

# **HUNGARIAN ASSOCIATION OF CONTENT PROVIDERS**

## **ELECTION CODE OF CONDUCT**

**May 2002**

## **1. Preamble**

The Hungarian Association of Content Providers (hereinafter: MTE), in co-operation with the National Election Committee, has formulated the following Code of Conduct in the interest of promoting fair elections and full compliance with the relevant statutory provisions, and to assist the interpretation thereof, through ensuring that:

- the regulations, procedures and practices of Internet content provision, with respect to parliamentary and local elections as well as public referenda (hereinafter: "Elections"), are defined and known to service providers, users and the general public;
- the provision of Internet content in relation to Elections is conducted within the framework of the relevant statutory provisions;
- persons who accept and apply these protocols of Internet service provision observe a uniform set of regulations with respect to Elections;
- consumers of Internet content and persons who come into contact with, or form opinions about, Internet content with respect to Elections are aware of, and have recourse to, these regulations;
- any breach of the accepted regulations pertaining to Internet content provision with regard to elections shall result in the imposition of sanctions within a self-regulatory framework.

## **2. Effect of the Code of Conduct**

The provisions of this Code of Conduct constitute a set of protocols for Hungarian content providers. The provisions of this Code of Conduct are binding for all MTE members and must be applied in the course of all proceedings that require decisions, either on specific matters or about principles, regarding MTE members or the provision of Internet content.

### **3. 3. Definitions of terms and basic rules**

- 3.1. Internet content provider** shall mean any legal entity or natural person, or any group thereof, which/who render(s) any form of information (textual, numerical, visual, audio, multimedia) accessible, either continuously or limited to certain periods of time, to all or some Internet users, in a manner that allows the unambiguous identification of such legal entity or natural person by the users during the process of accessing the information. “Internet content provision” shall mean the supply of information via technologies including, but not restricted to, the World Wide Web, mobile and broadband networks and e-mail.
- 3.2.** The **principle of transparency** demands that a given Internet content provider be as easily identifiable for users as possible. Thus, in the case of the World Wide Web, the URL, or other technologies any similar identifier, should contain an unambiguous reference to the service being provided to users – for example, the incorporation of a brand name, the name of the service being offered, or some other clear means of identification in the URL.
- 3.3. Not to be considered content providers** are those service providers that merely supply the technological means to one or more easily identifiable legal entities or natural persons to publish information.
- 3.4. Editorial content** shall mean any information published with the direct participation of the employees or contracted partners of the Content Provider. With respect to editorial content, the statutory provisions pertaining to the press and public announcements may be applied without limitation, primarily Act IV. of 1959 of the Civil Code and Act II. of 1986 on the Press.
- 3.5. Paid content** shall mean advertisements published on platforms controlled by the employees or contracted partners of the Content Provider.
- 3.6. User generated content** shall mean any information prepared by a user or group of users applying the technology supplied by the Content Provider, which appear on the Content Provider’s pages, , regardless of whether the Content Provider reserves the right to subsequently correct (moderate) such content.
- 3.7. Election campaign period**  
Pursuant to § 40 (1) of Act C. of 1997 on Electoral Procedure (hereinafter: the Elections Act), the election campaign shall last from the announcement of the election to 0:00 o'clock of the day prior to Election Day.
- 3.8. Pre-election media blackout**  
Pursuant to §40 (2) of the Elections Act, pre-election media blackout shall last from 0:00 o'clock of the day prior to Election Day until the closing of the polls at 19:00 o'clock on Election Day.
- 3.9. Advertising**

The MTE defines as advertising all elements of content which, during the course of their normal use, are suitable for displaying paid content. Such elements include, but are

not limited to, banners, click-through logos, links displayed in a separate frame, list of offered services, and other audio or visual materials the publication of which has been ordered by a client on a commercial basis for the purpose of publicising or promoting their activities. Furthermore, the MTE considers to be advertising all click-through elements – including, but not limited to, links, pictures, short textual descriptions – that do not constitute parts of the news or information service provided by the Content Provider as part of its normal activity, and do not serve to supplement or illustrate such information, but which are unambiguously separated from such information (constituting a separate unit in terms of their content or design), and which as a part thereof, yet independently, promote the viewing (use) or purchase of services offered by the Content Provider or another service provider.

The MTE does not consider to be advertising any click-through elements appearing in listings or informative or illustrative units of content (including, but not limited to, catalogues, search engines, collections of links) created within the framework of Internet content provision, or units of content created as part of the news and information service constituting the Content Provider's normal activity, or for the supplementation or illustration thereof, which facilitate the viewing of Internet services offered by the Content Provider or another service provider on the basis of the user's own choice ("User Pull").

#### **4. The liability and main duties of the Content Provider**

The Content Provider's *liability* depends on the type of Internet content:

- The liability of the Content Provider is unlimited with respect to all editorial and paid content.
- The liability of the Content Provider is limited with respect to user generated content.

Internet Service Providers (ISPs) providing hosting services on a contractual basis *do not qualify* as Content Providers, and, inasmuch as they have no positive knowledge of its illegal nature, their liability for contents published by their contractual partners – in the absence of their culpability –, shall be limited to the objective consequences of any breach of law.

User generated content is a special form of public discourse, with respect to which the statutory provisions pertaining to the press may be applied only to a limited extent. User generated contents constitute important instruments of the freedom of speech, and the attitude towards them should not primarily be defined by censorship but should be based on the principle of transparency. It should be made clear to recipients of user generated content that:

- the information, opinions etc. contained therein are not authored or controlled by the Content Provider;
- this form of content provision, which often allows anonymity, may make it difficult or impossible to identify the sources of information.

It is the right and obligation of the Content Provider to attach documents describing the rules and norms of use to the pages provided for the publishing of user generated content, and to enforce their observance in accordance with the principle of limited responsibility.

It is one of the Content Provider's main tasks to remove any obviously illegal content appearing on the provided pages as soon as the Content Provider acquires positive knowledge thereof. However, the Content Provider must endeavour to ensure that the primary means of dealing with objectionable user generated content is the publication of opposing opinions and information on the same platform.

This Code of Conduct contains *recommendations* with regard to conduct during elections, and may serve as a model for the drafting of regulations of this type.

## **5. Basic principles**

Content Providers shall make extra efforts to comply with the basic principles of conscientious reporting and objectivity set forth in the MTE's Code of Ethical Conduct during the campaign periods of general and by-elections.

### **5.1 The principle of objectivity**

Contrary to normal procedures, we recommend that the principle of impartiality be applied on a quantitative basis during campaign periods. The most important considerations during such periods are objectivity, conscientious reporting and ensuring that users have the opportunity to familiarise themselves with all the competing manifestos, organisations, or persons. This act of familiarisation should require an equal investment of energy by the user (the speed of access, layout, and depth of hierarchy should be the same) in each case.

### **5.2. Compliance with the pre-election media blackout**

#### **The pre-election media blackout from the Content Provider's perspective**

Content Providers recognise the statutory provisions pertaining to electoral procedures, the Elections Act and the principles set forth in the policy statements of the National Election Committee regarding election blackouts as valid and binding in every respect. The Internet, as a medium for communication, is only capable of influencing the *means* of compliance with these regulations.

Content Providers undertake to refrain from publishing any new editorial content that could directly or indirectly influence the decisions of voters during this period. In the case of general elections, this should be taken to refer to any content containing information about any of the candidates, organisations or representatives of organisations standing for election, or related to an election manifesto, which may influence the opinion of voters. In the case of by-elections, this restriction applies to information concerning the candidates or organisations involved in the given election, inasmuch as this information has any relevance to the election or the constituency involved in the election, or may be used in any other manner to influence the voters.

The MTE recommends that, for the duration of the media blackout, Content Providers refrain from organising on-line discussions, chatrooms or notice boards with the

participation of public figures who could be assumed to have some material interest in the outcome of the given election.

The MTE recommends that Content Providers render previous editorial content about the election, the campaign and its participants inaccessible from the first two hierarchical levels. The term “hierarchical level” should be interpreted within the context of the directory structure operated or used by the individual Content Provider. However, it is in the interest of the public that materials about the election campaign and the participating candidates and organisations be accessible after the lifting of the pre-election blackout. Therefore, the deletion of such materials is not necessary, instead, the aim is to restrict their accessibility by users to the minimum extent that is technically possible.

During the media blackout, Content Providers shall refrain from using click-through devices (links, logos, other images or hypertexts) illustrating or supplementing editorial content, appearing separately or as a part thereof, that would provide their readers with unequal opportunities in gaining access to information related to candidates or organisations participating in the Elections.

### **User generated content during the media blackout**

The discussion of elections by users may not be prohibited in pages containing user generated content, such as notice boards and chatrooms. The MTE recommends that Content Providers prominently display a notice drawing users’ attention to the election blackout, and that they call upon users, prior to using the service, not to display materials suitable for political agitation on pages set aside for user generated content, and that they draw the attention of users to the relevant statutory provisions.

The MTE recommends that Content Providers make extra efforts during election blackouts to ensure that persons and organisations involved in the election do not express themselves even on usually unmoderated platforms, and do not abuse the opportunities presented by this medium.

## **5.3 Basic principles for the publishing of opinion polls**

Content Providers undertake that, pursuant to § 8. (1) of the Elections Act, they shall not include the results of opinion polls regarding or affecting the election in their editorial content, nor make them accessible from the first two hierarchical levels, during the eight days prior to Election Day.

Content Providers also undertake that, in the case of moderated user generated content, the moderators shall continuously moderate any postings containing such data, references or quotes during the given period.

For the duration of the ban on publishing opinion polls, Content Providers shall refrain from using any click-through devices (links, logos, other images or hypertexts) illustrating or supplementing editorial content, appearing separately or as a part thereof,

to refer to or provide access to services showing the results of opinion polls pertaining to the given period.

The MTE recommends that, pursuant to §8 (1) of the Elections Act, all organisations providing Internet services with editorial content (including, but not limited to, public opinion research institutes, political parties, other organisations standing in elections) refrain from publishing the results of their public opinion research or – where possible within the framework of the given service – making them accessible from the first two hierarchical levels, in the 8 days prior to Election Day.

The MTE recommends furthermore that, for the duration of the pre-election media blackout, or the eight days prior to Election Day, organisations that prepare and publish opinion polls should make their opinion poll results available only to users subject to preliminary registration, and strictly on a User Pull basis.

## **6. Campaign advertisements**

The MTE recommends that Content Providers take the following into consideration when publishing campaign advertisements:

- Advertising space should be offered to all participants in the Election at the same price and under the same terms of payment (including advertising space offered free of charge).
- Regardless of their size, campaign advertisements should clearly display the title “POLITICAL ADVERTISEMENT.”
- Do not conclude sponsorship agreements with organisations standing in the election.
- Do not conclude barter agreements with respect to campaign advertisements.
- Do not publish campaign advertisements during the pre-election media blackout.
- Do not accept for publication campaign advertisements that contain a negative campaign message, i.e. those intending to bring discredit upon any of the advertiser’s political opponents.

Political advertisements by electronic mail may only be communicated with the express preliminary consent of the recipient. The sending or forwarding of any unsolicited electronic letter – including, but not limited to, political advertisements, information, solicitations, details of, or invitations to, political events – qualify as data handling that is not in accordance with the relevant recommendations issued by the Commissioner for Data Protection, and is therefore prohibited. Political advertisers or publishers of political advertisements may only use any of the recipient’s personal data (including their e-mail address) if the recipient has expressly consented in advance (opted in). The advertiser or publisher of the advertisement may only use any of the recipient’s personal data (including his/her e-mail address) for the purpose that it was released for, and may only pass on such data to third parties with the express permission of the recipient.

## **7. Recommendation for the operation of political party websites**

The websites of political parties and organisations or candidates standing for election contain, by their nature, political information suitable for influencing the decisions of voters. Based on the experiences of the 2002 General Elections, the MTE has determined that the websites of political parties are not means of supplying information with the purpose of persuading or influencing the neutral voter, but destined to voters who deliberately wish to obtain information regarding a given party, its manifesto, aims, principles and events via the Internet. However, in the opinion of the MTE, the regulations pertaining to pre-election media blackout also apply to information of this type.

The MTE calls upon the political parties to refrain from updating information related to their election campaigns and manifestos during the pre-election blackout. On this basis, in accordance with the provisions of the MTE's Election Code of Conduct, information uploaded to websites prior to the media blackout may remain accessible during the blackout, but – pursuant to the MTE's recommendation – it may not be refreshed during this period.

In addition, the MTE recommends these organisations to fully comply with the policy statements and resolutions of the National Election Committee, with special regard to decisions made with respect to breaches of the pre-election media blackout, in the course of election campaigns.