



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD

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Enforcement Order under Section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 against Haji Khalil & Sons (Pvt) Limited

No.PTA/Finance/CPPS/Haji Khalil & Sons 27/2006

Date of Issuance of Show-Cause Notice:	4 th May, 2010
Date of Hearing:	16 th June, 2010
Venue of Hearing:	PTA HQs, Islamabad

The Authority Present:

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

The Issue:

"Failure to pay Annual License Fee (ALF) for the year ended 30th June 2005 amounting to Rs.45,320/- and non submission of Annual Audited Accounts (AAAs) with ALF for the years ended 30th June, 2006, 2007, 2008 and 2009"

Ex-parte Decision of the Authority

1. Brief Facts

1.1. **Haji Khalil & Sons (Pvt.) Limited** (the "licensee") was awarded non-exclusive license No. DIR (C)/L/PTA/699/2004 dated 17th May, 2004 (the "license") by Pakistan Telecommunication Authority (the "Authority"), to establish, maintain and operate Card Payphone Services in the metropolitan City of Karachi subject to the terms and conditions contained in the license.

1.2. As a licensee of the Authority, Haji Khalil & Sons (Pvt.) limited was required to comply with the provisions of the prevailing regulatory laws comprising of the Pakistan Telecommunication Authority (Re-organization) Act 1996 (the "Act"), the Pakistan Telecommunication Rules, 2000 (the "Rules"), the Pakistan Telecommunication Authority (Function & Powers) Regulations, 2006, Class Licensing and Registration Regulations, 2007 and the terms & conditions of the license. Whereas in this case the licensee has violated condition 3.1 (b), 3.2, 4.51 and 5.51 (m) of its license, sub-regulation (6) and (7) of regulation 23 of the Pakistan Telecommunication Authority (Function & Powers) Regulations, 2006, and sub-regulation (1) of regulation 11 of the Class Licensing and Registration Regulations, 2007 by failure in submitting annual audited accounts and paying annual license fee within the time period given in the license. In addition, it also violated condition 8.3(b) of the license by discontinuing its licensed operations/service.

1.3. License has failed to submit annual audited accounts alongwith annual license fee for the years ended on 30th June, 2006, 2007, 2008 and 2009 including additional fee (@ 2% per month or part thereof due to late payment) till date. In addition, it also failed to pay annual license fee of Rs.45,320/- for the year ended on 30th June, 2004-2005, despite repeated demands of the Authority, but in vain. Hence, the Authority issued Show Cause Notice (the "Notice") dated 4th May, 2010 under section 23 of the Act whereby required the licensee to remedy the contravention by (i) submitting annual audited accounts alongwith payment of annual license fee including additional fee (@2% per month or part thereof due to late payment) for the years ended on 30th June, 2006, 2007, 2008 and 2009, (ii) making outstanding payment of Rs.45,320/- on account of annual license fee for the year ended on 30th June, 2004-2005 and (iii) to restore its licensed services within seven days and also to submit written reply to the Notice within thirty (30) days of the issuance of the Notice and explain as to why the license should not be suspended, terminated or any other enforcement order should not be passed under section 23 of the Act against the licensee.

1.4. The licensee submitted its reply to the aforesaid notice vide its letter dated 15th May, 2010 in the following terms:

Show Cause Notice u/s. 23 of the Pakistan Telecommunication (Reorganization) Act 1996.

Kindly refer to your above show cause notice under No. PTA/Finance/CPPS/Haji Khali! & Sons 27/2006/298 dated 4th May, 2010. In this regard we submit as under:

- 1. You already know that due to influx of Mobile Phones in the telephone era has flopped the PCO (Public Call Offices) badly.*
- 2. Most of the Card Pay Phone Service Companies have become unofficially bankrupt.*
- 3. Not only the assets of the company were forced to sale but the owners personally assets were also sold to survive and continue this business. But of could no success.*
- 4. We are also one of the victims. Therefore, forced to discontinue the business in early stage of its commencement.*
- 5. We also informed you this in the year 2007 and requested you to cancel the Licence and close our account. Since no correspondence were received from you since than, therefore, we assumed our licence has been cancelled and the account has been closed.*

We, therefore, again request you to kindly cancel the licence and close our account at your earliest. We further request you to kindly wave all the dues and penalties etc. as we are not in a position to pay any thing further and oblige.

1.5. Therefore, before passing an enforcement order a Hearing Notice dated 9th June, 2010 was issued and served on the licensee whereby informed the licensee to attend the hearing on 16th June, 2010, but one attended the hearing on the said date.

1.6. As the show cause and hearing notices has been served at the address given and maintained by the licensee with the Authority, hence, are deemed to be delivered and communicated to the licensee.

1.7. Therefore, the Authority has no option but to proceed ex-parte, on the basis of available record.

- (a). Clauses 3.1 (b), 3.2, 4.51, 5.51(m) of the license read with sub- regulation (1) of regulation 11 of the Class Licensing and Registration Regulations, 2007 and sub-regulations (6) and (7) of regulation 23 of the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 make it obligatory on the licensee to submit Annual Audited Financial Statements and summary of accounts within three months and to pay annual license fee within 120 days of the close of financial year.
- (b). The Authority has been making repeated requests to the licensee vide various letters dated 1st August, 2006, 20th August, 2007, 10th October, 2008, 26th October, 2009 and 16th November, 2009 to submit annual audited accounts alongwith annual license fee for the years ended on 30th June, 2006, 2007, 2008 and 2009 and also directed to pay annual license fee Rs.45,320/- including additional fee (@2% per month or part thereof due to late payment) for the years ended on 30th June, 2004-2005, but in vain.
- (c). The licensee has also closed/terminat edits licensed operations/services contrary to condition 8.3 (b) of the license. However, in response to the aforesaid notice it took the plea that it had already informed in the year 2007 regarding its closure of services for which it did not provided any evidence. In addition, as per PTA's Licensing Division record no such intimation/request has been received earlier.
- (d). Foregoing clearly shows that the licensee is not complying with the directions of the Authority and has closed its operations/services without informing the Authority. The hearing notice has been served on the address of the licensee that is available in the record but neither the licensee nor any of its representatives attended the hearing establishing an irresponsible attitude of the licensee towards the writ of the Authority.

2. Order of the Authority

2.1. Keeping in view the above mentioned facts coupled with the available record, and the request of the licensee to cancel the license the Authority hereby decides to proceed *ex-parte* against the licensee by passing the following enforcement order:

- (a). The license No.Dir (C)/L/699/2004 dated 17th May, 2004 of Haji Khalil & Sons (Pvt) Ltd is hereby TERMINATED with immediate effect.
- (b). The company is directed to make the payment of Rs.45,320/- on account of annual license fee for the year ended on 30th June, 2004-2005 and submit annual audited account alongwith annual license fee including additional fee (@2% per month or part thereof due to late payment) for the years ended on 30th June, 2006, 2007, 2008 and 2009 within **THIRTY (30) DAYS** of issuance of this order and in case of failure recovery proceedings under section 30 of the Act shall be initiated

by the Authority against the company for recovery of all payable dues as arrear of land revenue.

- (c). PTCL is directed to forthwith terminate all telecommunication facilities extended to the licensee pursuant to the license till further orders of the Authority.

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

(Dr. Khawar Siddique Khokhar)
Member (Technical)

Signed on 8th of July and comprises 04 pages