



Ref: IRDA/NL/ORD/MISC/91/04/2021

Order in the matter of M/s Liberty General Insurance Limited.

Based on the

- (i) Show Cause Notice (SCN) reference no. IRDAI/NL/Liberty/SCN/207/2020-21 dated 29th September, 2020 in connection with onsite inspection by Insurance Regulatory and Development Authority of India (the Authority or IRDAI) from 30th July, 2018 to 1st August, 2018.
- (ii) Response of M/s. Liberty General Insurance Limited (LGIL or Insurer or the Company) dated 26th October, 2020 to the aforesaid SCN.
- (iii) The submissions made by LGIL during the Personal Hearing through video conference held on 17th December, 2020 at 11:30 AM, by the Chairman of the Authority.
- (iv) Further, submission by LGIL vide email dated 18th January, 2021.

1. Background:

- 1.1. IRDAI had conducted an onsite inspection of M/s Liberty General Insurance Limited from 30th July to 1st August, 2018. The inspection, inter alia, revealed certain violations of provisions of the Guidelines on Motor Insurance Service Provider (MISP Guidelines) issued by the Authority through IRDA/INT/GDL/MISP/202/08/2017 dated 31st August, 2017 and Circulars thereunder, provisions of Insurance Act 1938, Regulations, Guidelines issued thereunder.
- 1.2. A copy of the report was forwarded to the insurer on 12th September, 2018 seeking their response. On examining the submissions made by the insurer through their letter dated 18th October, 2018, a Show Cause Notice (SCN) was issued on 29th September, 2020. The insurer replied to the SCN vide letter dated 26th October, 2020. As requested by the insurer, personal hearing was granted to the company on 17th December, 2020.
- 1.3. On behalf of the insurer, Shri Roopam Asthana, Chief Executive Officer, Shri Udayan Joshi, President – Personal Lines Underwriting, Claims & RLM, Shri Amit Jain, President, Retail Lines and marketing, Shri Ritesh Jiwarajka, CFO and Shri Vimal Kishor, SVP, Company Secretary were present. On behalf of the Authority, Shri Randip Singh Jagpal, CGM (Intermediaries), Smt. Yegnapiya Bharath, Chief General Manager (NL), Smt. Anita Josyula, General Manager (NL), Shri Rahul Agarwal, Manager (NL) and Shri A. Rama Sudheer, Manager (NL) of IRDAI attended the hearing.

- 1.4. The submissions made by LGIL in its letter dated 26th October, 2020, submission during the personal hearing on 17th December, 2020 and those made vide email dated 18th January, 2021 of the insurer have been carefully considered by the Authority and on that basis the decisions on the charges are given as under:

2. Charge No. 1:

- 2.1. **Violation of Guideline 15 (5) (d):** The guidelines state that the MISP or any of its associate company, shall not receive directly or indirectly from the Insurer and the Insurer shall not pay directly or indirectly to the MISP or any of its associate company any fees, charges, infrastructure, advertising expenses, documentation charges, legal fees, or any other payment by whatever name called except as specified in the said guidelines.
- 2.2. Insurer has outsourcing agreement with M/s Dolphin Auto wheels and Dolphin Advisors, whose directors are having directorships with Dolphin Two Wheelers Private Limited (DTW) and Dolphin Bikes Private Limited (DBPL). Dolphin Bikes Private Limited (DBPL) is an MISP. The insurer made payments towards display of banner and distribution of marketing material to Dolphin Auto wheels and Dolphin Advisors.
- 2.3. Further, insurer made payments towards display of banner, infrastructure support and distribution of marketing material to M/s T S Mahalingam & Sons Finance Division (TSM), who is an MISP sponsored by the insurer.

3. Summary of insurer's submissions:

- 3.1. The insurer has submitted that the company does not transact any insurance premium through DTW and DBPL and hence question of indirect payments through Dolphin Auto wheels in respect of insurance business does not arise.
- 3.2. In respect of payments made to TSM, the insurer submitted that the outsourcing agreement with TSM remained effective inadvertently and the same was unintentional. The insurer further submitted that the outsourcing arrangement with TSM has been terminated subsequently.

4. Decision on Charge no.1:

- 4.1. Taking into consideration the insurer's response that they have not transacted any insurance business through DTW and DBPL and hence, no indirect payments have been made to the said entities, no charge is being pressed in this regard.

- 4.2. In respect of TSM, it is evident from the submissions made by the insurer and from the available invoices that the insurer had made payments to TSM, for outsourcing of services utilized by the insurer after 1st November, 2017, i.e. after the MISP Guidelines have come into effect. As per available records, such payments have been made in 13 instances.
- 4.3. The insurer's submission that the continuation of outsourcing arrangement with TSM was due to inadvertence is not tenable. Hence, the arrangement with and corresponding payments towards 'display of banner, infrastructure support and distribution of marketing material to TSM are in violation of para 15 (5) (d) of MISP Guidelines.
- 4.4. Therefore, the Authority in exercise of the powers vested under Section 102(b) of the Insurance Act, 1938 imposes a penalty of **Rs.13,00,000/-** (Rupees thirteen Lakh only). Further, the insurer is directed to ensure in future that any engagement with automotive dealers is strictly in compliance with MISP Guidelines.

5. **Charge No. 2:**

- 5.1. **Violation of para 4(a) to be read with para 3(c) of MISP Guidelines:**
Para 4(a) Any automobile dealer as defined in guidelines 3(c) of the MISP Guidelines and one who does not attract any of the disqualifications as laid down in Section 42 of the Insurance Act, 1938 shall be eligible to become a MISP.
Para 3(c): "Automobile Dealer" means a person who is an authorised dealer or a sub-dealer of an automobile manufacturer for selling new or used automotive vehicles.
- 5.2. Insurer has engaged M/s 9191 cars private limited (9191) and M/s Cars 11 (Cars 11) as MISPs who are not authorized dealer or sub-dealer of an auto mobile manufacturer.
- 5.3. The following automobile dealers, who are selling cars of multiple automobile manufacturers, have been appointed by the insurer as MISPs, even though they do not have authorization from all OEMs:
 1. OSL Consultancy Services PVT Ltd
 2. Panchajanya Residency Pvt Ltd
 3. Turquoise Autobots LLP
 4. Universal Distributor
 5. Rajhans Automobiles
 6. Deccan Automobiles Ltd
 7. Vardhaman Automobiles
 8. Unique Automobile India Pvt. Ltd

6. Summary of insurer's submissions:

- 6.1. The insurer submitted that in line with their interpretation that used car dealers can be appointed as MISP, the Company appointed 9191 and Cars 11 as MISPs and mentioned that used car dealers are not influenced / controlled in any manner by OEMs. Further, the insurer submitted that the company did not transact any business with M/s 9191 Cars Pvt Ltd w.e.f. 18th October, 2019 and with M/s Cars 11 w.e.f. 27th October, 2018.
- 6.2. The insurer submitted that before registering the used car dealers as MISPs, the company has now made it mandatory to update the authorization letter (s) / agreement from MISP. It further stated that there could be instances where an automobile dealer would have tie-up with one OEM for doing the new motor vehicle business and simultaneously the dealer would also be in the business of selling used car vehicles of multiple OEMs. In such cases, the automobile dealer will have the authorization from one OEM with respect to new motor vehicle business but not for the used cars as OEMs have no involvement in second or third sale of the vehicle.

7. Decision on Charge no. 2:

- 7.1. Para 4(a) of MISP Guidelines provides for eligibility conditions for appointment of MISP and it states that any automobile dealer as defined in guideline 3(c) shall be eligible to become MISP. Guideline 3(c) defines Automobile dealer as a person who is an authorised dealer or a sub-dealer of an automobile manufacturer for selling new or used automotive vehicles. Further, guideline 3(f) defines MISP as an automobile dealer appointed by the insurer or the insurance intermediary to distribute and/or service motor insurance policies of automotive vehicles sold through it. From a reading of guideline 4(a), 3(c) and 3(f), it is clear that only those dealers or sub-dealers who are authorised by automobile manufacturer are eligible to be appointed as MISPs.
- 7.2. From the documents available on records, it is seen that the insurer has appointed two used car automobile dealers, i.e. 9191 and Cars11, as MISPs, who are not authorised dealer or a sub-dealer of any automobile manufacturer. This is not in consonance with para 4(a), 3(c) and 3(f) of MISP Guidelines.
- 7.3. However, considering the fact that the insurer has terminated agreements with both the dealers in question and considering the submissions made by the insurer that the automobile manufacturers have no involvement in respect of used car dealers and the fact that the appointment of these MISPs has taken place at the time of introduction of new guidelines, the insurer is cautioned to be careful in future, to ensure that appointment of MISP is made strictly in accordance with the MISP Guidelines.

- 7.4. From the documents available on record, it is seen that the insurer has appointed 8 identified automobile dealers, who are selling new or used cars of various automobile manufactures, as MISPs. However, all these automobile dealers do not have authorization from all the automobile manufacturers for selling new or used vehicles, which is not in consonance with para 4(a), 3(c) and 3(f) of MISP Guidelines.
- 7.5. However, taking into consideration that all the 8 identified automobile dealers have authorization from atleast one of the automobile manufacturer and also considering the submissions made by the insurer that the automobile manufacturers have no involvement in respect of used car dealers, the insurer is cautioned to be careful in future, to ensure that appointment of MISP is made strictly in accordance with the MISP Guidelines. Going forward, the insurer is directed to strictly comply with para 4(a) to be read with 3(c) of MISP Guidelines.

8. Summary of Decisions:

8.1. The following is the summary of decisions in this order:

Charge No.	Violation of Provisions	Decision
1	Para of Guideline 15 (5) (d) of MISP Guidelines	Penalty of Rs. 13 Lakh only and direction
2	Para 4(a), 3(c) and 3(f) of MISP Guidelines	Caution and Direction

9. The penalty amount of **Rs.13,00,000/-** (Rupees thirteen lakh only) shall be remitted by the insurer by debiting the shareholders' account within a period of forty-five days from the date of receipt of this order through NEFT/RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mrs. Yegnapriya Bharath, Chief General Manager (Non-Life) at the Insurance Regulatory and Development Authority of India, Survey No.115/1, Financial District, Nanakramguda, Hyderabad 500032, email id - ypriyab@irdai.gov.in.
10. Further, the Order shall be placed before the Board of the General Insurer in the upcoming Board Meeting and the General Insurer shall provide a copy of the minutes of the discussion.
11. The General Insurer shall submit an Action Taken Report to the Authority on direction given within 90 days from the date of this Order.
12. If the insurer feels aggrieved by this Order, an appeal may be preferred to the Securities Appellate Tribunal as per the provisions of Section 110 of the Insurance Act, 1938.

Place: Hyderabad
Date: 15th April, 2021

Sd/-
(Dr. Subhash C. Khuntia)
Chairman