



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Postal Dispute Resolution Procedures Procedures

Procedures

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Commission for Communications Regulation

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Additional Information

Related Publications	Document Number
'Postal Dispute Resolution Procedures' Response to Consultation and Decision	ComReg 24/102
'Postal Dispute Resolution Procedures' Submissions to Consultation 23/81	ComReg 24/102s

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1 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 user¹ who is in dispute with the postal service provider.
 - 3.2 a “provider” is a postal service provider² 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 18 March 2025 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 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.

¹ 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.

² 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 Officer³ 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;

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

- 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.⁴;
- 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.

⁴ This limitation may be waived in exceptional circumstances and at ComReg's discretion

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 to issue the final summary for publication 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”.