

Frankfurt am Main, Germany, February 2020.

Report of the activities of the Ombuds Office of the Code of Conduct for Paid Crowdsourcing, 2019

In compliance with § 8 of the rules of the Ombuds Office of the Code of Conduct for Paid Crowdsourcing, the Ombuds Office hereby presents the aggregate yearly report of its activities for the calendar year 2019.

The Ombuds Office operates on a volunteer basis. The Ombuds Office panel consisted in 2019, and consists, of:

- Dr. Silke Kohlschitter, Vice President, Frankfurt Labor Court
- Thomas Andersen, Deutscher Crowdsourcing Verband (German Crowdsourcing Association)
- Dr. Arne-Christian Sigge, content.de
Replaced in case of a complaint against content.de by Tobias Brunner, Testbirds (as of 28 June 2019)
- Robert Fuss, IG Metall Headquarters Organization, Crowdsourcing Project
- Olaf Hoffmann, Crowdworker

During the reporting period for the present report, the Ombuds Office panel convened to discuss cases before them 7 times via teleconference and met once in person.

7 open cases from 2018 were processed. In 6 of these cases, the mediation of the Ombuds Office panel produced consensual solutions. (In 4 of the cases, the complaint was resolved completely by actions of the platform; in the other 2, settlements were made.) In one case, the Ombuds Office panel issued a decision.

In 2019, 14 cases were submitted to the Ombuds Office.

In 13 of the 14 cases, a complaint was submitted by a crowdworker; in one case, a complaint was submitted by a platform. In general, complaints are submitted in German; in 2019, however, the Ombuds Office received its first 2 cases in English.

Of the 14 cases, the Ombuds Office was able to resolve 6 via a consensual solution. In one case, the Ombuds Office panel issued a decision. In 3 cases, the party who submitted the complaint did not pursue the process further. In 2 cases, the Ombuds Office panel provided guidance to the involved parties. In 2 cases, the Ombuds Office was not responsible. (In one of these, an attempt to resolve the issue directly had not yet taken place; in the other case, the matter was a general inquiry without a concrete complaint or incident.)

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Some of the questions raised by the complaints submitted to the Ombuds Office were of a fundamental nature.

Regarding the questions of whether payment is (partially) earned, if a task or assignment is completed otherwise than directed, or if a task is objectively impossible to complete, because a store location involved in the task is not at the geographic location indicated in the task description, or is temporarily closed, for example for renovation, the Ombuds Office panel issued the following opinion:

- 1. If the task is clearly described and it is possible to complete the task as described, payment is only earned when the requirements set out in the task description are completely fulfilled.*
- 2. The Ombuds Office adds for consideration that, given that the Principles set forth in the Code of Conduct include fair payment (Principle 3) and reliability (Principle 5), it could be inappropriate to burden the crowdworker alone with the risk that a task advertised by a platform could be objectively impossible to complete.*

This reasoning applies even if the task description indicates that payment will not be made if the task cannot be completed because a store location is permanently or temporarily closed.

Regarding the question of whether criticism of a platform on internet forums can lead to a justified termination of the contractual relationship between the crowdworker and the platform (i.e., deactivation by the platform of the crowdworker's account), the Ombuds Office issued the following opinion:

- 3. Forums should be a place for open and critical discourse. This may be uncomfortable or "negative in tone."*

A platform can, however – in the interest of all parties who visit and use its forum, as well as in the interests of clients and platform workers – require that the tone of discussion on its forum be factual and respectful. This can result in prohibition of libelous criticism and criticism that violates anyone's rights of publicity (German "Persönlichkeitsrechte," lit. "personal" or "personality rights"), as well as prohibition on publication of non-anonymized correspondence or trade secrets.

Violations of such prohibitions can lead, after warnings as appropriate or necessary, to the justified termination of the contractual relationship between the worker and the platform (i.e., to the justified deactivation of the worker's account).

The circumstances of the individual case must always be considered.