L.N. 231 of 2002

TELECOMMUNICATIONS (REGULATION) ACT (CAP. 399)

Telecommunications (Administrative Fines and Sanctions) Regulations, 2002

IN exercise of the powers conferred upon him by article 38 of the Telecommunications (Regulation) Act, the Minister for Transport and Communications, after consultation with the Malta Communications Authority, has made the following regulations:-

Citation.

1. The title of these regulations is the Telecommunications (Administrative Fines and Sanctions) Regulations, 2002.

Interpretation.

2. In these regulations, unless the context otherwise requires:

Cap. 399.

"Act" means the Telecommunications (Regulation) Act;

"Appeals Board" means the Telecommunications Appeals Board established by article 34 of the Telecommunications (Regulation) Act;

"authorised provider concerned" means the authorised provider upon whom the Authority proposes to impose a fine or upon whom a fine has been imposed by the Authority;

"authorisation" includes any licence or permit issued under the Act to install or operate a telecommunications system or to provide a telecommunications service and includes general authorisations and individual licences as defined in article 6 of the Act;

Cap. 418.

"Authority" means the Malta Communications Authority as established under the Malta Communications Authority Act;

"fine" means an administrative fine imposed in accordance with these regulations;

"offence" means any contravention however so described of any provisions of the Act or of any regulations made thereunder and shall include the contravention of any condition of an

authorisation issued under the Act or under any regulations made thereunder.

Offences.

3. Where the Authority is satisfied that an authorised provider has contravened any of the provisions of the Act or of any regulations made thereunder or of any authorisation, the Authority may impose a fine not exceeding the sum of ten thousand liri for each offence, and a fine not exceeding one thousand liri for each day during which failure to observe the provisions of the Act or of any regulations made thereunder or of any authorisation persists.

Offence in contravention of an authorisation.

4. For the purposes of these regulations where the authorised provider concerned contravenes a condition of an authorisation, the Authority in taking measures to ensure compliance under articles 10 and 11 of the Act, may also for such purpose impose a fine in accordance with these regulations and the procedure established under articles 10 and 11 of the Act shall apply to such cases.

Warning to authorised provider.

5. (1) Before imposing a fine for an offence contravening the Act or any regulations made thereunder, the Authority shall write to the authorised provider concerned informing him of the alleged offence and warning him that a fine shall be imposed in accordance with these regulations and informing him of the amount that shall be imposed. In so doing the Authority shall give the authorised provider concerned a period of not more than fifteen days as the Authority may determine to be appropriate in the circumstances, during which period the authorised provider concerned may make his submissions to the Authority.

(2) Before proceeding to decide whether to impose a fine, the Authority shall consider the submissions made to it under subregulation (1) of this regulation.

(3) If after the lapse of the period during which submissions may be made in accordance with this regulation, the Authority considers that the authorised provider concerned has not given any valid reasons to demonstrate that no offence was committed, then the Authority shall impose a fine in accordance with these Regulations. A decision by the Authority to impose a fine shall then be communicated in writing to the authorised provider concerned.

(4) The right of appeal to contest a fine made under these regulation 8 shall commence from the date when the decision is communicated to the authorised provider concerned.

Fine without prejudice to other measures.

6. The imposition by the Authority of a fine in accordance with these regulations shall be without prejudice to any other measures that

the Authority may at law undertake to ensure compliance by the authorised provider concerned with the Act or with any regulations made thereunder or with the conditions of any authorisation.

Fine imposed for each day of non-compliance.

7. (1) In accordance with these regulations where the Authority requires the authorised provider concerned to pay a fine for each day of failure to comply, the Authority shall determine the date from when such a fine shall commence and in doing so, it shall inform the authorised provider concerned in writing.

(2) If the fine or the amount of the fine imposed under subregulation (1) is contested before the Appeals Board, the filing of the appeal shall not suspend the running of the period in relation to which such fines are due except where the Appeals Board or the Court of Appeal, as the case may be, decides otherwise upon an application for the suspension of the aforesaid period by the authorised provider concerned.

Right of appeal.

8. (1) An authorised provider upon whom a fine has been imposed by the Authority under these regulations, may appeal from the decision of the Authority imposing the fine, to the Appeals Board.

(2) The Appeals Board in determining an appeal under these regulations shall not annul or vary a fine imposed by the Authority under these regulations unless such a fine may not at law be imposed in the circumstances of the case or may not at law be fixed in the amount fixed by the Authority.

(3) The filing of an appeal under these regulations shall not hinder the enforcement of the decision of the Authority to impose a fine under these regulations except where the Appeals Board or the Court of Appeal, as the case may be, decides otherwise upon an application by the authorised provider concerned for the suspension of the enforcement of the decision of the Authority pending appeal.

Recovery of a fine pending an appeal.

9. The enforcement of a fine imposed by the Authority shall be recoverable by the Authority as a civil debt.

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