



Reference: Licence no. xxxxxxxx

Bern, June 2012

Licence no. xxxxxxxx

Granted by the Federal Communications Commission

in favour of

Z AG
Street
Town/city

concerning

**utilisation of the frequency spectrum auctioned on 22 February 2012
for the provision of mobile telecommunications services in Switzerland**

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1. Basis

1.1. Basis of the licence

This licence grants the licensee the right to use the mobile radio frequencies which they purchased at auction held from 6-22 February 2012. The auctioned frequencies are to be used 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.

The rights and obligations of the licensee are in accordance with the provisions of the licence and its annexes, as well as to the statutory provisions applicable to the licence.

1.2. Legal basis

1.2.1 Legal basis of the licence

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 Frequency Management and Radiocommunication Licences (OFMRL; CC 784.102.1)
- 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)

1.2.2 Legal basis for use of the licence

In exercising the conceded rights to use of the frequency spectrum, the licensee must respect the other implementing provisions to the TCA, in particular the provisions of the Ordinance of 9 March 2007 on Telecommunications Services (OTS; CC 784.101.1) as well as the Ordinance of 14 June 2002 on Telecommunications Equipment (OTE; CC 784.101.2).

Other relevant legislation beyond the scope of the Telecommunications Act are:

- 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 on 1997 concerning Low-Voltage Electrical Products (OELVP; CC 734.26)

- Ordinance of 9 April 1997 concerning Electromagnetic Compatibility (OEMC; CC 734.5)
- 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 6 October 1995 concerning Cartels and Other Restrictions on Competition (CA; CC 251)
- Ordinance of 17 June 1996 concerning Monitoring of Mergers (CC 251.4)

1.3. Amendment of the legal basis

The conditions of the present licence apply subject to any changes to the legal basis applicable to it (cf. section 1.2.1).

In particular, the administrative fees according to Section 2.82.7.3 shall be fixed in accordance with the applicable legal basis and may be subject to change in terms of the basis for calculation and the amount.

Moreover, any future legislation concerning the duty of the licensee to grant network access to third parties are immediate and applicable without prior amendment of the licence within the meaning of Section 1.7.

1.4. 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 that of the licence itself.

1.5. Term of the licence

Licence no. xxxxxxxx, unless challenged, shall enter into force 30 days after issue to the licensee. It is valid until 31.12.2028.

Commencement of the rights of utilisation for the frequencies in the licence is laid down in the technical network specification (Annex III).

1.6. Transfer of the licence

In accordance with 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 obtains 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.

1.7. Amendment and revocation of the licence

1.7.1 Power of intervention of the licensing authority

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).

1.7.2 Amendment of the licence upon request

The licensing authority may, upon request from the licensee, amend the licence provided that no overriding private or public interests are affected by the licence amendment and that the licence conditions continue to be fulfilled in accordance with Art 23 TCA. There is no legal claim on licence amendment.

1.8. Relinquishment of the licence

The licensee may relinquish the licence at any time.

Relinquishment does not affect the obligation to pay the auction price (Section 2.7.1). Outstanding amounts remain due. There is no claim to reimbursement for amounts already paid.

1.9. Surveillance measures and administrative penalties

If the licensee commits a violation of the law by infringing international telecommunications law, the TCA, its implementing provisions or it violates the terms of the licence, surveillance measures according to Art. 58 para. 2 TCA may be instigated.

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

Any revocation or withdrawal of the licence in accordance with Art. 58 para. 2 or 3 TCA is without compensation. The obligation to pay the auction price (Section 2.7.1) remains unaffected in this case. Any outstanding amounts remain due. There is no claim to reimbursement for amounts already paid.

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).

1.10. Information published by OFCOM

Ofcom publishes a map of the transmitter sites on the internet in accordance with Art. 24f para. 2 TCA. The Office may publish further information in the context of Art 24f para. 1 TCA or make it accessible.

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 National Frequency Allocation Plan (NFAP) or the information defined in the technical network specification (Annex III). The technical network specification is an integral part of this licence. It is based on the NFAP and is periodically examined and adapted if necessary.

2.2. Transition periods for re-farming

With the present licence, the licensee acquires rights to use frequencies which were previously used by other licensees and in return must make available frequencies to which it had rights of use under the previous licence. This procedure requires re-farming.

The licensee shall develop a proposal for re-farming together with the two other licensees.

The licensees shall submit proposals to the licensing authority as follows:

- For frequencies in the 900/1800 MHz band: within three months of the entry into legal force of the licence;
- For frequencies in the 2.1 GHz band: by 31 December 2013.

If an agreement between the licensees cannot be concluded, the licensee shall submit their own re-farming proposal to OFCOM within the same time limits.

Annex V sets out the requirements for the proposal. In addition, it regulates the approval process and the reporting obligation.

2.3. Frequency coordination

When required, in the border areas the field strength values, coordination lines, preferential use of frequencies and radio cell identification resources (including Scrambling Code SC or Preferential Physical Layer Cell Identifier PCI) as well as the calculation methods for frequency coordination may be adjusted with appropriate prior notice. The network description shall be updated accordingly.

2.4. Utilisation obligation

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 licensee is obliged to ensure coverage of 50% of the population of Switzerland with mobile radio services via their own infrastructure by 31 December 2018.

The rights of use granted with the licence may be withdrawn without compensation if the required coverage is not provided within the period prescribed.

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, the corresponding implementing ordinances and of this licence (Art. 59 TCA and Annex II of this document).

2.6. Indication of relevant regulations beyond the Telecommunications Act

2.6.1 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 building 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. 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) and to comply with the developed processes. The site data for the assessment of joint-use must be disclosed.

2.6.2 Immission protection

In exercising their rights of use of the frequency spectrum, the licensee must comply with the provisions of the ONIR. In particular the licensee shall ensure that the transmission infrastructures comply with the immission and equipment limits with regard to design, construction and operation. Using a quality assurance system (QAS) the licensee must ensure compliance with the approved values in accordance with the circular of the Federal Office for the Environment (FOEN) dated 16 January 2006 concerning "Quality assurance to comply with the limits of the ONIR for base stations for mobile radio and wireless local loops"¹ and shall document this compliance.

2.7. Fees

2.7.1 Auction price and licence fees for radiocommunication licenses

The auction price for the acquired frequencies amounts to

CHF xxx,xxx,xxx.

The licence fees for utilisation of the allocated radio spectrum for the term of the licence are included in the auction price. The licence fee corresponds to the auction price less the administration fee for the call for tenders and the granting of the radiocommunication licence (Art. 39 para. 4 TCA).

According to Section 2.7.2, the auction price falls due on entry into legal force of the licence. The payment period is 30 days.

Payment of the auction price 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).

2.7.2 Instalment option

At its own discretion the licensee may pay the auction price in instalments as follows:

- 30 days after entry into force of the licence: 60%, corresponding to CHF xxx,xxx,xxx
- 30 June 2015: 20%, including 3% interest and compound interest
- 31 December 2016: 20%, including 3% interest and compound interest

Compound interest is calculated as follows: the interest accrued at the end of the calendar year is added to the outstanding amount. This procedure is performed for the first time at the end of 2012. The interest on the new total is calculated in the following calendar year. On 30 June 2015, when the next instalment is due, the accrued interest for the half-year is added to the outstanding amount. Half of this total is then payable, with interest payable on the outstanding amount.

If the licensee decides to take up the instalment option, they shall communicate this to OFCOM in writing within 30 days of the issue of the licence, otherwise the instalment option ceases to be applicable. Selection of the instalment option does not preclude the licensee from paying the outstanding amount, including any interest accrued, ahead of schedule.

2.7.3 Administrative fees for the administration and technical supervision of the frequency

¹ <http://www.bafu.admin.ch> (Topics / Electrosmog / (information primarily in German and French))

spectrum

According to Art. 40 TCA and in conjunction with Art. 9 of the DETEC Telecommunications Fees Ordinance, 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).

OFCOM collects the administrative fees yearly in advance.

It is hereby decreed:

1. Licence xxxxxxx grants the licensee the right to use the frequencies auctioned between 6-22 February 2012 in accordance with the provisions laid down in the licence and applicable law until 31 December 2028.
2. The auction price for the auctioned frequency utilization rights amounts to CHF xxx,xxx and must be paid within 30 days of award of the licence.
3. The licensee is granted the right to choose the instalment option in accordance with Section 2.7.2. If the licensee decides to take up the instalment option, they shall communicate this to OFCOM in writing within 30 days of the issue of the licence.
4. The recurrent administrative fees for the administration and technical supervision of the frequency spectrum will be charged by OFCOM separately.
5. The present decision becomes effective and will be brought to the licensee's attention in writing by registered mail with acknowledgement of receipt as well as X and Y (limited to a copy of the licence certificate no. xxxxxxx with Annex III in favour of Z AG):

Federal Communications Commission ComCom

Marc Furrer

President

Annexes

- Annex I: Information concerning the licensee
- Annex II: Notification obligation
- Annex III: Technical network specification
- Annex IV: Planning and approval questions
- Annex V: Transition period for re-farming

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 15th July up to and including 15th August and from 18th December up to and including 2nd January. The objection must be submitted to the

Federal Administrative Court
Postfach
3000 Bern 14

(until 30 June 2012)

Federal Administrative Court
Postfach
9023 St. Gallen

(from 1 July 2012)

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.