



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS. F-5/1. ISLAMABAD
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**Enforcement Order under sub-section 3 of Section 23 of the Pakistan Telecommunication
(Re-organization) Act, 1996 in the matter of eWorld (PvU Ltd).**

File No. PTA/Licensing/Wireless Licensing/CVAS/EIS/Eworld/36/2009

Date of Show Cause: 4th May, 2009
Date of Hearing: 19th August, 2009
Venue of Hearing: PTA HQs, Islamabad

The Authority present:

Dr. Mohammed Yaseen: Chairman
S. Nasrul Karim A. Ghaznavi: Member (Finance)
Dr. Khawar Siddique Khokhar: Member (Technical)

The Issue:

Discontinuation of service without prior approval of the Authority and settlement of dues

Decision of the Authority

1. Brief Facts:

- 1.1. eWorld (Pvt.) Limited (the "licensee") is a private limited company incorporated under the Companies Ordinance, 1984 and is engaged in the business of Electronic Information Services pursuant to the non-exclusive license No. DIR (C)/L/PTA/216/99 dated 11th September, 1999 by Pakistan Telecommunication Authority (the "Authority") to establish, maintain and operate Electronic Information Services in Pakistan on the terms and Conditions contained in the license.
- 1.2. As a licensee of the Authority, the licensee i.e. eWorld Pvt. Limited was required to comply with the provisions of prevailing regulatory laws comprising of the Pakistan Telecommunication Authority (Re-organization) Act, 1996 (the "Act") the Pakistan Telecommunication Rules, 2000 (the "Rules"), the Class Licensing and Registration Regulations, 2007 (the "Regulations") and the terms and conditions of the license.
- 1.3. vide condition 2.13 of the license the licensee was obliged not to discontinue/terminate/wind up its Service without prior approval of the Authority and settlement of all Claims/Obligations/accounts with other value added telecommunication service providers, data communication network operators, the Company, its customers and the Authority.

14. The licensee i.e. eWorld Pvt. Limited allegedly discontinued its service without obtaining prior approval of the Authority and settlement of dues in contravention of the statutory requirements mentioned above. Hence, a show cause notice (the "Notice") under section 23 of the Act was issued to the licensee on 4th May, 2009, which was duly responded to by the licensee vide its letter dated 6th May, 2009 in the following terms:

"Show Cause Notice Under Section 23 of the Pakistan Telecommunication ('Re-organization) Act, 1996

Ref: PTA HQ's letter No. PTA Licensing/Wireline

Licensing/CVAS/EIS/Eworld/36/2009/699, dated: 4th May, 2009

Dear Sir,

With reference to the above letter, our humble reply is as under:

*As you are aware, I mentioned in my previous letter (dated 6th March 2009, copy enclosed for your ready reference) to the authorities that **eWorld Pvt. Ltd.** will remain active and its other services / operations **will remain operational**. However, only dialup services will be discontinued. In case, we overlook any of the clauses, I want to assure you that it was only accidental. eWorld has been operating since the year 2001 and has always paid its dues and obliged its responsibilities and all directives by PTA.*

This decision was made as the dialup business has been suffering continuous losses for a long-time due to illegal operations of cable net providers and the future did not look promising.

*However, discontinuation of this service has not caused any loss of commitment to dealers and/or customers. To ensure this, we published a discontinuation notice in the most widely read newspaper "**Daily Jang**" in its **24th December 2008** issue, in which ample time was given to customers/dealers to use/sell the scratch cards. Many dealers refunded the cards and we obliged. The scratch cards expired on December 18, 2008; however, we continued to serve the customers till the end of the services on March 15, 2009.*

However, in the event any inadvertent loss has been caused to any person we tender our apology for the same.

*I also take this opportunity to categorically state that **eWorld Pvt. Ltd.** is still operational and **DOES NOT** have any plans to windup all of its operations. However, if PTA has any dues, **eWorld Pvt. Ltd.** is here and ready to meet its commitments.*

*I humbly request you to kindly issue **eWorld Pvt. Ltd.** the approval for the discontinuation of dialup services.*

Should you require any further information, please do not hesitate to contact. "

15. The licensee vide its letter dated 13th May, 2009 stated as under:

*"Subject: Re: Discontinuation of Dialup Internet Services
Ref: PTA HQs letter No. PTA/Wireline/EIS/EWORLD/36/2009*

With reference to the above letter, I would first like to apologize for the belated response. We are currently providing the following services to our customers.

*Internet bandwidth services through Ethernet
Email hosting Services
Web Hosting Services
File Transfer Protocol Services
Co-Location Services*

Moreover, we have plans to expand our Ethernet services, add Hosted Application services and look into other value-added such as Video Conferencing in the future. We have been a productive and innovative provider of EIS services and will continue to contribute further with new ideas and services for the benefit of our marketplace.

Should you require any further information, please do not hesitate to contact. "

1.6. The licensee further replied the aforesaid notice vide its letter dated 14th July, 2009 as under:

"Subject: Request for extension of time for rectifying the omission

Reference: PTA Licensing/Wireline Licensing/ CVAS/EIS/Eworld/36/2009/699 dated 4th May, 2009

With reference to the matter of omission of EIS license conditions, I will like to assure you that any omission or oversight of the regulation was completely unintentional and highly regrettable. Any inaction on our part to remedy the situation was inadvertent and was because of our lack of capacity and resources given the circumstances we have the intentions to rectify this unfortunate situation as soon as possible.

The reason we weren't able to comply in time of the remedy given in your show cause notice dated 4th May 2009, is explained below for your consideration.

Prior to receiving your show cause notice, we have even approach with the office of Director Licensing and it was until your letter that we realize the oversight of the clause 2.13 of the license. By that time, we have laid off our entire staff associated with the dialup operations. These included technical related personal, network engineers and all sales and marketing staff. Given the situation that we were left with no personnel related to dialup operations and hiring of the new staff for a closed operation seemed not very plausible. Therefore, we found it almost impossible to comply in the remedy to rectify the omission.

Therefore, I urge you to extend the time for us to remedy the situation. The extension will not harm any service provider or customer, to the best of our

knowledge, as there are no customers left to serve but will allow for remedy of the situation. I have arranged some resources to remedy the situation.

Please note that we gave notice and due to our customers shifted to other service providers and no data of the customer was harmed in any way in the process to the best of our knowledge. We are fully up to date with our payments to PTA and other service providers and are committed to meet our current and future obligations."

- 1.7. Under the provisions of the Act, the licensee was required to appear before the Authority for personal hearing on 19th August 2009 vide Hearing Notice dated 4th August, 2009 and further directed to submit written arguments. The licensee submitted its written arguments vide letter dated 12th August, 2009 which are reproduced hereunder *in verbatim*:

Subject: Brief of Arguments/Explanation for the hearing

Reference: PTA/Wireline Licensing/CVAS/EIS/eWorld/36/2009/829 dated 4th of August, 2009

As directed by you, following is a brief of explanation for the hearing:

First of all, we will like to assure you that any omission or oversight of the regulation was completely unintentional and highly regrettable. Any inaction on our part to remedy the situation was inadvertent and was because of our lack of capacity and resources given the circumstances. As I have mentioned to you in my previous correspondence that we have always complied with PTA directives and regulations and shall continue to do so in the future. We have all the intentions to rectify this unfortunate situation which came about due to reasons that are humbly presented for your consideration:

The omission or oversight of the requirements of the clause 2.13 which is listed below for your easy reference:

Clause 2.13 of the License:

"The Service Provider shall not discontinue / terminate / wind-up his service without prior approval of the Authority and settlement of all claims / obligations / accounts with other value added telecommunication service providers, data communication network operators, the Company, his customers and the Authority."

As per the clause 2.13, we have met our obligations with our customers and are fully up to date with our obligations to PTCL or any other telecom provider. We are also present and assure our full cooperation in meeting our obligations to the Authority. Having said that, I want to address how the prior approval part of the clause was omitted as follows:

1. Prior to closure of our last 2 PRLs, we verbally spoke to someone in the office of Director, Licensing and were asked to submit a letter. We were not asked

or informed of any approval We did so on March 6th not knowing that an approval was needed. We do not intend to blame the good offices of Director Licensing and are stating what happened that led to this omission.

- 2. While obtaining services from PTCL such as UIN numbers, PRLs and or bandwidth, PTCL always asked us to submit our license and ensured that we were eligible to receive the services. However, when we discontinued our services, PTCL never asked us to submit an NOC from PTA. This lead to our assumption that all is okay as we have informed that PTA and have taken due care of our customers, giving them notice and allowing them time to shift over to other service providers.*
- 3. We informed the offices of Director Licensing on March 6th of our discontinuation of the service. Our services were physically discontinued on or about 15th of March, 2009. On 30th of March, we receive the letter from the office of Director Licensing asking us about services we will like to offer other than dialup. All seemed okay so far.*
- 4. As we were evaluating our options as to what data services we shall be offering after the discontinuation of dialup services, our response was inadvertently delayed.*
- 5. By the time, we received the show cause notice on May 4th we have laid-off our entire staff associated with the dialup operations. This included technical support personnel, network engineers and all sales and marketing staff. We were also facing an extraordinary financial crunch to fund the losses of the dialup operations. The extraordinary financial crisis that not only griped our nation but the entire world are before you and has also hit us pretty badly. Given the situation that we were left with too personnel related to dialup operations and the financial crunch, we found it almost impossible to comply with the remedy you gave us to rectify the omission within the stipulated time period.*
- 6. On July 13', we requested to extend the date of hearing initially set for 15' July, 2009. The request was accepted and the hearing was adjourned.*
- 7. In order to comply with the remedy given in the show-cause notice, which we were not able to meet as described above in item number 5, we requested to extend the time period so that we have the opportunity to remedy the situation. This request was made on July 14th.*
- 8. We took care of our customers, gave them notice and ample time to move to other service providers and believe that we have caused no material damage to anyone in the process. We are still maintaining our offices and presence to meet any obligations we have as a licensee to PTA or any other network provider.*
- 9. We intend to make use of our license to offer other data-related services by converting it to CVAS for which we will need time to plan and gather resources. Kindly grant us that opportunity.*

In the end I will plead for your generosity to condone our unintentional omission

as we have already suffered huge losses over the years. In the recent two years, the entire nation has suffered a lot of losses due to extraordinary situation. Any fine or a strict remedy will not only be unbearable but will result in the loss of further current as well as future jobs and business activity. It is, therefore, requested to consider all the points I have listed above as humble submission of the situation and facts asking you to let this chapter of dial-up operation close peacefully and without any further pain " .

1.8. On the said date, i.e., 19th August, 2009, the licensee appeared before the Authority through its representative namely Mr. Muhammad Ali who reiterated the same stance as already taken vide its letter dated 6th May 2009 and written arguments dated 12th August, 2009. In addition, the licensee also showed its intention to make use of its existing license to offer other data- related services by converting it into CVAS for which a time extension was prayed to gather resources.

1.9. The Authority after hearing the licensee at length and keeping in view its intention to keep the license and to convert it into new CVAS regime, directed the licensee to first pay the outstanding license fees for the years ended on 30th June, 2007 and 2008 alongwith fresh application for conversion of license within fifteen days. It was further directed to submit annual audited accounts alongwith fee for the year ended on 30th June, 2009. After clearance of dues of the aforesaid period its application for conversion of license will be considered.

1.10. In this regard the licensee was also contacted for payment of license fees and submission of application for conversion of its license vide letter dated 28th August, 2009. It sought fifteen days time vide fax dated 2nd September, 2009 which request was granted upto 22nd September, 2009 vide PTA letter dated 11th September, 2009. The licensee failed to submit the annual audited accounts and the payable dues within the given time. However, the licensee submitted annual audited accounts for the year ended on 30th June, 2009 vide letter dated 7th December, 2009 and made partial payment of Rs.35,047/- on 17th October, 2009 and Rs.6937/- on 9th December, 2009 against annual license fee for the aforesaid years, but an amount of Rs.24,940/- is still unpaid. Despite the aforesaid directions the licensee failed to clear the entire amount of annual license fee. It also failed to submit application for conversion of its license till date despite its promises, which establishes unbecoming behaviour of the licensee towards the writ of the Authority.

2. Findings of the Authority:

2.1. As the licensee has not obtained prior approval of the Authority for closure of its dial-up services as was required vide clause 2.13 of the license, hence, the allegation contained in the notice is proved.

2.2. The licensee had taken care of its customers by notifying its intention of closure of its dial-up services in advance through a national daily of wide circulation, through which it had discharged its liability towards its customers.

2.3. The licensee had not settled the claims/obligations with the Authority as required under clause 2.13 of the license prior closing of its dial-up services, hence, this part of allegation is also proved.

2.4. The statements made by the licensee in its reply and arguments relating to payment of license fee are not matching with the conduct of the licensee as it failed to discharge its financial

obligations within given time.

2.5. However, the submission of annual audited accounts and payment of license fee within period specified in the license for each financial year are distinct violation of the clauses of the license and are not subject of the aforesaid notice for which separate show cause notice may be issued.

3. Order.

3.1. In the light of the foregoing, the show cause notice dated 4th May, 2009 is disposed of in the following terms:

- (a). a fine of Rs. 10,0007- is imposed on the licensee under section 23 of the Act which is to be deposited within thirty (30) days of the issuance of this order;
- (b). the licensee is directed to submit application for conversion of its EIS license to CVAS regime within thirty (30) days of the issuance of this order.

3.2. In case of the licensee's failure to comply with Para 3.1, above, its license No. DIR (C)/L/PTA/216/99 dated 11th September, 1999 shall stand suspended on 31st day of the issuance of this order without further notice which will remain in field till further orders.

(S. Nasrul Karim A. Ghaznavi)
Member (Finance)

(Dr. Khawar Siddique Khbkhari)
Member (Technical)

(Dr. Mohammed Yaseen)
Chairman

Signed on 12th day of January, 2010 and comprises 07 pages.