

**TANZANIA COMMUNICATIONS REGULATORY AUTHORITY
ACT NO. 12 OF 2003.**

RULES

[Made under section 47 (2) (f)]

**TANZANIA COMMUNICATIONS REGULATORY AUTHORITY
(COMPLAINTS COMMITTEE) RULES 2008**

PART I

1. SHORT TITLE AND COMMENCEMENT:

These Rules may be cited as the Tanzania Communications Regulatory Authority (Complaint Committee) Rules 2008 and shall come into operation on the date of publication in the Government Gazette.

PART II

2. INTERPRETATION

In these Rules unless the context requires otherwise: -

The "Act" means Tanzania Communications Regulatory Authority Act No. 12. 2003;

"Authority" means Tanzania Communications Regulatory Authority;

"Board" means the Board of Directors of the Authority;

"Chairman of the Committee" means Chairman of the Complaint Committee;

"Complaint" means any statement of dissatisfaction with services or goods made by a consumer or a consumer's representative towards regulated supplier regarding regulated goods or services; bad conduct in the process of service provision

"Complainant" means a person who lodges any complaint against a supplier of regulated goods or services to the Authority;

"Committee" means committee of the Authority established under section 20, of the Act;

“Director General” means the Director General of the Authority;

“TCRA Complaint Committee” means the committee appointed by the Authority pursuant to section 20, of the Act;

“Review Panel” means the Review Panel established under section 33, of the Act.

PART III

3. APPLICATION OF THE RULES.

- (1) These Rules shall govern all applications/complaints filed with the Authority by any person aggrieved by supplier of regulated goods or service provider.
- (2) These Rules shall apply to Tanzania Mainland as well as Tanzania Zanzibar except on matters relating to broadcasting and content, where these Rules shall apply to Tanzania Mainland only.

PART IV

4. COMPOSITION OF THE COMPLAINT COMMITTEE.

- (1) The Committee shall be composed of not more than five members with at least two members of the Board.
- (2) The Board shall appoint one member from the office of the Secretary to the Board and one other member from the directorate dealing with consumer protection issues.
- (3) The Committee shall co-opt an expert or any other person as it considers necessary.
- (4) The secretary to the Committee shall be an officer from the Consumer Affairs and shall take part in proceedings of the Committee but shall have no vote.
- (5) The Chairman of the Committee shall be a member of the Board
- (6) Subject to the provision of sub section(2) above, if the Chairman is absent, the Committee shall appoint a member to preside at the meetings of the Committee
- (7) A quorum of the Committee shall be two members.

PART V

5. PROCEDURE OF HANDLING AN APPLICATION FOR COMPLAINT COMMITTEE HEARING:

- (1) Any application before the Complaint Committee shall be instituted by filing the following documents: -
 - (a) Duly filled three copiers of complaint form as per Schedule attached
 - (b) The complainant shall attach evidence of communication with supplier of goods or service provider, trying to resolve the matter amicably through their respective complaint handling system.
 - (c) The complaint shall be considered after an allowance of not less than 60 days from the date the Authority first become obliged to investigate and solve the matter amicably and that the resolution provided is not to the satisfaction of the complainant.
- (2) The language of the Committee shall be Kiswahili or English, but all decisions or orders of the Authority shall be in English.

PART VI

6. SERVICE OF THE APPLICATION/COMPLAINT

- (1) The applicant shall, within seven days after lodging the application, serve copies of each to respondent and to other parties.
- (2) Upon being served with the application, other parties shall have 14 days to reply and the applicant shall have the right of reply within 7 days if he so wishes. The reply shall contain:
 - (a) Succinct presentation of the arguments of facts and law relied upon;
 - (b) Relief sought and
 - (c) List of documents annexed.
- (3) The Complaint Committee shall deliver or send by registered post or by dispatch a copy of the application and a written invitation to make submissions on the application to the following persons/parties:
 - (a) Responding party

- (b) All persons who make submissions to the Authority in relation to the matter or who have otherwise indicated to the Authority that they have an interest to the matter.
 - (c) Any other persons whom the Committee considers should receive notice of the application.
- (4) Parties shall file their submissions with the Authority within 14 days after receipt of the application/Complaint.
- (5) The Complaint Committee may allow oral or written submissions as parties and the Complaint Committee may agree:-
 - (a) A party to any proceedings before the Complaint Committee may appear in person, by an advocate, legal representative or an authorized officer
 - (b) A party not resident in the United Republic of Tanzania may appear by a duly authorized Attorney

PART VII

7. CONSOLIDATION OF APPLICATIONS

Where two or more proceedings are pending in respect of the same application or which involve the same or similar issues, the Complaint Committee may, on its own motion or upon application of any of the parties order that the proceedings or any particular issue or matter raised in the proceedings be consolidated or heard together.

PART VIII

8. HEARING

The Complaint Committee may hold its hearing in such places as it deems fit having regard to expeditious and economical conduct of the proceedings

PART IX

9. ADMISSION OF DOCUMENTS:

- (1) The Authority may refuse to accept any document which does not comply with the requirements of these Rules.

- (2) A person who is dissatisfied with the decision of the Authority under delegated power rejecting any document may require the matter to be referred to the Chairman of the Complaint committee for his decision, in the case of : -
 - (a) Oral application, at the time when the decision is made.
 - (b) Written application, within Ninety six hours of the decision.
- (3) (i) Where a party intends that any document lodged or filled be treated confidentially shall make an application in writing: -
 - (a) At the time of lodging document or filling an application
 - (b) Within four days of getting the knowledge of document, indicating the words or paragraphs for which confidentiality is requested.
- (ii) The application for confidential treatment shall state specific reasons and the Committee may require the applicant to supply a non confidential version
- (iii) In the event of an objection, the Committee shall decide the matter after hearing the parties.

PART X

10. EXTENSION OF TIME

The Complaint Committee has the discretion to extend the time limited by the Rules or by its recommendation before or after the expiration of that time.

PART XI

11. HEARING RECOMMENDATIONS AND DECISIONS

- (1) The Authority shall give notice of the hearing date of not less than seven days to the parties but such notice may not be necessary where the date was fixed with the consent of the all parties.
- (2) Where the matter in issue is of an urgent nature, the Authority may dispense with the requirement of sub Rule 12(1).
- (3) For purposes of hearing a complaint or any application thereof, the Complaint Committee shall be constituted by not less than two members including the Chairman duly appointed under part IV section 4 (5) and (6) of these Rules.

- (4) The Complaint Committee shall: -
- i. Hear first the applicant followed and cross examination by the respondent and Committee
 - ii. Hear the respondent submissions followed and cross examination by the applicant and Committee
 - iii. Witness (if any) shall be brought in for cross examination just after each parties' submissions
 - iv. Both, the applicant and respondent shall be allowed to make final submissions.
- (5) The decision(s) of the Complaint Committee shall be on consensus of the committee members and in case of differences the Chairman shall have the casting vote
- (6) The Complaint Committee may make order to reject an application in whole or in part at any stage in the proceedings where: -
- (a) The complainant discloses no cause of action and or any valid ground.
 - (b) The applicant does not have sufficient interest on the matter.
 - (c) The applicant fails to comply with any rule/direction or order of the Authority.

PART XII

12. PROCEEDINGS TO BE CONDUCTED OPENELY

The Complaint Committee shall observe the principles of natural justice; avoid formality and technicality of rules of evidence as much as possible with a view of ensuring just, expeditious and economical handling of the proceedings.

PART XIII

13. POWER TO REAPPRAISE EVIDENCE AND TO TAKE ADDITIONAL EVIDENCE

- (1) In respect to any application, the Complaint Committee may reappraise evidence and take additional evidence as follows: -
 - (a) Re appraises the evidence and draw inferences of facts.
 - (b) In its discretion, take additional evidence or direct that additional evidence be taken by the Authority or any party to the proceedings and
 - (c) Call any person or expert as a witness.
 - (d) Such additional evidence may be oral by affidavit and the Complaint Committee may allow cross- examination.
 - (e) The parties shall have the right to be present when additional evidence is taken.
 - (f) In dealing with any application the Complaint Committee shall have the power to order any party to the proceedings to submit a report of any matter related to the proceedings.
- (2) Without prejudice to Rule 3 (1) and (2) in Part III, the Complaint Committee shall have powers, and may take steps including exercising the powers of the Authority to obtain information, documents and evidence under section, 17 of the Act if deems necessary to inform itself of matters relevant to the application/complaint.

PART XIV

14. SUBMISSION OF RECOMMENDATION TO THE AUTHORITY

- (1) The Complaint Committee may make order: -
 - (a) Requiring a party to supply goods or services for specified periods; power of
 - (b) Requiring a party to supply goods or services or specified terms the Authority and conditions;
 - (c) Requiring a party to pay the costs of another party or of a person appearing at the hearing or producing documents;
 - (d) Dismissing a complaint;

- (e) Imposing fines;
- (f) For specific performance;
- (g) For refunds;
- (h) Appointing trustees;
- (i) Setting up of escrow accounts; and
- (j) For such other relief as may be deemed necessary or reasonable.

PART XV

15. DECISIONS TO BE EMBODIED IN ORDERS

- (1) Every decision of the Authority or Complaint Committee, members of the Board or employee under delegated power of the Authority shall on an application for determination of any complaint other than a decision on an application made informally in the course of hearing, shall be embodied in an order.
- (2) The Secretary to the Board shall communicate any party to the proceedings who was not present of the decision of the Authority.
- (3) The decision of the Authority shall be made in writing and signed by either the Chairman of the Board, the Director General or the Secretary to the Board.
- (4) The decision shall indicate the date when it was made.
- (5) Decisions and orders of the Authority if no appeal is preferred shall be enforced and executed in the same manner as judgments of and orders of the High Court as provided for under section 45 of the Act.
- (6) Where an order or a certificate of the authority is produced or submitted to the High court the order or certificate shall be conclusive proof of its making by the High Court and of the facts to which it relates.

PART XVI

16. DECISION BE PLACED ON THE PUBLIC REGISTER

- (1) A decision by TCRA Complaint Committee of the Authority, shall be placed on the Public Register, if there is no application for its review or appeal to the Fair Competition Tribunal, in pursuance of section 34 and section 42 (2) of the Act respectively.
- (2) Where there is an application for review of decision of the TCRA Complaint Committee, that decision shall not be placed on the Public Register until the application for review or appeal to the Fair Competition Tribunal, as the case may be, is determined.

PART XVII

17. APPEALS TO THE FAIR COMPETITION TRIBUNAL AGAINST THE DECISIONS OF THE AUTHORITY

- (1) Any person aggrieved by the decision of the Authority or any other decision made in connection to the purposes of these Rules may appeal to the Fair Competition Tribunal.
- (2) The grounds for appeal shall be:
 - (a) That the decision made was not based on the evidence produced;
 - (b) There was an error in law;
 - (c) The procedures and other statutory requirements applicable to the Authority were not complied with and the non-compliance materially affected the determination.
- (3) The decision of the Fair Competition Tribunal shall be final except for the portion of an additional award in excess of what the complaints Committee might have given in its ruling.

SCHEDULE

Date stamp

THE UNITED REPUBLIC OF TANZANIA
TANZANIA COMMUNICATIONS REGULATORY AUTHORITY



COMPLAINT FORM

(As per regulation 6(2))

Complaint No.....of 200.....

A: PARTICULARS

1. Name of Complainant _____

Address: _____

Occupation: _____

2. Name of Respondent: _____

Address: _____

B: NATURE/FACTS OF THE COMPLAINT

(State the facts disclosing the cause of action precisely and concisely)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

C: TYPE OF COMPLAINT(Please tick (v) any of the types of complaint listed below)

- **High prices**
- Insufficient supply**
- Poor service quality, coverage and reliability**
- Slow repairs**
- Inaccurate and incontestable bills**
- Corrupt practices in allocating scarce services**
- False and misleading advertisement**
- Inaccurate bills and redress**
- Intrusion of privacy**
- Unclear and incomplete information about rates, tariffs, terms and conditions for available and proposed products**
- Health and safety**
- Consumer-care services**
- **Others (specify)**

D: RELIEF (S) SOUGHT (very brief)

E: VERIFICATION

All that is stated above is true to the best of my knowledge.

.....

Signature of the Complainant

Date

Filed on this day of 200.....

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Receiver of the Complaint at TCRA

Received by the Respondent on this day of 200.....

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Receiver of the Complaint by the Respondent