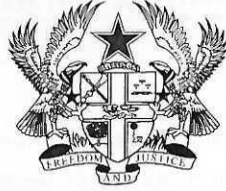


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CONTENTS

Page

National Communications Authority-User Guidelines: Dispute Resolution Committee (DRC)

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**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)
Designated Digital Platform	Includes official email address of the DRC - drc@nca.org.gh
DRC	Dispute Resolution Committee
ECA	Electronic Communications Act, 2008 (Act 775)
ECT	Electronic Communications Tribunal
Network Operator	A person licensed under the ECA to operate a public electronic communications network as defined in the ECA.
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
Service Provider	A person licensed under the ECA to provide a public electronic communications service as defined in the ECA.
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 Dispute Resolution Committee (DRC) established under sections 84 and 85 of the ECA.

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 dismisses or refrains 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 a subscriber to exhaust claim procedures in the relevant Consumer Claims Code of the relevant network operator or service provider.
 - 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 comprises¹:
- a) A maximum of eight (8) persons (including at least two (2) women) appointed by the Board.
 - 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.
- 3.4. Each appointed member of the DRC (except for the Chairperson) shall serve in that position for a single term of two (2) years. Each DRC member is eligible for re-appointment for a maximum term limit of 3 which may either be served consecutively or not. The members shall be engaged as consultants/advisors whose conditions of service shall be stipulated in their contracts of engagement.
- 3.5. If a DRC member's tenure expires before the conclusion of a matter in which that person is a Panel member, the Chairperson may appoint another member to replace the former DRC member on the panel, provided that the Panel has not begun a hearing of the case.
- 3.6. In the case where a hearing has commenced, the Panel will be reconstituted, and the new Panel shall hear the evidence of the parties afresh.
- 3.7. The tenure of membership of the Chairperson of the DRC is determined by their membership of the Board of the Authority. The rules for tenure of the non-board members of the DRC do not apply to the Chairperson of the Board. The Chairperson shall remain in that capacity until such a time as they cease to be board member, or the Board replaces them as Chairperson of the DRC.

4. SUBMISSION OF DISPUTES TO THE DRC

- 4.1. A Claimant who intends to submit a claim to the DRC is required to submit at least two (2) copies of the claim or as many as may be determined by the Registrar and pay the applicable fees.
- 4.2. After filing the claim, the Registrar will ensure that enough copies of the claim are served on the Respondent(s) and provided to the members of the Panel.
- 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, physical and postal addresses including GPS location, 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.
 - 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 DRC Form A (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 may submit a response by completing the appropriate DRC Form B (the "**Response Form**") specified in the Rules. The response shall contain:
 - (a) The name, physical and postal address including GPS location and other particulars of the Respondent indicating the Respondent's address for service at a physical address and email address.
 - (b) The response 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.
 - (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 an 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. The, 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.
 - 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).²
- 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 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 should 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 should 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 shall 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 shall be reviewed periodically. Feedback shall be collected from stakeholders to continually improve the dispute resolution process.

SCHEDULE OF FORMS

[DRC FORM A]
CLAIM FORMBEFORE THE DISPUTE RESOLUTION COMMITTEE
NATIONAL COMMUNICATIONS AUTHORITY
ACCRA, [YEAR]

CASE NO:

BETWEEN

[INSERT NAME]

CLAIMANT

AND

[INSERT NAME]

RESPONDENT

CLAIM

A. PARTICULARS OF CLAIMANT³

1. Name
2. Physical Address
3. Email Address
4. GPS Location Address

B. PARTICULARS OF RESPONDENT (S)

5. Name
6. Physical Address
7. Email Address
8. GPS Location Address

C. NATURE OF DISPUTE

9. [Narrate relevant facts and annex documents]
10.

D. RELIEF SOUGHT

11. [Insert reliefs]

E. PRE-LITIGATION PROTOCOL

12. Have you used the Authority's Complaint Handling Procedure before initiating these proceedings? (If applicable)
13. Does the agreement under which this claim is brought provide for an agreed dispute resolution clause in another forum (Court/Arbitration/Mediation)?

³ Claimant to provide a copy of Ghana Card details.

DATED AT _____ THIS _____ DAY OF _____, 20____

NAME & SIGNATURE OF CLAIMANT / REPRESENTATIVE / LAWYER (including Solicitor's Licence No.)

SERVICE NOTICE

1. Registrar of DRC.
2. Respondent(s)

[DRC FORM B]
RESPONSE & COUNTERCLAIM FORM



BEFORE THE DISPUTE RESOLUTION COMMITTEE
NATIONAL COMMUNICATIONS AUTHORITY
ACCRA, [YEAR]

CASE NO:

BETWEEN

[INSERT NAME]

CLAIMANT

AND

[INSERT NAME]

RESPONDENT

RESPONSE TO CLAIM

A. PARTICULARS OF RESPONDENT⁴

1. Name
2. Physical Address
3. Email Address
4. GPS Location Address

B. RESPONSE TO CLAIM

5. [Narrate relevant facts and annex documents]

C. COUNTERCLAIM SOUGHT [if applicable]

6. [Insert reliefs]

DATED AT _____ THIS _____ DAY OF _____, 20____

NAME & SIGNATURE OF RESPONDENT/REPRESENTATIVES/LAWYER (including Solicitor's Licence No.)

SERVICE NOTICE

1. Registrar of DRC.
2. Claimant

⁴ Respondent to provide copy of Ghana Card

[DRC FORM C]

CERTIFICATE OF CONTEMPT



BEFORE THE DISPUTE RESOLUTION COMMITTEE
NATIONAL COMMUNICATIONS AUTHORITY
ACCRA __ A.D. [YEAR]

CASE NO:

BY THE DISPUTE RESOLUTION COMMITTEE (DRC):

CERTIFICATE OF CONTEMPT

IN THE MATTER OF: (Title of action)

This is to certify, that [insert name of party] has been cited for contempt in the [title of dispute] on theday of, 20, [the above-named party] by their conduct /omission to act in accordance with the rules / orders of the Dispute Resolution Committee has been cited for contempt of same.

The [insert name of aforementioned party] did / refused to [state act / omission constituting contempt].

PARTICULARS OF CONTEMPT

- a)
- b)

[Annexed to this certificate are documents to support the findings of the Committee for contempt]. Pursuant to a breach of [insert: order/ rule / legal basis for contempt], the Committee hereby cites [insert name of above-named party] for contempt and refers this matter to the High Court for further processing.

DATED AT _____ THIS _____ DAY OF _____, 20_____

SIGNATURE OF CHAIRPERSON OF DRC
[NAME OF CHAIRPERSON]

SERVICE NOTICE:

- 1. Registrar of DRC
- 2. Respondent

[DRC FORM D]
PENAL NOTICE



BEFORE THE DISPUTE RESOLUTION COMMITTEE
NATIONAL COMMUNICATIONS AUTHORITY
ACCRA __ A.D. [YEAR]

CASE NO:

BETWEEN
[INSERT NAME]

COMPLAINANT

AND

[INSERT NAME]

RESPONDENT

PENAL NOTICE

To: [insert name of party]

YOU ARE HEREBY WARNED by the **Dispute Resolution Committee** about your [actions/conduct/refusal to act] in accordance with [rule(s)/orders] of the Committee.
YOU MUST THEREFORE COMPLY with the provided [rule(s)/order] within **THREE DAYS** failure of which penal consequences shall be taken against you.

DATED AT _____ THIS _____ DAY OF _____, 20_____

SIGNATURE OF REGISTRAR OF DRC
[NAME OF REGISTRAR]

SERVICE NOTICE:

- 1. Complainant
- 2. Respondent

[DRC FORM E]
SUBPOENA FORM



BEFORE THE DISPUTE RESOLUTION COMMITTEE
NATIONAL COMMUNICATIONS AUTHORITY
ACCRA __ A.D. [YEAR]

SUBPOENA NO:

BETWEEN
[INSERT NAME]

COMPLAINANT

AND

[INSERT NAME]

RESPONDENT

SUBPOENA FORM

To: [insert name of subpoenaed party]

YOU ARE HEREBY COMMANDED to attend before the Dispute Resolution Committee at [insert address]
on the day of 20..... at[am/pm]

For the hearing and determination of the matter [insert title of action] between the above-named parties.

DATED AT _____ THIS _____ DAY OF _____, 20_____

SIGNATURE OF SECRETARY OF DRC
[NAME OF SECRETARY]

SERVICE NOTICE:

1. Registrar of D.R.C.
2. Complainant
3. Respondent

[DRC FORM F]
INTERIM APPLICATION FORM



BEFORE THE DISPUTE RESOLUTION COMMITTEE
NATIONAL COMMUNICATIONS AUTHORITY
ACCRA __ A.D. [YEAR]

CASE NO:

BETWEEN
[INSERT NAME]

COMPLAINANT

AND

[INSERT NAME]

RESPONDENT

INTERIM RELIEF APPLICATION

A. FACTS IN SUPPORT

1. [Narrate relevant facts and annex documents]
2.

B. LEGAL ARGUMENTS

3. [Insert reliefs]

DATED AT _____ THIS _____ DAY OF _____, 20____

SIGNATURE OF COMPLAINANT / REPRESENTATIVES / LAWYER

SERVICE NOTICE

1. Registrar of D.R.C.
2. Respondent

