

COMMONWEALTH OF DOMINICA

ARRANGEMENT OF REGULATIONS

REGULATIONS

1. Short Title
2. Interpretation
3. Application
4. Obligation of resellers of service
5. Establishing and amending quality of service standards
6. Code to bind resellers of service
7. Record keeping
8. Information to Commission
9. Customer complaints
10. Unpredictable situations and cases of *force majeure*
11. Compliance and enforcement

2010

TELECOMMUNICATIONS

S.R.O. 28

COMMONWEALTH OF DOMINICA

STATUTORY RULES AND ORDERS No. 28 OF 2010.

REGULATION

MADE by the Minister under section 74 of the Telecommunications Act, 2000 (No. 8 of 2000).

(Gazetted September 9, 2010.)

PART I**PRELIMINARY**

1. These Regulations may be cited as the- Short title.
TELECOMMUNICATIONS (QUALITY OF SERVICE FOR RESELLERS) REGULATIONS 2010.

2. (1) In these Regulations Interpretation.
“Act” means the Telecommunications Act, 2000; Act No. 8 of 2000.
“*force majeure*” means any event or effect that can be neither anticipated nor controlled and includes both acts of nature such as earthquake, flood, lightning and hurricane, and acts of people such as riot, strike, civil disorder, declared state of emergency and war or any similar act which the Commission determines to be *force majeure*;
“quality of service” means the measurement of the performance for a telecommunications network or service and the degree to which the network or service conforms to stipulated parameters and the term “Quality of Service Standards” shall have a corresponding meaning;

“Quality of Service Code for resellers” means a document published by the Commission setting out quality of service standards and related matters for resellers, recommended for adoption by ECTEL;

“reporting period” means a calendar year;

“reseller of service” means a telecommunications provider who purchases telecommunications services from another telecommunication provider for the subsequent sale or lease to an end-user of the service on a commercial basis with or without adding value to it, and for the avoidance of doubt does not include -

- (a) agents or contractors of a telecommunications provider who sell or promote telecommunications services for or on behalf of that provider; and
- (b) any person who establishes, operates or maintains a public telecommunications network.

(2) Unless otherwise specified, terms used in these Regulations shall have the meanings assigned to them under the Act.

Application.

3. These Regulations apply to resellers of service

Obligations of resellers of services.

4. A reseller of service shall -

- (a) provide, establish and maintain sufficient information to assist customers in resolving questions and issues relating to the services that it provides including -
 - (i) the name of the reseller of service;
 - (ii) the customer service telephone number of the reseller of service;
 - (iii) clear instructions pertaining to the use of the service;

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- (iv)* the tariffs related to the use of the service;
 - (v)* the duration or validity period of the service;
 - (vi)* the terms and conditions on which a customer with a valid complaint against the service shall be compensated by the reseller of service;
 - (vii)* the contact details of the Commission; and
 - (viii)* the right of the customer to address complaints to the commission where unsatisfied with the service for any reason.
 - (b)* be responsible for the treatment of customers' complaints;
 - (c)* maintain adequate numbers of trained personnel sufficiently authorised to receive and respond promptly to complaints from customers;
 - (d)* take all reasonable commercial steps promptly remedy and avoid the recurrence of the cause of all customer complaints which relate to the quality, availability or delivery of the services that it provides;
 - (e)* keep and maintain all information on the complaints made by customers and shall provide such information to the Commission at least once a year;
 - (f)* keep confidential any and all personal information obtained from a customer in connection with the use of its services or in the course of a dispute with the reseller and not knowingly communicate, sell or otherwise disclose such information to a third party for any reason, unless requested by the Commission;

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- (g) upon the expiration of not less than one year after the end of the reporting period, promptly and permanently dispose of any and all personal information obtained from customers, unless otherwise directed by the Commission.

Establishing and amending quality of service standards.

5. The Commission, acting on the recommendation of ECTEL, and having regard to market needs or the regulatory objectives of the Commission -

- (a) may, in addition to the obligations set out in these Regulations, issue a Quality of Service Code for Resellers to establish quality or service standards, and setting out any other standards or guidelines the Commission considers appropriate;
- (b) shall publish the Code in the Gazette and on its website;
- (c) may amend, replace or revoke a Code at any time;

Establishing and Amending Quality of Service Standards.

6. The Commission, acting on the recommendation ECTEL, and having regard to market needs or the regulatory objectives of the Commission -

- (a) may, in addition to the obligations set out in these Regulations, issue a Quality of Service Code for Resellers to establish quality of service standards, and setting out any other standards or guidelines the Commission considers appropriate;
- (b) shall publish the Code in the Gazette and on its website;
- (c) may amend, replace or revoke a Code at any time.

7. A reseller of service shall comply with the quality of service standards and any other standards or guidelines published in the Quality Service Code for Resellers.

Code to bind Resellers of Service.

8. A reseller of service shall retain quality of service data detailing levels of compliance with established standards of service and related records for a minimum period of twelve months after the end of the reporting period or until such time as the Commission shall direct.

Recording Keeping.

9. (1) A reseller of service shall submit to the Commission on an annual basis a report on its levels of compliance with established quality of service standards for any obligations set out in these Regulations or related Quality of Service Code for Resellers for the last reporting period.

Information to Commission.

(2) A reseller of service shall submit the report referred to in sub-regulation (1) on the last working day of the calendar year in a form acceptable to the Commission.

10. (1) Where a reseller of service receives a complaint from a customer about the quality of its service, the reseller of service shall make such investigations as is required in the particular case and take all necessary steps to address valid complaints by -

Customer complaints.

- (a) reimbursing the customer for the costs of the service;
- (b) compensating the customer on terms and conditions clearly set out by the reseller of service;
- (c) offering to provide additional service at no extra cost to the customer; or
- (d) Taking any other measures it considers appropriate having regard to the nature of the customer's complaint.

(2). In the event that the customer's complaint is not resolved, the reseller of service shall inform the customer that he may refer the matter to the Commission for resolution.

Unpredictable situations
and cases of force
majeure.

11. (1) The Commission may take into account factors relating to -

- (a) any changes in environmental or operating conditions that could not have been reasonably foreseen by the reseller of service; or
- (b) any service deficiencies that arise partly or wholly from the operations of another telecommunications provider,

which may affect the ability of a reseller of service to achieve the obligations set out in these Regulations or any related Quality of Service Code for Resellers.

(2) Where the reseller of service is unable to submit a report during the relevant reporting period as a result of a natural disaster or a case of force majeure, he may apply to the commission in writing for an extension of time.

(3) In the event of a natural disaster or a case of force majeure, the Commission may exempt a reseller of service from the obligation to submit a report during the reporting period in which the natural disaster or the case of force majeure occurred until the last working day of the first quarter of the subsequent year.

Compliance and
enforcement.

12. (1) A reseller of service to whom these Regulations apply shall comply with the obligations provided for in these Regulations within six months of the coming into effect of these Regulations.

(2) A reseller of service who -

- (a) fails to comply with these Regulations after six months have elapsed from the coming into effect of these Regulations;

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- (b) fails to submit during a time period specified in these Regulations or by the Commission, information requested by the Regulations;
 - (c) knowingly submits or publishes false or misleading information relating to its compliance with quality of service standards;
 - (d) knowingly submits or publishes false or misleading information to customers relating to any of its services;
 - (e) obstructs or prevents an investigation by the Commission into a complaint by a customer or the quality or service reporting or record keeping procedures or with respect to any related matter;
or
 - (f) fails to comply with the terms and provisions of the Act, these Regulations, any related Quality of Service Code for Resellers, its licence or any order, decision or direction of the Commission;

shall be liable to the enforcement measures specified in the Act including suspension and revocation of its licence as provided for in section 40 of the Act.

(3) Without prejudice to sub-regulation (2) above, where the Commission determines that a reseller of service has failed to comply with established quality of service standards, the Commission may require the reseller of service to implement a remedial plan to improve the quality of service of the relevant service over a period to be determined by the Commission and the reseller of service shall comply with a such plan once directed.

2010

TELECOMMUNICATIONS

S.R.O. 28

Made this 9th day of August, 2010.

AMBROSE GEORGE

Minister for Telecommunications