

## **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 May 2015. The recommendations of the German Corporate Governance Code were largely complied with in fiscal year 2015; 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 January 22, 2016:

Since the declaration of conformity dated December 3, 2014 to June 11, 2015 INTERSHOP Communications AG has complied with the recommendations of the Government Commission on the German Corporate Governance Code in the version dated June 24, 2014, and as of June 12, 2015 to the time of this declaration with the recommendations of the Government Commission on the German Corporate Governance Code in the version dated May 5, 2015 ("**Code**"), 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 reports, remuneration of the Management Board was continued and 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 section 4.2.5 of the Code, 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 pay heed to diversity and, until the Code is changed, specifically strive for an appropriate consideration of women in accordance with section 5.1.2, sentence 1 of the previous version 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 previous version of the Code, the Supervisory Board has not specified concrete objectives regarding its composition that take diversity into account and provide for an appropriate participation of women. After changing the Code, the Supervisory Board did not specify a limit for membership on the Supervisory Board according to section 5.4.1 of the new version of the Code. The Supervisory Board does not consider limiting the period of membership to be appropriate as there is no compelling general connection between the length of time on the board and whether any conflicts of interest may arise or the independence of the Supervisory Board member. In individual cases the Supervisory Board takes the members' duration of membership into account when proposing elections.
  
- e) The Supervisory Board has not determined 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 two members. There is a Chief Executive Officer 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. Information on setting the women's quota**

The target figures for women on the Management Board and the Supervisory Board were set according to the existing percentage of 0% by the Supervisory Board in accordance with Article 111 Section 5 of the AktG through June 30, 2017. However, the Supervisory Board shall endeavor to give priority to women with the same qualifications in order to increase the percentage of women on both the Supervisory Board and the Management Board. Given that the target percentage was 0%, this was met in the reporting year.

The targets for the proportion of women in the two management levels below the Management Board were defined by the Management Board pursuant to sec. 76 (4) AktG until June 30, 2017 in accordance with the existing proportion of 29.63%; this figure was reached during the reporting year. Intershop only has one management level below the Management Board, which is why only one target was defined for this management level.

#### **5. 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 on appointing members in terms of the limit to be set for the length of membership nor on appointing independent members, information on implementing this objective in terms 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.

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.

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 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 24, 2016

INTERSHOP Communications AG

For the Management Board

Dr. Jochen Wiechen      Axel Köhler

For the Supervisory Board

Dr. Herbert May  
Chairman of the Supervisory Board