

Section	Description	Comments
5A	Power to grant spectrum right	<p>M1 proposes that Sections 5A(8) and 5A(9) for IDA's powers to make directions and regulations concerning licence variation, suspension, cancellation and financial penalty should be subsumed under Sections 7, 8, 27 and 74. Otherwise, there is an incongruence between the extent of IDA's powers for Section 5 and Section 5A.</p> <p>For instance, Section 27 concerning IDA's general power to give directions affecting telecommunication licensees is expressly subject to reconsideration or appeal under Section 69. As the provisions currently stand, it is not clear that IDA's directions regarding spectrum rights are similarly subject to reconsideration or appeal under Section 69 for telecommunication licensee.</p> <p>Likewise, subsequent modifications by IDA of licences granted under Section 5 are subject to Section 7 process. However, the current Section 5A(9)(a) appears to give IDA unfettered power to vary spectrum right licences as and when, even after the grant, without going through the Section 7 process. M1 views that this creates uncertainty and could be unfair to licensees who have paid for the spectrum rights.</p>
7	Modification of licence conditions	<p>Please refer to our comments for Section 5A. M1 submits that this provision should be applicable to Section 5A on spectrum rights.</p> <p>We propose that the amendment of Section 7(5)(a) should also extend to the 14 days period to make request for IDA reconsideration under Section 69(1) and during the reconsideration period itself.</p>
8	Suspension or cancellation of licence, etc	<p>Please refer to our comments on Section 5A. We would also like to highlight that Section 8 should take into account the situation for 3G licences, whereby mobile operators had already paid the licence fees upfront and capitalised it. For operators that are publicly listed companies, it would be difficult for the shareholders to accept the decisions of suspension or cancellation of the licence without any cost recovery. Hence, M1 submits that this section be amended to allow 3G licensees to dispose or sell the licence to another party.</p>

Section	Description	Comments
8(2)	<p>Suspension or cancellation of licence, etc</p> <p>“(c) the person mentioned in subsection (1) is no longer in a position to comply with this Act or the terms or conditions of its licence; or (d) the public interest so requires,”</p>	<p>The new grounds for suspension, etc under Sections (8)(2)(c) and (8)(2)(d) require more clarification.</p> <p>Under Section (8)(2)(c), the phrase “no longer <u>in a position</u> to comply” is vague; we suggest replacing it with “no longer <u>able</u> to comply”.</p> <p>M1 submits that IDA should give more guidance on when “the public interest so requires” under Section (8)(2)(d) could arise, since the factors of public interest would have already been taken into account in the first instance when the licence was granted.</p>
8(4)	<p>Suspension or cancellation of licence, etc.</p> <p>“Any person who fails to comply with any order under subsection (1) (i) shall be guilty of an offence...not exceeding \$100, 000 or to imprisonment for a term....”</p>	<p>M1 submits that the 10 times increase in administrative penalties for the breach of licence conditions, codes of practices and directions issued by IDA from \$10,000 to \$100,000 is <u>unnecessary and excessive</u>. Based on past records, the cases where Licensees do not comply with these requirements were negligible. This clearly indicates that the existing administrative penalty of \$10,000 acts as a sufficient deterrence for non-compliance. Furthermore, the existing administrative penalty of \$10,000 is in line with the provisions under Section 90 of the Competition Bill on “General Penalties”. Therefore, M1 proposes that the administrative penalty be maintained at \$10,000.</p>
17 (1)	<p>Alteration or relocation of public telecommunication licensee’s installation or plant</p>	<p>There are situations whereby the developer or owner of a building, not of its own accord, is instructed <u>and compensated</u> by a public Authority to vacate the space which requires the alteration or relocation of public telecommunication licensee’s installation or plant. In such instances, the telecommunication licensee affected should be compensated accordingly. We propose a provision to this effect be incorporated.</p>

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17(4)	<p>Alteration or relocation of public telecommunication licensee's installation or plant</p> <p>“...the licensee uses <u>any part or portion</u> of such installation or plant to serve any other building...requested by that developer or owner under subsection (1).”</p>	<p>M1 would like to highlight that “<u>any part or portion</u>” of installation or plant used to service other buildings or land can be incidental. Hence, it would be unfair for telecommunication licensee to bear the whole cost for any subsequent alteration, removal, relocation or diversion of such part or portion requested by the developer or owner.</p> <p>We propose replacing “any part or portion” with “<u>any substantial part or portion</u>”.</p>
21	<p>Provision of space, facility or installation, plant or system by direction of the Authority</p>	<p>Please refer to our comments in the main paper with regards to this issue.</p>
21(1)	<p>Provision of space, facility or installation, plant or system by direction of the Authority</p> <p>“Where the Authority <u>considers it necessary</u> that any telecommunication...the Authority may by direction.”</p>	<p>To provide more certainty to both the developer/owner of the building and the telecommunication licensee, M1 requests that MITA lists the circumstances where the Authority would consider it necessary to give a direction.</p>
21(6)	<p>Provision of space, facility or installation, plant or system by direction of the Authority</p> <p>“Any direction under subsection (1) or (4) may be varied, suspended or revoked at any time by the Authority.”</p>	<p>M1 submits that any subsequent variation, suspension or revocation of a direction by IDA should be subject to consultation with the parties concerned, to avoid uncertainty after commercial arrangements have been entered into based on IDA’s initial direction.</p>
26(1) & (6)	<p>Codes of practice and standards of performance</p>	<p>For certainty, both IDA’s notification or exemption should be gazetted or published in a stated manner (e.g. on IDA’s website). These notices and exemptions have legal effect and should be made available at known official sources to ensure that affected parties can easily keep track of any changes and comply with the requirements.</p>

Section	Description	Comments
26(4)	Codes of practice and standards of performance  “The Authority may at any time review, add to, vary or revoke any code of practice or standard of performance.”	In line with IDA’s continuous effort in fostering openness in decision making, M1 proposes an amendment to state that IDA would seek public comment before the modification of codes of practice/standards of performance.
27	Directions affecting telecommunication licensees	Please refer to our comments on Section 5A.
69(1)	Reconsideration by Authority and appeal to Minister	Consistent with the amendment to Section 8(1), this section should clarify that Sections 32D, 32(F)(2) and 32B directions or matters are subject to reconsideration or appeal.  Please also refer to our comments on Section 5A that the directions for spectrum rights should also be covered under this section.
69(2)	Reconsideration by Authority and appeal to Minister	Please refer to our comments under Section 5A. M1 submits that the directions for spectrum rights should be covered under this section.  As non-licensees could be aggrieved by the directions issued under Section 27 and Section 32B, we propose the insertion of these two sections in Section 69(2).
69B(3)(b)	Power of Minister to issue written order relating to acquisition of assets, etc., of telecom licensee  “no shares of that telecommunication licensee shall be issued...unless the <u>Authority</u> expressly permits such issue or offer; and”	M1 believes that there is a typo error and “ <u>the Authority</u> ” should be amended to “ <b><u>the Minister</u></b> ”.
74	Regulations	Please refer to our comments under Section 5A.