEO was requested to ensure implementation of the decision taken in the meeting of 25th May, 2007;
- vii. The licensee was directed in various meetings and through letters/directives (e.g. May 31, 2007, July 10, 2007, August 24, 2007, August 30, 2007, September 14, 2007, October 3, 2007 and October 9, 2007) to streamline the procedure for sale of new connections down to franchisees and outlets/retailers and clean the old data by end of July, 2007, prior to surprise visits/inspections by PTA;
- viii. The deadline given by the Authority for carrying out surprise checks/inspections was also relaxed on the licensee's request from 1st July and 1st August, 2007 to 1st September, 2007;
- ix. Looking at the continuous default in implementation of the Authority's directions regarding verification of the subscribers' antecedents by the licensee, the Authority had to warn and inform the licensee's franchisees on 24th June, 2007 through advertisements/notices appeared in the national press to stop issuing cellular connection on fake identity but all in vain;
- x. Looking into the gravity of the issue of the subscribers' either no or fake data with the licensee and the law and order situation it has resulted into and the threat it has posed to the nation at large, the august Supreme Court of Pakistan in HRC No.2843/2007 took *suo moto* notice;
- xi. The sub-committee of the Senate Standing Committee on Interior also took serious notice of the non-availability of mobile users' antecedents with the relevant operators and the procedure of issuing SIMs without verification;
- xii. Proceeding further in the matter, the august Supreme Court of Pakistan vide its order dated 9 August, 2007 also directed the cellular mobile companies including you to cooperate with PTA and adhere to the instructions it has issued in this regard in letter and spirit;
- xiii. Orders/directions/instructions of the Supreme Court of Pakistan are followed/obeyed/implemented as laws of the land;
- xiv. Even orders of the Supreme Court of Pakistan could not make the licensee to obey and follow the Authority's directions on the subject and thus contravened clause 3.1.2 of the license;
- xv. Policy Directive was issued by MoIT & Telecom regarding "Mobile Subscribers' Documentation and Antecedents Verification" vide letter No. 4-I/2005-M (T) dated January 24, 2008. Accordingly, PTA issued Standing Operating Procedure on the same vide letter number 9(2-24)/2008/Enf/PTA dated

February 22, 2008 whereby the licensee was directed to clean the old data and issue new connections after due verification through NADRA database.

- 1.5. Result of the Surveys: Two nationwide surveys were conducted by the Authority in September and November 2008. It revealed during the said surveys that the licensee's new connections/SIMs are still available in the market for sale without filling Customer Agreement Form (CSAF) from the customer, without CNICs or on any CNIC copy without "verification of subscribers' antecedents" in sheer disregard to the Authority's directives.

The following results of some of the surveys conducted showing the licensee's violation of the Authority's directives were communicated to the licensee in the notice under:

First Joint Survey 8 – 21 September, 2008

Zone	Outlets Checked		With Verification		Without Verification	
	F	R	F	R	F	R
Karachi	12	48	12	8	-	40
Lahore	3	75	3	43	-	32
Peshawar	10	43	10	22		21
Quetta	8	25	1	-	7	25
Rwp/Ibd	-	53	-	27	-	26
Muzaffarabad	4	29	4	10	-	19

Franchisees 7/37 = 18.91%, Retailers 163/273 = 59.70 %

Second Joint Survey 10-16 November, 2008

Zone	Outlets Checked		With Verification		Without Verification	
	F	R	F	R	F	R
Karachi	4	20	4	6	-	14
Lahore	5	40	2	5	3	35
Peshawar	4	20	4	4	-	16
Quetta	5	20	5	-	-	20
Rwp/Ibd	3	20	2	6	1	14
Muzaffarabad	1	5	1	2	-	3

Franchisees 4/22 = 18.18%, Retailers 102/125 = 81.6%

- 1.6. Conveying of the Authority's concern: A numbers of meetings were held with the licensee wherein the licensee were conveyed the concerns of the Authority on non compliance of SOP. Chairman PTA called a meeting of the CEOs on October 7, 2008 and of regulatory heads of the companies on October 20, 2008 where results of first joint survey conducted in September 2008 were communicated with the directions to streamline the procedures. The mobile operators including the licensee were told that

next joint survey would be conducted shortly and necessary legal action would be initiated if any mobile licensee is found in violation of the directions in this regard.

- 1.7. The licensee was required to explain its position: While acting under the delegated powers of the Authority, DG(L&R), PTA, vide the notice required the licensee to remedy the aforementioned contravention by immediately complying with the Authority's SOP/directives/instructions mentioned above and submit compliance report within ten days of the issuance of the notice and to show cause in writing within thirty (30) days of the issuance of the notice and explain as to why an enforcement order under sub-section (3) of section 23 of the Act may not be issued against it for disregarding and not complying with the Authority's aforementioned directives/instructions/orders and the persistence it has shown so far in gravely contravening the terms and condition of the licence.
- 1.8. Licensee's response to the notice: The licensee's response to the notice dated 24th December, 2008 is reproduced in *verbatim* as under:

It is respectfully submitted as under:

A. PRELIMINARY OBSERVATION

The Licensee is in receipt of the aforesaid Show Cause Notice - through which the honorable Pakistan Telecommunication Authority ("Authority") has sought the Licensee's reply inter alia with respect to alleged violations of the terms and conditions of the license "by continuously violating laws of the land and the Authority's directions/orders/instructions on the subject of verification of mobile subscriber antecedents". The Licensee is deeply pained to receive the Show Cause Notice, especially in light of the wholehearted and ongoing cooperation and painstaking efforts by the Licensee in carrying out the Authority's guidelines issued from time to time in the form of Standard Operating Procedures (SOPs) relating to verification of mobile subscriber antecedents. The Licensee also reiterates that it has at all times adhered to and acted in accordance with the letter and spirit of the guidelines on verification of mobile subscriber antecedents issued by the Authority from time to time. The Licensee reaffirms to the Authority its commitment to ensure that SOPs issued by the Authority are followed by it in letter and spirit keeping in mind the sensitive nature of the matter and seeks the indulgence of the Authority to withdraw the Show Cause Notice (particularly in light of the practical issues involved in enforcement of the same with third parties which include a host of retailers numbering approximately 60,000).

B. LEGAL OBSERVATIONS

1. *The Cellular Mobile Operators have recently been instructed by the Authority that with effect from 31 January 2009, no SIM card shall be activated to enable telecommunication services unless the antecedents of the subscriber have been verified through NADRA. This instruction was issued on the basis of the Authority's own conclusion that, despite significant improvement in the process of verification of antecedents, unless sale of pre-active SIMs is stopped, full implementation of the Authority's Standing Operating Procedures that are currently applicable will not be possible. This conclusion was expressed by the Chairman of the Authority in meeting dated 8 October 2008 and on 21 October 2008 the Authority decided to implement a system for*

activation of new mobile SIM after verification of antecedents to be implemented from 31 January 2009 in accordance with modalities being finalized by the Authority. The Show Cause Notice, issued at a time when the system of issuance of SIM cards and their activation is in a state of flux, is premature and (it is humbly requested) may kindly be withdrawn/discharged as the Authority has itself acknowledged difficulties in the existing system and decided to modify the requirements in relation to verification of subscriber antecedents. Also, it is expected that with the revised system in effect from 31 January 2009, the problem will stand resolved.

2. *It is submitted that the Show Cause Notice may kindly be discharged/withdrawn, as otherwise this would amount to punishing the Licensee for no fault of its own and despite the Licensee's best efforts to ensure that the franchisees and retailers are in full compliance with the orders of the honorable Authority (as detailed below). It is further submitted that this submission is consistent with the provisions of the Policy Directive issued by the Federal Government on 24 January 2008 which only envisage any contraventions by franchisees and retailers of the SOPs issued pursuant to the Policy Directive to be punishable by action against such franchisees and retailers, and does not envisage action against the Licensee (or other Cellular Mobile Operators) of the nature set out in the Show Cause Notice. The Authority is therefore humbly requested to reconsider the issuance of the Show Cause Notice and to withdraw the same in light of the foregoing.*
3. *It is respectfully submitted that the guidelines and Standing Operating Procedures (that the Authority has relied upon in issuing the Show Cause Notice) may not be used as a basis for action against the Licensee in accordance with the provisions of the Telecommunications (Re-organisation) Act, 1996 ("Act").*
4. *It is also respectfully submitted that a considered appreciation of the various steps and actions taken by the cellular operators, including the Licensee, (as mentioned in greater detail below) in ensuring that correct customer antecedents are recorded, would recommend that the Show Cause Notice be kindly discharged/withdrawn.*

C. BACKGROUND AND DETAILED REPLY

Licensee's investment in telecommunication system in Pakistan

1. *It would be appreciated that in discharge of the trust reposed in the Licensee by the Government of Pakistan and the Authority, the Licensee has invested upwards of US \$ 2.5 billion in the setting up of a most modern, state of the art GSM cellular mobile telecommunication system in the country. The Licensee's and its sponsor's (Orascom Telecom Holding SAE's) commitment to the growth and development of the telecommunication industry in Pakistan cannot thus be doubted. Moreover, this commitment has to be seen in light of the circumstances that have prevailed in Pakistan over the last few years. It would be appreciated that in recent years the regional geo-political scenario has been such that it has not been possible to attract foreign investment with ease. Nevertheless, the Licensee and its parent company Orascom have been*

and continue to be firmly committed to Pakistan and it would be fair to say that the Licensee represents one of the highest foreign private investments in the country. In the fiscal year 2007-2008 alone PMCL has invested upwards of US \$ 919 million. In fact, inspired, encouraged and spurred on by the Licensee's commitment and growth, other telecommunication operators have followed suit and made Pakistan's cellular telecommunication sector one of the fastest growing and competitive telecommunications sectors in the region leading to significant benefits for consumers and for Pakistan's economy.

Growth of the cellular sector in Pakistan and its contribution to the economy and lives of Pakistanis

2. *It is important also to emphasize that (as at October 2008) cellular operators in Pakistan have a total subscriber base of 90.53 million, in which the Licensee's subscriber base consists of 30.9 million subscribers. This translates into a cellular mobile tele-density in Pakistan of 56.2% - in other words, out of every 100 Pakistanis more than 56 are cellular mobile subscribers. It may be remembered that Pakistan's teledensity in 2000 was only 0.22 %, and the total cellular subscribers were 306,493! Accordingly, in less than eight years the growth has been 303 times! Mobilink's own subscriber base has increased from 114,272 in 2000 to 30.9 million by October 2008!*
3. *As a result of this phenomenal growth the cellular industry's contribution to the national exchequer in the form of taxes was in excess of Rs. 79 billion in the fiscal year 2007-2008 (almost 7.7% of the total budgeted governmental revenue collection of Rs 1.025 billion for that year) and the Licensee's own contribution to this governmental revenue generation and collection was Rs. 28.5 billion! Pakistan's cellular sector growth has been exemplary and the Pakistan telecommunication sector has emerged as a role model for other emerging markets. Growth of cellular mobile sector in Pakistan has placed Pakistan among emerging East Asian economies like Malaysia and Singapore and cellular mobile penetration of Pakistan surpassed all South Asian counterparts. Pakistan's cellular mobile penetration in 2007-2008 (54.7%) was 34.4 percentage points higher than India and 31 percentage points higher than Bangladesh.*
4. *This tremendous growth could not be achieved without the guidance of the telecommunication sector by the Authority. The favourable impact of this growth and the widespread penetration of the mobile sector has, according to a study conducted by the Authority itself, had a significant socio-economic impact with a positive impact on quality of life, improvement of business and related activities, saving of time on intercity trips and local visits and ultimately on savings of money, increase in sales and of incomes. The impact of mobile phones, according to the study, led to a 35% increase in the sales of individual businessmen included in the survey. Cellular mobile use has also increased access to medical, financial and other services. Cellular mobile has improved family cohesion. At the time of the study in March 2007 it was estimated that over 350,000 employees were engaged in the telecommunication sector at various levels of the value chain including telecom companies, vendors, tower businesses and cell phone shops. Over*

50,000 direct and indirect employment opportunities were projected to be created in the year following the study (i.e. 2007-2008). In addition to the substantial capital investment of telecommunications operators in cellular infrastructure and installation of switching centers and cell sites (which sites number about 21,508 by the end of 2007-2008 (of which the Licensee had installed about 7300)) providing access to cellular mobile service to over 91% of the country, the vast expansion in cellular subscribers has also taken place through distribution networks created by cellular operators, including the Licensee. The cellular distribution network (by the end of 2007-2008) consisted of 1679 franchisees and their numerous respective registered retailers.

5. *In light of the above it would not be an exaggeration to state that the spread of cellular mobile technology in Pakistan has significantly and positively impacted the way of life of Pakistanis.*

Role of the franchisees/retailers, and guidelines issued by the Authority in this behalf from time to time

6. *The franchisees and retailers appointed by cellular operators have naturally played a critical part in the aforesaid growth – as no cellular operator had the resources to reach the customers at virtually their doorstep.*

Also, due to the fact that mobile cellular telephony is becoming so much a part of the way of life of people in most developed countries, and rapidly so in developing countries (including Pakistan), prepaid mobile connections have attained the status of a basic utility item like soap or toothpaste and are provided in a similar manner over the counter in a number of developed countries such as the United States and the United Kingdom (where incidentally a customer just has to go to a retailer selling connections and can pick one up without the need for documentation - these can be obtained inter alia from, supermarkets, departmental stores, shopping malls, kiosks in market places as well as from airports). Currently there is no documentation required in places like the United States and the United Kingdom where a customer can just walk into a shop selling connections and acquire one without submitting any identification documentation.

However, from time to time and more recently as a result of the Policy Directive of January 2008 issued by the Government of Pakistan (under Section 8 of the Telecommunications (Re-organisation) Act, 1996 (“Act”) – in terms of which the Government of Pakistan recognized that the retailers of the cellular operators do not put enough emphasis on subscriber data collection, the rigor with which identity document collection and checking is done by the retailers of the Cellular Mobile Operators at the sale point is highly variable, and the environment in which they take place can be adverse to data gathering and verification), the Authority has introduced guidelines (SOPs) for documentation requirements and verification of subscriber antecedents.

At all times, it is respectfully submitted, these guidelines in the form of Standing Operating Procedures (SOPs) have been followed and adhered to in letter and spirit by the Licensee. However, given the vast network of

retailers who are involved in issuance of mobile cellular connections, it has not always been possible to ensure that all such requirements are adhered to by the retailers and sometimes by franchisees, and this endeavour has engaged both the Authority and the licensee (as well as other cellular operators) in a quest for finding the most practical and balanced solution keeping in mind the requirements of growth in the market. In this respect the Licensee has expended substantial resources to train and incentivize franchisees and retailers (who are third parties) to ensure adherence to the Authority's documentation requirements, which have also accordingly evolved over time. At the same time when the Licensee has found breaches by such franchisees and retailers, it has taken strict action against them, including penalizing, suspending and even terminating franchisees and ensuring deregistering of erring retailers.

7. *The Authority has from time to time issued guidelines (SOPs) with respect to verification of subscriber antecedents. It may be noted that earlier on 17 September 2004 the Authority issued letter No. DG (LE)/9(2-24)/Coord/PTA/02 V-III ostensibly to resolve security concerns of the Federal Government under Section 54(1) and (2) of the Act, whereby new connections were to be issued only on the strength of CNICs, either directly through the licensees or through their authorized dealers/franchisees. The Licensees were required to ensure that the SIMs get activated only after proper verification of the requisite documents. It was also required that subscribers with old NICs were to replace those with new CNICs within six months. However, apart from legal issues (these were ostensibly issued under Section 54(1) and (2) whereas section 54(1) refers to authorization by the Federal Government to intercept calls and messages or tracing calls through telecommunication systems in the interest of national security; and Section 54(2) deals with the Federal Government having preference and priority in the telecommunications system over any licensee during a war or hostilities against Pakistan by any foreign power or internal aggression or for the defence or security of Pakistan, and that would be inapplicable) these were withdrawn and cancelled shortly thereafter as these would have totally stifled any growth of cellular telecommunications. This was realized since, inter alia, (a) a number of people did not have CNICs and (b) the restriction was for issuance of SIMs directly by the licensee or its franchisees which were few in number in relation to the demand for telecommunications services. Accordingly, vide letter No. DG (LE)/9(2-24)/Coord/PTA/02 Vol III dated 29 September 2004 the letter of 17 September 2004 was withdrawn/cancelled. Mobile companies were then allowed to issue new connections/SIMs on old as well as new CNICs.*
8. *However, the Authority then issued another set of guidelines/SOPs in January 2005 vide its letter No. 9(2-24)/Coord/PTA/02 Vol III dated 25 January 2005 whereby the eligibility of phone connections was to be based on one of either CNIC or NIC, for children under 18 years one of the foregoing documents of the parents, and for foreign nationals a copy of the passport. It was envisaged that subscriber data would be verified through NADRA database within 10 working days from the date of sales by respective operators for which a procedure was set out and NADRA was to verify and provide data to operators after verification from their data base. The Authority stipulated that*

NADRA was to charge Rs. 2 per verification. It was also mentioned that there was to be no restriction on having more than one phone connection. There was also no stipulation that sales were to be made only through franchisees/authorized dealers or directly by the licensee.

It may be noted that even before these SOPs, the Licensee had already entered into arrangement with NADRA and (at huge expense) was seeking verification of NICs and CNICs of its subscribers. The first Verification of Antecedents Agreement was executed between the Licensee and NADRA as far back as early 2004, seeking verification of antecedents of subscribers through the NADRA database.

9. *However, it may be noted that NADRA refused to accept the charges fixed by PTA and after much discussion a charge of Rs. 5 per verification was agreed by NADRA and a new set of guidelines (SOPs) were issued on 25 June 2005 vided letter No. 9(9-24)/Coord/PTA/ 02 Vol III and this new higher charge by NADRA was included therein.*

Steps taken by the Licensee

10. *Notwithstanding the Authority's position in the Show Cause Notice with respect to lack of action taken by the Licensee on the SOPs issued in June 2005 (which is denied), it is submitted that the Licensee adopted a number of measures to ensure implementation of these SOPs. Such actions, which even went beyond the call of the SOPs, were taken because the Licensee acknowledges the importance of proper documentation and verification, this being a requirement of national security. After analyzing the problem in detail, the Licensee adopted several measures to ensure implementation of PTA's SOPs (of June 2005) as well as enforcement of strict commercial discipline internally and externally. These measures included:*
 - * *JAZZ (Pre-Paid) Sales Automation Project (JSA). The Licensee launched the first of its kind, sales automation process in Pakistan (which is continuing). It was intended to ensure capture of genuine customer CNIC and enable customer verification directly at Point of Sale through electronic verification of customer CNIC. The process details are as follows:*
 - i. *All PMCL authorized franchisees and retailers are registered as JSA partners across the country. (Over 400 franchisees and 26,000 retailers were trained for the project by March 2007)*
 - ii. *Upon receiving original CNIC from customer for purchase of Mobilink connection, the MSISDN and CNIC number are sent to Mobilink IT servers through SMS*
 - iii. *The CNIC number is forwarded to NADRA for verification*
 - iv. *If verified, confirmation is sent by NADRA along with CNIC details like name, address, family code etc., to PMCL. This information is stored against each connection sold by Mobilink*
 - v. *Retailer/Franchisee is also required to complete CSAF as per CNIC provided by customer. Each CSAF is verified through dedicated vetting facility.*
 - vi. *Attractive commission amount is dedicated for JSA Project to be given to retailers*

PMCL also entered into modified agreement with NADRA to enable speedy verification of CNICs. Up-dation of customers' essential details through NADRA was to become more efficient. This was intended to ease tracking of the sale outlet to make the staff at retail outlets more responsible. At the same time incentives noted above (including a Rs. 10 commission to the retailer for each sale through the JSA) were introduced and paid to retailers. Additionally, through retailers conventions and incentive and prize schemes the retailers were motivated to ensure participation and the verification of subscriber antecedents. Details of one of a number of retailers' conventions attached as Annexure A.

- * Increase in Retailer Base. To overcome the issue of un-authorized selling outlets, Mobilink took the following measures
 - i. Retailer base was increased considerably (over 100,000 by April 2007) and Mobilink actively pursued the target of increasing the number of retailers under the project
 - ii. All retailers were offered sales commission using JSA project. The commission is direct compensation to retailers by Mobilink over and above commercial benefits secured through mapped franchises associations.
 - iii. Retailers were mapped with franchisees through various IT systems.

- * File Transfer Process. All franchisees were required to collect files containing customers' documentation from respective retailers within a week. These files were being picked from franchisees on weekly basis. This process was initiated across all locations nationwide to ensure speedy dispatch of customers' documents.

- * Cellular Service Agreement Form (CSAF) Vetting. Apart from verification through NADRA, Mobilink introduced an outsourced vetting facility through dedicated business partner in order to ensure quality documentation. Each CSAF was verified by the vetting agency, where CNIC data verified by NADRA was matched with details on CSAF as well as that sent through JSA. Incomplete CSAFs or those with incorrect details were marked as discrepant and sent back to Franchisee/Retailer for providing correct forms. Data from all vetted forms is converted into electronic database through dedicated data entry operators. Scanned images of forms and ID cards are stored, which are then available for concerned government agencies as well as our customer service staff.

- * Customers' education. Lack of customer awareness regarding the importance of correct documentation was one major cause of the problem. Mobilink took the following measures to correct this:-
 - i. Published ads in the leading newspapers highlighting importance of documentation and inviting customers for correction of their records.
 - ii. Extensively displayed "How to fill out CSAF" posters across all locations nationwide. These posters were displayed for general public information at public areas, markets, cellular markets and individual retail outlets.

- * Training of Franchisees. All franchisees were extensively trained and cautioned to follow PTA's SOP for correct customers' documentation.

Serious violations to the laid down procedures were dealt with strictly and penalties imposed creating deterrence. A sampling of some communications to the franchisees, including imposition of clawback of commissions is attached herewith as Annexures B-1 to B-3 herewith.

- * *Cleaning of Old Data.* *Mobilink adopted the following measures in this regard:-*
- i. Instituted a “Change of Ownership” policy, wherein franchisees and retail outlets have the facility to correct the customers’ record through Internal Services Relationship Management System (ISRM). This process facilitated efforts to correct the customer record.*
 - ii. Constituted a team dedicated to rectify the records found as incorrect. Customers were advised to have their record corrected at their nearest customer service center or sales outlet.*
- 11. On the Authority’s letter dated 26 March 2007 mentioned in the Show Cause Notice, the Licensee responded on 19 April 2007 by informing the Authority of the above actions taken by it (Copy of letter dated 19 April 2007 is attached herewith as Annexure C).*
- 12. Letter No. 9(2-24)/2007/Enf/PTA dated 1 June 2007 was issued by the Chairman of the Authority and it communicated to the Licensee the Authority’s concern over the issue of verification of antecedents of mobile subscribers and sought personal indulgence of the CEO of the Licensee in the matter and the CEO was requested to ensure implementation of the decision taken in the meeting of 25 May 2007. However, it is respectfully submitted that this was not on account of lack of compliance by the Licensee but on account of the practical difficulties being faced in ensuring that retailers and franchisees adhere to the requirements. In the Meeting held on 25 May 2007, the Authority prescribed a phase wise procedure for streamlining new connection sales by surprise checks/inspections by PTA teams (commencing on 1 July 2007, subsequently extended to 1 August 2007) in relation to violations by franchisees and retailers and for follow up actions by PTA against them. They also required marking of franchisee and retailer premises. With respect to cleaning up of old data the cellular mobile operators were advised to advertise and educate people to get their connections transferred to their names, and to use other means of informing their customers to get their connections transferred to their names, i.e. through SMS, electronic media etc. and to make all out efforts to get their data cleaned by a prescribed date, (initially 31 July 2007, extended subsequently to 31 August 2007), and to provide complete data of their customer base.*

The cellular mobile operators’ request that the Authority not carry out inspections and actions in relation to franchisees and retailers directly but leave such implementation to the operators was turned down in a meeting on 10 July 2007.

- 13. The Licensee, in addition to the actions noted above, took the following actions:*
With respect to new sales

- (i) *provided clear instructions to franchisees to ensure all new sales take place only after due registration process - sale of SIM to real customers only and no sales without CNIC/NIC*
- (ii) *provided clear instructions to franchisees to ensure filling in of essentials of Customer Service Application Forms (CSAFs)*
- (iii) *instructed franchisees not to issue SIMs to retailers without complete details*
- (iv) *Required daily collection of NIC/CNIC from retailers by sales team of franchisees*
- (v) *Required list of all activated numbers to be forwarded to all concerned on daily basis to collect Customer Service Agreement Forms (CSAFs) and CNICs*
- (vi) *Collected Customer Services Agreement Forms (CSAFs) required to be submitted by sales teams with offices of the company where initial verification is conducted*
- (vii) *Standard terms for granting franchise or distributorship include that the franchisee/retailer shall obtain the CNICs of the subscribers before issuing connection thereto*
- (viii) *Strict official warnings issued to all the franchisees. Trade letters were distributed amongst the franchisee and retailers highlighting PTA instructions requiring sale of new connections against CNIC*
- (ix) *Mystery shopping was conducted periodically to check if the process was being followed by franchisees. Stock was suspended from some franchisees found violating the SOP*
- (x) *Mapping of retail outlets in the CD tracking module and tagging each retail outlet with a particular franchisee*
- (xi) *Each retail outlet was recorded in an automated system called the CDTM. This system contains all the data pertaining to that outlet and also defines which franchisee is feeding products to the outlet.*
- (xii) *The Jazz Sales Automation (JSA) Project, mentioned above, the first of its kind in Pakistan was launched by Licensee for capturing genuine customer CNIC and to enable customer verification directly at point of sale through electronic verification of customer CNIC (details set out above)*
- (xiii) *Mobile numbers of accepted Customer Service Agreement Forms marked in a system and hard copies of Customer Service Agreement Form (CSAF) forwarded to File Scanning Company (NCR)*
- (xiv) *At the file scanning company all the CSAFs physically scanned and non-scanable CSAFs sorted out and returned to the respective sales coordinators*
- (xv) *Customer Service Agreement Forms rejected due to any of the following reasons:-*
 - i. *incomplete name of the subscriber/user on the Customer Service Agreement Form*
 - ii. *Incomplete Customer Service Agreement Form*
 - iii. *Over Writing/cutting on Customer Service Agreement Form*
 - iv. *ID Card # mismatching on Customer Service Agreement Forms and NIC*

- v. *ID Card # Mismatching on Customer Service Agreement Forms and NIC*
- vi. *Format Issue*
- vii. *CNIC copy is non-scanable*
- viii. *CNIC Front/rear mismatch*
- (xvi) *Mobile numbers along with CNIC of the accepted Customer Service Agreement Forms then forwarded to NADRA for final verification*
- (xvii) *A vetting facility set up with NCR in order to ensure quality of documentation. CNIC data verified by NADRA matched with details on CSAF as well as that sent through JSA. Incomplete CSAFs (those with incorrect details) marked as discrepant and sent back to franchisee/retailer for providing correct forms. Data from all vetted CSAFs converted into electronic database.*
- (xviii) *Pacing up the process of data entry. ELECTRONIC ARCHIVING through Intelligent Character Reading (ICR) introduced to improve maintenance of data and to speed up the NADRA verification process. Processed data is being uploaded into the system.*
- (xix) *Franchisees being trained on electronic archiving solution. Several workshops conducted in this regard*
- (xx) *Final list of accepted subscriber antecedents uploaded in the systems. All rejected Customer Service Agreement Forms sent back to the respective sales channels for getting the correct subscriber antecedents.*
- (xxi) *Other than the franchisee a sticker placed at the outlet selling SIM cards containing following information: Name, contact number of the Retail Sales Officer, name and contact number of Area Sales Manager and outlet ID*
- (xxii) *Strict orders given to franchisee to indicate their appointment on their display boards etc and strictly follow procedures for sale of new connections as per SOP issued by the PTA*
- (xxiii) *Shop signs installed at retail outlets, clearly identifying registered retailers*
- (xxiv) *Strict disciplinary actions including but not limited to sealing of franchise/outlets also been taken against some of the franchisees who have violated SOP issued by PTA*
- (xxv) *All sales made to retailers recorded on a daily basis in specially designed software. The software enables the salesmen to collect CSAFs from retailers*
- (xxvi) *New franchises given the same letter explaining PTA's SOP/regulations and importance of accurate documentation*

With respect to existing connections,

- (i) *A free of charge connection transfer promotion was launched by all the Cellular Mobile Companies. Advertisements (in the English and Urdu dailies) to encourage the customer/user to register SIMs in their own names duly published in various well reputed newspapers from the industry and posters were also put up in all the sales and Service Centers, franchise and retailers outlets; as a result thereof the data of hundreds of thousands of subscribers was put right*

- (ii) Bulk SMS messages, of the following kind, were generated and sent out by Licensee (as well as other cellular operators) to inform the users to get their antecedents corrected, free of charge.

“DEAR CUSTOMER, PLEASE MAKE SURE YOUR MOBILE NUMBER IS REGISTERED ON YOUR OWN NAME. YOU CAN CONFIRM YOUR CURRENT OWNERSHIP BY SENDING ‘NAME’ ON 300”

“GET YOUR MOBILE NUMBER TRANSFERRED IN YOUR OWN NAME AS PER PTA DIRECTIONS; CONTACT YOUR SALES & CUSTOMER SERVICE CENTRE OR FRANCHISE WITH COPY OF CNIC FOR FREE OF CHARGE TRANSFER OF OWNERSHIP”

- (iii) Through the 24/7 free helpline set up of the Licensee the customers/users can verify and check their data
- (iv) Direct calls by customer operations department informing the user to provide antecedents
- (v) Failure to get antecedents corrected resulted in outgoing call barring and finally leading to disconnection
- (vi) SIM blocking for all those customers whose connections are not on their own name after several reminders
- (vii) Verification of antecedents in batches through NADRA was continuing.
14. It is reiterated that the Licensee took strict and prompt measures to meet the requirements laid down by the Authority which include the above and the steps that evolved in the meetings held with the Authority by the Mobile Companies dated 25-5-2007, 15-8-2007, 12-9-2007, 26-9-2007 and 3-10-2007. It may be noted that the Authority itself conducted a survey in August 2007 and a second one in September 2007. It directed the licensee (and other mobile operators) to seal two of its major franchisees (of the total six franchises of cellular operators requested to be sealed by the Authority) who were found by the Authority to be in violation of the procedures. Strict action was directed by the Authority against the defaulting franchisees. However, it must also be noted that the Authority concluded after the second survey in September 2007 that there was **“a marked improvement in understanding of the procedure by the franchisees and the retailers and compliance with the directives of the Authority”** (PTA’s Press Release Dated 22 September 2007-Copy attached as Annexure D).

No violation of the honorable Supreme Court Order

15. It is also respectfully submitted that at no point in time any order of the Hon’ble Supreme Court of Pakistan has been disobeyed and there is no question of any contravention of any provision of the License on this score. In this respect it is submitted that the Supreme Court of Pakistan did take suo moto notice in relation to verification of subscriber antecedents. Initially the Supreme Court, in the absence of the cellular mobile operators, including the licensee, passed order dated 9 August 2007 referred to in the Show Cause Notice. The cellular mobile operators, including the Licensee, first appeared before the Hon’ble Supreme Court of Pakistan on 17 September 2007 in

accordance with the orders of the Hon'ble Supreme Court and explained their position. At no point in time was any order of the Hon'ble Supreme Court not adhered to by the Licensee. After the date of hearing, i.e. 17 September 2007, the Mobile Companies took further steps: (1) First, to ensure that the sale of new SIM Cards is not without verification of mobile subscribers' antecedents; (2) Second, the mobile companies doubled their efforts to clear the backlog of non-verified SIM cards already in the market prior to the titled petition.

The Cellular Mobile Operators thereafter presented their report (dated 31 October 2007) to the Supreme Court of Pakistan and explained their position. Copy of the report of the Cellular Mobile Operators (including the licensee) presented before the Supreme Court is attached herewith as Annexure D. The steps taken by the cellular mobile operators (including the licensee) to ensure registration of antecedents were set out for explanation.

The Cellular Mobile Operators (including the Licensee) also listed out the steps taken by them after the hearing at the Hon'ble Supreme Court dated 17 September 2007. It was clarified that the under-mentioned STEPS were a summary of the steps taken by all the SIX Cellular Mobile Companies, therefore, some steps might be exclusive to a particular mobile company (and not applicable to Licensee) and therefore STEPS vary from company to company.

- (i) Issuance of WARNING LETTERS to franchisees who were not strictly following the instructions, threatening them with a Contempt of Court proceedings in case of any lapse.*
- (ii) Pre-termination notices were issued to franchisees violating the instructions.*
- (iii) Refresher Notes were sent out to the franchisees re-announcing the new instructions on verification of the antecedents.*
- (iv) Franchise licenses were suspended in many cases.*
- (v) In some cases Penalty was imposed on franchisees*
- (vi) Notices issued by PTA were widely displayed in the franchise outlets.*
- (vii) Bulk SMS Broadcast made to all the subscribers soliciting verification of antecedents.*
- (viii) Terminated and sealed premises of the franchisees on the instructions of PTA.*
- (ix) De-sealed the premises on the instructions of PTA. Mobile Companies fully cooperating with PTA on this score.*
- (x) The mobile industry has collectively got a huge backlog of unverified SIMs verified since the last date of hearing. Whereas Mobilink has achieved 85% and Ufone 80% results in this regard.*

- (xi) *To improve awareness/education of the retailers and to emphasize the importance of collecting correct data TRADE LETTERS have also been sent to the retailers across the country.*
- (xii) *In addition to smaller regional workshops an intensive full day workshop/training has been completed where all franchisees were engaged and trained on this activity.*
- (xiii) *Joint Advertisements have been placed in the newspapers and the facility to get the antecedents corrected is available to the customers free of charge.*
- (xiv) *Electronic archiving process has started and is in operation with full swing.*
- (xv) *Deployment of authorized retailer signs has started*
- (xvi) *Projects on developing means to collect information electronically have been initiated.*
- (xvii) *A suggestion has been sent to PTA to allow SMS based customer registration, whereby customers could SMS their NIC numbers & their detailed antecedents would be fetched from NADRA's database. Thus making the whole process very convenient for customers & very efficient in terms of collection of customer antecedents. PTA is reviewing the suggestion.*
- (xviii) *Free of cost ownership offer being extended to customers inviting them to register without charges at any franchise outlet or service center. The offer is in place since July-07 & is still on.*

It was also highlighted that the process of verification through NADRA is cumbersome. In most cases the only delay in verification is the wrongly spelt name of the subscribers.

The Supreme Court was also informed that the mobile companies, in the presence of their counsel, met with Mr. Rana Shahid Pervaiz, DSP, Cantt, Rawapindi on 26-10-2007 in the office of MOBILINK, Islamabad. The Mobile Companies carefully heard the suggestions made by Mr. Pervaiz. The said suggestions primarily pertained to PTA and the Ministry of Information and Technology ("MoIT"), as he desired policy and legislative changes. Further, Mr. Pervaiz referred to improving the format of CDR (Call Details Record) and praised the CDR format maintained by Mobilink and Ufone. The Mobile Companies noted the suggestions given by Mr. Pervaiz

The Cellular Mobile Operators (including the Licensee) also submitted before the Supreme Court that under section 8(2)(c) of the Act it is the Federal Government that issues policy directives on matters relating to national security and informed the Hon'ble Supreme Court that no such policy had yet been issued. The Mobile Companies also informed the Supreme Court of their desire that an effective

POLICY be evolved by the Federal Government keeping in view the ground realities, the socio-economic impact, the financial and business implications and the dynamics of providing security. The SOPs issued by the Authority it was submitted were a mere guideline, with little legal cover that needed to be strengthened through a well thought out POLICY of the Federal Government, under the law, that balances all the conflicting interests and goes a long way in encouraging the growth of the industry as well as effectively curbing and minimizing the misuse and abuse of the cellular phones. It was also submitted that that the Cellular Mobile Companies on their own initiative and in compliance of the SOP issued by PTA had taken stern and strict steps to enhance and ensure national security needs of the country.

The Cellular Mobile Operators PRAYED that the Federal Government may graciously be directed to formulate a POLICY in this regard after detailed consultations with the Mobile Companies and after giving due weightage to economic, social, developmental, financial and security considerations besides factoring in the ground realities and mechanics of the market.

16. *It is respectfully submitted that in arguments at the bar, counsel of the Authority agreed with contention of the counsel of the cellular mobile operators that no binding SOPs were in the field and that there was no policy directive of the Federal Government on the issue of national security in terms of Section 8(2)(c) of the Act..*
17. *Meanwhile, the Federal Government proceeded to issue Policy Directive on 24 January 2008. This was followed by the issuance of the Standing Operating Procedures on 22 February 2008 by the Authority. At the next date of hearing of the matter in the Supreme Court (on 18 March 2008), the Hon'ble Supreme Court did not consider appropriate to take further proceedings in light of the issuance of the Policy Directive and the SOPs which were in the process of implementation. It is respectfully submitted that at no point in time was any order of the Supreme Court not adhered to by the Licensee. No violation of any provision of the License can be considered to have taken place on this issue.*

Licensees is in compliance with the Policy SOPs

18. *It is respectfully submitted that the Licensee has taken all necessary actions within its control to ensure compliance with the SOPs issued by the Authority on 22 February 2008 ("Policy SOPs"). The Policy SOPs address two aspects (1) Sales of New Connections and (2) Cleaning of Old Data.*

With respect to Sales of New Connections it may be noted that:

- i. *In accordance with the requirements of the Policy SOPs, detailed report indicating the total number of registered distribution channels has been intimated to the Authority and additions/deletions are being intimated to the Authority*
- ii. *Evidence relating to the registration of the outlets is ensured by the Licensee at all sales premises (Franchises/Retailers)*

- iii. *Minimum Requirements for sale of new connections in the form of documentation has been communicated to all franchisees and through them to the registered retailers*
- iv. *With respect to the maximum number of connections (i.e. more than 10 connections) held by a single individual it may be noted that this was to be done by October 21, 2008 (as a result of extensions granted by the Authority) and the licensee after a vigorous media campaign seeking rectification and free transfers*
- v. *The CSAF Form has been modified in terms of the Policy SOPs and is being used accordingly*
- vi. *All new connections are being verified in accordance with the NADRA verification process and necessary instructions have been issued to the franchisees in this respect to be adhered to by the franchisees as well as by their registered retailers.*

With respect to Verification of Old Data it is submitted that the deadlines set out in the SOP were extended by the Authority and by 21 October 2008 the Licensee had blocked 2.6 million SIMs that remained unverified, in compliance with the requirements of the Policy SOP.

19. *With respect to the surveys conducted by the Authority, it may be noted that the Licensee has continued to devote its efforts towards ensuring fulfillment of the requirements of the Policy SOPs by the franchisees and registered retailers. Numerous efforts over the last two years have been made with substantial expenditure as listed above, which steps continue. Third party retailers have been cajoled, threatened, trained, incentivized (copy of one such scheme and its promotion is attached herewith as Annexure F1) and even penalized while franchisees have been advised, warned, fined, sealed, suspended and even terminated (Copies of some of the warning, fines and suspension letters are attached herewith as Annexures F2-F6). However, the policing of vast number of registered retailers (currently Mobilink's franchisees' registered retailers number about 60,000) continues to be problematic without any fault of the licensee as is evidenced by the results of the survey. It is reiterated that where identified, the licensee has suspended and penalized the franchisees who have been involved in violating the provisions of the SOPs including the Policy SOPs and it has taken numerous steps listed above in fulfilling the Authority's guidelines and SOPs including the Policy SOPs. This is why the Licensee considers that the proposed new system whereby new connections would only be activated after verification through NADRA is the way forward out of this ongoing practical conundrum.*

The Licensee presented its proposal for Sale of Non-Active SIMS to the Authority on October 15, 2008 and wrote to the Authority on October 20, 2008 in this respect. (Copy of Licensee's letter dated October 20, 2008 is attached herewith as Annexure G). Additionally, the Licensee has on the urging of the Authority also agreed to increase charges payable to NADRA for verification from Rs. 5 to Rs. 15 (an increase of 200%!) which in itself is reflective of the Licensee's commitment towards finding a solution to this issue.

The Federal Government has acknowledged in its Policy Directive that failure of franchisees and registered retailers cannot translate into penalties on the licensees. Accordingly, it is respectfully submitted that the licensee cannot be held liable and penalized by the Authority for failings of franchisees and their registered retailers.

In this respect this Show Cause Notice is liable to be discharged/withdrawn without further action. It is also respectfully submitted that when the Authority itself is moving in this direction and has identified 31 January 2009 as the last date on which pre-activated SIM cards can be issued and thereafter connections will only be activated by the cellular operators for use, this problem would be hopefully eliminated.

20. *The Licensee reiterates that it has not contravened any term or condition of the License or of any law of the land. The Authority's directions/orders/instructions have been scrupulously adhered to. There is no justification whatsoever in issuing a show cause notice or an order under Section 23.*
 21. *The Licensee took action warranted in light of the survey reports and has*
 - i. *Suspended franchisees in violation of SOPs. Also deprived them of all commissions during suspension period*
 - ii. *Suspended retailers in violations of SOP.*
 22. *In light of the foregoing it is respectfully prayed that the show cause notice may kindly be discharged without further proceedings. The licensee understands that similar show cause notices have been issued to other cellular mobile operators and it is respectfully submitted if any clarifications are required then hearings may kindly be conducted with all other licensees present as the issue relates to the practical difficulties faced by the entire cellular mobile sector and it is respectfully submitted should be handled accordingly.*
- 1.9. 2nd Notice re continued contravention: the aforesaid reply was not found satisfactory, however, in the light of licensee's assurances regarding streamlining its system/procedure, again joint surveys were conducted in March, 2009, therefore, in continuation of the notice, on 13th May, 2009 another notice No.14-552(L&A)/PTA/09/719 (the "2nd notice") was issued to the licensee. Besides requiring the licensee to appear before the Authority for personal hearing on the issue on 19th June, 09, the 2nd notice was meant to communicate to the licensee that its violations of the Authority's instructions/orders/SOPs on the subject is still continued even after issuance of the notice and implementation of the new system. This reminder was given for two reasons, *firstly*, to inform the licensee that despite its assurance in the reply to the notice that there will be no violation after implementation of the new regime, the violation is continued and, *secondly*, to let the licensee come prepare on the its fresh violations as well.
- 1.10. The Hearing: On 19th June, 09 the licensee appeared before the Authority through Mr. Niaz Brohi alongwith legal counsel Mr. Salman Chima.

- 1.11. The learned counsel representing the licensee, at the very outset, submitted that there is no intent on the licensee's part not to implement the SOP and maintained that the Authority is held in very high respect. He apologized for any unintentional deficiencies which could be there on the part of the licensee in the implementation of SOP. On the issue of pre-activated SIMs, the learned counsel submitted that it is one very important aspect of the SOP. He accepted that lapses, in this regard, primarily on the part of retailers and franchisees, could be there as inadvertently some/few pre-activated SIMs may still be available.
- 1.12. Appreciating 789, the learned counsel submitted that it is the watchdog to see if the request is made by the genuine customer. He further argued that six million SIMs have been blocked so far and from 1st February, 09 quarter of a million requests have been turned down by the licensee.
- 1.13. The learned counsel while concluded his arguments admitted slight lapses on the licensee's part in implementation of the SOP and apologized for the same and requested for a sympathetic consideration.
- 1.14. Written arguments submitted by the licensee: The licensee, on the day of hearing, submitted the following arguments which are reproduced in verbatim;
1. *The Hearing Notice assumes/concludes, based on the survey(s) attached with it, that Pakistan Mobile Communications Limited ("PMCL") is in default of the SOPs issued by the honorable Authority on 30 January 2009, which became effective on 1 February 2009. It is however respectfully submitted that PMCL is using its best endeavors to comply with the said SOP, in letter as well as spirit, and with commendable results (as highlighted below).*
 2. *It would be noted in this behalf that the need to revise the earlier SOP in respect of verification of customer antecedents arose on account of recognition that no operator could ultimately control the conduct of the franchisees and retailers (which are otherwise integral to the development and growth of the industry). The PTA has itself noted in the SOP issued on 30 January 2009 that "as the culture goes, ..implementation of procedures are not being taken seriously" by franchisees and retailers. It was therefore thought fit by the honorable Authority to introduce checks so that even if the franchisees/retailers were remiss in the performance of their tasks, such checks would prevent activation of numbers which did not match the correct antecedents.*
 3. *The most important element of this scheme was the introduction of '789' facility, with direct linkage to NADRA records and activation of SIMs upon verification of CNIC information from NADRA records.*
 4. *PMCL prides itself in the successful and efficient operation of this facility. Indeed, even the Authority itself has acknowledged the satisfactory performance of PMCL in this respect. For instance, in a surprise survey conducted in mid April 2009 by the PTA, it was noted that the overall performance of PMCL's '789' verification system was satisfactory (Annex A)*

5. *While the surveys conducted during the period 9th to 13th March 2009 and 22nd to 27th March 2009, suggest certain irregularities committed by (mostly) retailers and (also at times) by franchisees, however the success of the new SOP can be gauged from the simple fact that since the implementation of the new SOP, approximately 254,000 requests for activation have been declined by PMCL in the months of February, March, April and May only – due to non-verification by ‘789’. In this respect we attach herewith (as Annex B), emails sent to PTA confirming non verification for the months of February, March, April and May, 2009. This in itself is proof that PMCL is using its best endeavors to implement the new SOP in letter as well as spirit, and with good results.*
6. *Even with respect to numbers identified in the two surveys of retailers and franchisees conducted in March 2009 – which was just a short while after commencement of the system governed by the new SOP (even still it may be noted that not all alleged irregularities are material) - it is submitted with respect to SIMs actually activated, that they were all activated after proper verification process was completed through the 789 system.*

In other words, the numbers which were activated were activated after confirmation and verification of antecedents from NADRA records in accordance with the SOP. This means effectively that the number is in the use of the person in whose name it is registered. That being so, the relatively minor irregularities (e.g. original CNIC may not have been shown, thumb impression may not have been obtained, signatures may have been omitted, etc.) would not come in the way of determining the identity of the customer – which is the foremost objective of establishing the antecedents verification process. Moreover, the SOP itself recognizes that such irregularities by the franchisees and retailers can never be eliminated – and that was the entire basis of the revised SOP.

PTA would also recall that PMCL and the other CMOs have been requesting to do away with the physical documentation precisely because it is extremely difficult to police the retailers and the franchisees and PTA itself has acknowledged that “as the culture goes, implementation of the procedures are not being taken seriously” by the franchisees and retailers.

7. *Regarding pre-activated SIMs, which the SOP required should be blocked, it is submitted that a total of over 6 million pre-activated SIMs were accordingly blocked, as under :*

	<i>Blocking Date</i>	<i>Total Count</i>	<i>Remarks</i>
<i>I</i>	<i>1-Feb-09</i>	<i>2.2 M</i>	<i>Store Stock</i>
	<i>1-Feb-09</i>	<i>1.8 M</i>	<i>Market Float</i>
<i>s</i>	<i>4-Feb-09</i>	<i>124K</i>	<i>Market Float</i>
	<i>22-Feb-09</i>	<i>643K</i>	<i>Market Float</i>
	<i>24-Feb-09</i>	<i>44K</i>	<i>Identified by Sales</i>
	<i>12-Mar-09</i>	<i>1.4 M</i>	<i>Reconcile performed by CC</i>

Of course possible that some pre-activated SIMs may inadvertently have escaped such blocking – but that is certainly not intentional.

Having said that, with respect particularly to the pre-activated SIMs noted in the survey, our comments are as follows :

- *0305-9575864 – the number was (re)activated after verification of NADRA records on 5 March 2009*
 - *0301-8195861 – the number is blocked*
 - *0306-8902149 – the number was activated in 2008 (i.e. before the SOP came into effect). This means that this number was in use prior to the coming into effect of the new SOP. It thus appears that the number may have been sold by the original user (which aspect cannot be controlled even with respect to numbers issued after verification by 789).*
 - *0302-7688807 – the number is blocked*
 - *0303-2244654 – the number was activated on 9 October 2008 (i.e. before the SOP came into effect). This means that this number was in use prior to the coming into effect of the new SOP. It thus appears that the number may have been sold by the original user (which aspect cannot be controlled even with respect to numbers issued after verification by 789).*
 - *0305-8028539 - the number was blocked at end January 2009. This number has been (re)activated by dialing 789 on March 12, 2009.*
 - *0305-4027043 – the number was blocked at end January 2009. This number has been (re)activated by dialing 789 on 8 April 2009.*
8. *With respect to the ‘789’ survey provided with the hearing notice, and the numbers highlighted therein, it is submitted as under :*
- *0305-8028539 - Upon verifying place of birth (second secret question) number was activated. As noted above, the number was blocked at end January 2009. This number has been (re)activated by dialing 789 on March 12, 2009.*
 - *0301-4492998 - Mothers name was mentioned "JAMILA AFZAL" and customer confirmed "JAMILA BIBI". Representative activated the number after verifying mothers name (secret question).*
 - *0302-7688807 - No record available with 789. Also the number is not active, as noted above.*
 - *0305-9575864 - Customer was asked to confirm his mother’s name as a primary secret question, whereas customer was reluctant to tell mother’s name. Number activated after verifying the place of birth on 5 March 2009.*
 - *0303-2244654 - the number was activated on 9 October 2008 (i.e. before the SOP came into effect). This means that this number was in use prior to the coming into effect of the new SOP. It thus appears that the number may have been sold by the original user (which aspect cannot be controlled even with*

respect to numbers issued after verification by 789). Accordingly, no record of calls to 789 is available.

9. *The other discrepancy noted in the survey is regarding 'corporate numbers'. The discrepancies are explained in the document attached as Annex C to this reply.*

Broadly speaking, the following factors are relevant in respect of the discrepancies, which we submit are not discrepancies in relation to the SOP:

- companies often have multiple addresses (often in different cities), with different connections registered against each. Only one address may have been provided with respect to a company and on verification perhaps only the connections in relation to that address may have been provided and that is possibly why some of the numbers in verification may be different from the numbers provided. PMCL is confident that this can be reconciled and that the information provided is in order.*
- there are also ongoing changes – through acquisition of additional connections and surrender of existing ones.*

PMCL is confident that all aspects of the SOP with respect to corporate customers are being adequately complied with by PMCL.

10. *It may also be noted that PMCL has taken the following actions in respect of the revised SOPs (which we feel would be appreciated by the Authority):*

- extensive training of the retailers and franchisees, both to educate them about and also to impress upon them the need to strictly observe the revised SOP. This includes and/or has been supplemented by the following:
 - Onsite and group training of Franchisees across the country*
 - Nationwide Retailer training conventions*
 - Dedicated teams in all regions for training and monitoring progress through regular market visits*
 - Print materials on new SOP in ENGLISH , URDU and SINDHI*
 - Regular SMS broadcast for retailers awareness*
 - IVR message on retailer dedicated helpline*
 - Retailers and Franchisees are being penalized for non compliance of the SOP**

Some examples are attached as Annex D

- PMCL has carried out extensive training for the 789 staff on the SOP and refreshers are done very regularly. PMCL has also penalized employees (including termination) who have been in any manner remiss in following the prescribed procedures.*
- During last four months, 12 training sessions were conducted with prime focus on SOPs (including verification process and secret questions); 6 in Lahore-CC and 6 in Islamabad-CC.*
- There is also a performance incentive system (cash rewards, elevation and recognition) in place for the 789 staff. 65% of their performance is based on the quality scores which is gauged after listening to their recorded calls. In case of SOP*

violation the call is graded as 0 and this negatively impacts the employee's monthly performance.

- *PMCL has also set up enforcement section as required in terms of the SOP. In this respect Annex E may be referred.*
11. *PMCL has also taken strict action with respect to the franchisees and retailers listed in the survey reports provided by PTA as part of the hearing notice. Copies of termination letters of retailers are attached as Annex F.*
 12. *It would thus be noted that PMCL has not been remiss in the implementation of the SOP. Indeed, all best endeavors have been used to implement the revised procedures, and it would be appreciated, with good results.*

PARAWISE REPLY

1. *The contents of the earlier reply may kindly be read as an integral part of this submission.*
2. *Admitted. PMCL reiterates that it has followed all directives issued by the Authority in letter and spirit and used its best endeavors in this respect. PMCL also reiterates its support for the revised SOP. However, PMCL may note that it has emphasized, along with other operators on a number of occasions, to the Authority the difficulty of physical documentation and the practical issues related to that and has been requesting that this aspect be done away with as verification of CNIC information (through secret question), which is the critical feature of the new system, is a sound enough basis on which SIMs are activated.*
3. *PMCL is somewhat disappointed to learn that its earlier reply was not found satisfactory by the Authority. PMCL reiterates that it has at all times endeavoured and taken all possible steps to comply with the requirements of the SOPs in the field and has not been in contravention of any SOP.*
4. *The Preliminary submissions noted above would in fact highlight the success of the revised SOP, as well as the fact that it is being implemented in letter and spirit by PMCL. PMCL continues to fulfill all its obligations in relation to verification of antecedents and PMCL's 789 system has also been found satisfactory by PTA in a survey (unannounced) conducted in mid April 2009 (Annex A).*
5. *It is respectfully denied that PMCL has been in contravention and/or violation (whether persistent or otherwise) of the previous directives/SOPs/procedures and/or of the new regime. The Preliminary submissions noted above are reiterated in reply to this paragraph.*
6. *PMCL welcomes the opportunity of hearing, and reiterates that it has acted in accordance with law and applicable regulations.*
7. *The Preliminary submissions above are reiterated. PMCL has also taken strict action with respect to the franchisees and retailers listed in the survey reports provided by PTA as part of the hearing notice. Copies of cancellations letters of retailers registration and suspension of franchisees are attached as Annex E.*
8. *Needs no reply.*
9. *Needs no reply.*

In light of the foregoing, it is respectfully submitted that the Show Cause Notice and this hearing notice (which is based on earlier SOP which was itself conceded as being practically difficult by the PTA) may kindly be withdrawn.

2. Findings of the Authority

- 2.1 Though in reply to the notice, the licensee has narrated a number of events showing the actions taken by it for implementation of the SOP and the Authority's instructions on the subject, however, the licensee has failed to give a satisfactory response on the specific violations communicated to it through the results of both the surveys, as reproduced above. The enforcement division has produced sufficient record and ample evidence to establish that the licensee has violated the Authority's directions/instructions contained in the SOP. The enforcement division's evidence is further supported by the learned counsel's admission of slight lapses on the part of the licensee.
- 2.2 Violation of the SOP, having being established, means that the licensee has shown disregard to the Authority's orders/instructions on the subject and has thus contravened clause 3.1.3 of the licence. This being the case, the notice is rightly issued and there is no reason for withdrawing it as requested in reply to the notice.
- 2.3 However, in light of the admission made by the learned counsel and his request for a lenient view in the matter, the following order is passed;

3. Order of the Authority:

- 3.1 Under sub-rule 4 of rule 9 of the Telecom Rules, 2000, the licensee is directed to remedy the contravention within twenty five days of the issuance of this "Enforcement Order" and submit complete compliance report of the SOP in vogue and the new regime which shall be verified by the Authority by conducting a joint survey;
- 3.2 In case of the licensee's failure to comply with para 3.1, above, "Final Enforcement Order" under sub-rule 5 of Rule 9 of the Telecom Rules, 2000 shall be issued against the licensee.

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

(Dr. Khawar Siddique Khokhar)
Member (Technical)

(Dr. Mohammad Yaseen)
Chairman

Signed on this 6th day of July, 2009