



Electronic Retailing Association

ERA EUROPE SELF-REGULATION PROGRAMME PROCEDURES

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OVERVIEW

The goal of the Self-Regulation programme is to encourage fair, ethical and responsible business practices that promote consumer confidence in electronic retailing. Our aim is to encourage self-regulation and to give members a chance to address any issues that may become evident as a result of working through the Self-Regulation programme. Furthermore, we strive to ensure that ERA members not only adhere to the Self-Regulation programme but actually understand the benefit that Self-Regulation brings both to the individual company and the industry as a whole.

Participation in the ERA Europe Self-Regulation programme and adherence to the ERA Europe Self-Regulation Charter is a condition of membership in the Electronic Retailing Association Europe, hereafter referred to as ERA Europe. This Charter defines the standards set by the association as a commitment to consumer protection and to the integrity of the industry.

ERA Europe has installed a Self-Regulation Committee, consisting of ERA Europe members acting on a voluntary basis, in order to monitor the Self-Regulation programme. Furthermore, the Board of Directors of ERA Europe appoints a Self-Regulation Officer in order to provide independent evaluation on compliance to the programme. The ERA Europe 'Shop With Confidence' seal is sent to all companies that have successfully fulfilled the requirements of the Self-Regulation programme at the end of the probation period, allowing them to demonstrate to consumers their compliance with the Self-Regulation Programme.

A. GETTING STARTED WITH THE ERA EUROPE SELF-REGULATION PROGRAMME

1. A company applying for ERA Europe membership will receive an ERA Europe Self-Regulation Charter package. All sections must be completed. The Charter must be signed by a representative of the applicant having the necessary authorization and returned to the ERA Europe Self-Regulation Officer before membership can be activated.
2. ERA Europe reserves the right, through the Self-Regulation Officer or any authorised person, to conduct an initial review of the Charter responses with the applicant in order to confirm that it fulfils the provisions and conditions of the Self-Regulation Programme. This initial review might include interviews with the applicant's representatives and/or a visit to the applicant.
3. In addition to the Charter, the Self-Regulation Officer shall be entitled to ask the applicant for materials or information in connection with the applicant's electronic retailing content should the Self-Regulation Officer deem this information necessary as part of the initial review process.
4. The applicant will be notified within 15 working days of receipt of the completed Charter as to whether or not their membership application has been successful. If the applicant is successful, they will be granted membership status. If the Self-Regulation Officer is not entirely satisfied with all parts of the Charter or believes that further information is needed to support some of the applicant's answers in the Charter, then the applicant will be notified that additional information is required.
5. After receipt and notice of acceptance by the Self-Regulation Officer, the new member will begin a membership probation period. Upon completion of the six-month probation period, the member will receive notice of permanent member status.
6. If a breach of the Self-Regulation Charter is identified and not corrected during the probation period, ERA Europe has the right to immediately terminate membership.

After a successful probation period of 6 months, the ERA Europe 'Shop With Confidence' seal is then issued.. It is important to note that the probation period only begins once the applicant has been granted membership status.

B. ONGOING REVIEW OF ELECTRONIC RETAILING CONTENT

1. Reviews by the Self-Regulation Officer can be initiated in one of the following ways:
 - a. Monitoring: The Self-Regulation Committee may ask the Self-Regulation Officer to monitor/review on its own initiative long and short form Direct Response Television (DRTV) and other high profile live or taped advertising campaigns in DRTV and other media that potentially have a significant impact on consumers (e.g. where health or safety issues are involved and/or especially egregious advertising claims). Furthermore certain business practices which could constitute a violation of the Self-Regulation Charter may be reviewed by the Self-Regulation officer as part of an ongoing review process.
 - b. Referrals: ERA Europe, upon receipt of an ERA Europe member complaint, will refer the challenged content to the Self-Regulation Officer for review. Additionally, any referral by a consumer, regarding an ERA member with regard to non-compliant behaviour or a violation of the Self-Regulation Charter will be reviewed by the Self-Regulation Officer.
 - c. Any regulatory institution or consumer advocacy group may refer non-compliant content directly to the Self-Regulation Officer.
2. The Self-Regulation Officer will have the discretion to review any Electronic Retailing content by members in the territories covered by ERA Europe.

C. PROCESS FOR REVIEW AND CORRECTIVE MEASURES

1. Initial Notification: The Self-Regulation Officer will notify the member that a review is being undertaken, the exact nature of the content under review, and for which reason the review is being conducted.
2. Additional requests: The Self-Regulation Officer may request product samples and additional information and/or documentation as required from the member whose content is under review. The member should respond by providing requested materials within the time specified by the Self-Regulation Officer. Should a member fail to respond in due time the Self-Regulation Officer is entitled to conduct the review with the existing materials or make a recommendation to the ERA Europe Board on how to proceed. Such recommendations may include the suspension of the right to use the "ERA Europe Seal" or the referral of the issue to the appropriate regulatory authorities or bodies.
3. Meeting: Where deemed necessary a meeting can be arranged between the Self-Regulation Officer and the member whose content is under review.
4. Notice: The Self-Regulation Officer will make a decision on any violation of the Self-Regulation Charter within 15 calendar days of the close of the record (i.e. upon receipt of the final submission of the requested material or after the meeting) and will notify the member of its conclusions.
5. Total Time Frame: This review process should be complete no later than 90 days after the initiation of monitoring or referral.
6. If, at the conclusion of the review, the Self-Regulation Officer determines that the content violates the ERA Europe Self-Regulation Charter, the ERA Europe Board will be informed accordingly. The member will be given 15 calendar days to challenge this decision.
7. If, after defence or culpable lack of defence by the member, the Self-Regulation Officer still has the opinion that there is a violation, the member will have to correct the non compliant issue within an adequate period of time specified by the Self-Regulation Officer or, if a correction is not possible, will have to sign a cease and desist-letter to avoid future violations of the same issue.
8. The Self-Regulation Officer is not expected to (but may) make recommendations as to how the violation should be corrected – this determination will be the responsibility of the member.
9. The member will have 30 days in order to correct a breach of the ERA Europe Self-Regulation Programme. Upon expiration of the 30 day correction period, one of the following results will apply:
 - a. Corrective action (including a possible cease and desist-letter if corrective action is not possible), completed and approved by the Self-Regulation Officer > member cleared.
 - b. Inadequate corrective action (form – scope – delay) leading to a recommendation by the Self-Regulation Officer to the ERA Europe Board on how to proceed.
10. The Self-Regulation Officer will provide to the ERA Europe Board a short report regarding the nature, scope, and potential consumer damage and other details related to the alleged breach including the Self-Regulation Officer's recommendations.
11. The decision to take action against the member rests with the ERA Europe Board. The Board can ask both the Self-Regulation-Officer and the member for a final submission. In the event of conflicting opinions between the Self-Regulation Officer and the member, the ERA Europe Board may conduct its own investigation.
12. Possible actions resolved by the ERA Europe Board include:
 - a. suspension of the membership benefits (including the suspension of the right to use the

ERA Europe Seal)

- b. referral to the regulatory authorities
- c. suspension or termination of membership

D. COMMUNICATION

The list of member companies in the probation period and after the end of their probation period, entitled to use the “ERA Europe Seal”, may be published on the ERA website, and in a special section (Directory) of the Electronic Retailer Magazine and retailing.org newsletter, and in any ERA and ERA Europe publication that the association may decide.

E. DISCLAIMER

1. ERA Europe members (current or probationary members who have made an application for ERA Europe membership) agree to be legally bound by the ERA Europe Self-Regulation Charter, having read and agreed to the contents thereof. The member therefore also agrees to abide by the decisions of the Self-Regulation Officer, which shall be based on the aforementioned documents.
2. The application of these provisions, disclosures and disclaimers and all other matters arising from your participation in ERA Europe membership and / or the ERA Europe Self-Regulation Programme, shall be governed by the laws of Belgium. Any claims, disputes or other controversies relating to or arising from these provisions, disclosures and disclaimers or from your participation in ERA Europe membership and / or the ERA Europe Self-Regulation Programme shall be subject to the exclusive jurisdiction of the Courts of Brussels, Belgium.
3. Any controversy or claim arising out of or relating to ERA Europe membership and / or the ERA Europe Self-Regulation Programme that cannot be settled to the mutual satisfaction of the parties shall be determined by arbitration in accordance with the International Rules of Arbitration of the International Chamber of Commerce. The arbitration shall take place before a single arbitrator in Brussels, Belgium. The language of the arbitration shall be English. The parties shall share the costs of the arbitration equally, but the arbitrator shall have the discretion to assess the costs of the arbitration, as well as the reasonable attorney’s fees and expenses of the prevailing party, against the unsuccessful party. The results of the arbitration shall be final and binding.
4. To the fullest extent permissible by applicable law, ERA Europe and the ERA Europe Self-Regulation Officer disclaim all warranties, express or implied, including but not limited to any recommendation or legal estimation. Any liability with regard to the compliance of a member’s content with European or any applicable National Law is excluded.

F. SEVERABILITY

If any clause or provision set forth above is determined to be illegal, invalid or unenforceable under present or future law, then, in that event, you understand and agree that the clause or provision so determined to be illegal, invalid or unenforceable shall be severable without affecting the enforceability of all remaining clauses or provisions.

G. WAIVER

The failure of either party to seek redress for breaches, or to insist on strict performance of any provision of this agreement, or the failure of either party to exercise any right or remedy to which it is entitled under the ERA Europe Self-Regulation Programme shall not constitute a waiver thereof and shall not cause a lessening of the obligations of either party.

H. CONFIDENTIALITY

ERA Europe members, employees and agents at all times shall keep confidential and secret and shall not disclose to any person, other than a person authorized by ERA Europe in writing, all information and other matters acquired by ERA Europe members in connection with the ERA Europe Self-Regulation Programme that are proprietary and confidential, including, but not limited to, the Programme Procedures. ERA Europe members agree not to disclose or disseminate such information to any third party, and not to use such information for its own benefit, for the benefit of any of its officers, directors or employees, or for the benefit of any third party, without the prior written consent of ERA Europe.

The foregoing obligations shall not apply to (a) information which, at the time of disclosure, was in the public domain; (b) information which the revealing party can establish by reasonable proof was in its possession at the time of its disclosure by the other party; or (c) information required to be disclosed under compulsion of law.