



PAKISTAN TELECOMMUNICATION AUTHORITY  
HEADQUARTERS, F-5/1 ISLAMABAD

**Enforcement Order under section 23 of Pakistan Telecommunication (Re-organization) Act,  
1996 against China Mobile Pakistan Limited (CMPak)**

No. PTA/Enf-Wireless/Mobile QoS/168/2022/410

Show Cause Notice: 13<sup>th</sup> September, 2022  
Venue of Hearing: PTA HQs, Islamabad  
Date of Hearing: 27<sup>th</sup> December, 2022

**The Authority**

Maj. Gen. Amir Azeem Bajwa (R): Chairman  
Dr. Khawar Siddique Khokhar: Member (Compliance and Enforcement)  
Muhammad Naveed: Member (Finance)

**The Issue:**

**“Failure to meet QoS standards as laid down in the license”**

**Decision of the Authority**

**1. Brief facts of the case:**

1.1 Briefly stated facts of the case are that **China Mobile Pakistan Limited “CMPak”** (the “licensee”) is engaged in the business of cellular mobile services in Pakistan pursuant to the non-exclusive license No. CMT-03/LL&M/PTA/2004 dated 23<sup>rd</sup> October 2004 and license No. NGMS-01/WLL&M/PTA/2014 dated 21<sup>st</sup> May 2014 (the “license”), issued by the Pakistan Telecommunication Authority (the “**Authority**”) to establish, maintain and operate telecommunication system and to provide licensed cellular mobile services in Pakistan on the terms & conditions contained in the license.

1.2 As a licensee of the Authority, the licensee is required to comply with the provisions of the prevailing regulatory laws comprising of the Act, the Pakistan Telecommunication Rules 2000 (the “**Rules**”), the Pakistan Telecommunication Authority (Functions & Powers) Regulations 2006, (the “**Regulations**”), Cellular Mobile Quality of Service Regulation 2021 (the “**QoS Regulations**”) and the terms and conditions of the license. The provisions 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 obligates the licensee to observe the provisions of the Act, the Rules, the Regulations, orders, determinations, directions and decisions of the Authority.

1.3 In addition, para 23.7 of Part 6 of the Rules, Regulation 10 (2) of the Regulations and



Regulation 6(1) & (2) of the QoS Regulations empowers the Authority to conduct, with or without notice, its own quality tests and surveys or make surprise checks through its designated officers or conduct performance audit of the 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, rules, regulations, and/or KPIs. License condition 6.5.1 of the license makes it obligatory upon the licensee that at all the times the licensee is required to meet or exceed the quality of service standards described in Appendix-3 and such other quality of service standard as the Authority may by regulation, require. Appendix-3 of the license prescribed the quality of service standards in detailed manner and requires the licensee to take all reasonable and prudent measure to ensure that its Telecommunication System and Licensed Services are available and operate properly at all times and during each calendar month it shall meet or exceed the quality of services standards mentioned in clause 1.3 of Appendix-3 of the license.

1.5 In order to safeguard consumers' interest and ensure the provision of high-quality services, an independent Quality of Service (QoS) survey was carried out from 11<sup>th</sup> October to 3<sup>rd</sup> December, 2021 at Twelve (12) x cities and Nine (09) x Motorways/Highways in Punjab, Khyber Pakhtunkhwa and Baluchistan. The survey results revealed degraded QoS KPIs. Accordingly, the survey results were shared with the licensee vide letters No. PTA/Enf/Enf-Wireless/QoS Survey/48/2021-IV dated 9<sup>th</sup> November and 9<sup>th</sup> December 2021, with instructions for taking remedial/corrective measures to improve services up to the license standards. Resultantly, the licensee intimated that re-drive tests have been conducted which signifies improvement in Quality of Service (QoS) and compliance of all QoS KPIs. However, contrary to the claim of the licensee, a reverification survey carried out from 23<sup>rd</sup> to 27<sup>th</sup> May & 3<sup>rd</sup> June 2022 at Mastung and 30<sup>th</sup> May to 2<sup>nd</sup> June 2022 at Mardan revealed non-compliance of certain QoS KPIs.

1.6 Due to failure on the part of the licensee in maintaining the required standards of quality of services in contrary to the Authority's directions tantamount to serious violation and contravention of the prevailing regulatory laws, directions of the Authority and the terms and conditions of the licensed mentioned above a Show Cause Notice (SCN) was issued on 13<sup>th</sup> September, 2022 wherein the licensee was required to remedy the aforementioned contravention by brining and maintaining the required standards of quality of service at par with clause 1.3 of the Appendix-3 of the license within fifteen (15) days of this Show Cause Notice and also to explain in writing, within thirty (30) days of the issuance of this notice, as to why the license should not be suspended, terminated or any other enforcement order should not be passed against the licensee under section 23 of the Act.

1.7 The licensee replied to the SCN. As per reply to SCN, the licensee vide email dated 27<sup>th</sup> September, 2022, explained that there had been some delay in processing the log files due to certain internal legal procedures and that it was in the process of carrying out its own surveys in the subject areas. The Licensee provided with a summary of the affected KPIs, together with their accompanying log files, which were thoroughly analyzed and evaluated by the Licensee. The majority of the issues identified by the Authority were caused by external factors for which the root cause could not be correctly identified based on log file analysis. The issues identified by the Authority have not been caused due to any fault on the part of the licensee. The licensee also informed that it has conducted additional drive testing to re-verify the results provided by the Authority. The licensee further submitted that it is compliant with the QoS KPI thresholds



specified in license and the applicable laws. In fact, for the majority of the relevant KPIs, there is 100% compliance with the KPIs. Crux of SCN reply related the issue are given below:

- a. *The Show Cause Notice has been issued contrary to the procedure provided in the Act, the Rules and the QoS Regulations and, therefore, is liable to be withdrawn. For ease of reference, the relevant provisions of the QoS Regulations are reproduced hereunder:  
Regulation 6(5): "The inspecting officer shall prepare an inspection report of the quality of service inspection also comprising the shortfalls, if any, observed during such inspection."  
Regulation 6(6): "This report shall be provided to the licensee in the format as specified in these regulations as Annex B."  
Regulation 6(7): "The Licensee shall immediately carry out the Root Cause Analysis, take all remedial measures to remove the shortfalls identified in the inspection report and submit compliance report within thirty (30) days of the issuance of the inspection report in confirmation that all stated shortfalls have been removed."*
- b. *Whilst issuing the Show Cause Notice, the procedure laid down in Rule 9 of Rules has not been complied with, as the direction issued by the Issuing Officer of remedying the contravention alleged in the Show Cause Notice, amounts to passing of an enforcement order within the meaning of Rule 9 of the Rules.*
- c. *The Regulations require the Authority to exchange information/survey results, as well as log reports, with licensees for remedial measures following each survey, which was regrettably not done in the instant matter. Instead, the Show Cause Notice was issued by the Authority in haste without following the aforesaid requirement.*
- d. *The Licensee has always complied with the terms and conditions of its license as well as the prevailing and applicable regulatory laws, which include the Act, the Rules, the Regulations, and the QoS Regulations. Needless to state that the Licensee fully understands its duties as a law-abiding telecom operator and assures the Authority that it is, and will continue to be, compliant with all statutory obligations, Rules, Regulations, Policies, SOPs, and the terms and conditions of its license.*
- e. *The Licensee is compliant with the threshold values of the QoS KPIs as set out in the Licensees license. In fact, for the majority of the relevant KPIs, there is 100% compliance with the KPIs. The Licensee endeavors to comply with the provisions of its License at all times. Given that the Licensee has reported compliance of the QoS KPIs to the Authority. The Licensee has at all times fully complied with, and has not violated or contravened any of, the prevailing regulatory laws, directions of the Authority or any of the terms and conditions of its license. No penal provisions of the Act, or any other applicable law, are applicable to the Licensee in this regard.*



- f. *With respect to results set out in the Compliance Report, the Licensee has demonstrated that it is maintaining the required standards of QoS with respect to the relevant KPIs in the subject areas.*

## 2. Hearing before the Authority

2.1 In order to proceed further, the matter was fixed for hearing on 27<sup>th</sup> December, 2022 before the Authority. Mr. Shahid Razzaque Director (Regulatory & Government Relations), Mr. Ahmad Ibrahim Director (Legal & Company Secretary), Mr. Shoaib Niaz Deputy Director (Technical) and Mr. Asad Ladha Legal Counsel attended hearing. The licensee reiterated the same as submitted in the reply to SCN.

## 3. Findings of the Authority

3.1 After hearing and perusal of record, followings are the findings of the Authority:

3.1.1 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(2)(b) of the Act is also empowered to enforce and monitor the licenses. Pursuant to the license granted by the Authority, the licensee is required to provide the licensed services in accordance with terms and condition of cellular mobile license, the provision(s) of the Act, rules, regulations and directions of the Authority issued by the Authority from time to time.

3.1.2 Section 21(4)(g) of the Act provides that the licensee is under an obligation to provide telecommunication services to particular persons or areas to meet minimum standards for quality and grade of services requirement. With regard to monitor and enforce the license condition, under clause 23.7 of part 6 of the Rules, regulation 10 of the Regulations and regulation 6 of the QoS Regulations, the Authority with or without notice conduct its own surveys and test or makes surprise checks through its designated officers or conducts performance audit of quality of service of the licensee from time to time as to ensure that the user(s) of telecommunication services get such quality of services as laid down in the license, regulations and/or KPIs.

3.1.3 The contention of the licensee that QoS are to be measured for each calendar month for the whole Network and any shortfall in QoS measured on the part of network for very limited calls and days does not authorize issuance of the SCN is not justified on the ground that license condition 6.5.1 of the license and Regulation 4(2) of the QoS Regulations makes it obligatory upon the licensee to meet or exceed the quality of service threshold described in Appendix-3 at all times. It is also relevant to mention here that the survey was conducted in the areas where the network of the licensee was available.

3.1.4 Furthermore, under Appendix-III "Quality of Service" of the license, the licensee is solely responsible for meeting all PTA's regulations on QoS and relevant international standardization forum such ITU, 3GPP and ETSI etc. Regulation 6 (10) of the QoS Regulations states that the Authority shall measure the performance of the Licensee

through drive tests as specified in Annex-A i.e. "Drive Test/Survey Measurement Methodology" to these regulations.

3.1.5 The objections of the licensee on the survey regarding Regulation 6(5), 6(6) and 6(7) pertaining non-provision of inspection report are not valid as the reverification survey in 2<sup>nd</sup> Quarter 2022 at Mardan and Mastung was carried out after confirmation and submission of compliance report by the Licensee for earlier surveys. Further, the licensee attributed majority of the issues identified by the Authority in reverification survey, to external factor, without substantiating the same by providing any evidence.

#### 4. Order:

4.1 Keeping in view the above-mentioned facts coupled with the available record, the Authority has reached to the conclusion that the licensee i.e. China Mobile Pakistan limited has failed to comply with 5 x KPIs in 2<sup>nd</sup> Quarter 2022 survey in Two (02) cities measured during the re-verification survey thus thereby levies a fine to the tune of Rs. 5000,000/- (Rupees five millions) in respect of non-compliant KPIs.

4.2 The Authority hereby directs the licensee to deposit Rs. 5,000,000/- (Rupees five millions) within one (01) month of the issuance of this Order and also improve the service quality to meet or exceed the target value of QoS parameters as per the license standards and QoS Regulations.

4.3 In case of failure to comply with para 4.2 above, legal proceeding will be initiated against the licensee as per applicable law.

**Maj. Gen. Amir Azeem Bajwa (R)**  
Chairman

**Muhammad Naveed**  
Member (Finance)

**Dr. Khawar Siddique Khokhar**  
Member (Compliance & Enforcement)

Signed on 2<sup>nd</sup> day of January, 2023 and comprises of (05) pages only.