

**Joint report**  
**of the Board of Management of Deutsche Telekom AG**  
**and**  
**the Managing Board of DeTeMedien, Deutsche Telekom Medien GmbH**  
pursuant to § 293a in conjunction with § 295 (1) of the Stock Corporation Act  
(*Aktiengesetz – AktG*)  
regarding the amendment to the  
**control agreement dated March 9/ 10, 2005**  
between Deutsche Telekom AG and  
DeTeMedien, Deutsche Telekom Medien GmbH

**I. General**

Deutsche Telekom AG (hereinafter referred to as "DTAG") and DeTeMedien, Deutsche Telekom Medien GmbH (hereinafter referred to as the "subsidiary") concluded a control agreement (hereinafter referred to as "control agreement") on March 9/10, 2005. The Board of Management of DTAG and the Managing Board of the subsidiary jointly issue the following report pursuant to § 293a in conjunction with § 295 (1) AktG on the amendment to the control agreement between DTAG and the subsidiary.

**II. Amendment to the control agreement**

DTAG, represented by Mr. Timotheus Höttges, Member of the Board of Management, and a "*Prokurist*" (holder of a general commercial power of attorney), Dieter Cazzonelli, concluded an amending agreement to the control agreement (hereinafter referred to as "amending agreement") with the subsidiary, represented by director Stephan Schmitt and "*Prokurist*" Michael Wolf on February 28, 2013.

The Board of Management of DTAG resolved to conclude the amending agreement at its meeting on February 12, 2013.

The Managing Board of the subsidiary resolved to conclude the amending agreement on February 22, 2013.

The shareholders' meeting of the subsidiary approved the conclusion of the amending agreement on February 28, 2013.

The amending agreement will only come into effect subject to the approval of the DTAG shareholders' meeting. The Board of Management and the Supervisory Board of DTAG will therefore propose at the DTAG shareholders' meeting called for May 16, 2013 that the amending agreement be approved.

Pursuant to § 294 (2) in conjunction with § 295 (1) AktG, the amending agreement to the control agreement will not take effect until its existence has been entered in the commercial register responsible for the subsidiary's registered office.

### **III. Parties to the amending agreement to the control agreement**

#### **1. Deutsche Telekom AG**

DTAG, with its registered office in Bonn and entered in the commercial register of the Bonn District Court under HRB 6794, is a listed company and the parent company of the Deutsche Telekom Group. DTAG's financial year corresponds to the calendar year.

According to its Articles of Incorporation, the object of the enterprise is to engage in all areas of telecommunications, information technology, multimedia, information and entertainment (including gambling or betting business), security services, sales and brokerage services, e-banking, e-money and other payment solutions, collection, factoring, and reception and surveillance services as well as any services connected with these areas, and in related areas in Germany and abroad. Furthermore, the object of the enterprise according to its Articles of Incorporation includes engaging in business in the area of venture capital, including the acquisition, holding, management, and sale of venture capital interests, in particular but not exclusively in companies that operate in the areas stated above. Moreover, the object of the enterprise according to its Articles of Incorporation is to engage in the field of reinsurance in connection with the areas specified above; however, this activity must not be performed directly by the Corporation itself. DTAG is entitled to enter into all other transactions and take all other measures deemed appropriate to serve the object of the enterprise pursuant to the Articles of Incorporation. It may also set up, acquire and participate in other undertakings of the same or similar kind in Germany and abroad, as well as run such undertakings or confine itself to the administration of its participation. It may spin off its operations wholly or partly to affiliated undertakings.

The Board of Management of Deutsche Telekom AG consists of René Obermann (Chairman), Reinhard Clemens, Niek Jan van Damme, Timotheus Höttges, Dr. Thomas Kremer, Claudia Nemat and Prof. Dr. Marion Schick. In accordance with § 7 sentence 1 of its Articles of Incorporation, DTAG is legally represented by two members of the Board of Management or by one member of the Board of Management jointly with a "*Prokurist*."

#### **2. The subsidiary**

Together with 108 publishing partner firms the subsidiary forms 158 editing and publishing communities for the Gelbe Seiten (Yellow Pages), Das Telefonbuch (phone directory) and Das Örtliche (local phone directory). These editing and publishing communities are organized in non-trading partnerships under German law (Gesellschaft des bürgerlichen Rechts) and governed by their partnership agreements (contracts governed by the German Civil Code (BGB)).

The subsidiary has its registered office in Frankfurt am Main and is entered in the commercial register of the Frankfurt am Main District

Court under HRB 8959. The subsidiary's financial year corresponds to the calendar year.

The subsidiary's partnership agreement includes at present the following provisions regarding the object of the company: The object of the company is the publication of data of residential and commercial subscribers to telecommunications services in the form of directories or in some other way, the provision of information services and other services, the handling of technical, administrative and commercial tasks, business advertising including selling and brokering activities according to the provisions of individual or overall agreements, and business activities in related areas.

According to its partnership agreement, the subsidiary may participate in other companies or establish such companies and also assume similar tasks in other countries in the execution of the above tasks.

The sole shareholder of the subsidiary is DTAG, which directly holds a 100 % interest in the subsidiary. The fully paid share capital is EUR 23,008,134.65.

The subsidiary's managing directors are Ralf Coenen, Dr. Oliver Faber and Stephan Schmitt. In accordance with § 6 (1) of its partnership agreement, the subsidiary is represented by two managing directors jointly or by one managing director together with one holder of commercial power of attorney ("*Prokurist*"). In accordance with § 6 (1) of its partnership agreement, the company is represented by one managing director alone if only one managing director is appointed.

### **3. Earnings situation of the subsidiary**

The company has 138 employees. In the 2012 financial year, it reported net income before profit and loss transfer in the annual financial statements pursuant to the provisions of the German Commercial Code (HGB) of EUR 83,915,051.74.

With a balance sheet total under HGB of EUR 61,778,650.07, the balance sheet contains shareholders' equity of EUR 24,572,258.28 as of December 31, 2012. For the current financial year the company is expected to report net income before profit and loss transfer of approx. EUR 80 million.

## **IV. Legal and commercial reasons for the conclusion of the amending agreement to the control agreement**

The amending agreement brings the wording relating to loss transfer in the existing control agreement into line with the amended wording in the profit and loss transfer agreement concluded between DTAG and the subsidiary and submitted to the shareholder's meeting on May 16, 2013.

The amendment to the profit and loss transfer agreement had become necessary as a result of the law which modifies and simplifies company

taxation and the tax treatment of travel expenses. The law modifying and simplifying company taxation and the tax treatment of travel expenses amends the requirements under § 17 (2) Corporation Tax Act (*Körperschaftsteuergesetz* - KStG). The amendment stipulates that, to achieve what is known as fiscal unity on the grounds of a profit and loss transfer agreement, it is additionally necessary that the profit and loss transfer agreement contain an explicit dynamic reference to the provisions of § 302 AktG relating to the obligation to transfer losses. To ensure that the provisions have the same wording in the control and the profit and loss transfer agreements, the wording in the control agreement relating to DTAG's obligation to transfer loss has been adjusted accordingly.

The modifications have no commercial or operational impact on the companies involved.

The essential contractual duties of the two parties, namely the right of DTAG to instruct the management of the subsidiary with regard to how the subsidiary should be managed, and assumption of loss by DTAG, remain unaffected.

## **V. Explanation of the amending agreement to the control agreement**

A copy of the amending agreement is enclosed with this report. The provisions of the amending agreement and the amended control agreement are explained in the following.

### **1. § 1 Management**

The provisions set out in § 1 of the control agreement remain unaffected. Pursuant to § 1 of the control agreement, the subsidiary places management of its company under the control of DTAG. Thus, the transfer of decision-making powers to the controlling company, which is an essential part of a control agreement, is standardized.

### **2. § 2 Authority to give instructions**

The provisions set out in § 2 of the control agreement also remain unaffected. § 2 of the control agreement standardizes the controlling company's authority to give instructions, which is characteristic for control agreements. Under § 2 (1) of the control agreement, DTAG is entitled to give the subsidiary's Managing Board instructions regarding the management of the subsidiary. The instructions must be issued in writing or by fax, or, if they are given verbally, by telephone, by telex, or by electronic mail, they must be confirmed immediately in writing, or by fax.

Pursuant to § 308 (1) sentence 2 AktG, instructions may also be issued – unless otherwise provided for in the agreement – that are disadvantageous for the subsidiary, provided that such instructions serve the interests of DTAG or the Deutsche Telekom Group. DTAG can thus extensively intervene and control the management of the subsidiary. With reference to § 299 AktG, § 2 (2) of the control agreement specifies that the authority to give instructions does not

include the amendment, maintenance or termination of the control agreement itself.

As is the case with § 1 of the control agreement, these are also customary provisions within the framework of a control agreement.

### **3. § 3 Transfer of loss**

Section 2 of the amending agreement provides for a redraft of § 3 of the control agreement.

§ 3 of the amended control agreement includes the obligation on DTAG as controlling entity to compensate any net loss arising for the subsidiary during the term of the agreement in accordance with all the provisions in § 302 AktG. The reference is now dynamic in that it refers to the relevant legal provisions in their amended form. In accordance with § 302 (1) AktG, any other loss after taxes which occurs during the term of the agreement is only to be compensated to the extent that it cannot be compensated by taking from other retained earnings amounts that were transferred to other retained earnings during the term of the agreement. In this respect, DTAG bears the economic risk of the subsidiary. This obligation to compensate for losses is a mandatory consequence of the control agreement.

Reference must be made to the provisions of § 302 (3) and (4) AktG:

§ 302 (3) AktG governs the subsidiary's option to waive its claim for compensation and to settlement of such a claim. The primary consequence of the reference to § 302 (3) AktG is that the subsidiary may not waive or settle any claim for compensation until three years after the date on which the registration of the cancellation or termination of the control agreement in the commercial register was announced pursuant to § 10 HGB. The foregoing shall not apply if DTAG is unable to make payments when due and enters into composition with its creditors to avoid insolvency proceedings, or if the liability for compensation is subject to an insolvency plan.

Pursuant to § 302 (4) AktG, the right to compensation for loss is limited to 10 years from the date on which the registration of the cancellation or termination of the control agreement in the commercial register was announced pursuant to § 10 HGB.

Insofar, the provisions under § 3 of the amended control agreement are therefore now customary provisions within the framework of a control agreement.

The above amendments to § 3 of the control agreement must be standardized with respect to other control agreements.

### **4. § 4 Commencement, term, effective date**

The contents of § 4 (1) and (2) of the control agreement remain unchanged. (1) states that the agreement will enter into force as soon

as it is entered in the commercial register responsible for the subsidiary's registered office. (2) specifies that the control agreement can only become effective upon approval by the shareholders' meeting of DTAG and the partners' meeting of the subsidiary. The shareholders' meeting of DTAG and the partners' meeting of the subsidiary approved the original control agreement in 2005, and the agreement was entered into the commercial register on July 11, 2005. Hence, under the terms of the agreement, the obligation to transfer profits started on January 1, 2005.

Additionally to this, the amending agreement (in 4 thereof) also sets out that the amending agreement enters into effect retroactively at the start of the financial year in which all the requirements for the effectiveness of this amending agreement are fulfilled for the first time. This means that the amendments also apply retroactively.

As with the original control agreement, this amendment is also subject to the approval of both the shareholders' meeting of DTAG and the partners' meeting of the subsidiary, as well as to entry into the subsidiary's commercial register. The approvals granted by resolution of the shareholders' meeting of DTAG and the partners' meeting of the subsidiary must also be certified by a notary public.

The amending agreement / amendments will enter into effect upon fulfillment of these requirements, which is planned to take place before the end of the year.

The provisions set out in § 4 (3) of the control agreement also remain unaffected. § 4 (3) sentences 1 and 2 of the control agreement state that the agreement is concluded for an unlimited term and can only be terminated with effect from the end of the subsidiary's financial year. § 4 (3) sentences 3 and 4 of the control agreement state that retroactive rescission is not permissible and that notice of rescission must be made in writing. The control agreement therefore does not provide for notice of termination to be given by the parties.

The provisions set out in § 4 (4) of the control agreement also remain unaffected. (4) contains provisions on termination of the agreement for good cause. It defines good cause especially as the sale or contribution of the subsidiary by DTAG, or the merger, split-up or liquidation of either of the two contracting parties. These are examples of good cause within the meaning of the Corporation Tax Policy (*Körperschaftsteuerrichtlinie*) 60 (6).

## **5. Miscellaneous**

The introductory segment in the agreement has been modified for clarity and the names of the parties in the agreement have been redefined (sections 1 and 3 of the amending agreement).

Section 4 of the amending agreement specifies that the provisions in the control agreement which are not amended by the amending agreement remain unchanged. Section 4 of the amending agreement also sets out that the amending agreement comes into effect retroactively at the start of the financial year in which all the effective date requirements of this agreement are fulfilled for the first time. This provision, which applies to the relationship between the parties, does not however in any way change the fact that the amendment to the control agreement will not enter into force until it is entered in the commercial register of the subsidiary.

Section 5 of the amending agreement states that the final version of the amended control agreement attached to the amending agreement is only provided for the purposes of clarity, but does not include binding provisions on the parties. If this final version differs from the provisions in the amending agreement, the provisions in the amending agreement apply solely.

**VI. Determination of adequate compensation/consideration pursuant to § 304 and § 305 AktG/examination of the amending agreement to the control agreement**

It was decided to refrain from determining adequate compensation in the amending agreement to the control agreement, as the subsidiary does not have any external partner. DTAG directly holds a 100% interest in the subsidiary. For this reason, there was also no need to determine any settlement in the agreement. The companies concerned therefore did not have to be valuated to determine an adequate compensation and an adequate settlement. Nor, since DTAG directly holds all shares in the subsidiary, is there any need pursuant to § 293b (1) AktG also in conjunction with § 295 (1) AktG to subject the amended control agreement or the amending agreement to review by independent auditors (contract auditors).

Bonn, March....., 2013

Deutsche Telekom AG

Board of Management

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René Obermann (Chairman)

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Niek Jan van Damme

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Reinhard Clemens

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Timotheus Höttges

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Dr. Thomas Kremer

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Claudia Nemat

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Prof. Dr. Marion Schick



Frankfurt, March....., 2013

DeTeMedien, Deutsche Telekom Medien GmbH

Managing Board

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Ralf Coenen

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Dr. Oliver Faber

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Stephan Schmitt

Annex:  
Copy of the amending agreement (including the amended control agreement)