

**Federal Association for the Digital Economy (BVDW), registered association**

Effective as of the registration in the Register of Associations kept with the Local Court of Düsseldorf.

**A. ASSOCIATION****Article 1 Name, Registered Office and Fiscal Year**

1. The Association's name shall be "Bundesverband Digitale Wirtschaft (BVDW) e.V. [Federal Association for the Digital Economy (BVDW), registered association]."
2. The Association's registered office shall be based in Düsseldorf.
3. The fiscal year of the Association shall be the calendar year. Short fiscal years shall end with the end of the calendar year.

**Article 2 Purpose and Tasks**

1. The Association's purpose shall be to join the producers of the digital economy into a single professional association. It shall promote the professional interests of its members and shall safeguard them against third parties, including but not limited to authorities and legislators as well as the public. It endeavours to contribute to a professional organization of the producers of the digital economy within the limits admissible under antitrust law.
2. The Association's tasks shall in particular be fulfilled by the following measures:
  - a) Promoting the development of the digital economy; this comprises all market participants whose essential business purpose is the creation, development, processing, refinement, storage or distribution of interactive contents, products and services;
  - b) Providing a joint open forum for exchange of information among the producers;
  - c) Providing a communication forum between producers, content providers, software producers, media companies, distribution organisations, telecommunication providers, service providers, training centres, universities and public agencies;
  - d) Defining quality standards and creating mechanisms for quality assurance (e.g. certificates) in the following areas:
    - Consulting
    - Production
    - Content
    - Technology
  - e) Giving advice to members on legal matters of general professional importance other than providing individual legal advice, tax and business consultancy;
  - f) Combating grievances and abuses in the digital economy applications, including but not limited to product piracy (taking unauthorized advantage of products of the digital economy protected by copyrights, trade marks or by any other exclusive rights) including the establishment and further development of general terms and conditions;
  - g) Promoting women in the BVDW. The Association seeks to ensure that there is a balanced representation of men and women at its events and on its bodies.
  - h) Cooperating with other associations (e.g. in developing general terms and conditions);
  - i) Arranging cooperation (production support / cooperation coordination);
  - j) Developing an assessment system for commissioned productions;
  - k) Creating standards for offers and cost accounting guidelines;
  - l) Creating an internal and external information database;
  - m) Information about common cost rates;
  - n) Providing an information pool for contractors;
  - o) Arbitration board;
  - p) Coordinating and carrying out consistent public relations work;
  - q) Providing information about funding and promotion opportunities;

- r) Promoting education and training;
  - s) Defining and coordinating education and training guidelines;
  - t) Organizing events and contests;
  - u) The Association may provide services to its members (e.g. information services, provision of advice, framework agreements with insurances, public transport companies, rental car companies, credit agencies, sample contracts). The above services shall not be provided for profit. Compensations shall merely be admissible for covering the expenses.
3. The Association seeks to ensure that, on a voluntary basis, the interactive media are kept free from any criminal content punishable under German law.

### **Article 3 Funds and Expenses**

1. The Association shall have the following funds available:
  - Annual subscriptions by the members
  - Subscriptions by supporting members
  - Special contributions
2. The Association's funds shall only be used for purposes in accordance with the Articles of Association. The members shall not receive any gratuity from the Association's funds.

### **Article 4 Auditing**

1. The cash transactions shall be annually audited for the preceding fiscal year by two cash auditors to be elected by the General Assembly of Members.
2. The cash auditors shall audit any accounting records as well as their proper booking and the application of funds made by the Association or by the company commissioned by the Association with the operative management and shall at least once a year determine the cash balance and the respective bank account balances of the preceding fiscal year. It shall not be audited whether the expenses authorized by the Executive Committee or the Management Board were made in accordance with the purposes of the Association. At the General Assembly of Members the cash auditors shall report on the result of the cash audit presenting a report in writing and shall recommend the approval of the Executive Committee's actions.
3. The cash auditors' term of office shall be two years; a substitute shall be elected for each cash auditor in the event that he or she is prevented. The term of office of a cash auditor and his or her substitute may be shortened to one year by resolution adopted by the General Assembly of Members. The cash auditors shall not be eligible for re-election.
4. The cash auditors and their substitutes shall not be members of the Executive Committee.

## **B. MEMBERSHIP**

### **Article 5 Joining the Association and Types of Membership**

1. Companies, educational as well as other institutions which are interested in the Association's purpose may apply for membership in the Association. When applying for membership they acknowledge the Articles of Association and the rights and obligations arising therefrom.
2. The application for membership shall be submitted to the Executive Committee in writing. The Executive Committee shall examine whether the requirements for joining are met and finally decides on the admission as new members. Membership shall become effective by the resolution adopted by the Executive Committee. If an application for membership is rejected, it shall not be required to state the reasons.
3. The Association shall have
  - Full members
  - Special members
  - Supporting members
  - Honorary members
4. Full members shall be companies and educational institutions which are at least engaged for profit in one business area of the digital economy and provide education, training and further training qualifying for activities in the digital economy at least in some of the business areas.

5. Special members shall be companies which are engaged for profit at least in one business area of the digital economy for a maximum period of 4 years at the date of application (start-ups). Special members shall only be eligible for admission once and their membership shall be limited to 24 months. The Executive Committee shall decide on the application. If an application is rejected, it shall not be required to state the reasons. After expiry of the time limit any special membership shall automatically become a full membership, unless the Executive Committee or the special member objects to the continuation of membership within 4 weeks prior to the expiry of the time limit.

6. Supporting members shall be non-profit educational institutions which provide education, training and further training qualifying for activities in the digital economy at least in some of the business areas as well as institutions within the environment of the digital economy.

7. Honorary members shall be individual persons who have rendered outstanding services in the promotion of the Association's purpose. Honorary membership shall be conferred by the General Assembly of Members by a majority of two thirds of the voting members present. Honorary members shall be exempt from paying a subscription. Existing individual members shall be grandfathered within the meaning of a supporting member.

8. In the event of any transformation of companies, membership shall be continued by all new companies which arise from the transformation; membership of surviving transferred companies shall not be affected.

#### **Article 6      Members' Rights and Obligations**

1. Full members, special members and supporting members of the Association shall pay the specified subscription punctually. The details shall be governed by the rules of subscription which are not an integral part of these Articles of Association.

2. The members are entitled to participate in any decision-making and opinion-making and forming processes of the Association according to the provisions of these Articles of Association. The details shall be governed by the bodies' rules of procedure binding on all members.

3. The members undertake to represent the Association's concerns and interests vis-à-vis third parties and to safeguard the reputation of the digital economy as a whole.

4. The members shall loyally assist the Executive Committee in fulfilling its tasks and shall contribute to the execution of the resolutions adopted. Any resolutions adopted within the framework of the Articles of Association shall be binding on the members.

5. Before taking any actions affecting the tasks of the Association according to Article 2 of the Articles of Association the members shall inform the Executive Committee and give it the opportunity to deliver an opinion; the same applies to any publication of political importance for the digital economy as a whole.

6. Each member undertakes to immediately inform the Association on any change which may directly and/or indirectly affect membership in the Association.

#### **Article 7      Termination of Membership**

1. Membership shall end by giving notice of termination, exclusion or by the legal entity's being defunct or expiry of limited membership.

2. Notice of termination shall be given by the member's declaration towards the Executive Committee. Such termination shall be subject to a six months' notice taking effect from the end of a calendar year. Notice of termination shall be given in writing and submitted by registered letter.

3. Members may be excluded if they have not paid their subscription despite having received two reminders and a letter warning of their exclusion or have seriously acted contrary to the Association's interests.

4. The Executive Committee shall resolve upon the exclusion of members. The members concerned may object to this resolution within 30 days. The objection shall have suspensive effect. The next ordinary General Assembly of Members shall then vote on the exclusion by simple majority vote.

5. The termination of membership does not release the member from fulfilling the obligation to pay any outstanding subscriptions or from any other obligations towards the Association. The member shall have no entitlement to the Association's assets.

## C. BODIES

### Article 8 Association's bodies

The Association shall have the following bodies:

1. The General Assembly of Members
2. The Executive Committee
3. The Management Board

### Article 9 General Assembly of Members

1. The Association's supreme body shall be the General Assembly of Members.
2. Full members shall exclusively be entitled to vote. However, special members, supporting members and honorary members shall have a right to speak, to file motions and a right of proposal. Full members shall only actively be entitled to vote if they have already been admitted as members four weeks prior to the General Assembly of Members and have paid the subscription for the current year in accordance with the rules of subscription. In exercising their voting right full members may also be represented by an employee of the company or an affiliated company holding a written individual proxy in lieu of the legal representative.
3. The members' right shall be suspended if such members do not comply with their obligation to pay subscriptions.
4. Supporting members shall not be entitled to vote.
5. The General Assembly of Members shall provide the guidelines for the Association's activity and shall deal with fundamental issues and affairs of the Association. Its tasks shall include but not be limited to:
  - a) electing the President, the Vice-President, the cash auditors and the substitute cash auditors;
  - b) receiving the Executive Committee's annual report, the statement of accounts and the cash auditors' report;
  - c) approving the actions taken by the Executive Committee and the Management Board;
  - d) determining the members' subscriptions;
  - e) adopting resolutions on objections to the exclusion of members;
  - f) adopting resolutions on the motions for the General Assembly of Members which have to be submitted to the President in writing at the latest within 5 days before holding the general assembly. (Motions concerning items not included in the agenda may only be dealt with by unanimous assent.)
  - g) adopting resolutions on amendments to the Articles of Association;
  - h) electing the honorary members;
  - i) dissolving the Association;
  - j) issuing rules of subscription providing for the amount, due date and method of payment of the periodic subscriptions and the admission fee; it may differentiate between the member statuses.
6. The ordinary General Assembly of Members shall be held once a year. The Executive Committee shall call the General Assembly of Members in writing at the latest six weeks before the general assembly stating the agenda. The requirement of written form shall also be deemed fulfilled by transmission by telecommunication, including but not limited to email. The transmission to the email address last communicated to the Association in this respect shall be deemed sufficient. For proving that the General Assembly of Members has been called in due time and form it shall be sufficient if the Executive Committee assures vis-à-vis the General Assembly of Members that the written notice calling the general assembly and stating the agenda has been given to all voting members at least six weeks beforehand.
7. The Executive Committee may call an extraordinary General Assembly of Members. The Executive Committee must call such general meeting whenever at least 25 per cent of all full members request such calling. If the Executive Committee resigns from office or if all members of the Executive Committee are dismissed from office, election of the new Executive Committee shall immediately be brought about at an extraordinary General Assembly of Members. In that event, the manager shall be responsible for calling and chairing the General Assembly of Members.
8. Minutes of any General Assembly of Members shall be taken which must be signed by the President and the keeper of the minutes. The minutes shall at least include the number of the members present, the ascertainment that there is a quorum, the motions brought forward, the method of voting and the exact voting result.

**Article 10 Adoption of Resolutions**

1. The ordinary and extraordinary General Assembly of Members shall constitute a quorum if they are called properly irrespective of the number of members present.
2. The General Assembly of Members may resolve any amendment to the Articles of Association by a majority of two thirds of the voting members present. The amendments to the Articles of Association intended by the Executive Committee shall be notified stating their full wording and the articles at least 14 days before holding the General Assembly of Members which has to adopt the resolution on them. Members may file motions for amendments up to 7 days before the General Assembly of Members in writing with the administrative office. The motions shall be published immediately on the Association's website.
3. Resolutions on the provisions of the German ordinary law relating to associations shall be adopted by absolute majority of the voting members present at the General Assembly of Members. The requested amendments to the rules of the Association shall be notified in writing stating the wording and the articles together with the notice calling the General Assembly of Members.
4. The Executive Committee may decide in general or in individual cases that and in which manner
  - a) the members may participate in meetings even without being present at the venue and without a proxy and may exercise all or individual rights in part or as a whole by electronic communication (virtual participation according to Section 118 (1) sentence 2 Aktiengesetz [German Company Act]), and/or
  - b) members may cast their vote even without being present at the meeting in writing or by electronic communication (postal vote according to Section 118 (2) sentence 1 Aktiengesetz). The bodies may resolve corresponding provisions for resolutions adopted within the respective bodies. The requirements provided for in Section 118 (1) sentence 3 to 5 Aktiengesetz shall not apply.

**Article 11 Executive Committee**

1. The Executive Committee shall consist of the President and at least four and at most six Vice-Presidents. Before electing the Executive Committee the General Assembly of Members shall resolve by a majority of two thirds of the valid votes cast by the voting members whether the Executive Committee will be extended.
2. All members of the Executive Committee must be employees of full members at the date of their election.
3. Two members of the Executive Committee shall jointly represent the Association according to Section 26 BGB [German Civil Code]. Individual members of the Executive Committee holding a power signed by at least two members of the Executive Committee may represent the Association according to Section 26 BGB.
4. The composition of the Executive Committee should take account of the diversity in the industry segments of the digital economy.
5. The President shall be elected for a term of two years by the General Assembly of Members by secret vote; however, he or she shall remain in office until a new president is elected. The person who received more than two thirds of the valid votes cast shall be deemed elected. If a two-thirds majority is not achieved, the person who obtained the simple majority of the valid votes cast in a second ballot shall be deemed elected. If a two-thirds majority is not achieved in the first ballot in case of more than two candidates, a run-off shall be held between the two candidates having obtained the highest number of votes. In the event of a tie, it shall be decided by drawing lots.
6. The General Assembly of Members shall elect each of the Vice-Presidents by secret vote for a term of two years; however, they shall remain in office until a new Executive Committee is elected. The persons who obtain the simple majority of the valid votes cast shall be deemed elected. If a two-thirds majority is not achieved in the first ballot in case of more than two candidates, a run-off shall be held between the two candidates having obtained the highest number of votes. In the event of a tie, it shall be decided by drawing lots.
7. The Executive Committee may issue rules of election providing for the details of the election procedures.
8. The Executive Committee shall constitute a quorum if at least 50 per cent of the acting members of the Executive Committee have participated in the resolution by voting. The vote may be cast by transferring the voting right to another member of the Executive Committee by proxy for the individual case. The Executive Committee may adopt resolutions using the circulation procedure.

9. If the Executive Committee is not fully constituted according to the requirements of the General Assembly of Members, it may co-opt an appropriate person for the period until the next ordinary General Assembly of Members by unanimous resolution adopted by all acting members of the Executive Committee; the General Assembly of Members shall elect a substitute member for the remaining term of the Executive Committee (by-election).

#### **Article 12 Tasks and Activities of the Executive Committee**

The Executive Committee

1. shall manage the business of the Association. It shall execute the resolutions adopted by the General Assembly of Members and shall manage the Association's assets.
2. shall represent the Association vis-à-vis third parties.
3. may assign the management of the day-to-day business to one or several managers who shall not be members of the Executive Committee. If the Executive Committee exercises this authority it shall issue rules for managers.
4. shall issue rules of procedure for carrying out its activities.
5. may resolve to establish advisory boards to assist and perform the tasks of the bodies.
6. shall decide on the admission and exclusion of members.
7. shall take over the hiring and supervision of the staff required for the Association's activities.
8. shall supervise the political activities, the bodies' activities as well as the Association's communication.
9. and shall decide on the establishment and dissolution of bodies.

The Executive Committee shall not be liable for actions taken by any member of the Executive Committee without authority.

#### **Article 13 Management Board**

1. The Executive Committee may establish a full-time Management Board. This Management Board may consist of one or several managers.
2. The members of the Management Board shall be special representatives within the meaning of Section 30 BGB and shall be authorized to manage the Association's day-to-day business independently and to represent the Association vis-à-vis members and third parties within the scope of the tasks assigned to them. The specific guidelines applicable to the Management Board shall be provided for in the rules for managers to be issued by the Executive Committee.
3. The members of the Management Board shall receive a monthly remuneration for their services and expenses. The Executive Committee shall determine said remuneration.

#### **Article 14 Ambassador**

1. The Association may appoint Ambassadors. The Executive Committee shall appoint the Ambassadors.
2. The Ambassadors shall represent the Association and its interests in partner organisations and shall promote the dialogue with them. In this function they shall assist the Executive Committee in its work in terms of content.
3. The Ambassadors may be invited to attend the Executive Committee's meetings, if required, however, they are not entitled to vote.

### **D. BODIES OF THE ASSOCIATION**

#### **Article 15 General Provisions**

1. The Association may establish bodies for the purpose of promoting the Association's purpose and fulfilling the Association's tasks.
2. The Executive Committee shall issue the bodies' rules of procedure according to Article 16 defining the tasks, procedures and working conditions. These are published on the Association's website and shall be acknowledged by each member by his or her cooperation.
3. The Executive Committee shall be responsible for supervising political bodies and issues from the market research area.
4. Each full member is entitled to suggest establishing additional bodies to the Executive Committee.

## E. SPECIAL PROVISIONS

### **Article 16 Execution of the Articles of Association**

The Executive Committee shall issue provisions for the implementation of the Articles of Association, if required.

### **Article 17 Provisions consistent with the Articles of Association**

The articles of association relating to the bodies subordinated to the Association shall not be inconsistent with the provisions of these Articles of Association.

### **Article 18 Recommended Conditions**

The General Assembly of Members shall resolve recommended conditions upon suggestion by the Executive Committee.

### **Article 19 Memberships of the Association**

The Association may join other organisations as a member.

## F. DISSOLUTION OF THE ASSOCIATION

### **Article 20 Dissolution of the Association**

A resolution to dissolve the Association may only be adopted by a majority of three quarters of the valid votes cast at an extraordinary General Assembly of Members which has been called for this purpose at least four weeks before such resolution. This General Assembly of Members shall at the same time resolve upon the application of the Association's assets; they shall exclusively be used for charitable objectives.