



An Coimisiún um  
**Rialáil Cumarsáide**  
Commission for  
**Communications Regulation**

# End-user Dispute Resolution Procedures Procedures

Procedures

**Reference:** ComReg 24/22a

**Date:** 02/04/2024

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**Commission for Communications Regulation**

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## Additional Information

Related Publications	Document Number
'End-user Dispute Resolution Procedures' Response to Consultation and Decision	ComReg 24/22; D07/24
'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 hearing 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.
- 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”<sup>1</sup>;
- 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.

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<sup>1</sup> 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*