

The Broadcast Complaint Handling Procedures of the Communications Authority

1. The Office of the Communications Authority (OFCA) is the executive arm of the Communications Authority (CA). The Director-General of Communications (DG) has delegated authority to investigate all broadcast complaints.
2. All broadcast complaints¹ made to the CA will be dealt with in accordance with the provisions stipulated in the Broadcasting (Miscellaneous Provisions) Ordinance (B(MP)O).
3. A written acknowledgment is issued following the receipt of a complaint unless no correspondence address is provided by the complainant.
4. In view of the large amount of broadcast materials made available to the public, complainants should provide sufficient and concrete information to enable the CA to identify the broadcast material under complaint. Complaints for which the complainants fail to provide sufficient and concrete information (such as the title of the programme/advertisement/other programme material, name of the broadcast station and channel, the actual broadcast date and time, and the substance of the complaint) for identification of the broadcast materials concerned cannot be further processed. Furthermore, the CA needs to retrieve and examine the relevant recording in processing a complaint. Hence, if members of the public wish to lodge complaints, they should do so as soon as possible after the broadcast contents concerned have been aired. The CA may not be able to process late complaints due to the fact that the relevant recording is no longer available.
5. Provided that sufficient and concrete information is provided, complaints will be carefully investigated to establish the facts and to examine whether there are any possible breaches of the legislation, licence conditions or Code of Practice. If there is prima facie evidence of a breach, the complaint will be referred to the Broadcast

¹ Any complaints that a licensee or any person has contravened – (a) the Broadcasting (Miscellaneous Provisions) Ordinance (Cap.391), the Broadcasting Ordinance (Cap.562) or Part IIIA of the Telecommunications Ordinance (Cap. 106); (b) the terms or conditions of a licence; or (c) a broadcasting Code of Practice.

Complaints Committee (BCC) for consideration.

6. Pursuant to the B(MP)O, the CA may refuse to refer a complaint to the BCC if it is of the opinion that the complaint is trivial or frivolous, or if it is not made in writing, or the information provided is inadequate for further investigation.
7. As an administrative procedure, the CA accepts requests for review from any complainant who is dissatisfied with the decision of DG under CA's delegated authority on his/her complaint. Nonetheless, any such requests should be made by the complainant within 30 calendar days after he/she is notified of DG's decision on his/her complaint². In making a request for review, the complainant is required to give particulars of the grounds for dissatisfaction with DG's decision for the CA's consideration. Requests without grounds would not be processed.
8. The licensee and other persons who are the subject of the complaint have the right to make representations either orally or in writing or both to the BCC before the BCC considers the complaint. Under normal circumstances, a minimum of 14 working days is allowed for the preparation of representations.
9. In the case of a complaint against advertising, both the licensee and the advertising agent concerned will be invited to make representations. It will be up to the advertising agent to decide whether the advertiser should also make representations, which will normally be received by the BCC.
10. The licensee or other person the subject of the complaint will be notified in general terms the source and the substance of complaint and the general provisions in the legislation, licence conditions or Codes of Practice that might have been contravened in a letter inviting representations. Depending on the nature and/or gravity of the allegation, the licensee concerned may be notified and reminded of their obligations on a without prejudice basis before the complaint is referred to the BCC. Under no circumstances will the identity of the complainants be disclosed. Nor will the licensee or other persons who are the subject of the complaint be provided with

² Under normal circumstances, the OFCA will inform complainants of the investigation results in writing. Complainants who would like to be informed of the investigation results are required to provide their correspondence addresses to the OFCA.

copies of the written complaints and/or records of the verbal complaints unless it is the wish of the complainant to do so.

11. As for cases of a complex nature where the CA will require professional and/or expert opinion to assist it in considering the complaints, such opinion will normally be sought before inviting representations. With the consent of the source of information, any opinion so obtained which will be presented to the BCC will be sent to the licensee and other persons who are the subject of the complaint to facilitate them in preparing their representations.
12. The BCC, which normally meets once a month, will consider each complaint carefully, including viewing and/or listening to the material under complaint, before making recommendations to the CA.
13. The CA will consider the BCC's recommendations and arrive at provisional findings about the complaints. The licensees concerned will be notified in writing of the CA's provisional findings on the complaints directed at their services, and will be invited to submit further representations either orally and/or in writing to the CA within four working days upon receipt of the letters of notification.
14. If the licensees concerned do not submit further representations to the CA, the provisional findings will automatically become the CA's final decisions. The licensees will be notified in writing of the CA's final decisions.
15. If the licensees concerned submit further representations to the CA, the CA will consider the complaints again in the light of the further representations. The licensees will be notified in writing of the CA's final decisions as soon as possible.
16. The complainants who have provided a correspondence address and other relevant person will be notified of the CA's final decisions.
17. Depending on the complexity of the case and due to the time required to satisfy all statutory requirements, it may take 4 months before a complainant is informed of the final decision of the CA. As additional time will be required for processing of a complainant's request to review DG's decisions on his/her complaint, the above

timeframe will not be applicable for review cases.

30 April 2019

Office of the
Communications Authority