

CODE OF CONDUCT
FOR
ELECTRONIC CONTENT PROVISION
BY
ELECTRONIC COMMUNICATIONS UNDERTAKINGS
IN
MALTA



Code of Conduct for Electronic Content Provision by Electronic Communications Undertakings in Malta

Introduction

This Code of Conduct has been prepared by 'The Self Regulatory Forum' (collectively referred to in this Code as 'undertakings') for use in the Maltese market.

Increasingly new communication devices with enhanced features, including person-to-person interactivity and person-to-machine interactivity are being developed. The content of such services is readily available for consumption either from undertakings, recognised third parties or unrecognised third parties. The undertakings anticipate that these products will be used extensively by consumers, including consumers under the age of 18 years, and consequently the measures described in this Code are being put in place.

The Code

WHEREAS

A. Undertakings recognise their role and responsibilities in providing electronic communications, but also emphasize the importance of parents, legal guardians and other persons in educating their children on how to use such services and in exercising effective controls. This Code will empower parents, legal guardians and other persons who are responsible for the care of persons under 18 years of age (hereinafter referred to as 'minors') with information and tools to educate themselves and their children and to exert oversight. Undertakings also stress, that for these measures to be effective, national policy makers and responsible authorities must be active and play a role in improving access to electronic media literacy and safe use of electronic communications.

B. This Code covers visual and audio content of any nature provided by the undertakings through their communications technologies directly or as a platform for content created by recognised third parties. As undertakings cannot control unrecognised third parties, they are not able to guarantee or monitor content served by such unrecognised third parties.

C. The undertakings will review and update the provisions of this Code from time to time to cover new products and services.

D. This Code does not cover peer-to-peer communications but serves as a tool to enable undertakings to take action to combat illegal and/or nuisance communications and spam and this also for the benefit of consumers.

E. Services operated and maintained by recognised third parties making use of the infrastructure of an undertaking, shall be in accordance with the requirements of this Code.

F. This Code provides a basic common framework and does not prevent undertakings and content providers from adopting different commercial and brand positions with respect to the content and services they supply, providing these are consistent with the overall provisions of the Code. Each undertaking may however choose different organisational and technical solutions to enable it to comply with the requirements of this Code.

G. This Code reflects the recognition that undertakings believe that users and, in particular minors, should use the services reasonably and responsibly and that undertakings shall facilitate this process. The Code does not give rise to any additional legal obligations on its signatories other than those imposed at law.

IT IS THEREFORE AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Commercial content

1.1. Undertakings shall endeavour to use a common classification body of their choice to provide a framework for classifying commercial content that is unsuitable for minors, which framework shall be consistent with standards used in other media.

1.2. Undertakings shall ensure that content provided by recognised third parties are classified in a way that adequately indicates what material is suitable only for persons of 18 years of age and over in accordance with any framework that may be established under this Code and consonant with any applicable national classification approach:

Provided that nothing in this Code shall be construed as limiting classifications to persons of 18 years of age and over, or to minors. Where a finer classification scheme is in use locally, an undertaking shall endeavour to provide the verification mechanism to support such a scheme.

1.3. Each undertaking offering commercial content, shall classify prominently and clearly any material with age restrictions to ensure that consumers are aware of what they are buying. Undertakings shall take all reasonable measures within their powers to restrict access to age restricted commercial content by unauthorised persons or shall provide a mechanism that enables an-opt out for the provision of such commercial content.

1.4. The Undertakings shall also place behind access controls all commercial content chat rooms for minors, unless the said chat rooms are moderated.

Provided that undertakings cannot guarantee the safety of chat rooms offered by unrecognised third parties.

Provided further that undertakings shall endeavour to provide parents, legal guardians and other persons who are responsible for the care and custody of minors with information and tools to educate themselves and their children and to exert oversight.

2. Internet content

2.1. Undertakings have no control over the content that is offered or is available on the Internet or through unrecognised third parties, therefore are unable to ensure that such content is classified in accordance with the common classification framework referred to in this Code. Undertakings may therefore offer clients including parents and legal guardians, the possibility to purchase restricted access services.

3. Illegal content

3.1. Undertakings shall work with law enforcement agencies to deal with the reporting of content that may break the law. Where an undertaking providing mobile telephony services is hosting content, including web or messaging content, such an undertaking shall have in place *notify and take-down* provisions.

4. Unsolicited spam communications

4.1. Undertakings shall take all appropriate measures as may be within their capacity against unsolicited spam communications, including text messages, picture messages, multimedia messages and e-mails.

5. Malicious communications

5.1. Undertakings shall vigorously deal with any forms of content that may give rise to malicious communications, adapting existing procedures as may be appropriate.

6. Information and advice

6.1. Undertakings shall provide advice to consumers - including children, parents and legal guardians - on the nature and use of new communication devices and services. In doing so they shall also support other relevant media literacy activities designed to improve the knowledge of consumers.

6.2. This Code shall be available and accessible by the public on the website of each undertaking.

7. Other legislation and classifications

7.1. Notwithstanding anything in this Code, undertakings and content providers shall abide with applicable legislation.

7.2. All content offered by the undertakings and which is supplied through a Premium Rate Service through third parties shall be in compliance with this Code as well as in accordance with applicable law and regulatory directives.

7.3. All those who deliver advertising or promotion through the medium of an electronic communications' device shall comply with all relevant and applicable Data Protection legislation.

7.4. Nothing in this Code shall be construed as preventing undertakings from providing for information purposes further categories of commercial content classification, where they deem that such an approach would be useful to consumers in assessing the age range for which content is designed (such as for computer games).

8. Implementation and administration

8.1. Undertakings are responsible for the implementation and administration of the Code. In doing so they shall keep the Code under review and shall make changes where this is necessary so as to ensure that the Code remains relevant to consumers.

8.2. Each undertaking shall enforce the terms of the Code through its agreements with commercial content providers.

8.3. Without prejudice to Clause 1.3, where new commercial content classified as suitable for 18 year olds (or any other age classification as may established by the classification body) is offered, the undertaking shall deliver it in accordance with this Code through a suitable age verification mechanism.

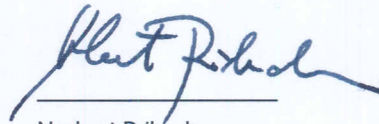
8.4 Complaints: Any complaint received by an undertaking through a customer should be resolved bearing in mind the spirit of this Code.



Iñaki Berroeta

Chief Executive Officer

Vodafone Malta Limited



Norbert Prihoda

Chief Mobile Operations Officer

Mobisle Communications Limited

Schedule 1 - Glossary

Unless stated otherwise in this Code the words used in this Code shall have the same meaning as under the Electronic Communications (Regulation) Act (Cap. 399 of the Laws of Malta).

'access controls' means methods of preventing unrestricted access to content, including barring, PIN controlled access and subscription only services;

'commercial content' means content provided by commercial content providers to their consumers and pictures, video clips, games, music, sounds and experiences such as gambling but does not include content accessed through the internet where Electronic Communications operators are providing only the connectivity; Provided that this excludes commercial content being provided under a broadcasting licence issued by the Broadcasting Authority Act.

'commercial content provider' or 'recognised third party', shall mean an electronic communications undertaking, or a provider having a contractual relationship with an electronic communications undertaking supplying content to consumers through a communications device, involving an economic value;

'chat room' means a virtual environment where people can communicate with others, including people they don't know, by exchanging written words or images but does not encompass a commercial text service where a person communicates only with a (premium rate) service;

'moderated chat room' means a chat room where either a person or special technology is used to block personal details and keep conversation appropriate;

'independent classification body' - This body's role will be to define classification criteria for 18 years content that is consistent with other media; to provide advice to commercial content providers on whether an item of content should be classified as suitable for persons of over 18 years of age, in accordance with the classification framework; to investigate complaints of mis-classification and make determinations on those complaints. The body shall provide a process for appealing such determinations. The determinations of the body will be enforced by the undertakings through their commercial contracts with content providers. The undertakings will take responsibility for all other aspects of the Code.

'unrecognised third party' means a party offering services and using the electronic communications undertakings as a bit pipe to whom no economic benefit from the transaction is derived.

'undertaking' means an electronic communications undertaking duly authorised in accordance with the Electronic Communications (Regulation) Act (Cap. 399 of the Laws of Malta) to provide electronic communications services and, or networks;

'visual and audio content' means games, video, music, chat rooms, premium services, static and moving images.

Schedule 2 - Common Content Classification

Restricted	Unrestricted	Prohibited
<p>All content which requires parental control and is or should not be accessible to minors (classified as under 18 years of age).</p> <p>Examples of Restricted content are the following:</p> <p>Language</p> <ul style="list-style-type: none"> • Frequent use of highly offensive language or explicit sexual references. <p>Nudity</p> <ul style="list-style-type: none"> • Nudity showing a person's genitals or nipples. <p>Sex</p> <ul style="list-style-type: none"> • Realistic depictions of sexual activity: <ul style="list-style-type: none"> o Real or simulated sexual intercourse, or sexual activity including sex toys where the pubic areas are visible; <p>NB: material which genuinely seeks to inform and educate such as in matters of sexuality, safe sex and health and where explicit images are the minimum necessary to illustrate and educate in a responsible manner may be permissible.</p> <p>Violence</p> <ul style="list-style-type: none"> • Violence depicting the infliction of pain or injuries • Depictions of sexual violence. <p>In respect of mobile games in particular:</p> <ul style="list-style-type: none"> • Violence towards realistic depictions of humans or realistic depictions of cruelty to animals such as scenes of dismemberment, torture, sadism and other types of excessive violence or self-mutilation. • Graphic, detailed and sustained violence towards realistic depictions of humans or realistic depictions of animals or violence towards vulnerable or defenceless humans or animals or self-mutilation. <p>Drug use</p> <ul style="list-style-type: none"> • Depictions of illegal drug taking or 	<p>All content by recognised third party undertakings or developed in-house by undertakings and provided through the undertakings' product and service range, which content is not classified as restricted and/or prohibited shall be deemed as unrestricted content.</p>	<p>Child Pornography</p> <p>Child pornography, including the depiction of any part of the body of a minor in what might be reasonably considered a sexual context, and any written material or visual and/or audio representation that reflects sexual activity, whether explicit or not, with a minor is strictly prohibited.</p> <p>Sexual Degradation</p> <p>The portrayal of any human being as a mere sexual object or to demean such human being in such manner is prohibited.</p> <p>Menacing Content</p> <p>Content that causes annoyance, threatens harm or evil, encourages or incites crime, or leads to public disorder is considered menacing and is prohibited.</p> <p>Hate propaganda, which incites or promotes genocide or hatred against an identifiable group or community, must not be portrayed. Such material is considered menacing in nature and is not permitted.</p> <p>Hate Speech</p> <p>Hate speech refers to any portrayal (words, speech or pictures, etc.), which denigrates, defames, or otherwise devalues a person or group or community on the basis of race, ethnicity, religion, nationality, gender, sexual orientation, or disability and is prohibited. In particular: descriptions of any of these groups or their members involving the use of strong language, crude language, explicit sexual references or obscene gestures, are considered hate speech.</p>

<p>solvent abuse or instructive details on illegal drug taking or manufacture of drugs or solvent abuse.</p> <p>Horror</p> <ul style="list-style-type: none"> • Depictions of sustained or detailed inflictions of pain or injury including anything which involves sadism, cruelty or induces a high level of fear or anxiety, including self-mutilation or self-harm. <p>Cruelty</p> <ul style="list-style-type: none"> • Depictions of mental or physical cruelty. <p>Imitable techniques</p> <ul style="list-style-type: none"> • Dangerous combat techniques such as ear-claps, head-butts and neck locks. • Instructive details on obtaining or manufacturing weapons, such as knives, firearms or bombs. • Instructive details of techniques for use in the commission of a criminal offence. • Depictions of suicide. • Instructive details of harmful body modification techniques (such as tattooing, body piercing, branding, scarification, cosmetic surgery). • Depictions of dangerous, imitable stunts likely to result in a real risk of serious harm. <p>For the avoidance of doubt this does not include sporting activities for example, snowboarding, skateboarding.</p>		
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