

قرار رئيس هيئة تنظيم الاتصالات
رقم (13) لسنة
بإصدار قرارات وأوامر لمزودي الخدمة
بشأن خدمة التجوال (جواز سفر-لبنان)

رئيس هيئة تنظيم الاتصالات،
بعد الاطلاع على قانون الاتصالات الصادر بالمرسوم رقم (34) لسنة 2006، المعدل بالقانون رقم (17) لسنة 2017،
وعلى القرار الأميري رقم (42) لسنة 2014 بإنشاء هيئة تنظيم الاتصالات،
وعلى القرار الأميري رقم (25) لسنة 2015 بتعيين رئيس لهيئة تنظيم الاتصالات،
وعلى قرار مجلس إدارة المجلس الأعلى للاتصالات وتكنولوجيا المعلومات رقم (1) لسنة 2009 بإصدار اللائحة التنفيذية لقانون الاتصالات،
وعلى قواعد الإعلان والتسويق والعلامة التجارية الصادرة في 2014،
وعلى الشكوى المقدمة من قبل شركة أوريدو ضد شركة فودافون، كتاب رقم (Ref. OQ/Reg-6210/2019-08)،
تاريخ 6 أغسطس 2019.
ولمقتضيات المصلحة العامة،
قرر ما يلي:

المادة 1

يعمل بأحكام القرارات والأوامر الصادرة والمرفقة بهذا القرار.

المادة 2

يلتزم مزودي الخدمة بتنفيذ أحكام هذا القرار ويعمل به من تاريخ صدوره.

محمد علي الناعي
رئيس هيئة تنظيم الاتصالات

صدر بتاريخ: 12 سبتمبر 2019



DECISION & ORDERS

issued by the

Communications Regulatory Authority (“CRA”)

to

Ooredoo P.Q.S.C and Vodafone Qatar P.Q.S.C

Relating to

**Ooredoo’s Complaint against Vodafone
advertisement dated August 1st, 2019
regarding its Passport Pack Lebanon offer**

CRA/LU/12092019
September 12, 2019



1. COMPLAINT BACKGROUND

- 1.1 On August 6th, 2019 Ooredoo P.Q.S.C ("Ooredoo") lodged a complaint against Vodafone Qatar P.Q.S.C ("Vodafone") pursuant to the Dispute Regulation issued May 27th, 2019.
- 1.2 The complaint is based on the provisions of the Advertising, Marketing and Branding Code ("the Code") issued by the Communications Regulatory Authority ("CRA") dated September 25th, 2014 (ref. CRA-CGA/1305/14/ng).
- 1.3 On August 1st, 2019 Vodafone has published an advertisement stating that: *"Passport Pack is now available in Lebanon and on any network, exclusively from Vodafone."*
- 1.4 Ooredoo alleges that this statement is untrue and that Ooredoo itself had launched the *"passport feature"* in Lebanon on August 1st, 2019, and advertised the feature on August 2nd, 2019.
- 1.5 Therefore, Ooredoo has alleged that Vodafone representations and claims in its advertisement is in breach of Articles 30, 31a and 31b of the Code.

2. LEGAL BASIS FOR THE DECISION AND ORDERS

- 2.1 Article 4(8) of the Emiri Decree requires the CRA to establish and implement a dispute resolution system which is transparent, expedient and fair to effectively resolve disputes between the service providers.
- 2.2 The CRA is further empowered through the provisions of Article 4(14) of the Emiri Decree to monitor and ensure compliance with the regulatory framework.
- 2.3 Article 4(11) of the Telecommunications Law (Decree 34 of 2006) empowers the CRA ensure that the provisions of the Law and its Executive By-Laws, decisions and regulations are complied with by the Service Providers.
- 2.4 This provision is supported by Article 61 which grants the CRA the power to resolve disputes between service providers, reinforced by the By-Law which mandates the establishment of the rules and procedures for dispute resolution.
- 2.5 The Code, regulating Advertisements and Branding was issued in accordance with the provisions of chapter 10 of the Telecommunications Law, to ensure that customers are offered the necessary protection from inappropriate advertising.

- 2.6 The Code is administered and monitored by the CRA and any violations shall accordingly be addressed through the CRA as part of its mandate.
- 2.7 The By-law contains specific provisions under Article 90 prohibiting any service provider from publishing false or misleading information relating to its services.
- 2.8 The various provisions cited above empower the CRA to consider and issue a Decision in resolution of the dispute.

3 PROCESS AND EVIDENCE

- 3.1 Ooredoo has provided copy of the advertisement published by Vodafone dated August 1st, 2019.
- 3.2 Ooredoo further included an unsubstantiated claim for estimated “potential loss of revenue”.
- 3.3 Ooredoo further contends that Vodafone repeated the advertisement on August 5th, 2019, and has provided copy thereof.
- 3.4 Given that Ooredoo has lodged the complaint on August 6th, 2019, on the eve of the Eid Al Adha celebrations, the normal time frames to review and assess a complaint could not be applied, and the CRA has endeavoured to define practical measures in addressing the matter.
- 3.5 Accordingly, the CRA has immediately initiated the following:
 - 3.5.1 On August 7th, 2019, the CRA has issued a letter (ref. CRA/LU/1283/2019) acknowledging Ooredoo’s complaint and highlighting the fact that Ooredoo had provided evidence of the launch of its Passport service in Lebanon starting August 2nd only, while Vodafone claims of exclusivity regarding its Passport Pack in Lebanon were made on August 1st, 2019. Hence, the CRA clarified that it could consider only claims post August 2nd, 2019 unless Ooredoo provided evidence of a launch before or on the same date as Vodafone.
 - 3.5.2 On August 8th, 2019, the CRA issued a further letter (ref. CRA/LU/1284/2019) clarifying, at Ooredoo’s request, that both parties could advertise their services in Lebanon as long as they comply with the provisions of the Code.

- 3.6 On August 26th, 2019 the CRA convened a meeting with both parties, allowing both parties to provide their views and responses.
- 3.7 At the meeting of August 26th, 2019:
- 3.7.1 Ooredoo confirmed that it started advertising its Passport service in Lebanon on August 2nd, 2019, and that it was not able to support any claim regarding the availability of its service in Lebanon before that date. Nonetheless Ooredoo was persistent in maintaining that Vodafone had repeated the advertisement once, on August 5th, 2019, which constituted an infringement of the Code, and that accordingly Vodafone shall be requested to delete from the social media any reference to its Passport Pack service in Lebanon.
- 3.7.2 The CRA requested Vodafone to file a formal response to include its explanation regarding the repeat of the advertisement.
- 3.8 On August 29th, 2019 Vodafone responded, explaining that the re-appearance of the advertisement was due only to its regular practice of capturing events on social media of the past ("What happened last week") and that this was a historical replication stressing what had occurred on August 1st, 2019 and not an ongoing advertising campaign of the service, as clearly highlighted in the text of the message on the social media.

4 DECISION

- 4.1 As conceded by Ooredoo, as of August 1st, 2019 Ooredoo had not advertised its Lebanon Passport service, while Vodafone had advertised its Passport Pack and had the service functional on this date. Therefore, Vodafone claims for exclusivity on August 1st, 2019 was valid.
- 4.2 Presently, the CRA has no policy or process in place to address previous reproduction of advertisements in social media. This matter shall receive attention in the forthcoming Consumer Protection Regulations to be issued for consultation in the near future.
- 4.3 However, in the circumstances at stake, the message published on the social media on August 5th, 2019 (i) was referring clearly to the date of August 1st, 2019 date when Vodafone claim of exclusivity was valid, and (ii) has been published

once only. The CRA is in the view that a single and clear reference to a previous valid publication on the social media cannot be considered as a new and unlawful promotional campaign. Hence, the CRA concludes that Vodafone has not continued to promote the exclusivity of its Passport Pack service in Lebanon, and therefore not infringed the Code.

5 ORDERS

- 5.1 Ooredoo's complaint is dismissed;
- 5.2 Both parties may continue to advertise their respective service, with neither party claiming any exclusivity over the service;
- 5.3 Ooredoo's claim in relation to potential loss of revenue is unsubstantiated and vague and is accordingly dismissed. For the sake of clarity, any future claim by any party for harm, loss of revenue and the remedy requested shall have a sound and logical justification with documentation supporting the amount or remedy claimed. Suppositions shall not be considered valid.

6 COMPLIANCE WITH AND MONITORING OF THIS DECISION AND ORDERS

- 6.1 The CRA has a further obligation under Article 4(14) to "Monitor compliance of Licensees with the regulatory frameworks and take the necessary measures to ensure their compliance."
- 6.2 The CRA shall be monitoring the behaviour and practices of both service providers in relation to the provision of the service and ensuring that it complies with the legal framework.

7 NON - COMPLIANCE WITH THIS DECISION & ORDERS

- 7.1 Failure to comply with this Decision and Orders shall constitute a violation of the legal framework and accordingly, non-compliance of this Decision and Orders;
- 7.2 The CRA may also consider conducting an audit of the Service Providers' systems pursuant to the provisions of Article 4(10) of the Telecommunications Law, to identify the cause of the problem and implement a suitable solution based

on the outcome of audit and the Service Provider responsible for the illegal activation shall be liable for the costs of such audit;

7.3 Where there is a violation and subsequent non-compliance this shall lead the CRA to refer this matter to the Public Prosecutor to impose a fine as stipulated under Article (67) of the Telecommunications Law of (QR 1,000,000) One Million Qatari Riyals and/or imprisonment not exceeding one year;

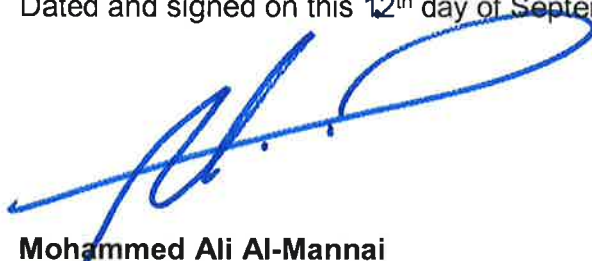
7.4 Furthermore, under the provisions of Article (71) of the Telecommunications Law the punishment or penalty shall be imposed on the person responsible for the management of the corporate entity if it is proved that the person was aware that these violations were committed and his or her management contributed to the violation.

7.5 In addition to the aforementioned provisions, Article (4) of Law No. 17 of 2017 which entails the imposition "Financial Sanction" may also be invoked.

7.6 The CRA further reserves its rights to publish any Notice of Non-Compliance issued pursuant to this Amended Order, on its web site under the provisions of Article (6) of the Telecommunications Law.

Issued by the President of the Communications Regulatory Authority.

Dated and signed on this 12th day of September 2019.



Mohammed Ali Al-Mannai
President
Communications Regulatory Authority