



# **Broadcasting Content Complaints Handling Procedures**

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# 1 Introduction

## 1.1 Purpose

The Telecommunications Authority of Trinidad and Tobago (hereinafter called the ‘Authority’) is charged with the responsibility to regulate the telecommunications and broadcasting sectors.

In accordance with its statutory duties under section 18(1)(m) of the Telecommunications Act, 2001<sup>1</sup> (“the Act”) the Authority has implemented a process to deal with complaints received from users of broadcasting services.

The purpose of this document is to give context and direction to the Authority’s procedures for the handling of complaints handling in respect of **broadcasting content**, including:

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

More specifically, these procedures provide that the Authority shall:

- (i) Recognize, promote and protect the user’s right to comment and/or to complain about broadcasting content;
- (ii) Provide an efficient, fair and accessible procedure for investigating and making decisions regarding user complaints;
- (iii) Identify the means by which the Authority may inform users as to the complaints handling process;
- (iv) Implement and/or impose appropriate and effective methods of compliance and enforcement.

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<sup>1</sup> The Telecommunications Act was promulgated in 2001 and amended in 2004. This Act governs the operations and sets the framework of the Authority.

## 1.2 Scope

The Authority has been mandated by virtue of the Act to protect the users of broadcasting services and to facilitate the resolution of disputes involving users as well as to investigate user complaints. The Act states as follows:

- **Section 18 (1)** *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.*

According to section 79 of the Act, the Authority must promulgate a Broadcasting Code to regulate the practices of concessionaires of broadcasting services. However, until the Broadcasting Code is so promulgated, a broadcaster's Concession is most instructive in this regard.

Specifically in relation to the regulation of broadcasting content, Clause D9 of a broadcaster's Concession prohibits the broadcast of:

- a. 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; and
- b. any programme, information or other material which is hostile to any country; or;
- c. any 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.

It is noteworthy, however, that whether the Authority's regulation of broadcasting services is undertaken by virtue of the broadcaster's Concession or of the Broadcasting Code (upon its promulgation), Section 3 of the Act requires that such regulation must be done consistently with the rights and freedoms contained in Sections 4 and 5 of the Constitution of Trinidad and Tobago which reads 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*

It should be noted that the aforementioned provisions of the Concession are interim provisions until the promulgation of the Broadcasting Code.

### **1.3 Enforcement**

Where upon the investigation of a complaint by the Authority it is found that a broadcaster has been in breach of any applicable provision of its Concession or of the Broadcasting Code or of any other applicable regulation, policy or attendant procedure observed by the Authority at the material time, sanctions may be administered by the Authority against the broadcaster in accordance with the provisions of the Act.

## 1.4 Definitions

- 1.4.1 **Broadcaster** – means any concessionaire providing broadcasting services.
- 1.4.2 **Broadcasting Service** – means 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 multi-point basis.
- 1.4.3 **Complainant** – means any person or other entity making a complaint as to broadcast content under the procedure prescribed herein.
- 1.4.4 **Broadcasting Content** – means the content transmitted by a broadcaster in the delivery of a broadcasting service.

## 2 The Authority's Broadcasting Content Complaints Handling Procedures

### 2.1 Making a Complaint to the Authority:

A complaint shall be made to the Authority in the manner hereinafter stated:

#### 2.1.1 Form of Complaints

- Any person may make a complaint to the Authority about broadcasting content.
  - (i) By submission of a Broadcasting Content Complaint Form, which may be obtained:
    - At either of the offices of the Authority:
      - #5 Eighth Avenue Extension, Off Twelfth Street, Barataria;
      - Shop #D 48, Gulf City Lowlands Mall, Lowlands, Tobago; or
    - On the Authority's website (<http://www.tatt.org.tt>).
  - (ii) In writing by letter to the Authority.
  - (iii) In person by visiting the offices of the Authority between the hours of 8am and 4pm, Monday to Friday (except public holidays).
  - (iv) By telephoning the Authority at (868) 675-8288 between the hours of 8am and 4pm, Monday to Friday (except public holidays).
- A written complaint or Broadcasting Content Complaint Form can be submitted via hand, post, fax or email to:
  - The Head Office of the Authority - #5 Eighth Avenue Extension, Off Twelfth Street, Barataria, Trinidad and Tobago
  - Tobago Office – Shop #D 48, Gulf City Lowlands Mall, Lowlands, Tobago

- Fax - (868) 674-1055/ (868) 639-8288
- Email – [info@tatt.org.tt](mailto:info@tatt.org.tt)

## **2.2 Content of Complaints**

A person making a complaint in any manner prescribed in sub-section 2.1.1 shall, at a minimum, supply the following particulars:

- The name of the programme and/or presenter;
- The date of the broadcast;
- The station or channel of the broadcast;
- The approximate time that the offending material was broadcast; and
- A short but detailed summary of the statement or material that is the subject of the complaint.

## **2.3 Time for Submission of Complaints**

2.3.1 A complaint shall be made as soon as possible after the programme was broadcast.

In accordance with the terms of its Concession, a broadcaster is required to keep recordings of broadcast material for a minimum period of twenty-eight (28) days after the date on which such material was broadcast. Complainants should note, therefore, 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 to resolve the matter as content may no longer be available.

2.3.2 Where the complainant provides his name and contact details, the Authority shall acknowledge receipt of a complaint within fourteen (14) days of the receipt of the complaint.

## **2.4 Matters Suitable for Complaint**

- 2.4.1 All complaints should relate to matters referred to in Clause D9 of the broadcaster's concession as stated in sub-section 1.2 of this document.
- 2.4.2 The Authority may decide not to investigate a complaint:
- i. That does not relate to the matters referred to in Clause D9 of the broadcaster's concession or in the Broadcasting Code when it comes into effect; or
  - ii. That is deemed frivolous or vexatious; or
  - iii. Which has been submitted late, i.e. after a reasonable period of time has elapsed, in accordance with sub-sections 2.3.1 and 2.3.2 of this document.
- 2.4.3 If the Authority has decided not to investigate a complaint under sub-section 2.4.2 above, provided that the complainant has submitted his name and contact details, the Authority shall inform the complainant of its decision, giving reasons, within 14 working days after the decision was made.
- 2.4.4 Any programme material acquired by the Authority in the course of investigating a complaint may be made available to a complainant or to any other person where the Authority believes that, by so doing, it can facilitate relief to the complainant.
- 2.4.5 Persons who merely seek to acquire programme material without lodging a complaint (e.g. persons seeking programme material when pursuing legal action against a broadcaster or other third party) must request such material directly from the broadcaster.

## **2.5 Complaints Regarding Defamation and Other “Private” Rights**

Where a complaint relates to defamation, such complaint must:

- i. be made in writing, signed or on behalf of the complainant; and,
- ii. contain adequate particulars of the content and the alleged defamation so as to enable the Authority to verify that the content in question was, in fact broadcast and to determine whether, in the opinion of the Authority, the content can possibly be viewed as defamatory.

Where, upon investigation, the Authority finds content which can possibly be viewed as defamatory, the Authority will not itself seek to determine whether or not defamation has, in fact, been committed. Rather, the Authority may facilitate relief by providing a copy of the relevant material to the complainant, who may then take appropriate action through the Courts.

The Authority shall suspend the making of a final decision in respect of the complaint unless and until a Court of competent jurisdiction makes a ruling regarding the alleged defamation. In the event that a Court makes a finding that a concessionaire has defamed any person through its broadcasting service; such finding may give rise to a breach of Clause D9 of the relevant concession, which breach the Authority will address as it considers appropriate under the Act.

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

## **2.6 Receipt of Content and Submissions**

- 2.6.1 Upon receipt of a complaint the Authority shall notify the particular broadcaster in writing of the nature of the complaint and request a recording within 2 working days of the programme material to which the complaint relates. The broadcaster will be required to supply the said recording within a reasonable time specified by the Authority.
- 2.6.2 The Authority shall give the broadcaster an opportunity to respond to the complaint and may at any time request the complainant or the broadcaster to provide further information or representations. Such information or representations shall be provided to the Authority within the time specified by the Authority.
- 2.6.3 A broadcaster's failure to provide programme material as requested under sub-section 2.6.1 or to submit a response under sub-section 2.6.2 may result in the complaint being determined without the broadcaster's representations being considered and may further constitute a breach of the broadcaster's concession.
- 2.6.4 The Authority may also conduct such further investigations as it considers appropriate or necessary in order to obtain such evidence or information as may be required for a full consideration of the complaint.

## **2.7 Decision by the Authority**

- 2.7.1 Where a broadcaster is found to have broadcast any content in breach of its concession, the Act or any provision or any instrument made under the Act, the Authority may impose such sanctions as provided under the Act.
- 2.7.2 The Authority shall, where possible, notify the complainant and broadcaster of its findings, giving reasons.
- 2.7.3 The findings of the Authority in relation to any complaint shall be published on the Authority's website (<http://www.tatt.org.tt>).