



# Report on Consumer Mediation

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**UNDER CONTRACT NO.**  
PCE-I-00-98-00016-00  
Task Order 827

August 24, 2006

## **Report on Consumer Mediation**

The Ministry has indicated that it wants to provide assistance to individual consumers who file complaints. The following is an outline of a mediation process used by many consumer protection agencies in the US and is also used by the Society for Consumer Protection in the Giza area of Cairo.<sup>1</sup>

### **Complaint processing after a complaint is received by the Consumer Protection Authority**

When a complaint is received by the Authority (in writing directly from the consumer or via a Call Center Representative ("CCR") who has completed a complaint form from information received from the consumer over the telephone) it will first need to be reviewed to ensure that the consumer has provided a complete description of the complaint and the result being sought, along with a copy of the invoice for the transaction. If original documents were sent by the consumer, those documents should be copied and the original ones returned to the consumer.

Once the complaint has been screened, Authority personnel will need to determine the best method of mediating the complaint. The method chosen will generally depend on the means of communication that are available for the consumer and merchant. In the more urban areas of the country, the Authority can expect, with some exceptions that consumers and merchants will be accessible by telephone, mail and possibly fax transmissions.<sup>2</sup> However, for consumers and merchants that are located in areas where these forms of communication are not available, face-to-face mediation will be necessary. Both mediation models will be discussed below and a flow chart follows to illustrate both mediation models.

### **Mediation by Telephone, Fax and Mail**

#### Contacting the Consumer

Even though the mediator has the consumer's complaint which describes the problem and the result the consumer wants, it is helpful for the mediator to make contact with the consumer by telephone, if possible. This initial phone call will reassure the consumer that the Authority is taking the complaint seriously and that something will be done in a timely manner. During this conversation, the mediator can review the facts with the

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<sup>1</sup> See Report and Recommendations for Creating a Consumer Call Center in Egypt for more information on the Society for Consumer Protection. Ms. Ghada Sayed Sayed, who is employed by the Society to process and mediate complaints, would be an excellent resource for the Authority. She can be contacted at the Society's office at 338-7231.

<sup>2</sup> Over time, the Authority should also expect a growing number of consumers and merchants who will want to communicate with the Authority by internet.

consumer and let the consumer see that s/he understands the consumer's concerns. Establishing a level of trust in the mediator and the mediation process is very helpful to the eventual resolution of the dispute. Finally, the mediator can make sure that the consumer understands the mediation process and correct and misconceptions the consumer may have about what it entails.

If the consumer cannot be contacted by telephone, a form letter should be developed that lets the consumer know that the mediation process has begun, how the mediation process will work and how the consumer can contact the mediator if s/he has questions.

### Contacting the Merchant

How should the merchant be contacted? Depending on the nature of the complaint and the resources of the merchant, the mediator can contact the merchant by telephone, in writing by fax or mail, or if necessary, in person. The ideal form of contact would be to first contact the merchant by telephone to introduce the complaint and explain the mediation process. The mediator would then follow up the call by faxing the consumer's complaint to the merchant to review.

During the initial telephone call, the mediator should explain to the merchant that s/he represents the Authority and that the Authority has received a complaint from consumer X. The mediator should then explain the mediation process – that the mediator will be sending the merchant a copy of the consumer's complaint, and that after the merchant has had a chance to review it, s/he will have the opportunity to respond to the consumer's allegations and tell his/her side of the story. The merchant should also be asked to think of some ways in which the dispute can be resolved.

This initial conversation is very important since it will set the tone for future interactions with the merchant on this complaint and others that the Authority may receive in the future. The merchant must be reassured that no judgment has been made by the Authority as to whether it has done anything wrong and that its perspective on the complaint will be heard and taken seriously.

It is also important for the merchant to understand that by resolving this complaint through mediation, he is likely to keep the complainant as a customer and that this customer will share the positive experience with others. In short, resolving the dispute through mediation is good for business. If approached in this positive and even-handed way, the merchant will be more likely to cooperate and offer suggestions for resolution that will be acceptable to the consumer. Scripts or checklists can be developed to help the mediators remember the points to cover during this conversation.

If the mediator needs or wants to contact the merchant in writing, the use of form letters can make the process more efficient and standardized. The initial letter to the merchant should explain what the Authority is, the duties it performs, explain the mediation process and advise the merchant of the consumer's complaint. A copy of the complaint

should, of course, be attached for the merchant's review. Finally, the letter should let the merchant know how and when to get back in touch with the mediator.

### The Merchant's Response

In some cases, the mediator's receipt of a call from the merchant may be helpful so that the merchant and mediator can have a two-way conversation about the facts and any law that is applicable. For example, the merchant may not know that he is supposed to provide consumers with invoices upon request. The mediator can explain the law to the merchant and then, if helpful, send him a copy of the law or other relevant merchant publication. Once the merchant understands the law's requirements, he may more readily take the steps necessary to satisfy the consumer's complaint.

In other situations, it may be more effective for the merchant to respond in writing. One of the advantages of a written response is that the writing can then be sent to the consumer for review. This type of written exchange is often helpful when the consumer and merchant have differing view of the facts.

### Follow up Communications with the Consumer and Merchant

In some cases, the merchant may offer a resolution to the complaint in its initial response to the mediator that is acceptable to the consumer. If this is the case, the mediator need only confirm the details of the resolution (e.g. the consumer can go to the store on Thursday to pick up her refund of \$20) and close the complaint.

In other situations, however, the mediator may have to go back and forth between the consumer and merchant to get some agreement on how the complaint can be resolved. During this back and forth process, the mediator will ask the parties for suggestions for how the consumer's request or merchant's offer can be tweaked to make it more acceptable to the parties. For example, assume the consumer wants a merchant to replace the new computer table she purchased because it is crooked. The merchant responds that he wants the opportunity to try to fix the problem before replacing it or giving the consumer a refund. The consumer objects because it is difficult and inconvenient for her to transport the table to the merchant for repairs – if she has to take it to the merchant herself, she wants a refund right away. The merchant then offers to try to fix it in the consumer's home. The consumer responds, however, that she works long hours and will lose income if she has to stay home while he attempts the repair. The merchant then offers to pick the table up before the consumer goes to work and take it back to the store for the repair attempt, but wants the consumer to come to the store when it is done to inspect the repairs. The consumer agrees so long as the merchant will either deliver the repaired table to her home or if not properly repaired, will give her a refund on the spot. The merchant agrees if the consumer is willing to accept the delivery of the repaired table on a Saturday. The consumer agrees.

The Authority can expect that in a small number of cases, the merchant will not respond to the mediator's attempts to contact him. If the merchant fails to respond, the complaint should be closed and reported to the Authority for review and possible action.

### **Face-to-Face Mediation**

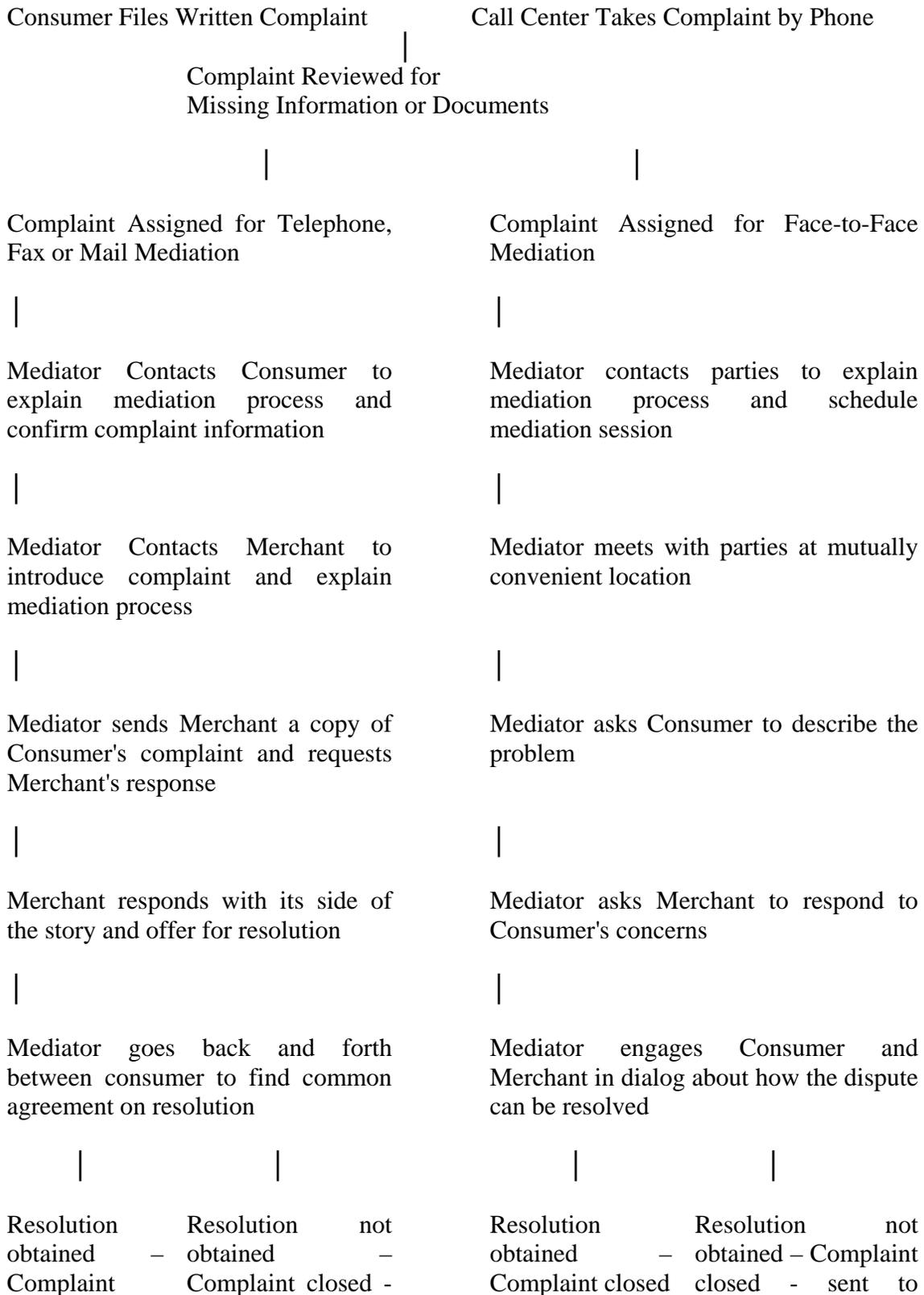
While more resource intensive, face-to-face mediation will be necessary for resolving disputes between consumers and merchants that do not have access to telephone, fax or mail. While the steps of the process are identical to the model described above (information gathering from the consumer and then the merchant and then a mediator-controlled dialog between the consumer and merchant to explore resolution options), the process takes place with both parties present, if possible.<sup>3</sup> The location of the mediation should be determined by the situation. In some cases, it may be helpful to meet at the merchant's shop where the merchant has tools or facilities that will be helpful in looking at the goods. For example, if the complaint involves a muffler replacement on a car, the repair shop may be able to put the car on a lift so that the parties can look for at the muffler and related parts. Face-to-face mediation, however, can be stressful and unpredictable. If face-to-face mediation is contemplated, staff should receive specialized training in this process.

If the merchant fails to respond to the mediator's attempts to discuss the complaint, the complaint should be closed and reported to the Authority for review and possible action.

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<sup>3</sup> While it would be possible for the mediator to travel back and forth between the parties if necessary, it is far less resource intensive for the mediation to take place with both parties present.

## Flow Chart of Two Consumer Mediation Models



closed sent to Authority  
for possible hearing  
before Dispute  
Settlement Tribunal

Authority for  
possible hearing  
before Dispute  
Settlement Tribunal

## **Staffing**

For complaints that can be mediated by telephone, fax and mail, the Authority should consider having CCRs mediate complaints in addition to their Call Center duties. CCRs can be scheduled to take calls in shifts so that part of their day is free to mediate disputes. By performing mediation duties, CCRs will fully understand the process and be better at "selling" the complaint and mediation process to consumers who may be reluctant to follow through. CCRs will also get a better understanding for the information needed to mediate disputes and therefore do a better job at providing information to and taking information from consumers. Finally, job satisfaction may be higher if employees have more variety in their jobs. Turnover rates tend to be high among call center personnel due to "burn out" experiences when listening to complaint calls all day. To avoid the possibility of corruption, complaints that are taken by one CCR should be assigned to a different CCR for mediation.

However, the Authority will also need to have mediators who do not have Call Center duties to conduct face-to-face mediation sessions when this mediation model is necessary or appropriate. The Authority may wish to utilize the services of consumer protection NGOs located near the consumer and merchant to perform this function. Alternatively, other appropriate regional Ministry employees could be trained to perform mediation sessions when necessary.

Based on information obtained from the Society for Consumer Protection which has been mediating complaints for consumers located in the Giza region of Cairo, the Authority will need two to three employees in it's Cairo Center who can both receive telephone calls to the Call Center and mediation disputes. At least one Ministry regional employee and/or consumer protection NGO volunteer will also be needed in each geographic region of the country.<sup>4</sup>

## **Documenting and Closing and Tracking the Complaint**

When the mediation process is completed, the mediator will need to document the resolution and close the file.

It is important to create a record of what happened during the mediation of each complaint for future reference. By looking at closed records, the Authority may be able

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<sup>4</sup> The Society reports that it currently receives approximately 12 complaints per month without mass-market advertising of its services. Even if the Authority receives 10 times that number of complaints, two to three full-time employees should be able to handle this workload. Once the Authority gets a feel for the volume of calls and complaints that are generated without publicity, it can calculate the staffing increases it will need once it begins to advertise its service.

to detect a pattern of deceptive practices perpetrated by a merchant. Authority supervisors may sometimes get complaints about the mediation process or the mediator's performance, so a record of what happened is essential for oversight. Among other things, the Authority will need to consider the follow issues in determining the types of information to document:

- Who will have access to complaint records? Should members of the public be able to review complaint records and if so, under what conditions? Should all or only some parts of the complaint records be accessible? The Authority will need to weigh the privacy rights of individuals and merchants against the value to the public in having access to complaint files. For example, if the press has access to some of the information in complaint records, it can alert the public to common problems in the marketplace.
- Impressions of the mediator. It is important that any part of the complaint record that is made available to the public not include the subjective impressions of the mediator. Such impressions may unduly influence the reader as to the merits of the parties' positions even though no official determination has been made about who's right or wrong in the dispute. If the complaint is unresolved at the conclusion of the mediation process and the complaint is then taken before the Dispute Settlement Tribunal, the tribunal must be unbiased when hearing the complaint. Therefore, either mediators should be instructed not to record their impressions or such notes must be separated from the rest of the file and sealed from inspection by the public or the Dispute Settlement Tribunal.

The Authority should also maintain a database for tracking specific types of information about the complaints it receives. To set up such a database the Authority will first have to consider what types of information it will want to report to the public so that statistics can be kept accordingly. The following are examples of the types of information the Authority may want to track:

- the number of complaints it receives by geographic region
- the number of complaints it receives by product type
- the number of complaints it receives by type of practice
- the number of complaints resolved and not resolved through mediation
- the monetary value of the complaints resolved (e.g. \$500,000 in refund or savings for consumers)
- the number of complaints it refers to other government agencies

If the complaint has been resolved through mediation, the complaint can then be filed for future reference. However, if the complaint is not resolved through mediation, the Authority will have to decide what, if any, additional action it wishes to take on the complaint. These possibilities include: referral of the complaint to the Authority's

Dispute Resolution Tribunal for a decision on the merits; and advising the consumer of his/her rights to pursue the complaint in court with or without the assistance of a consumer protection NGO.<sup>5</sup>

In considering these possibilities, the Authority will, of course, have to consider the process it will use and what, if any, information the parties will receive about the decision. For example, if the Authority wants to do further investigation of the merchant's practices, it may wish to keep that fact secret so that merchant cannot alter or destroy its records.

### **Evaluation of the Mediation Process**

Consumer mediation programs can be evaluated in several ways:

- The resolution of the complaint - Did consumer get everything s/he wanted? What was the monetary value of the dispute to the consumer? Was the resolution one in which both the consumer and merchant were satisfied?
- The mediation process – Regardless of the result, were the parties satisfied with the process? Did they both feel that their concerns were heard by the other party and the mediator? Did they believe that the mediator was unbiased and treated them each fairly? In order to obtain this type of information, it will be necessary for the Authority to conduct a follow up survey of the parties. Such surveys are usually conducted several months after the mediation so that the parties can have time to reflect on the process before evaluating it.

Submitted by: Rebecca Bowman  
August 24, 2006

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<sup>5</sup> The Authority, through its Executive Regulations will also want the ability to self-generate complaints that can be brought before the Dispute Settlement Tribunal.