



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 in the matter of M/s. Telemedia
Pakistan (PVT.) Ltd**

File No. 15-26/ATS- 02/Fin/PTA

Date of Issuance of Show Cause Notice: 22nd September, 2006
Date of Hearing: 21st March, 2007
Venue of Hearing: PTA HQs, Islamabad

The Authority present:

S. Nasrul Karim Ghaznavi:	Member (Finance)
Dr. Muhammad Yaseen:	Member (Technical)

The Issue:

“Non payment of the Authority’s dues on account of annual license
fee”

DECISION OF THE AUTHORITY

BRIEF FACTS:

M/s. Telemedia Pakistan (Pvt.) limited (the “licensee”) is a private limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of Card Payphone Services in Pakistan vide non-exclusive licenses No. DIR (C)/L/PTA/149/98 dated 12th January, 1999 issued by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Audiotex Services in Pakistan on the terms & conditions contained in the license.

2. Briefly stated that the licensee defaulted in payment of the Authority’s dues on account of annual license fee amounting to Rs. Rs.769,693/- for the years ended 30th June, 1999 to 2005. In this regard the Authority made various requests to the licensee but in vain. Hence a show cause notice was issued in December, 2005 and after providing an opportunity of hearing to the licensee on 16th March, 2006, the Authority issued a determination dated 30th May, 2006. In the determination the licensee was

required to deposit payable dues of Rs.769,693/- in three installments by 15th July, 2006. The licensee partially complied with the determination by depositing first two installments of Rs.200,000/- and Rs. 344,693/-, respectively, but failed to deposit the third installment of Rs.225,000/-in compliance with the aforesaid determination. The licensee was required vide letter dated 6th September, 2006 to pay the payable dues, but the licensee failed to make the payment on one pretext or the other. Hence, another Show Cause Notice dated 27th October, 2006 (the "Notice") under section 23 of the Act was issued to it requiring it to comply with the same by remedying the contravention by depositing the annual license fee of Rs.225,000/- within seven days and also submit written reply to the Notice within thirty (30) days of the issuance of the Notice and explain as to why any enforcement order should not be issued against it under section 23 of the Act. But the licensee neither deposited the payable dues nor submitted its reply to the Notice. Therefore, before passing an enforcement order a Hearing Notice dated 13th February, 2007 was issued and served on the licensee whereby informed the licensee to attend the hearing dated 21st February, 2007. In response to aforesaid hearing notice, PTA received a letter dated 20th February, 2007 from the licensee whereby it requested for adjournment of hearing. Keeping in view the request of the licensee, hearing in the matter was adjourned and rescheduled for 21st March, 2007 which was duly communicated to the licensee vide letter dated 12th March, 2007.

3. Mr. Sajid Mumtaz Khan (CEO), and Maj. Javaid Iqbal (Rtd), the representative of the licensee, attended the hearing. Mr. Sajid Mumtaz Khan, briefly stated about events of the past such as: it applied for license in 1997 being a joint venture company between Gothem Limited & ICC to run Audiotex services in Pakistan. The Authority processed its application for grant of license in 1998 and license was granted on 12th January, 1999. The licensee applied for interconnection to PTCL on 26th January 1999. Due to delays caused by PTCL in signing the agreement licensee's JV partners decided to opt out of the project sighting undue delays & uncongenial business atmosphere. PTCL delayed the aforesaid agreement for two years. In this regard the Authority called numerous meetings and finally after conducting hearing passed a determination dated 6th September, 2000 to get the license provisions implemented. In the alleged determination PTCL was directed to sign the interconnect agreement as per provisions of the license within one month or pay Rs.500000.00 per month. The contents of the agreement were reached on 8th November, 2000 by the parties but it was changed while bringing it on legal paper which was objected by the licensee. Thereafter, the licensee signed the agreement on 15th August, 2001 under protest because the licensee needed to start its businesses, however, it asked PTCL to remedy the changes made.

4. The representative of the licensee further stated that it had requested the Authority time and again not to charge royalty/annual license fee for the two years that it could not put to use the license issued to it. It has paid all dues for the years 2001 to 2002 onward.

5. The licensee further stated that during the hearing it was decided that the licensee should pay the amount other than two years. This will be taken up with PTCL and recovered from them. However in the determination, which was constructed, some two

months from the date of hearing did not carry this determined position. The same was brought to the notice of Member Finance vide letter No. 602/07/06 dated 20th May 2006.

6. During the hearing the licensee also made the following submissions:

- (a). Requested PTA to ask PTCL to revert to original agreement duly agreed & provided to both Telemedia & PTA.
- (b). PTCL has for last many year held around Rs.9 million or above & is not paying under the pretext that it is not recovered.

7. The licensee also requested that the amount of Rs.500,000/- per month from October 2000 to Sept 2001 amounting to Rs.4,750,000/- be recovered from PTCL and paid to the licensee.

8. The licensee further stated that presently the licensee's dues with PTCL exceed its annual gross turn over by almost double. The out standing amounts held by PTCL without giving any tangible reason. The licensee suggested that a monitoring regime be constructed by the Authority for dues held by PTCL of the licensee.

9. In the end the licensee requested the Authority to (i) Recover the Royalty/ renewal free for the first two years from PTCL that it had lost, (ii) the original agreement agreed & provided to the Authority & the licensee be restored, (iii) Over due amounting to over Rs.8 million with PTCL be recovered, and (iv) Rs.4.75 million as payment per month by PTCL to the licensee for the time the agreement was not signed from 5th October 2000 to 15th August, 2001 be recovered as per Authority's determination dated 6th September, 2000.

10. The Authority asked the licensee why it has not complied the determination, the licensee replied that it has already made an application for review and condonation of delay and the Authority has not intimated any reply thereon.

11. The Authority asked the licensee whether it intends to pay PTA dues or not? The licensee replied that it will not however, it may be recovered from PTCL.

12. ORDER

12.1. Keeping in view the above mentioned facts and circumstances mentioned during the hearing and perusal of the documents, the Authority hereby dispose of the Notice by passing the following enforcement order:

- (a). The licensee has deliberately avoided to make the payment of annual license fee of Rs.225,000/- in accordance with the license conditions and the Authority's determination. It is further clarified that only the licensee is obliged to make the payments in terms of license fee and such fee cannot be recovered from any other entity;

(b). Since the Authority is not equipped with the powers of review under the Act, the review application and also the application for condonation of delay are dismissed as not entertainable;

(c). The observation of the licensee that there are some errors in the determination are based on incorrect information. The decision of the Authority has rightly been recorded and communicated to the licensee vide its determination dated 30th May, 2006;

(d). The licensee is hereby once again directed to deposit Rs.225,000/- on account of annual license fee alongwith late payment charges in two monthly installments. First installment shall be paid on 15th September, 2007 and the second installment shall be paid on 15th October, 2007; and

(e). In case of failure of the licensee to deposit PTA dues as provided in Para 12.1 (d) above, license No. DIR(C)/L/PTA/149/98 dated 12th January, 1999 of the licensee shall stand TERMINATED and recovery proceedings under section 30 of the Act shall be initiated by the Authority against the company for recovery of dues as arrears of land revenue.

(S. Nasrul Karim Ghaznavi)
Member (Finance)

(Dr. Muhammad Yaseen)
Member (Technical)

Signed on 13th August, 2007 and comprises 04 pages.