



PAKISTAN TELECOMMUNICATION AUTHORITY
Headquarters, F-5/1, Islamabad

**Enforcement Order under Section 23 of the Pakistan Telecommunication
(Re-Organization) Act, 1996 (“Act”) against Pakistan Telecom Mobile Limited (PTML)**

No. PTA/Revenue Assurance/Consumer-Protection/Legal issues/110/2021/167

Date of Show Cause Notice : 2nd July 2021
Venue of Hearing : PTA HQs, Islamabad
Date of Hearing : 15th November 2021

Issue:

“Change of ownership of MSISDN 0333-3355882 without consent and presence”

1. Fact of the case:

1.1 Precisely stated facts of the case are that Pakistan Telecom Mobile Limited (the “**licensee**”) was awarded a non-exclusive License No.MCT-06/WLL&M/PTA/2014 dated 8th April, 2014 and License No. NGMS-03/WLL&M/PTA/2014 dated 21st May 2014 (the “**licenses**”) issued/renewed by the Pakistan Telecommunication Authority (the “**Authority**”) to provide the licensed services in Pakistan (*excluding AJ&K and Northern Areas*) and to establish, maintain and operate licensed system on the terms and conditions contained in the licenses.

1.2 The licensee is obliged to comply with the provisions of the prevailing regulatory laws comprising the Pakistan Telecommunication (Re-Organization) Act, 1996 (the “**Act**”), the Pakistan Telecommunication Rules, 2000 (the “**Rules**”), the Pakistan Telecommunication Authority (Functions & Powers) Regulations, 2006 (the “**Regulations**”), the Subscribers Antecedent Verification Regulations, 2015 (the “**Subscriber Regulations**”) and the Standard Operating Procedure on SIM sale and Activation through Biometric Verification, 2019 (**SOP**) and the terms and conditions of the license.

1.3 By the virtue of clause (a) of sub-section (4) of section 21 of the Act, clause 8.1 of the Appendix B of the Rules and condition 3.1 of the license, the licensee is under an obligation to comply with the provisions of the Act, the Rules, the Regulations, orders, determinations, directions and decisions of the Authority.

1.4 In accordance with clause (c) & (m) of sub-section (1) of section 4 read with section 6 (f) of the Act, the Authority is mandated to promote, safeguard and protect the rights and interests of users of the telecommunication services in Pakistan. Accordingly, with regard to issuance of SIM, the licensee under regulation 4 (2) of the Subscriber’s Regulations is

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required to ensure verification of Subscriber antecedents at the time of sale of SIM, Change of Ownership, Mobile Number Portability and issuance of Duplicate SIM in the manner as prescribed by the Authority from time to time.

1.5 In addition, the Authority also issued SOP prescribing therein the procedures to be followed by the licensee for issuance of SIMs. In case, if the owner/ user of any SIM is not alive, the licensee is required to comply with the requirements /checks as provided at serial No. (2) of Appendix C of the SOP.

Checks	Compliance status
i. Only relative can avail the facility.	Yes
ii. Death Certificate shall be obtained / scanned and retain for life.	Yes
iii. Possession of SIMs must be ensured.	Yes
iv. Check last recharge /last call history.	Yes

1.6 The licensee vide PTA's letter No. 15-80/2019/Enf/PTA dated 2nd April 2019 was required to maintain mandatory documentation/verification for change of ownership of a SIM. However, upon receipt of complaint from Prof. Dr. Ismail Hirani (the "**complainant**") the matter examined, it has been found that his MSISDN 0333-3355882 was transferred to Mr. Lal Din R/O Tehsil, District Bahawalpur without adhering the regulatory compliances. The licensee vide an email dated 5th November 2020 intimated that two checks were compromised i.e., (i.) **possession of SIM was not ensured**; and (ii.) **last recharge/last call history was not checked** at the time of changing the ownership of MSISDN 0333-3355882. Only on the basis of provision of death certificate the SIM was transferred.

1.7 Due to non-adherence of regulatory requirements, legal proceeding under section 23 of the Act was initiated and Show Cause Notice (SCN) on 2nd July, 2021 was issued to the licensee requiring therein to remedy the contravention by submitting compliance report of maintaining all checks as per SOP within five (5) working days and also to explain in writing within thirty (30) days, as to why an enforcement order should not be passed under Section 23 of the Act.

1.8 The licensee vide letter dated 9th July, 2021 submitted a compliance report to the Authority. Relevant paras of the said report are reproduced below:

- a. *That Mr. Misbah Ali Khan, the Manager Business Center, who performed the transaction at PTCL-U Service Centre (PTCL Exchange, Model Town, Bahawalpur), is fully conversant with the applicable SOPs and instructions required to comply with the job assigned and completing the transaction related to change of ownership in the name of Mr. Lal Din who presented himself as the brother of original SIM owner (stately deceased) Mr. Ismail Hirani on 12th August 2020.*

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- b. *The licensee stated that Mr. Misbah was once called by Federal Investigation Agency (FIA), Cyber Crime Circle (NR3C) Karachi, through a notice for answering questions related to the matter. Mr. Misbah has been suspended by the company as well.*
- c. *The licensee articulated that as soon as on 13th August 2020, Mr. Ismail Hirani approached our Customer Care Centre Hyderi, Karachi reporting that his SIM was not working, our official very promptly contacted the PTCL-U service center in Bahawalpur, wherein it surfaced that Mr. Lal Din has probably presented fake death and hence after a preliminary investigation, reverted the ownership of the SIM to Mr. Hirani without any delay on 13th August 2020.*
- d. *The licensee enunciated that the company is fully compliant with respect to check/measures which are required to be implemented pursuant to PTA's Standard Operating Procedure (SOP) on SIM sale and activation through Biometric Verification dated 2nd April 2019.*

1.9 In addition to the compliance report, the licensee vide letter dated 1st August 2020 also filed a response to SCN. Crux of the submissions of the licensee is as under:

- i. The licensee asserted that there is no case of contravention of the Act, Rules, Regulations, SOPs and the terms and conditions of the license. The licensee is fully adhering to the conditions imposed under clause 3.1 read with clause 8.1 of Appendix-B of the Rules and lawful orders/determinations and directions of the Authority passed from time to time.
- ii. The licensee submitted that it is committed to fulfill its obligations towards its subscribers, rather the entity and its management has always gone the "Extra Mile" to satisfy its legal, regulatory and contractual obligations owed to its customers and abiding by the lawful directions of the Authority.
- iii. The licensee always demonstrated that its senior management and employees are committed and engaged 24/7/365 services to its consumers through dedicated helplines, updating information on various portals and directly to the consumers.
- iv. The licensee continually invests in its network and staff training to maintain the system integrated and adjust for changes in usages following the applicable laws, especially those arising listed in the Subscribers Antecedents Verifications, 2017 concerning subscribers' antecedent at the time of SIM sale, change of ownership, mobile number portability and issuance of duplicate SIMs strictly in the manner prescribed by the Authority.

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- v. The licensee expressed that it has already examined the complaint filed by Mr. Ismail Hirani who approached CSC Karachi. He was duly guided by the concerned staff, and as soon as it transpired that his SIM has allegedly been re-issued without his consent or on false pretext of Mr. Lal Din, the SIM services were de-activated and the original owner (Mr. Ismail Hirani) was duly given a new SIM to his satisfaction
 - vi. The licensee submitted that in contrast to its email dated 5th November, 2020 which was based on preliminary investigation, it was found that all checks provided in the Appendix-C of the BVS SOPs were duly performed by Mr. Misbah Ali Khan; however, upon PTA's intimation, Mr. Misbah Ali Khan, the Manager, who was engaged in performing the transaction was suspended. The licensee further submitted that F.I.A has taken the cognizance of the matter and let the FIA fulfill its function and ascertain the veracity of the claims of the concerned parties.
2. To proceed further, the case was fixed for hearing before the Authority on 15th November, 2021. Mr. Fawad Niazi (Head of Regulatory), Mr. Jawad Saleem (Senior Manager), Mr. Arshad Javed (Manager legal), Mr. Faisal Ahmad (Manager Ops.), Mr. Mustafa Talal (AM Process Management) attended the hearing. The licensee reiterated the same stance as mentioned in compliance report and reply to the SCN.

3. Findings of the Authority:

Matter heard and record perused. After careful examination of record, arguments and written reply of SCN filed by the licensee, the Authority reaches at the following findings:

- a. The Authority under the Act is mandated to regulate the establishment, maintenance and operation of telecommunication system and provision of telecommunication services in Pakistan. The Authority under section 5 read with Section 21 of the Act, grants licenses for establishment, maintenance operation of telecommunication system and provision of telecommunication services. In addition, under clause (c) & (m) of sub-section (1) of section 4 read with section 6 of the Act, the Authority is mandated to promote and protect the rights and interest of users of telecommunication services.
- b. With regard to issuance of SIMs, the Authority in exercise of its powers conferred under section 5(2)(o) of the Act has promulgated Subscriber Regulations. The said regulations are applicable on all mobile communication services licenses for registration and maintenance of accurate data of their subscriber's antecedents through proper documentation and verification through NADRA database in accordance with procedure specified in the regulations. For ready reference relevant regulation regarding issuance of SIMs are reproduced below:

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Regulation 4 (2) of the Subscriber Regulations: All the operator(s) shall ensure verification of Subscribers antecedents at the time of sale of SIM in the manner prescribed by the Authority from time to time.

Regulation 4 (4) of the Subscriber Regulations: Any SIM(s) sold by any means shall be the sole responsibility of the Operators.

- c. With regard to change of ownership, regulation 12 of the Subscriber Regulations provides:

Regulation 12 (1) of the Subscriber Regulations: All Operators shall follow the procedure prescribed by the Authority from time to time for processing requests for change of ownership by subscriber(s).

Regulation 12 (2) of the Subscriber Regulations: Change of ownership request shall only be received by the Customer Service Center and franchisees.

- d. Further, regulation 14 (1) of the Subscriber Regulation states that all directives, notifications, standard operating procedures and orders issued by the Authority from time to time on or before notification of these Regulations shall be binding and applicable on the Operators.
- e. For the purpose of streamline the procedure for issuance of SIMs the Authority issued SOP. The said SOP provides that in case when the person is not alive the procedures/ checks for issuance of SIM have been provided and the licensee was required to ensure the following check list.

Checks	Compliance status
i. Only relative can avail the facility.	Yes
ii. Death Certificate shall be obtained / scanned and retain for life.	Yes
iii. Possession of SIMs must be ensured.	Yes
iv. Check last recharge /last call history.	Yes

- f. It has been found that the licensee has failed to observe that checks provided at serial No. (iii.); and (iv.) of the above table. As a matter of record the licensee vide an email dated 5th November 2020 admitted that two (2) checks i.e. i) **ensuring possession of SIM**; and ii) **checking last recharge/last call history** were compromised while changing the ownership of MSISDN 0333-3355882. Therefore, it is crystal clear that the changing the ownership of MSISDN 0333-3355882 was made without observing the procedural requirements.

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- g. The submission of the licensee that it continually investing in its staff training to adjust for changes following the applicable laws, especially those arising listed in the Subscribers Regulations at the time of sale of SIM, change of ownership, mobile number portability and issuance of duplicate SIMs, is not tenable on account of compromising two (2) checks while changing the ownership of MSISDN 0333-3355882 by the licensee.
- h. With regard to contention of the licensee that the manager, who was engaged in performing the transaction was suspended, it is clarified that such action on the part of the licensee does not discharge it in any way from transfer of MSISDN 0333-3355882 contrary to the steps / checks required to be complied with at the time of change of SIM.

4. **Order:**

4.1 Keeping in view the above-mentioned factual and legal position, it is concluded that without adhering regulatory compliances SIM has been transferred. Thus due to non-compliance of mandatory steps / checks required for change of SIMs, a fine to the tune of Rs. 20,000,000/- (rupees twenty million) is hereby imposed upon the licensee with the direction to deposit the same within fifteen (15) days from the date of receipt of this order.

4.2 In case of non-compliance of order at para 4.1 above, the matter will be processed further as per applicable law without any further notice.

Maj. Gen. Amir Azeem Bajwa (R)
Chairman

Dr. Khawar Siddique Khokhar
Member (Compliance & Enforcement)

This order is signed on 13th day of May, 2022 and comprises (06) pages.