

Extra-territorial use of foreign numbers in the Federal Republic of Germany for machine-to-machine (M2M) communications

1. Legal basis

This Administrative Order lays down in accordance with section 66(1) first sentence of the Telecommunications Act (TKG) of 22 June 2004 (Federal Law Gazette I page 1190), as last amended by Article 1 of the Act of 27 June 2016 (Federal Law Gazette I page 1963), the conditions under which foreign numbers may be used extra-territorially in the Federal Republic of Germany for machine-to-machine (M2M) communications.

2. Definitions

For the purposes of this Administrative Order

1. "foreign numbers" mean numbers according to Recommendation E.164 of the International Telecommunication Union (ITU) which begin with a country code (CC) that has been assigned by the ITU to a geographical area or a group of countries and is not identical to the CC 49 assigned to the Federal Republic of Germany. In the number displayed to the called party, the CC is usually preceded by the international dialling prefix 00;
2. "extra-territorial use" means the use of foreign numbers in the Federal Republic of Germany on a permanent basis. Permanent use can take place by way of permanent activation of the numbers in a telecommunications network in Germany or by way of international roaming (permanent roaming). The use of foreign numbers during travel (temporary roaming) is not considered as extra-territorial use of numbers;
3. "M2M communications" means the predominantly automated exchange of information between technical devices such as machines, vending machines, vehicles or measuring equipment (eg electricity, gas and water meters) or between the devices and a central data processing unit. Communications can be either wire-based or wireless. A human is usually not involved in the communications, although limited human involvement does not preclude classification as M2M communications.

If limited human involvement is part of a service, this does not preclude classification as M2M communications for the purposes of the numbering plan at least in the following cases:

- activation/operation/control/monitoring of an M2M application or an M2M device using technical equipment such as a computer, smartphone, tablet, etc by a human in either a private (eg smart home) or an industrial environment;
- activation of an application that enables individual communication in the sense of a preselected point-to-point communication but not a call to a freely selectable number. Examples of this are eCalls in vehicles, private emergency calls in lifts and/or vehicles, and concierge services in vehicles.

This list is not exhaustive and is without prejudice to an assessment of new business models.

Please note that the Bundesnetzagentur will in due course publish a list of other services with human involvement that are classified as M2M communications for the purposes of the numbering plan.

3. Admissibility of extra-territorial use

By way of derogation from the principle of the inadmissibility of the extra-territorial use of numbers, the extra-territorial use of foreign numbers for M2M communications in the Federal Republic of Germany is permitted, provided that the assignee of the relevant foreign numbers by the responsible foreign regulatory authority notifies the Bundesnetzagentur of this in advance. Notifications should be made on the Bundesnetzagentur form provided in the annex.

The Bundesnetzagentur may revoke the admissibility of the extra-territorial use of foreign numbers in the Federal Republic of Germany for M2M communications as well in individual cases, for specific business models or generally if it finds that through the extra-territorial use there is

- a) detriment to public interests (eg public safety), or
- b) detriment to the interests of third parties (eg competition, consumer protection).

Upon revocation it will determine whether and if so the time frame in which existing applications are to cease.

Note 1: This is without prejudice to the notification requirement laid down in section 6 of the Telecommunications Act. If the conditions in section 6 of the Act are met, a foreign provider is required to notify the Bundesnetzagentur accordingly without delay. Non-compliance with this requirement is liable to a fine (see section 149 para 2 of the Telecommunications Act).

Note 2: The fact that the use of foreign numbers in the Federal Republic of Germany for M2M communications is allowed by the Bundesnetzagentur implies nothing about the legality of the use of these numbers in the Federal Republic Germany under foreign law. The clarification of the legal framework for the extra-territorial use of foreign numbers in Germany – and, where necessary, obtaining the necessary consent for this – is the responsibility of the companies through which the extra-territorial use takes place. They are responsible for the admissibility under the applicable foreign law of the extra-territorial number use initiated by them.

Note 3: This Administrative Order will be notified in the Operational Bulletin of the International Telecommunication Union (ITU). Telecommunications network operators and telecommunications service providers are requested to draw this Administrative Order to the attention of all customers for whom its contents could be relevant.

Note 4: Admissibility of the extra-territorial use of German mobile numbers for M2M communications is regulated in Administrative Order No 78/2017 (Official Gazette No 16/2017 of 23 August 2017).

4. Existing cases

The admissibility of extra-territorial use regulated in section 3 and the related notification requirement also apply to any existing extra-territorial uses of foreign numbers in the Federal Republic of German for M2M communications.

5. Entry into force

This Administrative Order enters into force on 23 November 2017.

Rights of appeal

An appeal against this Administrative Order may be filed with the Bundesnetzagentur für Elektrizität, Gas, Telekommunikation, Post und Eisenbahnen, Tulpenfeld 4, 53113 Bonn, or any other Bundesnetzagentur office within one month of the date on which the Administrative Order was served.

Under section 137(1) of the Telecommunications Act an appeal does not have suspensory effect. Filing an appeal does not change the effect or enforceability of the notice in any way.

Annex

Form for the notification of extra-territorial use of foreign numbers for M2M communications

Notification of extra-territorial use of foreign numbers for M2M communications

Bundesnetzagentur
Referat IS 14
Canisiusstr. 21
55122 Mainz

The data requested below are required and used by the Bundesnetzagentur for the information procedures pursuant to section 112 et seq TKG. Data may also be used by the Bundesnetzagentur in the fulfilment of its numbering duties pursuant to section 66(1) TKG.

I. Details of notifying party (assignee of foreign number)

Name (company)

Street address (no PO Box address)

State, postcode, place

Legal representative (for legal persons)

Contact person (if different from above)

Telephone

Fax

Email

Authorised recipient in Germany (if different from the notifying party; this information is required if the notifying party is resident in another country):

Name (company)

Street address (no PO Box address)

Postcode, place

Legal representative (for legal persons)

Telephone

Fax

Email

II Information on the intended extra-territorial use

It is intended to use the following foreign numbers for M2M communications extra-territorially in the Federal Republic of Germany (or to use the numbers for M2M communications in such a way that extra-territorial use in Germany cannot be ruled out).

1. Numbers used

The following foreign numbers assigned by a foreign authority are intended to be used or might be used in the Federal Republic of Germany:

(+ _____)
Block code (identical first digits for all affected numbers, including country code)

- _____
Start of block (numerically lowest number, without block code)

- _____
End of block (numerically highest number, without block code)

2. Place of use

- The extra-territorial use will only take place in Germany
- The extra-territorial use will take place in the following countries:

- It is not possible to provide details of the place of extra-territorial use, as it may take place worldwide.

3. Start of use

The extra-territorial use of the numbers given above is to start on the following date:

Place

Date

Signature of the notifying party/authorised representative(s)