

BELGIAN INTERNET SERVICE PROVIDERS ASSOCIATION CODE OF CONDUCT

Introduction

This code of conduct has its origins in the context of the economic importance of the Internet and telecommunications market. After all, the market is unique and has no predecessors. It is characterised by high technological novelties and a global, unlimited aspect. Given the importance of this market for the economy and trade, any hindrance to activity should be avoided as much as possible.

The Code of Conduct is a useful tool to this end. It will allow existing regulations to be interpreted and concretised towards this new activity not only in the domain of trade and the economy but also in the criminal domain.

Preamble

This Code of Conduct ('Code') governs the conduct of members of the Internet Service Providers Association ('members'). The Code is uniform and mandatory for all members with no changes or exceptions. Accordingly, a member may not, by contract or otherwise, avoid or circumvent the application of the Code. Members must agree with the spirit as well as the letter of the Code. Compliance with the Code indicates that members act as a Good Housekeeper performing their services in Good Faith. Therefore, the Code can be used as a guideline for evaluating the actions of Internet Service Providers (ISPs). By Internet Service Providers we mean both Internet access providers and suppliers of Internet-related services (chat, etc.).

General Requirements for commercial conduct

Legality and Sincerity

Members' services, products and promotional material are offered in a lawful and sincere manner. Members will in no way encourage unlawful conduct on the Internet. Members will endeavour to ensure that their service and promotional materials are not misleading by inaccuracy, ambiguity, exaggerations, concealment or otherwise.

Fair dealing

When dealing with customers and other businesses, members will act in a proper, fair and reasonable manner at all times. Members will inform their customers of the existence of the Code and the complaints procedure.

Data protection

Personal data relating to customers may only be used by members for legitimate purposes. Members must comply with all applicable laws, including those relating to the protection of privacy and the Telecommunications Act and its implementing decrees.

Advertising, scope

In case of publicity, members shall ensure that advertisements broadcast by radio, television, teletext, fax, internet or in any other manner comply with the provisions of the Act.

Price information

Members shall ensure that prices for their services are clearly and unambiguously drafted. For personal connections or services to individuals, prices include VAT. If additional prices have to be paid, this should be communicated.

General requirements against crime and external complaints procedure

Internet Service Providers shall make every effort to help combat unlawful and harmful acts on the Internet. They shall undertake to make reasonable efforts in this respect with regard to the lawful use of the Internet.

However, Internet Service Providers are not technically capable of monitoring all information disseminated via the Internet infrastructure. Their task is not to monitor and/or regulate the way customers or third parties fill in or use Internet services. However, they will assist the competent authorities for this purpose by all lawful means at their disposal:

1. The Internet Service Providers undertake to identify their customers or users after receiving a lawful request to do so. If a lawful application has been provided but there is no direct agreement between the service provider and the user, it is sufficient that the Internet Service Provider can provide the necessary data leading to identification of the user.
2. Internet Service Providers will add an 'Acceptable Use Policy' to the standard terms and conditions of agreements with their customers or users. This will impose an 'acceptable behaviour on the Internet'. The Acceptable Use Policy will allow the Internet Service Provider to take necessary actions (including suspension of agreement with customer or user). Internet Service Providers provide an e-mail address where complaints can be formulated by any third party regarding illegal practices on the Internet.
3. The Federal Police runs a hotline where internal users or Internet Service Providers can report illegal, harmful information on the Internet, including advertising for services of a sexual nature; attacks on morality (paedophilia and child pornography, bestiality, sadomasochism, necrophilia); racism and xenophobia; genocide denial; malicious provocation to commit crimes and offences; groups of criminals; games and lotteries; violations of legislation on the protection of personal data; and the protection of minors. relating to the protection of privacy; violations of legislation relating to the protection of copyright and copyrights; narcotics and psychotropic substances (e.g. Internet sites where illegal drugs and medicines can be ordered in Belgium) and all other activities and information contrary to criminal law or morality.
4. Child Focus, in the context of combating the sexual exploitation of children, manages 2 non-police hotlines. The first hotline was set up in cooperation with the European Commission and aims to combat child pornography on the Internet. The second hotline was set up in cooperation with the Ministry of Justice, the Federal Police, ISPA and several chat providers. This hotline aims to prevent and combat abusive chat problems. For both hotlines, there is cooperation with the Human Trafficking Service and the Federal Computer Crime Unit of the Federal Police.
5. Third parties, including Internet Service Providers, are in a position to report activities and information spread via the Internet and in violation of criminal law or decency as mentioned above to the Disclosure Office as soon as they are explicitly informed of this.
6. ISPA undertakes to make the necessary efforts to ensure that this Meldpunt is made known to the customers and users of its members, including by mentioning it on the website and in the contractual terms and conditions.
7. Communication between the MOT and Internet Service Providers will be the subject of a separate document drawn up by the interested parties.
8. Members will follow the lawful instructions of the judicial authorities and the Police.

Internal complaint procedure in case of non-compliance with Code by a member

The procedure for handling complaints will differ according to the initiative of the complaints. Essentially, there are three different ways for handling complaints:

1. A complaint is formulated by a third party directly to an ISPA member. The member will handle the complaint until a satisfactory solution is found.
2. A complaint is formulated by a third party directly to an ISPA member. The member fails to handle the complaint. The complainant refers the complaint to the ISPA Board.
3. A complaint may also be formulated by a third party directly to the Board.

Once the complaint is referred to the ISPA Board, the handling will differ depending on the nature of the complaint. The Board determines the nature and content of the complaint and will consult with the members concerned. Before handling the complaint, the Board may consult interested third parties. The Board will communicate the complaint handling to the members and the member against whom a complaint was filed.

If a complaint is upheld by the Board, the Board may, according to its discretion, recover reasonable administrative costs incurred by it in handling the complaint.

The Board will first approach the member on an informal basis.

If a member is in a position to respond to the Board's advice but unreasonably refuses to do so, or if a member is repeatedly found guilty of failing to comply with the Code, the Board may register the complaint as a formal complaint against that member, if necessary deciding to suspend the member.

Amendment of the Code

ISPA may formulate statements relating to Internet activity in Belgium. These propositions can be incorporated into the Code. The Code can be amended by 2/3 of the votes cast by the members present at the Meeting of Members.