

ORDER

FROM
COMMUNICATIONS REGULATORY AUTHORITY
("CRA")

ISSUED TO

VODAFONE QATAR (VODAFONE)

26 January 2015

This **Order** applies to Vodafone Qatar Q.S.C (Vodafone) the holder of a public mobile telecommunications networks and services Individual License in Qatar. This Order sets out the requirements Vodafone must adhere to when advertising and promoting the "3 months Free" offer.

Background

This Order follows an investigation by the CRA into a complaint on the "3 months for Free" Promotion offered, launched and advertised to the public by Vodafone through various channels. This promotion was filed with the CRA under Tariff Number CP 1.1 – 3.53

Vodafone launched its campaign to market this promotion by displaying and placing advertisements in the various media fora, both in English and Arabic stating the following: "3 months for Free".

The CRA received a complaint from Ooredoo that this statement was "misleading" and was in breach of the Advertising Marketing and Branding Code (Advertising Code) issued by the CRA. The CRA proceeded to investigate this concern and concluded that the advertisement, in its current form, was in fact misleading and deceptive in that it created the perception that the offer "3 months for Free" was free of any charges when in reality this promotion offers customers a discount of 30% of the subscription fees over a period of 10 months. The key findings of the investigation was based on the published tariff which stated that "*All new Postpaid Customers will get a discount equal to 3 month's subscription free over 10 months on their Postpaid Plan's monthly rental ('Discount')*". It is clear from the published tariff notification that this is a discounted offer and not a "3 months free" promotion.

Vodafone was sent a formal correspondence dated the 14th of January 2015 informing Vodafone of the nature of the complaint, the details of the investigation and decision requiring Vodafone to immediately retract and or correct the advertising related to this complaint to ensure that these are now aligned and compliant with the Advertising Code. Vodafone was further required to notify the CRA in writing of the compliance by close of business the 19th January 2015.

Vodafone responded to the CRA on the 19th of January 2015 challenging the CRA's Dispute Resolution Process - without any reference the non-compliance issues related to the breach

of the Advertising Code. Vodafone has since failed to retract and or correct the related advertising which the CRA concluded was in breach of the Advertising Code, resulting in non-compliance. No corrective measures have been taken by Vodafone to this date to align the advertising on the “3 months for Free” offering with the Advertising Code and to make it consistent with the Tariff filed and published by Vodafone.

The CRA believes it is in the public interest to intervene and investigate this form of advertising, to ensure compliance with the existing Advertising Code and the legal framework and to take further action to prevent the possibility of abusive or misleading commercial practices causing wide consumer detriment.

LEGAL BASIS FOR THESE ORDERS

The following legal provisions, which are not exhaustive, provide a basis for these Orders:

Article 6 of the executive By-Law for telecommunications Law (Executive By-Law) confers a power which enables the CRA to issue legal instruments including ‘Orders’ for the implementation of the provisions of the Decree Law and Telecommunications Law 34 of 2006. Article 5 of the Telecommunications Law confers the same power, specifically in relation to regulating the telecommunications sector.

Article 4(2) of the Telecommunications Law empowers the CRA to monitor the compliance of Licensees with the terms of their Licenses, including Clause 10 which sets out obligations to retail customers and Clause 14 which requires compliance with all decisions governing consumer protection and pricing and tariffs.

Article 4(8) empowers CRA to take the necessary action to safeguard the interests of customers, and 4(11) empowers CRA to ensure the Law, Executive By-Law, Consumer Protection Policy and related codes, regulations and decisions are complied with.

Article 11 of the Telecommunications Law permits CRA to monitor the compliance of Licensees and execute any decisions to ensure compliance.

Article 26 requires CRA to determine the elements necessary for the provision of tariff offers, their approval and publication in respect to telecommunications services.

Under Article 49 of the Telecommunications Law, CRA may monitor the terms of service between service providers and consumers, and follow-up and prevent any abusive and misleading commercial practices.

Article 50 of the Telecommunications Law allows CRA to set rules on the terms of the provision of services, their approval, publication and advertising. Article 51 requires service providers to deal fairly with consumers including providing accurate tariff information and other terms and conditions for a service before the consumer subscribes to the service or before the consumer incurs any commercial obligation to the service provider.

Under the Executive By-Law 1 of 2009 for the Telecommunications Law (Executive By-Law), CRA may issue orders for implementing service provider compliance or to remedy breaches (Article 6).

Article 90 (extended to the Advertising Code) prohibits service providers from making any false or misleading claim or suggestion regarding the availability, price or quality of its telecommunications services. A claim or suggestion is false or misleading if the service provider knew or ought to have known at the time it was made that it was false or misleading or that it was likely to deceive or mislead the person to whom it was made.

Under Article 105 of the Executive By-Law, CRA may issue any orders relating to service provider liability, customer refunds and damages associated with the provision of services.

Vodafone is required to comply with its Public Mobile Telecommunications Networks and Services License issued on 29 June 2008 (Public Mobile License), the Telecommunications Law and Executive By-Law pursuant to Clause 4 of its Public Mobile License, and must comply with all decisions (including these Orders) issued by CRA concerning pricing and tariffs, and consumer protection (Clause 14.1 of its Public Mobile Licenses).

Vodafone is required by Clause 1 of Annexure D of its Public Mobile Telecommunications Networks and Services License issued on 29 June 2008 to comply with any Orders relating to tariffs. Additionally and under the same Clause 1, Vodafone is required to make clear statements in the tariff about the terms and conditions of promotions and any special considerations that may apply. Schemes involving rebates, discounts, waivers or free items in a promotion should be fully disclosed in detail to any customer or potential customer prior to purchase.

A breach of any term in a license, whether caused or carried out by a Licensee or its servants or agents acting on its behalf, is a breach by the Licensee (Clause 15 of the Vodafone Public Mobile Licenses).

The CRA makes further reference to a breach of the Advertising Code with specific reference to Article 30 which says that *"All advertisements must be fair, truthful and accurate, and should not, by act or omission, directly or by implication, mislead or confuse any consumer nor make false or misleading claims or suggestions regarding the availability, price or quality of products or services, whether they be the products or services of the advertiser or other persons/parties"*.

COMPLIANCE WITH THESE ORDERS

Vodafone is required to comply with these Orders immediately and without further notice.

ORDERS

These Orders are issued by the CRA to Vodafone Q.S.C. (Vodafone) ordering Vodafone, with immediate effect, to:

1. Remove all advertisements from the various media channels (malls, billboards, web adverts etc.) with immediate effect;; **OR**,
2. Rectify the existing messages in the advertisements to clearly state that all new Postpaid Customers will get a discount equal to 3 month's subscription free over 10 months on their Postpaid Plan's monthly rental ('Discount'; **AND**
3. Amend the advertisements to further include wordings stating this offer of reduced charges over 10 months is subject to the terms and conditions that apply to the offer; **AND**
4. Ensure that customers who have paid for the "3 months Free postpaid" since 14th of January 2015 receive 3 months Free subscriptions and are not penalized for exiting the promotion prior to 10 months.

Signed by:



Eng. Khalid N. Sadiq Al-Hashmi
Principal CRA Administrator
Communications Regulatory Authority