



Annex to the Messaging Service Reference Document

SMS Code of conduct

1. Scope

This Code of Conduct is an annex to the Messaging Product Plan, Service Plan or Service Reference Document entered into by the Parties together with a Carrier Services Agreement or similar agreement (together referred herein as the “Agreement”) and sets out the rights and obligations of the Parties in relation with the sending, receiving and content of SMS A2P traffic.

By subscribing to the SMS A2P Service, COMPANY acknowledges having received and agreed upon the present Code of conduct.

Should a Party deviate from the provisions of this Code of conduct, the Parties shall in the best timeframe collaborate to remedy the deviation, including by taking suspension measures.

The present Code of Conduct may from time to time be amended by BICS. COMPANY shall be informed of the amendments made and agrees that the latest version communicated and accessible via MyBICS shall be the one applicable.

2. Parties' obligations

2.1. Each Party shall, and shall ensure that its own customers and eventually the originator of the SMS A2P MT shall only send SMS A2P MT which:

- comply with the relevant applicable telecommunication or electronic communication acts, data protection law and any other applicable legislation, law, or regulation generally and more specifically the ones that apply in the destination country;
- comply with the general conditions of authorisation pursuant to which a Party operates;
- comply with any regulatory guideline or decision;
- comply with any applicable code of practice, including those related to adult content;
- comply with consumer protection legislation;
- do not lead to any privacy abuse;
- are not likely to bring the other Party or its customers into disrepute;
- contain nothing which is likely in the light of generally prevailing standards of decency and propriety to cause offence and are not defamatory;
- are not related to or the result of any fraudulent activity;
- will not infringe any third-party intellectual property rights; and
- will not alter any settings on the mobile telecommunications device of any mobile subscriber.

Each Party shall ensure that it, and its customers, complies with the above in accordance with the generally accepted standards in any given territory to which SMS A2P MT are being sent.

- 2.2. Each Party will promptly cease to send, at the other Party's request, any SMS A2P MT which the other Party considers may have been sent in breach of clause 2.1.
- 2.3. Each Party shall prohibit its customers to create, carry or deliver unsolicited SMS A2P Mobile Terminating (MT) messages, to use the Parties' networks for the sending of unsolicited advertising or spamming (dumping of unsolicited and/or anonymous messages for commercial or other purposes...).
- 2.4. Save as otherwise expressly agreed, neither Party may allow its customers to provide any premium rate services by making use of the Parties' networks.

- 2.5. Neither Party shall modify messages' content or their metadata unless legitimately required for message delivery. Unless for technical or regulatory reasons, messages' content and their metadata shall be kept unaltered, particularly elements such as SenderID or Global Title, which are particularly relevant for identifying the companies involved in generating, processing, or terminating SMS A2P MT.
- 2.6. Parties shall, and shall impose upon their customers to, use only their own legitimate credentials or identifier(s), and shall not omit, fake, or use someone else's credentials. Unless legitimately required for message delivery, Parties shall prohibit their customers to knowingly manipulate Global Titles to pretend to be someone else, and to knowingly use an Alphanumeric originator, Short Code or Long Code that is not owned/licensed and operated by them, for termination of SMS A2P MT.
- 2.7. Parties shall make their best endeavours to deploy effective, proportionate risk-based procedures and tools to prevent abuse with computer-originated messages or any other fraud related to or facilitated through the other Party's services and infrastructure. Parties shall develop and deploy capabilities to (including but not limited to) detect, report and block traffic, if needed, based on suspicious traffic patterns, such as unusual volumes or suspicious traffic origin or content, by whitelisting/blacklisting specific message originators and other measures such as for example blacklisting URLs or specific keywords part of the message content. Parties shall deploy the necessary tools and resources to protect and monitor their technical infrastructure of abnormal message volumes, formats, or patterns to minimise the risk of not knowingly providing non-compliant service in terms of applicable law and signed contracts. In case a Party would be informed of any such fraud or abuse, that Party shall immediately take the necessary steps in order to stop such fraud or abuse, absent which the other Party shall have the right to suspend its service as per the Agreement's provisions. Especially upon discovering suspected artificial inflation of SMS A2P MT traffic, a Party shall have the right to request for evidence of the Service and furthermore have the right to suspend the Service should the other Party fail to provide sufficient evidence that this is a legitimate service or to cease the suspicious traffic if no remedy is brought within two business days.
- 2.8. Each Party shall, upon request from the other Party or from any mobile subscriber, whether the other Party's end user or not, perform a 'non-disturb' instruction whereby such mobile subscriber will no longer receive any kind of SMS A2P MT through COMPANY, BICS or the destination network.
- 2.9. Each Party shall provide to the other such assistance and/or information as it may from time to time reasonably require in order to comply with any and all requirements and conditions at any time and from time to time imposed on it or on its customers by law, by any statutory or regulatory provision or authorisation, or by any codes of practice which are or may be applicable to or affect any SMS A2P Service. A Party shall have the right to report any incident pertaining to unsolicited or fraudulent messages relating to any other Party's customer to any affected traffic recipient or other required-to-be-informed third party.
- 2.10. Each Party undertakes to comply, or have its own customers comply, with any instruction related to the allowed use of the SMS A2P Service that a Party, or its customers, is being imposed by any destination network. This includes, but is not limited to, any instruction related to number portability, use of the service for direct marketing purposes, etc..
- 2.11. Each Party undertakes to inform its own customers and, as the case may be, the issuers of the SMS A2P MT of the obligations and requirements from this Code of Conduct and the right of suspension of the Service in case of non-compliance.
- 2.12. Each Party shall impose upon its customers to comply with any applicable rule related to information obligations to the mobile subscribers and to the conditions for the receipt of SMS A2P MT and will make sure the mobile subscribers may at any time de-activate the receipt of said messages or may contact a Party's customer for further assistance. COMPANY acknowledges that BICS shall in no instance have direct contacts with mobile subscribers.

3. Dealing with mobile subscribers

- 3.1. Each Party shall impose upon its customers the responsibility for obtaining the mobile subscribers' consent to receive SMS A2P MT prior to the attempted transmission of such short messages to such mobile subscribers. Each Party shall also impose upon its customers the obligation to clearly inform the mobile subscribers about their rights, to give them opportunities to exercise meaningful choice and control over the messages they wish to receive via opt-in mechanisms and to provide them with obvious, clear, and efficient information on and means to opt-out from receiving SMS A2P MT, be it at the same time as the information about the opt-in. Mechanisms and specificities of the opt-in process generally differ from country to country and/or for different types of communication, but usually include receiving a Mobile Originated Message on a long code or short code or receiving permission via some electronic or physical form. For this purpose, each Party shall impose upon its customers compliance with the applicable law/regulation and shall keep evidence of the opt-in readily available to show on demand by the other Party, an authorised authority or interested party that has a right to request such evidence.
- 3.2. Both Parties shall make sure that their customers from which the SMS A2P MT originate will be solely responsible to mobile subscribers for all SMS A2P MT, products and services offered to mobile subscribers and any obligations and liability arising under any contract with the mobile subscribers.
- 3.3. Once a mobile subscriber has opted out of the receipt of further communications, a Party's customer must ensure interaction with them must cease as soon as technically possible.
- 3.4. Message originators must respect the legal or consumers' preferences regarding time and frequency of SMS A2P MT interaction. When there is no applicable law, and consumer preferences are unknown, common sense and best judgement should be observed (e.g., all promotional messages should be sent during working hours, typically 8 am to 8 pm of the mobile subscriber time zone, during a business/office working week, avoiding public holidays, days of religious observance, etc.).
- 3.5. Each Party shall make its best efforts to include the same or at least as protective provisions as the ones contained herein in any contract that it may have with its customers, mobile subscribers or any third party. In the case where complaints are raised by mobile subscribers, a Party shall be entitled to immediately suspend the related A2P Services without the other Party being entitled to any damage and/or to recover from that other Party any ascertained fine or penalty imposed upon it by the recipient network following issuance of complaint.

4. Parties' rights

- 4.1. Without prejudice to either Party's other rights under the Agreement, each Party shall have the right at any time to:
 - require the immediate cessation of provision of any SMS A2P MT, premium rate service or other matter or thing which it may reasonably determine to have been or to be in breach of the Code of Conduct, Messaging Service Reference Document and Agreement and/or any codes of practice;
 - immediately suspend the SMS A2P Service and/or cease to convey some or all SMS A2P MT and/or provision of some or all Services including in the following circumstances:
 - any licence, permission, or authorisation necessary for the provision of the SMS A2P Service by the other Party is revoked;

- anything contemplated hereunder is alleged or determined to be in contravention of any licences, permissions, or authorisations or of any relevant legislation or regulation or of the rights of any third party;
 - any fraudulent activity is taking or suspected to be taking place;
 - a Party receives complaints regarding the other Party, which, acting reasonably, it considers to be:
 - excessive in number;
 - indicative of the other Party or its customers providing a poor quality of service to mobile subscribers; or
 - of such seriousness as to be materially prejudicial to that Party' reputation;
 - in order to comply with an order, notice or direction of any regulatory body or governmental authority; or
 - if at any time the number of SMS A2P MT delivered to that Party's facility is such that they cause congestion in that Party's network or disrupt other services or which are, in the opinion of that Party having regard to the relevant forecast sheet, if any, excessive.
- 4.2. Each Party, if not at the origin of the SMS A2P MT traffic, shall ensure towards its own customers that it cannot be held liable for the content of information that is transferred or stored by either of the Parties and that transit through the Parties' networks. It is Receiving Party's responsibility to implement appropriate monitoring and traffic blocking measures to stop the transmission of any unauthorised, unsolicited, illicit, or illegal messages.
- 4.3. In case of SMS spam issue, each Party will be entitled to transfer information regarding the unsolicited messages to other mobile operators, relevant public authorities, and regulation bodies.

5. Liability

Each Party agrees to defend, indemnify, and hold harmless the other and its respective directors, officers, employees, representatives, and agents from and against any and all claims, actions, demands, legal proceedings, liabilities, damages, losses, judgements, authorised settlements, costs, or expenses, including (without limitation) reasonable legal fees arising out of or in connection with the SMS A2P Service. Each Party shall give prompt written notice to the other of any relevant claim, allowing that other Party the sole control of the defence and related settlement negotiations for such claim and fully assist and co-operate in the defence and settlement negotiations as requested by that other Party so long as that other Party pays for the related reasonable costs and expenses.

It is however expressly agreed that either Party's compensation obligation is limited to compensation of personal, material, and direct damages up to an aggregate amount of twenty thousand euro per year, except for the amounts of fines or penalties that are imposed on a Party due to the other Party's failure to comply with this Code of conduct, in which case the full amount may be claimed by a Party to the other.