

Act on the Utilization of Teleservices

(Gesetz über die Nutzung von Telediensten)

Federal Law Gazette (Bundesgesetzblatt) 1997 I 1870

Note: The Teleservices Act was enacted as Art. 1 of the Information and Communication Services Act (Informations- und Kommunikationsdienstegesetz), Bundesgesetzblatt 1997 I 1870.

Table of Contents

§ 1 Purpose of the Act

§ 2 Scope

§ 3 Definitions

§ 4 Freedom of access

§ 5 Responsibility

§ 6 Identification of providers

§ 1 Purpose of the Act

The purpose of this Act is to establish uniform economic conditions for the various applications of electronic information and communication services.

§ 2 Scope

(1) The following provisions shall apply to all electronic information and communication services which are designed for the individual use of combinable data such as characters, images or sounds and are based on transmission by means of telecommunication (teleservices).

(2) Teleservices within the meaning of § 2 (1) shall include in particular:

1. services offered in the field of individual communication (e.g. telebanking, data exchange),
2. services offered for information or communication unless the emphasis is on editorial arrangement to form public opinion (data services providing e.g. traffic, weather, environmental and stock exchange data, the dissemination of information on goods and services), 3. services providing access to the Internet or other networks, 4. services offering access to telegames, 5. goods and services offered and listed in electronically accessible data bases with interactive access and the possibility for direct order.
3. services providing access to the Internet or other networks,
4. services offering access to telegames,
5. goods and services offered and listed in electronically accessible data bases with interactive access and the possibility for direct order.

(3) § 2 (1) shall apply irrespective of whether the use of the teleservices is free of charge either wholly or partially.

(4) This Act shall not apply to

1. telecommunications services and the commercial provision of telecommunications services under § 3 of the Telecommunications Act of 25 July 1996 (Telekommunikationsgesetz , Federal Law Gazette BGBl. I, page 1120),

2. broadcasting as defined in § 2 of the Interstate Agreement on Broadcasting (Rundfunkstaatsvertrag),

3. content provided by distribution and on-demand services if the emphasis is an editorial arrangement to form public opinion pursuant to § 2 of the Interstate Agreement on Media Services (Mediendienste-Staatsvertrag) signed between 20 January and 7 February 1997.

(5) Legal provisions concerning press law remain unaffected.

§ 3 Definitions

For the purposes of this Act

1. the term "providers" means natural or legal persons or associations of persons who make available either their own or third-party teleservices or who provide access to the use of teleservices,

2. the term "users" means natural or legal persons or associations of persons requesting teleservices.

§ 4 Freedom of access

Within the scope of the law, teleservices shall not be subject to licensing or registration.

§ 5 Responsibility

(1) Providers shall be responsible in accordance with general laws for their own content, which they make available for use.

(2) Providers shall not be responsible for any third-party content which they make available for use unless they have knowledge of such content and are technically able and can reasonably be expected to block the use of such content.

(3) Providers shall not be responsible for any third-party content to which they only provide access. The automatic and temporary storage of third-party content due to user request shall be considered as providing access.

(4) The obligations in accordance with general laws to block the use of illegal content shall remain unaffected if the provider obtains knowledge of such content while complying with telecommunications secrecy under § 85 of the Telecommunications Act (Telekommunikationsgesetz) and if blocking is technically feasible and can reasonably be expected.

§ 6 Identification of providers

Concerning commercial offers, providers shall indicate:

1. their name and address as well as,
2. in case of associations and groups of persons, the name and address of their authorized representative.

The above translation was first published by Inter Nationes as part of: Information and Communication Services Act, ed. by Sigrid Born, translated by Janet Barton and produced by Ilona Orthen. Reproduced with kind permission. © 1997 Inter Nationes. This HTML edition © 1998 Gerhard Dannemann. The contents of this page may be downloaded and printed out in single copies for individual use only. Making multiple copies without permission is prohibited.