

# DVTM Articles of Association

as amended on 25 June 2020

**DVTM Deutscher Verband für Telekommunikation und Medien e.V.**

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## **Deutscher Verband für Telekommunikation und Medien**

### **Articles of Association**

as amended in the version adopted in the general meeting on 25 June 2020

#### **§ 1 Name and registered office**

1. The Association bears the name "Deutscher Verband für Telekommunikation und Medien" and is registered in the register of associations.
2. The Association has its registered office in Bonn.
3. The financial year is the calendar year.

#### **§ 2 Purpose of the Association**

1. The Association is a voluntary association of companies. These are from the divisions of telecommunications, media, energy, "betertainment" and companies that are particularly involved in the convergent value chain of provisioning and processing in the above-mentioned industries. According to the Association's definition, the Betertainment division consists, in particular, of companies in the sports betting, poker/casino, online lottery and e-sports sectors, as well as companies along the convergent value chain.
2. The purpose of the Association is
  - a) to represent member interests vis-à-vis the legislative bodies, authorities, organisations and other associations at the national and international level,
  - b) to protect and promote common general, legal, regulatory and economic interests,
  - c) to represent member interests towards the public,
  - d) to maintain and further develop the code of conduct developed by the Association, to which the members submit.
3. The aim of the Association is
  - a) to create a balanced, economically and consumer-friendly regulatory and legislative framework,
  - b) to create and secure fair competitive conditions,
  - c) to promote economic activity and exchange among members.

4. The Association serves to promote commercial interests within the meaning of § 8 para. 3 no. 2 of the Law Against Unfair Competition (UWG). The intention is to contribute to the promotion of fair trading through participating in legal research, through market observation and control, and through education and guidance.  
It strives for universally binding competitive conditions for the areas of value-added telephone services regulated in the Code. The Association goes after unfair competition both judicially and extrajudicially. The Association can also pursue this purpose outside of the Federal Republic of Germany.
5. By means of its Code Commission (§ 11), the Association draws up the "German Code for Telecommunications and Media" (hereinafter referred to as the "Code"). The Association works with its members, and non-members who recognise the Code as binding for their business activities, to ensure compliance with the Code. The Association has the task of pursuing violations of the Code in and out of court at its discretion against members and external parties. The Association gives companies or organisations that cannot become members of the Association for reasons of corporate or Association policy the opportunity to participate in the maintenance and further development of the Code. The further particulars may be regulated by the Usage and Participation Regulations, as well as the Schedule of Fees, which are determined by the general assembly with a simple majority.
6. At its discretion, the Association shall submit expert reports to courts and authorities and shall support these bodies, insofar as this is appropriate based on its special expertise.
7. The Association pursues the goal of cooperation with national and international regulatory bodies and represents the interests of its members in committees for the promotion of value-added telephone services by means of voluntary self-regulation in the spirit of the Code.

### **§ 3 Membership**

1. Any trader, as well as any company active in the sectors listed under § 2 para. 1, can become a full member of the Association upon request. In addition, all coalitions of several such companies (association) that have their own legal personality, as well as organisations or companies that support the achievement of the Association's goals, can become full members. Full members have voting rights, and are entitled to both stand for election and vote for candidates.
2. Natural and legal persons can become associated members on request. Associate members have no voting rights and can neither stand for election nor vote for candidates.
3. Members pay an annual membership fee based on the gross turnover of the member's company for the previous year, as under commercial law. If the members are gambling or sweepstakes companies, then the stake shall be the determining factor, regardless of whether these games are played with or without a banker. The general assembly regulates the membership fee contributions and the collection of these in the membership fee regulations. The following contribution levels apply for the contribution amounts.

Level 1	Up to € 5 million
Level 2	> € 5 to 10 million
Level 3	> € 10 to 25 million
Level 4	> € 25 to 50 million
Level 5	> € 50 to 100 million
Level 6	> € 100 million

Associate members pay half of the membership fee of a full member. Associations and organisations pay a reduced membership fee in accordance with the membership fee regulations.

4. If the membership fees are not paid on time, membership and voting rights shall be suspended at the general meeting and in the other executive bodies. The obligation to pay fee contributions remains unaffected.

#### **§ 4 Admission procedure**

Applications for membership are to be sent in writing to the office. The board shall decide on the application for membership. By becoming a full member, the applicant recognises the Association's Code and undertakes to observe it.

#### **§ 5 Rights and obligations of members**

1. Members have the right
  - to use the Association logo, registered as a trademark, in the context of corporate communications (e.g., homepage, letterhead)
  - to take part in the general meetings and general assembly to submit applications
  - to obtain information and advice from the executive bodies of the Association.
2. Members are obliged
  - to support the achievement of the Association's goals and work and to organise their own activities in such a way that the reputation of the Association is not impaired
  - to implement decisions taken
  - to pay the membership fees when due
3. The other rights and obligations of members that arise under the law and these Articles of Association remain unaffected.

## **§ 6 Termination of membership**

1. Membership ends upon resignation, expulsion, deletion of the company in the commercial register, or other deletion or dissolution of a member. Departure from the Association is effected by sending a declaration in text form to the office. It can only be declared by providing three months notice, to take effect at the end of the Association's financial year.
2. A member can be excluded from the Association after prior consultation with the executive board if it deliberately, or through gross negligence, contravenes the interests of the Association. Such contravention of interests shall be deemed to be committed, in particular, by those who:
  - a) repeatedly violate the provisions of the Code or, faced with repeated violations from their customers, do not immediately take appropriate measures to prevent this
  - b) do not pay the membership fees despite these being due and after two written reminders
3. The request for expulsion must be sent to the member in text form no later than three weeks before the decision is taken. In the event of an objection to the expulsion, the membership shall be suspended until the next general meeting, which shall finally decide on the case by means of a resolution requiring a three-quarters majority of the votes present.
4. Members who have resigned or been expelled have no rights to the Association's assets. The same applies to members whose membership is suspended. Membership fees that have already been paid will not be refunded. The obligation to pay membership fee contributions up until the time of departure remains unaffected by this.

## **§ 7 Executive bodies of the association, representation**

1. Executive bodies of the Association are:
  - a) the general meeting (§ 8);
  - b) the executive board (§§ 9 and 10).
2. The Association is represented in and out of court by two members of the executive board or one member of the executive board and the managing director (§ 11), in each case.

## § 8 The general meeting

1. The ordinary general meeting takes place once a year. Extraordinary general meetings are held when this is necessary in the interests of the Association. An extraordinary general meeting must be called if a quarter of the members apply to the office in writing.
2. General meetings are convened in writing and/or in text form by the chairperson of the executive board, or, if he/she is prevented from doing so, by a vice-chairperson, stating the agenda set by the executive board.
3. The convocation period for the ordinary general meeting is at least three weeks. Invitations to extraordinary general meetings must be sent at least one week before the day of the meeting. The date of dispatch (postal mark) or the date of dispatch in the case of electronic transmission shall be what determines whether or not the deadline has been adhered to.
4. Each full member can submit new agenda items for the ordinary general meeting to the office in writing at least one week before the meeting date. It is not permitted to add agenda items regarding amendment of the Articles of Association, annual membership contributions and apportionment of costs. The office will immediately forward any permissible new agenda items to all members in text form. The agenda is deemed to be added to, to that extent, upon these being dispatched. Paying regard to absent members, further additions can only be decided by a three-quarters majority of the votes present, and, again, these additions must not relate to amendments to the Articles of Association, annual membership contributions and apportionment of costs.
5. The general meeting is chaired by the chairperson of the executive board, or by one of the deputy chairpersons if he/she is unable to attend. If these are also unable to attend, the general meeting shall elect a chairperson from among its members at the start of the meeting.
6. The general meeting is quorate if the members present or represented in accordance with para. 7 acquire at least one-quarter of the total votes of all members resulting from para. 8. If there is no quorum, the next general meeting shall in any case be deemed quorate. This is to be pointed out in the invitation to the following general meeting.
7. A member may be represented by a proxy. The written power of attorney must be presented to the chair of the meeting. Neither a member nor a proxy may amass the voting rights of more than three members.

8. Unless otherwise stipulated by law or in these Articles of Association, the simple majority of the valid votes cast shall be decisive when the general meeting is voting on resolutions. Full members of contribution levels 1 and 2 have one vote, as do associations and organisations; members of contribution levels 3 and 4 have two votes; and members of contribution levels 5 and 6 have three votes. Like associated members (§ 3 para. 2), start-ups have no voting rights and can neither stand for election nor vote for candidates. Abstentions and invalid votes count as votes not cast. Where the Articles of Association refer to a three-quarters majority, a three-quarters majority of the valid votes cast is required.
9. Resolutions are to be recorded in written minutes stating the location and time of the meeting and the result of the vote. The minutes are to be signed by the chairperson of the executive board and by the minute taker elected by the general meeting.
10. Tasks of the general meeting include, among others:
  - a) electing and discharging members of the executive board
  - b) amending or revising the Articles of Association
  - c) deciding on the amount and due date of the membership fees
  - d) deciding on complaints against the exclusion of Association members
  - e) choosing the auditor
  - f) deciding on the dissolution of the Association
  - g) appointing honorary members
  - h) all other tasks assigned to the general meeting by law or elsewhere in the Articles of Association.
11. The general meeting may regulate the further course of elections in electoral regulations.

## **§ 9 Executive board**

1. The executive board consists of the chairperson as well from two to a maximum of eleven deputies. The executive board manages the business and represents the Association in all matters in and out of court.
2. The chairperson of the executive board is elected individually; the deputies are elected by the general meeting for a period of two years in the order of the relative majority of votes achieved. Executive board members may be repeatedly re-elected. The electoral code may regulate further details. Election to the executive board also requires work for or employment at a member of the Association.

3. Membership of the executive board shall end before the expiry of the term of office in the event of dismissal by the general meeting or resignation from office by means of notification sent to the office in text form. If the membership of the company or organisation in which the member of the executive board is employed or works ends, or if the member of the executive board is no longer employed or works for a member of the Association, then his or her membership of the executive board shall end at the same time. Upon request, the other executive board members can unanimously decide that this executive board member shall remain in office until the end of the term of office. If the appointment of an executive board member ends before the term of office expires, a new executive board member may be elected for the remaining term of office at the next ordinary general meeting.
4. When the term of office expires, the executive board member shall remain in office until the next ordinary general meeting. If no resolution is passed there on his or her re-election, he/she will leave the executive board.
5. The members of the executive board generally act on a volunteer basis. Insofar as they work as department heads (§ 15), they may receive appropriate remuneration for this in accordance with the provisions there. Remuneration beyond this may only be given on the basis of a separate resolution of the executive board, which shall at the same time also determine the amount of the remuneration.
6. The liability of the members of the executive board towards the Association is limited to gross negligence and intent.
7. The executive board shall adopt its own rules of procedure.
8. The executive board may appoint a former member of the executive board as an honorary member without voting rights. The honorary member of the executive board is entitled to attend all meetings and conference calls of the executive board and the general meeting.

#### **§ 10 Meetings and resolutions of the executive board**

1. Resolutions of the executive board are taken in meetings or by way of circulation (para. 5).
2. The executive board is quorate if the majority of the executive board members are present or participate in the conference call, as the case may be. As a rule, resolutions are passed by a simple majority of the valid votes cast. Abstentions do not count as votes cast. In the event of a tie, the rules of procedure (§ 9 para. 7) may provide for one particular executive board member having the deciding vote.
3. A member of the executive board is not entitled to vote if the decision being taken concerns a legal transaction being conducted between the Association and him/her or the initiation or settlement of a legal dispute between him/her and the Association.
4. Representation by another member of the executive board is permitted when decisions are being taken. The particulars are governed by the rules of procedure.



5. Resolutions of the executive board can also be passed in text form or by telephone vote (circulation procedure), without having to observe invitation periods, if all executive board members declare their consent to that procedure. Casting a vote by circulation shall be deemed as giving consent. The particulars are governed by the rules of procedure.
6. The executive board's rules of procedure also regulate further details on invitations and the organisation of meetings.

## **§ 11 Management**

1. The Association maintains an office for the management of ongoing business.
2. The executive board appoints one full-time managing director, who is responsible for managing business. The managing director reports to the executive board. He or she is always appointed for a period of two or three years. Repeat appointments are permitted. Premature dismissal of the managing director requires a unanimous resolution from the executive board.
3. The management is accountable to the executive board and the general meeting. It must carry out the resolutions of the general assembly and is entitled to participate in all meetings and negotiations of the Association.
4. The liability of the managing director towards the Association is limited to gross negligence and intent.
5. The executive board provides the management with rules of procedure.

## **§ 12 Code and commission**

1. The Association has a Code Commission, whose task is to update the content of the Code and keep it up to date. The Code Commission regularly reviews and revises the Code in accordance with the applicable legal system. The Code Commission has a chairperson and four to a maximum of eleven deputies, who are elected by the Association members and external signatories to the Code for a period of two years following the general meeting.
2. The chairperson of the Code Commission is elected individually. Election requires one to be employed at or work for a member of the Association. The remaining members are elected in order of the relative majority of votes achieved.  
To be elected, they must work for a member of the Association or an external company that is one of the signatories to the Code. At least half of the other members of the Code Commission are to be staffed by Association members. The electoral code may regulate further details.

3. The members of the Code Commission generally act on a volunteer basis. Remuneration for special cases may only be given on the basis of a separate resolution of the executive board, which shall at the same time also determine the amount of the remuneration.
4. The liability of the members during their work within the Code Commission is limited to gross negligence and intent.
5. If the chairperson or one of the other members of the Code Commission resigns before their term of office has expired, a by-election shall take place for the remaining term of office after the next ordinary general meeting, in accordance with the electoral regulations of the Code Commission.
6. Each member of the Association is entitled to participate in the meetings of the Commission without any voting rights. For their part, the Commission members are entitled to consult persons from the ranks of the members, or signatories to the Code, but also external third parties, as experts on individual questions without voting rights.
7. The members of the Commission, in consultation with the executive board of the Association, shall adopt their own rules of procedure.

### **§ 13 Working groups**

1. In addition, further working groups can be formed from among the members. If required, the working groups shall be convened by the managing director on a voluntary basis, based on a decision by the executive board.
2. The working groups help opinions to be formed within the Association.

### **§ 14 Code advisory board (the “Think Tank”)**

The executive board can appoint an advisory board to support the further development of the Germany Code for Telecommunications and Media and to support the enforcement of high competition and consumer protection standards in the telecommunications and media markets. The executive board shall regulate the appointment and dismissal of the advisory board members, their rights and tasks and the organisational processes.

### **§ 15 Departments**

1. The Association members may set up a department or council. The divisions of the Association include, in particular, telecommunications/IT & value-added services, media and other services, "bettertainment", financial services, energy. The department must be registered with the Association's executive board by a declaration from the members of the Association. Should the Association's executive board reject the formation of the department, the general meeting shall decide on it. The department can adopt a departmental statute.

2. The council is a self-governing department of the Association in which the Association members come together to promote department-specific projects. The department adopts its own departmental statute.
3. The executive bodies of the department are the departmental meeting and the department's executive board.
4. Membership of the department is applied for by sending an application for admission to the chairperson of the department's executive board. The department's executive board shall decide whether or not to admit the applicant.
5. The department shall hold a departmental meeting at least once a year. The particulars are governed by the departmental statute.
6. The departmental meeting shall elect an executive board for the department, consisting of a chairperson and two deputy chairpersons. If no department executive board is elected by the departmental meeting, then, in the bettertainment council, the department shall be managed by the chairperson of the Association and another executive board member determined by the Association's executive board; in all other departments, the chairperson and up to two deputies shall be determined by the Association's executive board in such cases. The members of the department's executive board may receive appropriate remuneration for their work, the amount of which is determined by the department's executive board.
7. The department may collect department fees from its members, which may only be used and administered for the purposes of the department. The administration and use of the department fees shall be the responsibility of the department's executive board in accordance with the departmental statute and the resolutions of the departmental meeting. The department finances itself, i.e., the activities of the department are financed exclusively from the department fees and any special donations expressly intended for this purpose. To this end, the department's income and expenses are managed in a separate, special account that is to be kept separate from the rest of the Association's assets. The funds that are managed in the special account constitute a special fund that is not to be included among the Association's assets and belongs solely to the members of the department. It is administered on behalf of the department's members in trust by the department's executive board in accordance with the resolutions of the departmental meeting.
8. The department manages itself. The department's executive board is, in its management, not subject to the instructions of the Association's executive board and the Association's management. The activities of the department must not run counter to the purpose of the Association.

## **§ 16 Follow-up in the case of violations**

1. The Association follows up on violations of the Code and of statutory provisions on the basis of its own controls – carried out so as to be competition-neutral – at its discretion.

2. The result of these controls is evaluated, statistically recorded and published at its discretion. The basis for the controls is the control plans, which contain information about which media, which type of service and/or which telephone number range is reviewed for which type of violations.
3. This does not affect the possibility that exists of proceeding under competition law due to the violations that have been determined.

### **§ 17 The Association's funding**

The Association's costs are covered by membership fees. Additional income (lump sums from written warnings, contractual penalties) resulting from the pursuit of unfair competition will only be used to finance the legal proceedings against unfair competition.

### **§ 18 Auditing**

The general meeting shall appoint two auditors to inspect the management of the budget. The auditors are elected for a period of two years. Appointment requires a simple majority of the valid votes cast. Further details may be governed by the electoral regulations. After completing their audit, they shall inform the executive board and the managing director of the results of their audit and shall report to the general meeting. The auditors may not belong to the executive board.

### **§ 19 Amendment of the Articles of Association, dissolution of the Association**

1. The general meeting shall decide on any amendment of the Articles of Association, any merger with other associations, or the dissolution of the Association, by a three-quarter majority of the valid votes cast.
2. Upon dissolution of the Association, the assets of the Association fall to Deutsche Kinderschutzbund-Bundesarbeitsgemeinschaft Kinder- und Jugendtelefon e.V., which must use these directly and exclusively for charitable, benevolent or ecclesiastical purposes; this does not apply in the event of dissolution by way of a merger of the Association, as a transferring legal entity, with a new legal entity.

Bonn, 25 June 2020