



GIBRALTAR REGULATORY
AUTHORITY

Consumer Disputes

Procedures for handling of disputes

September 2019

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FOREWORD

This document aims to offer any consumer seeking resolution of a dispute with an authorised electronic communications network and/or service provider in Gibraltar (service provider), guidance on the procedures which the GRA will follow when handling a dispute.

These procedures are designed to be simple, free of charge and should enable disputes to be settled fairly, promptly and in a transparent manner.

Please note the GRA may also use these procedures when it conducts its own initiative investigations.

Inter-operator disputes are handled by the GRA under separate guidelines.

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INTRODUCTION

Consumers¹ who wish to submit a request for the resolution of a dispute must do so by completing and submitting the relevant form to the GRA. Dispute Resolution Request Forms ("DRRF") can be found on the GRA website (www.gra.gi) and this can be submitted directly from the website or can be downloaded and completed offline. Instructions on how to submit these can be found on the relevant form.

If you intend to submit your DRRF by email, post or in person, please do so using the following information:

Communications Division
Gibraltar Regulatory Authority
2nd Floor, Eurotowers 4
1 Europort Road
Gibraltar
Email: communications@gra.gi

When submitting a DRRF, please ensure to include sufficient, detailed information about the matter being raised, specifically:

- (a) The affected person's full name, company name (if applicable) and contact details;
- (b) The specific nature of the dispute in detail, together with any supporting documentation you may wish to provide as evidence;
- (c) Relevant dates and times of significant incidents; and
- (d) Confirmation that a dispute has already been handled by your service provider, including any reference number that may have been allocated to the case.

The inclusion of these details is crucial to this process. Failure to provide sufficient information may hinder the investigation and even prevent the GRA from initiating the dispute resolution procedure.

Please indicate if any of the information submitted within the DRRF is confidential. If not, the GRA reserves the right to disclose any information to the relevant service provider or any other relevant party.

¹ Any natural person who uses or requests a publicly available electronic communications service for purposes which are outside that person's trade, business or profession.

Time Limits on submitting a dispute resolution request form

The DRRF should be submitted to the GRA **within 30 working days** from the date when the service provider in question issues their final decision regarding the said dispute.

In the event that a DRRF is submitted later than 30 working days, it should be accompanied by an explanation as to why it was not submitted earlier. The GRA will then consider all relevant factors to decide whether or not the GRA should consider the dispute, despite the delay in its submission.

Initial Assessment and Investigation

All dispute resolution requests are important to the GRA and they provide a useful account of whether a service provider is failing to comply with its requirements. The GRA will log and acknowledge every request that it receives. However, the GRA may not need to correspond any further with consumers and will itself carry out a process of initial assessment and investigation of all requests using the following criteria:

(a) The GRA will first consider whether a request raises potentially substantive issues which warrant an investigation. The GRA will do so by reference to the extent of the matter being raised.

(b) Once the GRA has established that it should assess the matter further, the GRA will contact and request the service provider to make its own representations reference the dispute and these must be provided to the GRA usually within 10 working days. Additional information may also be requested from the consumer and any other relevant party where necessary.

(c) Based on the information it has received, the GRA may decide not to investigate the matter any further and will inform the affected consumer of its reasoning and conclusion. The GRA may also publish its decision on its website. If, however, the GRA finds that the service provider may have acted contrary to its responsibilities towards the consumer, the GRA will investigate the matter further.

(d) The GRA may require further information from the service provider in order to proceed with its investigation. If this is the case, these must be provided within 10 working days.

(e) The GRA aims to complete an initial assessment of all submissions within 20 working days. The 20-day deadline will commence on either;

i) when it confirms to the consumer and the service provider that it will take on the investigation, or

ii) when it receives further information from the service provider as outlined in (d) above, whichever happens latest.

(f) There may be specific cases where the matters raised within the DRRF are considered by the GRA as a clear breach of the service provider's legal and/or regulatory requirements. In these cases, the GRA may not seek the service provider's initial representations but will instead write to them with its preliminary view on the substance of the issues raised and initiate the investigation process.

(g) The GRA aims to complete all investigations within 40 working days.

The GRA's Preliminary View

The GRA, with or without the service provider's representations, as the case may be, will prepare its preliminary view on the context of the matter raised by the consumer. This preliminary view may be subject to change in the light of subsequent representations and/or material provided by the service provider.

The GRA's preliminary view may contain the following:

- a summary of the dispute as understood by it;
- a summary of the material parts to which the dispute relates;
- the provisions from the Act, regulations, conditions, obligations or any other requirements which the GRA deems are relevant and applicable to the case; and
- the GRA's preliminary assessment of whether any breaches of those provisions have occurred and the reasons behind that assessment.

If in any case, the GRA considers it necessary to obtain further information to ensure that it can fairly and properly prepare its preliminary view, the GRA may seek such information before finalising this stage.

Once the GRA has completed its preliminary view, it will forward this assessment to the service provider and request representations within 10 working days.

Following the consideration of any representations received on its preliminary view, the GRA will reach its final decision and inform both parties of the dispute accordingly.

Publishing of Decision

The GRA will publish its decision on all disputes which have been considered and investigated.

Before publication, the GRA may, in some instances, provide a draft decision to all relevant parties concerned for final comments. Under these circumstances, 5 working days will be set as a deadline.

All decisions will be published on the GRA's website: www.gra.gi

Time Limits

Consumers submitting a DRRF and service providers shall keep to the time limits specified in these procedures.

However, the GRA may consider it appropriate (in the interests of fairness and/or to properly carry out an investigation) to amend or adapt the time limits set out in the procedures during a particular case.

Whenever the GRA is unable to assess and/or complete the resolution of a dispute within any deadline, it will provide reasons for the delay.

Any of the parties seeking an extension to a time limit should explain in writing to the GRA why it believes it is appropriate.

Sanctions

If as a result of its investigation, the GRA concludes that the service provider in question is found to have contravened;

(a) the Act or regulations;

(b) an obligation;

(c) a condition; or

(c) any other requirement,

the GRA may issue a penalty or penalties, may issue a Direction and/or take any other regulatory or legal action pursuant to its powers under Law.

These procedures are not seeking to duplicate or replace requirements under legislation or regulatory requirements imposed by the GRA. They are also without prejudice to compliance with such requirements.

CONTACT US

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