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Revision of the Ordinance on Telecommunications Services (OTS)

Results of the consultation (from 1 November 2023 to 16 February 2024)

2nd Edition



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1 Introduction

On 1 November 2023, the Federal Council launched a consultation on the draft amendment to the Ordinance of 9 March 2007 on Telecommunications Services (OTS) in compliance with Article 48a of the Telecommunications Act (TCA).

The proposal to amend the OTS contains new provisions to improve mobile network and service provision in the event of power supply disruptions. The new provisions describe the relevant power supply disruptions and determine which telecommunications services must be provided, as well as their geographical and time availability. The provisions include an obligation to report on the implementation of the corresponding measures and deal with a possible audit to ensure preparations are carried out.

The consultation on measures to improve the resilience of mobile networks against power outages lasted from 1 November 2023 to 16 February 2024. Sixty-one responses were received, of which 26 were received from the cantons, 3 from the political parties represented in the Federal Assembly, 6 from Swiss umbrella organisations and 26 from other interested parties.

The appendix lists the individual participants and the corresponding list of abbreviations. The responses can be consulted on the OFCOM website (www.bakom.admin.ch > [OFCOM](#) > [Organisation](#) > [Legal framework](#) > [Consultations and auditions](#) > [Consultation on measures to render mobile networks more resilient to power supply disruptions](#)).

2 General comments

The **City of Lausanne**, the **Winterthur City Police**, the cantons of **AG, AI, AR, BE, BL, BS, FR, GE, GL, GR, JU, LU, NW, OW, SH, SO, SZ, TG, TI, UR, VD, VS, ZG, ZH**, the **Swiss Centre for Mountain Regions SAB**, the **Association of Swiss Professional Fire Brigades VSBF**, the **Conference of Cantonal Police Commanders of Switzerland CCPCS**, the **Intergovernmental Conference on Issues relating to Military, Civil Protection and Fire Services RK MZF**, the **Swiss Fire Brigade Association**, the **Canton of Fribourg cantonal buildings insurance ECAB KGV**, the **Association of Cantonal Buildings Insurers VKG**, the **Swiss Trade Union Confederation SGB**, the **Association of Swiss Towns and Cities SSV**, the **Federal Commission for Air Hygiene FCAH**, the **Swiss Broadcasting Corporation SRG**, the **FDP, CARBURA**, the **Swiss Fire Brigade Coordination Group FKS**, the **Association for Protection against Radiation**, and the **Canton of Zug Buildings Insurance GVZG** welcome the draft ordinance in principle. It was stated that communication with and among the emergency organisations is important; voice connectivity and internet access enables contact to be made and supports essential services. This is important in supporting crisis teams and reducing damage. Synergies with the mobile broadband secure communications system (MSC) need to be coordinated and implemented to ensure cost-efficient operations.

The mobile phone licensees **Salt, Sunrise** and **Swisscom**, the **Fédération des Entreprises Romandes FER**, the canton of **SG**, **Swico**, the **Vaud Chamber of Commerce and Industry CVCI**, the political parties **SVP** and **SP**, **Cellnex**, **ASUT**, **digitalswitzerland**, **Economiesuisse**, the **Swiss Union of Crafts and Small and Medium-Sized Enterprises SGV** and **Suissedigital** reject the proposal. Here, the mobile phone licensees as well as **ASUT**, **Economiesuisse** and **Cellnex** base their rejection on an expert report they commissioned, according to which the legal basis for improving network resilience is lacking. A further expert report by *Rey* addresses the administrative difficulties associated with emergency power generators. In particular, it is argued that the measures relating to personnel (e.g. training and personnel on-call/standby) and financial and administrative expenditure (permits and logistics in connection with emergency power generators) are disproportionate and difficult to implement. Furthermore, it is claimed that there is no legal basis for passing on the costs associated with improving mobile network resilience to the mobile network operators. **ComCom** also considers the costs to be disproportionate.

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The cantons of **AR, AG, BS and SG** as well as the **Swiss Cities Association, Swico, Cellnex, FCAH, CVCI** and **SP, Salt, SGB** and the **Swiss Chamber of Commerce** criticise the proposal because it would entail significant investment in unsustainable diesel generators.

The mobile phone licensees, **ASUT**, the cantons of **AG** and **NE**, the **Radiation Protection Association, Cellnex, Economiesuisse** and **Swico** point out that the aerial sites do not belong to the aerial operators and that it is debatable whether the building and property owners would agree to the necessary construction measures or the installation of diesel generators. **ASUT, Cellnex, Digitalswitzerland, Economiesuisse**, the **SP** and the mobile phone licensees even fear that the installation of diesel generating sets could compromise normal operation, because building and property owners would decline to provide sites for mobile phone systems or would terminate existing agreements.

The canton of **AG, Cellnex, ASUT, Salt, Sunrise** and **Swisscom** argue that the necessary expansion of emergency power systems is not always technically feasible, for example for structural reasons.

The **SAB, SGB, SVCI**, the **SP** and the canton **SH** point out that the costs should not be passed on to mobile phone subscribers. In general, the high costs are criticised, whether these are financial or administrative.

Economiesuisse, FER, the **SVP**, the **Radiation Protection Association**, the **SP, ASUT, Salt** and **Swisscom** and the **Swiss Chamber of Commerce** assume that the costs for logistics, human and material resources estimated in the regulatory impact assessment (RIA) are too low. According to **Economiesuisse**, the cost calculations are partly incomplete. The cantons of **AR** and **NW** request that a more precise quantification of the costs that consumers would face should be included in the explanatory report.

CARBURA is not certain that mobile emergency power generators for power outages could be distributed, installed and refuelled, because such incidents occur unexpectedly and, in contrast to power shortages, do not allow any preparation.

Digitalswitzerland, Swico, Cellnex, SGB, Swisscom and **ASUT** are of the opinion that ensuring an adequate energy supply is a task that must be tackled jointly by the federal government, the cantons and the energy industry. Self-sufficiency in energy in exceptional situations should not be transferred to the demand side alone (telecommunications and digitalisation sector). The canton of **NE**, the **SP, ASUT, Economiesuisse** and **Sunrise** favour the power supply companies taking the lead role in network resilience measures, not least for reasons of cost efficiency.

3 Comments on the individual provisions of the draft

Article 94a Measures to be taken to support mobile communications in the event of power supply disruptions paragraph 1

WEKO considers that Article 94a paragraph 1 OTS should be adapted in such a way that restrictions on telecommunications are generally applied in a non-discriminatory manner. In this respect Article 94a OTS should be revised in such a way that restrictions on telecommunications should not, where possible, result in the favouring of individual providers. The current wording of Article 94a paragraph 1 OTS gives the mobile phone licensees a largely free hand in selecting the data transmissions to be restricted. In principle, this could lead to a mobile phone licensee, which simultaneously transmits its own content (e.g. video content) and third-party content to end customers via its mobile communications network, favouring its own content over third-party content when a power supply disruption occurs. This could lead to a distortion of competition. From the point of view of the **SRG**, the restrictions should affect all services equally.

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Economiesuisse is of the opinion that the required improvement in the resilience of mobile networks is based on unrealistic supply scenarios ('a luxury solution for crisis events', where internet services continue to be provided solely with restrictions applying to entertainment videos). First of all, therefore, specific clarifications are needed, for example, which minimum communication services should continue to function in the event of a crisis.

According to **ComCom**, it is not clear from the stipulation and the explanations, from what point such a power supply disruption exists and then who will be responsible for deciding when it exists. On the one hand, this must be clarified because this involves a significant intervention in the market and a switch to special network planning with significant, not easily reversed consequences. On the other hand, it would be awkward for network operators, especially in terms of competition law, if they had to decide for themselves which video services were 'primarily for entertainment' and could therefore no longer be transmitted. From the point of view of ComCom, such decisions must be taken by the competent federal authorities.

CARBURA considers that Article 94a paragraph 1 is very clearly formulated. Although 'in particular' leaves a lot unspecified, video services are explicitly mentioned as a possible restriction. However, in its opinion, the comments in the accompanying report raise questions. Particular caution needs to be exercised when blocking internet traffic from certain providers, platforms or services; 'social media' is also classed as a service. It should be clarified that this does not refer to messenger services, especially those of social media companies. Today, services such as WhatsApp, Telegram or Facebook Messenger are often used instead of conventional mobile telephony and it should be possible to continue to use them in the event of power shortages and power outages. **CARBURA** requests that the messenger apps used for voice communication be explicitly included in Article 94a paragraph 2 so that the situation here is clear and there is no room for supposition.

Article 94a Measures to be taken to support mobile communications in the event of power supply disruptions

Paragraph 2

Salt proposes deleting letters b and c of this paragraph.

The **SRG** would like the distribution of its radio and television programmes as well as the programmes of the other licenced producers to be excepted from the restrictions. Otherwise it will not be able to discharge its duty to inform according to article 3 of the Federal Act on Radio and Television. Communication services such as Microsoft Teams should also be excepted.

Article 94a Measures to be taken to support mobile communications in the event of power supply disruptions

Paragraph 3

ASUT states that it should be borne in mind that authorities also communicate via video platforms and social media, but that it is not possible to selectively restrict individual data packets.

CARBURA states that the wording regarding the technical possibility of exempting services from restrictions is not sufficiently prescriptive. Instead, the necessary technical prerequisites should be created in paragraph 3.

FKS, GVZG, the cantons of **AI, AR, BE, BS, GL, GR, JU, NW, OW, SO, SG, SH, SZ, UR, VD, VS** and **ZG, KGV canton of FR, CCPCS, RK MZF, SFV, SSV, Winterthur City Police, VKG** and **VSBF**, request that news originating from non-official sources also be exempted. This applies in particular to news from licensed radio and TV stations and SRG SSR (the Swiss Broadcasting Corporation). To ensure the transmission of official news, the canton of **FR** also calls for an exemption for licensed radio and TV stations. For the canton of **NE**, the paragraph contains an exemption for news from SRG SSR. The canton of **ZG** requires that IBBK radio ('Information by radio of the public by the Confederation in

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an emergency') also be exempted. The canton of **ZH** also believes that there should be an exemption for news, but this can be achieved via access to the major Swiss news portals. The **SRG** demands an exception for its whole offering.

The canton of **AG** is of the opinion that the mobile phone licensees should have to justify why an exemption is technically not possible.

The canton of **BE** finds that there should be a simple and centralised means of registering services that are exempt from restrictions. With regard to letter a, notifications and news from all levels of state are to be understood as official, as well as those from other public sector agencies such as rescue and safety authorities and organisations or infrastructure operators. With regard to letter d, the needs and structure of communal and cantonal fire service organisations must be taken into account. It should also be possible for authorised user organisations to register services that must remain unrestricted. In addition, rescue and safety authorities and organisations must continue to have access to publicly available services such as navigation systems.

The canton of **BL** considers that alarm systems (e.g. eAlarm) should also remain unrestricted so that rescue and safety authorities and organisations (BORS) can act quickly and efficiently. In particular, the system for alerting secondary services (e.g. civil protection, personnel for emergency meeting points) is an important support mechanism, whereby communication usually takes place via the mobile phone network (sending/receiving alarms/public notices).

The canton of **NE** proposes that communication applications and social networks be exempted.

The canton of **TI** finds that the lists of services to be exempted from restrictions should be continuously updated. In the event of power outages or suddenly occurring events, the services covered by letters a and d would be difficult to identify.

The **SAB** considers access to address directories and the transfer of images essential. It also calls for e-health applications to remain generally available.

Salt finds that it must be possible to restrict the data rate for all users. No services could be technically exempted from this. In general, exemptions are difficult to handle. It may not be feasible to implement the exemptions in letters a and d. The entire paragraph should be deleted.

For **Sunrise**, the paragraph is too general and makes it impossible to plan measures to restrict the transmission of data. It is not possible to estimate the data rates required to maintain the services covered by paragraph 3.

Swisscom requests that paragraph 3 be deleted in its current form. Instead, a reference to the relevant provisions in the draft Federal Council Ordinance on measures to reduce the consumption of electrical power in mobile communications should be made for power shortages. For power outages, no provisions are necessary for the period during which the outage is covered by battery power.

Article 96h Obligation to prepare for power supply disruptions

Paragraph 2

The **Winterthur City Police**, the cantons of **AR, AI, BS, BL, BE, GE, GL, GR, JU, NW, OW, SH, SO, SG, UR, VD, VS, ZG** and **ZH**, the **SSV**, the **VKG**, the **FKS**, the **GVZG** and **CARBURA** do not understand why the number of persons affected should be limited to 1.5 million and argue that the mobile network must be rendered more resilient to cope with events affecting more than 1.5 million people. They ask for the limit of 1.5 million persons in letter b to be deleted or in the case of **CARBURA** to be extended to 5-7 days of power outages throughout Switzerland and to 3-4 weeks of gradual regeneration.

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The cantons of **FR**, **GE** and **VD** and **CARBURA** are in favour of the two availability scenarios. However, they claim that the network resilience improvement measures should be configured such that, in the event of a power shortage, shutdown cycles of 4 hours with and 4 hours without power could be covered. The **SSV** agrees with the request to provide for a scenario involving a 50 per cent power under-supply by recommending that a formulation be chosen that takes all possible scenarios into account. The Association of Swiss Energy Companies ASEC also requests that the OTS take account of the 50 per cent power under-supply scenario and points out that the mobile networks would have to be self-sufficient in power for 4.5 hours and informs about the latest shutdown plan for the case of 33% electricity under-supply. It also suggests that the shutdown cycles should be maintained for 30 consecutive days.

The **FER** and the canton of **SG** argue that the reference values for power supply disruptions laid down in Article 96h paragraph 2 are extremely ambitious and difficult to achieve. They consider that power autonomy of four hours is already a significant improvement. The **Swisscom** proposal is similar, suggesting that maintaining self-sufficiency for four hours in the event of a power outage is feasible.

The canton of **ZH**, the **Association of Swiss Communes** and the **SSV** question whether it makes sense to provide improved network resilience for 72 hours. The former therefore suggest that a reduction in the prescribed period of 72 hours and/or alternatives to ensuring the availability of emergency services over such a long period of time be considered. The latter favours seeking alternative, optimised solutions.

Salt advocates that letter b be deleted or that the improvement in network resilience be adapted to a proportionate and, in particular, feasible level. In addition, after a network interruption, a phase of at least three times as long with electrical power must follow.

Article 96h **Obligation to prepare for power supply disruptions** Paragraph 3

The canton of **FR** welcomes the required coverage of 99 per cent of subscriber contract addresses within the area of a commune.

Swisscom and **Salt** propose deleting paragraph 3.

Article 96i **Audit**

WEKO would like an addition to Article 96i OTS, namely that OFCOM should designate the qualified body which establishes the facts in the event that there is a reasonable suspicion that the duty to make preparations has been breached. Neither the OTS itself nor the explanatory report provide any details of what a qualified body is. This allows the mobile network operator (MNO) itself to decide on the body that will audit it. Depending on the willingness of the respective mobile phone licensee to implement the required measures, this could lead to different investments in improving the resilience of the mobile phone networks ultimately being made, because of the choice of supervisory body. This, in turn, could lead to an increased risk of network loss and a distortion of competition conditions, in particular when the costs of improving mobile network resilience are passed on to end customers in the form of higher mobile prices.

Article 108d **Transitional provisions relating to the amendment of ...** Paragraph 1

The canton of **FR** points out that the deadline set may be too short to implement the measures in good time and thus to counter the risk of power shortages in the coming winters. However, the transitional provisions provided for in Article 108d would allow the operation of the telecommunications network to be maintained until, where appropriate, the MSC replaces the Polycom secure radio system. As the new system would partly use the existing infrastructure of mobile network operators, the canton

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believes that it is crucial to exploit potential synergies in a coordinated manner in order to ensure economic operation for all parties involved.

CARBURA believes that implementation takes time, but that eight years is a very long time, especially for the public telephone service. Bringing it forward by at least two years would be advisable. It should be ensured that these long deadlines can then actually be met.

Swisscom proposes amending the paragraph as follows: “The measures to ensure access to emergency services must be implemented by **31 December 2034** and those to ensure other services by **31 December 2037**.”

Salt proposes amending the paragraph as follows: “...those to ensure other services by 31 December **2034**.”

Article 108d Transitional provisions relating to the Amendment of ... Paragraph 2

The canton of **NE** proposes that OFCOM should make the implementation plan and interim reports available to the cantons because the latter need information on the state of preparations of the mobile phone licensees in order to implement precautionary measures for a possible disruption of the power supply.

Swisscom would prefer the date in letter a to be 30 June 2030 and would like to see the dates in letter b amended as follows: b. first annually submitted interim report by 31 December 2031 and final one by 31 December 2037.

4 Further comments and suggestions

The canton of **BS**, the **FDP**, the **SSV**, the mobile phone licensees **Salt**, **Sunrise** and **Swisscom**, **Swico**, **Cellnex**, **ASUT**, **digitalswitzerland**, **economiesuisse**, **Suissedigital**, and the **Radiation Protection Association** propose that the actors concerned hold discussions to develop alternative solutions.

BORS, the **Swiss Association of Towns and Cities**, **VKG**, the cantons of **GR**, **JU**, **OW** and **UR** would like data communication within and among the emergency service organisations to be possible in the event of power outages, in addition to the general public being able to access such services.

The canton of **NE** proposes that the mobile phone licensees should not be able to restrict communication by the technical services of the cantons and communes involved in the operation of critical and essential infrastructure.

The canton of **ZH** notes that the cantons as enforcement authorities of the Ordinance on Protection against Non-Ionising Radiation NISO (cf. Article 17 NISO) must be informed at an early stage of the planned temporary lifting of the system limit values for mobile communications systems in accordance with the NISO.

Due to the economic importance of critical telecom infrastructure, **ComCom** is in favour of the Federal Council immediately issuing requirements to render the mobile network more resilient to power outages. However, these should be proportionate. They could be based on the Scandinavian example.

The canton of **TI** would like the cantonal emergency services to be involved in determining the priority antenna locations in the event of a power outage, and mentions that they can provide assistance in providing emergency power generators.

The **SRG** expects that no contractual obligations regarding emergency powering be cancelled on account of the proposed regulation. Further, regional disruptions should not have nationwide consequences. It should be ensured that the population is suitably informed about disruptions to the electricity supply.

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The **Radiation Protection Association** proposes that system limits must never be exceeded even during power shortages and outages. Technical devices and medical devices in particular, e.g. pacemakers, are not protected against such strong electromagnetic pulses and could be disrupted or even destroyed. There is a particular hazard in sensitive locations such as chemical plants or filling stations. Exceeding the limit values could also endanger certain persons who are sensitive because of their state of health. The association considers that the extent of these consequences has not been examined and has not been incorporated in the cost/benefit analysis.

Appendix: List of participants and their abbreviations

Cantons

Aargau	AG
Appenzell Innerrhoden	AI
Appenzell Ausserrhoden	AR
Bern	BE
Basel-Landschaft	BL
Basel-Stadt	BS
Fribourg	FR
Geneva	GE
Glarus	GL
Graubünden	GR
Jura	JU
Lucerne	LU
Neuchâtel	NE
Nidwalden	NW
Obwalden	OW
St Gallen	SG
Schaffhausen	SH
Solothurn	SO
Schwyz	SZ
Thurgau	TG
Ticino	TI
Uri	UR
Vaud	VD
Valais	VS
Zug	ZG
Zurich	ZH

Political parties

FDP The Liberals	FDP
Social Democratic Party of Switzerland	SP
Swiss People's Party	SVP

Swiss umbrella organisations of communes, towns and mountain regions

Association of Swiss Communes	-
Swiss Centre for Mountain Regions	SAB
Association of Swiss Towns and Cities	SSV

Swiss economic umbrella organisations

Economiesuisse	-
Swiss Chamber of Commerce	SGV
Swiss Trade Union Confederation	SGB

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Other participants

Association of Cantonal Buildings Insurers	VKG
Association of Swiss Electricity Energy Companies	ASEC
Association of Swiss Professional Fire Brigades	VSBF
Canton of Zug cantonal buildings insurance	-
CARBURA	-
Cellnex Switzerland AG	-
City of Lausanne	-
Competition Commission	COMCO
Conference of Cantonal Police Commanders of Switzerland	CCPCS
digitalswitzerland	-
Federal Commission for Air Hygiene	FCAH
Federal Communications Commission	ComCom
Fédération des entreprises romandes	FER
Fribourg cantonal buildings insurance	ECAB KGV
Intergovernmental Conference on Issues relating to Military, Civil Protection and the Fire Services	RK MZF
Radiation Protection Association	-
Salt Mobile SA	Salt
Swiss Broadcasting Corporation	SRG SSR
Suissedigital	-
Sunrise GmbH	Sunrise
Swico	-
Swiss Fire Brigade Association	SFV
Swiss Fire Brigade Coordination Group	FKS
Swiss Telecommunications Association	ASUT
Swisscom AG	Swisscom
Vaud Chamber of Commerce and Industry	CVCI
Winterthur City Police	-