

Acceptable Use Policy

Effective Date: Jan 1th, 2006



BREK Communications, Inc. ("BCI") has created this Acceptable Use Policy ("AUP") to ensure the responsible, fair and reasonable use of BCI networks, services, systems, websites and products (collectively, the "BCI Products and Services") by our customers and other users of BCI Products and Services (collectively, the "User(s)"), and to enable BCI to provide Users with reliable, secure and efficient services. By contracting for or using BCI Products and Services, in addition to any other agreements Users may have entered into with BCI, Users agree to be bound by the terms of this AUP.

Any violations or attempted violations of this AUP by any User (or any third party on behalf of any User) will constitute a violation of this AUP by the User and a material breach of any applicable customer agreement, including, without limitation, any applicable terms of service and/or supplements to any applicable agreements(s). BCI failure to enforce this policy in every instance in which it might have application does not amount to a waiver of BCI rights.

BCI reserves the right to modify this AUP at any time and in its sole discretion pursuant to the relevant BCI terms of service ("Service Terms"). Any use of BCI Products and Services after such modification constitutes acceptance of the AUP as revised.

Termination/Suspension

Any User that BCI determines in its sole discretion to have violated any element of this AUP may be subject to suspension or termination of service, with or without notice pursuant to this AUP and the Service Terms. BCI has the right, but not the obligation, to take further action as BCI determines to be appropriate under the circumstances to eliminate or preclude repeated violations. BCI shall not be liable for any damages of any nature suffered by any User, or any third party, resulting in whole or in part from BCI exercise of its rights under this AUP.

Service Monitoring

BCI reserves the right to periodically review usage levels of any service plans, including, but not limited to, minutes, data, and messages, to ensure that User is not using such service in violation of this AUP and if such an abuse or violation is discovered, to terminate or adjust the plan as appropriate. Prior to taking such action, BCI will attempt to contact the User to discuss the cause for the excessive or abusive use.

Reasonable Business Use

BCI desires that Users understand the intended and permissible uses of BCI Products and Services, and further desires to prevent fraud, exploitation and abuse of certain BCI calling plans and features. BCI business service plans and features are for

normal, reasonable business use and consistent with the types and levels of usage by typical customers on the same business calling plan. "Typical" refers to the calling patterns of at least 95% of BCI business customers on the same business calling plan. Certain calling and messaging plans, including unlimited calling and messaging plans, are designed for normal commercial use and are not intended to represent typical usage by unique organizations such as call centers, fax messaging services, telemarketing firms, or for use without live dialog, such as transcription services, intercom or monitoring services. Unauthorized or excessive use beyond that normally experienced by other BCI Users may cause extreme network capacity and congestion issues and interfere with BCI's network and the third party networks with which BCI connects for call and message initiation and completion services. Any use of the BCI Products and Services or any other action that causes a disruption in the network integrity of BCI Products and Services or its vendors, whether directly or indirectly, is strictly prohibited and may result in suspension or termination of the Services.

Illegal, Improper, and Inappropriate and Use

BCI Products and Services may be used only for lawful, proper and appropriate purposes. Users must use any BCI Products and Services only in a manner that, in BCI sole discretion, is consistent with the purposes of such Products and Services. Users will not engage in any legal or illegal activity that either:

- (i) harms BCI, the network operated by BCI, the Services and/or any User, or
- (ii) interferes with the network operated by BCI and/or the provision or use of the Services by BCI or any User

BCI Products and Services may only be used for activity that is consistent with reasonable business use patterns. Improper use of Services may include but are not limited to:

- (i) autodialing, predictive-dialing, or robo-calling
- (ii) continuous, repetitive or extensive call forwarding
- (iii) false information for you or any users of the Service
- (iv) continuous or extensive chat line of conference call participation
- (v) long duration calls, defined as calls to the same number in excess of four hours (continuous or cumulative) within a twenty-four-hour period
- (vi) short duration calls, defined as calls under ten seconds in length, in excess of 10% of your total calls in any given month
- (vii) calls placed to specific numbers/destinations for the purpose of generating charges or fees for or with a third party
- (viii) fax, SMS or MMS broadcasting and blasting, defined as sending the same message by fax, SMS, or MMS to six or more recipients at the same time, one after another
- (ix) telemarketing

BCI Products and Services may not be used for illegal purposes. Illegal purposes include but are not limited to using any Service to violate any federal, state, or local law, rule, or regulation; or engaging in threatening, abusive, harassing, defamatory, libelous, deceptive or fraudulent behavior.

BCI Products and Services may not be used for inappropriate purposes. Users shall not use BCI Products and Services to distribute, record, transmit, post, receive, use or store material that is inappropriate, as reasonably determined by BCI, or material that is obscene (including child pornography), defamatory, libelous, threatening, abusive, hateful or excessively violent.

Communication Confidence

BCI has implemented, within our traffic treatment process, additional validation steps to mitigate the receipt and delivery of fraudulent or improper traffic. These validation measures are in compliance with FCC requirements and applied using industry standard metrics and best practices.

Users of the BCI Network, Products and Services will be subject to these validation measures and subsequent mitigation practices. Though traffic transmitted over the BCI Network using BCI Products and Services will automatically be subject to these treatment processes, it is the responsibility of all BCI wholesale partners and end users to properly and fully comply with FCC requirements and industry best practices. These responsibilities are outlined in the partner/user expectations linked below. This document serves as an extension of this Acceptable Use Policy and therefore also as an extension of the Service Terms.

[Communication Confidence Expectations](#)

Harmful Content

Users shall not use BCI Products and Services to distribute, record, transmit, post, receive, use or store material that may be harmful to, or interfere with, BCI Products and Services or any third party's systems, networks, web sites or services. Such prohibited content includes, but is not limited to worms, viruses, or Trojan horses.

Copyrighted Material and Intellectual Property

Material accessible through BCI Products and Services may be subject to protection under publicity, privacy or other personal and intellectual property rights. Such rights include, but are not limited to, copyrights, patents, trade secrets, trademarks or other proprietary information. Users shall not use BCI Products and Services in any manner that would breach, dilute, misappropriate or otherwise violate any such rights.

Unsolicited Messages (Email, SMS or MMS)

Users shall not use BCI Products and Services to transmit unsolicited email or text (SMS or MMS) messages including, without limitation, unsolicited bulk email or text (SMS or MMS) messages, where such emails or texts (SMS or MMS) could reasonably be expected to provoke complaints ("spam"). Users are prohibited from continuing to send email or text (SMS or MMS) messages to a recipient that has indicated that the recipient does not wish to receive them. Users are prohibited from using the services of another provider to distribute spam or to promote a site hosted on or connected to BCI Products and Services. Users are prohibited from using the Services for fax, SMS or MMS broadcasting and blasting, defined as sending the same message by fax, SMS, or MMS to six or more recipients at the same time, one after another.

Accessing Third Party Networks and Third Party Indemnification

Users are prohibited from facilitating the violation of this AUP and from violating or facilitating the violation of another provider's AUP, including distributing, transmitting, posting, receiving, using, storing or otherwise providing any product or service that violates this AUP or another provider's AUP. Should a User access another provider or network using the BCI Products and Services, such User must comply with the provider or network's rules and policies. User agrees to indemnify, defend and hold BCI harmless from all claims, damages, losses and expenses (including attorneys' fees and expenses) resulting from or allegedly resulting from such User's access or use of other providers or networks. IN NO EVENT WILL BCI BE LIABLE TO ANY USER OR THIRD PARTY FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES FOR ACTIONS TAKEN OR NOT TAKEN PURSUANT TO THIS AUP, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF PROGRAMS OR DATA, OR OTHERWISE, EVEN IF BCI WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY IN FAVOR OF BCI IS IN ADDITION TO ANY LIMITATIONS SET FORTH IN ANY WRITTEN AGREEMENT BETWEEN BCI AND ANY APPLICABLE USER AND WILL APPLY WHETHER THE ACTION IN WHICH RECOVERY IS SOUGHT IS BASED IN CONTRACT OR TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY), OR ANY APPLICABLE LAWS.

Use Outside of Primary Market

Because Services are nomadic, they are potentially accessible from virtually anywhere in the world, including outside of the BCI primary market, which includes the United States and Canada. While the Service Terms do not prohibit use outside of the BCI primary market, BCI makes no representations, warranties, or guarantees regarding the compliance of use with prohibitions or restrictions imposed by law, carriers, ISPs, etc. outside of the primary market, and User shall be solely responsible for ensuring compliance therewith, regardless of any consent by BCI to such use.