

# **COMPLAINT ADJUDICATION GUIDELINES BY THE NIGERIAN COMMUNICATIONS COMMISSION**

## **1. PREAMBLE**

- 1.1 This Complaint Adjudication Guidelines is issued pursuant to the provisions of Section 75(2) of the Nigerian Communications Act (2003), hereinafter referred to as “the Act” and sets forth general guiding principles and procedures for exercising powers of resolving disputes conferred on the Nigerian Communications Commission hereinafter referred to as “the Commission” by Sections 73-78 of the Act.
- 1.2 The provisions of these Guidelines are by no means exhaustive and the Commission shall be at liberty to adopt additional Guidelines for areas and issues not covered either in the course of a hearing under these Guidelines or subsequently in addition to or modification of the body of these Guidelines. This shall be done strictly in accordance to the principles of fair hearing, equity and justice.
- 1.3 In line with provisions of Section 76 (2) of the Act the provisions of these Guidelines shall not constitute undue technical ground, legal form or rules of evidence to frustrate or delay the quick hearing and/or resolution of any matter pursuant to Sections 73-78 of the Act.
- 1.4 These Guidelines shall operate always in conformity with the rules of natural justice.
- 1.5 The object of the Guidelines therefore is to obtain the fair resolution of disputes by an impartial Panel set up by the Commission without unnecessary delay and expense. The Parties and the Panel undertake to do all things necessary in the achievement of this objective.
- 1.6 The procedure is designed to provide a forum for inexpensive, fair, impartial and effective adjudication as a means of resolving inter – operator and consumer- related disputes in the telecommunications sector.

- 1.7 The procedure provides for oral hearing and documentary submissions by the Parties. Any documentation submitted by either Party to the Panel shall remain confidential.
- 1.8 An application for adjudication under these Rules does not relieve either Party of any obligation to pay any amounts, which are due to the other Party and are not in dispute and a panel constituted under these Guidelines may make orders for immediate payment of such amounts not in dispute.
- 1.9 The Commission`s actions/decisions in accordance with these Guidelines shall be final and binding until set aside by a competent Court of Law as stipulated under Section 88 of the Act.

## **2. COMMENCEMENT**

- 2.1 A person hereinafter referred to as “the Complainant(s)” claiming a violation of his rights under the communications laws or other communications legal or regulatory instrument including regulations, licenses, guidelines etc; shall notify the Commission through a letter of Complaint to the Commission stating all relevant facts of the Complaint and further ensure that a copy of the letter is delivered to the person or persons hereinafter referred to as “the Respondent(s)”, against whom the complaint is made.
- 2.2 The Respondent shall be at liberty to send his response to the complaint to the Commission and the Complainant within 7 days of the receipt of the complaint.
- 2.3 Upon the expiration of 7 days or receipt of the Respondent`s response to the complaint, the Commission shall within 5 working days determine if it requires both parties to appear before a panel constituted by the Commission to make presentations, submissions and argue their individual positions on matter.

Where Parties are required to appear before a Panel, the Commission would write to the Complainant requesting him to file a Formal Complaint with the Commission within 7 days and further ensure that a copy of the complaint is delivered to the respondent(s) and obtain a satisfactory proof of delivery.

2.4 The Formal Complaint shall be in the following format:

- a. It shall be headed **“IN THE MATTER BEFORE THE NIGERIAN COMMUNICATIONS COMMISSION”**
- b. It shall state all names of the Parties as Complainant and Respondent.
- c. It shall be followed by a sub heading titled: COMPLAINT.
- d. It shall state the facts of and facts relevant to the complaint, including all acts and omissions on the part of the Respondent, his agents and other persons for whom the Respondent is vicariously liable and other steps and actions taken on the part of the Complainant to avert or remedy the situation together with the responses of the Respondent to such steps and actions.
- e. It shall state the provisions of law and other legal instruments upon which the Complaint relies.
- f. It shall also include a brief summary of arguments to be relied upon by the Complainant.

2.5 Upon receipt of the complaint the Respondent shall be at liberty to file a response within 7 days and the response shall be in the following format:

- a. It shall be headed **“IN THE MATTER BEFORE THE NIGERIAN COMMUNICATIONS COMMISSION”**
- b. It shall state all names of the parties as Complainant and Respondent.
- c. It shall be followed by a sub heading titled: RESPONSE TO COMPLAINT
- d. It shall state which facts in the Complaint it disputes and additional relevant facts if any

- e. It shall state the provisions of law and other legal instruments upon which the response relies.
  - f. It shall also include a brief summary of arguments to be relied upon by the Respondent which may include rebuttal of any or all of the arguments advanced by the Complainant
- 2.6 On receipt of the response or the expiration of 7 days, the Commission shall within 5 days review all the papers filed before it and determine if it requires additional information or submissions (legal or otherwise) from either or both Parties and shall immediately forward such request to the Party in question.
- 2.7 Where the Commission makes request for additional information or submissions, the Parties shall submit such information or submissions to the Commission in six (6) copies within 7 days of the receipt of the request and further ensure that copies are delivered to the other Party and obtain proof of such delivery.
- 2.8 The Commission shall then determine a date for the commencement of hearing which shall not exceed 14 days from the receipt of the last submission from the parties and set down the Complaint for Hearing.
- 2.9 Where a party to a complaint has made an allegation of being unlawfully disconnected from the network of another Party, the Commission shall within 2 days of the receipt of such allegation send an Investigating Committee to visit the facilities of both Parties pursuant to the provision of Section 147, of the NCA, 2003 to verify the allegation.

Upon verification of an unlawful disconnection, the Investigating Committee shall order the Party concerned to reconnect the other Party to its Network immediately. This is without prejudice to the Hearing and determination of the Complaint by the Panel constituted by the Commission.

- 2.10 The Commission may also decide during the Hearing; if further investigations are required and appropriate manner such investigations should take.

- 2.11 The Commission reserves the right to conduct a Locus Inquo where necessary and adjourn the Hearing to convene at such Locus.
- 2.12 The Commission shall after the Hearing, review all papers filed in the matter and all presentations and representations made before a Panel constituted by the Commission for the purpose of a Hearing, thereafter issue a written determination of all the issues involved in the case, which shall not exceed 30 days after the Hearing.
- 2.13 The Commission`s Rulings shall be based on the application of the communications laws or other communications legal or regulatory instrument including regulations, licenses, guidelines etc; to ensure delivery of qualitative communications services in the Federal Republic of Nigeria
- 2.14 The Commission may also decide on ancillary issues arising from the matter
- 2.15 All decisions and determinations made by the Commission would be presented to both Parties and may be published for the attention of the public through whichever medium the Commission may decide. Unless due to the peculiar nature of the matter it may not be in the interest of the Parties for the decision/determinations to be publicized.

### **3. SELECTION OF THE PANEL**

- 3.1 A Panel consisting of not less than 3 (three) members shall be selected by the Commission to hear the Complaint.
- 3.2 Where a Panelist selected by the Commission is unable to act for any reason, the Commission shall select another Panelist to act in his/her place.
- 3.3 Panelist selected in accordance with the provisions of these Guidelines shall be and remain at all times independent of any of the Parties and shall determine the Complaint in an impartial and timely manner.

#### **4. FORM OF PROCEDURE**

- 4.1 The Hearing will be conducted based on oral and documentary Presentations made by the Parties.
- 4.2 Parties or their representatives must be present at all Hearings and the Commission shall give them 3 days notice and may be represented by any relevant professionals.
- 4.3 The Commission shall be at liberty to commence or continue a Hearing and make a determination against a Party that fails to appear on a date of Hearing if the Party does not give a minimum of 2 days notice, which must be duly approved of by the Commission. It shall also be the duty of a Party that is unable to attend a Hearing to inform the other Party of the postponement of the Hearing at his instance. Failure to inform the other Party in time shall make the absentee liable for cost.
- 4.4 If a Party fails to appear before the Panel without prior notification and approval from the Panel, such Party shall be liable to bear the cost/expense incurred by the other Party present at the hearing as determined by the Panel.
- 4.5 Notification of inability to attend a Hearing must be sent by the requesting Party and received by the Panel and the other Party 2 days before the scheduled date of Hearing
- 4.6 The Parties` Claim and Defence documents shall contain the Following:
  - a. All facts or matters of opinion.
  - b. The evidence in proof of the facts.
  - c. The relief sought or remedies claimed.
  - d. Detailed calculation of any sums claimed.
- 4.7 The Commission or Parties can invite Expert Witnesses to the Hearing