



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

# Postal Dispute Resolution Procedures

## Consultation and draft procedures

Consultation

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

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## Additional Information

Related Publications	Document Number
Section 43(3) Dispute Resolution Procedures	ComReg 15/07a

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# 1 Executive Summary

- 1 The Commission for Communications Regulation (“**ComReg**”) has a statutory function to resolve disputes which remain unresolved after due completion of all the procedures of a postal service provider’s code of practice.
- 2 ComReg specified procedures, following public consultation<sup>1</sup>, for the resolution of disputes between postal service users and postal service providers in ComReg Document 15/07a<sup>2</sup> (the “**2015 procedures**”). ComReg has gained experience in the application of these procedures since they were commenced.
- 3 The 2015 procedures are being reviewed to take account of the experience gained in their application and developments in dispute resolution in general, with particular focus on sectoral dispute resolution.
- 4 This consultation paper sets out ComReg’s proposed revisions to the 2015 procedures and the reasons for them, and it seeks the views of interested parties on the proposed revisions.
- 5 In this document, references to ‘revised procedures’ should be understood as referring to the 2015 procedures as revised in line with the proposals made in this consultation paper.
- 6 ComReg proposes that the final procedures at the end of the consultation process will be known as the “Postal Dispute Resolution Procedures”.

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<sup>1</sup> Consultation Document 14/87

<sup>2</sup> Formal Dispute Resolution Procedures for ECS/ECN End-Users (ComReg Document 18/104, D14/18) published 30 November 2018 [ComReg D14/18.pdf](#)

## 2 Introduction

### 2.1 Background and legislative context

- 7 ComReg is the regulator of postal services and the universal postal service in Ireland. Our mandate comes from European Directives transposed into Irish law.
- 8 Section 43(1) of the Communications Regulation (Postal Services) Act 2011 (“**2011 Act**”)<sup>3</sup> requires every postal service provider to have, publish, and implement a code of practice. Each postal service provider’s code of practice sets out procedures, standards, and policies for handling of complaints from postal service users. All codes of practice must have procedures for resolving disputes.
- 9 Section 43(3) of the 2011 Act gives ComReg, or an appointee of ComReg, a discretionary power to resolve disputes which remain unresolved after due completion of all the procedures of a postal service provider’s code of practice. This is referred to in this paper as “postal dispute resolution”.
- 10 Section 43(3) of the 2011 Act also provides that dispute resolution procedures be established and maintained by ComReg for use in cases where a dispute between a postal services user<sup>4</sup> and a postal service provider<sup>5</sup> remains unresolved after due completion of all the procedures of a postal service provider’s code of practice and requires resolution. The procedures must be made publicly available. It is these procedures that are the focus of review in this consultation.
- 11 Section 43(5) of the 2011 Act requires the procedures to be transparent, simple, inexpensive and that they enable disputes to be settled fairly and promptly.
- 12 Section 43(8) of the 2011 Act affords ComReg the power to issue directions to postal service providers to ensure compliance with the requirements of section 43.
- 13 It is an objective of ComReg under section 12(2A)(d) of the Communications Regulation Act 2002 to take reasonable measures to promote the interests of postal service users, including:

*(i) ensuring a high level of protection for postal service users in their dealings with postal service providers, in particular by —*

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<sup>3</sup> S.I. No. 337/2011 European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011.

<sup>4</sup> Postal service user means any person benefiting from postal service provision as a sender or as an addressee.

<sup>5</sup> Postal service provider means any person providing one or more than one postal service. A register of Postal Service Providers authorised in accordance with Section 38 (1) of the 2011 Act is available on ComReg’s website.

*(i) ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved...*

*(ii) addressing the needs of specific social groups, in particular, disabled postal service users.*

14 ComReg, in its Response to Consultation (ComReg 15/07) stated that it

14.1 “...shall maintain these procedures by way of regular review at appropriate intervals, and in the event of any proposed material change ComReg will consult if appropriate”.

15 Section 43(4) of the 2011 Act requires ComReg to publish any amendments to its procedures.

15.1 “...The Commission shall publish any procedures established by it pursuant to subsection (3) and **any amendments thereto**” (emphasis added).

## 2.2 Resolution of disputes

16 Since they were commenced, ComReg has managed a significant number of applications for the resolution of disputes between postal service users and postal service providers applying the 2015 procedures.

17 ComReg considers it appropriate to update the 2015 procedures in light of the experience gained during the period of their application to date.

18 ComReg has a statutory function to resolve disputes in other sectors it regulates and has published procedures for its resolution procedures in these sectors namely (i) between end-users of electronic communications services (ECS) and their providers<sup>6</sup>; and (ii) disputes between regulated undertakings (Wholesale)<sup>7</sup>.

19 ComReg considers it appropriate to take account of its other dispute resolution procedures and to align the procedures where appropriate so that there is a commonality of experience across the dispute resolution provided by ComReg, in particular for users of these services.

20 There have also been general developments (including legal developments) in the area of dispute resolution and in particular sectoral dispute resolution in recent years which ComReg considers it appropriate to reflect within the procedures.<sup>8</sup>

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<sup>6</sup> See: [ComReg Document 24/22a](#)

<sup>7</sup> See: [ComReg Document 10/18R](#)

<sup>8</sup> See paragraph 17 of the proposed revised procedures at Annex 2

## 2.3 Structure of Document

- 21 The structure of this consultation paper, including its annexes, is as follows:
- Chapters [3](#) & [4](#) – proposed revisions to the 2015 procedures
  - Chapter [5](#) – ComReg’s position regarding a Regulatory Impact Assessment;
  - Chapter [6](#) – How to submit comments and envisaged next steps.
  - Annex: [1](#) – Tracked changes to the 2015 procedures including proposed text;
  - Annex: [2](#) – The proposed revised procedures
  - Annex: [3](#) – Summary of the legal basis
- 22 ComReg sets out in Chapter 3 and Chapter 4 the proposed changes and the reasons for them. These changes fall under the following headings:
- [Interpretation](#);
  - [Introduction](#);
  - [Effective date and duration](#);
  - [When the ‘clock’ starts](#);
  - [Compensation](#);
  - [Extension requests](#);
  - [Approach to dispute resolution](#);
  - [Accessing the dispute resolution procedures](#);
  - [Timeframes during dispute resolution](#);
  - [Appeals](#);
  - [Calendar days vs working days](#);
  - [Summary of the resolution](#); and
  - [Other changes](#)
- 23 [Annex: 1](#) provides a tracked changes version of the proposed revised procedures with the proposed revisions highlighted to aid review and comparison between the 2015 procedures and the proposed revised procedures.
- 24 A full ‘clean’ version of the proposed revised procedures is also included at [Annex: 2](#) for completeness.



## 3 Proposed new provisions

- 25 The revised proposed dispute resolution procedures seek to provide certainty for postal service users and postal service providers by being clear and unambiguous and by informing postal service users of the remedies and redress available to them under the procedures.
- 26 ComReg is of the preliminary view that there are certain new provisions that should be added to the procedures to this end. These are as set out in this section.

### 3.1 Interpretation

- 27 ComReg considers it appropriate to include a new 'Interpretation' section in the procedures and proposes to add relevant provisions and definitions to this section.

#### Proposed approach:

- 28 ComReg proposes to amend the 2015 procedures to include a new section 'Interpretation', to include relevant definitions within and to detail that the 2011 Act takes precedence where there may be any difference between the procedures and the relevant provisions of the 2011 Act.
- 29 ComReg proposes to add the text at paragraphs [1](#), [2](#) and [3](#) of the draft revised procedures in [Annex: 2](#) in this regard.

### 3.2 Introduction

- 30 ComReg considers it appropriate to include a new 'Introduction' section in the procedures to include provisions that provide context for the procedures as follows:

#### 3.2.1 Effective date and duration

- 31 ComReg is required under Section 43(4) of the 2011 Act to publish its dispute resolution procedures and any amendments thereto. However, the 2011 Act is silent regarding a transition period prior to the implementation of any such amendments. From the effective date of ComReg's proposed revised Postal Dispute Resolution Procedures all dispute applications that are accepted will be processed in accordance with those procedures. For dispute applications received prior to the effective date, they will be processed in accordance with the procedures in place at the time the dispute was accepted.

### Proposed approach:

- 32 ComReg proposes to amend the 2015 procedures to detail that the revised dispute resolution procedures will be effective three (3) months from the date of the publication of the Response to Consultation and Procedures document that will be published following the receipt of comments on this consultation ('the effective date') and shall remain in full force unless otherwise amended by ComReg.
- 33 ComReg proposes to add the text at paragraph [4](#) and [4.1](#) of the draft revised procedures in [Annex: 2](#) in this regard.

### 3.2.2 When the 'clock' starts

- 34 The 'clock' currently starts on the day a notification or request to a party is made or information is provided to ComReg (D+0).

### Proposed approach:

- 35 ComReg proposes to amend the 2015 procedures to clarify in circumstances where correspondence is sent by post that:
- 35.1 the first day is the next working day<sup>9</sup> after the date correspondence is sent by ComReg to a party to the dispute (i.e. outgoing post); and
- 35.2 the first day is the next working day after the date ComReg accepts delivery of correspondence sent to it by post (i.e. incoming post) or delivered by hand.
- 36 ComReg proposes to amend the 2015 procedures to clarify in circumstances where correspondence is sent by electronic means that:
- 36.1 the first day is the next working day after the date on which the correspondence is sent by any party by electronic means.
- 37 ComReg proposes to add the text at paragraphs [9](#), [10](#) and [11](#) of the draft revised procedures in [Annex: 2](#) in this regard.

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<sup>9</sup> ComReg has set the quality of service standard for next day delivery by An Post for all single piece priority mail, posted in the State for delivery in the State at 94%. ComReg may use a tracked service in certain circumstances if it deems it appropriate.

### 3.2.3 Compensation

- 38 ComReg considers that it is in all parties' interests to clarify a compensation threshold which a resolution may specify a postal service provider to pay to a postal service user. Such an approach provides transparency and certainty for providers and users. It is of benefit to users in assessing their options and potential avenues of redress and provides clarity in terms of providers' potential liability.
- 39 While most cases have not exceeded €500 in monetary terms, there have been a small number of cases in excess of this amount. The proposed upper limit for compensation takes account of ComReg's experience to date in the resolution of postal disputes and the monetary sums that have been awarded. It is considered sufficient to address these without being excessive. The proposed upper limit should not be taken as indicating any trend or likely outcome. It is the same upper limit that applies for compensation in ECS dispute resolution.
- 40 For the avoidance of doubt a postal service user can submit more than one application if he/she has more than one dispute with a postal service provider.
- 41 A postal service user remains entitled to consider seeking redress through the courts system<sup>10</sup> on conclusion of the postal dispute resolution procedures.

#### Proposed approach:

- 42 ComReg proposes to amend the 2015 procedures to detail that the maximum amount of compensation that may be awarded under the dispute resolution procedures will be €5,000. ComReg proposes to add the text at paragraph [12](#) of the draft revised procedures in [Annex: 2](#) in this regard.

### 3.2.4 Extension requests

- 43 The 2015 procedures do not currently specify the procedures that would be followed in the event a party to a dispute submits a request to extend the timeframe for response during the course of a dispute resolution.
- 44 To date such requests to extend the timeframe for response have been dealt with on a case by case basis. Where granted the extension request can have a resultant impact on the timeframe for resolution of the dispute. ComReg has used the discretion provided to it in the 2015 procedures to extend the time period for the issuance of the final resolution<sup>11</sup> where necessary.

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<sup>10</sup> The *small claims* procedure provided by the local District Court offices is limited to applications for claims that cannot exceed €2,000. The District Court can only hear *civil cases* where the requested damages or compensation is less than €15,000.

<sup>11</sup> Paragraph 27 of ComReg 15/07a

- 45 ComReg considers it appropriate to clarify the action(s) ComReg will take in the event a postal service user or a postal service provider or both seek an extension in the timeframe for response during the course of a dispute resolution.

#### Proposed approach:

- 46 ComReg proposes to amend the 2015 procedures to indicate that the indicative timeframes for issuing a draft resolution and a final resolution in a dispute may be impacted by extension requests.
- 47 ComReg also proposes to clarify the timeframes related to responding to a request for an extension.
- 48 ComReg proposes to add the text at paragraphs [13](#), [33](#), [47](#) and [51](#) of the draft revised procedures at [Annex: 2](#) in this regard.

### 3.2.5 Approach to dispute resolution

- 49 ComReg considers it appropriate to refer to its obligations and duties under statute regarding any actions and measures it takes, in that ComReg will act proportionately, objectively and in a non-discriminatory manner. ComReg is also required to be justified in the measures it takes, to act transparently and to handle disputes in accordance with fair procedures and the principles of natural justice.
- 50 In resolving disputes referred to it ComReg has regard to a postal service provider's code of practice, the terms and conditions of a service, contractual and other relevant agreements in place, the relevant regulatory framework and any relevant guidance or ComReg policy in place.

#### Proposed approach:

- 51 ComReg proposes to amend the 2015 procedures to include its obligations and duties under statute regarding any actions and measures its takes. ComReg proposes to add the text at paragraphs [15](#) and [16](#) of the draft revised procedures in [Annex: 2](#) in this regard.

### 3.2.6 Accessing the dispute resolution procedures

- 52 ComReg is committed to ensuring that every postal service user has equal access to all its services, including its dispute resolution procedures.

- 53 ComReg has an appointed Access Officer<sup>12</sup> who can coordinate assistance and provide guidance to persons with disabilities when they are engaging with ComReg.
- 54 ComReg is committed to sustainable work practices. Dispute resolution applications and supporting information will therefore generally be sought in electronic format with read/write access. However, ComReg will accept applications and supporting information delivered by post or by hand.
- 55 If it is considered 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, ComReg, or such independent person as may be appointed by ComReg to resolve disputes, may propose an alternative process.

### Proposed approach:

- 56 ComReg proposes to amend the 2015 procedures to include the access options outlined and add the text at paragraphs [8](#), [17](#) and [18](#) of the draft revised procedures in [Annex: 2](#) in this regard.

## **3.3 Timeframes during dispute resolution**

- 57 Correspondence may need to be issued to parties during the dispute resolution process for various reasons (e.g. where a user withdraws a complaint, or where the matter is settled between the parties).
- 58 While the 2015 procedures reference such correspondence, the time periods allowed are not detailed.
- 59 ComReg is of the view that its procedures should be amended to reflect the practical experience of managing timeframes to date in this regard.
- 60 In ComReg's experience there can be occasions where parties fail to respond to ComReg at key points in the dispute resolution process or do not provide a response in a timely manner (e.g. to a further information request, comments on a draft resolution etc). To date ComReg has afforded the benefit of the doubt in such circumstances to the party concerned and proactively contacted them to clarify if/when a response will be forthcoming.

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<sup>12</sup> 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.

- 61 ComReg has also been notified in the past by postal service users of their intention to withdraw their dispute however they subsequently fail to notify the postal service provider of this intention. To minimise the administrative burden on the parties, ComReg has taken a practical approach in notifying a postal service provider of such withdrawal and by closing the dispute to date.
- 62 The extent to which parties comply with timelines in the dispute resolution process also has a direct impact on the timeframe for the issuing by ComReg of its draft and final resolutions. Accordingly, the timeframes outlined in the procedures (see paragraphs [51](#) and [58](#) of the draft revised procedures in [Annex: 2](#)) should be viewed in this context.

#### Proposed approach:

- 63 ComReg proposes to amend its procedures to indicate that the indicative timeframes for the issuing of draft and final resolutions in a dispute may be impacted by events outside ComReg's control including extension requests and correspondence received etc.
- 64 ComReg proposes to provide clarity on what actions it will take should a party fail to respond. ComReg proposes to add the text in paragraphs [34.1](#), [35](#) and [35.1](#) of the draft revised procedures in [Annex: 2](#) in this regard.
- 65 ComReg also proposes to amend its procedures to set out how it will convey the withdrawal of a dispute by a postal service user to a postal service provider and the related timeframe. ComReg proposes to add the text in paragraphs [36.1](#), [36.2](#) and [36.3](#) of the draft revised procedures in [Annex: 2](#) in this regard.

### **3.4 Appeals**

- 66 While the issuing of a final resolution is the final step in its dispute resolution process, ComReg considers it appropriate to address appeals in its revised procedures.

#### Proposed approach:

- 67 ComReg proposes to include reference to statutory appeal provisions in its procedures. In this regard attention is drawn to sections 43(3) and section 52 of the 2011 Act.
- 68 ComReg proposes to add the text in paragraph [63](#) of the draft revised procedures in [Annex: 2](#) in this regard.

Q. 1 Do you have any comments on the approach ComReg has set out in respect of the revisions outlined in [Chapter 3](#). Please explain the basis of your response in full, referring to the appropriate paragraph number and provide any relevant information to support your response.

## 4 Other proposed amendments

### 4.1 Calendar days vs working days

69 The 2015 Procedures use calendar days to measure certain timeframes within the dispute resolution process, namely:

69.1 ComReg advising parties of the acceptance of a valid dispute for resolution [within 7 calendar days of the 'Date of Notification'<sup>13</sup>];

69.2 ComReg advising the postal service provider that a complainant has given notice to ComReg that he/she wishes to withdraw from the dispute resolution process [14 calendar days from receipt of the notification]

69.3 parties providing a response, comments or further information to ComReg [14/21<sup>14</sup> calendar days];

69.4 ComReg issuing its draft resolution [within 56/61 calendar days from accepting an application for resolution]

69.5 ComReg issuing its final resolution [within 90 calendar days from accepting an application for resolution]; and

69.6 a provider complying with any measures specified in the final resolution [14 calendar days of the issuing of the final resolution].

70 Experience to date has shown that where such periods include holiday periods (bank holidays etc.) it can be unclear for parties to a dispute when response deadlines fall. Additionally, when deadlines have fallen during holiday periods parties have sought an extension (see section [3.2.4](#)) in some instances.

71 As noted previously, ComReg offers dispute resolution in other regulated sectors and the timeframes in the procedures used in this are measured in working days. ComReg considers it appropriate to adjust the measurement used in the postal dispute resolution procedures to align with the timeframes in its other sectoral dispute resolution procedures.

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<sup>13</sup> The 2015 procedures define "Date of Notification" as *'the day on which an application for Section 43(3) dispute resolution is determined to be a valid dispute'*

<sup>14</sup> or 21 calendar days if advised of dispute resolution commencing in the month of December



- 72 ComReg is also taking account of views expressed in recent responses to its 'Consultation Procedures Review' that weekends and statutory holidays should not be reckoned in the computation of time periods to provide responses to ComReg, and periods should be defined in terms of working days.<sup>15</sup>
- 73 As the overall effect of changing from calendar days to working days will result in the same or more time being provided to parties to respond to ComReg, it is not envisaged that there will be any adverse change for either postal service users or postal service providers.

#### Proposed approach:

- 74 ComReg proposes to amend the measurement of days from calendar days to working days to afford increased flexibility to parties, particularly on bank holidays or other holiday periods in making submissions or responding to requests by ComReg.
- 75 As already noted (see section [3.2.2](#)) currently the 'clock' starts on the day a notification or request to a party is made or information is provided to ComReg (D+0). ComReg proposes to amend the procedures so the first date for all timeframes within the procedures will commence on the next working day (D+1); the proposed text in paragraphs [9](#), [10](#) and [11](#) of the draft revised procedures in [Annex: 2](#) are of note in this regard.

## 4.2 Summary of the resolution

- 76 Disputes by their nature can be complex and relate to circumstances over varying periods of time – often prolonged. During the journey of a postal packet from the sender to the addressee, there can be multiple steps and processes not all of which occur within the State. There can be multiple touch points, and the evidential bases can differ depending on the postal service used and the location of the postal packet's sender and addressee. A resolution, which sets out the relevant evidence and reasoning can therefore be detailed and lengthy.
- 77 As previously set out ComReg is required under Section 43(5) of the 2011 Act to ensure its dispute resolution procedures are, amongst other things, transparent (see paragraph [11](#) above). It is also required to take reasonable measures to promote the interests of postal service users.

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<sup>15</sup> See: Annex 1 'Submissions' to ComReg's 'Consultation Procedures Review' [online] [ComReg Document 24/02](#)

78 ComReg is of the view that it is in the interest of postal service users that it also provide a summary of the resolution which will be a high level synopsis of the dispute.

#### Proposed approach:

79 ComReg proposes to issue a draft summary of the dispute to parties at the same time it issues the draft resolution.

80 It will contain high level details of the dispute such as the name of the postal service provider, the nature and type of the dispute, which party the resolution was in favour of and the measures specified. The latter may include a short commentary on or a description of the measure. It is not proposed to include any specific financial amounts provided.

81 Both parties will get a chance to review and comment on the draft summary and the draft resolution at the same time. Following analysis of all submissions and comments, including consideration of all comments on the draft summary and draft resolution, a final resolution and final summary will be prepared and issued to the parties in writing.

82 The final summary will be published on the ComReg website, and elsewhere as ComReg sees fit. In time ComReg may publish reports using aggregated information from the dispute summaries.

### **4.3 Other changes**

83 The 2015 procedures have been reviewed to remove duplication (in the limited cases where this arose); for example matters relating to validity requirements.

84 The 2015 procedures have also been reviewed to reflect the journey a postal service user takes as they move through the formal dispute resolution process, resulting in rearrangement of certain paragraphs so the steps are sequential.

85 Where there is a single term update, and for ease of reference, this is emphasised in square brackets. In the event there are several term changes or other changes made, the original text is reproduced with the revisions indicated.

86 The application form is currently published within the procedures. ComReg considers it is appropriate to provide the application form in a manner that provides the flexibility to update it in a timely manner. ComReg therefore proposes to remove the application form from the procedures. ComReg considers this will aid the simplicity of the procedures as per the statutory requirement.

- 87 ComReg currently provides information on its website about its dispute resolution function and information to aid postal service users who may wish to make an application for dispute resolution to ComReg.
- 88 While it is proposed to remove the application form from the procedures, the form will remain available via the website and continue to be provided in 'hard copy' on request.
- 89 ComReg considers that these revisions will benefit postal service users and that the revised procedures will further ComReg's statutory objective of promoting their interests<sup>16</sup>.
- 90 For ease of review proposed text deletions and amendments are marked up in Table 1 in [Annex: 1](#), and any provision that has moved is cross referenced to the relevant new paragraph in the revised procedures.

#### Proposed approach:

- 91 ComReg proposes to amend the 2015 procedures to remove any duplication in provisions and to simplify its procedures where appropriate, for the benefit of both postal service users and postal service providers.

Q. 2 Do you have any comments on the approach ComReg has set out in respect of revisions outlined in Chapter 4. Please explain the basis of your response in full, referring to the appropriate paragraph number and provide any relevant information to support your response.

- 92 ComReg has set out a tracked changed version of the 2018 Procedures in [Annex: 1](#) and a full 'clean' version of the proposed revised procedures at [Annex: 2](#).

Q. 3 Do you have any comments on the revisions outlined in [Annex: 2](#)? Please document clearly the basis of your response and reference the paragraph number(s) where appropriate. Please explain the basis of your response in full and provide any supporting information.

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<sup>16</sup> In accordance with Section 12(2)(A)(d) of the Communications Regulation Act 2002

## 5 Regulatory Impact Assessment (RIA)

- 93 ComReg has published RIA Guidelines<sup>17</sup>, (Doc 07/56a), in accordance with a policy direction to ComReg<sup>18</sup>, which state that ComReg will conduct a RIA in any process that may result in the imposition of a regulatory obligation, or the amendment of an existing obligation to a significant degree, or which may otherwise significantly impact on any relevant market or any stakeholders or consumers.
- 94 However, the Guidelines also note that in certain instances it may not be appropriate to conduct a RIA and, in particular, that a RIA is only considered mandatory or necessary in advance of a decision that could result in the imposition of an actual regulatory measure or obligation, and that where ComReg is merely charged with implementing a statutory obligation then it will assess each case individually and will determine whether a RIA is necessary and justified.
- 95 In this case ComReg considers that a RIA is not required as a new regulatory obligation is not being imposed. ComReg is simply updating its Postal Dispute Resolution Procedures as it is entitled to do under statute.

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<sup>17</sup> Which have regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009

<sup>18</sup> Ministerial Policy Direction made by Dermot Ahern T.D. Minister for Communications, Marine and Natural Resources on 21 February, 2003

## 6 Submitting comments and next steps

- 96 The consultation period will run from 27 September 2024 to 28 October 2024, during which ComReg welcomes written comments. It is requested that comments be cross-referenced to the relevant question numbers from this document.
- 97 Responses must be submitted in written form (post or email) to the following address/email and clearly marked "Submission to ComReg 24/81": Commission for Communication Regulation One Dockland Central 1 Guild Street North Dock Dublin 1 D01 E4XO Ireland Email: [retailconsult@comreg.ie](mailto:retailconsult@comreg.ie)
- 98 Having analysed and considered the comments received, ComReg intends to publish a response to consultation and decision in December 2024.
- 99 In order to promote further openness and transparency, ComReg will publish respondents' submissions to this consultation subject to the provisions of ComReg's Guidelines on the Treatment of Confidential Information<sup>19</sup>. If Respondents believe that parts of their responses are confidential or contain confidential information, the confidential elements of responses should be clearly marked as such and be set out in a separate confidential version of the response, which must be provided to ComReg by the closing date indicated above. Respondents should ensure that a non-confidential version of their response is also provided by the above closing date.

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<sup>19</sup> ComReg 05/24

# Annex: 1 Tracked changes to 2015 Procedures

**Table 1: Differences between 2015 Procedures and Postal Dispute Resolution Procedures**

100 The steps of the procedures have each been numbered and to aid review are provided as a linked bookmark within this tracked change Table 1. The paragraph number relates to that in the consolidated version at Annex 1; when clicked it will direct the reader to the appropriate paragraph in Annex 1.

**Legend:**

Moved: ~~Text is double strikethrough~~

New: **Text is in red**

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2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		<b>New Section: Interpretation</b>	Section	<b>Interpretation</b>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
1	<p><del>Section 43(3) of the Communications Regulation (Postal Services) Act 2011 (the "2011 Act") gives the Commission for Communications Regulation ("ComReg"), or an appointee of ComReg, a discretionary power to resolve disputes which remain unresolved after due completion of all the procedures of a postal service provider's code of practice. This type of dispute resolution is referred to in these procedures as "Section 43(3) dispute resolution".</del></p>			<p>[Now paragraph <a href="#">7</a>]</p>
		<p>Unless the context otherwise suggests, the definitions in the Communications Regulation (Postal Services) Act 2011 (the "2011 Act") apply to the Postal Dispute Resolution Procedures (the "procedures").</p>	<p><a href="#">1</a></p>	<p>Unless the context otherwise suggests, the definitions in the Communications Regulation (Postal Services) Act 2011 (the "2011 Act") apply to the Postal Dispute Resolution Procedures (the "procedures").</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		To the extent that there may be any difference between the procedures and the relevant provisions of the 2011 Act, the 2011 Act takes precedence.	<u>2</u>	To the extent that there may be any difference between the procedures and the relevant provisions of the 2011 Act, the 2011 Act takes precedence.
		For the purposes of these procedures:	<u>3</u>	For the purposes of these procedures:
2	<del>For the purposes of these procedures, a “dispute” is a conflict of claims or rights between a postal service user and a postal service provider (“the Parties”) that arises and remains unresolved after due completion of all the procedures of a postal service provider’s code of practice.</del>			[Now paragraph <u>3.3</u> ]



2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
3	For the purposes of these procedures, the “Complainant” is the postal service user who is in dispute with the postal service provider.	<del>For the purposes of these procedures, the a “Complainant user” is the a postal service user<sup>20</sup> who is in dispute with the a postal service provider.</del>	<u>3.1</u>	a “user” is a postal service user <sup>20</sup> who is in dispute with a postal service provider.
4	For the purposes of these procedures, the “Postal Service Provider” is the postal service provider with whom the Complainant is in dispute with.	<del>For the purposes of these procedures, the a “Postal Service Pprovider” is the postal service provider<sup>21</sup> with whom that the Complainant user is in dispute with.</del>	<u>3.2</u>	a “provider” is the postal service provider <sup>21</sup> that the user is in dispute with.

<sup>20</sup>Section 6(1) of the 2011 Act defines “postal service user” to mean ‘any person benefiting from postal service provision as a sender or as an addressee’; “sender” means a person responsible for originating postal packets; “addressee”, in relation to a postal packet, means the person to whom it is addressed.

<sup>21</sup> Section 6(1) of the 2011 Act defines “postal service provider” to mean ‘any person providing one or more than one postal service’; “postal services” means services involving the clearance, sorting, transport and distribution of postal packets; “postal packet” means an item addressed in the final form in which it is to be carried by a postal service provider and includes a letter, parcel, packet or any other article transmissible by post.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
2	<p><del>For the purposes of these procedures, a “dispute” is a conflict of claims or rights between a postal service user and a postal service provider (“the Parties”) that arises and remains unresolved after due completion of all the procedures of a postal service provider’s code of practice.</del></p>	<p>For the purposes of these procedures, a “dispute” is a conflict of claims or rights between a postal service user and a postal service provider (“the Parties”) that arises and remains unresolved after due completion of all the procedures of a postal service provider’s code of practice.</p>	<p><u>3.3</u></p>	<p>a “dispute” is a conflict of claims or rights between a user and a provider (“the parties”) that arises and remains unresolved after due completion of all the procedures of a provider’s code of practice.</p>
		<p><b>New Section: Introduction</b></p>	<p>Section</p>	<p><b>Introduction</b></p>
		<p>These procedures will take effect from [3 months from the publication date of the Response to Consultation and Decision] and will replace the procedures set out in ComReg 15/07a, which remain effective up to that date.</p>	<p><u>4</u></p>	<p>These procedures will take effect from [3 months from the publication date of the Response to Consultation and Decision] and will replace the procedures set out in ComReg 15/07a, which remain effective up to that date.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		<p>From the effective date of ComReg's proposed revised Postal Dispute Resolution Procedures all dispute applications that are accepted will be processed in accordance with those procedures. For dispute applications received prior to the effective date, they will be processed in accordance with the procedures in place at the time the dispute was accepted.</p>	<p><u>4.1</u></p>	<p>From the effective date of ComReg's proposed revised Postal Dispute Resolution Procedures all dispute applications that are accepted will be processed in accordance with those procedures. For dispute applications received prior to the effective date, they will be processed in accordance with the procedures in place at the time the dispute was accepted.</p>
<p>5</p>	<p>Participation in the Section 43(3) dispute resolution procedures does not preclude the possibility of seeking redress through court proceedings (for example in the Small Claims Court), on conclusion of the procedures.</p>	<p>Participation in the <del>Section 43(3) dispute resolution</del> procedures does not preclude the possibility of seeking redress through court proceedings (for example in the Small Claims Court), on conclusion of the procedures.</p>	<p><u>5</u></p>	<p>Participation in the procedures does not preclude the possibility of seeking redress through court proceedings (for example in the Small Claims Court), on conclusion of the procedures.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
6	The Parties are not obliged to retain a lawyer or legal advisor, but they may seek independent advice or be represented by a third party at any stage of these procedures.	The Parties <b>to a dispute</b> are not obliged to retain a lawyer or legal advisor, but they may seek independent advice or be represented by a third party at any stage of these procedures.	<u>6</u>	Parties to a dispute are not obliged to retain a lawyer or legal advisor, but they may seek independent advice or be represented by a third party at any stage of the procedures.
7	<del>The Complainant may withdraw from the Section 43(3) dispute resolution process at any stage, by giving notice in writing to ComReg and the Postal Service Provider.</del>			[Now paragraph <u>36</u> ]

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
1	<p>Section 43(3) of the Communications Regulation (Postal Services) Act 2011 (the "2011 Act") gives the Commission for Communications Regulation ("ComReg"), or an appointee of ComReg, a discretionary power to resolve disputes which remain unresolved after due completion of all the procedures of a postal service provider's code of practice. This type of dispute resolution is referred to in these procedures as "Section 43(3) dispute resolution".</p>	<p><del>Section 43(3) of the Communications Regulation (Postal Services) Act 2011 (the "2011 Act") gives the Commission for Communications Regulation ("ComReg"), or an appointee of ComReg, a discretionary power to resolve</del> Only disputes which remain unresolved after due completion of all the procedures of a postal service provider's code of practice <b>for complaints handling will be accepted into the formal dispute resolution process.</b> This type of dispute resolution is referred to in these procedures as "Section 43(3) dispute resolution".</p>	<p><u>7</u></p>	<p>Only disputes which remain unresolved after due completion of all the procedures of a postal service provider's code of practice for complaints handling will be accepted into the formal dispute resolution process.</p>
		<p>In general, all correspondence is required to be in writing, which should be in electronic format. ComReg is mindful of ensuring that all users can access the procedures. Should a party prefer to have their correspondence by post, ComReg will facilitate this.</p>	<p><u>8</u></p>	<p>In general, all correspondence is required to be in writing, which should be in electronic format. ComReg is mindful of ensuring that all users can access the procedures. Should a party prefer to have their correspondence by post, ComReg will facilitate this.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		For correspondence that is sent by post or delivered by hand to ComReg, the first day is the next working day after the date on which the correspondence is received by ComReg.	<u>9</u>	For correspondence that is sent by post or delivered by hand to ComReg, the first day is the next working day after the date on which the correspondence is received by ComReg.
		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	<u>10</u>	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

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		<p>If postal correspondence is to be used by ComReg the first day is the next working day after the date correspondence is sent by ComReg to a party to the dispute. A postal tracking service may be used in certain circumstances to determine the date on which the correspondence has been delivered to parties. Where the provider or the user can demonstrate that there was a delay in receiving such 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.</p>	<p><u>11</u></p>	<p>If postal correspondence is to be used by ComReg, the first day is the next working day after the date correspondence is sent by ComReg to a party to the dispute. A postal tracking service may be used in certain circumstances to determine the date on which the correspondence has been delivered to parties. Where the provider or the user can demonstrate that there was a delay in receiving such 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.</p>
		<p>The maximum amount of compensation that a provider may be required to pay to any user in resolution of a dispute is €5,000.</p>	<p><u>12</u></p>	<p>The maximum amount of compensation that a provider may be required to pay to any user in resolution of a dispute is €5,000.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		<p>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 issuing its draft or final 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.</p>	<p><u>13</u></p>	<p>For all timelines specified in the procedures, parties may request an extension, where necessary and appropriate. Any extension in time granted may affect the timeframes for ComReg issuing its draft or final 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.</p>
		<p>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.</p>	<p><u>14</u></p>	<p>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.</p>



2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		ComReg's general duty is to handle disputes in accordance with fair procedures and the principles of natural justice.	15	ComReg's general duty is to handle disputes in accordance with fair procedures and the principles of natural justice.
		ComReg shall, among other things, have regard to any applicable rule of law, the terms of any relevant codes of practice, contractual terms and conditions, other relevant agreements, the relevant regulatory framework, any relevant guidance and ComReg policy in place when resolving disputes referred to it.	<u>16</u>	ComReg shall, among other things, have regard to any applicable rule of law, the terms of any relevant codes of practice, contractual terms and conditions, other relevant agreements, the relevant regulatory framework, any relevant guidance and ComReg policy in place when resolving disputes referred to it.
		Dispute Resolution will be a paper-based process; however-ComReg, or such independent person as may be appointed by ComReg to resolve disputes, may propose an alternative process 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.	<u>17</u>	Dispute Resolution will be a paper-based process; however-ComReg, or such independent person as may be appointed by ComReg to resolve disputes, may propose an alternative process 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.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		ComReg has an appointed Access Officer who can coordinate assistance and provide guidance to persons with disabilities when engaging with ComReg, including when using its formal dispute resolution process.	<u>18</u>	ComReg has an appointed Access Officer who can coordinate assistance and provide guidance to persons with disabilities when engaging with ComReg, including when using its formal dispute resolution process.
Section	Step 1 - Submission of a dispute for Section 43(3) dispute resolution	<del>Step 1 – Submission of a dispute</del> Submitting an application for Section 43(3) dispute resolution	Section	<b>Submitting an application for dispute resolution</b>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
8	<p>When submitting a dispute for Section 43(3) dispute resolution the Complainant must use the 'Application Form for submitting a dispute for Section 43(3) dispute resolution'<sup>22</sup> ("the Application Form"). All information requested in the Application Form should be provided where possible, and should be presented in a clear and concise manner.</p>	<p>When submitting a dispute for <del>Section 43(3) dispute resolution</del> the Complainant must use the <del>an</del> 'Application Form for submitting a dispute for Section 43(3) dispute resolution' ("the Application Form"), <b>which is available on ComReg's website or can be provided on request, should be completed and submitted with any supporting documentation relevant to the dispute.</b> <del>All information requested in the Application Form should be provided where possible, and should be presented in a clear and concise manner.</del> <b>Details of the type of information that should be provided in an application is available on ComReg's website.</b></p>	<u>19</u>	<p>When submitting a dispute for resolution, an application form, which is available on ComReg's website or can be provided on request, should be completed and submitted with any supporting documentation relevant to the dispute. Details of the type of information that should be provided in an application is also available on ComReg's website.</p>

<sup>22</sup> See Section 2 of this document

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
9	The Application Form must be accompanied by a fee of €15 ("Application Fee").	<del>The Application Form must be accompanied by a fee of €15 ("Application Fee").</del>		
10	A dispute must be submitted for Section 43(3) dispute resolution no later than thirteen months from the date upon which the Complainant first submitted the complaint to the Postal Service Provider.	<del>A dispute must be submitted for Section 43(3) dispute resolution no later than thirteen months from the date upon which the Complainant first submitted the complaint to the Postal Service Provider.</del>		
	<del>This limitation may be waived in exceptional circumstances and at the ComReg's discretion.</del>			[Now footnote to paragraph <a href="#">20.4</a> ]
11	The day on which an application for Section 43(3) dispute resolution is received, is known as the "Date of Application".	<del>The day on which an application for Section 43(3) dispute resolution is received, is known as the "Date of Application".</del>		
Section	Step 2 - Consideration of whether to accept dispute	<del>Step 2 – Consideration of whether to accept dispute</del> <b>Assessing validity</b>	Section	<b>Assessing validity</b>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
12	On receipt of an application for Section 43(3) dispute resolution the application will be reviewed to determine whether the dispute is a 'valid dispute'.	<del>In order for the application to be accepted as for Section 43(3) dispute resolution the application will be reviewed to determine whether the dispute is a 'valid'</del> In order for the application to be accepted as for Section 43(3) dispute resolution the application will be reviewed to determine whether the dispute is a 'valid'-a number of criteria must first be fulfilled:	<u>20</u>	In order for the application to be accepted as valid, a number of criteria must first be fulfilled:
13	A dispute is a 'valid dispute' when:	A dispute is a 'valid dispute' when:		
	[Was 13 bullet #9]	the dispute relates to a matter which is within the regulatory remit of ComReg; and	<u>20.1</u>	the dispute relates to a matter which is within the regulatory remit of ComReg;
13 [bullet 1]	it is a conflict of claims or rights between a postal service user (as Complainant) and a Postal Service Provider;	<del>The dispute relates to a single user it is a conflict of claims or rights between a postal service user (as Complainant) and a Postal Service Provider</del> The dispute relates to a single user who has been impacted by the subject matter of the dispute;	<u>20.2</u>	the dispute relates to a single user who has been impacted by the subject matter of the dispute;

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
13 [bullet 2]	the Complainant has duly completed all the procedures of the Postal Service Provider's code of practice;	<del>the Complainant has duly completed all the procedures of</del> <b>for the resolution of disputes provided for in the Postal Service Provider's code of practice have been completed;</b>	<a href="#">20.3</a>	the procedures for the resolution of disputes provided for in the provider's code of practice have been completed.
	<i>[Was 13 bullet #6]</i>	<del>the complaint must have been</del> <b>it was submitted first notified to the provider in accordance with the code of practice for complaints handling within the previous thirteen 12 months;</b> <del>from the date upon which the Complainant first submitted the complaint to the Postal Service Provider.</del> <sup>23</sup>	<a href="#">20.4</a>	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 <sup>23</sup> ;
		<b>The scope of the dispute must be confined to the issues contained in the complaint when it was notified to the provider;</b>	<a href="#">20.5</a>	The scope of the dispute must be confined to the issues contained in the complaint when it was notified to the provider;
13 [bullet 3]	it is not frivolous or vexatious;	<del>it</del> <b>the dispute</b> is not frivolous or vexatious;	<a href="#">20.6</a>	the dispute is not frivolous or vexatious;

<sup>23</sup> This limitation may be waived in exceptional circumstances and at ComReg's discretion.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
13 [bullet 4]	it is not being, nor has previously been, considered by another dispute resolution entity or by a court;	it <del>is</del> <b>the dispute</b> is not being, nor has previously been, considered by another dispute resolution entity or by a court;	<a href="#">20.7</a>	the dispute is not being, nor has previously been, considered by another dispute resolution entity or by a court;
13 [bullet 5]	all required information has been provided <sup>22</sup> ;	<del>all required information has been provided;</del>		
13 [bullet 6]	<del>it was submitted within thirteen months<sup>24</sup> from the date upon which the Complainant first submitted the complaint to the Postal Service Provider;</del>			[Now paragraph <a href="#">20.4</a> ]
13 [bullet 7]	it was submitted accompanied by the Application Fee;	<del>it was submitted accompanied by the Application</del> <b>the nominal Fee has been paid;</b>	<a href="#">20.8</a>	the nominal fee has been paid;
13 [bullet 8]	the nature of the dispute is material to the Complainant;	<del>the nature of the dispute is material to the Complainant;</del>		

<sup>24</sup> Complaints outside this timeframe will only be considered if exceptional circumstances are demonstrated

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
13 [bullet 9]	<del>the dispute relates to a matter which is within the regulatory remit of ComReg; and</del>			[Now paragraph <a href="#">20.1</a> ]
13 [bullet 10]	dealing with the dispute does not seriously impair the effective operation of ComReg.	[no change]	<a href="#">20.9</a>	dealing with the dispute does not impact or impair the effective operation of ComReg.
14	There may be reasons other than those cited (in paragraph 13) why an application for Section 43(3) dispute resolution does not relate to a valid dispute.	<del>There may be reasons other than those cited (in paragraph 13) why an application for Section 43(3) dispute resolution does not relate to a valid dispute.</del> <b>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.</b>	<a href="#">21</a>	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.



2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		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.	<u>22</u>	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.
		If the application is incomplete, or more details are required, the user will be contacted and the relevant information will be requested.	<u>23</u>	If the application is incomplete, or more details are required, the user will be contacted and the relevant information will be requested.
		A reference number will be allocated to a dispute application and this should be quoted on all correspondence with the parties involved.	<u>24</u>	A reference number will be allocated to a dispute application and this should be quoted on all correspondence with the parties involved.
15	<del>If it is determined that the application for Section 43(3) dispute resolution does not relate to a valid dispute, the dispute application will be declined.</del>			[Now paragraph <u>27</u> ]

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
	<p>The determination of whether an application for Section 43(3) dispute resolution is in respect of a valid dispute, or not, will be completed as soon as possible following the Date of Application.</p>	<p><del>The determination of whether an application for Section 43(3) dispute resolution is in respect of a valid dispute, or not, will be completed as soon as possible following the Date of Application</del></p> <p>Once all the relevant information has been received from the 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.</p>	<p><u>25</u></p>	<p>Once all the relevant information has been received from the 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.</p>
		<p>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.</p>	<p><u>26</u></p>	<p>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.</p>
		<p>If it is determined that the application for Section 43(3) dispute resolution does not relate to a valid dispute, the dispute application will <del>not be declined</del> <b>accepted</b>.</p>	<p><u>27</u></p>	<p>If it is determined that the application is not valid, the application will not be accepted.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		<p><b>New Section: Accepting a valid application</b></p>	Section	<p><b>Accepting a valid application</b></p>
	<p>The Complainant will be provided with a reasoned explanation of the grounds for not accepting the dispute for Section 43(3) dispute resolution.</p>	<p><b>If the application is not accepted, the Complainant user will be contacted and will be provided with a reasoned explanation of the grounds for not the non-acceptance of the dispute for Section 43(3) dispute resolution application.</b></p>	<u>28</u>	<p>If the application is not accepted, the user will be contacted and will be provided with a reasoned explanation of the grounds for the non-acceptance of the application.</p>
16	<p>The day on which an application for Section 43(3) dispute resolution is determined to be a valid dispute, is known as the "Date of Notification".</p>	<p><b>Both the user and the provider will be formally advised at the same time that the dispute has been accepted. The day on which an application for Section 43(3) dispute resolution is determined to be a valid dispute, is known as the "Date of Notification". This date will be known as the 'Date of Acceptance'.</b></p>	<u>29</u>	<p>Both the 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'.</p>
17	<p>The Complainant will be advised of the determination of a valid dispute within 7 calendar days of the Date of Notification.</p>	<p><b>On the Date of Acceptance the Complainant user will be advised of the determination of a valid acceptance of the</b></p>	<u>30</u>	<p>On the Date of Acceptance, the user will be advised of the acceptance of the referral of the dispute.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		<p><del>referral of the dispute within 7 calendar days of the Date of Notification.</del></p> <p>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.</p>		<p>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.</p>
Section	Step 3 — Response by the Postal Service Provider			
18	The Postal Service Provider will be formally advised of the Section 43(3) dispute resolution application	<p><del>On the Date of Acceptance, the Postal Service Provider will be formally advised of the Section 43(3) receipt of the dispute resolution application, and of the name of the user and the dispute reference number.</del></p> <p>On the Date of Acceptance, the Postal Service Provider will be formally advised of the Section 43(3) receipt of the dispute resolution application, and of the name of the user and the dispute reference number.</p>	<u>31</u>	<p>On the Date of Acceptance, the provider will be formally advised of receipt of the dispute, and of the name of the user and the dispute reference number.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
	<p>and a copy of the completed Application form will be provided to it within 7 calendar days of the Date of Notification.</p>	<p><del>Within 5-working days of the Date of Acceptance, the provider will be provided with and a an electronic copy of the details submitted in the completed Application by the user, including any supporting documentation form will be provided to it within 7 calendar days of the Date of Notification.</del></p>	<p><u>32</u></p>	<p>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 user, including any supporting documentation...</p>
<p>19</p>	<p>The Postal Service Provider must respond within 14 calendar days of the date of communication of the decision to commence resolution of the dispute (or 21 calendar days if advised of the Section 43(3) dispute resolution commencing in the month of December).</p>	<p><del>The Postal Service Provider must respond within and will be given 14 calendar days 10-working days of the date of communication of the decision to commence resolution of the dispute (or 21 calendar days if advised of the Section 43(3) dispute resolution commencing in the month of December). This response must be non-confidential. This response should be sufficiently to provide a written detailed and comprehensive to enable a full assessment of the substance of the dispute between the parties-response to ComReg.</del></p>	<p><u>32</u></p>	<p>...and will be given 10-working days to provide a written detailed response to ComReg.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
	<p>This response must be non-confidential. This response should be sufficiently detailed and comprehensive to enable a full assessment of the substance of the dispute between the parties.</p>	<p>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.</p>	<p><u>33</u></p>	<p>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.</p>
<p>Section</p>	<p>Step 4 - Resolution of a Section 43(3) dispute</p>			
<p>20</p>	<p>Following receipt of the Postal Service Provider’s response and a detailed analysis of all submissions, more information may be requested, in writing, from the Parties if deemed necessary. Parties will have 14 calendar days to submit further information should it be requested.</p>	<p>Following receipt of the Postal Service <del>If ComReg requires any further information from the Pprovider’s response and a detailed analysis of all submissions, more information may be requested, ComReg will notify it in writing, from the Parties if deemed necessary. Parties and the provider will have 14 calendar</del> up to 10-working days to submit further information should it be requested and comments.</p>	<p><u>34</u></p>	<p>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.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		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 user and any response by the provider to date.	<u>34.1</u>	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 user and any response by the provider to date.
		Following receipt of the provider's response, more information may be requested from the user, if deemed necessary.	<u>35</u>	Following receipt of the provider's response, more information may be requested from the user, if deemed necessary.
		If this is the case, the user will be notified in writing and will have up to 10-working days to submit further information and comments.	<u>35.1</u>	If this is the case, the user will be notified in writing and will have up to 10-working days to submit further information and comments.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
21	<p>If the Complainant does not respond or fails to provide requested information, it will be assumed that the Complainant does not want to proceed with the dispute.</p> <p>In this event the Parties will be notified that the dispute has been closed.</p>	<p>If the <del>Complainant</del> <b>user</b> does not respond to <b>ComReg</b> or fails to provide <b>any information</b> requested <del>information</del>, it will be assumed that the <del>Complainant</del> <b>user</b> does not want to proceed with the dispute.</p>	<a href="#">35.2</a>	<p>If the user does not respond to ComReg or fails to provide any information requested, it will be assumed that the user does not want to proceed with the dispute.</p>
		<p>In this event the <del>Parties</del> <b>user</b> will be <del>notified</del> <b>contacted and advised that unless they respond within 5-working days, the dispute has been</b> <b>will be</b> closed.</p>	<a href="#">35.3</a>	<p>In this event, the user will be contacted and advised that unless they respond within 5-working days, the dispute will be closed.</p>
			<a href="#">35.4</a>	<p>If the 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.</p>
Was 7		<p>The <del>Complainant</del> <b>user</b> <del>may</del> <b>can</b> withdraw from the <del>Section 43(3)</del> dispute resolution process at any stage <b>up to the time at which ComReg proposes a resolution to the dispute</b>, by <del>giving notice</del> <b>notifying ComReg</b> in writing to <del>ComReg and the Postal Service Provider</del>.</p>	<a href="#">36</a>	<p>The user can withdraw from the dispute resolution process at any stage up to the time at which ComReg proposes a resolution to the dispute, by notifying ComReg in writing.</p>



2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
26	If the Complainant gives notice that he/she wishes to withdraw from the dispute resolution process the Postal Service Provider will be advised of this fact within 14 calendar days from receipt of this notification from the Complainant.	If the Complainant gives notice that he/she wishes to withdraw from the dispute resolution process <del>Upon receipt of notification of withdrawal from the user ComReg will inform the Postal Service Provider will be advised of this fact within 14 calendar 2-working days from receipt of this notification from the Complainant.</del> , and will close the dispute.	<a href="#">36.1</a>	Upon receipt of notification of withdrawal from the user, ComReg will inform the provider within 2-working days and will close the dispute.
		Once a 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.	<a href="#">36.2</a>	Once a 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.
		However, this does not preclude a user from submitting a fresh application for the same dispute or from submitting an application for another dispute at any time.	<a href="#">36.3</a>	However, this does not preclude a user from submitting a fresh application for the same dispute or from submitting an application for another dispute at any time.
		New Section: Preparing the draft resolution	Section	<b>Preparing the draft resolution</b>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
22	Following consideration of all the information before it (including but not limited to the Application Form, the response of the Postal Service Provider and any other relevant information before the decision maker) a draft resolution will be prepared.	<del>Following consideration of all the information before it (including but not limited to the Application Form, the response of the Postal Service Provider and any other relevant information before the decision maker)</del> In making its draft resolution ComReg shall have regard to the submissions from the user and the provider will be prepared.	<a href="#">37</a>	In making its draft resolution ComReg shall have regard to the submissions from the user and the provider.
		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.	<a href="#">38</a>	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.
		As soon as ComReg has evaluated any third party information, both the provider and the user will be sent a copy and will be given 10-working days to provide a written detailed response to ComReg.	<a href="#">39</a>	As soon as ComReg has evaluated any third party information, both the provider and the user will be sent a copy and will be given 10-working days to provide a written detailed response to ComReg.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
23	The draft resolution will be sent to the Parties within 56 <sup>25</sup> calendar days of the Date of Notification.	When ComReg deems it has sufficient information, it will undertake its review and will endeavour to issue a draft resolution and draft summary <del>will be sent to the Parties within 56 calendar days of the Date of Notification</del> within 10-working days.	<u>40</u>	When ComReg deems it has sufficient information, it will undertake its review and will endeavour to issue a draft resolution and draft summary within 10-working days.
		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 resolution.	<u>40.1</u>	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 resolution.
		New Section: Issuing the draft resolution	Section	<b>Issuing the draft resolution</b>
		The draft resolution and the draft summary will be notified to both parties in writing at the same time.	<u>41</u>	The draft resolution and the draft summary will be notified to both parties in writing at the same time.

<sup>25</sup> Within 61 calendar days if the postal service provider given notification in the month of December.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		The draft resolution will contain details of the reasons for the proposed resolution.	<a href="#">42</a>	The draft resolution will contain details of the reasons for the proposed resolution.
		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 resolution was in favour of the provider or the user and the resolution (excluding any financial amounts prescribed).	<a href="#">43</a>	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 resolution was in favour of the provider or the user and the resolution (excluding any financial amounts prescribed).
24	The Parties will have 14 calendar days from the date of the draft resolution to submit comments on the draft resolution.	The Parties will have <del>14 calendar</del> 10-working days from the date of the draft resolution and draft summary to submit comments on the draft resolution.	<a href="#">44</a>	The parties will have 10-working days from the date of the draft resolution and draft summary to submit comments.
		A response in writing to the draft 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.	<a href="#">45</a>	A response in writing to the draft 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.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		<p>If posted by standard post 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.</p>	<p><u>46</u></p>	<p>If posted by standard post 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.</p>
		<p>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.</p>	<p><u>47</u></p>	<p>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.</p>
<p>25</p>	<p>Following consideration of all response comments to the draft resolution, a final resolution will be prepared and issued to the Parties.</p>	<p>Following <del>consideration</del> further analysis of all <del>response submissions and comments,</del> including consideration of all comments <del>to</del> on the draft resolution and draft summary, a final resolution and final summary will be prepared and issued to the Parties in writing.</p>	<p><u>48</u></p>	<p>Following further analysis of all submissions and comments, including consideration of all comments on the draft resolution and draft summary, a final resolution and final summary will be prepared and issued to the parties in writing.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		The reasoning behind the final resolution, which will have regard to the relevant regulatory and legislative framework, will be set out.	<a href="#">49</a>	The reasoning behind the final resolution, which will have regard to the relevant regulatory and legislative framework, will be set out.
26	<del>If the Complainant gives notice that he/she wishes to withdraw from the dispute resolution process the Postal Service Provider will be advised of this fact within 14 calendar days from receipt of this notification from the Complainant.</del>			[Now paragraph <a href="#">36.1</a> ]
27	The final resolution will be issued within 90 calendar days from the Date of Notification.	ComReg will endeavour to issue the final resolution and final summary <del>will be issued within 90 calendar days from the Date of Notification</del> after receipt of all submissions and comments on the draft resolution.	<a href="#">50</a>	ComReg will endeavour to issue the final resolution and final summary within 10-working days after receipt of all submissions and comments on the draft resolution.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
	<p>ComReg may, at its own discretion, extend the 90 calendar days' 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 dispute resolution.</p>	<p>ComReg may, at its own discretion, extend <del>the 90 calendar</del> <b>this 10-working days' time period.</b> <del>but the Parties will</del> <b>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 dispute resolution and final summary.</b></p>	<p><u>50.1</u></p>	<p>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 dispute resolution and final summary.</p>
		<p><b>ComReg will endeavour to issue the final resolution within 60-working days of the Date of Acceptance. Achieving this timeframe is dependent on all other timeframes being met.</b></p>	<p><u>51</u></p>	<p>ComReg will endeavour to issue the final resolution within 60-working days of the Date of Acceptance. Achieving this timeframe is dependent on all other timeframes being met.</p>
		<p><b>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 resolution and final summary.</b></p>	<p><u>51.1</u></p>	<p>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 resolution and final summary.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		At any time, up to the issuance of the final resolution, the provider is free to contact the <del>end</del> -user to resolve the dispute directly.	<u>52</u>	At any time, up to the issuance of the final resolution, the provider is free to contact the user to resolve the dispute directly.
		If agreement is reached, the provider must notify ComReg within 2-working days of the dispute being resolved, and evidence that the user has accepted the resolution in writing.	<u>52.1</u>	If agreement is reached, the provider must notify ComReg within 2-working days of the dispute being resolved, and evidence that the user has accepted the resolution in writing.
		The final resolution will include written reasons to explain the rationale for ComReg's resolution.	<u>53</u>	The final resolution will include written reasons to explain the rationale for ComReg's resolution.



2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
28	The final resolution may specify measures for the resolution of the dispute including payment of costs in the case where an independent person is appointed, and reimbursement of payments or compensation, or both reimbursement of payments and compensation, as appropriate in accordance with the provisions of the code of practice relating to the matters, specified in section 43(1)(e) of the 2011 Act.	[no change]	<a href="#">54</a>	The final resolution may specify measures for the resolution of the dispute including payment of costs in the case where an independent person is appointed, and reimbursement of payments or compensation, or both reimbursement of payments and compensation, as appropriate in accordance with the provisions of the code of practice relating to the matters, specified in section 43(1)(e) of the 2011 Act.
29	<del>If the final resolution finds in favour of the Complainant, the Application Fee will be reimbursed.</del>			[Now paragraph <a href="#">61</a> ]

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
30	A Postal Service Provider must comply with any measures specified in the final resolution within 14 calendar days of the issuing of the final resolution.	<p>In disputes where ComReg, or such independent person as may be appointed by ComReg to resolve disputes, finds in favour of a user, A Postal Service Provider must comply with any measures specified in the final resolution within 14 calendar days of the issuing of the final resolution will set out the measures to be taken by the provider and a timeframe for doing so.</p>	<u>55</u>	In disputes where ComReg, or such independent person as may be appointed by ComReg to resolve disputes, finds in favour of an user, the final resolution will set out the measures to be taken by the provider and a timeframe for doing so.
		<p>ComReg's approach will be to treat the period for compliance with a resolution as commencing only from the first day following the day on which the provider is notified by ComReg of the resolution.</p>	<u>56</u>	ComReg's approach will be to treat the period for compliance with a resolution as commencing only from the first day following the day on which the provider is notified of the resolution.
31	ComReg notes the power afforded to it under section 43(8) of the 2011 Act to issue directions to postal service providers to ensure compliance with the requirements of section 43.	[no change]	<u>57</u>	ComReg notes the power afforded to it under section 43(8) of the 2011 Act to issue directions to postal service providers to ensure compliance with the requirements of section 43.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		<p>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.</p>	<p><u>58</u></p>	<p>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.</p>
		<p>The user is responsible for and must pay any costs incurred by them in the preparation of their case. Users cannot take any legal action against ComReg to recover these costs.</p>	<p><u>59</u></p>	<p>The user is responsible for and must pay any costs incurred by them in the preparation of their case. Users cannot take any legal action against ComReg to recover these costs.</p>

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
		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.	<u>60</u>	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.
	[Was 29]	If the final resolution finds in favour of the Complainant user, the Application Fee will be reimbursed to the user.	<u>61</u>	If the final resolution finds in favour of the user, the application fee will be reimbursed to the user.
		<b>New Section: Appeal</b>	Section	<b>Appeal</b>
32	The issuing of the final resolution is the final step in the Section 43(3) dispute resolution process.	The issuing of the final resolution is the final step in ComReg's the Section 43(3) dispute resolution process.	<u>62</u>	The issuing of the final resolution is the final step in ComReg's dispute resolution process.

2015 ref #	2015 Procedures text	Tracked	New para ref #	Proposed revised procedures text
			63	<p>Section 52(2) of the 2011 Act provides that:</p> <p><i>“A user or postal service provider ... whose interests are materially affected by a decision may, not later than 28 days after the user or postal service provider has been notified of the decision, appeal to the High Court against that decision”.</i></p>

# Annex: 2 Draft Postal Dispute Resolution Procedures

## Interpretation

- 1 Unless the context otherwise suggests, the definitions in the Communications Regulation (Postal Services) Act 2011 (the “2011 Act”) apply in the Postal Dispute Resolution Procedures (the “procedures”).
- 2 To the extent that there may be any difference between the procedures and the relevant provisions of the 2011 Act, the 2011 Act takes precedence.
- 3 For the purposes of these procedures:
  - 3.1 a “user” is a postal service user<sup>26</sup> who is in dispute with the postal service provider.
  - 3.2 a “provider” is a postal service provider<sup>27</sup> that the user is in dispute with.
  - 3.3 a “dispute” is a conflict of claims or rights between a user and a provider that arises and remains unresolved after due completion of all the procedures of a provider’s code of practice.

## Introduction

- 4 These procedures will take effect from [3 months from the publication date of the Response to Consultation and Decision] and will replace the procedures set out in ComReg 15/07a, which remain effective up to that date.
  - 4.1 From the effective date of ComReg’s proposed revised Postal Dispute Resolution Procedures all dispute applications that are accepted will be processed in accordance with those procedures. For dispute applications received prior to the effective date, they will be processed in accordance with the procedures in place at the time the dispute was accepted.

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<sup>26</sup> Section 6(1) of the 2011 Act defines “postal service user” to mean ‘any person benefiting from postal service provision as a sender or as an addressee’; “sender” means a person responsible for originating postal packets; “addressee”, in relation to a postal packet, means the person to whom it is addressed.

<sup>27</sup> Section 6(1) of the 2011 Act defines “postal service provider” to mean ‘any person providing one or more than one postal service’; “postal services” means services involving the clearance, sorting, transport and distribution of postal packets; “postal packet” means an item addressed in the final form in which it is to be carried by a postal service provider and includes a letter, parcel, packet or any other article transmissible by post.

- 5 Participation in the procedures does not preclude the possibility of seeking redress through court proceedings (for example in the Small Claims Court), on conclusion of the procedures.
- 6 Parties to a dispute are not obliged to retain a lawyer or legal advisor, but they may seek independent advice or be represented by a third party at any stage of the procedures.
- 7 Only disputes which remain unresolved after due completion of all the procedures of a postal service provider's code of practice for complaints handling will be accepted into the formal dispute resolution process.
- 8 In general, all correspondence is required to be in writing, which should be in electronic format. ComReg is mindful of ensuring that all users can access the procedures. Should a user prefer to have their correspondence by post, ComReg will facilitate this.
- 9 For correspondence that is sent by post or delivered by hand to ComReg, the first day is the next working day after the date on which the correspondence is received by ComReg.
- 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 postal correspondence is to be used by ComReg, the first day is the next working day after the date correspondence is sent by ComReg to a party to the dispute. A postal tracking service may be used in certain circumstances to determine the date on which the correspondence has been delivered to parties. Where the provider or the user can demonstrate that there was a delay in receiving such 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 required to pay to any user in resolution of a dispute 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 timeframes for ComReg issuing its draft or final 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, among other things, have regard to any applicable rule of law, the terms of any relevant codes of practice, contractual terms and conditions, other relevant agreements, the relevant regulatory framework, any relevant guidance and ComReg policy in place when resolving disputes referred to it.
- 17 Dispute Resolution will be a paper-based process; however ComReg, or such independent person as may be appointed by ComReg to resolve disputes, may propose an alternative process 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 provide guidance to persons with disabilities when engaging with ComReg, including when using its formal dispute resolution process.

## Submitting an application for dispute resolution

- 19 When submitting a dispute for resolution, an application form, which is available on ComReg's website or can be provided on request, should be completed and submitted with any supporting documentation relevant to the dispute. Details of the type of information that should be provided in an application is also available on ComReg's website.

## Assessing validity

- 20 In order for the application to be accepted as valid, a number of criteria must first be fulfilled:
  - 20.1 the dispute relates to a matter which is within the regulatory remit of ComReg;
  - 20.2 the dispute relates to a single user who has been impacted by the subject matter of the dispute;
  - 20.3 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.<sup>28</sup>;

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<sup>28</sup> This limitation may be waived in exceptional circumstances and at ComReg's discretion



- 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.
- 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 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 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 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 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 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.
- 31 On the Date of Acceptance, the provider will be formally advised of receipt of the dispute, and of the name of the 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 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 user and any response by the provider to date.
- 35 Following receipt of the provider's response, more information may be requested from the user, if deemed necessary.
  - 35.1 If this is the case, the user will be notified in writing and will have up to 10-working days to submit further information and comments.
  - 35.2 If the user does not respond to ComReg or fails to provide any information requested, it will be assumed that the user does not want to proceed with the dispute.
  - 35.3 In this event, the user will be contacted and advised that unless they respond within 5-working days, the dispute will be closed.
  - 35.4 If the 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 user can withdraw from the 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 from a user, ComReg will inform the provider within 2-working days and will close the dispute.
- 36.2 Once a 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 a user from submitting a fresh application for the same dispute or from submitting an application for another dispute at any time.

## Preparing the draft resolution

- 37 In making its draft resolution ComReg shall have regard to the submissions from the user and the provider.
- 38 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.
- 39 As soon as ComReg has evaluated any third party information, both the provider and the user will be sent a copy and will be given 10-working days to provide a written detailed response to ComReg.
- 40 When ComReg deems it has sufficient information, it will undertake its review and will endeavour to issue a draft resolution and draft summary within 10-working days.
- 40.1 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 resolution.

## Issuing the draft resolution

- 41 The draft resolution and the draft summary will be notified to both parties in writing at the same time.
- 42 The draft resolution will contain details of the reasons for the resolution.

- 43 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 resolution was in favour of the provider or the user and the resolution (excluding any financial amounts prescribed).
- 44 The parties will have 10-working days from the date of the draft resolution and draft summary to submit comments.
- 45 A response in writing to the draft 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.
- 46 If posted by standard post 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.
- 47 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.
- 48 Following further analysis of all submissions and comments, including consideration of all comments on the draft resolution and draft summary, a final resolution and final summary will be prepared and issued to the parties in writing.
- 49 It will set out the reasoning behind the final resolution, having regard to the relevant regulatory and legislative framework.
- 50 ComReg will endeavour to issue the final resolution and final summary within 10-working days after receipt of all submissions and comments on the draft resolution.
  - 50.1 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 resolution.
- 51 ComReg will endeavour to issue the final resolution and final summary within 60-working days of the Date of Acceptance. Achieving this timeframe is dependent on all other timeframes being met.
  - 51.1 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 resolution.
- 52 At any time, up to the issuance of the draft resolution, the provider is free to contact the user to resolve the dispute directly.

- 52.1 If agreement is reached, the provider must notify ComReg within 2-working days of the dispute being resolved, and evidence that the user has accepted the resolution in writing.
- 53 The final resolution will include written reasons to explain the rationale for ComReg's resolution.
- 54 The final resolution may specify measures for the resolution of the dispute including payment of costs in the case where an independent person is appointed, and reimbursement of payments or compensation, or both reimbursement of payments and compensation, as appropriate in accordance with the provisions of the code of practice relating to the matters, specified in section 43(1)(e) of the 2011 Act.
- 55 In disputes where ComReg, or such independent person as may be appointed by ComReg to resolve disputes, finds in favour of an user, the final resolution will set out the measures to be taken by the provider and a timeframe for doing so.
- 56 ComReg's approach will be to treat the period for compliance with a resolution as commencing only from the first day following the day on which the provider is notified of the resolution.
- 57 ComReg notes the power afforded to it under section 43(8) of the 2011 Act to issue directions to postal service providers to ensure compliance with the requirements of section 43.
- 58 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.
- 59 The user is responsible for and must pay any costs incurred by them in the preparation of their case. Users cannot take any legal action against ComReg to recover these costs.
- 60 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.
- 61 If the final resolution finds in favour of the user, the application fee will be reimbursed to the user.

## Appeal

62 The issuing of the final resolution is the final step in ComReg's dispute resolution process.

63 Section 52(2) of the 2011 Act provides that:

*"A user or postal service provider ... whose interests are materially affected by a decision may, not later than 28 days after the user or postal service provider has been notified of the decision, appeal to the High Court against that decision".*

## Annex: 3 Legal Basis

- 1 ComReg is obliged, pursuant to section 12(2A)(d) of the Communications Regulation Acts 2002 to 2011 (“the 2002 Act”) to take reasonable measures to promote the interests of postal service users, including:

*“(i) ensuring a high level of protection for postal service users in their dealings with postal service providers, in particular by—*

*(l) ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved...*

*(ii) addressing the needs of specific social groups, in particular, disabled postal service users.”*

- 2 The 2011 Act provides at Section 43(3):

*“The Commission, or a person appointed by the Commission, possessing, in the opinion of the Commission, the requisite degree of independence from the postal service provider concerned, may, in accordance with procedures established and maintained by the Commission, resolve disputes which remain unresolved after due completion of all the procedures of a code of practice drawn up under subsection (1)...”*

- 3 The 2011 Act provides at Section 43(4):

*“The Commission shall publish any procedures established by it pursuant to subsection (3) and **any amendments thereto**”. (emphasis added)*

- 4 The 2011 Act provides at Section 43(5):

*“The procedures referred to in subsections (1) and (3) shall be—*

*(a) transparent,*

*(b) simple,*

*(c) inexpensive, and*

*(d) enable disputes to be settled fairly and promptly.*

## Annex: 4 Questions

### Section

### Page

- Q. 1 Do you have any comments on the approach ComReg has set out in respect of the revisions outlined in Chapter 3. Please explain the basis of your response in full, referring to the appropriate paragraph number and provide any relevant information to support your response..... 15
- Q. 2 Do you have any comments on the approach ComReg has set out in respect of revisions outlined in Chapter 4. Please explain the basis of your response in full, referring to the appropriate paragraph number and provide any relevant information to support your response..... 19
- Q. 3 Do you have any comments on the revisions outlined in Annex: 2? Please document clearly the basis of your response and reference the paragraph number(s) where appropriate. Please explain the basis of your response in full and provide any supporting information..... 19