

# Switzerland – Latest regulatory updates on the revised Federal Telecommunications Act



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## 1. Overview

Switzerland has been revising its telecommunications legislation, in particular the Federal Telecommunications Act (TCA).

Entry into force of the revised TCA and its associated implementing provisions is planned for 1 January 2021.

This revised and modernized TCA will impact telecoms services providers (TSPs) and telecoms operators in several respects. As far as relations with the Swiss telecoms regulator, the Federal Office of Communications (OFCOM), are concerned, the new legal landscape will be both more restrictive and more permissive. In particular, it does away with the general duty to notify any provision of telecommunications service with OFCOM and replaces it with a more limited notification obligation. OFCOM will still maintain its list of registered telecoms services providers.

## 2. OFCOM Instructions

In mid-November 2020, OFCOM informed various telecoms services providers of the upcoming entry into force of the revised TCA and shared its future practice.

OFCOM highlights that, from 1 January 2021, *“only providers using addressing resources to provide telecommunications services and providers using licensed radio frequencies to provide telecommunications services will be registered. Frequencies used for other purposes (own use, unlicensed) are not affected”*.

Moreover - and importantly for TSPs relying on third-party resources - OFCOM states that TSPs who use a subordinate allocation of number ranges and licensed frequencies must register with OFCOM (and the same applies to the owners of such addressing resources and/or frequencies).

Going forward, OFCOM notes that TSPs will only be allowed to use addressing resources if these are properly registered and published in advance (i.e. prior to operational roll-out). This means, as per OFCOM, that the actors will be *“required to notify OFCOM of any potential provider and the envisaged transfer of rights of use”*.

## 3. Practical Consequences

In short, the entry into force of the revised TCA and the abovementioned upcoming OFCOM practice may have consequences for TSPs.

TSPs should note in particular the following:

- i. The revised TCA somewhat limits (compared to the current situation) the duty to notify OFCOM of the provision of telecoms services. Only the use of addressing resources and frequency spectrum will require a notice;
- ii. However, secondary use will also require notifying OFCOM. Inter alia, TSPs using numbering blocks received from or passed on to other actors must notify OFCOM for registration purposes.
- iii. The above may call for legally reviewing the current set-up, for instance where Mobile Virtual Network Operators (MVNO) and other intermediate structures exist.

We recommend in any case following the further legal and regulatory developments, as the revised TCA will bring about a shift in the regulatory approach and practices.

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