

Laws of South Sudan



**National Communications Dispute Resolution
Regulations, 2016.**

**Final Text
Directorate of Legislation
Ministry of Justice and Constitutional Affairs
Date: 23 /06/2016.**

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Laws of South Sudan
National Communications Dispute Resolution Regulations, 2016

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Laws of South Sudan
National Communications Dispute Resolution Regulations, 2016

In accordance with the provisions of Section 86 read together with Section 92 of the National Communications Act, 2012, the Authority with approval of the Competent Minister, issue and promulgate the following into Regulations:

Chapter I
Preliminary Provisions

1. Title and Commencement

These Regulations shall be cited as the National Communications Dispute Resolution Regulations, 2016, and shall come into force on the date of its signature.

2. Repeal and Saving

Any existing regulations or orders governing the subject of these Regulations is hereby repealed; provided that any orders issued or regulations made thereunder, except to the extent they are cancelled by or are otherwise inconsistent with provisions of these Regulations shall continue in force and effect until repealed or amended by these Regulations.

3. Interpretation

In these regulations, all words and expressions that are defined under the Communications Act, 2012, shall have the same meanings herein; unless the context otherwise requires:

“Act”

means the National Communications Act, 2012.

“Beneficiary”

means any person who uses or benefits from communication services.

“Dispute”

means any matter in contention between licensee and another, consumer and licensee, where one or both parties is aggrieved by the conduct of other and parties have failed to reach amicable resolution after due effort has been made.

Chapter II
Dispute Resolution Proceedings

4. Powers of the Authority

1. The Authority shall have power to resolve disputes between:
 - a. consumer and service provider;
 - b. service provider and another service provider; or
 - c. any other persons as prescribed under these Regulations and Act.
2. The Authority shall, for purpose of resolving any dispute, hold hearings, inquiries and investigations, as it may consider appropriate in discharge of its functions under the Act.
3. The Authority shall not, emphasize on technicalities or rules of procedures in resolving disputes filed under these regulations and may waive any rule or requirement where necessary.

5. Initiation of Proceedings

1. Any party to any dispute may, within sixty days of occurrence of dispute, notify the Authority and any adversary party of dispute in writing. Provided that, where notification is made orally or in any other form, the Authority may produce the notification in writing and the notification shall, if signed by complainer, be considered to be a written notification for purposes of these Regulations.
2. The Authority shall not seek to resolve any dispute under these Regulations, unless it has been notified of the dispute in writing and has been requested by either of the party or both parties to intervene.
3. Any party shall notify the Authority of dispute under sub - regulation (1) of this Regulation by presenting to the Authority letter or memorandum of complaint together with prescribed fees.
4. Letter or Memorandum of Complaint shall set out concisely, grounds of complaint and facts upon which the complaint is based on, and shall be accompanied by documentary evidence supporting the complaint.
5. The Letter or Memorandum of Complaint shall be signed by the party presenting it, if the party is an individual, and where the party is a corporation, by agent or authorized officer of the corporation.
6. The Authority shall acknowledge receipt of Letter or Memorandum of Complaint in writing.
7. The Authority may dismiss any letter or Memorandum of Complaint that:
 - a. does not raise any issue, under the Act;
 - b. does not conform to provisions of the Act or directions given by the Authority;
 - c. is trivial, frivolous or vexatious;
 - d. is defective or presented otherwise than in accordance with these Regulations or directions of the Authority; or
 - e. has been filed with any other authority or body that has jurisdiction to hear and determine the dispute.

8. The Authority shall, before dismissal of any letter or Memorandum of Complaint, give the complainant an opportunity to be heard.
9. The Authority shall not reject to resolve dispute for reason of defects in pleadings or in the presentation, without giving an opportunity to person filing the complaint to rectify the defects within period the Authority specified for that purpose.
10. Where the Authority has rejected to resolve any dispute, it shall notify parties to the dispute in writing, stating reasons for dismissal.

6. Response to Complaint

1. Where the Authority accepts to resolve any dispute, it shall, within seven days of receiving the complaint, notify the party against whom the complaint was made and serve the party with Letter or Memorandum of Complaint.
2. The party against whom complaint has been made shall, within twenty-one days after being notified of dispute under Regulation 5(1) of this Regulation, file with the Authority and serve complainant with response signed by that party, or in case of corporation by agent or authorized official of the corporation.
3. The Authority may invite the complainant to file reply to the response within specified period.

7. Withdrawal of Dispute

1. Any complainant may, at any time before dispute is heard, withdraw the letter or Memorandum of Complaint by notifying the Authority, in writing.
2. The Authority shall, where the complainant has withdrawn letter or Memorandum of Complaint, make such orders relating to costs as it considers fit.

8. Hearing of Disputes

1. The Authority may, for the purpose of resolving dispute, hold such hearings, inquiries and investigations, as it may consider appropriate.
2. The Authority shall not place unnecessary regard on technicalities or rules of procedures and may waive any such rule or requirement when it considered it appropriate.
3. The Authority shall set date for hearing of dispute, within fifteen days from date of filing of last response or any reply to the response.
4. The Parties shall be served with notice of the time, date and place for hearing of dispute, seven days before hearing.
5. The Authority may, determine dispute on basis of documents filed by parties and oral evidence given before it.

6. Where the Authority considers it necessary or expedient, it may direct parties to file written submissions upon such terms, as the Authority deemed appropriate.
7. When a matter arises that in opinion of the Authority requires certain expertise or competence, in the course of resolving any dispute, the Authority may call upon any person who possesses the expertise to sit with the Authority as an assessor.
8. At hearing, complainant shall open its case by stating grounds of the complaint and may support it by relevant evidence.
9. Any party to dispute shall, unless the party has consent of the Authority, not rely on any grounds other than grounds stated in the letter or Memorandum of Complaint or present additional facts or documents that were not referred to in the letter or memorandum of complaint or copies of documents that were not annexed to the letter or Memorandum of Complaint.
10. The Parties shall close their case by making oral or written submissions supported by relevant evidence.
11. Complainant shall be entitled to reply to submissions of party against whom complaint has been made and not raise new issues.
12. The Authority may examine parties and their witnesses when hearing complaint.
13. Any witness called and examined by either party may be cross - examined by the other party and after cross-examination, the witness may be re - examined.
14. The Authority may, at any time before making any orders relating to any complaint, require party or any other person whom the Authority considers competent, to present supporting documentary evidence or produce any supportive material, specimen or product that the Authority may consider necessary for determination of dispute.
15. The Authority may adjourn hearing of complaint for production of more evidence or for any other good cause or such terms as it may determine.
16. The Authority may dismiss the complaint for non-appearance or proceed *ex parte*, if any of the parties or their authorized representative has not appeared for the hearing of the complaint.
17. When complaint is dismissed in default or decided ex-parte an aggrieved party may, file appeal within fourteen days from date of such dismissal, for review of order; and the Authority may review the order if it is satisfied that there was sufficient cause for non-appearance.
18. Any party to dispute shall not communicate outside the hearing of the matter, with any member of the Authority with regard to matters or issues, which are subject matter of the dispute.

9. Decision of the Authority

1. The Authority shall make its decision in writing within thirty days from the date of conclusion of hearing.
2. Decision of the Authority shall state the reason and ground, which have led to such a decision, and it must be dated and signed by members of the Committee who participated in hearing and determination of the dispute.
3. The Authority shall be cause to keep record of proceedings of hearing. The records together with copy of the decision are to be certified and signed by Chairperson of the Committee as true and correct record of proceedings and decision.
4. The Authority shall, forward certified copy of document described in sub - regulation (3) of this regulation to Parties.
5. The Authority may, given urgency of any dispute or for other justifiable reason, issue provisional orders and reliefs, pending hearing and determination of dispute.
6. Any party dissatisfied by decision of the Authority may appeal to the Court of competent within fifteen days of the decision.
7. Decision of Authority shall be binding until subsequent decision of the appeal.

10. General Provisions

1. The Authority may, on application by either party, extend the proceedings period prescribed by these rules for performance of hearing or any other act, if there are justifiable grounds, as they may appear to the Authority.
2. Records of proceedings, except those parts, which for reasons specified by the Authority to be confidential, shall be open to inspection by any person after conclusion of hearing, subject to conditions inspection fees as prescribed by the Authority.
3. The Authority may publish in public media and other media its decisions.
4. Nothing in these Regulations shall prevent parties from reaching an agreement, however, the Parties after reaching an agreement, shall submit negotiated agreement to the Authority for approval.
5. The Authority may make orders relating to costs, as it considers appropriate.

Issued by the National Communications Authority this day 29th.....in the month of December.....in the year 2016.



Hon. Joseph Luai Achuil
Chairperson,
Board of Directors
National Communications Authority
Republic of South Sudan
Juba

In accordance with the provision of Section 7(4) read together with Section 92 of National Communication Act, 2012; I, Michael Makuei Lueth, Minister of Ministry of Information, Communication Technology and Postal services; do hereby grant approval and authorize the National Communications Authority to issue these Regulations.



Hon. Micheal Makuai Lueth
Minister,
Ministry of Information, Communication
Technology and Postal Services
Transitional Government of National Unity
Republic of South Sudan
Juba