



PAKISTAN TELECOMMUNICATION AUTHORITY

HEAD QUARTERS, 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 Brain Telecommunication Limited

File No.7/2 (Vigilance) PTA/2008

Date of Issuance of Show Cause Notice:	15 th August, 2008
Date of Hearing:	24 th November, 2008 and 3 rd February, 2009
Venue of Hearing:	PTA HQs, Islamabad

The Authority Present:

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

The Issue:

*“Un-authorized origination and termination of international telephony traffic in contravention
the terms and conditions of the licence”*

Decision of the Authority

1. Brief Facts:

1.1. M/s. Brain Telecommunication Limited (the “licensee”) is a public limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of telecommunication services pursuant to the non-exclusive Local Loop License No.LL-13-2004 dated 19th July, 2004 (the “license”) awarded by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Telecommunication System and provide Telecommunication Services in the Licenced Region of LTR (N/S), subject to the terms and conditions contained in the licence. The licence required of the licensee to comply with the prevailing regulatory laws comprising of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”), the Pakistan Telecommunication Rules, 2000 (the

"Rules") the Number Allocation and Administration Regulations, 2005 (the "Regulations") and the terms and conditions of the licence.

1.2. Under clauses 1.1.1 and 13.2 of the licence the licensee is obliged to provide the licenced services in the region mentioned in Appendix-1 of the licence (the "licensed region"). Under clause 1.1.3(a) and (b) of the licence, the licensee is not authorized to provide telecom services outside the licenced region and/or to interconnect its system with the telecom system of a service providers that provides telecom services outside Pakistan and under clause 1.1.3 (g) of the licence the licensee is not authorized to establish, maintain or operate a Telecommunication System to provide Telecommunication Service that is not authorized under the licence. Pursuant to clause 1.1.6 of the licence, the licensee is authorized to provide access to Long Distance and International Public Voice Service only through the interconnection of its Telecommunication System with the Telecommunication System of another operator duly licensed by the Authority to provide Long Distance and International Public Voice Services.

1.3. Accordingly, the licensee has been assigned numbering block and short codes pursuant to condition 2.1 of the licence, regulations 3(1) & 16 of the Regulations to be used for its licenced services within the licenced region and shall be used for the specific purpose and manner as approved by the Authority pursuant to regulation 14(1)(b) of the Regulations.

1.4. The Authority, through the Traffic Monitoring Facility installed for the purpose, noted that **(i)** it has during the period from 14th May, 2008 to 30th June, 2008, unauthorizedly originated 450,814 international telephony minutes (accounting for 65,482 international telephony calls) and terminated those minutes in different countries through IP address 119.63.130.98 by using SIP over non-standard port 8891 **(ii)** from 14th May, 2008 to 30th June, 2008 it has also unauthorizedly terminated 2,442,779 international telephony minutes (accounting for 339,917 international telephony calls) in Pakistan through IP address 119.63.130.98 by using SIP over non-standard port 8891 and **(iii)** the licensee has been using its locally allocated numbers for the Lahore Region (N/S) outside Pakistan by misusing Direct Inward Dialing technique and by mapping its numbers against IP addresses, hence, these numbers are being used globally and more than 50,000 customers of the licensee are using these numbers in around 77 countries.

1.5 This un-authorized, illegal and extra-licensed activity on part of the licensee resulted into issuance of the Show-cause notice (the "notice") dated 15th October, 2008 under section 23 of Act. The licensee replied to the notice on 13th November, 2008 through its counsel and later on it submitted application for correction of typographical/clerical errors which reply is reproduced, in verbatim, as under:

"Preliminary Objections:

1. *That the Show Cause Notice 'the Notice' specifies a time period from 14th May 2008 to 30th June 2008 during which time period Brain Telecommunication Limited 'Brain Tel' has allegedly been guilty of unauthorized origination as well as termination of international telephony minutes. The Notice has been issued with an inordinate delay of 45 days. No reasoning whatsoever has been provided to the Licensee for this delay, which in itself casts doubt on its sanctity. Copy of the Notice with numbered paragraphs is attached as Annexure "A".*

2. *That a letter had been issued through Mr. Muhammad Ahmad Kamal, Director (P&R) of the Authority bearing Reference No. M(T)/167-2008/PTA dated 10th day of March, 2008 'the Clarification Letter' under the subject 'Clarification Regarding Launching VoIP Service'. A copy of this was marked to all LL operators including Brain Tel. The above referred letter is still in force without any alteration, amendment, modification etc. The services being provided by Brain Tel are completely covered under the scope of the Clarification Letter. The Clarification Letter, therefore, operates as an estoppel against the Authority and/or its Officers to issue any such Show Cause Notice. A copy of this Clarification Letter is attached as Annexure "B".*
3. *That stance of the Authority regarding services/performance of Brain Tel is self contradictory, to say the least. On one hand, PTA made an appreciative reference of Brain Tel's market share in the International incoming and outgoing traffic in the Telecom Quarterly Review Paper of March, 2008 published by PTA itself and on the other hand Brain Tel has been issued with this Show Cause Notice. This is a clear cut indication that there is more to issuance of the Notice than meets the eye on a bare perusal of the same. A copy of this Telecom Quarterly Review Paper is attached as Annexure "C".*
4. *That the Notice alleges that Brain Tel has 50,000 (Fifty Thousand) consumers which is contrary to facts and is conflicting with record. PTA till date has only issued a series of 10,000 (Ten Thousand) numbers to Brain Tel. A copy of the sanction/approval letter issued by PTA in this context is being attached herewith as Annexure "CC". A senior officer of the Authority like the scribe of the Notice making such a contradictory, exaggerated, baseless and contrary to record statement is not befitting of his office. This baseless allegation is an indication of the fact that the Notice has been issued without any logical and/or legal basis on the instigation of some market players who are trying to safeguard their own vested interests in this manner and are attempting to monopolize the field by ousting other undertakings / smaller entities who are giving them a difficult and tough competition.*
5. *That it appears that the true reasoning and cause behind issuance of the Notice is to protect / cover / further the agenda of some business tycoons and their disguised sponsors / patrons and the LDI Consortium which enjoys complete protection and support of the Authority. However, the LDI Consortium lacks a legal basis and is as such nothing more than an illegal cartel. The Licensee reserves the right of approaching the relevant forum to challenge this anti-competitive practice.*
6. *That in the notice, Brain Tel has also been accused of 'misusing Direct Inward Dialing technique', which allegation is also incorrect, baseless and irrational. Brain Tel is not making 'misuse' of Direct Inward Dialing technique for providing services to its customers. Without prejudice to the above, Brain Tel contends that using Direct Inward Dialing or call forward / call back technique is perfectly legal since there is nothing in the License, the Act, the Rules and the Regulations which places any restriction on the use of these techniques. Further, the expression 'misuse of Direct Inward Dialing technique' has not been elaborated upon in the Show Cause Notice.*
7. *That Brain Tel has been accused of unauthorized origination of international telephony minutes and therefore causing substantial loss to LDI licensees. All international telephony minutes originating on Brain Tel numbers are carried by our interconnect partner M/s RedTone Telecommunication Pakistan (Pvt.) Limited through a specially dedicated/differentiated IP address 119.63.130.98. This fact is well within the knowledge of the Authority and/or its Officers. This Interconnect Agreement has been in place since 10-10 2006. It is interesting to observe that Vigilance Officer and other staff from PTA had*

been requiring Ms. RedTone Telecommunication Pakistan (Pvt.) Limited to supply variety of information to the Authority till less than two weeks prior to issuance of the Notice. Therefore the allegation of 'unauthorized origination of international telephony minutes' is clearly ill found, irrational and baseless.

8. That VoIP Services being provided to the Respondent on internet cloud had been terminated on 04-08-2008 by its interconnect partner M/s RedTone, on the instigation of LDI Consortium members, under pressure from PTA. Ms RedTone had duly intimated/informed the Authority regarding this act of termination. Therefore the Notice at hand issued to us on 15-08-2008 requiring us to stop services which had been terminated much prior to issuance of the Notice is infructuous.

Preliminary Submissions:

1. That on Sunday 18th day of February, 2007 Pakistan Telecommunication Authority through proclamation in the newspaper advertised in regards with VoIP services public information bulletin in which it had been categorically stated that, "under the present technology neutral license regime VoIP services can be provided by Local Loop (LL) Long Distance International (LDP and Cellular Mobile Operator licensed by PTA". A copy of this public information bulletin (proclamation in newspaper) is attached as Annexure "D".
2. That permission for providing VoIP services granted to Local Loop (LL) Long Distance International (LDI) and Cellular Mobile Operators licensed by PTA being an innovative technology usage and a progressive thing gave rise to ambiguity, from time to time. Brain Tel along with other concerned market players kept sending queries seeking information in regards with this issue to the Regulatory Authority.
3. That considering it appropriate and requirement of the time Muhammad Ahmad Kamal, Director (P&R) of the Authority issued a letter carrying Reference No.M(T)/167-2008/PTA dated 10th day of March, 2008 under the subject 'Clarification Regarding Launching VoIP Services'. It is appropriate to refer contents of the letter at this stage: 'In order to clarify VoIP services for the industry & consumers, to enhance the confidence of investors and secure the interest of consumers the Authority has approved the attached documents at Annexure-A under heading "clarification regarding launching of VoIP services". A copy of this was marked to all LL operators including Brain Tel.
4. That providing of VoIP services was very clearly demarcated into different categories and Brain Tel had ensured its service module to be in absolute conformity with 'Category I' as laid down in this clarification.
5. That a diagram illustrating the operation of Brain Tel in light of the Clarification Letter is attached as Annexure "E". This gives a very clear picture of our model of operation as narrated/explained in the Clarification Letter as Category I. The same is also available on record of our Interconnect Partner i.e. Red Tone Telecommunication Pakistan (Pvt.) Ltd.
6. That an appreciative reference of Brain Tel market share in the International incoming and outgoing traffic in the Telecom Quarterly Review of March, 2008 published by the PTA at pages 31 & 32 was of grave concern for some LDI Operators, particularly the Significant Market Players. These LDI's not only felt let down by the fact that a small business organization had adopted modern technology and concepts earlier and achieved better results in comparison to their heavy set-ups, but, also viewed it as a loss

accrued to them on the grounds that had Brain Tel not provided the end-users/customers services on such cheaper rates and not taken this chunk of the market share it would have flowed to their, benefits and account. Further, it is clarified that Brain Tel had provided services to the end-users strictly in compliance with the limits laid down under the law in the best interest and benefits of the end-users/customers, which is exactly in line with the agenda of PTA as well. Therefore, PTA should have provided all protection and appreciation to Brain Tel, which used to be the policy of PTA over the years, but, at the recent junction of drastic changes in the management hierarchy, business tycoons who were working on grasping unqualified extra ordinary high margin of profits from this trade/industry (to the exclusion of other undertakings like Brain Tel) could not tolerate this.

- 7. That tycoons and their patrons / sponsors above referred are trying to fast usurp the telecommunication sector in Pakistan. Brain Tel has absolutely no objection to any business deals being made in regards with the significant market players/organization shares etc., however, it is concerned about its own independent small capacity in which it was serving the people of its country at the most competitive rates in the world on the basis of use of modern and latest technology in the best interest of end-users/customers.*
- 8. That so influential were these business tycoons and their patrons that they very successfully managed and manipulated highest appointments of the Regulatory Authority set up, for ultimately reaping the harvest of this crop by way of culminating the interests of the end user / customer by charging undue high rates.*
- 9. That the management of Brain Tel respects every official of the Authority and has always tried to abide by every instruction and direction issued by it / them. However, it very respectfully reserves its right to safeguard its interest coupled with the interest of its customers/end-users. Further, Brain Tel is also not ready to make any compromise on matters of national interest at any cost, let alone for the betterment of some individual or foreign elements, whosoever.*
- 10. That the business tycoons above referred and their disguised patrons are in fact playing a master stroke with the Telecom Industry. On one hand they have very cleverly invoked and motivated the LDI Operators to form a cartel in the name and style of the LDI Consortium. Although it is an absolutely illegal transaction hit by the anti-competitive laws, Competition Ordinance, 2007 presently in force in Pakistan. These LDFs are constantly being given a pat on the back and are being patronized and invoked in all and every meeting of this consortium to charge extra ordinary heavy amount from the user which is blatantly in contravention to the provisions of law as contained in the Pakistan Telecommunication (Reorganization) Act 1996. They have very cleverly convinced and invoked the LDI Operators to enter into agreements amongst themselves to abide by the decision of charging 10 Cents. On the other end the LDI Consortium members are being cheated by those business tycoons and their disguised beneficiaries by way of availing a big chunk of the market share on lower rates than the rate imposed/restricted by LDI Consortium, but, this rate is much higher than the competitive rates on which the Respondent is providing service to the end-users. This way on one end the LDI's are being used to eliminate the smaller fish like the Answering Respondent and on the other end while achieving these targets they are also reaping the harvest as explained above. Ultimately the LDI Consortium members will be stabbed in their back by these patrons on the ground of illegality of the transaction which the LDI Operators are involved into by way of creating a cartel namely LDI Consortium. It is thus not difficult for a common sense person to understand who is going to benefit and what would happen.*

11. *That the instant transaction infact is a trance and beginning of the end, wherein, the use of modern technology and benefit of the end-users is being curbed and ultimately this would end up in winding up of the deregulation policy undertaken in the past few years.*
12. *That finding no other easy way to compete, the LDI Operators who in fact are under a trance as explained above and who were long aspiring to obtain a manipulative position formed a cartel in the name and style of "LDI Consortium" for attaining their illegitimate objectives. Forming a cartel with the objective of attaining a manipulative / monopolistic position whereby any market player can blackmail and fleece money from customers / end-users is not a legal transaction and appreciable business situation. Further this is contrary to the very objectives, functions and responsibilities of the Pakistan Telecommunication Authority. The 3 main functions of the Pakistan Telecommunication Authority imperative in nature, other than its regulatory function, are contained in Sections 4(c),(d), (e)and (m) of the Act and are being reproduced hereunder for a ready reference:
4 (c) *promote and protect the interest of the users of telecommunication services of Pakistan.*
4 (d) *promote the availability of a wide range of high quality, cost effective and competitive telecommunication services throughout Pakistan.*
4 (e) *promote rapid modernization of telecommunication system and telecommunication services.*
4 (m) *regulate competition in the telecommunication sector and protect consumer rights.**
13. *That the Authority while exercising its Functions and Powers under the Act is bound to act in accordance with section 6 of the Act which lays downs its Responsibilities. Reference is made to sections 6 (b), (e) and (f) of the Act. The said provisions are being reproduced hereunder for ready reference wherein it has been envisaged that the Authority shall ensure that:
6 (b) *all of its decision and determinations are made promptly in an open, equitable, non discriminatory, consistent and transparent manner.*
6 (e) *fair competition in the telecommunication sector exists and is maintained*
6 (f) *the interests of users of telecommunication services are duly safeguarded and protected.**
14. *That as per best information that Brain Tel could obtain, the said LDI consortium is not a registered/incorporated body, for the reason that the purposes and objectives of any such organization working for attaining a manipulative/monopolistic position in the form of a cartel is not permissible due to its anti-competitive effects, however, proof to the effect that such a consortium is existent and its meetings are held from time to time, in blatant violation of the Functions and Responsibilities of PTA as laid down in the Act, is available.*
15. *That a series of letters intimations and minutes of these meetings are attached herewith as per following detail to confirm existence of this cartel/consortium;*
 - a) *An invitation letter Reference No.CE(INPD)004/07 dated 29th October, 2007 issued by PTCL for holding the 10th meeting of LDI consortium is attached as Annexure "F".*
 - b) *Letter Reference No. RA/LDI/07 dated 11th day of April, 2008 issued by PTCL in regards with minutes of the meeting conducted by LDI is attached as Annexure "G".*
 - c) *Letter dated June, 2008 issued by PTA in regards with the minutes of meeting held on 3rd June of 2008 which is attached as Annexure "H".*
 - d) *Finally a letter regarding minutes of meeting of LDI Consortium dated 25th July of 2008 with Telenor as Annexure "I". On a bare perusal the fact of patronage of the Consortium by the then Member Technical, PTA Dr. Muhammad Yasin is visible outright.*

16. *That it would not be out of place to mention that a perusal of Annexure "I" on its second page clearly indicates that LDI Operators had adopted an absolutely manipulative/monopolistic/anti-competitive approach while demarcating a traffic quota percentage amongst themselves. This very clearly indicates that they are not ready to accommodate/permit any other market player in the International Traffic Business which fact is highly discriminatory and anti-competitive. The sentence in the beginning of last paragraph in this letter is of significance which clearly evidences the patronage being provided by PTA to the members of the Consortium over and above the instigation made.*
17. *That all this happening under the nose of PTA, being the Regulator raises serious concerns for Brain Tel regarding the true motives behind issuing the Notice to it. Brain Tel fears that in the present circumstances it shall not get justice from the Authority, but is still complying with all legal requirements and formalities by submitting reply to the Show Cause Notice.*
18. *That the actual assault on Brain Tel by the LDI Consortium with the blessing of PTA had started with a letter on 31st July 2008 issued by one Rashid Hussain Officer Incharge Vigilance Cell addressed to Brain Tel's Interconnect LDI partner, Ms. Red Tone Telecommunication Pakistan (Pvt.) Limited seeking some information in regards with IP address allocated by Red Tone to Brain Tel Services. A copy of this letter is attached as Annexure "J". This letter clearly indicates that the Authority was well aware of Interconnect Agreement(s) existing between Red Tone and Brain Tel whereas the Notice clearly states that Brain Tel was 'unauthorisedly originating international telephony minutes and therefore causing substantial loss to LDI licensees'. The general language of the letter dated 31st July 2008 was suggestive, trying to put things in to the mouth of the Red Tone authorities to get them to say something about Brain Tel which could be used against it. It shall also not be out of place to mention that the allegation of causing loss to LDI Operators by Brain Tel is incorrect and ill founded. In fact Brain Tel had been a beneficial business partner of LDI operator Red Tone as such this allegation is absolutely incorrect. Brain Tel might not have proved beneficial to some LDI's or someone special out of the LDI's, but, this no way is a legal requirement.*
19. *That as a result of pressure exerted by the Authority on Ms. Red Tone for obtaining the desired result to please the people who had manipulated their appointments in the highest ranks, an e-mail message was forwarded by Ms. Red Tone to Brain Tel on 01 August, 2008 stating that the management of Red Tone had decided to discontinue VoIP interconnect arrangement with Brain Tel and that all services on internet cloud will be withdrawn effective from 4th August, 2008. A copy of this e-mail is being placed as Annexure "K".*
20. *That partial services of Brain Tel were disconnected on 4th August, 2008 and reply to Annexure "J" was submitted by the Chief Executive Officer of M/s Red Tone vide letter dated August 5, 2008 which is placed as Annexure "L" along with this a diagram illustrating mode of operation by Brain Tel in collaboration with Red Tone. The last paragraph of this letter is of significance wherein it has been stated that:
"It would also be in the fitness of matter to mention that these VoIP services to Brain Tel have been terminated with immediate effect in light of the controversy it was generating."
The above extract from the letter dated 05 August, 2008 is ample proof of the pressure that was being exerted on Ms. Red Tone.*

21. That when no material incriminating Brain Tel was found in the response of Ms. Red Tone, the same Rashid Hussain Officer Incharge Vigilance Cell issued yet another letter dated 6th August, 2008 to Ms. Red Tone, desperately searching for any information that could be used against Brain Tel. Copy of this letter is attached herewith as Annexure "M".
22. That Ms. Red Tone responded vide its letter dated 8th August, 2008 and brought it into the knowledge of the Authority that Brain Tel traffic was operating in accordance with PTA's Letter Reference No. M(T)/167-2008/PTA dated 10th day of March, 2008. Copy of this letter is attached herewith as Annexure "N". It is surprising to note that the Notice makes absolutely no reference to the Clarification Letter and Brain Tel's Interconnect Agreement with Ms. Red Tone.
23. That Brain Tel approached the management of Ms. Red Tone via e-mail and asked it to convey the reasons behind the disconnection of its services, blatantly violating the Interconnect Agreement between them. Ms. Red Tone responded vide e-mail dated Monday August 11, 2008, stating that this had been done in view of the pressure of the LDI Consortium and that even PTA had fallen victim to its instigation and the Vigilance Cell at PTA was making multiple enquires about its interconnect arrangement with Brain Tel. A copy of this e-mail correspondence is attached as Annexure "O".
24. That it is evident from the contents of the aforementioned e-mail Annexure "O" that Ms. Red Tone had unjustifiably disconnected the legal services of Brain Tel under coercion and threats of the LDI Consortium which had been invoked and patronized by the Authority.
25. That the above mentioned act of disconnection of services being provided under an Interconnect Agreement by Ms. Red Tone on a very short notice has caused heavy losses, customer dissatisfaction and annoyance to Brain Tel, recent complaints filed by some of its customers/end-users are enough to substantiate this contention of Brain Tel, in spite of the fact that services offered by Brain Tel in collaboration with Red Tone were well within the domain of policy and authorization as laid down by PTA particularly clarified by PTA vide the Clarification Letter.

PARA WISE REPLY ON MERIT:

1. That the contents of paragraph no. 1 relate to award of LL License to Brain Tel and are admitted.
2. That the contents of paragraph no. 2 relate to the obligation of all licensees to comply with applicable laws, rules and regulations and therefore need no reply.
3. That the contents of paragraph no. 3 relate to scope of services authorized under the LL License and therefore need no reply.
4. That the contents of paragraph no. 4 further elaborate on permissible activities under the LL License and therefore need no reply.
5. That the contents of paragraph no. 5 relate to the mandatory requirement of having an Interconnect Agreement with an LDI License holder to provide access to Long Distance and International Voice Service. As already mentioned in paragraph no. 7 of the Preliminary Objections and reiterated in various other paragraphs of Preliminary Submissions, Brain Tel is fully aware of this requirement and in this context has an Interconnect Agreement dated 21-03-2006 and 10-10-2006 with Ms. Red Tone Telecommunication Pakistan (Pvt.) Limited, which are being attached as Annexure "P" and Annexure "Q" respectively. Further in this

context, this very fact was well within the knowledge of the Authority at the time when the Notice was issued to Brain Tel. Copies of these Interconnect Agreements are however attached for ready reference.

- 6. That the contents of paragraph no. 6 relate to assigning of numbering blocks in light of relevant provisions of the License and the Regulations and therefore need no reply.*
- 7. That the contents of paragraph no. 7 in so far as they refer to installation of a traffic monitoring facility to monitor the telephony traffic of the licensees in the country are admitted to be correct, but, its authenticity, extent of correction, integrity of operators etc. is under clouds of doubt as the same had been sponsored and is being actively operated by Non PTA operators who are vulnerable to all fears and favours. As such nothing relating to the reports of this machine can be treated as a Gospel truth. Brain Tel even disputes the number of international telephony minutes stated to be originated between 14th May, 2008 and 30th June, 2008, however it is specifically and vehemently denied that origination of any of these international telephony minutes was unauthorized in anyway, whatsoever. Brain Tel has an Interconnect Agreement with Ms. Red Tone Telecommunication Pakistan (Pvt.) Limited and all its international traffic uses standard media duly provided by the LDI Partner in accordance with terms and conditions of the LL License and therefore the allegation regarding causing substantial or any kind of loss to LDI Licensees is baseless, illogical and against facts, hence is specifically and vehemently denied. Further, the IP address in question, 119.63.130.98 has been dedicated to Brain Tel by Ms. Red Tone, however it is denied that by using SIP over a non-standard port 8891, Brain Tel has acted in contravention of any of its obligations arising out of its License or otherwise. The Authority has not even bothered inquiring into the reasons behind opting for a non-standard port. Without prejudice to the above stance that using a non-standard port 8891 is not in contravention of any of its obligations arising out of its License or otherwise. The choice of a non-standard port was a precautionary measure on part of Brain Tel to discourage/curb grey traffic since using a non-standard port reduces the risk/probability of grey traffic passing through the system. Instead of appreciation by the Authority on this initiative to curb grey/illegal traffic, Brain Tel has been issued with the Show Cause Notice under reply.*
- 8. The contents of paragraph no. 8 in so far as they refer to installation of Traffic Monitoring Facility is admitted, but, the number of international telephony minutes in the time period specified are denied. However, the concerns expressed regarding the same in the preceding paragraph may be treated as part of this paragraph as well. Further, the IP address in question, 119.63.130.98 has been dedicated for Brain Tel by Ms. Red Tone; however, it is denied that by using SIP over a non-standard port 8891, Brain Tel has acted in contravention of any of its obligations arising out of its License or otherwise. Further, the allegation regarding causing substantial or any kind of loss to LDI Licensees is baseless, illogical and against facts hence specifically and vehemently denied. The reasons for using a non-standard port have already been explained in the preceding paragraph. Remaining contents of this paragraph are also vehemently denied. Reference is made to PTA's Letter Reference No. M(T)/167-2008/PTA dated 10th day of March, 2008, the Clarification Letter, paragraph no. 4 on page 3 in particular. The services being provided by Brain Tel are completely within the ambit of Law and those clarified in the Clarification Letter.*
- 9. That the contents of paragraph no. 9 are incorrect hence denied. The Notice has not elaborated upon how Brain Tel is 'misusing' DID technique. The allegation regarding Brain Tel having 50,000 customers is irrational, illogical and against*

facts and record as already explained in paragraph no. 4 of the Preliminary Objections above. It is being clarified that Brain Tel is not 'misusing' DID technology for providing any of its services.

10. *That the contents of paragraph no. 10 are denied, the same being in contradiction to the Clarification Letter. However, Brain Tel assures the Authority that it has always complied with all legal directions / instructions issued by the Authority from time to time and shall continue to do the same.*
11. *That the contents of paragraph no. 11 are incorrect hence vehemently denied. Brain Tel has not violated any regulatory law and/or terms of its license, there is nothing on the facts that attracts the application of section 23 and the Notice issued to Brain Tel is ill founded and contrary to facts and record.*
12. *That the contents of paragraph no. 12 are legal and as such need no reply. However, without prejudice to its stance that all services being provided by Brain Tel were legal, it is being clarified that the alleged contraventions that Brain Tel is being asked to remedy and/or stop within a period of thirty days had ceased to exist almost 10 days prior to issuance of the Notice. For detailed elaboration on this issue, reference may please be made to contents of paragraph no. 8 of Preliminary Objections and paragraphs no. 16 to 21 of Preliminary Submissions.*
13. *That the contents of paragraph no. 13 need no reply.*
14. *That the contents of paragraph no. 14 need no reply.*

It is therefore most respectfully prayed that the instant Show Cause Notice may very kindly be withdrawn being unfounded and untenable under law. In case further proceedings are required the Respondent Company prays for personal hearing.”

2. Hearing in the matter:

2.1. Since the aforementioned reply was not found satisfactory, the licensee was required to appear before the Authority on 24th November, 2008 for personal hearing in response to which the licensee appeared on the said date through Ch. Muhammad Atiq and Ch. Muhammad Umar Advocates. At the very outset of the hearing, the licensee was asked whether it would like to be heard by the Authority in light of the reservations shown by it against the Authority in its reply to the show cause notice in response whereof the licensee requested for referring the matter to some other forum/authority for deciding on the allegations contained in the notice and the hearing was thus adjourned.

2.2. In order to dispose of the notice by finally deciding on it, the matter was again fixed for hearing on 3rd February, 2009. However, in the meanwhile, the matter was also referred to FIA, Lahore, under section 31 of the Act for investigation.

2.3. The licensee attended the hearing on the aforesaid date through the same learned counsels, however, this time, in the very beginning of their arguments, the learned counsels tendered un-qualified and unconditional apology and requested that the words/statements mentioned in the reply to the notice or uttered during the last hearing regarding the Authority be ignored. The licensee's apology was accepted and it was required to argue the case on merits.

2.4. The licensee when was confronted with the evidence of the fact that it is still involved in providing unauthorized and illegal services, the counsel requested to get feed back from its

client and to inform the Authority to its satisfaction alongwith written arguments within a week time, which was allowed. The Authority further directed the licensee through its counsels to stop the illegal activity immediately. Pursuant to the aforesaid directions, the licensee submitted its written arguments vide its letter dated 12th February, 2009 in the following terms:

Preliminary Submission:

These written arguments are being submitted in addition to the Reply to the Show Cause Notice which has already been submitted. The two documents may very kindly be read as an integral part of each other for all intents and purposes.

- 1. That the first hearing for the Show Cause Notice no. 7/2 (Vigilance)PTA/2008/273 dated 15th August 2008 issued to Brain Telecommunication Limited u/s 23 of the Pakistan Telecommunication (Re-Organization) Act 1996 'the Notice' took place on 24-11-2008 at the PTA Headquarters. The hearing was attended by the undersigned Counsels on behalf of Brain Tel. Right at the outset, Director Litigation and Adjudication pointed out that Brain Tel had expressed reservations/apprehensions regarding getting a fair and just decision from the Authority on the Notice.*
- 2. That the Honourable Chairman asked the Counsels whether they wanted the Authority to hear the matter at hand in view of the reservations/apprehensions expressed in the reply to the Notice. The Counsels upon being provided this choice made a request that another appropriate neutral forum may decide the matter at hand. The Honourable Chairman then announced an order in the presence of the undersigned Counsels that the matter shall be referred to the Federal Investigation Agency for a fair inquiry into the matter.*
- 3. That the Counsels persistently requested the concerned officials of the Authority that a copy of the order dated 24-11-2008 be provided so that Brain Tel is better appraised of the situation and take proper steps to protect its legitimate interests. However, despite repeated requests and a personal visit of Barrister Ch. Muhammad Umar to the PTA Headquarters, no information was provided.*
- 4. That Brain Tel never received any official intimation that the matter had been referred to the FIA in furtherance of verbal orders announced by the Honourable Chairman on 24-11-2008. However, on 16-12-2008 Brain Tel discovered through a news item published in Daily Jang that the Authority had referred the matter to the FIA. This news was reconfirmed by another news item published in The News on 17-12-2008 also stating that the Authority had referred the matter in question to the FIA.*
- 5. That despite waiting for another week, Brain Tel did not receive any official intimation from the Authority in this context. In order to clarify the situation, the Counsels wrote a letter dated 22-12-2008 to the Director Litigation and Adjudication of the Authority and requested that they be provided with a copy of the order passed on 24-11-2008 in the hearing that had been*

conducted so that the requisite information may be passed on to their client.

- 6. That in response to the letter dated 22-12-2008. Director Litigation and Adjudication the Authority sent a letter dated 30-12-2008 wherein it was stated that no enforcement order pursuant to hearing dated 24-11-2008 on the Notice had been issued by the Authority. It also said that the enforcement order as and when issued by the Authority shall be communicated to the Company. No mention regarding referring the matter to the FIA was considered appropriate at this stage, although it had been done specifically in view of the hearing that took place on 24-11-2008.*
- 7. That Brain Tel received a hearing notice dated 29-01-2009 from the Authority stating that a hearing of the Notice had been scheduled for 03-02-2009.*
- 8. That when this point was raised at the hearing, the Counsels were informed that the Notice has been issued under section 23 of the Act, whereas the matter has been referred to the FIA under section 31 of the Act. Therefore the two are independent of each other and the Authority would hear any arguments on the Notice on merit. Although submissions on merits of the Notice were made in compliance with the orders of the Authority, Brain Tel respectfully submits as follows:*
 - i. The Authority had announced an order on the hearing dated 24-11-2008 in presence of the undersigned Counsels that in view of the apprehensions/concerns raised by Brain Tel, the Authority shall not adjudicate over this matter and this is the reason the same shall be referred to the FIA for investigation. After announcing this order and then referring the matter to the FIA in terms of that order, not only has the Authority denied that any order was passed on the hearing dated 24-11-2008, it has unilaterally decided to re-hear this matter without waiting for the Report of the investigation assigned to the FIA.*
 - ii. It is pertinent to mention that the order announced by the Authority on hearing dated 24-11-2008 clearly said that the Notice pending adjudication before the Authority is being sent to the FIA for investigation so the later stance that sections 23 and 31 of the Act are two distinct provisions does not carry force.*
 - iii. Further, any enforcement order issued by the Authority before completion of investigation by the FIA shall be unfair and constitute double jeopardy.*
 - iv. Hearing conducted by the Authority on 03-02-2009 is in contradiction/violation of its own order announced on 24-11-2008.*
- 9. That the Vigilance Cell of the Authority made multiple inquiries from Brain Tel's Interconnect LDI partner, Ms. Red Tone Telecommunication Pakistan (Pvt.) Limited seeking information on various aspects of the existing interconnect arrangement between the two companies. The role of a*

regulatory body requires it to be fair, impartial and consistent. In order to comply with these basic norms of justice, the Authority made inquiries from Ms. Red Tone but no such inquiry/query was ever put to Brain Tel, which is also a licensee of the Authority. Had any contact/communication been made with Brain Tel; any confusion/problem found to be in existence could have been resolved in light of guidelines/instructions/orders of the Authority which Brain Tel is bound and determined to follow, without any need for any action to be initiated against Brain Tel.

10. *That the allegation regarding unauthorized origination is baseless because the Authority was duly informed by Red Tone of the existence of an interconnect arrangement between the two companies.*
11. *That it is extremely important to observe that Red Tone vide its letter dated 08-08-2008 (attached as Annexure - 'N' with the Reply to the Notice) informed the Authority that the services being offered by Brain Tel are in light of Category 1 laid down vide letter Reference No. M(T)/167-2008/PTA dated 10th day of March, 2008 ;the Clarification Letter' under the subject "Clarification Regarding Launching VoIP Services'. However, the Authority did not consider it appropriate/necessary to obtain Brain Tel's point of view on the subject or inform Brain Tel that the Authority considers that the services being provided by Brain Tel are not covered by the Clarification Letter.*
12. *That despite being aware of Brain Tel's stance on the basis of information provided by Red Tone, the Notice issued by the Authority made absolutely no reference to the Clarification Letter.*
13. *That subsequently, the Authority issued a New Clarification Letter bearing reference No. MISC/IP/S&D/PTA/2008 dated October 31, 2008, 'the New Clarification Letter" which stated the purpose of its issuance in the following words: 'The purpose is to remove the ambiguities and for the strict compliance of all to create an environment of uniformity'. The mere fact that the Authority has acknowledged that there were ambiguities in the Clarification Letter and the New Clarification Letter had been issued to clarify those ambiguities further substantiates the contentions of Brain Tel. Any licensee should not be penalized for any ambiguities existing due to an act/omission of the Authority. Benefit of doubt must be given to the Licensee in such situations. Any subsequent explanation on behalf of the Authority regarding the true scope/purpose of the Clarification Letter does not change the fact that this explanation was not in the knowledge of the licensee at the time relevant for the purposes of this Notice.*
14. *That Brain Tel is unable to comprehend why an appropriate Show Cause Notice was not issued to Red Tone in this matter despite its admission/acknowledgement that it had an interconnect arrangement with Brain Tel in its alleged illegal services and was receiving its share as interconnect charges. This prima facie comes across as an act of discrimination and/or victimization against Brain Tel.*

15. *That the Notice issued on 15-08-2008 had inter alia required Brain Tel to stop its unlicensed operations within thirty days of issuance of the Notice. Whereas VoIP Services being provided to Brain Tel on internet cloud had been terminated on 04-08-2008 by its interconnect partner M/s Red Tone and this fact had been communicated by M/s Red Tone to the Authority vide its letter dated 05-08-2008 (attached as Annexure - 'NT with the Reply to the Notice). The Notice issued is in fructuous to that extent.*
16. *That during the hearing dated 03-02-2009 the Authority had directed the Counsels to obtain answers to certain queries which pertain to events that took place after the issuance of the Show Cause Notice.*
17. *That while acknowledging that the Authority is entitled to require any information from Brain Tel and reaffirming its commitment to provide answers to all queries posed by the Authority. It is respectfully pointed out that it is a settled principle of law that while deciding the Show Cause Notice, the Authority can only look at the allegations contained in the Notice and cannot rely upon any act(s) done after issuance of the Notice. If the Authority has any questions/queries/concerns regarding any act of the Brain Tel which took place after the issuance of the Notice, that needs to be dealt with separately.*
18. *That questions pertaining to period after the issuance of the Notice raised and put forth by the Authority and various officials present at the hearing shall be answered to the entire satisfaction of the Authority in due course as requisite information and data in regards with these questions/queries has been sought from Brain Tel which shall be put forth with necessary evidence separately as the same does not fall within the ambit and purview of this Notice.*

2.5. The licensee's violation and its response to the objections it has raised in its reply to the notice and arguments are explained below:

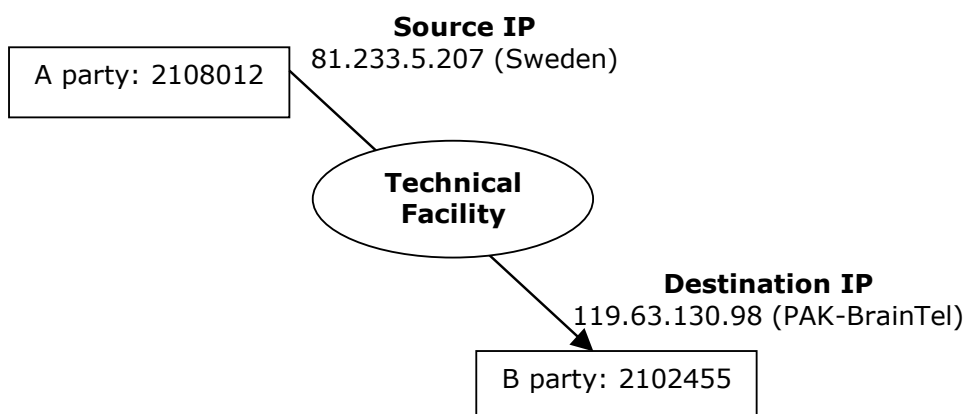
- (i). Geographical Numbering violation by terminating International calls:
Numbers allocated to Brain Tel for Local loop operations are being used outside Pakistan. Using VoIP Brain Tel is terminating calls made by such numbers. Examples are as under:

Date	Source IP	Dest IP	a-party	b-party	duration
2008-05-16 10:54:32	81.233.5.207	119.63.130.98	2108012	2102455	64
2008-05-16 10:59:44	80.162.190.146	119.63.130.98	2104985	0556754134	21
Date	Source IP	Dest IP	a-party	b-party	duration
2008-05-16 11:01:50	196.43.77.181	119.63.130.98	2101776	03003042741	22
2008-05-16 11:03:36	80.162.190.146	119.63.130.98	2104985	0556754134	19
2008-05-16	196.43.77.181	119.63.130.98	2101776	2100786	336

11:05:49					
2008-05-16 11:00:46	80.162.190.146	119.63.130.98	2104985	0556754134	8
2008-05-16 11:19:51	81.233.5.207	119.63.130.98	2108012	0685573790	4
2008-05-16 11:13:40	212.2.181.169	119.63.130.98	2101434	03214887810	1327

Source: Technical Facility IP records

In the above table the source IP addresses are all international IP addresses, which mean that the call is an international call originated from outside Pakistan. However, the a-party (caller number) belongs to the numbering series allocated to Brain Tel in Lahore. Hence, Brain numbers have originated calls outside the country. The B-party numbers are all nationwide numbers belonging to Brain Tel and other LL and Mobile Networks. The destination IP belongs to Brain Tel indicating that these calls were terminated in Pakistan by Brain Tel and not by some LDI operator.



(ii). Termination Minutes Summary

During the period 14th May – 30th June 2008, Facility was able to detect a total of **339,917** international calls accounting for **2,422,779** minutes terminated by M/S Brain Tel. Month wise termination summary of BrainTel is as under:

Month	Calls	Minutes
May08	135,981	990,589
Jun08	203,936	1,432,190
	339,917	2,422,779

(iii). Geographical Numbering violation by originating International calls

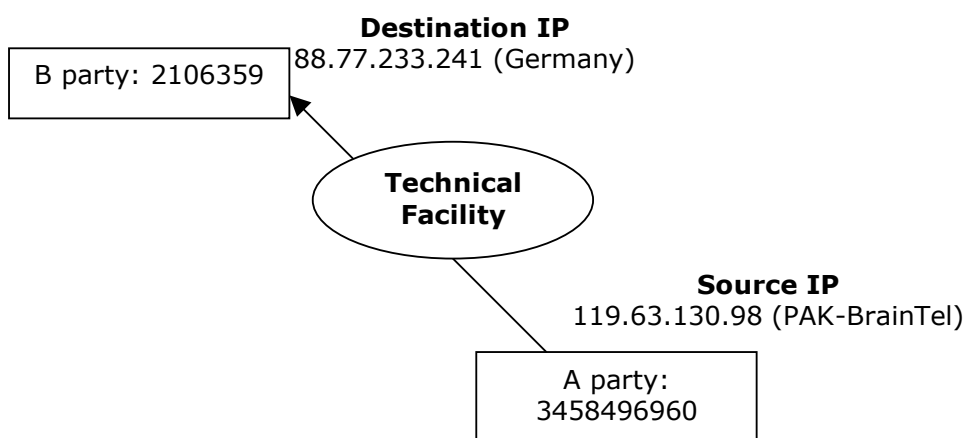
In the same manner calls made to such numbers were originated by Brain Tel outside Pakistan. Examples are given on the following page:

Date	Source IP	Dest IP	a-party	b-party	duration
2008-05-16 12:14:56	119.63.130.98	80.255.47.250	212547892	2108778	136

2008-05-16 12:19:02	119.63.130.98	80.255.47.250	212547892	2108778	19
2008-05-16 12:19:26	119.63.130.98	88.77.233.241	3458496960	2106359	898
2008-05-16 12:38:41	119.63.130.98	88.77.233.241	3458496960	2106359	22
2008-05-16 12:36:45	119.63.130.98	98.214.205.52	426825829	2107610	129
2008-05-16 12:41:09	119.63.130.98	88.77.233.241	3458496960	2106359	553
2008-05-16 12:14:56	119.63.130.98	80.255.47.250	212547892	2108778	136

Source: Technical Facility IP records

In the above table, all the A party numbers are nationwide numbers. These numbers have made calls to Brain Tel numbers. The Brain IP address 119.63.130.98 is the source IP address which has handed over these calls to international IP addresses for termination on Brain numbers being used outside Pakistan. This can be illustrated as follows:



(iv). Origination Minutes summary

During the time period 14th May – 30th June 2008, Facility detected a total of **65,482** international calls accounting for **450,814** minutes to be originated by M/S Brain Tel. Month wise origination summary of BrainTel is as under:

Month	Calls	Mins
May08	16,659	119,807
Jun08	48,823	331,007
	65,482	450,814

Hence, the above examples clearly indicate that by mapping phone numbers to IP addresses, Brain Tel has misused DID facility for terminating international traffic and for providing service outside its allocated local loop region.

(v). Country wise Service offering

BrainTel is a local loop licensee but by using DID it is offering its service worldwide in more than 70 countries. A total of **53,759** Brain Tel customers based in different countries have been identified by the Technical Facility. The summary is shown in the table below:

Country	Number of BrainTel Customers
SAUDI ARABIA	23,863
UNITED STATES	5,154
KUWAIT	3,999
BAHRAIN	3,156
CANADA	2,958
UNITED KINGDOM	2,867
AUSTRALIA	2,260
QATAR	1,723
Unidentified	1,060
CHINA	860
SWEDEN	711
YEMEN	685
SINGAPORE	396
JAPAN	350
GERMANY	287
UNITED ARAB EMIRATES	270
OMAN	267
HONG KONG	226
NEW ZEALAND	213
ISLAMIC REPUBLIC OF IRAN	206
IRELAND	193
DENMARK	187
INDONESIA	165
UZBEKISTAN	163
MALAYSIA	153
THAILAND	108
BELGIUM	101
VIET NAM	99
NORWAY, PHILIPPINES	95
KAZAKHSTAN	89
KYRGYZSTAN	81
SRI LANKA	73
ROMANIA, SWITZERLAND	70
SPAIN	67
AZERBAIJAN	63
FINLAND	42
FRANCE	38
BANGLADESH	27
NETHERLANDS	26
AFGHANISTAN	26
REPUBLIC OF KOREA	25

INDIA	23
BRUNEI DARUSSALAM	21
ITALY	18
BRAZIL	14
TURKEY	10
GREECE,AUSTRIA,RUSSIA,MEXICO	9
KENYA,UKRAINE	8
LEBANON	7
EGYPT	6
ISRAEL	5
CONGO,TANZANIA,FIJI	4
POLAND,PALESTINE,TAJISKISTAN,CAMBODI A	2
LIECHTENSTEIN,CYPRUS,JORDAN,CONGO,UG ANDA,TRINIDAD & TOBAGO,VANUATU,ESTONIA,MALAWI,MON ACO, TIMOR-LESTE	1

2.6. As regards its stance to provide services under clarification letter dated 10th March 2008 issued by the Authority, is based on incorrect information. As per the clarification the licensee can provide services in accordance with its license conditions, and its plea of providing services under Category I is not correct, because under Category-1, it can either initiate or receive calls from POTS and not both whereas the licensee was found providing both services i.e. initiation and termination of calls. The advertisement referred to by the licensee was intended to clarify that only licensed operators like LDIs and LLO can provide IP telephony services obviously under their license terms and conditions. Under the license conditions, an LL operator cannot provide service outside its licensed region. Moreover, neither the earlier clarification nor the latter one allowed any local loop operator to unauthorizedly originate or terminate international telephony traffic, rather the terms and conditions of the license are unambiguously regarding scope of the license.

2.7. it was also found that the licensee has been allocated geographic numbers which cannot be used nomadically, whereas, the licensee has not submitted its reply regarding usage of geographic numbers for nomadic service throughout the world, whereas under the license, it is not permitted to provide services beyond the geographical boundaries of its licensed region. it is worth stating here that the numbering capacity allocated to the licensee vide PTA letter dated 25th September, 2004 was for the licensed services and licensed territory.

2.8. For providing VoIP DID operations, a local loop number is mapped to an IP address. This mapping is of static nature. Whereas in Brain's case the aforesaid Facility detected more than 50,000 unique international IP addresses distributed in among 70 different countries. Furthermore, these IP addresses were communicating with the IP address 119.63.130.98 used by the licensee in Pakistan. Hence, technically depending on the number of IP addresses the licensee can have more than 50,000 international VoIP customers distributed in 70 countries. It was not mentioned in the notice that the licensee has provided 50,000 numbers in more than 70 countries rather it mentioned that the licensee has more than 50,000 customers in more than 70 countries. Even if it is considered that the licensee has only a pool of 10,000 numbers to allocate to its customers, there is irrefutable evidence which shows that some of the

licensee's customers were using its service without mapping an IP to licensee's local loop number. As an example 48 IP addresses have been identified which had terminated calls on local loop and Mobile networks using the A- party numbers not belonging to its allocated series.

2.9. The licensee alleges certain allegations and made statements against the Authority for initiating proceedings under section 23 of the Act under the influence of business tycoons and LDI consortium which is baseless and has no evidence, rather the Authority has performed its functions to monitor the license terms and conditions under the provisions of the Act. In the instant case DID has been used to provide the following services which are not allowed in the license conditions of the licensee:

- (i). Providing service beyond geographical boundaries of the licensed region,
- (ii). Both originating and terminating calls in Category I.
- (iii). Using geographic numbers for providing nomadic services.

2.10. Record reveals that the referred interconnect agreement between the licensee and M/s Redtone was signed on 10th October, 2006 whereas the licensee has been providing VoIP services to its customers since commencement of its operations. Enforcement order issued by PTA Zonal Director Lahore dated 24th May, 2006 and subsequent determination issued by PTA on 2nd November, 2006, is ample evidence to support this fact.

2.11. The VoIP services being provided to the licensee by M/s. Redtone have not been terminated by M/s. Redtone on PTA's pressure, rather PTA was requiring the requisite information pertaining to the anomaly detected by the Technical Facility prior reaching to any conclusion or initiation of any action under the regulatory laws. This all was just for inquiry purpose which is allowed under the Act, the rules, the regulations and the license conditions.

2.12. The diagram provided by the licensee regarding its operations proves that the licensee has "Non Geographic Subscribers" i.e. the subscribers who are not located in the licensed region. It depicts that Gateway B was being specifically used for termination and origination of calls from / to non-geographic subscribers. Though the licensee has admitted origination of calls to non geographic subscribers, the same route was also used for call termination wherein non geographic subscribers were calling to different numbers belonging to different networks within Pakistan.

2.13. Use of non-standard port 8819 for reducing grey traffic is not justified. Such usage increases doubts on the operations of an operator as standard VOIP ports are blocked by PTCL and TWA for unauthorized operators and use of non-standard port was just to avoid blocking of such port in case violation is noted.

2.14. The Technical Facility for Monitoring Grey Traffic is being operated solely by the PTA without involvement of any third party or operator and the authenticity of the system is well established as millions of minutes had already been detected and analyzed so far and no any discrepancy was reported, hence, the argument of the licensee on this issue is based on incorrect information and is also not based on any evidence in the matter.

2.15. the licensee vide clauses 1.1.1 and 13.2 of the license is authorized only to provide Licensed Services in the Licensed Region described in Appendix-1 and Licensed Services

means all Mandatory Services and other Telecommunication Services not prohibited under the license and vide clause 1.1.3(a) and (b), the licensee is not authorized to provide Telecommunication Services outside the Licensed Region and to interconnect its Telecommunication System with the Telecommunication System of a service providers that provides Telecommunication Services outside Pakistan and vide clause 1.1.3 (g) of the license the licensee is not authorized to establish, maintain or operate a Telecommunication System to provide Telecommunication Service that is not authorized in the license and vide clause 1.1.6 of the license, it is authorized to provide access to Long Distance and International Public Voice Service only through the interconnection of its Telecommunication System with the Telecommunication System of another operator duly licensed by the Authority to provide Long Distance and International Public Voice Services.

2.16. the licensee has been assigned numbering block and short codes pursuant to condition 2.1 of the license, regulations 3(1) and 16 of the Regulations to be used for its Licensed Services within the Licensed Region and shall be used in the specific purpose and manner as approved by the Authority pursuant to regulation 14(1) (b) of the Regulations, whereas the Authority has not allowed the licensee to use its numbers internationally by employing any technology including DID technology, but in the instant case, as per the aforesaid information, the licensee has unauthorisedly originated international telephony minutes and terminated those minutes in different countries including Pakistan through IP address 119.63.130.98 by using SIP over non-standard port 8891 without transporting these calls to LDI licensee and contrary to license conditions.

2.17. Apart from the contravention mentioned in the notice, the licensee was also informed that as per the very information available on its website, it is still involved in the illegal activity of providing telecom services beyond the scope of the licence in response to which the learned counsel submitted that they will take instructions from the licensee and will get back to the Authority on this point in a week time to the satisfaction of the Authority, but in its response dated 12th February, 2009 it refused to give the required reply/information on the basis that new events that took place after the issuance of notice needs to be dealt with separately. This is total incorrect and irresponsible statement. The notice is regarding a certain contravention of the license conditions without any limitation of time. Even if the contravention mentioned in the notice is continued today, cognizance of the same can be taken under the notice as it is continuation of the same contravention.

2.18. As per our record the licensee is still involved in the illegal activity mentioned in the notice regarding which the licensee has failed to satisfy us rather has refused to give any response on it. We, therefore, rely on our record leading us to the conclusion that the licensee's contravention is persistent in nature.

2.19. Referring the matter to FIA under section 31 of the Act is a totally distinct and independent proceedings than issuance of the notice and other proceedings under section 23 of the Act. The principle of double jeopardy is not attracted here.

2.20. The licensee neither responded back on the aforesaid point nor could give a satisfactory explanation/reason as to why any of the enforcement orders mentioned in section 23 of the Act may not be passed against it on its contravention of the licence mentioned in Para 1.4, above.

3. Order:

3.1 In light of the foregoing, the licensee's contravention of the terms and conditions of the licence is established and the licence is, therefore, suspended under section 23 of the Act till further orders.

3.2 The Authority's right to impose a penalty equivalent to the amount of loss the licensee has incurred to the national exchequer through aforesaid violation of the licence is reserved.

(S. Nasrul Karim Ghaznavi)
Member (Finance)

(Dr. Muhammad Yaseen)
Chairman

This order is passed today, i.e., 17th February, 2009 and comprises 21 pages.