

CODE OF CONDUCT REGARDING THE PAYABLE SERVICES VIA AN ELECTRONIC COMMUNICATIONS NETWORK

CHAPTER 1: DEFINITIONS AND AREA OF APPLICATION

Article 1: General definitions

In the framework of the application of this Code, the following definitions are used:

- 1.1. **Electronic communications** : the transmission, sending and receipt of signs, signals, pieces of writing, images, sound or all other data, via wire, radio, optical signaling or another electromagnetic system.
- 1.2. **Payable service via an electronic communications network** : service on which this Code of Conduct applies, are services that offer access to information, games or other benefits via a telecommunication network whereby the user pays for content in addition to the cost of the call. In Belgium these types of services are offered via numbers with a 077 prefix or via a two-digit code following the number 9, known collectively as 'info kiosk numbers'.
- 1.3. **Operator** : a legal entity who has submitted a notification following article 9 of the law of 13 June 2005 concerning the electronic communications.
- 1.4. **Service providers** : individuals, legal entities or government organizations that, for their own account or that of a third party, directly or indirectly offer one or more payable services via an electronic communications network.
- 1.5. **BIPT** : The Belgian Institute for Postal Services and Telecommunication (Belgisch Instituut voor Postdiensten en Telecommunicatie) created by the Act of March 21st, 1991 regarding the reform of some state owned enterprises, revised by the Act of January 17th, 2003.

Article 2: Area of Application

- 2.1. The rules of this Code are applicable to all payable services via an electronic communications network.
- 2.2. These rules must be respected by all Telecom Operators and Service Providers that offer a payable service via an electronic communications network in Belgium, regardless of the country in which they are based.

CHAPTER 2: RULES APPLICABLE TO ALL SERVICES

Article 3: General Rules

The Telecom Operators and Service Providers that use numbers allocated to them to provide payable services via an electronic communications network, commit to respect all applicable Belgian legislation, in particular but not limited to the following provisions:

- The provisions of the Act of the July 14th, 1991 regarding fair trade practices, information and protection of consumers which relate to the correct and complete provision of information to the consumer and more specifically to the indication of price of the service offered;
- The provisions of the law of 13 June 2005 regarding the electronic communications;
- The legislation regarding games and lotteries that describe the obligations regarding fully informing the participants of the conditions for participation, the scoring systems, the prizes, distribution of prizes and other information about the course of the games;
- The legislation regarding fraud and money laundering;
- The provisions of criminal law regarding "swindling and abuse of trust";
- The provisions of criminal law regarding "corruption of youth and public morals";
- The provisions of criminal law regarding crimes and offences against the public order by private individuals;
- The Act of March 11th, 2003 regarding certain legal aspects of the information society (on electronic commerce);
- The RD of 27/03/2007 concerning the management of the national numbering space and the allocation and withdrawal of user rights of the numbers;
- The measures foreseen by legislation for the protection of privacy, and in particular in the context of spoken announcements for dating services; the name, address and telephone number of the participant in the dating service may not be disclosed.

These provisions are to be considered as included in this Code of Conduct and are an integral part thereof. They must be respected, as must all the other rules listed below. Every infringement will result in the application of the procedure in Annex 1 of this Code.

Article 4: Advertisement and indication

4.1. - Mandatory indication of the price applicable to the call

All advertisements or public reference of a service described in Article 2.1, regardless of the way in which it is made, must mention the price applicable to a call to this service,

irrespective of whether the number of the line that provides access to the service is dialed manually by the user or automatically by his modem or by any other technical means.

The price must be expressed in € (including VAT) per minute or displayed as a fixed price in € (including VAT) per call.

The price must be clearly legible and/or audibly mentioned especially in advertisements for these services as defined in Article 2.1. of this Code of Conduct.

4.2. - Clear indication of the number of the line called

All advertisement or every indication regarding a service as described in Article 2.1, irrespective of the manner in which it is made, must unambiguously mention the prefix and the number of the lines that provide access to the aforementioned services, irrespective of whether the number of the line that provides access to the service is dialed manually by the user or automatically by his modem or by any other technical means.

It is forbidden to split the prefix in any way whether in writing or via the spoken word.

In advertisements or indications that are not only audible, it is mandatory to separate the prefix from the rest of the number by a space, oblique, or any other punctuation mark.

Article 5: Announcement of the price of the call

- 5.1. The price applicable to a call to a service, irrespective of whether the number of the line that gives access to the service is dialed manually by the user or by his modem or any other technical means, must be clearly mentioned at the very beginning of the call, if it exceeds a fixed amount per minute (including VAT) or when it exceeds a fixed amount per call. These amounts are defined in Annex 3 of this Code of Conduct.
- 5.2. The price must be expressed in € (including VAT) per minute or displayed as a fixed amount in € (including VAT) per call. If the price of the call varies in function of the time and/or day, the announcement that indicates the price of the call must mention at least the highest price.
- 5.3. The price must be clearly legible and/or audible.
- 5.4. After the price has been mentioned the user may choose to end the call. In that case the Operator may not charge him anything. The price is to be indicated by the Service Provider or the Operator, holder of the number.
- 5.5. The Service Provider that offers a payable service via an electronic communications network through the internet must indicate the price thereof to the user as well as the number that will be dialed by the modem before a connection is made. It must be possible to refuse free of charge. The number must be mentioned in the format as defined in Article 4.2 above.

Article 6: Content of the service offered

- 6.1. The service offered must correspond to the advertising used for it by the Service Provider and to the applicable legislation.

- 6.2. It is forbidden to use a series of numbers to promote services which in accordance with this Code of Conduct are reserved for another series of numbers.
- 6.3. It is forbidden to offer services without a purpose or to offer services whose goal is to stretch out the length of the call as much as possible without this being necessary for the provision of the service.
- 6.4. It is forbidden either at the beginning or in the course of a call to divert callers to a waiting queue, unless the maximum waiting time is less than or equal to one (1) minute.
- 6.5. The Service Providers are obliged to use all reasonable means to guarantee suitable quality of all the services they provide. Services whose content is no longer updated must in all cases be terminated.

Article 7: End of the service offered

Every Service that is offered via an electronic communications network via a two digit code following the number '9' and whose tariff is related to the duration, must be automatically ended after ten (10) minutes.

The call is to be technically, automatically and immediately ended by the Service Provider as soon as the user hangs up, ends the connection or leaves the site (or part of it) which gave rise to the billing of an amount higher than that for a normal internet connection.

For the Services that are offered via an electronic communications network on the internet the Service Provider may not permanently change the method or the number that the user usually uses to obtain access to the internet.

Chapter 3: SPECIFIC RULES FOR CERTAIN TYPES OF SERVICES

Article 8

Services that are classified in several of the categories mentioned below must meet the cumulative requirements that are applicable to each of these categories of service.

Article 9: Services intended for minors

9.1. - Definition

All services that are specifically, partially or completely intended for persons younger than eighteen years of age must be considered as services intended for minors.

9.2. - Content of the services offered and advertisement

The services intended for minors and all advertisement made for them may not contain anything that cause damage said minors or that could abuse their credulity, lack of experience or lack of judgment.

These services may not correspond in any way to those listed in Article 12 of this Code.

These services may not in any way encourage minors to call the same service again or to call another service.

9.3. - Maximum price allowed

The services intended for minors must be offered via lines whose use may not be charged at a fixed rate per minute or a fixed rate per call higher than the amounts defined by Annex 3 of this Code of Conduct. Only the prefixes mentioned in Annex 2,b) of this Code of Conduct may be used.

Article 10: Services consisting in the organisation of games, competitions and /or payment of logos, ring tones and/or other entertainment services.

From 1 April 2008, payable services offered via an electronic communications network which give access to games or contests (with the exception of those of an erotic and sexual nature) or which enable payment for logos, ringtones and other recreational products and services (with the exception of those of an erotic or sexual nature) provided during or as a direct result of a call, will only be accessible via numbers starting with the prefix mentioned in Annex 2, c), at the rate specified in Annex 3 of this Code of Conduct.

The rules of games, competitions and quizzes must be made available at the user's request, without the rules having to be listened to in full for every call.

The service informs the user of this possibility.

Article 11: Services for fund raising

Services that call upon the generosity of people must explicitly mention the purpose for which the sums are collected.

Article 12: Services intended for adults, erotic or sexually oriented services

Without limitation on the application of Article 15, the following rules are applicable to all services specifically intended for adults, including live conversations, dating or conversations whose goal is to organise or facilitate a meeting between two or more people, if these services are erotic or sexually oriented.

12.1. - Mandatory use of a specific prefix and maximum price allowed

Services intended specifically for adults as defined in this article may only be offered via numbers that begin with the prefixes mentioned in Annex 2, d) of this Code of Conduct and using the pricing structure defined in Annex 3 of this Code of Conduct.

12.2. - Mandatory warning announcement at the beginning of the call

At the beginning of every call the user must be clearly warned of the precise nature of the service that he is about to use.

The warning announcement must be clearly legible and/or audible.

Chapter 4: RIGHTS AND DUTIES OF TELECOM OPERATORS AND SERVICE PROVIDERS

Article 13: Mandatory reference in the contracts and responsibilities

- 13.1. Only the Service Providers are responsible for the fulfilling of the obligations foreseen in Articles 4, 5.5 and 6 to 12 of this Code of Conduct. In as far as the Operators are formally made aware of infringements of the rules of this Code of Conduct, they commit to take all necessary measures to ensure that the services provided by the Service Providers that make use of the numbers allocated to them are in accordance with the rules in this Code of Conduct.
- 13.2. The Operators must, in every contract that binds them to a Service Provider, include provisions that refer to the obligations set out in this Code. A similar provision must be included in all contracts that bind a Service Provider to its subcontractors or fellow suppliers involved in offering a Service via an electronic communications network.

Article 14: Request for identification of a Service Provider

Upon simple request from an Operator who has received complaints from end customers regarding a telephone number, and if this telephone number is communicated and corresponds to a line that is part of the network of another Operator, the latter must provide the name and address of the Service Provider that holds the number in question.

These names and addresses are to be used by the receiving Operator only to identify the service offered and to ascertain whether complaints by end customers are justified or not.

The receiving Operator can pass on all relevant information to its end customers such that the latter can submit their complaints to the relevant departments of the operator whose numbers the Service Provider is using, or directly to the Service Provider or to all authorities competent in the matter. This information can also be provided to all competent authorities requesting it in the context of their activities, and to those complaining such that they can defend themselves. This information may not under any circumstances be used by the receiving Telecom Operator to derive commercial benefits or its sales or marketing activities.

Article 15: Services that conflict with criminal law, public order or good morals

Without limitation upon the application of Article 13, every Operator must, upon discovering that one of its Service Providers is offering a service that it considers to be in conflict with criminal law, public order or good morals, immediately suspend the lines of its network involved with the aforementioned service, without prior warning, and without obligation to pay compensation of any kind to the Service Provider.

The suspension must last at least twenty-four (24) hours and ends after a maximum period of thirty (30) calendar days. At the end of this period and in the absence of a satisfactory reaction from the Service Provider, the contract signed by the Service Provider can be rightfully terminated without prior notification of breach.

The operator must then immediately send a letter of notification to the Service Provider in which the reasons for the suspension of the lines and the period of the suspension are explained.

If it can prove that the necessary changes have been made to its service, the Service Provider can demand that its lines be made accessible once again before the end of the period of suspension.

ANNEX 1 TO THE CODE OF CONDUCT REGARDING THE PAYABLE SERVICES VIA AN ELECTRONIC COMMUNICATIONS NETWORK : ENFORCEMENT PROCEDURE IN CASE OF BREACH OF THE CODE OF CONDUCT REGARDING THE PAYABLE SERVICES VIA AN ELECTRONIC COMMUNICATIONS NETWORK

Article 1: Subject matter and definitions

Article 1.1: Subject matter

This annex aims to describe the enforcement procedure applicable when a breach of the provisions of the Code of Conduct regarding the offering of specific telecommunication services via an electronic communications network (hereinafter referred to as the Code of Conduct), is brought to the attention of an Operator.

Article 1.2: Definitions

« **Number-holding operator** »: means the Operator to whom the number covered by the Code of Conduct has been allocated by the BIPT (Belgisch Instituut voor Postdiensten en Telecommunicatie) or to whom this number has been ported.

« **Arbitrator** »: means an individual chosen from a restricted list, who has been appointed by each signatory at the time of signature of the Code of Conduct. This arbitrator shall, before having been included on the restricted list, have accepted the assignment and have committed to making a decision within the time limits specified by the procedure described under article 3.3 of this annex.

Article 2: Amicable procedure for the treatment of complaints

Upon receipt of complaints from customers relating to the payable service via an electronic communications network supplied via a number which is not held by the Operator, the latter shall forward the complaint made by the aforementioned customers to the Operator holding the numbers concerned, used by the Service Provider. The complaint must contain the following elements of identification: the complainant's CLI (calling line identification), the CLI of the number called, the complainant's address, invoice details (date, time, duration and price of calls), possible comments regarding the complaint and a reference number (log n°) for the complaint. (This list is not exhaustive).

The Operator holding the numbers in question shall ensure that complaints from the aforementioned customers or from authorities to which the complaints might have been referred are dealt with and followed up directly and individually.

The Operator holding the numbers in question shall ask its Service Provider to provide, within the shortest period of time, all the information necessary for the identification of the problem and to supply evidence of the following elements with regard to the service supplied :

- existence of prior information provided to consumer
- where Internet access applies, the full URL of all the services which use the number involved ;
- the consumer's consent.

These elements of evidence shall be communicated to the Operator responsible for invoicing the complainants. The complainant shall be informed that, should he have any disagreement with regard to the elements of evidence, he has the option of lodging a complaint with a competent authority.

If the Service Provider fails to supply the elements of evidence listed above, the Operator holding the number shall give notice to the aforementioned Service Provider instructing it to comply with the regulations in force or be at risk of seeing its service suspended and refunding, within a reasonable period of time, the cost of the communication(s) which was/(were) the subject of the complaint.

Article 3: Procedure to suspend the conveyance of calls to questionable numbers.

Article 3.1: Notification of a breach of the Code of Conduct

In a hypothetical case where complaints citing a supposed breach of the Code of Conduct are presented to an Operator by the end customers regarding a service supplied via the number of another Operator, the Operator who has, where applicable, pursuant to article 14 of the Code of Conduct, obtained from the Operator holding the number the name and address of the Service Provider, shall, whatever the circumstances, be entitled to investigate the likelihood of the breach alleged by the end customers.

Article 3.2: General procedure for suspending the conveyance of calls to (a) number(s) against which a breach of the Code of Conduct has been established and on which the operators agree

When a supposed breach of the Code of Conduct is formally brought to the attention of a Telecom Operator who has verified, prima facie, the likelihood that this is true, the latter shall be entitled to give the Operator holding the number notice by fax describing the established breach and inviting this party to cease committing the breach before 17.00 hours on the second working day after the date of dispatch of the fax (Day + 2 at 17.00 hours).

If the breach has not ceased to be committed within the time period mentioned above, the Operator holding the number shall suspend conveyance of calls to the number(s) against which the breach has been established.

If, following a request for suspending the conveyance of calls to a number pursuant to article 3.2 §1, the Operator responsible for invoicing the complainants establishes that this suspension has not been carried out within the time period laid down in accordance with article 3.2 §1, this Operator may suspend the conveyance of calls to the number(s) concerned without the prior agreement of the Operator holding the number. Where the Operator responsible for invoicing the complainants has suspended the conveyance of calls to the number(s) itself, this party must inform the Operator holding the number thereof immediately and in writing.

Article 3.3: Procedure applicable where there is a disagreement as to the existence of a breach of the Code of Conduct

Where there is a disagreement as to the existence of a breach of the Code of Conduct, set out by fax by the Operator holding the number on the first working day following the date of dispatch of the notice provided by article 3.2 §1, the Operator responsible for invoicing the complainants may appeal to an arbitrator stating that this is a complaint relating to a breach of the Code of Conduct.

The arbitrator nominated in this way shall, within 5 working days of being informed of the disagreement, decide whether or not there has been a breach of the Code of Conduct, after having heard representations from both parties, and, if applicable, the Service Provider. Where the arbitrator confirms that a breach of the Code of Conduct does exist and the breach has not ceased within the time period stipulated in accordance with article 3.2 §1, which shall begin to run from the date of the arbitrator's decision, the Operator holding the number shall suspend the conveyance of calls to the number(s) against which a breach has been established.

By accepting this Code of Conduct, the Service Provider shall accept and comply with the decision made by the arbitrator.

The costs of the arbitration procedure shall be borne by the defendant if the arbitrator has established the existence of a breach and by the plaintiff in all other cases.

If, following a decision by the arbitrator to suspend the conveyance of calls to a number, the Operator holding the number does not carry out this suspension within the time limit stipulated in accordance with article 3.3 §2, the Operator responsible for invoicing the complainants may suspend the conveyance of the calls to the number concerned without the prior agreement of the Operator holding the number. Where the Operator invoicing the complainants has suspended the conveyance of the calls to the number(s) itself, this party must inform the Operator holding the number immediately and in writing.

Article 3.4: Procedure in extremely urgent cases

Where there is a flagrant or serious breach of the provisions of the penal code or if an increased number of complaints is recorded in respect of the same number within a short period of time or yet again, in cases where complaints have been exposed by a competent authority, the time limit stipulated in article 3.2 §1 above shall be reduced to the first working day following dispatch of the fax describing the established breach inviting the party concerned to cease committing the aforementioned breach.

Article 4: General points

Article 4.1 - Co-existence of the two procedures

The provisions of article 2 and article 3 refer to two separate procedures which may be used by the parties at the same time for the same number.

Article 4.2 - Competent authorities

The provisions contained in this annex shall not prejudice the parties' right to apply to any competent authority, court or tribunal to judge any dispute arising between them relating to the interpretation and application of the *Code of Conduct*.

ANNEX 2 TO THE CODE OF CONDUCT REGARDING THE PAYABLE SERVICES VIA AN ELECTRONIC COMMUNICATIONS NETWORK

a) Indication of the price of a call at the beginning of the call (cf. Article 5)

Est obligatoire la mention du tarif utilisateur final le plus élevé pour un appel émanant d'un réseau de communication fixe ou mobile en début de communication, avec la possibilité pour l'appelant de mettre fin à la communication sans frais après mention du tarif et bip sonore pour tous les appels permettant d'accéder à des

Services payants via un réseau de communications électroniques offerts via :

- le préfixe 0909
- l'identité de service 9 suivie de deux chiffres, si le prix par minute ou par appel excède **1€/minute** (TVA comprise).

The indication of the maximum price for the end user of a call originating in a fix or mobile electronic communications network, at the beginning of the call, with the option for the user to end the call free of charge once the price has been announced and a sound beep, is mandatory for all calls who enable to access to payable services via an electronic communications networks via :

- The 0909 prefix
- The service entity 9 followed by two digits, if the price per minute or per call exceeds **1€/minute** (TVA included).

b) Services intended for minors (cf. Article 9)

Are only allowed via numbers beginning with the prefixes **0900, 0901 and 0905**.

c) Service consisting in the organisation of games, competitions and /or payment of logos, ring tones and/or other services of relaxation (cf. Article 10)

Are only allowed from 1st of April 2008, via numbers beginning with the prefixes **0905**.

d) Services intended for adults, erotic or sexual (cf. Article 12)

These services may only be offered, from 1st of April 2008, via numbers beginning with the following prefixes **0906 and 0907**.

**ANNEX 3 TO THE CODE OF CONDUCT REGARDING THE
PAYABLE SERVICES VIA AN ELECTRONIC
COMMUNICATIONS NETWORK**

Overview of prefixes with the corresponding maximum prices to be used from 1 April 2008 for payable services via an electronic communications network

Prefix	Type	Call cost from fixed networks	Call cost from mobile networks
070	General (except for adult content and games*)	Max. €0.30/minute	Max. €0.60/minute
0900	General (except for adult content and games*)	Max. €0.50/minute	Max. €1.00/minute
0901	General (except for adult content and games*)	Max. €0.50/minute or Max. €0.50/call	Max. €1.00/minute or Max. €1.00/call
0902	General (except for adult content and games*)	Max. €1.00/minute	Max. €2.00/minute
0903	General (except for adult content and games*)	Max. €1.50/minute	Max. €3.00/minute
0904	General (except for adult content and games*)	Max. €2.00/minute	Max. €4.00/minute
0905	Games, contests, ringtones, logos and/or recreational services (not for adult content)	Max. €2.00/call	Max. €2.00/minute
0906	Adult content	Max. €1.00/minute	Max. €2.00/minute
0907	Adult content	Max. €2.00/minute	Max. €4.00/minute
0909	general (except for adult content and games*)	Max. €31.00/call	Max. €31.00/call

* "Games" shall be taken to mean "games, contests, ringtones, logos and recreational services" as referred to in the Royal Decree of 27 April 2007.