



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
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**Enforcement Order under Sub-section 3 of Section 23 of the Pakistan
Telecommunication (Re-organization) Act, 1996**

Re: M/s TELECARD LIMITED

File No. Rollout(WLL)/LL&M/PTA

Date of Issuance of Show Cause Notice: 11th August, 2008
Date of Hearing: 22nd October, 2008
Venue of Hearing: PTA HQs, Islamabad

The Authority Present:

Dr. Muhammad Yaseen: Chairman
S. Nasrul Karim Ghaznavi: Member

The Issue:

“Failure to complete roll-out obligation in the licenced region and un-used frequency spectrum”

Decision of the Authority

1. Brief Facts:

1.1 M/s TeleCard Limited (the “licencee”) was awarded non-exclusive Wireless Local Loop (WLL) Licence No.WLL-23-2004 dated 4th August, 2004 (the “licence”) by the Pakistan Telecommunication Authority (the “Authority”) to provide the licenced services in the Licenced Region of CTR to establish, maintain and operate a Telecommunication System on the terms and conditions contained in the licence. As a licensee of the Authority, M/s TeleCard Limited was required to comply with the provisions of prevailing regulatory laws comprising of 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 1.2.1 of Appendix-2 of the licence conditions, the licensee 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.

However, the Authority on the licencees' requests and keeping in view the difficulties being faced by WLL licencees, extended the deadline for operation of aforesaid clauses twice, *firstly*, vide letter No.Rollout (WLL)/WLL&M/PTA dated 29th June, 2006 till 4th July, 2007 and *secondly*, vide letter No.Rollout (WLL)/LL&M/PTA dated 23rd May, 2007 for a further period of twelve months till 30th May, 2008. In addition, the Authority vide its letter dated 23rd May, 2007 categorically informed the licencee that the last extension is final and in case the roll-out is not completed within the specified time the Authority may withdraw unused spectrum and cancel the licence. The Authority also issued reminders dated 30th July, 2007, 15th April, 2008 and finally a warning letter No.Rollout(WLL)/LL&M/PTA dated 16th May, 2008 wherein requiring the licencee to complete roll-out in the unused frequency spectrum and provide proof of the same by 30th May, 2008. The licencee failed to comply with the terms and conditions of the licence and the directions of the Authority concerning roll-out obligation despite extended relaxations by the Authority.

1.3 Failure to comply with the directions of the Authority resulted into issuance of the Show-cause notice (the "notice") under section 23 of the Pakistan Telecommunication (Re-Organization) Act, 1996 (the "Act"). The licencee replied to the notice on 29th August, 2008 as under:

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- i. as per ITU-R has identified bands for CDMA based network deployment and operation i.e. 450 MHz, 850 MHz, 1900 MHz and 2 GHz bands while 479 MHz band is treated as a non-standard and non-commercial frequency band;*
 - ii. TeleCard has obtained frequency on 1900 MHz band as well. The vendor provided the confirmation for the support of entire band on 1900 MHz with configurable filters supporting different blocks within the 1900 MHz band and consequently, TeleCard was under the impression that the same theory applies to the equipment being procured under 450 MHz band and that it will support 479 MHz band as well (Block F in the 450 MHz band);*
 - iii. later on it transpired that Block F, i.e. the 479 MHz band is not a common frequency for commercial networks as it is generally available for telecom services in most countries. Due to very few such networks operating in selective countries, production of integrated platforms for this frequency band is very much expensive;*
 - iv. equipment manufacturers may provide customized solutions with reference to operator needs for this particular frequency bandwidth but this will be highly expensive for TeleCard as it acquired 479 MHz frequency in only one telecom region, i.e. CTR, hence, it is not justifiable business model of WLL operations in the CTR Region;*
 - v. presently, TeleCard's equipment suppliers are Alcatel- Lucent and ZTE, which do not manufacture equipment catering to 479 MHz, except that they supply customized solutions for this frequency on a very high project and maintenance costs;*
 - vi. base stations catering to 479 MHz by Huawei and Samsung, which vendors do manufacture equipment in 479 MHz block cannot be integrated with ALU and ZTE due to proprietary (Non-standard) interface between BS and BSC. This is*

due to the fact that a standard body has allowed every operator to build their own interface between BS and BSC/MSC;

vii. both the deployment of a 479 MHz based radio and core network from Huawei or any other such vendor or in the alternative, the procurement of customized solution from TeleCard's existing vendors will be highly costly, especially its application to such a small region as CTR. The licensee in its reply has concluded that despite the apparent difficulties which it is facing in rolling-out the network for its allocated frequency bandwidth in the CTR Region, it is striving to reach an effective solution to this problem in that:

a). TeleCard has recently floated a Request for Proposal to its existing equipment supplier for a customized solution to provide integrated and /or stand-alone solution for 479 MHz. The technical details and functional requirements are being chalked out with vendor at present. Although, the solution is expected to be prohibitively expensive but TeleCard has taken initiative to explore the possibilities of a rollout plan in CTR as soon as possible; and

b). TeleCard is also exploring collaboration with existing service providers who are currently operating networks on 479 MHz. The initial discussion is being carried out with Service Operators to work out the possible integrated networks and/or equipments. It could lead to be an expeditious roll out in the un-served regions. However, Regulator's consent would ratify the plan.

In view of the foregoing, the licensee submitted that its failure to roll-out networks in the 479 MHz frequency bandwidth in the CTR region should not be taken as contumacious breach of its licence terms and should instead be viewed in the correct perspective provided in details of the practical difficulties involved and requested that the Regulator may not take any action adverse to the interests of TeleCard, including the cancellation of its licence, and allow it reasonable time and opportunity to pursue the solutions being considered in this respect."

1.4 Since the aforementioned reply was found not satisfactory, the licensee was required through a hearing notice dated 10th October, 2008 to appear before the Authority on 22nd October, 2008 for hearing it on the matter.

1.5 The licensee appeared through Barrister Mumtaz Ali (Legal Counsel), Mr. Shahid Naeem Butt, Director (RA) and Mr. Javed Nasir Khan (CTO).

1.6 The licensee's representative reiterated the position it has taken in reply to the notice as responded in para 1.3, above. The licensee repeated that no standard and complete equipment is readily available in the market for rolling out in 479 MHz frequency spectrum in the licenced region and that consent may be given for sharing core network of another operator by using its own numbering plan.

2. Order of the Authority:

2.1 The Authority is not inclined to accept the licensee's arguments regarding non-availability of the required equipment. It is on record that some operators have already

rolled out in the same frequency spectrum i.e. 479 MHz which clearly shows that the required equipment is available. The licensee has been given all concessions and relaxations in the dead line given in the licence but to no avail. The licensee has failed to establish any cogent ground for not complying with the licence condition.

2.2 In light of the above, the licensee is once again directed through this determination/order to complete its roll-out obligation in 479 MHz frequency spectrum as required under clause 3.2.1 read with clause 1.2.1 of Appendix-2 of the licence conditions in CTR within **eight weeks of the issuance of this order** i.e. before 31st December, 2008. In case of the licensee's failure to complete its roll-out obligation and submit compliance report thereof by 31st day of December, 2008 the frequency band 479 MHz allocated to the licensee pursuant to licence No.WLL-23-2004 dated 4th August, 2004 shall **STAND WITHDRAWN** and the licensee shall be bound to surrender the said band forthwith.

(S. Nasrul Karim Ghaznavi)
Member (Finance)

(Dr. Muhammad Yaseen)
Chairman

Signed on 4th November, 2008 and comprises 04 pages.