

Issue: Draft for Consultation



**Republic of Lebanon
Telecommunications
Regulatory Authority**

Code of Practice for Value Added Services

9 April, 2009

This document is issued by the Telecommunications Regulatory Authority of the Republic of Lebanon and is made publicly available via its website to allow interested parties to provide their views on the issues that it raises. Anybody who wishes to do so should respond in writing to the Authority during the public consultation period. Responses must be received no later than 5.00pm on 11 May 2009.

The address for responses to this Consultation is:

Telecommunications Regulatory Authority

Marfaa 200, Building
Beirut, Lebanon
Attention: The Chairman
Facsimile: +961 1 964 341

Alternatively, e-mail responses may be sent to the Authority's e-mail address at codeofpractice@tra.gov.lb or by fax to +961 1 964 341

As part of its process to develop a complete record and allow open public access to the information that forms a basis for its decisions, the TRA will generally publish all comments as received, unless respondents explicitly ask that their responses be treated as confidential, in total or in part. If any party wishes to have the whole or any part of its submission withheld, then it should state this request, set out clearly the basis for its request of confidentiality, and enclose the information that it wants to be treated confidentially in a separate sealed envelope. If the Authority agrees that the circumstances warrant confidential treatment, then it will notify the respondent of the same and will open and consider the submission confidentially in this consultation process. If the Authority disagrees, then it will destroy the sealed materials without opening or reviewing them, not consider them in this consultation process, and notify the respondent of the same.

As the purpose of this document is to invite comments from interested parties, it should be noted that none of the ideas expressed or comments made in this consultation will necessarily result in formal decisions by the TRA and nothing contained herein will limit or otherwise restrict the TRA's ability to take any action at any time it deems appropriate pursuant to its power under the Telecommunications Law 431 of 2002 and related regulations.

1. PREFACE

This Code of Practice is issued by the Telecommunications Regulatory Authority of Lebanon (Authority) with a view to bring the relevant obligations in line with the new legal framework introduced in the Republic of Lebanon pursuant to the Telecommunications Law 431 of 2002.

This Code has evolved from the previous codes of the Ministry of Telecommunications with a view to reflect the new legal framework, market developments and international best practice and this Code replaces previous codes issued by the Ministry of Telecommunications.

2. SCOPE

Service Providers and Value Added Service Providers over Public Telecommunication Networks in Lebanon are required to comply with this Code of Practice which aims to protect the consumers in relation to Value Added Services.

This Code of Practice is without prejudice to the obligations of Service Providers or Value Added Service Providers as set out in the Telecommunications Law, their licenses, the regulations issued by the Authority and generally the laws of the Republic of Lebanon.

This Code may be amended from time to time notably to reflect changes in the market and the need to protect consumers.

3. DEFINITIONS

In this Code unless otherwise defined, any word, phrase or expression shall, unless the context requires otherwise, have the meaning given to it in the Telecommunications Law and the terms below shall have the following meaning:

“Authority”: the Telecommunications Regulatory Authority of Lebanon established by virtue of the Telecommunications Law;

“Content”: content is information and experiences that may provide value for an end-user/audience. Content may be delivered via any medium such as the Internet, television, and audio /video / data CD-Rom, and video / data DVD as well as live events such as conferences and stage performances;

“Content Providers”: individuals, organizations and companies who supply Content to Service Providers or Value Added Service Providers for use in their Services;

“Premium Charge”: a charge over and above the standard network charges of the relevant network operator;

“Premium Rate Number”: a telephone number (including a Short Code Number) allocated by the TRA or the Service Provider for Premium Rate Services.

“Under Age Person”: A person under eighteen (18) years of age;

“Value Added Services”: Services characterized by:

- a) Adaptation in the form, content, code, protocol or any other representation of the data transmitted by a Subscriber or User through the telecommunications Network without changing their content; or
- b) Provision of data to a User or Customer including re-composition of data transmitted by them; or

- c) Provision of stored data for interaction with a User or a Customer

“Value Added Service Provider”: The provider of Value Added Services including Service Providers offering Value Added Services over their own network.

4. IMPLEMENTATION

All Service Providers and providers of Value Added Services shall comply with this Code.

A Service Provider prior to allowing any Value Added Service Provider to offer services over its network, shall ensure that the Value Added Service Provider has completed and signed the Agreement set out in Annex 1 of this Code whereby it agrees to be bound by this Code, as shall be the Service Provider itself. The Service Provider shall file the signed Agreement with the Authority at least seven (7) working days prior to the commencement of the provision of Value Added Services to the public by the Value Added Service Provider. Value Added Service Providers who are already providing Value Added Services through the Service Providers’ networks shall sign the Agreement set out in Annex 1 and send it through the Service Providers to the Authority at the latest 30 days from entering into force of this Regulation.

In addition, all Service Providers shall ensure that their agreements with Value Added Service Providers clearly stipulate that:

- a) Value Added Service Providers shall comply with this Code,
- b) In the event of a finding by the Authority of a breach of this Code then, the Service Provider and Value Added Service Provider shall comply with any decision by the Authority, and
- c) Where the Authority determines that the Value Added Service Provider has been in breach of this Code, the Authority may (without prejudice to any other measures that the Authority may take as per the Telecom

Law 431/2002) order the Service Provider to terminate the provision of services to the Value Added Service Provider, including blocking one or all of its services.

The Authority before taking any decision as stipulated above may provide an opportunity to the Service Provider and the Value Added Service Provider, as appropriate, to supply the Authority with such information as it considers necessary and or to respond to questions of the Authority within a period to be stipulated by it.

For the avoidance of doubt the Authority may proceed to take a decision, as it considers appropriate, without having received any response from the Value Added Service Provider or Service Provider where:

- a) the period stipulated by the Authority has passed and no reply has been supplied, or
- b) the Authority considers that it must take such action as it considers appropriate, with immediate effect. In such cases, the Authority will consider the information supplied by the Value Added Service Provider or Service Provider and within ten (10) working days of receipt of the information it shall maintain, modify or revoke the decision taken.

5. RESPONSIBILITY

Value Added Service Providers are responsible for ensuring that the content, promotion and operation of all their Value Added Services (whether provided by themselves or by their Content Providers) comply with all conditions of this Code of Practice.

The Service Provider must ensure that all agreements, alliances or partnerships of any kind entered with Value Added Service Providers, Content Providers, Media or any other party for the provision, promotion or exploitation of Value Added and/or Premium Services are in conformity with the rules established by this Code of Practice as well as the Telecommunications Law and the regulations issued by the Authority.

6. FAIRNESS OF SERVICES

The Value Added Service Provider shall offer an operational, honest and legal service.

The Value Added Service Provider shall not mislead users concerning the content and accuracy of its products, services, offers, promotions and prices.

7. THE SERVICE CONTENT

Value Added Services must not contain anything that is in breach of the laws of the Republic of Lebanon, nor omit anything required by the laws.

Services, advertising and promotional material must not facilitate or encourage anything that is in any way unlawful.

The Value Added Service Provider, where it is a different legal entity from the Service Provider through which the service is delivered, shall avoid the risk of confusion between itself and the Service Provider in the given service or between itself and other Service Providers. The use of the Service Provider's logos and brands must be first approved in writing by their owner. In the case of audio services, the Value Added Service Provider's name must be clearly mentioned in the service welcome vocal message as well as in any promotional or advertising material.

In particular, the Value Added Service Provider shall not provide or promote services that are or contain:

- a. violent or pornographic messages;
- b. messages susceptible, by their nature, to debase, degrade or demean or undermine the respect for human dignity, and for the protection of children and teenagers;

- c. messages encouraging the commission of crimes or offences or inciting to the consumption of banned substances;
 - d. messages encouraging discrimination, hatred or violence;
 - e. messages spreading immoral advertisements of meeting between persons;
 - f. messages that may clash with religious or political convictions or question the respect for religious and political pluralism in Lebanon;
 - g. messages that are not appropriate for persons under age, unless preceded by a warning message in the service announcement;
 - h. messages that induce or promote disharmony or discrimination on the basis of gender, marital status, family status, sexual orientation, race, national origin, religion, age or disability;
 - i. messages that result in any unreasonable invasion of privacy;
 - j. messages that induce fear or anxiety;
 - k. messages that seek to take unfair advantage of any characteristic or circumstance which may make Consumers vulnerable or otherwise encourage Consumers to make calls which are in quantum or duration considered unreasonable or excessive;
- or
- l. messages that mislead, or are likely to mislead in any way.

The Value Added Service Provider shall refrain from imposing any type of provision onto its customers whereby they are obliged to agree to receive advertising messages in order to take advantage of or use services offered by this Value Added Service Provider.

8. THE QUALITY OF SOUND FOR AUDIO SERVICES

During the provision of a Value Added Service the Value Added Service Provider shall refrain from using any means, such as background noises,

which have the purpose or effect of reducing the capacity of the user's comprehension and reaction or which may result in lengthening the duration of use of the service.

Where the service consists of a sound recording the Value Added Service Provider and the Service Provider must ensure that:

- the recordings sound level is equalized and adjusted so that the messages can be easily audible;
- the transmitted sound waveband should not be less than the normal narrow band used for the digitization and Sampling of voice Analogue signals in the Time Division Multiplexed based Switching Systems [300Hz – 3400Hz] in the PSTN Networks and leading to the transmitted voice sound occupying no less than 1 Time slot (64Kbits/s) of the TDM based E1 link between the Added Value Service Provider Server and the Service Provider Switch. In case of Mobile Users the transmitted sound waveband should not be less the one used for the GSM Enhanced Full Rate Codec's i.e. 12kbits/s or such other quality of service specification as the Authority may specify from time to time;
- the messages must be clear, precise, using a correct language, as selected by the consumers at the beginning of the call, easily audible and easily understood; and
- the menus and vocal messages must be coherent and well structured to allow the most normal and direct access to any information or function of the service.

9. OBLIGATIONS CONCERNING TARIFF COMMUNICATION AND THE ADVERTISING AND PROMOTION OF VALUE ADDED SERVICES

The Value Added Service Provider shall ensure that the users are informed in a transparent and clear manner of the price of the Service before use of the said Service and prior to incurring any Premium Charges.

In relation to audio services, the Value Added Service Provider shall provide, for each call, at the beginning of the vocal communication and before the commencement of the use of the audio service, a statement setting out the tariff of that call including initial charges, joining fees, recurring charges and frequency of recurring charges. This tariff announcement must commence within a maximum period of ten (10) seconds from the start of the call and must allow the user to terminate the call without incurring any Premium Charges.

Value Added Service Provider must also ensure that in the case of all Value Added Services and their promotion:

- (i) call tariffs are clearly stated in all promotions;
- (ii) any initial charges, joining fees, recurring charges and frequency of recurring charges are clearly stated in all promotions;
- (iii) prices are noted in the form of numbers with the currency clearly stated;
- (iv) prices are noted per minute (or any other prevailing and approved time based unit) for time based/charged services and the minimum charge if any or the total maximum cost to the Consumer;
- (v) in relation to competition, the price per minute is accompanied in all promotions by the notification of the maximum duration of the call;
- (vi) written and textual tariff information must be legible, prominent, horizontal and presented in a way that does not require close scrutiny;

- (vii) spoken tariff information must be easily audible, discernible and easily understood;
- (viii) in the case of advertisements transmitted on television, on websites, or in other audio-visual-format, the tariff information must be spoken or visually displayed;
- (ix) the price per minute/call must be displayed whenever a Premium Rate Number is displayed;
- (x) calls made to the customer care of a Service Provider to obtain information or instructional messages, necessary to obtain access to a service, must be made available free of charge to a consumer;
- (xi) voting/competition services which are likely to be repeated or rebroadcast after the voting/competition is closed must clearly state that this is the case and that the voting/entry mechanism is not open to use by consumers or must clearly state the opening and closing date and time of the competition or vote.

Within the context of written/visual-format advertising medium (press, brochure, web site, banner, flash SMS, etc.), the Value Added Service Provider shall ensure that the tariff is written in a character size perfectly clear and legible and should always appear under or next to the number for the service. No other text or illustration appearing on the written advertising medium must be inserted between the tariff and the number.

Within the context of televised/ audio-visual-format communication, the Premium Rate number must appear visually and clearly on the advertising message screen. The tariff must also appear in a character size perfectly clear and legible and should always be under or next to the Premium Rate number for the service. No other mention, text or illustration appearing on the screen must separate the tariff from the number. Moreover, if the number is read out during the advertising message, the tariff must also

always be read out immediately after the number by using the same voice, the same tone and the same rhythm as that used for the number, and without any disruption, sound or musical background.

Within the context of radio/ audio promotions, the tariff must be pronounced immediately after the number, with the same voice, the same tonality, and the same rhythm of reading and without any disturbing sound or musical background.

Irrespective of the length of the advertisement or promotion and regardless of its nature, the Value Added Service Provider shall ensure at minimum, that every advertisement or promotion:

- avoids the risk of confusion between itself and the Service Provider, where they are different;
- communicates explicitly the tariff of the service;
- states the service content type and brand in a precise way; and
- discloses its company identity.

Value Added Service Provider must use all reasonable endeavours to ensure that advertising and promotional material do not reach those for whom it, or the service which it promotes, is likely to be regarded by them as being offensive or harmful.

Value Added Service Provider must use all reasonable endeavours to ensure that their services are not promoted in an inappropriate way.

10. KEEPING OF RECORDS

Every Service Provider and Value Added Service Provider shall ensure that it keeps appropriate logs for all services it offers so as to be in a position to

deal with all consumer complaints and investigations by appropriate authorities. Logs shall include, but not be limited to, billing and content provided information. Call Detail Records (CDRs) should be kept by the Service Provider and where appropriate by the Value Added Service provider for a period of no less than ten (10) years or as otherwise required by applicable laws.

As per the Law and subject to the provisions of Law 140 (Lawful interception), all Logs of Telecommunications Services are deemed to be Confidential by the Service Providers and the Value Added Service Providers.

11. MAXIMUM DURATION OF AUDIO CALLS

The maximum duration of a Value Added Service call charged at Premium Rate must be limited to thirty (30) minutes. The Service Provider must make sure that every caller is provided with a warning after the lapse of every ten (10) minutes and that the service is automatically terminated where the thirty (30) minutes are reached.

12. GAMES, LOTTERIES AND GAMBLERS

The Value Added Service Provider and/or any Service Provider, wishing to provide over a Public Telecommunications Network, a service related to games, lotteries, gambles and/or other similar games, should prior to providing such service obtain the required permit in this respect in accordance with applicable rules and regulations.

The application for this permit is filed with the Directorate of the National Lottery in Beirut in accordance with the Ministry of Finance Decision Number 373/1 dated March 19, 2009. The permit is granted by decision of the Minister of Finance upon the recommendation of the National Lottery Commission.

All games and gambles concerning an event or game occurring inside the

Lebanese Territories through all kind of telecommunication means and upon which one or more winners are selected, shall be considered games and lotteries for the purpose of this code

- a) The Service Provider prior to allowing any Value Added Service Provider to offer its services related to games, lotteries, gambles and other similar games over its network, must verify that the Value Added Service Provider has duly obtained a decision signed by the Minister of Finance granting the above mentioned permit. Furthermore the Service Provider must collect from the Value Added Service Providers the following game description:
 - i. the nature and rules of the game, the date and hour of the game start, the date and hour of the game end;
 - ii. the prizes value as well as the precise rules of the winners' choices;
 - iii. the precise dates, hours and places of the winners' selection; and
 - iv. an exhaustive explanatory leaflet about the proposed used advertising mediums.
- b) The Service Provider must make available to the Authority, upon the Authority's request, the game description mentioned here above, a copy of the permit and/or any other related information or documents that the Authority may request from time to time.

The Advertising and Promotion (notably referred to under Article 9 of this Code of Practice) for Games, Lotteries and Gambles must clearly set out in their materials:

- a) the cost per minute and the likely playing time, or the full cost of participation;
- b) details of how the competition operates and an indication of any tie-breakers;
- c) any key terms and conditions, including any restriction on the number of entries or prizes which may be won;

- d) an adequate description of prizes and other items offered to all or a substantial majority of participants, including the number of major prizes and details of any restriction on their availability or use; and
- e) where a prize consists wholly or in part of vouchers, the promotional material must specifically and prominently state the value of a single voucher as well as any total value.

13. ADVISORY SERVICES

Value Added Services providing advice must be conveyed in a responsible manner. They should include clearly, in the service advertisement or at the beginning of the communication, at least a warning to the users emphasizing that the services only provide general information and the service user should not act upon advice which needs individual interpretation without first consulting a qualified practitioner.

These services should indicate the identity of the specialist or specialists who bear the responsibility of the given advice, their experience and professional qualifications.

All Value Added Service Providers shall ensure that the information provided complies with the Laws of the Republic of Lebanon.

14. BANNING SERVICES INTENDED FOR UNDER AGE PERSONS

Value Added Service Providers shall not offer nor advertise Premium Rate services for Under Age Persons.

Services for Under Age Persons are services which, either wholly or in part, are aimed at or meant to be particularly attractive to Under Age Persons.

15. REVERSE LOOK UP DIRECTORY SERVICES

Services which allow, directly or indirectly the disclosure of the details of the user of a given number, such as for example, services for reverse directory (i.e. inputting the telephone number to disclose the name and /or address of the subscriber) shall be treated by the Authority as services that contravene the privacy of the users and as such are in breach of the Telecommunications Law and violates consumer privacy rights and the Consumer Affairs Regulation.

16. CONTACT INFORMATION FOR VALUE ADDED SERVICES PROVIDERS

A Value Added Service Provider shall maintain a local customer service hotline for its services (including premium rate services) and shall respond to all enquires, complaints and disputes lodged by any person to the local customer service hotline as promptly as possible. It is noted that originating calls to the hotline can be charged up to normal rates.

A Value Added Service Provider may, in addition to the local customer service hotline, provide other means for end users to reach them, such as via e-mail or fax.

A Value Added Service Provider, where it is a separate legal entity from the Service Provider, it shall provide the Service Provider with its local customer service hotline, e-mail and/or fax so as to enable the Service Provider to direct end users to these modes of contact.

17. REFUNDS AND COMPENSATIONS

Where either as a result of a decision by the Authority or as a result of a complaint dealt with directly by the Value Added Service Provider, a refund is to be made to a customer, this should be for the full cost of the service as

borne by the consumer and should be made payable to the complainant unless otherwise specified.

The refund may take the form of either a credit to the customer's telephone bill or a cheque. Alternative forms of refund, such as a complementary repeat use of the service, may be offered to consumers, who should then have a right to refuse that alternative form of refund.

18. ENTRY INTO FORCE

This Code shall come into force upon its publication in the Official Gazette and shall be posted on the Authority's website.

Beirut 9 April 2009

Signed: Kamal S. Shehadi,

Chairman and CEO

For and by authority of the Telecommunications Regulatory Authority

**ANNEX 1 -AGREEMENT TO BE SIGNED BY VALUE ADDED
SERVICE PROVIDER AND SERVICE PROVIDERS AND TO BE
FILED WITH THE AUTHORITY**

Draft for Consultation

AGREEMENT TO BE SIGNED BETWEEN SERVICE PROVIDERS AND VALUE ADDED SERVICE PROVIDER AND TO BE FILED WITH THE AUTHORITY

I. The Value Added Service Provider:

1. Name and Address:
2. Legal form:
3. Authorized representative of the applicant in Lebanon (including address, telephone and fax numbers and e-mail):
4. Company registration number:
5. Tax Registration number:

II. The Service Provider through whom the VAS will be offered:

1. Name and Address:
2. Legal form:
3. Authorized representative of the applicant in Lebanon (including telephone and fax numbers and e-mail):
4. Company registration number:
5. Tax Registration number:
6. Licences Held

III. Agreement Details

1. Date of the agreement:

Statement of agreement

We, the undersigned, confirm that we have read the Code of Practice for Value Added Services (Code) issued by the Telecommunications Regulatory Authority of Lebanon (Authority) and shall comply with all its provisions.

We also confirm that we shall comply with any decisions of the Authority concerning the Code of Practice as well as any decisions rendered by the Authority in the event of breach by us of the Code of Practice.

Signed:

Signed:

.....
Full name of Signatory

.....
Full name of Signatory

.....
Position held in the Organisation

.....
Position held in the

Date:

Date:

The Value Added Service Provider

The Service Provider through whom the VAS will be offered

To be signed by the authorized representatives of the Parties specified in Part I and Part II above¹.

¹This must be signed by

- (i) in the case of an individual, by the person in whose name the application is made;
- (ii) in the case of a partnership, by each of the partners;
- (iii) in the case of a company or other body corporate, by a director, company secretary or other authorized officer.

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