BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA
ADJUDICATION ORDER NO. Order/VV/AK/PSS/2022-23/18167

UNDER SECTION 15-I OF THE SECURITIES AND EXCHANGE BOARD OF INDIA ACT, 1992 READ WITH RULE 5 OF THE SEBI (PROCEDURE FOR HOLDING INQUIRY AND IMPOSING PENALTIES) RULES, 1995

In respect of:
Quadrant Televentures Limited
(Formerly known as HFCL Infotel Limited)
PAN – AABCT2862R

In the matter of:
Ejecta Marketing Limited

A. BACKGROUND

1. Securities and Exchange Board of India ("**SEBI**") conducted investigation into the Trading Activities of Certain Entities in the scrip of Ejecta Marketing Limited (herein after referred to as the **Company/EML/Ejecta**) in the wake of major spurt in trading volume around the dates of circulation of the SMS (giving buy recommendation for the scrip of Ejecta) to ascertain any violation of the provisions of SEBI Act 1992 and SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 by the suspected entities in trading in the scrip of EML, during the period April 1, 2018 to June 30, 2018 (hereinafter referred to as 'investigation period'). In the preliminary investigation/examination into the scrip, examination/investigation period was taken as April 1, 2018 to June 30, 2018. However, it was observed that 96.17% of the volume in the scrip occurred on two SMS days viz. May 14, 2018 to May 15, 2018. Hence, detailed investigation was undertaken for May 14, 2018 to May 15, 2018 (sub-investigation period).

2. A show cause notice dated December 10, 2020 (hereinafter referred to as **'SCN'**), calling upon Quadrant Televentures Limited (hereinafter referred to as **'the Noticee'**) to show cause as to why appropriate penalty under section 15A(a) of the Securities and Exchange Board of India Act, 1992 (hereinafter called as the '**SEBI Act, 1992**') be not imposed upon the Noticee for alleged violation of sections 11 (2) (ia) and 11C (3) of the SEBI Act.

3. During the course of investigation, it was observed that:

   I. Several SMSs were circulated on May 14, 2018 and May 15, 2018 giving buy recommendation for the scrip of Ejecta Marketing Limited. A major spurt in trade volume was observed around the dates of circulation of the SMSs. Investigation observed that some entities sold shares when SMSs were observed to have been circulated and hence, prima facie, it was suspected that SMSs may have been circulated to provide exit to such entities.

   II. SMSs were circulated from May 14, 2018 to May 15, 2018 giving buy recommendation & quoting "Buy Ejecta Marketing Ltd (BSE 538653) Buy Qty: 3000 Cmp: 22.20 Btst Tgt Price: 23 Sl: 21 Short Tgt: 30+". These SMSs were sent from the SMS header HP-HDFSEC.

   III. Investigation observed that approximately 16,04,770 SMS were sent to different entities. Further, it was observed that 151 unique PANs had traded in the scrip which bought 3,42,950 shares of Ejecta on May 14, 2018 and May 15, 2018. The above 151 unique PAN includes two Group 1 entities who bought 37,718 shares. It was also observed that out of 3,05,232 shares bought by retail entities (excluding 37718 shares purchased by the aforesaid two Group 1 entities), 1,44,111 shares (i.e. 47.21%) were sold by the Group 1 entities. Therefore it was alleged that that the Group 1 entities sold majority of the shares bought by the retail entities trading based on receipt of bulk SMS.

   IV. Investigation observed that the aforesaid SMS header was registered with the Telecom Service Provider ("***TSP***"), Quadrant Televentures Limited **("Noticee" / "TSP")** and the Noticee submitted vide email dated November 21, 2018 that the aforesaid SMS header was sent by Zodiac Solutions (proprietor - Pratipal Singh Zala) However, the Noticee did not provide the Customer Application Form (CAF) of Zodiac Solutions.

V. The Noticee informed vide letter dated February 13, 2020, in reply to the summons dated February 7, 2020, that the aggregator for the said SMS header was V-CON Integrated Solutions Private Limited (formerly Videocon Integrated Solutions Private Limited) (hereinafter referred to "**VISPL**"). The Noticee, however, did not provide any supporting documents for the same stating that as per License agreement with Department of Telecommunications, they are not required to keep data for more than a year.

VI. It was observed that from the first email dated November 21, 2018 onwards, till the reply to summons, multiple emails were exchanged with the Noticee w.r.t. bulk SMS sent from sender id – HDFSEC during the time period, May 14, 2018 to May 15, 2018. However, it failed to disclose that the bulk SMS were sent through the aggregator, VISPL. Further, in terms of its organizational policy, Noticee collects certain information while on boarding clients viz. the concerned person name, designation, email id, phone number, proof of address and identity and purchase order. However, the Noticee failed to provide such data for VISPL at the onset nor when asked specifically vide email dated February 20, 2020 and second summons dated February 20, 2020.

VII. Investigation observed that TRAI circular ref. no. F. No. 311-3/2015-Qos dated August 10, 2017, *inter alia*, stipulates that, "*the Access Providers to ensure that SMSs relating to investment advice/ stock tips only from SEBI registered investment advisers, stock brokers, sub brokers, portfolio managers and merchant bankers shall be sent or allowed to be sent through registered Telemarketer...*". Further, the circular stipulated that necessary arrangements shall be made to filter and block the SMSs sent by Telemarketers using bulk SMS channel (telecom resources taken for promotional messages) containing the following key words……Buy/ Sell/ Hold/ Accumulate/ Target followed by Scrip code/ Scrip Name provided by any recognized exchange, Scrip code/ Scrip Name provided by any stock exchange, etc.

VIII. Investigation alleged that the Noticee was asked to clarify through summons dated February 7, 2020 and February 20, 2020, whether SMS sender in the instant matter was SEBI registered investment advisor. The Noticee vide letter dated February 13, 2020 inter alia submitted that, "*based on aggregator's statement, the client had already disassociated with the client in 2018 and therefore, we are not in position to comment on this*". Further, the Noticee did not provide supporting document for the same.

IX. Subsequently, the Noticee vide letter dated March 2, 2020 submitted a SEBI Investment Advisor registration certificate issued to Amit Gangrade, Proprietor, Investment Research Advisor. The Noticee also provided copy of an authorisation letter from the said Investment advisor to Zodiac Solutions, authorising them to send SMS alerts. Investigation observed that the Noticee provided details of the investment advisor in response to second summons and there was no mention of the same in any previous communications. Further, investigation observed that the aforesaid Investment Advisor's letterhead and seal used on the authorisation letter was not genuine as the aforesaid Investment Advisor submitted that during the year 2017-18, they found that someone was using their name and doing business by showing fake website and for that they informed SEBI.

X. Investigation alleged that in response to the multiple emails on January 30, 2020 and February 4, 2020 and telephonic discussions as well, seeking details of payment received by the Noticee from the client, Zodiac Solutions w.r.t. the bulk SMS sent by them from the SMS header - HP-HDFSEC during May 14, 2018 to May 15, 2018, the Noticee vide email dated February 3, 2020 provided date and payment amount as given below:

<u>Payment details provided by TSP</u>

Receipt Date	**Receipt Amount in ₹**
28-Jun-18	188,000.00
1-May-18	448,400.00
	636,400.00

However, the Noticee failed to provide relevant bank account details viz. name of bank, bank account number, transaction numbers, from which payment was made by client and in which payment was received by the Noticee.

XI. It was further alleged that the Noticee vide email dated February 4, 2020 inter alia submitted that, "*we are getting payment through online, therefore, we don't have bank account name and bank account number from which payment was received*". Subsequently, the Noticee provided a bank account number – 01660100016160 (Bank of Baroda) for M/s. Zodiac Solutions. However, upon analysing the corresponding bank account statement for the relevant time period (as obtained from Bank of Baroda), no transactions for payment to the Noticee were found corresponding to the date and amounts mentioned by the Noticee (as given in the above table).

XII. It was observed that the name of the client sending bulk SMS, bank account number of such client and the details of payments from the said client provided by the Noticee did not match with the actual bank statements details. Further, the Noticee inter alia submitted vide letter dated February 3, 2020 that, *"we are not in position to comment on aggregator's client bank entry details"*. Subsequently, vide letter dated March 2, 2020, the Noticee submitted the transaction details (as given in the above table) which allegedly pertained to the aggregator.

XIII. The Noticee was issued summons on February 7, 2020 and the same was delivered at the address, B-71, Industrial Area, Phase 7, Sahibzada Ajit Singh Nagar, Punjab – 160055. A scanned copy of the said summons was sent on the email ids - secretarial@infotelconnect.com and g.srinivasan@infotelconnect.com which were delivered. In the summons, details with respect to rate per SMS charged pertaining to the bulk SMS sent in the scrip of EML during May 14, 2018 to May 15, 2018 was sought from the Noticee. Noticee vide letter dated February 13, 2020 submitted that *matter is more than two years old and they do not have data about what rate per SMS the aggregator charged to the customer*. The following details with respect to the receipt of payment was provided by the Noticee.

Payment details provided by Noticee vide reply to Summons

Date of receipt of payment	**Mode of payment**	**Bank Account from where payment was received**	**Bank Account in which payment was received**	**Amount (in ₹)**
05-30-2018	S81272896	VISPL – ICICI Bank account number – 001305010869	QTL – ICICI Bank account number - 005805001542	7,27,238.71

06-30-2018	S91416022	VISPL – ICICI Bank account number – 001305010869	QTL – ICICI Bank account number - 005805001542	1,00,00,000.00

However, no corresponding bank statement was provided.

XIV. Investigation alleged that the information provided by the TSP vide letter dated February 13, 2020 (as mentioned in paragraph 19 was different from the information provided earlier vide email dated February 3, 2020 (as mentioned in paragraph 16). Further, the TSP vide letter dated March 2, 2020, submitted that the transaction details provided vide email dated February 3, 2020 (as given at paragraph 16) pertain to their aggregator.

XV. It was alleged that even though the Noticee submitted that approx. Rs. 1.01 crore was received as payment with respect to bulk SMS, it did not provide the break-up/ rate charged for the bulk SMS in the instant case. Further Noticee did not maintain any record for the said transactions despite submitting that it maintains records for three (3) years. A perusal of the bank account statement for bank account number – 005805001542 of Noticee, obtained from ICICI Bank, it was observed that Noticee received payment of Rs. 1 crore on June 30, 2018 from VISPL (ICICI bank account number – 001305010869). However, payment of Rs. 7,27,238.71 was received from bank account number – 005805004864 of Videocon Integrated Solutions Private Limited (former name of V-CON Integrated Solutions Private Limited) as against the bank account number – 001305010869 of VISPL as submitted by the Noticee. Vide letter dated March 2, 2020, the Noticee clarified that the bank account of VISPL where payment of approx. 7 lakhs was received was 005805004864 (ICICI Bank).

XVI. The Noticee further submitted that they have an agreement with aggregator, VISPL but not specific for the SMS header, HP-HDFSEC. Further, they have no direct link with party to the aggregator, Zodiac Solutions.

XVII. The Noticee, given the multiplicity of payment details provided, was asked vide summons dated February 20, 2020 to provide bank statements highlighting entries where payment was received, for bulk SMS sent from SMS header – HDFSEC during May 14, 2018 to May 15, 2018. However, the

Noticee vide letter dated March 2, 2020 informed that it did not receive any payment from Ejecta, therefore did not maintain ledger with respect to the same and, therefore, there is no corresponding bank statement.

XVIII. It was further alleged that for multiple queries, the Noticee did not provide information as the said information pertains to the aggregator, V-CON Integrated Solutions Private Limited. Further with respect to the query, whether the Noticee is/ was in any capacity connected/ deemed connected/ associated/ related/ subsidiary/ holding/ sister concern/ parent company to/ of VISPL or have/ had any common directors/ promoters, the Noticee submitted that till June 30, 2015, they were associated, but there is no connection/ association thereafter. As on date, there is no such arrangement with VISPL.

XIX. It was alleged that a perusal of the KYCs obtained from ICICI Bank, it was observed that VISPL and the Noticee had the same address - B-71, Industrial Area, Phase 7, Sahibzada Ajit Singh Nagar, Punjab – 160055. Further, VISPL's email id is – treasury@infotelconnect.com which had the same domain name as the email ids for employees of the Noticee. HFCL Infotel Limited (former name of the Noticee Company) was the largest shareholder in VISPL holding 9,980 (99.80%) shares out of 10,000 shares at the time of its incorporation. It was also alleged that Babu Mohanlal Panchal (DIN – 01806193), Director of the Noticee Company, was also a Director in VISPL from April 9, 2010 to February 16, 2016. Further, Mitu Mehrotra Goel (DIN – 05188846), another Director of the Noticee Company was also a Director in VISPL from October 17, 2014 to February 16, 2016. Therefore, having regard to the above, it is alleged that the Noticee Company and VISPL are connected/associated to each other as against the claim/information by the Noticee.

XX. In view of all of the above, it was observed that the Noticee was repeatedly providing incorrect, incomplete and misleading information about the sender of SMS (aggregator/ telemarketer/ investment advisor/ client/ end user), SMS rate charged, verification with respect to end user, SEBI registered entity, payment receipt for bulk SMS sent through its platform. Second summons was issued on February 20, 2020 seeking clarification on the same till February 26, 2020. The Noticee sought extension and replied vide letter dated March 2, 2020, however, it did not provide any satisfactory response.

XXI. In view of the discussions in the foregoing paragraphs, it is alleged that despite providing several opportunities, the Noticee i.e. Quadrant Televentures Limited (formerly HFCL Infotel Limited) has not complied with the SEBI summons and has not provided any plausible reason for non-compliance.

XXII. In view of the discussions in the preceding paragraphs, it is alleged that the Noticee, Quadrant Televentures Limited (formerly HFCL Infotel Limited) has furnished incorrect, incomplete and misleading information in response to the summons which has hampered the investigation as the information sought from the Noticee were critical to determine their role and connection, if any, with the Company and the sellers/ traders in the scrip in the market during the sub investigation period. Hence, the investigation had to be concluded in the absence of the same.

B. APPOINTMENT OF ADJUDICATING OFFICER

4. I have been appointed as the Adjudicating Officer under section 15I of the Securities and Exchange Board of India Act, 1992 read with rule 3 of SEBI (Procedure for Holding Inquiry and Imposing Penalties) Rules, 1995 (hereinafter referred to as the 'Adjudication Rules') to inquire into and adjudge under section 15A(a) of the Securities And Exchange Board of India Act, 1992 for the alleged violation of the section 11(2)(ia) and 11C(3) of the SEBI Act, 1992 vide order dated 14-08-2020.

C. SHOW CAUSE NOTICE, REPLY AND HEARING

5. Show Cause Notice No. EAD-9/VKV/NK/21622/2/2020 dated December 10, 2020 (hereinafter be referred to as the "SCN") was duly served upon the Noticee under Rule 4(1) of the Adjudication Rules to show cause as to why an inquiry should not be held and penalty be not imposed against it under the provisions under sections 15A(a) of SEBI Act for the alleged violation of the section 11(2)(ia) and 11C(3) of the SEBI Act, 1992.

6. I note, from available records, that the SCN was duly delivered to the Noticee via SPAD. The Noticee has submitted its reply to the SCN dated 08-01-2021. Hearing notice was sent to the Noticee informing him about the opportunity of hearing given on 12-08-2021. The hearing notice was duly served. The hearing was attended by the Authorized Representative on behalf of the Noticee on 12-08-2021. The Noticee has also submitted written arguments dated 19-08-2021.

7. The key submissions made by Noticee are summarized below :-

   i) Noticee had provided complete details of the SMS Header which was sent from its network by Zodiac Solution. Further, whatever documents were with QTL were provided to SEBI as and when they were requested. Since, TSP needs to keep record in the system for only one year, the same was intimated through letter dated 13-02-2020. Accordingly, Noticee was not able to provide the customer application form of Zodiac Solutions.

   ii) Noticee submits that SEBI never asked for the copy of agreement with VISPL and the same was also not raised in either of SEBI's emails or summons. Noticee itself mentioned in its letter dated 02-03-2020 that there is an agreement between Noticee and VISPL (as an aggregator). Noticee had voluntarily declared information on agreement between Noticee and VISPL and the same was never demanded by SEBI.

   iii) TSP do not entertain Telemarketers directly, but through their Aggregators only. Noticee has provided all the requisite documents of Zodiac Solutions. Noticee is ready to provide such data for VISPL also, had it been asked specifically by SEBI, Noticee would have provided the same earlier itself. (**13**)

   iv) Noticee has strictly followed TRAI Circular Ref No. F.No.311-3/2015-Qos dated 10-08-2017. SMSs in question were sent through registered telemarketer only. Noticee has provided two documents to SEBI on 02-03-2020 i.e. Certificate of Registration as Investment Advisor issued by SEBI to Amit Gangrade and Authority letter issued to Zodiac Solution authorizing them to send SMS alerts pertaining to stock advisory messages. As per

Licensing conditions with Licensor i.e. Department of Telecommunication, Noticee needs to keep only one year of records in the system, however, Noticee has provided Registration Certificate of Zodiac Solutions even after two years and, thus, Noticee has co-operated with SEBI. Noticee did not have knowledge that someone else was using Investment Advisor's letterhead and seal as no one had intimated the same to the Noticee. Further, Noticee is not supposed to be responsible and accountable for false document submitted by Zodiac Solutions.

v) The Noticee did not receive payments directly from Zodiac Solutions who was a client of Noticee's aggregator i.e. VISPL. Noticee received payment directly from aggregator who makes payments to the Noticee on time to time basis. Therefore, the Noticee was not in position to know bank details, transaction number etc by which payment was made by Zodiac Solutions to the aggregator of the Noticee. Similarly, the Noticee was also not in a position to know the details of bank accounts of its aggregator. The Noticee organized the bank details of Zodiac Solutions through its aggregator.

vi) Noticee has submitted that it is very difficult to ascertain the rates which were charged two years back by the aggregator. Further, it is the aggregator who charges the rate to the telemarketer and the Noticee is not privy to the same. Corresponding bank statement was never demanded by SEBI, however, details of amount received have been shared with SEBI.

vii) The Noticee is dealing with its aggregator and that aggregator is independently dealing with its clients and one of the said clients of aggregator was Zodiac Solution. Therefore, the Noticee was unable to provide information about rate per SMS charged by aggregator.

viii) Due to business relations, the two Companies share the same address for which rent was paid by VISPL to the Noticee on market prevalent rates. Further, during the transition period, removal of Directors of QTL from the Board of VISPL, updation of mail ids in the Banks records etc took some time implementation in the ordinary course of business. Accordingly, Noticee and VISPL were associated/connected earlier, but are not presently associated/connected with each other than normal business transactions.

ix) The details provided by the Noticee for Zodiac Solutions Ltd were specifically arranged by it from the aggregator only to resolve the queries raised by SEBI. Noticee was unable to provide the information with respect to Customer application Forms, bank account details etc with respect to Zodiac Solutions , other than the documents provided by the latter to the aggregator and further passed on to the TSP.

x) The Noticee has relied on decision of the Hon'ble Securities Appellate Tribunal ("**SAT**") passed in ***Kensington Investment Ltd vs SEBI*** (Order dated 11-10-2002).

xi) The Noticee has always been ready and willing to assist SEBI in any capacity for the purpose of an ongoing investigation, however, due to inadvertent miscommunication, the Noticee has been unable to bring the correct and true facts before SEBI.

D. CONSIDERATION AND FINDINGS

8. I have carefully perused the allegations levelled against the Noticee in the SCN, the replies of the Noticee and also the documents/evidence available on record. Before I proceed to deal with the charges as alleged in the SCN and replies filed by the Noticee it is relevant to reproduce the provisions of laws which have been attracted and invoked in the SCN and the same are quoted here under:

> *"**11**. (1) …………………*
>
> ***(2)*** *Without prejudice to the generality of the foregoing provisions, the measures referred to therein may provide for—*
> *…………………………….*
> ***(ia)*** *calling for information and records from any person including any bank or any other authority or board or corporation established or constituted by or under any Central or State Act which, in the opinion of the Board, shall be relevant to any investigation or inquiry by the Board in respect of any transaction in securities;*
> *………………………………"*
>
> *"**11C**.*

……………………………….

***(3)** The Investigating Authority may require any intermediary or any person associated with securities market in any manner to furnish such information to, or produce such books, or registers, or other documents, or record before him or any person authorised by it in this behalf as it may consider necessary if the furnishing of such information or the production of such books, or registers, or other documents, or record is relevant or necessary for the purposes of it investigation.*

………………………………..”

*“**15A**. If any person, who is required under this Act or any rules or regulations made thereunder,—*

***(a)** to furnish any document, return or report to the Board, fails to furnish the same or who furnishes or files false, incorrect or incomplete information, return, report, books or other document], he shall be liable to a penalty which shall not be less than one lakh rupees but which may extend to one lakh rupees for each day during which such failure continues subject to a maximum of one crore rupees;*

…………………………………”

9. I note from the allegations in the SCN that the Noticee has furnished incorrect, incomplete and misleading information in response to the summons which has hampered the investigation. For the purpose of this order, I am only dealing with the instances where SCN has alleged that the Noticee has provided incomplete, incorrect and misleading information.

10. The SCN alleges that the Investigating Authority vide email dated 15-11-2018 requested details including Customer Application Forms from the Noticee about the said SMS header in question. The Noticee vide email dated 21-11-2018 provided certain details about the sender of the SMS i.e. Zodiac Solutions but it did not provide the Customer Application Form of Zodiac Solutions. The Noticee also did not mention anything about the aggregator VISPL in the said email.

11. The Noticee, in its letter dated 13-02-2020, has informed that as per its License Agreement with Department of Telecommunication, it needs to keep records for only one year. Clause 39.20 of the License Agreement is reproduced below :-

“39.20 The Licensee shall maintain all commercial records/ call detail record (CDR) / exchange details record (EDR) / IP detail record (IPDR)

with regard to the communications exchanged on the network. Such records shall be archived for at least one year for scrutiny reasons and may be destroyed thereafter unless directed otherwise by the Licensor. Licensor may issue directions/instructions from time to time with respect to CDR/IPDR/EDR."

12. Upon perusal of the clause 39.20 of the License Agreement, it appears that the condition of maintaining records for one year applies to data of technical nature which remains on network. The information relating customer application form does not fall in the category of information referred to in clause 39.20 of the License Agreement. It is also pertinent to mention that there are contradiction in replies of the Noticee even after issuance of SCN. The Noticee, in his reply dated 08-01-2021 to the SCN, has averred that it could not provide customer application form of Zodiac Solutions because the TSP needs to keep record in the system for only year, whereas, in its written statements, the Noticee has submitted that as a result of the business model, it was unable to provide information with respect to Customer Application Forms.

13. There appears clear contradiction in the replies of the Noticee. I note that the Noticee has failed to provide a plausible reason for non-production of the said Customer Application Form.

14. The SCN also alleges that multiple e-mails were exchanged between Investigating Authority (**"*IA*"**) and Noticee before the first summons was issued and that in all the emails, the Noticee failed to disclose that the bulk SMS were sent through the aggregator VISPL. Vide the second summons dated 20-02-2020 , the IA specifically asked the Noticee to provide the following:-

    *"Customer Application Form (CAF) for the Telemarketer/ Aggregator, **VISPL** and supporting documents viz. concerned person name, designation, email id, phone number, proof of identity and address, etc."*

    The Noticee replied to the said query vide reply dated 02-03-2020 as follows:-

    *"Customer Application Form (CAF) for the Telemarketer/ Aggregator, VISPL and supporting documents viz. concerned person name, designation, email id, phone number, proof of identity and address, etc. **Ans.: Attached as Annexure- I**"*

I have perused Annexure – I attached with the aforesaid reply and I note that the documents attached as Annexure pertain to the Telemarketer Zodiac Solutions. The Noticee has not provided any document concerning the Aggregator VISPL to the Investigating Authority nor has the Noticee provided any reason for non-production of documents relating to VISPL.

15. In reply to the SCN, the Noticee has submitted that SEBI never asked for the copy of agreement with VISPL and the same was also not raised in either of SEBI's emails or summons. I note that the stand taken by the Noticee is flawed as it becomes clear from the preceding paragraph that IA had specifically sought details about VISPL in the second summons dated 20-02-2020. I note that the reply of the Noticee to the aforesaid query of summons was incomplete.

16. It has been further alleged in the SCN that pursuant to email of the IA seeking details of payment received by the Noticee from the Zodiac Solutions, the Noticee vide email dated 03-02-2020 provided details of two transactions dated 28-06-2018 and 01-05-2018 , but the Noticee did not provide relevant bank account details relating to the said two transactions. The IA requested the Noticee to provide bank account details for the said two transactions. Vide email dated 04-02-2020, the Noticee provided bank account details of Zodiac Solutions, however, upon analysing the corresponding bank account statement for the relevant time period , no transactions for payment to the Noticee were found corresponding to the date and amounts mentioned by the Noticee. The Noticee in its reply dated 02-03-2020 informed that the two transactions details provide vide email dated 03-02-2020 pertain to the Aggregator.

17. The Noticee has in his reply to the SCN has averred that the Noticee did not receive payments directly from Zodiac Solutions who was a client of VISPL and that Noticee received payment directly from aggregator who makes payments to the Noticee on time to time basis.

18. I note that the Noticee provided incomplete information vide its email dated 03-02-2020 by not providing bank account details relating to the said two transactions. Further, vide email dated 04-02-2020, Noticee again failed to provide complete information by not disclosing that the said transactions pertain

to the VISPL and Zodiac Solutions. It was only in reply to the summons that the Noticee clarified that transaction details provided vide email dated 03-02-2020 pertained to VISPL and Zodiac Solutions.

19. The SCN also alleges that vide reply to the first summons, the Noticee has provided details of transactions between the Noticee and VISPL, however, the Noticee did not provide corresponding bank statement. Vide the second summons, the IA sought clarification from the Noticee regarding non-production of said bank statement. The reply of the Noticee to the second summons is silent about the non-production of bank statement.

20. The Noticee in his reply to the SCN has averred that corresponding bank statement was never demanded by SEBI. I note from the perusal of the first summons dated 07-02-2020 that vide point no.5(d) , the Noticee was asked to provide relevant bank statement highlighting relevant entries. The submission of the Noticee that the bank statement was never demanded is erroneous. I note that the Noticee has neither provided bank statement nor has given any satisfactory reason for non-production of the same.

21. The SCN further alleges that in the summons, details with respect to rate per SMS charged was sought from the Noticee. The Noticee replied with two contradictory answers to the aforesaid query. Firstly, the Noticee referring to clause no.39.20 of the License Agreement informed that they are not in a position to make statement on two years old records in their system. Secondly, the Noticee informed that commercial rates are variable, as it varies from customer to customer and that they are not aware about how much the aggregator charged to his client in the instant matter.

22. Vide the second summons dated 20-02-2013, the IA had, referring to query of rate per SMS, sought clarification from the Noticee as follows :-

> *Upon preliminary examination, it is observed that as per communication from the Ministry Communication, "Licensee shall invariably preserve all billing and all other accounting records (electronic as well as hard copy) for a period of three years from the date of publishing of duly audited & approved accounts of the company and any dereliction thereof shall be treated as a material breach*

independent of any other breach, sufficient to give a cause for cancellation of the License"

The Noticee had replied to the aforesaid query informing that "*Company is complying the condition of maintaining three years records*".

23. Upon perusal of the clause 39.20 of the License Agreement (as given in para 12), it appears that the condition of maintaining records for one year applies to data of technical nature which remains on network. The information relating to rate per SMS falls in the category of billing and accounting records for which data has to be maintained for 3 years. The reasoning given by the Noticee that they are not in a position to make statement on two years old records in their system, is of no help to them. Further, the Noticee has itself admitted in its reply (as mentioned in preceding paragraph) that they are maintaining records for three years.

24. In reply to the SCN, the Noticee submitted that it is dealing with its aggregator and that aggregator is independently dealing with their clients and one of the said clients of aggregator was Zodiac Solution. Therefore, the Noticee was unable to provide information about rate per SMS charged by aggregator. The aforesaid submission is of no help to the Noticee. I note that the Noticee has given contradictory and unsatisfactory answers to the query of IA and, thereby, misled the Investigating Authority.

25. The Noticee has relied on decision of the Hon'ble Securities Appellate Tribunal ("**SAT**") passed in ***Kensington Investment Ltd vs SEBI*** (Order dated 11-10-2002). I have the perused the aforesaid judgment cited by the Noticee and I am of the view that the facts of the instant case are different and distinguishable from the facts of the aforesaid judgment. Therefore, the said judgment is not of any use to the Noticee.

26. From the perusal of the available records and in light of the consideration in preceding paragraphs, I conclude that the Noticee has provided incorrect, incomplete, contradictory and misleading information in response to the summonses which has hampered the investigation and, thereby, has violated section 11 (2) (ia) and 11C (3) of the SEBI Act, 1992.

27. I would like to mention following judgements of Hon’ble Securities Appellate Tribunal *(hereinafter referred to as* ***“SAT”****):*

a. Hon’ble ***SAT*** in its Order dated 22.10.2013, in the matter of *Rich Capital & Financial Services Limited and Mr. Shashwat Agarwal Vs SEBI* observed that-

> *“We note that requisite information and relevant records are pre-requites for a meaningful investigation. In the absence of cooperation by the concerned company, the SEBI cannot move an inch. Therefore, every company is obliged to reasonably respond to any letters or summons to be issued by the regulator by furnishing the required information and/or documents for a smooth investigation, unless such a request/demand by the regulator is shown to be the outcome of ill-will, or is tainted with malice and/ or is otherwise arbitrary in the fact situation of a given case. If companies are allowed to take the statutory summons, letters or other statutory commands of the Regulator lightly, every investigation will be thwarted even before it begins.”*

b. Hon'ble SAT in the case of *Asian Films Production and Distribution Ltd. (earlier known as K.C. Bokadia Films vs. SEBI (Appeal No.203 of 2010, Date of Decision:19.01.2011)* has held that:

> *“Non-compliance with the summons is, indeed, a serious matter and cannot be viewed lightly. The respondent Board is the market regulator and has to regulate the securities market and the law provides that every person associated with the market in any manner should cooperate in the matter of carrying out investigations. In the year 2002, the provisions of the Act were amended and penalty for non-compliance with summons was enhanced considerably to make it more deterrent. Market players who do not cooperate with the regulator in the matter of investigations commit a serious wrong which can have serious repercussions in the market.”*

c. Hon'ble SAT in the matter of *Mr. Jalaj Batra vs. SEBI (Appeal no. 184 of 2010, date of decision dated December 06, 2010)* has observed

"*......We have observed time and again that it is of utmost importance that market players like the appellant should fully cooperate with the investigations that are carried out by the Board, the watchdog of the securities market. If market players and intermediaries avoid appearing before the investigating officer or furnish the necessary information sought from them, the Board as a market regulator will not be able to carry out its statutory functions and duties of protecting the integrity of the securities market and the investigations would be grossly hampered. Non co-operation with the market regulator has to be viewed seriously. We do not know what else would have come to light if the appellant had appeared before the investigating officer or if he had furnished the requisite information that was sought from him.*"

d. Hon'ble **SAT** in the matter of *DKG Buildcon Pvt. Ltd. v. SEBI* (Appeal No. 106 of 2006, Date of Decision: January 07, 2009), has held that:

"...*It is of utmost importance that every person from whom information is sought should fully co-operate with the investigating officer and promptly produce all documents, records, information as may be necessary for the investigations. If persons are allowed to flout the summons issued to them during the course of the investigations, the Board as the watchdog of the securities market will not be able to perform its duties in protecting the interests of the investors and safeguarding the integrity of the securities market.*"

28. As is evident from the abovementioned order of Hon'ble SAT that, The Hon'ble SAT has also recognized the importance of compliance of summons and timely submission of information. Thus there is no doubt that, it is the statutory duty, responsibility and obligation of every person from whom information is sought vide summons to fully co-operate with statutory Authority and promptly produce all documents, records, information, etc., to the Investigating Authority, failing which a person has to suffer the consequences thereof. If the summons issued by the IA are allowed to be flouted and not taken seriously, SEBI, as the watchdog of the securities market, will not be able to discharge its statutory

obligations in protecting the interests of the investors and safeguarding the integrity of the securities market.

29. Hon'ble Supreme Court of India in the matter of Chairman, SEBI Vs Shriram Mutual Fund { [2006]5 SCC 361 } held that "*In our considered opinion ,penalty is attracted as soon as the contravention of the statutory obligation as contemplated by the Act and the Regulations is established and hence the intention of the parties committing such violation becomes wholly irrelevant. A breach of civil obligation which attracts penalty in the nature of fine under the provisions of the Act and the Regulations would immediately attract the levy of penalty irrespective of the fact whether contravention must made by the defaulter with guilty intention or not*.''

30. In view of the above, I conclude that the Noticee Quadrant Televentures Limited (Formerly known as HFCL Infotel Limited) by providing incorrect, incomplete, contradictory and misleading information to the Investigating Authority has become liable for monetary penalty under Section 15A(a) of the SEBI Act for the violation of provisions of Section 11 (2)(ia) and 11C (3) of SEBI Act.

31. While determining the quantum of penalty under Section 15A(a)of SEBI Act it is important to consider the factors stipulated in Section 15J of SEBI Act, which reads as under:

> **"15J - Factors to be taken into account by the adjudicating officer**
> *While adjudging quantum of penalty under section 15-I, the adjudicating officer shall have due regard to the following factors, namely:-*
> *(a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;*
> *(b) the amount of loss caused to an investor or group of investors as a result of the default;*
> *(c) the repetitive nature of the default.*
> ***Explanation:***
> *For the removal of doubts, it is clarified that the power of an adjudicating officer to adjudge the quantum of penalty under sections 15A to 15E,clauses (b) and (c) of section 15F,15G,15H and 15HA shall*

be and shall always be deemed to have been exercised under the provisions of this section."

32. Having regard to the factors listed in section 15J of SEBI Act read with Rule 5(2) of the SEBI Adjudication Rules and in the light of Supreme Court's judgment in the matter of SEBI vs Bhavesh Pabari [(2019) 18 SCC 246], it is noted from the material available on record that any quantifiable gain or unfair advantage accrued to Noticee or the extent of loss suffered by the investors as a result of the default in this case cannot be computed. There are no investors' complaints on record arising out of such defaults. With respect to repetitive nature of default, I note that there is nothing available on record to suggest that violation by the Noticee is repetitive.

E. ORDER

33. After taking into consideration the nature and gravity of the violations established in the preceding paragraphs and in exercise of the powers conferred upon me under section 15-I of the SEBI Act read with rule 5 of the SEBI Adjudication Rules, I, hereby, impose penalty of Rs.2,00,000/- (Rupees Two Lakhs) u/s 15A(a) of SEBI Act, 1992 on the Noticee for the violation of provisions of Section 11 (2) (ia) and 11C (3) of SEBI Act.

34. The Noticee shall remit / pay the said amount of penalty within 45 days of receipt of this order either by way of demand draft in favour of "SEBI - Penalties Remittable to Government of India", payable at Mumbai, or through online payment facility available on the SEBI website www.sebi.gov.in on the following path by clicking on the payment link.

ENFORCEMENT → ORDERS → ORDERS OF AO → PAY NOW

35. The Noticee shall forward the said demand draft or the details/ confirmation of penalty so paid through e-payment to the Division Chief, Enforcement Department-1, DRA-1, SEBI, in the format given in table below:

Case name	
Name of payee	
Date of payment	

Amount paid	
Transaction no	
Bank details in which payment is made	
Payment is made for	Penalty

36. In the event of failure to pay the said amount of penalty within 45 days of the receipt of this order, consequential proceedings including, but not limited to, recovery proceedings may be initiated under Section 28A of the SEBI Act, for realization of the said amount of penalty along with interest thereon, inter alia, by attachment and sale of movable and immovable properties.

37. In terms of the provisions of Rule 6 of the Adjudication Rules, a copy of this order is being sent to the Noticee and also to the Securities and Exchange Board of India.

Date: July 29, 2022
Place: Mumbai

VIJAYANT KUMAR VERMA
ADJUDICATING OFFICER