

# Rules of Procedure



## § 1 Right to complain

Every Internet user can report Internet content that is harmful to minors or prohibited (see § 3(2) of these Rules of Procedure) anonymously and free of charge to the eco Complaints Office.

## § 2 Submitting a complaint

### (1) Possibilities to submit a complaint

Complaints can, in general, be submitted as follows:

- Through electronic complaints forms under
  - <https://international.eco.de/eco-complaints-office>
  - <https://www.internet-beschwerdestelle.de/en>
  - <https://jugend.support>

The electronic complaints forms can be used anonymously.

- By email to the general email address of the eco complaints Office [hotline@eco.de](mailto:hotline@eco.de)
- For complaints about emails received (like spam) by email to the email address [general-spam@internet-beschwerdestelle.de](mailto:general-spam@internet-beschwerdestelle.de) for general spam or [specific-spam@internet-beschwerdestelle.de](mailto:specific-spam@internet-beschwerdestelle.de) for specific spam.

(Information about how to differentiate between general and specific spam can be found in § 4(4) of the Rules of Procedure)

### (2) Required details/admissibility of the complaint

In order to fully process the complaint, we need concrete information about the reason for the complaint and where the reported content was found. The following information is required:

#### (a) Web-based content (e.g. websites, forums, file hosts, social media):

- The URL of the content concerned
- The reason for the complaint
  - In addition for complaints about forums:
    - Path of the post which is the subject of the complaint (www.forum.....com/folder/post)
    - Date and time of the post

- Nickname of the user who authored the post
- For social media additionally:
  - The complete URL of the post
  - Nickname of the group/user
  - If applicable, the URL of the picture

(b) A single newsgroup article or whole newsgroups:

- Message ID of the posting/article which is the subject of the complaint  
If complaining about an entire group, please provide the name of the group
- The reason for the complaint

(c) Filesharing

- File name
- File-sharing exchange used
- If possible, the magnet/torrent or edonkey link or kadlink
- Date and time of the observation

(d) Communication in chat

- Name of the chat and the chatroom
- User name of the person bothering you
- Date and time of the incident
- Type of harassment, possibly a screenshot (except for depictions of sexual abuse of children and juveniles) or text excerpt

(e) Emails

- The complete email which is the subject of the complaint
- Include the original header; ideally copied into the forwarded email

Help on how to get your email program to display the header of an email can be found here <http://www.isipp.com/resources/email-headers/>.

### § 3 Extent of the examination and standards

Insofar as the complaints contains the minimum informational requirements outlined in § 2 and can therefore be processed, the reported content will be examined by the Complaints Office both legally and technically (e.g. with regard to the server location.)

(2) The examination criteria for legal aspects (under German law) are in particular:

- §§ 4 and 5 Interstate Treaty on the Protection of Minors in the Media (JMStV) (Content endangering youth and impairing development) as well as their corresponding criminal law regulations
  - §§ 184 et seq. German Criminal Code (StGB) (freely accessible adult pornography; violent, animal, child, and juvenile pornography)

- §§ 86, 86a StGB (distribution of symbols and propaganda materials of unconstitutional organizations)
  - § 130 German Criminal Code (StGB) (Incitement to hatred)
  - § 130a German Criminal Code (StGB) (Attempting to cause the commission of offences by means of publication)
  - § 131 German Criminal Code (StGB) (Dissemination of extreme depictions of violence)
- § 174 German Criminal Code (StGB) (Grooming)
  - § 201a German Criminal Code (StGB) (Distributing pictures of naked minors in return for payment)
  - §§ 129, 129a German Criminal Code (StGB) (Supporting or advertising for criminal or terrorist organizations)
  - § 111 German Criminal Code (StGB) (Public incitement to crime)
  - § 7 Act Against Unfair Competition (UWG) (Unauthorized sending of advertising emails and newsletters)

#### **§ 4 Measures taken by the Complaints Office**

While respecting the anonymity of the complainant, the Complaints Office takes the following measures in the case of justified complaints depending on the nature of the infringement and the location of the server:

##### (1) Report to law enforcement agencies

Should the examination of the Complaints Office show that the reported content could be subject to criminal proceedings, the Complaints Office will inform the relevant law enforcement agency. This can involve cooperating with the German Federal Criminal Police Office (Bundeskriminalamt) or the Central Contact Point for Cyber Crime of the federal state of North Rhine-Westphalia (ZAC NRW).

If there is any suspicion of an imminent crime or jeopardy of life and limb, then the Complaints Office will inform the police immediately, while respecting the anonymity of the complainant, if possible.

##### (2) Report to an INHOPE partner hotline

eco is a (founding) member of INHOPE (International Association of Internet Hotlines), the international umbrella association for complaints offices. For content hosted abroad, the eco Complaints Office first forwards complaints to the relevant INHOPE partner complaints office. The latter then takes over the further processing with the aim of removing or legalizing the contents and cooperates “on site” with the responsible law enforcement authority.

##### (3) Reporting to service providers (esp. Content, Host, or Platform Provider)

Should the examination of the Complaints Office show that the reported content contravenes pertinent youth media protection laws or criminal law and is hosted in Germany, the Complaints Office notifies the provider (the content, host or platform provider, depending on the case) and asks for remedy (deletion of content in the case of absolutely illegal content, implementation of age verification systems or other measures for content that may only be made accessible to certain age groups).

The same applies to content that is not hosted in Germany, whereby measures taken by the responsible INHOPE partner complaints office initially have priority.

#### (4) Further measures for complaints about spam

When processing complaints about spam a distinction is made between “**general**” and “**specific**” spam emails.

- **General** spam emails are ones that are illegal because they were unsolicited.
- **Specific** spam emails are ones that either contain illegal content (as defined in § 3(2) of the Rules of Procedure) or, for example in a link, refer to illegal content.

##### (a) Procedure for general spam emails

The Complaints Office may take the following measures:

- The sender of the spam email is informed about the receipt of the complaint and requested to comply with the legal requirements for admissible email marketing.
- If reported spam emails were sent over botnets or open relays, then the provider used to do so is informed. The provider can then take further measures.
- In special cases, the Complaints Office may request the complainant to submit a statutory declaration that they did not request the email which is the subject of the complaint and that they do not have a business relationship with the advertising company. This information will then be transmitted to the cooperation partners the Federation of German Consumer Organisations (vzbv) and the German Information Centre for Protection against Unfair Competition (WBZ), who will request the author of the spam email to submit a cease-and-desist declaration and a declaration of undertaking subject to a penalty and who may take legal action against the author of the spam message if this declaration is not submitted.
- Should a sender who belongs to the whitelist project Certified Senders Alliance (CSA) be concerned, then the eco Complaints Office will process the complaint as outlined in the CSA Rules of Procedure. If the complainant has so requested, a comprehensive clarification of the facts will take place (in particular with regard to data collection).

##### (b) Procedure for specific spam emails

Specific spam emails are processed under the stipulations in § 4(1 – 4a) of the Rules of Procedure and the eco Complaints Office will inform the following bodies:

- Law enforcement agencies
- Senders/their internet service providers
- Service providers of advertised websites
- Partner complaints hotlines from the INHOPE network

## **§ 5 Informing the complainant**

The complainant will be informed about the measures taken, except for complaints related to emails and anonymous complaints. There is no feedback given for complaints about emails due to the extremely high number of complaints.

## **§ 6 Response to inadmissible or unjustified complaints**

Inadmissible or unjustified complaints are not followed up on by the Complaints Office. The complainant will be informed by email about why the complaint is ruled to be inadmissible or unjustified. When a complaint could possibly be justified if further information is provided, then the Complaints Office will request the necessary details.

## **§ 7 Conduct of the staff of the Complaints Office in the complaints procedure**

(1) The staff of the eco Complaints Office will keep the content of complaints, their processing, and the decision process confidential.

(2) All measures that the Complaints Office takes while processing a complaint are strictly in accordance with data protection regulations and so personal details (name, email etc.) of the complainant are not made known to others, unless the complainant has agreed to the forwarding of said details. Further information on data protection can be found in the Privacy Policy of the eco Complaints Office at <https://international.eco.de/download/44140>.

## **§ 8 Complaints about decisions or the conduct of the eco Complaints Office**

Complaints about decisions or the conduct of Complaints Office staff are to be made to the Head of the Complaints Office under [hotline\\_leitung@eco.de](mailto:hotline_leitung@eco.de).

Cologne, June 2019