

Telecommunications Ordinance (Chapter 106)

Notice of Suspension of Licence (Section 34(4))

To: IDD1628 Limited
Date: 14 June 2022

Interpretation

In this Notice, unless the context otherwise requires –

(a) “Authority” means the Communications Authority;

“Final Decision” means the Authority’s decision on the breach of GC 5.1 of the Licence by the Licensee published on the Authority’s website on 24 February 2022;

“Financial Penalty Notice” means the notice issued by the Authority to the Licensee on 24 February 2022 under section 36C of the Ordinance;

“GC” means General Condition;

“IDD” means International Direct Dialling;

“Licence” means the Services-Based Operator Licence (Licence No. 1321) granted by the Authority to the Licensee;

“Licensee” means IDD1628 Limited;

“OFCA” means the Office of the Communications Authority;

“Ordinance” means the Telecommunications Ordinance (Cap. 106);

“SC” means Special Condition; and

(b) the singular includes the plural and vice versa.

Background

2. Upon receipt of 11 consumer complaints between December 2020 and June 2021 alleging that the Licensee could not be reached through its customer service channels and failed to handle customers' requests for termination of their subscriptions of the Licensee's IDD services, OFCA conducted an investigation on the consumer complaints.

3. Having considered the findings of the investigation by OFCA, the Authority was satisfied that the Licensee was in breach of GC 5.1 of the Licence, which provides that the Licensee shall at all times during the validity period of the Licence operate, maintain and provide a good, efficient and continuous service in a manner satisfactory to the Authority. On 24 February 2022, the Authority issued the Financial Penalty Notice to the Licensee requiring it to pay a financial penalty of HK\$70,000 within 14 days (i.e. by 10 March 2022) for breach of GC 5.1 of the Licence.

4. The Licensee had failed to give any response to the Authority or settle the payment for the financial penalty beyond the deadline of 10 March 2022. With a view to ensuring the Licensee's compliance with the regulatory requirements under the Licence, OFCA made a request to the Licensee on 24 March 2022 requiring it to furnish by 31 March 2022 the following –

- (a) information on measures to rectify the breach of GC 5.1 of the Licence as specified in the Final Decision issued on 24 February 2022 and its operation of IDD services including submission of statistical return on its IDD traffic for the year of 2021 which has been overdue since January 2022, pursuant to SC 3.1 of the Licence; and
- (b) up-to-date record on the location and technical configuration of its telecommunications system installed under the Licence and its interconnection arrangement with other local telecommunications networks pursuant to SC 13.2 of the Licence.

5. SC 3.1 of the Licence provides that the Licensee shall furnish to the Authority, in such manner and at such times as the Authority may request in writing, such information related to the business run by the Licensee under the Licence, including financial, technical and statistical information, accounts and other records, as the Authority may reasonably require in order to perform its functions under the Ordinance and the Licence. SC 13.2 provides that, as required by the Authority, the Licensee shall make the information on the

records and plans of the telecommunications system to be installed under the Licence available, within reasonable time, to the Authority or to a person authorized in writing by the Authority for inspection for the Authority's own purposes.

6. In spite of OFCA's further reminder to the Licensee on 8 April 2022 to reiterate the request of 24 March 2022, the Licensee did not give any response to OFCA by the deadline of 14 April 2022 specified in the reminder. On the other hand, further investigation conducted by OFCA after the issue of the Final Decision has revealed that the Licensee's IDD service has been ceased since the first quarter of 2022.

Notification

7. The Authority, in exercise of its power under section 34(4) of the Ordinance,

having been satisfied that the Licensee has failed to or continued to fail to comply with GC 5.1, SC 3.1 and SC 13.2 of the Licence;

having been satisfied that the Licensee has been afforded reasonable opportunity in accordance with section 34(4B) of the Ordinance to make representations to it as to why the Licence should not be suspended;

having considered that no representations has been received from the Licensee by the reply deadline specified by the Authority; and

having also been satisfied that the suspension of the Licence is, in all the circumstances of the case, proportionate and reasonable in relation to the contravention concerned,

hereby exercises its power under section 34(4) of the Ordinance *and suspends* the Licence for the remaining validity period of the Licence from the date hereof to the expiry date of the Licence, i.e. 30 November 2022.

8. If the Licensee subsequently intends to apply to the Authority to lift the suspension at any time during the suspension period or renew the Licence upon the expiry of the Licence, it shall demonstrate to the satisfaction of the Authority that it is able and committed to (a) comply with all the licence conditions of the Licence; and (b) respond in a timely manner to enquiries or requests from the Authority and OFCA in relation to the provision of services

or compliance with obligations under the Licence. Upon the receipt of the substantiated application from the Licensee, the Authority will consider whether or not it is appropriate to lift the suspension or renew the Licence having regard to all relevant facts and circumstances of the case.

9. This Notice will be made public.

(Chaucer Leung)
for Communications Authority
14 June 2022