



*Government of Pakistan*  
**PAKISTAN TELECOMMUNICATION AUTHORITY**  
**HEADQUARTERS, F-5/1 ISLAMABAD**

**Enforcement order under section 23 of the Pakistan Telecommunication (Re-organization) Act, 1996 against Telenor Pakistan (Pvt.) Ltd for not observing the requirement of QoS KPIs in District Buner**

File No: PTA/Enf-Wireless/Compliant/Comp-16/105/2021

Show Cause Notice:	29 <sup>th</sup> December, 2021
Venue of Hearing:	PTA HQs, Islamabad
Date of Hearing:	18 <sup>th</sup> March, 2022

**The Issue**

**“Quality of Services in different tehsils of District Buner”**

**Decision of the Authority**

**1. Facts of the case:**

1.1 Precisely stated facts of the case are that Telenor Pakistan (Pvt.) Ltd. (the “**licensee**”) pursuant to non-exclusive licenses i) No. NGMS-02/WLL&M/PTA/2014 dated 21<sup>st</sup> May, 2014, ii) No. NGMS-05/WLL&M/PTA/2016 dated 14<sup>th</sup> July, 2014; and iii) No.MCT-01/RBS/PTA/2004 (*renewed on 10<sup>th</sup> December, 2021*) (the “**license**”) issued by the Pakistan Telecommunication Authority (the “**Authority**”) is providing cellular mobile service in Pakistan on the terms and conditions contained in the license.

1.2 The licensee is required to comply with the provision(s) of 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**”) and the Cellular Mobile Network Quality of Service (QoS) Regulations, 2021(the “**QoS Regulations**”) and terms and condition of license.

1.3 In light of applicable statutory provision provided in the Act, Rules, Regulations and license, the Authority has to ensure that users of telecommunication services get such services as laid down in the license. In order to measure the performance of licensee’s network as per licensed QoS parameters, the Authority conducted a joint QoS survey at District Buner from 27<sup>th</sup> July, 2021 to 30<sup>th</sup> July, 2021. During survey, it was observed that services of licensee were not fully compliant. Accordingly, through letter No. PTA/Enf/Enf-Wireline/3-5(Comp16)/2021-1 dated 17<sup>th</sup> August, 2021, the licensee was required to take appropriate remedial measures for improvement of coverage and service quality in the area and submit a compliance report by 6<sup>th</sup> September, 2021.



Dated: 24<sup>th</sup> April 2022

1.4 In response, the licensee vide an email dated 29<sup>th</sup> September, 2021 intimated that post drive optimization has resulted in improvement of 3G coverage within the license threshold. In addition, the licensee communicated that significant improvement in 4G footprint has also observed but due to high inter-site distances and terrain limitations, further optimization in the areas was not possible. Upon receipt of reply from the licensee, the Authority carried out reverification survey from 6<sup>th</sup> October, 2021 to 8<sup>th</sup> October, 2021, and observed that licensee was not compliant with the requirement of QoS.

1.5 As a result thereof, the Authority under section 23 of the Act, issued a Show Cause Notice (SCN) dated 29<sup>th</sup> December, 2021 to the licensee requiring therein to remedy the contravention by bringing and maintaining the required standards of quality of services at par with clause 1.3 of the Appendix -3 of the license and also to explain in writing within 30 days of the issuance of SCN.

1.6 The licensee through legal counsel i.e., Mr. Muhammad Irshad Advocate Supreme Court of Pakistan replied to the SCN on 28<sup>th</sup> January, 2022. The licensee denied all allegations leveled in the SCN. However, for ready reference crux of submissions / grounds made by the licensee in the reply are given below:

***Survey is beyond service coverage areas as shared by the licensee with the Authority:***

- i. *Survey was beyond coverage areas as shared by the licensee with the Authority.*
- ii. *The survey was conducted in the areas where the licensee is not providing 2G, 3G or 4G technology-based telecommunication services and still the licensee is complying with its roll out obligation.*
- iii. *As per first license issued to the licensee in 2004 and renewed in 2021 the licensee was providing services which is recorded 65.1% as voice and 41.3% as data services for KPK. The same has already been provided to the Authority on 10<sup>th</sup> December, 2021.*
- iv. *Even after increase coverage area of services for further 3% population is not yet arrived therefore quality of service obligations of the first license cannot be beyond existing claimed population coverage.*
- v. *As per clause 1.1.4 of the Appendix –I of the license issued in 2014 (second license), the licensee is providing 3G coverage in 50% of all Tehsil Headquarters (minimum 20 Tehsil Headquarters in each Province of Pakistan) and licensee is fully compliant with its roll out obligations and further the licensee has claimed and submitted to the Authority complete GPS, Google Earth based details where the licensee is providing 3G coverage of telecommunication services shared by the Authority.*
- vi. *Quality of telecommunication services for 3G coverage being provided by the licensee can only be measured in 3G coverage areas as claimed by the licensee. However, the Authority has measured quality of service of 3G coverage beyond areas where 3G coverage as claimed by the licensee.*
- vii. *As per clause 1.1.3 of the license issued in 2016 (third license), the licensee is required to provide 4G coverage in 50% of District Headquarters and the licensee is fully compliant with its such rollout obligations. The same has been shared with the Authority on 10<sup>th</sup> December, 2021, therefore, quality of telecommunication services of 4G coverage is being provided by the licensee and can only be measured in 4G coverage areas claimed by the licensee.*
- viii. *Each license has distinct quality of services parameters, service and roll out obligation. The QoS obligation under each license have to be dealt with separately. The obligations under one license cannot be carried over to the other licenses. The licenses are not interchangeable instruments.*
- ix. *The route of the survey as provided by the Authority is also identifiable from the GPS and Google Earth based picture, which clearly shows that survey route is in the non-*



Dated: *25th April 2022*

*coverage areas as claimed by the licensee for each license and spill over signals of the telecommunication services beyond the claimed coverage areas cannot be made basis for issuance of SCN.*

- x. *On many instances, survey has been focused on the roads which are beyond licensee's claimed coverage areas rather than the population which should have been the case to capture user experience.*

***Telenor put efforts to improve the quality of services despite fact that the survey was done out of claimed coverage area.***

- i. *In relation to first survey the licensee has provided detail report on 17<sup>th</sup> August, 2021.*
- ii. *After issuance of SCN and having detail of second survey all possible efforts have been put to improve whatever was possible in claimed coverage areas however survey areas which are not within claimed coverage, further improvement cannot be made.*

***Buner is admittedly underserved area identified by Universal Service Fund.***

- i. *The Authority is well aware that Buner is underserved area with difficult commercial viability of sites. USF vide letter dated 10 December, 2021 issue conditional letter of intent to award USF services and Subsidy Agreement to the licensee for 51 sites. Therefore, both surveys in underserved areas where admittedly telecommunication services are not provided / claimed by the licensee on the entire routes of the survey areas is unwarranted and accordingly, SCN is liable to withdrawn and set aside.*

***Survey data and its time period is irrelevant to measure Key Performance Indicator as required by law.***

- i. *As per clause 1.3 Appendix 3 of the **First license**, clause 1.5 of Appendix 3 of **Second** and **Third license** – obligation of the license is that during each “calendar month” the licensee shall meet or exceed quality of services standards. Therefore, such QoS standard can only be measured on the basis of average percentage of “one month” data in “coverage area” of the “network”.*
- ii. *The alleged survey was conducted on the basis of alleged data sample of (i) as low as 9 calls to maximum 73 calls, 3G data sessions as low as 6 to maximum 84, 4G data sessions as low as 5 to 95 for 4 days during 27 July 2021 to 30 July 2021, (ii) as low as 35 call to maximum 84 calls, no. of SMS as low as 36 to maximum 82 and auto mode data sessions as low as 38 to maximum 91, for 3 days during 6<sup>th</sup> October, 2021 to 8<sup>th</sup> October, 2021. The sample size is very low as compared to the total users and the services used by them in the area.*
- iii. *The quality of standard record of the network for district Buner and the network of the license from July to September, 2021 and December, 2021 is fully compliant with the requirements of the license which is already submitted to the Authority.*

***Cellular Mobile Network Quality of Service (QoS) Regulations, 2021***

- i. *SCN is in violation of the Act, Rules, and Regulations.*
- ii. *Period for measurement of quality of service shall be one calendar month starting from 1 January of reporting calendar year and that the license shall maintain such reports for each month and submit the record on quarterly basis. Therefore, quality of service has to be measured on the basis of one month data of the network and not on the basis of drive test survey or for any period less than one month while the Authority issued SCN on the basis of 3-days data of few calls, SMS and data sessions.*



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- iii. *As per regulation 6 of the QoS regulations, the survey results of the second survey conducted from 6<sup>th</sup> to 8<sup>th</sup> October, were not shared with the licensee, rather SCN was served directly and result were shared with SCN. It further provides that license shall carry out root cause analysis, take all remedial measures to remove shortfalls identified in the inspection report and submit compliance report within 30 days thereafter. It further provides that the Authority shall perform Confirmatory Test on the identified Cells/ Areas in such coverage areas claimed by the licensee. Further clause 6 (i) of the QoS Regulations also provides that methodology for taking measurements through drive test shall be as specified in Annex A. All such requirements are violated by the Authority.*
- iv. *Clause 6 (a) of the Annex A to the QoS Regulations also provides that licensee shall be required to share with the Authority coverage maps in both Mapinfo and Google Earth format and its sub-clause (b) provides that drive test shall be carried out in such a way that it highlights coverage differences in the results, and contrary to this requirement, the Authority has conducted drive test beyond the coverage maps shared and claimed by the licensee and on the basis of such erroneous drive test results has issued SCN.*
- v. *Results of inspection report for second survey from 6<sup>th</sup> to 8<sup>th</sup> October, have not been provided in the form as specified in Annex –B of the QoS Regulations and were only shared with the SCN.*
- vi. *The SCN is also issued in violation of clause 10(3) of the Regulations as the Inspection Report for the second survey form 6<sup>th</sup> - 8<sup>th</sup> Oct 2021 is not shared with the licensee and 30 day timeframe not given to take remedial measures and submit compliance report, instead the SCN issued prematurely.*
- vii. *The SCN was issued in disregard of the exception to liability where “**compliance is prevented or substantially hindered by any act of Nature**” and in “**circumstances beyond the control of the licensee**” in demanding absolute coverage areas and/ or where coverage was affected by natural causes such as shadowing effect, hilly terrain, or attributing interconnecting operator network failures to the licensee etc.*
- viii. *SCN was issued in violation of the license i) misinterpreting clause 6.5 of the licenses to mean that regulations, directions and decisions of the Authority are binding even if ultra vires or in violation of applicable law, ii) as per Appendix III, the QoS are to be measured on a system wide/coverage area basis only, whereas both survey are conducted in no/low coverage areas (per the coverage maps already shared with the Authority.) and (iii) the city/ urban / rural basis for enforcement of QoS is not stipulated in Appendix III of the license.*
- ix. *The licensees do not contain corresponding to clause (g) of sub-section 21 (4) of the Act regarding obligations to provide telecommunication service to particular or areas therefor same is misapplied in the SCN.*
- x. *Para 23.7 of Part 6 of the Rules and regulation 10 of the Regulations are ultra vires the Act to the extent they fasten obligation on the licensee over and above those set out in the licenses.*
- xi. *Some of the areas within threshold signal strength in the first survey were not driven again in the second survey pulling overall average coverage down and resultantly many other KPIs as is evident from the drive test route comparison between 2 surveys.*



Dated: 28<sup>th</sup> April 2022

*In view of the above, the license requests the Authority to discharge / withdraw the SCN without taking and further action in pursuance thereof. It is further requested that the Authority may issue instructions to its inspection officers to conduct the surveys in the further in accordance with law in the claimed coverage areas only and with due care and attention. Any other and further relief deemed fit and proper in the circumstances, during the pendency of the present SCN may also graciously be made or awarded to the licensee to meet the ends of justice.*

## **2. Hearing before the Authority:**

2.1 Being dissatisfied with the reply to the SCN submitted by the licensee. The matter was fixed for hearing on 18<sup>th</sup> March, 2022 before the Authority. Mr. Irshad Ahmed Advocate Supreme Court of Pakistan (the "Legal Counsel") along with Mr. Raza Zulfikar Naqvi, VP RA, Mr. Ali Aamer Khan, Head of Regulatory, Mr. Rizwan Ahmed, Manager RF Optimization, Mr. Attique Ahmed, Assist Manager RF Optimization, Mr. Rashid Ayub Khan, Senior Manager Regulatory and Mr. Zain Ali Manager Legal Affairs attended hearing. Legal counsel reiterated the same as submitted in SCN reply. The main contentions of the licensee pertain to: i.) *Survey was beyond the service coverage areas as shared by the licensee with the Authority;* ii.) *The licensee put its effort to improve the quality of service despite the fact the survey was done out of claimed areas;* iii.) *Buner is admittedly underserved Areas identified by Universal Service Fund;* and iv.) *SCN has been issued in violation of the Act, the Rules, the Regulations, and terms and conditions of the license.*

## **3. Findings of the Authority:**

3.1 Matter heard and record perused. After careful examination of record the findings of the Authority are as under:

- a. As per regulatory applicable legal regime, the licensee is under an obligation to provide cellular mobile licensed services in light of threshold as provided in the license terms and conditions and other enabling regulatory / statutory provisions. The only point of contention in the instant issue is the availability of cellular mobile services in accordance with KPIs of Quality of Service within the area of licensed services.
- b. The contention of the licensee with regard to coverage areas as already shared with the Authority for determining the QoS KPIs does not seem satisfactory on the premise that once the service is available at any vicinity / areas, it is an obligation on the licensee that services at such areas must be in accordance with threshold as provided in the license terms and conditions, regulations and direction issued by the Authority from time to time.
- c. No doubt that the licensee has made some efforts to improve the QoS parameters but the services were not as per the required criteria/ parameters of QoS. It is relevant to point out that the licensee has not provided any authenticated / verified map for availability of services in the areas mentioned in inspection report. During survey, none of the observation with regard to areas of survey has been raised or pointed out. However, later on after survey results, the licensee has observed and claimed about coverage area. It is an admitted position that during the survey, cellular mobile services of the



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licensee were available and the people of that territory were availing services with degraded level of quality of services. Since, the licensee is charging against services therefore, it is the responsibility of the licensee to provide services by meeting all the required thresholds of QoS.

- d. Furthermore, during the survey, the Mobile Handset/User Equipment were kept in auto detect mode, so wherever 4G or 3G signals were available from mobile network, handset recorded and reported the signals. This actual signal strength is more accurate in comparison to predication maps which is calculated based upon models. Therefore, wherever UE receives signals, QoS is required to be in line with set licensed standards.
- e. License condition No.6.5.1 of the license obliges the licensee that it at all time is required to meet or exceed the quality of services standards described in Appendix -3 and such other quality of services standards as the Authority may by regulations, require. The said license condition clearly spells out the mandatory requirement for provision and availability of the licensed services in accordance with standards as provided in the license and regulations issued by the Authority. Appendix 3 of the license, prescribes the quality of service standards in detail and requires the licensee to take all reasonable and prudent measures 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 the clause 1.3 of the Appendix-3 of the license.
- f. For the purpose of record and clarity relevant license conditions pertaining to meeting the KPIs for Quality of Services provided in three licenses issued to the license are as under:
  - i. License No. NGMS-02/WLL&M/PTA/2014 dated 21<sup>st</sup> May, 2014 and License No. NGMS-05/WLL&M/PTA/2016 dated 14th July, 2016

***A1.1 of the Appendix-3***

*The licensee shall take reasonable and prudent measure to ensure that the Licensed System and Licensed Services are available as per the network roll out obligations and operate as per the following QoS Key Performance Indicators (KPIs) at all time.*

***A1.5 of the Appendix -3***

*During each calendar month, licensee shall meet or exceed the following quality of service standards (except for causes attributable to another Operators or a service provider that provides telecommunication service outside Pakistan).*

- ii. License No. MCT/01/Wireless/PTA/2021 dated 10<sup>th</sup> December, 2021(renewed)

*Clause 1.1 of the Appendix -3 of the license provides that the licensee shall take reasonable and prudent measures to ensure that the Licensed System and Licensed Services are available and operator properly at all times.*

*Further clause 1.3 of the said Appendix provides that during each calendar month, licensee shall meet or exceed the following quality of service standards (except causes attributable to another Operator or a services provider that provides telecommunication services outside Pakistan.*

- g. In light of the said conditions, the licensee is under an obligation to meet the requirements of Quality of Services at all the times. In order to ensure the compliance of the regulatory requirements, the Authority in accordance with regulation 10 of the Regulations read with regulation 6 of the QoS Regulations read with para 23.7 of part 6 of the Rules is empowered to conduct with or without notices, its own surveys and tests or make surprise checks through its designated officers or conduct performance audit of the quality of services of the licensed services from time to time to ensure that users of telecommunication get such quality of services as laid down in the license/ regulations, etc.
- h. All steps and procedures to carry out survey jointly or surprise test have been provided in the regulations. Relevant provision are given below:

***Regulation 6 (1) of the QoS Regulations*** provides that the Authority shall conduct inspections, surveys, tests or carry out surprise checks as specified in Annex-A through its designated officers or conduct performance audit for Quality of Service of the Licensee from time to time to ensure that users of telecommunication services get such Quality of Service standards as laid down in these Regulations and the License.

***Sub-regulation 2 of the regulation 6 of the QoS Regulations*** further provides that inspections may be carried out with or without the representative of the Licensee.

***Sub-regulation 5 of regulation 6 of the QoS Regulations*** provides that the inspection officer shall prepare an inspection report of the quality of services inspection, also comprising the shortfalls, if any, observed during such inspection.

***Sub-regulation 6 of regulation 6 of the QoS Regulations*** further provides that the report shall be provided to the Licenses in the format as specified in these regulations as Annex-B.

***Regulation 6(7) of the QoS Regulations*** states that the Licensee shall immediately carryout 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 short falls have been removed.

***Sub-regulation 9 of regulation 6 of the QoS Regulations*** provides that the Authority shall provide the opportunity to remove the shortfalls identified in



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*the inspection report for any particular city, against/ on account of only one test carried out in a calendar year and not thereafter.*

***Sub-regulation 10 of the regulation 6 of the QoS Regulations*** further provides that the Authority shall measure the performance of the Licensees using modes for collection of data or documents, including but not limited to surprise drive tests etc. The main aspects of the methodology for taking measurements through drive tests shall be as specified in Annex-A to these regulations. The Authority may review or define new thresholds as and when required.

***Regulation 10 (3) of the Regulations*** provides that the inspection officer shall prepare an inspection report of such quality of services inspections, which clearly spell out the shortfalls observed during such inspection. This report shall be furnished to the licensee. The licensee shall immediately take all remedial measures to remove the shortfalls identified in the report and submit compliance report within 30 days whereby confirms that all stated shortfalls have been removed.

- i. In this instant matter, a joint survey was carried out. Inspection report was shared with the licensee and opportunity to remove short falls was provided. However, upon receipt of email dated 29<sup>th</sup> September, 2021 from the licensee, it was intimated that post drive test optimization has resulted in improvement of 3G coverage to within license threshold. In addition, the licensee further communicated that significant improvement in 4G foot print is also observed but due to higher inter-site distance and terrain limitation, further optimization in the area was not possible. Considering the response of the licensee, the Authority in accordance with regulation 6 (10) of the QoS Regulations carried out re-survey and found that the licensee is not compliant with the parameters of the QoS.
- j. As far as the licensee's contention with regard to USF project is concerned, it is clarified that the project will further improve the availability of the telecommunication services in un-served and under-served area. The purpose of USF project is to provide the accessibility to telecommunication services to people in the un-served, under served, rural and remote areas, whereas, in the instant matter, the licensee is already providing services in the areas where survey was carried out. None of the submission(s) made by the licensee suggests that its services are not available in Buner. During hearing, the representative(s) of the licensee also not denied the provision of services in the said vicinity. Since the licensee is providing service against some charges therefore, the licensee is required to meet the requirement of QoS. Thus in such circumstances, the argument of the licensee for USF project is not tenable / sustainable.

#### 4. Order:

4.1. Foregoing in view of the above legal and factual position of the case, the Authority is of the view that as per applicable regime the licensee is under an obligation to meet the requirement of Quality of Services parameters as laid down in the license conditions and other



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enabling statutory provisions. Since the licensee has been awarded contract for installation of 51 sites owing to an underserved area which is currently under process, therefore, the Authority taking a lenient view hereby allows twelve months' time, commencing from the date of receipt of this order, to licensee for maintaining and improving quality of service standards as per KPIs. After expiry of the said time, an on-ground survey to measure service quality will be carried out against licensed KPIs and further action in the instant matter will be taken accordingly.

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

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

This enforcement order is signed on 28<sup>th</sup> day of April, 2022 and comprises (09) pages only.