

CODE OF PRACTICE FOR PREMIUM RATE NUMBERS IN DECADE 4 –
OPERATIVE GUIDELINES

Preamble

having regard to the law of 14 November 1995 no. 481 concerning standards for competition and the regulation of public utility services and institutions of the [Italian] Regulatory Authority;

having regard to the law of 31 July 1997 no. 249, concerning the institution of the [Italian] Communications Authority and standards on the telecommunications and radio and television services;

having regard to resolution no. 9/03/CIR of the Italian Communications Authority relating to the numbers at national level in the telecommunications sector and implementing regulations;

having regard to the legislative decree of 1st August 2003, no. 259 containing the new “Code of Electronic Communications”;

having regard to the legislative decree of 30 June 2003, no. 196 containing the new “Code on the matter of protection of personal data” and successive modifications;

having regard to the decree of the Italian Minister of Communications of 2 March 2006, no. 145 “Code containing the regulations for premium services”;

having regard to the resolution no. 661/06/CONS “Security measures in the matter of protection of minors to be implemented on mobile phone video channels”;

having regard to the resolution no.664/06/CONS “Adoption of the policy containing arrangements for protection of the users in matters of the provision of electronic communication through remote contracts”;

having regard to the resolution no. 418/07/CONS “Arrangements in matters of transparency of the phone billing, selective call barring and protection of users”;

having regard to the initiatives taken by the mobile phone operations in the area of GSMA Europe and in particular by undertakings assumed by the signatories¹ of the “*European Framework for Safer Mobile Use by Younger Teenagers and Children*” (Safer Internet Day, 6 February 2007)

Having considered that

¹ List of signatories http://www.gsmeurope.org/safer_mobile/signatories.shtml

- the acquisition and use of premium services distributed by the fixed and mobile network operators, also through third companies (hereinafter "Provider"), on behalf of the end customer (hereinafter the "Customer") is becoming increasingly widespread;
- it is necessary to this end to make the principles expressed in the Code of Practice for the provision of premium services and the protection of minors, signed by the operators dated 16 February 2005 more effective;
- the development of joint self-regulation between the operators of fixed and mobile networks (hereinafter "Operators") and Providers can contribute to increasing the level of protection of the consumer and minors in particular;

All this considered, some operative guidelines are set as follows with the objective of regulating more precisely the conditions for provision of premium services acquired by the Customer either on a fixed network or a mobile network, distributed via SMS and MMS by means of numbering in decade 4.

Definitions

- **Short numbers:** numbering in decade 4 that allow the Customer to activate or use premium services;
- **Providers:** company that provides content/services by means of short numbers to it, dedicated on the part of an Operator who owns them;
- **Operators:** companies authorised to supply networks and electronic communication services within the meaning of the legislative decree of 1 August 2003, no. 259 and to use numbering in decade 4;
- **IVR:** automatic interactive answering accessible by the Customer by means of voice calls;
- **Services with sensitive content:** services the content of which is reserved for an adult public or which might however harm the psychological and moral development of minors,
- **Services:** premium services as defined in art. 1 h) of ministerial decree no. 145/2006.

1 Guidelines for advertising and promotional communication of subscription services on TV, radio, press and information brochures, internet and wap

1.1 Informative content of promotional messages for subscription services

- For subscription services where the short number is detailed, a box must be inserted that bears the writing “on subscription” (hereinafter named “Subscription Box”);
 - a. the dimensions of the text “on subscription” must be at least equal to 33% of the height of the short number displayed:
 - b. the writing “on subscription” must be inserted adjacent to or below the short number communicated by the activation of the service.

EXAMPLE

48xxx
ON SUBSCRIPTION

Must be clearly legible by the Customer and give adequate evidence of the following information (hereinafter designated “Terms and Conditions”):

- a. commercial name of the service
- b. cost of the service and frequency of charging (shown in bold)
- c. wording “Subscription service” (shown in bold)
- d. description of the service
- e. information notes about the operators
- f. information about the costs for sending SMS/MMS or calls with IVR activation
- g. syntax and /or other deactivation modes
- h. telephone number of customer assistance
- i. website (optional)

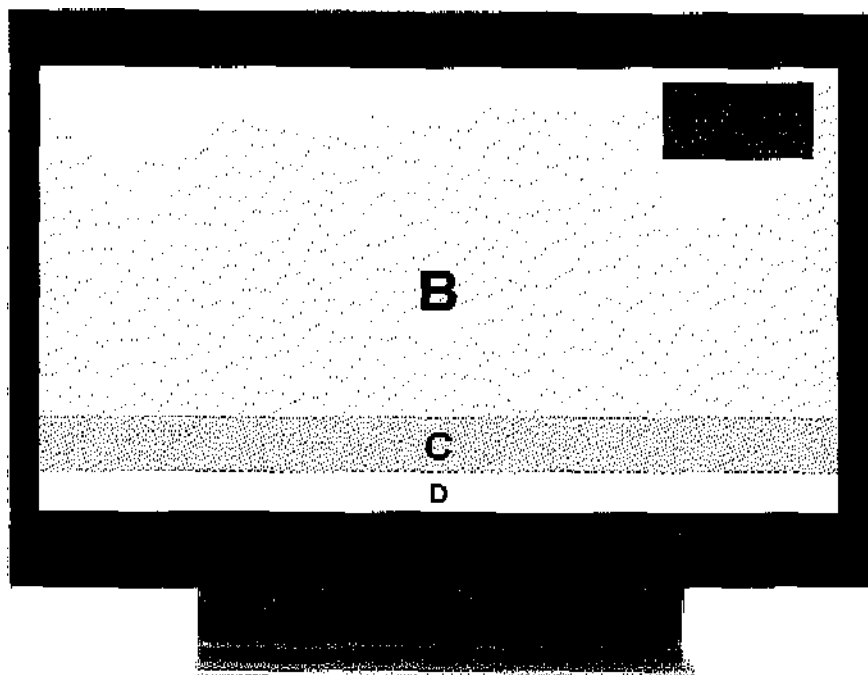
In the texts used to promote a subscription service there must be details of the subscription concept, using expressly the word “subscription” or the verb “subscribe”. Example: “activate subscription with 1 sms”.

1.2 Format for television advertising and promotions

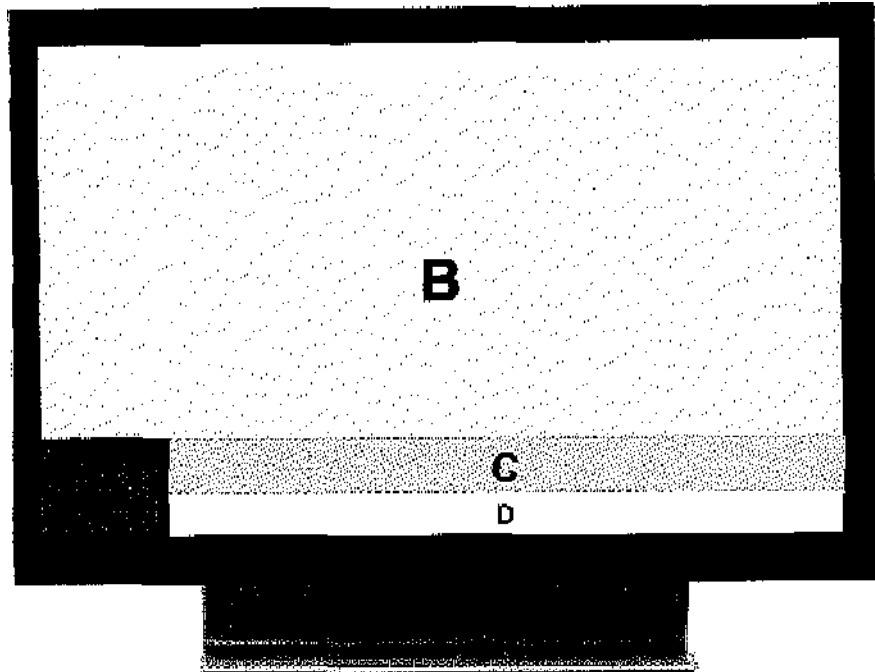
- The Terms and Conditions must be present for the whole duration of the spot or of the television promotion;
- For subscription services the Subscription Box must be present for the whole duration of the spot;
- The Terms and Conditions must be shown in the lower part of the screen using <ARIAL> font, size <16>.
- Before the description of the Terms and Conditions, the price of the service must always be shown in bold format using <ARIAL> font, size <16>;
- Audio messages intended to promote subscription services must give details of the subscription concept, using expressly the word “subscription” or the verb “subscribe”. Example: “activate subscription with 1 sms”.

Here follows the graphic depiction of the positioning of the information that must be presented on the TV spot and in the promotion of the services.

OPTION 1



OPTION 2



Key

A: area containing the Subscription Box

B: space devoted to creative elements

C: area devoted to Pricing and to the Terms and Conditions of the service

D: area devoted to legal information that must be displayed in Arial font, size 16 at a scrolling speed such that allows clear legibility.

1.3 Format for television advertising and radio promotions

For spots and all the other forms of radio promotion the following information must be communicated:

- a. Commercial name of the service
- b. Price of the service and frequency of charging
- c. For subscription services audio message "Subscription service"
- d. Description of the service
- e. Telephone number for further information and/or website of the Provider

Audio messages intended to promote subscription services must give details of the subscription concept, using expressly the word "subscription" or the verb "subscribe".
Example: "activate subscription with 1 sms".

1.4 Format for advertising and promotions in the press and information brochures

- The Terms and Conditions must always be carried at the bottom of the page and be well visible and legible;
- Before the description of the Terms and Conditions, the price of the service must always be shown in bold format and be well visible and legible;
- For subscription services the Subscription Box must always be carried and be well visible;

Here follows the graphic description of the positioning of the information that must be presented on press materials for the promotion of the services.

Key

A: area containing the Subscription Box that may be positioned at any point on the page.

B. space devoted to creative elements

C: area devoted to Pricing and to the Terms and Conditions of the service.

1.5 Format for advertising and promotions on the internet

- The Terms and Conditions must be carried and be displayed without having to scroll the page itself, in a video configured with a minimum resolution of 1024x768 pixels;
- The writing “on subscription” and the link with the reference to the information area with the costs and the information about the service must always be inserted immediately before the confirm button:

EXAMPLE:

ON SUBSCRIPTION
CONFIRM

The pricing of the service must always be carried before the confirm activation button (Figure 2);

The activation process must be implemented alternatively with one of the following options:

Option A: confirm activation with PIN/PASSWORD

- a. The Customer inserts his own mobile phone number in the appropriate box on the website and clicks on the confirm/send button (Figure 1);
- b. the customer receives a free SMS structured as follows: “To receive the content and confirm the activation of the service <name of service> insert PIN <PIN> or PASSWORD <PASSWORD> on the confirm web page”;
- c. the Customer inserts the code PIN/PASSWORD on the page and confirms and clicks the confirm button (Figure 2);
- d. the Customer receives a free SMS to confirm the activation as indicated in the following paragraph 2.1;
- e. the Customer receives the Content via SMS/MMS.

Resolution video 1024x768

Your telephone number

Choose operator

CONFIRM

Figure 1

You have chosen "Name of Content"

To receive the content insert the password that has been sent to your mobile

You have inserted 34x-xxxxxx

By inserting the password you declare that you have READ and ACCEPTED the "information and costs" and the general contract conditions and privacy notice

3 euros per week

Password

CONFIRM

Figure 2

Key

A: text "Subscription Service".

B: space devoted to creative elements

C: area devoted to the Terms and Conditions of the Service

Option B: confirm activation by SMS

- a. The Customer inserts his own mobile phone number in the appropriate box dedicated on the website and clicks on the confirm/send button (Figure 1);
- b. the customer receives a free SMS structured as follows: "To receive the content and confirm the activation of the service <name of service> send ~~S~~ YES to 48xxx";
- c. the Customer sends an SMS with the syntax indicated in point b;
- d. the Customer receives a free SMS to confirm the activation as indicated in the following paragraph 2.1;
- e. the Customer receives the Content via SMS/MMS.

Where the activation of the service takes place directly on the site of the Operator with recognition of the Customer by means of login with User Name and Password and the recognition of the MSISDN of the Customer is therefore certain, the points a, b, and c of the preceding Options A and B do not apply.

The sending of the SMS to confirm the activation of the subscription service before the transmission of the first paying content still applies.

1.6 Format for promotions on wap

- The wap page for the activation of a subscription service must always contain the following information.
 - a. Commercial name of the service
 - b, Price of the service and frequency of charging
 - c. For subscription services wording "Subscription service"
 - d. Description of the service
 - e. Terms and Conditions (link to dedicated page)
- The link that activates the acquisition and/or the subscription must always be placed after the information indicated above;
- After having confirmed the activation of the service the Customer receives a free confirmation SMS as indicated in the following paragraph 2.1.

EXAMPLE:

NAME OF SERVICE

Click to activate the
<service>

And download

Your ringtone
~~has been downloaded~~. This is a
subscription service
and every week
you will receive a ringtone
at a cost of 3 euros

Terms & Conditions

Service
<Operator> in
collaboration with
<Provider>

- ringtone

1.7 Advertised subscription offers with promotional content

- Where content/promotional offers (e.g. free content) are used to promote subscribing to subscription services, the message must give explicit evidence indicating costs and terms of the conditions of the offer:
- It is possible to use the word “gratis” or its synonyms (e.g.: free, gratuito etc.) only if:
 - the content/promotional offers are usable in a completely free mode and that means without any additional cost for the Customer except the ordinary costs of accessing the services or those expected from the membership tariff level (e.g.: costs of wap navigation, costs for request SMS, etc.);
 - in the same sentence is described the ~~free~~ condition giving access by which to the free Content ~~is obtained~~ and the duration of the free promotional condition is detailed. For the avoidance of doubts, To be precise, the word “gratis” may be inserted before or after the concept of subscription service;
- The costs of the service and the wording “Subscription Service” must always be carried in the message according to ~~how it is regulated in the preceding~~ paragraphs 1.1, 1.2, 1.3, 1.4, 1.5 and 1.6 above.

2 Activation, use and deactivation of subscription services

2.1 Welcome SMS

- All Customers who subscribe to a subscription service must receive a free SMS or MMS information message preceding the transmission of the first chargeable content, containing the following information:
 - a. Name of the Commercial Service
 - b. Text "Subscription activated"
 - c. Any descriptive text
 - d. Price of the service
 - e. Frequency of charging
 - f. Syntax and /or other deactivation modes
 - g. Number for Customer assistance

2.2 Monthly information SMS message

- All the Customers who subscribe to a subscription service must receive every 30 days a free information SMS message reminding them that they have an active subscription and containing the customer assistance number to contact for further information.

2.3 Period of chargeability of the service for *prepaid* services *disseminated*

- The charges of the subscription services must of necessity be carried out within the relevant period (e.g. within the week), and in case of impossibility of carrying out the charging to the Customer for any reason in such period (e.g. absence of credit, temporary suspension of the SIM, etc.), they can in no case be postponed to the following period.

2.4 Universal SMS deactivation syntax

- All the subscription services must be deactivable by means of the syntax "STOP" to be sent by SMS without exception a) to the short number used for the activation of the service, b) in reply to the sender number of any SMS or MMS message received relating to the same service;
- Sending the syntax "STOP" will suspend the active service and the related charges immediately;
- Where on the short number there are more active services the Customer will receive an SMS message with the details of the deactivation syntax for the single active services.

2.5 Activation and deactivation through IVR

- All the Services activable via IVR must provide the option for deactivation at the first level of the IVR itself (see 3.4).
- All the Services activable via IVR from fixed networks must be at least deactivable by the Customer by means of the same channel and therefore by means of a call to the customer services of the Provider or the Operator.

2.6 Automatic deactivation of services

- On request by the Customer for the portability of his own telephone number from one telephone Operator to another or cessation of use, all the subscription services will be automatically deactivated.

2.7 Sender ~~identification~~ recognisability

- The sender of SMS/MMS messages sent to the Customer for the supply or the charging of a service must always be recognisable and unambiguously referring to one and only one Provider.

2.8 Registration of the request for activation of services

- Whatever is the procedure for activation of the service the Provider will register the request for activation of the service by the Customer and send it on request to the Operator.

3 Providers Customer Assistance Service

3.1 Single customer assistance number

- There must be a single Customer assistance number available for the Customer on the part of each Provider for all the services referring to it;
- The maximum call cost to a short Customer assistance number must be 0.15 euros per minute plus connection charge of 0.15 euros. The Customer is to be informed free of charge of the cost at the beginning of the call;
- Alternatively the Customer assistance service must be accessible by means of a call to a geographical number, priced according to what is foreseen on the Customer's charging tariff.

3.2 Hours of availability of the Customer assistance service

- The Customer assistance service must be available 7 days out of 7, from 0-24 hours, by means of IVR;
- Direct support from an operator at the assistance centre must be guaranteed 7 days out of 7 from 9.00 to 21.00.

3.3 Capacity of Customer assistance service

- The Customer assistance number must be of sufficient capacity to succeed in managing the incoming calls and therefore with a number of contemporaneous calls on IVR not lower than 30;
- The Customer assistance service must be of sufficient capacity to guarantee the management of the Customers with the following level of service:
 - a. the waiting time from the moment the Customer selects the IVR option relating to the transfer to an operator to the moment the request is accepted by the first operator available cannot be longer than 30 seconds for 80% of the calls received from the Customer assistance centre in the period of 24 hours;

3.4 Interaction by means of automatic answering

- At the first IVR level the option must always be present for the deactivation of the subscription service, labelled as "Deactivation Services";
- Selecting the option "Deactivation Services" the following must also be proposed to the Customer:
 - a. a function with automatic recognition of the active services and the consequent possibility of asking for their deactivation directly from the answering service itself
 - b. communication by the syntax "STOP" and the related indications on how to ask for deactivation via SMS
- The option by operator access must be presented to the Customer not later than the second navigation level of the automatic answerer.

3.5 Customer assistance on websites

- On the websites of the Operators the list of all the short active numbers must be published indicating explicitly the Provider involved and the Customer assistance number to contact.
- On Providers' websites an area designated "Aiuto", "Assistance" or "Help" must be made available to the Customers, directly accessible from the homepage of the website that provides for at least:
 - a. Option designation "Deactivation services" at the first level of the Help
 - b. Free text box for the Customer to request information
 - c. Organisation of the Help area by type of support requested
- The Providers commit themselves to giving feedback to the support request forwarded through the "Help" area within 2 working days from the sending of the request.

4 Services with sensitive content

4.1 Classification of sensitive content

- The Operators and Providers commit themselves to classifying sensitive content according to an unambiguous and shared categorisation and according to the parameters and categories in line with the commitments taken within the framework of the GSMA Europe² and in conformity with the regulations currently in force (resolution 661/06/CONS). The classification will become definite within 60 days of the date of signing of the present Code.
- Access to sensitive content as defined above will be permitted in accordance with the methods indicated in art. 4.3.
- The classification of content will be an integral part of the contracts with the Providers who commit themselves to identifying and classifying the content in conformity with how it is indicated by the Operator.

4.2 Information on Sensitive content information areas

- Access to services containing sensitive content may only take place with prior information on the nature of the service on the part of the applicant and explicit acceptance on the part of the Customer.
- Access to WAP navigation and services with sensitive content must be preceded by an information page containing a link that makes explicit the confirmation of the wish of the Customer to access services present in such an area.

4.3 Areas accessible by PIN

- Access to areas with content classified by the Operator as sensitive is protected by an appropriate PIN within the meaning of resolution 661/06/CONS
- The PIN for activation to such services is provided by the operators only to adult Customers who are owners of the contract or actual users (registered in the Operator's system), who explicitly request it.
- The activation of subscription services is subject to previous verification of the PIN on the part of the Operator.

4.4 Other protection instruments in access to services with sensitive content

- The parents, guardians and persons responsible for minors may request the prohibition of the use of services with sensitive content in a permanent mode;
- The request may be carried out by calling the Customer assistance number of the Operator or through other channels that may be made available by it.
- The content block will prohibit the Customer from receiving sensitive content of any sort either by means of SMS and MMS in decade 4 and through access to WAP sites.

² "European Framework for Safer Mobile Use by Younger Teenagers and Children"

5 Adherence and implementation schedules

- The present guidelines are signed by the Operators and the Providers who intend to comply with the obligations herein imposed ~~in them~~.
- The adhering Operators undertake to implement monitoring structures suitable for taking charge of the respecting of the guidelines defined in the present document and making available the results of the tests carried out at the Department of Communications and at the Supervisory Authority;
- The Operators commit themselves to providing in their own commercial contracts with the Providers for substantial fines to be applied in case of non compliance breach in respect of with the provisions what is expected contained in the present Code;
- The Operators undertake to integrate the contracts with ~~the~~ Providers with the present document to make it effective operative within 4 months from of its signatureing.

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