



## **USER GUIDELINES**

### **DISPUTE RESOLUTION COMMITTEE (DRC)**

## **GLOSSARY OF TERMS**

Board	Board of Directors of the National Communications Authority established under the National Communications Authority Act, 2008 (Act 769).
DRC	Dispute Resolution Committee.
Designated Digital Platform	Includes official email address of the DRC - <a href="mailto:drc@nca.org.gh">drc@nca.org.gh</a>
ECA	Electronic Communications Act, 2008 (Act 775).
ECT	Electronic Communications Tribunal.
Panel	A three-member panel of the DRC selected to hear a complaint submitted to the DRC.
Registrar	Secretary to the Authority under section 18 of the National Communications Authority Act, 2008 (Act 769)
Rules	Rules of Procedure of the Dispute Resolution Committee.
The Authority	National Communications Authority.

## **1. INTRODUCTION**

These Guidelines aim to provide guidance for all stakeholders in the electronic communications industry and to provide them with a practical understanding of the Rules and operations of the DRC established under sections 84 and 85 of the Electronic Communications Act, 2008 (Act 775).

## **2. SCOPE OF THE DRC'S JURISDICTION**

2.1. The DRC is set up with jurisdiction to settle:

- a) Disputes between or among different network operators or service providers.
- b) Disputes between network operators or service providers and a utility provider.
- c) Disputes between a network operator or service provider and a consumer.

2.2. When a dispute is submitted or referred by a party to the DRC, a Respondent to the claim may file a challenge to the jurisdiction of the DRC requesting that the DRC either dismiss or refrain from hearing the claim based on any of the following grounds:

- a) It appears to the DRC that the subject matter or a part of the subject matter of the dispute is trivial.
- b) It appears to the DRC that the subject matter or a part of the subject matter of the dispute is vexatious.
- c) It appears to the DRC that it would be expedient for the Claimant to exhaust claim procedures in the relevant Consumer Claims Code.
- d) It appears to the DRC that the subject matter or a part of the subject matter of the disputes is not necessary or desirable in the public interest.

2.3. The DRC may in settling a dispute make provisional or interim orders or awards related to the matter or part of the matter, or give directions in furtherance of the hearing.

2.4. The DRC may only undertake settlement of a dispute between an operator and a subscriber where the subscriber has first made a reasonable effort to resolve the issue or complaint through the Complaint Handling Procedures of the provider of the electronic communications service or network operator.

2.5. The DRC may award costs against a party for failing to raise a challenge to the jurisdiction of the Panel before the time limited for filing a response to the complaint.

### **3. COMPOSITION**

- 3.1. The membership of the DRC comprises<sup>1</sup>:
- a) A maximum of eight (8) persons (including at least two (2) women) appointed by the Board (the DRC Members).
  - b) A Chairperson who is a member of the Board.
- 3.2. For each dispute, the Chairperson of the DRC is required to constitute a Panel of three (3) DRC Members to settle the dispute. The decision of the DRC is by a majority vote of the Panel.
- 3.3. Each member of the DRC must possess one or more of the following qualifications:
- a) A qualified legal practitioner with satisfactory experience of not less than seven (7) years in disputes relating to electronic communications or commercial matters generally.
  - b) A business or engineering professional with no less than seven (7) years' experience in the electronic communications industry.

### **4. SUBMISSION OF DISPUTES TO THE DRC**

- 4.1. A Claimant who intends to submit a claim to the DRC is required to submit two (2) copies of the claim and pay the applicable fees.
- 4.2. After filing the claim, the Claimant must ensure the Registrar serves enough copies of the claim on the Respondent(s).
- 4.3. The claim is filed by completing and submitting the relevant DRC form specified in the Schedule of Forms indicating the following details.
- a) The names, addresses and telephone numbers and email addresses of the parties to the dispute.
  - b) A statement of the nature of the dispute.
  - c) The remedy or relief sought, including an amount claimed.

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<sup>1</sup> Section 85(1) of the Electronic Communications Act, 2008 (Act 775) stipulates that the Board of the National Communications Authority must establish the DRC. Under section 85(2), the Board is mandated by Act 775 to determine the composition of the Committee.

d) The agreements or other documents relied on in support of the claim.

e) Any other relevant information.

4.4. The claim may be filed at the DRC Registry or electronically by uploading the claim form with supporting documents on a digital platform designated by the Registrar.

4.5. Within 14 days of receiving the claim, the Respondent to the dispute may submit a response by completing the appropriate DRC form specified in the Rules. The response shall contain:

(a) The name, address and other particulars of the Respondent indicating the Respondent's address for service at a physical address and email address;

(b) The answer to the claim;

(c) A counterclaim, where applicable, stating the nature of the dispute and the remedy or relief sought, including an amount claimed against the Claimant;

(d) The agreements or other documents relied on in support of the counterclaim or the response; and

(e) Any other relevant information.

## **5. DISPUTE RESOLUTION PROCESS**

5.1. The Panel has the discretion to determine how the hearing may be conducted. It may be in person or virtual. But each party must have adequate notice of the hearing and must be given equal opportunity to present their case.

5.2. If the Panel determines that the dispute may be more efficiently determined based solely on documents, it may dispense with oral hearing of the matter.

5.3. The Rules require the DRC to ensure that each party is duly notified of the hearing at least seven (7) working days before the hearing date through electronic means.

5.4. A party who requires the services of a translator must inform the Registrar in good time for the Registrar to procure the services of a qualified translator at the cost of the requesting party. However, where the requesting party is an individual consumer (a natural person), the Authority may bear the cost of procuring the services of a translator if it is satisfied that the consumer cannot afford the services of a translator.

5.5. The DRC is required to give persons with disability the necessary facilities and support to ensure that they can participate fully in the proceedings. A participating person with a

disability should provide the registry of the DRC with advance notice of their disability and the necessary assistance which they may require.

- 5.6. Each party to proceedings before the Panel may be represented by a lawyer or other expert or representative.

### **Taking of Evidence**

- 5.7. The parties will take turns to present their evidence and witnesses to the Panel, with the Claimant beginning the process.
- 5.8. To save time, parties are expected to file witness statements of all the witnesses they intend to call at the hearing ahead of time. At the hearing, the witness statement will be adopted as the evidence of the witness.
- 5.9. The opposing party may cross-examine the witness. After the cross-examination, the party who called the witness may choose to re-examine the witness. Re-examination will not be permitted to re-open a party's case or to introduce new evidence.
- 5.10. The Panel may examine the witnesses and call expert witnesses of its own.

### **Closing Arguments/Written Submissions**

- 5.11. After evidence has been taken, the parties may then summarize their entire case and legal arguments in a written submission. The submissions should highlight the legal arguments together with the evidence the parties have presented. The Panel will direct the parties on when to file their submissions.
- 5.12. The Panel may proceed with the determination of the matter if a party fails to file their written submission within the time limits set by the Panel.

## **6. PANEL DECISIONS**

- 6.1. At the close of the hearing, the Panel is expected to deliver its decision within 14 days. All decisions of the Panel must be in writing and must state the reasons for the conclusions reached.
- 6.2. The decision of the Panel is made either by a unanimous decision or by simple majority. Where a Panel member dissents, she or he must state the reasons for the dissent.

- 6.3. If parties voluntarily settle the dispute before a decision is rendered, then the settlement agreement must be submitted to the Panel for adoption as a decision of the Panel.
- 6.4. The decision of the Panel may include the grant of the relief or remedy sought in the claim or counterclaim or any other relief or remedy that the Panel considers just, based on the evidence presented before it. The relief or remedy may include:
- a) damages;
  - b) a relief specified in an agreement between the parties relevant to the dispute;
  - c) an order for specific performance under a relevant agreement; or
  - d) an amendment or revocation of an agreement.
- 6.5. Unless extended by the Board, the DRC must resolve disputes within a maximum period of six (6) months from the date the Panel is constituted. This requires cooperation from the parties and strict compliance with orders and directions of the Panel.
- 6.6. A party who is dissatisfied with the Panel's decision may appeal to the Electronic Communications Tribunal (the ECT).<sup>2</sup>
- 6.7. The relevant resource on the procedure for appealing decisions of the DRC to the ECT is the Electronic Communications (Rules of Procedure of the Electronic Communications Tribunal) Regulations, 2016 (L.I. 2235).

## **7. STAKEHOLDER RIGHTS AND RESPONSIBILITIES**

Maintaining high ethical standards in the dispute resolution system does not only ensure justice but also minimizes any perception of bias. To protect the integrity of the DRC's proceedings, each Panel is required to observe the following ethical standards.

### **7.1. Impartiality and Independence**

Independence from political or corporate pressures is essential to maintain the DRC's credibility and legitimacy. Flowing from this, every Panel member must remain impartial and

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<sup>2</sup> Section 91 of Electronic Communications Act, 2008 (Act 775).

free from bias. They should not have any affiliations or relationships that may influence their decision-making process.

## 7.2. **Transparency**

The procedures and processes for dispute resolution must be clear and transparent. Stakeholders should be able to understand the reasons for Panel decisions. The need for transparency must be evenly balanced with the duty to maintain confidentiality.

## 7.3. **Confidentiality**

Unless the parties agree, the proceedings of the Panel are confidential and not open to the public. Information disclosed during the resolution process should be kept confidential, unless otherwise required by law. Personal and sensitive data should be protected to ensure privacy in accordance with the Data Protection Act 2012 (Act 843). This duty applies to lawyers and other representatives who participate in the proceedings as well.

## 7.4. **Accessibility**

All users of telecommunication services, regardless of their background, should have equal access to the dispute resolution mechanisms. Services should be available without discrimination. The Authority shall endeavour to provide translation and transcription services for parties with special needs.

## 7.5. **Efficiency**

Disputes should be resolved in a timely manner by making use of available technology. Delays should be minimized to ensure that consumers or parties involved do not suffer due to extended waiting times.

## 7.6. **Fairness**

The DRC dispute settlement process should be fair, giving all parties an equal opportunity to present their case. Decisions should be based on evidence, rules, and the law, not on arbitrary or subjective judgements of Panel members.

## 7.7. **Competence**

DRC members are adequately trained and competent in both telecommunications and dispute resolution. The Authority will endeavour to organise periodic training to equip DRC



members to handle disputes revolving around emerging developments in the electronic communications sector.

7.8. **Accountability**

There are mechanisms in place to hold the DRC accountable. These include periodic reviews, audits, or feedback mechanisms. The Board plays a supervisory role in periodically vetting decisions made by the DRC.

7.9. **Public Interest**

Decisions made by the DRC would not only consider the interests of the disputing parties but also the broader public interest. It is in this light that the Rules require the DRC to dismiss a claim summarily if it would be disadvantageous to public interest. The overarching goal is to enhance the telecommunication sector's quality, efficiency, and reliability for the public.

7.10. **Avoiding Conflicts of Interest**

Individuals involved in the decision-making process are required to disclose any potential conflicts of interest. The Board would address any potential conflicts promptly to ensure they don't affect the integrity of the dispute resolution process.

7.11. **Continual Review and Improvement**

The ethical framework and processes would be reviewed periodically. Feedback would be collected from stakeholders to continually improve the dispute resolution process.