



GIBRALTAR REGULATORY
AUTHORITY

2nd Floor, Eurotowers 4
1 Europort Road
Gibraltar

Tel: +350 20074636
Fax: +350 20072166
info@gra.gi
www.gra.gi

COMMUNICATIONS ACT 2006

NOTIFICATION OF PENALTY IMPOSED UNDER REGULATION 34 OF THE COMMUNICATIONS (AUTHORISATION AND LICENSING) REGULATIONS 2006 IN RESPECT OF FAILURE TO PAY OUTSTANDING AMOUNT AS NOTIFIED UNDER REGULATION 33(3) OF THE COMMUNICATIONS (AUTHORISATION AND LICENSING) REGULATIONS 2006

To: Eazi Telecom Ltd, trading as Limba (for the attention of Mr Jose Vizoso, Chief Executive Officer)

Of: Suite 48
Royal Ocean Plaza
16 Glacis Road
P.O. 1109
Gibraltar
GX11 1AA

1. Legal and Regulatory Background

Regulations 31 to 36 of the Communications (Authorisation and Licensing) Regulations 2006 (the "Regulations"), deal with Administrative Charges and Fees.

Regulation 32 deals with Fees. Regulation 32(1) and (2) reads:

"32.(1) A person who, at any time in a charging year, is a person to whom this regulation applies shall pay to the Authority the fee (if any) that is fixed by the Minister for the case that is applicable to that person pursuant to sections 36 (8), 49 (8) and 63 of the Act.

*(2) This regulation applies to a person at a time if, at that time, he is—
(a) a person to whom numbers have been allocated pursuant to section 36 of the Act;
(b) a person to whom a right to install facilities has been granted pursuant section 49 Act; or
(c) a person to whom a licence has been granted pursuant to section 61 of the Act."*

The remainder of Regulation 32 sets out, *inter alia*, the Minister's powers in fixing or not fixing fees for a charging year.

Regulation 33 provides supplemental provisions on administrative charges and fees. Regulation 33(1) allows the Minister to fix a fee under regulation 32 for any charging year, by issuing a Direction and regulation 33(2) states that such charge or fee "*shall be paid as soon as it becomes due and if not paid is to be recoverable by the [Gibraltar Regulatory] Authority*" (the "Authority").

However, as set out in regulation 33(3), proceedings for the recovery from a person of a fee for any charging year, "*shall not be commenced unless the Minister has –*

- (a) given that person a notification with respect to the amount he is seeking to recover; and*
- (b) granted that person a period of one month, beginning with the day after the one on which the notification was given, to comply with that notification".*

Regulation 34 provides for the Authority to impose a penalty on the notified payer if he has been in contravention of a requirement to pay a fee fixed under regulation 32 and the notified payer has not, during the period allowed under regulation 33(3)(b) paid the whole of the notified outstanding amount.

2. Background

Direction M01/2014 lists the annual fees payable to the Authority in respect of the different Part VI licences.

In accordance with the provisions of the Regulations and Direction M01/2014 concerning Fees for Certain Part VI Licences, the Authority calculated a fee of £59,831 to be paid by Eazi Telecom Ltd ("Eazi Telecom"), for the charging period 22nd March 2018 to 21st March 2019 in relation to its Part VI GSM Licence, a fee of £90,000 for the charging period 22nd March 2018 to 21st March 2019 in relation to its Part VI UMTS Licence, a fee of £65,778 for the charging period 22nd March 2018 to 31st March 2019 in relation to its Part VI LTE Licence, and a further fee of £4,800 for the charging period 22nd March 2018 to 21st March 2019 in relation to its Part VI Point to Point Licence. This amounts to a total of £220,409 (the "Outstanding Amount").

Eazi Telecom has been informed by the Authority about the Outstanding Amount on several occasions, both prior, and after each of the above licences expired on the 21st March 2018. Eazi Telecom has failed to pay the Outstanding Amount as required in law.

As a result, on 28th August 2018, the Minister issued a notification to Eazi Telecom, pursuant to regulation 33(3), of his intention to recover the Outstanding Amount (the "Notification"). To date the Outstanding Amount remains unpaid.

3. Penalty

The Authority has decided to impose a penalty on Eazi Telecom for its failure to pay the Outstanding Amount. The amount of the penalty is to be such amount, not exceeding twice the amount of the fee fixed for the relevant year, as the Authority determines to be appropriate and proportionate to the contravention in respect of which it is imposed. In making that determination, the Authority must have regard to any representations made to it by Eazi

Telecom and any steps taken by Eazi Telecom towards paying the Outstanding Amount. Since the Notification was issued, Eazi Telecom has not made any representations nor made any attempts to pay the Outstanding Amounts.

In accordance with regulation 34 the Authority has today, 2nd October 2018, made its decision to impose a penalty and as a result,

EAZI TELECOM IS HEREBY ORDERED to:

1. Pay a penalty to the Authority of **£8,816.36**, ("the Penalty") which penalty equates to 4% of the Outstanding Amount; and
2. Pay the Penalty within a period of **two weeks** after the date of this Notification.

The Authority has determined that the amount of Penalty imposed is appropriate and proportionate to the contravention, in particular given that Eazi Telecom is aware of the Outstanding Amount, and continues to make avail of the resources permitted to it under the terms of the above-mentioned licences. The Authority also considers that the period of two weeks within which the Penalty is to be paid is a reasonable period, given that the amount of the Penalty is relatively small and given that the Outstanding Amount is now overdue by more than six months.

4. The Notification

Eazi Telecom is hereby notified, under the provisions of regulation 34, that unless the Penalty is paid within a period of two weeks, beginning with the day after the one on which this Notification was given, the Penalty will be recovered as a debt owed to the Authority.

Eazi Telecom is again reminded that the Authority may give a direction under regulation 35 suspending Eazi Telecom's entitlement to provide electronic communications networks and services.

This Notification is published on the Authority's website: www.gra.gi

Dated this **2nd October 2018**

A handwritten signature in black ink, consisting of several overlapping loops and a horizontal line extending to the right. The initials 'P.J.' are written in small letters at the bottom of the signature.

Paul J Canessa
Chief Executive Officer
Gibraltar Regulatory Authority