



No: PTA/IP&WA/Web Analysis/Complaints/Nil/146/2019/

23rd July, 2020

**DECISION ON PLAYERUNKNOWN’S BATTLEGROUNDS (PUBG) ONLINE
GAME UNDER SECTION 37 OF THE PREVENTION OF ELECTRONIC CRIMES
ACT, 2016**

Through this consolidated order the issue of online game known as Player Unknown’s Battlegrounds (‘PUBG’) will be decided in light of mandate given to the Pakistan Telecommunication Authority (PTA /the Authority) under section 37 of the Prevention of Electronic Crimes Act, 2016 (‘PECA’).

1. Background of the case:

1.1 Brief background of the case is that Mr. Muhammad Faizan Maqsood, being aggrieved by dismissal order dated 22nd April, 2020 passed by the Hon’ble Lahore High Court, Lahore in W.P No.19410 of 2020 (*on the issue of banning PUBG*) filed an Intra Court Appeal No.22674 of 2020 wherein following decision was passed:

“2. Accordingly, this appeal is disposed of with direction to respondent No.4 to decide the above-referred application of the appellant, if still pending before him, after giving opportunity of hearing to the appellant as well as any other concerned without being influenced of any observation made in order dated 22-4-2020 passed by the learned Single Judge in Chamber in Writ Petition No.19410/2020, strictly in accordance with law. Needful shall be done within six months commencing from date of receipt of certified copy of this order. Copy dasti. Disposed of.”

1.2 Furthermore, PTA also received numerous complaints / letters from other segments of society on the issue of banning PUBG on the premise that the said game affects physical and mental health of specially children / young teenagers, addictive, waste of time and promotes violent behavior amongst the players, etc.

1.3 In addition to the above, Capital City Police Office, Lahore Police vide letter dated 28th June, 2020 reported cases of suicide, committed under the influence of PUBG game and requested to sensitize cyber vigilance, and for citizen protection against online harmful, meaningful and immediate action may be taken against games like PUBG, accordingly as deemed fit and appropriate in the best interest of the society.

1.4 It is further to note that, Khyber Pakhtunkhwa Assembly vide resolution No.338 unanimously passed a resolution urging the Federal Government to put a complete ban on PUBG along with other immoral content on internet as the same are impacting the youth negatively, making them socially inactive, resulting in wastage of time and are destroying their future.

1.5 As a consequence of the aforesaid background, the Authority decided to temporarily block PUBG by exercising powers under section 37 of PECA. In this regard, PTA issued a press release dated 1st July, 2020. In addition, PTA invited all the stake-holders including administration of PUBG for consultation / meeting. In parallel, PTA also sought feedback of general public regarding the issue.

2. Cases filed in Islamabad High Court, Islamabad:

2.1 Being aggrieved from the blocking of PUBG in Pakistan, two writ petitions bearing No. 1771 of 2020 titled “Abdul Haseeb Nasir Vs. Federation of Pakistan, etc.” and WP No.1788 of 2020 titled “M/s Proxima Beta Pte. Ltd. Vs. Federation of Pakistan, etc.” were filed before the Hon’ble Islamabad High Court, Islamabad. The Hon’ble Islamabad High Court, Islamabad disposed of WP No. 1771 of 2020 in following terms:

“In view of the above, the instant petition is disposed of with the direction to the respondents to decide the pending representation / application of the petitioner in accordance with law through a reasoned and speaking order after providing an opportunity of hearing to the petitioner”.

2.2 Whereas, Writ Petition No.1788 of 2020 was filed by M/s Proxmia Beta Pte. Ltd. (**the Company/ Proxima Beta**) mainly on the contention of non-adherence to the mandatory legal procedure by PTA while suspending PUBG. The Hon’ble Islamabad High Court, Islamabad vide order dated 7thJuly, 2020 issued notice and directed PTA to file reply / comments.

“para 2..... Be that as it may, the petitioner may join the meeting to be scheduled on 9.7.2020 and the proceeding shall be conducted in accordance with law and petitioners shall not prejudice in any way because of the fact that it has filed the instant petition.”

3. Proceedings of Hearing / consultation and meeting with all the concerned parties:

3.1 With this background of the case, a hearing / consultation meeting was convened at PTA Headquarters, Islamabad on 9th July, 2020. The participants were given the option to attend the hearing via online as well. All the participants were also requested to provide their input in writing as well.

4. Participant’s Submissions:

4.1 **Mr. Waqar Zaka:** He supported restoration of PUBG on the ground that we should promote E-sports. He added that we should not ban or impose restrictions on any game on mere assumptions. Maintained that the game is the source of income for many Pakistanis. He emphasized that recently Pakistan has been included to participate in international tournament to be started on 10th July, 2020 which is an achievement and we should encourage such activities. He further added that, no doubt, we should take all possible efforts to take action if anything is found contrary to law of the land. However, he is of the view that PUBG should be restored.

4.2 **Ms. Zainab:** Ms. Zainab Samantash, Advocate High Court along with Mr. Niaz Brohi Advocate High Court attended meeting purportedly on behalf of Proxima Beta. Though they were asked to provide authority letter / attorney to appear on behalf of the Company being represented, which they failed to provide the same and contended that they have already filed petition in Islamabad High Court and as per order we have been asked to attend meeting therefore, we can appear on behalf of the company. Without prejudice, they were allowed to present their case on the subject matter. Legal Counsel, pointed out that PTA has no jurisdiction to block PUBG as it does not fall within the parameters laid down in the section 37 of the PECA. More so, learned counsel also relied on PTA’s earlier letter dated 9th January, 2020 wherein PTA has stated that since PUBG does not fall within the attributes as prescribed in section 37 of the PECA thus suspension order is against the law.

4.3 Legal Counsel further contended that before passing an order of suspension, we have not been provided an opportunity of hearing, despite the fact the Islamabad High Court in **W.P. No. 634/2019** titled “**Awami Workers Party Vs. Pakistan Telecommunication Authority,**

etc.” has already directed that while deciding matter under section 37 of the PECA an opportunity of hearing is mandatory in light of Article 10A of the Constitution of Pakistan, 1973. Learned Counsel further argued that the provisions of the Pakistan Telecommunication (Re-organization) Act, 1996, Pakistan Telecom Rules, 2000, PTA (Function & Powers) Regulations, 2006 and the Prevention of Electronic Crimes Investigation Rules, 2018 have not been adhered by PTA. In light of said legal position, PTA’s decision for suspension of PUBG is contrary to law. While concluding argument, legal counsel pointed out that no detail reasons and justification for suspension of PUBG has been shared with us. The legal counsels for the Company later on also filed written submission wherein they reiterated their earlier stance.

4.4 **Abdul Haseeb Nasir:** Mr. Ahmad Iqbal Maiken Advocate who appeared on behalf of Mr. Abdul Haseeb Nasir preferred to opt the submission made by Mr. Waqar Zaka and Ms. Zainab Samantash and submitted that PUBG should be restored. On the other hand, Mr. Abdul Haseeb Nasir, a PUBG player, also made submissions, in addition to his advocate, and stated that he is 20 years old and after continued hard work of two years, he has been selected for international tournament and there are chances of his success in the said tournament. He further submitted that first time in history he is representing Pakistan in E-sports, thus he should be encouraged. He informed that he has already won cash prizes and paid tax. Thus, this is legitimate and he may be allowed to participate in International Tournament commencing on 10th July, 2020.

4.5 **Bilal Riaz Sheikh Advocate:** He was representing Mr. Muhammad Faizan Maqsood, the petitioner in W.P No.19410 of 2020 and Intra Court Appeal No.22674 of 2020. He argued that PUBG should not be restored. He submitted various arguments in support of his stance including that PUBG is addictive in nature, it is creating felonious approaches in the person who plays the game, it badly impacts the mental and physical health of the players, it adversely affects the social life of the players and there is no positive impact of PUBG.

4.6 **Pakistan Welfare Society (Gujrat):** Mr. Amjad Abbas Bajwa appeared on behalf of the society and submitted that he worked at least ten years in anti-narcotic rehabilitation center. While sharing his children experience of playing PUBG, he informed that result and impact on the personality of PUBG or other violent on-line games players is similar and identical to those addicted of narcotics. He added that Internet Gaming has been declared as an addiction of narcotic. Added that WHO has declared it dangerous. Further, maintained that PUBG set off extreme violence and aggression in the player as the game teaches about killing and looting.

He mentioned about the suicide incidents due to the PUBG. He also elaborated negative physiological effects of the game. Thus, PUBG should not be restored. We should not compromise future of off-springs on the basis of earning revenue by few people. The matter has to be reviewed in larger interest of the society.

4.7 **CCPO Lahore Office:** A representative from the CCPO Lahore also attended the hearing online. He reiterated the stance as mentioned in the letter dated 28th June, 2020. He further informed that the preliminary investigation of the Police indicates that the reported suicide incidents are committed under the influence of PUBG game.

5. Issues:

5.1 For concluding the matter, it is essential to clarify and explain, inter alia, following issues:

5.1.1. Jurisdiction of PTA under PECA.

5.1.2 E-sports in Pakistan.

5.1.3 Applicability of section 37 of the PECA on PUBG.

5.1.4 Negative effects of PUBG online game on Mental Health of the players especially children / teenage players.

5.1.1. Jurisdiction of PTA under PECA

5.1.1.1 Prevention of Electronic Crimes Act, 2016 is a special law and purpose of PECA is to prevent unauthorized acts with respect to information systems and provide for related offences as well as mechanism for their investigation, prosecution, trial and international cooperation with respect thereof and for matters connected therewith or ancillary thereto. In order to attain the objectives of PECA, few organizations have been entrusted with special mandate / powers like for criminal investigation, the Federal Investigation Agency has been declared as Designated Agency under section 29 of PECA.

5.1.1.2 On the other hand, under section 37 of PECA, PTA has been empowered to remove or block or issue directions for removal or blocking of access to an information through any information system if it considers it necessary in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, public order, decency or morality, or in relation to contempt of court or commission of or incitement to an offence under PECA.

5.1.1.3 In the said section the terms “**information**” and “**information systems**” need deliberations and discussions in light of definitions provided in PECA. As per section 2(xix) the term “**information**” includes text, messages, data, voice, sound, database, video, signals, software, computer programs, any form of intelligence as defined under the Pakistan Telecommunication (Re-organization) Act, 1996 and codes including object code and source code. The term “**information system**” in section 2(xx) of PECA means electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recoding or processing any information.

5.1.1.4 It is concluded that there is no doubt about PTA’s jurisdiction for removal or blocking of access of an “information” available online. In the instant matter, the content of the PUBG fall within the definition of term “information” as it contains text, data, voices, sound etc and accessible online. However, the question arises whether PUBG falls within the parameters as laid down in section 37 of PECA or otherwise.

5.1.1.5 Expression of the all terms as provided in the said section is general in nature and no definition has been provided whereby the Authority may evaluate the “information” and take action. However, it is imperative to point out that expression of phrase “if it considers it necessary” entrusts the Authority ample powers to decide the matter for the purpose of achieving objectivity of the law. Removal or blocking to access of an information has to be determined and decided when the “Authority considers it necessary”. The phrase “if it considers it necessary” as used in the section 37 has its own significant in terms of exercising the power to remove or block the access to an online information. The word “consider” means to look attentively, or carefully, to think, to take into account, to regard, hold the opinion. The word “consider” cannot be equated with the word “satisfaction”. Satisfaction is always at a much higher degree which implies a result achieved after full consideration on all aspects of the case and a process of logical and legal reasoning (PLD 1988 Karachi 587). The word “consider” refers to hold an opinion which depends on something which prima facie looks to be probably true and does not require / include any incontrovertible evidence (2003 PTD (Trib) 1361).

5.1.1.6 On the other hand, the expression of word “necessary” has its importance and relevance to analyze in light of judgment passed by Apex Court. The various shades of the meaning of the word “necessary” would indicate that a thing can be regarded as necessary only when there is an element in the situation which compels a particular thing to be regarded as

being essential or unavoidable. The word “necessary” must be considered in the connection in which it is used, as it is word susceptible of various meaning. According to Black Law Dictionary, it may import absolute physical necessity of inevitability, or it may import that which is only convenient, useful, appropriate, suitable proper, or conducive to the end sought. It is an adjective expressing degree, and may express mere convenience or that which is indispensable or essential or an absolute physical necessity (PLD 1977 Kar. 466).

5.1.1.7 Thus as to take preventive measure, it would be sufficient if the Authority holds opinion that it is essential to issue direction for removal or blocking the access of an information. For opinion, it does not require any concrete evidence or proof. Reasonable material for deciding matter would be suffice to take appropriate action.

5.1.1.8 The Authority has to consider various aspects of an “information” which directly or indirectly fall within the ambit of parameters as laid down in the said section. *Per se*, games are for entertainment. Any game which is being played in excess have its adverse impact on the conduct of the players/ individual. The quantum of adverse impact vary from person to person. But the core issue in the instant matter is to determine whether PUBG falls in any one of the parameter as mentioned in the said section or otherwise

5.1.1.9 It is very difficult to apply any one of the factor(s) to evaluate game in question. The test for examination of any information on the basis of one aspect is quite difficult and sometime not possible. Considering the nature of game and its contents, it can be safely to say that it has multiple factor(s) and attribute(s) which fall within the parameters as laid down in the said section.

5.1.1.10 It is an admitted position that there is no exact definition of “public order”, “decency” or “morality” in law. However, general description / expression or dictionary definition can be found having its invariable impact on case to case basis. The exercise of powers in terms of blocking the access of an information over internet is persuaded in terms of consideration as to hold an opinion that decision of blocking of access of information is essential and necessary. The term “public order” has been discussed in judgment reported in 1995 PCr.LJ 587 case titled Muhammad Ayaz Khan Vs. District Magistrate, Batgram wherein it has been provided that before an act is held to pre-judicial to public order; it must be shown that the act or activity is likely to affect the public at large. An act which concerns only to an individual and does not amount to an activity prejudicial to the public peace and tranquility cannot fall within the ambit of section 3 of the West Pakistan Maintenance of Public Order

Ordinance, 1960. It further provided that the phrase "public order" has to be construed in the ordinary context as being synonymous with public peace, safety and tranquility. The word "public order" is accordingly referable to public order of local significance as distinguished from national upheavals such as revolution, civil strife and war. Equally it is distinguishable from popular concept of law and order and of security of State, law and order re-present the largest circle, within which the next circular is representing public order and the smallest circle represents security of the State. Hence an activity, which affects law and order may not necessarily affect public order and an activity which may be prejudicial to public order may not necessarily affect security of the State. Before an action it is held to be prejudicial to public order, it must be shown that the act or activity likely to affect the public-at-large. As a corollary, therefore, it follows that an act, which concerns only an individual and does not amount to an activity pre-judicial to the public peace and tranquility cannot fall within the ambit of section 3 of the Ordinance.

5.1.1.11 The element of "morality" has also been applied on the PUBG. In the said section the term "morality" is not used in any narrow sense, but in a general sense, such as the law of conscience, the aggregate of those rules and principles of ethics which relates to upright behavior and right conduct of the children/individual need to be considered. While examining the applications/ requests received by PTA it has been found that the impact of PUBG is leading to the issue of "moral turpitude". The term moral turpitude connotes anything done against just, honesty, modesty or good morals. It is deprivation of character and devoid of morality.

5.1.1.12 Bare perusal of record transpires that impact of "information" are likely to hit the element of public order and morality on the ground that it is easily accessible to public at large without any restriction of age and can be played without any precautionary measures/ permission.

5.1.1.13 The specific contention by the Counsel of the **Proxima Beta** with regard to the letter dated 9th January, 2020, wherein allegedly PTA once denied applicability of section 37 of the PECA. It is an admitted position of the law that instances and facts entail various legal positions and actions at the relevant time. More precisely, previously the situation was not the same as prevalent today, at that point in time, no case of suicide or self-harm was reported to PTA from credible sources. During the last week of June, 2020 few suicide events were reported in media and through letter by CCPO, Lahore which had potential links to PUBG game addiction. Therefore, PTA is empowered under section 37 of PECA to block/remove any

information from any information system if it considers to be disrupting Public order besides other categories. Keeping in view the incidents, PTA suspended PUBG temporarily and started proceedings as discussed including public consultation and feedback.

5.1.2 E-sports in Pakistan

5.1.2.1 As far as the contentions of the petitioner arguing for unbanning/restoration of PUBG on the premise of e-sports in Pakistan is concerned, it is an admitted position that **Proxmia Beta** neither registered as an entity under the laws of Pakistan nor there exist any contractual arrangements or obligation between the parties. Even no data in support of this contention has been placed on record by the parties favoring restoration on account of loss of E-sports revenue.

5.1.2.2 It is worth mentioning here that pursuant to the hearing dated 9th July, 2020, PTA vide email of even date also required the Company to provide details of PUBG users (age wise) in Pakistan along with details pertaining to users' sessions (average time spent by each group) on the given format. Further, PTA required the Company to share the details of its earnings from Pakistan, details of the prize money won by the Pakistani players, number of tournaments organized during the last one year and whether PUBG has setup any control or taken any sort of precaution to ensure that the users do not get addicted and the game does not affect their psychological health. However, no response has yet been provided by the Company.

5.1.3 Applicability of section 37 of the PECA on PUBG

5.1.3.1 PUBG is a combination of images, text, voice, video, sounds, signals, text, messages etc. Thus, the said game falls within the definition of "information" as provided in the PECA. Since it is accessible through "information system" therefore, PTA can take action for removal or blocking of such information, if it is found in violation of the categories as specified in the section 37 of the PECA as discussed in detail at para 5.1.1.1. to 5.1.1.13 above.

5.1.4 Negative effects of online games on Mental Health of the players especially children / teenage players

5.1.4.1 PTA also came across various studies, papers and reports containing national and international publications regarding the impact of internet games specifically PUBG on the mental¹ as well as physical health² of the players.

5.1.4.5 The crux of the material available with the Authority, *inter alia*, lead to conclude that multiple factors i.e., i) **violence** (*excessive violence can set off aggressive emotions, thoughts and behavior in the player*), ii.) **addiction** (*PUBG can make the player less productive*); iii) **less Social/Human Interaction** (*due to long playing hours, the player end up becoming less socially active*); iv) **Bad Physical Health** (*sitting around in one place and playing for long hours is not good for physical health. Staring at computer screen for long hours can affect eyesight and cause headaches*); v) **Bad Mental Health** (*in 2018, WHO concluded video gaming addiction as a mental disorder. Video games are known to be the reason for depression in many people. And people who are addicted to playing PUBG might get easily stressed out or face anxiety issues in public due to less social interaction*); vi) **Less sleep** (*one might not feel like sleeping because the game isn't over yet. So, in the time one should be sleeping, he can end up playing a game which affect sleeping pattern*); vii) **Bad academics score** (*as the gaming sessions tend to last longer, which affect the academic score of students*); viii.) **Losing family** (*some people also like to play PUBG during family functions which leads to a lack of communication and understanding*); ix.) **Gets irritable** (*the child, who is a game addict, also tends to get irritated at the smallest of things or if parents interfere in something*) are such fundamental and essential attributes which considerably causing or impact on the morality and public as evident in the incident reported by CCPO. Mere on the basis of assumption of

¹ Mr. Arwa Ahmed Al-Qahtani, Andulkarem Awas. S. Alensi Akbar Shoukat Ali, in his letter to editor in 3Ayub Med Coll Abbotabad 2020 with the title Playerunknown's Battleground: Yet Another Internet Gaming Addiction expressed his views the following manner:

“The overarching goal of video games is to amuse the end-users by means of interactive system that are now existence across numerous platforms such as personal computer, mobile phones, tablets and game consoles. Players Unknown's Battlegrounds is a multiplayer online game. The addition of PUBG is soaring worldwide and it has thick use-base. It is suggested that inhuman attitudes such as lack of empathy and war-related sentiments are like to emerge among children who play aggressive and violent games like PUBG. In 2018, World Health Organization (WHO) acknowledged online gaming compulsion as a grave mental health problem. Some of the well-known repercussions of playing PUBG video game are eyes strain, exhaustion, headache, obesity, poor quality of sleep, insomnia, withdrawal symptoms (rage and irritability) and even drug abuse owing to compulsive disorder. This game craze is unfortunately triggering world's young population to invest their valuable time, money and effort in a no-return business, and therefore need urgent measures.”

promoting technology or innovation, creativity particularly with regard to the game in question, we cannot compromise the element of morality or public order. The Authority is inclined that sufficient material is available to consider it necessary that PUBG in the given circumstances accessibility of the said game should be blocked.

6. Findings:

6.1 Matter heard, record perused. Having gone through the above, and keeping in view the feedback received by PTA as well as the complaints from various segments of the society over the issue including the resolution passed by the KPK Provincial Assembly and the incidents as reported by the Police and Newspapers and the reports available on the internet. It is concluded that Complainant(s) have raised their serious concerns by stating that the game is highly addictive, destroying youth, wastage of time and has negative impact on physical and psychological health and most importantly likely to cause public order.

6.2 Further, on 24th of June 2020, Daily Dawn reported that a young guy, Muhammad Zikrya, hanged himself allegedly for not completing the task assigned in the game. As per media reports, police has declared it to be a case of addiction to PUBG. In another incident, 18 years old Shaharyar committed suicide after losing the game.

6.3 In addition, the Capital City Police Officer, Lahore sent a letter dated 28th June 2020 to the Authority regarding negative effects of the online games specially PUBG and has further stated that there has been two incidents of suicide in District Lahore under influence of the said game. The CCPO requested for appropriate and immediate action in the best interest of the society.

6.4 The Authority is mindful of its role under the law and agrees that the internet is meant to connect the people and that the e-sports is a present day phenomena. However, there are negative as well as perverse tendencies inherent in any human being. The online phenomenon such as PUBG, bring this out. The Authority cannot ignore various aspects as mentioned above and sit back waiting for something to happen. Therefore, it has to take preventive and proactive measures for lives and security of the citizens of Pakistan. In this regard, section 48 of the PECA also empowers PTA to issue direction for prevention of electronic crimes as preventive measures.

7. Order:

7.1 Having considered the issue from all perspectives, the Authority hereby considers it necessary to block PUBG being against the interest of public order. Thus in exercise of powers conferred under section 37 of PECA, 2016, the Authority hereby orders that accessibility of the PUBG will remain blocked in Pakistan.

8. This issues with approval of the Authority.

(Sajjad Latif Awan)

Director General (Law & Regulations)