

Regulatory Environment

As a mobile and landline operator in Switzerland, Sunrise is subject to regulation and supervision by various Swiss national authorities, including The Federal Communications Commission (ComCom) and the Federal Office of Communications.

Regulatory Framework

The relevant regulatory framework is set forth primarily in the Swiss Federal Telecommunications Act (FMG) and associated regulations (such as the Swiss Federal Ordinance on Telecommunications Services, FDV), but also in the Swiss Cartel Act, the Swiss Federal Act on the Surveillance of Postal and Telecommunications Traffic (BÜPF), the Swiss Federal Radio and Television Act and related ordinances. There are some conceptual differences between Swiss and EU telecommunications regulations, the most important being ex-post regulation in Switzerland as opposed to ex-ante regulation applicable in the EU, the technology-based "last mile" system in Switzerland, which grants access at long run incremental cost (LRIC) conditions only to the incumbent's copper infrastructure, and the lack of regulation for end-consumer pricing on international mobile roaming in Switzerland.

The fact that EU regulations do not apply to Swiss operators has led certain operators in the EU to increase the termination rates charged to Swiss operators for voice traffic originating in Switzerland to price levels higher than those applicable to operators located within the EU; this is the subject of ongoing negotiations and arbitration.

Revision of the Swiss Telecommunications Act

The FMG sets forth the general framework for the transmission of information by means of landline and mobile telecommunications.

In 2012, the Swiss Federal Council (Bundesrat) announced that it would commission the administration to prepare a draft revision of the FMG. In December 2015, the Federal Council published its draft of the new FMG. In its first phase, the revision envisions changes such as youth and consumer protection requirements, transparency requirements regarding network neutrality as well as the introduction of an ex officio regime and elements of ex-ante. The revision also proposes facilitating the sharing of mobile networks through frequency pooling. The introduction of a technology-neutral access system will be addressed in a second phase. The consultation phase will end in March 2016. Sunrise requests the introduction of instruments for fiber access regulation already in the first phase of the revision. The Federal Council should cover the last-mile fiber optics market within the existing framework in the event the market fails to do so.

Revised Swiss Federal Ordinance on Telecommunications Services

Under Swiss law, last-mile access to the incumbent's copper infrastructure must be granted at cost-based prices. The provisions of the FDV were revised in 2013, with the changes becoming effective on July 1, 2014. The calculation is based on LRIC with replacement costs for modern equivalent assets. As of January 1, 2014, costs are based on a modern fiber and IP infrastructure (next generation

network and access). Pending legal cases based on the new legislation are expected to clarify a number of technical issues.

Microwave Transmission Fees

Microwave links are used to transmit mobile data between the antenna and the operator's station without the use of cable. Based on two political initiatives, the Federal Council approved the revision of the Ordinance on Fees in the Telecommunications Sector in October 2015. Fees paid by mobile telephony operators for using microwave frequencies will be reduced effective January 1, 2016.

Universal Service Requirements

The provision of universal services requires ComCom to grant a license for a limited time under specific conditions. Such a license was granted to Swisscom for the period from 2008 to 2017. The Swiss Federal Council resolved to double the required speed for uploads and downloads effective January 1, 2015. To date, Swisscom has not yet requested compensation for providing universal services, but the risk remains. A draft for the new period starting in 2018 was issued in September 2015 for consultation. The Federal Council is again proposing an increase in minimum required data speeds and maximum prices for various services.

Copyright Protection

In December 2015, the Federal Council submitted the draft of a new copyright protection law for consultation which focuses on providers' obligations to restrict access to websites illegally offering copyrighted content and to send warnings to customers sharing content through peer-to-peer services. The consultation phase will end on March 31, 2016.

Surveillance of Telecommunications Services

Telecommunications providers must comply with the BÜPF. They are required to maintain their own infrastructure for adequate surveillance and be capable of running surveillance operations at any time. An amendment expanding providers' obligations is currently pending in parliamentary deliberations. A revision of the Intelligence Agencies Act imposing comprehensive surveillance obligations has already been passed by parliament but is still subject to a referendum vote.

Clearly defined regulatory framework

Swiss telecommunications providers are subject to regulation and oversight by government authorities.

Environmental Protection from Radio Emissions

The Swiss Ordinance for Protection from Non-Ionizing Radiation requires Swiss operators to comply with stricter safety limits than in the European Union. In February 2015, upon request by political initiatives, the Federal Council issued a report on options for expanding capacity in mobile communication networks. Increasing safety limits and simplifying compliance procedures are two possible measures mentioned in the report. The parliament is in charge of recommending possible actions for improving the framework for future networks based on the findings of the report.

International Roaming

Switzerland does not regulate roaming. Two political motions requesting maximum rates for inbound and outbound calls, SMS messages and data transfers abroad were rejected by parliament in March 2015. However, measures such as increased transparency and instruments allowing the Federal Council to limit consumer prices were proposed in the 2015 draft of the new FMG.

Network Neutrality

In March 2015, the Parliament rejected a pending motion calling for the legal enforcement of network neutrality. In its 2015 draft of the new FMG, the Swiss Federal Council limits its proposal to the introduction of transparency requirements for differentiated services and subsequent monitoring of market developments to evaluate future regulation if necessary. Based on a code of conduct signed by Sunrise, Swisscom, Salt, upc cablecom and Suissedigital, the operators established a conciliation body effective September 2015.