



GS1 Cloud Policy on Notice and Take Down Procedure

This GS1 Cloud Policy on Notice & Take Down Procedure (the "Policy") provides information about our policy and procedures for dealing with (actually or allegedly) Unlawful or Incorrect Data that is made available in the GS1 Cloud.

1. **Definitions:** The capitalized terms in this Policy shall have the following meaning:

"Brand Owner "	means a manufacturer or a retailer with private label products, or any of their designees, who provides Brand Owner Data to the GS1 Cloud.
"Brand Owner Data"	means authentic product data expressed as data attributes (whether in the form of text, images or otherwise) provided by or on behalf of a Brand Owner to GS1 for publication and distribution through the GS1 Cloud.
"Counter Notice"	has the meaning set out in section 4.
"GS1"	means GS1 AISBL, an international not for profit association incorporated under Belgian law with registered office at Avenue Louise 326, 1050 Brussels, Belgium, registered with the register of legal entities (district of Brussels) under number 419.640.608.
"GS1 Cloud"	means the platform, as operated by GS1 or any of its affiliates from time to time, enabling data recipients to view [and download] certain Brand Owner Data that are published through the GS1 Cloud.
"Notification"	has the meaning set out in section 0.
"Notifier"	means the person or legal entity that submits the Notification.
"Reported Data"	means the Brand Owner Data that is the subject of the Notification or that is designated by GS1 as Unlawful or Incorrect Data.
"Standards and Policies"	means all standards, criteria, guidelines and policies adopted, implemented, and/or modified by GS1 from time to time, governing the GS1 Cloud Data, including the Notice & Take Down Procedure.

“Unlawful or Incorrect Data”

means any Brand Owner Data that (allegedly):

- (i) is not accurate, up to date, correct, complete or authentic (Brand Owner Data shall be considered “authentic” if such data originates from Brand Owner);
- (ii) violates any privacy rights, copyrights, trademarks, patents, or other intellectual property rights or violates any applicable laws or regulations;
- (iii) constitutes or contains false or misleading statements of fact or indications of origin;
- (iv) otherwise harms or threatens to harm GS1, a GS1 Member organisation or another user of the GS1 Cloud.

2. **Notifications.** If you, (the Notifier), believe that certain Brand Owner Data qualify as Unlawful or Incorrect Data, you may notify GS1 hereof by submitting a Notification. The Notification should include the following details:

- (i) the full name of the Notifier and, if the Notifier is a legal entity, the relevant contact person;
- (ii) contact details (address, telephone number and email address) of the Notifier and the relevant contact person;
- (iii) a clear and complete identification of the Reported Data;
- (iv) a clear statement setting out the arguments and evidence for the claim that the Reported Data constitutes Unlawful and Incorrect Data;
- (v) the following statement: *"On behalf of the Notifier, I have read and I accept the GS1 Cloud Notice and Take Down Procedure."*
- (vi) the following statement: *"[Include full name of the Notifier] ('Notifier') shall fully indemnify, hold harmless and defend GS1, its affiliates, as well as any GS1 Member Organisation (as such term is normally understood with respect to GS1) and, for each of the aforementioned, their directors, officers, employees, and agents (individually a "Beneficiary" and collectively the "Beneficiaries") from and against all claims, actions, lawsuits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorneys' fees and costs), brought by a public authority or other third party (including Brand Owners) which arise out of, relate to or result from any reliance by GS1 or a Beneficiary on this notification or any other information from Notifier pertaining to the allegation that the Reported Data constitutes Unlawful or Incorrect Data."*

GS1 may decide not to process Notifications that do not comply with the above-mentioned requirements. GS1 may ask for verification of the identity of the Notifier or the contact person. GS1 may also ask for evidence of the fact that the contact person may legally represent the Notifier.

Notifications should be sent to: GS1CloudSupport@gs1.org

3. **Handling the Notification:** After receipt of the Notification, GS1 may forward (part of) the Notification and the identity and contact details of the Notifier (and its contact person) to the relevant Brand Owner. GS1 shall as soon as reasonably possible assess the merits of the Notification and inform the Notifier and Brand Owner in writing (email included) whether it will pursue any of the actions set out in section 6 below.

4. **Counter Notice:** If you (Brand Owner) believe that the Reported Data, either as notified to you in accordance with section 3 above or notified by GS1 following GS1's own investigations, does not constitute Unlawful or Incorrect Data, you may submit a Counter Notice to GS1. The Counter Notice should include the following details:

- (i) the full name of Brand Owner and the relevant contact person;
- (ii) contact details (address, telephone number and email address) of Brand Owner and the relevant contact person;
- (iii) a clear and complete identification of the Reported Data and (if any) the Notification;
- (iv) a clear substantiated statement setting out the arguments for the claim that the Reported Data does not constitute Unlawful and Incorrect Data;
- (v) documentary evidence that it has sent a copy of the Counter Notice to the Notifier (if a Notifier is involved);

- (vi) the following statement: *"On behalf of Brand Owner, I have read and accept the GS1 Cloud Notice and Take Down Procedure."*
- (vii) the following statement: *"[Include full name of Brand Owner] ('Brand Owner') shall fully indemnify, hold harmless and defend GS1, its affiliates, as well as any GS1 Member Organisation (as such term is normally understood with respect to GS1) and, for each of the aforementioned, their directors, officers, employees, and agents (individually a "Beneficiary" and collectively the "Beneficiaries") from and against all claims, actions, lawsuits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorneys' fees and costs), brought by a public authority or another third party which may arise out of, relate to or result from any reliance by any Beneficiary on this counter notice or any other information from Brand Owner pertaining to the claim that the Reported Data does not constitute Unlawful or Incorrect Data."*

GS1 may decide not to process Counter Notices that do not comply with the above-mentioned requirements. GS1 may ask for verification of the identity of Brand Owner or the contact person. GS1 may also ask for evidence of the fact that the contact person may legally represent Brand Owner.

Counter Notices should be sent to: GS1CloudSupport@gs1.org

- 5. **Handling the Counter Notice:** GS1 shall assess the merits of the Counter Notice as soon as reasonably possible and inform the Notifier and Brand Owner in writing (email included) whether it will pursue any of the actions set out in section 6 below or, as the case may be, will undo any of the actions taken in accordance with section 7 below.
- 6. **Taking down data:** If GS1, in its sole discretion, either based on a Notification or own investigations, suspects or believes that the Reported Data constitutes Unlawful or Incorrect Data, GS1 may immediately take appropriate action at its discretion. Such action may include, without limitation: temporarily suspending the availability of or definitively removing Brand Owner Data, terminating access to such data or reporting to or collaborating with law enforcement or government agencies. To the extent permitted by law, GS1 shall use reasonable efforts to notify Brand Owner prior to taking such actions. The submission of a Counter Notice shall not suspend the right of GS1 to take such action.
- 7. **Restoring data:** GS1 may, in its sole discretion, decide to undo the actions taken pursuant to section 6, based on the Counter Notice or otherwise. GS1 shall inform the Notifier (if any) and Brand Owner of such decision.
- 8. **Changes.** This Policy may change from time to time when reviewed by GS1 and in compliance with applicable laws and regulations.

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Effective 31 January 2018