

CONSUMER PROTECTION GUIDELINES AND PROCEDURE



L E S O T H O
C O M M U N I C A T I O N S
A U T H O R I T Y

Communications Sector

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CONTENTS

Definitions.....	1
1. Introduction	2
2. Consumer Rights and Obligations.....	2
2.1 Consumer Rights.....	2
2.1.1 Right to access to service.....	2
2.1.2 The right to receive Quality of Service.....	2
2.1.3 Right to freedom of choice.....	2
2.1.4 Right to clear service contracts.....	2
2.1.5 Right to timely, clear and accurate billing and prepaid account charging	3
2.1.6 The right to be informed	3
2.1.7 Right to consumer education.....	4
2.1.8 Right to privacy	4
2.1.9 Right to fairness and non-discrimination	4
2.1.10 Right to be protected against market abuse	5
2.1.11 The right to health and safety.....	5
2.1.12 The right to complain and redress.....	5
2.1.13 Right to file a complaint with the Authority	5
2.2 Consumer Obligations.....	6
2.2.1 Prompt payment of bills.....	6
2.2.2 Obligations on terms and conditions of products and services	6
2.2.3 Proper use of products and services.....	6
2.2.4 Genuine claim.....	6
2.2.5 Environmental protection	6
2.2.6 Respect contractual obligations in consumer service agreement.....	6
2.2.7 Respect the privacy of other users.....	6
3. Service Providers' Obligations	6
4. International Roaming.....	7
5. Consumer Complaints Procedure.....	8
6. Types of Complaints	8
7. Steps to follow when Lodging Complaints against Providers of Telecommunications, Postal & Courier Services	8
8. Lodging Complaints with The Authority	9
9. Steps to Follow when Lodging Complaints against Providers of Broadcasting Services	10
10. Lodging Complaints with the BDRP	11
11. Review of the Decisions of The Authority.....	11
12. Consumer Care and Support.....	12

Definitions

“Authority” means the Lesotho Communications Authority;

“Bill” means an invoice from a service provider which includes debits and credits applied during the billing period and advises a consumer of the total amount due, or in credit, when an amount is due and the payment method;

“Billing Period” means a period of time to which billed charges relate;

“Bundle” means a set amount of either data, calling minutes or number of SMS for a set price;

“Charge” means a tariff or fee which a service provider levies for the provision of a communications service or related transactions;

“Communications services” means a telecommunication, broadcasting, postal or courier services;

“Complaint” an expression of dissatisfaction by a consumer about an action, lack of action or about the standard of a service relating to communications services;

“Consumer” means –

(a) an individual who acquires or may acquire a communications service or product for the purpose of personal or domestic use and not for resale;

or

(b) a juristic person which acquires or may acquire one or more communications services or products, which are not for resale;

“Data” means the quantity of bytes purchased by a consumer to access the internet;

“In-bundle charge” means a rate which applies as a result of a consumer having purchased a bundle;

“Licensee” means a person who has been granted a licence by the Authority for the provision of a communications service;

“Opt-in” means to choose to be charged at out-of-bundle charges only in cases where bundles charges are applicable;

“Opt-out” means to choose to not be charged at out-of-bundle charges upon depletion of a bundle in cases where bundles charges are applicable;

“Out-of-bundle charge” means a tariff that a consumer is charged upon depletion of an allocated bundle, which is usually at approved headline tariffs;

“Service provider” means a licensed provider of communications service;

1. Introduction

The Lesotho Communications Authority (herein referred to as the Authority) is an independent regulatory body established by the Government of Lesotho in 2000. The main duties of the Authority are defined in the Communications Act No. 4 of 2012, which among others are to issue licences to service providers of communications services, promote fair competition, approve tariffs and to protect the interests of consumers of communications services.

These guidelines are made pursuant to section 5(1) (c) of the Communications Act, 2012 and rule 41 (3) of the Lesotho Communications Authority (Administrative) Rules No. 77 of 2016. The aim of these guidelines is to facilitate achievement of adequate protection of consumers of communications services in Lesotho by outlining the rights and obligations of the consumers and service providers, and prescribing complaints handling processes.

2. Consumer Rights and Obligations

Below are consumer rights and obligations of consumers of communications services.

2.1 Consumer Rights

2.1.1 Right to access to service

Consumers have a right of access to basic communications services that are reliable and of satisfactory quality. Basic communications services refer to voice and messaging communication services provided by the telecommunication operators and postal services that fall within the exclusive rights of the Lesotho Post Office.

2.1.2 The right to receive Quality of Service

Consumers have a right to receive a service with a quality that reflects the cost of the service at the level of service quality claimed by the service provider and that is at least of the standard prescribed in the Lesotho Communications Authority (Quality of Service) Rules and in the service agreements where applicable.

2.1.3 Right to freedom of choice

Consumers have a right to choose a service provider and the products and services they so require.

2.1.4 Right to clear service contracts

Consumers have a right to be provided with contract or agreement for the provision of services. Contracts must be written in clear, concise and easy to understand language, avoiding technical terms. Such contracts should also have a clear exit and cancellation clause in situations where early termination is possible.

2.1.5 Right to timely, clear and accurate billing and prepaid account charging

2.1.5.1 Consumers have a right to timely, accurate and clear bills for products and services they have consumed. Bills should also include the following information:

- a) Name of the service provider;
- b) Itemised call charges or data usage charges which must include:
 - (i) Date and time of the call;
 - (ii) The number called;
 - (iii) Duration of the call;
 - (iv) The total charge for the call;
 - (v) Date and time of connection for a data session;
 - (vi) Duration and volume (in bytes) of session; and
 - (vii) Total charge for each data session;

2.1.5.2 To avoid bill shock to consumers, service providers should put in place mechanisms that prevent automatic transition from in-bundle to out-of-bundle charging by ensuring that a consumer is:

- a) Not defaulted into out-of-bundle charges upon depletion of a bundle;
- b) Provided with an option to opt-in or opt-out of out-of-bundle charges upon depletion of a bundle. This option must be made available from the time of purchase of a bundle and throughout the lifetime of a bundle;
- c) Sent bundle usage depletion notification via SMS, push/voice-notification or any other applicable means when usage reaches 50%, 80% and 100%;
- d) Provided with an option to buy additional bundles;
- e) Where a consumer does not opt in or out-of-bundle usage as per 2.1.5.3.2 above, a service provider must not permit any out-of-bundle data/calling/SMS usage by a consumer until such time that a consumer consents to be charged out-of-bundle charges;
- f) Prepaid consumers have a right to know their balances at any time, free of charge;

2.1.5.3 Prepaid consumers have a right to request itemised usage that shows details of all calls/SMS/data sessions made by the consumer and such requests must be met by the service provider within 2 working days;

2.1.6 The right to be informed

2.1.6.1 Consumers have a right to receive clear, full and correct information to enable them to make informed choices. The information should include among others:

- a) Terms and conditions for each product and service purchased by a consumer;

- b) Prior notification of changes to the contract during its validity period, which must be communicated via established modes of communications with individual consumers;
- c) Prior notification on change in prices for all products and services offered;
- d) Notification about the availability of the consumer complaint procedures and such notifications must be done in the following manner:
 - (i) Licensees in the Broadcasting subsector must read on air the prescribed declaration to allegiance to the Broadcasting Code as may be directed by the Authority.
 - (ii) Licensees in the Telecommunications and Postal subsector must publicise consumer complaints procedures, including information of where consumers can lodge complaints when they are not satisfied, in every advertisement for products and services, that is on print (website/social media and/or on radio);
- e) Service quality standards achieved by a service provider in terms of Lesotho Communications Authority (Quality of Service) Rule, 2022. Achieved service quality standards must be published by a service provider at least 4 times in a year, where such publication must also include standards set by the Authority.

2.1.7 Right to consumer education

2.1.7.1 Consumers have a right to be provided with education, advise and consultation on services offered by the service providers. This education is necessary to provide them with knowledge and skills that enable them to be informed consumers. To this end, a licensee must conduct education awareness campaigns aimed at educating consumers on topics such as:

- a) Use of smart phones and data;
- b) Cybersecurity and e-commerce fraud;
- c) Broad range of products and services;
- d) Service quality levels achieved;

2.1.7.2 A licensee must conduct at least four (4) educational awareness campaigns per annum covering, among others, topics listed by 2.1.7.1 above.

2.1.8 Right to privacy

Consumers are entitled to a right to privacy regarding their personal information kept by the service providers. Consumers should be protected against unlawful use of personal information and unsolicited communication or messages. Consumer's information should not be disclosed to any third party without the consumer's written consent or by order of competent court of law or as required by law.

2.1.9 Right to fairness and non-discrimination

Consumers have a right to fair treatment without undue discrimination by service providers irrespective of their race, colour, sex, religion, language or social status. Such discrimination can take the form of denial of access to

services, provision of different quality of service to different consumers paying the same amount of money, discriminatory pricing, pricing based on volume of shipment, etc.

2.1.10 Right to be protected against market abuse

Consumers have a right to be protected from market abuse such as excessive pricing, contractual lock-ins, unfair trade practises including false and misleading advertising as well as any form of anti-competitive behaviour.

2.1.11 The right to health and safety

Consumers have a right to be protected from communications services equipment that is hazardous to their health and safety. Service providers must ensure that all equipment meets health and safety requirements before use by consumers and should make sure that the equipment is maintained to ensure its safety.

2.1.12 The right to complain and redress

2.1.12.1 Consumers have a right to complain against a service provider and have their grievances heard as stipulated in paragraph 5 below. Complaints may include but not limited to:

- a) Quality of service,
- b) Delay in provision of service,
- c) Lost or damaged mail items,

2.1.12.2 Charges of the services offered,

- a) Broadcasting content etc.

2.1.12.3 In exercising the right to complain, Consumers shall have the right to the following:

- a) Access to complaints procedure of the service provider;
- b) Full participation in the complaint handling process;
- c) Ability to submit evidence and witnesses; and
- d) Appeal mechanism if not satisfied with the decision.

2.1.12.4 Consumers have a right to receive a fair and prompt settlement and redress of bona fide claims against service providers.

2.1.12.5 Service providers should ensure that all consumers have access to contact point(s) to make inquiries and/or lodge complaints.

2.1.13 Right to file a complaint with the Authority

Consumers have a right to file complaints with the Authority about any service provider in accordance with these guidelines. Further consumers have a right to have their inquiries and complaints quickly and objectively responded to by the Authority.

2.2 Consumer Obligations

2.2.1 Prompt payment of bills

Consumers have an obligation to pay all their bills within the prescribed time frame for the services and products consumed.

2.2.2 Obligations on terms and conditions of products and services

Consumers have an obligation to read and fully understand all the terms and conditions of products and services provided to them. If any term or condition is unclear, a consumer should request clarification from the service provider.

2.2.3 Proper use of products and services

Consumers have responsibility to fairly make good use of the services offered to them and to use products/equipment according to their instructions, and only for the purpose for which they were intended.

2.2.4 Genuine claim

Consumers have a duty to make genuine and factual complaints when claiming compensation against service providers and to provide evidence for their allegations related to postal and courier items.

2.2.5 Environmental protection

Consumers have a responsibility to ensure that disposal of wastes from utilization or consumption of communications services equipment is done in a manner that does not cause pollution to the environment.

2.2.6 Respect contractual obligations in consumer service agreement

Consumers must respect and adhere to the provisions of the consumer service agreements at all times.

2.2.7 Respect the privacy of other users

Consumers must respect the privacy of other users of communications services.

3. Service Providers' Obligations

3.1 Service Providers must:

- 3.1.1** Ensure easy access of information relating to their products, services, terms and conditions of service/products, prices, complaints handling procedure, service quality levels, etc. to enable consumers to make informed choices. This can be achieved by for instance, publication of information on the websites, leaflets, pamphlets, etc.
- 3.1.2** Not subject consumers to unfair, dishonest, illegal, discriminatory or deceptive business practices that harms the interests of the consumers.

- 3.1.3 Not disconnect or discontinue service provision to a consumer while an investigation of a disputed portion of a bill/charge is still pending, provided all other amounts not disputed are paid.
- 3.1.4 Develop and maintain programmes and mechanisms for consumer education and awareness.
- 3.1.5 Protect consumers' privacy through appropriate control and security measures.
- 3.1.6 Provide consumers with a copy of a service agreement or contract written in an official language of his/her choice at the commencement of offering a service.
- 3.1.7 Receive and keep records of the complaints handled and submit them to the Authority upon request.
- 3.1.8 Establish and maintain complaint handling procedure or guidelines that provides consumers with expeditious, fair, and transparent dispute resolution without unnecessary burden on the consumers.
- 3.1.9 Establish a call centre that is accessible free of charge and allow all consumers (including consumers whose communication services are suspended) access to its call centre.
- 3.1.10 Establish procedures and systems to secure operational premises, eliminating prohibited items and contraband, as well as the integrity of Postal and Courier articles in transit and in their custody.

4. International Roaming

- 4.1 A telecommunications service provider must send a welcome message via SMS or any agreed method to an end-use roaming internationally, with the following information:
 - a) Summary of the terms and conditions for roaming;
 - b) Charges applicable to incoming and outgoing voice, data and SMS services;
 - c) Service Centre contact details; and
 - d) Any other relevant information that will help the end-user to avoid bill shock.
- 4.2 A telecommunications service provider must ensure that all the terms and conditions, including deposits, credit limits and tariffs in respect of international roaming are:
 - a) Sent to an end-user upon activation of international roaming via an agreed method; and

- b) Stated clearly in simple language on the service provider's website and be easily accessible.

5. Consumer Complaints Procedure

- 5.1 A consumer who is aggrieved by a service provider should lodge a complaint with the service provider within a period of ninety (90) days from the date the service was provided or as per the agreement with the service provider.
- 5.2 When lodging a complaint to a service provider, a consumer may send a copy of the complaint to the Authority for information purposes only.
- 5.3 In the event that a consumer is not satisfied with the resolution of the complaint by the service provider, a consumer may refer the matter to the Authority.

6. Types of Complaints

The types of consumer complaints to lodge may include the following:

- 6.1 Service provision issues relating to connection, billing information, faults, timely provision of service, automatic service renewal contracts, etc.
- 6.2 Postal and Courier Service Providers issues relating to billing information, lost, missing, damaged, delayed items and contractual obligations; and
- 6.3 Radio and Television broadcasting content.

7. Steps to follow when Lodging Complaints against Providers of Telecommunications, Postal & Courier Services

- 7.1 Before lodging a complaint, consumers should first check the terms and conditions of a service or contract with the service provider, where applicable.
- 7.2 When lodging a complaint with a service provider, consumers must provide the following information to the service provider:
 - a) Name and account or subscriber number of the complainant;
 - b) Contact details of the complainant; and
 - c) Nature of the complaint - stating all the facts clearly and concisely and providing copies of any relevant supporting documents where they are available.
 - d) The remedy sought by the complainant.
- 7.3 Upon receipt of the complaint, a service provider must do the following:

- a) Register the complaint, allocate it a reference number and give the allocated reference number to the complainant;
- b) Resolve within *two (2) working days* from the date of receipt of the complaint; if the complaint is in relation to missing airtime, or money paid for prepaid and/post-paid services. Provide explanation to the complainant if the matter is not resolved within two (2) working days.
- c) Resolve the matter within *two (2) working days* where the matter relates to a disconnection from service; and provide explanation to the complainant if the matter is not resolved within *two (2) working days*. Where there is a dispute in billing/money owing for service, the service provider shall not disconnect the service of the consumer until the dispute is resolved.
- d) Resolve the matter within *five (5) working days* where a complainant has reported faulty service. Provide explanation to the complainant if the matter is not resolved within *five (5) working days*.
- e) Resolve within *five (5) working days* from the date of receipt of the complaint; if the complaint is in relation to missing, lost, damaged and/or delayed postal/courier items. Provide explanation to the complainant if the matter is not resolved within *five (5) working days*.
- f) All complaints should be resolved within *twenty (20) days* and an explanation must be provided to the complainant if the complaint is not resolved within *twenty (20) days*.

7.4 If the complaint is not resolved to the satisfaction of the complainant, the complainant may refer the complaint to the Authority.

8. Lodging Complaints with The Authority

8.1 Complaints escalated to the Authority should include the following:

- a) Name, account or subscriber number and contact details of the complainant;
- b) Name of the service provider;
- c) Nature of the complaint – stating full facts, clearly and concisely;
- d) The date of the original complaint lodged with the service provider and reference number;
- e) Copies of record of correspondence of complaints with the service provider, where available; and
- f) The remedy sought by the complainant.

8.2 Upon receipt of the complaint, the Authority shall:

- a) Register the complaint;
- b) Examine whether the subject matter of the complaint falls within the powers of the Authority;
- c) Review the details of the complaint and if necessary, may request the service provider to re-examine the complaint in light of any relevant regulatory obligations;
- d) Forward the complaint to the service provider who shall respond to the Authority within three (3) working days;
- e) Respond to the consumer within 5 working days;
- f) Take not more than twenty (20) days to assess, investigate and resolve the complaint, and provide explanation to the complainant if the complaint is not resolved within 20 days.
- g) Notify the complainant of the outcome when the investigation is completed.

9. Steps to Follow when Lodging Complaints against Providers of Broadcasting Services

9.1 Any complaint related to the content of the broadcaster must first be lodged in writing with the concerned broadcaster.

9.2 A consumer may lodge a complaint against any broadcaster who broadcast content that is deemed to be in breach of the code of practice if it:

- h) Offends against good taste or decency;
- i) Contains the gratuitous use of offensive language, including blasphemy;
- j) Presents sexual matters in a gratuitous, explicit and offensive manner;
- k) Glorifies violence;
- l) Is likely to incite crime or lead to disorder; or
- m) Is likely to incite or perpetuate hatred against or gratuitously vilifies any person or section of the community on account of race, ethnicity, nationality, gender, marital status, sexual preference, age, physical or mental disability, religion or culture.
- n) Is explicit before watershed period;
- o) Unfair, inaccurate and partial in news and information programmes;
- p) That is controversial but fails to represent a wider range of views within a single program or series of programs; or
- q) Invades a person's privacy and family life.

9.3 A written complaint may be addressed to the Station Manager or Managing Director and shall include the following:

- r) Name and contact details of the complainant;
- s) Name, date and time of the broadcast of the programme complained of;
- t) Channel or station on which it was broadcast;

- u) Standard(s) believed to have been breached with supporting reasons; and
 - v) Remedy sought by the complainant.
- 9.4 The broadcaster shall resolve the complaint within fourteen (14) days of receipt thereof.
- 9.5 Where a complainant is not satisfied with the broadcaster's resolution, complainant may refer the matter to the Broadcasting Disputes Resolution Panel (BDRP) within fifteen (15) days of the resolution.

10. Lodging Complaints with the BDRP

- 10.1 When filing a complaint with the BDRP, the complainant shall address it to the Secretary of the BDRP and include the following information:
- w) Name and contact details of the complainant;
 - x) All relevant correspondence between the complainant and the broadcaster in question;
 - y) Name, date and time of the programme;
 - z) Standard(s) or provision of law that has not been adhered to;
 - aa) Nature of damage or injury suffered; and
 - bb) The remedy sought.
- 10.4 Upon receipt of the complaint the Secretary of the BDRP shall:
- 10.4.1.1.1 Register the complaint;
 - 10.4.1.1.2 Dispatch the written complaint to the broadcaster within *five (5) working days* of receipt; and
 - 10.4.1.1.3 Request the broadcaster to submit recordings of the program in question and written representations, if any, *within five (5) working days* of the receipt of the complaint.
- 10.5 Upon receipt of the information listed in sub-paragraph 10.2 above, the BDRP must:
- 10.5.1.1.1 Hold hearing on a complaint within *fifteen (15) working days* of the receipt of the response from the broadcaster.
 - 10.5.1.1.2 Deliver a ruling on a resolution of a complaint within *fifteen (15) working days* of the hearing of the matter.
 - 10.5.1.1.3 Refer all unresolved disputes to the Authority, with recommendations.

11. Review of the Decisions of The Authority

Any consumer or service provider who is not satisfied with the decision of the Authority may seek appropriate relief in the courts of law.

12. Consumer Care and Support

A consumer may contact the Authority for inquiries or lodging a complaint in one of the following ways:

12.1 LCA Toll Free Number – 101

Accessible during working hours (08hr00 – 12hr45 and 14hr00 – 17hr00)

12.2 Email: complaints@lca.org.ls;

12.3 WhatsApp number: 6200 2021;

12.4 Written complaints should be addressed to:

The Chief Executive Officer
Lesotho Communications Authority
30 Princess Margaret Road,
Old Europa,
Maseru 100, Lesotho

12.5 Visit LCA offices during working hours (08hr00 – 12hr45 and 14hr00 – 17hr00) at:

30 Princess Margaret Road,
Old Europa,
Maseru 100, Lesotho