

FTTH COUNCIL EUROPE ASBL

STATUTES

Part 1

NAME, FORM, HEAD OFFICE, OBJECTIVES, DURATION

Art. 1 Name & Form

The name of the association is FTTH Council Europe ASBL, hereafter referred to as "The Association". FTTH Council Europe ASBL is a not-for-profit, non-commercial association created pursuant to the Belgian law of 27 June 1921.

Art. 2 Head Office

FTTH Council Europe has its seat at *Avenue Gevaert 127, 1332 Genval, Belgium*. FTTH Council Europe may change its seat to any other location in Belgium upon decision of the General Assembly by amendment of the statutes to be published in the annexes of the *Moniteur belge*.

Art. 3 Objective and Principles

- (a) **Principal Objective.** The principal objective of FTTH Council Europe is to develop and promote the common interests of all entities seeking to accelerate fibre deployment to the premises in Europe by education and promotion to enhance the quality of life.
- (b) **Principles.** In carrying out this objective, FTTH Council Europe will base itself on the principles of free enterprise, competition and fair trade in Europe and throughout the world and the promotion of fair and equal conditions for companies worldwide.
- (c) **Compliance with Competition Laws.** FTTH Council Europe is committed to fostering open competition in the development of products and services. Members of FTTH Council Europe understand that in certain lines of business they are or may be in direct competition and that it is imperative that they and their representatives and the Association act in a manner which does not violate any applicable antitrust laws and regulations. Accordingly each Member will advise its representatives who participate in any activities or meetings of the Association on the importance of not entering into any discussions and of not communicating on topics which may be deemed anti-competitive, and of limiting the scope of their discussions and communications to topics relating to the purposes and objectives of the Association, whether or not such discussions and communications take place during formal meetings, informal

gatherings, or otherwise.

Art. 4 Duration

FTTH Council Europe is formed for an indefinite period.

**Part 2
MEMBERSHIP**

Art. 5 Members

(a) **Minimum Number of Members.**

FTTH Council Europe shall at all times be constituted by no less than three members.

(b) **Companies.**

FTTH Council Europe may accept as "Members" any company, business entity, non-profit organization, academia or individual working on any role and/or belonging to any or all of the main sectors of the ICT industry provided that they meet all of the following criteria on a cumulative basis:

- (i) support the objectives of FTTH Council Europe; and
- (ii) the applicant is engaged in Europe in one or more of the following activities in ICT hardware, software, applications and digital contents :
 - marketing;
 - development;
 - advisory or system integration services;
 - manufacturing;
 - research; and
- (iii) there are no reasonable grounds on the basis of which it can be assumed that the applicant would not fully support the objectives set forth in Article 3 (a) through (c).

(c) **Legal Nature of Members..**

Subject to the provisions of this Article, FTTH Council Europe may accept as "Members" companies duly organized pursuant to and in accordance with the laws of those countries where they are established. "Members" are defined to be "Member Companies" as these terms are defined hereinafter.

(d) **Voting Rights.**

- (i) Member Companies shall have each one vote. However affiliates of Member Companies who are also Members of the Association shall not be granted additional voting rights.

- (ii) Affiliation as referred to above in Art. 5 (d) (i) is: ownership or control by an existing Member of more than fifty percent of the voting stock (or similar rights of control) of the applicant; or ownership or control of more than fifty percent of the voting stock (or similar rights of control) of an existing Member by the applicant; or the existing Member and the applicant are under the common control of another company which owns or controls more than fifty percent of the voting stock (or similar rights of control) of the existing Member and of the applicant.
- (iii) The founding companies will become Member Companies as soon as the present Statutes are deposited at the relevant judicial court.

Art. 6 New Members, Admission Procedure

- (a) **Application.** Companies or other applicants that want to become Members shall file an application for membership with the Director General or the Executive Board. The Executive Board shall review all applications and shall pass on each decision, together with its reasons, for confirmation by the General Assembly. The decisions of the Executive Board shall not be binding on the General Assembly.
- (b) **Confirmation of Membership.** The General Assembly shall confirm or refuse the Executive Board's decision on an application for membership at the next general or extraordinary meeting. The decision of the General Assembly shall require a majority of two thirds of the votes of the Member Companies present or represented. The Executive Board shall inform the applicant of the decision taken by the General Assembly and the reasons for such decision if the application is rejected.
- (c) **Rejection and Appeal.** If the Executive Board rejects an application and this decision is subsequently confirmed by the General Assembly, or if the General Assembly overrules a decision of the Executive Board to accept an application and decides to reject such application, the General Assembly shall set forth the principal reasons underlying such decision, which reasons shall be based on the criteria setting out the eligibility for membership in Article 5 above. The decision of the General Assembly shall require a majority of at least two thirds of the votes of the Member Companies present or represented at the meeting of the General Assembly at which the decision is taken. The Executive Board shall inform the applicant of the decision and if the application is rejected, of the reasons that motivated the decision. An applicant whose application is rejected shall have the right to appeal that decision with the General Assembly pursuant to Article 10 (b) below.

Art. 7 Withdrawal

Any Member wishing to withdraw from FTTH Council Europe shall give notice to the President of its withdrawal at least one month in advance. During this period, its membership and the obligation to pay fees shall remain unaffected.

Art. 8 Exclusion

Any Member that does not comply with any provision of the Statutes or with applicable rules and regulations, or with any provision of the By-Laws, issued pursuant to these Statutes or that does no longer fulfills the membership conditions as set out in Article 5, can be excluded from the Association by a decision of the Executive Board, provided the reasons are stated in that decision and that the Member concerned shall have had the right to present its defense to the Executive Board prior to the entry into force of the decision. The Member shall have the right to appeal the decision with the General Assembly. In the case of such appeal, the Member's exclusion shall be suspended and the decision shall not enter into force unless and until the General Assembly has confirmed the decision to exclude the Member with a majority of two thirds of the votes of the Members present or represented, in which event the decision to exclude the Member shall be immediate, final and binding. The decision which shall state the principal underlying reasons shall be communicated by the Executive Board to the Member concerned. In the event an appeal is not brought, the General Assembly shall nevertheless confirm the Executive Board's decision to exclude the Member at the next ordinary or extraordinary meeting.

Furthermore, if the reputation of a Member representative is seriously damaged due to criminal activities, the General Assembly may decide to exclude this Member representative from the activities of the Council and decide on his/her replacement if this Member representative is a Member of the Executive Board.

Art. 9 End of Membership, Dispute Resolution

- (a) End of Membership.** A Member who ceases to be a member of FTTH Council Europe through withdrawal, exclusion or for any other cause shall have no claim to FTTH Council Europe's funds. Such Member shall however remain liable for the membership fee payable during the financial year during which exclusion or withdrawal occurs.
- (b) Dispute Resolution.** Any disputes arising out of or in connection with membership applications or any other membership issues, shall be resolved finally and with binding force by a committee to be appointed annually by the General Assembly in accordance with the quorum and voting requirements of Article 12.

Part 3 GENERAL ASSEMBLY

Art. 10 Powers of the General Assembly

The General Assembly is composed of all the Members of FTTH Council Europe.

The assembly of all Members ("General Assembly") shall have full powers to achieve the objectives stated in Article 3 and to ratify the vision and strategy of FTTH Council Europe. In particular, the General Assembly shall have the powers to:

- a)** accept or reject new members and exclude members;
- b)** set subscription fees;
- c)** approve annual budgets and financial accounts, grant release to the directors;
- d)** elect and dismiss the members of the Executive Board (incl. the President) and the statutory auditor if any;
- e)** appoint and dismiss the Director General upon proposal by the Executive Board;
- f)** approve the Executive Board's proposals for the policies of FTTH Council Europe;
- g)** amend these Statutes, adopt new Statutes, adopt and amend By-Laws;
- h)** dissolve FTTH Council Europe;
- i)** set up main committees subject to the provisions of Article 19.

Art. 11 Composition of the General Assembly

The General Assembly shall be composed of all the Members of FTTH Council Europe. Each Company Member is represented by one delegate ("Principal Representative"). Provisions concerning the registration of Member Representatives and alternates for Member Representatives (if any) shall be outlined in the By-Laws. A Member can also be represented in a General Assembly by another Member, provided that this representation has been registered in the manner set forth in the By-Laws and that such Member does not represent more than two Members in total, including himself/herself.

Art. 12 Quorum, Majority

- (a) Quorum.** Unless otherwise provided by these Statutes, the General Assembly can only take decisions if more than half of the Members are present or represented at a meeting. If this condition is not met at a meeting, the President shall call another meeting pursuant to Article 13

with the same agenda within the following three months, which meeting shall automatically constitute a quorum regardless of the number of Members present or represented, provided, however, that this has been clearly stated in the convocation of this second meeting.

- (b) **Majority.** Unless otherwise provided by these Statutes, for all decisions of the General Assembly a majority of two thirds of the votes of the Members present or represented is required. Any modification to article 3 related to objectives and principles requires a majority of four fifth of the votes of the Members present or represented.

Art. 13 Meetings, Agenda, Electronic Communication

- (a) **Meetings and Agenda.** The General Assembly shall take decisions in ordinary or extraordinary meetings. The President of FTTH Council Europe as Chair of the General Assembly shall call an ordinary meeting of the General Assembly at least once a year. The President is obliged to convene an extraordinary meeting upon written request to the Executive Board of Members representing at least 20% of the votes of all Members. Except for meetings pursuant to Article 25 (a), meetings shall be called by the President with one month's prior written notice to every Member. The notice shall contain an agenda for the meeting and identify and specify with sufficient detail the matters on which votes shall be cast. The agenda will be decided by the Executive Board. An item has to be included on the agenda of the General Assembly on the request of Members representing at least 5% of the votes. Physical meetings shall be held at the seat of FTTH Council Europe or such other venue as may be specified in the invitation. Written minutes of the General Assembly including all resolutions shall be taken and signed by an Executive Board Member, approved and signed by the President and shall be sent to all Members without undue delay after each meeting. The resolutions shall be registered and filed by the Director General at the seat of FTTH Council Europe.
- (b) **Voting by Electronic Communication.** In exceptional cases, justified by a situation of urgency and the interests of the Association, voting can also be held by way of electronic communication provided, however, that matters which shall be voted upon at a non-physical meeting shall have been identified as such in the written notice calling for the meeting; that the written notice provides for sufficient detail on such matters; and provided further that no one objects to a decision by electronic communication. Furthermore, decisions by electronic communication shall be ratified at the next meeting of the General Assembly.
- (c) **Discussion/Voting on matters not on the agenda.** In exceptional cases, justified by a situation of urgency and the interests of the Association, the General Assembly might have to discuss and/or vote on such matters not on the agenda, for as long as this modification of the agenda is accepted by the simple majority of the Members present

or represented.

Part 4 EXECUTIVE BOARD

Art. 14 Executive Board

(a) Functions. FTTH Council Europe shall be governed by a board (“Executive Board”). In addition to the functions and powers mentioned in these Statutes, the Executive Board shall also have the power to:

- a)** form and propose policies for the approval of the General Assembly in order to promote the objectives of FTTH Council Europe;
- b)** set future priorities, adopt pro-active plans and final positions;
- c)** as set forth in Article 19, decide on the number of the committees and their objectives, and appoint their chairs;
- d)** co-ordinate the work of committees and the advisory policy group (if any) established in accordance with Article 19 ;
- e)** prepare and file for review by the General Assembly the annual budget and accounts pursuant to Article 23;
- f)** propose on the auditors to be appointed;
- g)** propose for approval by the General Assembly changes to the Statutes pursuant to Article 25;
- h)** propose By-Laws for approval by the General Assembly;
- i)** exclude Members according to Article 8;
- j)** manage the assets of FTTH Council Europe;
- k)** represent FTTH Council Europe in a neutral and objective way in all external dealings with third parties, in particular, but not limited to, the entering into contracts or agreements;
- l)** represent FTTH Council Europe in judicial proceedings including regulatory and other administrative proceedings;
- m)** sign instruments which bind FTTH Council Europe with regard to third parties, neither the President nor the other Board members need to account for their powers to third parties;
- n)** elect all officers and appoint all agents (except the Director General) of FTTH Council Europe and fix their compensation;
- o)** collect the fees of the Members and administer the funds.

To the extent that the powers mentioned herein relate to day-to-day matters, the Board may delegate its powers to a Director General who shall be appointed pursuant to Article 20 (b).

(b) Executive Board Members. The Executive Board shall be composed of a minimum of 2 but not more than 9 members (physical individuals), including the President (“Executive Board Members”). Unless specifically otherwise provided herein, the terms and conditions applying to

Executive Board Members shall also apply to the President. The Executive Board shall not be remunerated.

- (c) **Elections.** The Executive Board Members shall be elected by the General Assembly from amongst the Principal Representatives of each Member.
- (d) **Term.** Unless otherwise decided by the General Assembly, the initial term of office of an Executive Board Member shall be one year, from one General Assembly meeting to the following General Assembly meeting. Thereafter an Executive Board Member can be re-elected two more times subject to each such re-election being limited to a one-year term.
- (e) **Provisional Board Members.** If a Member (Company) leaves the Executive Board for whatever reason, or if a person representing this Member Company leaves his/her company for whatever reason, he/she shall be replaced as set forth herein. In case the representative leaves his/her company, the Member Company whose appointee the Executive Board Member was, shall propose for approval by the remaining Executive Board members another individual as replacement. Failing such approval, the Executive Board will have to call for elections.
- (f) **Dismissal.** The General Assembly can dismiss the members of the Executive Board at any time.

Art. 15 Meetings

The Executive Board shall meet at least four times a year. In exceptional cases, justified by a situation of urgency and the interests of the Association, meetings can also be held by way of electronic communication provided, however, that matters which shall be voted upon at a non-physical meeting shall have been identified as such in the written notice calling for the meeting, that the written notice provides for sufficient detail on such matters and provided further that no one objects to a decision by electronic communication.. The Executive Board Members shall be duly notified of a meeting by way of a written notice. Electronic communications qualify as written notice. The notice shall identify and specify with sufficient detail the matters for which a vote will be required. Further details may be regulated in By-Laws. In case an Executive Board Member is unable to participate in a meeting, such Executive Board Member can also nominate, and be represented by, another Executive Board Member, provided, however, that no Executive Board Member can represent more than one other Executive Board member. Details for the registration of such a representation shall be set forth in the By-Laws. Resolutions of the Executive Board shall be filed by the Director General at the seat of FTTH Council Europe.

Art. 16 Quorum, Majority

- (a) **Quorum.** The Executive Board is properly convened if at least half of the

Executive Board Members of the Member Companies are present or represented.

- (b) Majority.** The first priority is to reach decisions by consensus. If this proves impossible and voting becomes necessary, each Executive Board Member shall possess one vote. A majority of two thirds of the votes of the Executive Board Members is required for the taking of decisions.

Part 5 PRESIDENCY

Art. 17 Election

The Executive Board of FTTH Council Europe shall elect a President among themselves, with the functions and powers set forth below in Article 18 ("President").

Art. 18 Functions and Powers

- (a) Functions.** The President or, in his absence, another Board member, shall preside over the meetings of the General Assembly and the Executive Board.
- (b) Powers.** The President, or in his absence, another Board member, shall have the following powers:
- (i) propose the agenda and preside at all meetings with the General Assembly and the Executive Board;
 - (ii) act as a liaison within the association and spokesperson for FTTH Council Europe towards third parties.

Part 6 COMMITTEES

Art. 19 Committees

The Executive Board may set up committees. In exceptional circumstances, committees may also be set up by the General Assembly. Committees shall in all matters concerning their composition, mandate, powers and duration be governed by the By-Laws. The Executive Board, on proposals submitted by the committees, shall appoint the Chair for them.

Part 7
SECRETARIAT, DIRECTOR GENERAL

Art. 20 Secretariat, Director General

- (a) **Secretariat.** FTTH Council Europe can appoint an individual with the functions set out below (“Director General”) and such other personnel as may be necessary for the fulfillment of the Director General’s functions (“Secretariat”) as described hereunder.
- (b) **Director General.** The Director General shall be appointed and dismissed by the General Assembly upon proposal by the Executive Board.
- (c) **Functions.** The Director General shall manage and control the affairs of FTTH Council Europe and shall have charge over the day-to-day administration of FTTH Council Europe as set forth in these Statutes. In particular, the Director General:
- (i) shall be responsible for ensuring the strict observance of the Statutes and By-Laws of FTTH Council Europe by the Members;
 - (ii) shall be responsible for the execution and implementation of FTTH Council Europe’s policies as determined by the Executive Board and approved by the General Assembly;
 - (iii) shall see to the strict impartiality and neutrality of the Secretariat of FTTH Council Europe;
 - (iv) shall be responsible for the smooth functioning of the Secretariat including personnel matters and for the services provided to the Members;
 - (v) shall have an essential and coordinating role between the Executive Board, the Members, the main committees and the issue groups;
 - (vi) participates in the meetings of the General Assembly and the Executive Board; other Secretariat members, upon consultation with the President, may also participate in such meetings;
 - (vii) shall be responsible for the execution of the approved budget.

The Executive Board shall further specify the functions and powers of the Director General.

Part 8 SUBSCRIPTIONS, ACCOUNTS, BUDGET

Art. 21 Subscription

The Members shall share the expenses of FTTH Council Europe by way of each Member paying a membership fee fixed annually by the General Assembly upon a proposal submitted by the Executive Board. This fee cannot be higher than 10,000 euros, unless all the Members decide otherwise in the respect of the quorum and majority rules foreseen in the present Statutes. This is without prejudice to any agreement among the Members, in accordance with the internal rules of FTTH Council Europe, to share further costs in connection with the activities of FTTH Council Europe.

The General Assembly may decide upon a lower membership fee for the non-profit organizations, academia or individual candidates.

Membership fees are non-refundable. Non-payment or excessive late payment (more than 90 days delay in payment) of the membership fee will create grounds for the exclusion of a Member

Art. 22 Liability

Without prejudice to Article 21, the liability of the Members for acts of FTTH Council Europe is limited to the subscription fee.

Art. 23 Financial Year

The financial year shall commence on 1st January and shall end on 31st December of each year.

The General Assembly will meet at least once a year at the latest on June 30 of each year. The Executive Board shall submit for the approval by the General Assembly the audited accounts of the past financial year and the budget of the current financial year.

Part 9 BY-LAWS

Art. 24 Issuing of By-Laws

The General Assembly on specific proposal from the Executive Board shall approve By-Laws compatible with the provisions of these Statutes, in order to ensure the functioning of FTTH Council Europe and its administration.

Part 10 AMENDMENTS, DISSOLUTION, EFFECTIVE DATE

Art. 25 Amendments to the Statutes, Dissolution

- (a) **Amendments; Dissolution.** Any decision to amend these Statutes and/or to dissolve FTTH Council Europe must receive a majority of two thirds of the votes of the Member Companies present or represented, while for these purposes, the General Assembly shall not be deemed to be properly convened unless two thirds of the Member Companies are present or represented at the meeting. The notice for such meeting must be sent to each Member two months in advance and, in cases of an amendment being part of the agenda, shall contain the proposed amendment.

If two-thirds of the Members are not convened at the meeting, the President shall call another meeting with the same agenda within the following two months, which meeting shall automatically constitute a quorum regardless of the number of Members present or represented, provided, however, that this has been clearly stated in the convocation of this second meeting.

- (b) **Liquidation.** In the event of a decision to dissolve FTTH Council Europe, the General Assembly shall decide on the method of liquidation of FTTH Council Europe and the destination of FTTH Council Europe's funds pursuant to the same quorum and majority requirements as are set forth in Article 25(a).

Amendments to the Statutes will become effective on the date the amended statutes are published in the *Moniteur* (Belgian Official Journal).

Part 11 GENERAL PROVISIONS

Art. 26 Miscellaneous

All matters which are not covered by the present Statutes, and in particular the publications in the annexes of the *Moniteur (Belgian Official Journal)*, shall be settled in accordance with the provisions of the applicable law of June 27, 1921, modified by the law of May 2, 2002 on the not-for-profit associations, international not-for-profit associations and foundations.

Art. 27 Language

To the extent required under Belgian law, documents and proceedings of FTTH Council Europe shall be drafted in French. The working language of FTTH Council Europe is English.