



# Articles of Association

Bitkom  
Federal Association for Information Technology,  
Telecommunications and New Media

Version as of 26 June 2018

## § 1 Name, registered office, legal form and fiscal year

1. The association bears the name “Bitkom Federal Association for Information Technology, Telecommunications and New Media” and shall be hereinafter referred to as “Bitkom”. It is registered in the register of associations at the Charlottenburg District Court under the number 19542NZ.
2. Bitkom is an association (Verein) in accordance with § 21 BGB (German Civil Code).
3. Bitkom has its registered office in Berlin.
4. The fiscal year is the calendar year.

## § 2 Purpose and tasks

1. Bitkom represents the common economic, legal, commercial, technical and scientific interests of providers of products, software and services in information technology, telecommunications, new media and digital business, to politics, economics and the general public at the German, European and global levels. Furthermore, Bitkom represents the common interests of associations active in these fields while safeguarding the legal competition order.
2. The primary objectives of Bitkom are the development of a strong and internationally efficient ICT field in Germany, an increase in the corresponding domestic added value, and creation of jobs.
3. Bitkom’s core activities include:
  - acting as a political lobby group in federal and state governments,
  - representing interests within the scope of European and international associations and directly to international organisations,
  - representing the industry towards the general public via active public relations and marketing,
  - representing the industry towards trade fair companies, other associations and social actors,
  - organising a continuous exchange between specialists and managers in the industry, and providing cooperation platforms for members,
  - informing members of relevant developments,
  - supporting technological development and standardisation,

- supporting and developing the information and communication technology markets
  - collaborating with companies from other industries, which use ICT or develop ICT as a part of their products or solutions
4. Bitkom safeguards a balanced representation of the industry with a special emphasis on the interests of mid-sized companies and start-ups.
  5. In the framework of Bitkom's field of activities as stipulated in these articles, Bitkom may render individual services and consulting, or commission subsidiaries to render such services and consulting against payment to its members or to the members of associations represented in Bitkom.
  6. Bitkom does not pursue any profit-oriented goals related to commercial business or any party political objectives. Bitkom is not profit oriented.

### § 3 Membership

1. Companies which provide services directly as their own ICT sales in the fields defined under § 2 clause 1 may become full members of Bitkom. The full membership can also be acquired by companies whose products or services are significantly carried by ICT, although they themselves do not generate actual ICT sales. Business associations nationwide active in the field defined under § 2 clause 1 and representing supplier interests may also become full members of Bitkom.
2. Membership requires companies to have a registered office or business facilities in Germany in accordance with of § 12 of the Fiscal Code of Germany.
3. Membership is voluntary.
4. Companies associated with a Bitkom member company as described below may become full members of Bitkom in the framework of a group membership. A company is entitled to group membership if:
  - a) a company holds directly or indirectly at least 50 % of the shares of one or several Bitkom member companies.  
If a parent company itself does not apply for membership, the group membership can, upon request, be used without the company's membership via the associate company in which the parent company directly or indirectly owns a share of at least 50 %.
  - b) a Bitkom member company directly or indirectly has a share of at least 50 % of the other company.  
Companies may only join Bitkom as group members if this was expressly requested during the admission process into the association. Upon request, a current membership can be converted into a group membership at any time if the member meets the requirements.
  - c) two Bitkom member companies each directly or indirectly own a share of 50 % of a joint venture company and have stated this in writing or in text form.

5. Upon request, the steering committee can also grant an associated membership to companies and organizations which do not meet the requirements of a full membership according to the articles of association, to regional associations which do not operate nationwide and to individual natural persons who are dealers or freelancers (independent entrepreneurs) and do not simultaneously hold a position in a company, but who would be eligible to membership in accordance with § 3 clause 1. If a company no longer fulfils the qualification criteria for full membership it will be transferred into an associated membership at the beginning of the next calendar year. When an associated member fulfils the qualification requirements for full membership, on request the membership can be converted into full membership at the beginning of the next calendar year. The steering committee will decide whether to allow the application.
6. Start-up companies which fulfil the acceptance criteria for full membership shall have, for a maximum period of six full calendar years from their establishment, the possibility of setting up a Get-Started membership as an associated membership instead of the full membership, if they submit an application to the effect. If they acquire the Get-Started membership in the sixth year after their establishment, it will be effective until the end of the next calendar year. The qualification criteria and the rights and obligations associated with Get-Started membership are established by the steering Committee. When the qualification criteria are no longer fulfilled, the Get-Started membership will convert into full membership at the beginning of the next calendar month.
7. Interested parties must submit a membership application to management. The steering committee decides on membership.
8. As founding members, the following persons are also full members:  
  
Heinz Bäurer, Hüfingen/Behla  
Josef Brauner, Jüchen  
Eberhard Färber, Munich  
Jörg Menno Harms, Stuttgart  
Dr. Volker Jung, Munich  
Werner Schmücking, Munich  
Erwin Staudt, Leonberg.
9. Furthermore, the steering committee can create personal memberships at its discretion if the respective person agrees to the steering committee's proposal. Personal members are distinct thanks to outstanding services for the industry. Their membership rights can be restricted by the steering committee. In particular, they do not have voting and electoral rights.
10. Persons who have delivered outstanding services in the ICT field can be awarded an honorary membership by the management board. Honorary members do not have voting or electoral rights. An exception to this are the rights referred to in § 9 clause 1.
11. For the applications referred to § 3 the communication must be submitted in writing or in text form (e-mail or fax).

## § 4 Members' rights and obligations

1. The owner, board members, Managing Director, board of directors and full-time employees of every full member are authorised to use Bitkom facilities and services. Bitkom member associations may only make use of this right via the employees of their branch office or members of their board of directors or steering committee. The owner within the meaning of these Articles of Association is the person who holds a majority interest in a member or otherwise has significant influence over its management. A permanent employee or employee of the branch office within the meaning of these Articles of Association is a person who is permanently employed on a full-time basis for the member in the area defined in § 2 clause 1. The rights and obligations of use for associated and personal members are defined by the steering committee and can be adjusted in individual cases.
2. The members are bound to Bitkom's decisions according to the articles of association. Moreover, they are obligated to pay the designated membership fees and contributions and provide Bitkom management and committees with relevant information on time and in a truthful manner so that they may complete their tasks. Members may not disclose confidential information to third parties.
3. Members can delegate owners, board members, Managing Directors, boards of directors and full-time employees to working groups, forums, study groups, technical and steering committees, discussion groups and other types of committees and subdivisions according to the framework by-laws or by-laws of the corresponding committee or subdivision. The work results generated in the committees or subdivisions are provided to Bitkom. Bitkom receives, for the purposes and tasks specified in § 2, an irrevocable, non-exclusive, non-expiring, free, global, transferable and sub-licensable right of use for all the above-mentioned work results.
4. The right to vote and the representation in all committees and subdivisions listed under § 4 clause 3, § 8 clause 5 shall apply accordingly. A full member may be represented by a proxy who is an associated member in these committees and subdivisions; one associated member may represent only one full member.

## § 5 Membership period

1. Membership starts with the decision on the admittance by the steering committee; memberships start retrospectively with the date of the application. The steering committee shall be entitled to approve also of another date of admittance upon request. The right to vote is not enacted retrospectively in the case of a retrospective admission. The steering committee can delegate these rights.
2. Membership ends upon voluntary cancellation of membership, dissolution of the member's organisation, abandonment of the business activities, expulsion of the member or death. Membership also ends if a procedure under the Insolvency Statute for the member's assets has been initiated or if the initiation of such a procedure has been rejected due to lack of assets.
3. The management board can expel a member if it violates the terms of the articles of association, in particular, if it does not comply with its fee and contribution obligation or the member has grossly damaged the reputation of Bitkom. The management board can delegate this right. The member must be given the opportunity to submit a statement prior to the expulsion.

4. Every member can withdraw from Bitkom with a cancellation period of six months, effective at the end of the year. The executive board can shorten the notice period for termination on request if the termination occurs due to a decline in the sales revenues of the member's company by more than 20% in the current financial year. The cancellation of membership shall be submitted in writing to Bitkom management, per registered mail to provide proof of receipt. The member remains bound to the articles of association, membership regulations and any additional obligations, e.g. contributions, for the remainder of his membership. The member will be able to withdraw its termination notice up to the moment when the resignation becomes effective.
5. Members who withdraw or are expelled from Bitkom relinquish all rights to the association's assets with the day of their withdrawal or expulsion. Paid fees and other services are not reimbursed.

## § 6 Fees

1. Fees are collected from all members, with the exception of personal members, founding members and honorary members, according to the membership regulations, as decided by the Bitkom general assembly based on the steering committee's proposal.
2. The general assembly can enact extraordinary fees or contributions to cover the costs of specific projects within the scope and tasks of Bitkom. Bitkom passes the fee it is required to pay as a member of the BDI (Federation of German Industries) on to its full members, with the exception of personal members, founding members and honorary members.

## § 7 Committees

Bitkom is organised in the following committees: the general assembly, the management board, the steering committee and the executive board.

## § 8 General Assembly

1. The general assembly is the highest committee and decides on all questions which fundamentally affect Bitkom or, upon request from the executive board, steering committee or management board, to the Bitkom President. In particular, the general assembly is also responsible for the selection of the management board, amendments to the articles of association, the membership regulations, dissolution of Bitkom, and the removal of the management board, steering committee, executive board and management.
2. The general assembly shall be summoned:
  - a) as required by the interests of Bitkom, but at least every other fiscal year
  - b) within a period of eight weeks, if at least 10 % of the members file a written request addressed to the president which specifies purpose and reasons for summoning a general assembly.

3. The invitations to the physical general assemblies must be submitted by way of electronic communication and include the time and location of the meeting as well as the agenda. The invitations can be additionally sent out in text form. The invitations must be distributed at least four week before the day of the meeting. The invitation is deemed to have been received if it has been published in the member portal or sent to the last address given by the member. The written invitation to an assembly does not require a handwritten signature of the person entitled to distribute invitations as specified under clause 4. Every full member can request an addition to the agenda in text form up to two weeks prior to the meeting; § 14 clause 1 remains unaffected. It remains to the steering committee's due discretion whether this proposed addition will be considered. However, it must be considered if at least ten per cent of members support the motion.
4. The general assembly is summoned and hosted by the Bitkom President and, if he is unable to do so, by the most senior available Vice President. The assembly is entitled to appoint a different chairman of the assembly upon request by at least two thirds of the participating members.
5. Every full member has a vote in the general assembly. Proxy representation by another full member is permitted via simple power of attorney in written form. One member can represent a maximum of three additional members.
6. The general assembly fundamentally constitutes a quorum regardless of number of participants and takes decisions with simple majority of the votes cast. Decisions on amendments to the articles of association and the dissolution of Bitkom require the approval of at least 2/3 of the votes cast. Under no circumstances are abstentions, votes which were not cast, or invalid votes included in the calculation of the majorities, irrespective of the selected voting procedure. The chairman of the meeting determines the decision results.
7. Decisions and votes (hereinafter collectively referred to as "resolutions") of the general assembly can either be carried out among those present or, outside of the framework of a physical assembly, with votes by way of electronic communication or in text form. A decision which is taken via telephone or video conference is also considered a resolution taken among those present. If a resolution is taken by votes submitted by way of electronic communication, the person who would have chaired the general assembly which is thus being replaced in accordance with clause 4 (hereinafter "vote chairman"), must provide all members who are eligible to vote with the resolution draft by way of electronic communication and include the type of voting he has designated. In the case of adoption of resolutions by voting in text form, the resolution draft must be sent in text form to the last address given by the member. At the same time, members shall be notified of a period of one week to file appeals in text form to reject the resolution by way of electronic communication or in text form; at the same time another period of two weeks for notification of the recipient as mentioned in the resolution of a factual issue shall apply. Votes received after the deadline will not be taken into consideration. If at least 1/10 of members veto the resolution by way of electronic communication or in text form within the one-week deadline, the resolution is invalid.
8. Every full member participating in a vote has one vote for each seat to be assigned. Under no circumstances does a member have more votes than there are seats to assign. A consolidation of votes for one candidate is not permitted. The vote can be conducted via negative votes and as a list selection, based on the decision by the chairman of the meeting. The person who receives the most votes is selected. A run-off vote will be used in case of a tie. Clause 5 applies accordingly. If the second ballot in the first round of voting also fails to return a

result due to a tie, the result will be determined by drawing lots. For management board elections, every full member has the right to propose candidates for membership on the management board. Management must receive the proposals at least eight weeks before the general assembly. The preceding deadline does not apply if the deadline of the general assembly was not announced in text form at least ten weeks before the assembly; the announcement on the Bitkom website is sufficient for this.

9. For votes and resolutions with physical general assembly, meeting minutes must be prepared and signed by the assembly chairman. In the case of a resolution via a vote by way of electronic communication or in text form, the vote chairman must determine the result of the resolution, inform all members of the association by way of electronic communication and prepare the minutes. He can also announce the result in text form.
10. Where these Articles of Association provide for electronic communication for meetings or voting, the vote chairman will decide the finer details. In particular, he can decide that the voting can be carried out via an internet portal or other suitable electronic voting platform. He also decides on the technical and security requirements vis-à-vis the electronic communication.

## § 9 Management Board

1. The Bitkom management board consists of a minimum of 5 and maximum of 100 elected people who – as long as the general assembly does not decide otherwise in individual cases – must be owners, board members or managing directors of full member companies or board members of member associations. They are elected by the general assembly and should adequately represent the members of the various industry segments of Bitkom as much as possible with regard to technical and structural aspects. The executive board, the steering committee and the management can propose candidates for the management board to the president of Bitkom. Furthermore, the chairman of Bitkom's Forum Mittelstand (forum on mid-sized businesses) receives a seat on the management board ex officio. This seat can be transferred to the vice chairmen. In addition to the selected persons, the management board has the right to co-opt up to 20 representatives of Bitkom members for the corresponding term of office. Furthermore, former presidents of Bitkom and honorary members appointed by Bitkom can be granted a seat on the management board on the basis of an individual steering committee resolution for the relevant term of office. They shall have equivalent rights to the other members of the management board, but will not have the right to stand as a candidate.
2. Membership in the management board is personal and held on a voluntary basis.
3. The term of office of the members selected for the management board is two years. The term of office of the management board begins and ends upon the announcement of the result of the election by the vote chairman. If a second ballot is required, this applies from the announcement of the election result for the persons elected in the first round of voting. Re-election is permitted. The office of a member of the management board expires due to resignation, death, selection of a successor, end of the membership with the corresponding member organisation, relocation of the elected member to a non-member company or dismissal due to a decision of the general assembly. If a new management board could not be elected upon expiry of the two-year term of office, the previous members of the management board will perform the duties of their office in an acting capacity until a new election has been held. If a member of the management board loses his position as managing director or his position on the board of directors of the company, but remains authorised



to represent the corresponding Bitkom member, he also retains his seat on the management board. If a management board member resigns during his term of office, the management board can appoint a management board member for the remaining term of office.

4. The management board is responsible for all Bitkom affairs, inasmuch as they are not reserved by legal regulations or the articles of association of other committees. In particular, the board is responsible for
  - a) selecting members of the steering committee
  - b) deciding on the budget prepared by the steering committee
  - c) approving the annual financial statement based on the steering committee's report
  - d) deciding on the expulsion of members based on the steering committee's recommendation
  - e) carrying out the tasks assigned by the membership regulations
5. Every member of the management board has the right to propose candidates for election to the steering committee. The proposals are submitted to the chairman of the meeting during the constituent management board meeting.
6. Management board meetings must be summoned on behalf of the president of the association with a minimum of one week's notice. § 8 clauses 3 and 7 apply to the form and content of the convocation of the meeting. The meeting shall be hosted by the Bitkom President and, if he is unable to do so, by the most senior available Vice President. The management board constitutes a quorum if half of its members participate in the resolution. It decides with a simple majority of the votes cast. If at least 1/4 of the members of the management board veto the resolution by way of written communication or in text form within the one-week period according to § 8 clause 7, the resolution is inadmissible. In addition, § 8 clause 4, clause 5, clause 6 sentence 3, clause 7, clause 8 sentences 1–6 and clause 9 of the articles of association apply accordingly due to the requirement that the result of the resolution must be communicated to the members of the management board by way of written communication and, if necessary, in text form.

## § 10 Steering Committee

1. The steering committee is composed of the president, up to 3 vice presidents, the treasurer and additional members of the Bitkom management board. The steering committee has up to 16 members, 13 of which are elected, and up to three additional members who can be co-opted from the management board by the steering committee. Its composition should reflect the structure of the industry. Furthermore, if a member of the steering committee resigns during his term of office, the steering committee can co-opt a member of the steering committee from the management board for the remaining term of office. § 9 clause 2 applies accordingly.
2. The term of office of the president, vice president and treasurer is two years. It ends with the election of a successor.

Re-election is permitted; the office of the president is limited to one re-election. Members of the steering committee submit candidate recommendations to the chairman of the meeting during the constituent steering committee meeting.

3. The president, vice presidents and treasurer are executive board members in accordance with § 26 BGB (German Civil Code). They remain in office until new elections have been held. Notwithstanding § 9 clause 3 sentence 5, the termination of membership of the member organisation and the change to a non-member company does not automatically lead to the termination of office of the president. Unless, in this case, the Executive Board decides to dismiss the president. Two members of the executive board jointly represent Bitkom judicially; additional two members jointly represent Bitkom extrajudicially. Internally, this means: the president and an additional member of the executive board shall represent the association; the president can delegate this right to one of the vice presidents if he is unable to do so.
4. In particular, the steering committee is responsible for:
  - a) electing the chairman (president), vice chairmen (vice presidents) and treasurer
  - b) deciding on important issues that are of particular importance for the purposes and tasks of Bitkom as determined by the executive board in accordance with § 2, provided that the resolution is not expressly reserved to the general assembly or management board
  - c) preparing by-laws and guidelines for the association's committees, if necessary, deciding on membership applications, or recommending members to the management board for expulsion
  - d) preparing the discussion topics and motions for the general assembly
  - e) recommending membership regulations to the general assembly and carrying out the tasks assigned to it by the membership regulations
  - f) creating and dissolving working groups, forums, study groups, technical and steering committees and discussion groups, and deciding on the by-laws of these groups
  - g) deciding on the questions from the committees listed under f) on the resolution, upon request of the chairman of the corresponding committee
  - h) carrying out any tasks and work that the management board or general assembly assigns to it for independent completion
  - i) preparing the budget and presenting it to the management board for resolution
  - j) preparing the annual financial statement and presenting it to the management board for resolution
  - k) preparing resolutions from the management board and general assembly

- l) arranging a seat on the management board for former presidents and honorary members in accordance with § 9 clause 1 sentence 7,
- m) deciding on members' applications in accordance with § 3 clause 5 sentence 4,
- n) appointing and dismissing the managing director and preparing by-laws for the managing director, if necessary

5. In addition, § 8 clause 4, clause 5, clause 6 sentences 1 and 3, clause 7, clause 8 sentences 1–6 and clause 9 as well as § 9 clause 3 apply to the steering committee and executive board with the stipulation that the result of the resolution must be communicated to the members of the steering committee or executive board by way of electronic communication and in text form if necessary. Deviating from § 8 clause 7, the Chief Executive Officer is the vote chairman for a written resolution from the steering committee and executive board by way of written communication or in text form. The resolution is invalid if 1/4 of the members of the steering committee or executive board veto it within the one-week deadline for this type of voting. Deviating from § 8 clause 7, the vote chairman can set shorter vote periods.

6. The steering committee can create by-laws for itself.

## § 11 Bitkom management

The association appoints a management team which works subject to directives from the executive board, and the chairman, in particular, to process Bitkom's current projects and manage its assets. The steering committee decides on appointment and dismissal.

## § 12 Working groups

1. For collaborations with companies, associations and other organisations which do not meet the requirements for membership in Bitkom in accordance with the articles for association, the steering committee can create working groups as subdivisions of Bitkom. All Bitkom members who are active in the corresponding work area have the right to become members of the working group.
2. The working groups receive their own by-laws and membership regulations based on the decision by the steering committee.

## § 13 Forum Mittelstand

1. Bitkom has created a forum for mid-sized companies (Forum Mittelstand) in order to fulfil the goal it has set for itself in accordance with § 2 Section 3. The forum includes all mid-sized members of Bitkom. The forum selects its own chairman and vice chairman. In terms of appointments and period, § 9 clause 1, sentence 1, 2nd half-sentence and clauses 2 and 3 shall apply accordingly. The steering committee appoints a member of management who is responsible for the Forum Mittelstand.

## **§ 14 Amendments to the articles of association and dissolution of Bitkom**

1. Motions for amendments to the articles of association or the dissolution of Bitkom can be brought to the president by the steering committee or at least 1/4 of the members, in writing, with information on the purpose and reasons, and within a deadline of four weeks.
2. In the case of dissolution of Bitkom, the last general assembly has ownership of Bitkom's available assets following repayment of all obligations. The association's assets should be used for purposes under the terms of these articles of association. The corresponding resolutions from the general assembly may only be executed following approval by the responsible tax office.