

DUBAI CREATIVE CLUSTERS
**CONTENT COMPLIANCE
AND SANCTIONS
POLICY 2016**

**THE DUBAI CREATIVE CLUSTERS AUTHORITY
CONTENT COMPLIANCE AND SANCTIONS POLICY 2016**

**SECTION 1
INTRODUCTION**

1. The Dubai Creative Clusters Authority (the “Authority”) Content framework has been established for the protection of consumers (for example, and without limitation the viewers, listeners, readers, audience, observers, and the public) from harmful Content through the application of the standards set out in the Code. The term “harmful” is used in the broad sense of harm, be it unfair treatment, the infringement of privacy or material loss as well as individual or widespread harm and offence. The framework strikes a balance between the principles of freedom of expression and consumer protection.
2. Compliance is the means by which the Authority promotes, monitors and investigates the Content standards of Licensees within the media sectors of the Dubai Creative Clusters as defined in the Licensing Decisions.
3. The Authority wants to encourage a successful media sector in the Dubai Creative Clusters and, wherever possible, will facilitate compliance by resolving Complaints and disputes.
4. The Authority aims to prevent breaches before they occur. As such, Licensees shall take due care to ensure compliance with all relevant documentation relating to content compliance including but not limited to the Code.
5. Unless the context implies otherwise, Terms used, but not defined in this Sanctions Policy shall have the meanings ascribed in the Regulations, the Code and the Procedures.

**SECTION 2
GENERAL PROVISION**

6. Complaints registered with the Authority help identify areas of public concern and inform policy development. The Procedures are available on the Authority's website.
7. Where breaches are found, the Authority has a range of regulatory remedies to secure positive outcomes and to maintain standards. In the first instance, the Authority may seek to resolve the Complaint, for example by voluntary amendment, apology or correction. Where the Complaint cannot be resolved, the Authority may uphold the Complaint and issue a sanction. Sanctions range from instructing the Licensee to publish an apology or correction or remove the ‘offending’ Content, the imposition of a financial penalty, or the suspension or revocation of the licence.
8. All investigations will follow the procedures set out in the Procedures.
9. Compliance monitoring helps the Authority understand the effectiveness of the Code requirements but also indicates whether enforcement action may be required. The Authority may from time to time undertake risk-based sample monitoring with the aim of minimising harm to consumers and increasing its own understanding of a Licensee’s output. Monitoring may also result in the initiation of a Complaint for investigation by the complaints team.

SECTION 3

POLICY AND PROCEDURES FOR APPLYING SANCTIONS FOR BREACHES OF THE CODE

10. In the interest of transparency, the Authority publishes its policy and procedures for the application of sanctions relating to breaches of the Codes.

11. The following procedures will be used by the Authority when considering applying sanctions to a breach. They extend to Content provided by Licensees. This includes the transmission of Content through a recordable medium and includes without limitation radio, television and satellite television transmissions and published or publishable written or visual content, whether in electronic or paper based format, and includes content held on or transmitted over the internet or by email. It also extends to advertising and sponsorship content.

12. If, following investigation, the Authority concludes that the Code has been breached, it will seek the Licensee's agreement of its assessment.

13. Where both parties agree that a breach has occurred, the Authority will seek to resolve it with the Licensee.

14. Where the Licensee does not agree that a breach has occurred or where the breach has not been resolved with the Licensee and the Authority considers that a serious sanction (a financial penalty, the suspension or revocation of a licence) is warranted, the Authority may refer the case to the Tribunal for an independent Determination. The Regulations, in conjunction with the Code of Guidance, the Procedures and this Sanctions Policy will govern the process whereby an Independent Neutral Evaluation is undertaken by the Tribunal.

15. In the case of a breach which has not been resolved, the Authority may impose a financial penalty of up to one hundred thousand dirhams (AED 100,000) without referral to the Tribunal. Licensees have the right to appeal to the Tribunal on any penalty imposed by the Authority.

16. The Tribunal may make Determinations on the following issues:

- (i) whether there has been a breach of the Code where this is not agreed between the parties;
- (ii) where there has been a breach of the Code that has not been resolved, whether a sanction should be imposed;
- (iii) where a sanction is judged appropriate, a recommendation as to the nature of the sanction; and
- (iv) in the case of an appeal by a Licensee of a sanction imposed by the Authority, whether to confirm, reduce, increase the sanction or replace it with another sanction.

17. The imposition of a sanction is a significant matter.

When considering whether or not to apply a sanction, the Authority or the Tribunal (as the case may be) will have regard to the following questions:

- (i) Was the breach deliberate, or accidental?
- (ii) What actual harm was caused?

(iii) Did the Licensee gain financially from the breach?

(iv) What steps did the Licensee take to fix the problem?

(v) How long did the breach continue before it was stopped?

(vi) Did users or consumers complain?

(vii) How many times has the Licensee committed the same or similar breaches?

(viii) What will be the financial impact on the Licensee of a sanction?

18. The sanctions available to the Authority (“moderate sanctions”), without referral to the Tribunal include:

(i) A direction to the Licensee to amend or remove the material from current or future dissemination;

(ii) An instruction to the Licensee to publish an apology or correction; and

19. The sanctions available to the Authority, on recommendation from the Tribunal include:

(i) A direction to the Licensee to amend or remove the material from current or future dissemination;

(ii) An instruction to the Licensee to publish an apology or correction;

(iii) The imposition of a financial penalty;

(iv) The suspension of a licence; or

(v) The revocation of a licence.

20. Financial penalties, the suspension or revocation of a licence are “serious sanctions”.

21. More than one sanction may be applied for a single breach.

22. A financial penalty may be appropriate in the following circumstances:

(i) Where the breach was committed deliberately or recklessly;

(ii) The Licensee was aware or should have been aware of the breach;

(iii) Repeated breach of the Code;

(iv) A history of poor compliance;

(v) Systemic failure to comply with a condition of the licence, especially in relation to compliance systems;

(vi) Where the breach gave rise to financial gain;

(vii) Where the breach had a negative impact on consumers.

23. If considered appropriate, a financial penalty will be set at a level which the Authority or the Tribunal considers to be proportionate to the breach.

The following circumstances of the case will be considered:

- (i) Whether there has been a repeated breach or failure;
- (ii) Whether the breach continued after the Licensee became aware of it;
- (iii) Scale of the breach;
- (iv) Extent of financial or other benefit arising from the breach;
- (v) Involvement of senior management;
- (vi) Extent of any attempt to conceal the failure or breach;
- (vii) Whether there was a harmful impact on consumers;
- (viii) Whether internal controls or procedures existed intended to prevent the breach;
- (ix) Duration of the breach;
- (x) Extent of steps taken to remedy the breach;
- (xi) Co-operation with any investigation undertaken by the Authority.

24. The Tribunal can impose financial sanction in tranches of five thousand dirhams (AED 5,000) to a maximum of one million dirhams (AED1,000,000).

25. The Licensee is required to pay any financial penalty imposed within twenty (20) working days of being notified of the Tribunal's Determination or Authority's Preliminary Decision (as the case may be).

26. The Tribunal may determine that it is necessary to suspend a licence, pending the implementation of measures that would make the Licensee compliant. In such an event, the Licensee will be given fifteen (15) working days from receipt of the notification to suspend activity.

27. In the case of the most serious breaches and in the absence of satisfactory remedial measures, the Tribunal may determine that the licence should be revoked. The licence will be revoked within fifteen (15) working days of receipt of the notification.