



**Enforcement Order under sub-section 3 of Section 23 of the Pakistan
Telecommunication (Re-organization) Act, 1996 in the Case of
M/s Mysticks (Pvt.) Ltd.**

File No. PTA/Finance/CPPS/Mysticks/141/2006

Date of Issuance of Show Cause Notice: 5th September 2006
Venue of Hearing: PTA H/Qs, Islamabad
Date of Hearing: 29th November 2006

The Panel of Hearing:

Director General (Finance)	Head
Director (Litigation & Adjudication)	Member
Director (Wireline Licensing)	Member

The Issue:

“Non-payment of PTA dues and failure in submission of annual audited accounts”

DECISION OF THE OFFICERS OF THE AUTHORITY

1. BRIEF FACTS:

1.1 M/s Mysticks (Pvt.) Ltd. (the “licensee”) was awarded a non-exclusive license No. DIR(C)/L/PTA/354/2001 dated 22-02-2001 by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Card Payphone Services in Pakistan on the terms and conditions contained in the license. As a licensee of the Authority, M/s Mysticks (Pvt.) Ltd. was required to comply with the provisions of the prevailing regulatory laws comprising of the Pakistan Telecommunication Authority (Re-organization) Act, 1996 (the “Act”), the Pakistan Telecommunication Rules, 2000 (the “Rules”), PTA (Functions & Powers) Regulations, 2004, (the “Functions & Powers Regulations”), the Card Pay Phone Service Regulations, 2004 (the “Regulations”) and the terms and conditions of the license.

1.2 Provisions of clause 8.1 of Appendix B of the Rules, regulation 7 of the Regulations and clause 3.1, 3.2 and 3.3 of the conditions of the license make it obligatory on the licensee to deposit annual license fee in the first quarter of every financial year and also to submit audited financial statements and summary of the accounts to the Authority within three months of the closing date of each financial year.

1.3 The licensee i.e. M/s Mysticks (Pvt.) Ltd. had a total outstanding balance of Rs. 126,666/- against annual license fee for the year ended June 30, 2005. The licensee failed to deposit the said outstanding amount and a cheque No. 6424065 dated 30th April 2006 against annual license fee for the year ended on June 30, 2005 was dishonored from the bank. Hence, a Show Cause Notice No. PTA/Finance/CPPS/Mysticks/141/2006 under section 23 of the Act was issued to the licensee on 5th September 2006 by Finance Wing, which was neither responded by the licensee within the prescribed period of thirty days nor returned undelivered.

1.4 In order to proceed further in the matter, the licensee was required through Hearing Notice dated 23rd November 2006 to appear before the hearing panel for personal hearing on 29th November 2006. In response, Mr. Tamheed Alam Butt, Director of the company, appeared before the hearing panel on behalf of the licensee on the said date of hearing and represented the company's stance.

1.5 The case was presented before the hearing panel. It was argued that the licensee has violated statutory provisions as mentioned in para 1.2 of this order. On the contrary, the representative of licensee apologized and submitted that they were unable to respond the notice just because their Chief Executive went into extreme mental shock due to the death of his son and the company is thus, facing financial crisis. The representative of the company requested the panel for allowing the payment in monthly installments. Moreover, it was requested that since he is also a director of another telecom company working with the name of M/s Marhaba which has paid extra amount to the Authority, may be adjusted in the accounts of M/s Mysticks (Pvt.) Ltd., if so possible. The hearing panel replied that it may consider this possibility after fulfilling the legal requirements in this regard. The licensee was also required to provide annual audited accounts for the year ended on June 30, 2006 immediately.

2. ORDER

2.1 The hearing panel scrutinized all the documents and deduced that attitude of the licensee, however, is positive and submissive and it is also willing to operate its licensed services according to the provisions of the Act, the Rules, the Regulations and the license conditions. The hearing panel also carefully and compassionately considered section 4(d) and section 6(f) of the Act, which provides that interest of the users of telecommunication services, must be

protected and promoted. The hearing panel is mindful of the Authority's decision vide letter No. DIR (C)/PTA/656/2006 dated 28th September 2006 wherein payphone licensees are allowed to deposit their piled up dues in installments.

2.2 We, the hearing panel, after careful perusal of record, request of the licensee and keeping in view the interests of consumers and licensee, both, hold and decide as under:

- (a) request of the licensee at the time of hearing for payment of Rs. 126,666/- in monthly installments is hereby allowed and the licensee is directed to deposit this amount in six (6) monthly installments of Rs. 21,111/- each, due from 16th day of every month, i.e. (i) 16th December 2006, (ii) 16th January 2007, (iii) 16th February 2007, (iv) 16th March 2007, (v) 16th April 2007 and (vi) 16th May 2007, respectively.
- (b) request of the licensee regarding adjustment of accounts with the accounts of M/s Marhaba can not be entertained without provision of "board resolutions" and an "undertaking" of both the companies to this effect. However, if these are provided within fifteen days of this order then the schedule of payment at para 2.2 (a) may be revised, accordingly. The licensee is further directed to submit its annual audited accounts for the year ended June 30, 2006 immediately to Finance Department of the Authority for exact calculation of fee and payment thereof, if any; and
- (c) in case of failure of the licensee to comply with the directions referred at para 2.2 (a) & (b) above, license No. DIR(C)/L/PTA/354/2001 dated 22-02-2001 for Card Payphone Services of the company i.e. M/s Mysticks (Pvt.) Ltd. shall STAND TERMINATED, automatically without prejudiced to any other adequate legal action under the law available for recovery of PTA outstanding dues.

Director (Licensing)

Director (Litigation & Adjudication)

Director General (Finance)

This enforcement order is passed on ____ December 2006 and comprises ____ pages.