

BUNDESVERBAND DIGITALE WIRTSCHAFT (BVDW) e.V.

Based on the BVDW members' meeting of June 1th, 2016.

A. ASSOCIATION

§1 Name, head office, and business year

1. The name of the association is "Bundesverband Digitale Wirtschaft (BVDW) e.V."
2. The head office of the association is in Düsseldorf.
3. The business year of the association is the calendar year. A short business year concludes on 31 December.

§2 Purpose and Tasks

1. The association has the aim of representing the main professional concerns of producers in the digital economy within a single professional association. It promotes the professional interests of its members, and takes on responsibility for those interests in relation to third parties, in particular public authorities, the legal system, and the public in general. It strives, in ways admissible under anti-trust law, to contribute to better professional organisation and better policies for producers in the digital economy.
2. The following measures in particular are used to carry out the association's tasks:
 - a) Promotion of the development of the digital economy; this includes all market participants whose main business purposes are the creation, development, processing, enhancement, storage or distribution of interactive content, products and services.
 - b) A common open exchange forum for producers.
 - c) A communication forum between producers, content providers, software producers, media companies, distributors, telecommunications providers, service providers, educational institutions, universities, and public bodies.
 - d) Definition of quality standards and creation of mechanisms for quality control (for example certification) in the areas of:
 - Consulting
 - Production
 - Content
 - Technology
 - e) Advisory service to members on legal matters of general concern to the profession, with the exception of individual legal, tax, and corporate consultation.
 - f) Countering irregularities, grievances, and abuses in the application of digital industries, in particular in the areas of product piracy (illegal exploitation of copyrighted, trademark-protected, or otherwise legally protected digital industry products) including the compilation and further development of general terms and conditions for the industry.
 - g) Cooperation with other associations (for example in the development of general terms and conditions).
 - h) Mediating cooperation (production support / coordination of collaboration).
 - i) Developing an assessment system for contract production.
 - j) Creation of standards for bids and guidelines for preparing estimates.
 - k) Compilation of an internal and external informational database.
 - l) Information on general standard cost schedules.
 - m) Information pool for clients.
 - n) Arbitration body.
 - o) Coordination and implementation of consistent public relations.
 - p) Information on sources of support and funding.
 - q) Support for training and continuing professional development.
 - r) Definition and coordination of training guidelines.
 - s) Setting up events and competitions.
 - t) The association can provide services for its members (for example, information services, advice, framework contracts with insurance companies, transportation companies, car rental companies, credit agencies, contract templates). The association does not make a profit. Fees to cover costs are permissible.
3. The association seeks to achieve that interactive media be kept free of content illegal under German law, on a voluntary basis.

§3 Funding and expenditure

1. The association has the following sources of funds:
 - Members' annual subscriptions
 - Direct grants
 - Special fees
2. The association's funds are employed solely for purposes consistent with the articles of association. Members do not receive any payments from the association's funds.

§4 Auditing

1. Two auditors are elected annually at a members' meeting to conduct a cash audit of the preceding year.
2. It is the responsibility of these auditors to examine all invoice documentation and verify their correct entry in the books, and examine the association's use of funds, or the use of funds by any company commissioned by the association for operational management. Also at least once every year the cash in hand and various bank balances for the preceding year are to be determined. The auditing does not include any assessment of fitness for purpose of expenditures approved by the Executive Committee or the management. The auditors are to present a report on the result of the cash audit at the members' meeting, and make a recommendation on ratification to the Executive Committee.
3. The auditor is appointed for a term of two years; a substitute is to be chosen for each auditor to cover the event of his being indisposed. The term of an auditor and his substitute can be shortened to one year by a resolution of the members' meeting. No re-election is permitted.
4. Neither the auditor nor the substitute can be members of the Executive Committee.

B. MEMBERSHIP

§5 Becoming a Member and Types of Membership

1. Companies, educational institutions, and other institutions interested in the aims of the association can apply for membership of the association. In their application for membership, applicants acknowledge the articles of association and the duties and obligations arising from it.
2. Application for membership is to be made in writing to the Executive Committee. The Executive Committee checks that the preconditions for membership have been satisfied, and then makes a decision on the acceptance of new members. Membership becomes effective on a decision of the Executive Committee. No reason has to be provided for refusing an application.
3. The association has
 - regular members
 - special members
 - sponsoring members
 - honorary members
4. Regular members are companies and for-profit educational institutions which are active in at least one business area in the digital economy, or which offer education or training or professional development leading to a qualification relevant in at least some areas to employment in the digital economy.
5. Special members are for-profit companies which are active in at least one business area in the digital economy, and which have been in operation a maximum of 4 years (start-ups) on the date of application. Special membership can only be availed of once, and generally limited to a period of 24 months. The Executive Committee will decide on the application. No reason needs to be given for a refusal of an application. After the period of time has elapsed, special membership changes automatically to regular membership, unless the Executive Committee or the special member lodges an objection in writing up to 4 weeks before the period ends.
6. Sponsoring members are non-profit educational institutions which offer education or training or professional development leading to a qualification relevant, in at least some areas, to employment in the digital economy, and institutions at the periphery of the digital economy.
7. Individuals who have distinguished themselves in their support for the aims of the association can become honorary members. Honorary membership is granted upon a majority vote of two thirds of those with voting rights present at a members' meeting. Honorary members do not have to pay subscription fees. Existing individual memberships enjoy protected status as sponsoring members.
8. If a company changes legal form, membership is continued by all companies formed via the change; membership of any transferring companies which will continue to exist is not affected.

§6 Rights and Duties of Members

1. Regular members, special members, and sponsoring members of the association are obliged to pay the specified subscription fee on time. The details are governed by the subscription rules, which do not form part of these articles of association.
2. Under the provisions of these articles of association, members are entitled to participate in all decision processes, opinion gathering processes, and training processes of the association. The Regulations for Organisational Bodies binding on all members governs the details.
3. Members are obliged to represent the association's interests and concerns externally, and to maintain the good reputation of the digital economy as a whole.
4. Members are obliged to give loyal support to the Executive Committee in the performance of its duties, and to help ensure that resolutions which have been passed are implemented. Resolutions passed in accordance with the articles of association are binding on all members.
5. Before commencing any activities which affect the tasks of the association as understood under section § 2 of the articles of association, members must inform the Executive Committee and offer it an opportunity to respond; the same applies for publications which have political significance for the digital industry as a whole political significance for the digital industry as a whole.
6. Each member is obliged to notify the association promptly of any change which has a direct or indirect impact on membership in the association.

§7 End of Membership

1. Membership ends upon cancellation, expulsion, when the legal entity holding membership ceases to exist, or when the period of a temporary membership expires.
2. Members cancel their membership by making a declaration to the Executive Committee. Cancellation is subject to an obligatory period of notice of six months to the end of the calendar year. Cancellation must be made in writing and must be by registered letter.
3. A member can be expelled if they fail to pay their subscription fee despite receiving two warnings and being threatened with expulsion, or if they act in a manner contrary to the interests of the association.
4. The Executive Committee decides on whether to expel members. The excluded party can lodge an objection against this decision within 30 days. This objection postpones the expulsion. The next ordinary members' meeting then votes on the expulsion, with a decision made by a simple majority vote.
5. The ending of membership does not release the member from the obligation to pay for any outstanding subscription fees or other debts to the association. There can be no possible claim on the assets of the association.

C. BODIES

§8 Bodies of the Association

The association has the following bodies:

1. the members' meeting
2. the Executive Committee
3. the management

§9 The Members' Meeting

1. The highest body of the association is the members' meeting.
2. Only regular members are entitled to vote. Special members, sponsoring members, and honorary members have however a right to speak, make applications, and submit proposals. A regular member has an active right to vote only when they have been in the association for four weeks in advance of the members' meeting, and have paid the current year's membership fees in accordance with the subscription rules. Instead of the legal representative, an employee of the company or an associated company with the relevant written authorisation can exercise a regular member's right to vote.
3. A member's rights are suspended if the member has not met the obligations to pay subscription fees.
4. Sponsoring members do not have a vote.
5. The members' meeting provides guidelines for the association's operations and handles the association's fundamental questions and issues. In particular its tasks are:
 - a) Election of the president, the vice-president, the auditor, and the substitute auditor.
 - b) Approval of the annual report produced by the Executive Committee, the statement of accounts, and the auditor's report.
 - c) Formal approval of the Executive Committee's and managements actions.
 - d) Determining the subscription fees.
 - e) Making a decision on objections lodged against members' expulsions.

- f) Passing resolutions on motions put to the members' meeting which were submitted to the president in writing at least 5 days prior to the meeting. (Motions on items not listed on the agenda can only be dealt with by unanimous approval).
 - g) Resolutions on changes to the articles of association.
 - h) Election of honorary members.
 - i) Dissolution of the Association.
 - j) Issue of subscription rules to regulate the amount, due dates and method of payment of subscription fees and the initial admission fee; these may differ depending on the membership status.
6. An ordinary members' meeting is held once a year. The Executive Committee must send out written invitations at least six weeks in advance, while also announcing the agenda of the meeting. The requirement on written form is also satisfied if the invitation is issued in digital form, and in particular by email. It is sufficient to send the email invitation to the most recent email address provided to the association for such communications. As verification that the invitation was issued correctly and with the correct period of notice, it is sufficient for the Executive Committee to assure the members' meeting that the written invitation was issued to all regular members together with the agenda at least two weeks in advance.
7. An extraordinary members' meeting can be called by the Executive Committee. The Executive Committee must call an extraordinary members' meeting if at least a quarter of all regular members so request. If the Executive Committee resigns, or if all Executive Committee members are removed from office, an extraordinary members' meeting must be promptly arranged to hold elections. In such an event the managing director is responsible for calling and chairing the members' meeting.
8. Minutes must be made of every members' meeting, and are to be signed by the president and the keeper of the minutes. These minutes must include the number of members present, the existence of a quorum, any motions proposed, the manner of voting, and the exact result of the vote.

§10 Decisions

- 1. Both ordinary and extraordinary members' meetings have a quorum whatever the number of members present, as long as they have been correctly convened.
- 2. Amendments to the articles of association can be enacted upon a majority vote of two thirds of those with voting rights present at a members' meeting. Amendments to the articles of association planned by the Executive Committee must be announced and specified, to the exact wording with paragraph position, at least 14 days before the members' meeting which makes the decision. Members can lodge proposals for amendments in writing to the office up to 7 days before the members' meeting. These are to be promptly published on the association's website.
- 3. Decisions on the regulations of ordinary association law require an absolute majority of the voting members present at the members' meeting. The proposed amendments to the association regulations must be announced in writing, specifying the exact wording with paragraph position, together with the invitation to the members' meeting.

§11 Executive Committee

- 1. The Executive Committee is composed of the president and at least four to a maximum of six vice-presidents. Before an Executive Committee election, the members' meeting decides by a majority of two thirds of members with voting rights present on whether the Executive Committee is to be expanded.
- 2. All Executive Committee members must be employees of a regular member at the time of the election .
- 3. At any time the association can be represented by two members of the Executive Committee in accordance with section § 26 BGB. The association can under section § 26 BGB be represented by an individual member of the Executive Committee if provided with an authorisation signed by at least two members of the Executive Committee.
- 4. The composition of the Executive Committee is to reflect the diversity of industrial sectors in the digital economy.
- 5. The president is elected for a term of two years at a members' meeting by secret ballot; he or she remains in office until a new president is elected. The candidate gaining more than two thirds of the valid votes cast is deemed elected. If this two-thirds majority is not achieved, the candidate who achieves a simple majority of the valid votes cast in an additional ballot is deemed elected. In a case with more than two candidates, if a majority of two thirds is not reached in the first ballot, a second ballot is held between the two candidates with the highest number of votes. If the number of votes is equal, the decision is made by drawing lots.
- 6. Vice-presidents are elected individually for a term of two years by secret ballot at a members' meeting; they remain in office until there is a new election for the Executive Committee. The candidate who receives the majority of the votes cast is deemed elected. If a simple majority is not reached in the first ballot where there are more than two candidates, a second ballot is held between the two candidates with the highest number of votes. If the number of votes is equal, the decision is made by drawing lots.
- 7. The Executive Committee can enact election regulations governing the details of election procedures.

8. The Executive Committee has a quorum if at least half of the serving Executive Committee members participate in the resolution by casting a vote. A vote may also be cast by proxy in an individual case, whereby the voting right is transferred to another Executive Committee member. The Executive Committee can also pass resolutions by circulation.
9. If the Executive Committee is not fully appointed in accordance with the specifications of the members' meeting, it may, by a unanimous resolution of all serving executive committee members, co-opt a suitable person for the period until the next ordinary members' meeting; this person elects a substitute member for the executive committee's remaining term of office (by-election).

§12 Executive Committee's Tasks and Activities

The Executive Committee

1. directs the association's business. It implements the resolutions passed by the members' meeting and manages the association's assets.
2. represents the association externally.
3. can delegate management of daily business to one or more managers who do not have to be Executive Committee members. If the Executive Committee avails of expertise in this manner, it issues procedural regulations for the manager.
4. issues regulations on procedures for the implementation of its activities.
5. can make decisions to set up advisory boards to support organisational bodies and perform tasks for them.
6. decides whether to admit or expel members.
7. undertakes the recruitment and supervision of the staff required for the association's activities.
8. supervises political activities, the work of the organisational bodies, and the association's communications.
9. and makes decisions on the formation and dissolution of organisational bodies.

The Executive Committee is not placed under any obligation as a result of the unauthorised actions of Executive Committee members.

§13 Management

1. The Executive Committee can set up a full-time management team. This can be composed of one or more managers.
2. The members of management are special representatives according to §30 BGB and authorized to manage the association's day-to-day business and these assigned as part of their duties to members and to represent third parties. The concrete guidelines for the management are given in the procedural regulations for management as issued by the Executive Committee.
3. Members of management receive a monthly remuneration for their activities and expenses. This remuneration is determined by the Executive Committee.

§14 Ambassadors

1. The association can appoint ambassadors. Ambassadors are appointed by the Executive Committee.
2. Ambassadors represent the association and its interests within partner organisations, and promote dialogue with them. Their role is to support the Executive Committee through their day-to-day work.
3. When needed, ambassadors can be invited to attend meetings of the Executive Committee, however they do not have a right to vote.

D. ORGANISATIONAL BODIES OF THE ASSOCIATION

§15 General Conditions

1. The association can set up organisational bodies to facilitate the aims of the association and to execute its tasks.
2. The task description, procedures, and working conditions are defined in the Regulations for Organisational Bodies which are issued by the Executive Committee under section § 16. These are published on the association's website and accepted by every member through their involvement in the body.
3. The Executive Committee is responsible for supervising political organisational bodies and supervising issues related to market research.
4. Each regular member has the right to petition the Executive Committee for the formation of an additional organisational body.

E. SPECIAL PROVISIONS

§16 Implementation of the Articles of Association

If required, the Executive Committee issues implementing regulations to the association's articles of association.

§17 Legal Consistency

The statutes of an organisational body subordinate to the association may not be inconsistent with the provisions of these articles of association.

§18 Recommended Conditions

At the suggestion of the Executive Committee, the members' meeting may decide upon recommended conditions.

§19 Association's Membership of Other Organisations

The association can be a member in other organisations.

F. DISSOLUTION OF THE ASSOCIATION

§20 Dissolution of the association

The association may only be dissolved by an extraordinary members' meeting convened for this purpose, with at least four weeks' notice given. A majority of three quarters of the votes cast is required. The same members' meeting is to decide on the use of the association's assets; these are to be applied exclusively for non-commercial purposes.

Date of entry in the Register of Associations at the District Court of Düsseldorf: