



13th April, 2022

PUBLIC NOTICE

Decision of PEMRA in Pursuance of the 70th Meeting of the Council of Complaints, Islamabad in the Matter of Complaints Lodged by Pakistan Medical Commission (PMC) against M/s Fun Infotainment Network (Pvt.) Ltd., / Neo TV

Pakistan Electronic Media Regulatory Authority has imposed a fine of one million rupees upon the CEO of M/s Fun Infotainment Network (Pvt.) Ltd. / Neo TV on the recommendations of the Council of Complaints in that matter of complaint filed by the Pakistan Medical Commission against M/s Fun Infotainment Network (Pvt.) Ltd. / Neo TV for airing baseless, false, defamatory, and malicious news in its program "Seedhi Baat" on 7th July, 2021 and 14th July, 2021 to tarnish and malign the reputation of Commission and the Members of the Medical and Dental Council.

The Council of Complaints after hearing the parties concluded that the channel broadcasted the program "Seedhi Baat" on the *sub judice* matter in violation of the provisions of Electronic Media (Programmes and Advertisements) Code of Conduct, 2015 and unanimously recommended the Authority imposition of fine of PKR 1 million on the channel.

Detailed decision of the Authority is attached.



**PAKISTAN ELECTRONIC MEDIA
REGULATORY AUTHORITY
REGIONAL OFFICE
ISLAMABAD**

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RGM/ISB/2-2(15-1)/2014/V-III/3080

Dated: 6th April, 2022

Chief Executive Officer,
M/s Fun Infotainment Network (Pvt.) Ltd., / Neo TV,
House No. 4-N-A, Gulberg-II, Lahore.

Member Legal
11/4/22

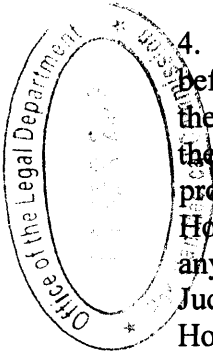
Subject: Decision of the Authority in Pursuance of the 70th Meeting of the Council of Complaints, Islamabad in the Matter of complaints lodged by the Vice president of Pakistan Medical Commission, Mr. Muhammad Ali Raza and the Secretary, Pakistan Medical Commission (PMC) against M/s Fun Infotainment Network (Pvt.) Ltd., / Neo TV

The Vice president of Pakistan Medical Commission, Mr. Muhammad Ali Raza and the Secretary, Pakistan Medical Commission (PMC) had lodged complaints against M/s Fun Infotainment Network (Pvt.) Ltd., / Neo TV for allegedly airing baseless, defamatory, self-serving, false, frivolous and mala fides news to tarnish and malign the complainants' repute and to drag them into controversy.

2. The Complainants and the Respondent channel were provided opportunity of personal hearing before the Council in its 67th meeting held on 9th November, 2021. Mr. Sohaib Shahd and Ms. Nadia appeared on behalf of Mr. Ali Raza and PMC while Mr. Nasrullah Malik appeared on behalf of Neo TV.

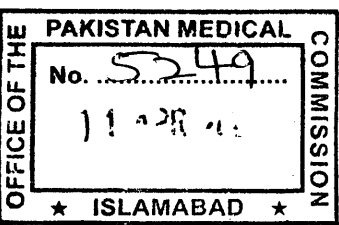
3. The legal counsel, Ms. Nadia narrated before the Council that PMC had lodged complaints against programmes "Seedhi Baat" aired on 7th July 2021, 14th July 2021 & a press conference held by Ch. Abdur Rehman on 22nd June 2021. She stated that in these programmes the statements, which had been made by the participants, anchorperson and producers, were false, defamatory, and that the allegation had been made against PMC and its members without any credible information.

4. She further added that the channel did not provide any opportunity to PMC before making such statements and speaking on those issues, which were sub-judice before the Honorable Courts. She also stated that just to create negative sentiments and opinion in the public about PMC, concealment of facts was made along with omission presented in the programme. The Chairperson inquired that whether the matter had been decided by any of the Honorable Court or otherwise. He also inquired whether the matter was still sub-judice before any of the Superior Courts. In response, the legal counsel, Ms. Nadia referred to Para. 3 of the Judgment of the Honorable Islamabad High Court in I.C.A No. 31/2020 wherein the Honorable Court had suspended the operation of the said paragraph, in violation of which the channel conducted the programmes to defame the complainants and PMC. She read out from the complaint the relevant (46th) para of the said judgment, which is reproduced as below.



"We are of the opinion that there is force in the argument raised by the learned Additional Attorney General. In any case, the matter is pending before the august Supreme Court of Pakistan and, therefore, it would be

M. Anjum



appropriate, at this stage, to suspend the operation of paragraph-46 of the impugned judgment, dated 11.02.2020.

5. The Chairperson asked the complainants to produce the referred judgement; however, they said that the judgement was not available with them. The Council asked the complainants that as the referred judgment needed to be gone through in order to proceed further in the matter.

6. Mr. Nasrullah Malik representing Neo TV stated that anyone could give opinion on the judgments of Honorable Courts and therefore whatever he or his channel had reported was based on the orders of the Honorable Courts and notifications of other departments. He further added that the programmes aired on the channel contained nothing other than facts and relevant documents, which they had obtained from the Honorable Court and departments concerned. The Chairperson of the Council pointed that reporting a news was a right of the channel but obtaining opinion of the person or body concerned was also necessary as per clause 22 of Electronic Media (Programmes and Advertisements) Code of Conduct, 2015. Mr. Nasrullah stated that they had every document and Honorable Court decision on the basis of which the programmes had been conducted. The matter was adjourned for next meeting with directions to the respondent to produce copies of the referred court's judgment.

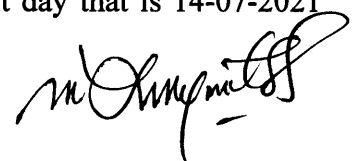
7. The complainants and the respondent channel were provided yet another opportunity of personal hearing before the Council in its 69th meeting held on 10th December, 2021. Mr. Sohaib Shahd and Mr. Taimoor Aslam Khan appeared on behalf of Mr. Ali Raza and PMC while Mr. Nasrullah Malik (appeared through skype), Mr. Fahd Hayat and Taha Hayat appeared in person on behalf of Neo TV.

8. Video clip of the programme was played before the Council, which was aired on 07-07-2021. The Chairperson of the Council asked the legal counsel of Pakistan Medical Commission to assist the Council about the referred pending intra court appeal (ICA). He noted that ICA No. 31/2020 was pending before Islamabad High Court and referred to Para-3 and said that he was of the opinion that there was point in the argument raised by the learned Additional Attorney General and the matter was pending before the august Supreme Court of Pakistan and, therefore, it would be appropriate, at that stage, to suspend the operation of paragraph-46 of the impugned judgment, dated 11.02.2020.

9. Legal counsel, PMC added that that order was issued by Honorable Islamabad High Court Islamabad on 01-07-2021 and the impugned programme was aired on 07-07-2021 after six days from the commencement of that order. On inquiring about the CPLA number of the Honorable Supreme Court of Pakistan, the legal counsel stated that the CPLA No. 1301-K of 2021 dated 30-03-2021 was pending.

10. Chairperson further added that if he was not mistaken, the Islamabad High Court judgment under challenge has been pending, and/or the Supreme Court order to make official Rule of Business has been pending as well. He told that the legal counsel from respondent that his contention was that the programme was aired on 07-07-2021 and order was passed on 01-07-2021 in which they expunged the para 46 of the judgment dated 11-02-2020 by Honorable Islamabad High Court.

11. Legal Counsel from PMC clarified that a press release regarding clarification of allegation made by Neo TV was up-loaded on Pakistan Medical Commission's website on 13-07-2021 and that another programme was telecasted on the next day that is 14-07-2021 against the complainants.



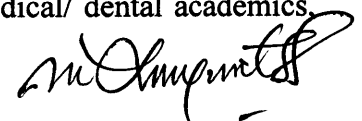
12. Chairperson asked to make it clear whether the Honorable Sindh High Court's judgment was also pending with Supreme Court. He pointed out that the specific programme was based on the judgment dated 11-02-2020 by Honorable Islamabad High Court and Para 46 of it was expunged by Supreme Court which had ordered to make Rules of Business. The legal counsel of the complainants responded that during the course of the programmes, the grading sheet/inspection grades published by PMC on its website pursuant to 2019 inspection were heavily criticized and even labelled fake. Neo TV is owned and controlled by Chaudry Abdur Rehman, who is also the President of Pakistan Association of Private Medical and Dental Institutions ('PAMI') and Chairman of Azra Naheed Medical College. And added that the owners of Private Medical and Dental Colleges were the direct affectees of the Grading Sheet/Inspection Grades; therefore, Chaudhry Abur Rehamn had a direct conflict of interest as the President PAMI and owner of a private medical college.

13. The Chairperson of the Council pointed that it was not illegal to have a private college and running a STV Channel at the same time as it was a constitutional right of every citizen. He told the legal counsel that his grievance was only up to the extent that programme was aired on the basis of judgment dated 11-02-2020 of the Honorable Islamabad High Court.

14. The legal counsel from PMC contended that these statements/ allegations were patently false, malicious, defamatory, baseless, self-serving in violation of Electronic Media (Programmes and Advertisements) Code of Conduct, 2015. It was further maintained that vide Section 16(1)(f) of the PMC Act, 2020, the National Medical Authority was mandated to conduct all examinations including MDCAT, NLE, NEB and revalidation which were mandatorily required to be a computer-based exam to ensure the integrity and transparency of exam for testing. It was added that the restricted technical, financial and human resources of the Commission; setting up exams centers and developing the examination system. The Authority had initiated a review of the testing service providers in local market in order to find a suitable joint venture partner in order to collectively conduct exams because pursuantly, an advertisement was published inviting legal proposals from potential service providers and thus twelve (12) companies submitted their proposals, which were reviewed and meetings were held accordingly. Record of all the proposals submitted and the evaluations was available with the Commission.

15. The legal counsel from PMC added that the Complainant was obligated to conduct the MDCAT exam as per law, which was a computer-based test to ensure transparency, curtail cheating and to ensure that the results were based on fairness and merit. To conduct these tests PMC required adequate numbers of special centers at national level duly equipped with technical facilities including computers, keyboards, mice etc. to cater for the technical and other requirements of these exams which, inter alia, explained the decision for MDCAT cost. Further, the Respondent had omitted the material fact that PKR 6000 also included fee for online tutorial and mock exam. Moreover, the allegation that the Complainant was involved in 'loot mar' was patently misleading, self-serving and false, levelled against the Complaint without allowing any opportunity to present its view; therefore, was biased.

16. The legal counsel from PMC further stated that these statements were false, frivolous, self-serving and misleading. It was added that no member of the Commission either belonged to or related with Agha Khan Medical College or Combined Military Hospital (CMH). The members being referred to in this statement were members of the National Medical and Dental Academic Board appointed pursuant to and in compliance with the requirements of section 10 of PMC Act, 2020. The Board was constituted mainly to formulate the structure and standards of the exams to be conducted by PMC; therefore, as mandated by law, it consisted of members who were, inter alia, medical/ dental academics,



professionals, deans or vice-chancellors of private/ public medical and dental colleges etc. It was imperative to state the Grading Sheet/Inspection Grades were not issued by the Board but by the Commission. Neither the Board nor its members had any control nor power/influence over the Commission. This statement was thus a patent violation of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015

17. The Chairperson of the Council requested the legal counsel to proceed toward the prayer. The legal counsel requested that respondent be directed to acknowledge and correct the false information aired by it in the same manner and magnitude.

18. Mr. Taha Hayat, legal counsel from Neo TV requested the honorable Council that he wanted to go through the additional documents submitted by legal advisor of Pakistan Medical Commission and also wanted to produce some additional documents. The Council acceded to the request made by Mr. Taha Hayat and deferred the matter until next meeting of the Council.

19. The complainants and the respondent channel were provided final opportunity of personal hearing before the Council in its 70th meeting held on 26th January, 2022. Mr. Sohaib Shahd appeared on behalf of Mr. Ali Raza and PMC while Taha Hayat, legal counsel appeared on behalf of Neo TV.

20. Legal counsel of the channel provided additional documents and appreciated the Council for hearing them at length and with patience at all hearings. The legal counsel referred and read articles 17, 18 and 19 of the Constitution of Pakistan contended that channel had the right of freedom of expression as per these articles. However, the Chairperson said that the said articles could not be made relevant to the prayer of the complaint, as there was no denial towards rights and freedom of expression. He pointed out that it was the clause 4 (3 & 6) of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015 which were relevant to the channel.

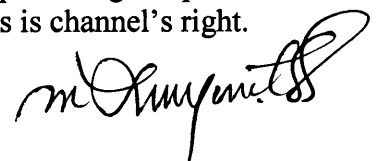
4. ***News and current affairs programmes: - The licensee shall ensure that: -***

3) *Programmes on sub-judice matters may be aired in informative manner and shall be handled objectively:*

6) *Content based on extracts of court proceedings, police records and other sources shall be fair and correct*

21. The legal counsel of the Respondent referred to and read out paragraph 42 of the order of the Islamabad High Court, (Citation 2020 PLD 130) and 43 of the case titled "Saira Rubab Nasir Vs President of Pakistan" and said that the program aired on the channel pertained to the entire judgement, was in public interest and there was no mention of paragraph 46 in the program.

22. The Chairperson inquired from the representative of TV Channel that the PMC filed an Intra Court Appeal (ICA) in the Hon'ble Islamabad High Court and the Hon'ble Islamabad High Court has suspended the judgment to the extent of paragraph-46 of the single bench dated 11.02.2020, thus explaining why such content was broadcast? The representative of Neo TV stated that anyone could give opinion on the judgments of Honorable Courts and therefore whatever he or his channel had reported was based on facts and relevant documents, which they had obtained from the Honorable Court and departments concerned. The Chair further asked why the Channel discussed the said paragraph of the judgment when the Hon'ble Islamabad High Court categorically suspended it? Instead of providing the plausible reason, the representative stated that it was done because airing of news is channel's right.



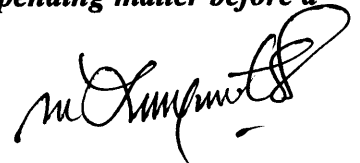
23. The Chair stated that according to Sub-Clause (i) of Clause 3 of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015, no content should be broadcast that is believed to be false beyond all reasonable doubt, and the Channel was responsible for checking the order of the Hon'ble Court before discussing on the Channel. The Chair told the representative that Sub-Clause (3) and (6) of Clause 4 of Electronic Media (Programmes and Advertisements) Code of Conduct, 2015, states that any programme on *sub judice* matter may only be aired in an informative manner and should be handled objectively and fair and correct, however, the said programme was aired with *malicious intent* and to defame the PMC, as no caution being taken by the Channel. The Chair informed the representative that pertinently, on a case which is *prima facie sub judice* before a Court of law, there are two judgments of the Hon'ble Superior Court that no one should make any direct or implied comment. Reliance is *inter-alia* placed on the judgments of the Hon'ble Supreme Court passed in SMC No.28/2018 reported as [2019 PLD SC 1] titled "*Arshad Sharif*" and the one rendered by the Hon'ble Islamabad High Court in Crl.Original-270-2019 reported as [2020 PLD 109 Islamabad] titled "*the State Vs. Dr Firdous Ashiq Awan.*" The relevant paragraphs of the Judgments are appended in the following paragraphs.

24. The Hon'ble Supreme Court passed the judgment dated 12.09.2018 in this regard; the relevant paragraph is reproduced herein;

"17...Drawing assumptions, inferences and conclusions from evidence or the documents filed in a case and stepping into the shoes of a judge on broadcast programmes may not only convict the accused in the eye of the public regardless of whether he is ultimately exonerated by a Court but certain comments or opinions may be voiced which could potentially instill bias and prejudice in the minds of the judges, particularly to those who are dealing with the sub judice matter, thereby violating the fundamental rights under Articles 4 and 10A of the Constitution of persons involved in such matter. Taking support from Lord Diplock's words, it is fair to state that prejudicial comments which interfere in the administration of justice, in way to the flouting of justice itself, and must be treated as such by the society in the spirit of upholding the rule of law.
(Emphases on the underlined parts)

25. The Hon'ble Islamabad High Court Islamabad also passed the judgment dated 14.11.2019, the relevant paragraph is reproduced hereunder;

24. This Court is satisfied that both the contemnors had acted in a manner that constitutes criminal contempt. They attempted to obstruct the administration of justice and through their acts and statements they had tended to prejudice the determination of a matter pending before this Court. They also tried to create a false perception which was likely to lower the prestige of the judicial process and consequently prejudice the trust of the people in the Courts. Their acts and statements were intended and calculated to impede, obstruct and divert the administration and course of justice. However, this Court, despite the gravity of the offence, restrains itself from handing down a conviction and sentencing both the alleged contemnors because during the course of these proceedings it appeared to this Court that there is probably not sufficient awareness in the society regarding the importance of criminal contempt in the context of a pending matter before a Court.
(Emphases on the underlined parts)



26. The Chair asked representative if any comments were obtained from PMC before such news was broadcast by the Channel? Because under Clause 22 of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015, the licensee has to provide a fair chance for the person or organization to defend themselves before airing any allegations. The response of the representative was negative. Additionally, the following three Clauses from the Code of Conduct, 2015 are reproduced;

Sub-Clause (1), (i) of Clause 3 of the PEMRA Code of Conduct, 2015

Fundamental principles: -

Clause (3), The licensee shall ensure that: -

(1) No content is aired which-

(i) is known to be false; or there exist sufficient reasons to believe that same may be false beyond a reasonable doubt;

Sub-Clause (1), (3) of Clause 4 of the PEMRA Code of Conduct, 2015

News and current affairs programmes: -

Clause (4), The licensee shall ensure that: -

(1) News, current affairs or documentary programmes shall present information in an accurate and fair manner.

(3) Programmes on sub judice matters may be aired in informative manner and shall be handled objectively:

Provided that no content shall be aired, which tends to prejudice the determination by a court, tribunal or any other judicial or quasi-judicial forum.

(6) Content based on extracts of court proceedings, police records and other sources shall be fair and correct.

Sub-Clause (1), (2) of Clause 22 of the PEMRA Code of Conduct, 2015

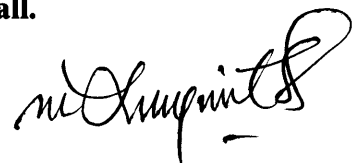
Clause 22 Airing of any allegations etc.: -

(1) Licensee shall not air any allegation against any person or organization unless the licensee has credible information justifying such allegation and a fair opportunity to defend such allegation has been provided to the person or organization against whom allegation is being levelled.

(2) Where a serious allegation has been made by a guest and the accused is not available despite reasonable effort, the licensee shall adhere to the principle of innocent unless proven guilty, and the channel's representatives will, to the best of their ability, represent the accused point of view and defense.

(3) Licensee shall ensure that reasonable opportunity of defence and reply is provided to any person or organization against any allegation levelled against such person or organization.

(4) With regard to serious accusations, the licensee shall not allow any deceptive or misleading mode or manner to portray any material as evidence of wrongdoing or that which is otherwise not evidence at all.



27. The Chairperson of the Council explained that the complaint was related to airing the content of Paragraph 46 in the subsequent programs even after the court expunged the said paragraph 46 in the ICA dated 11-02-2020, so that was the point of concern.

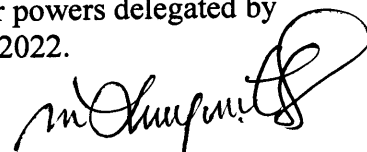
28. After hearing both the parties in detail, the Council reached the conclusion that the channel broadcasted the program "Seedhi Baat" on the *sub judice* matter and paragraph 46 expunged by the Court, which violated Sub-Clauses 3 and 6 of Clause 4 and Clause 22 of the Electronic Media (Programmes and Advertisements) Code of Conduct, 2015. The Council unanimously recommended imposition of maximum fine Rs. 1 million on the channel for the violation of provisions of code of conduct.

29. While considering the unanimous recommendation of the Council, the competent authority approved the following:

"The Council recommended imposition of fine Rs. 1 Million on the channel."

30. Keeping in view of above, Chief Executive Officer of M/s Fun Infotainment Network (Pvt.) Ltd., / Neo TV, is directed to submit fine amounting Rs. 1,000,000/- (One million rupees) in favor of PEMRA through DD/ Pay Order within seven days after receipt of this letter.

31. This decision of the Authority (PEMRA) is issued under powers delegated by PEMRA to the undersigned in its 169th meeting held on 17th February, 2022.



(M. Liaquat Shah)
Regional Director
Islamabad

Distribution:

1. **Mr. Muhammad Ali Raza,**
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✓ 2. **Secretary,**
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Copy for information:

1. Director General (Operations Broadcast Media), PEMRA.

