



PAKISTAN TELECOMMUNICATION AUTHORITY
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ORDER OF THE AUTHORITY IN LEO PAKISTAN (PVT.) LTD. CASE

File No. 14-374/L&A/PTA/06

Date of Hearing: 11th April 2007
Venue of Hearing: PTA HQs, Islamabad

The Authority

Member (Finance)
Member (Technical)

The Issue

“Appeal under section 7 of Pakistan Telecommunication (Re-organization) Act, 1996 against the determination passed by officer of the Authority on 17th November 2006.”

1 Brief Facts

1.1 Precisely, relevant facts of the instant appeal are that PTA, Zonal Director (Enforcement) Karachi vide its determination No. PTA-KR/DTR/1/2006 dated 17th November 2006 imposed a fine to the tune of Rs. 10,00,000/- on violations and contravention of Pakistan Telecommunication Rules, 2000 (the “Rules”), regulation 17 of Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2004, license condition No. 4.3.1 (i) (k) (n) and (w) on M/s Leo Pakistan (Pvt.) Ltd. (the “Appellant”) with a direction to pay the said fine within fifteen days of the impugned determination.

1.2 The Appellant being aggrieved by the impugned determination filed the instant appeal on the ground that the violations mentioned in the impugned determination are false, incorrect and failed to appreciate the arguments of the appellant. The Appellant further submitted that it has not violated license conditions nor Pakistan Telecommunication Authority’s (PTA) tariff determination (“Tariff Determination”) issued vide No. 15-9/ 99 (Tariff)/PTA on 15th July 1999.

1.3 The Appeal was fixed for hearing on 11th April 2007. But the Appellant failed to attend the hearing on the said date. However, the Appellant on the next day i.e., 12th April 2007 submitted its written arguments. The submissions earlier made in the appeal were reiterated in written argument.

1.4 The Appellant’s stance on the issue of publication of call charges and advertisement of Amitab Bachon on the billboard was considered and analyzed in light of the Rules, Regulations, license conditions and the Tariff determination.

2. Findings of the Authority

2.1 Careful perusal of the record has led us to following observations of ours regarding the alleged violation given in the show cause notice (“SCN”) No.PTA-KR/601/ATS dated 13th September 2006:

- (i) The licensee has failed to established its defense against the violation alleged in para 4(a) of SCN while the Zonal Director vide the impugned order has given cogent reasons for leveling the allegation. The contravention of clause 12(v) of the Tariff Determination, therefore, stood proved;
- (ii) The allegation leveled vide para 4(b) of SCN is, with due respect to the Zonal Director (Enforcement) Karachi, not covered under clause 4.3.1 (k) of the license conditions. Hence, even if the contravention is committed, the licensee has not been show-caused under the right provision and the allegation is, therefore, dropped from SCN;
- (iii) Impugned determination shows that the licensee has also committed contravention of clause 4.3.1(i) of the license;
- (iv) Record shows that contravention of clause 4.3.1(w) of the license is also proved;
- (v) So far as violation of section 31(a) and (d) of the Act is concerned, as mentioned in para 4(c) of SCN, under the Act, show cause notice cannot be issued on violation of any of the provision of section 31 of the Act. Violation of section 31 of the Act constitutes criminal act. The allegation leveled in para 4(c) is thus dropped.
- (vi) We have also observed in the impugned order that the licensee during hearing before the Zonal Director, Karachi, had confessed the allegations and had requested for a lenient view by pleading that the contravention has been committed by it for ignorance of law and not intentionally.
- (vii) While considering the licensee’s request for a lenient view after confessing the allegations, we are also mindful of the establish case law of our superior courts on the point that where a person confess the violation of law, lenient view must be taken in his case which, with respect to the Zonal Director, Karachi, has not been done in the instant case.

3. Order

Based on the aforementioned findings of ours, we set aside the impugned determination and reduce the amount of fine from one million (Rs.10,00,000/-) to one hundred thousand only (Rs.1,00,000/-) and direct the licensee to deposit the aforementioned amount of fine within fifteen days of the issuance of the instant order/determination otherwise license of the licensee shall be suspended till realization of the aforementioned amount.

The licensee is also warned not to repeat contravention of the provisions of the Act, the Rules and Regulations and the terms and conditions of the license and, if ever the licensee is found again in contravention of any of the aforementioned statutory provisions or the terms and conditions of the license, no leniency shall be shown to it in future.

S. Nasrul Karim Ghaznavi
(Member Finance)

Dr. Muhammad Yaseen
(Member Technical)

This Order is passed and signed on 28th day of May, 2007 and comprised three pages.