



Tonga

**COMMUNICATIONS CONSUMER
STANDARDS 2022**



COMMUNICATIONS CONSUMER STANDARDS 2022

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COMMUNICATIONS CONSUMER STANDARDS 2022

COMMUNICATIONS ACT [CAP. 15.01]

IN EXERCISE of the powers conferred by section 53 of the Communications Act [CAP. 15.01], the Regulator makes the following rules —

PART I – PRELIMINARY

1 Short Title

This Rule may be cited as the Communications Consumer Standards 2022.

2 Commencement

These Rules shall come into force on the date it is published in the Gazette or otherwise in accordance with section 10(e) of the Interpretation Act (Cap. 1.02).

3 Interpretation

- (1) Subject to sub-rule (2), unless the context otherwise requires, terms used in these Rules have the same meaning as in the Communications Act [Cap.15.01].
- (2) In these Rules, unless the context otherwise requires, —
“Act” means the Communications Act [Cap.15.01];

“**Advertisement**” means any form of notice or announcement intended to be communicated to the public either in whole or in parts, to promote awareness for the supply of a service or good;

“**consumer**” has the same meaning as in the Act;

“**licensee**” has the same meaning as in the Act;

“**Investigator**” means an authorised person or entity lawfully responsible to conduct investigation in the telecommunications sector;

“**Regulator**” has the same meaning as in the Act;

“**ITU**” means the International Telecommunication Union;

“**ADB**” means the Asian Development Bank;

“**NZAID**” means the New Zealand Aid Programme; and

“**AUSAID**” means the Australian Agency for International Development.

PART 2 – GENERAL APPLICATION OF THE COMMUNICATIONS CONSUMER STANDARDS

4 Application of the Communications Consumer Standards 2022

- (1) These Communications Consumer Standards shall apply to all licensees in the communications sector, and are mandatory for all licensees to comply with.
- (2) The Regulator reserves the right to evaluate market practices and standards and handle consumer complaints. The Regulator may include additional standards given necessary for the best interest of consumers.
- (3) These Communications Consumer Standards are subject to periodic review as determined by the Regulator and amended accordingly, following consultation with related parties.

5 Disclosure of Information to Consumers

- (1) For the purpose of this rule under section 54(a) of the Act, consumers have the right to access and request information about the services, tariffs, and performance for the following, but are not limited to –
 - (a) cellular mobile telecommunications services;
 - (b) fixed telephony services;
 - (c) other voice telephony services (for example, voice over internet protocol);
 - (d) internet access services;

- (e) online information service (for example, dial-up information service or audio-text service);
 - (f) voicemail; and
 - (g) other communication services and products.
- (2) The licensee shall have a website or any other means where all necessary information about their services are posted and made free of charge and accessible for all.
- (3) Information disseminated to consumers are subject to, but not limited to the following –
- (a) not misleading and misrepresenting;
 - (b) understandable and well communicated;
 - (c) presented both in the English and Tongan language;
 - (d) instant updates being made accordingly once changes have been made effectively; and
 - (e) as for a voice licensee, the directory for essential emergency services should be free of charge.
- (4) In the event where a particular information is critical and confidential for business performance which is not subject to the public and consumer awareness, that licensee has the right to reserve such information from the public excluding the Regulator. The confidentiality of such information can be determined by the Regulator in collaboration with the licensee at hand. In the event where such case arises and consumers query or complain about such, that licensee may use one or more of the following solutions –
- (a) issue a written notice to that consumer on why such information is not available for public awareness;
 - (b) post it on its website;
 - (c) call for a meeting with the consumer enquiring and explain why such information is not disclosed; or
 - (d) any other means as long as the enquirer is well informed accordingly.

6 General Requirements for Licensees

- (1) Fixed telephony and voice licensees should make available and provide consumers with a service for directory inquiries as well as the provision of printed national telephone directories.
- (2) Information provided by such directories should include, but not limited to the following –
- (a) the full name and telephone number of telephone subscribers (excluding consumers who have requested not to publish their details);

- (b) contact details of government ministries, non-government organisations, schools, and offices of foreign embassies;
 - (c) contact details for all licensees in the communications sector;
 - (d) a list of dialling codes for national as well as international countries;
 - (e) emergency numbers which should be easily identified and shall be free of charge; and
 - (f) telephone numbers for national assistance, fault report and consumer service inquiries which shall be free of charge.
- (3) Such national telephone directories should be made available for all and shall be free of charge at first delivery to consumers.
- (4) All licensees are encouraged by the Regulator to effectively work together in preparing a complete national directory that would be available for all consumers.

7 Fault Management and Handling of Consumer Complaints

- (1) The licensee shall provide consumers depending on the nature of faults and complaints, with a fault/complaint management process and procedure that will incorporate some or all of these steps –
- (a) fault recording;
 - (b) fault sectionalisation;
 - (c) fault reporting;
 - (d) cooperative testing;
 - (e) fault rectification;
 - (f) fault reconciliation report; or
 - (g) special investigation.
- (2) Those processes and procedures and the form for fault management and handling consumer complaints shall be approved by the Regulator before it becomes effective and be accessible to the public either written or in the electronic form posted on its website.
- (3) All records of complaints and disputes received from the consumers shall be recorded by the licensee. It should also include the period of time taken in addressing and responding to such complaint.
- (4) Consumers may raise their complaints with the Regulator given their original complaints filed with the licensee were not satisfactorily handled within 30 business days.

8 Resolving of Disputes

- (1) The Regulator may publish on its website a formal process for Dispute Resolution between the licensee and consumers. It shall be designed in a way that is transparent, understandable, and easily accessible for all.
- (2) Consumers and licensees shall first make reasonable efforts to solve disputes before proceeding to the Regulator for assistance.
- (3) In resolving disputes, the Regulator shall –
 - (a) thoroughly investigate any complaint or issue raised by the consumer;
 - (b) acquire evidence as and if directed to be obtained from the licensee and consumer together with any other information that may be required by the Regulator; and
 - (c) it shall be reported back to the consumer within 30 working days from the day the complaint was filed.
- (4) A form in Schedule 1 is provided for consumers when filing a complaint with the Regulator.

9 Consumer Privacy and Confidentiality of Information

- (1) All licensees shall protect the privacy of consumers including personal and all related information on service usage of all its consumers. The licensee shall ensure that there are effective measures in place to protect consumers from the unauthorised and illegal use of their personal information and records.
- (2) Except in the event of a lawful investigation, the licensee shall assist with providing the necessary information to the investigator for investigation purposes only.
- (3) Notwithstanding sub-rule (2) of this rule, the licensee shall, except, for any requirements that are subject to the disclosure of information under the laws of Tonga, refrain from using or disclosing any consumer-related information to other parties that are, but not limited to –
 - (a) personal and confidential including proprietary and any other business information that the licensee has obtained from the consumers during its business; and
 - (b) all or any other information relative to a consumer's usage of a licensee's service that is not subject to disclosure.
- (4) In the event the consumers give their full permission and consent for the disclosure of such information, this rule shall not apply.

10 The Provisioning and Maintenance (including fault repair) of Services

- (1) The provisioning and maintenance of services and/or goods by a licensee shall be fair and transparent for all.

- (2) Consumers have the right to report to the licensee any faults regarding their services or goods provided. Reporting such faults shall be made easy and accessible for consumers and free of charge.
- (3) In the event a consumer reports a fault, the licensee shall respond and address these issues within 3 to 4 business days.
- (4) In repairing a faulty equipment, consideration shall be made regarding the nature of the cause from which proper actions are to be carried out. If the cause for faulty equipment was a result of –
 - (a) an event of force majeure such as natural disasters or any cause beyond human control, then repairing the faulty equipment shall be carried out by the licensee free of charge;
 - (b) consumers or subscribers own doing and action, they are fully responsible for any cost associated with repairing and maintenance;
 - (c) a third party whose actions were not in the consent, knowledge, and approval of the affected consumer such as road accident, then any associated cost of such repair and maintenance shall be paid by the responsible third party for the damage. The licensee shall assist in the repair and maintenance of this faulty equipment; or
 - (d) the licensee's own doing, then the licensee is fully responsible for the repair of the faulty equipment and shall be responsible for any related cost involved. Refund and replacement arrangements shall be made possible and should be clearly stated by the licensee.
- (5) No contract or any other arrangements shall restrict, reject, or in any way deny consumers from its rights established in this rule unless it is an agreement that relates to rule 14.

11 Advertisement or representation of goods and services

- (1) Any advertisement or representation carried out by the licensee shall correctly reflect the true content and qualities of the offer being made. It shall not in any way be misleading, deceiving, or confusing to the consumers.
- (2) Advertisements shall be fair, transparent, and genuine and displayed in a plain simple language that could easily be understood by all persons, both in the Tongan and/or English language.
- (3) Superlative and unqualified phrases associated with goods or services must be justified, stated and fully disclosed.
- (4) The licensee shall explicitly provide the necessary information regarding their advertisements and/or promotions. This includes, but not limited to –
 - (a) clear information on what service or good is being advertised such as the content, nature, or associated characteristics;
 - (b) clear information about the identity of the licensee advertising or contact details;

- (c) all terms and conditions applied;
 - (d) the full price of the advertised goods or services, and any other related or applicable fee and costs payable by the consumer; and
 - (e) if the advertisement of goods and services applies for a specific period, this should be explicitly stated. Terms such as ‘special offer’ or ‘clearance’ are used for a short period and priced lower than the usual price.
- (5) Advertisements shall not in any way or likely intend to degrade, defame, discriminate, exploit or abuse an individual, group of people, or any entity with regards to –
- (a) gender;
 - (b) race;
 - (c) ethnicity;
 - (d) religion;
 - (e) culture; or
 - (f) disability.
- (6) The licensee shall respect the privacy and freedom of consumers in controlling the messages they receive. An easy opt-out procedure or option should be available to consumers should they wish to avoid receiving messages or promotions.
- (7) Between competitors, advertisements shall not comparatively present that a competitor’s product or service is inferior or degraded in any way. It shall engage in a fair advertisement.
- (8) Advertisements by each licensees must be unique and distinguished from each other and shall not in any manner use features that are identical to other licensee’s advertisements in order to avoid confusion and misinterpretation to the consumers.

12 Consumer charging, billing, collection, and credit practices

- (1) The licensee shall comply with the following requirements –
- (a) the licensee shall provide clear and accurate bills that can be verified and easily understood by the consumers;
 - (b) consumers have the right to make inquiries on the accuracy of bills and the licensee shall not in any way restrict this;
 - (c) the invoice provided shall be categorised and itemized as per the nature of service used, associated costs, and usage;
 - (d) the licensee should clearly state on the bills provided to consumers the deadline for payments which shall not exceed 30 calendar days from the billing date; and

- (e) the licensee should deliver the bills in a manner that can be easily accessed by the consumers, either through posting online or direct delivery.
- (2) Bills and invoices shall be recorded by the licensee for a period of 12 months unless a dispute arises. The licensee shall notify the consumers that they can lodge any complaint within 12 months regarding any issue on the bills.
- (3) If there are penalties for the late payment of bills, it shall be notified and stated by the licensee. This may include late payment fees and disconnection from services.

13 Service Standards

The licensee shall incorporate best practice service standards into the way they serve consumers which includes, but not limited to –

- (a) ensuring that standard services (or services only) are reasonably accessible to all the people in Tonga on an equitable basis, wherever they reside, tour, or do business;
- (b) the delivery of services which shall be provided in a timely manner;
- (c) the requirement for services to be accurately delivered and served to consumers according to the condition applied on the licensee's service and agreement with consumers;
- (d) the requirement to operate legally and appropriate in all ways when serving consumers; and
- (e) the obligation of the licensees to comply with communications technical standards set by the Regulator under section 76 of the Act and to pursue international best practices such as the International Organization for Standardization (ISO) and other standardization bureaus.

14 Performance Standards

- (1) The licensee shall make arrangements with a consumer for any subscription of any service provided by the licensee to –
 - (a) connect to the service(s);
 - (b) enter into a contract and a service level agreement with the consumer on the offered service(s); and
 - (c) rectify faults or service difficulties for the consumer.
- (2) The licensee shall make reasonable efforts to obtain the agreement of its consumers to the terms of the agreement, particularly concerning connections and rectification periods.
- (3) The licensee shall comply with the service level agreement made under sub-rule (1)(b) of this rule.

- (4) The licensee shall keep a record of its arrangement and retain a copy of the record for a period of not less than 2 years.
- (5) If, when making agreements to connect a consumer to a service, or to rectify a fault or service difficulty, a licensee has relied on, or is likely to rely upon, an exemption or another party, the licensee shall inform the consumer of its reliance, or likely reliance, on the exemption or the other party when agreeing.

15 Exemptions from Consumer Standards

Pursuant to section 53(4) of the Act, the Regulator may specify classes or categories of consumers excluded or partly excluded from this consumer standards.

- (1) Classes or categories of consumers that may be exempted from these consumer standards given they provide and supply goods and services related to telecommunication sector only, includes –
 - (a) foreign countries or donors such as, but not limited to ITU, ADB, NZAID, and AUSAID; and
 - (b) charitable organisations, both local and international, with the intention of social and welfare development and aid without any intention for profitable gains.
- (2) Classes or categories of consumers who may, through mutual and consent agreement with the relevant licensee, mutually agree that some part or all of the consumer standards do not or will not apply in any way to how they conduct business may include –
 - (a) schools and educational institutions;
 - (b) businesses;
 - (c) NGO's;
 - (d) cafes and restaurants;
 - (e) government ministries; and
 - (f) individuals.
- (3) Subject to sub-rule (2) of this rule, the licensee shall issue a written notice via electronic mail or a letter informing the Regulator of such arrangement 7 business days prior to commencement of such arrangement.
- (4) When issuing a written notice under sub-rule (3) of this rule, the content of the letter shall include –
 - (a) the name and category or class of consumer;
 - (b) the name of the licensee;
 - (c) the nature of the agreement regarding the type of service and product;
 - (d) the reason why such exemption is applied and which section(s);
 - (e) an attachment of the contract (if any); and

- (f) any other matter the Regulator may request.
- (5) This rule does not in any way intend to undermine the rights and benefits of consumers declared in this Communications Consumer Standards 2022. The Regulator holds the utmost power and authority regarding any action stated in this rule given it deems necessary and appropriate for the benefit of both consumers and licensees.

Made at Nuku'alofa this 10th day of **June** 2022.

Paula Pouvalu Ma'u

Chief Executive Officer

**Ministry of Meteorology, Energy, Information, Disaster Management,
Environment, Communications and Climate Change**

SCHEDULE 1

REGULATOR’S CONSUMER COMPLAINT FORM

Part A: For office use only:

This part is to be filled by the Regulator’s office only.

Received by	
Date received	
Complaint number	
Complaint Type	
Date completed	
Name of officer(s) investigating	

Part B: For consumer use:

This part is to be filled in by the complainant.

Full name of the complainant:		Remarks (by the Regulator’s office)
Licensee whom the complaint is made against:		
Address of the licensee whom the complaint is made against (including contact details)		

Reason and nature of the complaint:		
Phone number:		
E-mail address:		
Postal address:		