



**BEFORE THE
COMPETITION COMMISSION OF PAKISTAN**

IN THE MATTER OF

**PROCEEDINGS PURSUANT TO THE ORDER DATED 21-8-2014 OF THE
HONORABLE HIGH COURT OF ISLAMABAD IN WRIT PETITION NO. 3771/2014
TITLED TARIQ BILAL VS. FEDERATION OF PAKISTAN, ETC.**

(File No. 30/PTCL/WP/T.A/CCP/2014)

Dates of hearings: 13th November 2014
10th March 2015

Commission: Mr. Mueen Batlay
Member

Dr. Shahzad Ansar
Member

Present: Mr. Tariq Bilal, Advocate Supreme Court
Raja Ansar Abbas
Shahzadi Samreen Tariq



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Syed Umair Javed
Syed Umair Javed

Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad.

ORDER

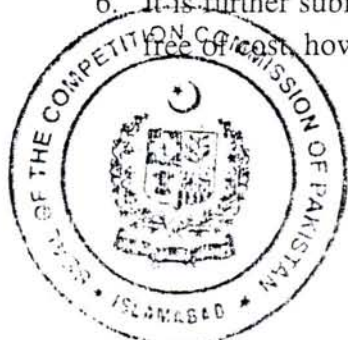
1. This Order shall dispose of proceedings initiated pursuant to the order of the Honorable Islamabad High Court, Islamabad, dated 21-8-2014 in Writ Petition Number 3771 of 2014, titled *Tariq Bilal vs. Federation of Pakistan etc.*

FACTUAL BACKGROUND

2. The Competition Commission of Pakistan (the "Commission") received an order of the Honorable Islamabad High Court, Islamabad, dated 21-8-14, wherein the Commission has been directed to treat the petition as a representation, and to pass an order in accordance with law. It is pertinent to mention at this juncture that the mandate of the Commission is to ensure free competition in all spheres of commercial and economic activity to enhance economic efficiency and to protect consumers from anti-competitive behaviour. Briefly, the facts of the petition are as below:

Writ Petition No. 3771 of 2014 (Tariq Bilal vs. Federation of Pakistan, etc.)

3. The Petitioner states that he was deprived of several of his phone numbers by Pakistan Telecommunications Company Limited ("PTCL") informed him that the numbers in question, i.e., those beginning with the prefix "21", were to be used solely for government connections in the future. Following this, however, the old series of numbers beginning with "21" were re-issued to other subscribers from another PTCL exchange located in a different sector of Islamabad.
4. Further, the Petitioner states that his family had been using numbers starting with the prefix "84" in Rawalpindi, however, due to a new digital exchange being set up to replace the mechanical exchange, he was informed by PTCL that he would be given new numbers with the prefix "442" and "484". PTCL, it is alleged in the Petition, then changed the prefix to "4933" under a false pretext. The Petitioner has also alleged that his official telephone numbers have also been changed, whereas the phone lines have been disconnected for months.
5. Further, it is alleged in the Petition that the Petitioners mobile telephone numbers were changed on the directions of Pakistan Telecommunication Authority ("PTA") to a single code, i.e., 0303. This was later changed to 0304, following which it was changed again to 0314. The Petitioner alleges that his original mobile telephone number was in use by another subscriber on a different cellular network.
6. It is further submitted that PTCL had, in the past, introduced a Voice Mail Service ("VMS") free of cost, however previously, if a call had not been connected or answered, there were no



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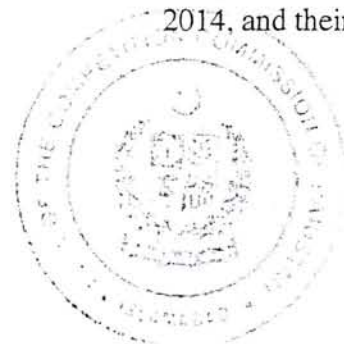
charges levied, and currently the charges for voice mail are levied as an unanswered call will be transferred to the subscribers VMS.

7. The Petitioner states that PTCL has been arbitrarily activating various packages on numbers across Pakistan without informing subscribers of the costs, which range from Rs. 500 to Rs. 800 per month. Customers have to pay these costs even if they did not want to subscribe to a certain package.
8. The Petitioner is also aggrieved by PTA's policy of restricting the number of SIM's per subscriber to five (5). This policy, it is alleged, is not implemented properly or uniformly by all cellular mobile operators. Some operators have disconnected extra connections, whereas others have shifted said connections to other subscribers who have less than five SIM's registered under their name.
9. It is further submitted that PTCL has decided to shut down its Wireless Local Loop ("WLL") connections, however they are still being sold in the market without informing customers that the service is due to be discontinued. The Petitioner's official WLL phone numbers at Blue Area, Islamabad, were being used in place of fixed land line connections which had been disconnected previously. The Petitioner states that PTCL's decision to discontinue WLL services will leave him without any means of communication, along with 1 million other subscribers of WLL services in Pakistan. The Petitioner states that the only intimation of discontinuing WLL services was by way of automated calls on WLL numbers informing them of the change two weeks prior to the disconnection.
10. The Petitioner submits that PTCL and PTA are contemplating another change to the telephone number system in Islamabad under the garb of technical difficulties. It is alleged that there are no technical issues that require such change in the system. As an example, the Petitioner states that the United States of America and Canada use the country code "1", with a numbering plan that has 3 digits for the area code and 7 digits for the telephone number itself. Such a system will not need to be changed for decades, it is submitted, and Pakistan can adopt such a numbering system so that frequent changes to telephone numbers can be avoided. Alternatively, PTA and PTCL can also implement "number portability" for all numbers on the pattern of North America, where any number can be used either as Land Line or switched to a Cellular Network or to an Internet Based Service.
11. Both PTA and PTCL were informed of the complaint, and their responses regarding the allegations leveled in the petition were sought. PTCL responded vide letter dated 2nd October 2014, and their submissions are, briefly, as under:

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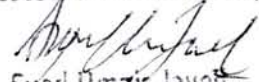
Submissions made by Respondent No. 3; PTCL

12. It was submitted that basic VMS service subscription was available for free, and customers were not being charged for its use. A more advanced version with more features was also available, however it was only activated if the customer desired it.
13. If a person calls on a certain number and the call is connected to VMS, such a call has been connected and the calling procedure is completed, regardless of whether the called party answered the call or whether it went to the VMS. Such a call, validly terminated, will be charged. This is, moreover, a common practice around the world.
14. A "Freedom Package" is offered to all new customers of PTCL's landlines. A "Basic Plus Package" was previously available for a lower line rent, however that package is no longer available for new customers and is only active on older subscriptions.
15. Due to the construction work being carried out for the Metro Bus Project, PTCL was forced to change certain numbers for the area in order to maintain connectivity. The new, temporary phone numbers were shifted to the Freedom Package automatically, however if a customer desires to stay on the Basic Plus Package, they can make a request and their subscription will be reverted to Basic Plus Package.
16. PTA responded vide letter dated 18th June 2015, and their submissions are summarized as under:

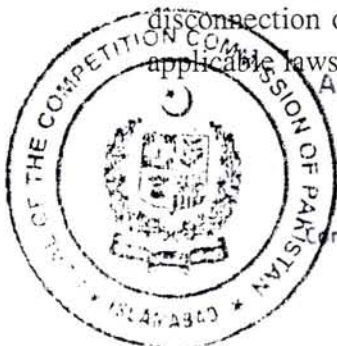
Submissions made by Respondent No. 2; PTA

17. A hearing was held by PTA where submissions were made by representatives of PTCL, M/s. Telecard Limited and the Petitioner. As a consequence of these proceedings, the Petitioner's grievances have been resolved as follows:
18. Due to the Metro Bus Project construction, PTCL was forced to change numbers in order to maintain connectivity. Seven (7) of the Petitioner's numbers have been reverted. PTCL has also confirmed that certain numbers remain out of service due to non-payment of bills. The Petitioner has cleared his arrears and the telephone services have been restored.
19. As for the Petitioner's grievance regarding non-intimation of closure or disconnection of services, it is submitted that PTA, in response to the Petitioner's concerns, conducted an inspection in August 2014, wherein it was found that PTCL intended to close services and only five (5) out of a hundred subscribers had been informed about the imminent disconnection of their services. The matter, it is submitted, will be decided by PTA as per applicable laws.

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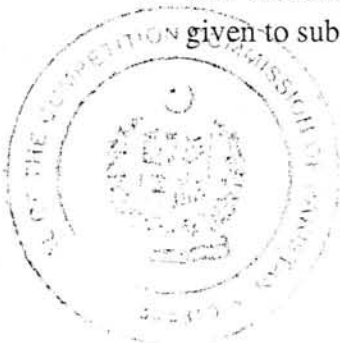


20. As for the role of PTA pertaining to devising a numbering plan, PTA is empowered to develop a National Telecommunication Numbering Plan under Section 5 (2) (k) of the Pakistan Telecommunication (Re-organization) Act, 1996. Numbers are a scarce resource and by virtue of regulation 17 (2) (a) of the Numbering Regulations, the blocks of numbers and short codes allocated to the licensees and individual numbers allocated to individuals do not confer ownership of the numbers to those parties. As a Numbering Plan and procedure for allocation already exists, the petitioners concerns in this regard stand addressed.
21. PTA has directed PTCL to make suitable arrangements in order to ensure that call forwarding facility is provided to subscribers whose telephone numbers have been changed due to up-gradation of systems.
22. The limit of five (5) SIM connections per person was placed in light of the Order of the Supreme Court of Pakistan in Constitutional Petition NO. 77/2010 dated 21st May 2012.
23. The Petitioner is free to file an application or complaint in case any of his grievances are not addressed.
24. As directed by the Honorable Islamabad High Court, an opportunity of hearing was granted to the Petitioner. The hearing was held on the 13th of November 2014.

Issues:

25. The Petitioner, in essence, raises the following issues:

- Disconnection of telephone numbers, and the unilateral changing of telephone number pre-fixes, both land line and cellular.
- Charging the calling party for VMS messages left on petitioners numbers.
- The changing of telephone packages by PTCL, without informing the petitioner.
- The limitation on the number of SIM's that may be issued to one individual; and
- The disconnection of the Petitioners WLL subscription and the insufficient notice given to subscribers.



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The Commissions mandate: Competition issues

26. The Commission has analyzed the Petitioners concerns, along with responses received from PTA and PTCL, and the findings are as follows:

Disconnection of telephone numbers, and the unilateral changing of telephone number pre-fixes, both land line and cellular:

27. The Commission deems this a matter regarding technical issues, the rectification of which falls squarely within the ambit and scope of the sector specific regulator, the Pakistan Telecommunication Authority. Further, as the issue raises no competition concerns, the Petitioner is advised to seek remedy from the appropriate forum.

Charging the calling party for VMS messages left on petitioners numbers:

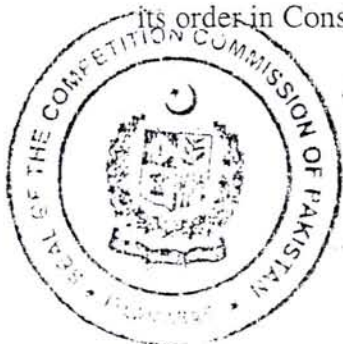
28. This is another instance of the matter not falling within the ambit of the Competition Act 2010. The matter may be taken up with the Petitioners service provider, or the sector specific regulator, PTA.

The changing of telephone packages by PTCL, without informing the petitioner:

29. The matter does not fall within the ambit of the Competition Act, 2010, however Respondent No. 3, PTCL, has made submissions on this aspect: PTCL has stated that this issue arose due to the construction work being undertaken for the Metro Bus Project. It is broadly known that many different problems arose due to the construction work being undertaken, be it traffic related or technical problems in communication networks that relied on underground cables that were temporarily disconnected or removed. Further, the Commission has been informed that the numbers changed in that duration have now been reverted. As for the unilateral changing of packages, the Commission has been informed that a mechanism for reverting the customers to Basic Plus Package upon the customer's request has been devised, and services are to be restored upon the payment of arrears by customers. As the Petitioner has cleared his arrears, the services against his numbers have been restored.

The limitation on the number of SIM's that may be issued to one individual:

30. The matter, which also falls outside the ambit of the Competition Act 2010, touches upon National Security considerations and has been dealt with by the Supreme Court of Pakistan in its order in Constitutional Petition No. 77/2010.



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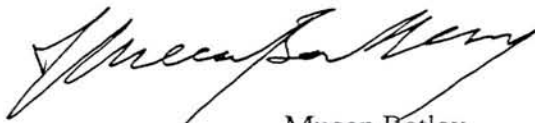
The disconnection of the Petitioners WLL subscription and the insufficient notice given to subscribers:

31. This matter does not fall within the ambit of the Competition Act 2010, however the Commission has been informed that, following an inspection carried out by PTA, it has been found that no V-Fone connections have been disconnected and PTCL has been providing continuous services. It was, however, found that not all customers had been informed of the imminent closure of the services, and PTA, the competent body in this regard, will decide the matter as per applicable law.

Conclusion:

32. The Commission has analyzed the Petitioners concerns, along with responses received from PTA and PTCL, and finds that no competition concerns are raised. It is to be appreciated that the issues that are raised by the Petitioner fall within the regulatory jurisdiction of the Pakistan Telecommunications Authority, which may proceed with the case according to its mandate and as per applicable laws and regulations, or are of a technical nature and to be rectified by PTCL. The Commission is bound by its mandate, and will not interfere in situations where no competition concerns are raised.

33. The proceedings initiated pursuant to said Order are hereby concluded.



Mueen Batlay
(Member)

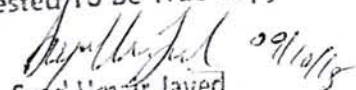


Dr. Shahzad Ansar
(Member)



ISLAMABAD THE 9th OCTOBER 2015

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Syed Umar Javed
Registrar
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