

Membership Fee Regulations Voluntary Self-Regulation of Digital Media Service Providers

As of: 6 November 2019

In accordance with the Articles of Association, § 16 Para. 1, the Voluntary Self-Regulation of Digital Media Service Providers (FSM) has adopted the following regulations for membership fees, which apply to all members of the FSM with effect from 1 January, 2005:

I. Annual membership fees

1. Regular members of the FSM pay an annual membership fee according to allocation to one of the following categories:

Category	Annual fee	Turnover per calendar year
1	€ 36,800.00	over 100 Million €
2	€ 27,600.00	40 Million – 100 Million €
3	€ 18,400.00	10 Million – 40 Million €
4	€ 12,650.00	5 Million – 10 Million €
5	€ 9,200.00	1 Million – 5 Million €
6	€ 4,600.00	less than 1 Million €

The amount is determined by the Board in accordance with § 8 Para. 2 of the Articles of Association, in agreement with the member, on the basis of the annual turnover achieved by the company in its online area of activity.

The company is obliged to notify the turnover figures for the preceding year before 1st October of a given year to the treasurer (the CEO). On the basis of these figures the member is assigned to one of the membership categories displayed above for the following calendar year.

If a company does not notify information on its annual turnover, it will automatically be assigned to the highest category.

2. Ordinary members whose membership in the sense of § 8 Para. 1a of the Articles of Association is extended by the transfer of tasks in accordance with the provisions of the Network Enforcement Act (NetzDG) shall bear the respective costs in this area in accordance with the following requirements:

As of 1st September of each year, the Board shall determine a basic amount with effect for the following calendar year that covers the forecast costs of the FSM office for carrying out the tasks of the organisation of regulated self-regulation within the meaning of the NetzDG.

These costs include in particular the personnel and infrastructure costs incurred in this respect. This basic amount shall be distributed by the Board of FSM to the regular members within the meaning of sentence 1 on a pro rata basis at its equitable discretion. These members are to be heard beforehand. In making the decision, the Board shall take into account in particular the expected scope of work, the number of cases to be processed and their complexity.

If the FSM takes over the tasks according to NetzDG for the first time within a current association year, the Board makes the corresponding decisions immediately, taking into account the time remaining in this year.

If further companies within the meaning of sentence 1 are added in a current calendar year, the Board shall review the decisions previously made on the amount of the basic amount and its distribution between the members concerned. If the result is that members have paid too large a share of this basic amount, the FSM will refund the difference.

3. The associate members of the FSM pay an annual membership fee, of which the level is determined as follows: The Managing Director proposes a membership fee within the range of values shown in the following table, according to the turnover of the company per calendar year. It is open to the company to propose changes to the membership fee, as long as it is within the framework indicated below. The final decision on the membership fee lies with the Board, which will take account of the importance of the FSM to the company and the services the FSM provides the company as well as any requested changes.

Category	Annual fee	Turnover per calendar year
1a	€ 12,765 – 18,400	Over 100 Million €
2a	€ 8,165 – 12,650	Up to 100 Million €

3a	€ 4,715 – 8,050	Up to 50 Million €
4a	€ 2,300 – 4,600	Up to 10 Million €

4. The sponsoring members of the FSM pay annual membership fees according to their allocation in the following categories:

Category	Annual contribution
1f	€ 18,400.00
2f	€ 12,650.00
3f	€ 6,900.00
4f	€ 3,450.00
5f	€ 1,725,00

The allocation is based on the following criteria:

- The annual budget of the association/ legal entity
- Number of employees
- Number of members of the association/ legal entity

Each of these criteria contributes one third, according to the threshold values shown in the Annex, as the basis of allocation. If the calculation does not result in an unambiguous allocation, the sponsoring member is to be assigned to the lower category for residual values up to .5 and to the higher category for residual values from .6.

II. Levies / expenses-related charges / recovery of costs

1. The Members Assembly can decide on activities of the association of which the costs will be met by a levy. Unless otherwise determined by the Members Assembly, the levy will be related to the level of the annual contributions.

2. If the hotline is engaged with a valid complaint or with a complaint made through the KJM against a member of FSM, the member concerned will be expected to meet the costs arising from this. These consist of the current fees for the Complaints Committee and a flat-rate processing charge for the complaints office. The fees for the Complaints Committee and the processing charge will be determined by the Board, taking into account the principle of covering the costs. The administrative charges made by the KJM in submitting a complaint are payable directly by the member concerned.
3. If a member within the meaning of Subclause I.2 forwards a content pursuant to § 3 Para. 2 No. 3b NetzDG to the FSM for a decision on its illegality, the costs to be borne by the member in this respect shall be determined in accordance with the scale of fees of the NetzDG Review Committees, which shall be determined by the Board. The Board shall take into account the principle of cost recovery.
4. If the Expert Commission according to § 13 of the Articles of Association is called upon by a member, the charges arising will be payable by the member concerned. These consist of the current fees for the Expert Commission flat-rate processing charge for the Head Office. The fees for the Expert Commission and Head Office will be determined by the Board, taking into account the principle of covering the costs.
5. Levies/charges relating to additional costs are payable within 14 days after receipt of the invoice. The provisions of section V, points 3-6 apply accordingly to payment obligations for levies and additional costs.

III. Penalties

In accordance with § 8 para. 6 of the Articles of Association, serious or repeated infringements of the Articles of Association, the Code of Conduct or against the decision of the complaints committees can lead to a written warning from the Board. If the member subsequently fails to comply with the Articles of Association, the Code of Conduct or the decision of the complaints committee, the Board can impose an appropriate internal fine of up to € 15,000. The size of the internal fine to be determined by the Board depends on the following criteria:

- Seriousness of the offence
- Frequency of an offence by the member

- Duration of infringement of the Articles and other documents of the Association
- Any other conduct of the member

Invoices for internal fines of the Association are payable within 14 days of receipt of the invoice. The provisions of section V, points 3-6 accordingly apply to payment obligations.

IV. Exceptions / Special conditions

1. At the substantiated request of a member, the Board can exceptionally specify a lower membership fee than indicated in these regulations for the current calendar year and differing conditions of payment.
2. In particular, the Board can approve a lower membership fee than indicated in these regulations (termed a “group discount”) for the current calendar year, and differing conditions of payment, if the following conditions are fulfilled
 - A company is an regular member of the FSM and
 - the regular member of the FSM is associated with one or more other companies as defined in §§ 15 ff of the German Companies Act (AktG), which is/are also (a) regular member(s) of the FSM.

To benefit from a group discount of this kind the following additional criteria must be met:

- Written application must be made for the group discount on admission to the FSM or at a later point in time,
- written evidence of the company association giving rise to it must be provided to the FSM, and
- the sum of the individual membership fees of the companies in the FSM is at least € 56,000 per year.

If these conditions are met the Board can grant the companies concerned a discount of a maximum of 10% of their membership fees. The decision of the Board is made in agreement with the respective members at the end of the second quarter for the following calendar year. At the choice of the members concerned the membership fees are collected either as a single contribution of the leading company under § 17 AktG or from each individual member taking account of the discount. If agreement cannot be reached within the group of companies concerned, the Board of the FSM decides on the form of payment.

3. At the request of a company which is applying for regular membership in the FSM, in particular cases the Board can determine an individual membership fee ("Start-up fee") on the following conditions:
 - the company was founded not longer than 24 months prior to the time of application,
 - the online turnover of the company was less than €0.5 million in the previous calendar year (if the company has not yet been in existence for an entire calendar year, the turnover may not exceed 0.5 million Euro in the maximum of 12 calendar months before application) and
 - the company or its legal predecessor is not currently a member of the FSM and has not been a member in the last 12 months prior to application.

V. Payment of membership fees / terms for payment

1. Membership fees for the year of acceptance are to be paid in full, unless joining in the second half of the year, in which case half of the fee is to be paid for the year in progress.
2. Members' contributions are calculated from the beginning of the year, or according to class of membership. Membership fees are payable 14 days after receipt of the invoice.
3. Leaving the Association, for whatever reason, does not affect the payment obligations of the member. Fees and contributions already paid will not be refunded.