



ENTERTAINMENT  
Aktiengesellschaft

## **Corporate Governance Principles**

(as of December 19, 2003)

# German Corporate Governance Code

## 1. Foreword

The Management Board and Supervisory Board of Intertainment AG most recently on December 19, 2003, issued a declaration pursuant to Article 161 of the German Stock Corporation Law [Aktiengesetz]. They have stated that the recommendations of the "Government Commission on the German Corporate Governance Code" as amended on May 21, 2003, and announced on July 4, 2003, by the Federal Ministry of Justice in the official section of the electronic version of the Official Gazette of the Federal Republic [Bundesanzeiger] have been and are being complied with. Only a small number of recommendations are not being applied, or are being applied in modified form: Deviations from the recommendations ("should" provisions) and suggestions ("may" provisions) contained in the Code are identified in the text by the use of italics. Deviations from recommended provisions are explained in the Annex to the Code.

The German Corporate Governance Code (the "Code") gives the main statutory regulations on the management and supervision (governance) of German listed companies, and contains nationally and internationally recognized standards for good and responsible governance. The Code aims to make the German Corporate Governance system transparent and understandable. Its purpose in relation to national and international investors, customers, employees and the general public is to increase confidence in the management and supervision of listed German stock corporations.

The Code clarifies the rights of shareholders who provide the company with the required equity capital and who carry the entrepreneurial risk.

A dual board system is prescribed by law for German stock corporations:

The Management Board is responsible for managing the enterprise. Its members are jointly accountable for running the business. The Chairman of the Management Board coordinates the work of the members of the Management Board.

The Supervisory Board appoints, supervises and advises the members of the Management Board, and is directly involved in decisions of fundamental importance to the enterprise. The chairman of the Supervisory Board coordinates the work of the members of the Supervisory Board.

The members of the Supervisory Board are elected by the shareholders at the General Meeting.

The dual board system, also established in other continental European countries, and the internationally widespread system of management by a single management body (Administrative Board) converge in practice, due

to the intensive interaction of the Management Board and the Supervisory Board. Both systems are equally successful.

The accounting standards of German enterprises are geared towards the "true and fair view" principle, and give a fair picture of the company's actual asset, financial and earnings situation.

## **2. Shareholders & General Meeting**

### **2.1**

#### **Shareholders**

##### **2.1.1**

Shareholders exercise their rights at the General Meeting and vote there.

##### **2.1.2**

In principle, each share carries one vote. There are no shares with multiple voting rights, preferential voting rights (golden shares) or maximum voting rights.

### **2.2**

#### **General Meeting**

##### **2.2.1**

The Management Board submits to the General Meeting the Annual Financial Statements and the Consolidated Financial Statements. The General Meeting adopts resolutions on appropriating net income and on approving the acts of the Management Board and of the Supervisory Board. It elects the shareholders' representatives to the Supervisory Board and, as a rule, the auditors.

Furthermore, the General Meeting adopts resolutions on the Articles of Association, the purpose of the company, amendments to the Articles of Association, and essential corporate measures such as, in particular, inter-company agreements and changes in corporate form, the issuing of new shares and of convertible and negotiable bonds, and the authorization to purchase company-owned stock.

##### **2.2.2**

When new shares are issued, shareholders on principle have pre-emptive rights corresponding to their share of the equity capital.

##### **2.2.3**

Each shareholder is entitled to attend the General Meeting, to take the floor on matters on the agenda, and to submit materially relevant questions and motions.

##### **2.2.4**

The chairman of the meeting provides for the expedient running of the General Meeting.

## **2.3**

### **Invitation to the General Meeting, Proxies**

#### **2.3.1**

At least once a year a shareholders' General Meeting must be convened by the Management Board giving details of the agenda. A minority of shareholders is entitled to demand the convening of a General Meeting and additions to the agenda. The Management Board must not only display the reports and documents - including the Annual Report - required by law for the General Meeting, and send them to shareholders upon request, but also publish them on the company's website together with the agenda.

#### **2.3.2**

The company must send a notice about the convening of the General Meeting to all domestic and foreign shareholders, shareholders' associations and financial services providers who in the preceding 12 months have requested such notification, enclosing the convention documents, and using electronic channels if so requested.

#### **2.3.3**

The company facilitates the personal exercising of shareholders' voting rights. The company also has to assist the shareholders in the use of proxies. The Management Board has to make arrangements enabling the appointment of a representative who exercises shareholders' voting rights in accordance with instructions.

## **3. Cooperation between Management Board and Supervisory Board**

### **3.1**

The Management Board and the Supervisory Board cooperate closely to the benefit of the enterprise.

### **3.2**

The Management Board coordinates the enterprise's strategic approach with the Supervisory Board, and discusses the strategy implementation stages with the Supervisory Board at regular intervals.

### **3.3**

For transactions of fundamental importance, the Articles of Association or the Supervisory Board specify provisions requiring the approval of the Supervisory Board. These include decisions or measures which fundamentally change the company's asset, financial or earnings situation.

### **3.4**

Providing sufficient information to the Supervisory Board is the joint responsibility of the Management Board and the Supervisory Board.

The Management Board informs the Supervisory Board regularly, without

delay and comprehensively, about all issues important to the enterprise regarding planning, business development, risk situation and risk management. The Management Board points out where actual business developments diverge from previously formulated plans and targets, indicating the reasons therefor.

The Supervisory Board specifies the Management Board's information and reporting duties in more detail. The Management Board's reports to the Supervisory Board are, as a rule, to be submitted in writing. Documents required for decisions, in particular the Annual Financial Statements, the Consolidated Financial Statements and the Auditors' Report, are to be sent to the members of the Supervisory Board as soon as possible before the meeting.

### 3.5

Good corporate governance requires an open discussion between the Management Board and the Supervisory Board, as well as among the members within the Management Board and the Supervisory Board. Thorough observance of confidentiality is of paramount importance for this.

All board members ensure that the staff they employ likewise observe the confidentiality obligation.

### 3.6

If necessary, the Supervisory Board will meet without the Management Board.

### 3.7

In the event of a takeover offer, the Management Board and Supervisory Board of the target company must submit a substantiated statement of their position, so that the shareholders can make an informed decision on the offer.

After the announcement of a takeover offer, the Management Board may not do any actions outside the ordinary course of business that might prevent the success of the offer, unless the Management Board has been authorized to do so by the General Meeting or the Supervisory Board has given its approval. In making their decisions, the Management and Supervisory Boards are obliged to act in the best interests of the shareholders and of the enterprise.

In appropriate cases, the Management Board will convene an extraordinary General Meeting, at which shareholders discuss the takeover offer and decide on corporate actions if necessary.

### 3.8

The Management Board and the Supervisory Board comply with the rules of proper corporate management. If they culpably violate the obligation to exercise due care and the diligence of a prudent and conscientious

Managing Director or Supervisory Board member, they will be liable to the company for damages.

### 3.9

Extending loans from the enterprise to members of the Management and Supervisory Boards or their relatives requires the approval of the Supervisory Board.

### 3.10

The Management Board and Supervisory Board will report annually on the enterprise's corporate governance in the Annual Report. This includes an explanation of possible deviations from the recommendations of this Code (the so-called Declaration of Accordance). This Declaration must be made permanently available to the shareholders in the Internet. Furthermore, a statement to the effect that the Declaration has been made and that it has been made available to the shareholders has to be included in the Notes to the Annual Financial Statements. Comments can also be provided on the Code's suggestions.

## **4. Management Board**

### **4.1**

#### **Tasks and Responsibilities**

##### 4.1.1

The Management Board manages the enterprise on its own responsibility. In doing so, it is obliged to act in the enterprise's best interests and to increase the sustainable value of the enterprise.

##### 4.1.2

The Management Board develops the enterprise's strategy, coordinates it with the Supervisory Board, and ensures its implementation.

##### 4.1.3

The Management Board ensures that all provisions of law are abided by, and works to achieve their compliance by group companies.

##### 4.1.4

The Management Board ensures appropriate risk management and risk controlling in the enterprise.

## 4.2

### Composition and Compensation

#### 4.2.1

The Management Board comprises several persons and it has a Chairman. Terms of Reference govern the allocation of areas of responsibility and cooperation within the Management Board.

#### 4.2.2

At the proposal of the committee dealing with Management Board contracts, the full Supervisory Board has to discuss and regularly review the structure of the Management Board compensation system.

The compensation paid to the members of the Management Board, taking into account any payments by group companies, is fixed by the Supervisory Board at an appropriate amount based on a performance assessment. The criteria for determining the appropriateness of compensation are, in particular, the tasks of the respective member of the Management Board, his personal performance, the performance of the Management Board as well as the economic situation, and the performance and prospects of the enterprise taking into account its peer companies.

#### 4.2.3

The overall compensation paid to the members of the Management Board consists of a fixed salary and of variable components. The variable remuneration includes one-time and annually recurring components linked to business performance, as well as long-term incentives containing risk elements. All compensation components must be appropriate, both individually and in total.

In particular, company stocks with a multi-year blocking period, stock options or comparable instruments (e.g. phantom stocks) serve as variable forms of remuneration with a long-term incentive effect and risk elements. Stock options and comparable instruments are related to demanding, relevant comparison parameters. Changing such performance targets of the comparison parameters retroactively will be excluded. For extraordinary, unforeseen developments a possibility of limitation (Cap) will be agreed for by the Supervisory Board.

The salient points of the compensation system and the concrete form of a stock options scheme or comparable instruments for components with long-term incentive effect and risk elements has to be published on the company's website in plainly understandable form and to be detailed in the annual report. This shall include information on the value of stock options.

The Chairman of the Supervisory Board has to outline the salient points of the compensation system and any changes thereto to the General Meeting.

#### 4.2.4

The remuneration paid to the members of the Management Board must be reported in the Notes to the Consolidated Financial Statement, broken down into fixed, performance-related and long-term incentive components. The figures shall be individualized.

### 4.3

#### **Conflicts of interest**

##### 4.3.1

During their employment for the enterprise, members of the Management Board are subject to a comprehensive non-competition obligation.

##### 4.3.2

In connection with their work, members of the Management Board and employees may not demand or accept payments or other advantages for themselves or for any other person from third parties, nor may they grant third parties unlawful advantages.

##### 4.3.3

Members of the Management Board are bound to serve the enterprise's best interests. No member of the Management Board may pursue personal interests when making decisions, or use business opportunities to his own advantage that are intended for the enterprise.

##### 4.3.4

Each member of the Management Board must disclose conflicts of interest to the Supervisory Board without delay, and inform the other members of the Management Board accordingly. All transactions between the enterprise on the one hand, and the members of the Management Board or individuals or companies with which they are related or associated on the other, must meet the standards customary in the sector. Important transactions require the approval of the Supervisory Board.

##### 4.3.5

Members of the Management Board may only assume extracurricular activities, especially Supervisory Board mandates outside the enterprise, with the approval of the Supervisory Board.

## **5. Supervisory Board**

### **5.1**

#### **Tasks and Responsibilities**

##### **5.1.1**

The task of the Supervisory Board is to regularly advise and supervise the Management Board in the management of the enterprise. It must be involved in decisions of fundamental importance to the enterprise.

##### **5.1.2**

The Supervisory Board appoints and dismisses the members of the Management Board. Together with the Management Board, it must ensure long-term plans for succession. The Supervisory Board may delegate preparing for the appointment of members of the Management Board to a committee, which also determines the conditions of the employment contracts including compensation.

The maximum possible appointment period of five years may not generally apply for first-time appointments. A re-appointment more than one year before the end of the term of office with a simultaneous termination of the current appointment may only be made under special circumstances and provided this is in accordance with German Stock Corporation Law s. 84 (1) [§ 84 section 1 AktG].

No one who has reached the age of 65 should be a member of the Management Board of the company.

##### **5.1.3**

The Supervisory Board issues its own Terms of Reference.

### **5.2.**

#### **Tasks and Authorities of the Chairman of the Supervisory Board**

The Chairman of the Supervisory Board coordinates work within the Supervisory Board and chairs its meetings.

The Chairman of the Supervisory Board regularly maintains contact with the Management Board, in particular with its Chairman, and confers with him on matters regarding the enterprise's strategy, business development and risk management. The Chairman of the Supervisory Board will be informed by the Chairman of the Management Board without delay about important events which are essential for an assessment of the situation and developments, as well as for the management of the enterprise. The Chairman of the Supervisory Board must then inform the Supervisory Board and, if required, convene an extraordinary meeting of the Supervisory Board.

## **5.3**

### **Formation of Committees**

#### **5.3.1**

Depending on the enterprise's specific circumstances and on the number of its members, the Supervisory Board has to form committees with qualified expertise. These serve to increase the efficiency of the Supervisory Board's work and the handling of complex issues. The respective committee chairmen report regularly to the Supervisory Board on the work done by the committees.

#### **5.3.2**

When forming committees, the Supervisory Board has to set up an Audit Committee which, in particular, handles issues regarding accounting and risk management, the independent status required of the auditor, the assignment of the auditing task to the auditor, the definition of the main focus during auditing, and the fee agreement. The Chairman of the Audit Committee may not be a former member of the company's Management Board.

The chairman of the Supervisory Board is at the same time the chairman of the committee dealing with the contracts for the Management Board and preparing the meetings of the Supervisory Board. He may not chair the Audit Committee.

#### **5.3.3**

The Supervisory Board can delegate other matters to be dealt with to one or more committees. These matters include corporate strategy, the remuneration paid to the members of the Management Board, investments and financing.

#### **5.3.4**

The Supervisory Board can arrange for committees to prepare Supervisory Board meetings, and beyond this to take decisions in place of the Supervisory Board.

## **5.4**

### **Composition and Compensation**

#### **5.4.1**

When nominations are made for elections to the Supervisory Board, utmost care must be taken to ensure that the Supervisory Board is made up at all times of members who have the required knowledge, skills and professional experience to duly perform the tasks, and who are sufficiently independent. In addition, the international activities of the enterprise and any potential conflicts of interest must also be taken into account.

No one who has reached the age of 75 may be a member of the company's Supervisory Board. If a member of the Supervisory Board reaches this age limit during his period of office, he may remain in office and active duty until the next regular General Meeting.

#### 5.4.2

The Supervisory Board's independent advice and supervision of the Management Board is ensured by permitting no more than two former members of the Management Board on the Supervisory Board, and by not allowing the members of the Supervisory Board to have an administrative status or to perform advisory tasks for important competitors of the enterprise.

#### 5.4.3

Every member of the Supervisory Board must ensure that he/she has sufficient time to perform his/her mandates. Anyone who is a member of the Management Board of a listed company may not accept more than a total of five Supervisory Board mandates in non-group listed companies.

#### 5.4.4

The election or re-election of members of the Supervisory Board at different dates and for different periods of office enables changing requirements to be taken into account.

#### 5.4.5

Remuneration paid to the members of the Supervisory Board is fixed in a resolution adopted by the General Meeting or in the Articles of Association. It takes into account the responsibilities and scope of tasks of the respective members of the Supervisory Board, as well as the company's economic situation and performance. The chairmanship and deputy chairmanship of the Supervisory Board are also taken into consideration for this purpose, as are the chairmanship and membership in committees.

The members of the Supervisory Board receive fixed as well as performance-related compensation. The performance-related compensation also contains components based on the long-term performance of the enterprise.

The remuneration paid to the members of the Supervisory Board has to be individually specified in the Notes to the Consolidated Financial Statement, broken down into components. The compensation payments made by the enterprise to the members of the Supervisory Board, or the rewards extended for services provided in person, particularly advisory services or procurement, also have to be listed separately in the Notes to the Consolidated Financial Statement.

#### 5.4.6

If a member of the Supervisory Board attends less than half of the meetings of the Supervisory Board in any financial year, this is noted in the Supervisory Board's Report.

### 5.5

#### **Conflicts of Interest**

##### 5.5.1

All members of the Supervisory Board are bound by the enterprise's best interests. No member of the Supervisory Board may pursue personal interests when making decisions, or use business opportunities to his own advantage that are intended for the enterprise.

##### 5.5.2

Each member of the Supervisory Board must disclose to the Supervisory Board any conflicts of interest, particularly ones which may arise from holding an administrative post or providing consultancy services to clients, suppliers, financial backers or other business partners.

##### 5.5.3

In its report, the Supervisory Board has to inform the General Meeting of any conflicts of interest which have occurred, and on how they are each to be dealt with. If any member of the Supervisory Board has a major conflict of interest of more than temporary nature, then his mandate must be terminated.

##### 5.5.4

Consultancy agreements and other contracts for work and services entered into by a member of the Supervisory Board and the company require the Supervisory Board's approval.

### 5.6

#### **Efficiency Review**

The Supervisory Board has to scrutinize and assess the efficiency of its activities on a regular basis.

## **6. Transparency**

### 6.1

The Management Board will disclose without delay any new facts which have arisen within the enterprise's field of activity and which are not known publicly, if, owing to their impact on the asset and financial situation or on

the general business development, such facts could substantially influence the stock market price of the company's registered securities.

## 6.2

As soon as the company becomes aware of the fact that anyone acquires, exceeds or falls short of 5, 10, 25, 50 or 75% of the voting rights in the company by reason of a purchase or sale or in any other manner, the Management Board has to disclose this fact without delay.

## 6.3

The company has to treat all shareholders equally with regard to information. All new facts relevant to the share price that are made known to financial analysts and comparable addressees also have to be disclosed by the company to the shareholders without delay.

## 6.4

The company has to use suitable communication media, such as the Internet, to inform shareholders and investors in a prompt and uniform manner.

## 6.5

Any information which the company publishes abroad in accordance with the provisions of that country's capital market legislation, also has to be disclosed domestically without delay.

## 6.6

The purchase or sale of shares in the company, or of related buying or selling rights (e.g. options), and of rights directly dependent on the company's stock market price by members of the Management Board and Supervisory Board of the company or its parent company and by related parties must be reported to the company without delay. Purchases based on employment contracts or constituting a component of remuneration, and minor buying and selling transactions (EURO 25,000 in 30 days), are excepted from this reporting requirement. The company must publish the disclosure without delay.

Corresponding information has to be provided in the Notes to the Consolidated Financial Statement. The shareholdings, including options and derivatives, held by individual Management Board and Supervisory Board members must be reported if these directly or indirectly exceed 1% of the shares issued by the company. If the entire holdings of all members of the Management Board and Supervisory Board exceed 1% of the shares issued by the company, then the entire holdings have to be reported for the Management Board and the Supervisory Board separately.

## 6.7

As part of regular information policy, the publication dates of important periodic publications (including the Annual Report, Interim Reports, General Meeting) are published well in advance in a "Financial Calendar."

## 6.8

Information about the enterprise that is published by the company and is relevant to the share price must also be accessible on the company's website. The website is clearly structured. Publications must also be made in English.

## **7. Reporting and Audit of the Annual Financial Statement**

### **7.1**

#### **Reporting**

##### 7.1.1

Shareholders and third parties are mainly informed by way of the Consolidated Financial Statement. They are kept informed during the financial year by means of interim reports. The Consolidated Financial Statement and the Interim Reports are prepared according to internationally recognized accounting principles. For corporate law purposes (calculation of dividend, protection of creditors), Annual Financial Statements are prepared according to national regulations (German Commercial Code), which also form the basis for taxation.

##### 7.1.2

The Consolidated Financial Statement is prepared by the Management Board and examined by the auditor and the Supervisory Board. The Consolidated Financial Statement is available to the public within four months of the financial year closing, the interim reports are available within two months of the end of the period under review.

##### 7.1.3

The Consolidated Financial Statement contains specific information about the company's stock option programs and similar securities-based incentive schemes.

##### 7.1.4

The company has to publish a list of third party companies in which it has a shareholding that is of more than minor importance for the enterprise. The following must be given: name and registered office of the company, the amount of the shareholding, the amount of equity and the operating result in the past financial year.

##### 7.1.5

Detailed information about relationships with shareholders considered to be "related parties" under the applicable accounting regulations has to be provided in the Consolidated Financial Statement.

## 7.2

### **Audit of Annual Financial Statements**

#### 7.2.1

Before making a nomination, the Supervisory Board or the Audit Committee should obtain a statement from the proposed auditor, stating whether and where applicable which professional, financial and other links exist between the auditor and his executive bodies and head auditors on the one hand, and the enterprise and the members of its executive bodies on the other, such as might cast doubt on the auditor's independence. This statement must also include any information regarding the extent to which other services were performed for the enterprise in the past year, especially in the field of consultancy, or have been contracted for the following year.

The Supervisory Board must agree with the auditor that the Chairman of the Supervisory Board or Audit Committee will be informed immediately of any grounds for disqualification or prejudice occurring during the audit, unless such grounds are eliminated immediately.

#### 7.2.2

The Supervisory Board commissions the auditor to carry out the audit, and concludes an agreement with him on the fee.

#### 7.2.3

The Supervisory Board agrees that the auditor report without delay on all facts and events of importance for the duties of the Supervisory Board such as may come to light during the conducting of the audit.

The Supervisory Board agrees that the auditor inform the Supervisory Board and/or make a note in the Auditor's Report, if the auditor establishes facts when conducting the audit which would imply a misstatement of the Management Board and of the Supervisory Board with respect to the Declaration on the Code.

#### 7.2.4

The auditor has to attend the Supervisory Board's deliberations on the Annual Financial Statements and Consolidated Financial Statements, and report on the main conclusions of his audit.

## Annex:

### **Deviations from the Corporate Governance Code**

There follows an explanation of the respects in which the Corporate Governance Principles of Intertainment AG deviate from the recommendations of the Corporate Governance Code (Declaration of Conformity as per Article 161 of the German Stock Corporation Law):

- **Figure 3.8, Paragraph 2: Self-insured retention in the case of D&O insurance**

Should the company arrange D&O insurance for the Management Board and Supervisory Board, an appropriate self-insured retention should be agreed.

The Management Board and Supervisory Board of Intertainment AG are of the opinion that the executive bodies will discharge their duties to their full extent in a responsible and motivated manner even without a self-insured retention. Therefore Intertainment has made no change to existing D&O insurance arrangements which in the past foresaw no self-insured retention and will continue to arrange future D&O insurance without such retention.

- **Figure 4.2.4: Individualized publication of Management Board salaries**

The remuneration paid to Management Board members should be revealed in the notes to the consolidated financial statements, detailing fixed salaries, performance-related components and long-term incentive components. The information should be presented on an individualized basis.

Intertainment will reveal the remuneration paid to Management Board members in the course of the 2003 financial year, broken down for the first time into fixed salaries, performance-related components and long-term incentive components. However, in the case of a Management Board comprised of two members, Intertainment does not consider that an individualized presentation would enhance transparency.

- **Figure 7.1.2: Deadline for the publication of the consolidated annual financial statements and interim reports**

The consolidated annual financial statement should be publicly accessible within 90 days following the end of the financial year and the interim reports within 45 days of the end of the reporting period.

Due to the special nature of industry-typical accounting modalities, Intertainment AG will comply with the four-month deadline as per Article 77 in conjunction with Article 62, Para. 3, Sentence 1 of the Frankfurt Stock Exchange rules (Prime Standard) for publication of the consolidated annual financial statement and with the two-month deadline as per Article 78 in

conjunction with Article 63, Para. 8, Sentence 1 of the Frankfurt Stock Exchange rules (Prime Standard) for the publication of interim reports.