

From the Ministry of Customs and Trade:

COMMERCIAL COMMUNICATIONS AND COMMERCIAL ELECTRONIC MESSAGES
REGULATION ABOUT

FIRST PART

Purpose, Scope, Basis and Definitions

Goal

ARTICLE 1 - (1) The purpose of this Regulation is to provide information on commercial communication made with electronic communication tools. To regulate the procedures and principles regarding the obligations and the issues to be followed in commercial electronic messages.

Scope

ARTICLE 2 - (1) This Regulation is intended to promote, market or serve the goods and services of real and legal persons. any kind of electronic communication made with the aim of promoting its business or doing them on behalf of others. includes commercial communications.

(2) The provisions of this Regulation;

a) Subscribers and operators of operators within the scope of Electronic Communications Law No. 5809 dated 5/11/2008 to its users; exclusively for the purpose of promoting, marketing or promoting its own goods and services

to commercial electronic messages sent,

b) Messages sent by foundation universities to their students and their parents,

c) Professional organizations in the nature of public institutions and associations beneficial to the public and tax exemption messages sent by foundations to their members regarding the activities of their commercial enterprises,

g) Law on the Establishment and Broadcasting Services of Radio and Television, dated 15/2/2011 and numbered 6112

in order to inform and educate the public, by the organizations engaged in radio and television broadcasting in accordance with its provisions. information messages regarding broadcast services,

d) State, local administrations and other public legal entities sent to inform the public.

to messages,

not applicable.

Rest

ARTICLE 3 - (1) This Regulation is the Regulation of Electronic Commerce dated 23/10/2014 and numbered 6563. It has been prepared on the basis of the Law.

Definitions

ARTICLE 4 - (1) In this Regulation;

a) Buyer: Consumer or real or legal person acting for professional or other purposes,

b) Intermediary service provider: It provides the electronic commerce environment for the economic and commercial activities of others. natural and legal persons providing

c) Ministry: The Ministry of Customs and Trade,

g) Dealer business: A company that acts as an intermediary in the sale of the goods and services of an enterprise on a contractual basis and the business operating independently on behalf of

d) Electronic contact address: Communication exclusively in electronic media such as e-mail and telephone number. the address of the establishment,

e) Electronic communication tools: Sending and receiving messages over the Internet and other communication networks. or any device such as computers, telephones, fax machines, automatic dialing machines,

f) Electronic media: The environment in which data is digitized, processed, stored and transmitted,

g) Electronic commerce: Online transactions carried out in electronic environment without physical confrontation. all kinds of economic and commercial activities,

g) Service provider: Real or legal persons engaged in electronic commerce activities,

h) Provincial directorate: Provincial directorate of commerce,

i) Provincial director: Provincial director of commerce,

i) Business day: Other days excluding national holidays and general and weekend holidays,

j) Law: Law No. 6563 on the Regulation of Electronic Commerce,

k) MERSIS: Central Registry Registration System,

l) Privately authorized enterprise: A contractual enterprise, management and organization and distribution or

The sale of the goods or services of this enterprise by obtaining information and support on issues such as marketing technologies.

independent commercial enterprise that uses its concession rights on price, territory and duration within certain conditions and limitations. the business,

m) Commercial electronic message: Telephone, call centers, fax, automatic dialing machines, smart voice recorder systems, e-mail, short message service, etc.

messages with data, audio and video content sent for purposes,

n) Commercial communication: Within the scope of professional or commercial activity, excluding domain names and e-mail addresses all kinds of communication related to electronic commerce in order to gain profit,

o) URL address: The full address where the relevant content is located on a network such as the internet, means.

SECOND PART

Commercial Electronic Messages

Commercial electronic messages and confirmation

ARTICLE 5 - (1) To promote, market, promote the business of the service provider's goods and services, or

In order to increase its recognition with content such as congratulations and wishes, it is sent to the electronic communication addresses of the recipients.

For commercial electronic messages, prior approval is obtained by him. Until the right of refusal is exercised valid.

Conditions that do not require approval

ARTICLE 6 - (1) In case the buyer provides his contact information in order to be contacted, the Separate approval for commercial electronic messages for change, use and maintenance of goods or services not taken.

(2) With ongoing subscription, membership or partnership status, collection, debt reminder, information update, purchase Messages containing notifications regarding receipt and delivery or similar situations, and to the service provider in accordance with the relevant legislation.

In cases of obligation to provide information, the obligation to obtain prior approval is not required. However, such notifications any goods or services cannot be encouraged or promoted.

(3) For commercial electronic messages sent to the electronic communication addresses of buyers who are merchants or artisans. Prior approval is not required. However, the right of merchants and artisans to refuse in Article 9

commercial electronic messages cannot be sent without their approval.

(4) In accordance with the legislation on the capital market, companies engaged in intermediary activities to their customers

It is not obligatory to obtain approval for commercial electronic messages sent for informational purposes.

Obtaining approval

ARTICLE 7 - (1) Approval can be obtained in writing or by any electronic means of communication. Upon confirmation, the buyer's positive statement of will, name and surname, and electronic communication address, stating that you accept the sending of commercial electronic messages takes place.

(2) In the physical approval, the signature of the person giving the approval is required.

(3) In case the approval is obtained electronically, the information that the approval has been received, the opportunity to refuse is also given. It is delivered to the recipient's electronic communication address within the same day.

(4) It is not possible to request approval by sending a commercial electronic message to the buyer's electronic communication address.

(5) Approval; if it is included in the content of a contract such as subscription, sales and membership agreement

at the end of the contract, before the positive declaration of will or signature, under the commercial electronic message margin.

It is taken by writing in at least twelve font size, with the possibility of rejection.

(6) Approval given to one of the parties in the agency, privately authorized business or dealership agreement; to this contract limited to the subject good, service or brand, it is deemed to have been given for the other party of the contract.

(7) The service provider receives approval as a promotion, provided that it is accompanied by its own goods or services.

It can also be used for the goods and services offered. However, this promotional relationship is subject to a contract.

(8) A positive declaration of will cannot be pre-selected in the approval text.

(9) The service provider requires the buyer to give commercial electronic message approval, in advance for the supply of the goods and services it offers. cannot be asserted as a condition.

(10) The burden of proof regarding the approval is on the service provider.

Commercial communication and commercial electronic message

ARTICLE 8 - (1) The content of commercial electronic messages must comply with the approval received from the recipient.

(2) In the title or content of the commercial electronic message; MERSIS number and trade name for traders,

For tradesmen, the name and surname and the TR identity number are included. In addition, the service provider, brand or

may include other information that introduces itself, such as the business name.

(3) In the content of the commercial electronic message sent using limited fields such as short messages; for traders MERSIS number, for tradesmen, name and surname and TR identity number. The service provider to these

In addition, it may include other information that introduces itself, such as a brand or business name.

(4) In commercial electronic messages, depending on the type of electronic communication medium, the service provider's telephone, fax, At least one of the accessible contact information such as text message number and e-mail address is included.

(5) If the nature of the commercial electronic message cannot be clearly understood from the content, promotion, campaign and a statement that determines the quality, such as information, is included. This phrase; in messages sent via text messages

at the beginning of the conversation, in the subject section of the messages sent via e-mail, and in the voice calls specified at the beginning.

(6) Promotions such as discounts and gifts in commercial electronic messages, and promotional contests or games If so, this will be clearly stated in the message.

(7) The validity period of the promotions and what the buyer has to fulfill to benefit from them

the terms of the obligations, clearly and unequivocally, a URL address or

It is offered by easily accessible methods such as customer service number.

Right of refusal and notification method

ARTICLE 9 - (1) The Buyer may refuse to receive commercial electronic messages at any time without giving any reason.

The buyer's notification of refusal invalidates the confirmation regarding the communication channel in which the notification was made.

(2) Notification of refusal to be made to one of the parties for the approval given under the sixth paragraph of Article 7

deemed to have been made by all parties. The party receiving the rejection notice is obliged to notify the other party of this issue.

(3) In the commercial electronic message of the service provider for the buyer's rejection notification, the customer service number, short give an accessible contact address, such as a message number or a URL specific to the rejection notification only

must. Rejection notification should be made easily and free of charge by whatever communication channel the commercial electronic message is sent. provided through the same communication channel.

(4) The possibility of notification of rejection is included in every commercial electronic message sent.

(5) The use of the right of refusal by the buyer, the relevant legislation to which the service provider is subject.

It does not prevent the notifications that must be sent to the buyer according to the provisions of the law.

Application of the rejection notice

ARTICLE 10 - (1) The service provider shall comply with the request of the buyer regarding his refusal to receive the commercial electronic message. stops sending commercial electronic messages to the buyer within three business days following its receipt.

THIRD PART

Intermediary Service Providers, Protection of Personal Data,
Obligation of Proof and Retention Period for Records

Obligations and other matters regarding intermediary service providers

ARTICLE 11 - (1) The service provider shall send commercial electronic messages to the recipients for which it has previously approved. as well as through intermediary service providers.

(2) Intermediary service provider;

a) Sends content prepared by the service provider.

b) The ability to create, send, receive, store commercial electronic messages and software, hardware, database and management system necessary for storing and processing information

provides.

c) It provides the opportunity for the performance of other obligations stipulated by this Regulation for the service provider.

(3) The intermediary service provider, in the content of the commercial electronic messages sent, its own brand name, trade

includes at least one of the title or business name information.

(4) Intermediary service provider, by real and legal persons who use the electronic environment in which it provides services. to control the content provided, to carry out an unlawful activity or activity related to this content and the goods or services subject to the content.

is not obliged to investigate whether the situation is in question.

(5) On behalf of others, the intermediary service provider promotes, markets or operates their goods and services.

cannot obtain approval to send commercial electronic messages for promotional purposes.

Protection of personal data

ARTICLE 12 - (1) The service provider and the intermediary service provider, within the framework of this Regulation, Without prejudice to the provisions of the relevant legislation, the data obtained due to the transactions and the services provided

taking the necessary measures to prevent them from being stored and illegally accessed and processed.

responsible for its receipt.

(2) Personal data; to be shared with third parties, processed and used for other purposes.

Prior approval from the person concerned is required.

Obligation of proof and retention period

ARTICLE 13 - (1) The burden of proof in the transactions subject to the complaint is on the service provider and/or the intermediary service provider. belongs to the provider.

(2) Service provider and/or intermediary service provider approval records, from the date the validity of the approval expires, and other records related to commercial electronic messages for one year from the date of registration. If requested

These records are submitted to the Ministry.

CHAPTER FOUR

Complaint, Audit and Authority

Complaint

ARTICLE 14 - (1) Complaint applications can be submitted electronically via the e-Government portal or the website of the Ministry.

It is made to the provincial directorate in the place where the complainant is domiciled, over the internet or in writing. Complainant;

If it is a real person, its name and surname, signature and residence address; if it is a legal person, its title and address and the person authorized to represent it. or the name, surname and signature of the attorney must be included in the application.

(2) The following matters are sought in complaint applications regarding commercial electronic messages:

a) If sent via short message; the complainant's TR identity number, telephone number, subscriber

such as the name of the GSM operator, the number of the sender of the message, and if this number is not available, the brand and business name.

If the complainant is a trader, MERSIS includes the alphanumeric information, the date, time and content of the message.

number, if it is a tradesman, there is a statement indicating this situation. A visual sample of the message, if any, is attached to the reference.

b) If sent via e-mail; the complainant's TR identity number, e-mail address,

the name of the business providing the e-mail service to the complainant, the e-mail address of the sender of the message,

the date, time and content of the sending, and if the complainant is a merchant, the MERSIS number, in case of a tradesman, this statement indicating the situation. A sample of the message is attached to the reference.

c) If made via voice call; The complainant's TR identity number, telephone number, GSM subscriber

or the name of the fixed line operator, the number of the sender of the message, if this number cannot be received, the brand and business name, the date, time and content of the message, and the MERSIS number if the complainant is a merchant, and the MERSIS number if the complainant is a tradesman.

statement indicating this situation.

g) If it is done with other electronic communication tools, depending on the type of communication tool specified in this paragraph appropriate information is included.

(3) Complaint application is made within three months from the date of sending the commercial electronic message.

(4) Regarding commercial electronic messages sent only to the complainant's electronic communication addresses, can make a complaint.

(5) Applications that do not meet the conditions in this article are not processed by the provincial directorate.

Finalization of the complaint

ARTICLE 15 - (1) The provincial directorate, where the application is made, shall determine the registered office of the complainant in another location. If it is determined that the Applicant is located in the province, the application documents are sent to the relevant provincial directorate and the applicant is informed.

(2) The relevant information and documents are obtained from the relevant person by the provincial directorate and the complaint is concluded. However, when necessary, on-site inspection is carried out by the personnel assigned for inspection by the provincial directorate.

(3) The service provider and the intermediary service provider are requested by the provincial directorate regarding the said complaint.

It is obliged to deliver the information and documents submitted within fifteen days from the notification of this request. Where necessary Depending on the request of the person concerned, this period may be extended by the provincial directorate for a maximum of fifteen days, for once. It

If the requested information and documents are not delivered at the end of the period, the provincial

Administrative action is established over the information and documents submitted to the directorate. Regarding the information and document request of the provincial directorate In the letter, if the requested information and documents are not delivered in due time, the provincial

It is stated that administrative action will be established on the information and documents submitted to the directorate.

(4) Provincial directorate allows the service provider or intermediary service provider to be determined directly. information from relevant public institutions and organizations and operators providing electronic communication services.

and request documents.

Audit

ARTICLE 16 - (1) Ministry, service provider and intermediary service provider within the scope of this Regulation authorized to supervise its activities and transactions.

(2) Inspectors assigned by the Ministry, within the scope of this Regulation, who fall under the authority of the Ministry. to request all kinds of information, documents and books related to the issues, to examine them and to take their samples,

is authorized to receive written and verbal information from the relevant parties. Relevant information, documents, books and electronic records, to give complete and truthful examples of these, to meet written and verbal information requests, and to

obliged to show help and ease.

(3) Inspectors assigned by the Ministry, service provider and intermediary sending commercial electronic messages subscription information of the service provider and the necessary information and documents with other relevant public institutions and organizations

It is authorized to request from operators providing communication services.

Applying administrative sanctions

ARTICLE 17 - (1) The administrative procedures to be applied to those who violate this Regulation in accordance with Article 12 of the Law. to pay the fines, the service provider and the province where the registered center of the intermediary service provider is located.

manager is authorized.

(2) Administrative fines shall be paid within one month from the date of notification.

CHAPTER FIVE

Miscellaneous and Final Provisions

Use of existing databases

PROVISIONAL ARTICLE 1 - (1) Before the effective date of this Regulation, sending commercial electronic messages For this purpose, the approvals received in a way that includes the clear will of the buyer are valid.

(2) Before the effective date of the law, direct supply of goods or services between the service provider and the buyer.

The databases created by the buyer's electronic communication address during the transactions are approved. acceptable. Consent deemed to be given as such; If the agency, special authority or dealer is given for the business

It is deemed to have been given for the other party of the contract as well.

(3) After the date of publication of this Regulation, to the buyer who is deemed to have given approval within the scope of the second paragraph. In the first commercial electronic message sent with the right to refuse, it is stated that it is registered in the database of the sender.

information is included. (4) Before the effective date of the law, for the purpose of sending commercial electronic messages on behalf of others, provided that qualified approval has been obtained and commercial electronic message has been sent to the recipient based on this approval.

Within three months from the date of publication of the regulation and for once, commercial electronic messages on behalf of Commercial electronic messages can be sent to the recipients for approval by the senders. In this message, your general consent

It also includes information about who received it. In case of silence on the approval request, the request is deemed to be rejected. (5) The burden of proof regarding the matters regulated in this article rests with the sender of the commercial electronic message.

Force

ARTICLE 18 - (1) This Regulation enters into force on the date of its publication.

Executive

ARTICLE 19 - (1) The provisions of this Regulation are executed by the Minister of Customs and Trade.