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RXQ.4 Overview

These Model Business Practices present procedures and processes for resolving disputes between Suppliers and Distribution Companies that may arise in the context of serving retail access customers.

These Model Business Practices do not address disputes between the Customer and the Distribution Company since various rules and guidelines already exist to govern these types of disputes. In addition, these Model Business Practices do not address disputes between Customers and Suppliers.

RXQ.4.1 Principles

- RXQ.4.1.1** The Supplier and Distribution Company shall use good faith and commercially reasonable efforts to informally resolve all disputes.
- RXQ.4.1.2** Parties may also pursue other legal mechanisms to address disputes, but are encouraged to use the following practices first.
- RXQ.4.1.3** Neither party should be required to give up its right to seek formal resolution of a dispute except as part of a signed, mutual agreement.

Model Business Practices

RXQ.4.3.1 Dispute Resolution Process

- RXQ.4.3.1.1** There should be a single consistent dispute resolution process for all disputes between Suppliers and Distribution Companies.
- RXQ.4.3.1.2** The dispute resolution process should be identified in the Distribution Company - Supplier Service Agreement.
- RXQ.4.3.1.3** The details of dispute resolution practices can be spelled out in a Governing Document.
- RXQ.4.3.1.4** Such Governing Documents should refer to or cite applicable law, remedies, and responsibilities for the cost of frivolous allegations.
- RXQ.4.3.1.5** Each Supplier and Distribution Company should provide the name, title, telephone number, e-mail address, facsimile number and mailing address of up to two authorized representatives who are designated to receive and respond to formal disputes under this practice. Both parties should promptly notify the other party of any changes in this information.
- RXQ.4.3.1.6** Both parties should manage internal distribution of communications that are received.

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RXQ.4.3.2 Initiating the Dispute Resolution Process

RXQ.4.3.2.1 Any Supplier or Distribution Company may initiate the formal dispute resolution process by presenting a written notice of the dispute to the other party(ies) involved in the dispute.

RXQ.4.3.2.2 This notice should be sent using a method that verifies that delivery took place, such as requiring a signature or requesting a return receipt.

RXQ.4.3.2.3 The notice should include:

- a detailed description of the act, omission, or matter generating the dispute, with all supporting documentation, information and data available to the party initiating the dispute;
- specific reference to the Governing Documents that are alleged to have been violated, and the basis for the allegation;
- other factors or matters relevant to the dispute; and
- a proposed resolution.

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RXQ.4.3.3 Responding to Dispute

RXQ.4.3.3.1 As soon as possible, but not more than twenty (20) calendar days following receipt of the notice of dispute, the receiving party should provide a written response to the party(ies) that initiated the dispute with:

- An alternative proposal for resolution if the party's(ies)' proposed resolution is deemed unacceptable; or,
- The results of any informal resolution that may have been reached with the other party(ies) prior to that date.

RXQ.4.3.3.2 If the initial exchange of written material (and perhaps verbal discussions) does not resolve the dispute, the party(ies) may request a meeting(s) to discuss the matter further.

RXQ.4.3.3.3 The responding party(ies) should agree to such a meeting(s) to be held within fifteen (15) calendar days following the request.

RXQ.4.3.3.4 At such meeting a timetable for resolving the dispute should be mutually agreed upon beyond which the parties may pursue other remedies subject to the conditions in 4.5.1.1.

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RXQ.4.3.4 Alternative Dispute Resolution

- RXQ.4.3.4.1** Whenever possible the parties should agree to use an alternative dispute resolution process prior to or in lieu of petitioning the appropriate court or regulatory authority to intervene. This process can reflect mutually agreed-upon time frames that may differ from those defined in the dispute resolution process.
- RXQ.4.3.4.2** The parties must mutually agree on the selection of the neutral third party to administer the alternative dispute resolution process.
- RXQ.4.3.4.3** The neutral third party administering the alternative dispute resolution process shall be authorized only to interpret and apply the provisions of the applicable Governing Documents and shall have no power to modify or change any of the Governing Documents in any manner.

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RXQ.4.3.5 Escalation to Court/Applicable Regulatory Authority

RXQ.4.3.5.1 If a resolution is not obtained within forty-five (45) calendar days after the receipt of the initial dispute letter or the mutually agreed-upon time frame, either party may file the dispute with the appropriate court or Applicable Regulatory Authority for formal resolution.

RXQ.4.3.5.2 If a party believes that special circumstances (such as an emergency involving public safety, system reliability or significant financial risk) exist that would require more expeditious resolution of a dispute than might be expected under the process described here, it may submit its dispute directly to the Applicable Regulatory Authority, with a copy provided to the other party(ies) involved in the dispute.

RXQ.4.3.5.3 Absent agreement to the contrary, nothing shall restrict the rights of any party to file a complaint with the Applicable Regulatory Authority.

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TAB 5 Related Model Business Practices

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