



Complaints procedure

1.0 The Broadcasting Authority and the Board

- 1.1 The Broadcasting Authority is a Constitutional Authority established according to Article 118 of the Constitution of Malta and Chapter 350 of the Laws of Malta.
- 1.2 Whoever has a complaint about a broadcast on some particular station should follow the procedures laid down in S.L. 350.06 and forward the complaint to the Broadcasting Authority's Board.

2.0 How the Procedure Works

Where to Address a Complaint

- 2.1 The complainant should forward the complaint to the broadcaster on the broadcaster's official address listed on the Broadcasting Authority's website and keep the Broadcasting Authority's email address, complaints.ba@ba.org.mt, in cc or send a letter to the Broadcasting Authority's postal address.
- 2.2 Should such official address change, the broadcaster is obliged to inform the Authority to change the published address. Any electronic communications sent to the official address listed on the Broadcasting Authority's website, where the Broadcasting Authority is in copy, shall deem to be received by the broadcaster. Should the complaint be sent by post, the complainant should send the complaint by registered post.
- 2.3 Broadcasters are obliged to have an easily discoverable current email address on their platforms and the Broadcasting Authority shall be notified of any changes to such address within two days.

3.0 Responding to Complaints

- 3.1 The broadcaster shall answer any complaint within three days from the date of receipt.
- 3.2 Should the complainant not be satisfied with the broadcaster's reply, they have up to 15 days from the date which the reply was received or the remedy was provided to appeal the broadcaster's decision.
- 3.3 Should the broadcaster not answer the complainant's complaint, the complainant shall have 18 days from the date the broadcaster received the complaint to request the Broadcasting Authority's Board to hold a public hearing. At this point, the complaint becomes an official complaint.



4.0 Scheduling a complaint hearing

- 4.1 The Broadcasting Authority Board's Secretary, after consulting with the Board, shall inform the parties (the complainant and the broadcaster) of the date and time for the sitting.
- 4.2 Within 72 hours of receiving the said invitation, unless the Board otherwise decrees, the parties should send any and all documents that they would like to make reference to during the hearing along with a list of the witnesses they would like to present (not more than three) as well as any and all argument briefs they would like to raise. This information shall be sent to **complaints.ba@ba.org.mt** or delivered, addressed to the Board Secretary, at the Broadcasting Authority's address. Should such information not be provided, during the course of the hearing, the Board shall not take cognisance of the documents¹, shall not hear the witnesses and shall not consider the argument briefs. This shall also be the case if the abovementioned documents, witnesses and argument briefs differ than the ones previously presented to the Board.
- 4.3 The hearing shall be held strictly on the date notified to all parties.
- 4.4 The communication to the broadcaster shall be sent both by email and by hand. If the complainant submitted the complaint by email, the Board shall assume that notices relating to the hearing may be sent to the same email address.

5.0 Requests for deferral

- 5.1 The Board may, in exceptional cases and limited to one time per party, defer a hearing. The Board may also request proof of such exceptional cases. The lack of availability of the attorney or the accompanying person shall not be considered exceptional cases.
- 5.2 The Board shall do its utmost to ensure that the hearings are held not later than 30 days from the day the official complaint was filed. Should the Board be unable to hold a hearing within the said time period, no deferments shall be granted.
- 5.3 Barring exceptional cases that the Board may request clarifications about, requests for deferment shall only be considered if such requests reach the Broadcasting Authority up to 48 hours before the hearing. The Board is not obliged to agree to any agreement for deferment reached by the parties.

¹ The term "documents" includes videos, photos, screenshots and digital data.



6.0 Features of hearing procedures

- 6.1 The complainant and/or the broadcaster can be accompanied or represented by a person of trust including an attorney.
- 6.2 Although the hearings held by the Broadcasting Authority's Board according to Subsidiary Legislation 350.06 are public, the complainant and/or the broadcaster have the right to request a private hearing in cases where it wouldn't be in the public interest to have the hearing made public. For the Board to accept such requests, such requests need to be justified. Such requests should be delivered within 72 hours since the submission of the official complaint and shall contain information such as documents, witnesses and argument briefs.
- 6.3 All parties shall be on time and shall wear the appropriate attire for the hearing.
- 6.4 Anyone else present at the hearing (referred to in 6.1) shall identify themselves to the Secretary of the Board and shall present a valid identity document (e.g. identity card, driving license or passport). Failure to present such document shall lead to this person being barred from the hearing.
- 6.5 Should the broadcaster's representative be late or leave the hearing early, the hearing shall still be held. The complaint shall not be considered if the complainant is not on time for the hearing.
- 6.6 Should one of the parties not be present at the scheduled time, the waiting time shall be that of ten (10) minutes from the hearing's scheduled time.
- 6.7 When requested, as long as there is a valid reason for doing so, the Board shall hear witness statements via the *internet*. Notwithstanding, technical issues shall not restrict the board from following the previous paragraph's procedure.

7.0 The proceedings of the Hearing

- 7.1 The Chairman shall open the hearing by asking the complainant to offer a brief introduction of not longer than three minutes and make his case.
- 7.2 This shall be followed by a short reply, not longer than three minutes, by the broadcaster.
- 7.3 After the Board hears one person representing each side, the Board shall, in the same order, invite each side to present the witnesses notified within 72 hours of making the complaint. The responsibility of bringing forward the witnesses notified by the parties shall lie with the party calling that witness. The parties shall notify the witnesses of the date and time and shall summon them to the hearing to give witness to the facts of the case.
- 7.4 The hearing shall conclude with the final submissions by one representative from each side and each submission shall not last longer than ten minutes.



Should the Board members feel the need to ask for further clarification, they may ask questions to any one of the parties.

- 7.5 The Board can hear submissions for a longer time or prolong the hearing for an additional sitting.
- 7.6 The hearing procedure does not allow verbalisation by the parties.
- 7.7 The members of the public as well as other persons accompanying the parties not invited to speak before the Board shall not be allowed to attend the hearing should the hearing have already commenced and should they be allowed at the hearing, they shall not make any remarks about what is being said.
- 7.8 The Chairman may ask any person to leave the hearing in case this person misbehaves, interrupts the hearing or is improperly dressed.
- 7.9 The complaint shall be decided in one sitting. A hearing shall proceed to a second sitting only in exceptional circumstances and only when permitted by the Board. Notwithstanding, the Board shall never allow for a hearing to drag on longer than two hearings.
- 7.10 Following a testimony, the Board may request any party to present a sworn declaration attesting to the facts laid down by a witness. In such cases, the sworn affidavit shall be physically delivered to the Broadcasting Authority within three days of it being requested. Should the sworn affidavit not be delivered on time, the Board shall discard the witness's testimony.
- 7.11 Once the hearing has come to an end and the parties have left the venue, the Board shall discuss the complaint and deliver its conclusion. The decision shall be sent to the parties and upload on the Authority's website within 15 days from the final sitting.

8.0 Urgent hearings

- 8.1 The hearing procedure shall not apply to urgent hearings.
- 8.2 Throughout the directive's period or when the complainant feels that the complaint should be urgently heard, the complainant shall clearly indicate the urgency in his email or letter.
- 8.3 Should the Broadcasting Authority Board agree to the level of urgency, the Board can decide to forego the broadcaster's reply or decide on a shorter timeframe for the said reply.
- 8.4 In case of an urgent complaint, the Board shall accept no deferral requests.
- 8.5 In case of an urgent hearing, the Broadcasting Authority Board's decision shall be published no later than five working days from the date of issue.



9.0 Subsidiary Legislation 350.07

- 9.1 This procedure is not to be used for Subsidiary Legislation 350.07. When complaints are submitted under Article 4 of S.L. 350.07
- 9.2 In such cases, the Chief Executive Officer, or a representative designated by the Chief Executive Officer, shall address the Board after the complainant and before the broadcaster. Any documents to be produced or witnesses to be called shall be notified to the parties in accordance with these procedures.

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