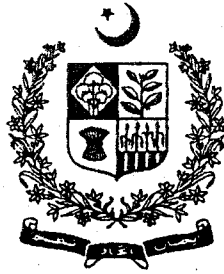


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**PART II**

**Statutory Notifications (S. R. O.)**

GOVERNMENT OF PAKISTAN

**PAKISTAN TELECOMMUNICATION AUTHORITY**

**NOTIFICATION**

*Islamabad, the 11th April, 2007*

**S. R. O. 315(I)/2007.**—In exercise of the powers conferred by Clause (O) of sub-section (2) of Section 5 of the Pakistan Telecommunication (Re-organization) Act, 1996 (XVII of 1996), the Pakistan Telecommunication Authority is pleased to make the following regulations.—

1. **Short title and commencement.**— (1) These regulations may be called the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006.

(2) They shall come into force at once.

2. **Definitions.**—(1) In these regulations, unless there is anything repugnant in the subject or context, —

(a) “Act” means the Pakistan Telecommunication (Re-organization) Act, 1996 (XVII of 1996);

(1247)

- (b) **“Authority”** means the Pakistan Telecommunication Authority established under section 3 of the Act.
- (c) **“Authorised officer”** means an officer to whom the Authority has entrusted the complaint or claim for investigation and adjudication or has been authorized for other task, or assignment under these Regulations;
- (d) **“Chairman”** means the Chairman of the Authority as appointed by the Federal Government under sub-section (3) of section 3 of the Act;
- (e) **“Person”** means and includes an individual, partnership, association, company, joint venture trust, or corporation; and
- (f) **“Rules”** means all or any rules issued by the Federal Government under Section 57 of the Act.
- (g) **“Regulations”** means all or any regulations issued by the Authority under the provisions of the Act including, without limitation, these Regulations.

(2) The words and expressions used herein but not defined shall have the same meanings as are respectively assigned to them in the Act and the Rules.

## CHAPTER I

### 3. **Classification of providers of Telecommunication Services.—**

The Authority may classify the service providers of Telecommunication Services into different categories.

4. **Public notice.—**The Authority may give public notice of any matter in the national press and PTA official website. For giving such public notice, it shall be sufficient to mention the subject of the matter and to advise the interested parties to collect full text of the document from the office of the Authority.

5. **Public hearing by the Authority.—**(1) The Authority may, by giving a public notice hold a public hearing on any matter that it may deem necessary.

(2) Any person having interest in the subject matter of the hearing may, on submission of an application to the Authority, join a public hearing as a party.

(3) Subject to the condition of providing adequate opportunity of hearing to the parties, the Authority may restrict the proceedings of a public hearing within practical limits.

(4) The Authority shall give all parties to the public hearing opportunity to present their case and thereafter give a decision in the matter on the merits of the case.

6. **Determination.**— (1) For exercising its functions under clause (a), (c), (d), (e), (i), (j), (k), (l) and (m) of section 4 of the Act, the Authority may, where it deems necessary, initiate studies, seek advices of consultants, conduct surveys, analysis or initiate consultation process and pass Determination accordingly.

(2) In the case of consultation process, stakeholders shall be contacted for their comments and, if deemed necessary, hearing may also be arranged prior to issuing of any Determination. The Determination passed after the consultation process or the hearing, as the case may be, shall be order of the Authority and shall be final and having binding effect on the licensees.

7. **Consumers to have option in respect of terminal equipment.**— In respect of terminal equipment duly approved by the Authority, consumers of each licensee shall have the option either to install terminal equipment offered by the licensee or by another authorized supplier of the consumer's choice.

8. **Standards for Terminal Equipment.**— (1) In laying down the standards for terminal equipment under section 29 of the Act, the Authority shall follow the recommendations of International Telecommunication Union's Telecommunication Standardization Sector (ITU-T) or other international standardization bodies, but may make such changes to the said recommendations, as it may deem appropriate.

(2) Whereas the Authority has not laid down any technical standards for terminal equipment, the aforementioned standards laid down by International Telecommunication Union shall be deemed to have been adopted by the Authority and shall be binding accordingly.

9. **Quality of Service.**— (1) Each licensee shall provide good quality of service to its Consumers. The Authority shall set out and designate the criteria for maintaining quality of service in the terms of each license or through regulations or issue Key Performance Indicators (KPIs) to which the licensee shall have to comply with as condition of license. The Authority may monitor quality of service in accordance with the License, Regulations and KPIs promulgated by the Authority from time to time.

(2) In fixing the criteria for maintaining quality of service by the licensee, the Authority shall take into account the best global practices and shall ensure adherence to such practices, *mutates mutandis*, and determine the reasonable time it may take to achieve similar standards of quality by such licensee.

**10. Inspections and performance audit for quality of service.—**(1)

The Authority shall conduct inspections, surveys, tests or make surprise checks through its designated officers or conduct performance audit of quality of service of the licensee from time to time to ensure that users of telecommunication services get such quality of service as laid down in the license, Regulations, and/or KPIs.

(2) The inspections may be carried out with or without representative of the licensee. The licensee shall extend full co-operation and provide all assistance to the inspecting officer (s) in carrying out the tests and surveys, including provision of test instruments, technical support, unhindered access to the licensee's premises, and make available network management system and records, *i.e.*, electronic or manual or both, whenever required by such officer. The Authority may engage, if circumstances so require, third party/consultants to conduct quality of service audit.

(3) The inspecting officer shall prepare an inspection report of such quality of service inspections, which clearly spell out the shortfalls observed during such inspection. This report shall be furnished to the licensee. The licensee shall immediately take all remedial measures to remove the shortfalls identified in the report and submit compliance report within 30 days whereby confirms that all stated shortfalls have been removed.

(4) The Authority may call for such special quality tests and surveys and reports thereon, as it may deem appropriate, and the licensee shall comply with the directives of the Authority in this regard.

(5) The Authority or officer of the Authority not below the rank of Director may initiate legal action under section 23 of the Act if licensee failed to maintain quality of service as set out in the license, Regulations and/ or KPIs and/or failed to comply any of the provision of these regulations or failed to submit compliance report as per sub-regulation (3) above.

**11. Performance Audit by the Licensee.—**(1) To monitor the quality of telecommunication service being provided by the licensee and licensee's adherence to the quality criteria laid down in the license, Regulations and KPIs, each licensee shall conduct periodic tests and surveys at such intervals as may be necessary, or as may be directed by the Authority, and shall procure such test instruments and equipment as may be required for the purpose.

(2) The tests and surveys shall be so designed as to give the overall as well as the detailed picture, for example, Exchange/Main Switching Centre/Network Management System and region/POP-wise, of the quality of service provided by the licensee.

(3) The Authority may specify the nature and procedure of quality tests and surveys, and may issue directives in this behalf, and the licensee shall comply with the same. The licensee shall, every month or at such intervals as the Authority may direct, furnish the results of the quality tests and surveys to the Authority, in such form and manner as the Authority may specify.

(4) The Authority may depute its own representatives to be present at the quality tests and surveys carried out by the licensee.

(5) The licensee shall submit to the Authority the quality of service reports comprising the aggregated form for each parameter in KPIs, regulations & license on quarterly basis or at such intervals as the Authority may direct from time to time and in the form and format as may be prescribed by the Authority.

(6) The licensee shall keep a record of the said quality tests and surveys, in such form and manner as the Authority may specify. This record shall at all times be open to inspection and audit by the Authority or officer of the Authority, with or without notice to the licensee. Such record shall not be destroyed for a period of three years.

12. **Publication of Quality of Service Reports.**— Without prejudice to anything contained or any action required under these regulations, the Authority may publish such survey results, service audit results, and/or rating of licensees for information of general public.

## CHAPTER-II

13. **Applications for license.**— (1) The Authority shall, through public notice, invite applications for licenses for establishment of such telecommunication systems or the provision of such telecommunication services as it may deem fit, subject to payment of such fees as specified by the Authority from time to time.

(2) Subject to section 8 of the Act, the Authority shall not normally consider applications for a license submitted without an invitation but interested persons may file Expressions of Interest, which the Authority may take into account while deciding whether or not to issue invitation for license.

(3) The Authority shall, allow at least one hundred and twenty days, from the date of invitation, for filing applications for license.

(4) All applications for licenses shall be in the manner as prescribed by the Authority in the advertisement.

(5) Incomplete applications and applications not submitted in time may not be accepted by the Authority.

(6) The Authority shall give its decision on applications as soon as possible but not later than one hundred and twenty days from the last date fixed for the receipt of applications.

**14. Applications for license must contain certain information.—**

(1) All applicants shall, *inter alia*, provide the following information, namely,—

- (a) details of the project the applicant proposes to implement on award of license, including the time-frame of its implementation and technical and financial viability;
- (b) details of incorporation of the applicant with the Security and Exchange Commission of Pakistan except as otherwise specified from time to time;
- (c) details of the applicant's ownership and nationality;
- (d) names of key personnel employed by the applicant, alongwith complete details of their experience and qualifications;
- (e) evidence of the applicant's financial and technical capability and its track record; and
- (f) potential benefits of the applicant's project, such as technical advancement and promotion of the interest of users of telecommunication services.

(2) Each application shall be accompanied by the following, namely, —

- (a) Projected cost statement for 1st year of operation;
- (b) Sources of financing, either equity or debt;
- (c) Proof of financial resources to start operations, as per the projected cost statement; and
- (d) Any other requirements as the Authority may specify from time to time.

(3) The Authority shall lay down specimen for applications for different licenses and may, from time to time, make such changes in such specimens, as it may deem appropriate.

(4) The Authority may call for such additional information and clarification from an applicant for a license as it may deem fit.

**15. Criteria for evaluating license applications.**— (1) Applications for a license received in response to an invitation shall, in the first instance, be short listed by using the following criteria, namely, —

- (a) economic and business viability;
- (b) technical competence;
- (c) financial capability;
- (d) credibility and track record;
- (e) Pakistani share in ownership;
- (f) prospects of technical progress and introduction of state-of-the-art technology;
- (g) market advancement, such as improved service features or market concepts;
- (h) contribution to universal service objectives; and
- (i) contribution to other social or economic development objectives.

**16. Criteria for award of license.**— In awarding license, the Authority shall consider the factors specified in sub-rule (3) of rule 4 of the Pakistan Telecommunication Rules, 2000.

**17. Authority to give reasons for preference.**—Where the Authority has preferred an applicant over another in the award of license it shall record reasons for doing so.

**18. Grant and renewal of license.**— (1) Subject to the Act and the Rules, a license shall be granted for an initial term of not more than twenty-five years consistent with the policy directive of the Federal Government for the time being in force.

(2) Subject to sub-regulation 3 below and conditions of the license, after the expiry of the initial term, the license may be renewed on terms and conditions consistent with the policy directive of the Federal Government in force at the relevant time.

(3) If the license is not to be renewed, the Authority shall inform the licensee by a written notice that the license shall not be renewed on the expiry of the initial term. The aforesaid notice shall be served on the licensee at least on or before the start of last quarter of the initial license term.

**19. Commencement of commercial operations.—** (1) The licensee shall not commence its commercial operations without obtaining commencement certificate from the Authority in accordance with Clause 22 of Schedule 2 of the Pakistan Telecommunication Rules, 2000.

(2) When the licensee's system is ready to commence operations, it shall inform to the Authority of the readiness of the system and apply for issuance of commencement certificate for commercial operations. The Authority may, at the earliest of such information and request, have the system inspected by its officers or representatives.

(3) If the Authority is satisfied after inspection and verification that the system is ready for commercial operations, the Authority shall issue the said certificate.

**20. Modification of license on application by a licensee.—** (1) The Authority may refuse to entertain any request by a licensee for the modification of the license before the expiry of its term.

(2) Where the Authority decides to consider a request by a licensee for modification of the license before the expiry of its term, it may give public notice of its intention to do so, together with a description of the requested modifications and invite objections, if any, from interested parties.

(3) After consideration of the request referred to in clause (2), and the objections, if any, the Authority may or may not, accept the licensee's request for the modification of the license.

(4) No public notice by the Authority shall be necessary for modification of a license undertaken at the Authority's initiative under Section 22 of the Act.

(5) Without prejudice to Section 22 of the Act, in order to clarify the existing clauses of the license the Authority may add to or delete or amend any condition of the license.

(6) The Authority may modify a license at the time of its renewal or on the expiry of its term.



21. **Transfer or assignment or sub-license of license.** — (1) Neither the license nor the rights conferred upon the licensee thereunder shall be transferred, assigned or disposed of in any manner or transfer directly or indirectly the control of the licensee to any person either by way of sale of share or otherwise that may result in substantial change in ownership or control of the licensee except with the prior approval of the Authority.

(2) In assessing the suitability for transfer/change, assignment etc. of license, the credentials of the person to whom the incumbent proposes to transfer or assign the license as the case may be, shall be assessed by the Authority on criteria as if it were an application for grant of a new license as set out in sub-regulation (1) of regulation 15 above.

(3) In allowing the transfer of a license, the Authority shall, *inter alia*, take into account the financial and technical strength and commitment of the person to whom the license is proposed to be transferred or assigned or whatever the intended transaction may be and whether such person would be able to offer the services at low price and of a quality not inferior to the incumbent licensee, and pay the license fee(s) as applicable.

(4) The Authority may refuse a request if it is satisfied that the consumers' and national interest shall be adversely affected.

(5) The Authority while allowing the request may impose such conditions as it may deem fit.

(6) The Authority may prepare requirements and procedures for handling the requests for transfer of shares, change of management or for the purposes of Rule 11 of the Pakistan Telecommunication Rules, 2000.

22. **Notification of Mergers.**— A licensee shall give prior written notice to the Authority of any proposed merger of its business, in respect of which it has been granted a license, with a business owned by an entity other than the licensee and the Authority shall give its decision on the desirability or otherwise of the proposed merger.

23. **Fees.**— (1) The Authority shall have power to charge and levy, as the case may be, the following fees for grant and renewal of licenses or any authorization granted under the Act and for the purpose thereof,—

(a) license fee, *i.e.*, initial and annual;

(b) license renewal fee;

- (c) Spectrum fee for allocation and use of radio frequency spectrum including annual spectrum charges;
- (d) license revalidation fee;
- (e) license modification fee;
- (f) license restoration fee;
- (g) transfer and assignment of licenses fee, if such transfer or assignment is approved by the Authority;
- (h) fee for type approval of terminal equipment;
- (i) fee for providing copies of the license documents, decisions or determinations;
- (j) license applications fee;
- (k) number usage and allocation fee; and
- (l) any other fee for any authorization granted under the Act and for the purpose of the Act such as, administration of license, approval for extension of the service/system etc. as may be specified by the Authority;

Provided that, one or more fees may be charged individually or jointly where applicable.

Further provided that renewal fee and/or annual fee charged may be based on revenue sharing principle, and as may be determined by the Authority from time to time during the preceding financial year of the licensee.

*Explanation-I.*—“Gross revenue” shall mean “the turnover or gross income, exclusive of trade discount shown on invoices of bills, derived from sale of goods or from rendering, giving or supplying services or benefits or from execution of contracts.”

*Explanation-II.*— The “license fee” is a fee payable to the Authority as a consideration or premium for the right to provide a telecommunication service or system, to operate a telecommunication network, maintain telecommunication service or system or /and use a limited resource (*i.e.*, radio spectrum or numbers etc.) and such other fees to compensate the Authority in performing of its functions such as

licensing, license enforcement, resolving interconnect or other disputes and establishment and supervision of such other aspects of regulatory works which the Authority may task from time to time. The imposition of license fees may beside other factors be based on telecommunication revenues, licensed coverage area or type of service as determined by the Authority.

(2) The Authority may charge full license fee at the time of issuing the license or in parts and annual license fee as prescribed in each license.

(3) The Authority may sell, lease or auction licenses, numbers and/or frequency spectrum and shall credit the proceeds accruing from such sale, lease and auction to the Authority's fund as a fee accrued from issue, renewal of a license and authorizations granted.

(4) The Authority may impose any other fee with suitable nomenclature with respect to activity related to licensing or renewing the license from time to time.

(5) An applicant on approval of its application for allocation of radio-frequency spectrum and thereafter for the use of frequency spectrum shall pay to the Authority such fee or charges, as may be specified by the Authority.

(6) All fees, as the Authority may lay down, shall be paid to the Authority through demand draft or pay-order issued by a scheduled bank in favour of the Authority.

(7) The licensee shall be bound to pay such fees as stipulated in the license within due dates. In addition to any other remedies available to the Authority, late payment of fees shall incur an additional fee calculated at the rate of 2% per month on the outstanding amount, for each month or part thereof from the due date until paid.

(8) The Authority shall place on its website a list of the applicable fees and, wherever applicable, rates of fees.

**24. Auction for assignment of Radio Frequency Spectrum.—** (1) Where the Authority considers appropriate and determines, with the consultation of Frequency Allocation Board, that the demand for one or more frequency bands exceeds supply, the relevant radio frequency spectrum band shall be assigned through auction on such terms and conditions as may be determined by the Authority from time to time or through other transparent, non-discriminatory, open and competitive process.

(2) The Authority shall, through public notice, invite applications for participating in auction or alternate process initiated by the Authority for award of frequency spectrum. After receiving of the applications, the process of conducting auction or alternate process shall be initiated by sending a written notice to the applicants fulfilling the requirements mentioned in sub-regulation (3) below that are eligible to participate in the auction or alternate process in accordance with the terms and conditions of the auction process or alternate process. The notice shall contain the following information that:

- (a) the Application is provisionally accepted for auction or alternate process in the Region applied for;
- (b) identification of the band, blocks and Regions in which the radio frequency spectrum is to be auctioned,
- (c) the number of eligible Applicants for the auction of the identified blocks and Regions,
- (d) the time, date and venue for the auction, and
- (e) such procedural information and instructions as the Authority considers appropriate.

(3) The applicants fulfilling the following requirements may be deemed as eligible for the purpose of participation in auction or alternate process:

- (i) a demonstration of the technical and financial ability to construct and operate a telecom system and use of proposed frequency band;
- (ii) local incorporation of a legal entity;
- (iii) Pakistani share in the legal entity;
- (iv) number of technically qualified employees; and
- (v) any other requirements as the Authority may consider appropriate.

(4) The Authority reserves the right to change/alter the auction process, or alternate competitive process decided by the Authority or its terms and conditions, if circumstances so necessitate or considered appropriate in the given circumstances.

**25. Moratorium.**— The Authority may in exceptional circumstances defer or allow payment in installments of fee or fees by way of moratorium if a

case by a licensee is made out for it with reference to its resources and obligations and such licensee satisfies the Authority that it is in the interest of telecommunication industry as a whole and the public for such moratorium be granted. Every application for the grant of moratorium or payment in installments shall be evaluated and discussed by the Authority and the reasons for the grant or refusal of such moratorium shall be recorded and conveyed to the licensee.

26. **Forms.**— The Authority may from time to time lay down forms of applications and/or other documents and make such changes therein as it may deem appropriate.

### CHAPTER-III

#### Investigation and Adjudication

##### A. Procedure on show cause notices:

27. **Opportunity of Hearing pursuant to Show Cause Notice.**— After the issuance of show cause notice under sub-section (1) of section 23 of the Act, the Authority or officer of the Authority, as the case may be, deem it necessary to proceed against the licensee under sub-section (3) of section 23 of the Act, the Authority or officer of the Authority shall, keeping in view section 6 (d) of the Act, afford to the licensee an opportunity of personal hearing before passing an enforcement order.

*Explanation I.*— at PTA Headquarters Show Cause Notice and the incidental or ancillary proceedings shall be conducted by the Authority or officer of the Authority from Law Division not below the rank of Director, whereas at Zonal/Regional offices, by the concerned Zonal Directors. No concurrent proceedings may be initiated or continued against the same licensee on the same issue at Headquarter and any Zonal office of the Authority.

*Explanation II.*—Panel for the hearing to be conducted by the officer of the Authority shall comprise such officers as may be nominated by Law Division of the Authority keeping in view the nature of the issue.

28. **Time and Place for Hearing.**— (1) The Authority or the concerned officer of the Authority shall, prior to the hearing on show cause notice, notify the date, time and place of hearing in writing to the licensee.

(2) Where the licensee appears through pleaders, or agents duly authorized in that behalf, their power-of-attorney shall be filed in original prior to or at the time of hearing. The power-of-attorney, so filed, shall be considered to be in force until specifically revoked.

29. **The Manner of Conducting Hearing.**—(1) The hearing convened pursuant to the hearing notice referred to in Regulation 28 above shall, subject to the nature of show cause, proceed in the following manner:—

- (a) **Officer's presentation of the case:** The Authority or the concerned officer of the Authority presiding the hearing shall ask the case officer to present the case against the licensee. The case officer shall produce all relevant oral and/or documentary evidences forming the basis for issuance of show cause notice to the licensee.

*Explanation.*— 'case officer' means an officer of the Authority who has been appointed as case officer for the subject case by the Law Division of the Authority.

- (b) **Licensee's presentation and arguments.**—The Authority or the concerned officer of the Authority shall allow the licensee a reasonable time to present his explanation, extend arguments in defense, in oral or written or both, and produce documents in support of his stance.
- (c) **Officer's rebuttal evidence.**— Following the licensee's arguments, the case officer may submit reply in rebuttal to whatever stated or produced by licensee under clause (b) above.
- (d) **Enforcement order.**—The Authority or the concerned officer of the Authority shall decide the matter in issue as promptly as possible but not later than thirty (30) days of hearing.
- (e) **Adjournment of Hearing.**— The Authority or the concerned officer of the Authority may, on written request from the licensee if such request receives at least two working days prior the date of hearing or due to non-availability of the Authority or the concerned officer of the Authority or the case officer on the date fixed, adjourn the hearing to another reasonable date and reduce into writing cause of the said adjournment.
- (f) **Ex-parte Proceedings.**—If on the day fixed for hearing the licensee fails to respond or appear before the Authority, or the concerned officer of the Authority, as the case may be, the Authority or the concerned officer of the Authority may pass an *ex-parte* enforcement order under the Act.

30. **Appointment of Administrator.**—(1) The Authority may, in the circumstances provided for in Section 23 of the Act, appoint a person, having

professional knowledge and experience of telecommunications, as an Administrator, to manage the affairs of a licensee.

(2) The Administrator shall carry out his functions honestly and diligently, and with due regard to the legitimate interests of the licensee and exercise powers conferred under section 24 of the Act.

(3) The Administrator shall act, as he is the licensee himself, and, subject to such relaxation, if any, as the Authority may allow in consideration of any special circumstances, shall be responsible to the Authority for fulfillment of all the conditions of license. He shall perform to the satisfaction of the Authority on all matters relating to the licensee.

(4) The Administrator may resign from his office by submitting resignation to the Authority.

(5) Where in the opinion of the Authority, the Administrator becomes unable or fails to perform his functions under the Act, the Rules and these regulations, the Authority may replace him with another qualified person.

#### B. PROCEDURE ON COMPLAINTS AND CLAIM:

31. **Filing of Complaint or claim.**—(1) A complaint or claim filed under clause (f) of section 4 of the Act may be addressed to the chairman or concerned Zonal Director and be filed at the Headquarter of the Authority or any of the concerned Zonal offices or Regional offices by the complainant/claimant personally or through his representative or may be submitted by post or courier service.

(2) Each complaint or claim lodged under this Regulation shall be accompanied by a duly executed affidavit of the complainant/claimant affirming the alleged facts and any other relevant documents the complainant/claimant may like to attach in support of the complaint or claim with solemn affirmation that—

- (a) the allegations contained in the complaint/claim are true and correct to the best of knowledge and belief of the complainant/claimant;
- (b) no complaint or claim has previously been filed on the same subject matter at the Headquarter or any of the Zonal or Regional Offices against the same licensee;
- (c) no suit, appeal, petition or any other judicial proceedings in connection with the subject-matter of the complaint, or claim is pending before any Court or any judicial or quasi judicial Tribunal, and;