

SUBSIDIARY LEGISLATION

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TANZANIA COMMUNICATIONS REGULATORY AUTHORITY
ACT NO.12 OF 2003

RULES

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

THE TANZANIA COMMUNICATIONS REGULATORY AUTHORITY (COMPLAINTS
COMMITTEE) RULES, 2018

PART I
PRELIMINARY PROVISIONS

Short title and
commencement

1. 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.

Interpretation

2. In these Rules unless the context requires or indicates otherwise:

Act No.12 of 2003

The “Act” means the Tanzania Communications Regulatory Authority;
“Authority” means the Tanzania Communications Regulatory Authority;
“Board” means the Board of Directors of the Authority;
“Chairman of the Committee” means a Chairman of the Complaints Committee;

The Tanzania Communications Regulatory Authority (Complaints Committee) Rules, 2018

GN. No. 203 (contd.)

“Complaint” means any statement of dissatisfaction with services or goods made by a consumer or a consumer’s representative towards a regulated supplier regarding regulated goods or services and 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 TCRA Complaints Committee established under section 20(1), of the Act;

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

Act No.3 of 2010 “EPOCA” means the Electronic and Postal Communication Act;

“TCRA Complaints Committee” means the Committee appointed by the Authority pursuant to section 20(1), of the Act;

GN. No. 427 “Regulations” means the Electronic and Postal Communications Act (EPOCA) Consumer Protection Regulations, 2011.

**PART II
APPLICATION OF THE RULES**

Application 3.-(1) These Rules shall govern all applications or complaints filed with the Authority by any person aggrieved by a supplier of regulated goods or a 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 III
ESTABLISHMENT OF THE COMPLAINTS COMMITTEE**

Establishment of the complaints committee 4. The TCRA Complaints Committee shall be formed pursuant to section 20(1) of the TCRA Act of

The Tanzania Communications Regulatory Authority (Complaints Committee) Rules, 2018

GN. No. 203 (contd.)

2003 which provides for the establishment of committees to deal with matters of a particular kind and the duties and functions of the Committee are provided in the TCRA duties and functions as outlined in sections 5 and 6 of the Act.

Composition and appointment of the complaints committee members

5.-(1) The Committee shall be composed of not more than five members with at least two members of the Board.

(2) Members of the Committee who are Board members shall be appointed by the Board.

(3) The Board shall appoint one member from the office of the Legal Services and one other member from the directorate dealing with consumer protection issues.

(4) The Committee shall co-opt an expert or any other person as it considers necessary.

(5) The Secretary to the Committee shall be an officer who is a lawyer and shall take part in proceedings of the Committee but shall have no vote.

(6) Staff from the Unit of Consumer Affairs, shall serve as secretariat of the Committee.

(7) The Chairman of the Committee shall be a member of the Board and shall be elected by the Committee.

(8) Subject to the provision of subrule (7) above, if the Chairman is absent, the Committee shall appoint a member to preside at the meetings of the Committee.

(9) A quorum of the Committee shall be two Board Members and appointed member from Legal Services.

**PART IV
SCHEDULE OF MEETINGS**

Meetings

6.-(1) The Complaints Committee shall hold one meeting in each quarter of the TCRA financial year.

(2) The Committee may hold extraordinary meetings as may be determined by the Chairman.

(3) The Secretariat shall as far as it is reasonably practical submit a written notice of a meeting to members of the Committee within seven calendar days.

(4) The Secretariat shall attach the agenda of the meeting to such notice.

PART V REPORTING

Reports

7. The Complaints Committee shall prepare and submit to the Board a written report on its activities on a quarterly and annual basis or as may be directed by other competent bodies.

PART VI PROCEDURE OF HANDLING AN APPLICATION FOR COMPLAINT COMMITTEE HEARING

Procedure of
handling an
application for
complaint
committee hearing

8.-(1) Any application before the Complaint Committee shall be instituted by filing three copies of the complaint form. The Secretariat shall submit the forms to the service provider or supplier of goods for their acknowledgement.

(2) 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.

(3) The Secretariat shall provide evidence of communication with the Complainant and supplier of goods or service provider over the complaint.

(4) The complaint may be considered for escalation to the Committee 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.

(5) The language of the Committee shall be Kiswahili or English, but all decisions or orders of the

Authority shall be in English. Upon request within the prescribed time, any other language interpretation may be arranged by the Committee on request.

**PART VII
SERVICE OF THE APPLICATION OR COMPLAINT**

Service of the application or complaint

9.-(1) The 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 or 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 in the matter;
- (c) any other persons whom the Committee shall consider need to receive a notice of the application.

(2) The written invitation to appear before the Committee shall be in the form of a notice signed by the Director General.

(3) The Committee shall give notice of the hearing date of not less than seven calendar days to the parties but such notice may not be necessary where the date was fixed with the consent of all parties.

(4) Where the matter in issue is of an urgent nature, the Authority may dispense with the requirement of rule 9(3).

(5) The Complaint Committee may allow oral or written submissions as parties and the Complaint Committee may agree.

(6) A party to any proceedings before the Complaint Committee may appear in person, by an advocate, legal representative or an authorised officer or other person given the Power of Attorney.

**PART VIII
CONSOLIDATION OF APPLICATIONS**

Consolidation of applications

10. 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 IX
PLACE OF HEARING**

Place of hearing

11. 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 X
ADMISSION OF DOCUMENTS**

Admission of documents

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

(2) Where a party intends that any document lodged or filed be treated confidentially shall make an application in writing at the time of lodging the document or filling an application.

(3) Within four days of getting the knowledge of document, indicating the words or paragraphs for which confidentiality is requested:

- (a) the application for confidential treatment shall state specific reasons and the Committee may require the applicant to supply a non-confidential version;
- (b) in the event of an objection, the Committee shall decide the matter after hearing the parties.

**PART XI
EXTENSION OF TIME**

Extension of time 13. 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 with reasons.

**PART XII
HEARING PROCEDURES AND FORMALITIES**

Hearing procedures and formalities 14.-(1) The Complaints Committee shall:
(a) hear first the applicant followed by cross examination by the respondent and the Committee;
(b) hear the respondent submissions followed by cross examination by the applicant and the Committee;
(c) witness (if any) shall be brought in for cross examination just after each parties' submissions;
(d) both, the applicant and respondent shall be allowed to make final submissions.
(2) The Complaints 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.
(3) Parties appearing before the Complaints Committee shall observe the Tanzania civil service dressing code.

**PART XIII
POWER TO REAPPRAISE EVIDENCE AND TO TAKE
ADDITIONAL EVIDENCE**

Power to reappraise evidence and to take additional 15.-(1) In respect to any application, the Complaint Committee may reappraise evidence and take additional evidence as follows:

evidence

- (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;
- (c) call any person or expert as a witness;
- (d) such additional evidence may be oral 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 RECOMMENDATIONS AND DECISIONS

Recommendations
and decisions

16.-(1) 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.

(2) 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 XV
ORDERS AND RULINGS**

Orders and rulings

17. The Complaint Committee may make order:
- (a) requiring a party to supply goods or services for specified periods;
 - (b) requiring a party to supply goods or services or specified terms and conditions;
 - (c) requiring a party to pay the costs of another party or of a person appearing at the hearing or costs of producing documents or evidences;
 - (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 XVI
DECISIONS TO BE EMBODIED IN ORDERS**

Decisions to be embodied in orders

18.-(1) Every decision of the Committee 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 appointee from Legal Services shall communicate the proceedings to any party who was not present on the day of issuing the decision of the Committee.

(3) The decision of the Committee shall be made in writing and signed by either the Chairman of the Committee, 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 Committee 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 XVII PROCEEDINGS TO BE RECORDED

Proceedings to be recorded

19. The hearing of matters brought before the Committee shall be recorded in writing, audio and video.

PART XVIII DECISION TO BE PLACED ON THE PUBLIC REGISTER

Decision to be placed on the public register

20.-(1) A decision by a Committee, shall be placed on the Public Register, if there is no application for its review or appeal to the Fair Competition Tribunal, in pursuit of section 34 and section 42 (2) of the Act respectively.

(2) Where there is an application for review of decision of the TCRA Complaints 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 XIX
APPEALS TO THE FAIR COMPETITION TRIBUNAL AGAINST
THE DECISIONS OF THE AUTHORITY**

Appeals

21.-(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.

**PART XX
REPEAL OF TANZANIA COMMUNICATIONS REGULATORY
AUTHORITY COMPLAINTS COMMITTEE) RULES 2008**

Repeals

22. The TCRA Complaints Committee rules, gazetted in 2008 are hereby repealed.

Dar es Salaam,
8th May, 2018

JAMES M. KILABA
Director General