

Instruction for the provision of the periodical mobile content services

This instruction is prepared on the basis of the legislation of the Republic of Estonia and it regulates the offering of periodical content services and entering into contracts of using such services.

The instruction is based on the following legal acts:

1. Consumer Protection Act
2. Advertising Act
3. Law of Obligations Act
4. Information Society Services Act
5. Electronic Communications Act

In addition to legal requirements, the instruction provides the recommendations of the Consumer Protection Board for the better regulation of offering and provision of content services.

Periodical content service (*hereinafter referred to as „service“*) is a service offered on the basis of a contract entered into by means of communication equipment on the basis of which content (ringtones, logos, pictures, games, news, advertising, etc.) is forwarded to customer's mobile telephone and the customer pays a periodical fee for using such a service.

Content is a multimedia content (ringtones, logos, pictures, applications, news, etc.) compatible with and used in mobile telephones.

Service Provider is a person forwarding the periodical content service to the mobile telephones of customers having entered into a contract via the network of a communications undertaking.

Service Dealer is a person distributing the services of the Service Provider on the Estonian market.

Communications undertaking is an entity providing publicly available electronic communication services to the end-user or to another communications undertaking, including permitting the Service Providers and Service Dealers to offer periodical content services to end-users. In the context of this instruction, the communications undertaking is generally considered to be a mobile operator.

1. Requirements to the manner of the offer of periodical content service

- 1.1. Service Provider must ensure that the services offered and distributed are legal and comply with the legislation of the Republic of Estonia.
- 1.2. If the Service Providers and communications undertakings possess appropriate technical equipment, they must allow the customers to totally block the access to short numbers distributing the periodical content services,. Communications undertakings must inform customers about the possibility of blocking or limiting periodical content services.
- 1.3. Service Provider is obliged to terminate the contract for services automatically if the charging of the respective mobile telephone number has failed in three (3) subsequent months.

2. Requirements to the advertising of the periodical content service

- 2.1. Advertising of a content service must comply with the legislation of the Republic of Estonia. Offer and sale of the service must follow good commercial practices and be fair to the consumer. Offer of the service must be planned and carried out in such a way that consumers clearly understand the commercial purpose of the offer. Unfair and misleading commercial practices must not be used while advertising the service.
- 2.2. Advertising of the service must contain at least the following information in Estonian:
 - a) name, address, e-mail address and customer information number of the Service Provider and/or Service Dealer so that the client is able to communicate his/her complaints and declarations;
 - b) basic features of the content service and clear information stating that it is a periodical or self-renewing content service;
 - c) Regarding advertising on the Internet, the information that it's a periodical content service must be displayed on the opening page of the **advertising or service** and it must be available before the customer begins using the advertised service (replying to the test, participating in a lottery, etc.) or enters his/her mobile telephone number for the receipt of results and/or participation in the lottery;
 - d) final price or price range and settling period (day, week, month). Price of the service must be presented for a settling period and the whole information related to settling must be clear, in the same type of font and with the same font size as other information concerning the service;
 - e) in case of special offers, the period when the offer or offered price is applicable;
 - f) minimum duration of the service and period of providing the service, i.e. whether the contract is with or without a fixed term;

- g) reference to the place where the customer can be introduced to the complete conditions and description of the service (e.g. on the homepage of the Service Provider);
 - h) condition that underage persons (under 18 years of age) wishing to order the service must have a previous consent of a parent or a guardian;
 - i) information about ordering and terminating the service (e.g. by sending a message STOP or STOPP).
- 2.3. Service Provider, Service Dealer, subscriber of advertising and publisher of advertising must ensure that services prohibited to minors are not advertised by such media or in online environments aimed directly at minors (e.g. www.lastekas.ee, taheke.delfi.ee, etc.).
- 2.4. Seeing/hearing advertising in any media channel only once must be sufficient for the customer to get a clear idea of the nature, cost and content of the service.
- 2.5. Conditions related to ordering the service must be displayed in a clearly visible way on a contrasting background, horizontal writing and in the same font type and font size as the other information concerning the service.
- 2.6. Price information on television, text TV, Internet and other similar advertising channels must be displayed at least as long as information about the telephone number of ordering the service or the field the consumer must insert his/her telephone number.
- 2.7. It is not allowed to use expressions like „Free!“, „Congratulations! You have won!“ or other similar expressions and misleading baits, if the service is not free during the whole period of using or the free service is bundled with a payable periodical content service.
- 2.8. It is not allowed to advertise the service or transactions related to the service as free services, if it is compulsory for the customer to pay a fee to the communications undertaking for using the service or part of it.

3. Requirements to the website of the periodical content service

- 3.1. Website of the service must be prepared with an assumption that the customer uses the web browser Internet Explorer and the computer screen is set with a resolution of 1024*786.
- 3.2. If the website is opened with a resolution of 1024*786, it must not be scrollable. The whole information concerning the service must be displayed on one screen.
- 3.3. The text size must not be determined in advance (the browser itself will set the text size according to the settings of the Internet browser of the user).
- 3.4. It must be possible to order a single service only and information about the service must be clearly displayed on the website.

- 3.5. Terms and conditions related to ordering the service must be displayed on a clearly visible place, on a contrasting background and horizontally and in the same font type and size as other information concerning the service.
- 3.6. Displaying the information through links must take place after a click. The use of pop-ups is prohibited.
- 3.7. Services aimed at the Estonian market and service conditions must be displayed at least in Estonian. If the service is aimed at users speaking other languages and it is provided other languages, then, in addition to the terms and conditions in Estonian, the terms and conditions must also be given in the language of the respective target group.
- 3.8. The following information must be displayed on the website (not as a link; these following clauses must be displayed immediately after opening the website):
- a) basic terms and conditions of the service that are relevant to the customer (that it is a periodical content service and what exactly is offered to the customer (background images, ringtones, games, news, etc.));
 - b) Cost of the service together with the settling period. The price of the service must be located immediately next to the description and in the same font type as the description;
 - c) Information about the conditions of ordering and terminating the service;
 - d) Clearly visible reference to the other terms and conditions of the service (they may be under a separate link and they may be scrollable). Link to the terms and conditions of the services must be immediately next to the information on the content and cost of the services;
 - e) Information about the technical conditions the mobile telephone must have to be able to use the service.
- 3.9. If the service is ordered by entering a telephone number and a PIN code, the Service Provider must inform clearly in advance about it and the customer must confirm the order by a click on the corresponding link or it must be possible to make a checkmark on the website, for example, "I order the answers to the test and I agree to use the service" or "I agree with the terms and conditions and I order the service" by which the customer confirms having accepted the terms and conditions.
- 3.10. When ordering the service, the customer must receive a respective SMS that the customer has ordered the service. The SMS must include the taxation period, price of the service, contact of customer information and instruction of waiving the service.
Example: *"You have joined the club that costs €3.20 a week. More information on phone 6 666 666. To terminate, send a message STOP to number 1111).*
- 3.11. In the case the customer is sent a code to use the service, the same SMS must also include a warning that when entering the code, the customer starts to use a periodical content service.
Example: *"You answered 70% of questions right. Your lottery code: 5555. When you enter the code, you join the club that costs €3.20 a week."*

- 3.12. Name and contacts of the Service Provider and Service Dealer (if applicable) must be clearly displayed on the website of the service as well as the telephone number of customer information which is used to give additional information about the service and solving customer complaints.
- 3.13. Service Provider and/or dealer must ensure that the customer service is available at least in working days and working hours and advises the customers on the issues related to the service.
- 3.14. The website must include the information that persons under 18 wishing to use the service must have consent of a parent or guardian.
- 3.15. Together with each content service or immediately after offering the content service, the Service Provider must send a message with the price of the service, settling period, contact information of the customer service and instructions on waiving the service.
- 3.16. Customers must be able to waive the service at any time. It is not allowed to demand the customer additional fees in case the customer decides to waive the service.
- 3.17. Instructions on waiving the services must be clearly provided by the advertisements, websites and messages sent to customers.
- 3.18. Successful termination of the service must be confirmed by a respective message to the customer.
- 3.19. Where prepaid amounts are not subject to reimbursement in case of a waiver, this condition must be clearly provided by terms and conditions of the service.
- 3.20. After successfully ordering one service on the website, next offer to order a new service must not be displayed immediately.

4. Requirements to the periodical content service via WAP page

- 4.1. The name and contact information of the Service Provider and Service Dealer and customer information number must be given on the website of the service so that the customer can obtain additional information about the service.
- 4.2. The following must be displayed on the website (not as a link but as clauses that can be found immediately):
 - a) The basic terms and conditions of the content relevant to the customer (that this is a periodical content service and what is exactly offered to the customer, e.g. background images, ringtones, games);
 - b) Cost of the service together with the settling period. Information on the price of the service must be given immediately next to the description of the service and in the same font type as the description;
 - c) Information about how can the customer order the service and terminate the service.

- 4.3. Clearly visible reference to the terms and conditions of the service (that may be under a separate link and continue outside the screen). Link to the terms and conditions of the services must be immediately next to the information on the content and cost of the service.
- 4.4. It must be possible to order a single service only and information about the service must be clearly displayed on the website
- 4.5. It is prohibited to demand that the customer orders a service automatically when entering the WAP page.
- 4.6. The website must include the information that persons under 18 wishing to order the service must have consent of a parent or a guardian.
- 4.7. The Service provider must inform customers clearly about ordering the service beforehand. Customers must confirm the order by clicking on a respective link or it must be possible to make a checkmark into a respective field on the website, stating that for example "I order the answers of the test and start to use the service" or "I agree with the terms and conditions and order the service" by which the customer confirms accepting the terms and conditions.
- 4.8. When ordering the service, customers must be informed by both the WAP page and an SMS that the customer has ordered the service. The SMS must include information about the settling period, price of the service, customer information contact and instructions on waiving the service.
- 4.9. After ordering the service, the Service Provider shall inform the customer about the status of ordering, price of the service and instructions of the termination on the same WAP page. In the case the customer visits the WAP page of ordering the service but has already started to use the service, the Service Provider must display the information about the service active at the moment (including the name, price, etc. of the service) and about the possibility to terminate the service.
- 4.10. In the case there is no possibility to terminate the service on WAP page, the Service Provider must display the information about alternative ways of terminating the service.