



BROADCASTING CONTENT COMPLAINTS HANDLING PROCEDURES

MAINTENANCE HISTORY		
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1. Introduction

1.1. Purpose

The Telecommunications Authority of Trinidad and Tobago (the Authority) is charged with the responsibility of regulating the telecommunications and broadcasting sectors.

In accordance with its statutory duties under section 18(1) (m) of the Telecommunications Act, Chap. 47:31 (the Act), the Authority has implemented a process to treat with complaints received from users of broadcasting services. The purpose of the Broadcasting Content Complaints Handling Procedures is to give context and guidance with respect to the Authority's procedures for handling broadcasting content complaints, focusing on:

- i. the fair and reasonable investigation of complaints.
- ii. the decision-making process.
- iii. the resolution of matters raised in the complaints.

More specifically, these procedures enable the Authority to:

- a) recognise, promote and protect the user's right to comment and/or complain about broadcasting content.
- b) provide an efficient, fair and accessible process for investigating and making decisions regarding user complaints.
- c) outline the means by which the Authority may inform users about the complaints handling process.
- d) implement and/or impose appropriate and effective methods of compliance and enforcement.

1.2. Scope

The Authority is mandated by the Act to protect users of broadcasting services, to facilitate the resolution of disputes involving users, and to investigate user complaints. Section 18 (1) of the Act states, as follows:

“Subject to the provisions of this Act, the Authority may exercise such functions and powers as are imposed on it by the Act and in particular

...(m) investigate complaints by users, operators of telecommunications networks, providers of telecommunications and broadcasting services or other persons arising out of the operation of a public telecommunications network, or the provision of a telecommunications service or broadcasting service, in respect of rates, billings and services provided generally and to facilitate relief where necessary.”

Pursuant to section 79 of the Act, the Authority is mandated to promulgate a Broadcasting Code to regulate the practices of concessionaires of broadcasting services. However, until the Broadcasting Code is

promulgated, a broadcaster must adhere to the broadcasting service conditions set out in the concession. Reference is made to Conditions D8 and D9 of the broadcaster's concession, which provide for the following:

- “D8. The concessionaire shall at all times in the provision of the Broadcasting Services comply with the provisions of the Broadcasting Code promulgated in accordance with the Act.

- D9. Without prejudice to Condition D8, and until such time as a Broadcasting Code is promulgated in accordance with the Act, the concessionaire shall not:
 - (a) transmit any programme, information or other material which degrades or portrays in a negative manner or discriminates against or encourages discrimination against any person or group by reason of race, origin, class, religion or sex;
 - (b) transmit any programme, information or other material which is hostile to any country; or,
 - (c) broadcast programme, information or other material which endangers the security of the Republic of Trinidad and Tobago, violates any law, is of a defamatory nature, is subversive to peace or public order or is otherwise contrary to the laws of Trinidad and Tobago.”

By virtue of section 3 of the Act, the Authority's regulating of broadcasting services requires that such regulation be done consistently with the existing rights and freedoms contained in sections 4 and 5 of the Constitution of Trinidad and Tobago, as follows:

“[Part I: Rights enshrined]

- 4. It is hereby recognized and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights, namely –
 - (i) freedom of thought and expression; and

 - (k) freedom of the press

- 5(1) Except as is otherwise expressly provided in this Chapter and in section 54, no law may abrogate, abridge or infringe or authorize the abrogation, abridgment or infringement of any of the rights and freedoms hereinabove recognized and declared”.

1.3. Definitions

Authorised person: a legal representative or a person authorised to act on behalf of the complainant

Broadcaster: any concessionaire providing broadcasting services

Broadcasting content: the content transmitted by a broadcaster in the delivery of a broadcasting service

Broadcasting service: the offering of the transmission of programmes, whether or not encrypted, by any means of telecommunications, for the reception by the general public, including sound, radio, television and other types of transmissions such as those on a point-to-multipoint basis

Complainant: any person or entity making a complaint about broadcast content under the procedures prescribed herein

2. The Authority's Broadcasting Content Complaints Handling Procedures

2.1. Making a Complaint to the Authority

Method of Submitting a Complaint

A complaint can be made to the Authority about broadcasting content in any of the following ways:

- i. By submission of a Broadcasting Content Complaint Form (Appendix 1), which may be obtained via:
 - a) either of the following offices of the Authority:
 1. #5 Eighth Avenue Extension, Off Twelfth Street, Barataria, Trinidad
 2. Shop #D48 Gulf City Lowlands Mall, Lowlands, Tobago
 - b) the Authority's website <http://www.tatt.org.tt>
- ii. In writing to the Authority at either of the addresses listed in (a) above
- iii. In person, by visiting either of the offices of the Authority between the hours of 8:00 a.m. and 4:00 p.m., Monday to Friday (except public holidays)
- iv. By telephone via the Authority's toll-free number 800-TATT (800-8288) between the hours of 8:00 a.m. and 4:00 p.m., Monday to Friday (except public holidays)
- v. By facsimile at (868) 674-1055
- vi. By e-mail to info@tatt.org.tt

2.2. Content of Complaints

2.2.1 A complainant shall, at a minimum, supply the following information:

- i. The name of the programme and/or presenter
- ii. The date of the broadcast
- iii. The station or channel of the broadcast
- iv. The approximate time that the offensive material was broadcast
- v. A short but detailed summary of the broadcast that is the subject of the complaint

2.2.2 A complainant should provide his/her name and contact details to assist the Authority with investigating the matter and/or to inform the complainant about the status or outcome of the complaint.

2.2.3 In instances where the complainant chooses not to provide his/her name or contact details, the Authority will not be able to communicate with the complainant about the investigation or any decisions that the Authority may make about the complaint.

- 2.2.4 The Authority shall treat the identity of a complainant as confidential unless the content of the complaint requires otherwise, or where the complainant has given expressed permission, verbally or in writing, to disclose his/her identity.

2.3. Time Limits for Submission of Complaints

- 2.3.1 A complaint should be made as soon as possible after the offensive material was broadcast.
- 2.3.2 In accordance with the terms outlined in Condition D34 of the concession, a broadcaster is required to keep recordings of broadcast material for a period of 28 days after the date on which such material was broadcast. Complainants should, therefore, note that a complaint made more than 28 days after the date of the broadcast in question may result in the inability of the Authority to investigate properly and resolve the matter, as the content may no longer be available.
- 2.3.3 The Authority shall acknowledge receipt of a complaint within five working days.

2.4. Matters Suitable for Complaint

- 2.4.1 All complaints should relate to matters referred to in Condition D9 of the broadcaster's concession, as stated in section 1.2 of this document.
- 2.4.2 The Authority may decide not to investigate a complaint that:
- i. does not relate to the matters referred to in Condition D9 of the broadcaster's concession or in the Broadcasting Code when it comes into effect.
 - ii. is deemed frivolous or vexatious.
 - iii. has been submitted late, i.e., after 28 days from the date of the broadcast (as per section 2.3 of this document).
- 2.4.3 General requests for broadcast material (e.g., from persons merely seeking to acquire material for whatever reason without lodging a complaint) will not be acknowledged by the Authority.

2.5. Receipt of Content and Submissions

Initial Assessment

- 2.5.1 The Authority shall, within five working days of receiving a complaint, conduct an initial assessment of whether the complaint relates to Condition D9 of the broadcaster's

concession, in accordance with section 2.4, which may, therefore, warrant an investigation by the Authority.

- 2.5.2 Where the Authority has decided not to investigate a complaint (in instances, for example, where the initial assessment of the complaint does not show a possible breach of Condition D9, or where the complaint falls within section 2.4.2), the Authority shall inform the complainant of its decision within 10 working days after the decision was made.
- 2.5.3 Where the Authority considers that it should assess a matter further, it will ask the broadcaster for a copy of the relevant programme, which must be provided to the Authority within five working days of the request.
- 2.5.4 The Authority may obtain a copy of the relevant programme from its Broadcast Content Monitoring System (BMS) or otherwise, in order to conduct the initial assessment and/or to verify the programme material received from the broadcaster.
- 2.5.5 Based on the complaint and/or upon a review of the relevant programme, the Authority will consider whether there has been a possible breach of Condition D9.
- 2.5.6 Where the Authority considers that there has been no breach of Condition D9, it will not investigate further and will inform the complainant of the decision within 10 working days after the decision was made.

Investigation

- 2.5.7 Where, upon a review of the relevant programme, the Authority considers that a broadcaster may have failed to comply with the provisions of Condition D9, the Authority will write to the broadcaster and advise it of the complaint, set out the particular provisions of Condition D9 which it considers are applicable to the complaint, inform the broadcaster of its review of the programme and invite the broadcaster to make representations to the Authority in response within 10 working days.
- 2.5.8 Representations received from a broadcaster will be considered by the Authority and, based on all the facts of the case, the Authority shall make a decision. The broadcaster and the complainant will be informed of the decision made, within 10 working days. The Authority may also publish its decision for the benefit of the public.
- 2.5.9 The Authority may direct a broadcaster to cease, remove or prohibit the broadcast of any content pending the outcome of an investigation due to the nature and severity of the matter.

General

- 2.5.10 Programme material acquired by the Authority in the course of investigating a complaint may be made available to the complainant or any authorised person, if the Authority believes that it can facilitate relief to the complainant, or to any other person where the Authority considers it appropriate in the circumstances, in accordance with section 18 (1) (m) of the Act.
- 2.5.11 Where the broadcaster has not submitted any representations or the relevant programme, or where the broadcaster fails to provide either within the stipulated time, the Authority shall conduct its investigation using recordings attained from its BMS or otherwise.
- 2.5.12 It is a breach of a broadcaster's concession (Condition D34) for the broadcaster not to provide a copy of the programme material requested by the Authority.
- 2.5.13 There may be specific cases where the breach of Condition D9 requires expeditious attention and resolution (e.g., where a programme is inciting racial hatred). In these cases, the Authority will inform the broadcaster of the matter or complaint and direct the broadcaster to take such immediate action as may be required in the circumstances. Without prejudice to the foregoing, the Authority will still investigate the matter.
- 2.5.14 There may also be other cases where the Authority, based on a complaint or upon its own investigation, will notify a broadcaster of a complaint or investigation and/or request a copy of a broadcast, or ask that the broadcaster take specific action as required in the circumstances.
- 2.5.15 The Authority may launch investigations on its own initiative. The procedures in a complaint-led investigation and an Authority-initiated investigation are the same.

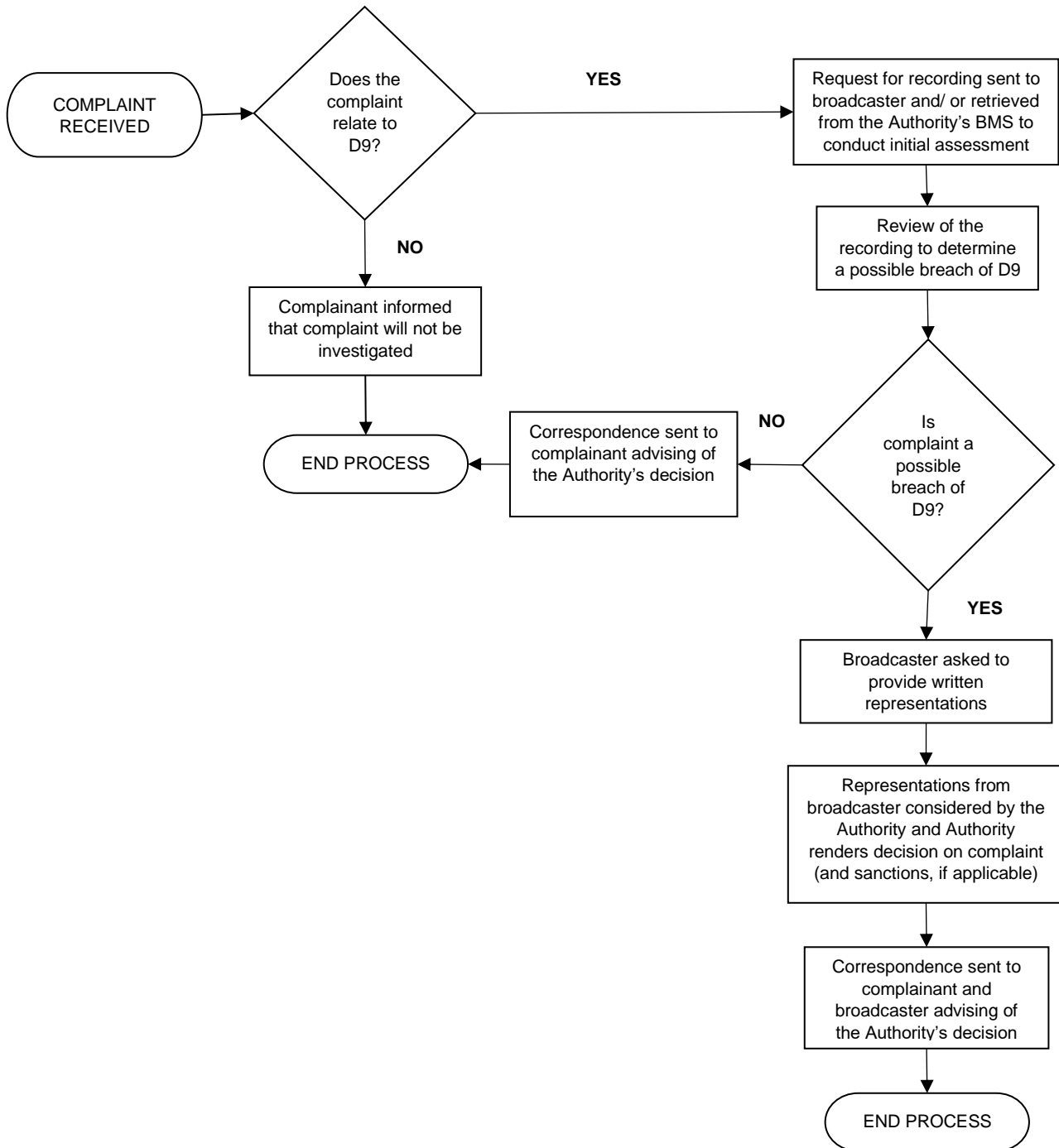
2.6. Complaints Regarding Defamation and Other Private Rights

- 2.6.1 Where a complaint relates to defamation, it must:
- i. be made in writing and signed by the complainant or by an authorised person; and
 - ii. contain adequate particulars of the broadcast, the content and the alleged defamation.
- 2.6.2 In matters such as these, the Authority does not make any determination as to whether the content that has been broadcast is defamatory. The Authority shall, however, assist the complainant by providing a copy of the broadcast where it is alleged that defamatory statements have been made.

2.7. Decisions by the Authority

- 2.7.1 Where, upon the investigation of a complaint, it is found that a broadcaster has been in breach of any applicable provision of its concession, the Broadcasting Code or any other applicable law, the Authority may take such action or impose such sanctions as provided in accordance with the Act, the related regulations and/or the Broadcasting Code.
- 2.7.2 Where the Authority directs that a broadcaster cease, remove or prohibit the broadcast of any content and the broadcaster fails, neglects or refuses to comply with the direction, the Authority will take the requisite enforcement action against the broadcaster in accordance with the Act.
- 2.7.3 The Authority shall notify the complainant and the broadcaster of its decisions. A complainant who does not give the Authority his/her contact information will not be provided with the outcome of the complaint, as noted in 2.2.3.

3. Broadcasting Content Complaints Process



Appendix I



BROADCASTING CONTENT COMPLAINT FORM

PART 1: PARTICULARS OF COMPLAINANT			
Name:			
Address:			
Telephone:	Mobile:	Fax:	E-mail:
PART 2: DETAILS OF THE COMPLAINT			
Title of programme:			
Programme presenter:			
*Date of broadcast:		*Station/channel:	
Start of programme:		End of programme:	
*Time of broadcast of offensive material:			
*Details of offensive material:			

Signature:.....

(Optional)

Date:

PLEASE SEE OTHER SIDE FOR INSTRUCTIONS ON HOW TO LODGE YOUR COMPLAINT.

***All fields with an asterisk must be completed.**

**INSTRUCTIONS ON SUBMITTING YOUR BROADCASTING CONTENT
COMPLAINT TO THE TELECOMMUNICATIONS AUTHORITY OF TRINIDAD AND
TOBAGO**

If you are concerned about offensive material that you have heard or seen on radio or television, respectively, you can complain to the Telecommunications Authority of Trinidad and Tobago. The Authority will investigate the matter and may administer legally enforceable sanctions against the broadcaster

Complaints to the Authority may be submitted in a number of ways:

In Writing

By the submission of a Broadcasting Content Complaint Form or a letter, via hand, e-mail or post, to the Telecommunications Authority of Trinidad and Tobago, at either of the following addresses:

<u>Trinidad</u>	<u>Tobago</u>
#5 Eighth Avenue Extension, Off Twelfth Street, Barataria. Fax: (868) 674-1055	Shop #D 48, Gulf City Lowlands Mall, Lowlands, Tobago. Fax: (868) 639-8288

Broadcasting Content Complaint Forms are available from the Authority's website (www.tatt.org.tt) or at the offices of the Authority.

In Person

By visiting either of the offices of the Authority between the hours of 8:00 a.m. and 4:00 p.m., Monday to Friday (except public holidays)

By E-mail

By e-mailing to info@tatt.org.tt

By Telephone

By telephoning the Authority's complaints hotline 800-8288 (800-TATT) between the hours of 8:00 a.m. and 4:00 p.m., Monday to Friday (except public holidays)

IMPORTANT: Time Frame for Submission of a Complaint

A complaint should be made as soon as possible after the programme is broadcast. Complainants should note that a complaint made more than 28 days after the date of the broadcast in question may result in the inability of the Authority to properly investigate and resolve the matter, as the content may no longer be available. In accordance with the terms of its concession, a broadcaster is required to keep recordings of broadcast material for a minimum period of 28 days after the date on which such material was broadcast.