

Att: Mr Peter Fischer
Federal Office for Communication (OFCOM/BAKOM)
Postfach/Case Postale
CH-2501 Biel/Bienne

Biel/Bienne, September 15, 2006

Submission by Conduit Europe AG/SA re the Consultation on the LTC decrees

Dear Mr. Fischer

Conduit would like to thank BAKOM for giving us the opportunity to comment on the proposed ordinance concerning the changes to the LTC decrees.

1. Art 9 Apprenticeships

Although Conduit supports an increase in the number of apprentices in the telecommunications industry in principal, Conduit or any minor telco provider or outsourcing call center, even of a larger size like ours, cannot offer apprenticeships to 3% of staff under any circumstances. 96% of Conduit's current staff are call centre agents, only 4% is administrative. In smaller call centers the percentage of employees not working as agents is even lower. To provide additional employment for apprentices would seriously undermine profitability and weaken the competitiveness of the Swiss telco and call center industry even further. In addition the quality of service would suffer substantially. We therefore propose to add the bold text to Art 9/1 and remove 9/2 completely.

Art. 9 Lehrstellen

¹ Anbieterinnen von Fernmeldediensten **mit über 500 Mitarbeitern** müssen mindestens 3 Prozent der Arbeitsstellen als Lehrstellen anbieten. Teilzeitarbeitsstellen sind entsprechend ihrem Beschäftigungsgrad anzurechnen.

² ~~Zieht die Anbieterin von Fernmeldediensten für das Erbringen der Fernmeldedienste Dritte bei, so muss sie die Einhaltung der Verpflichtung gemäss Absatz 1 bei diesen für die ausgelagerte Produktion sicherstellen.~~

2. Art 29/Art 52 Directory database

We welcome the long awaited clarification re the provisioning of directory database information. However, we fear that the “cost-oriented pricing” as outlined in Art 52 may become subject to misuse and possible delays in the provisioning of data. We therefore recommend the following change to Art. 29/2:

Art 25 of the Universal Service Directive requires that access to subscriber data be provided to providers of directory services on terms which are fair, objective, cost-oriented and non discriminatory. The ECJ has interpreted the cost-orientation requirement (interpreting the predecessor rula, art. 6.3 of Directive 98/10) as meaning that access to basic subscriber data should be provided at no cost other than the cost of delivery (judgment of 25 November 2004, *KPN* case

Art. 29 2 Die Anbieterinnen von Fernmeldediensten nach Absatz 1 sind verpflichtet, den Berechtigten gemäss Artikel 21 Absatz 2 und 3 FMG sowohl den Online-Zugang zu den Verzeichnisdaten ihrer Kundinnen und Kunden als auch die blockweise Übertragung der Daten mit der Option von mindestens täglichen Aktualisierungen **kostenlos** bereitzustellen.

3. Art 31a Additional Services

We appreciate the fact that the legislator will permit additional services. However the application process as defined in this ordinance is unclear. We would like the type of services that may or may not be provided more clearly defined.

4. Art 54 6bis Decommissioning of 1141 and 1144

Conduit strongly rejects for the codes 1144 and 1141 to be decommissioned 1 year after the abolition of 111 and 115x.

1144 is in fact a Directory Assistance number no different to 111. It provides a completion/connection service that is also available and widely used by users of 111. If 1144 remains in use we foresee the following issues:

- The aim of the legislator to completely deregulate the Swiss Directory Assistance market will effectively be delayed by another year
- The incumbent has established a share of around 10% of the Swiss Directory Assistance market through the number 1144. This share will be maintained as a monopoly for another year.
- The existence of old codes (1141/1144) and new codes (18xy) besides each other for one year will confuse the Swiss public. On the one hand people are told new numbers will be replaced by new codes; on the other hand some of the old numbers with a decisive market share remain in place. This will weaken the impact of the deregulation and with it the chances of the new numbers and the non-incumbents to penetrate the market and create a more competitive environment. It is therefore neither in the interest of BAKOM nor in the interest of the consumer to maintain 1141 and 1144 for another year.
- We know that BAKOM is closely following the deregulation process of Directory Assistance markets in other European countries. As you are aware, the deregulation in Italy has been a complete failure due to the very reason that the

old codes were not all abolished at the same time. This confused the public and allowed the incumbent to effectively bypass deregulation and maintain most of its market share. In the UK and France, where all Directory Assistance numbers were abolished at the same time, deregulation has been successful, a competitive environment has emerged and consumers are benefiting.

- A delayed abolition of 1144 will lead to a two step deregulation that would make it very costly for the non-incumbents to penetrate the market as they are effectively forced to run two launch campaign- one before and one after the abolition of 111, and another one before and after the abolition of 1144. This again will benefit the incumbent and lessen the chances of a truly competitive environment in the interest of the consumer.

We therefore **propose** the following changes in bold pro

Art. 54 Abs. 6bis Bis zum **31. Dezember 2006** stellen die Anbieterinnen von Fernmeldediensten den Betrieb der Nummern 1141 und 1144 ein.

Best regards

Conduit SA

Peter Josika

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