

PROTOCOL FOR THE CONCILIATION PROCEDURE OF THE FASTWEB ADR ORGANIZATION - CONSUMERS' ASSOCIATIONS, PARTIES TO THE NATIONAL COUNCIL OF CONSUMERS AND USERS (CNCU)

DEFINITIONS

For the purpose of this Protocol, the following definitions apply:

- a) Consumer Code: Legislative Decree 206/2005, as amended;
- b) Privacy Code: Legislative Decree no. 196/2003 containing the personal data protection code;
- c) Consumer or User: The subject identified in article 1, paragraph 1, letter pp) of the Electronic Communications Code and article 1, paragraph 1, letter i) of Resolution 173/07/CONS;
- d) Professional: The subject as defined in article 1, paragraph 1, letter h) of Resolution 173/07/CONS;
- e) Consumer and User Associations: The subjects as defined in article 1, paragraph 1, letter p) of Resolution 173/07/CONS;
- f) Complaint: A claim sent to the Company by which an inefficiency is reported or the request for
- g) An indemnity is filed due to a damage caused by the Professional;
- h) Conciliation Request: a request submitted to the appropriate body to initiate ADR proceedings;
- i) ADR Proceedings: An out-of court resolution procedure applied to disputes and complaints in compliance with the requirements of articles 141 et seq. of the Consumer Code;
- j) ADR Organization : An Organization that offers out-of-court resolutions of a dispute through an ADR Procedure.

WHEREAS

1- In order to facilitate an out-of court resolution of disputes that may arise between Consumers and Fastweb S.p.A., the Consumers' Associations, parties to the National Council of Consumers and Users, join this Protocol.

2- This Protocol is drawn up based on the indications contained (i) in the Recommendation 257/98/EC of the Recommendations issued by the European Commission on 30 March 1998, concerning the principles applicable to the bodies responsible for out-of-court resolutions of disputes related to Consumers, (ii) in the Directive 2013/11/EU about alternative resolution of disputes with Consumers, which amends regulation (EC) no. 2006/2004 and the directive 2009/22/EC (ADR Directive for the Consumers) and (iii) in Legislative Decree 130/2015 implementing directive 2013/11/EU on the alternative resolution of disputes with Consumers which amends the regulation (EC) no. 2006/2004 and the directive 2009/22/EC (ADR directive for Consumers).

The Consumers' Associations, parties to the Protocol, agree on the Conciliation Procedure (hereinafter also "Procedure") that its members and Consumers can use in general for out-of court resolution of disputes that may arise between the Customers and Fastweb S.p.A., within the scope

of contractual relationships for the provision of electronic communication services as described in the Resolution 173/07/CONS issued by the latter.

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FASTWEB S.p.A.- registered and administration office Via Caracciolo, 20155 Milan Tel: +39 02.45451 Fax +39 02.454548
Share Capital EUR 41,344,209.40 fully paid-in Tax ID Code, VAT Number and listed in the Companies Registry of Milan 12878470157
FASTWEB S.p.A.- Single shareholder company subject to the management and coordination of Swisscom\AG

4- The Procedure is compliant with the principles set forth in Legislative Decree 130/15 implementing the Directive 2013/11/EU which amends the Regulations (EC) no. 2006/2004 and Directive 2009/22/EC regarding “Alternative resolution of disputes with Consumers” and in particular is based on principles of Impartiality, Transparency, Efficacy, Equality and Freedom”.

5- The procedure represents an out-of-court resolution of disputes in compliance with article 141 et seq. of the Consumer Code and articles 70 and 84 of the Electronic Communications Code as regards out-of-court resolutions of disputes.

6- In application of the following AGCOM Resolutions: 173/07/CONS, 597/11/CONS, 479/09/CONS, 95/08/CONS, 502/08/CONS and 661/15/CONS, the initiation of the Procedure is considered, to all effects, to be an attempt at conciliation carried out in compliance with the set forth regulations. To this regard, a copy of this Protocol shall be sent to the Communication Regulatory Authority (hereinafter “AGCOM” [Autorità per le Garanzie nelle Comunicazioni] as regards the procedures under article 13, paragraph 4, of Resolution 173/07/ Cons).

7- The Procedure intends to be a model for the out-of-court resolution of disputes; the management of complaints, their resolution and the related relationship with the Customer remain the sole responsibility of the Company, with no prejudice to the Associations' prerogatives.

8- Pursuant to article 6, paragraph 1, of the AGCOM 173/07/CONS Resolution, the proposal for attempting conciliation suspends, for both parties, the right to take action before a court. This right is reinstated 15 days after the conclusion of the proceedings. During this period, Fastweb shall abstain from initiating any administrative proceedings, such as the suspension of the service or recovery of credit, except for the cases of alleged fraud or abuse as well as the danger to the integrity and functionality of the electronic communication network.

Art. 1

PURPOSE

1- Fastweb and the Consumers' Associations (hereinafter the Parties) in order to achieve the objective of maximum Customers' satisfaction and to ensure the correct management of their interests, undertake to promote and develop the culture and tools for out-of-court dispute conciliation, and in particular the Joint Negotiation.

2- Within the Italian and European legal framework for the governance of out-of-court conciliation proceedings, the Parties also undertake to strengthen and guarantee the independence and transparency of these proceedings.

3- The parties undertake to annually assess the progress of the conciliation procedure, disclosing to the public the annual report referring to disputes both national and international, including the information set forth in Article 141-quater comma 2 of the Consumer Code.

4- Without prejudice to the fact that the out-of-court Joint Negotiations will be carried out according to the provisions set forth in the implementation documents (Regulations) agreed upon and signed by Fastweb and the Consumers' Associations, the Parties agree on the following guidelines:

Art. 2

GUIDELINES

a) Access to the Negotiation procedure is subject to a prior submission of a complaint sent to Fastweb, and can be proposed only within 12 months from the date of submission of the complaint;

b) The Negotiation procedure is free of charge and does not affect the possibility of the Consumers' Association, assisting the Conciliator during the procedure, to propose to him/her a membership in the Association;

c) The attempt to settle disputes out of court through it represents a condition for the admissibility to proceedings that is required for the exercise of a legal action;

d) If the Negotiation leads to a positive outcome, a Conciliation Report is drawn up and represents a settlement agreement pursuant to article 1965 of the Italian Civil Code. If the Negotiation leads to a negative outcome, a Report is drawn up that enables the continuation of the claim process;

e) Fastweb and the Consumers' Associations, also in compliance with the obligations set forth in the applicable laws, undertake to provide information to the customers, each through the channels under its area of competence, regarding the existence of the Negotiation procedure and the methodologies for the use thereof, for the purpose of guaranteeing maximum transparency, disclosure and understanding of the information;

f) The Conciliation procedure is normally carried out in Italian; for international procedures or for those involving foreign citizens, the English language shall be used. The Protocol and related regulations are also available in English;

g) The delegates of Fastweb and of the Consumers' Associations, as parties to the ADR Conciliation Organization, Unitary Guarantee Council and the Conciliation Administrative Office shall carry out their activities in compliance with the principles of legality, transparency, independence, impartiality, freedom, efficacy, representation and equality, and in compliance with the confidential requirements and with the laws on privacy;

h) The procedure is free and voluntary, therefore the parties may withdraw from the Procedure at any time. In the event of an obligation of the Professional to comply with the procedure, the right to withdraw is recognised to the user only.

Art. 3

ADR ORGANIZATION

1- The ADR Organization , established at the Offices of Fastweb, Via Caracciolo 51, carries out joint negotiation activities as set forth in the Consumer Code (ADR Procedure) in compliance with article 141 bis et seq.

2- The ADR Organization :

- a) was established in compliance with article 141-ter of the Consumer Code and in compliance with the provisions set forth in the Protocol;
- b) does not have its own legal personality and is sufficiently financially independent to carry out its tasks;
- c) provides, through its website <http://www.fastweb.it/adsl-fibra-ottica/conciliazioniparitetiche/?from=menu> all the information on the Procedure and Regulations and makes available the forms to access the Procedure;
- d) the email address of the ADR Organization is: adrfastweb@pec.fastweb.it On the website of Fastweb, reserved to the ADR Organization, is available the link to the ODR (On Line Dispute Resolution) platform, pursuant to article 14 of the Regulation EU no. 524/2013 concerning the procedures for out-of-court resolution of disputes between the companies and the Consumers as regards sales agreements and on-line services;
- e) acts through the following bodies: Conciliation Administrative Office, Conciliation Commission and Unitary Guarantee Council.

3- Conciliation Administrative Office:

- a. provides the logistic and organisational support for carrying out, in a consistent, prompt and efficient manner, the conciliation procedure in compliance with the laws, the regulations and this Protocol;
- b. guarantees compliance with confidentiality requirements regarding the information acquired and processed during the conciliation procedure, it is impartial and does not carry out any legal advisory activities;
- c. receives the request for the initiation of the conciliation procedure;
- d. verifies the formal requirements and the admissibility of the Conciliation Request within 7 days from receipt;

- e. forwards the Conciliation request to the Conciliation Commission indicating the initiation and expiration dates of the Conciliation attempt;
- f. if the Consumer has not provided a direct designation, the Administrative Office identifies, on a rotation basis, the Consumers' Association to which the case is assigned; The Administrative Office is responsible for providing the designated Conciliator with all necessary documentation;
- g. informs the Association or the Consumer, according to who has submitted the Conciliation Request, about the admissibility of the same;
- h. is responsible for forwarding to the Association the proposal identified by the Conciliation Commission;
- i. keeps a copy of the Conciliation Report and/or Failed Agreement Report which are forwarded to the Consumer and the Parties according to who has submitted the Conciliation Request, at the conclusion of the procedure; the copies of the Reports are kept by the Administrative Office for 5 years from the Report signing date;
- l. updates the list of the certified Conciliators according to the methods set forth in the Protocol and to the indications provided by the Unitary Guarantee Council. The list of Conciliators is divided into two sections:(I) Fastweb Conciliators and (II) Conciliators from the Consumers' Associations. This list will be available to the Unitary Guarantee Council and to the Consumers who specifically request it;
- m. recommends a new Conciliator, if one or both appointed Conciliators should become unable to manage the procedure assigned to them;
- n. all expenses related to the activities carried out by the Conciliation Administrative Office are fully borne by the Company.

4- Conciliation Commission:

- a. is comprised of a representative of Fastweb and a representative of the Consumers' Associations, parties to the Protocol. Their names are included in a list kept by the ADR Organization ;
- b. the members of the Conciliation Commission, identified in the respective lists of Conciliators kept by the Conciliation Administrative Office, are recommended by Fastweb and by the Consumers' Association selected by the Consumer. The Consumer provides the above representative with a specific mandate for identifying and proposing a solution to the dispute. The Consumer also holds the right to issue to the Association a specific mandate with a power of attorney for the acceptance of said solution. If the Customer does not select a Consumers' Association, the Association will be chosen by the Conciliation Administrative Office on a rotation basis;
- c. the members of each Conciliation Commission are required to guarantee knowledge, impartiality, privacy, confidentiality, legality, transparency, integrity and independence;
- d. the Conciliation Commission, after assessing the admissibility of the Conciliation Request, as set forth in article 141-bis paragraph 2 of the Consumer Code, will meet according to the methods set forth in the Regulations;

e. the Conciliators possess the knowledge and the expertise in the area of Consumer dispute resolution; they are required to have attended one specific Training and Update Course for Conciliators, certified by the Unitary Guarantee Council and must be registered in the list kept by the ADR Organization; they are appointed to a three year assignment in order to guarantee the independence of their activities;

f. should some circumstances arise that may affect the independence and impartiality of the Conciliators assigned to a dispute resolution, or if a conflict of interest arises, the members of the Commission will be replaced according to the provisions of article 141-bis, paragraph 5 of the Consumer Code;

g. the expenses related to the activities carried out by the Commissions are fully borne by Fastweb.

5- Unitary Guarantee Council:

a) was established pursuant to the Agcom Resolution issued on 11/17/CONS and is a single organization in compliance with the provisions of articles 4 and 5 of Agcom Resolution dated 11/17/CONS;

b) is responsible for the following:

- evaluating the compliance of the joint negotiation procedures included in the list with the autonomy requirements, set forth in the Consumer Code, and is responsible for formulating, when necessary, guidelines for the involved companies;
- reviewing the reports from users and Consumers' Associations as regards the methods for managing the negotiation procedures;

CONCLUSIONS

1- This Protocol applies only to the Consumers' Associations recognised by CNCU [National Council of Consumers and Users].

2- The Protocol may be amended and/or supplemented, upon agreement by the Parties, also in order to align it with the reference legal framework.

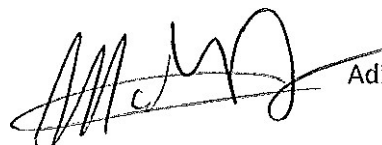
3- The Parties agree to bring to the attention of the Communication Authority this Protocol and the related regulations applied to the procedure.

Rome, 27 June 2017

Fastweb S.p.A

Consumers' Associations

Adi



Roberto Iovino

Adiconsum

Adoc

Aitroconsumo
Silvia B...

Assoutenti

Alfieri
Alfieri Assoutenti Belli
Casa del Consumatore
R...
Cittadinanzattiva
...
Codacons
Gaul - D. H.
Codici
Confconsumatori
Seabitter
Federconsumatori
...
Movimento Consumatori
T. G. Belli
Movimento Difesa del Cittadino
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Unione Nazionale Consumatori
...
Udicon
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Centro Tutela Consumatori Utenti

Lega Consumatori

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Adusbef

Associazione Utenti Servizi Radio Televisivi

Gianluigi D'Arcangelo per delega

Assoconsum

ASSO-CONSUM
