



Global Business Dialogue on Electronic Commerce

Consumer Confidence Trustmarks

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INTRODUCTION

The GBDe endorses the use of Trustmark programs in order to encourage good online business practices by merchants and to assist consumers in identifying merchants they can trust. To help avoid confusion for consumers among different trustmark programs offering different levels of protection, the GBDe has thus developed guidelines, to help ensure greater transparency, minimum voluntary standards and comparable levels of protection among competing trustmark programs. These guidelines have been developed based on initial consultations with all stakeholders. They will be developed further in response to comments received from business and consumer groups.

The GBDe believes that trustmark programs should be developed and operate in accordance with some minimum, voluntary guidelines. In particular, they must:

- be affordable, in particular to SMEs;

- be enforced rigorously, by providing clear monitoring and reporting mechanisms and guaranteeing neutrality of their enforcement decisions;
- be easily accessible to consumers when entering the merchants' web site and broadly disseminated;
- be developed in consultation with all stakeholders;
- use appropriate security measures to prevent misuse of the trustmark;
- offer a mechanism for consumer redress along the lines of the GBDe ADR recommendations;
- require minimum standards of behavior by merchants in the areas of online business practices, privacy protection and complaints handling, in line with GBDe recommendations.

RECOMMENDATIONS

Business should support and participate in such programs to ensure greater transparency and to encourage comparable levels of protection for consumers across national boundaries. Further, companies and organizations developing trustmark programs are encouraged to develop mutual recognition or other arrangements with programs in other countries or regions that meet the GBDe guidelines, to assist consumers in identifying foreign trustmark programs that offer equivalent protections.

These Guidelines are divided into two sections. The first sets out general guidelines for companies or organizations that develop trustmark programs. The second sets out general guidelines for merchants that establish best business practices governing commercial relations between merchants and consumers that should be required by trustmark programs. The paper also includes Recommendations to governments relating to the development and promotion of such programs.

DEFINITIONS

In order to ascertain the scope of these Guidelines and Recommendations, the GBDe has agreed to use the following working definitions:

- “trustmark”: “a label indicating that a merchant commits to complying with a number of best business practices, including redress mechanisms”.
- “certifier”: “company/organization that develops, manages the trustmark program and attributes the trustmark”.
- “commercial relations”: “any transaction or agreement relating to the provision of a good or service, including commercial communications, between a merchant and a consumer conducted online, including through the Internet”.

- “consumer”: “any natural person acting for purposes which are outside his or her trade, business or profession”.
- “merchant”: “company/organization offering a good or service to consumers and accepting orders directly from consumers that receives, uses the trustmark and commits to complying with the trustmark specifications”.
- “personal data”: “of a consumer means data that identifies the consumer or that can easily be combined with other available data to identify the consumer”.

GUIDELINES FOR CERTIFIERS

1. Accessibility

- 1.1 Trustmark programs should accommodate different business models and regulatory regimes to ensure that trustmarks do not erect barriers to competition.
- 1.2 Participation in a trustmark program should be open to any organization that agrees to abide by the entry conditions, consistent with the legitimate business objectives of the certifier. The criteria for participation in a trustmark program should be transparent to applicants and to consumers.
- 1.3 Subscription fees should not constitute an insurmountable obstacle to join a trustmark program. This should not discourage the setting up of additional fees for specific value-added services.
- 1.4 Certifiers are encouraged to offer specific conditions for SMEs in order to facilitate the participation of SMEs in a trustmark program.

2. Enforcement Mechanisms

- 2.1 The certifier should put in place effective mechanisms to establish and monitor compliance by the merchant of the trustmark program specifications. These may include random checks by the certifier, independent verification, and/or regular reporting requirements by the merchant.
- 2.2 The certifier should clearly include in the contract with the merchant the type of actions that will be undertaken if the merchant does not comply with the program requirements.
- 2.3 The type of actions that the certifier can undertake could include:
 - withdrawal of the trustmark;
 - public warning about misuse of the trustmark;
 - referral to governmental authorities;
 - legal action against a merchant in breach of the program's requirements, but who displays the trustmark.
- 2.4 The certifier should disclose publicly and prominently the type of actions that it will undertake in order to ensure compliance with the program.
- 2.5 The certifier should take all measures to seek impartiality and objective enforcement. This may include appointing independent persons or balanced business and consumer representation to the respective accreditation and enforcement bodies.

3. Visibility

- 3.1 The certifier should advise the merchant about suitable locations for the trustmark.
- 3.2 The trustmark should be prominently visible to the consumer in any of the following locations:
 - on the welcome page of the merchant's web site;

- in case of privacy trustmarks, at a stage in the transaction prior to the collection of personal data from consumers;
- on the page where vendors or consumers initiate a transaction by making a clear offer.

- 3.2 Certifiers should ensure that it is clear to consumers what the trustmark certifies (for example, by using a "pop up" screen that briefly describes the program) and that the code of conduct, principles, or best business practices which are the basis of the granting of the trustmark seal are accessible to the consumer, preferably by clicking on the trustmark seal.

4. Stakeholders Participation

- 4.1 Consumer, industry or professional organizations should ensure that they consult each other when developing trustmark programs.
- 4.2 The most important elements in which dialogue among the different stakeholders is essential are the content of codes of conduct, enforcement mechanisms and redress measures.

5. Security

- 5.1 The certifier should take appropriate measures to ensure that consumers can easily distinguish between real and counterfeit trustmarks. This may include technology to guarantee that unauthorized parties cannot copy the trustmark, secure links to a database accessible on the merchant's website, or technology to monitor web pages that are displaying the trustmark.
- 5.2 The certifier should take appropriate measures to maintain confidentiality of commercially sensitive information exchanged with the merchants it certifies.

6. Redress

- 6.1 Access to the certifier must be readily available to consumers and others to accept complaints and to act on them.
- 6.2 The certifier should ensure that the merchant has in place an internal complaint resolution system to which the consumer can have on-line access.
- 6.3 The certifier should offer or, under certain circumstances, as determined in the contract between the certifier and the merchant, require the merchant to offer an alternative dispute resolution (ADR) procedure. ADR systems may be offered by the certifier, the merchant itself or may be outsourced by the merchant.
- 6.4 In any case, the certifier should respond to consumers' complaints either by directing consumers to the appropriate mechanism or by contacting the merchant.
- 6.5 Certifiers should follow the GBDe Recommendations on ADR.

7. Flexibility and Mutual Recognition

- 7.1 The certifier should include an on-line mechanism to allow interested parties to give input on the performance of the system or any other related element of the trustmark program. The certifier should undertake continuous monitoring on consumers' satisfaction with the use of the trustmark program by merchants and should take due notice of the surveys' results.
- 7.2 The certifier should have all the necessary information about the requirements to join the program available on-line or in an electronic version. This information should be provided in a simple manner to ensure easy comprehension of the terms of participation.
- 7.3 The certifier should take all reasonable steps to ensure a speedy decision on participation

in the program by the applicant organization. It is desirable that all steps to join a trustmark program can be conducted on-line. This does not preclude the necessity to undertake physical checks (e.g. about the real existence of the organization).

- 7.4 The certifier should put in place all appropriate mechanisms to ensure public dissemination of the trustmark program (e.g. links with Internet portals, consumers' organizations, etc). The certifier must include a list of all certified merchants that must be prominently shown in the trustmark program web page.
- 7.5 The certifier should consider developing mutual recognition or similar arrangements with trustmark programs in other countries or regions, such that merchants certified under one program that complies with these guidelines can be identified by consumers in other jurisdictions as offering equivalent protection.

GUIDELINES FOR MERCHANTS

The trustmark programs certified by the Certifier must ensure minimum standards of behavior by merchants in accordance with the following Guidelines, which apply to commercial relations between certified merchants and consumers. These Guidelines would not alter or replace other obligations that a merchant may have as a result of consumer protection, privacy or other laws and regulation or any other voluntary codes of conduct to which a merchant may subscribe.

1. Accuracy and Accessibility of Information

- 1.1 All information required to be disclosed by the merchant shall be clear, accurate, and easily accessible online. The information shall either be posted on or accessible through a hyperlink from the merchant's homepage or entry point of the online site or at a place where the transaction is offered.

- 1.2 Merchants shall not make any representation or omission or engage in any practice that is likely to be deceptive, misleading, fraudulent or unfair to consumers.

2. Marketing Practices

- 2.1 Merchants should take the necessary steps to ensure that any representation about a good or service is current, accurate, and not deceptive or misleading to consumers and that the truthfulness of objective claims be substantiated.
- 2.2 If marketing or other online activities are directed at children, or where the website knows the visitor is a child, merchants shall take special care to protect children by recognizing their vulnerabilities. In particular, a merchant shall seek to ensure parental permission is obtained before collecting, using or disclosing the child's personal data or completing a transaction.

3. Information About the Merchant

- 3.1 Merchants should provide, at a minimum, the following contact information online:
- legal name;
 - the name(s) under which it conducts business;
 - the principal physical address, addresses of representative offices in other countries or other information sufficient to ensure the customer can locate the business offline;
 - an online method of contact such as e-mail;
 - a point of contact within the organization that is responsible for customer inquires; and
 - a telephone number, unless to do so would be disruptive to the operation of the business given its size and resources and then the merchant should maintain a working listed phone number, the time zone in which it operates, and the hours when contact may be made.

4. Information About the Goods and Services

- 4.1 Merchants shall provide enough information about the goods or services available online so that consumers can make an informed choice about whether to engage in a transaction online.

5. Information About the Transaction

- 5.1 Material information about the transaction shall be provided in the same language in which the good or service is offered. The use of automatic language programs for translation purposes should be encouraged. As set out below, merchants shall:
- make available to consumers all relevant information relating to the terms and conditions, costs, shipping and charging and cancellation/return/refund policies applicable to a transaction before it is entered into;
 - provide consumers with an opportunity to review the transaction before it is completed and becomes a binding obligation; and
 - maintain a record of the transaction after it has been completed.
- 5.2 Merchants shall make available to consumers the terms and conditions applicable to the transaction. Such information should include:
- any restrictions or limitations (for example, time or geographic) they impose on the commercial offer and/ or the sale of the goods or services;
 - easy-to-use payment mechanisms and in the case of credit or debit cards, the expected time when the card will be charged;
 - for goods, any warranties, guarantees, escrow programs or other offered terms, including limitations, conditions;
 - for services, any standards, schedules, fees, or other offered terms, including limitation and conditions; and

- information about any self-regulatory programs to which the merchant adheres, and how to access those rules, and notice on the law applicable to the commercial relation.

For ongoing transactions or subscriptions:

- information about how the transaction will appear on the bill so that the customer will be able determine to which transaction and which company the bill relates;
- minimum duration of the contract and easy-to-understand cancellation information, an easy to use means to cancel an ongoing subscription, and timely confirmation of such cancellation.

5.3 Merchants shall disclose the entire price of the goods and services and any other charges to be collected by the merchant. Such information should be provided in a specified currency and should include:

- price or license fee to be charged, including all taxes, or in the case of a barter trade, the items that will be exchanged for goods or services purchased or licensed;
- shipping and handling charges.

Merchants shall honor the amount authorized by the customer in any subsequent bills to the customer.

5.3 Merchants shall disclose to consumers when they will be able to ship the goods or provide services, and the expected time when a consumer's credit card will be charged for a transaction. A consumer shall not be charged for a product or service unless shipment of such product or service is expected within a reasonable period of time. In particular, merchants should:

- state which products or services are temporarily unavailable and if an expected availability date is provided, have a reasonable basis for such date;

- have a reasonable basis for, and provide consumers with, estimated shipping times (or in the case of online delivery, delivery times);
- have a reasonable basis for stated delivery claims when made; and
- disclose any shipping, performance, or delivery limitations they impose (age, geographic).

If a material delay in shipping or performance occurs, the merchant shall provide the consumer with information about the delay and the opportunity to cancel the transaction.

5.5 Merchants shall provide consumers with an opportunity to review the transaction and to confirm their intent to enter into the transaction and shall disclose to consumers at what point the transaction will be final and become a binding obligation. Prior to a transaction becoming a binding obligation, merchants should provide consumers with a summary that includes:

- the terms and conditions of the transaction;
- the selected payment method; and
- the option to cancel or affirmatively complete the transaction.

5.6 Merchants shall maintain, and make it possible for consumers to access, an appropriate record of information about a transaction for a reasonable period of time after it has been completed. Such information should include:

- a statement of what was ordered, the price, and any other known charges such as shipping/handling and taxes;
- sufficient contact information to enable purchasers to obtain order status updates; and
- the anticipated date of shipment.

6. Cancellation/Return/Refund Policies

6.1 Merchants shall provide information to consumers about their cancellation, return,

and refund policies, including: the length of time after entering into a binding obligation which an available cancellation, return, or refund may be made; the process that should be followed; and any costs that may be incurred. If there is no cancellation, return or refund right, this should be stated.

7. Security

7.1 For information that is transferred from a consumer to a merchant, merchants shall take reasonable steps ensure the security of a consumer's confidential commercial and personal information. These security efforts shall be consistent with best industry practices and shall be appropriate for the type of information collected, maintained or transferred to third parties. In particular, merchants should:

- have in place encryption measures that reflect best industry practices for the transfer or receipt of sensitive information, such as personal financial information or health care records;
- have in place appropriate levels of security to protect data being maintained by computers;
- take reasonable steps to require third parties involved in fulfilling a customer transaction to also maintain appropriate levels of security; and
- not retain any information from which a consumer may be identified if the consumer does not complete a transaction, without the consumer's consent.

8. Customer Service and/or Support

8.1 Merchants shall comply with all commitments, representations, and other promises made to consumers. They shall disclose to consumers information regarding customer service and/or support of the goods and services that consumers purchase online. Such information should include the length of time the customer service and/or support is available, the costs associated with

obtaining the customer service and/or support, and how customers can successfully and meaningfully contact the business to get answers to their questions.

8.2 If no customer service and/or support are available from the merchant, this should be stated.

9. Warranty

9.1 Merchants shall disclose to consumers applicable warranties or limited warranties that they offer regarding the goods or services sold or made available to consumers. Such information should include the scope, duration, and means of exercising rights made available in the warranty or limited warranty.

10. Privacy

10.1 Merchants shall post and adhere to a privacy policy that is open, transparent, and consistent with the following personal data protection practices:

- Notice /Awareness: Merchants that collect personal data shall reasonably explain what personal data they collect, use, and disclose to third parties, and for what purposes;
- Choice/Consent: Merchants that collect personal data shall reasonably explain what choices they provide consumers about the collection, use and disclosure of such information. At a minimum, Merchants should provide consumers with the choice to opt out of having their personal data used or disclosed for any new purpose not explained at the time the personal data was collected and should obtain the consumer's unambiguous consent to the collection or use of sensitive personal information, such as medical records.
- Accuracy: Merchants that collect personal data shall reasonably explain the methods by which the consumer can correct or update personal data and shall adopt procedures to respond to

reasonable consumers' requests for such corrections or updates.

- Integrity/Security: Merchants that collect personal data shall reasonably explain the steps taken to protect the quality and integrity of the personal data collected as well as the confidentiality of that personal data from unauthorized access.
- Redress/Internal Rules: Merchants shall reasonably explain the means of communicating with the merchant's contact point to which the consumer can direct questions, express preferences concerning the handling of personal data or lodge complaints. Merchants shall establish and maintain a system to implement the provisions of these guidelines within the company.

10.2 When transferring personal data to a third party for processing on its behalf, a merchant should ascertain the adequacy of the personal data practices of the third party.

11. Unsolicited E-mail

11.1 Merchants shall accurately describe their business practices with regard to their use of unsolicited e-mail to consumers.

11.2 Merchants that engage in unsolicited email marketing should adhere to a policy that, at a minimum, enables those consumers who do not wish to be contacted online to "opt out" online from future solicitations. This policy should be available both on the web site and in any e-mails, other than those relating to a particular order.

11.3 Merchants that engage in unsolicited e-mail marketing should also subscribe to a bona-fide e-mail suppression list.

12. Dispute Resolution

12.1 Merchants shall provide consumers with fair, timely, and affordable means to settle disputes and obtain redress.

12.2 Merchants should provide an easy-to-find and understandable notice on how a consumer can successfully and meaningfully contact the merchant to solve problems related to a transaction. They should have effective "customer satisfaction systems", encourage consumers to take advantage of such internal mechanisms and make a good faith effort to resolve any disputes relating to a transaction in a fair and equitable manner, for example, by providing money-back satisfaction guarantees or exchange policies. Complaints should be directed in the first instance to the merchant.

12.3 Unless full customer satisfaction is guaranteed by an internal customer satisfaction system, merchants should notify consumers that they are ready to submit disputes resulting from a transaction to one or more specified ADR systems. Information about the ADR offered should be provided as a part of the notice on how consumers can contact the merchant to resolve problems related to a transaction and access to an ADR system normally should be available only after a consumer has sought redress through a merchant's internal complaints mechanism.

12.4 Such ADR systems would not affect the consumer's right to seek remedies through the court system. However, the consumer and the merchant could agree that prior to proceeding in the court of any local jurisdiction, the consumer would submit a claim to an ADR system. ADR systems should function according to published rules of procedure that describe unambiguously all relevant elements necessary to enable consumers seeking

redress to take fully informed decisions on whether they wish to use the ADR offered or to address themselves to a court of law.

12.5 ADR systems should provide for impartial, accessible, transparent, and timely conciliation/negotiation, mediation and/or arbitration at no or only moderate cost for the consumer.

12.6 Consumers should be informed about the conditions of access (online or other), the cost, the legal nature of the ADR (arbitration, mediation, conciliation/negotiation, etc.) and of its outcome (binding/not binding/binding for the merchant; enforceable), and recourse to other instances, notably to law courts.

RECOMMENDATIONS TO GOVERNMENTS

Background

Trustmark programs are initiatives developed privately by consumer organizations, major accountancy organizations, professional organizations such as Chambers of Commerce and companies. All of them have emerged to respond to consumers' concerns on trust and confidence on electronic commerce in different areas such as privacy, children's advertising, security, product delivery, etc.

Some governments are tempted to regulate this new way of providing consumer trust for fear that consumers will be confused by different programs offering different levels of protection. To avoid possible confusion, the GBDe has developed these guidelines to help ensure greater transparency, minimum voluntary standards and comparable levels of protection for consumers among competing trustmark programs.

RECOMMENDATIONS

1. Further trustmark development by market participants and promotion by stakeholders

1.1 At present, only a few trustmarks programs are being used and are widely known. It is essential that trustmark programs are further developed and broadly disseminated to enhance global consumer trust in e-commerce.

1.2 Governments should play an active in promoting and disseminating trustmarks programs.

2. Government intervention is premature

2.1 For trustmarks to enhance consumer trust, they should remain a private-based initiative.

2.2 Harmonization of trustmarks by means of government recommendations or compulsory government accreditation is a disincentive for innovation and competition to the detriment of consumer confidence and choice.

2.3 The existence of different levels of trust (e.g. by sector/issue specific programs) or regional/local initiatives should be acknowledged and encouraged.

3. Active stakeholders dialogue

All stakeholders should seek to co-ordinate actions in order to contribute to trustmarks development and encourage competitiveness between programs.