



# Privacy Policy



## Personal data processing policy

### Introduction

As Data Subject (Website User or Visitor), Legislative Decree no. 196/2003 ("Data Protection Code" - hereinafter referred to as "**Code**"), provides for the protection of your Personal Data processing.

In accordance with the provisions of the Code and the relevant legislation, your data will be processed according to the principles of correctness, lawfulness and transparency by respecting your rights, fundamental freedoms and dignity, in particular with regard to privacy, personal identity and your right to Personal Data protection.

This information is provided pursuant to Section 13 of the Code and is subject to updates published on the website [www.mobyt.it](http://www.mobyt.it).

### Definitions

For the purposes of this information:

- a) **Data Bank**, shall mean any set of Personal Data, divided into one or more units located in one or more Mobyt S.p.A. websites and its subsidiaries and affiliates;
- b) **Customer**, shall mean any natural or legal person, public administration, body, association or other agency that has signed a contract for the provision of messaging services by means of SMS and/or e-mail messaging services with Mobyt S.p.A.;
- c) **Communication**, shall mean the disclosure of Personal Data to one or more identified subjects other than the Data Subject, the representative of the Controller in the territory of the State, the Processor and the Persons in Charge, in any form, including by making available or searching such data;
- d) **Traffic Data**, shall mean any data processed for the purpose of the conveyance of a communication on an electronic communications network or for the billing thereof
- e) **Personal Data**, shall mean any information relating to natural persons that are or can be identified, even indirectly, by reference to any other information including a personal identification number;
- f) **Person in Charge**, shall mean the natural person that has been authorised by the Data Controller or Processor to carry out processing operations;
- g) **Data Subject**, shall mean any natural person that is the subject of the Personal Data;
- h) **Processor**, shall mean any natural or legal person, public administration, body, association or other agency that processes Personal Data on the controller's behalf;
- i) **Controller**, shall mean any natural or legal person, public administration, body, association or other entity that is competent, also jointly with another

- Data Controller, to determine purposes and methods of the processing of Personal Data and the relevant means, including security matters;
- j) **Processing**, shall mean any operation, or set of operations, carried out with or without the help of electronic or automated means, concerning the collection, recording, organisation, keeping, interrogation, elaboration, modification, selection, retrieval, comparison, utilisation, interconnection, blocking, communication, dissemination, erasure and destruction of data, whether the latter are contained in a data bank or not;
- k) **User**, shall mean a natural person using a publicly available electronic communications service for private or business purposes, without necessarily being a contracting party to such service.

### Data Controller

The Data Processing Controller is Mobyt S.p.A., with registered office in Via Montenapoleone, 29, 20121 Milan, Company and VAT Number no. 01648790382, except as provided in the relevant information given to the Data Subject regarding SMS messaging services and e-mail messaging services, in respect of which Mobyt S.p.A. may designate one or more Data Processors, pursuant to Section 29 of the Code.

### Data Processing Location

Data processing related to the web services is performed at the headquarters of Mobyt S.p.A. and connected and controlled companies, and is exclusively carried out by the technical staff of the office in charge of processing.

### Types of Data Processed

#### Browsing data

During their ordinary course of operation, the IT systems and software procedures required to run the website [www.mobyt.it](http://www.mobyt.it) acquire certain Personal Data, whose transmission is implicit in the use of Internet communication protocols. This information is not collected to be associated with identified Data Subjects but, by its very nature, it could enable identification of the users through the processing and matching of data held by third parties. This data category includes IP addresses or domain names of computers used by the users who visit the site, of the requested resources, the time of the request, the method used to submit the request to the server, the size of the file received in reply, the numerical code indicating the status of the reply from the server (done, error, etc.) and other parameters related to the operating system and the IT environment of the user.

These data are only used to obtain anonymous statistical information on the use of the website and to control its correct functioning and are immediately deleted after processing. The data may be used to ascertain responsibility in the event of any potential computer crimes against the site. In any case, the data are kept by Mobyt

S.p.A. for the time strictly necessary and in any case pursuant to current relevant norms and regulations.

Data provided voluntarily by users

The voluntary, optional and explicit dispatching of Data to Mobyt S.p.A. by the User (e.g. when registering in the Mobyt S.p.A. Data Bank or entering their Data by filling in specific forms, also in order to verify the ability to access the services provided by the company, and sending e-mail to the addresses provided on the website) entails the subsequent acquisition of the sender's address and the provided data, for which the User gives explicit consent to their Processing.

Data collected through the [www.mobyt.it](http://www.mobyt.it) website

The use of the [www.mobyt.it](http://www.mobyt.it) website for the transmission of SMS/MMS and e-mail communications allows you to detect the opening of a message, from which IP address or by what type of browser the email was opened, and other technical details. The collection of such data is functional to the use of the service offered by Mobyt S.p.A. and forms an integral part of the message delivery system features.

Personal Data collected through filling in forms on the [www.mobyt.it](http://www.mobyt.it) website - also in the case of free trial use of SMS/MMS and e-mail services - are collected and processed for the following purposes:

- a) carrying out the relationship with the Customer in accordance with the contract;
- b) management of the administration and fulfilment of legal obligations (e.g. accounting, tax), or to comply with the requests of the Judicial Authority;

Data provided voluntarily by users for marketing purposes

If the User has also consented to the Processing of Personal Data to receive advertising and promotional communications about Mobyt S.p.A. services, enjoy discounts, gifts and exclusive offers, pursuant to Section 13 of the Code, it is stated that:

- a) Processing is based on the principles of correctness, lawfulness and transparency and pursues the following aims:
  - i. conclude, manage and carry out the request made by the Data Subject to subscribe to Mobyt S.p.A.'s newsletter and mailing list in order to receive commercial and/or promotional and/or advertising communications about the services of Mobyt S.p.A. via e-mail or SMS;
  - ii. organise, manage and execute the request for registration also through the communication of the Data to third party suppliers or to subsidiaries and/or affiliates;
  - iii. to comply with legal obligations or other obligations required by the competent authorities;
- b) The collected data are used by Mobyt S.p.A. to manage the newsletter and mailing list subscription request and will be made known to third parties for

the protection of rights and fulfilment of obligations under the law or regulations and upon request by the competent authorities.

To interrupt the transmission and for deletion from the newsletter and mailing list, the Data Subject can at any time undertake the cancellation procedure from the service following the instructions contained in the communications received.

### Data processing method, purpose and duration

Data collected by Mobyt S.p.A. shall be processed automatically and/or manually, with methods and instruments according to the end they were collected for, guaranteeing maximum security and confidentiality.

Specifically:

#### 1. Personal Data

Mobyt S.p.A. processes Personal Data based on the principles of correctness, lawfulness and transparency and has the following aims:

- a) conclude, manage and carry out requests for contact or provision of services forwarded by the Data Subject;
- b) organise, manage and carry out requests for contact and provision of services also by means of communication to third parties in general, including suppliers and/or collaborators and/or subsidiaries and/or affiliated companies for the provision of services and/or rights defence and/or fulfilment of obligations under the law or regulations and upon request by the competent authorities.

The Personal Data of the Data Subject may be used to request information, including by telephone, concerning the quality of the services offered, or relating to any cancellation, and with particular reference to the Traffic Data Processing for the purpose of marketing the services, pursuant to Section 123 of the Code.<sup>1</sup> Such Data may also be stored for periods longer than those specified in Section 123 of the Code,

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<sup>1</sup> \* Section 123 (Traffic Data)

1. Traffic Data relating to contracting parties and users that are processed by the provider of a public communications network or publicly available electronic communications service shall be erased or made anonymous when they are no longer necessary for the purpose of transmitting the electronic communication, subject to paragraphs 2, 3 and 5.

2. Providers shall be allowed to process Traffic Data that are strictly necessary for contracting parties' billing and interconnection payments for a period not in excess of six months in order to provide evidence in case the bill is challenged or payment is to be pursued, subject to such additional retention as may be specifically necessary on account of a claim also lodged with judicial authorities.

3. For the purpose of marketing electronic communications services or for the provision of value added services, the provider of a publicly available electronic communications service may process the data referred to in paragraph 2 to the extent and for the duration necessary for such services or marketing, on condition that the contracting party or user to whom the data relate has given his/her prior consent. Such consent may be withdrawn at any time.

4. In providing the information referred to in Section 13, the service provider shall inform a contracting party or user on the nature of the Traffic Data processed as well as on duration of the processing for the purposes referred to in paragraphs 2 and 3.

5. Processing of Traffic Data shall be restricted to persons in charge of the processing who act – pursuant to Section 30 – directly under the authority of the provider of a publicly available electronic communications service or, where applicable, the provider of a public communications network and deal with billing or traffic management, customer enquiries, fraud detection, marketing of electronic communications or the provision of value-added services. Processing shall be restricted to what is absolutely necessary for the purposes of such activities and must allow identification of the Person in Charge of the processing who accesses the data, also by means of automated interrogation procedures.

6. The Authority for Communications Safeguards may obtain traffic and billing data that are necessary for settling disputes, particularly with regard to interconnection or billing matters.

but in any case for the duration strictly necessary to attain the purposes for which they are kept.

Personal Data processing shall be carried out automatically and/or manually, and for the time strictly necessary to achieve the purposes for which the data have been collected. Specific security measures are implemented to prevent data loss, misuse or incorrect use of data, and unauthorised access.

## 2. Data related to SMS/MMS and e-mail service

The Customer or the User who enters or otherwise submits Third Party Data must ensure, assuming all responsibility, that he/she has previously provided the third parties with the information pursuant to Section 13 of the Code and to have acquired the required consent for data processing, pursuant to Section 130 of the Code.<sup>2</sup>

<sup>2</sup>

\* Section 130 (Unsolicited communications)

1. Without prejudice to the provisions made in sections 8 and 21 of legislative decree no. 70 dated 9 April 2003, the use of automated calling or communications systems without human intervention for the purposes of direct marketing or sending advertising materials, or else for carrying out market surveys or interactive business communication shall only be allowed with the contracting party's or user's consent.

2. Paragraph 1 shall also apply to electronic communications performed by e-mail, facsimile, MMS (Multimedia Messaging Service) or SMS (Short Message Service) -type messages or other means for the purposes referred to therein.

3. Except as provided for in paragraphs 1 and 2, further communications for the purposes referred to therein as performed by different means shall be allowed in pursuance of Sections 23 and 24 as well as under the terms of paragraph 3-bis below.

3-bis. By way of derogation from Section 129, processing by telephone and mail of the data referred to in Section 129(1) for the purposes set forth in Section 7(4), letter b., shall be allowed in respect of any entities that have not exercised their right to object, via simplified mechanisms including the use of electronic networks, by having the respective telephone numbers and other Personal Data as per Section 129(1) entered in a public opt-out register.

3-ter. The register as per paragraph 3-bis shall be set up by a decree of the President of the Republic to be adopted in pursuance of section 17(2) of Act no. 400 dated 23 August 1988 following a resolution by the Council of Ministers, after obtaining the opinions of the Council of State and the competent Parliamentary Committees – to be rendered within thirty days of the respective requests – as well as the opinion of the Authority for Communications Safeguards with regard to the issues falling under the latter Authority's scope of competence – to be rendered within the same deadline; the following general standards and principles shall have to be followed:

(a) the register shall be set up with and managed by a public body and/or organisation that has vested competences in this area;

the body and/or organisation in charge for setting up and managing the register shall have to rely on the human resources and tools it holds at its disposal; alternatively, setting up and management of the register may be committed to third parties, which shall undertake to be liable for all the relevant financial and organisational charges, by way of a contract for the supply of services in accordance with the Code of Public Contracts relating to works, services and supplies as per legislative decree no. 163 dated 12 April 2006. The entities resorting to the register in order to carry out their communications shall be charged an access tariff based on the actual operational and maintenance costs. The Ministry for Economic Development shall determine the said tariffs by an order;

(c) The technical arrangements applying to operation of the register shall be such as to enable every user to request that the respective number be entered in the register via simplified mechanisms including the use of electronic networks and/or the telephone;

(d) The technical arrangements applying to operation of and access to the register shall be such as to enable selective queries that should not allow transferring the data contained in the said register, whereby all the operations shall be logged and the access data shall be stored;

e) The timeline and arrangements for entering and updating information in the register shall be set forth, whereby no distinction shall be drawn in terms of industry sector and/or type of commodity, and the maximum period shall be laid down during which the validated data contained in the register may be used; it shall be provided that the data are entered in the register for an indefinite amount of time and may be removed therefrom at any time via simple mechanisms and free of whatever charge;

(f) any entities processing data for the purposes mentioned in section 7(4), letter b., shall be required to ensure presentation of calling line identification and provide the appropriate information to users, with particular regard to the possibility and arrangements to have their data entered in the register so as to object to being contacted in future;

(g) it shall be provided that inclusion in the register does not prevent processing of the data that have been acquired via other channels and are processed in compliance with sections 23 and 24.

3-quater. Supervision and control over organisation and operation of the register as per paragraph 3-bis and the relevant data processing operations shall be committed to the Italian data protection authority.

4. Subject to paragraph 1, where a Data Controller uses, for direct marketing of his/her own products or services, electronic contact details for electronic mail supplied by a Data Subject in the context of the sale of a product or service, said Data Controller may fail to request the Data Subject's consent, on condition that the services are similar to those that have been the subject of the sale and the Data Subject, after being adequately informed, does not object to said use either initially or in connection

The data relating to the transmissions made by Mobyt S.p.A. customers (telephone numbers of the recipients/users/e-mail addresses) and communicated to Mobyt S.p.A. by the Customer will be stored in Mobyt S.p.A.'s Data Bank with the purpose of addressing any critical issues regarding technical support, any abuses and for statistical purposes.

Data regarding the recipient/user's telephone numbers/email addresses and any data regarding the communications made by the customers will never be transferred to third parties.

No commercial information, promotional notice or any kind of notice by Mobyt S.p.A. will be sent to the recipient/users' telephone numbers/e-mail addresses.

Data traffic and the content of the SMS/MMS and e-mails are retained by Mobyt S.p.A., in accordance with the explicit consent given by the Customer in the contract for the services provided by Mobyt S.p.A. for a period not exceeding 24 months for the purpose of:

- a) preventing and countering crimes;
- b) documentation in the event of a billing dispute or for requesting payment also in court;
- c) the marketing of electronic communication services or the provision of value-added services;
- d) consultation by the customer, by accessing the [www.mobyt.it](http://www.mobyt.it) website by means of appropriate login and password;
- e) internal organisation and statistical surveys, as well as to meet any requests for delivery and/or display of advanced data by authorised persons such as, for example, administrative, judicial or public security authorities.

### 3. Optional Data Provision

Except for Navigation Data, the disclosure of Data by the Data Subject is optional, but any refusal may not allow Mobyt S.p.A. to provide timely and correct handling of the contact request or provision of the service performed by the Data Subject.

### **Mobyt S.p.A.'s appointment as a Processor for the Data Controller Customer**

In cases where, as Data Processing Controller of the final SMS and/or e-mail recipients, the Customer appoints Mobyt S.p.A. External Data Processor of SMS and/or e-mail end-users/recipients – without prejudice to the Customer's responsibility regarding the use of SMS and/or e-mail end-users/recipients and the

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with subsequent communications. The Data Subject shall be informed of the possibility to object to the processing at any time, using simple means and free of charge, both at the time of collecting the data and when sending any communications for the purposes referred to in this paragraph.

5. In any event, the practice of sending communications for the purposes referred to in paragraph 1 or anyhow for promotional purposes by disguising or concealing the identity of the sender, or in breach of section 8 of legislative decree no. 70 dated 9 April 2003, or without a valid address to which the Data Subject may send a request to exercise the rights referred to in Section 7, or by encouraging recipients to visit websites that contravene the said section 8 of legislative decree no. 70/2003, shall be prohibited.

6. In case of persistent breach of the provisions laid down in this Section, the Garante may also order the provider of electronic communications services, under Section 143(1), letter b), to implement filtering procedures or other practicable measures with regard to the electronic contact details for electronic mail used for sending the communications.

content of the communications - in its capacity as External Processor, Moby S.p.A. declares being aware of its obligations pursuant to Legislative Decree 196/2003, and commits to:

- a) comply with the Code provisions, in particular the provisions regarding security measures, by undertaking to take the organisational, physical and logical security measures pursuant to in Sections 31-36, in order to minimise the risks of destruction or loss, even accidental, of Data, unauthorised access or unauthorised processing or which does not comply with the above-mentioned purposes;
- b) observe the provisions of the Authority for the Protection of Personal Data;
- c) to process the Data sent by the Controller for the sole purpose of carrying out the functions required by the contract and for the required time;
- d) to identify, amongst its collaborators, and designating them in writing, the Persons in Charge of processing, pursuant to Section 30 of the Code, who operate under the direct authority of the Processor;
- e) provide periodic basic training to the Persons in Charge in matters relating to Data Processing;
- f) observe and ensure its Persons in Charge observe secrecy concerning the Personal Data they will come to know as they implement the contract and not to disclose or communicate Data, information or documentation acquired under the contract itself to third parties;
- g) monitor the work of their Persons in Charge;
- h) to cooperate actively and promptly with the Data Controller, in order to allow the compliance – within the terms laid down by the legislation – with any requests by the Data Subject pursuant to Section 7 of the Code.
- i) in the event that the Processor is required to use the services of subcontractors to carry out the contract, the Processor undertakes to sign a written agreement with the subcontractors that they will comply with the terms and conditions of the contract and the obligations set out in this notice.

### Security of information

All information collected on the [www.moby.com](http://www.moby.com) website is stored and maintained in secure facilities that restrict access only to authorised personnel.

The [www.moby.com](http://www.moby.com) website is regularly checked for any security breaches and to ensure that the information collected is safe from unauthorised viewing.

Moby S.p.A. complies with the security measures prescribed by applicable laws and regulations and all appropriate measures according to the most advanced criteria to ensure and secure the confidentiality of Users' Personal Data and to minimise the dangers of unauthorised access, removal, loss or damage to Users' Personal Data as much as possible.



## Data Subject's Rights

The Data Subject has the rights as enunciated by Section 7 of the Code. In particular, a Data Subject shall have the right to:

1. obtain confirmation as to whether or not Personal Data concerning him or her exist, regardless of their being already recorded, and communication of such data in intelligible form;
2. to be informed:
  - a) of the source of the Personal Data;
  - b) of the purposes and methods of the processing;
  - c) of the logic applied to the processing, if the latter is carried out with the help of electronic means;
  - d) of the identification data concerning the Data Controller, Data Processors and the designated representative as per Section 5(2) of the Code;
  - e) of the entities or categories of entity to whom or which the Personal Data may be communicated and who or which may get to know said data in their capacity as designated representative(s) in the State's territory, Data Processor(s) or person(s) in charge of the processing.
3. obtain:
  - a) updating, rectification or, where relevant, the integration of the Data;
  - b) deletion, anonymisation or blocking of data that have been processed unlawfully, including data whose retention is unnecessary for the purposes for which they have been collected or subsequently processed;
  - c) certification to the effect that the operations as per letters a) and b) have been notified, as also related to their contents, to the entities to whom or which the data were communicated or disseminated, unless this requirement proves impossible or involves a manifestly disproportionate effort compared with the right that is to be protected.
4. object, in whole or in part:
  - a) on legitimate grounds, to the processing of Personal Data concerning him/her, even though they are relevant to the purpose of the collection;
  - b) to the processing of Personal Data concerning him/her, where it is carried out for the purpose of sending advertising materials or direct selling or else to carry out market or commercial communication surveys.

## Information

Information and requests regarding privacy concerns, including the Data Subject's Rights, may be directed to Mobyt S.p.A. by email at [info@mobyt.it](mailto:info@mobyt.it).

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