

ELECTRONIC COMMUNICATIONS (RULES OF PROCEDURE  
OF THE ELECTRONIC COMMUNICATIONS TRIBUNAL)  
REGULATIONS, 2016

ARRANGEMENT OF REGULATIONS

*Regulation 27(1)(a)*

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*Electronic Communications (Rules of Procedure of the Electronic Communications Tribunal) Regulations, 2016*

IN exercise of the power conferred on the Board by section 90(3) of the Electronic Communications Act, 2008 (Act 775), these Regulations are made this 14th day of June, 2016.

**Right of appeal**

1. (1) A person dissatisfied with a decision of the Authority or the Dispute Resolution Committee may appeal to the Tribunal.

(2) The notice of appeal shall be filed within twenty-eight days after the date the decision or order which is the subject of the appeal is announced or received.

**Filing of notice of appeal**

2. (1) An appellant shall file seven copies of the notice of appeal together with seven copies of the relevant documents at the Registry of the Tribunal.

(2) The notice of appeal shall specify

- (a) the details of the appellant including the name, address, telephone number and electronic mail address,
- (b) the decision or order appealed against, and
- (c) the grounds of appeal.

(3) The notice of appeal shall set out in consecutively numbered paragraphs concise statements which specify the facts and any points of law that the appellant intends to rely on.

**Record and notice of appeal**

3. (1) The Registrar shall keep a register to be known as the Register of Appeals.

(2) The Registrar shall, on receipt of a notice of appeal,

- (a) endorse on the notice of appeal, the date of receipt of the notice;
- (b) enter the appeal into the Register of Appeals; and
- (c) within three days of the receipt, serve a copy of the notice of appeal on the Authority.

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**Filing of statement of case**

4. (1) The appellant shall, within twenty-one days after filing the appeal, file seven copies of the statement of case of the appellant.
- (2) The statement of case
  - (a) shall be in consecutively numbered paragraphs, and
  - (b) shall set out the full legal arguments, relevant statutes and decided cases relied on.
- (3) The Registrar shall, on receipt of the statement of case,
  - (a) endorse on the statement of case, the date of receipt of the statement of case;
  - (b) enter in the Register of Appeals, the date of filing of the statement of case; and
  - (c) within three days of the receipt, serve a copy of the statement of case on the respondent.

**Filing of response of respondent**

5. (1) The respondent shall, within twenty-one days of receipt of the statement of case, file seven copies of its response with the Tribunal.
- (2) The response
  - (a) shall be in consecutively numbered paragraphs; and
  - (b) shall set out the full legal arguments, relevant statutes and decided cases relied on.

**Service of response on appellant**

6. The Registrar shall, not later than three days from the date of receipt of the response and documents of the respondent, cause to be served on the appellant
  - (a) a copy of the response, and
  - (b) a copy each of the documents.

**Notice of hearing**

7. (1) The Registrar shall, within seven days after the service of response under regulation 6, serve a notice of hearing on the parties.
- (2) The notice of hearing shall specify the date, time and place for the hearing of the appeal.

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(3) The Registrar shall, in setting out the date and time for the hearing, take into consideration the complexity of the issues involved in the appeal and the likelihood of harm to either party if the appeal is not heard promptly.

(4) The hearing shall commence not later than thirty days after the date of service of the notice of hearing on the parties.

**Amendment of notice of appeal or response**

8. (1) The Tribunal may, at any stage of the proceedings, upon an application by the appellant or the respondent, grant leave to

(a) an appellant to amend the notice of appeal, or

(b) the respondent to amend its response

on terms as to costs or otherwise as may be just and in a manner that the Tribunal may direct.

(2) A party served with an amendment may file a reply.

(3) Where a party decides to file a reply to an amendment, the reply shall be filed within seven days after the service of the amendment.

(4) The Tribunal shall not grant leave to amend where the Tribunal considers that the amendment is likely to prejudice or unduly delay the determination of the appeal.

**Effect of an appeal**

9. (1) An appeal shall not operate as a stay of execution in respect of the decision or order appealed against except where the Tribunal otherwise determines.

(2) Despite subregulation (1), an appellant may apply to the Tribunal by motion on notice for a stay of execution of the decision or order that the appellant has appealed against.

(3) A decision or order that is the subject of an appeal shall be stayed when an application under subregulation (2) is pending.

(4) The Authority shall stay the execution of a decision or an order where

(a) the Tribunal makes an order under subregulation (2) to that effect; or

(b) an application under subregulation (2) is pending.

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### **Hearing**

10. (1) The Tribunal shall conduct its hearing in a fair and transparent manner and give each party full opportunity to present its case.  
(2) A party may give evidence of any kind, call or question a witness or address the Tribunal.  
(3) The hearing of the Tribunal shall be open to the public unless the Tribunal determines otherwise.  
(4) The Tribunal shall require a party or a witness who attends the hearing to give evidence on oath or affirmation.  
(5) The Tribunal may hear proceedings in the absence of a party where the party has been served with a notice of hearing.  
(6) A party is entitled to give evidence personally or be represented by counsel, an expert or any other person.  
(7) The Tribunal may, in reaching a decision, have recourse to expert opinion or take into consideration any submission filed by a person acting as a friend of the Tribunal.  
(8) The Tribunal, whilst observing the rules of evidence shall have the discretion to consider other evidence which is not admissible under the strict rules of evidence but which it considers necessary to ensure justice.  
(9) Where there is no provision in these rules of procedure regarding a particular issue, the Tribunal shall have recourse to the High Court (Civil Procedure) Rules, 2004 (C.I. 47).  
(10) An application to the Tribunal shall be by motion on notice supported by an affidavit.

### **Close of proceedings**

11. (1) The Tribunal shall declare the proceedings closed when it is satisfied that each party has had the opportunity to present its case.  
(2) The Tribunal shall deliver its ruling within fourteen days of the close of proceedings.  
(3) The ruling of the Tribunal shall be by unanimous or majority decision.  
(4) The ruling shall be in writing and the Tribunal shall state the reasons for the ruling.

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(5) Where there is a dissenting opinion by a member of the Tribunal, the Tribunal shall, in addition to the majority decision, allow the dissenting opinion to be delivered.

(6) The Tribunal may

- (a) quash the decision of the respondent that is being appealed against;
- (b) allow the appeal in whole or in part; or
- (c) dismiss the appeal and confirm the decision of the respondent.

(7) Where the Tribunal allows an appeal in part, the Tribunal may simply vary the decision of the respondent or vary the decision subject to a condition that the Tribunal considers appropriate.

(8) The Tribunal, may award cost in addition to its decision under subregulation (6).

(9) A decision of the Tribunal has the same effect as a judgment of the High Court.

**Fees for filing processes**

12. The fees for filing the following processes shall be as set out in the Schedule:

- (a) notice of appeal,
- (b) statement of case,
- (c) response of the respondent,
- (d) additional document,
- (e) search and other miscellaneous matters, and
- (f) motion or application.

**Appeals against decisions of the Tribunal**

13. (1) A party aggrieved by a decision of the Tribunal may appeal to the Court of Appeal.

(2) An appeal under subregulation (1) shall

- (a) relate only to a point of law arising from the decision of the Tribunal; and
- (b) be made within ninety days after the decision of the Tribunal.

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(3) The Tribunal shall not grant an application for extension of time to appeal after the expiration of the ninety days specified under subregulation (2)(b).

**Interpretation**

14. In these Regulations, unless the context otherwise requires,
- “address” means the residential location or registered office location of the appellant;
  - “Authority” means the National Communications Authority established under the National Communications Act, 2008 (Act 769);
  - “counsel” means a legal representative; and
  - “respondent” means the Authority or the Dispute Resolution Committee established under section 85 of the Electronic Communications Act, 2008 (Act 775).

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**SCHEDULE**

(Regulation 12(a), (b), (c), (d), (e) and (f))

**TABLE OF FEES**

NO.	TITLE OF DOCUMENT	RATE (GH ¢)
1.	Filing of Notice of Appeal	1,000.00
2.	Filing of Statement of Case	1,000.00
3.	Filing of Response	1,000.00
4.	Filing of Additional Document	1,000.00
5.	Search and Other Miscellaneous Matters	500.00
6.	Filing of Motion or Application	1,000.00

**EUGENE BAFFOE-BONNIE**  
*Board Chairman, National Communications Authority*

Date of *Gazette* notification: 22nd June, 2016.

Entry into force: