



CODE OF CONDUCT

as amended on December 19, 2003 and revised by resolutions adopted by the Code of Conduct Commission on January 22, 2004; June 4, 2004; January 19, 2005; and February 28, 2005

Table of Contents:

| | |
|--|----------------|
| Preamble | P. 5 |
| General | P. 5 |
| | |
| Part 1: Statutory provisions and supreme court jurisdiction | P. 6-14 |
| I. Principles of conduct – Impermissible content | P. 6 |
| II. Principles of conduct – Impairment of, or threat to, the well-being of children/ young persons | P. 6 |
| III. Provider identification | P. 7 |
| IV. Price information for 0190 and 0900 services | P. 7 |
| 1. Price information in advertisements - § 43b (1) of the German Telecommunications Act [TKG] (old version) | |
| 2. Price information announced during service - § 43b (2) of the German Telecommunications Act [TKG] (old version) | |
| V. Maximum prices, automatic disconnection – exceptions in the case of separate authorization - § 43b (3) and (4) of the German Telecommunications Act [TKG] (old version) | P. 7-8 |
| VI. Special services | P. 8-14 |
| 1. Games of chance/ lotteries | P. 8 |
| 2. Consulting services | P. 8 |
| 3. Online services | P. 8-14 |
| a. Dialer definition and minimum requirements | P. 8-14 |
| b. Registration obligation and registrant/ written assurance | P. 14 |
| c. Dialer route 09009 | P. 14 |
| VII. Advertisements for value-added telephone services | P. 14-15 |
| VIII. Directory inquiry numbers – Price information in advertisements | P. 15 |

| | | |
|-----|---|-------|
| IX. | Compliance with data privacy requirements | P. 15 |
|-----|---|-------|

Part 2 – Additional provisions – Detailed summary of statutory provisions **P. 15-18**

| | | |
|-------|---|----------|
| I. | Content relating to 0190 and 0900 - Assignment to different routes | P. 15-16 |
| II. | Form of the provider identification pursuant to § 6 of the German Teleservices Act [TDG], §§ 312b ff. of the German Civil Code [BGB] in connection with the German Civil Code – Information Ordinance [BGB-InfoV] | P. 16 |
| III. | Advertising | P. 16-17 |
| IV. | Form of price information in advertisements | P. 17 |
| V. | Display of vanity numbers on routes 0900x and 0190x | P. 17 |
| VI. | Services addressing minors as a target group | P. 17-18 |
| VII. | Chat services | P. 18 |
| VIII. | Child access controls | P. 18 |

Part 3: Additional provisions – Recommendations **P. 19-23**

| | | |
|-----|--|----------|
| I. | Pricing information for other value-added telephone services | P. 19 |
| | 1. Shared cost services 0180x | P. 19 |
| | 2. Freephone 0800, 00800 services | P. 19 |
| | 3. MABEZ applications (mass calls to specific destinations) | P. 19 |
| | 4. Directory inquiry services | P. 19 |
| | 5. Collect calls | P. 19 |
| II. | Premium text message services | P. 19-23 |
| | 1. Definition | P. 19-20 |
| | 2. Types | P. 20 |
| | 3. Service content | P. 20 |
| | 4. Cost control | P. 20 |

| | |
|--|----------|
| 5. Notice of termination for subscription contracts | P. 21 |
| 6. Advertisements for premium text message services | P. 21-22 |
| a. General provisions (for all types) | P. 21-22 |
| b. Special provisions for advertisements in text message subscription services | P. 22 |
| 7. Additional obligation of providers to supply information for text message subscription services – Content of the handshake text | P. 22-23 |
| III. Other special services | P. 23 |
| 1. Gambling services | |
| 2. Charity lines | |
| 3. Phone callback scams | |
| IV. No offer or scam offer | P. 23 |

Part 4: Consequences of non-compliance with the Code of Conduct

P. 23

Part 5: Final provisions

P. 24

Code of Conduct for Value-Added Telephone Services

Preamble

The Association for the Voluntary Self-Monitoring of Value-Added Telephone Services ("*Freiwillige Selbstkontrolle Telefonmehrwertdienste e.V.*") wishes to make its contribution toward strengthening the freedoms of service providers, promoting fair competition and protecting the valid interests of users and the general public, in particular against racial discrimination and the glorification of violence, and to enhance the protection of youth on the basis of self-responsibility. Any form of censure will be rejected.

The Association for the Voluntary Self-Monitoring of Value-Added Telephone Services respects the freedom of expression inherent in individual communication within the services offered, and the basic rights of users to freedom of information. At the same time, the Association for the Voluntary Self-Monitoring of Value-Added Telephone Services respects the basic right to freedom of the media (press) and the basic right to economic freedom (provision of commercial services).

The purpose of voluntary self-monitoring is to induce, in particular, operators of telecommunications networks and providers of telecommunications services (service and content providers) to observe the principles of the Code of Conduct when they join the Association for the Voluntary Self-Monitoring of Value-Added Telephone Services. The Association for the Voluntary Self-Monitoring of Value-Added Telephone Services may also deal with content that is offered, or provided for use, by non-members. In taking action against violations determined by the Association, a distinction is made between members and non-members (see Part 4).

The Association for the Voluntary Self-Monitoring of Value-Added Telephone Services, by providing information regarding its own work, applying technical protection mechanisms as preventive measures against any misuse, and establishing an information and contact office for its members, strives to communicate the idea of responsible use of these services by users and service providers. The Association for the Voluntary Self-Monitoring of Value-Added Telephone Services will cooperate with other (voluntary self-) monitoring bodies - also at international level - in order to cover the global range of services, as well as the international nature of the networks and service providers.

This Code of Conduct is intended to establish a generally accepted market standard.

General

The Code of Conduct is divided into the following three parts:

1. Description of statutory provisions (Part 1);
2. Detailed summary of statutory provisions and/or recognized antitrust regulations (Part 2);
3. Recommendations (Part 3).

The tasks of other existing self-monitoring bodies as well as the self-monitoring measures of individual members of the Association regarding the services shall remain unaffected.

Part 1 – Statutory provisions and supreme court jurisdiction

I. Principles of conduct - Impermissible content

The members of the Association for the Voluntary Self-Monitoring of Value-Added Telephone Services shall take all actions, within the scope of legally determined responsibility and to the extent actually and legally possible and reasonable, to ensure that content which is unlawful or impermissible, in particular pursuant to

- § 130 of the German Penal Code [StGB] (Incitement to hatred and violence against segments of the population (or minority groups) or publishing insults against them in such a manner as to endanger the peace or to expose them to scorn or contempt);
- § 130a StGB (Incitement to commit crimes);
- § 131 (1) StGB (Depiction of acts of violence);
- § 86 StGB (Dissemination of propaganda material of unconstitutional organizations);
- § 87 StGB (Treasonable conduct as an agent for sabotage purposes);
- §§ 184, 184c StGB (Dissemination of pornographic publications);
- §§ 29 ff. of the German Narcotics Act;
- §§ 284, 286 StGB (Unpermitted organization of games of chance, lotteries and other gambling events)

is neither offered nor transmitted for use.

II. Principles of conduct - Impairment of, or threat to, the well-being of children/ young persons

1. The members of the Association for the Voluntary Self-Monitoring of Value-Added Telephone Services shall take all actions, within the scope of legally determined responsibility and to the extent actually and legally possible and reasonable, to ensure that content or services which are unlawful or impermissible, in particular pursuant to

- a. § 184 (1) StGB (Dissemination of pornographic publications)
- b. § 27 of the German Youth Protection Act [Jugendschutzgesetz - JuSchG] (especially subpara. (1) No. 3 and No. 4; subpara. (2), No. 1; and subpara. (3), No.2 thereof);
- c. § 4 of the German Inter-State Agreement on Youth Protection in the Media [Jugendmedienschutz-Staatsvertrag – JMStV]

are neither offered to children/young persons nor transmitted for their use.

2. The members of the Association for the Voluntary Self-Monitoring of Value-Added Telephone Services shall take preventive measures, within the scope of legally

determined responsibility and to the extent actually and legally possible and reasonable, to ensure that content which may impair the physical, mental, or spiritual well-being of children or young persons is neither provided nor transmitted for use, unless

a. care is taken that children and youths do not become aware of the services under normal circumstances, or

b. users are offered technical arrangements which allow them to block the services according to their specific, individual needs.

III. Provider identification

Providers of telecommunications services shall ensure that the statutory regulations for identification of providers (compare § 6 of the TDG; §§ 312b ff. in conjunction with the special information ordinance BGB-InfoV). Such identification shall include in particular the name and address under which the business has been established and, in the case of legal entities, the name and address of the authorized agent.

IV. Price information for 0190 and 0900 services

The legal provisions laid down in § 43b of the German Telecommunications Act [TKG] and the price indication ordinance apply to price information in advertising and services for 0190 and 0900 value-added service numbers.

1. Price information in advertisements - § 43b (1) of the German Telecommunications Act [TKG] (old version)

Parties who regularly offer 0190 or 0900 value-added services to end consumers for industrial, business or other purposes, or who advertise such services to end consumers, must list the prices per minute or per call to be paid for the use of these 0190 or 0900 value-added service numbers from the German fixed network, including value-added tax and any other price components, together with the call number. If no uniform prices are charged for the use of a 0190 or 0900 value-added service number, the 'from-to' range of prices must be listed. The price information must indicate that the prices apply to the German fixed network. In the case of fax services, the number of pages to be transmitted must also be indicated. In the case of data services, the volume of the data to be transmitted must also be indicated.

2. Price information announced during service - § 43b (2) of the German Telecommunications Act [TKG] (old version)

The party setting the price to be paid by the end consumer for the use of 0190 or 0900 value-added service numbers – excluding fax service numbers – must notify the end consumer of the price per minute or per use to be paid for the use of this number, including value-added tax and any other price components pursuant to sentence 3, before the obligation to pay the charges begins. If this price changes during the use of the value-added service, a notification of the price to be paid following the change must again be made before the new rate segment begins, pursuant to sentence 3. The notification must be made no later than 3 seconds before the obligation to pay the charges begins and include an indication of the time

at which this obligation begins. The obligation pursuant to sentence 1 also applies to calls forwarded from a call number to a 0190 or 0900 value-added service number. The party shall have a claim to the contractually agreed compensation only if the customer was notified of the higher price before beginning to use the service, pursuant to this paragraph.

V. Maximum prices, automatic disconnection – exceptions in the case of separate authorization - § 43b (3) and (4) of the German Telecommunications Act [TKG] (old version)

The time-dependent price for services billed via 0190 or 0900 value-added service numbers must not exceed EUR 2 per minute. The charges must be billed in unit-intervals of no more than sixty seconds. The time-independent price for services billed via 0190 or 0900 value-added service numbers (block rates) may not exceed EUR 30 per call. Prices for 0190 or 0900 value-added service numbers that exceed the price limits specified in sentences 1 and 3 may be charged only if the customer authorizes the service provider via a suitable procedure before using the service; the Regulatory Authority shall regulate the details.

The service provider who has a 0190 or 0900 value-added service number installed shall automatically disconnect all calls to 0190 or 0900 value-added service numbers that are billed on a time basis after one hour. The only exception to this obligation is if the customer authorizes the service provider via a suitable procedure before using the service; the Regulatory Authority shall regulate the details.

VI. Special services

1. Games of chance/ lotteries (§§ 284, 286 StGB)

Games of chance and lotteries are permissible only upon approval by the responsible Land authorities.

2. Consulting services

Consulting services shall be permissible only if an appropriate qualification/ source is given, or the required permission exists (e.g. a permission pursuant to the German Legal Advice Act). In other respects, consulting services (e.g. employee placement, and housing brokerage as well as debt regulation or debt management agreements) shall be permissible only to the extent that these services may be operated without a permit prescribed by law. A consulting service for which a permit is required or a consulting service that may not be performed until after professional competence has been examined by a public authority may only be provided as a value-added telephone service if a public authority has determined that it is permissible to provide it as a service that carries a charge.

3. Online services – Administrative Order 54/2003 of the Regulatory Authority for Telecommunications and Posts (minimum requirements for dialer programs, § 43b (5) TKG) taking Administrative Order 4/2005 into account

a. Dialer definition and minimum requirements

Dialer programs, as defined in § 43b (5) of the German Telecommunications Act, are programs or sub-programs that set up or set up and monitor – either directly or indirectly – a telecommunications call to a value-added service. Dialer programs, as defined above, also include programs or sub-programs that influence or change –

either directly or indirectly – the configuration of the user's terminal for setting up a telecommunications call.

aa. General requirements for explicit consent

Certain actions performed to reach a destination always require the explicit consent of the user. The general requirements and/or features listed below always apply to obtaining this consent in the areas concerned.

(1) To ensure that the user consciously performs this action, he must be required to press more than one key or perform more than one mouse click, since one action only could be performed by mistake or unintentionally, in order to consent to the downloading, installation or activation of a dialer program (e.g., via a prompt to type the word "OK").

Explicit consent therefore requires the user to enter a character string on the keyboard by clicking the mouse on a keyboard displayed on the screen or by using other devices to enter characters on the terminal. It is not sufficient for the user to express his consent by clicking one or more buttons, even if their default settings do not result in consent.

(2) Consent to purchase, install or activate a dialer program must be obtained in German.

(3) The complete conditions on the use of a dialer program must be communicated to the user free of charge and made available for possession by the user. For example, it must be possible for the complete conditions to be read and printed in text form in the case of electronic transmissions.

(4) Information and consent windows in graphical user interfaces

"Window" in this context is a self-contained, separate part of the graphical user interface on a terminal where information or explanations are provided in text form.

(a) If the purchase, installation or activation takes place on a terminal with a graphical user interface, e.g., by download from a Web server, the consent must be obtained in text form via a consent window. The consent window displays the explicit consent in text format, which is used to purchase, install or activate a dialer program that sets up a connection for use of a value-added service.

(aa) The declaration of consent must be directly visible in the consent window without changing the viewing area.

(bb) The consent window must have a Cancel button ("Abbrechen"). The Cancel button must be clearly identifiable as such. Clicking the Cancel button must close the active window and interrupt all associated applications and established calls. New windows may not be opened nor calls set up.

(b) Any information, such as on rates and/or charges, that is provided on terminal equipment with a graphical user interface must be displayed in text form via an information window.

(c) Information and/or the declaration of consent in the information or consent window must be displayed

- in such a way that it is not hidden in other text or in the standard general terms and conditions.
- in a font size that is the equivalent to the largest character size in the consent window and is at least 10 points;
- in a clearly legible font and color that is clearly set off from the background.

bb. Form and method for the provision of dialer programs

(1) Explicit consent

The purchase of dialer programs shall require the explicit consent of the user. The explicit consent must not be queried using the character string "JA" (YES).

(2) Dialer programs must be clearly identifiable as such by the user.

(3) The version number of the dialer program provided to the user must be displayed in a prominent location and in an easily identifiable manner. The currently displayed version number must be identical to the version number used in the registration application.

(4) The electronic 'fingerprint' (hash value) is used to unambiguously verify the dialer program and must be communicated to the user free of charge and without being requested by the user when he/she purchases the dialer program provided. The electronic fingerprint must be generated by the provider using the RIPEMD-160 algorithm. The user must also be provided, free of charge, with information on how to check this fingerprint.

(5) The value-added service number to which the chargeable call is set up for the purpose of using the value-added service must be clearly identified in a prominent location when it is provided; this value-added service number may not be preceded by a network operator code.

(6) The service provider must make instructions on how to use the dialer program available to the user free of charge.

(7) The requirements and/or features specified in Part 1, VI., 3. a. aa. (4) must be used to display information on graphical user interfaces.

(8) Information on rates and charges

The latest information on the rates and charges that apply to use of a specific value-added service must be communicated to users by the value-added service provider in a suitable manner and free of charge prior to purchase of the dialer program.

(a) Information on rates and charges must be communicated in euros per billing unit (unit-interval, data volume, event) as a lump sum for all channels used.

(b) On graphical user interfaces, the information on rates and charges must be permanently displayed in a suitable manner in euros per billing unit (unit-interval, data volume, event).

(c) The requirements and/or features specified in Part 1, VI., 3. a. aa. (4) must be used to display information on graphical user interfaces.

(9) Form of the window

The size, form, color and position of the window that contains the query for explicit consent to purchase must be clearly set off from the window that contains the query for explicit consent to call setup.

(10) Prohibition of misleading information about costs

The offer must not imply that it is free of charge. In particular, wording such as "activation does not incur any costs," "free access tool" and "your download is free of charge" must not be used.

cc. Features, form and method of the installation and/or activation of the dialer program

(1) Explicit consent

The installation and/or activation of a dialer program shall require the explicit consent of the user. The explicit consent must not be queried using the character string "JA" (YES).

(2) The version number of the dialer program, as well as the name and address for service of documents in connection with court proceedings of the provider of the

value-added service that is accessible under the destination number – provided that this service provider is not identical to the registrant – must be incorporated into the program itself so that it can be unambiguously verified with the help of a digital 'fingerprint.'

(3) Dialer programs must not impair or permanently change the settings and operation of other programs on the terminal used. In particular, existing security settings of the terminal and participating programs must not be impaired or modified.

(a) The user must be able to directly and permanently interrupt the installation and/or activation of the dialer program at any time.

(b) Dialer programs must not deactivate keys that are customarily used to cancel and interrupt calls. They must not change the performance expected by the user.

(c) In particular, dialer programs must not automatically re-establish calls that were intentionally interrupted by the user.

(4) Dialer programs must not contain any type of 'spyware' functions. Dialer programs may not record any personal data of the user, nor may they output, utilize or transmit such data on the user's terminal without the user's explicit consent, except for reasons specified in the German Data Protection Act.

(5) Dialer programs may not install or activate any harmful software (such as viruses, worms, trojans, etc.), nor may they cause such software to be installed or activated.

(6) Information on rates and charges

The latest information on the rates and charges that apply to use of a specific value-added service shall be communicated to users by the value-added service provider in a suitable manner and free of charge prior to activation of the dialer program.

(a) Information on rates and charges must be communicated free of charge in euros per billing unit (unit-interval, data volume, event) as a lump sum for all channels used.

(b) On graphical user interfaces, the information on rates and charges must be permanently displayed in a suitable manner in euros per billing unit (unit-interval, data volume, event).

(c) The requirements and/or features specified in Part 1, VI., 3. a. aa. (4) must be used to display information on graphical user interfaces.

(7) Deactivation and de-installation

Dialer programs must be installed in non-volatile memory on the terminal device. The user must be able to intentionally remove them permanently, automatically, completely and free of charge (including, for example, Registry entries) without the user having any specialized knowledge of software. They must not be removed from the device without the user's consent. The query for the user's consent to remove the program must not be actively displayed to the user, e.g. in a popup window. If programs are de-installed and subsequently re-installed, steps must be taken to avoid deactivating or circumventing the password protection mechanism activated by the user.

(8) Dialer programs must be designed so that the corresponding value-added service number is not permanently entered in the default settings of the data communications program on the user's terminal.

(9) The value-added service number to which the chargeable call to the value-added service is to be set up must be permanently incorporated into the dialer program itself (monolithic dialer program).

(10) It is not permissible for a value-added service number to be preceded by a network operator prefix.

(11) In addition to the embedded destination number, any other addressing attributes for dialing a unique destination of a value-added service must be permanently incorporated into the dialer program itself (monolithic dialer program).

(12) Form of the window

The size, form, color and position of the window that contains the query for explicit consent to installation or activation must be clearly set off from the window that contains the query for explicit consent to call setup.

(13) Prohibition of misleading information about costs

The offer must not imply that it is free of charge. In particular, wording such as "activation does not incur any costs," "free access tool" and "your download is free of charge" must not be used.

dd. Features, form and method at, during and after call setup

(1) Explicit consent prior to call setup

The actual setup of the call using the dialer program requires the prior, explicit consent of the user, which must be queried in the consent window below in the manner and way shown below, which differs from the regulations detailed in Part 1, VI., 3. a. aa. (4) (a) (bb) and Part 1, VI., 3. a. aa. (4) (c).

(a) To establish the call, the user must key in the characters J and A in the input field next to the words "Tippen Sie Ja" (Key in Yes).

(b) When the user presses the button labeled "Nein" (No) or the Escape key, the active window must close without further queries and all applications connected with it must be canceled.

(c) The window must be displayed as shown below:



Courtesy translation of the above illustration:

This service is subject to charges!

A fee of

EUR [price] per [billing unit]

will be charged to your telephone bill.

I agree to the call being set up using this dialer program.

No

Key in Yes

Number called: 09009-1234567

1234567890ABCDEFABCD1234567890ABCDEFABCE (hash value)

Dialer version: 1.4.3.4.3485

Further information

The window must be displayed in a central position on screen and look like the one shown in the illustration. The window must occupy at least one third and at most two thirds of the screen, and have a height-to-width ratio of 5 to 9. The window must always be directly visible and always on top, without the user having to change the viewing area. The background color of the window is white, the text color black. The first five lines of the text must be center-justified, the other text elements as shown in the illustration. The price and billing interval (per minute and per call) must be inserted in place of the text in square brackets. The full phone number, hash value and version number must be inserted in place of the placeholders in the above illustration. It must be possible to mark and copy the hash value.

(d) A window must open when the user clicks on the button labeled "Weitere Informationen" (Further information). At minimum, it must show the user the address for service of documents in connection with court proceedings of the registrant and

content provider, information on how to verify the hash value, how to de-install the dialer and instructions on how to use the dialer program.

(2) It must be possible for chargeable calls set up by dialer programs to be immediately and permanently interrupted by the user at any time. The established call may not perform any type of hold function.

(3) The chargeable call must be terminated when the user closes or leaves the chargeable service.

(4) When using services that are either free of charge or offered at a lower price, calls set up by dialer programs must be terminated, or the transfer to such services blocked (e.g., 'exit blocker').

(5) In the case of value-added services that provide a graphical user interface, a button labeled "Abbrechen" (Cancel) must be permanently displayed in a clearly visible location in each window of this value-added service. Clicking the Cancel button must close the relevant active windows and interrupt all associated applications and established calls. New windows may not be opened nor calls set up.

(6) Keys that are customarily used for canceling and interrupting calls may not be deactivated. The user-expected performance of these keys may not be changed.

(7) Information on rates and charges

The latest information on the rates and charges that apply to use of a specific value-added service must be communicated to users by the value-added service provider in a suitable manner and free of charge once a chargeable call has been established.

(a) Information on rates and charges must be communicated in euros per billing unit (unit-interval, data volume, event) as a lump sum for all channels used.

(b) On graphical user interfaces, the information on rates and charges must be permanently displayed in a suitable manner in euros per billing unit (unit-interval, data volume, event).

(c) The requirements and/or features specified in Part 1, VI., 3., a. aa. (4) must be used to display information on graphical user interfaces.

b. Registration obligation and registrant/ written assurance

Pursuant to § 43b (5) of the German Telecommunications Act, dialers may be used only if they have been registered with the Regulatory Authority prior to use, meet the minimum requirements specified by the authority, and written assurance has been submitted to the authority stating that steps have been taken to prevent illegal use. Programs that have been modified must be re-registered. Details are stipulated in Sections A. (I.-III.) and C. of Administrative Order 54/2003, dated December 3, 2003, of the German Regulatory Authority for Telecommunications and Posts.

c. Dialer route 09009

Pursuant to § 43b (6) of the German Telecommunications Act, chargeable dialers that charge fees for content in addition to the telecommunications service may be offered only via call numbers from a route provided for this purpose by the German Regulatory Authority for Telecommunications and Posts. Pursuant to Administrative Order 49/2003 of the German Regulatory Authority for Telecommunications and Posts, only call number route 09009 will be available as of December 14, 2003.

VII. Advertisements for value-added telephone services

Anyone who harasses a market participant (any person) is acting unfairly and thus engaging in unfair competition; see § 7 (1) of the German Unfair Competition Act [UWG].

Mailbox advertising

is an anti-competitive practice if it takes place against the recognizable will of the recipient; compare § 7 (2), 1 UWG. On this premise, however, all forms of advertising are unfair practice.

Telephone advertising

is an anti-competitive practice towards a **consumer**, unless it takes place with the prior express (oral or written) consent of the consumer (opt-in solution). Telephone advertising toward other market participants is an anti-competitive practice, unless it can be assumed that the consumer has given his/her consent.

Advertising through use of automatic call machines, fax devices or electronic mail (e.g. e-mail, text or multimedia message)

without the prior consent of the addressee is an unacceptable harassment and therefore **always** impermissible; see § 7 (2), 3 UWG. One exception to this rule are advertisements delivered via electronic mail that do not represent an unacceptable harassment and are therefore admissible, provided they comply with the requirements of § 7 (3) UWG (opt-out solution). According to this option, a provider who has obtained a customer's e-mail address or cell-phone number through an order placed with him, and the customer does not object to use of these, may send the customer mails advertising similar goods or services. However, this is subject to the provider informing the customer, each time he collects the customer's contact data and in every advertisement mail thereafter, that the recipient can refuse to receive advertisements of this nature without incurring any costs other than the cost of transmission according to the basic rates.

Anonymous messages

Messages that disguise or conceal the sender's identity or which do not state a complete or correct address are always anti-competitive actions. Furthermore, the recipient shall be given the opportunity to discontinue receipt of such messages without incurring any costs other than the cost of transmission according to the basic rates.

VIII. Directory inquiry numbers – Price information in advertisements (print and online advertising)

In the case of directory inquiry services, the price that is to be paid per minute and/or per call from the German fixed network, including value-added tax and any other price components, must be stated in the advertisement directly in connection with the phone number with reference to the fact that it is the German fixed network price. This does not apply if the advertisement is made verbally, e.g. radio advertisements. If one company dominates this market, the price of this company can also be stated.

IX. Compliance with data privacy requirements

For reasons of data privacy, the provider shall ensure that no personal data is made public without the consent of the person or persons concerned. In all other respects, statutory data privacy provisions shall apply.

Part 2: Additional provisions – Detailed summary of statutory provisions

I. Content relating to 0190 and 0900 – Assignment to different routes

The content of the services must be designed in accordance with the following call number groups.

1. 09001

Information

Premium rate services with the primary purpose of providing information. The service must not be focused on entertaining the caller; it shall not have any sexual or erotic content or reference and must not endanger children or young persons morally or impair their well-being.

2. 09003

Entertainment

Premium rate services with the primary purpose of entertaining users. The service must not have any sexual or erotic content or reference and must not endanger children or young persons morally or impair their well-being.

3. 09005

Other services

Premium rate services with any content or reference

4. 09009 (see Part 1, VI.) 3. c.)

Dialer services

5. 0190

Premium rate services with any content or reference, with the exception of dialer programs.

II. Form of the provider identification pursuant to § 6 of the German Teleservices Act [TDG], §§ 312b ff. of the German Civil Code [BGB] in connection with the German Civil Code – Information Ordinance [BGB-InfoV]

Providers of telecommunications services that merely provide telecommunications networks for the services shall ensure, as far as reasonably possible, that content providers comply with such regulations.

The required information must be easily recognizable, immediately accessible and constantly available. It may also be offered via a separate service. Neither premium rate numbers nor international call numbers may be used for this service.

III. Advertising

For the purposes of this Code of Conduct, the words 'advertising' or 'advertisement' shall cover all forms of active publicity.

The providers shall ensure at all times that advertising referring to their services is in compliance with this Code.

Advertisements must not have any disparaging or degrading effects. Advertisements must not contain any pictures or wording that show or describe violence, sadism or cruelties, or which are otherwise of an offensive nature.

Advertisements must not be designed to mislead callers/ users about the content or the costs of services. In particular, information services must not be advertised in a way that gives callers/users an impression which is not in keeping with the content of the service.

IV. Form of price information in advertisements

The price information must be provided in a clearly legible way in **print media** in direct connection with the call number and must have a minimum font size of 7 points. In the case of poster advertisements or anything of a similar nature, the minimum font size shall be correspondingly larger.

In **television advertising**, the price information must be provided in a clearly legible way and displayed as long as the call number is shown. In Germany, the resolution of TV pictures is 768x576 pixels. The price information must be at least 50 pixels away from the sides and at least 40 pixels away from the upper and lower edges. The minimum font size is 20 points. Gothic (sanserif) font with a shadow that is clearly set off from the font color must be used for font sizes of up to 30 points. The price information must be in the same horizontal line in direct connection with the call number advertised.

In **teletext (broadcast videotex)**, the price information must be provided in direct connection with the number (on the same teletext page) and appear in a color that sets it off clearly from the background.

In **radio advertising**, the price information must be clearly audible. In the case of acoustical advertising, the price information must be immediately before or after the number advertised.

In the **Internet** and other online services, the price information must be clearly legible in direct connection with the advertised number and have a minimum font size of 7 points.

In **text messages (SMS)**, the price information must be displayed in direct connection with the call number in continuous text without line breaks.

When using Service numbers as an **alternative to postcards**, it is also permissible to state the entire charge per call if it has been ensured that calls will be automatically disconnected so as not to exceed the rate indicated.

In the case of **fax and file services**, the mandatory information shall be transmitted on the first quarter of the first page faxed or in the log-on line in a section that is clearly set off from the actual content. Furthermore, the number of pages or size of the file must be indicated (minimum size: 12 points).

V. Display of vanity numbers on routes 0900x and 0190x

Content-related vanity numbers used for the purpose of advertising premium rate services may only be provided for the number following the route code (as in Part 2, I.) (example: 09003 – GEWINN (*German word for WIN*) for 09003 - 439466)

VI. Services addressing minors as a target group

Providers must ensure that the nature of chargeable services addressing minors as a target group is not such that it would take advantage of the business inexperience, credulity, anxiety or predicament of minors, in particular of children; compare § 4 (2) UWG.

It must be ensured that the content of such services does not endanger children or young persons in any way. The services must not animate minors to place repeat calls unless the number can be called free of charge. In addition, there must be information at the beginning of each service stating that the permission of a parent or guardian is required.

In advertisements for value-added telephone services addressing minors as a target group, price information in **print advertisements** must be provided in a clearly legible manner in a **minimum font size of 10 points** and in direct connection with the advertised number. The provisions of Part 2, III, IV. of the Code of Conduct apply accordingly to advertising in other media.

VII. Chat services

Content and service providers offering chat lines with erotic and/or sexual reference/content must ensure that minors will not use these services. In all other respects, Part 2, VI. (Services addressing minors as a target group) shall apply accordingly to chat services that do not have an erotic and/or sexual reference/content.

Conference services provided as part of chat services may be offered for no more than 10 actively participating individuals per conference. Providers of conference services shall ensure that a trained operator is present at all times. The primary task of the operator shall be to mute or switch off any individual caller who violates the conditions of this Code of Conduct.

VIII. Child access controls

Value-added services that might seriously endanger children or young persons morally or impair their well-being may only be offered with an acoustic access control or some other effective access control.

The access control must take effect, at the latest, before the caller reaches parts of services that might seriously endanger children or young persons morally or impair their well-being. The acoustic access control must ensure, if possible, that a caller who is a minor will not gain access to the services offered. It is incumbent upon the service provider to ensure that there is a permanent access control.

This access control obligation shall apply to all value-added telephone services that might seriously endanger children or young persons morally or impair their well-being.

This shall also apply to services with subscriber-dialed access operated in combination with value-added telephone services.

Part 3: Additional provisions – Recommendations

Based on the experience of the Association for Voluntary Self-Monitoring of Value-Added Telephone Services, the following provisions also constitute worthy standards; despite their general nature as recommendations, they are in keeping with the goal of establishing a uniform market standard and, as such, should be observed by the members, who should pass them on to their customers as binding arrangements.

I. Price information for other value-added telephone services

1. Shared cost services 0180 X

For shared cost services, providers shall state the price to be paid per minute or per call from the German fixed network, including value-added tax and any other price components, in advertisements in direct connection with the call number. If one company dominates this market, the price of this company can also be stated.

2. Freephone 0800, 00800 services

For freephone services linked to follow-up agreements for which a charge is payable (e.g., alarm-clock calling), especially in the case of automatic services, the provider shall state the follow-up costs, i.e., the additional costs incurred by the caller, prior to the conclusion of the follow-up agreement. Likewise, reference must be made to the follow-up costs in the advertising.

3. MABEZ applications (mass calls to specific destinations)

In the case of mass calling applications using, for example, the prefix 0137 (e.g. voting and teledialog call numbers), the provider shall specify the price that must be paid per call from Germany's fixed network, including value-added tax and other price components, in direct connection with the call number in the advertisement. If one company dominates this market, the price of this company can also be stated.

4. Directory inquiry services 118XY

In the case of directory inquiry services involving call completion to services that are normally reached by dialing premium-rate numbers directly, reference shall be made to the cost of the call in euros per minute or per service including value-added tax and other contract components (price announcement). (Refer to Part 1, VIII for price information in advertisements)

5. Collect calls

In the case of services for which the called party is required to pay a charge, the called party shall be informed of the costs to be paid prior to the conclusion of the agreement. The called party must confirm/prove that he agrees to pay the costs by entering the numbers "1" and "9", for example.

II. Premium text message services

1. Definition

Premium text message services are services that are offered over an abbreviated dialing number and that incur costs for value-added services over and above the cost of the connection and that are billed on the customer's telephone invoice or to his/her prepaid card.

2. Types

There are two types of subscription services: subscriptions where services are delivered automatically and subscriptions where end-customers have to actively retrieve the individual services.

At present, the following premium text message service types are offered:

- a. Nonrecurring services – services in which the customer's call for service results in one-time delivery of the agreed service or one-time delivery of a fixed number of services, and in which the customer effects a one-time payment via a text message, (e.g. single ring-tone download, if necessary in several text messages);
- b. Subscription services – subscriptions under which individual services are delivered on a regular basis following active retrieval by the end-customer.
 - aa. Traditional subscription services – subscriptions under which individual services are delivered automatically on a regular basis and billed individually on delivery;
 - bb. Package subscription services – subscriptions under which a fixed number of services can be retrieved at a regular price per purchase period;
 - cc. Discount subscription services – subscriptions under which services (usually a fixed number) can be retrieved with a discount on the regular price per purchase period.

3. Service content

In particular, the following content is currently provided via premium text message services:

- Information services (e.g. stock exchange, weather, sport, general information services);
- Logos/ ringtones/ games;
- Gambling services/ televoting;
- Chat services.

In the case of chat services, end-customers are billed for each text message they send.

4. Cost control

Each premium text message service provider (i.e., each SMSC operator for the purposes of this chapter) shall inform the end-customer per text message whenever costs of at least EUR 50 or a multiple of this sum are incurred per abbreviated dialing

number in any one calendar month. This warning text must be sent to the end-customer free of charge.

5. Notice of termination for subscription contracts

In the case of premium text message subscription services, the end-customer shall have the possibility to terminate his/her agreement at any time by sending the provider a text message. The service provider shall cease to provide the subscription service immediately on receipt of the termination notice. In the case of subscriptions for which a regular price is due per purchase period (e.g. package subscriptions and discount subscriptions), procurement of single services is admissible as an exception up to expiration of the purchase period in which notice of termination was given.

6. Advertisements for premium text message services

a. General provisions (for all types):

- aa. **Preamble:** The aim of the provisions for advertising is to guarantee price transparency in connection with premium text message services and therefore effective consumer protection. This applies in particular to the complex price structure in mobile telephony services. The information provided in the advertisement should be limited to the main elements of the contract relationship so that it is immediately perceptible to the end-customer.
- bb. The provider shall supply clearly legible price information in **print media and on the Internet** in the same horizontal line in direct connection with the abbreviated dialing number in a minimum font size of 10 points. In the case of poster advertisements or other large communications, the minimum font size shall be correspondingly larger.
- cc. In the case of all **acoustical advertisements** (e.g. radio advertisements), the provider shall specify clearly audible prices in the same volume as the remainder of the advertising spot. The price information shall be given immediately before or after the abbreviated dialing number advertised.
- dd. In **television advertising**, the price information shall be provided in a clearly legible way and displayed as long as the abbreviated dialing number is shown. The price information must be in the same horizontal line in direct connection with the abbreviated dialing number advertised. In Germany, the resolution of TV pictures is currently 768x576 pixels. The price information must be at least 50 pixels away from the sides. The minimum font size is 30 points. The provider must use Gothic (sanserif) font with a shadow that is clearly set off from the font color.
- ee. In **teletext (broadcast viedeotex)**, the provider must supply price information in the same horizontal line in direct connection with the abbreviated dialing number and on the same teletext page.
- ff. In **short message texts**, the price information shall be supplied in continuous text in direct connection with the abbreviated dialing number, so that the recipient will not fail to notice the price information due to a line break inserted at the end of the text message in front of the amount or of comparable editing measures. The reference to the price must not appear at the end of the text message.
- gg. The provider shall ensure that the **font color** used for all price information in all optical advertising activities is always clearly set off from the background.

- hh. All the costs of the advertised service must be stated as gross prices in **euros** per text message or time interval. The currency may only be displayed as follows: "EURO," "EUR" or "€." The price itself must be stated with 2 decimal places after the separator except for whole euro amounts. Amounts < EUR 1 may be stated in cents and labeled "cent" or "ct."
- ii. In the case of **nonrecurring premium text messaging services** which are billed **via several premium text messages**, the total price must be clearly legible in advertisements and in direct connection with the abbreviated dialing number.
- jj. Any **additional costs** that may be incurred in connection with a service, e.g. WAP/GPRS charges, must be indicated.

b. Special provisions for advertisements in text message subscription

services:

- aa. For subscription services, the general provisions for advertisements as described under III. 6.a. shall apply.
- bb. In addition, for subscription services the term "Abo" (subscription) shall be used in advertisements. If services are made available for active retrieval by the end-customer, the information must state "zum Abruf" (for retrieval) or "zum Download" (for download). If the service incurs regular costs, over and above the costs charged for using the retrieval service, these must also be stated explicitly together with the frequency with which they are incurred (e.g. monthly subscription).
- cc. In the case of a 'traditional' subscription, the provider shall state the gross price to be paid by the customer for each individual service delivered plus a maximum monthly price if this exceeds EUR 50.

7. Additional obligation of providers to supply information for text message subscription services – Content of the handshake text:

- a. Prior to signing subscription agreements, customers shall be given clear information about the main contract components by means of a 'handshake' text, which the customer must then confirm by returning a text message. Only then is the contract concluded.
- b. The following are considered the main contract components of **'traditional' subscriptions**:
 - aa. Information on the provider;
 - bb. The gross price to be paid by the end-customer for each individual service delivered plus a maximum monthly price if this exceeds EUR 50;
 - cc. The purchase period and – if this is possible – the maximum number of text messages that can be received;
 - dd. Options for contract termination.
- c. In the case of **'package' or 'discount' subscriptions**, the following are considered to be the main contract components:
 - aa. Information on the provider;

- bb. The regular price per purchase period plus any costs that are incurred for retrieving individual services;
- dd. Options for contract termination.

III. Other special services

1. Gambling services

When offering gambling services, the prevailing interpretation of the law shall be taken into consideration.

2. Charity lines

Charity lines are only allowed to be used for this purpose in accordance with regulations. The partial use of a service as a charity line shall be precluded.

3. Phone callback scams

It is forbidden to place a scam call with the aim of inducing the recipient to call back a value-added service number (all call number routes). A 0137 number may not be used as the sender ID. Service providers are not allowed to change the calling line identification (CLI) in favor of a 0137 number.

IV. No offer or scam offer

It is forbidden to use a value-added service number for the purpose of inducing called parties to call back a number without any offer or with a scam offer (e.g. inquiries, answers to sales advertisements).

Part 4: Consequences of non-compliance with the Code of Conduct

The following actions shall be taken in the event of a violation of Parts 1 and 2 of this Code of Conduct:

1. Notification with demand to take remedial action
2. Disclosure to the Regulatory Authority for Telecommunications and Posts or other responsible offices

If members of the Association for the Voluntary Self-Monitoring of Value-Added Telephone Services violate the Code of Conduct, they shall be notified and requested to remedy the situation. If violations nevertheless continue, the matter shall be turned over to the Regulatory Authority for Telecommunications and Posts or other offices responsible.

If violations are committed by non-members, the matter shall be turned over directly to the Regulatory Authority for Telecommunications and Posts or other offices for further action.

The subscriber to whom the number has been assigned that is published by the Regulatory Authority or the provider of the abbreviated dialing number named by the mobile network operator shall be decisive.

5. Part 5 – Final provisions

The obligations put forth in this Code of Conduct should not and cannot be used as grounds for establishing responsibility to any third parties, nor assist in the substantiation of such responsibility. The contact office procedure shall not preclude legal recourse. A working group of the Association for the Voluntary Self-Monitoring of Value-Added Telephone Services shall continuously monitor the Code of Conduct on the basis of its experience and update it as needed, taking into account the procedure established for this purpose in accordance with the statutes.

Code of Conduct Commission
Düsseldorf, February 28, 2005
© 1997-2005 fst