



Reference /File Reference: no.  
Bern, dd.mm.yyyy

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## Annex VI

### Licence no.

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**Granted by the Federal Communications Commission**

in favour of

**Licensee**

**Address**

concerning

**utilisation of the frequency spectrum for the provision of mobile telecommunications services in Switzerland, based on the GSM standard, the UMTS standard, the LTE standard and other standards verified by the CEPT/ECC for compatibility and recommended for use**

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# 1. Basis

## 1.1. Legal basis<sup>1</sup>

The following provisions in particular are applicable to the present licence:

- Telecommunications Act of 30 April 1997 (TCA; CC 784.10)
- Ordinance of 9 March 2007 on Telecommunications Services (OTS; CC 784.101.1)
- Federal Communications Commission Ordinance of 17 November 1997 concerning the Telecommunications Act (CC 784.101.112)
- Ordinance of the Federal Communications Office of 9 December 1997 concerning Telecommunications Services and Addressing Resources (CC 784.101.113)
- Ordinance of 14 June 2002 on Telecommunications Installations (TIO; CC 784.101.2)
- Federal Office of Communications Ordinance of 14 June 2002 on Telecommunications Installations (CC 784.101.21)
- Ordinance of 9 March 2007 on Frequency Management and Radiocommunication Licences (OFMRL; CC 784.102.1)
- Federal Office of Communications Ordinance of 9 March 2007 on Frequency Management and Radiocommunication Licences (CC 784.102.11)
- Ordinance of 6 October 1997 concerning Addressing Resources in the Telecommunications Sector (OART; CC 784.104)
- Ordinance of 7 December 2007 concerning Fees in the Telecommunications Sector (OCTS; CC 784.106)
- DETEC Ordinance of 7 December 2007 concerning Administrative Fees in the Telecommunications Sector (DETEC Telecommunications Fees Ordinance; CC 784.106.12)
- Federal Act of 6 October 2000 concerning the Monitoring of Post and Telecommunications Traffic (MPTA; CC 780.1)
- Ordinance of 31 October 2001 on the Monitoring of Post and Telecommunications Traffic (MPTO; CC 780.11)
- Ordinance of 7 April 2004 concerning Charges and Compensation for the Monitoring of Post and Telecommunications Traffic (CC 780.115.1)
- Federal Act of 1 July 1966 concerning the Protection of Nature and the Cultural Heritage (LPNCH; CC 451)
- Ordinance of 16 January 1991 concerning the Protection of Nature and the Cultural Heritage (PPNCH; CC 451.1)
- Federal Act of 22 June 1979 concerning Spatial Planning (Spatial Planning Act, SPA; CC 700)
- Spatial Planning Ordinance of 28 June 2000. (SPO; CC 700.1)
- Federal Act of 7 October 1983 concerning Environmental Protection (Environmental Protection Act, EPL; CC 814.01)
- Ordinance of 23 December 1999 concerning Protection from Non-Ionising Radiation (OPNIR; CC 814.710)
- Federal Act of 24 June 1902 concerning Low- and High-Voltage Electrical Installations (Electricity Act, EA; CC 734.0)
- Ordinance of 9 April 1997 concerning Low-Voltage Electrical Products (OELVP; CC 734.26)
- Ordinance of 9 April 1997 concerning Electromagnetic Compatibility (OEMC; CC 734.5)

<sup>1</sup> The legal bases are available in German, French or Italian under the following link: <http://www.admin.ch/ch/e/rs/rs.html> . By introducing the SR number (cc) you will find the relevant legal document.

- Federal Act of 24 March 2006 on Radio and Television (RTVA; CC 784.40)
- Ordinance of 9 March 2007 on Radio and Television (RTVO; CC 784.401)
- Federal Act of 19 December 1986 against Unfair Competition (UCA; CC 241)
- Federal Act of 19 December 1986 concerning Cartels and Other Restrictions on Competition (CA; CC 251)
- Ordinance of 17 June 1996 concerning Monitoring of Mergers (CC 251.4)

## **1.2. Amendment of the legal basis**

The present licence is subject in particular to the Telecommunications Act (TCA), the Federal Radio and Television Act (RTVA) and the corresponding implementation rules. The conditions of the present licence apply subject to any changes to the legal basis applicable to it (cf. section 1.1). In particular, the administrative fees according to Section 2.8.2 shall be fixed in accordance with the applicable legal basis and may be subject to change during the course of the term of the licence (in terms of the basis for calculation and the amount). Reservations also remain particularly with regard to future regulations on network access for third parties. For any legal issues and interpretations, the respective applicable revisions of the law and regulations shall prevail in each case.

## **1.3. Annexes**

Annexes I to V form an integral part of this licence. They may be updated individually and therefore may bear a date later than the licence itself.

## **1.4. Term of the licence**

Licence no. xxxxxxxx is valid until 31.12.2028. The commencement of the rights of utilisation for the respective frequencies is laid down in the technical network specification (Annex III).

## **1.5. Transfer of the licence**

According to Art. 24d para. 1 TCA, the licence may be transferred in part or as a whole to a third party only with the consent of the licensing authority. This also applies to the economic transfer of the licence. An economic transfer of the licence occurs when a company has obtained control of the licensee in accordance with the law on cartels (Art. 24d para. 1 and 2 TCA).

All changes in the distribution of ownership of the licensee or its shareholders are subject to notification if as a result the possibilities of influence on the business activity of the licensee change.

## **1.6. Amendment and revocation of the licence**

According to Art. 24e para. 1 TCA, the licensing authority may amend or revoke the licence due to changes in actual or legal conditions if the amendment or revocation is necessary to guarantee important public interests. In this case, the licensee shall be appropriately compensated if the transferred rights are revoked or substantially reduced (Art. 24e para. 2 TCA).

## **1.7. Relinquishment of the licence**

The licensee may relinquish its licence at any time. There is no claim to reimbursement of the auction price.

## **1.8. Surveillance measures and administrative penalties**

If the licensee commits a violation of the law by infringing international telecommunications law, the TCA, its implementation rules or violates the licence, surveillance measures according to Art. 58 TCA may be taken against it. This may include the revocation or withdrawal of the licence.

The licence may also be withdrawn if essential conditions for granting it cease to be fulfilled (Art. 58 para. 3 TCA).

If the licensee infringes the applicable law, the licence or a decision having force of law, it may also be required to pay an amount up to 10 percent of the amount of its average turnover in Switzerland in the last three financial years (Art. 60 TCA).

## 2. Rights and obligations of the licensee

### 2.1. Right to use the assigned frequencies

The licensee is entitled to use the frequency spectrum in accordance with the assignment laid down in this licence or the information defined in the technical network specification respectively (Annex III). The technical network specification is an integral part of this licence and is issued on the basis of the provisions of the National Frequency Allocation Plan (NFAP). The technical network specification is periodically examined and adapted if necessary.

### 2.2. Transition periods for any re-farming

Annex III of the licence (technical network specification) governs the reporting obligation and the transition period for any re-farming work.

### 2.3. Frequency coordination

In the border areas, field strength values, coordination lines, preference codes (UMTS) and preferred frequencies (GSM) as well as the methods of calculation for frequency coordination may be adjusted at any time, with appropriate prior notice.

### 2.4. Utilisation obligation

General obligation regarding utilisation: the licensee is obliged to use the allocated frequencies as set out in Article 1 TCA and to provide commercial telecommunications services over its own transmission and reception units. In addition, the following provisions apply:

- Licensees who have the right to use frequencies below 1 GHz are obliged to ensure coverage of 50% of the population of Switzerland with mobile radio services via their own infrastructure by 31 December 2018 latest (800MHz) and 31 December 2020 (900 MHz) respectively;
- Licensees who have the right to use frequencies in the 1800 MHz and 2100 MHz FDD bands are obliged to ensure coverage of 25% of the population of Switzerland with mobile radio services via their own infrastructure by 31 December 2020 (1800 MHz) and by 31 December 2021 (2100 MHz FDD) respectively.

The rights of use granted with the licence may be withdrawn without compensation

- from the frequencies provided with a coverage obligation, if the required coverage is not provided within the period prescribed;
- from the other frequencies (2100 MHz TDD and 2600 MHz bands), if the general utilisation obligation is not fulfilled by 1 January 2019 at the latest.

In general, the utilisation and coverage obligations may be changed only if the licensee proves that it is not able to meet them for reasons beyond its control. The licensee must prove conclusively that it has made every reasonable attempt to meet its obligations.

### 2.5. Obligation to disclose information

The licensee is obliged to provide OFCOM with the information which is necessary for the enforcement of the Telecommunications Act and the corresponding implementing ordinances and of this licence (Art. 59 TCA and Annex II of this document).

## **2.6. Spatial planning, protection of nature and the countryside; joint-use of equipment**

In the case of installations outside building zones, Art. 24 Spatial Planning Act and the relevant case law shall be taken into consideration.

The licensee shall make all reasonable efforts during the construction and operation of the transmitter sites to enable the shared use of these sites for other location-based purposes outside the building zone. If it depends on a site outside the construction zone, it is additionally obliged to use existing sites belonging to other licensees or other existing buildings or facilities, provided they have sufficient capacity.

The licensee shall inform the Cantons in advance of their network planning. When it does so, it shall provide information on the proposed new sites and any sites already approved, under construction or in service. In the case of structures outside the building zone, the licensee shall provide the information necessary to assess the location constraints according to Art. 24 of the Spatial Planning Act. OFCOM reserves the right to publish a list of sites in operation.

The licensee is obliged to cooperate when developing coordination processes in order to minimise the impact on the area and landscape and at the same time to comply with the Ordinance on Protection from Non-Ionising Radiation (OPNIR)<sup>2</sup> and to comply with the developed processes. The site data for the assessment of joint-use must be disclosed.

Art. 36 TCA is reserved.

## **2.7. Immission protection**

The licensee shall ensure that the transmission infrastructures comply with the OPNIR's immission and equipment limits with regard to design, construction and operation. The licence contains provisions regarding implementation of the rules on protection from non-ionising radiation with regard to the design, construction and operation of transmission infrastructures. These provisions relate to the choice of antenna sites, site coordination, quality assurance to comply with the OPNIR limit values and issues relating to the application of the OPNIR.

## **2.8. Fees**

### **2.8.1. Licence fees for radiocommunication licenses**

The licence fees for utilisation of the allocated radio spectrum are included in the auction price. Therefore, no further licence fees will be charged throughout the term of the licence.

### **2.8.2. Administrative fees for the administration and technical supervision of the frequency spectrum**

According to Art. 40 TCA and in conjunction with Art. 9 of the DETEC Ordinance concerning Administrative Fees in the Telecommunications Sector<sup>3</sup>, the licensee is obliged to pay annual administration fees for the administration and technical supervision of the frequency spectrum. The fee is determined on the basis of the technical network specification (Annex III of the licence).

### **2.8.3. Administrative fee for the grant of licences**

The administrative charges for the invitation to tender and the granting of the licence are included in the auction price in accordance with Art. 39 para. 4 TCA.

### **2.8.4. Modalities for charging**

The competent authority collects the administrative fees according to para. 2.8.2 yearly in advance.

### **2.8.5. Auction price**

The auction price for the acquired frequencies amounts according to the auction of dd.mm.yyy, to:

<sup>2</sup> Ordinance of 23 December 1999 concerning Protection from Non-Ionising Radiation (OPNIR; CC 814.710)

<sup>3</sup> DETEC Ordinance of 7 December 2007 concerning Administrative Fees in the Telecommunications Sector (DETEC Telecommunications Fees Ordinance, CC 784.106.12)

**CHF xxx,xxx,xxx.00**

This auction price must be paid in a single amount within 30 days of the award of the licence. The payment must be made via a bank based in Switzerland and approved in accordance with the Federal Act on Banks and Savings Banks (CC 952.0).

Reimbursement of the auction price in the event of restriction, suspension, revocation or withdrawal of the licences and in the event of early abandonment of the licence is not possible (Art. 23 para. 2 OFMRL).

FOR INFORMATION ONLY

## It is hereby decreed:

1. The licensee is granted licence no.     as of dd.mm.yyyy. This is valid until 31 December 2028.
2. The auction price is set at CHF xxx,xxx and must be paid in a single payment within 30 days of award of the licence
3. The licensee is obliged to comply with the provisions cited in the present licence and with the applicable law.
4. The administrative fees for the invitation to tender for and grant of the licences are included in the auction price.
5. The recurrent administrative fees for the administration and technical supervision of the frequency spectrum will be charged by means or a separate decision.
6. The present decision will be issued in writing to the following addressee by registered mail with acknowledgement of receipt:

### The licensee

#### Address

Federal Communications Commission ComCom

Marc Furrer

President

## Annexes (not included in this specimen license)

- Annex I:           Information concerning the licensee
- Annex II:          Notification obligation
- Annex III:         Technical network specification
- Annex IV:         Planning and approval questions
- Annex V:          Specifications for implementation of the Ordinance concerning Protection from Non-Ionising Radiation



## **Instruction on the right to appeal**

Objections in writing against this decision may be lodged within 30 days of issue. This period is suspended from the seventh day before Easter up to and including the seventh day after Easter; from 15<sup>th</sup> July up to and including 15<sup>th</sup> August and from 18<sup>th</sup> December up to and including 2<sup>nd</sup> January. The objection must be submitted to the

Federal Administrative Court  
Postfach  
3000 Bern 14

The objection must include the request, its grounds with evidence and the signature of the complainant or his or her representative. The disputed decision and the documents invoked as evidence shall be attached to the objection, in so far as the complainant has them to hand.

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