



CONSUMER PROTECTION POLICY COMMUNICATIONS SECTOR

DECEMBER 2024


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Consumer Protection Policy

PURPOSE: To ensure consumer awareness and empowerment regarding communications services, highlight service providers' obligations, and promote high standards of service.

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1. INTRODUCTION

1.1. The Botswana Communications Regulatory Authority (hereinafter referred to as BOCRA or the Authority) is a regulatory body established under the Communication Regulatory Authority Act, 2012 (The Act) on the 1st of April 2013. The mandate of the Authority is encapsulated within the Act and includes oversight and regulation of service provision in telecommunications, information and communications, internet, broadcasting and radio communications, postal services, and related matters. Within the aforementioned areas, the duty of the Authority is to issue licences, approve tariffs, and to generally ensure that service providers are compliant with the licences and certificates issued to them and with the law.

1.2. **Section 6** of the Act empowers the Authority to regulate, protect, and promote the interests of consumers and other users of services in the aforementioned sectors. Section 84 of the Act further empowers the Authority to approve the type of telecommunications equipment that may be connected to systems within the country. The type approved equipment is listed in a register that is available to the public for inspection, which highlights the level of transparency of the Authority's regulatory process.

2. DEFINITIONS

“Act” means the Communications Regulatory Authority Act, 2012.

“Authority” refers to the Botswana Communications Regulatory Authority.

“Accessibility” refers to the degree to which a product or service can be used by a person with a disability as effectively as it can be used by a person without a disability.

“Choice” means the ability of a consumer to decide which service to purchase.

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“Bill” means an invoice from a service provider during the billing period and advises the consumer of the total amount due to be paid.

“Complaint” means an expression of dissatisfaction about a matter within the Authority’s jurisdiction or with the operator or the service provided received from a user or the public.

“Communication” includes languages, display of text, braille, tactile communication, large print, accessible multimedia, as well as written, audio, plain-language, human-reader, and augmentative and alternative modes, means, and formats of communication, including accessible information and communication technology.

“Consumer” means a person to whom an electronic communications service is provided, including any person who purchases electronic communication products for personal use, but excluding those who purchase these products for resale or for use in the production and manufacture of other goods or articles for resale. This includes postal services consumers.

“Discrimination” refers to any distinction, exclusion, or restriction based on, among other factors, disability, which aims to or results in impairing or nullifying the recognition, enjoyment, or exercise, on an equal basis with others, of all human rights and fundamental freedoms in political, economic, social, cultural, civil, or any other field. The term “discrimination on the basis of disability” shall be interpreted accordingly.

3. OBJECTIVES

- 3.1 This policy aims to ensure consumer awareness and empowerment regarding communications services, highlight service providers' obligations, and promote high standards of service. This policy stipulates consumer redress mechanisms and consumer sensitisation.
- 3.2 The policy aligns with international best practice.
- 3.3 The policy covers stakeholders involved in responsibilities within the communications sector, including postal services, broadcasting,

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internet, telecommunications, and related matters. The stakeholders include consumers, service providers, and the Authority. Below are the rights and obligations of consumers and service providers.

4. CONSUMER

4.1 Consumer Rights

4.1.1 Right to Accurate and Clear Information

Consumers have the right to clear, accurate, and timely information about the services offered, including features, benefits, limitations, and pricing. All terms and conditions must be communicated in a manner that is easy to understand, avoiding technical jargon where possible. Consumer education is important for empowering consumers with information that will enable them to make informed decisions. The acquired information is required to enable consumers to use communications products and services appropriately. Advertisements are also a medium through which consumers become aware of services. The advertisements must be truthful, ethical, and of acceptable standards.

4.1.2 Right to Privacy and Data Protection

Consumers have the right to have their personal data collected, used, and stored in a manner that respects their privacy. This includes the right to know what data is being collected and how it will be used. In addition, they have the right to expect that their data will be kept secure and protected against unauthorised access, loss, or misuse. Consumer personal information must be kept confidential. Personal privacy includes protection against the unauthorised use of personal information, as well as calling and browsing patterns. Reference should be made to the Data Protection Law.

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4.1.3 Right to Fair and Non-Discriminatory Treatment

Consumers have the right to be treated equally and without discrimination based on race, gender, age, disability, or any other characteristics. Consumers should have fair access to communications services without unjustified limitations or restrictions.

4.1.4 Right to access and receive good quality service

The liberalisation of the communications industry brought about increased consumer exposure to substandard communications equipment and poor service delivery. Consumers have the right to access high-quality, reliable communications services. It is important for consumers to be protected from unfair practices. The services need to meet the specifications as contained in the licences and all other relevant regulations and codes of service, such as the Information Communication Technologies Quality of Service and Quality of Experience Guidelines, and other instruments.

4.1.5 Right to freedom of choice and clear service level contracts

Consumers have the right to:

- a) Choose a service provider and products and services of their choice, with clear, concise service-level contracts that are easy to understand.
- b) Freely choose from a variety of services at competitive prices, and quality is crucial.
- c) Cancel agreements upon expiry of the contract period.
- d) Request written estimates or quotations from service providers prior to the service provider executing repairs or maintenance.

4.1.6 Right to timely, clear, and accurate bills

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Consumers have the right to timely, clear, and accurate bills for the services and products consumed. All consumers have the right to request itemised usage, showing details of the services used by the consumer. Bills should include, but are not limited to, non-misleading descriptions of services rendered, billing period with charge, payment due date, balances if any, carried from the previous billing cycle, and terms for late payment.

4.1.7 Right to security and safety

Consumers have the right to safe and secure services and products with assurance against data loss, data leakages, phishing, and fraud, including protection from harmful electromagnetic emissions. This also includes access to emergency services through free emergency communications. Consumers also need fair and early warnings on communications equipment that is hazardous to their health and safety. Instructions on the safe use and handling of communication equipment are vital to consumer safety.

4.1.8 Right to consumer complaints redress

Redress is a fundamental right of consumers. There must be consumer complaint-handling procedures in place which spell out transparent, unambiguous rules, processes, and procedures for redress. This process must be easily accessible, uncomplicated, fair, and transparent. Service providers must notify consumers about the availability of consumer complaint procedures. Consumers have the right to return defective and unsafe products and request a full refund for such products within the agreed testing period.

4.2 Consumer Obligations

4.2.1 Prompt payment of bills

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Consumers are obligated to ensure that their bills are paid on time and in full in accordance with the timeframe and cost set, as agreed upon with the service provider.

4.2.2 Non-frivolous claims

Consumers are obligated to ensure that their complaints and claims are genuine and true. Complaints made by consumers should be factual and not contain false claims. When compensation is sought, consumers must provide evidence that supports their claims.

4.2.3 Compliance with Terms and Conditions of Products and Services

Consumers are obligated to ensure adherence to the terms and conditions of their service providers. When there is ambiguity within the terms and/or conditions, the onus is on the consumer to request clarification.

4.2.4 Data Protection and Privacy

Consumers should be aware of the security and privacy pitfalls that they may encounter when using online communication services. They should respect the privacy of other users of communications services.

5. SERVICE PROVIDER

5.1 Service Provider Obligations

5.1.1 Consumer education: Publicise information on products, services, prices, and complaint-handling procedures to enable consumers to make informed decisions and take appropriate action where necessary. Publication may be done through different types of media such as websites.

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- 5.1.2 Protect consumer privacy through appropriate control and security measures. Service providers should not share consumers' personal information with third parties without consumers' prior consent.
- 5.1.3 Treat consumer complaints with expeditious, fair, and transparent resolutions. Redress should be conducted fairly, expediently, efficiently, and objectively.
- 5.1.4 Have a call centre or toll-free number for consumers to access free of charge. This call centre or toll-free number must be publicised for ease of access by consumers.
- 5.1.5 Issue clear and accurate bills on time and in accordance with set billing cycles. The bill must be itemised and indicate payment due date, any balances brought forward, or credits in favour of the consumer.
- 5.1.6 Provide good-quality service without discrimination. All consumers should be provided with the same good quality without preference and discrimination.
- 5.1.7 To avoid a billshock to consumers, service providers must put in place an option to opt in or opt out of out-of-bundle charges upon depletion of the bundle. Consumers should be notified to make an option.
- 5.1.8 There should be no auto-renewal of services that reach the contract termination date.
- 5.1.9 Service Providers must send bundle usage depletion notifications via SMS when usage reaches 50%, 80%, and 100%. Services under use must be indicated.
- 5.1.10 Service Providers must keep a record of complaints received and submit the same to the Authority quarterly, in a format that may be occasionally prescribed by the Authority.

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5.1.11 The equipment provided for use by the consumer must be fit for use at all times.

5.1.12 Service providers must adhere to all BOCRA and regulatory instruments, including licences.

6. AUTHORITY OBLIGATIONS

- 6.1 Monitoring the effective implementation of this policy.
- 6.2 Policy compliance will be regularly monitored through spot checks and reports from service providers.
- 6.3 Conduct Consumer education.
- 6.4 Ensure that Service Providers provide clear terms and conditions for services to consumers.

7 COMPLIANCE AND ENFORCEMENT

- 7.1 Monitoring the effective implementation of this policy is the shared responsibility of all stakeholders, with the Authority taking the lead. Compliance with the policy will be regularly monitored through spot checks and reports from service providers.
- 7.2 Non-compliance with this policy will be subject to penalties and sanctions, as per Sections 86 and 88 of the CRA Act.

8 CONSUMER EDUCATION AND AWARENESS

- 8.1 Consumer education is essential for the effective implementation of this policy. It is important to educate consumers on consumer protection issues.
- 8.2 Information **Campaigns**: Regular education campaigns pertaining to Consumer Policy will be undertaken by both service providers and the Authority. This will be done by posting information on websites,

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social media, education campaigns, other digital platforms, and print media.

- 8.3 Information regarding this Consumer Policy will be posted on websites and brochures to assist consumers in understanding and exercising their rights.

9 BOCRA COMPLAINT PROCEDURE

- 9.1 **Appendix 1** provides the comprehensive complaint procedure.
- 9.2 An aggrieved consumer must first contact their service provider and use all available channels for remedy before approaching the Authority.
- 9.3 If the service provider fails to resolve the complaint satisfactorily, the consumer has the right to escalate the complaint to the Authority. The complaint shall entail the names and addresses of the parties involved, a brief statement of facts, copies of relevant supporting documents, and the relief sought.

10 POLICY REVIEW AND AMENDMENTS

- 10.1 **Regular Review:** Regular review and updating of the policy to reflect changes in the legal and technological landscape will be undertaken as and when the need arises.
- 10.2 **Amendment Process:** The policy will be amended in consultation with all stakeholders.

11 CONTACT INFORMATION

- 11.1 **Regulatory Authority:** For more information, contact the BOCRA Legal, Compliance, and Board Secretary Department.
- 11.2 **Consumer Support:** The customer/consumer should call their service providers' call centre, toll-free number, or BOCRA.

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APPENDIX 1

COMPLAINTS HANDLING PROCEDURES

Background

1. One of the benefits of liberalising the communications market is the increased choice of communications service providers, services, and products for consumers. Doubtlessly, competition brings with it a strong incentive for operators to provide high-quality service to consumers, as well as a strong focus on consumer protection. All of these combine to ensure that consumers have confidence in the internal market. Consumers need to know that effective mechanisms exist that provide them with realistic and affordable options to obtain redress. Hence, there is a need for a complaint-handling procedure.
2. This document is developed in recognition of the understanding that consumer protection cannot solely rely on the downstream benefits of competition policies alone, but rather that deliberate regulatory decisions and proper enforcement processes are equally important. Consumer protection is the responsibility of both market competition and direct consumer protection regulations.

Legislative Background

3. The Botswana Communications Regulatory Authority is empowered by the Communications and Regulatory Authority Act of 2012 (the Act), particularly Section 6 (2) (a), to protect and promote the interests of consumers, purchasers, and other users of the services of the regulated sectors, particularly with respect to the prices charged for and the availability, quality, and variety of services and products. Where appropriate, the variety of services and products offered throughout Botswana will satisfy all reasonable demands for those services and products.

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4. Section 6 (m) empowers BOCRA to hear complaints and disputes from consumers and regulated suppliers and to resolve these issues.
5. Furthermore, the Act in Section 6 (2) (r) (v) empowers BOCRA to make industry regulations for better carrying out of its responsibilities, including complaint-handling procedures.
6. Similarly, Public Telecommunication Operators' licence conditions, particularly Clause 24 of the Services and Applications Provider (SAP) and Clause 25 of the Network Facilities Provider (NFP) Licences, require the licensee to lodge with the Authority for approval, all its standard forms of agreement with customers relating to the form in which a complaint may be made and the response to be provided.
7. Furthermore, the PTO NFP licence Clause 25.2 requires the licensee to adopt a Code of Practice describing how it deals with users. Clause 25.3.2 stipulates that if the user is not satisfied with the licensee, the matter be referred to the Authority.

Definitions

8. For avoidance of doubt and unless the context otherwise provides:
 - 8.1 Reference to the singular includes the plural and vice versa.
 - 8.2 Headings in these guidelines are for ease of reference.
 - 8.3 Words denoting natural persons include any corporate or incorporated body, and vice versa.
 - 8.4 Reference to "part" and "section" in these Procedures are unless otherwise stated, references to the Parts and Sections in the Act.
 - 8.5 BOCRA means Botswana Communications Regulatory Authority.
 - 8.6 Enquiry refers to a matter that a complainant does not intend to express as a complaint or grievance, or a matter that BOCRA cannot accept as a complaint.

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8.7 Complaint means an expression of grievance or dissatisfaction about a matter within BOCRA's jurisdiction that the company concerned has had an opportunity to consider.

(Or)

An expression of dissatisfaction with the operator or the service it provides, received from a user or member of the public.

8.8 Fair means just, unbiased, equitable, and impartial.

8.9 Reasonable means within the limits of reason, not much less or more than might be considered likely or appropriate.

Complaint Classification

9. The complaint will be assessed to determine how it should be classified. When a complaint is first brought to BOCRA, a compliance officer will assess it to determine how it should be classified. BOCRA distinguishes between complaints and enquiries.

10. A matter is determined to be an Enquiry if it is:

- A request for information;
- An anonymous complaint;
- A complaint that has not yet been raised with a provider (a first resort complaint); and
- A complaint outside BOCRA's jurisdiction.

11. The following factors will determine how a complaint will be classified:

- Prior opportunities for the operator to resolve the complaint;
- The length of time the complaint has been ongoing;
- How much time BOCRA has spent (or predicts it will spend) handling the complaint;
- The length of time BOCRA believes the Operator will require to investigate and respond to the complaint;
- The complexity of the complaint; and
- The amount of money in dispute.

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12. BOCRA will base its decision on what it considers fair and reasonable under all circumstances. In most cases, the application of the law and industry code of practice will produce fair and reasonable outcomes.

INTRODUCTION

13. In view of the above, BOCRA has developed procedures to inform all stakeholders of how it intends to handle consumer complaints. The Authority anticipates that these procedures will promote consumer understanding and awareness of their rights in the communications marketplace. They are designed to help resolve complaints regarding the provision of all communication services. Thus, it is critical for consumers to be educated about these procedures.

14. The procedures also serve to document and formalise BOCRA's internal mechanisms for handling enquiries and complaints. Furthermore, they provide details about the handling of complaints at the operator's level before escalation to the Authority.

15. The complaint-handling procedures will be in accordance with the communications industry, Quality of Service, and Quality of Experience Guidelines.

16. The Authority retains the right to depart from the procedures where circumstances justify such action.

17. There is no obligation on any consumer to refer complaints against licensees to the Authority. Consumers may choose to exercise any other option available under the law in order to obtain a satisfactory resolution of their complaints.

The Complaint Handling Process

18. Consumers will first address their complaints to the appropriate service provider's customer service department. Consumers should be made aware that they must explore and exhaust all possible

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channels of remedy available within the operator(s) before any reference to BOCRA.

19. Consumers should ask the operator(s) to state the period within which complaints will be resolved. Complaints to an operator will be resolved within the timeframe as stipulated by the service provider. Any deviation should be accompanied by a written explanation to the complainant.

20. It is important that complainants keep records of all correspondences between themselves and the operators. Where possible, complainants should request service providers to acknowledge receipt by stamping their copy of the complaint letter.

21. If a complaint is not resolved in the first instance, the consumer should request that the complaint be escalated to a higher level in line with the Operators' Guidelines for Handling Complaints.

ESCALATION OF COMPLAINTS TO BOCRA

22. Where the consumer feels the operator has not satisfactorily resolved a complaint, the consumer should refer that complaint to BOCRA's Compliance Unit.

23. The Notification about the referred complaint shall include the following:

- 23.1. Names and addresses of the parties
- 23.2. A brief statement of facts
- 23.3. Copies of any relevant supporting documents
- 23.4. The relief or remedy sought

24. In the event that a complainant has a disability or is disadvantaged due to a lack of language and/or writing skills, he/she may seek assistance from BOCRA's Consumer Affairs officers. Where the complainant is blind, his/her complaint will be tape-recorded and later transcribed.

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25. Complaints may be made to BOCRA by phone, email, post, or fax. Communication of complaints by telephone should be directed to Compliance Officers at +267 368 5553 or +267 368 5500.

26. Complaints can also be made by email/online via BOCRA website www.BOCRA.org.bw. Email Consumer@BOCRA.org.bw and/or info@BOCRA.org.bw. Compliance officers will respond to emails within 48 business hours.

27. Written complaints should be addressed to:

The Chief Executive
Botswana Communications Regulatory Authority
Private Bag 00495
Gaborone

Attn: Legal, Compliance and Board Secretary Department

Fax No: +267 395 7976 or +267 318 6879

28. Complaints can also be made in person at Plot 50671, Independence Avenue, Gaborone. Complainants may visit BOCRA offices without appointment during the hours of 0730 hours to 1700 hours, Mondays to Fridays, excluding public holidays. Compliance Officers will interview visitors.

Acknowledgement

29. BOCRA will normally acknowledge receipt of a complaint in writing within three days. The acknowledgement of receipt would include the contact information of the officer handling the complaint, to which enquiries concerning the progress of the case may thereafter be made.

Initial Analysis

30. BOCRA will conduct an initial analysis on receipt of a complaint. The initial analysis is intended to establish whether there is prima facie

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evidence indicating that the case merits full investigation. This involves answering the following questions:

32.1 Whether all channels with the service provider(s) have been exhausted; and

33.2 Whether all reasonable grounds exist for BOCRA to believe that there may be reasons for a complaint.

Time Frame

31. Complaints differ in their complexity and nature, and the time taken to handle them reflects this. However, the Authority is obliged, under the Guidelines for Handling Consumer Complaints Resolution, to ensure that complaints are resolved within 20 working days of receipt. Where this is not possible, the Authority should provide a reason and an estimated completion date.

Decision

32. To decide whether a case warrants full investigation, the Authority will examine the information provided by the complainant and seek the service provider's side of the argument. Therefore, it is vital that the complainant ensures that he/she has records of all correspondence between himself and the operator.

33. In the event that there is no resolution offered by the relevant licensee or that the relevant licensee does not reply to the Authority's notification, the Authority shall act to resolve the complaint by deciding as it deems fit. Where there is an offer for resolution by the licensee and the complainant is not satisfied with the same, the Authority will decide whether the rejection by the resolution offered is reasonable or not.

34. In the event that the rejection is deemed unreasonable by the Authority, the Authority shall decide that the complainant accepts the said resolution, and the file on the complaint shall be closed. However,

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if the rejection of the resolution offered by the licensee is deemed reasonable, the Authority shall act to assist the complainant accordingly.

35. Where the complainant or licensee is unsatisfied with the resolution or decision of the Authority, they shall have the right to seek redress from the High Court of Botswana.

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BOTSWANA COMMUNICATIONS REGULATORY AUTHORITY

Department of Legal, Compliance and Board Secretary

1. Kindly complete this form to register your complaint.
2. Please ensure that you complete all the spaces provided.
3. Make sure that your complaint is constructive. Include a brief statement of facts in chronological order and points at issue. BOCRA reserves the right not to investigate a complaint that is abusive or offensive. To help ensure that your complaint results in a fair and speedy solution, the complainant is asked to show genuine willingness to resolve the complaint by dealing with this office in a cooperative and reasonable manner.
4. Supporting documents and relevant information should be enclosed and include, but are not limited to, letters, contracts, or agreement proofs related to the complaint.
5. The complainant shall fill in the remedy sought from the service provider. The remedy sought should be both reasonable and realistic.
6. Please note that your personal information will be provided to the concerned service provider.
7. The case number shall be quoted in all subsequent correspondences regarding this matter.
8. If the space provided is insufficient, please continue on a separate sheet of paper. Any separate sheet of paper used should be attached to this form.
 - b) Having completed the form, the complainant shall sign this form personally. In the case of a corporate body, this form shall be signed by authorised personnel.
 - c) The form shall be delivered to BOCRA offices either by hand/post/fax/email to the Chief Executive, Botswana Communications Regulatory Authority, Private Bag 00495, Gaborone. Tel: 386 5500 or 395 7755; Fax: 395 7976, email: www.BOCRA.info.bw

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BOTSWANA COMMUNICATIONS REGULATORY AUTHORITY

COMPLAINT FORM

1. PARTICULARS OF COMPLAINANT

Complainant Name:
ID No.
Physical Address:
Postal Address:
Telephone/Cell phone:
Facsimile No:
E-mail Address:

2. COMPLAINT TRAIL

<p>i. Was this complaint initially lodged with the Service Provider/Respondent? (Y/N)</p> <p>.....</p> <p>ii. If so, on what date was it submitted to the Service Provider/Respondent?</p>
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iii. Are you aware of the escalation procedure for complaints at your Service Provider/ Respondent? (Y/N)

.....

iv. In pursuing the sought remedy/relief from your Service Provider, did you exhaust the aforementioned escalation procedure? (Y/N)

.....

If you answered 'no' to any of the above, please submit the substance of the complaint to the Respondent and exhaust the escalation procedures in place. Alternatively, show good cause why the substance of the complaint was not first submitted to the Respondent.

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Name(s) of Service Provider Officer(s) attending to your complaint

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3. PARTICULARS OF SERVICE PROVIDER/RESPONDENT

Name of Respondent:
Postal Address:
Physical Address:
Telephone Number(s):
Facsimile No:
E-mail Address:

4. SUBJECT MATTER OF REQUEST FOR COMPLAINT RESOLUTION

Please provide an accurate and concise statement of the facts giving rise to the request for the resolution of your complaint (use a separate sheet if necessary).

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5. COMPLAINT DETAILS

Provide a statement of the facts giving rise to the complaint and demonstrate why in your view the Respondent acted wrongly (use a separate sheet if necessary).

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Supporting Documents (Attach Evidence)

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6. REMEDY SOUGHT

Provide a clear and concise statement of the specific relief or remedy sought.

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7. COMPLAINANT DECLARATION

I/we hereby declare that the information provided is true.

Signature:

Date:

Acknowledgement of receipt by BOCRA

1. Name	
2. Designation	
3. Date	
4. Signature	