

Article 35 Order No. 5 of 2020 ("Order")

Kalaam's breach of the Telecommunications Law, the National Numbering Plan, the Lawful Access Regulation and its Licence Terms

- 1 Unless the context otherwise requires, capitalised terms that are not otherwise defined in this Order shall have the same meaning prescribed by the Telecommunications Law, the Lawful Access Regulation and / or the National Numbering Plan (as applicable).
- 2 Pursuant to its statutory powers under Articles 3 and 35 of the Telecommunications Law and for the reasons set out in the reasoning of this Order, the Telecommunications Regulatory Authority (the "Authority") considers that Kalaam Telecom Bahrain Company B.S.C. (C) ("Kalaam") has:
 - i. failed to provide Access Related Information to a Security Organ when requested to do so within one (1) day in breach of Article 9(6) of the Lawful Access Regulation;
 - ii. failed to update the Authority regarding changes in number status and customer information within twenty four (24) hours of having updated the information in its own systems in breach of Article 4.2.2.2 of the National Numbering Plan;
 - iii. failed to report appropriate information regarding the use of allocated numbers to the Authority in breach of Article 4.6.1.1.2;
 - iv. failed to update the Authority through the Numbering Management System ("NMS") within twenty four (24) hours of any changes to its allocation record (i.e. the numbers which have been allocated and / or sub-allocated) as well as the relative customer-related information, in breach of Article 4.6.1.1.3 of the National Numbering Plan; and
 - v. failed to provide the Authority the information in the detail it requested pursuant to an Article 53 Request for Information dated 11 February 2020 (ref. LAD/0220/030) ("the Article 53 Request") in breach of Article 53 of the Telecommunications Law, Article 15 of its International Telecommunications Facilities Licence, Article 12 of its Internet Service Provider Licence, Article

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16 of its International Telecommunications Services Licence, Article 26 of its National Fixed Services Licence, Article 10 of its Value Added Services Licence.

3 THEREFORE KALAAM IS ORDERED TO:

- a) Within forty five (45) days from the date of this Order, deactivate and disconnect all numbers that have been allocated or sub-allocated outside the Kingdom of Bahrain, and then within fifty (50) days from the date of this Order confirm to the Authority that it has done so;
- b) formally notify within seven (7) days from the date of this Order affected ultimate end users to seek alternative service providers, or to contract with Kalaam directly for the allocation of numbers, and to confirm to the Authority within one (1) day of notifying said customers that it has done so;
- c) within seven (7) days from the deadline in paragraph 3(a) above, provide the Authority with an accurate and up-to-date Licensee's Numbering Plan;
- d) within seven (7) days from the date of the deadline in paragraph 3(a) above, update the NMS regarding changes in allocated and / or sub-allocated number status and customer information, as stipulated in Article 4.2.2.2 of the National Numbering Plan; and
- e) obtain the Authority's consent in writing prior to any allocation or sub-allocation of numbers outside the Kingdom of Bahrain.

4 FINES

- 4.1 Kalaam is ordered to pay a fine of thirty six thousand and three hundred Bahraini Dinars (BHD 36,300) within 30 calendar days from the date of this Order.
- 4.2 In the event that Kalaam fails to comply with Sections 3(a), 3(b), 3(c) and 3(d) of this Order, then Kalaam shall be liable to a daily penalty of BHD 100 for each day of delay or part thereof.
- 4.3 Kalaam shall pay the fines set out in Section 4 of this Order in the form of a certified cheque, from one of the accredited local banks, addressed to the Authority.

5 COMPLIANCE

- 5.1 In terms of Article 35(d)(3) of the Telecommunications Law, failure by Kalaam to abide by Section 3 and Section 4 of this Order may lead to the revocation of Kalaam's Telecommunications Licences including, for the avoidance of doubt, Kalaam's licenses.



Nasser bin Mohamed Al Khalifa

Acting General Director

For and on behalf of the Telecommunications Regulatory Authority

30 September 2020

REASONING

I Relevant Legal Provisions

- 1 Article 3(c)(1) of the telecommunications law empowers the Authority to issue regulations, orders and determinations as may be necessary for the implementation of the provisions of the telecommunications law in connection with licences and payment of licence fees.
- 2 Article 3(c)(2) of the Telecommunications Law empowers the Authority to monitor and ensure compliance with the provisions of the Telecommunications Law.
- 3 Article 3(c)(4) of the Telecommunications Law empowers the Authority to monitor and ensure compliance with Licence terms and conditions by Licensees.
- 4 Article 3(c)(12) of the Telecommunications Law empowers the Authority to prepare and follow up the execution of the National Numbering Plan.
- 5 Pursuant to Article 53(a) of the Telecommunications Law the Authority has the power to make information requests of Licensed Operators. In particular Article 53(a) states that:

“Licensed Operators shall provide the Authority upon its request with all such information... as is needed to enable the Authority to carry out its duties and exercise its powers as provided for in this Law... The Licensee shall furnish such information to the Authority without delay at such time and in such details as the Authority may specify...”
- 6 Article 78 of the Telecommunications Law requires Licensed Operators to provide all technical resources, including Telecommunications Equipment, systems and programs relating to the Telecommunications Network that it is licensed to operate and which allow security organs to have access to the network for fulfilling the requirements of national security.
- 7 Article 8 of the Lawful Access Regulation defines “Access Related Information” as *“all data, including messages, sounds, visual images or signals, which pass through the Telecommunications Network of a Licensee as a result of the provision of a*

Telecommunications service, excluding Call Content, and such Information shall be identified as follows:

Access Related Information for fixed and mobile voice Calls:

All numbers, including identifiers associated with a voice Call for all parties of a voice Call, including local, international or other CLI numbers, other identifications that could be used for CLI, information of the wireless phone used including IMEI and IMSI numbers, and forwarded numbers..."

8 Article 9(6) of the Lawful Access Regulation requires Licensed Operators to provide Access Related Information to Security Organs in a period not exceeding one day.

9 Pursuant to Article 4.2.2.2 of the National Numbering Plan:

"Operators who have received allocations of numbers shall update the [Authority] through the NMS regarding changes in number status and customer information within 24 hours of having updated the information in their own systems. Details of the information to be provided is specified in the NMS Manual as published by the [Authority]."

10 Pursuant to Article 4.6.1.1.2 of the National Numbering Plan:

"the Licensee originally allocated numbers shall be responsible for them. This includes ensuring that the appropriate information regarding the use of these numbers is reported to [Authority]. This does not prevent that recipient from sub-allocating numbers to other licensed operators, provided that the sub-allocation is still for the use specified in the original application and in accordance with the Principles..."

11 Pursuant to Article 4.6.1.1.3 of the National Numbering Plan:

"... the holder of the allocation shall maintain a record of the numbers in use and the related customer information and update the [Authority] through the NMS within 24 hours of any changes..."

12 Kalaam has been granted the following Licences (the "Licences") by the Authority which are of relevance to the Authority's legal analysis of the factual background set out below:

- (a) An International Telecommunications Facilities Licence dated 17 July 2019 ("IFL Licence");
- (b) An Internet Services Provider Licence dated 11 May 2005 ("ISP Licence");
- (c) An International Telecommunications Services Licence dated 18 April 2005 (its "ISL Licence");
- (d) A National Fixed Services Licence dated 14 August 2005 (its "NFS Licence"); and
- (e) A Value Added Services Licence dated 18 April 2005 (its "VAS Licence").

II Factual Background

- 13 On 1 March 2016 the Authority wrote to Kalaam (Ref LAD 0316 039) expressing its concerns about Kalaam's extra-territorial use of geographical numbers [REDACTED] [REDACTED] which had been allocated to it pursuant to the National Numbering Plan (the "Authority's Letter").
- 14 The Authority's Letter highlighted that it had concerns regarding the above practice as it had the potential to undermine national security efforts by assigning Bahraini numbers to unverified (and unverifiable) individuals / entities outside the purview of the Authority and / or other relevant Bahraini authorities.
- 15 On 24 July 2016 and 10 November 2016, Kalaam replied to the Authority's Letter and recommended steps to improve its updating of the NMS and the collection of customer information / data. In addition, Kalaam provided the Authority a list of its active customer numbers along with their end user details.
- 16 On 9 October 2019 Kalaam was requested to provide information in relation to the identity of the owner of a specified telephone number in accordance with its obligation under Article 9(6) of the Lawful Access Regulation. Kalaam replied on the same day acknowledging receipt of the request.
- 17 On the same day Kalaam replied providing a name and postal address of the individual it purported owned the identified number (but provided no underlying documentation supporting such identification/ ownership).

- 18 On 30 October 2019 the National Security Agency (“NSA”) requested copies of the ID of the individual identified by Kalaam be provided to it immediately (again in accordance with its obligation under Article 9(6) of the Lawful Access Regulation). Kalaam provided an acknowledgment of receipt the same day, but did not provide the information.
- 19 On 31 October 2019, the NSA sent a follow up email to Kalaam. Once again Kalaam acknowledged receipt of the email the same day but did not provide the information requested.
- 20 On 03 November 2019 the NSA sent a further follow up. Again Kalaam responded the same day noting the content of the requested but did not provide the information requested.
- 21 On 05 November 2019 the NSA sent yet a further “follow up” email.
- 22 On 05 November 2019 the Authority emailed Kalaam noting the unacceptable delays in responding to the NSA and formally requested that Kalaam provide the requested information to it / the NSA “by the end of the day”.
- 23 To date, Kalaam has not provided the customer identification information requested.
- 24 On 21 November 2019 the Authority issued Emergency Order No. 1 of 2019 to Kalaam to cease the sub-allocation of numbers in breach of the National Numbering Plan (the “Emergency Order”). The Authority ordered Kalaam to:
- “By 9 am on 24 November deactivate and disconnect all numbers that have been sub-allocated to [REDACTED] any other unlicensed entities, and any Persons outside the Kingdom of Bahrain;*
- By 9 AM on 24 November 2019 refrain from any sub-allocation of numbers to [REDACTED] any other unlicensed entities, and any Persons outside the Kingdom of Bahrain; and*
- Confirm by 9 AM on 24 November 2019 that it has complied with this Emergency Order.”*
- 25 On 21 November 2019, Kalaam’s CEO responded to the Authority stating the following:
- “The below is acknowledged and we confirm that [Kalaam] will oblige the order by the stipulated time.*

However, [Kalaam] would like to request an urgent meeting on Sunday to discuss the subject as [Kalaam] believe[s] it's very short notice for our carrier partners like [REDACTED] to have an alternate solution for such bulk disconnection. Some of the end customers are multinational companies like Citibank [and] Skype using the numbers for call conference bridge.

While we also understand the point where the Authority is coming from and will be happy to discuss and find a way to either mitigate the security challenges or agree to discontinue the service for good.

In the meantime, we are informing our carrier partners about the disconnection and will bar the numbers before 24th morning..."

26 The Authority responded with the following on the same day:

Further to our telecon and my subsequent conversation with management, this serves to confirm that by Sunday 24 November 9 AM you are required to block all numbers that do not pertain to legitimate multinational corporations.

You are then required to attend a meeting on Sunday... the purpose of which will be to go through the list of all numbers and the end customer allocated that number so that we can verify that all non-legitimate numbers and unidentified end users have been blocked. Kalaam remains responsible for the numbers that have not been blocked.

[The Authority] reserves all its rights in this matter.

27 Kalaam acknowledged receipt of this email and confirmed its adherence to the Authority's instructions.

28 On 11 February 2020 Kalaam was requested to provide the Authority with information pertaining to its extra-territorial use of geographic numbers which have been allocated to it pursuant to the National Numbering Plan ("**Information Request Letter**").

29 In the Information Request Letter, the Authority informed Kalaam that it had been notified "*on multiple occasions that national security organs are unable to exercise their right to carry out lawful intercept of communications over several numbers, which as [Kalaam is] aware directly contravenes the Lawful Access Regulation.*"

30 The Authority requested from Kalaam two complete lists – one for before and one for after the Emergency Order had been issued – of all the geographic numbers that have been allocated (or sub-allocated or assigned) to [REDACTED], as well as the identities of the ultimate end-users.

31 Kalaam made its submissions on 16 February 2020.

32 On 11 February 2020 the Authority requested the same set of information from [REDACTED].

33 [REDACTED] made its submissions on 24 February 2020.

34 Despite the assurances from Kalaam that it was rectifying the issues surrounding the Authority's concerns, it transpired to the Authority that there are multiple inconsistencies between the information submitted by [REDACTED] and Kalaam respectively relating to the geographic numbers that have been allocated (or sub-allocated or assigned) to [REDACTED], as well as the identities of the ultimate end-users.

35 In many instances, for example, Kalaam identifies numbers which have been supposedly sub-allocated to [REDACTED], but [REDACTED] in turn failed to identify the existence of the same in its own submitted sheet.

36 This audit exercise has led the Authority to conclude that Kalaam has failed to fulfil its obligations under Article 4.6.1.1.2 of the National Numbering Plan, Article 53 of the Telecommunications Law and ultimately its license conditions. This is discussed in further detail in the next section.

III THE BREACHES

36.1 Article 9(6) of the Lawful Access Regulation requires Licensees to provide Access Related Information to Security Organs in a period not exceeding one day.

36.2 Upon request from the NSA and then subsequently upon the Authority's request, Kalaam failed to respond to the same within one day.

36.3 Separately, Kalaam is required to provide to the Authority the information in the detail requested pursuant to Article 53 of the Telecommunications Law and subsequently

under its licenses, in order to allow it to carry out its duties (including its duties under Article 3(c)(12) of the Law).

36.4 Article 53(a) of the Telecommunications Law states that:

"Licensed Operators shall provide the Authority upon its request with all such information... as is needed to enable the Authority to carry out its duties and exercise its powers as provided for in this Law... The Licensee shall furnish such information to the Authority without delay at such time and in such details as the Authority may specify..."

36.5 On 16 February 2020 Kalaam provided its submissions to the Authority but did not, in the Authority's reasonable opinion, satisfy the Information Request Letter by providing the Authority with the information in the detail requested pursuant to Article 53 of the Telecommunications Law.

36.6 By failing to comply with the Article 53 request for information in providing the Authority with the information in the detail it requested, the Authority believes that Kalaam is, non-exhaustively, in breach of:

- (a) Article 53 of the Telecommunications Law;
- (b) Article 15 of its IFL Licence;
- (c) Article 12 of its ISP Licence;
- (d) Article 16 of its ISL Licence;
- (e) Article 26 of its NFS Licence; and
- (f) Article 10 of its VAS Licence.

37 Under Article 4.2.2.2 of the National Numbering Plan:

"Operators who have received allocations of numbers shall update the [Authority] through the NMS regarding changes in number status and customer information within 24 hours of having updated the information in their own systems. Details of the information to be provided is specified in the NMS Manual as published by the [Authority]."

38 Under Article 4.6.1.1.2 of the National Numbering Plan:

"the Licensee originally allocated numbers shall be responsible for them. This includes ensuring that the appropriate information regarding the use of these numbers is reported to [the Authority]. This does not prevent that recipient from sub-allocating numbers to other licensed operators, provided that the sub-allocation is still for the use specified in the original application and in accordance with the Principles..."

39 Under Article 4.6.1.1.3 of the National Numbering Plan:

"... the holder of the allocation shall maintain a record of the numbers in use and the related customer information and update the [Authority] through the NMS within 24 hours of any changes..."

40 Kalaam is therefore under the National Numbering Plan:

- (a) responsible for the numbers allocated to it, regardless of sub-allocation to another "licensed operator";
- (b) obligated to maintain a record of related customer information; and
- (c) obligated to update the Authority through the NMS within 24 hours of any changes to customer related information.

41 Self-evidently the purpose of the requirement to maintain customer information records under the National Numbering Plan is so that the Authority can verify the identity of Subscribers to whom Bahraini numbers have been assigned. Kalaam's apparent inability to provide complete information to comply with the Authority's Article 53 Request clearly shows that this requirement has not been adhered to (and this despite previous representations that Kalaam would amend its own practices to ensure such compliance).

42 Therefore, in addition to breaching Article 9(6) of the Lawful Access Regulation, by failing to satisfy the Article 53 request for information, Kalaam has also shown itself to be in breach of Articles 4.6.1.1.2 and 4.6.1.1.3 of the National Numbering Plan, Article 53 of the Telecommunications Law, and the license conditions stated above.

IV Article 35

- 43 Article 35 may be applied by the Authority in the event that a Licensee has been or is in severe breach of any provision of the Telecommunications Law or any conditions of its licence.
- 44 The term "Licence" under Article 1 of the Telecommunications Law is defined as either a Telecommunications Licence or a Frequency Licence. This includes the IFL Licence, the ISP Licence, the ISL Licence, the NFS Licence and the VAS Licence issued to Kalaam.
- 45 A "severe breach" is understood to mean a breach that is more than minor and/or transient.
- 46 The Authority believes that the breaches identified are severe for the following reasons:
- 46.1.1 the Article 53 Request was intended to aid the Authority in carrying out its duties and exercising its powers as provided for under the Telecommunications Law, including its duty to monitor compliance with the National Numbering Plan; and
- 46.1.2 The requirement to collate and provide such information as requested by the Authority has a clear impact on the ability of the Authority to support other agencies in relation to the prevention of crime.

VI Imposition of Financial Penalty

Fining principles

- 47 Article 35(d)(2) of the Telecommunications Law states that the Authority shall issue an order containing a suitable fine on the Licensee provided that such fine is objectively justified and non-discriminatory. The Telecommunications Law does not provide specific guidance on the setting of fines.
- 48 In setting an appropriate fine for Kalaam's infringement in this case, the Authority has taken into consideration the relevant provisions of the Telecommunications Law and the Guidelines for the Setting of the Amount of a Fine for Violations of Article 35 and/or 65 of the Telecommunications Law (the "Fining Guidelines").

- 49 The Fining Guidelines reflect the Authority's fining practices to date, which in turn have been guided by international best practices, including the basic methodology used by Ofcom and other telecommunications regulatory authorities when establishing fines for licence breaches.

Procedure followed to determine the amount of the financial penalty

- 50 The Authority has undertaken the following steps in determining the quantum of the fine to be imposed on Kalaam for the breaches set out above:

- 50.1 Firstly, a baseline figure is established by reference to a value that is germane or relevant to the infringement in question;
- 50.2 This baseline figure may then be adjusted upwards or downwards to take into consideration the following "aggravating" and "mitigating" factors at the Authority's discretion:
- 50.2.1 the degree or severity of the breach in question;
- 50.2.2 any gain (financial or otherwise) accrued by the party perpetuating the breach;
- 50.2.3 the extent to which the infringement was perpetrated intentionally or recklessly, including the extent to which senior management knew, or ought to have known, that an infringement was occurring or would occur;
- 50.2.4 the extent to which any contravention was caused by a third party, or any relevant circumstances beyond the control of the licensee;
- 50.2.5 whether in all the circumstances, appropriate steps had been taken by the perpetuating party to prevent or remedy the breach in question;
- 50.2.6 any steps taken by the perpetuating party to mitigate the consequences of the breach; and
- 50.2.7 any other factors that, in the Authority's view, constitute an aggravating or mitigating circumstance.

- 50.3 Consideration then will be given to whether the amount of the fine calculated on the basis of the considerations listed above has a sufficient deterrent effect.
- 50.4 Finally, a proportionality review of the final amount of the fine is carried out.

Calculation of the baseline amount

51 The Fining Guidelines at PART II B: DETERMINING THE AMOUNT OF A FINE TO BE IMPOSED FOR A VIOLATION OF ART 35 OF THE TELECOMMUNICATIONS LAW THAT IS NOT ADDRESSED UNDER PART I sets out those factors that the Authority will have regard to when deciding upon an appropriate level of base fine for a breach of the terms of the Telecommunications Law and/or an Operator's Licences.

52 Article 46 of the Fining Guidelines states that:

"to determine the amount of the fine to be imposed for a given infringement, a baseline figure will first be established by the Authority by reference to a value that is germane to the infringement in question..."

53 Article 46 then goes on to give some examples of how the Authority might seek to establish this value. The most relevant example to this case would appear to be any comparable penalties.

54 As has been stated above, Kalaam's conduct represents a severe breach of the terms of the Telecommunications Law and its licences.

55 The Authority previously issued a fine to 2Connect WLL in relation to the failure to satisfy an Article 53 Request (Order No. 10 of 2015). The baseline fine applied in the 2Connect case was BHD 15,000.

56 It is clear that Kalaam's ongoing failure to address the issues noted by the Authority in 2016 relating to failings pertaining to the National Numbering Plan and national security considerations represent severe breaches of the Telecommunications Law and the terms of Kalaam's Licences.

57 In view of the severity of these issues, the Authority has decided to set a baseline figure of BHD 15,000.

Aggravating factors

58 Having established a baseline figure of BHD 15,000, the next step of the process is to consider the aggravating factors set out at Article 47 of the Fining Guidelines. Each of these factors is considered below in relation to Kalaam's current breaches.

Article 47(a): "the degree of severity of the breach or violation"

59 Self-evidently the breaches outlined above are severe breaches of Kalaam's obligations under the Telecommunications Law and its Licences.

60 National security is clearly a matter of national interest and importance to the Kingdom of Bahrain. More generally, the Authority takes very seriously a failure by any Licensed Operator to provide information when called upon to do so, given the importance of up-to-date and accurate information in enabling the Authority to carry out its duties under Article 3 of the Telecommunications Law.

61 There can be no doubt that the security aspect is of paramount importance. The Authority therefore considers that it is appropriate to apply to the baseline figure to take into account the seriousness of the breach (the "**Seriousness Factor**") a factor equating to ten percent (10%) of the baseline figure, which should be added to the baseline figure.

Article 47(b): "the duration of the breach or violation"

62 The breaches are not only serious, but ongoing. In addition, the basis of the breach has been the subject of correspondence between the Authority and Kalaam for over four years. Kalaam has had numerous opportunities to respond to the Authority and/or to rectify the failings first notified by the Authority over four years ago. Whilst some steps may have been undertaken, it has not ultimately done so (hence the necessity of the Emergency Order).

63 This fact therefore leads the Authority to determine that a duration factor (the "**Duration Factor**") of twenty percent (20%) of the baseline figure should be added to the baseline figure.

Article 47(d): "the extent to which the infringement was perpetrated intentionally or recklessly, including the extent to which senior management knew, or ought to have known that an infringement was occurring or would occur"

64 It is noted that the purpose and reasons for the Article 53 has been repeatedly stated to Kalaam and that the issues relevant to the national security concerns pertaining to the issuance of Bahrain numbers to unverified foreign individuals/ entities have been ongoing for some time.

65 The responses from Kalaam have all been sent by senior management and the last substantive communication received on this topic was sent by a director of Kalaam's.

66 It is therefore evident that knowledge of Kalaam's failure to provide the requested information is known to Kalaam's executive team at the highest level. The Authority therefore considers that a senior management factor (the "**Management Factor**") of twenty percent (20%) of the baseline figure should be added to the baseline figure.

Article 47(e): "any other factor that in the Authority's view constitutes an aggravating circumstance"

67 The Authority believes that Kalaam's inability to maintain the accuracy of the information related to allocated and sub-allocated numbers in its systems is a further aggravating factor that the Authority should have regard to when calculating the level of fine.

68 The Authority believes that the continued provision of inaccurate and / or incomplete information is a further aggravating factor that the Authority should have regard to when calculating the level of the fine.

69 The Authority therefore considers that it is appropriate that a further aggravating factor (the "**Further Aggravating Factor**") of ten percent (10%) of the baseline figure should be added to the baseline figure.

Mitigating factors

70 The next step in the process is to consider whether there are any mitigating factors that should be taken into account. At this stage the Authority does not consider that any of the mitigating factors set out at Article 48 of the Fining Guidelines are relevant, although of course should Kalaam rectify the issues raised in this draft Order during the period before any final Order is issued that would have the effect of potentially mitigating a number of the factors identified above.

Need to ensure deterrence

- 71 The Authority's fining practice acknowledges the importance of deterrence when determining the amount of a financial penalty.
- 72 Penalties should be set at levels which will have an impact on the entity that deters it from misconduct in the future, as well as provide signals to other entities that misconduct of a similar nature by them would result in penalties having a similar impact. That is, it must be at a level which can also change and correct any non-compliant behaviour by providers.
- 73 The Authority, considering all the circumstances of this case, does not find the amount in question sufficient to reflect the important national security issues at stake in this case.
- 74 The implications of Kalaam's actions on national security are so severe that they not only concerned security organs on a national scale but also raised international concern. Security organs had been notified by an international crime control organisation that certain numbers being allocated by Kalaam (and then sub-allocated further) were being used to facilitate crimes and commit fraud outside of Bahrain, which prompted the investigation into Kalaam's actions.
- 75 The Authority itself has a responsibility to report and liaise with other agencies, ministries and organs of state with regards to national security: Kalaam's inability to maintain accurate information and report the same has impacted the Authority's ability to facilitate this information exchange.
- 76 In coming to this decision the Authority has had especial regard to national security implications, as well as the importance of such issues in relation to the operation of all Licensed Operators.
- 77 The Authority therefore considers that a deterrence factor (the "**Deterrence Factor**") of one hundred percent (100%) of the baseline figure should be added to the baseline figure.

Proportionality

78 The Authority considers that the payment by Kalaam of a fine of thirty six thousand and three hundred Bahraini Dinars (BHD 36,300) is proportionate, considering all the circumstances of this case. In particular, the amount in question is sufficient to reflect the important issues pertaining to user identification underlying this case.

Final amount of financial penalty

79 Having considered the factors listed above, and any other circumstances relevant to the particular case under consideration, the Authority has determined an appropriate and proportionate fine.

80 In conclusion, the Authority sets the fine under this Order as follows:

$$\begin{aligned}
 \text{Fine} &= \text{Baseline Amount} + \\
 &\quad \text{Baseline Amount} \times \text{Seriousness Factor} + \\
 &\quad \text{Baseline Amount} \times \text{Management Factor} + \\
 &\quad \text{Baseline Amount} \times \text{Duration Factor} + \\
 &\quad \text{Baseline Amount} \times \text{Further Aggravating Factor} + \\
 &\quad \text{Baseline Amount} \times \text{Deterrence Factor} \\
 &= \text{BHD } 15,000 + \text{BHD } 1,500 + \text{BHD } 3,000 + \text{BHD } 3,000 + \text{BHD } \\
 &\quad 1,500 + \text{BHD } 15,000 \\
 &= \text{BHD } 36,300
 \end{aligned}$$

81 The Authority notes that there is no maximum fine defined in Article 35 of the Telecommunications Law. Without prejudice to its right to impose any fine under Article 35 that it considers appropriate and proportionate, the Authority believes that a fine in the sum of thirty six thousand and three hundred Bahraini Dinars (BHD 36,300) is appropriate and proportionate in this case.

82 In coming to this decision the Authority has had special regard to the national security implications explicit and implicit in the Article 53 Request and the importance of such issues in relation to the operation of all Licensed Operators.

Variable Fine for each day of Delay

- 83 The Authority notes that Kalaam's failure to satisfy the Article 53 Request is ongoing and that Kalaam has not provided any reasons for this ongoing breach of the Telecommunications Law and the Licences.
- 84 In view of the ongoing nature of Kalaam's breaches, in the event that Kalaam fails to comply with Section 3 and Section 4 of this Order, the Authority considers it is reasonable and proportionate for Kalaam to be subject to a daily fine of BHD 100 for each day of delay.