

# Corporate Governance Report with Corporate Governance Declaration

The activities of the Management Board and Supervisory Board are determined by the principles of responsible corporate governance. This report includes the Corporate Governance Report in accordance with section 3.10 of the German Corporate Governance Code and the Corporate Governance Declaration pursuant to section 289a of the Handelsgesetzbuch (HGB – German Commercial Code).

## 1. Declaration of the Management Board and Supervisory Board pursuant to section 161 of the Aktiengesetz (AktG – German Stock Corporation Act)

The Management Board and the Supervisory Board of INTERSHOP Communications AG (“Intershop”) welcomes the German Corporate Governance Code presented by the Government Commission and most recently updated in June 2014. The recommendations of the German Corporate Governance Code were largely complied with in fiscal year 2014; any departures were explained in the Declaration of Conformity. The Supervisory Board and the Management Board issued the following joint **Declaration of Conformity in accordance with section 161 of the Aktiengesetz** (AktG – German Stock Corporation Act) on December 3, 2014:

Since the declaration of conformity dated December 5, 2013 to September 30, 2014, Intershop Communications AG has complied with the recommendations of the Government Commission on the German Corporate Governance Code (hereinafter referred to as the "Code") in the version dated May 13, 2013, and as of October 1, 2014 to the time of this declaration with the recommendations in the version dated June 24, 2014, with the following exceptions and will comply with them in the future with the following exceptions:

- a) The existing D&O insurance does not include a deductible for the members of the Supervisory Board (section 3.8 of the Code) since the Company has not been offered a policy with comparatively more favorable terms. Furthermore, the Management Board and Supervisory Board hold the view that the members of the Supervisory Board also exercise their obligations responsibly without a deductible.
- b) In the remuneration report for future fiscal years, remuneration of the Management Board will continue to be individualized and shown based on fixed and variable components in accordance with the applicable accounting standards under the German Commercial Code. In the opinion of the Management Board and the Supervisory Board there is no requirement for an additional breakdown of remuneration components and costs or reporting of the overall achievable variable remuneration pursuant to Code no. 4.2.5, since the statutory individualized data already offers sufficient information about the remuneration structure and amount, and the noting of merely a maximum and minimum amount of variable remuneration in the required form - without the context of the underlying remuneration provisions - is misleading and can thus lead to incorrect conclusions.

- c) With regard to the composition of the Management Board, the Supervisory Board should ensure diversity and especially strive for an appropriate consideration of women in accordance with section 5.1.2 of the Code. The Supervisory Board is of the opinion that this criterion is unsuitable as the sole deciding reason for the appointment of members to the Management Board. In the composition of the Management Board, the professional and personal qualifications of the applicants should have priority in governing the selection of a suitable candidate because this is the only way that the interests of the Company can best be safeguarded.
- d) In accordance with section 5.4.1 (2) of the Code, the Supervisory Board has not specified concrete objectives regarding its composition, which take diversity into account and which provide for an appropriate degree of female representation. It also has not specified the number of independent Supervisory Board members in the meaning of section 5.4.2 of the Code. The Supervisory Board is also of the opinion that due to its small number of members, a concrete determination of goals restricts the selection of suitable members for the Supervisory Board. Instead, the Supervisory Board wishes to make its decisions with regard to recommendations about its composition independently based on the respective situation. However, at present the three Supervisory Board members are independent.

This declaration of conformity and all previous declarations have been made permanently available on the Company's website at <http://www.intershop.com/investors-corporate-governance>.

## 2. Corporate Governance Practices

The Company has not implemented any **business practices** exceeding the recommendations of the German Corporate Governance Code, e.g. a company Code of Conduct. The Company takes into consideration the suggestions of the Corporate Governance Code to the greatest possible extent.

## 3. Information on the Management Board's and Supervisory Board's principles of work, as well as their composition

In accordance with the fundamental principle of German company law, Intershop is subject to the dual management system, which requires the separation of the management body (Management Board) and the supervisory body (Supervisory Board). Both bodies cooperate in the management and supervision of the Company.

The **Management Board** is responsible for managing the Company with the goal of creating sustainable value. The Management Board jointly develops the Company's strategy and ensures that it is implemented in consultation with the Supervisory Board. The Management Board must manage the Company's business in accordance with the law, the Articles of Association, and the by-laws. The principle of joint responsibility applies; this means that the members of the Management Board are jointly responsible for the management of the entire Company. The principles of the Management Board's

work are summarized in the By-laws of the Management Board. In particular, these by-laws govern the adoption of resolutions and the allocation of responsibilities. The By-laws of the Management Board also include a list of transactions for which the Management Board requires the Supervisory Board's approval.

The Management Board currently comprises three members. There is a Spokesperson for the Management Board. The number of members of the Management Board is determined by the Supervisory Board, which can also appoint a Chairman or a Spokesperson and Deputy Chairman of the Management Board.

The Management Board provides the Supervisory Board with regular, timely, and comprehensive information about all aspects of business development that are material for the Company, significant transactions, and the current earnings situation, including the risk situation and risk management. Where business developments deviate from earlier forecasts and targets, these deviations are discussed and the reasons given in detail. The Management Board also reports regularly on compliance, i.e., the measures taken to meet legal requirements and internal guidelines, which is also the responsibility of the Management Board.

The **Supervisory Board** advises the Management Board on the management of the Company and monitors the Management Board's activities. It appoints and dismisses the members of the Management Board, resolves the compensation system for the Management Board members, and sets their total compensation. It is involved in all decisions that are of fundamental importance for the Company.

The Articles of Association stipulate that the Supervisory Board must comprise three members. Its regular term of office is five years and ends at the Annual Stockholders' Meeting that resolves the approval of the Supervisory Board's activities for the fourth fiscal year after the beginning of its term of office. The Supervisory Board regularly monitors and advises the Management Board in its management of the Company. It must perform its duties in accordance with the provisions of the law, the German Corporate Governance Code, the Articles of Association, and its By-laws. The Supervisory Board must be consulted on all decisions of fundamental importance for the Company. The By-laws of the Management Board therefore stipulate certain transactions – such as major investment projects, acquisitions, and employment contracts above a certain amount – that require the Supervisory Board's approval. The Chairman of the Supervisory Board represents the Supervisory Board externally and in dealings with the Management Board. He chairs the Supervisory Board meetings. No committees were established because the Supervisory Board only comprises three members. In addition to its reports at the Supervisory Board meetings, the Management Board regularly informs the Supervisory Board about current key developments at the Company and the related measures required, as well as about the forecast for future quarters.

D&O insurance has been taken out for all members of the Management Board and the Supervisory Board; a deductible of 10% was agreed upon for Management Board members in accordance with section 93(2) sentence 3 of the AktG.

#### 4. Further information – Corporate Governance Report

Since the Management Board and Supervisory Board have stated in their Declaration of Conformity that they will not follow the Code's recommendations that suggest appointing members taking diversity into account and also appointing independent members, information on the implementation of this objective in the meaning of section 5.4.1 of the Code is also unnecessary in this report. However, it should be pointed out that the three Supervisory Board members have been independent since the Annual Stockholder's Meeting in 2013.

There are no stock option plans; the only security-based incentive program is that one of the many aims agreed with the members of the Management Board for their variable remuneration also takes into account price development of the Intershop shares.

The total number of Intershop shares owned by all members of the Management Board and the Supervisory Board is less than 1% of the shares issued by Intershop. Details on the security holdings of the Company's executive bodies will be shown in the notes to the consolidated financial statements.

The particulars regarding the remuneration of the Management Boards and Supervisory Boards are outlined in the remuneration reports as part of the combined Group management report and management report of INTERSHOP Communications AG.

Jena, February 19, 2015

INTERSHOP Communications AG

For the Management Board

For the Supervisory Board

Jochen Moll    Ludwig Lutter    Dr. Jochen Wiechen

Dr. Herbert May