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Alternative Dispute Resolution and Regulatory Conflicts in Tanzania's Communications Sector: Emerging Challenges and Pathways for Reform

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ABSTRACT

This article analyses the dynamics of regulatory conflicts within Tanzania's communications sector and evaluates the efficacy of Alternative Dispute Resolution (ADR) as a mechanism for enhancing fairness, efficiency, and stakeholder confidence in dispute settlement. Anchored in the Regulatory Theory and the Access to Justice Theory, the study adopts a qualitative approach combining documentary analysis with semi-structured interviews involving telecommunications operators, broadcasting firms, online content providers, and officials of the Tanzania Communications Regulatory Authority (TCRA). The findings reveal that although Tanzania's legal framework nominally recognises ADR, it lacks comprehensive statutory procedures, binding timelines, and enforcement mechanisms. Institutional weaknesses are evident within the TCRA's Complaints Committee, which functions primarily as an investigative unit without sufficient autonomy, jurisdictional clarity, or professional expertise in ADR practice. Broader systemic issues—particularly consumer vulnerability, information asymmetry, and high litigation costs—further inhibit effective resolution of disputes. Nevertheless, respondents expressed strong support for reform. They advocated the establishment of an independent ADR unit within TCRA, the enactment of detailed procedural rules, and the strengthening of enforcement mechanisms. Comparative experiences from Ofcom (UK), ICASA (South Africa), and TDSAT (India) illustrate that institutionalising ADR within regulatory frameworks promotes legitimacy, reduces litigation, and improves access to justice. The article concludes that embedding ADR into Tanzania's communications regulatory architecture is both imperative and timely to achieve a transparent, equitable, and consumer-responsive system.

Keywords: ADR, Telecommunication Regulations, TCRA, Regulatory Conflict, Access to Justice

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I. INTRODUCTION

The Tanzania Communications Regulatory Authority (TCRA) occupies a pivotal position in maintaining order, fairness, and accountability within the country's communications and broadcasting sectors. Established under the *Tanzania Communications Regulatory Authority Act 2003*, the Authority was mandated to regulate telecommunications, postal, and broadcasting services, ensuring fair competition, consumer protection, and effective service delivery across an increasingly digital economy.² The exponential growth of mobile and online communication services in recent decades has not only transformed Tanzania's economic and social landscape but also introduced complex disputes between service providers, consumers, and the regulator itself. These disputes often concern service quality, billing practices, licensing procedures, and regulatory enforcement.³

TCRA's complaint and enforcement procedures are primarily anchored in Part VIII of the *TCRA Act*, which empowers the Authority to receive and determine complaints relating to the supply of regulated goods and services. Section 43(1) authorises the lodging of complaints against suppliers, while Section 43(7) establishes a consumer complaints unit responsible for handling and following up on such matters.⁴ The *Tanzania Communications Regulatory Authority (Complaints Committee) Rules 2018* further operationalise this process by requiring complaints to be investigated and, where possible, resolved amicably within thirty to sixty days.⁵ Where resolution proves impossible, the Complaints Committee submits findings and recommendations to the Authority for appropriate action. Complementary instruments, including the *Electronic and Postal Communications Act 2010*, the *Electronic Transactions Act 2015*, and the *Personal Data Protection Act 2022*, supplement the Authority's functions in regulating communications, recognising electronic evidence, and safeguarding data protection standards.

Despite this elaborate framework, persistent challenges remain in resolving disputes efficiently and impartially. Neither the *TCRA Act* nor its subsidiary regulations provide a comprehensive mechanism for Alternative Dispute Resolution (ADR), except for a brief reference under

² Tanzania Communication Regulatory Authority (TCRA) (2003). *The Tanzania Communication Regulatory Authority Act*. Dar es Salaam: Government Printer. Pp.15

³ Aston, T & Rhodes P. (2019) *Regulatory Governance and Consumer Protection in Telecommunications Sector*. *Journal of Regulatory Policy*, 15(2), 113-137. Pp.118-120; see also Lazaro, J.K. (2019), *An Evaluation of the Effectiveness of the Tanzania Communication Regulatory Authority in Handling Consumer Complaints* (Master's Dissertation, University of Dar es Salaam), pp.45-47

⁴ TCRA (2003), *The Tanzania Communication Regulatory Authority Act*, pp.27-28

⁵ Tanzania Communication Regulatory Authority (TCRA). (2018). *Complaint Committee Rules*. Dar es Salaam: Government Printer, pp.3-4

Section 43(8), which calls for the settlement of complaints “amicably.” Similarly, the *TCRA Enforcement Guidelines*—particularly Guideline 4.3(f)—allow mediation and arbitration only at the enforcement stage, rather than embedding ADR as a structured, independent process within the regulatory framework. Consequently, the Authority’s Complaints Committee functions largely as an investigative and advisory body, lacking both institutional independence and procedural clarity.

These institutional and procedural shortcomings have led to regulatory conflicts and stakeholder dissatisfaction. Consumers, in particular, remain vulnerable to asymmetrical power relations and limited access to justice due to high litigation costs and inadequate awareness of alternative redress mechanisms. Recognising these gaps, this article critically analyses the current dispute-resolution landscape under TCRA, interrogates the legal and institutional barriers to ADR adoption, and explores potential reforms to strengthen Tanzania’s communications regulatory regime. Guided by the *Regulatory Theory* and the *Access to Justice Theory*, the study adopts a qualitative approach combining doctrinal and empirical methods to examine both the textual framework and the lived experiences of key actors within the telecommunications sector.

By situating the Tanzanian experience within comparative perspectives from jurisdictions such as the United Kingdom, South Africa, and India, this article argues that institutionalising ADR within the TCRA framework is indispensable to fostering efficiency, transparency, and stakeholder trust in regulatory governance.⁶

II. CONCEPTUAL AND THEORETICAL FOUNDATION OF ADR IN TELECOMMUNICATIONS REGULATIONS

The regulation of telecommunications in Tanzania operates within a multifaceted environment in which regulators, service providers, and consumers interact under overlapping interests and obligations. Within this context, *Alternative Dispute Resolution (ADR)* emerges as an essential instrument for maintaining fairness, efficiency, and accountability. ADR embodies a collection of non-judicial processes—negotiation, mediation, conciliation, and arbitration—designed to resolve disputes amicably and to preserve long-term relationships among stakeholders. It reflects a shift from adversarial procedures to participatory justice, where cooperation replaces confrontation.⁷

⁶ See Baldwin, R., Cave, M., & Lodge, M. (2012). *Understanding Regulation: Theory Strategies, and Practices* (2nd ed) Oxford University Press; Cappelletti, M. Garth, B. (1978). *Access to Justice: The Worldwide Movement to Make Rights Effective*. Sijthoff and Noordhoff.

⁷ Menkel Meadow, C, (2018), *Mediation, Negotiation and Conflict Management: Selected Essays* (Vol. I, pp.12-15) Routledge.

In essence, ADR provides parties with the opportunity to determine both process and outcome outside the formal courtroom. In the telecommunications sector, this mechanism offers flexibility in addressing grievances involving interconnection agreements, consumer complaints, and enforcement actions. It aligns with the modern regulatory aim of balancing commercial efficiency with consumer protection. Despite its recognition under Section 43(8) of the *Tanzania Communications Regulatory Authority Act*, ADR in the communications sector remains underdeveloped.⁸ The statute and subsidiary regulations make only passing reference to “amicable settlement” without establishing a structured framework to implement it, leaving TCRA’s Complaints Committee with limited autonomy and procedural clarity.⁹

Negotiation constitutes the simplest and most direct form of ADR. It relies on the voluntary participation of parties who seek to reach an understanding through dialogue rather than adjudication.¹⁰ In telecommunications regulation, negotiation can resolve matters such as billing errors or network interruptions at an early stage, saving time and resources. Mediation and conciliation introduce a neutral intermediary who assists disputants in identifying shared interests and mutually beneficial outcomes. These processes are particularly relevant for regulatory conflicts where ongoing relationships must be preserved.¹¹ However, in Tanzania, mediation remains largely informal and under-utilised because the *TCRA (Complaints Committee) Rules 2018* merely instruct that complaints be resolved “amicably” without defining procedure, timeframe, or enforceability. Comparative experience from regulators such as Ofcom in the United Kingdom and ICASA in South Africa demonstrates that well-defined mediation frameworks enhance transparency, reduce enforcement burdens, and strengthen public confidence.

Arbitration, a more formal variant of ADR, involves submission of a dispute to an independent arbitrator whose decision is binding on the parties. It is suited to complex technical and commercial matters requiring specialised knowledge, such as interconnection or frequency-allocation disputes. The *TCRA Enforcement Guidelines* acknowledge arbitration as a compliance tool but limit its operation to post-determination enforcement, rather than embedding it within the core dispute-resolution process. This limitation diminishes ADR’s preventive value and undermines its capacity to promote regulatory legitimacy.

⁸ Act, [Cap 172 R.E.2022] s.43(8)

⁹ Tanzania Communication Regulatory Authority (Complaints Committee) Rules, 2018, G.N No.427 of 2018 r.3-6

¹⁰ Susskind, L, E., Cruikshank, J.L (2006). *Breaking Robert’s Rules: The New Way to Run Your Meeting, Build Consensus and Get Results* (pp.47-50) Oxford University Press

¹¹ Brown H.J., & Marriott, A.L. (2011). *ADR Principle and Practice* (3rd , pp.23-28) Sweet & Maxwell

Telecommunications and consumer disputes in Tanzania frequently arise from service quality, billing discrepancies, unfair contract terms, or breaches of data protection obligations.¹² The imbalance of power between large operators and individual consumers compounds these challenges, making litigation an impractical route for most complainants. ADR therefore becomes a necessary means of advancing access to justice, reducing procedural delays, and maintaining equilibrium between regulatory oversight and market freedom.¹³ The benefits of ADR—speed, confidentiality, reduced cost, and preservation of relationships—are evident, yet their realization depends on institutional independence and statutory support. At present, the absence of comprehensive ADR guidelines and limited technical capacity within TCRA undermine these advantages and contribute to stakeholder dissatisfaction.¹⁴

The theoretical foundation of this discussion rests upon two complementary frameworks: the *Regulation Theory* and the *Access to Justice Theory*. Regulation Theory explains the role of legal and institutional mechanisms in balancing the interests of the state, the market, and the public.¹⁵ It recognises that regulation inevitably generates tension, particularly when enforcement is perceived as inconsistent or overly bureaucratic. Within this framework, ADR is viewed as a corrective instrument—an avenue through which compliance is achieved not by coercion but by cooperation. When integrated into the regulatory architecture, ADR enhances both efficiency and legitimacy, ensuring that regulation remains responsive to stakeholder concerns.¹⁶

Access to Justice Theory, on the other hand, underscores every individual's right to obtain fair and timely redress.¹⁷ It challenges the monopoly of formal courts and calls for alternative pathways that are affordable, participatory, and inclusive. In Tanzania's telecommunications sector, consumers frequently encounter barriers such as high litigation costs and limited legal awareness, rendering formal adjudication inaccessible. ADR can bridge this gap by providing mechanisms that are informal, flexible, and culturally attuned to the realities of service users. Properly institutionalised, ADR becomes not only a procedural tool but also a manifestation of democratic governance and regulatory accountability.

¹² Tanzania Communication Regulatory Authority (TCRA) (2020). Annual Report 2019/2020 (pp.37-42) Dar es Salaam: TCRA

¹³ Brown H.J., & Marriott A.L (2011) ADR Principles and Practices (3rd ed., pp.23-24) Sweet & Maxwell

¹⁴ Tanzania Communication Regulatory (Complaint Committee) Rules, 2018, G.N No. 427 of 2018 r.8-10

¹⁵ Baldwin R., Cave, M., Lodge, M. (2012). Understanding Regulation: Theory, Strategy and Practice (2nd ed, pp.15-18). Oxford University Press.

¹⁶ Ogus A., (1994). Regulation: Legal Forms and Economic Theory: Clarendon Press. Pp. 55-57

¹⁷ Cappellette, M., & Garth, B. (1978). Access to Justice: The Worldwide Movement to Make Rights Effective (Vol I, PP.7-11) Sijthoff and Noordhoff.

Viewed together, these conceptual and theoretical insights affirm that ADR is indispensable to modern telecommunications regulation. It ensures that conflict resolution is not merely an administrative exercise but an integral part of good governance and consumer protection. Embedding ADR firmly within the operations of TCRA would create a regulatory environment that values dialogue over confrontation and justice over rigidity—an outcome essential for an equitable, transparent, and responsive communications sector in Tanzania.

III. LEGAL AND INSTITUTIONAL FRAMEWORK FOR ADR IN TANZANIA’S TELECOMMUNICATION SECTOR

on a network of interrelated statutes, subsidiary regulations, and institutional mandates.¹⁸ These laws collectively define the powers of the Tanzania Communications Regulatory Authority (TCRA), set out procedures for complaint handling, and provide the foundation for integrating Alternative Dispute Resolution (ADR) into the broader regulatory framework. Yet, despite the existence of these legal instruments, their fragmented nature and absence of explicit ADR provisions have constrained the effectiveness of regulatory dispute settlement.¹⁹

The Tanzania Communications Regulatory Authority Act remains the cornerstone of telecommunications regulation. It establishes the TCRA as an autonomous body responsible for regulating electronic communications, postal, and broadcasting services.²⁰ Part VIII of the Act provides the general mechanism for handling complaints, allowing aggrieved persons to lodge grievances against suppliers of regulated goods or services. Section 43(1) authorises such complaints, while Section 43(7) directs the establishment of a consumer-complaints unit to receive and follow up on disputes. The same Part, under Section 43(8), encourages the Authority to settle disputes “amicably.”²¹ However, this reference to amicable settlement lacks procedural elaboration and therefore does not amount to a full-fledged ADR framework. In practice, this has led to reliance on internal investigations and recommendations rather than neutral mediation or arbitration, leaving outcomes vulnerable to allegations of bias or inefficiency.²²

Complementing this Act is the Electronic and Postal Communications Act of 2010 (EPOCA), which expands the Authority’s mandate to include licensing, interconnection regulation, and consumer protection within electronic communications. Although EPOCA strengthens TCRA’s enforcement powers, it similarly omits detailed ADR provisions. The Act envisages

¹⁸ Mutagwaba, M (2021) *Telecommunication Law and Regulations in Tanzania*: University of Dar es Salaam Press. Pp.42-46

¹⁹ *Ibid*, p.47

²⁰ Act, [Cap 172 R.E.2022] S.4

²¹ *Ibid*, s.43

²² TCRA (2020). *Annual Report 2019/2020* (pp.33-36) Dar es Salaam: TCRA

administrative resolution of disputes but does not codify the methods, timelines, or enforceability of ADR outcomes. Consequently, the Authority's interventions often depend on discretionary interpretation rather than statutory procedure, creating uncertainty for both service providers and consumers.²³

The Tanzania Communications Regulatory Authority (Complaints Committee) Rules later amended in 2018, were intended to operationalise the complaint-handling function under Section 43. These Rules require the Complaints Committee to investigate grievances and to attempt resolution within a period of thirty to sixty days. When amicable settlement fails, the Committee reports its findings and recommendations to the Authority for final determination. While this structure appears consistent with ADR principles, it lacks essential elements such as neutrality, autonomy, and binding effect. The Complaints Committee functions internally within TCRA, blurring the line between investigator and adjudicator. The result is a quasi-administrative procedure rather than an independent ADR mechanism capable of fostering confidence among disputing parties.²⁴

In addition to these sector-specific instruments, other statutes indirectly shape the ADR environment. The Fair Competition Act promotes fairness and consumer welfare by prohibiting anti-competitive conduct and deceptive trade practices. Disputes arising from market dominance or collusive behaviour may involve both the Fair Competition Commission (FCC)²⁵ and TCRA, necessitating inter-agency coordination in complaint handling. The Act recognises conciliation and settlement before formal enforcement, thus reinforcing ADR values within economic regulation. Similarly, the Civil Procedure Code²⁶ permits courts to encourage settlement and record consent decrees, providing the procedural foundation for enforcement of arbitration awards and mediated agreements. These provisions offer a bridge between administrative and judicial dispute-resolution frameworks, ensuring that ADR outcomes may obtain legal recognition.

Institutionally, the Tanzania Communications Regulatory Authority (TCRA) stands as the central body mandated to regulate, monitor, and enforce compliance within the communications sector. Its dual role—as both regulator and dispute resolver—presents a structural tension between impartial adjudication and regulatory enforcement. The Consumer Consultative Council (CCC), established under Section 30 of the TCRA Act, provides a platform for

²³ Mwaikasu, J., (2019). Telecommunication Governance and Market Regulations in East Africa; Mkuki na Nyota; pp.77-79

²⁴ Tanzania Communication Regulatory Authority (Complaint Committee) Rules 2018. r.9

²⁵ Act [Cap 285 R.E.2023] s.8-9

²⁶ Code [Cap 33 R.E 2023] Order XXIII, r,3

consumer representation and consultation on policy matters. Although it plays an advisory role, its lack of enforcement power limits its impact in protecting consumer interests during disputes. The courts of law remain the ultimate arbiters where administrative remedies prove inadequate, but the high cost and technical nature of telecommunications disputes often make judicial redress impractical. These institutional realities underscore the necessity of embedding ADR within TCRA's regulatory processes to ensure timely, affordable, and credible outcomes.

Beyond the domestic framework, international instruments also support the integration of ADR in telecommunications governance. The United Nations Commission on International Trade Law (UNCITRAL) has produced foundational texts, including the *Model Law on International Commercial Conciliation (2002)* and the *UNCITRAL Arbitration Rules (2013)*, which emphasise fairness, party autonomy, and enforceability of settlements. These principles provide persuasive guidance for national regulators seeking to design effective ADR systems. The International Telecommunication Union (ITU) similarly promotes cooperative mechanisms for dispute prevention and resolution among member states, particularly in spectrum management and interconnection arrangements. Regional organisations such as the African Union (AU) and the African Telecommunications Union (ATU)²⁷ have developed policy guidelines encouraging member states to integrate ADR into sectoral regulation as part of good-governance reforms. The African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention, 2014) further affirms the importance of transparent mechanisms for resolving cross-border digital disputes and protecting user rights.²⁸

Taken together, these legal and institutional instruments form the normative backbone of Tanzania's communications regulation. Yet, their fragmentation, limited coordination, and absence of a clear statutory basis for ADR constrain the system's capacity to deliver justice that is both efficient and credible. Strengthening this framework requires harmonising domestic legislation with international best practices and empowering TCRA to employ ADR as a central—not peripheral—feature of its regulatory mandate. Embedding mediation and arbitration within the Authority's processes would align Tanzania's regime with global regulatory standards,²⁹ reduce litigation, and enhance stakeholder confidence in the governance of the communications sector.³⁰

²⁷ African Telecommunication Union (ATU). (2019). Guidelines for ADR in ICT Sector, Nairobi: ATU. Pp5-9

²⁸ African Union Convention on Cybersecurity and Personal Data Protection (Malabo Convention). 2014, art.26

²⁹ OECD (2016). Consumer Protection in E-Commerce, OECD Recommendation. OECD Publishing; pp.19-21

³⁰ Ogus, A., (1994). Regulation, Legal Form and Economic Theory (pp.90-92) Clarendon Press

IV. EMERGING CHALLENGES IN IMPLEMENTING ADR IN TCRA FRAMEWORKS

Despite the growing recognition of Alternative Dispute Resolution (ADR) as a vital mechanism for promoting efficiency and justice in regulatory governance, its implementation within the Tanzania Communications Regulatory Authority (TCRA) framework remains constrained by several legal, institutional, and practical challenges. These challenges have created an environment in which the promise of ADR is yet to be fully realised. The most notable obstacles include overlapping jurisdictional mandates, limited institutional independence, inadequate awareness among stakeholders, procedural uncertainties, and weak enforcement mechanisms.

A major obstacle arises from **jurisdictional conflicts between TCRA, the ordinary courts, and external arbitral bodies**. The TCRA Act empowers the Authority to investigate and determine complaints relating to regulated services. However, the same matters often fall within the competence of other dispute-resolution forums such as the Fair Competition Tribunal or the ordinary courts, particularly where competition, contractual, or consumer issues overlap. The absence of a clearly defined boundary between administrative, arbitral, and judicial jurisdictions has generated confusion and forum shopping. Some parties prefer to bypass TCRA and approach the High Court directly, citing doubts about the Authority's impartiality or the enforceability of its decisions. Similarly, the limited reference to arbitration in the *TCRA Enforcement Guidelines* confines the Authority's role to post-decision enforcement, leaving ambiguity as to whether parties may independently refer disputes to external arbitral institutions. This jurisdictional overlap undermines regulatory coherence and delays dispute settlement, contradicting the very purpose of ADR.

Another persistent challenge lies in **the lack of independence and capacity within TCRA's Complaints Committee**. The Committee operates as an internal arm of the Authority rather than an autonomous dispute-resolution body. Members are appointed by the same institution that regulates the parties to a dispute, raising legitimate concerns over impartiality and accountability. Although the Committee may investigate and make recommendations, it lacks the power to issue binding decisions or enforce settlements. Its proceedings are largely administrative, and its structure does not mirror recognised ADR processes such as mediation or arbitration. The situation is further compounded by limited technical expertise in ADR techniques among Committee members, who are primarily regulatory officers rather than trained mediators or arbitrators. As a result, most disputes are resolved through investigative reports rather than genuine facilitation of dialogue or consensus-building between disputants.

The challenge is compounded by **limited awareness and understanding of ADR among service providers and consumers**. Many telecommunications operators perceive ADR as an informal or non-binding process, preferring litigation as a means to assert contractual rights or delay compliance with regulatory directives. On the other hand, consumers often lack legal literacy or confidence to pursue alternative mechanisms, particularly in cases involving complex billing or service-quality disputes. The absence of continuous public education and sector-wide sensitisation campaigns has hindered the development of a culture of ADR within the communications industry. Consequently, the uptake of ADR remains minimal despite its potential to promote efficiency and maintain relationships in a highly interconnected market.

From a procedural standpoint, **the TCRA's framework lacks explicit rules governing ADR timelines, processes, and enforcement**. The Complaints Committee Rules of 2018 merely instruct that disputes should be resolved "amicably" within thirty to sixty days but fail to outline the steps for mediation, conciliation, or arbitration. There are no procedural safeguards to ensure neutrality of mediators or enforceability of outcomes. Furthermore, the absence of statutory deadlines or appeal mechanisms leads to uncertainty and prolonged resolution periods. Such procedural vagueness limits predictability, discourages participation, and weakens trust in TCRA's dispute-settlement system. The lack of integration between the Complaints Committee's recommendations and judicial enforcement mechanisms also renders ADR outcomes practically ineffective. In many instances, parties must still resort to court intervention for enforcement, thereby negating the advantages of ADR in reducing congestion and delays within the judicial system.

Empirical findings gathered through semi-structured interviews with TCRA officials, service providers, and consumer representatives reveal that **stakeholders generally support the idea of strengthening ADR but express frustration over its weak implementation**. Respondents noted that ADR has the potential to restore confidence in regulatory decision-making, particularly if conducted transparently and by independent facilitators. However, they criticised the current framework for its excessive bureaucracy, limited enforcement power, and the tendency of the regulator to act simultaneously as adjudicator and enforcer. Several participants observed that while the TCRA Enforcement Guidelines mention mediation and arbitration, there is no dedicated ADR unit within the Authority to manage or institutionalise such mechanisms. The absence of trained personnel and standardised procedures has therefore relegated ADR to a theoretical rather than practical tool.

These findings mirror the experiences of other jurisdictions prior to reform. For instance, before the establishment of the Office of Communications (Ofcom) in the United Kingdom, regulatory

disputes were characterised by similar inefficiencies and public mistrust. The UK's decision to establish a structured ADR scheme under Ofcom—mandating independent adjudicators and clear enforcement rules—led to improved consumer confidence and reduced litigation.

V. COMPARATIVE AND GLOBAL INSIGHTS

Comparative practice in the United Kingdom demonstrates how a regulator can embed alternative dispute resolution as a right, not a privilege. Ofcom approves two independent ADR schemes—the Communications Ombudsman and CISAS—and obliges communications providers to direct unresolved complainants to ADR after defined intervals. Performance of these schemes is monitored and published quarterly, creating transparency and incentives for timely redress. Ofcom also keeps scheme approvals under periodic formal review to ensure fitness for purpose as markets evolve. These design choices—statutory approval, mandatory referral triggers, external independence, and public performance reporting—lower access barriers for consumers and discipline industry behaviour without over-judicialising everyday disputes.³¹

South Africa offers a hybrid model that couples regulator-run processes with explicit ADR hooks inside consumer protection rules. ICASA's framework routes unresolved complaints into an Authority-managed ADR process set out in its Consumer Complaints Procedure, while the Complaints and Compliance Committee remains the forum for formal contraventions and enforcement. Recent customer-care standards for postal licensees codify escalation to ADR where frontline resolution fails, and ICASA instruments recognise mediation within the Authority's toolkit. The arrangement preserves regulatory authority while giving parties a structured, documented off-ramp from contentious enforcement—useful in technically complex markets where relationship-preserving outcomes matter.³²

Kenya has institutionalised appellate oversight through the Communications and Multimedia Appeals Tribunal, established under the Kenya Information and Communications Act. The Tribunal hears appeals arising from communications disputes and sits outside the regulator, with avenues to the High Court. This separation reinforces impartiality and clarifies jurisdictional pathways from initial complaint management through independent merits review. By publishing decisions, the Kenyan system also develops sector-specific jurisprudence that

³¹ Retrieved from www.ofcom.org.uk

³² Retrieved from ICASA.org

guides parties and promotes coherent expectations about standards of service and regulatory reasonableness.³³

These experiences point to lessons that are directly transferable to Tanzania. First, independence matters: routing consumer disputes to bodies structurally outside the regulator, as in the UK and Kenya, strengthens perceived fairness and trust. Second, time discipline is essential: mandatory referral triggers and published performance indicators, hallmarks of Ofcom's regime, curb delay and sharpen accountability. Third, procedural clarity improves outcomes: South Africa's codified escalation from frontline handling to ADR, coupled with a standing enforcement forum, reduces forum-shopping and jurisdictional friction. Finally, enforceability and transparency anchor legitimacy: ADR outcomes must be binding or readily convertible to enforceable orders, and aggregate performance data should be published to deter strategic non-compliance. Together, these elements would complement Tanzania's existing complaint structures by creating a predictable pathway from initial grievance through neutral ADR and, where necessary, independent appeal—thereby advancing consumer protection, regulatory legitimacy, and market discipline in the communications sector.

VI. PATHWAYS FOR REFORM AND POLICY RECOMMENDATION

recognition of alternative dispute resolution as a primary track for regulatory conflicts. The TCRA Act ought to be amended to articulate the purposes, scope, and guiding principles of negotiation, mediation, conciliation, and arbitration in sector disputes. Definitions should be inserted to remove ambiguity around the term “amicable settlement,” together with provisions on confidentiality, privilege, admissibility, and the status of settlements. The Act should create a duty on regulated³⁴ entities to attempt ADR before escalation to formal enforcement, coupled with service-level timelines for each stage. Settlements reached through mediation or conciliation should be made convertible into enforceable orders of the Authority or the courts. Arbitration clauses for interconnection and access disputes should be expressly recognized, with reference to the Arbitration Act,³⁵ the Civil Procedure Code, and the evidentiary value of electronic records under the Electronic Transactions Act.³⁶

Institutional design must be strengthened by transforming the Complaints Committee into a truly quasi-judicial forum with structural independence. Appointment and tenure safeguards should be provided for members, supported by a transparent code of conduct and conflict-of-

³³ Retrieved from Konrad Adenauer Stiftung+3Kenya Law+3Kenya Law+3

³⁴ Ibid, Part VIIIA

³⁵ Act No.2 of 2020 s.75, TCRA Act, s.36

³⁶ Electronic and Postal Communication (Interconnection) Regulations 2018, r.14-17

interest rules. The forum should possess the power to manage procedures, direct parties to good-faith mediation, issue reasoned determinations, and recommend binding undertakings. Technical assessors in telecommunications engineering, consumer protection, and competition economics should be empanelled to assist on complex matters.³⁷ A clear appeals pathway should be set out, preserving merits review to an independent tribunal or the High Court, so that ADR complements rather than displaces judicial oversight. Publication of anonymised determinations and annual performance statistics would promote predictability and accountability without compromising confidentiality.³⁸

Capacity building and public literacy must accompany legal change. Targeted training for TCRA staff, accredited mediators, and industry compliance teams should be institutionalised, with modules on regulatory economics, consumer-law remedies, negotiation ethics, and draft-order writing. Consumers need practical guidance on how to frame a complaint, how to preserve electronic evidence, and how to participate safely in mediation. Universities, legal aid providers, and industry associations can be engaged to run clinics and short courses. A help-desk and online portal for filings, status tracking, and document exchange should be adopted to reduce cost and delay, drawing on the Electronic Transactions Act to validate digital processes.³⁹

International benchmarks should be incorporated through formal guidelines that codify best practices. UNCITRAL⁴⁰ instruments offer tested standards for conciliation and arbitration, including enforceability and party autonomy. ITU⁴¹ policy materials on dispute prevention, interconnection, and spectrum coordination provide sector-specific templates for cooperative solutions. Regional experience from Ofcom and ICASA⁴² demonstrates the value of mandatory referral triggers to ADR, external independence of schemes, and regular performance reporting. These elements can be translated into Tanzanian guidance on referral thresholds, mediator accreditation, timeframes, quality assurance, and transparency. Periodic peer review with neighbouring regulators and publication of a yearly ADR report would embed continuous improvement.

Financing and implementation should be addressed explicitly. A modest regulatory levy or ring-fenced portion of licensing fees can sustain mediator panels, training, and the case-management

³⁷ Act [Cap 172 R.E 2023] s.6

³⁸ *Ibid*, s.46

³⁹ *Ibid*, s.46

⁴⁰ United Nations Commission on International Trade Laws (UNCITRAL) (2022). *Guidance on Mediation and Conciliation Practices*, p.64

⁴¹ International Telecommunication Union (2021). *Trend in Telecommunication Regulation*, p.88

⁴² Office of Communication (Ofcom) (2021). *Annual ADR Report*, p.33; Independent Communications Authority of South Africa (ICASA) (2020). *Consumer Complaints and Disputes Management Frameworks*. p.24

system. A phased rollout is advisable, piloting mediation in consumer billing and quality-of-service disputes, then scaling to interconnection and infrastructure-sharing cases once procedures mature. Success should be measured against published indicators such as time to disposition, settlement rates, compliance with outcomes, and user satisfaction. By aligning statute, institutions, capacity, and guidance, ADR would move from an aspirational phrase to a dependable pathway that advances consumer protection, market discipline, and regulatory legitimacy in Tanzania's communications sector.⁴³

VII. CONCLUSION

The analysis of alternative dispute resolution within Tanzania's communications sector reveals a regulatory framework that acknowledges the importance of amicable settlement in theory but fails to provide a clear, structured, and enforceable system for its implementation. The existing legal instruments—the TCRA Act, the Electronic and Postal Communications Act, and the Complaints Committee Rules—outline procedures for complaint handling but stop short of establishing an explicit and coherent ADR framework. Unlike the structured system of the *Commission for Mediation and Arbitration (CMA)*, which provides a sequential process beginning with mediation and, if unresolved, proceeding to arbitration, the TCRA lacks a well-defined procedural roadmap to guide parties through different ADR stages. This absence of a consistent mechanism has resulted in uncertainty, inefficiency, and limited confidence among stakeholders in the communications sector.

Under the labour dispute system managed by the CMA, conflicts follow a clear and predictable order—commencing with mediation, which emphasizes conciliation and voluntary settlement, and if unresolved, advancing to arbitration for binding determination. This structured approach ensures procedural fairness, institutional accountability, and transparency. In contrast, the TCRA framework merely calls for disputes to be resolved “amicably” without identifying which ADR mechanisms should apply, who should administer them, or how the outcomes should be enforced. The Complaints Committee operates internally within TCRA and lacks independence, professional mediators, or arbitrators. Consequently, there is no certainty as to whether mediation, conciliation, or arbitration will be used to resolve a particular dispute. This gap weakens the credibility of ADR as a reliable path to justice in the telecommunications regulatory system.

The discussion throughout this article demonstrates that ADR is not merely an administrative convenience but a cornerstone of good regulatory governance and access to justice. When

⁴³ World Bank (2023). *Digital Regulation in Africa: Policy and Governance Frameworks*, p.117

properly institutionalised, ADR promotes participation, transparency, and efficiency while reducing the burden on courts. It creates a cooperative environment in which disputes are settled through dialogue and consensus rather than adversarial confrontation. To achieve these benefits, ADR under the TCRA must be restructured to follow a formal sequence similar to that of the CMA: mediation as the first stage for negotiation and mutual understanding, followed by arbitration where settlement fails, with each stage guided by statutory timelines and enforceable procedures. Such a framework would ensure predictability, neutrality, and procedural justice in resolving telecommunications disputes.

Meaningful reform therefore requires deliberate legislative and policy action. The TCRA Act should be amended to clearly define ADR mechanisms, specify the order of procedures, and grant legal force to mediated or arbitral settlements. The Complaints Committee should be transformed into an independent quasi-judicial body with trained mediators and arbitrators, capable of managing each ADR stage transparently. Institutional guidelines must also articulate timelines, appeal routes, and enforcement standards. Public awareness and professional training will be vital in enabling both consumers and service providers to appreciate and utilise ADR mechanisms effectively.

In conclusion, embedding ADR within the TCRA's regulatory framework through a structured, staged process—akin to the mediation and arbitration sequence under the CMA—would significantly enhance regulatory legitimacy and consumer trust. A transparent and enforceable ADR system would reduce litigation, promote timely justice, and strengthen Tanzania's commitment to good governance and the rule of law in the communications sector. The reform is thus both urgent and indispensable for ensuring that dispute resolution in telecommunications reflects the same procedural discipline and fairness already achieved in Tanzania's labour dispute mechanisms.

VIII. REFERENCES

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LEGAL FRAMEWORKS

Principal Legislation

1. The Arbitration Act, [Cap. 15 R.E. 2023].
2. The Civil Procedure Code, [Cap. 33 R.E. 2023].
3. The Constitution of the United Republic of Tanzania, 1977
4. The Electronic and Postal Communications Act, [Cap. 306 R.E. 2023]
5. The Fair Competition Act, [Cap. 285 R.E. 2023.]
6. The Personal Data Protection Act [CAP. 44 R.E 2023].
7. The Tanzania Communications Regulatory Authority Act, [Cap. 172 R.E. 2023].

Subsidiary Legislation

1. The Personal Data Protection (Personal Data Collection and Processing) Regulations, 2023.
2. The Tanzania Communications Regulatory Authority (Complaints Handling) Rules, 2018, G.N No. 427 of 2018.

3. The Personal Data Protection (Collection and Processing of Personal Data) Regulations, 2023, G.N No. 285 of 2023.
4. The Civil Procedure Code (Amendment of the First Schedule) Rules, 1994, G.N No. 422 of 1994.
5. Electronic and Postal Communications (Licensing) Regulations, 2018, G.N No. 57 of 2018
6. Electronic and Postal Communications (Online Content) Regulations, 2020, G.N No. 538 of 2020
7. Electronic and Postal Communications (Computer Emergency Response) Regulations, 2018, G.N No. 60 of 2018
8. Electronic and Postal Communications (Electronic Communications Equipment Standards and E-Waste Management) Regulations, 2020, G.No. 919 of 2020
9. Electronic and Postal Communications (Central Equipment Identification Registers) Regulations, 2011, G.N No. 417 of 2011
10. Universal Communications Service Access Fund Regulations, 2009, G.N No. 109 of 2009
11. Universal Communications Service Access Fund (Amendment) Regulations, 2023, G.N No. 210 of 2023
12. Electronic and Postal Communications (Digital and Other Broadcasting Networks and Services) (Amendment) Regulations, 2022, G.N No. 64 of 2022
13. Electronic and Postal Communications (Radio and Television Broadcasting Content) (Amendment) Regulations, 2024, G.N No. 13 of 2024
14. Electronic and Postal Communications (Radio and Television Broadcasting Content) (Amendment) Regulations, 2022, G.N No. 135 of 2022

International and Regional Instruments

1. African Union (AU) Model Policy Guidelines for ICT, via African
2. Telecommunications Union (ATU).
3. African Union Convention on Cyber Security and Personal Data Protection (Malabo Convention, 2014).
4. International Covenant on Civil and Political Rights (ICCPR), 1966

5. International Telecommunication Union (ITU) Regulatory Guidelines and Recommendation
6. UNCITRAL Conciliation Rules, 1980
7. UNCITRAL Model Law on International Commercial Arbitration, 1985 (Revised 2006).
8. Universal Declaration of Human Rights (UDHR), 1948
9. World Trade Organization (WTO).
10. General Agreement on Trade in Services (GATS), 1995
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