

**VIRGIN ISLANDS**

**TELECOMMUNICATIONS CODE (PART 4A) (INVESTIGATION OF COMPLAINTS BY CONSUMERS, FACILITATION OF RELIEF AND RESOLUTION OF RELATED DISPUTES) PROCEDURES, 2021**

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**VIRGIN ISLANDS**  
**STATUTORY INSTRUMENT 2021 No. ---**  
**TELECOMMUNICATIONS ACT, 2006**  
**(No. 10 of 2006)**

**Telecommunications Code (Part 4A) (Investigation of Complaints by Consumers, Facilitation of Relief and Resolution of Related Disputes) Procedures, 2021**

[Gazetted \_\_\_\_\_, 2021]

The Telecommunications Regulatory Commission, in exercise of the powers conferred by sections 6(m) and (n) and 91(3) of the Telecommunications Act, 2006 (No. 10 of 2006), issues these procedures (the **Procedures**).

**PART I**  
**PRELIMINARY PROVISIONS**

Citation and commencement

**1.** These Procedures may be cited as the Telecommunications Code (Part 4A) (Investigation of Complaints by Consumers, Facilitation of Relief and Resolution of Related Disputes) Procedures, 2021 and shall come into effect on the date of publication in the Gazette.

Purpose.

**2.** (1) The purpose of these Procedures is to establish a clear, fair and efficient process for investigation of consumer complaints and to provide for the facilitation of relief and resolution of related disputes by the Commission and licensees.

(2) These Procedures shall also, *mutatis mutandis*, apply to complaints by a person, other than operators of telecommunications networks and telecommunications services, related to the business of a licensee, and related disputes.

Interpretation.

**3.** In these Procedures, unless the context otherwise requires,

“Act” means the Telecommunications Act, 2006;

“business day” means any day on which a licensee’s offices are open to the public for carrying out some or all of its business functions, excluding gazetted public holidays;

“consumer” means (a) a person who requests, receives, acquires, uses or subscribes to services for the primary purpose of personal or domestic use and not for resale or (b) a business or not-for-profit organisation, which requests, receives, acquires, uses or subscribes to one or more services which are not for resale. For the avoidance of doubt, a consumer does not include an operator of a telecommunications network or a provider of a telecommunications service;

“Commission” means the Telecommunications Regulatory Commission established under the Act;

“complainant” means a consumer, who submitted a complaint to a licensee or the Commission;

“complaint” means an expression of dissatisfaction made by a customer to a licensee or the Commission related to either (i) the licensee’s provision of services and products to that customer; or (ii) the complaint handling process itself; and where a response or resolution is explicitly or implicitly expected;

“complaints handling process” means a consumer complaints handling process established by a licensee pursuant to section 5 of these Procedures;

“customer” means a consumer who has entered into a contract with a licensee;

“dispute” means any disagreement between a licensee and a consumer which was initiated by a complainant;

“incident” means an event or occurrence to which a complaint relates;

“licence” means a licence granted by the Commission to a licensee to provide telecommunications services in the British Virgin Islands;

“licensee” means a person to whom a licence has been granted under the Act;

“party” means a complainant or a respondent;

“product” means a physical item that is provided, or caused to be provided, by the licensee to a customer and is required by the customer to access or use a service;

“public telephone service” means the commercial provision to the public of the means to send and receive voice telephony calls by the direct transport and switching or routing of speech-band signals, including those used for facsimile and data transmission, together with such other services as are prescribed in the Telecommunications Code;

“quarter” means a period of three months starting on 1 January, 1 April, 1 July and 1 October of the Gregorian calendar each year;

“representative” means a person, who is authorised by a consumer to act on their behalf;

“resolution” means the bringing of a complaint to a conclusion in accordance with these Procedures;

“respondent” means a licensee, whose business, services or products are the subject of a complaint;

“services” means electronic communications services offered or provided to a customer by a licensee and includes, where the context so requires, products;

“writing” means any form of representation of information, where information contained in such representation is accessible so as to be usable for subsequent reference including but not

limited to, paper documents, including facsimiles, emails and electronic records.

Scope. **4.** These Requirements shall apply to consumers and licensees in the telecommunications services industry.

## **PART II GENERAL DUTIES OF LICENSEES**

Duty to establish a complaints handling process.

**5.** (1) A licensee that provides telecommunications services and related products to consumers must establish a complaints handling process that includes the requirements for consumer complaints handling as outlined in these Procedures.

(2) The complaints handling process referred to in subsection (1) must be approved by the licensee's Chief Executive Officer or such other person of the same or similar professional capacity within the licensee's organisation.

(3) A complaints handling process must, in addition to any other matter specifically prescribed in these Procedures:

- (a) be set out in writing;
- (b) be available to consumers free of charge;
- (c) allow for complaints to be made (i) in person at the licensee's public offices; (ii) by telephone; (iii) in writing, presented in hard copy or sent via electronic mail; and (iv) through the licensee's website by means of an online form;
- (d) specify the telephone number, email address, web address and physical location where a consumer can make a complaint;
- (e) set out in sequence each step in the process for managing a complaint as outlined in Part II of these Procedures;
- (f) identify the relevant time periods associated with each step in the process;
- (g) allow for consumers to nominate a representative to make and handle a complaint;
- (h) make adequate provisions to ensure that elderly persons, persons with disabilities and other vulnerable persons as defined in the Telecommunications Code (Part 4B) (Protection of Consumer Rights) Requirements, 2021 are able to access the licensee's complaint handling process;
- (i) permit reasonable assistance to consumers who specifically request assistance in lodging a complaint due to language barriers and disabilities;

- (j) set out how consumers can monitor their complaint's progress;
- (k) establish and implement effective, efficient, transparent, fair, reasonable and non-discriminatory procedures for registering, investigating and resolving complaints.
- (l) state that consumers have a right to submit their complaints to the Commission, where consumers are of the opinion that their complaints have not been satisfactorily resolved by the licensee within ten business days; and
- (m) provide that a consumer's telecommunications service cannot be cancelled for the sole reason that the consumer was unable to resolve the complaint directly with the licensee and pursued option for external dispute resolution.

(4) In relation to its complaints handling process, a licensee shall:

- (a) establish and maintain effective and easy to use channels of communication for consumers to submit their complaints. Without limiting the generality of such obligation, providers of public telephone services shall ensure that their consumers are able to submit their complaints, as well as report faults, through a number, specified in the numbering plan or instructed by the Commission, and shall ensure that consumers are duly informed of this;
- (b) inform consumers and the public, through various media formats, including as specifically directed by the Commission from time to time, of the channels of communication for submitting complaints and the complaint handling process including (i) a consumer's right to complain; (ii) how to contact the licensee to make a complaint; and (iii) types of supporting information a consumer needs to furnish when making a complaint;
- (c) display and provide their own complaint forms at all public offices and sale centres; and
- (d) provide the Commission with the complaints handling process in force, upon request. The Commission may require a licensee to amend its complaints handling process, where the Commission considers that such procedures may not be sufficiently effective, efficient, fair, reasonable or non-discriminatory

Complaints management.

6. A licensee must ensure that:
  - (a) its complaint handling process is managed by a senior manager who is required to maintain the effective and efficient operation of that process in accordance with these Procedures;
  - (b) its personnel dealing directly with consumers or personnel dealing with complaints:
    - (i) manage and resolve complaints in an effective and efficient manner in accordance with the minimum requirements for consumer complaints handling specified in these Procedures;
    - (ii) treat consumer making a complaint with fairness and courtesy; and
    - (iii) can identify and record a complaint.

Requirements to keep records of complaints.

7. A licensee must keep systematic records of complaints, which include:
  - (a) the name and contact details of the complainant, and their representative where applicable;
  - (b) a unique reference number, account number, or such other measure that will ensure that the licensee can subsequently identify the complaint and its subject matter;
  - (c) a description of the nature of the complaint and the issues raised as part of the complaint;
  - (d) the dates on which the complaint was received and acknowledged, the due date for a resolution response, the dates on which a solution was proposed by the licensee and accepted by the complainant, and the dates on which the complaint was resolved and closed;
  - (e) a description of the steps taken by the licensee to address the complaint and the results of any investigation into the complaint;
  - (f) a description of the proposed resolution of the complaint, including any associated commitments and the licensee's reasons for its proposed resolution;
  - (g) the complainant's response to the proposed resolution of the complaint, any reasons given by the complainant, if they have requested the proposed resolution in writing,



that this request has been made, and any alternative resolution requested by the complainant;

(h) the implementation of any actions taken in consequence of the complaint; and

(i) copies of any correspondence sent by or to the complainant regarding the complaint.

Record retention.

**8.** A licensee shall:

(a) keep records that are sufficient to demonstrate its compliance with these Procedures for at least three years from the date of creating the record; and

(b) make those records available to the Commission upon receiving a written request from the Commission.

Privacy.

**9.** A licensee must ensure that personal information it collects in connection with a complaint is not disclosed to a third party except:

(a) as required to manage a complaint that has been submitted to the Commission;

(b) with the express consent of the complainant;

(c) where disclosure is otherwise required or authorised by law.

Reporting on consumer complaints.

**10.** (1) The licensee shall, no later than one month after the end of each quarter, submit a report to the Commission that sets out in respect of the previous quarter:

(a) the number of complaints received;

(b) the category of each complaint;

(c) the current status of each complaint, including whether the complaint has been resolved;

(d) percentage of complaints resolved within the time frames specified in these Procedures;

(e) the number of complaints that have been escalated to the Commission; and

(f) the service type that forms the basis of each complaint.

(2) For the purposes of section 10(1)(b), the category of complaints shall include, without limitation, billing and rates, provision of service, credit control, customer service, and other areas, as applicable.

(3) For the purposes of section 10(1)(f), the service type of complaints shall include, without limitation, fixed services, mobile services, broadband services, broadcasting services, and other areas, as applicable.

Duty to establish complaints records analysis processes.

**11.** A licensee shall establish processes, procedures and systems, for monitoring and analysing its complaints records to identify systemic issues and problems, and prevent those systemic issues, problems and related complaints from recurring.

Requirements to monitor and analyse complaints.

**12.** In connection with section 11 of these Procedures, a licensee must:

- (a) classify and analyse complaints at least every three months, to identify, address and take steps to prevent frequent problems and systemic issues from recurring;
- (b) review its complaints handling process every 12 months to:
  - (i) ensure it is suitable, adequate, effective and efficient;
  - (ii) identify new issues and correct deficiencies that require specific attention, and record any new issues and deficiencies identified;
  - (iii) assess its compliance with these Procedures;
  - (iv) identify areas for improvement or that require change; and
  - (v) evaluate potential changes;
- (c) take steps to monitor progress of action taken to address problems or issues identified in (a) and (b) as soon as practicable;
- (d) record in writing any steps taken under (c);
- (e) ensure that any significant complaints, problems or issues identified under this section are efficiently and effectively managed and that there are processes for senior management to be notified where appropriate;
- (f) ensure that its processes for implementing the requirements in (a) to (e) are set out in writing, and made available to personnel responsible for monitoring and analysing complaints and the complaints handling process.
- (g) report to the Commission on actions taken to comply with (a) to (f) within 21 days of receiving a written request from the Commission.

**PART III**  
**RESOLUTION OF A COMPLAINT BY A LICENSEE**

Filing a  
complaint.

**13.** (1) A consumer shall file his or her initial complaint with the respondent within thirty business days of the occurrence of the incident

(2) When submitting a complaint, a consumer shall provide the respondent with the following information:

- (a) name and address of the complainant or their representative;
- (b) account holder's name and account number or any other number for identification of the consumer in the records of the respondent for the product or service associated with the complaint;
- (c) contact information of the consumer or his or her representative including, postal address, and where available, telephone number, fax number and electronic mail address;
- (d) date of the complaint and period of time to which it relates;
- (e) the product or service that forms the basis of the complaint;
- (f) complete details of the complaint, including clear and specific information on issues that the complainant is dissatisfied with or has a grievance in relation to; and
- (g) the requested remedy.

(3) A complaint is considered filed when:

- (a) the consumer submits his or her complaint through a channel of communication for submitting complaints about which consumers and the public are effectively informed by a licensee;
- (b) the consumer submits his or her complaint through any reasonably available channel of communication, where a licensee has not effectively informed consumers and the public about channels of communication for submitting complaints or such channels are not effective or not easy to use; or
- (c) the respondent includes a complaint received into an established process for investigation and resolution of complaints, where a consumer submits a complaint outside channels of communications designated by the respondent and paragraph (b) is not applicable. In such a case the respondent has an obligation to take effective steps to include such a complaint into established process for investigation and resolution of complaints within a reasonable time which shall not be more than ten business days from the receipt of such complaint.

Refusal of a complaint.

**14.** Subject to the provisions of this section, the respondent shall not refuse or delay investigation or resolution of a complaint which does not comply fully with the requirements of section 13(2) where the respondent has reasonably sufficient information to investigate or resolve such a complaint.

Frivolous or vexatious complaints.

**15.** (1) Where the respondent, after careful consideration and on objectively reasonable evidence, concludes that:

- (a) the complaint or the behavior of the complainant is frivolous or vexatious; or
- (b) it is not reasonably practicable to assist the complainant or resolve the complaint,

the licensee may decide not to deal, or to deal further, with the complaint.

(2) Where the respondent refuses to investigate or continue with the investigation of a complaint under this section, it shall inform the complainant and the Commission of such in writing, indicating the reasons for the refusal and providing information to the complainant about referring the matter to the Commission for resolution.

(3) Subject to subsection (4), where a licensee advises a complainant in accordance with subsection (2), it is not required to accept any further complaints from that consumer on the same or similar issues.

(4) Where the reasons for a decision submitted by the licensee to the Commission under subsection (2), do not disclose appropriate grounds for such refusal as outlined in subsection (1), the Commission may issue instructions to the licensee to accept, investigate and resolve a complaint in accordance with these Procedures.

Acknowledgement of a complaint.

**16.** (1) A respondent shall acknowledge a complaint within three business days from its filing.

(2) Where possible, a respondent shall acknowledge filing of a complaint in writing.

(3) When acknowledging a complaint, a respondent shall convey to the complainant the time frame in which the complaint will be addressed, steps to be taken to investigate and resolve the complaint, information including contact details of the person responsible for the investigation of the complaint, information necessary to track the investigation of the complaint including a reference number for the complaint and other information relevant to the investigation and resolution of the process.

Resolution of a complaint.

**17.** (1) A respondent shall investigate and resolve a complaint within ten business days of the filing of a complaint, or such shorter time as directed by the Commission, except where objective reasons make such a complaint impossible to investigate and resolve within that time frame.

(2) Where it takes more than ten business days for a respondent to investigate and resolve a complaint, such a complaint shall be resolved in the shortest possible timeframe and the respondent shall provide the complainant with prompt and regular updates as to the status of the investigation. Any extension to the ten-business day period shall not exceed twenty business days.

(3) A respondent shall advise the complainant of the proposed resolution of the complaint in writing, as soon as reasonably practicable after the licensee completes investigation of the complaint, and in any event within twenty days of receiving a complaint.

(4) Any proposed resolution by the respondent must be tailored to the complaint made and, in particular, must address the cause of the complaint.

(5) Where a respondent requires additional information from a complainant in order to resolve a complaint, it shall promptly communicate this to the complainant or their representative. Where possible, such communication shall be done in writing.

(6) Where the complainant has indicated his or her acceptance of the proposed resolution, the respondent shall complete all actions necessary to implement that resolution within ten business days unless:

- (a) otherwise agreed with the complainant; or
- (b) the actions to be completed by the respondent are contingent on an action to be completed by the complainant, in which case the respondent must complete all actions to implement the resolution within ten business days of the complainant having completed the required action.

(7) A complaint shall be considered resolved when:

- (a) the complainant has indicated to the respondent in writing that he or she no longer wishes to pursue the complaint;
- (b) the complainant and the respondent have agreed a course of action which, if taken, would resolve or remedy the complaint to the complainant's satisfaction; or
- (c) the respondent has taken action to rectify or remedy the issue and, it is reasonable to consider that, as a result of such action, the complainant is no longer dissatisfied.

(8) A respondent shall, within five business days of a complaint being close, send a written confirmation of the resolution to the complainant.

Delays.

**18.** (1) A respondent must advise a complainant of any delay to the specified timeframe, required by these Procedures, for managing or handling their complaint as soon as possible after becoming aware of the delay.

(2) Where a respondent does not reasonably believe that a complaint can be resolved within ten business days of the filing of a complaint, the respondent must as soon as practicable within that period advise the complainant of:

- (a) the cause of the delay;

- (b) the new timeframe for resolving the complaint; and
- (c) the avenues for external dispute resolution including by the Commission, where it is expected that the delay will be longer than twenty business days.

Attempts to contact consumer.

**19.** (1) Where, in the course of meeting its obligations under these Procedures, the respondent is unable to contact a complainant or representative of the complainant, after attempting to make contact on at least two separate business days, to discuss his or her complaint, or to advise of the proposed resolution, the respondent must write to the complainant at the last known address stating:

- (a) that they were unable to contact the complainant;
- (b) details of previous contact attempts;
- (c) an invitation to contact the respondent to discuss the complaint within a timeframe of not less than ten business days; and
- (d) details of how the respondent can be contacted within the timeframe specified in subsection (1)(c).

(2) Where, following the steps outlined in subsection (1), a complainant has not contacted the respondent within the timeframe specified, the respondent may treat the complaint as closed.

Dissatisfaction with a resolution.

**20.** Where a complainant is dissatisfied with the manner in which a respondent has resolved his or her complaint or where the respondent has failed to resolve the complaint within the timeframe required by these Procedures, the complainant may submit a complaint to the Commission.

#### **PART IV INVESTIGATION OF A COMPLAINT BY THE COMMISSION**

Filing a complaint with the Commission.

**21.** (1) A complaint may be lodged with the Commission if:

- (a) little or no effort was made by the licensee to resolve the complaint;
- (b) the consumer is dissatisfied with the outcome of the complaint submitted to the licensee or the manner in which the complaint has been handled by the licensee;
- (c) the consumer is of the opinion that all means of resolution have been exhausted with the licensee; or
- (d) attempts by the consumer to contact the licensee have proven unsuccessful.

(2) A complaint shall be submitted to the Commission in writing, or such other channels of communication for submission of a complaint, as determined by the Commission from time to time. The Commission shall ensure that consumers are duly informed of any alternative means by which a complaint may

be submitted through publication of the additional channel of communication on the Commission's website and in the Gazette.

(3) Any complaint to be lodged with the Commission under this Part, must be lodged within 28 days of the right arising under section 21(1).

(4) When submitting a complaint to the Commission, a complainant shall provide the Commission with the following:

- (a) name and address of the complainant or his or her representative;
- (b) account holder's name and account number or any other number for identification of the complainant in the records of the respondent for the product or service associated with the complaint;
- (c) other contact information of the complainant or his or her representative including, postal address, and, where available, telephone number, fax number and electronic mail address;
- (d) date of the complaint and period of time to which it relates;
- (e) the product or service that forms the basis of the complaint;
- (f) complete details of the complaint, including clear and specific information on issues that the complainant is dissatisfied with or has a grievance in relation to;
- (g) the requested remedy;
- (h) details of any communication with the respondent and any action taken by the respondent; and
- (i) all written evidence related to the complaint including but not limited to the agreement for provision of relevant services, other related terms and conditions, related invoices and other relevant documents.

(5) The Commission may investigate a complaint, which does not comply with the requirements of subsections (1), (2) and (3), where it considers that such non-compliance is not material for such an investigation. In deciding whether to investigate a complaint, the Commission shall consider the feasibility for the person to make a complaint in compliance with subsections (1), (2) or (3), including whether a person is disabled, elderly, illiterate or in case of other exceptional circumstances as determined by the Commission.

Refusal of a  
complaint.

**22.** (1) The Commission may refuse to investigate a complaint where the Commission considers it to be inappropriate, unfeasible or unreasonably difficult to investigate such a complaint based on but not limited to the following:

- (a) non-compliance with the requirements of section 21(1) and (2). Before refusing a complaint based on this ground, the Commission shall, where possible, provide the complainant with an opportunity to rectify the non-compliance within a

time frame set by the Commission, which shall be not less than ten business days from the receipt of the letter of the Commission;

- (b) the complaint is vexatious or frivolous;
- (c) the complaint is made in anonymity;
- (d) there was undue delay in filing the complaint with no reasonable excuse for such delay;
- (e) the complaint was not first lodged with a licensee;
- (f) the complaint is not within the remit of the Commission;
- (g) the complaint is under investigation, is the subject of a dispute being resolved, or has been resolved by another body, in particular a court of law, or another body is a more appropriate forum to resolve the complaint as determined by applicable laws;
- (h) the Commission has already resolved the complaint regarding the same matter between the same complainant and the same respondent;
- (i) any other reasons making investigation of the complaint inappropriate

(2) Where the Commission refuses to investigate a complaint it shall, where possible, inform the complainant of such a decision in writing, and provide reasons for the refusal and where appropriate, information on how circumstances precluding investigation of the complaint can be remedied or the appropriate body for addressing the complaint.

(3) Where another body is a more appropriate body to investigate a complaint, the Commission shall where appropriate, inform the complainant that they may lodge their complaint with that body.

(4) The Commission may refuse a complaint, in accordance with these Procedures, at any stage of investigation.

Acknowledgement of a complaint.

**23.** (1) The Commission shall acknowledge a complaint within three business days of receipt of the complaint.

(2) Where possible, an acknowledgement of a complaint shall be done in writing.

(3) When acknowledging a complaint, the Commission shall inform the complainant of the persons responsible for investigation of the complaint, provide contact details for such persons and issue reference number for the complaint.

Rights of parties to a complaint.

**24.** (1) Parties to a complaint shall have a right to:

- (a) access the file related to the complaint;



- (b) submit to the Commission in writing or any other form, acceptable to the Commission, their views, arguments, comments, responses and evidence in relation to any aspect of a complaint.

(2) Parties shall exercise their rights under these Procedures in a fair and reasonable manner.

Rights of the Commission.

**25.** In investigating a complaint, the Commission may:

- (a) request information including documents, from any party to a complaint or any other person. Such information shall be provided within the timeframe set by the Commission and where applicable in the form prescribed;
- (b) conduct site visits and in connection with such visits request that the parties or a representative accompany the Commission on such visits;
- (c) organise a hearing regarding a complaint;
- (d) conduct public consultations or hold public hearings;
- (e) engage experts and other persons to assist with the investigation;
- (f) take any provisional or interim measures as the Commission considers appropriate pending the final investigation of a complaint;
- (g) do such other things as are necessary or expedient to investigate and resolve a complaint.

Timelines for investigation.

**26.** (1) The Commission shall investigate and resolve a complaint within ten business days of receipt of the complaint, except where objective reasons make such resolution unfeasible.

(2) Where the Commission takes more than ten business days to investigate a complaint, the Commission shall make every effort to resolve the complaint in the shortest possible timeframe and shall regularly update the complainant as to the status of the investigation.

Confidentiality.

**27.** (1) The Commission shall protect information that is considered confidential in accordance with this section. The rights of parties and the provisions of these Procedures are without prejudice to a requirement to protect such information.

(2) Where confidential information is submitted by a complainant and the Commission considers that it may be inappropriate, unfeasible or unreasonably difficult to resolve such a dispute without disclosing such confidential information to the respondent, the Commission shall have a right

to refuse a complaint unless a complainant agrees that such information may be disclosed to a respondent or where the Commission considers in accordance with this section that the claimed confidential information shall not be treated as confidential.

(3) The Commission may consider any information submitted to it as non-confidential unless the person submitting it explicitly asks the Commission to consider such information to be confidential. A person claiming confidentiality shall clearly mark any information included in a response that is claimed to be confidential including personal or proprietary information, and shall provide reasons why that information is to be considered confidential. Whenever confidential information is included in a document, the person submitting that document is required to provide both a confidential and a non-confidential version of it.

(4) The Commission shall evaluate requests to treat information as confidential in accordance with relevant legal principles and determine whether such information shall be considered confidential. Where the Commission determines that information claimed to be confidential should not be considered as such, the Commission shall inform the person who submitted that information of its decision and provide written reasons for its decision. Any information that is claimed to be confidential but is not deemed by the Commission to be confidential may be disclosable, subject to subsection (5).

(5) Where the Commission refuses a claim of confidentiality under subsection (4), it shall not for a period of 14 days disclose, or make the claimed confidential information available to the parties or any other person in order to allow the party making a claim of confidentiality to seek any administrative review of the decision of the Commission including (but not limited to) by way of judicial review in the High Court.

(6) Where a person seeks to review the decision of the Commission under subsection (5), that person shall give notice of the application for review to the Commission and the decision of the Commission not to sustain the claim of confidentiality shall be stayed or suspended pending the outcome of the administrative review.

(7) Unless the decision of the administrative review process under subsection (6) is that the Commission shall treat the information as confidential, the Commission shall be free to treat the information in the manner specified in subsection (5).

(8) The Commission may in its discretion decide to consider certain information to be confidential even without a request of a relevant party.

(9) The Commission may on its own initiative or based on the request of a relevant party decide that certain information may only be used

for investigating a dispute and disclose it to the other party of the dispute for that purpose only. This section shall apply *mutatis mutandis* to such a decision and such information. A party receiving such information shall protect the confidentiality thereof.

Record keeping.

**28.** The Commission is required to archive records of consumer complaints. The records are to be kept at the Commission's office for a period of at least three years.

## **PART V RESOLUTION OF DISPUTES**

Resolution of disputes.

**29.** (1) The Commission may take the following decisions in relation to a dispute:

- (a) refuse to hear the complaint based upon procedural grounds set out in section 21;
- (b) refuse the complaint on merits;
- (c) resolve the complaint in full or in part and issue appropriate instructions to the respondent. When resolving a complaint, the Commission is not limited to the requests of the complainant, but may issue such instructions as it sees fit to remedy the relevant issue;
- (d) issue a recommendation, suggesting actions to be taken by one or both parties. The Commission may use such recommendation in lieu or in addition to any other actions it may take in its discretion.

(2) Failure of the Commission to take into account information that was not disclosed to it by the complainant or the respondent, or revealed upon reasonable investigation of the complaint shall not affect the legality of the Commission's decision.

Decision of the Commission.

**30.** (1) The Commission shall provide reasons for its decision.

(2) A decision of the Commission shall be distributed to both parties, except where a complaint is refused on procedural grounds before the Commission has informed the respondent about such a complaint. In the latter case a decision of the Commission shall be submitted to a complainant only.

(3) Where the Commission adopts a decision pursuant to section 29 (1)(c), the respondent shall inform the Commission of its implementation as per the requirements of such a decision.

(4) Where the Commission adopts a decision pursuant to section 29(1)(d), the parties to which such a recommendation is directed shall inform the

Commission in writing of all efforts made to implement the recommendation within ten business days from the adoption of such a recommendation, except where the Commission instructs otherwise.

Amicable resolution of disputes.

**31.** (1) The parties to a complaint may, at any stage, agree to resolve their complaint amicably. The respondent or the complainant must notify the Commission of their agreement. In such a case the Commission shall cease investigation of the complaint. This is without prejudice to the powers of the Commission to take any action it sees fit based upon the facts of the complaint, where such action is in the public interest.

(2) Without prejudice to the requirement to protect confidential information, the Commission may in its discretion decide to publish any information in relation to the complaint.

## **PART VI COMPLIANCE**

Compliance and enforcement

**32.** (1) A licensee who is providing services at the time of commencement of these Procedures shall take the necessary steps to comply with these Procedures within one month of the commencement of these Procedures;

(2) A licensee who commences services after the commencement of these Procedures shall comply with the obligations at the time of commencement of services

(3) A licensee who fails to comply with the provisions of these Procedures commits an offence and is liable to the enforcement measures provided in sections 75 to 77 of the Act.;

(4) A licensee who breaches any provision of these Procedures may be liable to pay to the Commission a fine not exceeding ten thousand dollars for every breach.

Relationship with licences.

**33.** The provisions of these Procedures do not replace, but rather supplement the requirements of a public supplier's license.

Revocation.

**34.** These Procedures revoke and replace the Telecommunications Code (Part 4) (Investigation of Complaints by Consumers, Facilitation of Relief and Resolution of Related Disputes), Procedures 2010.

Transitional.

**35.** Where a complaint was made by a consumer to a licensee prior to the commencement of these Procedures and remains unresolved at or after the date of the commencement of these Procedure, the complaints must be assessed and

