

## DEUTSCHER WERBERAT AND ONLINE ADVERTISING: COMPETENCE AND COMPLAINTS PROCEDURE

2011 version

### Introduction

With the announcement "Deutscher Werberat and the complaints procedure for online advertising," as early as 1997 Deutscher Werberat (German Advertising Standards Council) defined how its rules that are not media-specific apply to online advertising and approved special rules for the complaints procedure.

Since then, our advertising self-regulation institution supported by the entire advertising industry in Germany has exercised its full responsibility for reviewing statements and representations of commercial advertising, including the various forms of commercial communication in and by means of telemedia ("online advertising").

Deutscher Werberat thus took the lead in cross-media self-regulation of commercial communication content. This trend has meanwhile been followed by the other self-regulation institutions of the advertising industry in the EU Member States under the aegis of the European Advertising Standards Alliance (EASA), the umbrella organization of advertising self-regulation institutions in Europe.

New forms of communication in online advertising have led Deutscher Werberat to once again address and clarify questions of competence and procedures, as explained in this announcement.

### Competence

Unless media-specific provisions are expressly stated in them, the rules of Deutscher Werberat apply to all forms of commercial communication in and by means of telemedia. There is no exclusionary differentiation by content in open or closed telemedia offers.

All communication instruments a company uses directly to promote sales are to be deemed commercial communications in telemedia as well, regardless of the design format or media environment in which this occurs.

This includes in particular text displays, graphic advertising forms like banners, layers or pop-ups, and the moving image formats now widely used including corresponding forms of communication on company web pages.

"User-generated content" (input produced by users on third-party web pages) or viral forms of communication (input (re)distributed in telemedia by users) can likewise be wholly or partly classified as commercial



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communication. This is always the case if the advertiser designs the message's content and only its distribution is left to the user. Deutscher Werberat can also have responsibility if the advertiser has not itself designed the content but adopts it as part of its own commercial communication.

Deutscher Werberat does not review editorial media contents or private communications. It can refer such matters to the institutions competent for this.

## **International competence and cross-border measures**

In online advertising as well, the competence of Deutscher Werberat is restricted to commercial communication actions that have a significant impact in Germany.

This is evaluated independent of the technical accessibility (retrievability) of the telemedium, and in particular according to the language used in the advertising communication. The more it is understood by the majority of consumers (such as where German is the national language or English is the common language of communication), the more likely a significant impact is to be answered in the affirmative.

The rules on handling cross-border cases developed under the EASA aegis and accepted by the national advertising self-regulation institutions are also to be followed in online advertising.

## **Rules of procedure**

The rules of procedure of Deutscher Werberat in the September 24, 1979 version apply to all spheres of the media.

## **Complaints**

Complaints are to be directed to the office of Deutscher Werberat, stating their reason. This can be done electronically using a "Complaint Form" available on the Internet ([www.werberat.de](http://www.werberat.de)).

If a complainant cannot send the incriminating advertisement for technical reasons, in individual cases Deutscher Werberat reserves the right to obtain the necessary documents on its own.

## **Publication of reprimands**

Deutscher Werberat informs the public online on its Internet site of the reprimands it issues. This information is also provided in suitable form to the press, radio and online media, and if necessary also to operators of search engines and advertising agencies.