



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

End-user Dispute Resolution Procedures Procedures

Procedures

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Commission for Communications Regulation

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Additional Information

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'End-user Dispute Resolution Procedures' Submissions to Consultation 23/107	ComReg 24/22s

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1 End-user Dispute Resolution Procedures

Interpretation

- 1 Unless the context otherwise suggests, the definitions in the 2023 Act apply in the End-user Dispute Resolution Procedures (the “procedures”).
- 2 To the extent that there may be any difference between the procedures and the relevant provisions of the 2023 Act, the 2023 Act takes precedence.

Introduction

- 3 These procedures will take effect from 1 August 2024 and will replace the procedures set out in Annex 2 of D14/18, which remain effective up to that date.
- 4 Only complaints that are notified to providers in accordance with their codes of practice for complaints handling will be accepted into the formal dispute resolution process.
- 5 If an end-user has a case open with ComReg’s Consumer Care team for more than 10-working days, and their complaint relates to a relevant dispute, they will be advised that they can apply for formal dispute resolution.
- 6 An end-user will need to complete an application form for formal dispute resolution and indicate on that form of their consent to their case being closed with the ComReg Consumer Care team if their dispute is accepted for resolution.
 - 6.1 If an application for formal dispute resolution is accepted, the ComReg Consumer Care team will be advised of this and to close the case.
 - 6.2 If their application is rejected, the end-user can continue to have their case open with the ComReg Consumer Care team until such time as it is closed.
- 7 When ComReg receives an application from an end-user for formal dispute resolution, ComReg will not engage with the provider in relation to the validation of any of the minimum requirements; ComReg will assess the validity of the minimum requirements on the basis of the information supplied by the end-user in the application.
- 8 In general, all correspondence is required to be in writing, which should be in electronic format. ComReg is mindful of ensuring that all end-users can access the procedures. Should an end-user prefer to have their correspondence by post, ComReg will facilitate this.

- 9 For correspondence that is sent by post, by any party, the first day is the next working day after the date on which the correspondence is posted.
- 10 For correspondence that is sent by electronic means, by any party, the first day is the next working day after the date on which the correspondence is sent.
- 11 If correspondence is by post, a postal tracking service will be used to determine the date on which the draft and final proposed resolution has been delivered to parties. If postal correspondence is to be used, where the provider or the end-user can demonstrate that there was a delay in receiving the correspondence by post, an extension will be granted to the effect that the first working day begins on the date on which the postal correspondence was received.
- 12 The maximum amount of compensation that a provider may be directed to pay to any end-user under is €5,000.
- 13 For all timelines specified in the procedures, parties may request an extension, where necessary and appropriate. Any extension in time granted may affect the timeframe for ComReg's issuance of its draft or final proposed resolution. ComReg may grant an extension where it considers that there are good grounds for doing so. ComReg will assess this on a case by case basis and advise parties if appropriate. ComReg will endeavour to respond to requests for extensions within two working days.
- 14 ComReg is cognisant of the requirements for it to act proportionately, objectively and non-discriminatorily. ComReg is also required to be justified in the measures it takes and to act transparently.
- 15 ComReg's general duty is to handle disputes in accordance with fair procedures and the principles of natural justice.
- 16 ComReg shall, inter alia, have regard to any applicable rule of law, the terms of any relevant codes of practice and contracts between the end-users and the provider, the relevant regulatory framework, any relevant guidance and ComReg policy in place when resolving disputes referred to it.
- 17 Formal Dispute Resolution will be a paper-based process; however ComReg, or such independent person as may be appointed by ComReg to resolve disputes, may conduct an oral hearing¹ where he or she considers it necessary to ensure fairness of procedures and in particular, in order to resolve a genuine conflict of fact arising from the papers that cannot otherwise be resolved.

¹ See Annex: 1 Procedures for Oral Hearings

- 18 ComReg has an appointed Access Officer who can coordinate assistance and guidance to persons with disabilities accessing services provided by ComReg, including its formal dispute resolution process.

Submitting an application for formal dispute resolution

- 19 The application form will include the following minimum requirements:
 - 19.1 Contact details, including a telephone number, postal address and email address if available;
 - 19.2 The provider(s) and the name and account number on the account, if applicable;
 - 19.3 Details of the complaint, including the complaint reference number from the provider, if applicable;
 - 19.4 Details of interactions with the provider outlining the date of first notification of the complaint and/or with ComReg's Consumer Care team, if applicable;
 - 19.5 Details of offers, gestures or resolutions, if any, already extended or offered by the provider;
 - 19.6 Written confirmation of the nominated representative or third party, if applicable;
 - 19.7 What outcome the end-user is expecting or seeking through the resolution of the dispute.
 - 19.8 Confirmation of the consent to close the case with ComReg Consumer Care; and
 - 19.9 Confirmation that the end-user agrees to pay the application fee.

Assessing validity

20 In order for the application to be accepted as valid, a number of criteria must first be fulfilled:

- 20.1 The complaint must relate to a “relevant dispute”²;
- 20.2 The dispute relates to a single end-user who has been impacted by the subject matter of the dispute;
- 20.3 The complaint, which must relate to a “relevant dispute”, must be unresolved and the circumstances must be such that (a) at least 10 days have elapsed since the complaint giving rise to the dispute was first notified to the provider in accordance with the code of practice for complaints handling, or (b) the procedures for the resolution of disputes provided for in the provider’s code of practice have been completed.
- 20.4 The complaint must have been first notified to the provider in accordance with the code of practice for complaints handling within the previous 12 months;
- 20.5 The scope of the dispute must be confined to the issues contained in the complaint when it was notified to the provider;
- 20.6 The dispute is not frivolous or vexatious;
- 20.7 The dispute is not being, nor has previously been, considered by another dispute resolution entity or by a court;
- 20.8 The nominal fee has been paid; and
- 20.9 Dealing with the dispute does not impact or impair the effective operation of ComReg.

² As defined by the 2023 Act “relevant dispute” means—

(a) a dispute between an end-user and a provider in relation to compensation payable under [section 39](#),
(b) a dispute between an end-user and a provider, arising under this Act or the Code Regulations, relating to contractual conditions or the performance of contracts (whether entered into or not),
(c) a dispute between an end-user and an undertaking (within the meaning of Regulation 2 of the Regulations of 2019),
(d) a dispute involving a consumer or end-user and concerning an issue falling within the scope of the Mobile Phone Roaming Regulation,
(e) a dispute between an end-user and a provider relating to the imposition or purported imposition of a charge referred to in section 45 of the Principal Act,
(f) a dispute between a consumer, within the meaning of the Act of 2022, and a trader, within the meaning of the Act of 2022, who is also a provider, relating to Part 5 (other than sections 119, 120 and 125) of the Act of 2022, and
(g) any other disputes that relate to the supply of and access to electronic communications services, electronic communications networks and associated facilities or the transmission of such services on such networks prescribed by the Minister for the purposes of this Part;

- 21 ComReg has absolute discretion to refuse to accept, or to terminate consideration of, a dispute if it considers that the complaint has no reasonable prospect of success, recovery or redress in relation either to such complaint and/or the provider to which the complaint relates.
- 22 ComReg has absolute discretion to refuse to accept or to terminate or to delay acceptance and/or consideration of a dispute if it considers that the dispute is currently, or may become associated with, legal proceedings in which ComReg is party to.
- 23 If the application is incomplete, or more details are required, the end-user will be contacted and the relevant information will be requested.
- 24 A reference number will be allocated to a dispute application and this should be quoted on all correspondence with the parties involved.
- 25 Once all the relevant information has been received from the end-user and the nominal fee has been paid, ComReg will, in so far as is practicable, assess the application against its 'validity requirements' within 5-working days.
- 26 However, ComReg is mindful that there may be a limited set of circumstances that necessitate ComReg taking up to 15-working days to assess the application.
- 27 If it is determined that the application is not valid, the application will not be accepted.

Accepting a valid application

- 28 If the application is not accepted, the end-user will be contacted and will be provided with a reasoned explanation of the grounds for the non-acceptance of the application.
- 29 Both the end-user and the provider will be formally advised at the same time that the dispute has been accepted. This date will be known as the 'Date of Acceptance'.
- 30 On the Date of Acceptance, the end-user will be advised of the acceptance of the referral of the dispute. They will be advised of the next steps in the process and that their dispute, including a copy of the details submitted in their application, is being sent to the provider for a response. The end-user will also be provided with the mandatory information under Section 48(2) of the 2023 Act.
- 31 On the Date of Acceptance, the provider will be formally advised of receipt of the dispute, and of the name of the end-user and the dispute reference number.

- 32 Within 5-working days of the Date of Acceptance, the provider will be provided with an electronic copy of the details submitted in the application by the end-user, including any supporting documentation and will be given 10-working days to provide a written detailed response to ComReg.
- 33 Where ComReg receives an application from a provider to extend the time for it to provide a response, and ComReg is of the opinion that good grounds exist for the extension, ComReg may extend the time for up to 10-working days. This would be a matter for ComReg to consider on a case by case basis.
- 34 If ComReg requires any further information from the provider ComReg will notify it in writing and the provider will have up to 10-working days to submit further information and comments.
 - 34.1 If the provider does not provide a response to ComReg, it will be contacted and advised that unless they respond within 5-working days, ComReg will proceed to propose a resolution based entirely on the information provided by the end-user and any response by the provider to date.
- 35 Following receipt of the provider's response, more information may be requested from the end-user, if deemed necessary.
 - 35.1 If this is the case, the end-user will be notified in writing and will have up to 10-working days to submit further information and comments.
 - 35.2 If the end-user does not respond to ComReg or fails to provide any information requested, it will be assumed that the end-user does not want to proceed with the dispute.
 - 35.3 In this event, the end-user will be contacted and advised that unless they respond within 5-working days, the dispute will be closed.
 - 35.4 If the end-user does not respond within 5-working days, the dispute will be closed and both parties will be notified within 2-working days of the closure of the dispute.
- 36 The end-user can withdraw from the formal dispute resolution process at any stage up to the time at which ComReg proposes a resolution to the dispute, by notifying ComReg in writing.
 - 36.1 Upon receipt of notification of withdrawal of an end-user, ComReg will inform the provider within 2-working days and will close the dispute.
 - 36.2 Once an end-user withdraws from a dispute and the dispute is closed, their fee will be forfeited and they will not be able to re-open the dispute.

36.3 However, this does not preclude an end-user from submitting a fresh application for the same dispute or from submitting an application for another dispute at any time.

37 At any time, up to the issuance of the proposed resolution, the provider is free to contact the end-user to resolve the dispute directly.

37.1 If agreement is reached, the provider must notify ComReg within 2-working days of the dispute being resolved, and evidence that the end-user has accepted the resolution in writing.

Preparing the proposed resolution

38 In making its proposed resolution ComReg shall have regard to the submissions from the end-user and the provider, including any statements made or evidence given at an oral hearing if held.

39 It is ComReg's view that it may also be necessary for ComReg to consider information not presented by the parties, such as technical information and opinion.

40 As soon as ComReg has evaluated any third party information, both the provider and the end-user will be sent a copy and will be given 10-working days to provide a written detailed response to ComReg.

41 When ComReg deems it has sufficient information, it will undertake its review and will endeavour to issue a draft proposed resolution and draft summary within 10-working days.

41.1 ComReg may, at its own discretion, extend this 10-working day period but the parties will be informed of any extension of that period, the reasons for same, and of the expected length of time that will be needed to conclude the draft proposed resolution.

Issuing the proposed resolution

- 42 The draft proposed resolution and the draft summary will be notified to both parties in writing at the same time.
- 43 The draft proposed resolution will contain details of the reasons for the proposed resolution.
- 44 The draft summary will contain a high level synopsis of the dispute and outcome such as the name of the provider, the nature and type of the dispute, whether the proposed resolution was in favour of the provider or the end-user and the proposed resolution (excluding any financial amounts prescribed).
- 45 The parties will have 10-working days from the date of the draft proposed resolution and draft summary to submit comments.
- 46 A response in writing to the draft proposed resolution and draft summary must be signed, dated and either emailed, posted or hand delivered to ComReg on or within that 10-working day period.
- 47 If posted a Certificate of Postage, which is freely available from post offices at the time of posting, will be required in the event that the post date is unclear on the envelope in order to prove that the response was posted in time.
- 48 ComReg is mindful that there may be good grounds that result in an application to ComReg for further time by either party to provide a comprehensive response. If, in the opinion of ComReg, good grounds exist, ComReg may accept an application for the extension of time. This would be a matter for ComReg to consider on a case by case basis.
- 49 Following further analysis of all submissions and comments, including consideration of all comments on the draft proposed resolution and draft summary, a final proposed resolution will be prepared and issued to the parties in writing.
- 50 It will set out the reasoning behind the final proposed resolution, having regard to the relevant regulatory and legislative framework.
- 51 ComReg will endeavour to issue the final proposed resolution within 10-working days after receipt of all submissions and comments on the draft proposed resolution.
 - 51.1 ComReg may, at its own discretion, extend this 10-working day period but the parties will be informed of any extension of that period, the reasons for same, and of the expected length of time that will be needed to conclude the final proposed resolution.

- 52 ComReg will endeavour to issue the final proposed resolution within 60-working days of the Date of Acceptance. Achieving this timeframe is dependent on all other timeframes being met.
- 52.1 ComReg may, at its discretion, extend the 60-working day time period. The parties will be informed of any extension of that period and of the expected length of time that will be needed to conclude the final proposed resolution.
- 53 The final proposed resolution will include written reasons to explain the rationale for ComReg's proposed resolution.
- 54 The final proposed resolution may specify measures for the resolution of the dispute including as appropriate in light of the circumstances of the dispute:
- (a) the reimbursement of payments by a provider;
 - (b) payment of compensation by a provider;
 - (c) payment by a provider in settlement of losses suffered;
 - (d) the termination of a contract from a provider;
 - (e) the giving of an apology by a provider;
 - (f) the giving of an explanation by a provider for any matter giving rise to a complaint;
 - (g) compliance with a term or condition of a contract by the provider; and
 - (h) compliance with a legal obligation pursuant to the law relevant to the relevant dispute.
- 55 In disputes where ComReg, or such independent person as may be appointed by ComReg to resolve disputes, finds in favour of an end-user, the final proposed resolution will set out the measures to be taken by the provider and a timeframe for doing so. These measures will become binding on the provider if the end-user elects to accept them.

End-user elects to accept the proposed resolution

- 56 The end-user must notify ComReg of their decision to elect to accept the proposed resolution within 10-working days of the date of the proposed resolution.
- 57 A request to extend the timeframe needed to elect to accept will be considered by ComReg in exceptional circumstances (to include, but not limited to: an illness, a bereavement, religious or holiday observations e.g. Christmas etc.)
- 58 The onus is on the end-user to clearly and unambiguously elect to accept the draft proposed resolution. Any response falling short of these requirements may be deemed to be a rejection of the proposed resolution.
- 59 The end-user shall be deemed to have rejected the proposed resolution if he/she does not elect to accept the resolution proposed within the 10-working days (or by the extended date approved by ComReg).
- 60 In the event that a proposed resolution is rejected by an end-user, ComReg will communicate the matter of the rejection to the provider within 5-working days and confirm that the proposed resolution is not binding. A rejection (deemed or otherwise) will result in ComReg closing the dispute.
- 61 Where an end-user elects to accept a proposed resolution the proposed resolution becomes binding on the provider.
- 62 ComReg will endeavour to notify the fact of any election of acceptance notified to it by an end-user, to the provider concerned within 5-working days.
- 63 ComReg's approach will be to treat the period for compliance with a proposed resolution as commencing only from the first day following the day on which the provider is notified by ComReg of the election by the end-user to accept the proposed resolution.
- 64 ComReg notes that it can utilise the powers afforded to it under the 2023 Act to ensure compliance with its directions.
- 65 ComReg normally expects to follow the steps of its procedures when investigating a dispute referred to it. However, it is impossible to foresee every eventuality that will arise in the context of a dispute and therefore ComReg may deviate from the steps of its procedures where, in ComReg's opinion, it is justified to do so on the basis that good grounds exist. If ComReg chooses to depart from the steps of its procedures in respect of any dispute it will set out its reasons for so doing and communicate them to the parties.
- 66 The end-user is responsible for and must pay any costs incurred by them in the preparation of their case. End-users cannot take any legal action against ComReg to recover these costs.

- 67 The provider is responsible for and must pay any costs incurred in the preparation of their case. Providers cannot take any legal action against ComReg to recover these costs.
- 68 If the final proposed resolution finds in favour of the end-user, the application fee will be reimbursed to the end-user by ComReg following acceptance by the end-user of the proposed resolution.

Appeal

- 69 Section 17(3)(a) of the 2023 Act provides that:

“A person affected by a decision or requirement of—

The Commission under this Part, Part 4 or Part 5, or the Code Regulations (other than Regulation 98 or 99) ... (referred to in this section as the “decision”) may, not later than 28 days after the person receives notice of the decision, appeal the decision to the High Court

Annex: 1 Procedures for Oral Hearings

1. Preliminary

- 1.1. These procedures may be cited as "Procedures for Oral Hearings (for use in ECS 'End-user Dispute Resolution')".

2. Interpretation

- 2.1. These procedures are made under and in accordance with the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 ("**the 2023 Act**"). Where there is a conflict between these procedures and the provisions of the 2023 Act, the provisions of the 2023 Act shall take precedence.
- 2.2. These procedures form part of ComReg's End-user Dispute Resolution Procedures (ComReg 24/22a_R).
- 2.3. Words and phrases not otherwise defined in these procedures shall, unless the context otherwise requires, have the meanings assigned to them in the Communications Regulations Acts 2002 to 2023 Act. To the extent that there may be any difference between the procedures and the relevant provisions of these Acts, the Acts take precedence.
- 2.4. In these procedures a reference to a "notice" includes a notification.
- 2.5. A notice required to be served by the Decision Maker may be served on their behalf by an appropriate ComReg staff member.

3. The Decision Maker

- 3.1. A reference to "**the Decision Maker**" in these procedures is a reference to the Commission or an independent person appointed by the Commission, under section 21 or 39 of the Communications Regulation Act 2002 (as amended) ("**the 2002 Act**") exercising the functions of the Commission to propose a resolution of a dispute referred to it in accordance with section 47(1) of the 2023 Act.
- 3.2. At an oral hearing, the Decision Maker shall hear the submissions by the parties and evidence from witnesses.

4. When an oral hearing is required

- 4.1. The Decision Maker may conduct an oral hearing where it is considered necessary to ensure fairness of procedures and in particular, to resolve a genuine conflict of material fact arising from the papers that cannot otherwise be resolved. The Decision Maker may conduct an oral hearing of their own volition.
- 4.2. One or more parties to a dispute may request an oral hearing. In that event, the Decision Maker will consider the request. It is for the Decision Maker alone to decide if an oral hearing is necessary taking account of the criteria set out in paragraph 4.1. It will be for the party seeking an oral hearing to establish that this is necessary to ensure fairness and to resolve a genuine conflict of material fact arising from the papers that cannot otherwise be resolved. The Decision Maker will provide a brief explanation for their decision.
- 4.3. Where the Decision Maker decides that an oral hearing is necessary it will be conducted in accordance with these procedures, and fairness and constitutional justice, taking account of the timelines for conclusion of the dispute resolution process set out in the ComReg's End-user Dispute Resolution Procedures.

5. Notification and witness attendance

- 5.1. If the Decision Maker decides to hold an oral hearing the parties will be notified. The notification will briefly identify the conflict of material fact or facts that give rise to the need for an oral hearing. It may also contain a statement that the oral hearing is not confined to the resolution of that fact/those facts and it will set out the issues in respect of which oral evidence will be required and any documents that require to be produced at the oral hearing. The parties will be given an opportunity to advise of any dates which are unsuitable for attendance to give oral evidence and once that opportunity has passed, then a formal Notice of Hearing in writing will issue to the parties confirming the date and time and venue of the oral hearing.
- 5.2. A formal Notice of Hearing will issue no less than 15 working days prior to the oral hearing. Service of the notice shall be in accordance with section 60 of the 2002 Act.
- 5.3. An oral hearing will be limited to hearing only those witnesses whose evidence is required for the purpose of resolving the disputed facts. In advance of the oral hearing the Decision Maker will notify the parties of the identity of those witnesses on behalf of both parties, from whom evidence

is required at the oral hearing and of any documents that require to be produced at the oral hearing.

- 5.4. In advance of the oral hearing, each party may request the Decision Maker to allow it to call another witness (or witnesses) to give evidence on its behalf in respect of the issue(s) in dispute. The witness (or witnesses) may be in addition to, or instead of, the witness(es) notified by the Decision Maker under this section. Requests to call another witness (or other witnesses) should be fully explained and any failure to do so may, of itself, result in the request being declined. Such requests will be considered by the Decision Maker having regard to the requirement that an oral hearing will be limited to hearing only those witnesses whose evidence it is necessary for the purpose of resolving the disputed issue(s) and to the further requirements of section 48 of the 2023 Act that the procedures for the resolution of disputes must be simple, inexpensive and enable disputes to be settled fairly and promptly.
- 5.5. A request to call another witness (or witnesses) must be made at least 10 working days before the notified hearing date.

6. Attendance

- 6.1. Oral hearings, will unless otherwise directed by the Decision Maker, be by way of remote electronic video link. The access details shall be circulated in advance of the notified hearing date. Where a party wishes to have the oral hearing in person, they shall make submissions to the Decision Maker on notice to the other party 10 working days in advance of the notified hearing date setting out the reasons for this request. Any submissions objecting to an oral hearing taking place in person must be provided 5 working days in advance of the notified hearing date.
- 6.2. It shall be a matter for the Decision Maker to decide whether to accede to the request on the grounds of fairness to the parties. The Decision Maker shall provide a brief explanation as to the decision whether or not to hold an in person hearing and will set out who is required to attend in person.
- 6.3. For the purposes of these procedures reference to attendance shall include remote and in person attendance.
- 6.4. In person oral hearings will, unless otherwise directed by the Decision Maker, be conducted in Dublin at a location that will be specified in the notification referred to in section 5 of these procedures.
- 6.5. Where the Decision Maker believes on reasonable grounds that a person may be able to give evidence or to produce a document that relates to the

dispute before the Decision Maker, the Decision Maker may require that person to attend at an oral hearing for these purposes. In the case of an in-person hearing, that person shall be entitled to their reasonable travel expenses (if applicable).

- 6.6. A person who attends at an oral hearing is entitled to be accompanied by a solicitor or barrister or, with the prior approval of the Decision Maker, by another person. Any costs incurred by the person in that regard will not be borne by ComReg and are a matter for the person themselves.
- 6.7. A Decision Maker may require a person to attend an oral hearing over the course of more than one day unless excused or released from further attendance.
- 6.8. Except in very exceptional circumstances, if a party does not attend on the scheduled hearing date, the Decision Maker will proceed with the oral hearing without that party. It is not ComReg's policy to cancel, postpone or adjourn scheduled oral hearings. For more on this see section 7 below.
- 6.9. Any person who attends an oral hearing in compliance with a requirement made under the provisions of sections 5 or 6 of these procedures, or participates in an oral hearing in any other way, has the same protection and is subject to the same protections as a witness in proceedings in the High Court, including the right to decline to answer a question on the grounds of self-incrimination.

7. Postponements and Adjournments

- 7.1. Consistent with the statutory aims that dispute resolution procedures are simple, inexpensive, and enable disputes to be settled fairly and promptly, oral hearings should, in general, be completed on the scheduled date.
- 7.2. It may become necessary for a party to request that the scheduled date for an oral hearing is postponed. It is important to note that postponements have the potential to impact the other parties, the efficient and effective use of ComReg's resources, and the statutory aims of the dispute resolution process. Postponements requests will therefore be carefully considered with due regard to the rights of the parties to fair procedures and reasonable expedition in having an oral hearing heard.
- 7.3. A 'postponement' is sought in advance of the hearing date. An application made on the day of the hearing is referred to as an 'adjournment' application.

- 7.4. Applications for postponements should be made through the following channels and should be accompanied by supporting documentation:
- Email address: cdr@comreg.ie
 - Postal address: ComReg, Dispute Resolution Team, One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0.
- 7.5. Supporting documentation might include medical certificates, a death notice, proof of jury duty, or evidence of flight bookings including proof that they were booked before the hearing was scheduled, etc. Note this is a suggested, non-exhaustive list of circumstances and these may not be sufficient to justify a postponement; each case turns on its individual facts.
- 7.6. All applications for postponements must be made on notice to the other party and proof of that notice having been provided must be provided with the postponement application.
- 7.7. ComReg retains discretion over all postponement decisions, irrespective of what the parties themselves may propose, however, and as a guideline only, postponement applications made within 5 working days from the date of notification of the scheduled date for the oral hearing and accompanied by the written consent of the other party/parties are more likely to be acceded to.
- 7.8. Following receipt of a postponement application, ComReg will notify the other party/parties of the application and the reasons provided for it. Submitted documentation is generally not shared with the other party/parties.
- 7.9. Where time permits, the other party will be given 2 working days to furnish comments on the application by way of email to: cdr@comreg.ie. At the conclusion of these 2 working days, ComReg will process the request having regard to all comments received. Written notification of the outcome of the postponement request will be sent to all parties.
- 7.10. There may be unusual circumstances where ComReg may not be in a position to notify and/or consult with all parties. For example, if the application is made close to the hearing date ComReg may make a decision on the postponement out of necessity on the basis of information supplied by the applicant, without consulting the other party/parties.
- 7.11. Where a postponement or adjournment application has been refused, a new application will not be considered unless supported by new relevant facts not previously available to the applicant. Those new facts must be clearly set out in the new application.

- 7.12. An adjournment application is subject to an “exceptional circumstances and substantial reasons” test. Further, an applicant must set out why a postponement request was not made in advance instead. Adjournment applications will not generally be granted unless proper evidence is provided together with an explanation of how the test is met.
- 7.13. A Decision Maker may, at his or her own discretion or on the application of any party, adjourn an oral hearing to a specific date and/or place.

8. Fair hearing

- 8.1. The Decision Maker shall conduct an oral hearing fairly in accordance with the principles of procedural fairness and constitutional and natural justice. The Decision Maker shall also conduct oral hearings with due professionalism and courtesy towards the parties and witnesses involved.

9. Standard of proof

- 9.1. The standard of proof in respect of matters subject to an oral hearing under these procedures shall be the civil standard of proof on the balance of probabilities.

10. How the oral hearing will proceed

10.1. Decision Maker’s instructions to be followed

- 10.1.1. During the oral hearing, each person must do as the Decision Maker asks. At the start of the oral hearing, if any of the parties has a question as to how the oral hearing will be conducted, the Decision Maker will answer any such questions. Similarly, if, in the course of the oral hearing a party has a question as to the procedures for the oral hearing, the Decision Maker will respond to any such queries.

10.2. Administration of oath/affirmation

- 10.2.1. A person who attends at an oral hearing in compliance with a notice issued under section 5 may be required to swear an oath or make an affirmation that the evidence the witness will give shall be true. The Decision Maker may administer such an oath to the witness orally or permit the witness to affirm. The required oath or affirmation shall be in the form required by courts of law. In the case of a remote hearing only an affirmation will be required.

10.3. Order in which evidence is given

- 10.3.1. At the oral hearing, the parties or their representative (including but not limited to a legal representative), with leave of the Decision Maker, shall present the evidence in support of their position. Such person may also make submissions including but not limited to submissions on any issues of law arising. The testimony of witnesses attending the oral hearing shall be given in accordance with these procedures.
- 10.3.2. At the oral hearing, the complainant (end-user) will be asked to speak first. The respondent (service provider) may cross-examine/question all those giving evidence on behalf of the complainant. When the complainant and the complainant's witnesses have finished giving evidence and have been cross-examined, the respondent will then be asked to present its evidence, and the complainant may cross-examine/question all those giving evidence on behalf of the respondent.
- 10.3.3. At an oral hearing parties will be entitled, and given the chance, to:
 - (1) speak;
 - (2) have someone speak on their behalf;
 - (3) give evidence and have witnesses give evidence on their behalf
 - (4) cross-examine/question witnesses about what they have said at the oral hearing
 - (5) cross-examine/question any witness about any report/document they have produced in connection with the complaint.
- 10.3.4. At the end of the oral hearing the Decision Maker may invite the parties to make a short final oral submission.
- 10.3.5. The Decision Maker, at their discretion, may arrange for a stenographer to take a transcript of the evidence and submissions made at an oral hearing. Where this occurs, the parties may request a copy of the transcript. Entirely at their discretion, the Decision Maker may provide a copy of the transcript upon payment of a fee by the requesting party that reasonably reflects the costs incurred in providing the transcript.

10.4. [Rules of Evidence](#)

10.4.1. It shall be a matter for the Decision Maker to decide on the admissibility of evidence. The type of proof that is generally admissible as evidence at an oral hearing in accordance with these procedures shall include relevant documents, oral statements, electronic messages, recordings and all other objects containing information, irrespective of the form it takes and the medium on which information is stored, provided that the evidence referred to that in the view of the Decision Maker is of probative value and assists in the resolution of the dispute.

10.5. [Legal professional privilege](#)

10.5.1. No witness shall be required to provide information or produce a document or copy document, the communication of which is subject to legal professional privilege.

10.6. [Resolution will be proposed after oral hearing](#)

10.6.1. A resolution to a dispute will not be proposed by the Decision Maker at an oral but rather will follow the conclusion of that oral hearing.

10.6.2. In accordance with section 47(3) of the 2023 Act, an end-user who has referred a dispute to ComReg for resolution may withdraw the dispute at any stage up to the time at which the Decision Maker, proposes a resolution to the dispute. This may occur at an oral hearing, where the end-user should notify the Decision Maker of their wish to withdraw their dispute.

10.7. [Agreements reached prior to or at oral hearing](#)

10.7.1. There may be occasions where the parties reach an agreement regarding the resolution of a dispute prior to, or during the course of, an oral hearing. Where this occurs, the parties may bring the fact of this agreement to the attention of the Decision Maker and, if the end-user so wishes, they may withdraw their dispute.

10.8. [Accessibility](#)

10.8.1. If any particular accessibility requirements arise (for example sign-language interpretation or wheelchair access) please advise the Decision Maker prior to the notified date of the oral hearing,

and in sufficient time in advance of that date to enable appropriate arrangements to be made.

- 10.8.2. ComReg has an appointed Access Officer³ who can coordinate assistance and guidance to persons with disabilities accessing services provided by ComReg including Oral Hearings.

³ In accordance with section 26(2) of the Disability Act 2005; see [Online:] <https://www.comreg.ie/about/foi-aie-info/accessibility/> for further information.