

***SMS Service Provision Code of
Conduct
(January 2008 version)***

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Considering that:

- Operators and Service Providers agreed a code of conduct in 2003 with the aim of guaranteeing legal certainty and transparency for End Users in the market for premium SMS services;
- it was necessary to review this code of conduct in 2004 and 2007 in order to continue to meet new and adjusted requirements of End Users;
- on the occasion of the review, the Parties decided to draw up a completely amended comprehensive code, including an amendment concluded on 1 May 2003;
- the Parties have consequently drawn up the following text after consultations with the Dutch Independent Post and Telecommunications Authority (OPTA), the State Secretary for Economic Affairs, *Stichting de Ombudsman* (Ombudsman Foundation), *De Consumentenbond* (Consumers' Association), *Consuwijzer* (the Dutch Government consumer information service), *Consumentenautoriteit* (the Consumer Authority) and *Stichting Mijn Kind Online* (My Child Online Foundation), etc.;

the Operators, Service Providers, SMS Service Providers and Content Providers who have signed this code have agreed the following.

SECTION I. GENERAL PROVISIONS

Article 1. Definitions

“Subscription service” means: SMS service for which termination is required or which is purchased for a period determined in advance, and which relates to receiving more than one SMS reverse charged message per initiation from the End User and which relates to one service. The SMS reverse charged messages have a periodic recurrent character, which expressly include the ‘1 to many chat services’.

“Affiliate” means: a third business, not being a Content Provider, which advertises the SMS services of that Content Provider.

“Binary SMS messages” means: an SMS message is built up of 140 bytes of user data. For sending SMS text messages, this user data can be filled with no more than 160 GSM 7-bit characters. If the 140 bytes are not used for text, the messages are referred to as "binary SMS messages". Usually, a

larger amount of data than 140 bytes must be sent, so that several binary SMS messages are linked for this purpose. For example, ringtones can be built up from one, two or three binary SMS messages. Picture SMS messages, require, for instance, at least three binary SMS messages.

“Content Provider” means: the supplier of the content of the SMS services supplied to the End User.

“Once-only SMS service” means: a once-only MS service is involved if the End User sends one premium SMS MO message or receives one premium SMS MT message. An exception is that a once-only SMS service is involved if the nature of the service is related to the fact that individually sent SMS messages cannot be considered as an independent service. This is the case in the event of services such as (i) ringtones and logos consisting of several Binary SMS messages, (ii) 1 to 1 chat services and goal alerts, of which the exact number of messages cannot be defined, and (iii) in the case of services where it is necessary (e.g. for billing reasons and VAT payment) to send several SMS messages for a once-only SMS service. For a once-only SMS service, no termination from the End User is required to terminate the service and the service will be terminated automatically.

“End User” means: user of a fixed or mobile connection with which SMS services can be purchased.

“Shared shortcode” means: a shortened number used at an SMS service provider for various SMS services offered by several Content Providers.

“Code of Conduct” means: SMS Service Provision Code of Conduct as agreed per 7 January 2008.

“Operators” means: network providers via whose network End Users can purchase SMS services.

“Parties to this Code of Conduct” or “Parties” means: the signatories of this Code of Conduct and the parties to whom this Code of Conduct applies as a consequence of a contractual relationship between one of the signatories and another party.

“Service Providers” means: providers of public mobile telecommunication services on an electronic communication network of a third party via whose network End Users can purchase SMS services, including MVNO (Mobile Virtual Network Operator) and MVNE (Mobile Virtual Network Enabler) parties.

“SMS services” means: once-only SMS services and/or Subscription Services.

“SMS service providers” means: providers that have concluded an agreement with Operators for the purpose of supplying or routing SMS services to End Users (also referred to as Gateway or SMS Broker).

“SMS services filter” means: the online filter maintained and operated by the Foundation that offers End Users the possibility to indicate that they wish to be excluded from the use of SMS subscription services.

“SMS premium charged message / Premium SMS MO message” means: an SMS message sent by the End User for which the Operator or Service Provider charges this End User on behalf of SMS service providers. The rate of this SMS message may deviate from rates normally charged to the End User by the Operator or Service Provider for sending SMS messages. The normal rate charged to an End User by an Operator or Service Provider for sending SMS messages depends on the subscription or prepaid type used by this End User.

“SMS reverse charged message / Premium SMS MT message” means: an SMS message received by an End User for which costs are charged to this End User by the Operators or Service Provider on behalf of SMS service providers.

“Foundation” means: the SMS Code of Conduct Foundation [*Stichting SMS Gedragscode*].

“Unique shortcode” means: a shortened number used at an SMS service provider for one Content Provider.

Article 2. General

1. The Parties to this Code of Conduct undertake to comply with the provisions of this Code of Conduct. If a party to this Code of Conduct concludes an agreement with a party not associated with this Code of Conduct and that agreement relates to services associated with this Code of Conduct, the former party will make compliance with this Code of Conduct obligatory in that agreement.
2. Existing agreements will be amended so that this Code of Conduct will become part of existing agreements.
3. The provision of SMS services that do not comply with this Code of Conduct when this Code of Conduct is concluded will cease or be suspended until these services have been adjusted in line with the Code of Conduct.
4. The Parties to this Code of Conduct will consider the conditions in the Code of Conduct to be of such importance that they will make efforts to preserve these conditions even if the Code of Conduct should cease to exist.

Article 3. Information provision to End Users

1. The Foundation will open up an online databank available on its website for End Users in which an up-to-date overview will be available of all Subscription Services that are accessible via the networks of the Operators and Service Providers. The databank will in any event include the

information presented in Appendix 1 to this Code of Conduct.

2. SMS service providers and Content Providers will be obliged to supply the information referred to in paragraph 1 of this article to the Foundation on a weekly basis in accordance with a format to be determined by the Foundation.
3. The Parties to this Code of Conduct will ensure that they create a hyperlink (within two clicks from the homepage) to the databank on the Foundation's website, as referred to in paragraph 1 of this article.
4. The Parties to this Code of Conduct will ensure that the databank, as referred to in paragraph 1 of this article, is also made accessible to their own telephone helpline.

Article 4. Disconnected numbers

1. The Parties to this Code of Conduct will inform SMS service providers of telephone numbers that are no longer in service, i.e. disconnected numbers. If Providers are unable to supply this information, it will be provided by the Operators via whose networks they supply their services. The Parties to this Code of Conduct will inform SMS service providers:
 - a. immediately by means of an answer to the SMS message sent by the SMS Service Provider, and/or
 - b. periodically by means of a digitally supplied format of disconnected numbers sent no later than one month following disconnection.
2. If a party to this Code of Conduct immediately reports a disconnected number in the manner referred to in paragraph 1 a of this article, and that party has issued such a report concerning a certain number over a period of three days, the SMS Service Provider will remove the number in question from all its databases and/or systems, as a result of which all existing Subscription Services relating to this number will in any event be deactivated and in the case of reuse of the number, the new End User will not be confronted with unsolicited Subscription Services.
3. In the case of a periodic supply of disconnected numbers in the manner referred to in paragraph 1 b of this article, the SMS Service Provider will remove the number in question from all its databases and/or systems no later than ten days following the receipt of the numbers, as a result of which all existing Subscription Services relating to these disconnected numbers will in any event be deactivated and in the case of reuse of the number, the new End User will not be confronted with unsolicited Subscription Services.
4. Operators and Service Providers will oblige SMS service providers to refrain from sending messages to telephone numbers that have been reported as disconnected by the Operators and/or Service Providers. This will expressly also include the sending of reminder messages in the case of, for instance, televoting services.
5. Operators and Service Providers will not reactivate disconnected numbers until at least six weeks after the deactivation of the number.

SECTION II CODE OF CONDUCT FOR ALL SMS SERVICES

Article 5. General Code of Conduct

1. In every message received by the consumer, the shortcode of the service in question is stated in the message (in the header or in the SMS text).
2. Premium SMS MT messages will be sent only to consumers who have requested such proactively from the telephone number in question (the opt-in formula).
3. If cases where a once-only SMS service (not being a Subscription Service) has to be made up of several messages (e.g. for technical reasons), this will be indicated clearly in advance with the total rate being stated for the entire communication exchange.
4. SMS Service Providers and Content Providers will be obliged to exclude telephone numbers reported by End Users for the SMS services filter from use for Subscription Services within three working days and to halt the supply of Subscription Services on those numbers within the same period.
5. In all SMS services advertising, the SMS service provider and the Content Provider should observe the special advertising code for offering SMS services, which is included in this code as Appendix 3 and which has been submitted to the Dutch Advertising Code Authority [*Stichting Reclame Code*] (see <http://www.reclamecode.nl>).¹ If the Advertising Code Committee [*Reclame Code Commissie*] or the Board of Appeal [*College van Beroep*] has concluded that the SMS service provider or the Content Provider has acted contrary to the advertising code, the SMS service provider or the Content Provider will be considered to have violated this Code of Conduct.

Article 6. Communication rate for once-only SMS services

In advertising and information provision to an End User relating to once-only SMS services, the following requirements will apply per SMS service (with the exception of Subscription Services), with due observance of the special advertising code as referred to in Article 5, of this Code of Conduct:

- a) With regard to once-only SMS services with a limited number of SMS messages known in advance (e.g. ringtones, java games and polyphonic ringtones):
 - If the SMS service provider and Content Provider use a Premium SMS MO message and a Premium SMS MT message, the costs of these messages will be added and the total rate will be communicated to the End User.
 - If the SMS service provider uses a Premium SMS MT message and there are

¹ This SMS Code of Conduct will come into force before the Advertising Code Committee has decided whether it will accept the advertising code. For this reason, the advertising code – as Appendix 3 to this

supplementary telephone costs, the costs of the premium message will be communicated to the End User together with the phrase: “*plus the costs for the use of the mobile telephone*” (or a similar phrase or indication).

- If only a Premium SMS MO message is used, a communication stating the rate for this message to the End User will suffice.
- b) With regard to once-only SMS services of which the exact number of messages is not known in advance (e.g. quiz, goal alerts):
- If the SMS service provider or Content Provider uses a Premium SMS MO message and a Premium SMS MT message, the message per received message and the rate per sent message will be communicated.
 - If the SMS service provider or Content Provider uses a Premium SMS MT message and there are supplementary telephone costs, the costs of the premium message will be communicated to the End User together with the phrase: “*plus the costs for the use of the mobile telephone*” (or a similar phrase or indication).
 - If only a Premium SMS MO message is used, a communication stating the rate for this message to the End User will suffice.
 - If a Premium SMS MT message plus a normal (non-premium) MO message is used, the maximum total rate per MT message will be communicated to the End User.

Article 7. Help function

The SMS service provider will provide an optimal help function. As a shared or unique shortcode may be involved, the following three minimum options will apply, and the SMS service providers will of course be free to observe others:

- **Model A**
Sending the HELP command to a unique shortcode will result in an SMS message response (at a cost-covering rate) containing: the frequency and rate of the service, the termination procedure, the name of the SMS service provider or Content Provider plus its helpline number and/or website, any costs of this functionality.
- **Model B**
Sending the HELP command + <keyword> to a shared shortcode will result in the same response as option A.

SMS Code of Conduct – will take effect at the same time as the SMS Code of Conduct and will be amended if such is necessary for acceptance by the Advertising Code Committee. See also Article 17.

- Model C

Simply sending the HELP command to a shared shortcode, i.e. without the keyword addition, will result in an SMS message response stating or explaining option B and a clear reference to a source easily accessible to the consumer (such as a helpline telephone or website) on which all information referred to under A for all services provided on that shortcode is stated.

Article 8. Spam

1. The SMS service provider will observe the restrictions of Section 11.7 of the Dutch Telecommunications Act [*Telecommunicatiewet*].
2. Databases/files of existing customers may not be used by the SMS service provider or the Content Provider for offering new services, unless the End User has given prior express approval: the active permission of the End User is required for this purpose.

SECTION III CODE OF CONDUCT FOR SUBSCRIPTION SERVICES

Article 9. Start of the SMS service

1. The initial registration for a Subscription Service can be made both via Internet and the mobile telephone.
2. Before a Subscription Service can be started, the End User should have registered, should have received a registration confirmation and should have subsequently confirmed the initial registration as referred to in the first paragraph. This final confirmation takes place if the End User – following receipt of the registration confirmation as referred to under Article 11 of this Code of Conduct – sends an SMS message from the mobile telephone to which the messages must be sent, containing:
 - for shared shortcodes: **<keyword> and 'OK' to the <shortcode>**,
 - for unique shortcodes: the word **'OK' to the <shortcode>**

Article 10. Initial registration

1. In the case of unique shortcodes, a Subscription Service can always be started and stopped by sending **ON**, or **STOP**, in both upper and lower case, to the shortcode. For instance: the word **ON** is sent to shortcode **1234** to register a service and **STOP** to shortcode **1234** to terminate a service.
2. In the case of shared shortcodes, the name of the service must be communicated after the shortcode, likewise followed by ON or STOP. For instance: the words **ASTRO ON** are sent to shortcode **1234** to register a service and **ASTRO STOP** to shortcode **1234** to terminate a service.

3. If the End User fails to send the name of the service when terminating on a shared shortcode, the helpline telephone number of the SMS service provider in question will be received.

Article 11. Registration confirmation

1. If a registration for a Subscription Service is involved, a registration confirmation will always be sent per (Premium) SMS to the consumer/End User. The costs of this confirmation may be charged and will be no more than cost covering for the SMS service provider.
2. The registration confirmation to the End User will consist of one SMS message, no extra spaces and will always state: the service name, the rate (total costs per content item, per week or per month), the shortcode (in the header or in the SMS text), the frequency (the maximum number of messages or content items per day, per week or per month), the word “*subscription service*”, the termination method, a reference to helpline data, website, 0900 number, teletext or other sources with relevant background information. The SMS service provider or Content Provider will have the right to use abbreviations in the registration confirmation only if these are included in Appendix 2 to the Code of Conduct as permitted abbreviations.
3. In the case of registration confirmations for Subscription Services, active approval will be requested following the registration of the End User – depending on the price of the service and in accordance with Article 9 of this Code of Conduct – by means of a (Premium) SMS MT message to be answered that also states the information referred to in the second paragraph of this article. This is to reconfirm the wish of the End User that he or she actually wishes to purchase or start this service.
4. If the End User fails to provide active approval in accordance with Article 9(2), the Subscription service will not be started, so that registration by means of tacit approval is not possible.

Article 12. Termination

1. If someone terminates a certain service, a confirmation message of the termination will always be sent per (Premium) SMS MT message. Such confirmation messages will be no more than cost covering.
2. Unsuccessful terminations, e.g. as a result of spelling errors, will be answered. In such cases, the End User will receive the telephone number of the SMS service provider’s helpline (in the case of a shared shortcode) or the telephone number of the Content Provider’s helpline (in the case of a unique shortcode) and the Foundation’s website URL.
3. Should the End User continue to receive messages after a correct termination, the SMS service provider will do its best to solve this problem as quickly as possible. If the SMS service provider fails, the user costs will be repaid to the End User.

SECTION IV COMPLAINTS, COMPLIANCE AND ENFORCEMENT

Article 13. Dealing with complaints

1. Starting points
 - a) With the exclusion of Operators and Service Providers, SMS service providers and Content Providers are responsible for the SMS services provided by or via them and dealing with any associated complaints. Dealing with complaints about the content, operation of and communication regarding SMS services of SMS service providers is not the responsibility of the Operator or Service Provider.
 - b) If the End User turns to the SMS service provider or the Content Provider with complaints, questions or comments relating to the content, operation or communication of a service provided by the SMS service provider in question, these will be properly dealt with by the SMS service provider or the Content Provider, which means resolving the complaint within three working days.
 - c) SMS service providers will ensure that all registration, approval and termination messages of the consumer, plus its entire Premium SMS MO message and Premium SMS MT message history, will be saved for at least one year, for the purposes of consultation in the case of any complaints or disputes. If an End User subscribes to a service for longer than one year, the registration will be saved at least until following active termination.
 - d) The saving obligation in the previous paragraph regarding the Premium SMS MO and Premium SMS MT message history will not apply if the registration took place before the coming into force of this Code of Conduct.
 - e) If a dispute arises with an End User concerning a registration for a Subscription Service and the SMS service provider fails to submit the registration in question within three working days, the customer will be considered not to have given permission for this Subscription Service and the customer will be compensated by the SMS service provider.
 - f) Without prejudice to the provisions under a of this article, complaints relating to invoicing will be dealt with by the Operators and Service Providers.
 - g) With due observance of these starting points, the End User will be free to choose where he or she submits questions, comments and complaints.
2. Should the End User continue to receive messages after a correct termination, the SMS service provider will do its best to solve this problem as quickly as possible. If the SMS service provider fails, the SMS service provider will repay the user costs to the End User.
3. Complaints dealt with by Operator/Service Provider
 - a) If the End User turns to the Operator or Service Provider, the Operator or Service Provider will deal with questions, comments and complaints of the customer relating to the invoice sent by the Operator or Service Provider or the costs charged, and will inform the customer on request regarding the costs and frequency of purchased SMS services

of SMS service providers.

- b) With regard to questions, comments and complaints about the content, operation of and communication regarding the Subscription Services of SMS service providers, the Operator or Service Provider may, at its own discretion, decide to refer them to the SMS service provider in question or to deal with them itself.
- c) If a complaint relates to the alleged incorrect reception of paid SMS messages, the SMS service providers will be obliged, on request, to submit a record (shortcode, service, time of the message, mobile number and content) of the registration and termination of the customer plus the entire Premium SMS MO message and Premium SMS MT message history for an SMS service to the Operators or to the Service Providers via the Operator in question within three working days [note: in the case of once-only services such as goal alerts, several Premium MT messages may have been sent] for the purpose of solving complaints and disputes. In addition, SMS service providers will also be obliged to do so in the context of information at the request of the End User and solving or preventing fraud.
- d) Operators and Service Providers will be entitled to pass on the acquired record of the registration or termination message plus the overview of the entire Premium SMS MO message and Premium SMS MT message history to the End User who has been charged the costs in question.
- e) If the information referred to under d) is not submitted or not submitted on time by the SMS service provider, the End User will be considered not to have given permission for the Subscription Service. In that case, the End User will be compensated by the SMS service provider. The SMS service provider will be responsible for the repayment. The Operator or Service Provider will assist the SMS service provider if it so requests. This will not prejudice the fact that the Operator or Service Provider may independently decide to repay messages that have been incorrectly received if the record is not submitted or not submitted on time. If the Operator or Service Provider initiates repayments, it will have a right of recourse against the SMS service provider.

4. Telecommunication Disputes Committee

- a) The Operators and Service Providers involved in this Code of Conduct are affiliated to the Telecommunication Disputes Committee [*Geschillencommissie Telecommunicatie*].
- b) Disputes between the End User, who is a natural person and is not acting in the course of a profession or business, and one of the Parties to this Code of Conduct concerning the conclusion or the implementation of the agreement relating to the service provided or to be provided by the party in question may be submitted both by the End User and the party in question to the Telecommunication Disputes Committee if it has become evident that the parties cannot solve their dispute amicably.
- c) The Operators and Service Providers undertake in the case of disputes relating to charging costs associated with Subscription Services of SMS service providers not to put up a defence that the End User's claim is admissible as it does not relate to the services

of the Operator or Service Provider or because the Disputes Committee is alleged not to have competence with respect to these services.

Article 14. Compliance with the Code of Conduct

1. All Parties involved will make every effort to comply in full and correctly with the Code of Conduct.
2. The SMS service provider and the Operators or Service Providers will carry out spot checks regarding compliance with the Code of Conduct.
3. If SMS service providers or Content Providers fail to comply with one or more provisions of the Code of Conduct, the Operators and Service Providers will – as soon as they have become aware of such – request the SMS service provider (directly or via the Operator via whose network they provide their services), in writing or by email, to cease the actions contrary to the Code of Conduct immediately.
4. SMS service providers and Content Providers will be obliged to bring the SMS service in question into line with this Code of Conduct or to terminate the SMS service no later than two working days after the request from the Operator or Service Provider, as referred to in the third paragraph, has been received. If the SMS service provider has not adjusted the SMS service within two working days, the Operator or the Service Provider will be obliged to submit a request for enforcement to the SMS Service Provision Code of Conduct Enforcement Committee [*Commissie Handhaving Gedragcode SMS-Dienstverlening*].

Article 15. SMS Service Provision Code of Conduct Enforcement Committee

1. An SMS Service Provision Code of Conduct Enforcement Committee (hereafter referred to as “the Committee”) exists.
2. The Committee consists of three members, who are appointed by the Parties to this Code of Conduct for a period of three years. The members may be reappointed. In the case of appointments, the opinions of Operators and Service Providers will have double the weight of those of SMS service providers.
3. The members will perform their tasks independently and will therefore have no interests whatsoever with respect to the Parties to the Code of Conduct.
4. The members of the Committee cannot be relieved of their tasks during their period in office, unless they request such on their own initiative, or if they act contrary to the third paragraph of this article, or if they display gross negligence in their tasks.
5. The Committee will be supported by the Foundation from a secretarial and financial point of view.
6. The members of the Committee will each receive an expense allowance of € 350 (exclusive of VAT) for each request for enforcement dealt with.

Article 16. Tasks and competences of the Committee

1. The Committee has the task, at the request of one or more Operators or Service Providers, to assess the established actions of an SMS service provider, Content Provider or an Affiliate. It will determine whether the actions are contrary to the Code of Conduct and will – if the Committee concludes that that is the case – impose a suitable penalty in accordance with the second paragraph of this article.
2. The Committee will impose a penalty only if the Committee is convinced that a violation of the Code of Conduct is involved and if the procedure of Article 14 of the Code of Conduct has been followed.
3. Contrary to the second paragraph, the Committee may also impose a penalty if violations of the Code of Conduct were reversed on demand, but several violations of the Code of Conduct are involved so that the violation has assumed or runs the risk of assuming a long-term character.
4. The Committee may impose the following penalties, individually or in combination:
 - a. a reprimand;
 - b. a fine of no more than € 20,000 for each established violation;
 - c. in the case of a (repeated) violation from the same Affiliate or Content Provider of an SMS service provider of the special advertising code for offering SMS services, the Committee may impose a fine of € 5,000 per Affiliate or Content Provider;
 - d. a prohibition on offering certain services during a certain period;
 - e. obligations to place corrections;
 - f. obligations to compensate demonstrable damage;
 - g. other measures that it considers proportional and appropriate.In addition, the Committee may stipulate that the costs of the handling of the request be reimbursed, with a maximum of € 1,400.
5. Decisions of the Committee will be binding on all Parties to the Code of Conduct. This applies in particular in cases in which the Committee decides that a certain service may not be offered during a certain period.
6. Decisions of the Committee will be published on the Foundation's website, taking account of the requirements of business confidentiality.
7. The Committee will refrain from making a ruling or imposing a penalty if the request is withdrawn in advance of such.
8. The Committee will draw up an SMS Code of Conduct Enforcement Regulation that will be published on the Foundation's website. The Regulation will include a description of the procedure to be followed by the Committee before it arrives at a decision. The procedure will meet the reasonable requirements of transparency, objectivity and non-discrimination.

SECTION V FINAL PROVISIONS

Article 17. Entry into force of the Code of Conduct

The Code of Conduct will enter into force on 1 April 2008. The Parties will receive written notice of the date of registration of the advertising code – which is attached to this Code of Conduct as Appendix 3 – at the Advertising Code Committee.

Article 18 Amendment of the Code of Conduct

1. This Code of Conduct may be amended only with the full agreement of the Parties. For amendments to provisions that relate only to Operators, the approval of Service Providers is not required, unless such an amendment has consequences also for the Service Provider. If no full agreement is reached, Operators, Service Providers and SMS service providers will each designate a representative who will be part of a working group that will attempt to reach agreement on behalf of the Parties.
2. Amendment proposals to the Code of Conduct may be submitted by affiliated Operators, Service Providers, SMS service providers, OPTA and legal entities who have the object, as stated in the articles of association, to promote the interests of consumers. Proposals may be submitted to the Foundation's post address.
3. The Foundation will make every effort to issue a first response to the submitter of a proposal within one month of the receipt of an amendment proposal.

Article 19. Accession to the Code of Conduct

The following parties will accede to this Code of Conduct:

- Operators or other parties, if these facilitate and charge their own SMS services or SMS services of SMS service providers to End Users, including mobile and fixed network providers, in so far as they offer SMS services to End Users;
- Service Providers, in so far as they charge SMS services to their End Users, either explicitly or as a consequence of the effect of this Code of Conduct on their agreement with the operator;
- SMS service providers;
- Content Providers, either explicitly or as a consequence of the effect of this Code of Conduct on their agreement with the SMS service provider.

Article 20. Administration of the Code of Conduct

The administration of the Code of Conduct and its management will be conducted by the Foundation. Correspondence relating to the Code of Conduct may be sent to the Foundation's post address.

Article 21. Disputes

Disputes relating to this Code of Conduct will in the first instance be communicated to the other parties in writing. If this does not lead to a solution acceptable to all parties within six weeks, disputes may be submitted to the competent court in The Hague, the Netherlands.

Appendix 1 Format for information provision about SMS services

INFORMATION FOR THE BENEFIT OF THE SMS CODE OF CONDUCT FOUNDATION ONLINE DATABANK

EXAMPLE:

1	2	3	4	5	6	7	8	9
Name of the service	Shortcode	Sender	Register	Terminate	Cost	Frequency	SMS service provider	Content Provider
10	11	12	13	14	15			
CS/Hotline telephone number	Opening times/costs	Website/teletext	E-mail	Service description	Peculiarities			

EXPLANATION OF ABOVE FIELDS:		
1	Name of the service:	The name of the SMS service (incl. SMS subscription) being offered (or the name used in all communications, or the name in combination with the service provider).
2	Shortcode:	This is the shortened number on which the SMS service is provided.
3	Sender:	This is the numerical or alphanumerical indication of the service provider that the receiver can read in the MT SMS message or in the title of the SMS message.
4	Register:	Activation of the SMS subscription in accordance with Articles 9 and 10 of the Code of Conduct: a. in the case of unique shortcodes, to be sent to the shortcode in question by using ON and b. in the case of a shared shortcode, to be sent to the shortcode in question by using <keyword> ON.
5	Terminate:	Deactivation of the SMS subscription in accordance with Articles 9 and 10 of the Code of Conduct: a. in the case of unique shortcodes, to be sent to the shortcode in question by using STOP and b. in the case of a shared shortcode, to be sent to the shortcode in question by using <keyword> STOP.
6	Costs in euros:	Rate/rates in euros per received Premium SMS MT message and, if applicable, per sent Premium SMS MO message or rate per service in euros (e.g. per ringtone or logo, where, for instance, three received SMS messages are communicated as one (1) total/maximum rate).

SMS service code of conduct (January 2008 version)

7	Frequency	The frequency with which an End User receives an SMS (once a week, every day, every hour, every time a goal is scored by a certain club during a match); if possible, also stating the maximum number of messages per unit (hour/day/week/month, etc.).
8	SMS service provider:	Name, address, place of residence (read: post address) of the SMS service provider; if the name, address and place of residence have been completed under 9, stating the name will suffice.
9	Content Provider:	Name, address, place of residence (read: post address) of the Content Provider; if the name, address and place of residence have been completed under 8, stating the name will suffice.
10	CS/Helpline telephone number:	Telephone number(s) of the SMS service provider and/or Content Provider where questions and complaints by End Users can be submitted.
11	Opening times/costs:	The times at which the CS/Helpline referred to under 10 can be reached and the premium costs involved in euros per minute.
12	Website/teletext	Website(s) or teletext page(s) providing more information about the SMS service.
13	E-mail:	E-mail address(es) of the SMS service provider and/or Content Provider where questions and complaints by End Users can be submitted.
14	Service description:	Description of the SMS service for the benefit of consumers, which, if applicable, will in any event include the term 'subscription'.
15	Peculiarities:	Field for other information.

Appendix 2 List with permitted abbreviations

Words that may not be abbreviated:

Abonnementsdienst [subscription service]
Abonnement [subscription]
Stop / Stoppen
Afmelden [terminate]
Kost / Kosten [cost/costs]
Dag [day]
Download
Downloadkosten [download costs]
Kosten [costs]
SMS
Per verzonden bericht [per sent message]
Per ontvangen bericht [per received message]
Wallpaper
Ringtone
Realtone
Sound
Item
Produkt [product]
Info
Help

Abbreviations that may be used:

Per bericht [per message] = /bericht.
Per content item = /item
Per chat = /chat
Maximaal [maximum] = max
Minimaal [minimum] = min
Per week = /wk
Per maand [per month] = /mnd
Euro = E or € (e.g. € 0.70 or 0.70 E/message)
Cent = c (e.g. 150c/item)
Inclusief [inclusive] = Incl.
Keer [times] = x (e.g. 3 x a funsound)
Bijvoorbeeld [for example] = bijv.

Examples of abbreviations that may NOT be used:

/o.b. (per ontvangen bericht [per message received])
/b. (per bericht [per message])
p.w. (per week)
pob and p.o.b.
pvb and p.v.b.
pb and p.b.
pw

Advertising code for offering SMS services

Starting point

The aim of this Special Advertising Code is to establish clear advertising criteria for SMS services² in order to prevent misleading End Users concerning the nature and price of the services.³

Article 1 Application

- 1.1. This Special Advertising Code is based on the advertising rules stated in the SMS service provision Code of Conduct. Advertising for SMS services is, without prejudice to what is stipulated in the general part of the Advertising Code, the Children and Young People Code [*Kinder en Jeugd Code*] and the SMS service provision Code of Conduct, subject to this Special Advertising Code.
- 1.2. This Advertising Code for offering SMS services will apply to advertising for SMS services originating from providers of SMS services specifically focused on the Netherlands.
- 1.3. SMS messages that follow the registration for an SMS service and relate to the relationship with the End User and contain no new or other recommendations of products and services are not covered by the term 'advertising'.⁴

Article 2 Definitions⁵

In this Code, the terms below will have the following meaning.

SMS services	Offering of once-only SMS services and/or Subscription Services.
Subscription service	Receiving more than one SMS reverse charged message per initiation of the End User and which relate to one service

² Examples of SMS services are ringtones, realtones, wallpapers, sounds, games, quizzes, full track music and text services (e.g. horoscopes and jokes) for mobile telephones. The code relates not only to offers via advertisements, but also to the way in which SMS services are offered on Internet sites, including web shops.

³This code exists alongside the SMS service provision Code of Conduct, which is part of the SMS Services Code of Conduct for Operators and Service Providers, as most recently amended on The Code of Conduct stipulates that the Advertising Code must be observed when offering SMS services.

⁴ In the ruling of 4 July 2007 in dossier 07.0299, the Advertising Code Committee decided that in so far as an SMS message contains no recommendations for goods or services, advertising is not involved.

⁵ The definitions are in line as far as possible with those in the SMS Services Code of Conduct for Operators and Service Providers.

SMS reverse charged message	An SMS message received by an End User for which costs are charged to this End User by the Operators or Service Provider on behalf of the SMS service.
End-User	User of a fixed or mobile connection with which SMS services can be purchased.
SMS service provider	The party that actually offers its SMS services to the End User and advertises them for that purpose and enters into a relationship with the End User for providing the SMS service.
Registration screen	The screen that appears on the computer after clicking on a banner or pop-up on a web page or after clicking a service or product in a shop and which enables the End User to make a purchase and contains a response or order mechanism for that purpose.
Affiliates	A third business, not being an SMS service provider, which advertises the SMS services of that provider. ⁶

Article 3 Misleading

Advertisements for SMS services may not contain statements, images, suggestions or omissions as a result of which the End User may be misled concerning the nature and characteristics of the services and products offered, as well as the price and the way in which it is calculated.

Article 4 Minimum requirements

- 4.1 If the registration screen complies in full with the template as included in Appendix 1 to this Code and is fully visible on the computer screen,⁷ the registration screen will be considered to be in accordance with the requirements of this Code and the SMS service provision Code of Conduct and the registration screen will not be considered misleading.

⁶ An affiliate is a customary name in the Internet world for a third party that elects to advertise the products of another party. The affiliate has an agreement with the provider of SMS services or its media agency or media agent has an agreement with the provider of SMS services and makes its own decisions regarding how and where it advertises the services of the provider of the SMS services.

⁷ Fully visible means that the entire screen, including all conditions, is immediately visible on the computer screen. The Provider of SMS services cannot be called to account if the registration screen is not entirely visible only if the registration screen is not fully visible on certain computers as a result of the resolution of the computer and/or the Internet browser used and the End User has to scroll down for the entire image, while the Provider of the SMS services has used the most common resolution standard. See in this respect the ruling of the Advertising Code Committee of 4 July 2007 in file 07.0299.

- 4.2 If the template in Appendix 1 is not used for a registration screen, the registration screen must at least contain the following information in a clearly readable and unequivocal manner and must be completely visible on the computer screen.⁸
- a. if a subscription service is involved, a statement that it relates to a paid subscription service;⁹
 - b. explanation of how the subscription can be halted;
 - c. the most important characteristics of the product;
 - d. price indication per content item and content frequency per week;
 - e. if the provisions of Article 4.2.d are not met, a price indication of the service will apply per day, week or month and the number of content items to be received;
 - f. minimum age;
 - g. name of the provider and the address where the provider can be reached;
 - h. a reference to the general conditions and a statement of where these can be found;
 - i. customer service contact data.
- In addition, the statement in the title of the registration screen that a subscription service is involved may never be smaller than 33% of the remainder of the text in the title and the registration screen must always contain the header with subscription information as indicated in field 7 in the template as included in Appendix 1 to this Code.
- 4.3 If an advertisement consists of various successive screens, the screen on which the consumer must complete his or her mobile number will be considered the registration screen and consequently this screen will have to comply with the requirements included in Article 4.2.
- 4.4 If a banner, link or pop-up is used, the first screen that becomes visible after clicking on the banner, link or pop-up must be considered the registration screen and should meet the requirements of this Article 4.¹⁰
- 4.5 An advertisement in print must always meet the requirements as stated in Article 4.2.
- 4.6 A TV commercial must always meet the requirements as included in Appendix 2 to this Code.
- 4.7 No abbreviations may be used when stating the price in advertisements.
- 4.8 If, when registering for a subscription service, a part of the service or product is offered free of charge, the provider of the SMS services may focus attention on that fact on condition that it is clearly stated near the word 'free' that the service or product is free of charge when taking out a subscription, in an easily readable font that is in a reasonable proportion to the font size of the word 'free'.

Article 5 Affiliates

Providers of SMS services will not be responsible for advertisements placed by their Affiliates, only the Affiliates may be called to account for the advertisements they have placed.¹¹ Providers of SMS services will be obliged to require their Affiliates to observe this Code and the SMS Services Code of Conduct for

⁸ In this case too, the comments in footnote 6 apply.

⁹ Subscription costs cannot be evaded by asserting that membership of or affiliation to a club is involved. In all cases in which the purchase or the relationship to be entered into between the Provider of the SMS service and the End User is not restricted to the mere purchase of one SMS service, such as a single ringtone or game, but consists of a long-term relationship, the Provider of the SMS service must point out that long-term character absolutely clearly to the End User, as well as the related recurring costs.

¹⁰ Any banner, link or pop-up in this sense will not enable the consumer/End User to make a purchase and are not an invitation to purchase. In the case of the banner, link or pop-up alone, no response or order mechanism is involved or a situation in which the consumer/End User can initiate a transaction. This is the case only when the registration screen appears after clicking on the banners, links or pop-ups (see also Article 4.4). Consequently, the data stated in Article 4.2 do not need to be included in the banner.

¹¹ This will be otherwise only if the Provider of the SMS services has assisted in determining the content of the advertisement and the manner of placing.

Operators and Service Providers,¹² as well as providing the Affiliates with this Code and the Operators and Service Providers Code of Conduct for SMS Services. If the Advertising Code Committee and, in the case of an appeal, the Board of Appeal have concluded that an Affiliate has violated this Code, the Provider of the SMS services will end the contractual relationship with the Affiliate in question and prohibit the Affiliate from continuing advertising the SMS services of the Provider. Other Providers of SMS services too will have to exclude the Affiliate in question.

Article 6 Complaints

- 6.1 Every End User who believes that an advertisement of a Provider of SMS services is contrary to the Code may submit a complaint to the SMS service provider in writing or by e-mail. The SMS service provider will be obliged to investigate the complaint and to inform the End User within two weeks of the result of this investigation.
- 6.2 An End User who is not informed within two weeks or who considers the settlement of his or her complaint to be unsatisfactory may submit a complaint to the Advertising Code Authority, in accordance with the articles and regulations of this authority.

Article 7 Information relating to the Code

For more information about this Code, please contact the Advertising Code Authority. For more information about the Operators and Service Providers Code of Conduct for SMS Services and the corresponding SMS Service Provision Code of Conduct, please contact

Article 8 Entry into force

- 8.1 This Code will enter into force on 1 April 2008.
- 8.2 This Code has been adopted for two years and will, in principle, be extended in each case by a period of two years. The Code will be evaluated at the end of every two-year period and adjusted where necessary.
- 8.3 Providers of SMS services may state in their advertisements that they believe they work in accordance with this Code.

¹² The same obligation is included in the SMS Services Code of Conduct for Operators and Service Providers.

Appendix A to Appendix 3 of the SMS Code of Conduct (part of the Advertising Code for providing SMS services)

Internet Registration Screen Template

The diagram shows a registration screen template with the following elements:

- 1** Advertentie benoeming (Advertisement designation)
- 2** Subscriptie Titel (Subscription title)
- 3** Titel (Title)
- 4** Artwork (Artwork)
- 5** Call to action (Call to action)
- 6** Minimale Leeftijd (Minimum age)
- 7** Subscriptie Info (Subscription info)
- 8** Voorwaarden (Terms and conditions)
- 9** Additionele Informatie Links (Additional information links)

1 Name of advertisement

If the registration screen can be seen on or via a banner placed on a site intended for children or young people, **(advertisement)** or **(publicity)** must be stated here.

Font: Frutiger Roman, minimum font size: (14.0 PTS/72DPI)

Colour: The information must be stated in white letters on a black background.

2 Subscription title

This is obligatory and must at least be described as follows:

[**Subscribe now....or Take out a subscription now** followed by a possible advertising text].

Font: Variable, minimum font size: (20.0 PTS/72 DPI), and in any case **no smaller** than 33% of the font size of the title (point **3**).

For example: if the title (point **3**) is 75 PTS/72 DPI in size, the subscription title (point **2**) must be at least 25 PTS/72 DPI in size.

PTS= points

DPI= dots per inch

Colour: there must be a clear contrast between the background colour and the font colour so that the subscription title can be read clearly. (Yellow on orange, blue on green, grey on black, light blue on dark blue, etc. are not permitted).

3 Title

This may be the description of the product, the brand name and/or the sales offer (discount or free). Needless to say, the title may also be a combination of the various terms (product+brand+incentive). The font and the font size may be variable, but the letter size within the font should be the same for the entire title.

4 Artwork

This refers to the material that visually supports the campaign and consists of the product name, product illustration and the product description. This may be placed to the left or right of the Call to action.

5 Call to action

This is the text with the action required to order the product or to receive product information. The Call to action may be placed to the left or right of the Artwork.

- 1. This may be an example or sample of the product
- 2. The End User should insert his or her 06 (mobile) number here
- 3. Confirm by pressing on 'send'

6 Minimum age

The minimum age requirement should be stated here. The requirement must be stated using the following phrase: **Are you younger than 16? Ask for your parents' permission**

Font: Frutiger Roman, minimum font size: (14.3 PTS/72DPI)

Colour: there must be a clear contrast between the background colour and the font colour so that the minimum age can be read clearly. (Yellow on orange, blue on green, grey on black, light blue on dark blue, etc. are not permitted).

7 Subscription information

This information must at least contain the following data.

- 1. If it is a subscription service, this should be presented in the following manner: This is a **paid** subscription service.
- 2. Explanation of how the subscription can be halted (Do you wish to stop? SMS STOP).
- 3. Price indication per content item and content frequency per week (€ 3 per item + SMS download costs. Three items per week).
- 4. If the provisions of Article 7.3 are not met, a price indication of the service will apply per day, week or month and the number of content items to be received (e.g. € 6 per week, three items).

Font: Frutiger Roman, minimum font size: (14.0 PTS/72DPI)

Colour: The information must be stated in white letters on a black background.

There may only be a single space between the text at 7 and the texts 8 and 9 that follow. There may be only one space between texts 8 and 9.

8 Conditions

The most important conditions that apply to the service must be stated here. The most important conditions are in any event:

- 1. Whether or not it is a subscription service.

- 2. Explanation of how the subscription can be halted. (Do you wish to stop? SMS STOP to 'shortcode').
- 3. Price indication per content item and content frequency per week (€ 3 per item + SMS download costs. Three items per week)
- 4. If the provisions of Article 8.3 are not met, a price indication of the service will apply per day, week or month and the number of content items to be received (e.g. € 6 per week, three items).
- 5. Minimum age.
- 6. The name and address of the legal entity of the service or services provider must be added here. This will be a statutory obligation following a legislative amendment next spring and has been a requirement of the Dutch Advertising Code since 31 December 2007.

Font: Verdana Regular, minimum font size (10.0 PTS/72DPI)

Colour: Information must be stated in black letters on a white background.

🕒 Additional information links

These are links or references to extra information relating to the service offered.

The following information must at least be included here:

- 1. Suitable appliances for the service.
- 2. General conditions / Specific conditions, etc.
- 3. Contact data (telephone data and e-mail data of the provider's customer service department).
- 4. Mobile Guardian

Font: Verdana Regular, minimum font size (10.0 PTS/72DPI)

Colour: Information must be stated in black letters on a white background.

The conditions referred to above are detailed in the following example:

The diagram illustrates the layout of an SMS advertisement. It features a pink background with a white border. At the top, a black bar contains the text "DIT IS EEN ADVERTENTIE" (1). Below this, the "SUBSCRIPTIE TITEL" (2) and "TITEL" (3) are displayed in large, bold, white letters. The main content area is divided into two columns. The left column contains a "PRODUKT NAAM" (4) at the top, a large white box for "PRODUKT ILLUSTRATIE" in the center, and a "PRODUKT BESCHRIJVING" (7) at the bottom. The right column contains a "LUISTER HIER" (5) section with a "PLAY" button, a "VUL JE NUMMER IN" section with a white input field, and a "KLIK OP VERSTUUR" section with a "VERSTUUR" button. Below the right column, a note (6) states "Ben je jonger dan 16? vraag toestemming aan je ouders." At the bottom of the advertisement, a black bar (7) contains the text "Dit is een betaalde abonneerdersdienst. Stoppen? SMS STOP. € 3,00 per item. Max 3 items per week." Below the advertisement, a note (8) provides details about the service, and a note (9) lists various links and policies.

Summary of the minimum pixels and obligatory fonts.

NO. 1. Name of advertisement:

Font: Frutiger Roman, minimum font size: (14.0 PTS/72DPI)

NO. 2. Subscription title:

Font: Variable, minimum font size: (20.0 PTS/72 DPI), further depends on the size of the title, and in any case **no smaller** than 33% of the font size of the title.

NO. 3. Title:

Font: Variable, font size: variable. The letter size must always be uniform and may not differ within the title.

NO. 6. Minimum age:

Font: Frutiger Roman, minimum font size: (14.3 PTS/72DPI)

NO. 7. Subscription information:

Font: Frutiger Roman, minimum font size: (14.0 PTS/72DPI)

NO. 8. Conditions:

Font: Verdana Regular, minimum font size (10.0 PTS/72DPI)

NO. 9. Additional information links:

Font: Verdana Regular, minimum font size (10.0 PTS/72DPI)

PTS= points

DPI= dots per inch

Appendix B to Appendix 3 of the SMS Code of Conduct (part of the Advertising Code for providing SMS services)

TV commercial template

1. TV commercial format

In order to ensure that the conditions referred to under 2. can be read clearly, irrespective of the way in which they are broadcast and the channel, commercials should be supplied to TV channels in the correct format (16:9 or 4:3). The channel's broadcast equipment determines the format to be supplied. If a channel broadcasts commercials in 16:9, the commercial should be supplied to the channel in 16:9. If a channel broadcasts commercials in 4:3, the commercial should be supplied to the channel in 4:3. It is not permitted to supply 16:9 commercials to a channel that broadcasts in 4:3 and vice versa.

2. Stating the conditions text

The text of the conditions must be able to be read clearly during the entire TV commercial and must contain at least the following information.

- 1. (if applicable) It refers to a subscription service (this is a part of a subscription service).
- 2. Explanation of how the subscription can be halted (Do you wish to stop? SMS [kw] STOP.)
- 3. Reference to a website for further information (Info? www.?????.nl).
- 4. Price indication per content item and content frequency per week (€ 3 per item + SMS download costs. Three items per week).
- 5. If the provisions of Article 2.4 are not met, a price indication of the service will apply per day, week or month and the number of content items to be received (e.g. € 6 per week, three items).
- 6. Minimum age (Are you younger than 16? Ask for your parents' permission).
- 7. Name and address of the legal entity of the service or services provider.

With regard to the size of the conditions text, the following rules apply:

For 4:3 format commercials:

- Font that can be clearly read: for instance ARIAL REGULAR
- Minimum font size must be: 18 pixels
- Space between the lines (Leading) must be at least: 20
- Space between the letters (Tracking) must be at least: -18

For 16:9 format commercials:

- Font that can be clearly read: for instance ARIAL REGULAR
- Minimum font size must be: 21 pixels
- Space between the lines (Leading) must be at least: 20
- Space between the letters (Tracking) must be at least: 48

The above rules are detailed in the following examples:

For 4:3

PAL D1/DV 4:3

Action Safe

Fonttype

Font Size

Leading

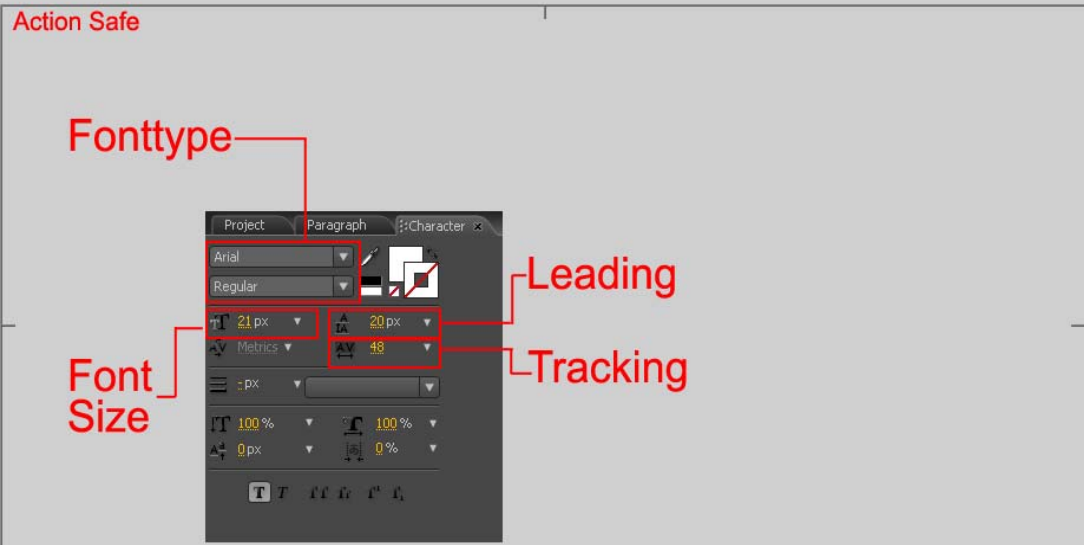
Tracking

Dit is een onderdeel van een abonnementsdienst. Afmelden? Sms [KW] stop
Info? www.?????.tv. Kosten: €3 per item(s) (+sms en downloadkosten) 3 item(s) per week
Ben je jonger dan 16? Vraag toestemming aan je ouders.

For 16:9

PAL D1/DV 16:9 Anamorphic

Action Safe



The image shows a video editing software interface with a text box. A font settings panel is open, showing various options. Red lines point to specific settings: 'Fonttype' points to the font name 'Arial', 'Font Size' points to the size '21 px', 'Leading' points to the leading '20 px', and 'Tracking' points to the tracking '48'. The text box contains the following text:

Dit is een onderdeel van een abonnementsdienst. Afmelden? Sms [KW] stop.
Info? www.?????.tv. Kosten: €3 per item(s) (+sms en downloadkosten) 3 item(s) per week
Ben je jonger dan 16? Vraag toestemming aan je ouders.