

EX POST INVESTIGATION PROCEDURES

ARTICLE 1

PURPOSE

- 1.1 These Ex Post Complaints Investigation Procedures (Procedures) establish a regulatory framework for the Communications Regulatory Authority (CRA) to fairly and efficiently investigate and resolve complaints in relation to anti-competitive behavior or non-compliance with the ARF that could harm competition in Qatar and the public in Qatar.
- 1.2 These procedures do not cover complaints from individual consumers.
- 1.3 These procedures do not cover disputes between Access Providers and/or Access Seekers relating to existing contracts or contract negotiations, which are subject to the Dispute Resolution Procedures.

ARTICLE 2

AUTHORITY

- 2.1 These Procedures are issued by the CRA pursuant to the authority vested in it by Articles 4(1), (3), (4), (8), (14), and (15) of Emiri Decision No. (42) of 2014.
 - 2.1.1 Article 4(1) authorizes the CRA to set regulatory frameworks for the communications, information technology, and post sector, and access to digital media, to enable optimum performance.
 - 2.1.2 Article 4(3) authorizes the CRA to encourage competition and prohibit or minimize anti-competitive practices.
 - 2.1.3 Article 4(4) authorizes the CRA to protect the rights and interests of the public and service providers in the State of Qatar .
 - 2.1.4 Article 4(14) authorizes the CRA to monitor compliance with regulatory frameworks and to take measures to ensure compliance.

- 2.1.5 Article 4(15) authorizes the CRA to perform any other tasks or functions entrusted to it under the legislation in force.
- 2.2 The Telecommunications Law (issued by Decree Law No. (34) of 2006) (Law) further empowers the CRA to identify and address anti-competitive practices in the telecommunications sector of the State Qatar. Relevant authorities include:
 - 2.2.1 Chapter 9 of the Law, which grants the CRA authority to: (1) monitor and prohibit any abuse of market power or dominant position and anti-competitive practices; and (2) determine and apply appropriate remedies and arrangements in order to strengthen competition and safeguard the interests of customers and the public in Qatar.
 - 2.2.2 Chapter 10 of the Law, which empowers the CRA to set rules for consumer protection and fair dealing.
 - 2.2.3 Chapter 7 of the Law, which authorizes the CRA to set and oversee the National Numbering Plan.
- 2.3 The By-Law also grants the CRA wide-ranging powers in Chapter 9 to prevent and remedy anti-competitive conduct in the telecommunications sector and to protect the public in Qatar.

ARTICLE 3

DEFINITIONS

- 3.1 **Applicable Regulatory Framework (ARF):** the Telecommunications Law No. (34) of 2006 and its By-Law, the forthcoming replacement Telecommunication Law, when effective, and any other rules and regulations, decisions, orders, policies, guidelines, instructions, licenses, or notices issued by the CRA, as well as the relevant laws and decrees of the State of Qatar and international treaties to which the State of Qatar has subscribed.
- 3.2 **Appeal Rules:** the Minister of Communications and Information Technology Decision No. (4) 2013 on the Establishment of a Permanent Appeals Committee and its Applicable Rules and Procedures.
- 3.3 **By-Law:** the Executive By-Law of the Telecommunications Law(issued by Decree n1 of 2009, including, if applicable, as amended or replaced.
- 3.4 **Communications Regulatory Authority (CRA):** formerly the Supreme Council of Information and Communication Technology (ictQATAR), the CRA is the newly established independent authority responsible for regulatory oversight to foster deployment of a pro-competitive communications sector in Qatar.
- 3.5 **Complainant:** a natural or juridical person who files a complaint pursuant to Article 5.1 of these Procedures.

- 3.6 **Decisions:** conclusions of law, statements of policy, and interpretations made by the CRA that are binding as a matter of law and which may refer to findings of fact. Such Decisions may be of a final or interim nature and may include the imposition of a financial penalty or other obligations.
- 3.7 **Law:** the Telecommunications Law issued by Decree Law No. (34) of 2006, including, if applicable, as amended or replaced.
- 3.8 **Ordering Clauses:** articulations of interpretation of law, or mandatory directives to a Service Provider, or other juridical or natural person subject to the jurisdiction of the CRA, the non-compliance which constitutes a violation of Law.
- 3.9 **Respondent:** a natural or juridical person whose behavior is alleged to be or suspected of being non-compliant with the ARF and/or anti-competitive in nature and who is the subject of a complaint or an investigation.
- 3.10 **Service Provider:** Service Provider as defined in the ARF.

ARTICLE 4

GENERAL RULES OF PROCEDURE

- 4.1 **Filing and Service**
 - 4.1.1 Unless otherwise provided, pleadings and other documents are considered to be filed with CRA or its administrative units upon their receipt at the location designated by CRA.
 - 4.1.2 Pending a decision by the CRA whether or not to proceed with a complaint, the CRA shall in its discretion determine where any party to these Procedures is required to serve on another party any document filed with CRA or its administrative units and, where so determined, such, service shall be made by that party or by his representative within a date and time determined by the CRA from when the document is filed with the CRA. Documents may be served upon a party, his legal representative, or other duly constituted agent.
- 4.2 **General Pleading Requirements**
 - 4.2.1 Investigations will be resolved on a record consisting of such pleadings, oral testimony, or other such information that CRA, in its discretion, may allow. The pleadings shall be accompanied by associated affidavits, exhibits and other attachments as appropriate.
 - 4.2.2 Pleadings must be clear, concise, and explicit. All matters concerning a claim, defense or requested remedy should be pleaded fully and with specificity.
 - 4.2.3 Facts must be supported by relevant documentation or affidavit.

- 4.2.4 Legal arguments must be supported by appropriate legal reasoning.
- 4.2.5 Copies must be provided of all authorities relied upon that are not routinely available in national reporting systems, such as unpublished decisions of courts or administrative agencies.
- 4.2.6 Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a complaint proceeding. Information submitted, including relevant legal authorities, must be current and updated as necessary and in a timely manner throughout the process.
- 4.2.7 Pleadings shall identify the name, address, telephone number, and facsimile transmission number for either the filing party's attorney or, where a party is not represented by an attorney, the filing party. Such address and facsimile number shall constitute the filing party's address for service purposes and may only be amended on prior written notice to the CRA.
- 4.2.8 Subject to Article 4.1.2, all pleadings must be served on any other party named therein and must include a certification that they have been served and filed with the CRA.
- 4.2.9 Additional guidance on the format of complaints is contained in Annex 1 of these Procedures.

ARTICLE 5

INVESTIGATION PROCEDURES

5.1 Complaints

- 5.1.1 A Complainant may request the CRA to investigate alleged non-compliance with the ARF and/or anti-competitive behavior that could harm competition in Qatar and the public in Qatar by submitting a complaint in writing to the CRA.
- 5.1.2 In addition to the General Pleading Requirements set forth in Article 4.2, a complaint filed with the CRA shall contain:
 - 5.1.2.1 The name, address, telephone number, and email address of the Respondent against whom the complaint is made;
 - 5.1.2.2 A complete statement of facts which, if true, is sufficient to establish non-compliance with the ARF and/or anti-competitive behavior that could harm competition in Qatar and the public in Qatar;
 - 5.1.2.3 A legal argument setting forth the reasons why the identified conduct violates the law, including specific citations to the

provisions of the ARF which are alleged to have been violated;

5.1.2.4 All available evidence upon which the Complainant relies or intends to rely to support the facts alleged and legal arguments made in the complaint; and

5.1.2.5 A statement of the remedy requested.

5.1.3 Each complaint must:

5.1.3.1 Articulate a valid ground for an investigation; and

5.1.3.2 Include specific evidence of non-compliance with the ARF and/or anti-competitive conduct and associated harm to competition in Qatar and the public in Qatar.

5.1.4 Should the CRA determine a complaint is improperly submitted or insufficiently substantiated, it may: (i) dismiss the complaint; (ii) require appropriate amendments and/or additional documents and/or information; or (iii) take any other action which it deems appropriate; and shall (iv) provide a reason for the relevant determination.

5.1.5 Once a complaint is filed, withdrawal of a complaint does not preclude the CRA from choosing to initiate and/or complete an investigation.

5.2 **Choosing to Initiate an Investigation**

5.2.1 Within 60 calendar days of receiving a complaint or initiating an investigation on its own motion, the CRA shall:

5.2.1.1 Dismiss the complaint pursuant to Article 5.4;

5.2.1.2 Take informal action pursuant to Article 5.5; or

5.2.1.3 Issue a Decision pursuant to Article 6 (in all cases, with reasons for such decisions being provided).

5.2.2 Upon notice to the parties, CRA may, at its discretion, extend the period for resolving a complaint or investigation on its own motion for an additional 60 calendar day period.

5.2.3 The CRA also may initiate a formal or informal investigation into suspected non-compliance with the ARF and/or anti-competitive behavior that could harm competition in Qatar or the public in Qatar on its own motion and without the submission of a complaint.

5.2.4 In determining whether to initiate an investigation, the CRA may request additional information, documentation, or oral testimony from the Complainant, the Respondent, or third parties, including admitting any third parties to the investigations consistent with the procedures set forth in Article 5.6.

- 5.2.5 Upon receiving a complaint, the CRA may, at its discretion, provide a non-confidential copy of the Complaint to the Respondent and allow the Respondent to comment on the complaint in writing. The CRA shall provide the Respondent a date by which a response must be filed.
- 5.2.6 The CRA may keep the identity of the Complainant confidential where it determines that there are compelling reasons to do so and where doing so would not prejudice the Respondent's defense.
- 5.2.7 Should the CRA decide to initiate a formal investigation, take informal action, or dismiss a complaint, the CRA shall notify the Complainant and any third party of its action, along with its reasons for the same.

5.3 Communications with the CRA and the Public

- 5.3.1 No communications will be permitted by any party and/or their representatives with any employee of the CRA regarding the subject matter of an investigation while a complaint remains pending and/or an investigation is ongoing, unless time/date/duration/substance of such communications is noticed to all parties in writing 7 calendar days in advance.
- 5.3.2 Once a complaint is filed with the CRA, or an investigation is initiated on the CRA's own motion, no party to the proceeding or any of its representatives may comment publicly about the investigation until after the final decision is published by the CRA.

5.4 Dismissal

- 5.4.1 The CRA may, at its discretion but subject to providing reasons in writing, dismiss a complaint without initiating a formal investigation or taking informal action.
- 5.4.2 A complaint may be dismissed if, among other reasons, the CRA decides:
 - 5.4.2.1 The complaint fails to present valid grounds for an investigation;
 - 5.4.2.2 The complaint makes a general allegation about "ARF non-compliance and/or anti-competitive" behavior without specifying the conduct in question, explaining why it is unlawful, or explaining its impact on competition and the public in Qatar.
 - 5.4.2.3 The complaint is scandalous, frivolous, or vexatious; or
 - 5.4.2.4 The complaint is otherwise an abuse of process.
- 5.4.3 Dismissal of a complaint constitutes final action of the CRA for purposes of the Appeal Rules.

5.5 **Informal Resolution Procedures**

- 5.5.1 The CRA will address complaints in the most efficient and least resource intensive manner. In some cases, the CRA may decide to resolve an issue raised in a complaint through informal contact with the Respondent. For example, the CRA may contact the Respondent to clarify a regulatory rule or to ensure that the appropriate people within a company are aware of the issue. In such cases and where the Respondent confirms it has or will forthwith address/resolve the complaint, no investigation will formally be initiated and no Decision will be issued.
- 5.5.2 The CRA will aim to resolve an issue being dealt with informally within 15 days. If the issue has not been addressed in that timeframe to the satisfaction of the CRA, the CRA may, at its discretion, initiate a formal investigation.

5.6 **Formal Investigation Procedures**

- 5.6.1 Should the CRA decide to initiate a formal investigation pursuant to these Procedures, it shall notify the Respondent
 - 5.6.1.1 Where the CRA commences an investigation pursuant to a complaint, to the extent not already provided under Article 5.2.3, the CRA shall provide the Respondent a non-confidential copy of the complaint. Where the CRA commences an investigation on its own motion, it shall advise the Respondent of the alleged anti-competitive behavior and/or the relevant provisions of the ARF which are alleged or suspected to have been violated.
- 5.6.2 A Respondent shall respond to the notification provided pursuant to Article 5.6.1 within 7 calendar days by filing an Answer in writing with the CRA, unless another time for response is prescribed by the CRA.
 - 5.6.2.1 The Answer shall advise the CRA fully and completely of the nature of any defense, and shall respond specifically to all material allegations in the complaint or notification.
 - 5.6.2.2 Answers shall be served on the Complainant by the Respondent unless the CRA directs otherwise.
- 5.6.3 The CRA may, at its discretion, direct the Complainant to file a Reply in writing to the Answer. The CRA shall provide a date by which the Complainant shall make such Reply to the CRA.
 - 5.6.3.1 The Reply shall be responsive to matters contained in the Answer and shall not contain new matters.

- 5.6.3.2 The Reply shall be served on the Respondent by the Complainant unless the CRA directs otherwise.
- 5.6.4 The CRA may decide at its discretion, direct the Respondent to file a counter response in writing to the Reply received pursuant to article 5.6.3. The CRA shall provide a date by which the Respondent shall make a reply to the CRA.
- 5.6.5 In accordance with the specific information gathering powers under Articles 62 of the Law and Articles 127 to 132 of the Executive ByLaw, at any time during its investigation, the CRA may request additional information, documentation, or oral testimony from the Complainant, the Respondent, or any third parties in order to investigate a complaint or suspected anti-competitive behavior.
- 5.6.6 The CRA may, in its discretion, authorize parties by way of notice in writing to the said parties to serve requests for information directly on other parties, and file a copy of the request with the CRA.
- 5.6.7 A request for information shall be made in writing and shall include:
 - 5.6.7.1 The general subject matter of the investigation;
 - 5.6.7.2 The scope of the information requested; and
 - 5.6.7.3 The date for oral testimony or by which the submission of the requested information is required.
- 5.6.8 The CRA may, at its discretion, consider a request made in writing to extend the deadline for a response to a request for information.
- 5.6.9 The CRA may take any other action it considers necessary to investigate a complaint or suspicion of ARF non-compliance and/or anti-competitive behavior.
- 5.6.10 A failure to institute a formal investigation constitutes final action of the CRA for purposes of the Appeal Rules.

5.7 **Fast Track Procedures**

- 5.7.1. Notwithstanding any other requirement in these Procedures, any party may request that CRA implement fast track procedures to resolve a complaint.
- 5.7.2. CRA may consider a case qualifying for fast track procedures where there is an immediate risk (a) serious threat to the safety of the public, public health or national security; (b) serious economic or operational problems of service providers of providers of associated facilities; (c) serious economic or operational problems for users of electronic

communications networks, electronic communications services or associated facilities or (d) the public interest so requires.

- 4.3.3 If CRA so determines that a fast track procedure should be applied, it shall stipulate an accelerated timetable for the filing of pleadings and other documents. CRA may waive any other requirement in these Procedures to facilitate the speedy resolution of complaints.

5.8 Confidentiality

- 5.8.1 Subject to any confidentiality obligations imposed by law, any materials filed in the course of an investigation may be designated as confidential by that party if the party believes in good faith that the materials contain proprietary information. Any party asserting confidentiality for such materials must mark clearly each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality has the burden of demonstrating, by a preponderance of the evidence, that the material designated as proprietary should retain that designation.
- 5.8.2 A party providing a document containing marked confidential information must provide to the CRA both a full version of the document with the relevant information clearly marked as “confidential” and a separate redacted version of the full document.
- 5.8.3 The CRA may issue an order allowing a party to review proprietary information subject to appropriate procedures to limit the use of such confidential information to the instant proceeding and otherwise protect proprietary information.

ARTICLE 6

RESULTS OF FORMAL INVESTIGATIONS

- 6.1 Upon completing a formal investigation, the CRA shall issue a Decision consistent with Article 6.3. The CRA also may issue an Interim Decision consistent with Article 6.2 before it completes its full investigation.

6.2 Interim Decisions

- 6.2.1 The CRA has discretion to impose interim measures before it completes its full investigation, where it has reasonable suspicion that the provisions of the law are being infringed. The CRA may impose interim measures in order to prevent serious, irreparable damage to Service Providers, third parties, consumers, or competition in Qatar. In these circumstances, the CRA may require such immediate relief it considers appropriate for that purpose.

6.2.2 A request for an Interim Decision by a Complainant may be granted where:

6.2.2.1 It is likely to prevail on the merits of the complaint;

6.2.2.2 Without such relief, Access Providers and/or Access Seekers, third parties, competition in Qatar and/or the public in Qatar will be materially injured; and

6.2.2.3 The issuance of an Interim Decision would not substantially harm other parties or materially prejudice the investigation.

6.2.3 In deciding whether to issue an Interim Decision, the CRA may choose to consider any other relevant matters.

6.3 **Decisions**

6.3.1 The CRA shall issue a Decision within 60 calendar days after receiving a complaint or initiating an investigation on its own motion, subject to Article 5.2.2 of these Procedures.

6.3.1.1 The CRA shall deliver the Decision to the Complainant, the Respondent, and any relevant third parties. Decisions will not be made public unless the relevant parties decide otherwise.

6.3.1.2 Should the Decision contain confidential or sensitive information, the CRA may, at its discretion, deliver a redacted version of the Decision to any relevant parties in which the confidential or sensitive information has been deleted or blacked out.

6.3.2 A Decision should include:

6.3.2.1 The CRA's determination of whether the Respondent engaged in anti-competitive behavior and/or violation of the ARF;

6.3.2.2 The facts upon which the CRA relied in reaching its determination;

6.3.2.3 The legal reasoning used by the CRA in reaching its determination, with specific citations to the ARF; and

6.3.2.4 Ordering Clauses, including, if applicable, remedies consistent with Article 6.4.

6.3.3 Unless otherwise stated, a Decision shall take effect on the day it is issued. A Decision constitutes final action of the CRA for purposes of the Appeal Rules.

6.4 **Remedies**

- 6.4.1 Upon completion of an investigation, the CRA may require any remedy not inconsistent with the ARF, including:
 - 6.4.1.1 An order requiring the Respondent to cease the identified offending/non-compliant behavior or take whatever action necessary to avoid or remedy any harm caused or likely to be caused by such behavior;
 - 6.4.1.2 A financial penalty; and/or
 - 6.4.1.3 Any other penalty provided for pursuant to the ARF.
- 6.4.2 The CRA also may determine that the Respondent has engaged in non-compliant and/or anti-competitive behavior under the ARF, but no remedial action or punitive sanction is required. Reasons for such determination shall be provided by the CRA.
- 6.4.3 The CRA may accept binding commitments from the Respondent in appropriate circumstances. Details of such commitments shall be included as part of the relevant determination made by the CRA and shared with the Complainant.

6.5 Continuing Violations

- 6.5.1 Each day on which a Respondent fails to comply with written instructions issued by the CRA requiring it to comply with an Interim Decision or a Decision shall be considered a separate violation of the ARF for which the CRA may impose additional sanctions and penalties.

6.6 Referral to the Courts

- 6.6.1 The Parties remain free to refer any complaint to the Courts of the State of Qatar. The CRA will not deem it appropriate to handle any complaint where such dispute has already been referred to the Courts. However, where a complaint has already been lodged with the CRA prior to being referred to the Courts, the CRA will progress with the dispute proceedings in accordance with these Procedures

ARTICLE 7

AMENDMENT AND EFFECTIVE DATE OF THESE PROCEDURES

- 7.1 These Procedures may be amended by CRA from time to time after first being made available to interested parties for review and comment.
- 7.2 These Procedures shall take effect on the date of issue.

ANNEX 1 - Format for Pleadings

[Note: The following requirements shall apply to Complaints, Answers, Replies, and any other filing permitted, at the discretion of the CRA, in an investigation.]

I. DELIVERY REQUIREMENTS FOR A PLEADING

A complaint submitted pursuant to these Procedures shall be submitted to:

Communications Regulatory Authority "CRA"
P.O. Box 23264
Doha Qatar

The complaint shall be submitted to the CRA both electronically and in four paper copies, including annexes or attachments of the full text. Where applicable, a complainant should submit both a "confidential" and redacted version of the complaint.

II. REQUIRED CONTENTS OF A COMPLAINT

A complaint submitted pursuant to these Procedures shall contain:

A. Identifying information regarding the parties to the complaint:

1. Name of Person or Business submitting the complaint (if a business, the name of the person to whom CRA correspondence may be directed);
2. Address, telephone/fax numbers, mailing address;
3. Explanation of the character of the Complainant (if a business, specify the type(s) and volume of products or services rendered as well as the local, national and international range of operations);
4. Explanation of the character of the Respondent (if a business, specify the type(s) and volume of products or services rendered as well as the local, national and international range of operations); and
5. Explanation of the relationship between the Complainant and the Respondent (i.e. if the Respondent is a customer, supplier or competitor of the Complainant).

B. Factual basis of the complaint:

1. Specific factual basis of the complaint, including but not limited to, the relevant products/services which are involved;
2. Dates and locations of relevant incidents;
3. Detailed chronological explanation of relevant course of events, including all relevant contacts between the parties to the complaint;
4. Identification of the relevant economic market(s), in which a violation has been alleged or suspected of having occurred;

5. Description (type and extent) of the harm to competition in Qatar and the public in Qatar and/or non-compliance with the ARF;
6. Explanation and factual justification for any relevant urgency which should be considered by the CRA;
7. Description of any remedy sought by the Complainant;
8. All relevant evidence supporting the suspicion/allegation of anti-competitive activity, harm to competition in Qatar and the public in Qatar, non-compliance with the ARF and all relevant evidence supporting any claim of urgency; and
9. Identifying information of any third parties which can corroborate the Complainant's claims as well as an explanation of the evidence and information which may be supplied by such third party (if applicable).

C. Legal basis for the complaint:

1. Reference to the specific section(s) of the Law which are alleged or suspected of having been violated;
2. Reference to any other relevant portion(s) of the ARF which are alleged or suspected of having been violated; and
3. In either case, a clear summary of the reasons why a violation has been alleged or suspected of having occurred.

D. Justification for requests for confidentiality, where applicable:

1. Detailed explanation of the potential harm which might be caused by the exposure of any information for which confidential treatment is requested;
2. The CRA notes that confidentiality requests may prevent the CRA from fully investigating a complaint and, as such, the CRA may determine the appropriateness of a request and require that certain information be revealed to specific parties;
3. Blanket statements covering entire complaints and supporting documentation will not be accepted.

E. Declaration by Complainant or Officer of the Company

1. The following affirmation must accompany any complaint or responsive submission and shall be presumed to extend to any evidence or supporting documentation provided by the relevant entity during the course of the CRA's investigation:

To the best of my knowledge and belief, and subject to Article (71) of the Law, the information contained herein and any accompanying documentation is truthful, complete and accurate.

Signed:

Title/Position in Company:

Date:

- F. Unless otherwise specified by the CRA, submissions by the Respondent or any other party to the complaint shall, as closely as possible follow the form and format described above and shall, within the scope of the complaint, specifically address the substantive claims and factual/evidentiary basis contained therein.**
- G. The CRA may, at its discretion, modify the required form, format and substance of the complaint, supplemental or responsive submissions or any other documentation submitted in the course of an investigation.**