



Government of  
The Republic  
of Vanuatu



Telecommunication &  
Radiocommunication  
Regulator

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# Consumer Protection Guidelines

February 22 2012

TRR Consumer Protection Guidelines

Version	Date	Author	Comments
First Edition	28 <sup>th</sup> June 2011	Office of TRR	Issued for Public Consultation
Final Copy	22 February 2012	Office of TRR	Copy After public consultation

*22<sup>nd</sup> Feb 2012*



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## CONSUMER PROTECTION GUIDELINES

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## **1 Introduction**

- 1.1 For the purpose of this Guideline, Consumer has the same meaning as “end user” used by the Telecommunications and Radiocommunications Regulation Act 2009 (“**the Act**”), which means a person who is the ultimate recipient of a telecommunications service or another service provided by means of that telecommunications service but does not include affiliates of a service provider.
- 1.2 The Telecommunications and Radiocommunications Regulator (TRR) has responsibility for overseeing and regulating consumer affairs in the telecommunications sector in order, among other things, to educate the Consumer, protect the Consumer and build trust and security for Consumers and establish suitable mechanisms for resolving Consumer disputes with Telecommunication service providers.
- 1.3 By outlining the rights and obligations of Service Providers and Consumers with respect to Telecommunications Services, these Consumer Protection Guidelines will detail the specific objectives that TRR is setting for Service Providers.
- 1.4 While TRR has the authority to issue mandatory regulations, it has decided to proceed first with these Guidelines. TRR will continue to monitor the effectiveness of these Guidelines in protecting consumer interests and, only if needed, issue regulations in their place. However, when there is a conflict between this Guideline and the Act and the Telecommunications Licence (the Licence), the provision of the Act and the Licence will prevail.

## **2 Objectives of the Consumer Protection Guidelines**

- 2.1 Apart from the general provisions of Part 8 of the Act, Vanuatu to date has no specific laws, regulations or guidelines related to the protection of consumers in any sector of the economy. Consumer protection is particularly important in the telecommunications sector as a result of the introduction of competition which gives consumers service choices for the first time and rapid technological changes which characterize the sector.
- 2.2 The Consumer Protection Guidelines are intended to:
  - a) clarify how TRR expects Service Providers to educate Consumers and respect and protect rights;
  - b) encourage best practice by Service Providers and promote the provision of high quality services to Consumers;
  - c) ensure that Consumers have all the information they need to make well-informed decisions in a competitive market;
  - d) set out Service Providers’ obligations with respect to Terms of Service, transparency in billing, quality of service and advertising;
  - e) provide Consumers the opportunity to resolve disputes with their Service Providers in an effective and efficient way and set out the role of TRR in dispute resolution; and
  - f) increase awareness of Consumers’ rights and discourage Service Providers from abusing these rights.

### **3 Legal basis**

- 3.1 Section 7(2) (b) of the Act empowers TRR to implement, facilitate and enforce the provisions of the Act with respect to Telecommunications Services.
- 3.2 Part 8 of the Act sets out provisions relating to customer relations and protection. Section 39 requires fair dealing with Consumers, provision of clear and concise invoices, and retention of records. Section 40 of the Act requires all Service Providers to protect the confidentiality of Consumer information.
- 3.3 Section 41 requires a Service Provider to establish procedures for dealing with complaints by Consumers regarding the Telecommunications Services and gives TRR the right to investigate and mediate disputes between Consumers and Service Providers.
- 3.4 Section 43 requires Service Providers to submit a draft Terms of Service for approval.
- 3.5 Further there are Consumer Related obligations set out in the Licences issued by TRR to Service Providers covering provision of essential services e.g. Clause 9 of the TVL & Digicel Licences), Fair dealing practices (e.g. Clause 15 of the TVL & Digicel Licences), Confidentiality of customer information (clause 16)
- 3.6 These Guidelines apply equally to agents and distributors of Service Providers. Service Providers must ensure that their agents and distributors implement these Guidelines.

### **4 Application of the Consumer Protection Guidelines**

- 4.1 These Consumer Protection Guidelines apply to all Service Providers of Telecommunications Services. Service Providers are encouraged to comply with these Guidelines and Consumers are encouraged to ask their Service Providers to meet these Guidelines.
- 4.2 TRR will continue to review market practice and Consumer complaints. TRR may issue additional regulations or determinations if it considers that the objectives of these Guidelines have not been met or that Consumers are not adequately protected.
- 4.3 It is intended that these Guidelines will be subject to periodic review and may be amended following consultation with interested parties in the light of experience in the telecommunications sector, as well as ongoing developments in telecommunications markets, or any changes to national law.

### **5 Definitions**

- 5.1 Unless otherwise defined in Guidelines, any word or expression shall have the meaning given to it in the Act, TRR Regulations (if any) or Licences. In the event of conflict or ambiguity between the terms defined herein and the terms defined in the Act, Regulations or Licences, the following order of precedence should apply:
  - g) the Act;
  - h) the Regulations;
  - i) Service Providers' Licences;
  - j) these Consumer Protection Guidelines.

- 5.2 References to a word or phrase in the singular encompass references to words or phrases in the plural, and vice versa.
- 5.3 References to a specific gender encompass all other genders.
- 5.4 References to a word or phrase in a different grammatical conjunction from the grammatical conjunction of a word or phrase defined below will, as far as possible, have the same corresponding meaning as the defined word or phrase.
- 5.5 For the purposes of these Guidelines, the following terms will have the ascribed meanings:

**Consumer or end user<sup>1</sup> as refer to in the Act** means any person using or requesting retail telecommunications services for their own use and not for resale;

**Service Provider** has the same meaning as define in the Act.

**Unfair Practices** means any fraudulent, deceptive, or dishonest practices that prohibited under Part 8 of the Act, Section 15 of the Telecommunications Licence and Clause 1.3 of these Guidelines.

## 6 User Advisory Group(s)

- 6.1 TRR will establish User Advisory Group(s) to obtain feedback and opinions on implementation of these Guidelines, proposed decisions and regulations by TRR. The Group(s) will be made up of representative all major business interests, retail consumers, non-profit organizations, health centers, schools and libraries.

## 7 Information dissemination to consumers

- 7.1 Service Providers are advised to communicate with Consumers in plain, simple language.
- 7.2 Service Providers should take such steps as are necessary to ensure that Consumers can reasonably and reliably have access to information to assist them in the selection of Telecommunications Services of their choice.
- 7.3 A Service Provider should give its Consumers the choice of receiving information in English, French and Bislama.
- 7.4 A Service Provider should ensure that information provided to Consumers is accurate, relevant, current and timely.
- 7.5 Providers of voice services should provide essential emergency service free of charge and provide assistance for remedying faults.
- 7.6 A Service Provider is encouraged to take into account the interests of Consumers with disabilities including those with sight or hearing impairment;

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<sup>1</sup> For the purpose of these Guidelines, the Guidelines will use consumer.

## **8 Service Provider information requirements**

- 8.1 Voice Service Providers should provide or make available to their consumers a directory enquiries service and participate in a National printed directory so long as there proves to be a demand for such printed directories.
- 8.2 Such directories should include as a minimum:
- a) the name and telephone number of telephone subscribers (other than consumers who have requested that their details should not be published) ;
  - b) the name and telephone number of consumers provided by other Service Providers' Consumers (other than those who have requested for their details must not be published) ;
  - c) Contact details for all service providers;
  - d) A list of national and international dialing codes;
  - e) Emergency Numbers; and
  - f) TRR information and contacts details.
- 8.3 Service Providers should provide to other Service Providers the names and telephone numbers of their consumers, which shall be used solely for the purpose of compiling a directory, as referred to above.
- 8.4 Pre-paid customers have the right to appear in the Directory if they chose to make a suitable payment set by the Service Provider;
- 8.5 TRR encourages Service Providers to work together to prepare a comprehensive national directory that would be available to all Consumers.

## **9 Educating the consumer**

- 9.1 Consumer empowerment and protection is important economically and socially. Educating the consumers will assist with their understanding of what is possible, their own requirements, what should be expected, selection and appropriate usage.

## **10 Terms of Service**

- 10.1 Service Providers should ensure that their Terms & Conditions (T&Cs) of Service do not contain unfair terms and conditions.
- 10.2 According to section 16.6 of the Telecommunications License a Service Providers should submit T&Cs of Service to the Regulator for review.
- 10.3 The T&Cs of Services need to be transparent and drafted in plain and clear language, and available in English, French and Bislama.

- 10.4 At a minimum, T&Cs of Service for a specific telecommunications service are expected to include terms that will explain adequately to the Consumer the following, where relevant to the specific Service:
- a) the provision of the service(s), time to connect the Service, equipment required, username and password provision;
  - b) the availability and limitations on the use of the service, volume of usage, and area of usage;
  - c) the calculation of charges and fees, billing, charges for different services, method of payment;
  - d) the process for disconnecting the service by the Service Provider;
  - e) the process for effecting termination by the Consumer;
  - f) the level of protection of private information;
  - g) warranties in respect of the service and associated equipment;
  - h) the consumer complaint and dispute resolution procedures;
  - i) the contact details for the Service Provider's customer service department; and
  - j) contact details for TRR.

## **11 Tariffs**

- 11.1 All Licensed Service Providers, including those regulated as dominant in a relevant market must file their tariffs with TRR prior to implementation.
- 11.2 TRR generally will not exercise its right to approve tariffs filed by Dominant Service Providers. In cases of promotions, where TRR has required Dominant Service Providers to seek approval, approval will be deemed given if TRR does not respond within 24 hours of receipt of the filed promotion tariff.

## **12 Invoices**

- 12.1 Service Providers should issue bills which:
- a) are clear, and establish verifiable charges in a format that can be easily compared;
  - b) are complete so that Consumers can confirm or challenge billing information, including amongst other things calls charges, payments and late charges;
  - c) contain a disclosure of the price per minute paid for all calls and an itemised list of all subscription charges; and
  - d) are itemised as to national and international usage, monthly subscription fees, premium rate or value-added service charges, internet subscription and usage fees where applicable, or directory assistance fees. Such bills should be provided without additional charge.

- 12.2 Service Providers should ensure that all roaming charges are billed to the Consumer as soon as possible without exceeding 60 days from the call generation date.
- 12.3 Service Providers may offer online itemized bill display, downloads and electronic bill payment as per their agreement with the Consumer.
- 12.4 Billing records should be retained by the operators for a period of 12 months in normal cases. If a dispute commences within 12 months of a bill being raised Service Providers should retain the records until settlement of that dispute.
- 12.5 Service Providers may seek refundable profit-bearing deposits from Consumers in the following circumstances:
- a) the Consumer's acceptance in writing;
  - b) the Consumer has a poor credit history;
  - c) for new Consumers; or
  - d) for international services including the roaming service.
- 12.6 The due date for bills should be clearly indicated on all bills provided to Consumers. TRR recommends that Service Providers do not require payment of bills by Consumers for at least thirty (30) days from the billing date.
- 12.7 Consumer should receive their bills at minimum 10 days prior to the billing date.
- 12.8 Where a service has been disrupted for whatever reason the customer should be credited for the period in which service was not available.
- 12.9 Consumers should have the right to query the accuracy of the bill and/or arrange a payment plan in order to avoid service disconnection within the provided due payment period.
- 12.10 These Guidelines do not inhibit Service Providers from imposing reasonable late payment fees or following a disconnection procedure for a particular service if the Consumer fails to pay his/her bill within 30 days from when it was billed and did not arrange a payment plan.
- 12.11 All Service Providers must provide telecommunications services that will meet specific quality of service standards. These standards shall be consistent with any Quality of Service Guidelines or Regulations produced by TRR and by default international best practice.
- 12.12 The Service Providers shall not make any false or misleading advertisement on the availability, price or quality of its service or equipment. The claim is false or misleading if, at the time the Service Provider knew or reasonably ought to have known that it was false or misleading in any material respect or it was likely to confuse or mislead the customer to whom it was made.

### **13 Protecting the Consumer and Building Trust and Security**

- 13.1 Section 40 of the Act provides that a Service provider must not, without any consent of the end user, divulge any personal end user information to any other person who is not an agent of or employee of the service provider, unless required by law or authorised by warrant or by the Regulator.



## 14 Privacy and Confidentiality.

- 14.1 All Service Providers should protect the Consumer's privacy regarding personal information and calling patterns. Other than in the case of Lawful Interception following due process, the Consumer has the right to personal privacy, to have protection from unauthorised use of their personal records and information, and protection from illegal, unsolicited, unwanted or offensive communications.
- 14.2 Subject to any obligations to disclose information in accordance with the laws of Vanuatu, Service Providers should maintain the confidentiality of, and refrain from using or disclosing, other than for the proper purposes of providing Telecommunications services, any:
- a) confidential, personal and proprietary information obtained in the course of its business from any Consumer, where such information originates from any such Consumer;
  - b) any information regarding usage of a Telecommunications Network or service; or
  - c) information received or obtained in connection with the operation of a Telecommunications Network or the provision of a Telecommunications Service.
- 14.3 The above provisions should not apply where Consumers give their informed permission and consent to the disclosure of personal information and calling patterns, or where such disclosure is a requirement of the law of Vanuatu.

## 15 Unfair Practices

- 15.1 TRR will monitor and take appropriate action against Service Providers that use Unfair Practices. These Unfair Practices include:
- a) going against the requirements of professional diligence in a way that is likely to alter the economic behaviour of Consumers or potential Consumers;
  - b) conduct that is misleading and deceptive or is likely to mislead or deceive, including but not limited to:
  - c) misleading Consumers through false or deceptive advertising;
  - d) misleading Consumers by giving false or deceptive information or failing to give important information in a clear manner e.g;
    - I. advertising goods and services that cannot be supplied or out of stock for a period of time in order to lure people into the shop or kiosk is known as bait advertising and is misleading.
    - II. General Qualifying statements such as "crazy sale" or "sale sale sale" could leave the business open to charge of bait advertising if reasonable advertised products are not available .
    - III. Misleading consumers about their rights. A customer might well be entitled to a refund if the goods or services have a fault which they could not have known about when purchasing the product or service or if the service provided has misrepresented the goods. "No Refund" sign is an example with no explanation of what situations this may apply to.
    - IV. Guarantees and warranties should not attempt to limit a consumer's legal rights and should make that clear.

V. Pro-forma invoicing may be viewed as an attempt to trick or bully business customers into paying for goods and services they didn't order.

- e) using aggressive sales techniques that harass Consumers or lead to them making a decision that they would not have made under other circumstances;
- f) engaging in anticompetitive behaviour, including those activities and omissions as specified in any Competition Guidelines; and
- g) such other practices as may be specified by TRR.

- 15.2 Service Providers should make available educational material for Consumers which informs them of any relevant protection or control mechanisms for their service which can be used to protect children.
- 15.3 Service Providers are expected to protect Consumers from unreasonable, unwanted or illegal electronic solicitations, including live voice solicitations, artificial pre-recorded voice advertisements, electronic mail, electronic wireless messages (e.g. SMS, MMS) and facsimile messages.
- 15.4 Service Providers must not switch Consumers from one Service Provider to another Service Provider without the Consumers' express knowledge and consent or otherwise switch Consumers from one Telecommunications service to another or from one Service Provider to another through unfair practices or without their explicit written authorisation.
- 15.5 Service Providers should not change the T&Cs of a service of an existing customer without prior warning and an opportunity for the customer to cease the service.

## **16 Complaints and redress**

- 16.1 Service Providers shall provide Customers with a procedure for complaint-handling that is effective and efficient in resolving disputes. This procedure will be documented and made available to the public in writing and verbally. The process will include a guideline to timeframes for resolving disputes and faults.
- 16.2 Service Providers should provide a free phone number for inquiries, faults and complaints.
- 16.3 Service provider shall keep records, and maintain for 18 months, records of all disputes and complaints from consumers and amount of time taken to respond to such complaints as well as to resolve them. This information is to be made available to TRR upon request.
- 16.4 Service Providers should also make TRR's contact details available for Consumers, notifying Consumers that they may raise their complaint to TRR if their original complaint is not handled to their satisfaction by their Service Provider within 30 days and in accordance with that Service Provider's complaints handling procedure.

## 17 Dispute resolution

- 17.1 TRR's Consumer Complaints Process set out on [www.trr.vu](http://www.trr.vu) protects the interests of Consumers by:
- a) handling inquiries and complaints, undertaking investigations, making recommendations and achieving resolutions for Consumers; and
  - b) establishing a Dispute Resolution Process which acknowledges and responds promptly to all written communications regardless of whether or not a full response to the enquiry or complaint can be provided at that time.
- 17.2 TRR may also institute a formal Dispute Resolution Process between Consumers and Service Providers designed to be prompt, Transparent, comprehensible and Consumer-friendly.
- 17.3 Whether or not a formal procedure is implemented, TRR shall:
- a) promptly investigate any matter which is raised by a Consumer and provide feedback within 30 days;
  - b) determine the periods that are reasonably necessary for the fair and adequate presentation of the matter by the respective parties; and
  - c) require evidence or arguments to be presented in writing, other than in exceptional circumstances. TRR will decide the matters upon which it will hear oral evidence or arguments.
- 17.4 Service Providers should refrain from suspending or terminating the Telecommunications service provided to Consumers during the complaint handling by TRR unless they have obtained the prior permission of TRR, which may be granted where there is a significant risk.
- 17.5 Annex A contains a form for Consumers to use to file complaints with TRR.

Annex A

# TRR CUSTOMER COMPLAINT FORM

For TRR use only

Complaint number:	
Type of Complaint (eg. Internet rates, network coverage etc..):	
Date received	
Date completed	

*Complete this form and send to TRR only after you have failed to receive satisfaction from your service provider*

Family Name of complainant:	
Forenames:	
Address of Complainant:	
Fixed Number:	
Mobile Number:	
Email address:	
Service Provider's Name against which the complaint is being made:	
Nature /Facts of the Complaint:	
Dates of corresponding with Licensee (Attach copies of correspondence. If billing dispute attach copies of bills):	

Signed:	Date:
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