



Government of Pakistan
PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1, ISLAMABAD
<http://www.pta.gov.pk>

Enforcement Order under Section 23 of the Pakistan Telecommunication (Reorganization) Act, 1996 against Move (Pvt) Limited

No.PT A/Wireline Licensing/CVAS/CPPS/Move Pvt Ltd/119/2010

Date of Issuance of Show-Cause Notice: 10th May, 2010
Date of Hearing: 24th June, 2010
Venue of Hearing: PTA HQs, Islamabad

The Authority Present:

S. Nasrul Karim A. Ghaznavi: Member (Finance)
Dr. Khawar Siddique Khokhar: Member (Technical)

The Issue:

"Failure to submit Annual Audit Accounts and payment of Annual License Fee"

Decision of the Authority 1.

Brief Facts

1.1. Move (Pvt.) Limited (the "licensee") was awarded non-exclusive license No. DIR (C)/L/PT A/3 64/2001 dated 11th August, 2001 (the "license") by Pakistan Telecommunication Authority (the "Authority"), to establish, maintain and operate Card Payphone Services in Pakistan with brand name "M-Phone" subject to the terms and conditions contained in the license.

1.2. As a licensee of the Authority, Move (Pvt.) limited was required to comply with the provisions of the prevailing regulatory laws comprising of the Pakistan Telecommunication Authority (Re-organization) Act 1996 (the "Act"), the Pakistan Telecommunication Rules, 2000 (the "Rules"), the Pakistan Telecommunication Authority (Function & Powers) Regulations, 2006, Class Licensing and Registration Regulations, 2007 and the terms & conditions of the license.

1.3. Since, the licensee has defaulted in payment of annual license fee Rs.360/- for the year ended on 30th June, 2008 and also failed to submit annual audited accounts alongwith annual license fee for the year ended on 30th June, 2009. In this regard the Authority made various requests to the licensee but in vain. In addition, the licensee has also closed its operation contrary to license condition 8.3 (b) of the license, hence, the licensee has violated conditions 3.2, 3.3, 3.5, 4.51, 5.51 (m) and 8.3 (b) of its license, sub-regulation (6) and (7) of regulation 23 of the Pakistan Telecommunication Authority (Function & Powers) Regulations, 2006, and sub-regulation (1) of regulation 11 of the Class Licensing and Registration Regulations, 2007,

therefore, the Authority issued Show Cause Notice (the "Notice") dated 10th May, 2010 under section 23 of the Act whereby required the licensee to remedy the contravention by paying annual license fee Rs.360/- for the year ended on 30th June, 2008 and submitting annual audited accounts along with annual license fee for the year ended on 30th June, 2009 and to restore its commercial operations/services within seven days and also to submit written reply to the Notice within thirty (30) days of the issuance of the Notice and explain as to why the license should not be suspended, terminated or any other enforcement order should not be passed under section 23 of the Act against the licensee.

1.4. The licensee neither submitted its reply to the Notice within the statutory period of thirty days nor deposited the Authority's dues as well as failed to submit annual audited accounts alongwith annual license fee for the aforesaid period, hence, committed sheer violation of the provisions of the license and the Act.

1.5. Therefore, before passing an enforcement order a Hearing Notice dated 17th June, 2010 was issued and served on the licensee whereby informed the licensee to attend the hearing on 24th June, 2010. In response to hearing notice the licensee submitted the following reply:

Hearing Notice

Sir,

Kindly refer your letter No. 404, dated 17 June 2010, we submit hereunder our comments First of all we regret for non reply of show cause notice dated 10-05-2010, we assure you that this was not deliberately, rather it was just for the reason that concerned staff of our company could not follow the contents of show cause notice and just dispatched copy of audit report on 20-05-2010, to Director Licensing PTA, treating the same as sufficient, copy of the TCS receipt, is attached for your perusal.

The matter came into knowledge of the under signed when hearing notice was received. It is pertinent to mention here that audit report had, already been dispatched on 29-10-2009, vide our letter no. 64, address to Dr. Muhammad Ramzan, Director Finance PTA, Copy of the letter is attached. However an amount of Rs.360/-, could not be remitted, just due to lack of knowledge. Further we have to state that we have not closed our operations and are still working and operating, particularly in the Interior Areas of Balouchistan Province, copy of the paid bill for the M/O April, is attached as a proof that payphone services are continued.

We like to refer past conduct of our company, when no default was ever made and we can claim that our company never defaulted or delayed, even in payment of PTCL dues, not a single instance of our default can be quoted. As for as, payment of annual fees of Rs.360/-, is concerned it was a petty amount and could have been paid very easily and no body would like to be a defaulter for nonpayment of Rs.360/-. So this all happened due to lack of knowledge and by chance and was not deliberately. We again humbly submit that Copy of the audit report is attached Demand Draft bearing No. 1918965, dated 22-06-2010, for Rs.360/- is attached. Payphone services are continued, bill for the M/O April is attached.

In view of the above, we feel that it will be very humelative for us if license was canceled due to default inpayment ofRs.360/-, and request for lenient view and for closure of the matter.

1.6. Mr. Manzoor-ul-Haq, CEO, appeared before the Authority on the said date and reiterated the aforesaid facts and also submitted copy of annual audited accounts for the year ended on 30th June, 2009 and also paid Rs.360/- vide Pay order dated 22-06-2010. It also committed to pay the dues for the year ended on 30th June, 2009, once, communicated to it. Its annual license fee for the year ended 30 June 2009 was calculated on the basis of aforesaid annual audited accounts, which amounts to Rs.685/- and communicated to the licensee for payment. The licensee made the payment of Rs.685/- vide Demand Draft dated 28th Jun, 2010.

2. Findings of the Authority:

2.1. Though the licensee has already provided annual audited accounts for the year ended on 30th June, 2009 vide its letter No. Move/PTA/09/64 dated 29-10-2010, but it failed to pay annual license fee for the said year including annual license fee of Rs.360/- for the year ended on 30th June, 2008 till issuance of show cause notice and hearing notice in the matter, hence, to that extent violation mentioned in the show cause notice is established. However, the licensee has remedied the contravention by submitting annual audited accounts alongwith payment of annual license fee for the year ended 30 June 2009.

2.2. The allegation of discontinuing of service, as alleged in the show cause notice, is not proved on the facts that the licensee is already operating in the Interior Area of Baluchistan Province.

3. Order of the Authority

3.1. Keeping in view the above mentioned facts, the Authority hereby dispose of the aforesaid show cause notice as withdrawn.

3. However, the licensee is hereby WARNED not to repeat such contraventions in future, otherwise a strict legal action shall be taken against it under the provisions of the Pakistan Telecommunication (Re-organization) Act, 1996.

(Syed Nasrul Karim A. Ghaznavi)
Member (Finance)

(Dr. Khawar Siddique Khokhar)
Member (Technical)

Signed on 5/10/2010 and comprises 3 pages