

### III. OTHER PROVISIONS

#### MINISTRY OF INDUSTRY, TOURISM AND TRADE

**12439** *Resolution dated July 8th 2009 issued by the Secretary of State for Telecommunications and for the Information Society, whereby the code of conduct is published for the rendering of premium rate messaging services.*

Approved by the Plenary of the Supervisory Committee for Premium rate services at its meeting dated June 29<sup>th</sup> 2009, the new Code of Conduct for the rendering of premium rate messaging services is published in the «Official State Gazette», featuring as an Annex.

Madrid: July 8th 2009 –The Secretary of State for Telecommunications and for the Information Society, Francisco Ros Perán.

#### ANNEX

#### Code of Conduct for the rendering of premium rate messaging services

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### **1. Field of Application**

1.1 This Code of Conduct is applicable and is of a binding nature for those operators rendering message forwarding and storage services subject to premium rates to network operators who supply access to the messaging services to the user and the operator responsible for their billing, in accordance with the definitions of the services set out in point 3 of the present Code.

1.2 The operators included in the field of application of this Code of Conduct are also obliged to comply with the legal or regulatory standards applicable, in particular as regards the protection of the rights of consumers and users.

### **2. Object and purposes**

2.1 The present Code, adopted in compliance with that foreseen in article 10.2 of the Order ITC/308 dated January 31st 2008 sets out to establish the conduct standards which ensure the protection of users' interests, transparency and fair competition in the rendering of premium rate messaging services.

2.2 The present Code of Conduct also contains standards aimed, especially and specifically, at protecting the rights of social groups called vulnerable such as minors, the elderly and the disabled. It thus intends to avoid the breaching of basic rights recognised in our legislation, as well as promoting compliance with all the specific or sectorial standards and those of a horizontal nature which affect the rendering of these services within the scope of its competences.

2.3 This Code of Conduct, respecting the right to the free exercising of business activity, stipulates mandatory rules for those operators providing message storage and forwarding subject to premium rates, with a view to ensuring users of the correct rendering, dissemination and promotion thereof, as well as of ensuring that sufficient information is

provided to the user about the services rendered, their price and any other contracting conditions.

2.4 This Code of Conduct also includes a classification of the services, (annex no.1), with specific standards to ensure their correct localization within each code; and finally, it provides instruments for drawing up the mandatory reports which may determine the cancellation of number assignment.

2.5 All of the provisions contained in the present Code shall be interpreted with a view to achieving maximum protection of the user.

### 3. Definitions

For the purposes of this Code of Conduct the following definitions apply:

3.1 «Premium rate messaging services»: The electronic communications services provided both by means of short text messages (English abbreviation SMS), as well as by means of multimedia messages (English abbreviation MMS) which entail payment by users, in immediate or deferred fashion, of a remuneration, added to the price of the message sending service by way of remuneration for the provision of any information, communication, entertainment or other service.

3.2 «Operator who provides message storage and forwarding services subject to premium rates» (henceforth, «operator number holder»): The operator number holder which supplies information, communication, entertainment or other services by means of premium rate messaging codes.

3.3 «Network operator who provides access to the messaging service» (henceforth, the «access operator»): The operator who has the network elements required, whether they are their own or belonging to third parties, for the provision to the user of access to the messaging service which supports the premium rate service and who is responsible, in the same way, for the billing and collection of the services rendered.

3.4 «Start Message/s»: The message or messages which are free-of-charge to the user, sent by the operator number holder prior to the supply of the provision requested, and suitable for the rendering of the service schemes b), c) and d) of the table included in Annex I to the present Code of Conduct.

3.5 «Final Message/s»: The message or messages which are free-of-charge to the user, sent by the operator number holder subsequent to the supply of the provision requested, and suitable for the rendering of service scheme a) of the table included in Annex I to the present Code of Conduct.

3.6 «Information Message » The message which is free-of-charge to the user referred to in article 5.2 of the Order ITC/308 dated January 31<sup>st</sup> 2008 established for the services involving the carrying out of a given action, different from the supply of a content, in response to the invocation message sent by the user (for example, votes, contests and others). Once said action has been carried out, the message must be sent by the operator number holder and shall provide information to the user about the result thereof.

3.7 «Advertising» or «advert»: Any kind of promotion or communication related with the services referred to by this Code of Conduct.

3.8 «Price of the general messages service»: price of sending messages via mobile or fixed networks established by the operators for the majority of their final users and which shall be the maximum to be received by the operator number holders for the invocation, confirmation or refusal messages referred to in article 5.5 of Order ITC/308 dated January 31<sup>st</sup> 2008.

The lack of a response by the user to any message requesting confirmation by the operator shall be regarded as a rejection of receiving the service requested, being equivalent for all intents and purposes to the issuing of a refusal message. To this end, the operator number holders shall not promote the sending by the user of unnecessary refusal messages

#### **4. General obligations, responsibilities and control.**

##### **4.1 General obligations.**

4.1.1 The premium rate messaging services shall be provided, whatever the case may be and regardless of their form of contracting, by way of the numbers formats foreseen in Chapter II of the Order ITC/308 dated January 31<sup>st</sup> 2008 and in Annex I to this Code, without prejudice to the fact that the competent Administrative Body may assign, thereafter, other codes different from those mentioned.

For these purposes, the rendering of premium rate messaging services, not associated with the numbers, or numbering ranges indicated in the previous paragraph, is forbidden.

4.1.2 Remuneration for the rendering of the premium rate services shall only be made for those services specifically requested by the user and actually rendered.

It is also forbidden to bill messages to users whose access to the services had proven impossible as there is no agreement between the access operator and the holder of the numbering which, for any technical reason, does not fit in with the compliance principle.

The operator number holder shall put at the disposal of users, prior to contracting, information about the availability of the service offered for their mobile terminal.

#### **4.2 Responsibilities**

4.2.1 The operator number holder shall be responsible, for the purposes of this Code of Conduct, for:

- a) The promotion and contents of the services which shall comply with the standards set out in this Code of Conduct, regardless of whether operator produces them or not, or provides them through a third party.
- b) The promotional material related with the services complying with the obligations contained in the present Code.
- c) Respecting the classification of the services established in Order ITC/308 dated January 31<sup>st</sup> 2008 and in this Code.
- d) Supplying the services requested, being exclusively limited to those expressly requested by the user, as well as their nature and content, in accordance with the service scheme requested.
- e) Providing the services on the terms indicated in the advertising and that their contents suit that actually publicised.

4.2.2 The access operators responsible for informing the users about the right to the disconnection of the premium rate messaging services, in accordance with the forecasts and timing determined by the standards which regulate these services. Furthermore, they shall comply with the provisions of the standards applicable with regard to the billing of the premium rate services based on the sending of messages.

4.2.3 The access operator who provides message storage and forwarding services subject to premium rates is also subject to all those obligations and responsibilities set out in the present Code for the operator number holder.

4.2.4 The access operators shall see to preventing subscribers and users of the services from having monthly billing which is disproportionate with regard to the mean consumption of the subscriber.

**4.3 Control.**

4.3.1 When the Supervisory Committee for Premium rate services, in the exercising of control and follow-up functions regarding compliance with the Code of Conduct, believes that there has been a breach of this Code by an operator number holder, it shall issue, subject to hearing the parties concerned, a Report in which the reasons for the breach shall be specified, the identification of the operator number holder and the determination of the number with regard to which there has been a breach.

Said report shall be subjected to the consideration of the competent Administrative Body, which, where applicable, shall state the Resolution which shall be communicated to the Telecommunications Market Committee so that the latter can adopt the decision to cancel for one year the assignment of the corresponding number.

Hence, said resolution shall be notified to the operator number holder and to the public phone network operators which shall be obliged to block said access to the corresponding number.

In this regard, the access operators shall inform the competent administrative body by way of the secretary of the Supervisory Committee of the Premium Rate Services of the exact date whereupon they saw to the blocking of the number concerned.

4.3.2 A reiterated breach of the Code of Conduct by the operator number holder shall give rise to temporary cancellation for one year of all those numbers it has assigned for the rendering of said services.

4.3.3 For the purposes of this Code of Conduct, it shall be understood that there has been a reiterated breach when an operator number holder has infringed as regards any of the schemes of services established in the fourth column of the table included in article 4 of Order ITC/308 dated January 31<sup>st</sup> 2008 on five occasions, successive or simultaneous, this code during the course of a calendar year.

A reiterated breach, under the conditions established in the previous paragraph above, shall give rise to the temporary cancellation of all the numbers that the operator number holder has for the service scheme in which the reiteration has occurred.

If, in accordance with the criterion set out in this point, an operator number holder is guilty of a reiterated breach on two occasions, the temporary cancellation of all the numbers it has assigned shall occur.

4.3.4 Hence, it shall be understood that there is reiteration when the breach of the Code of Conduct is produced by means of a single number for the rendering of premium rate messaging services, which concerns a definite or indefinite collective of users and which may cause or have caused social alarm.

**5. Standards on services information and advertising.****5.1 General standards**

5.1.1 The following obligations shall apply to all kinds of advertising, commercial communication, support or media intended to promote numbers and/or premium rate messaging services. The lack of information, or imperfect information, in services advertising, shall represent a breach of the Code of Conduct.

5.1.2 The operator number holder shall always be easily identifiable by users, in such a way that the latter can get in touch with the former without difficulties.

Said operator shall be identified by specifically providing, by way of start or final information message/s, as the case may be, at least the following data: Holder (name in full), customer service phone number and an e-mail.

The operator number holder shall also include on its web page, in prominent fashion, its postal address.

5.1.3 For the purposes of this Code, it shall be understood that there is a breach by the operator number holder when advertising or promotional communications are sent by any electronic means which have not been specifically requested by the user.

5.1.4 The advertising or adverts carried out by the operator number holder, on any support, shall be carried out in such a way that the mandatory information foreseen in this Code is easily understandable by consumers, without making any effort to evaluate or interpret it. It shall have to present:

5.1.4.1 Characters of the appropriate colours and size; easily legible to the user; and shall be situated in parallel and in the same reading direction as the premium rate messaging number advertised.

5.1.4.2 Visual information about prices, identification of the operator number holder or any other mandatory data shall be displayed statically and immediately after the number advertised and in characters suitable for their perfect viewing or understanding.

In adverts broadcast on the radio, whenever the number for the rendering of premium rate messaging services is communicated orally, its price shall also be provided in oral fashion.

In adverts broadcast on TV, when the number is communicated in oral fashion, it shall be displayed simultaneously in static fashion and in characters which are appropriate for their perfect viewing, the information about the price, identification of the holder operator and any other mandatory data.

5.1.5 When the user has accessed the premium rate service based on sending short messages on offer, the operator number holder may not carry out the advertising of premium rate services of other schemes. In this regard, it is forbidden to offer premium rate services based on the sending of short messages which forward the rendering of the services to premium rate numbers of schemes other than that of the number initially used by the user, unless the operator who is the holder has the express consent of the latter.

Offers of services which are forwarded from services aimed at minors to other services shall also be forbidden.

### **5.2. Information about the price of the services.**

5.2.1 The operator number holder, in any advertising support in which includes a premium rate number, shall inform the user of the final, complete price, including taxes, of the service to be received. Said final and complete price of the service shall be indicated including the service value, both from mobile network phones and from fixed network phones, as the case may be. The published price of the message shall coincide with the complete price of the service.

5.2.2 The subscription services shall indicate the final complete price, including taxes, for each message received, or where applicable, that of the periodic fees brought about by said subscription.

5.2.3 Should there be services associated with those of premium rate, WAP navigation or similar, this circumstance shall be stated both in the advertising and in the information messages after the service price, with an expression of the kind «Message price, x,xx € + WAP navigation price, consult your operator».

### **5.3 Contents of advertising.**

5.3.1 The contents of any advertising support whereby the rendering of premium rate messaging services is offered shall comply with the provisions of the present Code, without prejudice to compliance with the standards in force as regards advertising and user protection.

5.3.2 Furthermore, the contents of the advertising shall not cause or disseminate any individual or collective offense, mislead or be capable of misleading; on the other hand, it shall be adapted to true nature of the service or product offered.

5.3.3 Any form of advertising whereby promotions, offers, discounts, gifts or similar are offered shall indicate the duration of the promotion, the conditions for participation or access,



as well as the advantages for the consumer, without prejudice to compliance with the other standards and obligations which may be applicable, in accordance with prevailing legislation.

5.3.4 Any form of advertising or promotion shall not contain any direct urging of minors to acquire the services or to convince their parents or adults of said acquisition.

5.3.5 In order to offer suitable information to the user, the use of abbreviations in the advertising of the services can be carried out whenever they are those commonly accepted and the content of the minimum information required by the present Code for each type of service is expressed clearly and precisely. Each abbreviated word or term shall have at least three alphanumeric signs, excluding the full stop indicative of the abbreviation. The omission of these specifications shall represent a breach of the Code of Conduct.

Should the terms or abbreviations detailed below be used, they must be expressed on the following terms:

Recommended age: «Adults» or «+ 18 years old».

Indication of the price in euros: «€» or «Eur.».

Identification of the Customer Care number: Cust. care no..

P.O. box: «P.O. Box».

Advertising: Advert.

## **6. Standards applicable to the contents and conditions of the services.**

### **6.1 General principles**

6.1.1 The general principles shall be applied to all types of services. The contents of the premium rate messaging services shall not:

6.1.1.1 Induce or promote sexual, racial or religious discrimination or any breach of the basic rights and the public freedoms recognised by the Spanish Constitution and the rest of the legislation.

6.1.1.2 Induce or incite action in illegal fashion.

6.1.1.3 Lead to erroneous conclusions by dint of their inaccuracy, ambiguity, exaggeration, omission or similar.

6.1.1.4 Induce an unacceptable state of anxiety or fear, or take advantage of or exploit the economic, employment or personal needs of the user.

6.1.1.5 Induce or incite anyone to get involved in dangerous, risky practices which are harmful to health or mental balance.

6.1.1.6 Breach the legal or regulatory standards as regards the secrecy of communications, intellectual property, right to reputation and personal or family privacy, or any other provision applicable to the nature of the service.

6.1.1.7 Contain information which is false or null and void.

6.1.1.8 Take advantage of the trust or invade the privacy of anyone who is mentally disabled or unbalanced or anyone else who is vulnerable, taking into account the special protection which said people need

6.1.1.9 Require the sending of two or more messages subject to premium rates for the completion of a given service.

6.1.1.10 Respect the specific principles for the services aimed at children and young people referred to in point 6.4. of the Code of Conduct.

6.1.1.11 The services intended to request or offer employment or work, directly or indirectly, whether it is remunerated or without remuneration, cannot be offered by means of premium rate messaging numbers.

Neither can services be offered by means of premium rate messaging numbers which should be provided free-of-charge by dint of a legal stipulation.

6.1.2 Generally speaking, and except for specific exceptions and conditions which are established for each type of service, the operator number holder cannot charge any additional amount by dint of remuneration for the corresponding innovation and confirmation messages, in such a way that the user should only pay, at the most, the price of the general messaging service between final users.

6.1.3 The access operator who bills the subscription for the corresponding service, shall be responsible for compliance with the obligation indicated in the previous paragraph above, in such a way that in the event of the assumption that said obligation of the holders of numbers has not been complied with, this shall be informed to the administrative body competent as regards inspection and sanctions by dint of an infringement of telecommunications standards.

6.1.4 Services which incorporate a request for personal information or data of a personal nature, including name, domicile or other data, bearing in mind the fixed or mobile phone number, shall be appropriate, pertinent and not excessive in terms of the purpose for which they are obtained, state clearly why said information is requested, indicating any purpose which is going to be lent to the information requested, without prejudice to the exercising by users of the rights of access, rectification, cancellation or opposition as regards their data. The operator number holders shall specifically respect the rights contained in the legislation as regards personal data protection. For the purposes of this Code, a breach shall be regarded as any action contrary to data protection standards, in particular any request for data from minors.

6.1.5 The operator number holder shall apply the Classification of premium rate services which is approved by the Committee for the Supervision of the Premium Rate Services which shall form an integral part of this Code of Conduct.

6.1.6 Generally speaking, only an expression of the will of the user to contract the service confirmed by way of a message sent from his own subscriber phone number shall be valid. Notwithstanding, the service may be contracted by way of other means whenever the following has been guaranteed:

- a) The authentication of the mobile phone number which invokes the service.
- b) The expression of the consent of the user in accordance with that regulated in this Code.
- c) The appropriate visibility of the general conditions during the course of the contracting process.»

6.1.7 Premium rate numbers cannot be used for rendering customer care or after-sales services linked to the acquisition of a good or the rendering of a service.

## **6.2 General characteristics of the Premium Rate Messaging services.**

6.2.1 The premium rate messaging services, in line with the form of provision and the basic contents they provide, can be classified in the following forms:

6.2.1.1 Code 2 shall be used for rendering services of a price lower than 1.2 €. The 280AB subrange shall be used for campaigns of the charitable type which are included in the collection intended for said purposes remuneration for the premium rate messaging services.

6.2.1.2 Code 3 shall be used for providing services whose prices exceed 1.2 € and are lower than 6 €.

6.2.1.3 Code 79 shall be used for providing subscription services whose price per message received is lower than 1.2 €.

6.2.1.4 Code 99 shall be used for providing services from/to adults for a price of under 6 €.

***6.3 Specific criteria for rendering premium rate messaging services.***

6.3.1 The services which are provided under the codes 99 set aside for providing services which are exclusive for adults shall specifically respect and comply with the following standards:

6.3.1.1 The content of these services shall have as its exclusive destinees people aged over 18 with the ability to distinguish and take decisions. This numerical code shall include any service which, by dint of its content, presentation or advertising, is included in the Classification of the Services referred to in Annex I.

6.3.1.2 In this scheme of services, there shall be a specific indication that they are totally forbidden to the under 18's in the confirmation message by way of the expression «+ 18 years old». Furthermore, all advertising support shall contain the phrase, in complete fashion, «+ 18 years old».

6.3.1.3 The operator number holder shall check, whenever possible, by means of the relevant auto-control systems, that those asking for these services are not aged under 18 years old. The advertising of these services shall be carried out on those media or supports which are not aimed at children and young people as a group.

6.3.1.4 Any advertising carried out of the services and premium rate numbers belonging to code 99 may only be included in the following advertising media and time periods:

- a) TV and radio between 10 p.m. and 6 a.m. of the following day.
- b) Magazines or publications whose exclusive destinees are adults.
- c) Classified ads or ads per word services in newspapers.
- d) In the other media and supports, whenever their destinee is not, bearing in mind their dissemination and contents, young people or children.

6.3.2 The services provided under code 2 intended to provide price services < 1.2 € shall particularly comply with the following standards:

6.3.2.1 The numbers holders shall provide free-of-charge to the user by way of one or more messages, immediately after the latter has received the service requested (final message), the following information:

Their name and an e-mail address.

The contact phone number of the customer care centre.

The total price of the service received, including taxes.

6.3.3 The services which are provided under the codes 3, 79 and 99 shall specifically comply with the following standards:

6.3.3.1 The holders of numbers shall provide free-of-charge to the user by way of one or more messages prior to supply of the service requested (start message), the following information:

a) Their name and an e-mail address.

b) The contact phone number of the customer care centre.

c) The nature of the service to be provided.

d) The total price of the service received, including taxes.

e) Invitation confirming the service. Whatever the case may be, the lack of a response of the user to the message requesting the confirmation of the operator shall be regarded as a refusal to receive the service requested.

6.3.4 The services provided under code 79, subscription services, shall specifically comply with the following standards:

6.3.4.1 Subscription services are regarded as those which involve the sending of certain messages by the operator number holder to the subscriber, either in periodic fashion or when certain events occur.

It shall be forbidden to send messages to users who have not made the corresponding subscription request in accordance with the point below. It shall also be forbidden to send and bill messages to users who have requested disconnection in accordance with the same point.

6.3.4.2 Those operator number holders which afford subscription services shall adopt the following harmonised procedures for the connection and disconnection of their subscribers.

«CONNECTION {event}», substituting {event} for its key word.

«DISCONNECTION {event}», substituting {event} for its key word.

The use of lower or upper case letters in the messages connection and disconnection messages shall make no difference and they shall be dealt with in the same way.

After receipt of the subscription request, the number holder shall send the user that information foreseen in point 6.3.4.3 of this Code. In the same way, after receipt of the disconnection request, said holder shall send the user a message confirming the disconnection.

6.3.4.3 In particular, numbers holders shall provide free-of-charge to the user by way of one or more messages prior to the supply of the requested service (start message) the following information:

- a) The nature of the service to be provided, indicating, in any case, the form of disconnection.
- b) Total Price of the service, including taxes, indicating the price of the messages to be received by the user or, where applicable, the fees which should be paid periodically.

6.3.5 For those services comprising the carrying out of a given action other than the supply of a content in response to the invocation message sent by the user (for example, voting, contests and others), the numbers holders shall provide, once said action has been carried out, a free Information Message as regards the result thereof, without prejudice to the provisions of the paragraphs below. If the voting or participation message has been received outside the timeframe established to this end, the billing of the premium rate component shall be forbidden.

In the event of messages to participate in charitable campaigns, the free Information Message referred to in the previous paragraph above shall specify the amount the user has contributed to the corresponding campaign.

6.3.6 Any numbers holder promoting a contest or draw, regardless of the communication media deployed, shall comply with the following standards:

- a) Any contests or draws which involve putting to the test the expertise or knowledge of the user; a random combination or any other scheme involving luck or chance, shall have the relevant rules regulating their operation.

b) The rules for the contests or draws, as well as the resolution thereof, shall be deposited with a notary or competent public body in such a way that they are easily accessible to users.

In the same way, the resolution thereof shall be deposited in immediately subsequent fashion, with the same ease of access for users.

c) Any draws shall be submitted to the rules in force on games of chance and, where applicable, it shall have the relevant authorizations.

d) The decision of the contest or draw shall be publicised in appropriate fashion to allow it to be easily accessible by users. Hence, the lucky winning user shall be clearly informed about the prize, without this achievement entailing any cost to it. It shall be incumbent upon the operator number holder to prove the notification to the winning user.

6.3.7 Hence, services may not be offered by means of premium rate messaging numbers which should be provided free-of-charge by dint of a legal obligation which require normative approval thereof, as well as the necessary qualification.

#### ***6.4 Specific criteria for the services intended for children and young people.***

6.4.1 All services which, both as a whole as well as partially, are aimed at people aged under 18 years old shall be regarded as services for children and young people. It is understood that any service promoted by way of a publication or media geared towards children and young people, is aimed at these people.

6.4.2 Operator number holders which provide this type of services shall take special care to respect the rights of minors, in particular:

6.4.2.1 It shall be indicated and notified that the consent of parents or guardians and/or the phone holder for the use of the service is required in the publication or media in which they are promoted.

6.4.2.2 Care shall be taken with the vocabulary used in the service and bad language or derogatory words shall not be deployed.

6.4.2.3 There should be no encouragement of the use of other premium rate services based on the use of messages or reiteration which is use during the rendering of the service.

6.4.2.4 Their gullibility or lack of experience shall not be exploited.

6.4.2.5 The operating hours for these services shall be between 8 a.m. and 11 p.m.

6.4.2.6 The premium rate services aimed at children and young people shall see to, as well as other issues, the protection of the minor and not creating or encouraging consuming habits.

## **7. Instruments for compliance with the purposes of the Code of Conduct.**

7.1 Any public or private physical or legal person may report any breaches of this Code of Conduct to the Supervisory Committee for Premium rate services (CSSTA). Furthermore, the latter shall be the body responsible for:

7.1.1 Drawing up, approving and, where applicable, modifying the present Code of Conduct.

7.1.2 Control and follow-up of compliance with the Code of Conduct.

7.2 The Supervisory Committee for Premium rate services shall delegate to the Standing Committee the following duties:

7.2.1 Control and follow-up of compliance with the Code of Conduct.

7.2.2 Submission to the Plenary, for its approval, of any modification to the Code of Conduct and the Classification of the services, bearing in mind the provisions of the resolutions by the Secretary of State for Telecommunications and the Information Society whereby the codes are determined, on the assumption that it is necessary.

7.2.3 The Standing Committee, subject to the hearing of the parties concerned, shall issue a report in which the grounds shall be specified of the breach and shall send it to the competent Administrative Body so that it can dictate a Resolution, which shall be notified to the operator who holds the number and the operators of the corresponding public phone networks for the purposes foreseen in the present Code of Conduct.

7.2.4 Drawing up and submitting to the Plenary of the Supervisory Committee of the premium rate Services of an annual report relating to the works carried out by the Standing Committee. With a view to information transparency, this Report shall be made public.

7.2.5 Studying the formats for presenting the start, final and confirmation messages which the operator number holders send to the Secretariat of the Standing Committee. For these purposes, the operator number holders may communicate, prior to their use, said Secretariat of the start, final and confirmation message formats.

The Standing Committee shall be empowered to approve standard start, final and confirmation message formats which the operator number holders may use optionally.



7.3 The CSSTA Standing Committee shall periodically carry out a follow-up of the operator number holders which fail to comply with the Code of Conduct in reiterated fashion and shall inform the competent Administrative Body with a view to adopting the opportune measures of temporary cancellation for one year of all the assignments held by the operator.

7.4 The CSSTA shall inform the competent administrative or judicial bodies forthwith about anything it is aware of which breaches or may breach any standard of our legislation.

Transitory regime.

Said operator number holders which have been providing subscription services prior to the coming into force of the present Code and which will continue to provide them with the new numbering established by Order ITC/308 dated January 31<sup>st</sup> 2008 shall send the subscribers an Information Message about the validity of the subscription. The operators shall disconnect users who expressly request this in accordance with point 6.3.4.2 of this Code.

Should any modification be made – in addition to the modification to numbering - to the prices or other essential conditions of the contract, the operator shall send the final user a message confirming the continuity of the service. Should the user fail to respond to the confirmation request, this shall be regarded as a foregoing of the continued reception of the service.

## ANNEX I

### Classification of the premium rate messaging services

#### 1. Introduction

Order ITC/308 dated January 31<sup>st</sup> 2008 whereby instructions are dictated about the use of public numbering resources for the rendering of short message and multimedia messaging services and the Code of Conduct which regulates the good practices of the premium rate messaging services, establishes an ordering of the services for their rendering by the operator number holders. Article 4 of this standard establishes the numbering ranges set out below

Numbers format	Values of the figures	Length of the numbers	Service schemes
2 5YAB	Y, A, B = from 0 to 9	5 figures	a) Prices = 1.2 € [The 280AB subrange shall be used for charitable campaigns]
2 7YAB			
2 80AB			
2 9YABM	Expansion reserved to 6 figures		
3 5YAB	Y, A, B = from 0 to 9	5 figures	b) 1,2 € < Price = 6 €
3 7YAB			
3 9YABM			

79 5ABM	A, B, M= from 0 to 9	6 figures	c) Subscription services with price per message received= 1.2 €
79 7ABM			
79 9ABMC			
99 5ABM	A, B, M = from 0 to 9	6 figures	d) Services exclusive for adults of price = 6 €
99 7ABM			
99 9ABMC			

In accordance with the provisions of article 4.2 of the Order, the numbering ranges defined in this table can only be used for the rendering of premium rate messaging services in the schemes and with the net prices per completed service to be charged to the users from the public phone networks which are specified therein.

Article 4.5 of the Order stipulates that the Supervisory Committee of the Premium Rate Services shall set the criteria for the assignment of the services to each of the numbering ranges defined in the previous table above.

By dint of the characteristics of the services offered, the Supervisory Committee for the premium Rate Phone Services (CSSTA) establishes the classification of the services sustained on a framework of general and referential principles for operator number holders and access operators.

Depending on the functions which it commissioned from the Plenary of the Supervision Committee for Premium rate services, the Standing Committee may, at the behest of the court or the party, submit to the Plenary any variation or modification to the present Classification, bearing in mind the provisions of the standards.

## 2. Definitions

a. Professional services. For the purposes of this Code of Conduct, said services related with business, professional and artistic activities shall be regarded as included in this heading or which are linked to the requirement of a professional association, or which for the exercising of the professional activity have to be in the possession of a title approved by the competent authorities, by dint of the legal or regulatory provisions in the Spanish State, respecting the limits and requirements of its specific regulation.

The services offered by the Public Administrations or the public bodies linked to or dependent thereupon, as well as on any other institutions with purposes of a social interest can also be offered by means of the corresponding numbering ranges, on the terms and with the requirements foreseen in the present Code of Conduct.

Excluded is the provision of any type of activity or exercising of the profession which uses a euphemistic name or service defined or included in the following points.

b. Leisure and entertainment services. Leisure and entertainment services are taken to mean all those services whose object is, inter alia, fun; entertainment; pastimes; games of chance, regarding as such the contests and draws which can legally be offered under this system; and those services of a content which is esoteric; astrological, tarot, fortune-telling and/or prediction of the future by other means.

Leisure and entertainment services shall be offered, respecting with the greatest scruples the criteria which derive from the limitations set out by the Code of Conduct for the rest of the services. In particular, all leisure and entertainment services whose content is considered or defined in range 99 shall be exclusively assigned thereunto.

Furthermore, this type of services will have to respect all those standards whose compliance is mandatory and which are indicated in the Code of Conduct and, in particular, the services defined as those intended for children and young people which shall indicate the age recommended for the use of each of the services.

c. Exclusive services for adults. The Committee agrees that the offer of services provided by way of this code shall be aimed at users with the ability to distinguish and take decisions.

The services rendered under this code shall have as their destinées only people aged over 18 years old.

For the purposes of this Code, services which are exclusive to adults shall be regarded as those services which, by dint of their content, advertising form or presentation, disseminate erotic or pornographic contents; which provide contacts of a personal or collective nature linked to the services mentioned previously, or which use bad or obscene language, related with any of the previous categories and those services whose content refers to moral, ethical, religious and ideological opinions or values.

Furthermore, all those services, products or contents which are expressly forbidden to the under-18's in our legislation shall be assigned to this numbering range. To this end, included within the scope of application of this standard shall be the commercialisation, distribution or making available of services, products or contents for the over 18's which use as a means of payment, in direct or indirect fashion, messages subject to premium rates referred to in the present Code of Conduct.

d. Services for the collection of funds in charitable campaigns. For the purposes of the present Code of Conduct, these are services whose main purpose is the collection of funds in charitable campaigns in which differentiated tax treatment is applied to messages sent by the users.

e. Subscription services. Subscription services are taken to mean those which entail the sending of given messages to the subscriber by the operator number holder, either periodically

or when certain events occur, whatever the form in which they are finally billed to the user under the terms indicated in the present Code of Conduct.

