[CH] Communication on Amendment of Telecoms Act Published

IRIS 2004-1:1/16

Oliver Sidler
Medialex

At its meeting on 12 November 2003, the Swiss Bundesrat (Council of Ministers) established a solid legal basis for the "last-mile" unbundling that was imposed on the telecommunications sector in February 2003, submitting to Parliament a communication concerning the amendment of the Fernmeldegesetz (Telecommunications Act - FMG).

Under the proposed Bill, it will be possible to force telecom service providers with a dominant market position to offer transparent, non-discriminatory access to their services and equipment at cost price. By way of examples, the Bill mentions unbundling of the local loop, also known as "last-mile" unbundling (completely unbundled, shared access to the local loop), Bitstream Access and the opening up of leased lines, which the Bundesrat introduced by means of a decree that entered into force on 1 April 2003. However, in order to create a solid legal basis for such an extensive opening up of the market, it was decided to incorporate unbundling into the current revision of the FMG. In doing so, the Bundesrat has also met a request from the specialist parliamentary committees concerned.

Under the new legislation, service providers with a dominant market position may only restrict the contractual freedom of customers if bundling is necessary for technical or economic reasons, to guarantee operational security or to ensure a certain quality of service. Under these rules, for example, Swisscom Fixnet and its subsidiary Bluewin would have to make ADSL Internet access available to preselection customers of other service providers.

Telecom services are being discussed as part of the second round of bilateral negotiations begun in 2002. In this context, the European Commission insists that the whole acquis communautaire should be adopted and opposes any deviations in Swiss law. Many of the proposed amendments to the FMG are therefore in line with the new European legal framework for telecommunications, which entered into force in the Member States on 25 July 2003. As well as the aforementioned "last-mile" unbundling, this concerns the large-scale abolition of the need for telecom service providers to be licensed, for example. Under the amended Act, access to the telecoms market will no longer depend on state approval. Telecom service providers will only be required to advise the Bundesamt für Kommunikation (Federal Communications Office - BAKOM) of their plans.

© European Audiovisual Observatory (Council of Europe) 2026

However, licences will still be needed for providers of the universal service and for use of the broadcasting frequency spectrum. Incidentally, all telecom service providers will still be monitored by the BAKOM.

Part of the Bill deals with the protection of consumers and personal data. In particular, an arbitration board is to be created in order to settle disputes between customers and providers of telecom or value added services simply and quickly. The BAKOM may leave it to the telecoms industry to create such a body and preliminary steps in this direction are already being taken. Furthermore, the Bundesgesetz gegen den unlauteren Wettbewerb (Federal Competition Act - UWG) is to be amended, with the addition of a ban on unsolicited mass advertising ("spamming").

Further amendments to the FMG concern procedural provisions relating to public invitations for tender and supervision, as well as heavier administrative penalties for violations of laws, licences and decrees that are in force.

Communication on the amendment of the Telecommunications Act

Draft Telecommunications Act

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026