



Information & Communications Technology Authority

Public Consultation

on

Dispute Resolution Rules

(Ref: R (2003) 4a)

Launch Date: 30 June 2003

Closing Date: 30 July 2003

Dispute Resolution Rules

It is recognized that important issues affecting Licensees and interested parties will require debate amongst these various parties which may result in disputes. It is also recognized that some disputes will require some form of intervention for resolution by the Information and Communications Technology Authority (the Authority). Additionally, it is anticipated that members of the general public will have concerns on matters pertaining to the ICT Services they receive which may require some form of intervention for resolution by the Authority. In order to ensure a fair, efficient and equitable process for addressing and resolving such matters the Authority proposes to introduce the attached Dispute Resolution Rules.

The Authority notes that section 46 of the Information and Communications Technology Law, 2002 provides that the Authority may make rules applicable to the resolution of pre-contract disputes which may involve interconnection and infrastructure matters. The attached Dispute Resolution Rules are also to apply to disputes over such pre-contract matters.

The Authority is of the view that Licensees are sufficiently sophisticated and knowledgeable about their industry and operations that they should first make a good faith and reasonable effort to resolve any matters of dispute between them. In the absence of agreement either Licensee should then be entitled to submit the matter to the Authority for resolution.

In order to focus issues, parties submitting a dispute to the Authority for resolution are required to provide detailed information as to the identity of the parties, the ICT Network and/or ICT Services involved and the nature and scope of the dispute as well as any matters upon which they are in agreement. Given that submissions will involve the engagement of the resources of the Authority, both Licensees and corporate interested parties bringing a dispute before the Authority will be required to file submission fees. As the Authority has a general mandate to advance the interests and concerns of consumers it is not proposed to levy any submission fees for complaints by individuals. Additionally, the Authority is not likely to impose the same level of detail for substantive information upon consumers.

Recognizing the Authority's commitment to efficiency and transparency, the Dispute Resolution Rules specify time frames for the exchange of materials and the requirement for parties to copy one another. Further, the Rules require the Authority to act expeditiously giving due regard to the subject matter and fair settlement of the dispute. Depending on the nature of the matter to be determined, the Authority may choose to involve other interested parties and/or

elect to conduct a hearing. In such an event, both process and transparency are provided for in the Rules.

The Rules also recognize that not all disputes referred to the Authority will necessarily result in resolution by it. For instance, the Authority will not entertain requests which are vexatious, an abuse of process, trivial or of little significant social and/or economic importance. Additionally, the Authority will not entertain a request in the absence of a reasonable effort to settle the dispute.

The Rules provide the Authority with some flexibility in the manner in which it may wish to address a dispute, including declining to make a determination for various specified reasons, appointing a mediator or arbitrator, or adjudicating the matter. The Rules also provide the Authority with the ability to award costs. An award of costs may include any or all of the costs of the Authority and of any of the parties to a dispute. The Authority is of the view that its ability to award costs will serve to ensure the reasonableness of parties both in resolving matters as between them and in advancing issues for determination.

The Authority invites comments from the public in general and from potential licensees in particular, as to the proposed Dispute Resolution Rules. In addition to comments on the proposed Rules, the Authority invites submissions on the following:

1. Whether the procedures stipulated in the Rules are fair, efficient and ensure transparency?
2. Whether the Rules provide adequately for the treatment of complaints submitted by the general public?
3. Whether other matters, if any, should be required to be included in a Determination Request?
4. Should the Authority require that an officer of a Licensee sign a Rule 6(e) affidavit?
5. Are there other instances when the Authority should decline to entertain a Determination Request other than that stipulated in Rule 11?
6. In what instances should the Authority retain an expert to assist in the resolution of a Dispute? Who should bear the cost for retaining experts?
7. In what instances should the Authority contemplate a public hearing?
8. Any other matters pertaining to the Dispute Resolution Rules which one desires to be brought to the attention of the Authority?

The Authority requests written submissions from established and potential licensees, other stakeholders and the general public by 30 July 2003.

Written submissions should be forwarded to:

By post:

The Managing Director
Information and Communications Technology Authority
P.O.Box 2502GT
Grand Cayman
Cayman Islands

Or by courier:

The Managing Director
Information and Communications Technology Authority
3rd Floor, Alissta Towers
North Sound Way
Grand Cayman
Cayman Islands

Or by e-mail to:

consultations@icta.ky

Or by fax to:

1-345-945-8284