



**National Communications Authority**

**RULES OF PROCEDURES**

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## CHAPTER 1

### Article 1 Definitions

For the purposes of these Rules of Procedure, unless the context otherwise requires, the following terms and expressions shall have the meanings assigned below –

“**application**” means the document, whether in paper format or electronic, filed by a person to commence a proceeding before the NCA;

“**Decision**” means any formal document adopted by the NCA that establishes a Rule or resolves a proceeding before the NCA;

“**NCA**” means the National Communications Authority;

“**party**” means any person that participates in a proceeding whether by filing an application, comments or otherwise participating in the proceeding;

“**person**” includes a natural or juridical person and includes a government or government entity;

“**proceeding**” means any inquiry, review, rule-making or other proceeding commenced by an application to the NCA or initiated by the NCA on its own motion;

“**Public Consultation**” shall mean the transparent process by which the NCA formulates policies and Decisions in matters under its jurisdiction;

“**Public Notice**” shall mean the document by which the NCA initiates a Public Consultation;

“**Rules of Procedure**” means these Rules of Procedure;

### Article 2 Interpretation

2.1 These Rules of Procedure apply to all proceedings begun by, or brought before, the NCA, where the relevant procedures described in other applicable laws do not outline a complete procedure. In those cases, these Rules of Procedure supplement procedures outlined in those applicable laws and, in cases of conflict, the procedures outlined in those applicable laws shall govern.

### Article 3 Publication by the NCA

Except as otherwise provided in applicable law, a document shall be deemed to have been published by the NCA pursuant to these Rules of Procedure if it is –

- (a) made available for inspection at the NCA’s official location;
- (b) continuously posted and available to the public on the NCA’s official website; and

- (c) published in a newspaper of general circulation in Somalia if (i) the NCA considers it necessary in the circumstances or (ii) if otherwise required by law

#### **Article 4 Filing of Documents with the NCA**

- 4.1 Where filing of a document with the NCA is required, a document shall be either –
  - (a) filed electronically with the NCA at the NCA’s official electronic address; or
  - (b) delivered in paper format by hand or by registered mail to the NCA’s official location.
- 4.2 The NCA shall give a person that files a paper document a written acknowledgment that indicates the date and time of receipt.
- 4.3 Documents filed electronically with the NCA shall be recorded with the date and time of receipt.

#### **Article 5 Official Locations for Filing of Documents**

- 5.1 The NCA’s official electronic address for filing electronic documents is: <http://www.nca.gov.so> or another specific electronic address that the NCA may assign for a proceeding.
- 5.2 The NCA’s official mail address for filing paper documents is: \_\_\_\_\_, Mogadishu.
- 5.3 The NCA’s official website for posting NCA Decisions and other official NCA publications is: <http://www.nca.gov.so>.

#### **Article 6 NCA Proceeding Number**

The NCA shall assign each Proceeding a number, which shall be used to identify documents filed in the proceeding.

#### **Article 7 Contents of Documents**

Documents filed in a proceeding shall –

- (a) State the title of the proceeding;
- (b) State the proceeding number assigned by the NCA;
- (c) State the date and title of the document being filed;
- (d) State any relief requested and the title and section of the applicable law, regulation or Decision under which it is made;

- (e) State the facts upon which the person relies, and any other information that may assist the NCA in understanding the person's position;
- (f) Include the name and electronic address of the person filing the document and to whom subsequent documents may be delivered. If the person does not have an electronic address, an alternative address shall be provided;
- (g) Include documents that may be useful in explaining or supporting the person's position. This may include supporting studies and research undertaken by or on behalf of a person.

## **Article 8 Delivery of Documents**

- 8.1 Where a document is required to be filed with the NCA, the document shall be considered timely delivered where the document is received by the NCA either:
  - (a) in electronic format at the NCA's official electronic address, or
  - (b) in paper format at the NCA's official location,within the time required.
- 8.2 Where delivery of a document to a person is required, the document shall be considered timely delivered if the document is electronically sent to that person's electronic address or delivered in paper format by hand or by registered mail to that person's location in Somalia within the time required.

## **Article 9 Further Information**

- 9.1 During a proceeding, the NCA may, from time to time, request any information or documents it considers relevant to the proceeding from a party to the proceeding. Such party shall provide the information or documents requested within the time specified by the NCA. Where it cannot provide the information as requested, the party shall advise the NCA and state why the information is not available and what alternative information is available. The NCA may accept alternative information and may reserve the right to require the party to provide the information as originally requested at a later date.
- 9.2 The NCA may take a party's failure or unwillingness to provide requested information into account in reaching a Decision in a proceeding.

## **Article 10 Time**

- 10.1 In computing a period of time, the following rules of construction shall apply –
  - (a) The day on which time begins to run is not included;

- (b) The last day of the period is included, unless it is a legal holiday or day when the NCA's official location is closed. In that case, the period runs until the end of the next business day;
  - (c) When the time allowed is less than seven (7) business days, intermediate Friday, and legal holidays are not included in computing the time allowed; and
  - (d) When the time is fixed by law, the time shall be computed as provided in that statute.
- 10.2 A document that is to be delivered to the NCA by a due date shall be delivered by 17:00 Somalia time on that date.
- 10.3 During a proceeding, the NCA may extend the time permitted for doing an act, provided that the NCA may not extend the time for doing an act when that time is fixed by law.

#### **Article 11 Stay of Proceedings**

Where a party to a proceeding has not complied with a requirement of these Rules of Procedure, the NCA may stay the proceeding until it is satisfied that such party has complied with the requirement, or take whatever other steps it considers reasonable in the circumstances. The NCA may also grant a stay upon the request of any party who demonstrates that it will suffer irreparable harm absent the grant of a stay.

#### **Article 12 Public Comments**

- 12.1 The NCA shall, by Public Notice, invite public comment with respect to any proceeding commenced by the request of any party an application to the NCA or commenced by the NCA on its own initiative.
- 12.2 The Public Notice published under Article 12.1 of these Rules of Procedure shall contain, at a minimum –
- (a) the nature of the subject and the issues requiring comments and of the NCA's proposed resolution of the issues, including the legal basis of its proposed action;
  - (b) a statement of how a person can provide comments on the matter; and
  - (c) the deadline for submitting comments.

The Public Notice may also include any other information, including technical or economic studies and other supporting information, that the NCA considers relevant to the issues before it.

- 12.3 In addition to receiving written submissions, the NCA may convene one or more meetings with interested parties in order to discuss the matters at issue in the proceeding.

**Article 13                      Decisions**

- 13.1 The NCA shall reach Decisions on the basis of the following information –
- (a) A complaint, application or other request for relief and any supporting information and documents filed a by party;
  - (b) A Public Notice and related comments, replies and supporting information and documents filed by parties to the proceeding;
- 13.2 Decisions shall have legal force only upon adoption by the General Manager provided that he/she has the required authorization or at a meeting of the Board, unless otherwise governed by the applicable law. In order for actions of the Board to be valid, a quorum of members of the Board, consisting of a simple majority of the appointed Board members, must be in attendance. The Board may take any action it is permitted by law or these Rules of Procedure to take by a majority vote of the members of the Board then present.
- 13.3 Decisions of the NCA shall be signed by the General Manager or by the chairman of the Board or his written nominee for that purpose. Decisions shall be numbered in a manner selected by the NCA that permits easy location and retrieval from the NCA’s official website or at the NCA’s official location. The NCA shall compile and maintain a record of Decisions of the NCA in a form that it shall specify by official Decision.
- 13.4 Decisions of the NCA shall be in writing, stating clearly the facts and the law upon which they are based. Where an application or request is denied, the Decision shall include reasons for the denial.
- 13.5 During a proceeding, the NCA may, in a Decision, grant or deny the relief sought in whole or in part, on an interim or preliminary basis. The NCA shall issue an interim Decision without prejudice to the NCA’s ability to issue a final Decision after completion of the proceeding. Where the NCA issues an interim or preliminary Decision, it may make its final Decision effective from the date on which the interim Decision came into effect.
- 13.6 The NCA’s Decision shall be in writing. The NCA may grant such relief and impose terms or conditions as it considers necessary to promote the objectives of applicable law. The NCA’s Decision shall be made available to the public upon its issuance, and shall be published on the NCA’s official website no later than five (5) calendar days after its issuance.
- 13.7 Decisions of the NCA shall take effect immediately upon their issuance, unless the NCA or applicable law provides otherwise. A party adversely affected by a Decision may file a motion for reconsideration in accordance with Article 14 of these Rules of Procedure or appeal a Decision in accordance with applicable law.

**Article 14                      Reconsideration of Decisions**

- 14.1 A party adversely affected by a Decision of the NCA may, within fifteen (15) calendar days from the first publication of the Decision on the NCA's official website, file with the NCA a motion for reconsideration.
- 14.2 A motion for reconsideration shall set out why the party believes that the Decision is incorrect, either as a matter of law or as a matter of fact. The motion for reconsideration shall also include all supporting information and documents required for the NCA to conduct a reconsideration. The NCA shall send a copy of the motion and all documents filed with it to all parties that participated in the original proceeding and shall announce on its official website that the motion has been filed.
- 14.3 Any other party in the proceeding may file a response to the motion for reconsideration. A response shall be filed with the NCA and the NCA shall send a copy of it to the party that filed the motion within ten (10) calendar days of receipt of the response.
- 14.4 The party that filed the motion for reconsideration may, within ten (10) calendar days of receipt of any response from another party pursuant to Article 14.3, file a reply.

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