

RTÉ Fair Trading Complaints Procedure

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1.1 RTÉ's Fair Trading Policy and Procedures (see <http://www.rte.ie/about/en/policies-and-reports/policies-guidelines/>) sets out its approach to fair trading, and in particular the policies and procedures that are applied by RTÉ as a public service media organisation to ensure that it adheres to its fair trading obligations. This Complaints Procedure represents an internal mechanism that has been put in place by RTÉ (as approved by the Fair Trading Committee of its Board) which seeks to ensure that any person who considers that there has been non-adherence by RTÉ to its Fair Trading Policy and Procedures has access to a complaints procedure that is both transparent and accessible. It is important to note that the Complaints Procedure has neither a statutory or legal basis and cannot give rise to any legal determination. Thus it does not provide any means of legal redress, compensation or any other enforceable legal remedy to a person making a complaint (and if a legal process is initiated by any complainant, it may be necessary to stand down the Complaints Procedure, at least until any such legal process has been concluded). This Complaints Procedure is however set in place as an earnest of RTÉ's desire to conduct its activities in a manner at all times consonant with fair trading principles. Thus if a complaint is upheld, this may result in alteration of practice going forward, clarification or elaboration of particular sections of the Policy and Procedures, additional guidance to management and staff, or, in an appropriate case, disciplinary action.

1.2 Accordingly this document sets out (i) the nature of the complaints that the Fair Trading Officer may consider, (ii) the process by which a fair trading complaint can be made, (iii) the remit/role of the Fair Trading Officer in any assessment of a fair trading complaint, and (iv) the process by which a review of certain decisions of the Fair Trading Officer can be sought including the further steps that may be taken in such a case.

1.3 What is a Fair Trading Complaint?

A "fair trading complaint" is a complaint about the way RTÉ has interacted with commercial markets or conducted its trading activities. A complaint can be about trading in the course of a public service activity or a commercial activity (i.e. those activities undertaken in pursuit of RTÉ's obligation to pursue commercial opportunities arising in the course of its public service obligations). In this context, a fair trading complaint may arise from a concern that there has been non-adherence by RTÉ to its Fair Trading Policies and Procedures, which you may like to consult if you are considering making a complaint. As stated above, these are available at <http://www.rte.ie/about/en/policies-and-reports/policies-guidelines/>

2. Making a Fair Trading Complaint

2.1 If you wish to make a fair trading complaint, the most effective way to do so is to set your complaint out in writing and address it directly to the Fair Trading Officer using the contact details set out below.

- By email: fto@rte.ie
- By post: Fair Trading Officer
RTÉ
Donnybrook
Dublin 4
D04 P297

- 2.2 In order to assist the Fair Trading Officer in the assessment of your complaint, please ensure that your complaint contains the following information:
- (a) full details of your complaint;
 - (b) any supporting documentation;
 - (c) reference to the sections of RTÉ's Fair Trading Policies and Procedures you think may be relevant;
 - (d) your interest, who you represent and your contact details; and
 - (e) full details of whether a complaint regarding the same or related events has been made to any regulatory authority.

The inclusion of the above information is important in that it assists with the assessment of your complaint. A failure to provide sufficient information as outlined above will mean that the Fair Trading Officer will not be able to assess your complaint. The Fair Trading Officer will not be bound to consider new information not included in your original complaint. If information submitted by you as part of your complaint is commercially sensitive to you, kindly provide full details of the same.

While there is no specific word limit, if your complaint exceeds 1,000 words you must also provide a one page summary of your complaint. Your complaint should also include all of the points about the matter that you wish to be considered by RTÉ.

3. Assessment of Fair Trading Complaints by the Fair Trading Officer:

3.1 The Fair Trading Officer will aim to provide written acknowledgement of your complaint within one week of its receipt. The acknowledgement will explain the procedure that will apply to your complaint. You may also be asked to supply further information before the complaint can be considered.

3.2 During the course of the assessment of your complaint, the Fair Trading Officer may as appropriate, review internal documentation and gather information by making information requests to or meeting with:

- (i) you / the complainant
- (ii) RTÉ personnel
- (iii) any other person who he/she considers appropriate.

The Fair Trading Officer may engage other RTÉ personnel or external expertise as appropriate in the context of the assessment of your complaint.

3.3 The Fair Trading Officer's assessment of your complaint will be fair and proportionate having regard to the nature and seriousness of the issues raised. The Fair Trading Officer will aim to reply within 30 working days of the date on which all relevant information has been received, this date to be communicated to you. In the event that a period longer than 30 days is required, the Fair Trading Officer shall write to you informing you of the reasons why.

4. Remit of the Fair Trading Officer:

- 4.1 Persons making a complaint are asked to note that it is not intended that access to the Complaints Procedure takes the place of other procedures with a statutory basis. As previously noted above, the Complaints Procedure is not a method of legal redress or compensation and it has no basis in law. The Fair Trading Officer has no authority to decide that a complainant is entitled to compensation or redress.
- 4.2 In the event that you are making a legal complaint to a regulatory authority such as the Competition and Consumer Protection Commission (“the CCPC”) and/or the European Commission, in addition to a fair trading complaint, it is acknowledged that the Fair Trading Officer may be obliged to ensure that consideration of a fair trading complaint by RTÉ shall not prejudice or interfere with an investigation or assessment by such regulatory authority.
- 4.3 The Fair Trading Officer may decide that a complaint is not eligible for consideration under this procedure for one or more of the following reasons; if it fails to raise an issue of non-adherence by RTÉ to its Fair Trading Policy and Procedures, or it fails to raise a matter of substance with regard to a complaint of non-adherence; if the complaint is trivial, misconceived, hypothetical, repetitious, offensive or otherwise vexatious; if it contains an allegation of a criminal offence.
- 4.4 The Fair Trading Officer does not have the remit to assess a complaint concerning a specifically regulated area of activity of RTÉ (e.g. DTT). If the complaint relates to an event giving rise to a concern of non-adherence to the Fair Trading Policy and Procedures that occurred more than 12 months previously, the Fair Trading Officer shall not be obliged to assess same.
- 4.5 Everyone involved in making or handling a complaint will treat each other with respect, and will not use abusive or offensive language, whether in their complaints or otherwise. If a complaint contains such language, RTÉ may invite you to reword your complaint before assessing it. If you do not reword your complaint, the Fair Trading Officer may not assess the complaint.
- 4.6 The Fair Trading Officer will write to you with his/her decision, including a statement of reasons (drafted as appropriate to protect any commercially sensitive information of RTÉ). Where there has been an attempt by RTÉ to resolve the complaint during the assessment period, the Fair Trading Officer may, in making his/her decision, take account of decisions made by others in the course of that attempt.
- 4.7 If your complaint is upheld, the Fair Trading Officer may request the Fair Trading Committee of the RTÉ Board to make a recommendation to RTÉ management in order to address the relevant issue.

5. Reporting Role of the Fair Trading Officer:

- 5.1 The Fair Trading Officer will report on assessments undertaken in relation to any relevant fair trading complaints to the Fair Trading Committee of the RTÉ Board.

- 5.2 If the Fair Trading Officer has reason to believe that there may have been non-adherence by an RTÉ staff member with the Fair Trading Policy and Procedures and or the Code of Business Conduct for RTÉ Employees he/she may refer the matter to RTÉ Human Resources for investigation under the RTÉ Disciplinary Procedure.
- 5.3 Any actions taken in respect of a complaint will be reported by the Fair Trading Officer to the Fair Trading Committee of the RTÉ Board. All records relating to complaints will be retained for at least one year.

RTÉ Fair Trading Complaints Review Process

1.1 In order to ensure that there is an effective and independent review mechanism that is accessible to you if you are not satisfied with a decision of the Fair Trading Officer, the Fair Trading Committee shall nominate and appoint an appropriate person to be available to conduct such review as and when required. Such appointment shall be on terms as agreed between the Fair Trading Committee and the appropriate person who for the purposes of this document shall be referred to as “the Reviewer”.

2. Introduction

2.1 The Reviewer will be separate and independent to the Fair Trading Officer and the Complaints Procedure outlined above. The Reviewer will be nominated and appointed by the Fair Trading Committee for the period of twelve months from the date of implementation of the Complaints Procedure. Such appointment will be reviewed by the Fair Trading Committee as appropriate and/or at least on an annual basis.

2.2 The Review Procedure offers you the opportunity of seeking a review of the following:-

- (i) A decision of the Fair Trading Officer not to assess a complaint;
- (ii) A decision of the Fair Trading Officer not to uphold a complaint.

3. Requesting a Review

3.1 As part of the written communication of the Fair Trading Officer’s decision, you will be informed that you can make a written request for the decision to be subject to a review by the Reviewer. In particular, you will be informed of the 30 working day deadline for submission of any such request and you will be provided with full contact details of the Reviewer.

3.2 Following receipt of a written request to review a decision by the Fair Trading Officer, you will be promptly contacted by the Reviewer and asked to complete a Request Form which should clearly and concisely set out the following, as applicable:-

- (a) copies of all relevant correspondence with the Fair Trading Officer (including your original complaint);
- (b) the reasons why you are dissatisfied with the decision of the Fair Trading Officer and why you have sought a Review.

3.3 In completing this request form, you must stipulate if you believe that any information submitted by you is commercially sensitive, providing full details of same.

3.4 Non-compliance with the above requirements may lead the Reviewer to decline to review your request.

4. The Review Procedure

- 4.1 The Reviewer will aim to write to you acknowledging receipt of your Request Form within one week of its receipt.
- 4.2 The Reviewer shall be entitled to contact you or the Fair Trading Officer requesting additional information or clarification.
- 4.3 The Reviewer may decide that a request is not eligible for review. In this case, the Reviewer will issue a decision to this effect, stating the reason for the decision following the issue of an acknowledgment of receipt.
- 4.4 Where a request is eligible for review, the Reviewer will review it in accordance with his/her remit as outlined below. The Reviewer will aim to provide his/her decision within 30 working days of the date on which all information necessary for his/her review has been received, this date to be communicated to you. The Reviewer may write to you and the Fair Trading Officer explaining that it may take a period of longer than 30 working days to provide his/her decision.
- 4.5 The Reviewer will write to you and the Fair Trading Officer with his/her decision, including a statement of reasons (drafted as appropriate to protect any commercially sensitive information). Where there has been an attempt by RTÉ to resolve the cause of the original complaint during the review period, the Reviewer may take this into account in making his/her decision.
- 4.6 If a complaint is upheld on review, the Reviewer may request the Fair Trading Committee of the RTÉ Board to make a recommendation to RTÉ management in order to address the relevant issue.

5. Remit of the Reviewer

- 5.1 The Review Procedure is not an alternative to the Complaints Procedure. The role of the Reviewer is to review, on request, the decision(s) of the Fair Trading Officer and not to conduct a fresh examination of all evidence in relation to the original complaint.
- 5.2 The Reviewer has no authority to decide that you are entitled to compensation or redress. In addition, the Reviewer may be obliged to take steps to ensure that his/her review shall not prejudice or interfere with an investigation by a regulatory authority.
- 5.3 The Reviewer shall not be obliged to review every request. A request will not be eligible for review if it is trivial, misconceived, hypothetical, repetitious, offensive or otherwise vexatious. The Reviewer will also decline to review a request that does not raise a matter of substance and therefore is not a proper use of the Review Procedure.

6. Reporting Role of the Reviewer

- 6.1 The actions taken in respect of all requests for Review will be reported to the Fair Trading Committee. All records relating to such requests are to be retained for at least one year.
- 6.2 The details of the complaints and review procedure may be amended and updated from time to time as appropriate. Any revisions or amendments thereto shall be published and made available on www.rte.ie.