



**PAKISTAN TELECOMMUNICATION AUTHORITY**  
**HEAD QUARTERS, F-5/1, ISLAMABAD**

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[www.pta.gov.pk](http://www.pta.gov.pk)

M/s. Cyber House (Pvt) Ltd

...Appellant

Versus

Zonal Director Lahore, Pakistan Telecommunication Authority

...Respondent

**APPEAL UNDER SECTION 7 (2) OF PAKISTAN TELECOMMUNICATION  
(RE-ORGANIZATION) ACT 1996**

Date of preferring the Appeal: through letter of the  
Appellant dated 7<sup>th</sup>  
December, 2006

Date of hearing : 16.02.2007  
Venue of hearing : Conference Room, PTA  
HQs, Islamabad

The Authority present:

S. Nasrul Karim Ghaznavi (Member Finance)  
Dr. Muhammad Yaseen (Member Technical)

The Issue:

"Request for waiver of penalty imposed by Zonal Director  
Lahore vide its determination dated 28th April, 2006"

**DECISION OF THE AUTHORITY**

**BRIEF FACTS:**

M/s. Cyber House (Pvt.) limited (the "licensee") is a private limited Company incorporated under the Companies Ordinance, 1984 and is engaged in the business of EIS services in Pakistan pursuant to the non-exclusive license No.

DIR(C)/L/PTA/311/2000 dated 30<sup>th</sup> September, 2000 issued by the Pakistan Telecommunication Authority (the "Authority") to establish, maintain and operate EIS Services in Pakistan on the terms & conditions contained in the licenses.

2. Briefly stated that the Respondent, i.e., the Zonal Director (Enforcement) Lahore issued show cause notice to the licensee due to violation of license condition No. 2.15 and regulation 14(1) of NVCNS Regulations, 2004. The licensee neither replied the show cause notice nor attended the hearing hence the Respondent issued enforcement order dated 28<sup>th</sup> April, 2006 (the "impugned order") whereby imposed fine of Rs.50,000/- on the licensee which was required to be paid within thirty days of the issuance of the impugned order. But the licensee failed to deposit the aforesaid fine within the given time, therefore, the Respondent recommended vide his letter dated 5<sup>th</sup> September, 2006 that license of this company be suspended under section 23 of the Act. Being aggrieved of the impugned order the licensee, i.e., M/s. Cyber House (Pvt) limited, filed an appeal under section 7(2) of the Act vide its application dated 7<sup>th</sup> December, 2006. In the appeal the licensee took the stance that the company remained ignorant of the fact that the Respondent had already imposed fine on it due to non provision of certain information to the Respondent and this fact came into licensee's knowledge on 6<sup>th</sup> December, 2006 during the hearing at PTA HQs. The licensee further stated that the Respondent made the correspondence at the address that is seven years old. In addition, the licensee stated that its dues are clear and it has been providing information to the Authority whenever required by HQs or Rawalpindi office. The company also apologized for any action of omissions and requested for waiver of penalty.

4. The case was fixed for hearing on 16<sup>th</sup> February, 2007 and communicated to the licensee vide Authority's letter dated 9<sup>th</sup> February, 2007. Mr. Muhammad Ehtesham-ul-Haq, CEO of the company attended the today's hearing. The Appellant stated that it had no information about the impugned order till the hearing dated 6<sup>th</sup> December, 2006 conducted by the hearing panel at PTA Headquarters. The Appellant argued that it has always provided every information whenever called by the Headquarter of the Authority or the Zonal Director Rawalpindi. The Appellant further stated that the Respondent has not served on him any letter including the impugned order at its registered office at Rawalpindi, that is why, the licensee was unable to respond or comply with any directive or order of the officer of the Authority. The licensee further replied that it has always complied with all directions of the Authority and always paid all dues and there is nothing outstanding against it.

5. The Respondent, i.e., Zonal Director (Enforcement) Lahore, attended the hearing through telephone, he informed that the Appellant after getting EIS

license started its operation at Sialkot on 28th October 2002. The Respondent planned QoS Inspection of the Appellant at Sialkot on 16<sup>th</sup> December 2005 and for that purpose certain information/inspection data was required from the Appellant vide letters No. PTA-LH/F.10-6/32 dated 1<sup>st</sup> December 2005 and PTA-LH/F.10-6/32 dated 2<sup>nd</sup> January 2006 but the Appellant deliberately failed to provide the required information and avoided QoS inspection. Hence, the Respondent issued show cause notice under section 23 of the Act vide his letter No. PTA-LH/F.10-6/32 dated 6<sup>th</sup> February 2006. The Appellant did not respond to the show cause notice as well. Therefore, before issuing any enforcement order the Respondent had given an opportunity of personal hearing to the Appellant on 19<sup>th</sup> April, 2006 vide letter No. PTA-LH/F.10-6/32 dated 21<sup>st</sup> March 2006 but again, the Appellant failed to attend the hearing. All the above referred letters and show cause notice were served on the Appellant, but the Appellant deliberately avoided to provide the required information as well as failed to appear before the Respondent which amounts to contemptuous attitude of the Appellant towards the writ of the Authority, therefore, the Respondent proceeded *ex-parte* and issued the impugned order. The Respondent further informed that during the QoS survey of ISPs in 2006 at Sialkot, the Authority's inspection team observed poor services being provided by the Appellant, hence, the team visited the Appellant's office on 23<sup>rd</sup> May, 2006 and inquired the reason of poor service. The Appellant informed that there is some technical problem. In addition, the Respondent informed that PTCL has terminated the services of the Appellant at Sialkot due to non-payment of an outstanding bill amounting Rs, 10,53,746/- on 09-09-2006. Therefore the stance of the Appellant that they were not operational at Sialkot and did not receive the show cause and hearing notices is incorrect.

6. The record reveals that the address of the licensee at the time of issuance of license was: 107-D, Suit No.1, First Floor, Al-Mustafa Plaza, 6<sup>th</sup> Road, Rawalpindi, which was later on changed and communicated in 2003 as: D-461, 6<sup>th</sup> Road Satellite Town, Rawalpindi, and thereafter new address was provided vide letter dated 8<sup>th</sup> October, 2005 as: 19, 2<sup>nd</sup> Floor, Satellite Shoping Centre, Satellite Town, 6<sup>th</sup> Road, Rawalpindi. However, the show cause notice dated 6<sup>th</sup> February, 2006 and hearing notice dated 21<sup>st</sup> March, 2006 were served on the address of the licensee at Sialkot: Suit No.1, First Floor, Allama Iqbal market, Paris Road Sialkot, whereas the impugned order was served at the address: 107-D, Suit No.1, First Floor, Al-Murtaza Plaza, 6<sup>th</sup> Road, Rawalpindi, irrespective of the fact that the licensee has already informed the Authority of its changed address vide its letter dated 8<sup>th</sup> October, 2005.

## **7. The Authority's Decision**

7.1. Keeping in view the above mentioned facts and circumstances mentioned during the hearing and perusal of the documents, the Authority hereby allows the instant appeal and passes the following order.

(a). As the Appellant, i.e., M/s. Cyber House (Pvt) Ltd has already communicated its new address to the Authority vide its letter dated 8<sup>th</sup> October, 2005 and since then the licensee has been doing correspondence with the Authority through the same address. Secondly, the Respondent has sent show cause notice dated 6<sup>th</sup> February, 2006, hearing notice dated 21<sup>st</sup> March, 2006 and the impugned order on the address other than the registered office of the licensee, therefore, the Respondent failed to communicate with the licensee on its proper address. These facts reasonably compelled the Authority to intervene in the impugned order, hence, the Authority hereby set aside the impugned order and waives the fine amount imposed on the licensee through the impugned order.

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(S. Nasrul Karim Ghaznavi)  
Member (Finance)

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(Dr. Muhammad Yaseen)  
Member (Technical)

Signed on-----March, 2007 and comprises --- pages.